



Petroleum Transportation & Storage Association

## COMPLIANCE BULLETIN

March 24, 2006

### FEDERAL OIL SPILL LIABILITY TAX

**ISSUE:** As reported last week, many suppliers are adding a line item to product transfer documents (shipping papers and bills of lading) indicating an "Oil Spill Liability Tax". Notation of the Oil Spill Liability Tax on product transfer documents will incorrectly lead tax exempt users to assume they are paying a tax and request a refund for which they are not entitled.

**BACKGROUND:** The Energy Act of 2005 re-imposes the federal Oil Spill Liability Tax (beginning April 1, 2006) of 5 cents per barrel (*equivalent to 1/10 of a cent per gallon according to the EPA*) on crude oil and finished product imported into the United States. *The tax is deposited into the Oil Spill Liability Trust Fund which was established in 1994 by Congress in response to the Exxon Valdez disaster. If the balance of the Oil Spill Liability Trust Fund reaches \$2.7 billion, the Oil Spill Liability Tax will no longer apply, until and unless the Fund balance later drops below \$2 billion. The tax will be discontinued, regardless of Fund balance, on December 31, 2014.*

**COMPLIANCE:** Petroleum marketers should be aware of the following compliance facts in order to fully understand the Oil Spill Liability Tax:

- The Oil Spill Liability Tax is paid by refiners **only**.
- No other downstream party is liable for the tax.
- There is no refund available for any party downstream of the refinery.
- The tax is passed down the distribution chain as a **cost** even though it may be broken out as a separate line item and identified as a tax on product transfer document.
- Petroleum marketers are not required to break the Oil Spill Liability Tax out as a separate line item or identify it in any way on bills of lading or shipping papers.
- Identifying the tax on bills of lading or shipping papers will confuse non-taxable users such as farmers and state and local governments who may think they are paying a federal tax and expect a refund. ***This is not a tax but a cost added to the price of the fuel.***
- Petroleum marketers placing bids for fuel may want to break out the tax as a separate line item but should identify it as a "cost recovery" not a "tax".
- The cost recovery charge for the Oil Spill Liability Tax may be less for alternative fuels such as ethanol and bio-diesel blend

**GOT QUESTIONS? CONTACT MARK S. MORGAN at [mmorganptsa@cox.net](mailto:mmorganptsa@cox.net) or (202) 364-6767**