

and who is subsequently² found to be responsible for such damages, and any commercial fisherman who files a claim for damages and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings under this section with respect to such claim.

(i) Judicial review

Any claimant or other person who suffers a legal wrong or who is adversely affected or aggrieved by a final determination of the Secretary under subsection (d) of this section, may, no later than 30 days after such determination is made, seek judicial review of the determination in the United States district court for such United States judicial district as may be mutually agreeable to the parties concerned or, if no agreement can be reached, in the United States district court for the United States judicial district in which is located the home port of the claimant.

(Pub. L. 95-372, title IV, §405, Sept. 18, 1978, 92 Stat. 688; Pub. L. 97-212, §5, June 30, 1982, 96 Stat. 145; Pub. L. 98-498, title IV, §420(3), (4), Oct. 19, 1984, 98 Stat. 2309, 2310.)

REFERENCES IN TEXT

Section 1847 of this title, referred to in subsec. (f)(2), was repealed by Pub. L. 97-212, §6(a), June 30, 1982, 96 Stat. 147.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-498 substituted “under subsection (d)(1) of this section” for “, except that no such claim may be filed more than 60 days after the date of discovery of the damages with respect to which such claim is made”.

Subsec. (d)(1). Pub. L. 98-498 inserted “time,” before “form”.

1982—Subsec. (b). Pub. L. 97-212, §5(1), struck out pars. (1) and (2) designations, and substituted “shall take such further action regarding the claim that is required under subsection (d) of this section” for “refer such matter to a hearing examiner appointed under section 3105 of title 5”.

Subsec. (c). Pub. L. 97-212, §5(2), substituted “proceeding” for “hearing”.

Subsec. (d). Pub. L. 97-212, §5(3), substituted provisions relating to the filing of claims with the Secretary of the Interior in order to be eligible for compensation under this subchapter, the time for such filing, the time in which the Secretary must make his initial determination with respect to the claim, and the submission of evidence by the petitioner when reviewing an initial determination by the Secretary, for provisions relating to the time in which a hearing examiner has to render a decision.

Subsec. (e). Pub. L. 97-212, §5(4), substituted provisions that if the decision of the Secretary is in favor of the commercial fisherman filing the claim, the Secretary shall award to such claimant reasonable attorney's fees and claim preparation fees incurred by claimant in pursuing such claim for provisions that upon a decision in favor of the claimant fisherman, the hearing examiner include in the award reasonable attorney's fees incurred by the claimant in pursuing such claim.

Subsec. (f). Pub. L. 97-212, §5(5), substituted “the Secretary” for “hearing examiner” and “proceeding” for “hearing” wherever appearing. The amendment which directed the substitution of “the Secretary” for “hearing examiner” was executed by substituting “the Secretary” for “the hearing examiner”, as the probable intent of Congress, to avoid repeating the article “the” before “Secretary” in two places.

²So in original. Probably should be “subsequently”.

Subsec. (g). Pub. L. 97-212, §5(6), substituted “Any proceeding conducted with respect to an initial determination on a claim under subsection (d)(3)(A) of this section shall be conducted within such United States judicial district as may be mutually agreeable to the claimant and the Secretary or, if no agreement can be reached, within the United States judicial district in which the home port of the claimant is located” for “A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district”.

Subsec. (h)(1). Pub. L. 97-212, §5(7)(A), substituted provisions that the amount awarded in an initial determination by the Secretary under subsec. (d) be immediately disbursed by the Secretary if the claimant states in writing that he will not petition for review of the initial determination and he enters into an agreement with the Secretary to repay to the Secretary all or any part of the award that is not sustained upon later judicial review for provisions that upon a decision of the hearing examiner and in absence of judicial review, any amount to be paid would be certified to the Secretary who would promptly disburse the award and that such decision of the hearing examiner was not reviewable by the Secretary.

Subsec. (h)(2). Pub. L. 97-212, §5(7)(B), inserted provision that any moneys recovered by the Secretary through subrogation shall be deposited into the Fund.

Subsec. (i). Pub. L. 97-212, §5(8), substituted “Any claimant or other person who suffers a legal wrong or who is adversely affected or aggrieved by a final determination of the Secretary under subsection (d) of this section, may, no later than 30 days after such determination is made, seek judicial review of the determination in the United States district court for such United States judicial district as may be mutually agreeable to the parties concerned or, if no agreement can be reached, in the United States district court for the United States judicial district in which is located the home port of the claimant” for “Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than 60 days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit”.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-212 applicable with respect to claims for damages filed on or after June 30, 1982, with the Secretary of Commerce under section 1845(a) of this title, with provision for the refiling of previously filed claims under certain circumstances, see section 9 of Pub. L. 97-212, set out as a note under section 1841 of this title.

COMPENSATION FOR CERTAIN FISHING VESSEL AND GEAR DAMAGE; APPLICATION

Authority to owners or operators of fishing vessels and commercial fishermen failing to make application for compensation within the time limitations of this section or section 1980 of Title 22, Foreign Relations and Intercourse, to make application for compensation within the 60-day period beginning on Dec. 22, 1980, see section 240(a), (b)(1) of Pub. L. 96-561, title II, Dec. 22, 1980, 94 Stat. 3300, set out as a note under section 1980 of Title 22.

§ 1846. Repealed. Pub. L. 104-66, title I, § 1021(f), Dec. 21, 1995, 109 Stat. 713

Section, Pub. L. 95-372, title IV, §406, Sept. 18, 1978, 92 Stat. 689, directed Secretary to submit annual reports to Congress setting forth Fishermen's Contingency

Fund damage descriptions and compensation amounts and, in first annual report, to evaluate feasibility of (1) fine or penalty impositions, or (2) bonding requirements.

§ 1847. Repealed. Pub. L. 97-212, § 6(a), June 30, 1982, 96 Stat. 147

Section, Pub. L. 95-372, title IV, § 407, Sept. 18, 1978, 92 Stat. 690, related to survey of obstructions on Outer Continental Shelf and development of charts for commercial fishermen.

EFFECTIVE DATE OF REPEAL

Repeal effective June 30, 1982, and applicable with respect to claims for damages filed on or after such date, with the Secretary of Commerce under section 1845(a) of this title, see section 9(a) of Pub. L. 97-212, set out as an Effective Date of 1982 Amendment note under section 1841.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 1861. Repealed. Pub. L. 99-367, § 2(b), July 31, 1986, 100 Stat. 774

Section, Pub. L. 95-372, title VI, § 601, Sept. 18, 1978, 92 Stat. 693, required Secretary of the Interior, within six months of Sept. 18, 1978, and in his annual report thereafter, to report to Comptroller General on shut-in and flaring oil and gas wells and required Comptroller General, within six months after receipt of report, to review and evaluate methodology used by Secretary in allowing wells to be shut-in or flare natural gas and submit his findings and recommendations to Congress.

§ 1862. Natural gas distribution

(a) Expanded participation by local distribution companies in acquisition of leases and development of natural gas resources

The purpose of this section is to encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company.

(b) Application and issuance of certificates of public convenience and necessity for transportation of natural gas

The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for, and, as appropriate, issue certificates of public convenience and necessity, pursuant to section 717f of title 15, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determining—¹

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation.

Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 717f of title 15, the issuance of a certificate of transportation under such statement of policy. To the maximum extent practicable, such statement shall be promulgated and published within one year after September 18, 1978.

(c) Definitions

For purposes of this section, the term—

(1) “local distribution company” means any person—

(A) engaged in the distribution of natural gas at retail, including any subsidiary or affiliate thereof engaged in the exploration and production of natural gas; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof;

(2) “interstate commerce” shall have the same meaning as such term has under section 717a(7) of title 15; and

(3) “Commission” means the Federal Energy Regulatory Commission.

(Pub. L. 95-372, title VI, § 603, Sept. 18, 1978, 92 Stat. 694.)

§ 1863. Unlawful employment practices; regulations

Each agency or department given responsibility for the promulgation or enforcement of regulations under this chapter or the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] shall take such affirmative action as deemed necessary to prohibit all unlawful employment practices and to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this chapter or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, whether through agency and department provisions or rules, shall be similar to those established and in effect under title VI and title VII of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq., 2000e et seq.].

(Pub. L. 95-372, title VI, § 604, Sept. 18, 1978, 92 Stat. 695.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95-372, Sept. 18, 1978, 92 Stat. 629, as amended, known as the Outer Continental Shelf Lands Act Amendments of 1978, which enacted this chapter, sections 1344 to 1356 of this title, and section 237 of Title 30, Mineral Lands and Mining, amended sections 1331 to 1334, 1337, 1340, and 1343 of this title, sections 1456, 1456a, and 1464 of Title 16, Conservation, and section 6213 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sec-

¹ So in original. Probably should be “determining—”.