

U.S. Department
of Transportation

United States
Coast Guard



COMMANDANT
U. S. Coast Guard

2100 Second Street, SW
Washington, DC 20593-0001
Staff Symbol: G-LMI
Phone: (202) 267-1527
FAX: (202) 267-4496

16780

November 27, 2002

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: MV01001220
[REDACTED]
[REDACTED]
WARNING

Dear Mr. [REDACTED]:

The Commanding Officer, Coast Guard Hearing Office, Arlington, Virginia, has forwarded the file in Civil Penalty Case MV01001220, which includes your appeal as operator of the recreational vessel [REDACTED]. The appeal is from the action of the Hearing Officer in assessing a \$50.00 penalty for the following violation:

<u>LAW/REGULATION</u>	<u>NATURE OF VIOLATION</u>	<u>ASSESSED PENALTY</u>
33 CFR 175.15(a)	No person may use a recreational vessel unless at least one Type I, II, or III PFD is on board for each person.	\$50.00

The violation was observed on January 28, 2001, when Coast Guard boarding officers boarded your vessel while it was underway on the Trent River near New Bern, North Carolina.

On appeal, you do not deny the violation but contend that you have "corrected the problem." To that end, you have provided photographic evidence to support your assertion that the violation has been corrected. Your appeal is granted, in part, and denied, in part, for the reasons described below.

The Coast Guard's primary purpose in enforcing its regulations is to ensure maritime safety and to protect the environmental quality of the navigable waters of the United States. Compliance with Coast Guard regulation helps prevent environmental damage, loss of life, personal injury and property damage. Your failure to comply with Coast Guard regulations could have resulted in serious consequences for your vessel, yourself, and any passengers that you may have had on board. Therefore, since you do not deny the violation, I consider it proved and the only issue remaining is whether further mitigation of the penalty is appropriate under the circumstances of the case.

RE: CIVIL PENALTY

16780

November 27, 2002

Although it is evident that the Hearing Officer did not abuse his discretion in assessing a \$50.00 monetary civil penalty for the instant violation, I note that the district responsible for the initial assessment of the violation has requested that I further mitigate the penalty to a WARNING. Because it is evident that the program's purpose in assessing the violation was met when you purchased the required Personal Flotation Devices for your boat, I will mitigate the penalty to a WARNING as requested.

In accordance with the regulations governing civil penalty proceedings, 33 CFR 1.07, this decision constitutes final agency action.

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