

to reconsider or modify within a reasonable time after receipt of the petition or receipt of the reply petition, if any. The FAA decisionmaker may affirm, modify, or reverse the final decision and order on appeal, or may remand the case for any proceedings that the FAA decisionmaker determines may be necessary.

[Amdt. 13-21, 55 FR 27575, July 3, 1990; 55 FR 29293, July 18, 1990; Amdt. 13-23, 55 FR 45983, Oct. 31, 1990]

§ 13.235 Judicial review of a final decision and order.

(a) In cases under the Federal aviation statute, a party may seek judicial review of a final decision and order of the Administrator, as provided in 49 U.S.C. 46110(a), and, as applicable, in 49 U.S.C. 46301(d)(7)(D)(iii), 46301(g), or 47532.

(b) In cases under the Federal hazardous materials transportation statute, a party may seek judicial review of a final decision and order of the Administrator, as provided in 49 U.S.C. 5127.

(c) A party seeking judicial review of a final order issued by the Administrator may file a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the United States Court of Appeals for the circuit in which the party resides or has its principal place of business.

(d) The party must file the petition for review no later than 60 days after service of the Administrator's final decision and order.

[Doc. No. FAA-2006-26477, 71 FR 70465, Dec. 5, 2006]

Subpart H—Civil Monetary Penalty Inflation Adjustment

SOURCE: Docket No. 28762, 61 FR 67445, Dec. 20, 1996, unless otherwise noted.

§ 13.301 Scope and purpose.

(a) This subpart provides a mechanism for the regular adjustment for inflation of civil monetary penalties in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 (note), as amended by the Debt Collection Improvement Act of 1996, Public Law 104-134, April 26, 1996,

in order to maintain the deterrent effect of civil monetary penalties and to promote compliance with the law. This subpart also sets out the current adjusted maximum civil monetary penalties or range of minimum and maximum civil monetary penalties for each statutory civil penalty subject to the FAA's jurisdiction.

(b) Each adjustment to the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, made in accordance with this subpart applies prospectively from the date it becomes effective to actions initiated under this part, notwithstanding references to a specific maximum civil monetary penalty or range of minimum and maximum civil monetary penalties contained elsewhere in this part.

§ 13.303 Definitions.

(a) *Civil Monetary Penalty* means any penalty, fine, or other sanction that:

(1) Is for a specific monetary amount as provided by Federal law or has a maximum amount provided by Federal law;

(2) Is assessed or enforced by the FAA pursuant to Federal law; and

(3) Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

(b) *Consumer Price Index* means the Consumer Price Index for all urban consumers published by the Department of Labor.

§ 13.305 Cost of living adjustments of civil monetary penalties.

(a) Except for the limitation to the initial adjustment to statutory maximum civil monetary penalties or range of minimum and maximum civil monetary penalties set forth in paragraph (c) of this section, the inflation adjustment under this subpart is determined by increasing the maximum civil monetary penalty or range of minimum and maximum civil monetary penalty for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under paragraph (a) of this section is rounded to the nearest:

(1) Multiple of \$10 in the case of penalties less than or equal to \$100;

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(2) Multiple of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;

(3) Multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;

(4) Multiple of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;

(5) Multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and

(6) Multiple of \$25,000 in the case of penalties greater than \$200,000.

(b) For purposes of paragraph (a) of this section, the term “cost-of-living adjustment” means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for

the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

(c) *Limitation on initial adjustment.* The initial adjustment of a civil monetary penalty under this subpart does not exceed 10 percent of the civil penalty amount.

(d) *Inflation adjustment.* Minimum and maximum civil monetary penalties within the jurisdiction of the FAA are adjusted for inflation as follows: Minimum and Maximum Civil Penalties-Adjusted for Inflation.

TABLE 1—TABLE OF MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR CERTAIN VIOLATIONS BEFORE DECEMBER 12, 2003, AND FOR HAZARDOUS MATERIALS VIOLATIONS BEFORE AUGUST 10, 2005

United States Code citation	Civil monetary penalty description	Minimum penalty amount	New adjusted minimum penalty amount	Maximum penalty amount when last set or adjusted pursuant to law	New or adjusted maximum penalty amount
49 U.S.C. 5123(a)	Violation of hazardous materials transportation law, regulation, or order.	\$250 per violation, last set 1990.	Same	\$30,000 per violation, adjusted 3/13/02.	Same.
49 U.S.C. 46301(a)(1)	Violation under 49 U.S.C. 46301(a)(1).	N/A	N/A	\$1,100 per violation, adjusted 1/21/1997.	Same.
49 U.S.C. 46301(a)(2)	Violation under 49 U.S.C. 46301(a)(2)(A) or (B) by a person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman).	N/A	N/A	\$11,000 per violation, adjusted 1/21/1997.	Same.
49 U.S.C. 46301(a)(3)(A)	Violation under 498 U.S.C. 46301(a)(1) related to the transportation of hazardous materials.	N/A	N/A	\$11,000 per violation, adjusted 1/21/1997.	Same.
49 U.S.C. 46301(a)(3)(B)	Violation related to the registration or recordation under 49 U.S.C. chapter 441 of an aircraft not used to provide air transportation.	N/A	N/A	\$11,000 per violation, adjusted 1/21/1997.	Same.
49 U.S.C. 46301(a)(3)(C)	Violation of 49 U.S.C. 44718(d) relating to limiting construction or establishment of landfills.	N/A	N/A	\$10,000 per violation, set 10/9/1996.	Same.
49 U.S.C. 46301(a)(3)(D)	Violation of 49 U.S.C. 44725 relating to the safe disposal of life-limited aircraft parts.	N/A	N/A	\$10,000, set 4/5/2000	Same.
49 U.S.C. 46301(a)(5)	Violation of 49 U.S.C. 47107(b) (or any assurance made under such section) or 49 U.S.C. 47133.	N/A	N/A	Increase above otherwise applicable maximum amount not to exceed 3 times the amount of revenues that are used in violation of such section.	Same.
49 U.S.C. 46301(b)	Tampering with a smoke alarm device.	N/A	N/A	\$2,200, adjusted 1/21/1997.	Same.
49 U.S.C. 46302(a)	Knowingly providing false information about alleged violation involving the special aircraft jurisdiction of the United States.	N/A	N/A	\$11,000, adjusted 1/21/1997.	Same.

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TABLE 1—TABLE OF MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR CERTAIN VIOLATIONS BEFORE DECEMBER 12, 2003, AND FOR HAZARDOUS MATERIALS VIOLATIONS BEFORE AUGUST 10, 2005—Continued

United States Code citation	Civil monetary penalty description	Minimum penalty amount	New adjusted minimum penalty amount	Maximum penalty amount when last set or adjusted pursuant to law	New or adjusted maximum penalty amount
49 U.S.C. 46303	Carrying a concealed dangerous weapon ¹ .	N/A	N/A	\$11,000, adjusted 1/21/1997.	Same.
49 U.S.C. 46318	Interference with cabin or flight crew.	N/A	N/A	\$25,000, set 4/5/2000	Same.
49 U.S.C. 47531	Violation of 49 U.S.C. 47528–47530 relating to the prohibition of operating certain aircraft not complying with stage 3 noise levels.	N/A	N/A	See 49 U.S.C. 46301(a)(1) and (a)(2), above.	Same.

¹ FAA prosecutes violations under this section that occurred before February 17, 2002.

TABLE 2—TABLE OF MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR CERTAIN VIOLATIONS OCCURRING ON OR AFTER DECEMBER 12, 2003

United States Code citation	Civil monetary penalty description	Minimum penalty amount	Maximum penalty amount when last set or adjusted pursuant to law	New or maximum penalty amount
49 U.S.C. 46301(a)(1)	Violation by person other than individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B).	N/A	\$25,000 per violation, reset 12/12/2003	No change.
49 U.S.C. 46301(a)(1)	Violation by airman serving as airman under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered by 46301(a)(5)(A) or (B)).	N/A	\$1,100 per violation, reset 12/12/2003	No change.
49 U.S.C. 46301(a)(1)	Violation by individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered in 46301(a)(5)).	N/A	\$1,100 per violation, reset 12/12/2003	No change.
49 U.S.C. 46301(a)(3)	Violation of 49 U.S.C. 47107(b) (or any assurance made under such section) or 49 U.S.C. 47133.	N/A	Increase above otherwise applicable maximum amount not to exceed 3 times the amount of revenues that are used in violation of such section.	No change.
49 U.S.C. 46301(a)(5)(A)	Violation by an individual or small business concern (except an airman serving as an airman) under 49 U.S.C. 46301(a)(5)(A)(i) or (ii).	N/A	\$10,000 per violation, reset 12/12/2003	\$11,000 per violation. ¹
49 U.S.C. 46301(a)(5)(B)(i)	Violation by an individual or small business concern under 49 U.S.C. 46301(a)(1) related to the transportation of hazardous materials.	N/A	\$10,000 per violation, reset 12/12/2003	\$11,000 per violation. ¹
49 U.S.C. 46301(a)(5)(B)(ii)	Violation by an individual or small business concern related to the registration or recordation under 49 U.S.C. chapter 441, or an aircraft not used to provide air transportation.	N/A	\$10,000 per violation, reset 12/12/2003	\$11,000 per violation. ¹
49 U.S.C. 46301(a)(5)(B)(iii)	Violation by an individual or small business concern of 49 U.S.C. 44718(d) relating to limitation on construction or establishment of landfills.	N/A	\$10,000 per violation, reset 12/12/2003	\$11,000 per violation. ¹
49 U.S.C. 46301(a)(5)(B)(iv)	Violation by an individual or small business concern of 49 U.S.C. 44725 relating to the safe disposal of life-limited aircraft parts.	N/A	\$10,000 per violation, reset 12/12/2003	\$11,000 per violation. ¹
49 U.S.C. 46301(b)	Tampering with a smoke alarm device	N/A	\$2,200 per violation, adjusted 1/21/1997	No change.
49 U.S.C. 46302	Knowingly providing false information about alleged violation involving the special aircraft jurisdiction of the United States.	N/A	\$11,000 per violation, adjusted 1/21/1997	No change.
49 U.S.C. 46318	Interference with cabin or flight crew	N/A	\$25,000 per violation, set 4/5/2000	\$27,500 per violation. ²
49 U.S.C. 46319	Permanent closure of an airport without providing sufficient notice.	N/A	\$10,000 per day, set 12/12/2003	\$11,000 per day. ¹
49 U.S.C. 47531	Violation of 49 U.S.C. 47528–47530, or regulation prescribed or order issued under those sections, relating to the prohibition of operating certain aircraft not complying with stage 3 noise levels.	N/A	See 49 U.S.C. 46301(a)(1) and (a)(5)(A), above	No change.

¹ The maximum penalty for a violation from 12/12/2003 until 6/15/2006 is \$10,000.

² The maximum penalty for a violation from 4/5/2000 until 6/15/2006 is \$25,000.

TABLE 3—TABLE OF MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR HAZARDOUS MATERIALS VIOLATIONS OCCURRING ON OR AFTER AUGUST 10, 2005

United States Code citation	Civil monetary penalty description	Minimum penalty amount	Maximum penalty amount
49 U.S.C. 5123(a): Subparagraph (1) ...	Violation of hazardous materials transportation law, regulation, order, special permit or approval—general.	\$250 per violation, reset 8/10/2005.	\$50,000 per violation, set 8/10/2005.
Subparagraph (2) ...	Violation of hazardous materials transportation law, regulation, order, special permit or approval—results in death, serious illness, severe injury, or substantial property destruction.	\$250 per violation, reset 8/10/2005.	\$100,000 per violation, set 8/10/2005.
Subparagraph (3) ...	Violation of hazardous materials transportation law, regulation, order, special permit or approval—training violation.	\$450 per violation, set 8/10/2005.	\$50,000 per violation, set 8/10/2005.

[61 FR 67445, Dec. 20, 1996, as amended by Amdt. 13–28, 62 FR 4134, Jan. 29, 1997; 67 FR 6366, Feb. 11, 2002; Amdt. 13–33, 71 FR 28522, May 16, 2006; 71 FR 47077, Aug. 16, 2006; 71 FR 52407, Sept. 6, 2006]

Subpart I—Flight Operational Quality Assurance Programs

§ 13.401 Flight Operational Quality Assurance Program: Prohibition against use of data for enforcement purposes.

(a) *Applicability.* This section applies to any operator of an aircraft who operates such aircraft under an approved Flight Operational Quality Assurance (FOQA) program.

(b) *Definitions.* For the purpose of this section, the terms—

(1) *Flight Operational Quality Assurance (FOQA) program* means an FAA-approved program for the routine collection and analysis of digital flight data gathered during aircraft operations, including data currently collected pursuant to existing regulatory provisions, when such data is included in an approved FOQA program.

(2) *FOQA data* means any digital flight data that has been collected from an individual aircraft pursuant to an FAA-approved FOQA program, regardless of the electronic format of that data.

(3) *Aggregate FOQA data* means the summary statistical indices that are associated with FOQA event categories, based on an analysis of FOQA data from multiple aircraft operations.

(c) *Requirements.* In order for paragraph (e) of this section to apply, the operator must submit, maintain, and adhere to a FOQA Implementation and Operation Plan that is approved by the

Administrator and which contains the following elements:

(1) A description of the operator's plan for collecting and analyzing flight recorded data from line operations on a routine basis, including identification of the data to be collected;

(2) Procedures for taking corrective action that analysis of the data indicates is necessary in the interest of safety;

(3) Procedures for providing the FAA with aggregate FOQA data;

(4) Procedures for informing the FAA as to any corrective action being undertaken pursuant to paragraph (c)(2) of this section.

(d) *Submission of aggregate data.* The operator will provide the FAA with aggregate FOQA data in a form and manner acceptable to the Administrator.

(e) *Enforcement.* Except for criminal or deliberate acts, the Administrator will not use an operator's FOQA data or aggregate FOQA data in an enforcement action against that operator or its employees when such FOQA data or aggregate FOQA data is obtained from a FOQA program that is approved by the Administrator.

(f) *Disclosure.* FOQA data and aggregate FOQA data, if submitted in accordance with an order designating the information as protected under part 193 of this chapter, will be afforded the nondisclosure protections of part 193 of this chapter.

(g) *Withdrawal of program approval.* The Administrator may withdraw approval of a previously approved FOQA