

Oil Spill Task Force

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November 7, 2005

Rear Admiral Thomas H. Gilmour
Assistant Commandant for Marine Safety & Environmental Protection
U.S. Coast Guard
G-M 98-70098
2100 2nd Street S.W.
Washington, D.C.
20593-0001

Dear RADM Gilmour,

I am writing on behalf of the U.S. member agencies of the Pacific States/British Columbia Oil Spill Task Force to petition that the U.S. Coast Guard take rulemaking action to increase the Limits of Liability by the total amount of increase in the Consumer Price Index since 1990. We request that this increase apply to the Limits of Liability for tank vessels, tank barges, non-tank vessels, and any facilities such as mobile offshore drilling units which are also subject to the OPA financial responsibility requirements.

The U.S. member agencies of the Pacific States/British Columbia Oil Spill Task Force are the Alaska Department of Environmental Conservation, the Washington Department of Ecology, the Oregon Department of Environmental Quality, the California Office of Spill Prevention and Response, and the Hawaii Department of Health. Each of these member agencies has a legal obligation to protect the environment within their jurisdictions from oil spills, and ensuring a timely and effective response to oil spills is crucial to environmental protection. In addition, it is in the interest of the British Columbia Ministry of Environment - our Canadian member agency - that the jurisdictions of Alaska and Washington are able to respond efficiently and effectively to transboundary spill events.

Our U.S. member agencies' ability to respond to oil spills relies in part on response partnerships with the U.S. Coast Guard and U.S. EPA, which are funded by the Oil Spill Liability Trust Fund (OSLTF or the Fund). Our member agencies also rely on reimbursements of their own response costs from the Fund. As noted in the U.S. Coast Guard's May 2005 *Report on the Oil Spill Liability Trust Fund and the Adequacy of OPA Liability Limits*, oil spill response funds spent in our U.S. member jurisdictions from FY 1997 to FY 2004 were as

follows: Alaska: \$16,597,200; California: \$40,334,300; Hawaii: \$4,962,300; Oregon: \$9,941,300; and Washington: \$5,160,500.

We refer you to the following statements from Section F of the Report, titled "Adequacy of Liability Limits":

"If an RP (Responsible Party) pays or incurs removal costs or damages in excess of an applicable liability limit, the RP may present a claim to the OSLTF for compensation of the excess amount (OPA section 1008 (33 U.S.C 2708)." (p.17)

"The NPFC has so far paid a total of \$36.3 million to RP Claimants. An additional \$52.4 million claimed by RPs...is still under adjudication...." (p.18)

"...spills from tank barges and non-tank vessels can result in significant removal costs and damages, and the Fund's share of the risk given current liability limits for such vessels (emphasis added) is greater by several magnitudes than the risk to the RPs." (p. 20)

"OPA liability limits have not been adjusted for inflation since OPA was enacted. The authority to adjust liability limits for inflation pursuant to OPA section 1004 (d)(4) was delegated by the President to various agencies in section 4 of Executive Order 12777, October 18, 1991, and would be accomplished through regulation. (emphasis added) The Coast Guard has not been delegated, but is in the process of requesting this authority." (p.17)

It is our understanding that the Coast Guard has now been granted such authority, and the Pacific States/British Columbia Oil Spill Task Force hereby petitions that the Coast Guard expeditiously use such authority to adjust the Limits of Liability for tank vessels, tank barges, non-tank vessels, and appropriate facilities in order to further reduce depletion of the Oil Spill Liability Trust Fund.

Thanking you for your prompt attention to this petition for rulemaking, I remain,

Sincerely yours,

Jean R. Cameron
Executive Coordinator
Pacific States/British Columbia Oil Spill Task Force

cc: CAPT Steve Hanewich, Chief of the Office of Response, U.S.CG HQ
CAPT Paul Gugg, Chief of Marine Safety, U.S. Coast Guard Pacific Area
Jan Lane, Director, National Pollution Funds Center

Alaska British Columbia California Hawaii Oregon Washington