

**§ 2608. Civil penalty procedures****(a) General procedures**

After notice and an opportunity for a hearing, a person found by the Secretary of Transportation to have violated this chapter or a regulation prescribed under this chapter 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) Compromising penalties**

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

**(c) Referral to Attorney General**

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.

**(d) Refund of penalty**

The Secretary may refund or remit a civil penalty collected under this chapter if—

- (1) application has been made for refund or remission of the penalty within one year from the date of payment; and
- (2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

(Pub. L. 100-688, title IV, § 4108, Nov. 18, 1988, 102 Stat. 4158.)

**§ 2609. Penalties****(a) General penalty**

Except as provided in subsection (b) of this section, a person violating 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. A vessel involved in the violation also is liable in rem for the penalty.

**(b) Operating without a permit**

A person violating section 2602 of this title is liable to the United States Government for a civil penalty of not more than \$10,000. Each day of a continuing violation is a separate violation. A vessel involved in the violation also is liable in rem for the penalty.

**(c) Criminal penalty**

Any person that knowingly violates, or that knowingly aids, abets, authorizes, or instigates a violation of this chapter, shall be fined under title 18, imprisoned for not more than 3 years, or both.

**(d) Payments for information**

The court, the Secretary of Transportation, or the Administrator, as the case may be, may pay

up to one-half of a fine or penalty to any person giving information leading to the assessment of the fine or penalty.

(Pub. L. 100-688, title IV, § 4109, Nov. 18, 1988, 102 Stat. 4158.)

**SUBCHAPTER II—RELATED PROVISIONS****§ 2621. Study and recommendations****(a) Study**

The Administrator, in consultation with the Secretary of Transportation, shall conduct a study to determine the need for, and effectiveness of additional tracking systems for vessels to assure that municipal or commercial waste is not deposited in coastal waters. In conducting this study, the Administrator shall use the data collected from its permitting and enforcement activities under this chapter. In determining the effectiveness of tracking systems, the Administrator shall rely on the information provided by the Secretary under subsection (b) of this section. The report shall include a recommendation whether additional tracking systems are needed. This study shall be submitted to Congress within 24 months after November 18, 1988.

**(b) Recommendations**

The Secretary shall provide recommendations to the Administrator concerning the various tracking systems that might be applicable to vessels transporting municipal or commercial waste which the Secretary currently is studying. The Secretary shall consider the relative effectiveness of various systems and the relative costs of the systems both to the United States Government and to the vessel owner.

(Pub. L. 100-688, title IV, § 4201, Nov. 18, 1988, 102 Stat. 4159.)

**§ 2622. Relation to other laws****(a) Effect on Federal and State laws**

This chapter does not affect the application of any other Federal or State law, statutory or common, including the Marine Protection, Research, and Sanctuaries Act of 1972 [16 U.S.C. 1431 et seq., 1447 et seq.; 33 U.S.C. 1401 et seq., 2801 et seq.] and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

**(b) Effect on foreign vessels**

This chapter shall be carried out with respect to foreign vessels consistent with the obligations of the United States under international law.

(Pub. L. 100-688, title IV, § 4202, Nov. 18, 1988, 102 Stat. 4159.)

**REFERENCES IN TEXT**

The Marine Protection, Research, and Sanctuaries Act of 1972, referred to in subsec. (a), is Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1052, as amended, which is classified generally to chapters 27 (§1401 et seq.) and 41 (§2801 et seq.) of this title and chapters 32 (§1431 et seq.) and 32A (§1447 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables.

The Solid Waste Disposal Act, referred to in subsec. (a), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997,

as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

**§ 2623. Authorization of appropriations**

There are authorized to be appropriated \$1,500,000 for each of the fiscal years 1989 and 1990, to carry out this chapter.

(Pub. L. 100-688, title IV, §4203, Nov. 18, 1988, 102 Stat. 4160.)

**CHAPTER 40—OIL POLLUTION**

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**SUBCHAPTER I—OIL POLLUTION LIABILITY AND COMPENSATION**

**§ 2701. Definitions**

For the purposes of this Act, the term—

(1) “act of God” means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(2) “barrel” means 42 United States gallons at 60 degrees fahrenheit;

(3) “claim” means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from an incident;

(4) “claimant” means any person or government who presents a claim for compensation under this subchapter;

(5) “damages” means damages specified in section 2702(b) of this title, and includes the cost of assessing these damages;

(6) “deepwater port” is a facility licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524);

(7) “discharge” means any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

(8) “exclusive economic zone” means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as “eastern special areas” in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990;

(9) “facility” means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes;

(10) “foreign offshore unit” means a facility which is located, in whole or in part, in the territorial sea or on the continental shelf of a foreign country and which is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the seabed beneath the foreign country’s territorial sea or from the foreign country’s continental shelf;

(11) “Fund” means the Oil Spill Liability Trust Fund, established by section 9509 of title 26;

(12) “gross ton” has the meaning given that term by the Secretary under part J of title 46;

(13) “guarantor” means any person, other than the responsible party, who provides evidence of financial responsibility for a responsible party under this Act;

(14) “incident” means any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, resulting in the discharge or substantial threat of discharge of oil;

(15) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and has governmental authority over lands belonging to or controlled by the tribe;