

§ 1.07-10

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§ 1.07-10 Reporting and investigation.

(a) Any person may report an apparent violation of any law, regulation, or order that is enforced by the Coast Guard to any Coast Guard facility. When a report of an apparent violation has been received, or when an apparent violation has been detected by any Coast Guard personnel, the matter is investigated or evaluated by Coast Guard personnel. Once an apparent violation has been investigated or evaluated, a report of the investigation may be sent to the District Commander or other designated official in accordance with paragraph (b) of this section or a Notice of Violation under § 1.07-11 may be given to the party by an issuing officer.

(b) Reports of any investigation conducted by the Coast Guard or received from any other agency which indicate that a violation may have occurred may be forwarded to a District Commander or other designated official for further action. This is normally the District Commander of the District in which the violation is believed to have occurred, or the District in which the reporting unit or agency is found. The report is reviewed to determine if there is sufficient evidence to establish a *prima facie* case. If there is insufficient evidence, the case is either returned for further investigation or closed if further action is unwarranted. The case is closed in situations in which the investigation has established that a violation did not occur, the violator is unknown, or there is little likelihood of discovering additional relevant facts. If it is determined that a *prima facie* case does exist, a case file is prepared and forwarded to the Hearing Officer, with a recommended action. A record of any prior violations by the same person or entity, is forwarded with the case file.

[CGD 78-82, 43 FR 54186, Nov. 20, 1978, as amended by CGD 87-008a, 52 FR 17554, May 11, 1987; CGD 93-079, 59 FR 16560, Apr. 7, 1994; USCG-2000-7223, 65 FR 40054, June 29, 2000]

§ 1.07-11 Notice of violation.

(a) After investigation and evaluation of an alleged violation has been completed, an issuing officer may issue a Notice of Violation to the party.

(b) The Notice of Violation will contain the following information:

(1) The alleged violation and the applicable law or regulations violated;

(2) The amount of the maximum penalty that may be assessed for each violation;

(3) The amount of proposed penalty that appears to be appropriate;

(4) A statement that payment of the proposed penalty within 45 days will settle the case;

(5) The place to which, and the manner in which, payment is to be made;

(6) A statement that the party may decline the Notice of Violation and that if the Notice of Violation is declined, the party has the right to a hearing prior to a final assessment of a penalty by a Hearing Officer.

(c) The Notice of Violation may be hand delivered to the party or an employee of the party, or may be mailed to the business address of the party.

(d) If a party declines a Notice of Violation or takes no action on the Notice of Violation within 45 days, the case file will be sent to the District Commander for processing under the procedures described in § 1.07-10(b).

[CGD 93-079, 59 FR 66482, Dec. 27, 1994]

§ 1.07-15 Hearing Officer.

(a) The Hearing Officer has no other responsibility, direct or supervisory, for the investigation of cases referred for the assessment of civil penalties. The hearing officer may take action on a case referred by any District Commander.

(b) The Hearing Officer decides each case on the basis of the evidence before him, and must have no prior connection with the case. The Hearing Officer is solely responsible for the decision in each case referred to him.

(c) The Hearing Officer is authorized to administer oaths and issue subpoenas necessary to the conduct of a hearing, to the extent provided by law.

[CGD 78-82, 43 FR 54186, Nov. 20, 1978, as amended by CGD 87-008a, 52 FR 17554, May 11, 1987]

§ 1.07-20 Initiation of action.

(a) When a case is received for action, the Hearing Officer makes a preliminary examination of the material submitted. If, on the basis of the preliminary examination, the Hearing Officer