

agencies having responsibility for implementation, administration, and enforcement of the Oil Pollution Act of 1990 (Pub. L. 101-380, see Tables for classification) and section 1321(b), (c), (d), (j), (l) of this title by section 7(a)(3), (b) of Ex. Ord. No. 12777.

Memorandum of the President of the United States, Aug. 24, 1990, 55 F.R. 35291, which delegated to the Secretary of the Department in which the Coast Guard is operating authority to make available from the Oil Spill Liability Trust Fund not to exceed \$50,000,000 in any fiscal year to remove discharged oil or hazardous substances from navigable waters, was revoked by Ex. Ord. No. 12777, §8(i), Oct. 18, 1991, 56 F.R. 54769, set out as a note under section 1321 of this title.

#### USE OF FUND FOR SPILLS OF NATIONAL SIGNIFICANCE

Pub. L. 112-74, div. D, title V, §563, Dec. 23, 2011, 125 Stat. 981, provided that: "For fiscal year 2012 and thereafter, notwithstanding section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)) and 31 U.S.C. 3302, in the event that a spill of national significance occurs, any payment of amounts from the Oil Spill Liability Trust Fund pursuant to section 1012(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(1)) for the removal costs incurred by the Coast Guard for such spill, shall be credited directly to the accounts of the Coast Guard current at the time such removal costs were incurred or when reimbursement is received: *Provided*, That such amounts shall be merged with and, without further appropriations, made available for the same time period and the same purpose as the appropriation to which it is credited."

### § 2713. Claims procedure

#### (a) Presentation

Except as provided in subsection (b) of this section, all claims for removal costs or damages shall be presented first to the responsible party or guarantor of the source designated under section 2714(a) of this title.

#### (b) Presentation to Fund

##### (1) In general

Claims for removal costs or damages may be presented first to the Fund—

- (A) if the President has advertised or otherwise notified claimants in accordance with section 2714(c) of this title;
- (B) by a responsible party who may assert a claim under section 2708 of this title;
- (C) by the Governor of a State for removal costs incurred by that State; or
- (D) by a United States claimant in a case where a foreign offshore unit has discharged oil causing damage for which the Fund is liable under section 2712(a) of this title.

##### (2) Limitation on presenting claim

No claim of a person against the Fund may be approved or certified during the pendency of an action by the person in court to recover costs which are the subject of the claim.

#### (c) Election

If a claim is presented in accordance with subsection (a) of this section and—

- (1) each person to whom the claim is presented denies all liability for the claim, or
- (2) the claim is not settled by any person by payment within 90 days after the date upon which (A) the claim was presented, or (B) advertising was begun pursuant to section 2714(b) of this title, whichever is later,

the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Fund.

#### (d) Uncompensated damages

If a claim is presented in accordance with this section, including a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled, and full and adequate compensation is unavailable, a claim for the uncompensated damages and removal costs may be presented to the Fund.

#### (e) Procedure for claims against Fund

The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims under this Act against the Fund.

#### (f) Loan program

##### (1) In general

The President shall establish a loan program under the Fund to provide interim assistance to fishermen and aquaculture producer claimants during the claims procedure.

##### (2) Eligibility for loan

A loan may be made under paragraph (1) only to a fisherman or aquaculture producer that—

- (A) has incurred damages for which claims are authorized under section 2702 of this title;
- (B) has made a claim pursuant to this section that is pending; and
- (C) has not received an interim payment under section 2705(a) of this title for the amount of the claim, or part thereof, that is pending.

##### (3) Terms and conditions of loans

A loan awarded under paragraph (1)—

- (A) shall have flexible terms, as determined by the President;
- (B) shall be for a period ending on the later of—
  - (i) the date that is 5 years after the date on which the loan is made; or
  - (ii) the date on which the fisherman or aquaculture producer receives payment for the claim to which the loan relates under the procedure established by subsections (a) through (e) of this section; and
- (C) shall be at a low interest rate, as determined by the President.

(Pub. L. 101-380, title I, §1013, Aug. 18, 1990, 104 Stat. 501; Pub. L. 104-324, title XI, §1142(b), Oct. 19, 1996, 110 Stat. 3991; Pub. L. 108-293, title VII, §708(a), Aug. 9, 2004, 118 Stat. 1077.)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (e), 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

2004—Subsec. (f). Pub. L. 108-293 added subsec.(f).  
 1996—Subsec. (d). Pub. L. 104-324 substituted "section, including a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled," for "section".

## DELEGATION OF FUNCTIONS

Functions of President under subsec. (e) of this section delegated to Secretary of Department in which Coast Guard is operating by section 7(c)(2) of Ex. Ord. No. 12777, Oct. 18, 1991, 56 F.R. 54767, set out as a note under section 1321 of this title.

**§ 2714. Designation of source and advertisement****(a) Designation of source and notification**

When the President receives information of an incident, the President shall, where possible and appropriate, designate the source or sources of the discharge or threat. If a designated source is a vessel or a facility, the President shall immediately notify the responsible party and the guarantor, if known, of that designation.

**(b) Advertisement by responsible party or guarantor**

(1) If a responsible party or guarantor fails to inform the President, within 5 days after receiving notification of a designation under subsection (a) of this section, of the party's or the guarantor's denial of the designation, such party or guarantor shall advertise the designation and the procedures by which claims may be presented, in accordance with regulations promulgated by the President. Advertisement under the preceding sentence shall begin no later than 15 days after the date of the designation made under subsection (a) of this section. If advertisement is not otherwise made in accordance with this subsection, the President shall promptly and at the expense of the responsible party or the guarantor involved, advertise the designation and the procedures by which claims may be presented to the responsible party or guarantor. Advertisement under this subsection shall continue for a period of no less than 30 days.

(2) An advertisement under paragraph (1) shall state that a claimant may present a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled and that payment of such a claim shall not preclude recovery for damages not reflected in the paid or settled partial claim.

**(c) Advertisement by President**

If—

(1) the responsible party and the guarantor both deny a designation within 5 days after receiving notification of a designation under subsection (a) of this section,

(2) the source of the discharge or threat was a public vessel, or

(3) the President is unable to designate the source or sources of the discharge or threat under subsection (a) of this section,

the President shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Fund.

(Pub. L. 101-380, title I, §1014, Aug. 18, 1990, 104 Stat. 501; Pub. L. 104-324, title XI, §1142(c), Oct. 19, 1996, 110 Stat. 3991.)

## AMENDMENTS

1996—Subsec. (b). Pub. L. 104-324 designated existing provisions as par. (1) and added par. (2).

## DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Department in which Coast Guard is op-

erating by section 7(d)(2) of Ex. Ord. No. 12777, Oct. 18, 1991, 56 F.R. 54768, set out as a note under section 1321 of this title.

**§ 2715. Subrogation****(a) In general**

Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other law.

**(b) Interim damages****(1) In general**

If a responsible party, a guarantor, or the Fund has made payment to a claimant for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled, subrogation under subsection (a) of this section shall apply only with respect to the portion of the claim reflected in the paid interim claim.

**(2) Final damages**

Payment of such a claim shall not foreclose a claimant's right to recovery of all damages to which the claimant otherwise is entitled under this Act or under any other law.

**(c) Actions on behalf of Fund**

At the request of the Secretary, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and all costs incurred by the Fund by reason of the claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any responsible party or (subject to section 2716 of this title) guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the cost or damages for which the compensation was paid. Such an action shall be commenced against the responsible foreign government or other responsible party to recover any removal costs or damages paid from the Fund as the result of the discharge, or substantial threat of discharge, of oil from a foreign offshore unit.

**(d) Authority to settle**

The head of any department or agency responsible for recovering amounts for which a person is liable under this subchapter may consider, compromise, and settle a claim for such amounts, including such costs paid from the Fund, if the claim has not been referred to the Attorney General. In any case in which the total amount to be recovered may exceed \$500,000 (excluding interest), a claim may be compromised and settled under the preceding sentence only with the prior written approval of the Attorney General.

(Pub. L. 101-380, title I, §1015, Aug. 18, 1990, 104 Stat. 502; Pub. L. 104-324, title XI, §1142(d), Oct. 19, 1996, 110 Stat. 3991; Pub. L. 108-293, title VII, §706, Aug. 9, 2004, 118 Stat. 1076.)

## REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101-380, Aug. 18, 1990, 104 Stat. 484, as amended, known as the Oil Pol-