

## Client Alert 07-2014

March 5, 2014

### CLARIFICATION OF RECIPROCAL OSRO COVERAGE REQUIRED IN STRAIT OF JUAN DE FUCA FOR VESSELS IN INNOCENT PASSAGE THROUGH US WATERS

As noted in **ECM CLIENT ALERT 03-2014** (February 14, 2014), for vessels transiting the Strait of Juan de Fuca bound for Canadian ports only (engaged in innocent passage through US waters), the Washington State Maritime Cooperative (WSMC) provides State of Washington (WA) reciprocal response coverage at no cost. In the past, reciprocal coverage in the US (through WSMC in WA) was automatic once the vessel entered into a contract with their Canadian response organization (RO), Western Canada Marine Response Corporation (WCMRC). However, recently, WSMC has decided that they require the vessel to officially enroll with WSMC to put the reciprocal coverage in place. No fee is charged by WSMC but enrollment forms must be completed.

In addition, WSMC is advising directly to the vessel and through the vessel's agent that in order to enroll with WSMC, the vessel must have a USCG vessel response plan (VRP). Under federal law, individual states such as Washington (WA) and oil spill cooperatives such as WSMC are prohibited from regulating certain areas of vessel operations; vessel construction and design standards; and spill prevention and response requirements that are within the USCG's jurisdiction. The USCG has the exclusive legal authority to implement and enforce federal vessel response plan (VRP) requirements. The USCG does not require a VRP for vessels engaged in innocent passage transiting through the Strait of Juan de Fuca and calling at Canada only.

WA and/or WSMC cannot require a USCG VRP for vessels engaged in innocent passage to Canadian ports only since it would directly conflict with federal law. **Therefore, there is no need to enroll with WSMC for WA reciprocal coverage if the vessel does not have a USCG VRP. (Please note that any information and advice you receive from WSMC and/or the vessel's agent in WA or Canada to the contrary is absolutely incorrect and should be completely disregarded.)**

ECM is working with WSMC, vessel agents in WA and Canada and others to ensure that they send accurate information to vessel owners/operators about WA reciprocal plan coverage in this regard.

If your vessel is engaged in a transit through the Strait of Juan de Fuca bound for a Canadian port only and has a USCG VRP, you may obtain WA State reciprocal coverage through WSMC, if you have Marine Spill Response Corporation (MSRC) as your US National oil spill response organization (OSRO); or National Response Corporation (NRC) if you have NRC as your US National OSRO.

Please see Client Alert 03-2014 for further details about WA reciprocal response plan coverage for western Canadian ports.

Please don't hesitate to contact ECM at [ecm@ecmmaritime.com](mailto:ecm@ecmmaritime.com) with any questions.