



## CIVIL PENALTY TIMELINES

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Observance of the timelines set forth in 33 C.F.R. Part 1, Subpart 1.07, ensures not only efficient Coast Guard civil penalty processing, but also procedural due process for the party concerned. Timelines are in maroon type below.

After receipt of a letter/notice (called a “Preliminary Assessment Letter,” or “PAL”) from a Coast Guard Hearing Officer indicating that the party is alleged to have committed a violation of applicable law or regulation, the party, or counsel for the party, has **30 days to take one of the following actions** (33 C.F.R. § 1.07-25):

- Provide written evidence and arguments (for example, that the violation did not occur, or that the civil penalty should be reduced for stated reasons and provide evidence to justify reduction of the penalty); or
- Pay the amount specified in the PAL; or
- Request a hearing in writing specifying the issues in dispute (*see article explaining civil penalty hearings, this issue, p. 2*).

The PAL and accompanying pamphlet, which do a good job of explaining the party’s options, should be thoroughly read upon receipt.

If a party does not respond to the PAL, the Hearing Officer will make a final determination based on the evidence already before him/her, which usually results in a Final Assessment Letter to the party imposing the penalty amount stated in the PAL.

**Note:** It’s in the party’s best interests to respond to the PAL, especially if the party requires more time to bring his/her vessel into

compliance. The Hearing Officer will normally grant a 20-day extension if the party indicates s/he needs more time.

A party should retain a copy of all receipts for items purchased to bring his/her vessel into compliance, and send a copy of the receipt/s to the Hearing Officer. A blanket statement in a letter that all violations have been corrected carries no weight. The Hearing Officer must have evidence of compliance. For example, a receipt, and/or a picture of new Visual Distress Signals or Personal Flotation Devices, arranged so that the vessel number can also be seen in the picture, should suffice.

After 30 days, the party no longer has a right to a hearing, however, the Hearing Officer may still grant a request for a hearing, at the Hearing Officer's discretion.

At any time up to **10 days before the scheduled date of the hearing**, a party can submit a change to the issues in dispute. Changes to the issues in dispute requested by the party later than 10 days before the scheduled date of the hearing are subject to the discretion of the Hearing Officer.

An appeal from the decision of the Hearing Officer, and any supporting brief, must be submitted to the Hearing Officer within **30 days from the date of receipt of the decision**, otherwise an appeal is barred, and the Hearing Officer's decision becomes the Coast Guard's final action in the case (33 C.F.R. § 1.07-70).

The Hearing Officer provides a copy of the appeal and any supporting brief submitted by the party to the District Commander who referred the case. The District Commander then has **30 days to submit any comments to the Hearing Officer** (33 C.F.R. § 1.07-75).

If the District Commander submits no comments, then **the Hearing Officer forwards all materials in the case to the Commandant not later than 30 days after receipt of the appeal.**

At any time prior to final agency action in a civil penalty case, a party may petition to reopen the hearing on the basis of newly discovered evidence (33 C.F.R. § 1.07-80). Following a denial of a

petition to reopen, the party is given 30 days to file an appeal if one has not already been filed, or to amend (change) an appeal which has already been filed.

Within 30 days after receipt of the Commandant's decision on appeal, or the Hearing Officer's decision in a case in which no appeal has been filed, the party must submit payment of any assessed penalty to the office specified in the assessment notice (33 C.F.R. § 1.07-85).