

U.S. Department
of Transportation

**United States
Coast Guard**



COMMANDANT
U. S. Coast Guard

2100 Second Street, SW
Washington, DC 20593-0001
Staff Symbol: G-LMI
Phone: (202) 267-1527
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16731
January 25, 2002

[REDACTED]
[REDACTED]
[REDACTED]

RE: MV00001287
[REDACTED]
F/V [REDACTED]
\$950.00

Dear [REDACTED]:

The Commanding Officer, Coast Guard Hearing Office, Arlington, Virginia, has forwarded the file in Civil Penalty Case MV00001287, which includes your appeal as owner of the F/V [REDACTED]. The appeal is from the action of the Hearing Officer in assessing a \$950.00 penalty for the following violations:

<u>LAW/REGULATION</u>	<u>NATURE OF VIOLATION</u>	<u>ASSESSED PENALTY</u>
46 CFR 28.115	Failure to comply with the requirements for the ring life buoys.	\$150.00
46 CFR 28.150	Failure to have the required EPIRB on board.	\$300.00
46 CFR 28.230	Failure to have an operable magnetic compass with deviation table at the operating station.	\$100.00
46 CFR 28.250	Failure to equip a vessel 36 ft. or over with the required high water alarms.	\$200.00
46 CFR 28.270	Failure to comply with the requirements for instruction drills and safety orientations.	\$200.00

January 25,2002

The violations were observed on February 10, 2000, when Coast Guard boarding officers boarded the F/V [REDACTED] while it was underway in the Florida Straits, near Marathon Florida.

On appeal, you neither deny the violations nor deny that you are the responsible party. Instead, you request that the penalties be dismissed because the violations have been corrected and the vessel is now in full compliance with the Coast Guard's regulations. You assert that "it is hard to keep up with not only these rules but also Coast Guard, Marine Patrol, and NMFS rules" and add that you "try to maintain a safe and legal operation." Your appeal is denied for the reasons described below.

The Coast Guard's primary purpose in enforcing its regulations is to ensure maritime safety and to protect the environmental quality of the navigable waters of the United States. Compliance with Coast Guard regulations helps prevent environmental damage, loss of life, personal injury and property damage. The Coast Guard's regulation of fishing vessels like the F/V [REDACTED] is particularly important because of the inherent dangers associated with the commercial fishing industry. Your failure to comply with the Coast Guard's regulations could have resulted in serious consequences for your vessel, your crew and yourself. Since you do not deny the violations, I, therefore, find them proved.

You seek dismissal of the violations because they have "been fully taken care of" to bring the F/V [REDACTED] into compliance with the Coast Guard's regulations. The Coast Guard's letter of inquiry dated February 17, 2000 served to inform you of the violations assessed while simultaneously allowing you to bring the vessel into compliance. The letter afforded you the opportunity to "have. . .the penalties reduced or even dismissed" provided that you corrected the violations, successfully completed a Coast Guard Courtesy Safety Examination, and were issued a Commercial Fishing Vessel Safety Decal within thirty days of the letter. Thus, to bring the vessel into compliance with the regulations, you should have completed the aforementioned requirements by March 18, 2000.

The record indicates that you purchased a new life ring buoy for the vessel on March 17, 2000, and that you registered the vessel's EPIRB on March 29, 2000. The record also shows that you received a valid FCC radio station license on April 12, 2000 and thereafter, had the vessel inspected by the Coast Guard on March 22, 2000 and again on June 24, 2000. The record does not, however, evidence that you successfully completed a Coast Guard Safety Examination or that you were issued a Commercial Fishing Vessel Safety Decal until June 24, 2000, nearly three months after the date required by the Coast Guard's letter of inquiry. While I commend your efforts to bring the vessel into compliance with the Coast Guard's regulations, I cannot conclude that you have fully complied with the requirements set forth in the Coast Guard's letter dated February 17, 2000.

Accordingly, I find that there is substantial evidence in the record to support the Hearing Officer's determination that the violations occurred and that you are the responsible party. The Hearing Officer's decision was neither arbitrary nor capricious and is hereby affirmed. I find the \$950.00 penalty assessed, rather than the \$27,500.00 maximum permitted by statute appropriate in light of the seriousness of the violations.

RE: CIVIL PENALTY

16731

January 25,2002

In accordance with the regulations governing civil penalty proceedings, 33 CFR 1.07, this decision constitutes final agency action. Payment of **\$950.00** 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 100160
Atlanta, GA 30384

Payments received within 30 days will not accrue interest. However, interest at the annual rate of 5 % 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,

//S//

DAVID J. KANTOR
Deputy Chief,
Office of Maritime and International Law
By direction of the Commandant

Copy: Commanding Officer, U.S. Coast Guard Hearing Office
Commander, Finance Center