

**FISHERMEN'S CONTINGENCY FUND CLAIM APPLICATION**

**PROPERTY LOSS**

CLAIMANT'S NAME	PHONE	
STREET ADDRESS	SOCIAL SECURITY NUMBER	TAX ID NUMBER
CITY, STATE, ZIP	VESSEL OWNER	VESSEL OPERATOR OWNER/OPERATOR
VESSEL NAME AND COAST GUARD OR STATE REGISTRATION NUMBER	AMOUNT CLAIMED	
HOME PORT	I AM CLAIMING THE FOLLOWING AMOUNTS FOR DAMAGE AND/OR LOSS	
VESSEL TYPE	GEAR LOSS .....	\$
TONNAGE	GEAR DAMAGE .....	
LOCATIONAL COORDINATES OF OBSTRUCTION (Use Loran C or the next best available method of position fixing.)	VESSEL LOSS OR DAMAGE .....	
	ECONOMIC LOSS .....	
	FUEL .....	
	OTHER EXPENSES .....	
	TOTAL .....	
IF OBSTRUCTION WAS DRAGGED, AT WHAT LOCATION WAS IT LEFT?	DID YOU FILE 15-DAY REPORT? (NOAA Form 88-166) <input type="checkbox"/> NO <input type="checkbox"/> YES	DATE FILED
DESCRIBE OBSTRUCTION OR, IF YOU DIDN'T SEE IT, ITS NATURE	DID YOU RECOVER THE OBSTRUCTION? <input type="checkbox"/> NO <input type="checkbox"/> YES <i>If so, KEEP IT AS EVIDENCE.</i>	
	WAS A SURFACE MARKER ATTACHED TO OR NEAR THE OBSTRUCTION? <input type="checkbox"/> YES <input type="checkbox"/> NO	
	DO YOU HAVE PHOTOS OF THE OBSTRUCTION OR DAMAGE? <input type="checkbox"/> NO <input type="checkbox"/> YES <i>If so, ATTACH TO CLAIM</i>	
WHY DO YOU BELIEVE THE OBSTRUCTION IS ASSOCIATED WITH OIL AND GAS ACTIVITIES ON THE FEDERAL OUTER CONTINENTAL SHELF RATHER THAN WITH NATURAL CAUSES, OTHER OCEAN USERS, OR OIL AND GAS ACTIVITIES WITHIN STATE WATERS?		

**CIRCUMSTANCES OF DAMAGE OR LOSS**

DATE OF INCIDENT	TIME OF DAY	WATER DEPTH
VISIBILITY	VESSEL'S SPEED	DIRECTION

ACTIVITY OF VESSEL (Explain the vessel's activity at the time, how captain and crew responded, attempts made to retrieve gear, extent of damage, what crew did after incident. For example, did vessel continue fishing or return to port? If it returned, why? How much time did the incident involve?)

NAMES OF OTHER VESSELS IN THE VICINITY AT TIME OF INCIDENT

Each claim must contain statements from any material witnesses to the casualty. These may be from crew members or any other person who may have relevant information to substantiate both the fact and the nature of the casualty. Statements should describe the basic circumstances under which the casualty occurred and any knowledge as to the probable or known cause of the casualty.

**NAMES AND ADDRESSES OF WITNESSES WHOSE STATEMENTS ARE ATTACHED. (List and check appropriate box.)**

NAME	<input type="checkbox"/> CREW MEMBER <input type="checkbox"/> OTHER	ADDRESS	PHONE
NAME	<input type="checkbox"/> CREW MEMBER <input type="checkbox"/> OTHER	ADDRESS	PHONE
NAME	<input type="checkbox"/> CREW MEMBER <input type="checkbox"/> OTHER	ADDRESS	PHONE

All claims for fishing vessel or gear casualties must include invoices, receipts, affidavits, cancelled checks, or other acceptable documentation showing proof of purchase of each item claimed.

KIND OF PROOF OF PURCHASE ATTACHED

All claims must include an estimate or a receipt for the repair or replacement cost of each item claimed. The estimate or receipt must be from a commercial source unless the gear is repaired or constructed by the applicant. In that case, an itemized list of repair or replacement costs may be submitted in place of a receipt or an estimate from a commercial source.

KIND OF DOCUMENTATION OF REPAIR OR REPLACEMENT COSTS ATTACHED



I, \_\_\_\_\_, a U.S. citizen, am the  OWNER  OPERATOR of the \_\_\_\_\_  
 (CLAIMANT'S NAME) (VESSEL'S NAME)  
 and have read all of the foregoing statements and supporting documents relating to this claim, and to the best of my knowledge all statements and documents are true and correct.

SIGNATURE	DATE
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**CRIMINAL PENALTY FOR FRAUDULENT CLAIM.** Any person who files a fraudulent claim is subject to criminal prosecution under 18 U.S.C. Section 284 and 1001, each of which, upon conviction, imposes a penalty of not more than a \$10,000 fine and 5 years imprisonment, or both.

**Privacy Act Statement**  
 Section 3701 (c) of title 31, United States Code, authorizes collection of this information. This information is part an application for benefits and is required to obtain those benefits. The primary use of social security numbers or taxpayer identification numbers is to verify the identity of the applicant(s) and to allow preparations of IRS 1099s for claim payments as required pursuant to Section 6109 of the Internal Revenue code.

Public reporting burden for this collection of information is estimated to average 5.04 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to National Marine Fisheries Service, Financial Services Division, F/MB5, 1315 East West Hwy., Rm. 13301, Silver Spring, MD 20910.

Confidential name and address information will be released via a NOAA Fisheries website for informational purposes. All other data submitted will be handled as confidential Fishery Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

REMARKS AND ADDITIONAL INFORMATION

  
  
  
  
  
  
  
  
  
  

**SURROGATION AGREEMENT**

I, \_\_\_\_\_, on behalf of individual/corporation, in consideration of the Compensation received pursuant to the provisions of the Outer Continental Shelf Lands Act Amendments of 1978, Title IV, from the United States of America, represented by the Secretary of Commerce, acting by and through the Administrator for the National Oceanic and Atmospheric Administration (the "Secretary") on the date hereof, I do hereby subrogate, assign, transfer and set over to the Secretary and the Secretary's successors and assigns, any and all rights and remedies, sums of money now due or owing to and nature, which I have had, or now have, or may have arising out of the loss, damage or destruction to our fishing vessel or gear for which the compensation has been granted, I hereby appoint the Secretary, the Secretary's successors and assigns, myself true and lawful attorney and attorneys, with full power of substitution and revocation, for me and in my name, or otherwise, but for the sole use benefit of the said Secretary, the Secretary's successors and assigns, to ask, demand, sue for the said claim or claims, or any part thereof.

I agree to provide the Secretary with all available and relevant information concerning the circumstances surrounding the events leading to the loss, damage or destruction for which the aforementioned compensation has been received. We also undertake to furnish the Secretary with such affidavits or declarations and to give such oral evidence as the Secretary may, in his/her discretion, deem necessary for the lawful pursuit of any claim arising from the aforementioned subrogated rights.

In witness whereof, I have hereunto set my hand and seal on the date indicated below.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature



FISHERMEN'S CONTINGENCY FUND CLAIM APPLICATION

Expires 12-31-2011

INSTRUCTIONS TO CLAIMANTS

I. GENERAL

The Fishermen's Contingency Fund is authorized by Title IV of the Outer Continental Shelf Lands Act Amendments of 1978. Its purpose is to compensate commercial fishermen for damage or loss caused by obstructions associated with oil and gas activities on the Outer Continental Shelf (OCS). The Program is administered by the National Marine Fisheries Service, Financial Services Division - F/SF2, 1315 East-West Highway - Room 13138, Silver Spring, MD 20910.

PRESUMPTION OF CAUSATION

A presumption that the damage or loss was caused by items associated with oil and gas activities on the OCS is allowed if you report the damage or loss to the National Marine Fisheries Service within 15 days after the date your vessel first returns to port. If all the criteria of a 15-day report are fulfilled, you need not establish the nature of the damage. If a complete report is not submitted within the 15 day period, the presumption will not be allowed and you will have to prove that the obstruction causing the damage was related to OCS oil and gas activities.

FILING YOUR CLAIM

You must file, in writing, a complete and accurate claim within 90 days after the date you first discovered your damage or loss. The term "filed" means delivered in person, or mailed (as determined by the date of the postmark) to the Chief, FSD, address above. The Chief, FSD, suggests that claims be sent by registered or certified mail, return receipt requested so you will have a record of receipt of your claim.

FAILURE TO MEET FILING REQUIREMENTS

The Chief, FSD, may reject your claim, if it does not meet the filing requirements. If your claim is rejected, the Chief, FSD, will give you written notice of the reasons for rejection within 30 days after the date on which your claim was filed. If you don't refile an acceptable claim within 30 days after the date of this written notice, you are not eligible for Fund compensation unless there are extenuating circumstances.

AGGREGATING CLAIMS

If more than one commercial fisherman suffers loss or damage from the same incident (for example, when several members of the crew lose income due to loss of fishing time), their losses should be included in one claim and submitted on their behalf by the owner or operator of the commercial fishing vessel involved.

AMENDMENT TO CLAIM

You may amend your claim any time before the Chief, FSD, issues a final determination.

II. WHAT CAN BE CLAIMED

You may file for actual and consequential damages as follows:

(1) Actual Damage:

- (a) The lesser of the gear's repair or replacement cost, and
- (b) The reasonable replacement cost for lost fishing gear.

(2) Consequential Damage:

(a) **RESULTING ECONOMIC LOSS:** You may claim for gross income loss resulting from time lost because of not being able to fish, or having to reduce fishing effort, during the period before the damaged or lost fishing gear is repaired or replaced and available for use. This period must be reasonable. It begins on the date of the casualty and stops on the date the damage could reasonably have been remedied by repair or replacement.

(b) **ATTORNEY, CPA, CONSULTANT FEES:** You may claim for reasonable fees paid to an attorney, CPA, or other consultant for the preparation of your claim. The Chief, FSD, will determine what

amounts are reasonable. You will not be compensated for these fees if the claim is denied.

(c) **OTHER:** You may claim for any other consequential damage loss, (except personal injury) incurred as a consequence of the fishing gear damage or loss.

III. NEGLIGENCE CLAIMANT

An award will be reduced to the extent that the damage or loss was caused by your negligence or fault. Basic grounds for finding a claimant negligent or at fault are listed in the FCF Regulations. Negligence of the owner or operator of fishing gear will affect crew member awards to the same extent that it affects an award to the owner or operator.

IV. INSURANCE PROCEEDS

An award will be reduced by the amount of any compensation you are entitled to receive from insurance.

V. PENALTY FOR FALSE CLAIMS

Any person who files a fraudulent claim is subject to prosecution under 18 U.S.C. sections 2187 and 1001, each of which, upon conviction, imposes a penalty of not more than \$10,000 fine and 5 years in prison, or both.

VI. DOCUMENTATION REQUIRED

Here is a checklist of documents which must be submitted with your claim:

(1) With your claim for actual damage:

(a) Proof that you purchased the fishing gear damaged or lost. Submit copies of the best evidence available, e.g., sales receipts, affidavits, cancelled checks, or other evidence; and

(b) Receipts or estimates showing repair or replacement costs.

(i) If you replace your gear or have it repaired before filing your claim, submit a copy of the itemized invoice or receipt for the replacement or repair cost. If you usually repair or construct your own gear, you may submit a detailed estimate of your own repair or construction cost; include receipts for materials used.

(ii) If you have not replaced or had your gear repaired before you file your claim, submit one estimate from a commercial fishing gear repair or supply company of the present replacement or repair (whichever applies) cost of the damaged or lost fishing gear. (NOTE: The Chief, Financial Services Division, may require the submission of a second-source estimate.)

(2) With your claim for consequential damages:

(a) In the case of claims for resulting economic loss, a statement of the amount claimed and the basis for that amount with supporting documentation as follows:

(i) Trip tickets for the three vessel trips immediately before the trip during which the casualty was discovered and for the vessel trip immediately following the trip during which the casualty occurred.

(ii) A statement of the amount of time involved on each of the vessel trips (or if the casualty involves fixed gear, a statement of the number of gear units hauled on each of these vessel trips.)

(iii) A statement of the amount of time lost from fishing because of the damage or loss and a full explanation of why this time period is reasonable.

(b) Compensation for resulting economic loss will be based on 50 percent of the gross income lost, as estimated by the Chief, FSD, as a result of not being able to fish; or having to fish at a reduced level of effort during the period before the damaged or lost fishing gear is repaired or replaced and available for use. The period begins on the date of the casualty and stops on the

INSTRUCTIONS CONTINUE ON NEXT PAGE.

INSTRUCTIONS (Contd)

date the damage or loss could reasonably have been remedied by repair or replacement. Appropriate documentation may consist of purchase orders, bills of lading, or statements from commercial repair or supply sources.

(3) In the case of amounts claimed for other consequential damages resulting from the casualty, the claim must include a full description of what each amount represents with suitable documentation.

(4) Photographs (if available) of the obstruction and of any damage to your gear.

(5) The name and mailing address (phone number if available) of each person, if any, to whom you have given oral or written notice that such person caused or may have caused the damage or loss, together with a copy of any written notice given each such person and a statement whether each such person has paid or will pay you for any portion of the damage or loss.

VII. NMFS PROCESSING OF CLAIMS

The National Marine Fisheries Service will process your claim and mail a written initial determination to you within 60 days of the date it is complete with regard to the information required for compensation from the Fund. An initial determination will state (i) if the claim is disapproved, the reason for disapproval, or (ii) if the claim is approved, the amount of compensation and the basis on which amount was determined. If you disagree with the initial determination, you or any other interested person who submitted evidence relating to the initial determination, may request a review of the initial determination. Your written request must be postmarked within 30 days of the date of the initial determination and must fully state your reason(s) for disagreement. If no request for initial review is submitted within 30 days, the initial determination will become a final determination. If a petition for review of an initial determination is timely filed, the Assistant Administrator, NMFS, or his designee will conduct a review of the initial determination, and issue a final determination within 60 days after the day on which the request for review of the initial determination was received.

VIII. PAYMENT OF AWARD FOR CLAIM

(1) When an initial determination becomes final the Chief, FSD, shall immediately disburse the amount awarded if you:

(a) State in writing that you will not petition for review of the initial determination; and

(b) Sign an agreement to repay all or any part of the amount of the award if, the amount of an award should for any reason be subsequently reduced.

If you do not submit the agreements specified above, the Chief, FSD, will not disburse the amount of your award until expiration of 30 days after the issuance of the initial determination.

IX. SUBROGATION

Upon payment of a claim, the Chief, FSD, must obtain a subrogation agreement signed by you which:

(1) Assigns to the Fund your rights against third parties; and

(2) Provides that you will assist the Fund in any reasonable way to pursue those rights.

NOTE: The agreements specified above (Settlement and Subrogation) will be mailed to you along with the Initial Determination. If you accept the Initial Determination, the amount of your award will be disbursed immediately upon receipt of the signed documents.