



16780

Mr. [REDACTED]
[REDACTED].
[REDACTED]

RE: MV01002112
Unnamed ([REDACTED])
Mr. [REDACTED]
\$40.00

Dear Mr. [REDACTED]:

The Commanding Officer, Coast Guard Hearing Office, Arlington, Virginia, has forwarded the file in Civil Penalty Case MV01002112, which includes your appeal as owner of the recreational vessel [REDACTED]. The appeal is from the action of the Hearing Officer in assessing a \$60.00 penalty for the following violations:

<u>LAW/REGULATION</u>	<u>NATURE OF VIOLATION</u>	<u>ASSESSED PENALTY</u>
33 CFR 175.15(b)	Recreational vessels 16+ ft. must have one Type IV PFD on board in addition to at least one Type I, II, or III PFD for each person.	\$20.00
33 USC 2033(b) (Rule 33)	Failure to have some means of making an efficient sound signal for vessel less than 12 meters in length.	\$20.00
46 CFR 25.30-20(a)(1)	Required number of Coast Guard approved fire extinguishers not on board.	\$20.00

The violations were observed on May 10, 2001, when a Coast Guard boarding officer boarded your recreational vessel ([REDACTED]) while it was underway approximately 200 yards from Lakes Bay, near Ventnor City, New Jersey.

On appeal, you do not deny the violations but seek mitigation of the penalty assessed by the Hearing Officer. To that end, you assert that you "have been a very safe and considerate boater for 35 years in New Jersey." While you acknowledge that there is "no excuse for the charges," you nonetheless note that you "admit the wrong and have learned a very valuable lesson."

March 17, 2003

Because you do not deny the violations, I consider them proved. Therefore, the sole issue remaining is whether mitigation of the penalty assessed by the Hearing Officer is appropriate under the circumstances of the case. I do not believe that it is. On appeal you have not provided any evidence to support mitigation of the penalty other than your uncorroborated statement. Furthermore, the record clearly indicates that the Hearing Officer acknowledged not only your efforts in achieving subsequent compliance with Coast Guard regulations, but also your prior history of no violations when he reduced the penalty assessed from \$150.00 to \$60.00. Given this information and the nominal amount of the penalty assessed by the Hearing Officer, I will not mitigate the penalty further.

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 penalty of \$60.00 rather than the \$150.00 initially assessed by the Hearing Officer or \$12,100.00 maximum permitted by statute appropriate in light of the seriousness of the violations.

In accordance with the regulations governing civil penalty proceedings, 33 CFR 1.07, this decision constitutes final agency action. Payment of **\$60.00** 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 4.25% 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, Coast Guard Hearing Office
Commanding Officer, Coast Guard Finance Center