



Timely Filing of Civil Penalty Cases

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We've said it before, and we'll say it again: the purpose of the civil penalty process is to seek:

- 1) compliance with regulatory requirements, and
- 2) deterrence of violations of the regulations. In other words, the process is remedial, not punitive.

It stands to reason, then, that the sooner the charging unit submits a civil penalty case, the sooner the charged party will be prompted to achieve compliance with the regulation(s) s/he is alleged to have violated.

In some cases, such as oil pollution cases, compliance may not be an option. For example, the vessel or facility may already have leaked oil which has discharged into navigable U.S. waters. Deterrence of future discharges may be the only achievable outcome.

Suppose your unit delays forwarding oil pollution cases against a party, and then sends the Hearing Office five oil pollution cases against the same party with alleged violation dates spanning a period of months or years. The Coast Guard has lost the possibility of deterring the party from committing the latter four violations by taking timely and effective civil penalty action in the first case.

Remember, however, that it's not "officially" a violation until it has been completely adjudicated. In other words, when the Coast Guard's final agency action on a civil penalty case results in a finding that the party has committed a violation, the violation then properly can be considered part of the charged party's violation history.

The Coast Guard, as a marine safety agency, can more effectively achieve its remedial goals and have a greater impact on a party's behavior if civil penalty cases are submitted to the Hearing Office in a timely manner.