

lated 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

Table with 2 columns: Revised section, Source section (U.S. Code). Row 2107 lists source sections 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

Table with 2 columns: Revised section, Source section (U.S. Code). Row 2109 lists source sections 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) In addition to the collection of fees and charges established under subsection (a), in providing a service or thing of value under this subtitle the Secretary may accept in-kind transportation, travel, and subsistence.

(2) The value of in-kind transportation, travel, and subsistence accepted under this paragraph may not exceed applicable per diem rates set forth in regulations prescribed under section 464 of title 37.

(c) In addition to the collection of fees and charges established under subsection (a), 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.

(e) A person that violates this section by failing to pay a fee or charge established under this section is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation.

(f) When requested by the Secretary, the Secretary of Homeland Security shall deny the clearance required by section 60105 of this title to a vessel for which a fee or charge established under this section has not been paid until the fee or charge is paid or until a bond is posted for the payment.

(g) The Secretary may exempt a person from paying a fee or charge established under this section if the Secretary determines that it is in the public interest to do so.

(h) Fees and charges collected by the Secretary under this section shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(i) The collection of a fee or charge under this section does not alter or expand the functions, powers, responsibilities, or liability of the United States under any law for the performance of services or the provision of a thing of value for which a fee or charge is collected under this section.

(j) The Secretary may not establish or collect a fee or charge for the inspection under part B of this subtitle of training vessels operated by State maritime academies.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 507; Pub. L. 99-509, title V, §5102(b)(4), Oct. 21, 1986, 100 Stat. 1927; Pub. L. 100-710, title I, §104(a)(3), Nov. 23, 1988, 102 Stat. 4749; Pub. L. 101-508, title X,

§10401(a), Nov. 5, 1990, 104 Stat. 1388-397; Pub. L. 102-241, §53, Dec. 19, 1991, 105 Stat. 2232; Pub. L. 102-582, title V, §501(a), Nov. 2, 1992, 106 Stat. 4909; Pub. L. 102-587, title V, §5207, Nov. 4, 1992, 106 Stat. 5075; Pub. L. 104-324, title XI, §1112, Oct. 19, 1996, 110 Stat. 3970; Pub. L. 105-383, title II, §207, Nov. 13, 1998, 112 Stat. 3416; Pub. L. 107-295, title III, §344, Nov. 25, 2002, 116 Stat. 2106; Pub. L. 109-304, §15(6), Oct. 6, 2006, 120 Stat. 1702; Pub. L. 113-281, title III, §311(a), Dec. 18, 2014, 128 Stat. 3047; Pub. L. 115-232, div. C, title XXXV, §3546(a), Aug. 13, 2018, 132 Stat. 2326.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2110	46:331

Section 2110 prevents the assessment of user fees for certain maritime safety and seamen's welfare services unless otherwise provided for by law. These include:

Measurement of tonnage and certifying the same, except that the compensation and necessary travel and subsistence expenses of the officers so measuring or certifying such vessels at the request of the owners thereof at a place other than a port of entry or a customs station shall be paid by such owners; issuing of license or granting of certificate of registry, record, or enrollment, including all indorsements on the same and oath; indorsement of change of master; certifying and receiving manifest, including master's oath and permit; granting permit to vessels licensed for the fisheries to touch and trade; granting certificate of payment of tonnage dues; recording bill of sale, mortgage, hypothecation or conveyance, or the discharge of such mortgage or hypothecation; furnishing certificate of title; furnishing the crew list; certificate of protection to seamen; bill of health; shipping or discharging of seamen; apprenticing boys to the merchant service; inspecting, examining, and licensing steam vessels, including inspection certificate and copies thereof; and licensing of master, engineer, pilot, or mate of a vessel.

REFERENCES IN TEXT

The Omnibus Budget Reconciliation Act of 1990, referred to in subsec. (b)(5), is Pub. L. 101-508, Nov. 5, 1990, 104 Stat. 1388. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2018—Subsec. (k). Pub. L. 115-232 struck out subsec. (k) which read as follows: "The Secretary may not plan, implement or finalize any regulation that would promulgate any new maritime user fee which was not implemented and collected prior to January 1, 1998, including a fee or charge for any domestic icebreaking service or any other navigational assistance service. This subsection expires on September 30, 2006."

2014—Subsec. (b). Pub. L. 113-281, §311(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to fees and charges in fiscal years 1993 and 1994.

Subsec. (c). Pub. L. 113-281, §311(a)(2), substituted "subsection (a)," for "subsections (a) and (b)."

2006—Subsec. (a)(2). Pub. L. 109-304, §15(6)(A), substituted "part B of this subtitle" for "part B of this title".

Subsec. (b)(2)(A)(iii). Pub. L. 109-304, §15(6)(B), substituted ";" and" for period at end.

Subsec. (b)(5). Pub. L. 109-304, §15(6)(C), substituted "The fee" for "The fees".

Subsec. (f). Pub. L. 109-304, §15(6)(D), substituted "Secretary of Homeland Security shall deny the clearance required by section 60105 of this title" for "Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)".

Subsec. (j). Pub. L. 109-304, §15(6)(E), substituted "State" for "state".

2002—Subsec. (k). Pub. L. 107-295 substituted “2006” for “2001”.

1998—Subsec. (k). Pub. L. 105-383 added subsec. (k).

1996—Subsec. (a)(2). Pub. L. 104-324, § 1112, which directed amendment of section 10401(g) of Pub. L. 101-508 by inserting “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.” after “annually.”, was executed by making insertion in subsec. (a)(2) of this section to reflect the probable intent of Congress, because section 10401(a) of Pub. L. 101-508 amended this section generally, and section 10401 of Pub. L. 101-508 did not contain a subsec. (g).

1992—Subsec. (b)(1). Pub. L. 102-582, § 501(a)(1), substituted “1993 and 1994” for “1991, 1992, 1993, 1994, and 1995” and “to which paragraph (2) of this subsection applies” for “that is greater than 16 feet in length”.

Subsec. (b)(2). Pub. L. 102-582, § 501(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The fee or charge established under paragraph (1) of this subsection is as follows:

- “(A) for vessels greater than 16 feet in length but less than 20 feet, not more than \$25;
- “(B) for vessels of at least 20 feet in length but less than 27 feet, not more than \$35;
- “(C) for vessels of at least 27 feet in length but less than 40 feet, not more than \$50; and
- “(D) for vessels of at least 40 feet in length, not more than \$100.”

Subsec. (j). Pub. L. 102-587 added subsec. (j).

1991—Subsec. (b)(5). Pub. L. 102-241 added par. (5).

1990—Pub. L. 101-508, as amended by Pub. L. 104-324, substituted “Fees” for “Fees prohibited” as section catchline and amended text generally. Prior to amendment, text read as follows: “Fees may not be charged or collected by the Secretary for services provided for in this subtitle related to the engagement and discharge of seamen, the inspection and examination of vessels under part B of this subtitle, and the licensing of masters, mates, pilots, and engineers, except when specifically provided for in this subtitle.” See 1996 Amendment note above.

1988—Pub. L. 100-710 substituted “and the licensing of masters, mates, pilots, and engineers” for “the licensing of masters, mates, pilots, and engineers, and the documentation of vessels”.

1986—Pub. L. 99-509 substituted “examination of vessels under part B of this subtitle” for “examination of vessels” and struck out “measurement or” before “documentation”.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-582, title V, § 501(b), Nov. 2, 1992, 106 Stat. 4910, provided that: “The amendments made by this section [amending this section] are effective October 1, 1992.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-710 effective Jan. 1, 1989, with certain exceptions and qualifications, see section 107 of Pub. L. 100-710, set out as an Effective Date note under section 31301 of this title.

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.

ACCEPTANCE OF EVIDENCE OF PAYMENT OF COAST GUARD FEES

Pub. L. 102-587, title V, § 5214, Nov. 4, 1992, 106 Stat. 5077, provided that: “The Secretary of Transportation may not issue a citation for failure to pay a fee or charge established under section 2110 of title 46, United States Code, to an owner or operator of a recreational vessel who provides reasonable evidence of prior payment of the fee or charge to a Coast Guard boarding officer.”

§ 2111. Pay for overtime services

(a) The Secretary may prescribe a reasonable rate of extra pay for overtime services of civilian officers and employees of the Coast Guard required to remain on duty between 5 p.m. and 8 a.m., or on Sundays or holidays, to perform services related to—

- (1) the inspection of vessels or their equipment;
- (2) the engagement and discharge of crews of vessels;
- (3) the measurement of vessels; and
- (4) the documentation of vessels.

(b) Except for Sundays and holidays, the overtime rate provided under subsection (a) of this section is one-half day’s additional pay for each 2 hours of overtime (or part of 2 hours of at least one hour). The total extra pay may be not more than 2 and one-half days’ pay for any one period from 5 p.m. to 8 a.m.

(c) The overtime rate provided under subsection (a) of this section for Sundays and holidays is 2 additional days’ pay.

(d) The owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall pay the amount of the overtime pay provided under this section to the official designated by regulation. The official shall deposit the amount paid to the Treasury as miscellaneous receipts. Payment to the officer or employee entitled to the pay shall be made from the annual appropriations for salaries and expenses of the Coast Guard.

(e) The overtime pay provided under this section shall be paid if the authorized officers and employees have been ordered to report for duty and have reported, even if services requested were not performed.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 507.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2111	46:382b

Section 2111 provides for the payment of overtime rates for work performed by civilian officers and employees of the Coast Guard for certain specified activities.

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.