



## FINAL DECISION OPTIONS

*Written By CDR Evan Hudspeth*

Generally 60 days after a preliminary assessment letter (PAL) and package has been sent to the charged party, the Hearing Officer will consider all of the evidence provided and make a final decision. In a final letter to the charged party, the following information is included regarding the charged party's options:

You may appeal my decision to the Commandant of the Coast Guard. You have 30 days from the date you receive this letter to do so. If you decide to appeal my decision, address your appeal to the Commandant of the Coast Guard but mail it to me. I will then send the appeal forward with the official case file. Title 33, Code of Federal Regulations, Part 1.07-70, expressly limits matters on appeal to those issues that were properly raised before the Hearing Officer and jurisdictional questions. That is, aside from jurisdictional questions, matters on appeal are limited to those issues raised before me *prior* to my final decision in this case. If you find you have newly discovered evidence to be considered following my final decision, you may petition me to reopen your case. The petition to reopen must be in writing and explain why the evidence was not presented for my consideration during the course of the adjudication of your case. I may reopen your case *if* I find that the evidence will have a direct and material bearing on the issues *and* there is a valid explanation as to why the evidence was not and could not have been produced during the adjudication of your case. My decision regarding the petition to reopen will be rendered in writing. If you do not appeal my final decision within 30 days from receipt of this letter, my decision becomes the Coast Guard's final action on this case (Emphasis added).

So, there are four options at this point:

1. Pay the final penalty amount;
2. Appeal the decision based on the evidence already considered and in the case file;
3. Request to reopen the case to consider evidence not previously available and include a good reason why the evidence was not previously available; or
4. Do nothing, in which case the file will be forwarded to collections.

It is therefore in the charged party's best interests to respond to a PAL in a timely manner, before a final decision is made. If one waits to respond with evidence in defense, extenuation, or mitigation *after* a final decision has been made, then it is quite possible that the evidence will be considered untimely, and the final decision will stand.