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Subpart C [Reserved]

Subpart D—Transactions Involving Maritime Interests in Time of War or National Emergency Under 46 App. U.S.C. 835 [Reserved]

Subpart E—Civil Penalties

§ 221.61 Purpose.

This subpart describes procedures for the administration of civil penalties that the Maritime Administration may assess under 46 U.S.C. 31309 and 31330, and section 9(d) of the Shipping Act, 1916, as amended (46 App. U.S.C. 808(d)), pursuant to 49 U.S.C. 336.

NOTE: Pursuant to 46 U.S.C. 31309, a general penalty of not more than $12,000 may be assessed for each violation of chapter 313 or 46 U.S.C. subtitle III administered by the Maritime Administration, and the regulations in this part that are promulgated thereunder, except that a person violating 46 U.S.C. 31328 or 31329 and the regulations promulgated thereunder is liable for a civil penalty of not more than $30,000 for each violation. A person that charters, sells, transfers or mortgages a vessel, or an interest therein, in violation of 46 App. U.S.C. 808 is liable for a civil penalty of not more than $12,000 for each violation. These penalty amounts are in accordance with Pub. L. 101–410, amended by Pub. L. 104–134. Criminal penalties may also apply to violations of these statutes.

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§ 221.63 Investigation.

(a) When the Vessel Transfer Office obtains information that a Person may have violated a statute or regulation for which a civil penalty may be assessed under this subpart, that Officer may investigate the matter and decide whether there is sufficient evidence to establish a *prima facie* case that a violation occurred.

(b) If that Officer decides there is a *prima facie* case, then that Officer may enter into a stipulation with the Party in accordance with § 221.67 of this subpart, or may refer the matter directly to a Hearing Officer for procedures in accordance with § 221.73 to 221.89 of this subpart.

§ 221.65 Criteria for determining penalty.

In determining any penalties assessed, the Vessel Transfer Officer under § 221.67 and the Hearing Officer under §§ 221.73 to 221.89 of this part shall take into account the nature, circumstances, extent and gravity of the violation committed and, with respect to the Party, the degree of culpability, any history of prior offenses, ability to pay and other matters that justice requires.

§ 221.67 Stipulation procedure.

(a) When the Vessel Transfer Office decides to proceed under this section, that Office shall notify the Party in writing by registered or certified mail—

(1) Of the alleged violation and the applicable statute and regulations;

(2) Of the maximum penalty that may be assessed for each violation;

(3) Of a summary of the evidence supporting the violation;

(4) Of the penalty that the Vessel Transfer Officer will accept in settlement of the violation;

(5) Of the right to examine all the material in the case file and have a copy of all written documents provided upon request;

(6) That by accepting the penalty, the Party waives the right to have the matter considered by a Hearing Officer in accordance with §§ 221.73 to 221.89 of this subpart, and that if the Party elects to have the matter considered by a Hearing Officer, the Hearing Officer may assess a penalty less than, equal to, or greater than that stipulated in settlement if the Hearing Officer finds that a violation occurred; and

(7) That a violation will be kept on record and may be used by the Maritime Administration in aggravation of an assessment of a penalty for a subsequent violation by that Party.

(b) Upon receipt of the notification specified in paragraph (a) of this section, a Party may within 30 days—

(1) Agree to the stipulated penalty in the manner specified in the notification; or

(2) Notify in writing the Vessel Transfer Officer that the Party elects to have the matter considered by a Hearing Officer in accordance with the