

aminations required, and any other data the Secretary deems appropriate to carry out the intent of the section. The section also provides for interagency cooperation and the furnishing of available data and information.

§ 3718. Penalties

(a)(1) A person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than \$25,000. Each day of a continuing violation is a separate violation.

(2) Each vessel to which this chapter applies that is operated in violation of this chapter or a regulation prescribed under this chapter is liable in rem for a civil penalty under this subsection.

(b) A person willfully and knowingly violating this chapter or a regulation prescribed under this chapter commits a class D felony.

(c) Instead of the penalties provided by subsection (b) of this section, a person willfully and knowingly violating this chapter or a regulation prescribed under this chapter, and using a dangerous weapon, or engaging in conduct that causes bodily injury or fear of imminent bodily injury to an official authorized to enforce this chapter or a regulation prescribed under this chapter, commits a class C felony.

(d) The district courts of the United States have jurisdiction to restrain a violation of this chapter or a regulation prescribed under this chapter.

(e)(1) If any owner, operator, or individual in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to any penalty or fine under this section, the Secretary of Homeland Security, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 60105 of this title.

(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 527; Pub. L. 101-380, title IV, § 4302(c), Aug. 18, 1990, 104 Stat. 538; Pub. L. 104-324, title III, § 312(d), Oct. 19, 1996, 110 Stat. 3921; Pub. L. 109-304, § 15(17), Oct. 6, 2006, 120 Stat. 1703.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3718	46:391a(14)

Section 3718 provides the authority to assess civil penalties for violation of the chapter or regulations. Each violation subjects the violator to a penalty not to exceed \$25,000 for each violation and, in the case of a continuing violation, each day shall constitute a separate violation and the vessel is liable in rem. The procedures for assessing penalties are found in section 2107 of part A.

With respect to criminal penalties, a willful or knowing violation of the section or a regulation subjects the offender, upon conviction, to a criminal fine of not more than \$50,000 for each violation or imprisonment for not more than 1 year, or both. If the willful and knowing violation involves the use of a dangerous weapon or constitutes an assault or battery, the of-

fender is subjected to a fine of not more than \$100,000 or imprisonment of not more than 10 years, or both.

In addition, where the owner or operator of the vessel is subject to any of the penalties prescribed, the Secretary of the Treasury is directed to withhold required Customs clearance, at the request of the Secretary. Clearance may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

AMENDMENTS

2006—Subsec. (e)(1). Pub. L. 109-304 substituted “Secretary of Homeland Security” and “section 60105 of this title” for “Secretary of the Treasury” and “section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)”, respectively.

1996—Subsec. (e). Pub. L. 104-324 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel the owner or operator of which is subject to a penalty under this section. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.”

1990—Subsec. (b). Pub. L. 101-380, § 4302(c)(1), substituted “commits a class D felony” for “shall be fined not more than \$50,000, imprisoned for not more than 5 years, or both”.

Subsec. (c). Pub. L. 101-380, § 4302(c)(2), substituted “commits a class C felony” for “shall be fined not more than \$100,000, imprisoned for not more than 10 years, or both”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

§ 3719. Reduction of oil spills from single hull non-self-propelled tank vessels

The Secretary shall, in consultation with the Towing Safety Advisory Committee and taking into consideration the characteristics, methods of operation, and the size and nature of service of single hull non-self-propelled tank vessels and towing vessels, prescribe regulations requiring a single hull non-self-propelled tank vessel that operates in the open ocean or coastal waters, or the vessel towing it, to have at least one of the following:

(1) A crew member and an operable anchor on board the tank vessel that together are capable of arresting the tank vessel without additional assistance under reasonably foreseeable sea conditions.

(2) An emergency system on the tank vessel or towing vessel that without additional assistance under reasonably foreseeable sea conditions will allow the tank vessel to be retrieved by the towing vessel if the tow line ruptures.

(3) Any other measure or combination of measures that the Secretary determines will provide protection against grounding of the tank vessel comparable to that provided by the measures described in paragraph (1) or (2).

(Added Pub. L. 104-324, title IX, § 901(a), Oct. 19, 1996, 110 Stat. 3946.)

REGULATIONS

Pub. L. 104-324, title IX, § 901(b), Oct. 19, 1996, 110 Stat. 3946, provided that: “The Secretary of the department in which the Coast Guard is operating shall issue regu-