

New Gear Damage Rules Announced

William Gordon, Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration (NOAA), has announced the publication of final regulations implementing legislative changes in the Fishing Vessel and Gear Damage Compensation Fund program.

This program, authorized by section 10 of the Fishermen's Protective Act, compensates U.S. fishermen for fishing vessel and gear casualties which are caused by other vessels. The American Fisheries Promotion Act, enacted 22 December 1980, amended the section 10 program by 1) compensating for 25 percent of gross income that a fisherman loses as a result of a casualty; 2) providing fishermen with a presumption that unobserved gear casualties are caused by other vessels (this presumption may be challenged by the Government); and 3) eliminating the eligibility of casualties caused by weather and sea conditions.

The economic loss resulting from a gear or vessel casualty is based on the receipts or trip tickets fishermen receive with payment of their catch. It is computed in three stages.

First, the agency compensates for the income lost at the time a fisherman discovers a casualty. This loss is computed by averaging the income per unit of gear for the three trips before that of the casualty, multiplying this average times the number of gear units lost, and computing 25 percent of the result.

Second, the agency compensates for the income lost on the vessel trip immediately after the casualty if the gear could not be replaced beforehand. In most instances, it cannot be. So fishermen will lose income on the next trip after the casualty even if they have reserve gear on shore ready to be de-

ployed. The agency bases the income lost on this trip on the average income per unit of gear for the trip. If the fisherman was unable to make this trip because so much gear was lost that the trip was not economically feasible, the economic loss will be considered the same as for the trip of the casualty.

Finally, the agency compensates for the income lost on other vessel trips made between the time replacement gear is ordered and received or repair begun and completed. The amount of this compensation is based on the average catch value of each unit of gear being used on these trips. If no trips could be made because of the extent of the loss, trip tickets for trips made the previous year during the same period will be used to determine the amount of compensable loss.

The requirement to order the replacement or repair of gear as a condition for receiving compensation for lost income, Gordon explained, was necessary to protect the Fund from possible abuse. "We could not allow the Fund to pay for the lost income of anyone who does not make a good faith effort to restore the lost or damaged gear as quickly as possible," he said.

Gordon said it was necessary to find a reasonable basis for challenging the presumption that an unobserved casualty was caused by another vessel rather than some ineligible cause such as weather.

"Since most fixed gear casualties are caused by vessels operating mobile gear," Gordon continued, "we looked to see what kind of weather conditions would be too severe for mobile gear operations and found that weather with winds of 48 knots or more generally stops even the big draggers. If we receive a claim and find that the weather

at the time of the loss was too severe for the trawlers to operate, then the most probable cause of the casualty was the weather."

Gordon said that the agency has application forms available for filing claims under section 10. These forms and copies of the new program regulations can be obtained by writing the Financial Services Division, National Marine Fisheries Service, NOAA, Washington, DC 20235.

Fishermen's Contingency Fund Regulations Issued

Interim regulations designed to reduce the time required to process fishermen's claims for damage or loss of fishing gear caused by underwater obstructions associated with oil and gas exploration and production activities on the Federal Outer Continental Shelf have been issued by the National Oceanic and Atmospheric Administration (NOAA).

William Gordon, NOAA's Assistant Administrator for Fisheries, said that the Interim rulemaking, published 8 December under the Fishermen's Contingency Fund, will reduce processing time of claims by as much as 3½ months. Under the previous rules, claims required from 6½ to 10½ months to process. The principal cause of the long processing time was the regulatory requirements for extensive review by the Financial Services Division of the National Marine Fisheries Service and the NOAA General Counsel's Office, according to Gordon.

"We've eliminated duplications in the processing procedures," Gordon said. "Under the interim rulemaking, we at Fisheries will coordinate the issuance of public notices and make an effort to collect from applicants all information needed to complete a claim. Then we will forward the claim to an administrative law judge for his decision."

The reason that the rulemaking was established on an interim basis, according to Gordon, is that legislation is pending in Congress to streamline the program to an even greater degree than is possible through the regulatory process.

"This is not the perfect solution," Gordon said, "But it is certainly an im-

provement on the old method.”

Gordon said that if the bill to amend the program is passed, the agency will be able to process claims within 30-60 days. The pending legislation, according to Gordon, will make the Fishermen's Contingency Fund program very similar to the Fishing Vessel and Gear Damage Compensation Fund program, authorized by section 10 of the Fishermen's Protective Act.

The section 10 program, Gordon said, was enacted by Congress on the same

date as the Fishermen's Contingency Fund, 18 September 1978. Since enactment 62 claims have been processed in the Fishermen's Contingency Fund program. Of these, 23 were approved for payment of \$94,048.96. Under the section 10 program, the agency has processed 882 claims, of which 825 were approved for payment of \$5.8 million. The average processing time on completed section 10 claims has been about 56 days.

Since the two programs have been

administered out of the same office, Gordon attributed differences in performance to the differences in the authorizing laws and in the rules implementing the programs.

Gordon said that the agency has application forms available for filing claims against the Fishermen's Contingency Fund. These forms and copies of the new program regulations may be obtained by writing the Financial Services Division, National Marine Fisheries Service, NOAA, Washington, DC 20235.

Foreign Fishery Developments

The Fisheries of Trinidad and Tobago

Background

Trinidad and Tobago imported 131 t of fishery products from the United States in 1980, more than double the 64 t imported in 1979, according to the NMFS Foreign Fisheries Analysis Division. The most important commodity imported was canned salmon. Some observers believe that imports from the United States could be increased, for the current fishery import market is dominated by the United Kingdom and Canada.

The U.S. Regional Fisheries Attache for Latin America, Charles E. Finan, visited Trinidad and Tobago last year to review the status of the fisheries and investigate the possibility of increasing exports of U.S. fisheries products. While data on fish productivity is somewhat rough and subjective, there is detailed information on fish product imports and exports. Here, data has been gathered from official sources, knowledgeable

observers, and the FAO for the reader's comparison.

According to the Fisheries Division of the Ministry of Agriculture, Lands and Fisheries, 1980 fisheries production was on the order of 25 million pounds, with Spanish mackerel constituting about half the catch. The Division put production of shrimp at 2 million pounds, and estimated lobster production at about 1 t, a marginal industry except to sport divers. Kingfish production was reported to have been 2 million pounds, shark 3 million pounds, red snapper over 1 million pounds, with one-half million pounds of flying fish caught, mostly for export to Barbados.

The FAO Fishery Country Profile shows the 1978 production as some 16,600,000 pounds live weight, so a 25,000,000-pound production in 1980 is quite a respectable increase. However, as indicated later, that 1980 figure may have been overly conservative.

It may also be well to compare the

above data to data in Table 1, the total wholesale distribution reported. According to that data from the Central Statistical Office, in 1979 some 2,546,000 kg were reported distributed throughout the country, of which 1,016,000 were carite and kingfish and 1,202,000 were mostly shark and shrimp. Export data for the same year show that 207,000 kg were exported. (By contrast, according to the Central Statistical Office, 3,600,000 kg were imported that same year.) Clearly, whatever the level of production, it is not keeping up with what is described as one of the highest per capita demands for fish in the world. More details on exports and imports are shown in Tables 2 and 3.

The Division notes that imports are

