

§ 505.7

46 CFR Ch. IV (10–1–97 Edition)

administrative offset will be afforded an opportunity to negotiate a written agreement for the repayment of the debt. If the financial condition of the debtor does not support the ability to pay in one lump-sum, reasonable installments may be considered. No installment arrangement will be considered unless the debtor submits a financial statement, executed under penalty of perjury, reflecting the debtor's assets, liabilities, income, and expenses. The financial statement must be submitted within 10 business days of the Commission's request for the statement. At the Commission's option, a confess-judgment note or bond of indemnity with surety may be required for installment agreements. Notwithstanding the provisions of this section, any reduction or compromise of a claim will be governed by 4 CFR part 103.

§ 505.7 Administrative offset.

(a) If the debtor does not exercise the right to request a review within the time specified in § 505.5 or if as a result of the review, it is determined that the debt is due and no written agreement is executed, then administrative offset shall be ordered in accordance with these regulations without further notice.

(b) Requests for offset to other Federal agencies. The Chairman or his or her designee may request that funds due and payable to a debtor by another Federal agency be administratively offset in order to collect a debt owed to the Commission by that debtor. In requesting administrative offset, the Commission, as creditor, will certify in writing to the Federal agency holding funds of the debtor:

- (1) That the debtor owes the debt;
- (2) The amount and basis of the debt; and
- (3) That the agency has complied with the requirements of 31 U.S.C. 3716, its own administrative offset regulations and the applicable provisions of 4 CFR part 102 with respect to providing the debtor with due process.

(c) Requests for offset from other Federal agencies. Any Federal agency may request that funds due and payable to its debtor by the Commission be administratively offset in order to

collect a debt owed to such Federal agency by the debtor. The Commission shall initiate the requested offset only upon:

- (1) Receipt of written certification from the creditor agency:
 - (i) That the debtor owes the debt;
 - (ii) The amount and basis of the debt;
 - (iii) That the agency has prescribed regulations for the exercise of administrative offset; and
 - (iv) That the agency has complied with its own administrative offset regulations and with the applicable provisions of 4 CFR part 102, including providing any required hearing or review.

(2) A determination by the Commission that collection by offset against funds payable by the Commission would be in the best interest of the United States as determined by the facts and circumstances of the particular case, and that such offset would not otherwise be contrary to law.

§ 505.8 Jeopardy procedure.

The Commission may effect an administrative offset against a payment to be made to the debtor prior to the completion of the procedures required by §§ 505.4 and 505.5 of this part if failure to take the offset would substantially jeopardize the Commission's ability to collect the debt, and the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset shall be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not to be owed to the Commission shall be promptly refunded.

PART 506—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

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- 506.3 Civil Monetary Penalty Inflation Adjustment.
- 506.4 Cost of Living Adjustments of Civil Monetary Penalties.
- 506.5 Application of Increase to Violations.

AUTHORITY: 28 U.S.C. 2461.

SOURCE: 61 FR 52705, Oct. 8, 1996, unless otherwise noted.

§ 506.1 Scope and purpose.

The purpose of this Part is to establish a mechanism for the regular adjustment for inflation of civil monetary penalties and to adjust such penalties in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 46 U.S.C. 2461, as amended by the Debt Collection Improvement Act of 1996, Public Law 104-134, April 26, 1996, in order to maintain the deterrent effect of civil monetary penalties and to promote compliance with the law.

§ 506.2 Definitions.

(a) *Commission* means the Federal Maritime Commission.

(b) *Civil Monetary Penalty* means any penalty, fine, or other sanction that:

- (1)(i) Is for a specific monetary amount as provided by Federal law; or
- (ii) Has a maximum amount provided by Federal law;
- (2) Is assessed or enforced by the Commission pursuant to Federal law; and
- (3) Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal Courts.

(c) *Consumer Price Index* means the Consumer Price Index for all urban consumers published by the Department of Labor.

§ 506.3 Civil Monetary Penalty Inflation Adjustment.

The Commission shall, not later than October 23, 1996, and at least once every 4 years thereafter—

(a) By regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Commission by the inflation adjustment described in § 506.4; and

(b) Publish each such regulation in the FEDERAL REGISTER.

§ 506.4 Cost of Living Adjustments of Civil Monetary Penalties.

(a) The inflation adjustment under § 506.3 shall be determined by increasing the maximum civil monetary penalty for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this subsection shall be rounded to the nearest:

- (1) Multiple of \$10 in the case of penalties less than or equal to \$100;
- (2) Multiple of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;
- (3) Multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;
- (4) Multiple of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;
- (5) Multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and
- (6) Multiple of \$25,000 in the case of penalties greater than \$200,000.

(b) For purposes of paragraph (a) of this section, the term 'cost-of-living adjustment' means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

(c) *Limitation on initial adjustment.* The first adjustment of civil monetary penalty pursuant to § 506.3 may not exceed 10 percent of such penalty.

(d) *Inflation adjustment.* Maximum Civil Monetary Penalties within the jurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

United States Code Citation	Civil Monetary Penalty description	Maximum penalty amount as of 10/23/96	New adjusted maximum penalty amount
46 U.S.C. app. sec. 817d	Failure to establish financial responsibility for death or injury.	5,000 200	5,500 220
46 U.S.C. app. sec. 817e	Failure to establish financial responsibility for nonperformance of transportation.	5,000 200	5,500 220
46 U.S.C. app. sec. 876	Failure to provide required reports, etc.—Merchant Marine Act of 1920.	5,000	5,500
46 U.S.C. app. sec. 876	Adverse shipping conditions/Merchant Marine Act of 1920.	1,000,000	1,100,000
46 U.S.C. app. sec. 876	Operating after tariff suspension/Merchant Marine Act of 1920.	50,000	55,000

United States Code Citation	Civil Monetary Penalty description	Maximum penalty amount as of 10/23/96	New adjusted maximum penalty amount
46 U.S.C. app. sec. 1707a	Failure to pay ATFI Fee	5,000	5,500
46 U.S.C. app. sec. 1710a	Adverse impact on U.S. carriers by foreign shipping practices.	1,000,000	1,100,000
46 U.S.C. app. sec. 1712	Operating in foreign commerce after tariff suspension.	50,000	55,000
46 U.S.C. app. sec. 1712	Knowing and willful violation/Shipping Act of 1984 or Commission regulation or order.	25,000	27,500
46 U.S.C. app. sec. 1712	Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful.	5,000	5,500
46 U.S.C. app. sec. 1714	Failure to file anti-rebate certification/Shipping Act of 1984.	5,000	5,500
31 U.S.C. sec. 3802(a)(1)	Program Fraud Civil Remedies Act/giving false statement.	5,000	5,500
31 U.S.C. sec. 3802(a)(2)	Program Fraud Civil Remedies Act/giving false statement.	5,000	5,500

§ 506.5 Application of Increase to Violations.

Any increase in a civil monetary penalty under this part shall apply only to violations which occur after the date the increase takes effect.

PART 507—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL MARITIME COMMISSION

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- 507.171—507.999 [Reserved]

AUTHORITY: 29 U.S.C. 794.

SOURCE: 51 FR 22895, 22896, June 23, 1986, unless otherwise noted.

§ 507.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 507.102 Application.

This part applies to all programs or activities conducted by the agency.

§ 507.103 Definitions.

For purposes of this part, the term—
Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters,