

Misinformed Media, Bloggers Repeating Jones Act Distortions

Certain news stories of late have erroneously reported that foreign skimming vessels have not been permitted to assist with the BP oil spill cleanup because of Jones Act restrictions. Some blogs and reports are blaming the President who ‘refuses to waive’ the Jones Act at the behest of labor unions and other interests. As the Offshore Marine Service Association (OMSA) and others noted in statements released this week, these reports are incorrect.

The Jones Act does not prevent foreign vessels from working on oil skimming operations in waters beyond the state’s three mile limit. If a U.S. vessel is not available within the three-mile limit, there is a waiver process that can be used to bring in foreign vessels. No such waiver has yet been requested. Under the Jones Act, foreign vessels may be used if U.S. vessels are not available.

In the Gulf spill cleanup, a number of foreign vessels have been involved as well as many U.S. vessels. National Incident Commander Admiral Thad Allen said that currently, 15 foreign-flagged vessels are involved in the oil spill response. “No Jones Act waivers have been granted,” he said, “because none of these vessels have required such a waiver to conduct their operations in the Gulf of Mexico.”

“Once again, it appears that critics of the Jones Act are distorting the facts by claiming that the Jones Act applies in an instance when it simply doesn’t, or where it does, not being forthcoming with the law and the facts,” said OMSA President Ken Wells. “Worse, they are taking advantage of this disastrous situation to undermine American workers for the benefit of foreign companies and foreign workers. But even in instances where the law does not require the use of a U.S. vessel, BP should make every attempt to hire U.S. vessels and their workers. The entire Gulf Coast and surrounding areas have been hurt by the BP spill. The seafood and tourism industries have suffered. And it doesn’t make sense now to put the Gulf Coast maritime industry out of work just to give jobs to a few foreign boats.”

The Maritime Cabotage Task Force reiterated the point saying, “...countless American vessels are already responding in the Gulf. In addition, we know that many other American vessels are standing by ready to help.”

Senator Daniel K. Inouye, among other lawmakers, was disgusted by ill-informed news sources that the Jones Act should be suspended to allow foreign vessels to assist with the cleanup. “I was taken aback by the suggestion that we suspend the Jones Act to bring in foreign ships to deal with the catastrophic oil spill in the Gulf,” he noted. “That is not necessary. American vessels from the Navy, Coast Guard, state and county governments are working with private citizens and foreign vessels in support of the clean-up effort. To suggest that we suspend the Jones Act to allow foreign ships into the Gulf is more about pushing a political agenda than any genuine interest in helping Gulf coast communities with their clean-up. We are already at the mercy of foreign competitors when it comes to oil, we should not add shipping to that list.”

In order to prepare for any potential need, National Incident Commander Allen has provided guidance to the Coast Guard Federal On-Scene Coordinator, U.S. Customs and Border Protection (CBP), and the U.S. Maritime Administration to ensure any Jones Act waiver requests receive urgent attention and processing. “While we have not seen any need to waive the Jones Act as part of this historic response, we continue to prepare for all possible scenarios,” said Admiral Allen. “Should any waivers be needed, we are prepared to process them as quickly as possible to allow vital spill response activities being undertaken by foreign-flagged vessels to continue without delay.” The guidance provided by Admiral Allen would route waivers related to the BP oil spill response through the Federal On-Scene Coordinator, who will forward requests immediately through the National Incident Commander for expedited clearance.

MCTF noted, “There are well-established federal procedures for waiving the Jones Act to bring in foreign vessels in those situations where American vessels are not available. The American maritime industry has not and will not stand in the way of the use of these well-established waiver procedures to address this crisis.”

“We want to make crystal clear that in no way, shape or form are we taking any action that hampers the spill cleanup effort. However, this should not become an excuse for foreign companies to take advantage of this tragic accident for their own gain or for opponents of the law to try to undercut it,” OMSA President Wells said.