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Title 33 - NAVIGATION AND NAVIGABLE WATERS

CHAPTER 40 - OIL POLLUTION

SUBCHAPTER I - OIL POLLUTION LIABILITY AND COMPENSATION

Sec. 2712 - Uses of Fund

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§2712. Uses of Fund

(a) Uses generally

The Fund shall be available to the President for—

(1) the payment of removal costs, including the costs of monitoring removal actions, determined by the President to be consistent with the National Contingency Plan—

(A) by Federal authorities; or

(B) by a Governor or designated State official under subsection (d) of this section;

(2) the payment of costs incurred by Federal, State, or Indian tribe trustees in carrying out their functions under section 2706 of this title for assessing natural resource damages and for developing and implementing plans for the restoration, rehabilitation, replacement, or acquisition of the equivalent of damaged resources determined by the President to be consistent with the National Contingency Plan;

(3) the payment of removal costs determined by the President to be consistent with the National Contingency Plan as a result of, and damages resulting from, a discharge, or a substantial threat of a discharge, of oil from a foreign offshore unit;

(4) the payment of claims in accordance with section 2713 of this title for uncompensated removal costs determined by the President to be consistent with the National Contingency Plan or uncompensated damages;

(5) the payment of Federal administrative, operational, and personnel costs and expenses reasonably necessary for and incidental to the implementation, administration, and enforcement of this Act (including, but not limited to, sections 1004(d)(2), 1006(e), 4107, 4110, 4111, 4112, 4117, 5006, 8103, and title VII) and subsections (b), (c), (d), (j), and (l) of section 1321 of this title with respect to prevention, removal, and enforcement related to oil discharges, provided that—

(A) not more than \$25,000,000 in each fiscal year shall be available to the Secretary for operating expenses incurred by the Coast Guard;

(B) not more than \$15,000,000 in each fiscal year shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred by, and activities related to, response and damage assessment capabilities of the National Oceanic and Atmospheric Administration;

(C) not more than \$30,000,000 each year through the end of fiscal year 1992 shall be available to establish the National Response System under section 1321(j) of this title, including the purchase and prepositioning of oil spill removal equipment; and

(D) not more than \$27,250,000 in each fiscal year shall be available to carry out subchapter IV of this chapter; and

(6) the making of loans pursuant to the program established under section 2713(f) of this title.

(b) Defense to liability for Fund

The Fund shall not be available to pay any claim for removal costs or damages to a particular claimant, to the extent that the incident, removal costs, or damages are caused by the gross negligence or willful misconduct of that claimant.

(c) Obligation of Fund by Federal officials

The President may promulgate regulations designating one or more Federal officials who may obligate money in accordance with subsection (a) of this section.

(d) Access to Fund by State officials

(1) Immediate removal

In accordance with regulations promulgated under this section, the President, upon the request of the Governor of a State or pursuant to an agreement with a State under paragraph (2), may obligate the Fund for payment in an amount not to exceed \$250,000 for removal costs consistent with the National Contingency Plan required for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat of a discharge, of oil.

(2) Agreements

(A) In general

The President shall enter into an agreement with the Governor of any interested State to establish procedures under which the Governor or a designated State official may receive payments from the Fund for removal costs pursuant to paragraph (1).

(B) Terms

Agreements under this paragraph—

(i) may include such terms and conditions as may be agreed upon by the President and the Governor of a State;

(ii) shall provide for political subdivisions of the State to receive payments for reasonable removal costs; and

(iii) may authorize advance payments from the Fund to facilitate removal efforts.

(e) Regulations

The President shall—

(1) not later than 6 months after August 18, 1990, publish proposed regulations detailing the manner in which the authority to obligate the Fund and to enter into agreements under this subsection shall be exercised; and

(2) not later than 3 months after the close of the comment period for such proposed regulations, promulgate final regulations for that purpose.