

Update on Consumer Price Index adjustment of COFR guaranty limits

We have been advised by the National Pollution Funds Center (NPFC) arm of the United States Coast Guard (USCG) that a further increase in liability limits under OPA90 is imminent.

The advice from the NPFC states:

“On July 1, 2009, the Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability – Vessels and Deepwater Ports interim final rule was published. Among other things, this rule increases vessel and Deepwater port liability limits based on a significant increase in the CPI over the last three years. The new limits are effective 31 July, 2009, which means operators are liable at the new limits on this date. Operators must establish evidence of financial responsibility at the amended total applicable amount no later than 90 days after the effective date of the interim final rule.”

The important points for SIGCo members to note from this advice regarding their COFR guaranties are as follows:

1. The new limits are applicable to the Operator immediately as from the implementation date of 31 July, 2009
2. The *evidence of responsibility* required under OPA90, in the form of the SIGCo COFR guaranty will retain the existing limits (pre-CPI adjustment) until the expiry of the 90 day term mentioned above, ie. 29th October, 2009. Any announcement that operators may have already received advising that the Guarantors' limits will increase on 31 July along with Operators' limits is incorrect per the NPFC.
3. SIGCo will then take all required steps to ensure that both new and existing guaranties will comply with the new limit requirement. SIGCo members will not be required to do anything further in this regard with respect to their guaranty.
4. The new table of limits is outlined below. For the sake of completeness I also attach an Acrobat file containing the relevant section from the Federal Register outlining the details of the changes in question.
5. In response to requests from our members requiring clarification of the hull construction of LNG/LPG carriers for OPA90 purposes, SIGCo raised this question formally with the USCG. I am pleased to advise that this clarification was forthcoming and can be found on page 8 of the attached Acrobat file under point 3 of the “Discussion of Comments and Changes” section (see heading “Single-Hull Tank Vessel Clarifying Changes and Request for Comment”). In summary, the determination of a single hulled tanker will depend on the ability of the vessel to carry oil. Hence, specially designed tankers such as LNG/LPG, that are not equipped to carry oil will be considered as double hulled in this context. This differentiation is recognized in the limit of liability table, reproduced below. I would encourage anyone who is still unclear about this classification to review the relevant section in the attached file.

Table showing changes to OPA90 vessel limits of liability – Effective 31st July, 2009

If the vessel is a	Previous liability limit – the greater of	Amended liability limit – the greater of
Oil cargo tank vessel greater than 3,000GT with a single hull, double sides only, or double bottom only.	\$3,000 per GT or \$22,000,000	\$3,200 per GT or \$23,496,000
Tank vessel greater than 3,000GT with a double hull.	\$1,900 per GT or \$16,000,000	\$2,000 per GT or \$17,088,000
Oil cargo tank vessel less than or equal to 3,000GT with a single hull, double sides or double bottom only.	\$3,000 per GT or \$6,000,000	\$3,200 per GT or \$6,408,000
Tank vessel less than or equal to 3,000GT with a double hull.	\$1,900 per GT or \$4,000,000	\$2,000 per GT or \$4,272,000
Any vessel other than a tank vessel.	\$950 per GT or \$800,000	\$1,000 per GT or \$854,400

Neil Clemens,
President,
SIGCo