California - Tank & Non Tank Vessel Oil Spill Contingency Plans

The California Department of Fish & Game Office of Spill Prevention and Response (OSPR) announced that the California tank and non tank vessel plan submission policies will be enforced immediately. Due to the volume of plan submissions, plan changes and now the resubmission period for the non tank plans, the OSPR plan reviewers will adhere to the plan submission regulations.

Tank vessel plans and plan amendments (such as vessel additions, vessel name changes, owner changes, etc.), must be received by OSPR at least five (5) working days prior to the vessel's arrival in California State waters.

Non tank vessel plans and plan amendments (such as vessel additions, vessel name changes, owner changes, etc.), must be received by OSPR at least seven (7) working days prior to the vessel's arrival in California State waters.

*A “working day” is defined as Monday through Friday, except for federal and California State holidays.

New plan submissions and plan amendments that are incomplete – those that do not contain all of the required information – will not be reviewed until all required documents are in place. No the plan is required to have a copy of the California Certificate of Financial Responsibility (COFR). The California COFR application will be reviewed within twenty-one (21) calendar days and the certificate will be issued within this timeframe. The California Financial Responsibility Unit, the branch responsible to issue the COFRs, usually reviews applications within a shorter timeframe and in the past has issued COFRs within 7 working days – as long as the application is completed properly and is accompanied by a complete copy of the vessel’s P&I Certificate of Entry. Non tank vessel applicants are required to pay a fee to OSPR prior to the issuance of the COFR. Therefore, you should allow for ample time for completion of the COFR application process.

Although the California regulations allow for a one time port waiver for plans that do not meet the timeframes for plan submission, this waiver is only valid for a first time plan submission. The waiver is not available for those vessels being added to an existing approved plan.

Penalties:

Owner and operators who do not meet the aforementioned timeframes for plan and COFR submissions, OSPR has confirmed that vessels can still enter California waters and conduct operations without an approval letter. A penalty can be assessed up to $100,000, but the penalty will be significantly less (perhaps $500 for a first offence) if the tank vessel has a copy of the plan, CA COFR and the oil spill removal organization (OSRO) and the salvage, firefighting and lightning certificates. Non tank vessels should have a copy of the Initial Response Activity Manual (IRAM), California COFR certificate and a copy of the plan/plan amendment submission letter.

Regulatory Information:

CA Non Tank Vessel Plan Submission Policy:

Regulatory Reference: California Code of Regulations, Title 14, Division 1, Subdivision 4, Chapter 3, Subchapter 4, Section 826.01(b)(1)

Summary: Any non tank vessel that is operating, or first begins operating, in marine waters after September 1, 1999, shall submit a contingency plan that is received by OSPR at least seven (7) working days prior to entering marine waters.

CA Non Tank Vessel Compliance Requirement Penalties:

Regulatory Reference: California Code of Regulations, Title 14, Subdivision 4, Chapter 3, Subchapter 1, Section 826.06 (a)(b)

Summary:

(a) Except as provided in Subsection 827.01(b) of this subchapter, any non tank vessel subject to the provisions of this subchapter that enters marine waters without an approved contingency plan required by this subchapter or a certificate of financial responsibility issued by the Administrator shall be subject to an administrative civil penalty of up to one hundred thousand dollars ($100,000). The Administrator shall assess the civil penalty against the owner or operator of the non tank vessel. Each day the owner/operator of such a non tank vessel is in violation shall be considered a separate violation.

(b) Except as provided in Subsection 827.01(b) of this subchapter, any non tank vessel owner/operator who knowingly and intentionally has the non tank vessel enter marine waters without an approved contingency plan required by this subchapter or a certificate of financial responsibility issued by the Administrator is guilty of a misdemeanor punishable by up to one year of imprisonment in the county jail, or by a fine of up to ten thousand dollars ($10,000), or by both the imprisonment and a fine. Each day the owner/operator of such a non tank vessel is in knowing and intentional violation shall be considered a separate violation.

CA Tank Vessel Plan Submission Policy:

Regulatory Reference: California Code of Regulations, Title 14, Division 1, Subdivision 4, Chapter 3, Subchapter 3, Section 816.01(b)(2)

Summary: Any tank vessel that first begins operating in California marine waters after the due date for initial submission shall submit a plan that is received by OSPR at least five (5) working days prior to entering California marine waters.

CA Tank Vessel Compliance Requirement Penalties:

Regulatory Reference: California Code of Regulations, Title 14, Subdivision 4, Chapter 3, Subchapter 3, Section 816.06

Summary:

Any person who knowingly, intentionally, or negligently violates any provision of this subchapter shall be subject to criminal, civil, and/or administrative civil actions as prescribed in Article 9, beginning with Section 6570.57 of the Government Code. Actions which constitute a violation of this subchapter shall include, but not be limited to, the following:

(a) failure to submit the plan in a timely manner;

(b) failure to implement any element of the plan as approved unless otherwise authorized by the Administrator or the U.S. Coast Guard through the

Immediate Command
(c) operating without an approved plan; or
(d) failure to contract with an OSRO Rated by OSPR for booming, on-water recovery and storage, and shoreline protection services; or
(e) failure to follow the direction or orders of the Administrator in connection with an oil spill, except as provided in Section 8670.27 of the Government Code.

CA COFR Review Timeframe:
Regulatory Reference: California Code of Regulations, Title 14, Subdivision 4, Chapter 2, Subchapter 1, Section 791.7(d)(1)

Summary: Applications and evidence of financial responsibility submitted by owners or operators of tankers, nontank vessels, large barges and owners of oil will be reviewed within twenty-one (21) calendar days of receipt by the OSPR. Certificates will be issued within that period provided that the following has been received: (1) adequate information was furnished in the application, (2) receipt of the non-tank vessel fee, and (3) acceptable evidence of financial responsibility, as determined by the Administrator.

Based on ECM Maritime Client Alert 14-2006