

## § 135.201

(d) Payment of the fee levied in paragraph (a) of this section is made in accordance with the fee collection regulations of the IRS at 26 CFR part 301, §301.9001. Federal government entitlement to royalty oil does not constitute ownership of oil at time of production. The Fund Administrator advises the IRS when the unobligated Fund balance requires starting or stopping the collection of the barrel fee levied in this section, so the IRS may provide appropriate notice to affected owners of OCS oil.

[CGD 88-050, 53 FR 52997, Dec. 30, 1988, as amended by CGD 90-005, 55 FR 17268, Apr. 24, 1990]

### Subpart C—Financial Responsibility for Offshore Facilities

#### § 135.201 Applicability.

(a) This subpart applies to the owner or operator of each offshore facility required by the Act to establish and maintain evidence of financial responsibility.

(b) For the purpose of this subpart:

(1) All structures, including platforms, wells, and pipelines, are considered a single offshore facility if they are physically connected, located upstream of the point of custody transfer, within the same oil field, and under one ownership.

(2) If separate parts of a structure, including platforms and pipelines, are owned separately, each part having common ownership is considered a separate offshore facility.

(3) A mobile offshore drilling unit is considered an offshore facility from the moment a drill shaft or other device connected to the unit first touches the seabed or connects to a well for the purposes of exploration, development, or production of oil until drilling is completed and the unit is no longer attached to the well or drill hole by any device.

(4) A mobile offshore drilling unit considered an offshore facility under paragraph (b)(3) of this section remains a separate facility when physically connected to another offshore facility, unless both are under one ownership.

(5) All segments of a common carrier pipeline from the point of custody transfer to the shore, including any

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pumping or booster stations, which are under one ownership are considered a single offshore facility.

(6) Any pipeline, which is under one ownership, between two offshore facilities, or between an offshore facility and the shore, is considered a single offshore facility.

(7) Offshore facilities which drill for, produce, or process only natural gas are not subject to this subpart unless the facilities have the capacity to transport, store, or otherwise handle more than 1,000 barrels of condensate at any one time.

NOTE: Regulations governing financial responsibility and certification for vessels are promulgated by the Federal Maritime Commission.

#### § 135.203 Amount required.

(a) Each facility that is used for drilling for, producing, or processing oil, or which has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time must be covered by evidence of financial responsibility submitted by or on behalf of the owner or operator of the facility, in the amount of \$35,000,000.

(b) Evidence of financial responsibility established and maintained by a person who owns or operates more than one facility, or who has an interest in the ownership or operation of more than one facility, may be applied by that person towards establishing and maintaining the required evidence of financial responsibility for each facility in which that person has an interest, if the evidence is available to satisfy liabilities arising out of incidents involving those facilities.

#### § 135.204 Submission of evidence.

(a) Where the offshore facility is owned and operated solely by one person, that person must establish and maintain evidence of financial responsibility covering the facility.

(b) Where the offshore facility is owned in its entirety by one person and operated solely by another person, evidence of financial responsibility covering the facility must be established and maintained by either the owner or the operator, or, in consolidated form, by both the owner and operator.

(c) Where the offshore facility is owned or operated by more than one person, evidence of financial responsibility covering the facility must be established and maintained by any one of the owners or operators, or, in consolidated form, by or on behalf of two or more owners or operators.

(d) When evidence of financial responsibility is established in a consolidated form, the proportional share of each participant must be shown. The evidence must be accompanied by a statement authorizing the applicant to act for and in behalf of each participant in submitting and maintaining the evidence of financial responsibility.

(e) Each owner and operator of a facility is subject to the penalty provided by section 312(a) of the Act if evidence of financial responsibility is not established and maintained for that facility.

**§ 135.205 Methods of establishing.**

(a) Evidence of financial responsibility may be established by any one, or any combination acceptable to the Fund Administrator, of the following methods:

- (1) Insurance;
- (2) Guaranty;
- (3) Indemnity;
- (4) Surety bond; or
- (5) Qualification as self-insurer.

(b) The Fund Administrator will accept alternative evidence of financial responsibility if, in the Fund Administrator's opinion, it establishes an equivalent degree of financial responsibility for the purposes of this subpart.

**§ 135.207 Insurance as evidence.**

(a) Insurance filed with the Fund Administrator as evidence of financial responsibility shall be issued by an insurer that is acceptable to the Fund Administrator. Those insurers may include domestic and foreign insurance companies, corporations or associations of individual insurers, protection and indemnity associations, or other persons acceptable to the Fund Administrator.

(b) An insurer must:

(1) Agree to be sued directly, within the limits of the policy coverage, by any person for claims under the Act against the owner or operator; and

(2) Designate an agent in the United States for service of process.

(c) Insurance as evidence of financial responsibility must indicate the effective date in the endorsement on the application for Certificate of Financial Responsibility, and must remain in force until the date of termination indicated in the endorsement or until—

(1) 30 days after mailing, by certified mail, to the Fund Administrator, and the person insured, notification of intent to cancel; or

(2) Other evidence of financial responsibility acceptable to the Fund Administrator has been established; or

(3) The facility to which the insurance applies ceases to be a facility under § 135.201(b).

(d) Termination of insurance coverage shall not affect the liability of the insurer for an incident occurring before the effective date of termination.

(e) Confirmation of insurance may be accepted from an insurance broker that is acceptable to the Fund Administrator, subject to the Fund Administrator's approval of the individual underwriters, in lieu of their signature on an application, provided the confirmation:

(1) States the insurance covers liabilities under the Act;

(2) Sets forth the limit and deductible;

(3) Provides for direct action against the individual underwriters to the extent of their contracts;

(4) Names the underwriters and percentages of the limit accepted by each;

(5) States that the underwriters agree to give prior written notice of cancellation or change to the Fund Administrator as required in paragraph (c) of this section; and

(6) States that the notice indicated in paragraph (e)(5) of this section will not affect the underwriter's liability for incidents occurring before the effective date of cancellation.

**§ 135.209 Guaranty as evidence.**

(a) Guarantors must:

(1) Agree to be sued directly, within the limits the guaranty, by any person for claims under the Act against the owner or operator; and