

(C) Rulemaking proceeding

If the Secretary determines, based on the results of the study conducted under this² subparagraph (A), that the use of deepwater ports in connection with the transportation of oil by vessel results in a lower operational or environmental risk than the use of other ports, the Secretary shall initiate, not later than the 180th day following the date of submission of the report to the Congress under subparagraph (B), a rulemaking proceeding to lower the limits of liability under this section for deepwater ports as the Secretary determines appropriate. The Secretary may establish a limit of liability of less than \$350,000,000, but not less than \$50,000,000, in accordance with paragraph (1).

(3) Periodic reports

The President shall, within 6 months after August 18, 1990, and from time to time thereafter, report to the Congress on the desirability of adjusting the limits of liability specified in subsection (a) of this section.

(4) Adjustment to reflect Consumer Price Index

The President, by regulations issued not later than 3 years after July 11, 2006, and not less than every 3 years thereafter, shall adjust the limits on liability specified in subsection (a) to reflect significant increases in the Consumer Price Index.

(Pub. L. 101-380, title I, §1004, Aug. 18, 1990, 104 Stat. 491; Pub. L. 104-55, §2(d)(1), Nov. 20, 1995, 109 Stat. 546; Pub. L. 105-383, title IV, §406, Nov. 13, 1998, 112 Stat. 3429; Pub. L. 109-241, title VI, §603(a)(1), (2), (b), July 11, 2006, 120 Stat. 553, 554; Pub. L. 111-281, title IX, §903(a)(2), (e)(1), Oct. 15, 2010, 124 Stat. 3010, 3011.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), is Pub. L. 101-380, Aug. 18, 1990, 104 Stat. 484, as amended, known as the Oil Pollution Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Intervention on the High Seas Act, referred to in subsec. (c)(2)(C), is Pub. L. 93-248, Feb. 5, 1974, 88 Stat. 8, as amended, which is classified generally to chapter 28 (§1471 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1471 of this title and Tables.

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111-281, §903(e)(1), struck out first comma after “\$300,000”.

Pub. L. 111-281, §903(a)(2), made technical amendment to directory language of Pub. L. 109-241, §603(a)(2). See 2006 Amendment note below.

2006—Subsec. (a)(1)(A) to (C). Pub. L. 109-241, §603(a)(1), added subpars. (A) to (C) and struck out former subpars. (A) and (B), which read as follows:

“(A) \$1,200 per gross ton; or
 “(B)(i) in the case of a vessel greater than 3,000 gross tons, \$10,000,000; or
 “(ii) in the case of a vessel of 3,000 gross tons or less, \$2,000,000;”.

Subsec. (a)(2). Pub. L. 109-241, §603(a)(2), as amended by Pub. L. 111-281, §903(a)(2), substituted “\$950 per gross ton” for “\$600 per gross ton” and “\$800,000,” for “\$500,000”.

² So in original. The word “this” probably should not appear.

Subsec. (d)(4). Pub. L. 109-241, §603(b), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: “The President shall, by regulations issued not less often than every 3 years, adjust the limits of liability specified in subsection (a) of this section to reflect significant increases in the Consumer Price Index.”

1998—Subsec. (a)(1). Pub. L. 105-383, §406(1), substituted comma for “(except a tank vessel on which the only oil carried as cargo is an animal fat or vegetable oil, as those terms are used in section 2720 of this title)” after “tank vessel”.

Subsec. (c)(4). Pub. L. 105-383, §406(2), added par. (4). 1995—Subsec. (a)(1). Pub. L. 104-55 substituted “for a tank vessel (except a tank vessel on which the only oil carried as cargo is an animal fat or vegetable oil, as those terms are used in section 2720 of this title)” for “for a tank vessel.”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-281, title IX, §903(a), Oct. 15, 2010, 124 Stat. 3010, provided that the amendment by section 903(a)(2) is effective with enactment of Pub. L. 109-241.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-241, title VI, §603(a)(3), July 11, 2006, 120 Stat. 554, provided that: “In the case of an incident occurring before the 90th day following the date of enactment of this Act [July 11, 2006], section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) shall apply as in effect immediately before the effective date of this subsection [July 11, 2006].”

DELEGATION OF FUNCTIONS

For delegation of functions of President under subsec. (d) of this section, see section 4 of Ex. Ord. No. 12777, set out as a note under section 1321 of this title.

REPORT

Pub. L. 109-241, title VI, §603(c), July 11, 2006, 120 Stat. 554, provided that:

“(1) INITIAL REPORT.—Not later than 45 days after the date of enactment of this Act [July 11, 2006], the Secretary of the department in which the Coast Guard is operating shall submit a report on liability limits described in paragraph (2) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(2) CONTENTS.—The report shall include, at a minimum, the following:

“(A) An analysis of the extent to which oil discharges from vessels and nonvessel sources have or are likely to result in removal costs and damages (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) for which no defense to liability exists under section 1003 of such Act [33 U.S.C. 2703] and that exceed the liability limits established in section 1004 of such Act [33 U.S.C. 2704], as amended by this section.

“(B) An analysis of the impacts that claims against the Oil Spill Liability Trust Fund for amounts exceeding such liability limits will have on the Fund.

“(C) Based on analyses under this paragraph and taking into account other factors impacting the Fund, recommendations on whether the liability limits need to be adjusted in order to prevent the principal of the Fund from declining to levels that are likely to be insufficient to cover expected claims.

“(3) ANNUAL UPDATES.—The Secretary shall provide an update of the report to the Committees referred to in paragraph (1) on an annual basis.”

§ 2705. Interest; partial payment of claims**(a) General rule**

The responsible party or the responsible party's guarantor is liable to a claimant for inter-

est on the amount paid in satisfaction of a claim under this Act for the period described in subsection (b) of this section. The responsible party shall establish a procedure for the payment or settlement of claims for interim, short-term damages. Payment or settlement of a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled shall not preclude recovery by the claimant for damages not reflected in the paid or settled partial claim.

(b) Period

(1) In general

Except as provided in paragraph (2), the period for which interest shall be paid is the period beginning on the 30th day following the date on which the claim is presented to the responsible party or guarantor and ending on the date on which the claim is paid.

(2) Exclusion of period due to offer by guarantor

If the guarantor offers to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim, the period described in paragraph (1) does not include the period beginning on the date the offer is made and ending on the date the offer is accepted. If the offer is made within 60 days after the date on which the claim is presented under section 2713(a) of this title, the period described in paragraph (1) does not include any period before the offer is accepted.

(3) Exclusion of periods in interests of justice

If in any period a claimant is not paid due to reasons beyond the control of the responsible party or because it would not serve the interests of justice, no interest shall accrue under this section during that period.

(4) Calculation of interest

The interest paid under this section shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of 180 days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(5) Interest not subject to liability limits

(A) In general

Interest (including prejudgment interest) under this paragraph is in addition to damages and removal costs for which claims may be asserted under section 2702 of this title and shall be paid without regard to any limitation of liability under section 2704 of this title.

(B) Payment by guarantor

The payment of interest under this subsection by a guarantor is subject to section 2716(g) of this title.

(Pub. L. 101-380, title I, §1005, Aug. 18, 1990, 104 Stat. 493; Pub. L. 104-324, title XI, §1142(a), Oct. 19, 1996, 110 Stat. 3991.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 101-380, Aug. 18, 1990, 104 Stat. 484, as amended, known as the

Oil Pollution Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104-324, §1142(a)(1), inserted “; partial payment of claims” after “Interest” in section catchline.

Subsec. (a). Pub. L. 104-324, §1142(a)(2), inserted at end “The responsible party shall establish a procedure for the payment or settlement of claims for interim, short-term damages. Payment or settlement of a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled shall not preclude recovery by the claimant for damages not reflected in the paid or settled partial claim.”

§ 2706. Natural resources

(a) Liability

In the case of natural resource damages under section 2702(b)(2)(A) of this title, liability shall be—

(1) to the United States Government for natural resources belonging to, managed by, controlled by, or appertaining to the United States;

(2) to any State for natural resources belonging to, managed by, controlled by, or appertaining to such State or political subdivision thereof;

(3) to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such Indian tribe; and

(4) in any case in which section 2707 of this title applies, to the government of a foreign country for natural resources belonging to, managed by, controlled by, or appertaining to such country.

(b) Designation of trustees

(1) In general

The President, or the authorized representative of any State, Indian tribe, or foreign government, shall act on behalf of the public, Indian tribe, or foreign country as trustee of natural resources to present a claim for and to recover damages to the natural resources.

(2) Federal trustees

The President shall designate the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act.

(3) State trustees

The Governor of each State shall designate State and local officials who may act on behalf of the public as trustee for natural resources under this Act and shall notify the President of the designation.

(4) Indian tribe trustees

The governing body of any Indian tribe shall designate tribal officials who may act on behalf of the tribe or its members as trustee for natural resources under this Act and shall notify the President of the designation.

(5) Foreign trustees

The head of any foreign government may designate the trustee who shall act on behalf of that government as trustee for natural resources under this Act.