

overpayment you owe when benefits are payable to you under title II, title VIII, or both.

**§ 416.573 How much will we withhold from your title II and title VIII benefits to recover a title XVI overpayment?**

(a) If past-due benefits are payable to you, we will withhold the lesser of the entire overpayment balance or the entire amount of past-due benefits.

(b)(1) We will collect the overpayment from current monthly benefits due in a month by withholding the lesser of the amount of the entire overpayment balance or 10 percent of the monthly title II benefits and monthly title VIII benefits payable to you in the month.

(2) If we are already recovering a title II, title VIII or title XVI overpayment from your monthly title II benefit, we will figure your monthly withholding from title XVI payments (as described in § 416.571) without including your title II benefits in your total countable income.

(3) Paragraph (b)(1) of this section does not apply if:

(i) You request and we approve a different rate of withholding, or

(ii) You or your spouse willfully misrepresented or concealed material information in connection with the overpayment.

(c) In determining whether to grant your request that we withhold less than the amount described in paragraph (b)(1) of this section, we will use the criteria applied under § 416.571 to similar requests about withholding from title XVI benefits.

(d) If you or your spouse willfully misrepresented or concealed material information in connection with the overpayment, we will collect the overpayment by withholding the lesser of the overpayment balance or the entire amount of title II benefits and title VIII benefits payable to you. We will not collect at a lesser rate. (See § 416.571 for what we mean by concealment of material information.)

**§ 416.574 Will you receive notice of our intention to apply cross-program recovery?**

Before we collect an overpayment from you using cross-program recovery, we will send you a written notice that tells you the following information:

(a) We have determined that you owe a specific overpayment balance that can be collected by cross-program recovery;

(b) We will withhold a specific amount from the title II or title VIII benefits (see § 416.573);

(c) You may ask us to review this determination that you still owe this overpayment balance;

(d) You may request that we withhold a different amount from your current

monthly benefits (the notice will not include this information if § 416.573(d) applies); and

(e) You may ask us to waive collection of this overpayment balance.

**§ 416.575 When will we begin cross-program recovery from your current monthly benefits?**

(a) We will begin collecting the overpayment balance by cross-program recovery from your current monthly title II and title VIII benefits no sooner than 30 calendar days after the date of the notice described in § 416.574. If within that 30-day period you pay us the full overpayment balance stated in the notice, we will not begin cross-program recovery.

(b) If within that 30-day period you ask us to review our determination that you still owe us this overpayment balance, we will not begin cross-program recovery from your current monthly benefits before we review the matter and notify you of our decision in writing.

(c) If within that 30-day period you ask us to withhold a different amount from your current monthly benefits than the amount stated in the notice, we will not begin cross-program recovery until we determine the amount we will withhold. This paragraph does not apply when § 416.573(d) applies.

(d) If within that 30-day period you ask us to waive recovery of the overpayment balance, we will not begin cross-program recovery from your current monthly benefits before we review the matter and notify you of our decision in writing. See §§ 416.550 through 416.556.

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 27**

[USCG-2003-15486]

RIN 1625-AA73

**Civil Monetary Penalties—Adjustments for Inflation; Correction**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to the final regulations published in the **Federal Register** on December 23, 2003. The regulations related to inflation adjustments in fines and other civil monetary penalties that

are mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

**DATES:** Effective on January 3, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Spears, Office of Standards Evaluation and Development, Coast Guard, telephone 202-267-1099.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Coast Guard published a final rule in the **Federal Register** of December 23, 2003 (68 FR 74189). The final rule was authorized by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (“the statute”; see 28 U.S.C. 2641 note), and promulgated under a “good cause” exception to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), because the Coast Guard found good cause to dispense with the usual notice and comment requirements due to the lack of discretion rulemakers can exercise under the statute. One of the amendments made by the final rule revised 33 CFR 27.3 and its accompanying Table 1, “Civil Monetary Penalty Inflation Adjustments.”

**Need for Correction**

As published, the final rule inadvertently contained some potentially misleading language and omitted certain fines or penalties that, pursuant to the statute, required inclusion.

**List of Subjects in 33 CFR Part 27**

Marine safety, Oil pollution, Penalties, Vessels, Waterways.

■ Accordingly, 33 CFR part 27 is corrected by making the following correcting amendments:

**PART 27—CIVIL MONETARY PENALTIES ADMINISTERED BY THE COAST GUARD**

■ 1. The authority citation for part 27 continues to read as follows:

**Authority:** Secs. 1–6, Pub. L. 101–410, 104 Stat. 890, as amended by Sec. 31001(s)(1), Pub. L. 104–134, 110 Stat. 1321 (28 U.S.C. 2461 note); Department of Homeland Security Delegation No. 0170.1, sec. 2 (106).

**§ 27.1 [Removed]**

■ 2. Remove § 27.1.

■ 3. Revise § 27.3 to read as follows:

**§ 27.3 Penalty Table.**

Table 1 lists sections of the United States Code that authorize civil monetary penalties for laws administered by the Coast Guard. These penalties are assessable in either civil judicial or administrative proceedings. Table 1 is periodically amended to

reflect relevant changes in the United States Code and to show adjustments in penalty amounts that are mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended,

but Table 1 will not reflect statutory changes that may take effect subsequent to the most recent amendment of Table 1. In any case of conflict between Table 1 and the current provisions of the

United States Code or another Federal statute, the current Code or statutory provision is controlling.

TABLE 1.—CIVIL MONETARY PENALTIES

U.S. Code citation	Civil monetary penalty description	Statutory penalty (\$)	Inflation adjustments per 1990 Act as amended (\$)
14 U.S.C. 88(c)	Saving Life and Property	5,000	6,500
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (first offense).	3,000	3,300
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (subsequent offenses).	20,000	27,000
16 U.S.C. 4711(g)(1)	Aquatic Nuisance Species in Waters of the United States	25,000	27,500
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels	2,000	2,200
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty.	500	550
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge.	5,000	(**)
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty.	1,000	(**)
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	100	110
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's river	200	220
33 U.S.C. 495(b)	Bridges/Failure to Comply with Regulations	* 5,000	(***)
33 U.S.C. 499(c)	Bridges/Drawbridges	* 5,000	(***)
33 U.S.C. 502(c)	Bridges/Failure to Alter Bridge Obstructing Navigation	* 5,000	(***)
33 U.S.C. 533(b)	Bridges/Maintenance and Operation	* 5,000	(***)
33 U.S.C. 1208(a)	Bridge to Bridge Communication; Master, Person in Charge or Pilot.	500	650
33 U.S.C. 1208(b)	Bridge to Bridge Communication; Vessel	500	650
33 U.S.C. 1232(a)	PWSA Regulations	25,000	32,500
33 U.S.C. 1236(b)	Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge.	5,000	6,500
33 U.S.C. 1236(c)	Vessel Navigation: Regattas or Marine Parades; Owner On-board Vessel.	5,000	6,500
33 U.S.C. 1236(d)	Vessel Navigation: Regattas or Marine Parades; Other Persons.	2,500	2,750
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I per violation)	10,000	11,000
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I total under paragraph).	25,000	32,500
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II per day of violation).	10,000	11,000
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II total under paragraph).	125,000	157,500
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment.	25,000	32,500
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	1,000	1,100
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	25,000	32,500
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	25,000	32,500
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	3,000	3,300
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	100,000	110,000
33 U.S.C. 1322(j)	Marine Sanitation Devices; Operating	2,000	2,200
33 U.S.C. 1322(j)	Marine Sanitation Devices; Sale or Manufacture	5,000	6,500
33 U.S.C. 1517(a)	Deepwater Ports; Oil Discharge	10,000	11,000
33 U.S.C. 1608(a)	International Navigation Rules; Operator	5,000	6,500
33 U.S.C. 1608(b)	International Navigation Rules; Vessel	5,000	6,500
33 U.S.C. 1908(b)(1)	Pollution from Ships; General	25,000	32,500
33 U.S.C. 1908(b)(2)	Pollution from Ships; False Statement	5,000	6,500
33 U.S.C. 2072(a)	Inland Navigation Rules; Operator	5,000	6,500
33 U.S.C. 2072(b)	Inland Navigation Rules; Vessel	5,000	6,500
33 U.S.C. 2609(a)	Shore Protection; General	25,000	32,500
33 U.S.C. 2609(b)	Shore Protection; Operating Without Permit	10,000	11,000
33 U.S.C. 2716a(a)	Oil Pollution Liability and Compensation	25,000	32,500
42 U.S.C. 9609(a)	Hazardous Substances, Releases, Liability, Compensation (Class I).	25,000	27,500

TABLE 1.—CIVIL MONETARY PENALTIES—Continued

U.S. Code citation	Civil monetary penalty description	Statutory penalty (\$)	Inflation adjustments per 1990 Act as amended (\$)
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II).	25,000	27,500
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	75,000	82,500
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment).	25,000	27,500
42 U.S.C. 9609(d)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	75,000	82,500
46 U.S.C. App 1505(a)(2)	Safe Containers for International Cargo	5,000	6,500
46 U.S.C. App 1805(c)(2)	Suspension of Passenger Service	50,000	60,000
46 U.S.C. 2110(e)	Vessel Inspection or Examination Fees	5,000	6,500
46 U.S.C. 2115	Alcohol and Dangerous Drug Testing	5,000	5,500
46 U.S.C. 2302(a)	Negligent Operations: Recreational Vessels	5,000	(***)
46 U.S.C. 2302(a)	Negligent Operations: Other Vessels	25,000	(***)
46 U.S.C. 2302(c)(1)	Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug.	5,000	5,500
46 U.S.C. 2306(a)(4)	Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent.	5,000	6,500
46 U.S.C. 2306(b)(2)	Vessel Reporting Requirements: Master	1,000	1,100
46 U.S.C. 3102(c)(1)	Immersion Suits	5,000	6,500
46 U.S.C. 3302(i)(5)	Inspection Permit	1,000	1,100
46 U.S.C. 3318(a)	Vessel Inspection; General	5,000	6,500
46 U.S.C. 3318(g)	Vessel Inspection; Nautical School Vessel	5,000	6,500
46 U.S.C. 3318(h)	Vessel Inspection; Failure to Give Notice IAW 3304(b)	1,000	1,100
46 U.S.C. 3318(i)	Vessel Inspection; Failure to Give Notice IAW 3309(c)	1,000	1,100
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel ≥ 1600 Gross Tons	10,000	11,000
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel < 1600 Gross Tons	2,000	2,200
46 U.S.C. 3318(k)	Vessel Inspection; Failure to Comply with 3311(b)	10,000	11,000
46 U.S.C. 3318(l)	Vessel Inspection; Violation of 3318(b)–3318(f)	5,000	6,500
46 U.S.C. 3502(e)	List/count of Passengers	100	110
46 U.S.C. 3504(c)	Notification to Passengers	10,000	11,000
46 U.S.C. 3504(c)	Notification to Passengers; Sale of Tickets	500	650
46 U.S.C. 3506	Copies of Laws on Passenger Vessels; Master	200	220
46 U.S.C. 3718(a)(1)	Liquid Bulk/Dangerous Cargo	25,000	32,500
46 U.S.C. 4106	Uninspected Vessels	5,000	6,500
46 U.S.C. 4311(b)(1)	Recreational Vessels (maximum for related series of violations).	250,000	(***)
46 U.S.C. 4311(b)(1)	Recreational Vessels; Violation of 4307(a)	5,000	(***)
46 U.S.C. 4311(c)	Recreational vessels	1,000	1,100
46 U.S.C. 4507(a)	Uninspected Commercial Fishing Industry Vessels	5,000	6,500
46 U.S.C. 4703	Abandonment of Barges	1,000	1,100
46 U.S.C. 5116(a)	Load Lines	5,000	6,500
46 U.S.C. 5116(b)	Load Lines; Violation of 5112(a)	10,000	11,000
46 U.S.C. 5116(c)	Load Lines; Violation of 5112(b)	5,000	6,500
46 U.S.C. 6103(a)	Reporting Marine Casualties	25,000	27,500
46 U.S.C. 6103(b)	Reporting Marine Casualties; Violation of 6104	5,000	6,500
46 U.S.C. 8101(e)	Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement.	1,000	1,100
46 U.S.C. 8101(f)	Manning of Inspected Vessels	10,000	11,000
46 U.S.C. 8101(g)	Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	10,000	11,000
46 U.S.C. 8101(h)	Manning of Inspected Vessels; Freight Vessel < 100 GT, Small Passenger Vessel, or Sailing School Vessel.	1,000	1,100
46 U.S.C. 8102(a)	Watchmen on Passenger Vessels	1,000	1,100
46 U.S.C. 8103(f)	Citizenship Requirements	500	650
46 U.S.C. 8104(i)	Watches on Vessels; Violation of 8104(a) or (b)	10,000	11,000
46 U.S.C. 8104(j)	Watches on Vessels; Violation of 8104(c), (d), (e), or (h)	10,000	11,000
46 U.S.C. 8302(e)	Staff Department on Vessels	100	110
46 U.S.C. 8304(d)	Officer's Competency Certificates	100	110
46 U.S.C. 8502(e)	Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	10,000	11,000
46 U.S.C. 8502(f)	Coastwise Pilotage; Individual	10,000	11,000
46 U.S.C. 8503	Federal Pilots	25,000	32,500
46 U.S.C. 8701(d)	Merchant Mariners Documents	500	650
46 U.S.C. 8702(e)	Crew Requirements	10,000	11,000
46 U.S.C. 8906	Small Vessel Manning	25,000	27,500
46 U.S.C. 9308(a)	Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	10,000	11,000

TABLE 1.—CIVIL MONETARY PENALTIES—Continued

U.S. Code citation	Civil monetary penalty description	Statutory penalty (\$)	Inflation adjustments per 1990 Act as amended (\$)
46 U.S.C. 9308(b)	Pilotage: Great Lakes; Individual	10,000	11,000
46 U.S.C. 9308(c)	Pilotage: Great Lakes; Violation of 9303	10,000	11,000
46 U.S.C. 10104(b)	Failure to Report Sexual Offense	5,000	6,500
46 U.S.C. 10314(a)(2)	Pay Advances to Seamen	500	650
46 U.S.C. 10314(b)	Pay Advances to Seamen; Remuneration for Employment	500	650
46 U.S.C. 10315(c)	Allotment to Seamen	500	650
46 U.S.C. 10321	Seamen Protection; General	5,000	5,500
46 U.S.C. 10505(a)(2)	Coastwise Voyages: Advances	5,000	5,500
46 U.S.C. 10505(b)	Coastwise Voyages: Advances; Remuneration for Employment.	5,000	5,500
46 U.S.C. 10508(b)	Coastwise Voyages: Seamen Protection; General	5,000	5,500
46 U.S.C. 10711	Effects of Deceased Seamen	200	220
46 U.S.C. 10902(a)(2)	Complaints of Unfitness	500	650
46 U.S.C. 10903(d)	Proceedings on Examination of Vessel	100	110
46 U.S.C. 10907(b)	Permission to Make Complaint	500	650
46 U.S.C. 11101(f)	Accommodations for Seamen	500	650
46 U.S.C. 11102(b)	Medicine Chests on Vessels	500	650
46 U.S.C. 11104(b)	Destitute Seamen	100	110
46 U.S.C. 11105(c)	Wages on Discharge	500	650
46 U.S.C. 11303(a)	Log Books; Master Failing to Maintain	200	220
46 U.S.C. 11303(b)	Log Books; Master Failing to Make Entry	200	220
46 U.S.C. 11303(c)	Log Books; Late Entry	150	165
46 U.S.C. 11506	Carrying of Sheath Knives	50	65
46 U.S.C. 12122(a)	Vessel Documentation	10,000	11,000
46 U.S.C. 12122(c)	Vessel Documentation; Fishery Endorsement	100,000	110,000
46 U.S.C. 12309(b)	Numbering of Undocumented Vessels	1,000	1,100
46 U.S.C. 12507(b)	Vessel Identification System	10,000	11,000
46 U.S.C. 14701	Measurement of Vessels	20,000	27,000
46 U.S.C. 14702	Measurement; False Statements	20,000	27,000
46 U.S.C. 31309	Commercial Instruments and Maritime Liens	10,000	11,000
46 U.S.C. 31330(a)(2)	Commercial Instruments and Maritime Liens; Mortgagor	10,000	11,000
46 U.S.C. 31330(b)(2)	Commercial Instruments and Maritime Liens; Violation of 31329.	25,000	27,500
46 U.S.C. 70119	Port Security	25,000	(***)
49 U.S.C. 5123(a)(1)	Hazardous Materials: Related to Vessels	25,000	32,500
49 U.S.C. 5123(a)(1)	Hazardous Materials: Related to Vessels—Minimum Penalty	250	275

\* These penalties will increase in accordance with the statute to: \$10,000 in 2005, \$15,000 in 2006, \$20,000 in 2007, and \$25,000 in 2008 and thereafter.

\*\* Enacted under the Tariff Act of 1930, exempt from inflation adjustments.

\*\*\* These penalties did not qualify for an adjustment under the rounding rules of the Act.

Dated: December 23, 2004.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 04-28676 Filed 12-30-04; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD13-04-044]

RIN 1625-AA00

**Safety Zones: Fireworks Displays in the Captain of the Port Portland Zone**

AGENCY: Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Columbia River during a New Year's fireworks display. The Captain of the Port, Portland, Oregon, is taking this action to safeguard watercraft and their occupants from safety hazards associated with this display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

**DATES:** This rule is effective from 11:30 p.m. (p.s.t.) on December 31, 2004, to 12:30 a.m. (p.s.t.) on January 1, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are available for inspection or copying at U.S. Coast Guard MSO/Group Portland, 6767 N. Basin Ave, Portland, Oregon 97217 between 7 a.m. and 4 p.m.,

Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant (Junior Grade) Belen Audirsch, c/o Captain of the Port, Portland 6767 N. Basin Avenue, Portland, Oregon 97217, (503) 240-9301.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators gathering in