

SEC. 1125. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) AMOUNT OF FINANCIAL RESPONSIBILITY- Section 1016 of the Oil Pollution Act of 1990 (33 U.S.C. 2716) is amended--

(1) by amending subsection (c)(1) to read as follows:

(1) IN GENERAL-

(A) EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED-

Except as provided in paragraph (2), a responsible party with respect to an offshore facility that--

(i)(I) is located seaward of the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters; or

(II) is located in coastal inland waters, such as bays or estuaries, seaward of the line of ordinary low water along that portion of the coast that is not in direct contact with the open sea;

(ii) is used for exploring for, drilling for, producing, or transporting oil from facilities engaged in oil exploration, drilling, or production; and

(iii) has a worst-case oil spill discharge potential of more than 1,000 barrels of oil (or a lesser amount if the President determines that the risks posed by such facility justify it), shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), as applicable.

(B) AMOUNT REQUIRED GENERALLY- Except as provided in subparagraph (C), the amount of financial responsibility for offshore facilities that meet the criteria of subparagraph (A) is--

(I) \$35,000,000 for an offshore facility located seaward of the seaward boundary of a State; or

(ii) \$10,000,000 for an offshore facility located landward of the seaward boundary of a State.

(C) GREATER AMOUNT- If the President determines that an amount of financial responsibility for a responsible party greater than the amount required by subparagraph (B) is justified based on the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is explored for, drilled for, produced, or transported by the responsible party, the evidence of financial responsibility required shall be for an amount determined by the President not exceeding \$150,000,000.

(D) MULTIPLE FACILITIES- In a case in which a person is a responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.

(E) DEFINITION- For the purpose of this paragraph, the seaward boundary of a State shall be determined in accordance with section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)).;

(2) by amending subsection (f) to read as follows:

(f) CLAIMS AGAINST GUARANTOR-

(1) IN GENERAL- Subject to paragraph (2), a claim for which liability may be established under section 1002 may be asserted directly against any guarantor providing evidence of financial responsibility for a responsible party liable under that section for removal costs and damages to which the claim pertains. In defending against such a claim, the guarantor

may invoke--

- (A) all rights and defenses which would be available to the responsible party under this Act;
 - (B) any defense authorized under subsection (e); and
 - (C) the defense that the incident was caused by the willful misconduct of the responsible party. The guarantor may not invoke any other defense that might be available in proceedings brought by the responsible party against the guarantor.
- (2) FURTHER REQUIREMENT- A claim may be asserted pursuant to paragraph (1) directly against a guarantor providing evidence of financial responsibility under subsection (c)(1) with respect to an offshore facility only if--
- (A) the responsible party for whom evidence of financial responsibility has been provided has denied or failed to pay a claim under this Act on the basis of being insolvent, as defined under section 101(32) of title 11, United States Code, and applying generally accepted accounting principles;
 - (B) the responsible party for whom evidence of financial responsibility has been provided has filed a petition for bankruptcy under title 11, United States Code; or
 - (C) the claim is asserted by the United States for removal costs and damages or for compensation paid by the Fund under this Act, including costs incurred by the Fund for processing compensation claims.
- (3) RULEMAKING AUTHORITY- Not later than 1 year after the date of enactment of this paragraph, the President shall promulgate regulations to establish a process for implementing paragraph (2) in a manner that will allow for the orderly and expeditious presentation and resolution of claims and effectuate the purposes of this Act.; and (3) by amending subsection (g) to read as follows:
- (g) LIMITATION ON GUARANTOR'S LIABILITY- Nothing in this Act shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceed, in the aggregate, the amount of financial responsibility which that guarantor has provided for a responsible party pursuant to this section. The total liability of the guarantor on direct action for claims brought under this Act with respect to an incident shall be limited to that amount.
- (b) LIMITATION ON APPLICATION- The amendment made by subsection (a)(2) shall not apply to any final rule issued before the date of enactment of this section.