

the authority to designate an officer or employee of the United States Customs Service to act in the place of a Coast Guard official.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2105. Report

The Secretary shall provide for the investigation of the operation of this subtitle and of all laws related to marine safety, and shall require that a report be made to the Secretary annually about those matters that may require improvement or amendment.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 506.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2105	46:4

Section 2105 requires the Secretary to investigate the operation of this subtitle and all laws related to maritime safety and requires appropriate reports to ensure that the Secretary is attentive to all the shipping laws under the Secretary's superintendence.

§ 2106. Liability in rem

When a vessel is made liable in rem under this subtitle, the vessel may be libeled and proceeded against in the district court of the United States for any district in which the vessel is found.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 506; Pub. L. 109-304, § 15(4), Oct. 6, 2006, 120 Stat. 1702.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2106	46:170(14) 46:216e(e) 46:390d 46:391a(14)(C) 46:436 46:462 46:481(c) 46:497 46:526o 46:672(j) 46:1484(b)

Section 2106 provides that when a vessel is made liable in rem the vessel may be libeled and proceeded against in a United States district court.

AMENDMENTS

2006—Pub. L. 109-304 substituted “the district court of the United States for any district” for “a district court of the United States”.

§ 2107. Civil penalty procedures

(a) After notice and an opportunity for a hearing, a person found by the Secretary to have violated this subtitle or subtitle VII or a regulation prescribed under this subtitle or subtitle VII for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty under this subtitle or subtitle VII until the assessment is referred to the Attorney General.

(c) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 506; Pub. L. 109-241, title III, § 306(b), July 11, 2006, 120 Stat. 528.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2107	33:364 46:7 46:65u 46:216e(d) 46:391a(14) 46:526o 46:526p 46:1484(c)

Section 2107 provides for standard procedures for the handling of civil penalties for infractions of law or regulation. Some changes were made to increase some antiquated and inadequate penalties.

The assessment of civil penalties under this section should not require an “on the record” hearing within the meaning of the Administrative Procedures Act (APA). It is intended that these civil penalties be assessed in a fair manner. However, the Committee recognizes that statutes passed in the last decade have involved the Coast Guard in tens of thousands of civil penalty enforcement cases and that it is necessary that the penalties be assessed efficiently. The Coast Guard's procedural regulations for assessing civil penalties ensure that the essential elements of due process, notice, and opportunity to be heard, are provided to alleged violators (see 33 CFR Subpart 1.07). The more rigid and time-consuming procedures applicable to APA adjudications are unwarranted in the case of Coast Guard civil penalty assessment procedures and would seriously hamper the orderly enforcement of these administrative penalties.

AMENDMENTS

2006—Pub. L. 109-241 substituted “this subtitle or subtitle VII” for “this subtitle” in two places in subsec. (a) and in one place in subsec. (b).

[§ 2108. Repealed. Pub. L. 109-304, § 15(5), Oct. 6, 2006, 120 Stat. 1702]

Section, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 507, related to refund of penalties unlawfully, improperly, or excessively imposed. See section 504 of this title.

§ 2109. Public vessels

Except as otherwise provided, this subtitle does not apply to a public vessel of the United States. However, this subtitle does apply to a vessel (except a Saint Lawrence Seaway Development Corporation vessel) owned or operated by the Department of Transportation or by any corporation organized or controlled by the Department.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 507; Pub. L. 99-509, title V, §5102(b)(3), Oct. 21, 1986, 100 Stat. 1927; Pub. L. 109-241, title IX, §902(e)(1), July 11, 2006, 120 Stat. 567; Pub. L. 111-281, title IX, §903(a)(5)(A), Oct. 15, 2010, 124 Stat. 3010.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2109	46:362 46:363 46:391a(4)

Section 2109 exempts public vessels from the applicability of the maritime safety and seamen's welfare laws of this subtitle although some public vessels are inspected under interagency voluntary agreements.

AMENDMENTS

2010—Pub. L. 111-281 amended directory language of Pub. L. 109-241, §902(e)(1). See 2006 Amendment note below.

2006—Pub. L. 109-241, §902(e)(1), as amended by Pub. L. 111-281, struck out "a Coast Guard or" after "(except)".

1986—Pub. L. 99-509 substituted "Except as otherwise provided, this" for "This".

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-281, title IX, §903(a), Oct. 15, 2010, 124 Stat. 3010, provided that the amendment by section 903(a)(5)(A) is effective with enactment of Pub. L. 109-241.

§ 2110. Fees

(a)(1) Except as otherwise provided in this title, the Secretary shall establish a fee or charge for a service or thing of value provided by the Secretary under this subtitle, in accordance with section 9701 of title 31.

(2) The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a non-self-propelled tank vessel under part B of this subtitle that is more than \$500 annually. The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than \$300 annually for such vessels under 65 feet in length, or more than \$600 annually for such vessels 65 feet in length and greater. The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.

(3) The Secretary may, by regulation, adjust a fee or charge collected under this subsection to accommodate changes in the cost of providing a specific service or thing of value, but the adjusted fee or charge may not exceed the total cost of providing the service or thing of value for which the fee or charge is collected, including the cost of collecting the fee or charge.

(4) The Secretary may not collect a fee or charge under this subsection that is in conflict

with the international obligations of the United States.

(5) The Secretary may not collect a fee or charge under this subsection for any search or rescue service.

(b)(1) The Secretary shall establish a fee or charge as provided in paragraph (2) of this subsection, and collect it annually in fiscal years 1993 and 1994, from the owner or operator of each recreational vessel to which paragraph (2) of this subsection applies.

(2) The fee or charge established under paragraph (1) of this subsection is as follows:

(A) in fiscal year 1993—

(i) for vessels of more than 21 feet in length but less than 27 feet, not more than \$35;

(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than \$50; and

(iii) for vessels of at least 40 feet in length, not more than \$100; and

(B) in fiscal year 1994—

(i) for vessels of at least 37 feet in length but less than 40 feet, not more than \$50; and

(ii) for vessels of at least 40 feet in length, not more than \$100.

(3) The fee or charge established under this subsection applies only to vessels operated on the navigable waters of the United States where the Coast Guard has a presence.

(4) The fee or charge established under this subsection does not apply to a—

(A) public vessel; or

(B) vessel deemed to be a public vessel under section 827 of title 14.

(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernible print, only the following statement: "The fee for which this document was provided was established under the Omnibus Budget Reconciliation Act of 1990. Persons paying this fee can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment."

(c) In addition to the collection of fees and charges established under subsections (a) and (b), the Secretary may recover appropriate collection and enforcement costs associated with delinquent payments of the fees and charges.

(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section. A private enterprise or business selected by the Secretary to collect fees or charges—

(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

(B) shall provide appropriate accounting to the Secretary; and

(C) may not institute litigation as part of that collection.

(2) A Federal agency shall account for the agency's costs of collecting the fee or charge under this subsection as a reimbursable expense, and the costs shall be credited to the account from which expended.