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[Laws in effect as of January 3, 2005]
[Document not affected by Public Laws enacted between
January 3, 2005 and October 30, 2006]
[CITE: 33USC2713]

TITLE 33--NAVIGATION AND NAVIGABLE WATERS

CHAPTER 40--OIL POLLUTION

SUBCHAPTER I--OIL POLLUTION LIABILITY AND COMPENSATION

Sec. 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, Sec. 1013, Aug. 18, 1990, 104 Stat. 501;
Pub.
L. 104-324, title XI, Sec. 1142(b), Oct. 19, 1996, 110 Stat. 3991; Pub.
L. 108-293, title VII, Sec. 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.