

Public Law 90-481

August 12 1968
[S 1166]

AN ACT

To authorize the Secretary of Transportation to prescribe safety standards for the transportation of natural and other gas by pipeline, and for other purposes.

Natural Gas
Pipeline Safety
Act of 1968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural Gas Pipeline Safety Act of 1968

DEFINITIONS

Sec 2. As used in this Act—

(1) "Person" means any individual, firm, joint venture, partnership, corporation, association, State municipality, cooperative association or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof,

(2) "Gas" means natural gas, flammable gas or gas which is toxic or corrosive,

(3) "Transportation of gas" means the gathering, transmission or distribution of gas by pipeline or its storage in or affecting interstate or foreign commerce except that it shall not include the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area which the Secretary may define as a nonrural area,

(4) "Pipeline facilities" includes, without limitation, new and existing pipe rights-of-way and any equipment facility, or building used in the transportation of gas or the treatment of gas during the course of transportation but "rights-of-way" as used in this Act does not authorize the Secretary to prescribe the location or routing of any pipeline facility,

(5) "State" includes each of the several States, the District of Columbia and the Commonwealth of Puerto Rico

(6) "Municipality" means a city, county, or any other political subdivision of a State;

(7) "National organization of State commissions" means the national organization of the State commissions referred to in part II of the Interstate Commerce Act,

(8) "Interstate transmission facilities" means pipeline facilities used in the transportation of gas which are subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, and

(9) "Secretary" means the Secretary of Transportation

STANDARDS ESTABLISHED

Sec 3 (a) As soon as practicable but not later than three months after the enactment of this Act, the Secretary shall, by order, adopt as interim minimum Federal safety standards for pipeline facilities and the transportation of gas in each State the State standards regulating pipeline facilities and the transportation of gas within such State on the date of enactment of this Act. In any State in which no such standards are in effect, the Secretary shall, by order, establish interim Federal safety standards for pipeline facilities and the transportation of gas in such State which shall be such standards as are common to a majority of States having safety standards for the transportation of gas and pipeline facilities on such date. Interim standards shall remain in effect until amended or revoked pursuant to this section. Any State agency may adopt such additional or more stringent

standards for pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act as are not incompatible with the Federal minimum standards but may not adopt or continue in force after the interim standards provided for above become effective any such standards applicable to interstate transmission facilities

(b) Not later than twenty four months after the enactment of this Act, and from time to time thereafter, the Secretary shall by order establish minimum Federal safety standards for the transportation of gas and pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted. Whenever the Secretary shall find a particular facility to be hazardous to life or property, he shall be empowered to require the person operating such facility to take such steps necessary to remove such hazards. Such Federal safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the Secretary shall consider—

- (1) relevant available pipeline safety data
- (2) whether such standards are appropriate for the particular type of pipeline transportation
- (3) the reasonableness of any proposed standards and
- (4) the extent to which such standards will contribute to public safety

Any State agency may adopt such additional or more stringent standards for pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act as are not incompatible with the Federal minimum standards but may not adopt or continue in force after the minimum Federal safety standards referred to in this subsection become effective any such standards applicable to interstate transmission facilities

(c) Any standards prescribed under this section and amendments thereto shall become effective thirty days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance

(d) The provisions of subchapter II of chapter 5 of title 5 of the United States Code shall apply to all orders establishing, amending, revoking or waiving compliance with, any standard established under this Act. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument

(e) Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities the Secretary may after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standard established under this Act, if he determines that a waiver of compliance with such standard is not inconsistent with gas pipeline safety. The Secretary shall state his reasons for any such waiver. A State agency, with respect to which there is in effect a certification pursuant to section 5(a) or an agreement pursuant to section 5(b), may waive compliance with a safety standard in the same manner as the Secretary provided such State agency gives the Secretary written notice at least sixty days prior to the effective date of the waiver. If, before the effective date of a waiver to be granted by a State agency, the Secretary objects in writing to the

52 Stat 821
15 USC 717w

Federal safety
standards

Consideration
factors

Effective date

80 Stat 381
5 USC 551 559

Standards
waiver of com-
pliance

49 Stat 543
54 Stat 919
49 USC 301

52 Stat 821
15 USC 717w

Notice to State
agency oppor-
tunity for hearing

granting of the waiver. Any State agency action granting the waiver will be stayed. After notifying such State agency of his objection, the Secretary shall afford such agency a prompt opportunity to present its request for waiver with opportunity for hearing, and the Secretary shall determine finally whether the requested waiver may be granted.

TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

SEC 4 (a) The Secretary shall establish a Technical Pipeline Safety Standards Committee. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of gas or the operation of pipeline facilities, and shall be composed of fifteen members each of whom shall be experienced in the safety regulation of the transportation of gas and of pipeline facilities or technically qualified by training and experience in one or more fields of engineering applied in the transportation of gas or the operation of pipeline facilities to evaluate gas pipeline safety standards, as follows:

Membership:

(1) Five members shall be selected from governmental agencies, including State and Federal Governments, two of whom after consultation with representatives of the national organization of State commissions shall be State commissioners.

(2) Four members shall be selected from the natural gas industry after consultation with industry representatives, not less than three of whom shall be currently engaged in the active operation of natural gas pipelines and

Report of pro-
posed standards

(3) Six members shall be selected from the general public

Publication

(b) The Secretary shall submit to the Committee all proposed standards and amendments to such standards and afford such Committee a reasonable opportunity, not to exceed ninety days, unless extended by the Secretary, to prepare a report on the technical feasibility, reasonableness, and practicability of each such proposal. Each report by the Committee, including any minority views, shall be published by the Secretary and form a part of the proceedings for the promulgation of standards. In the event that the Secretary rejects the conclusions of the majority of the Committee, he shall not be bound by such conclusions but shall publish his reasons for rejection thereof. The Committee may propose safety standards for pipeline facilities and the transportation of gas to the Secretary for his consideration. All proceedings of the Committee shall be recorded and the record of each such proceeding shall be available for public inspection.

Committee pro-
ceedings availa-
ble to public

(c) Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary not to exceed \$100 per diem (including travel time) when engaged in the actual duties of the Committee. All members while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

80 Stat 499

STATE CERTIFICATIONS AND AGREEMENTS

SEC 5 (a) Except for the fourth sentence of section 3(b), section 12(b), and except as otherwise provided in this section, the provisions of this Act shall not apply to pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State when the safety stand-

52 Stat 821
15 USC 717w

ards and practices applicable to same are regulated by a State agency (including a municipality) which submits to the Secretary an annual certification that such State agency (1) has regulatory jurisdiction over the safety standards and practices of such pipeline facilities and transportation of gas, (2) has adopted each Federal safety standard applicable to such pipeline facilities and transportation of gas established under this Act as of the date of the certification, (3) is enforcing each such standard, and (4) has the authority to require record maintenance, reporting, and inspection substantially the same as are provided under section 12 and the filing for approval of plans of inspection and maintenance described in section 11 and that the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as are provided under sections 9 and 10 except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed two years after the date of enactment of this Act. Each annual certification shall include a report, in such form as the Secretary may by regulation provide, showing (i) name and address of each person subject to the safety jurisdiction of the State agency, (ii) all accidents or incidents reported during the preceding twelve months by each such person involving personal injury requiring hospitalization, fatality, or property damage exceeding \$1,000 together with a summary of the State agency's investigation as to the cause and circumstances surrounding such accident or incident, (iii) the record maintenance, reporting, and inspection practices by the State agency to enforce compliance with such Federal safety standards, including a detail of the number of inspections made of pipeline facilities by the State agency during the preceding twelve months, and (iv) such other information as the Secretary may require. The report included with the first annual certification need not show information unavailable at that time. If after receipt of annual certification the Secretary determines that the State agency is not satisfactorily enforcing compliance with Federal safety standards, he may, on reasonable notice and after opportunity for hearing, reject the certification or take such other action as he deems appropriate to achieve adequate enforcement, including the assertion of Federal jurisdiction. When such notice is given by the Secretary, the burden of proof shall be upon the State agency to show that it is satisfactorily enforcing compliance with Federal safety standards.

Report con-
tents

(b) With respect to any pipeline facilities and transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary is authorized by agreement with a State agency (including a municipality) to authorize such agency to assume responsibility for and carry out on behalf of the Secretary as it relates to pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act the necessary actions to—

52 Stat 821
15 USC 717w

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with Federal safety standards;

(2) establish procedures for approval of plans of inspection and maintenance substantially the same as are required under section 11;

(3) implement a compliance program acceptable to the Secretary including provision for inspection of pipeline facilities used in such transportation of gas and

(4) cooperate fully in a system of Federal monitoring of such compliance program and reporting under regulations prescribed by the Secretary

Violations
notification to
Secretary

Any agreement executed pursuant to this subsection shall require the State agency promptly to notify the Secretary of any violation or probable violation of a Federal safety standard which it discovers as a result of its program

(c) (1) Upon an application submitted not later than September 30 in any calendar year the Secretary is authorized to pay out of funds appropriated pursuant to section 15 up to 50 per centum of the cost of the personnel equipment and activities of a State agency reasonably required to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section during the following calendar year. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State exclusive of Federal grants, for gas safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last two fiscal years preceding the date of enactment of this section.

(2) Payments under this section may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(3) The Secretary may by regulation, provide for the form and manner of filing of applications under this section and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds.

(d) A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standard for pipeline facilities or the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, established pursuant to this Act after the date of such certification. The provisions of this Act shall apply to any such new or amended Federal safety standard until the State agency has adopted such standard and has submitted an appropriate certification in accordance with the provisions of subsection (a) of this section.

(e) Any agreement under this section may be terminated by the Secretary if, after notice and opportunity for a hearing, he finds that the State agency has failed to comply with any provision of such agreement. Such finding and termination shall be published in the Federal Register, and shall become effective no sooner than fifteen days after the date of publication.

52 Stat 821
15 USC 717w

Publication in
Federal Register

JUDICIAL REVIEW OF ORDERS

SEC 6 (a) Any person who is or will be adversely affected or aggrieved by any order issued under this Act may at any time prior to the sixtieth day after such order is issued file a petition for a judicial review with the United States Court of Appeals for the District of Columbia or for the circuit wherein such petitioner is located or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose.

(b) Upon the filing of the petition referred to in subsection (a), the court shall have jurisdiction to review the order in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief as provided in such chapter.

(c) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to

80 Stat 392
5 USC 701-706

review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(d) Any action instituted under this section shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(e) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law.

62 Stat 928

COOPERATION WITH FEDERAL POWER COMMISSION AND STATE COMMISSIONS

SEC 7 Whenever the establishment of a standard or action upon application for waiver under the provisions of this Act, would affect continuity of any gas services the Secretary shall consult with and advise the Federal Power Commission or State commission having jurisdiction over the affected pipeline facility before establishing the standard or acting on the waiver application and shall defer the effective date until the Federal Power Commission or any such commission has had reasonable opportunity to grant the authorizations it deems necessary. In any proceedings under section 7 of the Natural Gas Act (15 U S C 717f) for authority to establish, construct, operate, or extend a gas pipeline which is or will be subject to Federal or other applicable safety standards, any applicant shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain the pipeline facilities in accordance with Federal and other applicable safety standards and plans for maintenance and inspection. Such certification shall be binding and conclusive upon the Commission unless the relevant enforcement agency has timely advised the Commission in writing that the applicant has violated safety standards established pursuant to this Act.

52 Stat 824
56 Stat 83
61 Stat 459

COMPLIANCE

SEC 8 (a) Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall—

(1) at all times after the date any applicable safety standard established under this Act takes effect comply with the requirements of such standard; and

(2) file and comply with a plan of inspection and maintenance required by section 11, and

(3) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required under section 12.

(b) Nothing in this Act shall affect the common law or statutory tort liability of any person.

CIVIL PENALTY

SEC 9 (a) Any person who violates any provision of section 8(a), or any regulation issued under this Act, shall be subject to a civil penalty of not to exceed \$1,000 for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed \$200,000 for any related series of violations. *Provided*, That for a reasonable period of time not to exceed one year after the date of enactment of this Act, such civil penalties shall not be applicable to pipeline facilities existing on such date of enactment.

Exception

(b) Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance,

After notification of a violation, shall be considered. The amount of such penalty when finally determined, or the amount agreed upon in compromise may be deducted from any sums owing by the United States to the person charged or may be recovered in a civil action in the United States district courts.

INJUNCTION AND JURISDICTION

28 USC app

SEC 10 (1) The United States district courts shall have jurisdiction, subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this Act (including the restraint of transportation of gas or the operation of a pipeline facility) or to enforce standards established hereunder upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation shall afford him reasonable opportunity to achieve compliance. However, the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

18 USC app

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this Act, trial shall be by the court or, upon demand of the accused by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Actions under subsection (a) of this section and section 9 may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or transacts business or wherever the defendant may be found.

(d) In any action brought under subsection (a) of this section and section 9, subpoenas for witnesses who are required to attend a United States district court may run into any other district.

INSPECTION AND MAINTENANCE PLANS

Plans filing with State agency

52 Stat 821
15 USC 717a

SEC 11 Each person who engages in the transportation of gas or who owns or operates pipeline facilities not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act shall file with the Secretary or, where a certification or an agreement pursuant to section 5 is in effect, with the State agency, a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency. The Secretary may, by regulation, also require persons who engage in the transportation of gas or who own or operate pipeline facilities subject to the provisions of this Act to file such plans for approval. If at any time the agency with responsibility for enforcement of compliance with the standards established under this Act finds that such plan is inadequate to achieve safe operation, such agency shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the agency shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any such plan, such agency shall consider—

Consideration factors

(1) relevant available pipeline safety data,

- (2) whether the plan is appropriate for the particular type of pipeline transportation
- (3) the reasonableness of the plan and
- (4) the extent to which such plan will contribute to public safety.

RECORDS, REPORTS AND INSPECTION FOR COMPLIANCE

SEC 12 (1) Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall establish and maintain such records and provide such information as the Secretary may reasonably require to enable him to determine whether such person has acted or is acting in compliance with this Act and the standards established under this Act. Each such person shall, upon request of an officer, employee, or agent authorized by the Secretary, permit such officer, employee, or agent to inspect books, papers, records, and documents relevant to determining whether such person has acted or is acting in compliance with this Act and the standards established pursuant to this Act.

Monitoring of State enforcement practices

(b) The Secretary is authorized to conduct such monitoring of State enforcement practices and such other inspection and investigation as may be necessary to aid in the enforcement of the provisions of this Act and the standards established pursuant to this Act. He shall furnish the Attorney General any information obtained indicating noncompliance with such standards for appropriate action. For purposes of enforcement of this Act, officers, employees, or agents authorized by the Secretary, upon presenting appropriate credentials to the individual in charge, are authorized (1) to enter upon, at reasonable times, pipeline facilities, and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such facilities. Each such inspection shall be commenced and completed with reasonable promptness.

Accident reports
Availability in judicial proceedings

(c) Accident reports made by any officer, employee, or agent of the Department of Transportation shall be available for use in any civil criminal or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

62 Stat 791

(d) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (1), (b), or (c) which information contains or relates to a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Secretary or any officer, employee, or agent under his control, from the duly authorized committees of the Congress.

ADMINISTRATION

SEC 13 (a) The Secretary shall conduct research, testing, development, and training necessary to carry out the provisions of this Act. The Secretary is authorized to carry out the provisions of this section by contract, or by grants to individuals, States, and nonprofit institutions.

Research and development
Contracts etc

(b) Upon request, the Secretary shall furnish to the Federal Power Commission any information he has concerning the safety of any

Safety of materials etc

materials, operations devices, or processes relating to the transportation of gas or the operation of pipeline facilities

(c) The Secretary is authorized to advise, assist, and cooperate with other Federal departments and agencies and State and other interested public and private agencies and persons, in the planning and development of (1) Federal safety standards, and (2) methods for inspecting and testing to determine compliance with Federal safety standards

ANNUAL REPORT

SEC 14 (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on March 17 of each year a comprehensive report on the administration of this Act for the preceding calendar year. Such report shall include—

(1) a thorough compilation of the accidents and casualties occurring in such year with a statement of cause whenever investigated and determined by the National Transportation Safety Board

(2) a list of Federal gas pipeline safety standards established or in effect in such year with identification of standards newly established during such year

(3) a summary of the reasons for each waiver granted under section 3(e) during such year

(4) an evaluation of the degree of observance of applicable safety standards for the transportation of gas and pipeline facilities including a list of enforcement actions and compromises of alleged violations by location and company name

(5) a summary of outstanding problems confronting the administration of this Act in order of priority

(6) an analysis and evaluation of research activities, including the policy implications thereof completed as a result of Government and private sponsorship and technological progress for safety achieved during such year,

(7) a list with a brief statement of the issues, of completed or pending judicial actions under the Act

(8) the extent to which technical information was disseminated to the scientific community and consumer oriented information was made available to the public,

(9) a compilation of—

(A) certifications filed by State agencies (including municipalities) under section 5(a) which were in effect during the preceding calendar year, and

(B) certifications filed under section 5(a) which were rejected by the Secretary during the preceding calendar year, together with a summary of the reasons for each such rejection and

(10) a compilation of—

(A) agreements entered into with State agencies (including municipalities) under section 5(b) which were in effect during the preceding calendar year, and

(B) agreements entered into under section 5(b) which were terminated by the Secretary during the preceding calendar year, together with a summary of the reasons for each such termination

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of gas pipeline safety and to strengthen the national gas pipeline safety program

Cooperation with other agencies

Report to President and Congress

Contents

Legislative recommendations

APPROPRIATIONS AUTHORIZED

SEC 15 For the purpose of carrying out the provisions of this Act over a period of three fiscal years, beginning with the fiscal year ending June 30, 1969, there is authorized to be appropriated not to exceed \$500,000 for the fiscal year ending June 30, 1969, not to exceed \$2,000,000 for the fiscal year ending June 30, 1970, and not to exceed \$4,000,000 for the fiscal year ending June 30, 1971

Approved August 12 1966

Public Law 90-482

AN ACT

To amend the Act of August 27 1954 relative to the unlawful seizure of fishing vessels of the United States by foreign countries

August 12 1968 [S 2269]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That the Act of August 27, 1954 (68 Stat 883 22 U.S.C. 1971-1976), is amended by adding at the end thereof a new section to read as follows

Fishermen's Protective Act of 1967 amendment

SEC 7 (a) 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, the Secretary shall guarantee—

22 USC 1972

(1) the owner of such vessel for all actual costs, except those covered by section 3 of this Act, 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,

22 USC 1973

(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 the Interior 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) 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