

## Department of State

## § 33.11

years immediately preceding the seizure as determined by the Secretary, based on catch rates on comparable vessels in comparable fisheries. The compensable period for cases of seizure and detention not resulting in vessels confiscation is limited to the elapsed time from seizure to the time after release when the vessel could reasonably be expected to return to the point of seizure. The compensable period in cases where the vessel is confiscated is limited to the elapsed time from seizure through the date of confiscation, plus an additional period to purchase a replacement vessel and return to the point of seizure. In no case can the additional period exceed 120 days.

(1) Compensation for confiscation of vessels, where no buy-back has occurred, will be based on market value which will be determined by averaging estimates of market value obtained from as many vessel surveyors or brokers as the Secretary deems practicable;

(2) Compensation for capital equipment other than vessel, will be based on depreciated replacement cost;

(3) Compensation for expendable items and crew's belongings will be 50 percent of their replacement costs; and

(4) Compensation for confiscated catch will be for full value, based on the price-per-pound.

(b) *Fuel expense.* Compensation for fuel expenses will be based on the purchase price, the time required to run to and from the fishing grounds, the detention time in port, and the documented fuel consumption of the vessel.

(c) *Stolen or confiscated property.* If the claimant was required to buy back confiscated property from the foreign country, the claimant may apply for reimbursement of such charges under section 3 of the Act. Any other property confiscated is reimbursable from this Guaranty Fund. Confiscated property is divided into the following categories:

(1) Compensation for confiscation of vessels, where no buy-back has occurred, will be based on market value which will be determined by averaging estimates of market value obtained from as many vessel surveyors or brokers as the Secretary deems practicable;

(2) Compensation for capital equipment other than a vessel, will be based on depreciated replacement cost;

(3) Compensation for expendable items and crew's belongings will be 50 percent of their replacement cost; and

(4) Compensation for confiscated catch will be for full value, based on the price-per-pound.

(d) *Insurance proceeds.* No payments will be made from the Fund for losses covered by any policy of insurance or other provisions of law.

(f) *Appeals.* All determinations under this section are final and are not subject to arbitration or appeal.

### § 33.10 Payments.

The Office Director, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, will pay the claimant the amount calculated under § 33.9. Payment will be made as promptly as practicable, but may be delayed pending the appropriation of sufficient funds, should fee collections not be adequate to sustain the operation of the Fund. The Director shall notify the claimant of the amount approved for payment as promptly as practicable and the same shall thereafter constitute a valid, but non-interest bearing obligation of the Government. Delays in payments are not a direct consequence of seizure and detention and cannot therefore be construed as increasing the compensable period for lost fishing time. If there is a question about distribution of the proceeds of the claim, the Director may request proof of interest from all parties, and will settle this issue.

### § 33.11 Records.

The Office Director, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs will have the right to inspect claimants' books and records as a precondition to approving claims. All claims must contain written authorization of the guaranteed party for any international, federal, state, or local governmental Agencies to provide the Office Director, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific

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Affairs any data or information pertinent to a claim.

### § 33.12 Penalties.

Persons who willfully make any false or misleading statement or representation to obtain compensation from the Fund are subject to criminal prosecution under 22 U.S.C. 1980(g). This provides penalties up to \$25,000 or imprisonment for up to one year, or both. Any evidence of criminal conduct will be promptly forwarded to the United States Department of Justice for action. Additionally, misrepresentation, concealment, or fraud, or acts intentionally designed to result in seizure, may void the guaranty agreement.

## PART 34—COLLECTION OF DEBTS

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### Subpart A—General Provisions

#### § 34.1 Purpose.

These regulations prescribe the procedures to be used by the United States Department of State (STATE) in the collection of claims owed to STATE and to the United States.

#### § 34.2 Scope.

(a) Applicability of Federal Claims Collection Standards (FCCS). Except as set forth in this part or otherwise provided by law, STATE will conduct administrative actions to collect claims (including offset, compromise, suspension, termination, disclosure and referral) in accordance with the FCCS of the General Accounting Office and Department of Justice, 4 CFR parts 101–105.

(b) This part is not applicable to:

(1) Claims against any foreign country or any political subdivision thereof, or any public international organization.

(2) Claims where the STATE Comptroller or his designee determines that the achievement of the purposes of any provision of law administered by STATE require a different course of action.

#### § 34.3 Definitions.

(a) A *debt* or *claim* refers to an amount of money which has been determined to be owed to the United States from any person, organization or entity, except another Federal Agency. A debtor's liability arising from a particular contract or transaction shall be considered a single claim for purposes of the monetary ceilings of the FCCS.

(b) *Delinquent* means a debt that has not been paid by the date specified in STATE's written notification or applicable contractual agreement, unless other satisfactory arrangements have been made by that date, or that has not been in accordance with a payment agreement with STATE.