



Minimum Civil Penalties for Failure to Heave-To and for Hazardous Materials Transportation Violations

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Within the table of civil penalty amounts in 33 CFR Part 27, there are at least two penalty amounts that are identified as minimum civil penalties. One is the \$1,000.00 minimum civil penalty for failure to heave-to, in violation of 19 USC § 1581(d), and another is the \$300.00 minimum civil penalty for violating requirements for transportation of hazardous materials, authorized by 49 USC § 5123(a)(1). When considering whether or not to charge someone with failing to heave-to, it is important to keep in mind that, if the violation is proved, the Hearing Officer is required to assess the minimum penalty, at least. If the violation is proved, the Hearing Officer cannot assess a warning or any penalty less than a civil penalty of \$1,000.00. Accordingly, when a Coast Guard unit forwards a case including a charge of failing to heave-to, in violation of 19 USC § 1581(d), the unit should not recommend a warning or a civil penalty less than \$1,000.00. The same is true for violations of the hazardous materials transportation regulations, although the minimum \$300.00 civil penalty for those violations is less likely to raise concerns about whether the penalty fits the violation. Making a recommendation that is inconsistent with the minimum civil penalty is clearly not effective, because the Hearing Officer must follow the law, and it gives the appearance that the unit making the recommendation is not fully aware of the consequences of the charge it is asserting. The decision to seek a civil penalty should always take account of material factors involved in the case, including any minimum civil penalty.