



## CLIENT ADVISORY LETTER 2008-01

June 25, 2008

### **USCG to Begin Enforcement of Non-Tank Vessel Response Plan Regulation**

Dear Client:

We write to advise you that the U.S. Coast Guard announced this week that, effective August 22, 2008, it will begin enforcement of its non-tank vessel regulation requiring all U.S. and foreign-flagged nontank vessels to prepare and file vessel response plans (NTVRP). The requirement is part of the Coast Guard and Maritime Transportation Act of 2004, which was passed into law four years ago, but specific regulations have yet to be issued. In its announcement this past Monday, the USCG acknowledged that the decision to begin enforcement of the law, despite the lack of specific regulations, was a direct result of the COSCO BUSAN oil spill in San Francisco last fall, which involved a nontank vessel.

Please note that Section 701 of the Coast Guard and Maritime Transportation Act of 2004 requires all nontank vessels over 400 gross tons to file vessel response plans with the USCG. The Coast Guard said it will begin screening all regulated nontank vessels prior to their port arrival for the submission of the NTVRP. However, the USCG will focus its enforcement efforts on vessels of 1600 gross tons or greater, which they consider to pose a more significant pollution risk in the event of a discharge. Nevertheless, vessels over 400 gross tons should still comply. Although it is unlikely they would be cited for non compliance during a routine inspection, they would be in violation, should they be checked as part of a pollution incident investigation.

Upon submission of the NTVRP vessel owners and operators can expect to receive a 2-year interim operating authorization letter. This process of an interim compliance letter will likely continue until the NTVRP regulation is finalized. No date has been specified for the completion of the rule. The full language of the Federal Register notice may be obtained at <http://a257.g.akamaitech.net/7/257/2422/01jan20081800/edocket.access.gpo.gov/2008/pdf/E8-14115.pdf>.

### **U.S. Supreme Court Ruling on the EXXON VALDEZ**

In other news, the U.S. Supreme Court ruled that a \$2.5 billion dollar punitive damage award in the 1989 EXXON VALDEZ oil spill case was excessive and reduced the amount to \$507 million dollars. In an opinion announced today, the Court ruled that Exxon should not have to pay punitive damages exceeding the compensatory damages already awarded in this case, which has been before various state and appellate courts since 1994.

---

#### **CORPORATE HEADQUARTERS**

3500 SUNRISE HIGHWAY, T103  
GREAT RIVER, NEW YORK 11739  
(631) 224-9141 · FAX (631) 224-9082

#### **REGIONAL OFFICES**

NEW YORK, NY HOUSTON, TX TAMPA, FL  
MEMPHIS, TN SAN DIEGO, CA LONG BEACH, CA  
SAN FRANCISCO, CA PORTLAND, OR SEATTLE,  
WA OLD SAN JUAN, PR ST. CROIX, USVI



In 1994, a jury in a civil Alaskan lawsuit ordered Exxon to pay \$5 billion in damages to fisherman and others affected by the oil spill. That sum was reduced to \$4 billion in 2002 and then increased to \$4.5 billion in 2004. Then in December of last year, the U.S. Court of Appeals cut the punitive damages to \$2.5 million saying that the amount was more in line with legal precedent.

Today's ruling from the highest court in the U.S. confirmed that a "1:1 punitive-to-compensatory ratio" yielded the maximum punitive damage and ordered the lower court to reduce the damages to \$507 million dollars.

We highlight both of the above developments as examples of the ever increasing complexities oil spills and their subsequent regulations present. Since the San Francisco spill last November, the state of California has introduced more than seven new bills before their state legislature that could likely effect both the operations and the cost of transiting in California waters. The long lasting litigation of the EXXON VALDEZ reminds us of the high financial risk of oil spills. To date, Exxon has spent some \$2.1 billion dollars for clean-up of Alaskan waters and beaches, more than \$300 million in compensation to fisherman and other locals affected by the spill, and more than \$900 million in dollars in fines. They will now pay an additional \$507 million in punitive damages. Clearly, under these circumstances, the high quality cost effective services NRC provides can be invaluable.

In closing, we will continue to keep you informed on these and any other regulatory changes affecting our industry.

Thank you for your continued support. Please let us know if we can provide you with any more details about these developments or other regulatory matters.

Best regards,

A handwritten signature in black ink, appearing to read "Steve Candito", is written over a light blue horizontal line.

Steve Candito  
President