

(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 the Notice of Violation within 45 days, the case file will be sent to the District Commander for processing under the procedures described in 33 CFR 1.07-10(b).

(e) If a party pays the proposed penalty on the Notice of Violation within 45 days, a finding of proved will be entered into the case file.

(f) If within 45 days of receipt a party—

(1) Fails to pay the proposed penalty on the Notice of Violation; and

(2) Fails to decline the Notice of Violation—the Coast Guard will enter a finding of default in the case file and proceed with the civil penalty in the amount recommended on the Notice of Violation without processing the violation under the procedures described in 33 CFR 1.07-10(b).

[CGD 93-079, 59 FR 66482, Dec. 27, 1994, as amended by USCG-2001-9175, 67 FR 38388, June 4, 2002]

§ 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; USCG-2002-12471, 67 FR 41331, June 18, 2002]

§ 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 determines that there is insufficient

evidence to proceed, or that there is any other reason which would make penalty action inappropriate, the Hearing Officer returns the case to the District Commander with a written statement of the reason. The District Commander may close the case or cause a further investigation of the alleged violation to be made with a view toward resubmittal of the case to the Hearing Officer.

(b) If on the basis of the preliminary examination of the case file, the Hearing Officer determines that a violation appears to have been committed, the Hearing Officer notifies the party in writing of:

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

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

(3) The general nature of the procedure for assessing and collecting the penalty;

(4) The amount of penalty that appears to be appropriate, based on the material then available to the Hearing Officer;

(5) The right to examine all materials in the case file and have a copy of all written documents provided upon request; and,

(6) The fact that the party may demand a hearing prior to any actual assessment of a penalty.

(c) If at any time it appears that the addition of another party to the proceedings is necessary or desirable, the Hearing Officer provides the additional party with notice as described above.

§ 1.07-25 Preliminary matters.

(a) Within 30 days after receipt of notice of the initiation of the action, as described above, the party, or counsel for the party, may request a hearing, provide any written evidence and arguments in lieu of a hearing, or pay the amount specified in the notice as being appropriate. A hearing must be requested in writing; the request must specify the issues which are in dispute. Failure to specify a nonjurisdictional issue will preclude its consideration.

(b) The right to a hearing is waived if the party does not submit the request to the Hearing Officer within 30 days after receiving notice of the alleged