

§ 29.10

(2) The Fund shall establish uniform procedures and standards for the appraisal and settlement of claims against the Fund, including but not limited to procedures for appraising claims made to the vessel Owner or Operator to determine when \$14 million of claims meeting the definition of damages has been reached; procedures to determine whether claims over the \$14 million level which it receives meet the definition of damages; and procedures for determining when the services of a private insurance and claims adjuster shall be used.

(e) In the event the vessel Owner or Operator refuses payment of any claims up to \$14 million, the injured parties have recourse to the district court for the Federal district in which the spill occurred or the appropriate State court for the State in which the spill occurred. The Fund only becomes liable after \$14 million in claims meeting the definition of damages have been paid or have been acknowledged as payable by the vessel Owner or Operator.

(f) The Fund may settle or compromise any claim presented to it.

(g) No claim may be presented, nor any action be commenced, for damages recoverable under this part unless that claim is presented to or that action is commenced against the vessel Owner or Operator, or their guarantor, or against the Fund, as to their respective liabilities, within two years from the date of discovery of the damages caused by an incident, or of the date of the incident causing the damages, whichever is earlier.

(h)(1) The Board of Trustees, by a majority vote, shall decide to allow or deny claims or settlements presented to the Fund in accordance with this section. In its discretion the Board may delegate the authority to settle classes of claims to the Administrator.

(2)(i) Where a claim is presented to the Fund by or on behalf of any person having a close business, personal or governmental association with any member of the Board of Trustees, such as to create a conflict of interest or the appearance of such conflict of interest on the part of such member of the Board of Trustees, the member in-

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involved shall excuse himself or herself from any consideration of such claim.

(ii) Where a claim presented to the Fund has previously been presented to the Owner or Operator and such Owner or Operator has a close business, personal or governmental association with any member of the Board of Trustees, such as to create a conflict of interest or the appearance of a conflict of interest on the part of such member of the Board of Trustees, the member involved shall excuse himself or herself from any consideration of such claim.

(i) Any claimant aggrieved by the Fund's decision on a claim under this section may appeal the decision in the appropriate Federal district court.

§ 29.10 Subrogation.

If the Fund pays compensation to any claimant, the Fund shall be subrogated to all rights, claims, and causes of action which that claimant has to the extent permitted by law.

§ 29.11 Investment.

(a) The monies accumulated in the Fund shall be prudently invested in the following types of income-producing obligations having a high degree of reliability and security, or in such other obligations as the Secretary may approve:

(1) Fixed income securities issued by the United States or any of its agencies, at the same interest rates and terms available to private investors; and

(2) Fixed income securities or obligations issued by a corporation or issued or guaranteed by a State or local government or any political subdivision, agency or instrumentality thereof, provided such obligations have a rating by Standard and Poors, or Moody, of "A" or better, or an equivalent rating, or provided further that the security or obligation is of the same priority as another security or obligation of the same issuer which has been rated "A" or better, and provided that the portfolio has an overall rating of "AA." *Provided, however,* That no securities or obligations of the permittees or their affiliates or of any investment advisor or custodian to the Fund, or their affiliates may be purchased or held by the Fund.

(3) Time certificates of deposit and commercial paper provided that the commercial paper has a rating of either "A1" or "P1" or both.

(b) No more than two percent of the total principal amount outstanding of fixed income obligations of a single issuer may be held by the Fund at any one time, *Provided*, however, That this restriction shall not apply to obligations of the United States or any of its agencies.

§ 29.12 Borrowing.

In the event the Fund is unable to satisfy a claim determined to be justified, or is in need of money with which to initiate the operation of the Fund, the Fund may borrow the money needed from any commercial credit source at the lowest available rate of interest. If the amount to be borrowed is \$500,000 or less, the Administrator may arrange to pledge the credit of the Fund pursuant to a resolution of the Board of Trustees. If the proposed borrowing exceeds \$500,000, the Administrator shall, prior to issuance of a note or other security pledging the credit of the Fund, secure the approval of the Secretary. No money may be borrowed from any of the Permittees or their affiliates.

§ 29.13 Termination.

Upon termination of operations of the Pipeline, the full disposition of all claims, and the expiration of time for the filing of claims against the Fund, all assets remaining in the Fund shall be placed in a temporary trust fund account within the State of Alaska. The terms of the trust arrangement shall be determined by the Secretary. During the next succeeding session of Congress, the Secretary shall request that Congress provide for final disposition of the Fund. If Congress at any time establishes a comprehensive oil pollution liability fund which supersedes or repeals the Fund, the Fund assets and any pending claims shall be disposed of as Congress or the Secretary shall direct.

§ 29.14 Information collection.

The information collection requirements contained in 43 CFR 29.9 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et*

seq. and assigned approval No. 1084-0026. The information being collected is the information required to substantiate claims submitted to the Fund. The information will be used to determine whether the claims are appropriate for payment by the Fund. Submission of this information is required of claimants before a claim can be considered.

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