

be adjusted and paid by the Commission under the provisions of this subpart.”

SUBPART II—VESSEL DAMAGE

**§ 3771. Injuries in locks of canal; adjustment and payment of claims**

(a) Subject to section 3779(b) of this title and to subsection (b) of this section, the Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels, which may arise by reason of their passage through the locks of the Panama Canal when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. Damages may not be allowed and paid for injuries to any protrusion beyond any portion of the hull of a vessel, whether it is permanent or temporary in character. A vessel is considered to be passing through the locks of the Canal, under the control of officers or employees of the United States, from the time the first towing line is made fast on board before entrance into the locks and until the towing lines are cast off upon, or immediately prior to, departure from the lock chamber. No payment for damages on a claim may be made under this section unless the claim is filed with the Commission within one year after the date of the injury or by November 18, 1998, whichever is later.

(b)(1) With respect to a claim under subsection (a) for damages for injuries to a vessel or its cargo, if, at the time the injuries were incurred, the navigation or movement of the vessel was not under the control of a Panama Canal pilot, the Commission may pay not more than \$50,000 on the claim, unless the injuries were caused by another vessel under the control of a Panama Canal pilot.

(2) The provisions of subsections (c) through (e) of section 3761 of this title shall apply to any claim described in paragraph (1).

(Pub. L. 96-70, title I, §1411, Sept. 27, 1979, 93 Stat. 485; Pub. L. 99-209, §2(a), (b), Dec. 23, 1985, 99 Stat. 1716; Pub. L. 100-203, title V, §5417(b), Dec. 22, 1987, 101 Stat. 1330-271; Pub. L. 105-85, div. C, title XXXV, §3543(a), Nov. 18, 1997, 111 Stat. 2072; Pub. L. 105-261, div. C, title XXXV, §§3509(a)(1), 3512(a)(4), Oct. 17, 1998, 112 Stat. 2269, 2271.)

**Editorial Notes**

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-261 inserted “to section 3779(b) of this title and” after “Subject” in first sentence and substituted “by November 18, 1998” for “November 18, 1997”.

1997—Subsec. (a). Pub. L. 105-85 substituted “within one year after the date of the injury or November 18, 1997,” for “within 2 years after the date of the injury, or within 1 year after December 23, 1985.”

1987—Subsec. (b)(1). Pub. L. 100-203 substituted “pay not more than \$50,000 on the claim” for “adjust and pay

the claim only if the amount of the claim does not exceed \$50,000”.

1985—Subsec. (a). Pub. L. 99-209, §2(a), designated existing provisions as subsec. (a), substituted “Subject to subsection (b) of this section, the” for “The”, substituted “the Panama Canal when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal” for “The Panama Canal under the control of officers or employees of the United States”, struck out provision that damages could not be paid where the injury was proximately caused by the negligence or fault of the vessel, master, crew, or passengers, and inserted provision that no payment for damages on a claim may be made under this section unless the claim is filed with the Commission within 2 years after the date of the injury, or within 1 year after Dec. 23, 1985, whichever is later.

Subsec. (b). Pub. L. 99-209, §2(b), added subsec. (b).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-209, §7, Dec. 23, 1985, 99 Stat. 1718, provided that:

“(a) RETROACTIVE APPLICABILITY.—The amendments made by subsections (a) and (c) of section 2 [amending this section and section 3772 of this title], and the amendments made by sections 4 and 5 of this Act [amending sections 3775 and 3776 of this title], shall apply to any claim arising on or after October 1, 1979.

“(b) FUTURE APPLICABILITY.—

“(1) SECTIONS 3 AND 6.—The amendments made by sections 3 [amending section 3774 of this title] and 6 [enacting section 3779 of this title] of this Act shall apply to any claim arising on or after the date of the enactment of this Act [Dec. 23, 1985].

“(2) SECTION 2(b).—The amendment made by subsection (b) of section 2 [amending this section] shall apply to any claim arising from an incident occurring on or after the date of the enactment of this Act [Dec. 23, 1985].”

**§ 3772. Injuries outside locks**

Subject to section 3779(b) of this title, the Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels which may arise by reason of their presence in the Panama Canal, or waters adjacent thereto, other than the locks, when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. In the case of a vessel which is required by or pursuant to regulations prescribed pursuant to section 3811 of this title to have a Panama Canal pilot on duty aboard, damages may not be adjusted and paid for injuries to the vessel, or its cargo, crew, or passengers, incurred while the vessel was underway and in motion, unless at the time the injuries were incurred the navigation or movement of the vessel was under the control of a Panama Canal pilot. No payment for damages on a claim may be made under this section unless the claim is filed with the Commission within one year

after the date of the injury or by November 18, 1998, whichever is later.

(Pub. L. 96-70, title I, §1412, Sept. 27, 1979, 93 Stat. 485; Pub. L. 99-209, §2(c), Dec. 23, 1985, 99 Stat. 1716; Pub. L. 105-85, div. C, title XXXV, §3543(a), Nov. 18, 1997, 111 Stat. 2072; Pub. L. 105-261, div. C, title XXXV, §§3509(a)(2), 3512(a)(4), Oct. 17, 1998, 112 Stat. 2270, 2271.)

#### Editorial Notes

##### AMENDMENTS

1998—Pub. L. 105-261 substituted “Subject to section 3779(b) of this title, the Commission” for “The Commission” in first sentence and “by November 18, 1998” for “November 18, 1997”.

1997—Pub. L. 105-85 substituted “within one year after the date of the injury or November 18, 1997,” for “within 2 years after the date of the injury, or within 1 year after December 23, 1985.”

1985—Pub. L. 99-209 struck out provisions limiting the amount of the claim to \$120,000, and inserted provision that no payment for damages on a claim may be made under this section unless the claim is filed with the Commission within 2 years after the date of the injury, or within 1 year after Dec. 23, 1985, whichever is later.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-209 applicable to any claim arising on or after Oct. 1, 1979, see section 7(a) of Pub. L. 99-209, set out as a note under section 3771 of this title.

#### § 3773. Measure of damages generally

In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable, there may be included—

- (1) the actual or estimated cost of repairs;
- (2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for the time the vessel is undergoing repairs;
- (3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire; and
- (4) other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

Agent's fees, or commissions, or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed. The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earn-

ings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.

(Pub. L. 96-70, title I, §1413, Sept. 27, 1979, 93 Stat. 486.)

#### § 3774. Delays for which no responsibility is assumed

The Commission is not responsible, and may not consider any claim, for demurrage or delays caused by—

- (1) landslides or other natural causes;
- (2) necessary construction or maintenance work on Canal locks, terminals, or equipment;
- (3) obstruction arising from accidents;
- (4) time necessary for admeasurement;
- (5) congestion of traffic;
- (6) investigation of a marine accident that is conducted within 24 hours after the accident occurs, except that any liability of the Commission beyond that 24-hour period shall be limited to the extent to which the accident was caused, or contributed to, by the negligence of an employee of the Commission acting within the scope of the employee's official duties; or
- (7) except as specially set forth in this subpart, any other cause.

(Pub. L. 96-70, title I, §1414, Sept. 27, 1979, 93 Stat. 486; Pub. L. 99-209, §3, Dec. 23, 1985, 99 Stat. 1717.)

#### Editorial Notes

##### AMENDMENTS

1985—Par. (6). Pub. L. 99-209 amended par. (6) generally. Prior to amendment, par. (6) read as follows: “time necessary for investigation of marine accidents; or”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-209 applicable to any claim arising on or after Dec. 23, 1985, see section 7(b)(1) of Pub. L. 99-209, set out as a note under section 3771 of this title.

#### § 3775. Settlement of claims

The Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subpart. Such amounts may be paid only out of money allotted for the maintenance and operation of the Panama Canal. Acceptance by a claimant of the amount awarded to him shall be deemed to be in full settlement of such claim against the Government of the United States.

(Pub. L. 96-70, title I, §1415, Sept. 27, 1979, 93 Stat. 486; Pub. L. 99-209, §4, Dec. 23, 1985, 99 Stat. 1717; Pub. L. 104-106, div. C, title XXXV, §3529(5), Feb. 10, 1996, 110 Stat. 642.)

#### Editorial Notes

##### AMENDMENTS

1996—Pub. L. 104-106 struck out “appropriated or” after “out of money” in second sentence.

1985—Pub. L. 99-209 struck out the subsec. (a) designation, substituted “The Commission, by” for “Sub-