

centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(D) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(3) "commercial fisherman" means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel;

(4) "commercial fishing vessel" means any vessel, boat, ship, or other craft which is (A) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (B) used for, equipped to be used for, or of a type which is normally used for commercial purposes for the catching, taking, or harvesting of fish or the aiding or assisting of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing;

(5) "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species;

(6) "fishing gear" means (A) any commercial fishing vessel, and (B) any equipment of such vessel, whether or not attached to such a vessel;

(7) "Fund" means the Fishermen's Contingency Fund established under section 1842 of this title; and

(8) "Secretary" means the Secretary of Commerce or the designee of such Secretary.

(Pub. L. 95-372, title IV, § 401, Sept. 18, 1978, 92 Stat. 685; Pub. L. 97-212, §§ 1, 8, June 30, 1982, 96 Stat. 143, 147.)

#### AMENDMENTS

1982—Pub. L. 97-212 added par. (1), redesignated former pars. (1) to (7) as (2) to (8), respectively, and struck out "at sea" after "the aiding or assisting" in par. (4)(B) as redesignated.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-212, § 9, June 30, 1982, 96 Stat. 147, provided that:

"(a) Except as provided for in subsection (b), the amendments made by this Act [amending this section and sections 1842 to 1845 of this title, repealing section 1847 of this title, enacting a provision set out as a note under section 1823 of Title 16, Conservation, and amending a provision set out as a note under section 1823 of Title 16] shall apply with respect to claims for damages that are filed, on or after the date of the enactment of this Act [June 30, 1982], with the Secretary of Commerce under section 405(a) of the Outer Continental Shelf Lands Act Amendments of 1978 [section 1845(a) of this title].

"(b)(1) Any commercial fisherman who filed a claim with the Secretary of Commerce for compensation under title IV of such amendments of 1978 [this subchapter] before the date of the enactment of this Act [June 30, 1982] may, if no decision on such claim was rendered under section 405(d) of such title IV [section 1845(d) of this title] before such date of enactment [June 30, 1982], refile such claim with the Secretary if the claimant notifies the Secretary in writing within

thirty days after notification under paragraph (2) of his eligibility to refile the claim that he intends to so refile. If timely notification of intent to refile is made under the preceding sentence, any action pending with respect to the original claim shall be suspended pending the refiling of the claim under paragraph (2) and, if such refiling is timely made, such action shall be vacated.

"(2) The Secretary shall notify each claimant eligible to refile a claim under paragraph (1) of such eligibility within 10 days after the date of enactment of this Act [June 30, 1982].

"(3) A claim for which notification on intent to refile was timely made under paragraph (1) must be refiled with the Secretary within the thirty-day period after the date on which the regulations promulgated to implement the amendments made by this Act become final or action shall be resumed with respect to such claim without regard to the amendments made by this Act.

"(4) The amendments made by this Act shall apply with respect to any claim that is refiled on a timely basis under paragraph (3)."

#### § 1842. Fishermen's Contingency Fund

##### (a) Establishment; availability; source of deposits; limitation on amount; interest-bearing accounts; litigation

(1) There is established in the Treasury of the United States a Fishermen's Contingency Fund. The Fund shall be available to the Secretary without fiscal year limitations as a revolving fund for the purpose of making payments pursuant to this section. The Fund shall consist of—

(A) revenues received from investments made under paragraph (3);

(B) amounts collected under subsection (b); and

(C) amounts recovered by the Secretary under section 1845(h)(2) of this title.

The total amount in the Fund that is collected under subsection (b) may at no time exceed \$2,000,000; and the total amount in the Fund which is attributable to revenue received under paragraph (3) or recovered by the Secretary under section 1845(h)(2) of this title shall be expended prior to amounts collected under subsection (b). Not more than 8 percent of the total amount in the Fund may be expended in any fiscal year for paying the administrative and personnel expenses referred to in paragraph (2)(A).

(2) The Fund shall be available, as provided for in appropriation Acts solely for the payment of—

(A) the personnel and administrative expenses incurred in carrying out this subchapter;

(B) any claim, in accordance with procedures established under this section, for damages that are compensable under this subchapter; and

(C) attorney and other fees awarded under section 1845(e) of this title with respect to any such claim.

(3) Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited into the Fund.

(4) The Fund may sue and be sued in its own name. All litigation by or against the Fund shall be referred to the Attorney General.

**(b) Payments by each holder of lease, permit, easement, or right-of-way**

(1) Except as provided in paragraph (2), each holder of a lease that is issued or maintained under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] and each holder of an exploration permit, or an easement or right-of-way for the construction of a pipeline in any area of the Outer Continental Shelf, shall pay an amount specified by the Secretary. The Secretary of the Interior shall collect such amount and deposit it into the Fund. In any calendar year, no holder of a lease, permit, easement, or right-of-way shall be required to pay an amount in excess of \$5,000 per lease, permit, easement, or right-of-way.

(2) Payments may not be required under paragraph (1) by the Secretary of the Interior with respect to geological permits and geophysical permits, other than prelease exploratory drilling permits issued under section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340).

(Pub. L. 95-372, title IV, § 402, Sept. 18, 1978, 92 Stat. 686; Pub. L. 97-212, § 2, June 30, 1982, 96 Stat. 143.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (b)(1), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97-212 redesignated subsec. (a) as subsec. (a)(1) and substituted provisions relating to the source of funds, that the total amount of the Fund would not exceed \$2,000,000, that the total amount in the Fund which is attributable to revenue received under par. (3) as amended or recovered by the Secretary under section 1845(h)(2) of this title be expended prior to amounts collected under subsec. (b) as amended, and that not more than 8 percent of the total amount in the Fund be expended in any fiscal year for the paying of administrative and personnel expenses, for provisions that the amounts paid pursuant to former subsecs. (c) and (d) of this section be deposited in the Fund, and that the total amount in the Fund not exceed \$1,000,000, redesignated as subsec. (a)(2) former subsec. (e), and struck out provision that the amounts disbursed for administrative or personnel expenses not exceed 15 percent of the amounts deposited in a revolving account for that fiscal year, added as subsec. (a)(3) provisions that the sums of the Fund be kept on deposit in interest-bearing accounts, and added as subsec. (a)(4) provision that all litigation be referred to the Attorney General.

Subsec. (b). Pub. L. 97-212 redesignated as subsec. (b)(1) provisions of former subsec. (c) and added as subsec. (b)(2) provision that payments not be required under par. (1) by the Secretary of the Interior with respect to geological and geophysical permits other than prelease exploratory drilling permits issued under section 1340 of this title. Former subsec. (b) relating to the establishment and maintenance of an area account within the Fund was struck out.

Subsec. (c). Pub. L. 97-212 redesignated subsec. (c) as (b)(1).

Subsec. (d). Pub. L. 97-212 struck out subsec. (d) which related to level of area account funds.

Subsec. (e). Pub. L. 97-212 redesignated subsec. (e) as (a)(2).

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.

**§ 1843. Duties and powers of Secretary**

**(a) Prescription and amendment of regulations respecting settlement of claims; identification classification of potential hazards to commercial fishing**

In carrying out the provisions of this subchapter, the Secretary shall—

(1) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this subchapter, including a time limitation of not less than 90 days on the filing of such claims (except that, notwithstanding any other provision of law, final regulations implementing the 1981 amendments to this subchapter shall be published in the Federal Register within 120 days after the date of the enactment of such amendments); and

(2) identify and classify all potential hazards to commercial fishing caused by Outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface.

**(b) Establishment of regulations respecting color coding, stamping, or labeling of equipment, tools, etc., used on Outer Continental Shelf**

The Secretary of the Interior shall establish regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use.

**(c) Disbursement of payments to compensate commercial fishermen; restrictions**

(1) Payments shall be disbursed by the Secretary from the Fund to compensate commercial fishermen for actual and consequential damages, including resulting economic loss, due to damages to, or loss of, fishing gear by materials, equipment, tools, containers, or other items associated with Outer Continental Shelf oil and gas exploration, development, or production activities. The compensation payable under this section for resulting economic loss shall be an amount equal to 50 per centum of such loss. For purposes of this subsection, the term "resulting economic loss" means the gross income, as estimated by the Secretary, that a commercial fisherman who is eligible for compensation under this section will lose by reason of not being able to engage in fishing, or having to reduce his fishing effort, during the period before the damaged or lost fishing gear concerned is repaired or replaced and available for use.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, no payment may be made by the Secretary from the Fund—

(A) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim;