

## **FISHERMEN'S PROTECTIVE ACT OF 1967**

*Citation:* 22 U.S.C. §§ 1971-1980 (2002).

### ***Legislative Purpose:***

The act provides for the reimbursal of vessel owners for the seizure of their vessels by foreign governments and directs the Secretary of State to secure the vessel and its crew's release.

### ***Summary:***

The Act directs the Secretary of State, after a US vessel has been seized by a foreign government, to take such steps as are necessary to protect the vessel and the health and welfare of its crew; to secure the release of such vessel and the crew; and to determine the amount of any fine, license fee, registration fee, and any other direct charge that is reimbursable.

The owner of any U.S. vessel that is seized by a foreign government, not at war with the United States and not pursuant to a treaty or convention, shall be reimbursed by the Secretary of State for the amount of the fine, license fee, registration fee, or any other direct charge actually paid. After the Secretary of State has secured the release of the vessel and reimbursed its owner, he is then allowed to take such action that he deems appropriate to make and collect claims from the foreign country for the amount reimbursed.

If the vessel that is seized is a commercial fishing vessel, the Secretary of State is authorized to reimburse the owner for the fair market value of any catch that was spoiled as a result of the seizure by the foreign government.

### ***Notable Amendments:***

The Pelly Amendment to the Fisherman's Protective Act was enacted in 1971 to conserve Atlantic salmon. The Pelly Amendment grants the President discretion to prohibit the importation of fish or fish products originating in a country that is diminishing the effectiveness of an international fishery conservation program. The Packwood-Magnuson Amendment of 1979, an amendment to the Fishery Conservation and Management Act (FCMA), allows the President to impose trade sanctions pursuant to the Pelly Amendment if a country is diminishing the effectiveness of the International Convention for the Regulation of Whaling. The Pelly Amendment sanction is also linked with the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and the Driftnet Act Amendments of 1990. In addition, a 1990 amendment to the Endangered Species Act prohibits shrimp imports from any country that fails to satisfy U.S. officials that its shrimp-harvesting practices are comparable to U.S. practices.

The Fishermen's Protective Act Amendments of 2000 amended the Fishermen's act to extend the coverage for commercial fishermen until 2003. The Act calls for the creation of the Fishermen's Protective Fund which is to be used by the Secretary of State for reimbursing the vessel owner. Any payments received from foreign governments for reimbursements to owners are to be placed in the Fishermen's Protective Fund. Owners of commercial fishing vessels may also apply for reimbursement from the Secretary for any damage to fishing gear or equipment.

## TITLE 22. FOREIGN RELATIONS AND INTERCOURSE

### CHAPTER 25. PROTECTION OF VESSELS ON THE HIGH SEAS AND IN TERRITORIAL WATERS OF FOREIGN COUNTRIES

22 U.S.C. §§ 1971-1980 (2002).

#### § 1971. Definition

For the purposes of this Act [22 USCS § § 1971 et seq.] the term "vessel of the United States" shall mean any private vessel documented or certificated under the laws of the United States. Notwithstanding any other law, the documentation or certification of any such vessel shall not be considered to be affected, for the purposes of this Act [22 USCS § § 1971 et seq.], in any manner or to any extent if at any time during any voyage for the purpose of fishing beyond the fishery conservation zone (as defined in section 3(8) of the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802(8)), the vessel is commanded by other than a citizen of the United States.

#### § 1972. Action of Secretary of State upon seizure of vessel by foreign country; preconditions

If--

(1) any vessel of the United States is seized by a foreign country on the basis of claims to jurisdiction that are not recognized by the United States, or on the basis of claims to jurisdiction recognized by the United States but exercised in a manner inconsistent with international law as recognized by the United States; [or]

(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions--

(A) are unrelated to fishery conservation and management,

(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Magnuson-Stevens Fishery Conservation and Management Act of 1976), or

(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive fishery management authority;

the Secretary of State, unless there is clear and convincing credible evidence that the seizure did not meet the requirements under paragraph (1) or (2), as the case may be, shall immediately take such steps as are necessary--

(i) for the protection of such vessel and for the health and welfare of its crew;

(ii) to secure the release of such vessel and its crew; and

(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 3(a) of this Act [22 USCS § 1973(a)].

§ 1973. Reimbursement of owner for any direct charges paid to secure release of vessel and crew; source of reimbursement; definition of "other direct charge" certification of charges by Secretary of State; reimbursement as lien on vessel; termination of lien

(a) Reimbursement by Secretary of State; "other direct charge" defined; source of reimbursement. In any case where a vessel of the United States is seized by a foreign country under the conditions of section 2 [22 USCS § 1972] and a fine, license fee, registration fee, or any other direct charge must be paid in order to secure the prompt release of the vessel and crew, the owners of the vessel shall be reimbursed by the Secretary of State in the amount determined and certified by him as being the amount of the fine, license fee, registration fee, or any other direct charge actually paid. For purposes of this section, the term "other direct charge" means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee. Any reimbursement under this section shall be made from the Fishermen's Protective Fund established pursuant to section 9 [22 USCS § 1979].

(b) Determination and certification of charges by Secretary of State; reimbursement as lien on vessel; termination of lien. The Secretary of State shall make a determination and certification under subsection (a) of this section as soon as possible after he is notified pursuant to section 2(b) [22 USCS § 1972(b)] of the amounts of the fines, fees, and other direct charges which were paid by the owners to secure the release of their vessel and crew. The amount of reimbursement made by the Secretary of State to the owners of any vessel under subsection (a) of this section shall constitute a lien on the vessel which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the vessel may be. Any such lien shall terminate on the ninetieth day after the date on which the Secretary of State reimburses the owners under this section unless before such ninetieth day the United States initiates action to enforce the lien.

§ 1974. Inapplicability of 22 USCS § § 1971 et seq. to certain seizures

The provisions of this Act [22 USCS § § 1971 et seq.] shall not apply with respect to a seizure made by a country at war with the United States or a seizure made in accordance with the provisions of any applicable convention or treaty, if that treaty or convention was made with advice and consent to [of] the Senate and was in force and effect for the United States and the seizing country at the time of the seizure.

§ 1975. Action by Secretary on claims for amounts expended because of seizure; withholding amount of unpaid claim from foreign assistance funds

(a) Action by Secretary. The Secretary of State shall--

(1) immediately notify a foreign country of--

(A) any reimbursement made by him under section 3 [22 USCS § 1973] as a result of the seizure of a vessel of the United States by such country,

(B) any payment made pursuant to section 7 [22 USCS § 1977] in connection with such seizure, and

(2) take such action as he deems appropriate to make and collect claims against such foreign country for the amounts so reimbursed and payments so made.

(b) Withholding amount of unpaid claim from foreign assistance funds. If a foreign country fails or refuses to make payment in full on any claim made under subsection (a)(2) of this section within one hundred and twenty days after the date on which such country is notified pursuant to subsection (a)(1) of this section, the Secretary of State shall transfer an amount equal to such unpaid claim or unpaid portion thereof from any funds appropriated by Congress and programmed for the current fiscal year for assistance to the government of such country under the Foreign Assistance Act of 1961 unless the President certifies to the Congress that it is in the national interest not to do so in the particular instance (and if such funds are insufficient to cover such claim, transfer shall be made from any funds so appropriated and programmed for the next and any succeeding fiscal year) to (1) the Fishermen's Protective Fund established pursuant to section 9 [22 *USCS* § 1979] if the amount is transferred with respect to an unpaid claim for a reimbursement made under section 3 [22 *USCS* § 1973], or (2) the separate account established in the Treasury of the United States pursuant to section 7(c) [22 *USCS* § 1977(c)] if the amount is transferred with respect to an unpaid claim for a payment made under section 7(a) [22 *USCS* § 1977(a)]. Amounts transferred under this section shall not constitute satisfaction of any such claim of the United States against such foreign country.

§ 1976. Authorization of appropriations

There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this Act [22 *USCS* § § 1971 et seq.].

§ 1977. Reimbursement for seized commercial fishermen

(a) Agreement to reimburse for actual costs, confiscation or spoilage of fish, and loss of income. The Secretary, upon receipt of an application filed with him at any time after the effective date of this section by the owner of any vessel of the United States which is documented or certificated as a commercial fishing vessel, shall enter into an agreement with such owner subject to the provisions of this section and such other terms and conditions as the Secretary deems appropriate. Such agreement shall provide that, if said vessel is seized by a foreign country and detained under the conditions of section 2 of this Act [22 *USCS* § 1972], the Secretary shall guarantee--

(1) the owner of such vessel for all actual costs, except those covered by section 3 of this Act [22 *USCS* § 1973], incurred by the owner during the seizure and detention period and as a direct result thereof, as determined by the Secretary, resulting (A) from any damage to, or destruction of, such vessel, or its fishing gear or other equipment, (B) from the loss or confiscation of such vessel, gear, or equipment, or (C) from dockage fees or utilities;

(2) the owner of such vessel and its crew for the market value of fish caught before seizure of such vessel and confiscated or spoiled during the period of detention; and

(3) the owner of such vessel and its crew for not to exceed 50 per centum of the gross income lost as a direct result of such seizure and detention, as determined by the Secretary of Commerce, based on the value of the average catch per day's fishing during the three most recent calendar years immediately preceding such seizure and detention of the vessel seized, or, if such experience is not available, then of all commercial fishing vessels of the United States engaged in the same fishery as that of the type and size of the seized vessel.

(b) Distribution of payments according to commercial fishing practices and procedures. Payments made by the Secretary under paragraphs (2) and (3) of subsection (a) of this section shall be distributed by the Secretary in accordance with the usual practices and procedures of the particular segment of the United States commercial fishing industry to which the seized vessel belongs relative to the sale of fish caught and the distribution of the proceeds of such sale.

(c) Establishment of fees; amount of fees; credit of fees to separate Treasury account; payment from collected fees; authorization of appropriations. The Secretary shall from time to time establish by regulation fees which shall be paid by the owners of vessels entering into agreements under this section. Such fees shall be adequate (1) to recover the costs of administering this section, and (2) to cover a reasonable portion of any payments made by the Secretary under this section. All fees collected by the Secretary shall be credited to a separate account established in the Treasury of the United States which shall remain available without fiscal year limitation to carry out the provisions of this section. Those fees not currently needed for payments under this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all revenues accruing from such deposits or investments shall be credited to such separate account. If a transfer of funds is made to the separate account under section 5(b)(2) [22 USCS § 1975(b)(2)] with respect to an unpaid claim and such claim is later paid, the amount so paid shall be covered into the Treasury as miscellaneous receipts. All payments under this section shall be made first out of such fees so long as they are available, and thereafter out of funds which are hereby authorized to be appropriated to such account to carry out the provisions of this section.

(d) Finality of determinations; insured losses. All determinations made under this section shall be final. No payment under this section shall be made with respect to any losses covered by any policy of insurance or other provision of law.

(e) Effective date. The provisions of this section shall be effective until October 1, 2003; except that payments may be made under this section only to such extent and in such amounts as are provided in advance in appropriation Acts.

(f) Definitions. For the purposes of this section--

(1) the term "Secretary" means the Secretary of State.

(2) the term "owner" includes any charterer of a commercial fishing vessel.

§ 1978. Restriction on importation of fishery or wildlife products from countries which violate international fishery or endangered or threatened species programs

(a) Certification to President.

(1) When the Secretary of Commerce determines that nationals of a foreign country, directly or indirectly, are conducting fishing operations in a manner or under circumstances which diminish the effectiveness of an international fishery conservation program, the Secretary of Commerce shall certify such fact to the President.

(2) When the Secretary of Commerce or the Secretary of the Interior finds that nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any

international program for endangered or threatened species, the Secretary making such finding shall certify such fact to the President.

(3) In administering this subsection, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall--

(A) periodically monitor the activities of foreign nationals that may affect the international programs referred to in paragraphs (1) and (2);

(B) promptly investigate any activity by foreign nationals that, in the opinion of the Secretary, may be cause for certification under paragraph (1) or (2); and

(C) promptly conclude; and reach a decision with respect to; any investigation recommended under subparagraph (B).

(4) Upon receipt of any certification made under paragraph (1) or (2), the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of any products from the offending country for any duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the World Trade Organization (as defined in section 2(8) of the Uruguay Round Agreements Act [19 USCS § 3501(8)]) or the multilateral trade agreements (as defined in section 2(4) of that Act [19 USCS § 3501(4)]).

(b) Notification to Congress. Within sixty days following certification by the Secretary of Commerce or the Secretary of the Interior, the President shall notify the Congress of any action taken by him pursuant to such certification. In the event the President fails to direct the Secretary of the Treasury to prohibit the importation of fish products or wildlife products of the offending country, or if such prohibition does not cover all fish products or wildlife products of the offending country, the President shall inform the Congress of the reasons therefore.

(c) Importation of fish products from offending country prohibited. It shall be unlawful for any person subject to the jurisdiction of the United States knowingly to bring or import into, or cause to be imported into, the United States any products prohibited by the Secretary of the Treasury pursuant to this section.

(d) Periodic review by Secretary of Commerce or Secretary of the Interior; termination of certification; notice. After making a certification to the President under subsection (a), the Secretary of Commerce or the Secretary of the Interior, as the case may be, shall periodically review the activities of the nationals of the offending country to determine if the reasons for which the certification was made no longer prevail. Upon determining that such reasons no longer prevail, the Secretary concerned shall terminate the certification and publish notice thereof, together with a statement of the facts on which such determination is based, in the Federal Register.

(e) Penalties; forfeiture; customs laws.

(1) Any person violating the provisions of this section shall be fined not more than \$ 10,000 for the first violation, and not more than \$ 25,000 for each subsequent violation.

(2) All products brought or imported into the United States in violation of this section, or the monetary value thereof, may be forfeited.

(3) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the

remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with this section.

(f) Enforcement.

(1) Enforcement of the provisions of this section prohibiting the bringing or importation of products into the United States shall be the responsibility of the Secretary of the Treasury.

(2) The judges of the United States district courts, and United States commissioners [United States magistrate judges] may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act [22 USCS § § 1971 et seq.] and regulations issued thereunder.

(3) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this section.

(4) Such person so authorized shall have the power--

(A) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States committing in his presence or view a violation of this section or the regulations issued thereunder;

(B) with or without a warrant or other process, to search any vessel or other conveyance subject to the jurisdiction of the United States, and, if as a result of such search he has reasonable cause to believe that such vessel or other conveyance or any person on board is engaging in operations in violation of this section or the regulations issued thereunder, then to arrest such person.

(5) Such person so authorized, may seize, whenever and wherever lawfully found, all products brought or imported into the United States in violation of this section or the regulations issued thereunder. Products so seized may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary of the Treasury after consultation with the Secretary of Health, Education, and Welfare [Secretary of Health and Human Services].

(g) Regulations. The Secretary of the Treasury, the Secretary of Commerce, and the Secretary of the Interior are each authorized to prescribe such regulations as he determines necessary to carry out the provisions of this section.

(h) Definitions. As used in this section--

(1) The term "person" means any individual, partnership, corporation, or association.

(2) The term "United States" means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.

(3) The term "international fishery conservation program" means any ban, restriction, regulation, or other measure in effect pursuant to a bilateral or multilateral agreement which is in force with respect to the United States, the purpose of which is to conserve or protect the living resources of the sea, including marine mammals.

(4) The term "international program for endangered or threatened species" means any ban, restriction, regulation, or other measure in effect pursuant to a multilateral agreement which is in force with respect to the United States, the purpose of which is to protect endangered or threatened species of animals.

(5) The term "taking", as used with respect to animals to which an international program for endangered or threatened species applies, means to--

(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.

§ 1979. Fishermen's Protective Fund

There is created a Fishermen's Protective Fund which shall be used by the Secretary of State to reimburse owners of vessels for amounts determined and certified by him under section 3 [22 USCS § 1973]. The amount of any claim or portion thereof collected by the Secretary of State from any foreign country pursuant to section 5(a) [22 USCS § 1975(a)] shall be deposited in the fund and shall be available for the purpose of reimbursing vessel owners under section 3 [22 USCS § 1973]; except that if a transfer to the fund was made pursuant to section 5(b)(1) [22 USCS § 1975(b)(1)] with respect to any such claim, an amount from the fund equal to the amount so collected shall be covered into the Treasury as miscellaneous receipts. There is authorized to be appropriated to the fund (1) the sum of \$ 3,000,000 to provide initial capital, and (2) such additional sums as may be necessary from time to time to supplement the fund in order to meet the requirements of the fund.

§ 1980. Compensation for loss or destruction of commercial fishing vessel or gear

(a) Definitions. For purposes of this section--

(1) The terms "fishery", "fishery conservation zone", "fishing", "fishing vessel", "Secretary", and "vessel of the United States" shall each have the same respective meaning as is given to such terms in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802).

(2) The term "fishing gear" means any equipment or appurtenance which is necessary for the carrying out of fishing operations by a fishing vessel, whether or not such equipment or appurtenance is attached to such vessel.

(3) The term "fund" means the Fishing Vessel and Gear Damage Compensation Fund established under subsection (f).

(4) The term "resulting economic loss" means the gross income, as estimated by the Secretary, that a fishing vessel owner or operator who is eligible for compensation under this section for damage to, loss of, or destruction of, a fishing vessel or the fishing gear used with such vessel will lose by reason of not being able to engage in fishing, or having to reduce his fishing effort, during the period before the vessel or gear, or both, are repaired or replaced and available for use.

(b) Causes of loss or destruction. Subject to the provisions of this section, the owner or operator (hereinafter referred to as the "vessel owner") of any fishing vessel which is a vessel of the United States is eligible for monetary compensation under this section for any damage to, loss of, or destruction of such vessel, or any fishing gear used with such vessel, or both, and for any resulting economic loss if the damage, loss, or destruction--

(1) in the case of such vessel--

(A) occurs when such vessel is engaged in any fishery subject to the exclusive fishery management authority of the United States under the Magnuson-Stevens Fishery Conservation and Management Act of 1976, and

(B) is attributable to any vessel (or its crew or fishing gear) other than a vessel of the United States; or

(2) in the case of such fishing gear--

(A) occurs when such fishing gear is being used for fishing in any fishery subject to such exclusive management authority, and

(B) is attributable to any other vessel, whether or not such vessel is a vessel of the United States.

For purposes of subparagraph (B), there shall be a rebuttable presumption that any damage, loss, or destruction of fishing gear is attributable to another vessel.

(c) Eligibility for compensation. A vessel owner is not eligible for compensation under this section with respect to fishing vessel or fishing gear damage, loss, or destruction and resulting economic loss unless such owner--

(1) makes application to the Secretary for compensation under this section within 90 days after the day on which the damage, loss, or destruction occurred or was first noticed by the owner;

(2) pays upon making such application a reasonable administrative fee which the Secretary shall deposit into the fund;

(3) has, in such form as the Secretary shall prescribe by regulation, a current inventory or other evidence of possession of the fishery vessel or fishing gear concerned;

(4) has complied with all applicable regulations, if any, relating to the marking of, and (if appropriate) the notification of the location of, the fishing gear concerned; and

(5) is in compliance with such other regulations as may be prescribed by the Secretary to carry out this section.

(d) Application for compensation; initial determination of eligibility; amount of compensation; review of initial determination; subrogation of United States upon payment.

(1) Application for compensation under this section shall be made in such form and manner, and include such documentation and other evidence relating to the cause and extent of the damage, loss, or destruction, and resulting economic loss, claimed, as the Secretary shall prescribe by regulation. The Secretary shall promptly, but not later than sixty days after receipt of an application, consider, and issue an initial determination with respect to, the application.

(2) The amount of compensation awarded to any vessel owner under this section shall be--

(A) the depreciated replacement cost, or the repair cost, whichever cost is less, of the fishing vessel or the fishing gear concerned; and

(B) 25 percent of any resulting economic loss.

Any amount determined pursuant to subparagraph (A) or (B) shall be reduced to the extent that evidence indicates that negligence by the vessel owner or operator contributed to the cause or the extent of the damage, loss, or destruction and shall be further reduced by the amount of compensation, if any, that the vessel owner or operator has received or will receive with respect to the damage, loss, destruction, or resulting economic loss through insurance, pursuant to any other provision of law, or otherwise.

(3) The initial determination made by the Secretary under paragraph (1) with respect to any application shall--

(A) if the application is disapproved, set forth the reasons therefor; or

(B) if the application is approved, set forth the amount of compensation to which the applicant is entitled and the basis on which such amount was determined.

(4) Any vessel owner who is aggrieved by any decision of the Secretary contained in the initial determination of the Secretary regarding such owner's application may, within thirty days after the date of issue of the initial determination, petition the Secretary for a review of the decision. If petition for review

is not made to the Secretary within such thirty-day period regarding the initial determination, the initial determination shall be deemed to be the final determination on the application. Before undertaking any such review, the Secretary shall provide to the vessel owner opportunity to submit additional written or oral evidence relating to the decision. After review the Secretary shall issue a final determination with respect to the application.

(5) If compensation is awarded under the final determination on any application, the Secretary shall promptly pay from the fund to such owner the amount of compensation stated in the final determination. Upon the acceptance of such payment by the vessel owner, the United States shall be subrogated to all rights of the vessel owner with respect to which the payment is made.

(e) Surcharge on foreign fishing vessels. In addition to any fee imposed under section 204(b)(10) of the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (*16 U.S.C. 1824(b)(10)*) with respect to any foreign fishing vessel for any year after 1978, the Secretary shall impose a surcharge in an amount not to exceed 20 percent of the amount of the fee imposed under such section for such year. The failure to pay any surcharge imposed under this subsection with respect to any foreign fishing vessel shall be treated by the Secretary as a failure to pay the fee for such vessel under such section 204(b)(10).

(f) Fishing Vessel and Gear Damage Compensation Fund; requirements, etc.

(1) There is established in the Treasury of the United States the Fishing Vessel and Gear Damage Compensation Fund. The fund shall be available without fiscal year limitation as a revolving fund for the purposes of administering, and paying compensation awarded under, this section.

(2) The fund shall consist of--

(A) all sums recovered by the United States in the exercise of rights subrogated to it under subsection (d)(5);

(B) all administrative fees collected under subsection (c)(2);

(C) all surcharges collected under subsection (e);

(D) revenues received from deposits or investments made under the last sentence of this paragraph; and

(E) any revenue acquired through the issuance of obligations under paragraph (3).

Sums may be expended from the fund only to such extent and in such amounts as are provided in advance in appropriation Acts. Sums in the fund which are not currently needed for the purpose of paying such awards shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(3) Whenever the amount in the fund is not sufficient to pay compensation under this section, the Secretary may issue, in an amount not to exceed \$ 5,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notices [notes] or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notices [notes] or other obligations. Moneys obtained by the Secretary under this paragraph shall be deposited in the fund and redemptions of any such notices [notes] or other obligations shall be made from the fund. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The Secretary of the Treasury may

sell any such notices [notes] or other obligations at such times and prices and upon such terms and conditions as he shall determine. All purchases, redemptions, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) Penalty for false or misleading statements. Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining compensation under this section is guilty of a criminal offense and, upon conviction thereof, shall be punished by a fine of not more than \$ 25,000, or by imprisonment for not more than one year, or both.