

Changes to California COFR Rules Ease Timing Requirements for Certain Vessels

Legal Alert
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The State of California recently eased its timing requirements for when certain vessels planning to operate in California waters have to provide evidence of financial responsibility for potential oil spills.

California's Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (the "Act") generally requires the owner or operator of a non-tank vessel of 300 gross tons or more to submit a complete application for a certificate of financial responsibility (COFR) at least 10 days prior to the vessel's arrival into California waters.

Under the new provisions of the Act, which became effective on September 26, 2012, the owner or operator of a non-tank vessel of at least 300 gross tons (but not more than 400 gross tons) not used for commercial purposes (i.e. private use) is now only required to submit a portion of the materials constituting a complete application for a COFR prior to the vessel's arrival in California waters. The portion of the materials required to be provided in advance include evidence of financial responsibility, payment of the applicable COFR fee, graywater information, sewage information and vessel particulars. Even more significant is that the deadline for submitting such initial materials has changed from at least 10 days prior to a vessel's arrival in California to only at least 96 hours prior to such arrival. The owner or operator of a qualifying vessel then has 14 days after the arrival of the vessel in California waters to submit the remaining application documents required to obtain a COFR.

Despite the above-described changes to the California COFR application timing requirements, it is important to note that the new provisions of the Act do not apply to vessels with insufficient capacity to store graywater and sewage while the vessel is in California waters, or to any vessel for which an oil spill contingency plan has previously been denied or revoked.

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California and Alaska are unique among U.S. states because, as a condition to cruising in their waters, both states require vessels to have higher levels of financial responsibility for potential oil pollution incidents than are required by the U.S. Coast Guard for cruising in U.S. waters and the waters of all other states. Moreover, state specific endorsements are required on pollution liability policies only for California and Alaska, and each of these states has its own application requirements and timing. Failure to comply with the COFR requirements for California or Alaska, as well as failure to comply with the COFR requirements of the U.S. Coast Guard, can expose an owner or operator of a non-tank vessel to civil liability for damages as well as additional civil and criminal penalties.

If you have any questions regarding California, Alaska or U.S. Coast Guard COFR requirements, or any other maritime related issues, please contact, [Edward Harley](#), Chair of the [Foster Garvey's Yachts, Ships & Submersibles](#) group, at 206.447.4688 or ed.harley@foster.com.