



16200
October 4, 2012

Mr. [PARTY]
[ADDRESS]
[CITY, STATE, ZIP]

RE: Case No. 4142606
[PARTY]
[VESSEL]
\$600.00

Dear Mr. [PARTY]:

The Coast Guard Hearing Office has forwarded the file in Civil Penalty Case No. 4142606 which includes your appeal as owner of the fishing vessel [VESSEL]. The appeal is from the action of the Hearing Officer in assessing a \$600.00 penalty for the following violations:

<u>LAW/REGULATION</u>	<u>NATURE OF VIOLATION</u>	<u>ASSESSED PENALTY</u>
46 CFR 28.120	Failure to comply with the requirement for a survival craft.	\$300.00
46 CFR 28.150	Failure to have the required EPIRB on board.	\$250.00
33 CFR 173.15(a)(2)	Failure to display a number issued on the vessel.	\$50.00

The violations were observed on September 2, 2011, when Coast Guard boarding officers boarded the F/V [REDACTED VESSEL] while it was underway in the Gulf of Maine.

On appeal, although you do not deny that the violations occurred, you state that you were told that if you corrected all the violations and also got a Safety Examination, you would not be fined for the violations. Your appeal is denied for the reasons discussed below.

The Hearing Officer issued a Preliminary Assessment Letter in your case on October 13, 2011. That letter informed you that you would have thirty days within which to either pay the preliminarily assessed penalty, request a hearing in the matter, or provide written evidence and argument in lieu of a hearing. You failed to respond. The Hearing Officer issued a Final Decision, assessing a total of \$600.00, on December 27, 2011.

With your appeal letter, dated January 19, 2012, you submitted a Coast Guard Fishing Vessel Safety Examination form, indicating that your vessel was in compliance with all applicable safety regulations for operations in coastal waters outside the Boundary Line within 20 nautical miles of the coast. That form is dated September 7, 2010, approximately one year prior to the occurrence of the violations at issue in this case. You have not provided any evidence that you have achieved compliance with the regulations by correcting the deficiencies found aboard your vessel on September 2, 2011. If you had corrected the deficiencies and then obtained a new Fishing Vessel Safety Examination determining that you were in compliance, you might have avoided a fine as you were told. Given that you did not respond to the Hearing Officer's Preliminary Assessment Letter and that there is no evidence of compliance, I will neither mitigate nor dismiss the penalties assessed by the Hearing Officer for the violations.

In accordance with the regulations governing civil penalty proceedings, 33 CFR 1.07, this decision constitutes final agency action. Payment of **\$600.00** by check or money order payable to the U.S. Coast Guard is due and should be remitted promptly, accompanied by a copy of this letter. Send your payment to:

U.S. Coast Guard - Civil Penalties
P.O. Box 531112
Atlanta, GA 30353-1112

Payments received within 30 days will not accrue interest. However, interest at the annual rate of 1.0% accrues from the date of this letter if payment is not received within 30 days. Payments received after 30 days will be assessed an administrative charge of \$12.00 per month for the cost of collecting the debt. If the debt remains unpaid for over 90 days, a 6% per annum late payment penalty will be assessed on the balance of the debt, the accrued interest, and administrative costs.

Sincerely,

L. I. McCLELLAND
Civil Penalty Appellate Authority
By direction of the Commandant

Copy: Coast Guard Hearing Office
Coast Guard Finance Center