

No. 5 - Canada: Oil Pollution

October 1995

Dear Sirs,

CANADA: Oil Pollution

Members will be aware from the Club Newsletter of changes in Canadian oil pollution law brought about by the amendments to the Canada Shipping Act which came into force on 15 August 1995.

In particular, the Act now provides for an oil spill response scheme which requires that all ships of more than 400 gt and tankers of more than 150 gt must have:-

- i. a Shipboard Oil Pollution Emergency Plan (SOPEP) in accordance with Marpol 73/78;
- ii. a contractual arrangement with a certified response organisation (RO) for each Canadian port visited and for all Canadian waters navigated south of the 60th parallel. This arrangement must be in respect of a specified quantity of oil at least equal to the total amount of oil that the ship is capable of carrying both as cargo and bunkers, up to a maximum amount of 10,000 tons;
- iii. an onboard declaration (which should be separate from the SOPEP) identifying the vessel's pollution insurer (the Club), confirming the identity of the RO and identifying each person authorised to implement the RO arrangement and the SOPEP. A suggested form for the declaration is attached to this circular as Annex 1.

Response Organisations

The requirements of the Act are reasonably straightforward but some confusion has been caused by the fact that the mandatory Canadian Coast Guard (CCG) certification of the various RO's has been delayed, making it temporarily impossible for shipowners to comply with the law.

There are currently five RO's in Canada, all of which have requested certification for the maximum 10,000 ton response capability:-

- i. Western Canada Marine Response Corporation (also known as Burrard Clean) which operates on the West Coast.
- ii. Great Lakes Response Corporation.
- iii. Atlantic Emergency Response Team (ALERT), covering the Port of Saint John, New Brunswick.

iv. Pointe Tupper Response Organisation.

v. Eastern Canada Response Corporation (ECRC) covering Eastern Canada, including the St Lawrence River, apart from Saint John and Pointe Tupper.

Burrard Clean, Great Lakes and ECRC are managed by the Canadian Marine Response Management Corporation (CMRMC). The International Group has reached agreement with CMRMC, for an initial period of six months, on the terms of the contract they will be offering to shipowners. No agreement has yet been reached on the contracts of the other two RO's.

Members are advised to check with the Managers to ensure that any contract they are asked to sign conforms with the agreement. It is particularly important to make sure that the hold harmless provisions do not apply where loss or damage is caused by the negligence of the RO.

Burrard Clean was certified by the CCG on 3 October, and it is expected that the other RO's will be certified soon. The CCG will enforce the RO requirement as soon as an RO has been certified for a particular area.

Members with vessels trading to Canada are advised to contact the Managers prior to a vessel's arrival to check whether or not the local RO has been certified by the CCG and that the contract has been approved by the Club.

As soon as members contract with an RO, the relevant section of the attached onboard declaration ((b), (c) and (d)(i)) should be completed.

Tankers/Bulk Oil Cargo Fee

Tanker owners should be aware of a further complication. The fees charged by the RO's are very similar for all types of vessel, with most charging an initiation fee of C\$200 per vessel plus an annual registration fee per vessel of C\$450. However, RO's also charge a bulk oil cargo fee per ton of bulk oil cargo loaded or discharged at a Canadian facility. This fee is substantial, and varies between C\$0.225 and C\$1.85 per M/T.

The RO will not charge this fee to the shipowner if the tank vessel loads or discharges at a facility which has been designated by the government.

Although the Government has sent notices of designation to the larger facilities, these will only become effective from 9 December 1995. A tanker owner contracting with an RO before 9 December runs the risk of being liable for the bulk oil cargo fee. However, CMRMC has six member shareholders, namely Ultramar, Petro-Canada, Shell, Imperial Esso, Sunoco and Chevron, and the bulk oil cargo fee will not be charged to tankers visiting their facilities even before 9 December.

Tanker owners whose vessels are scheduled to call at Canadian ports prior to 9 December are advised to contact the Managers to obtain the latest information.

Yours faithfully

**The West of England Ship Owners
Insurance Services Limited**
(As Managers)

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Director