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.


§ 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)(ii), 46301(g), or 47932.

(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.

(Amdt. 71, 51 FR 20464, June 4, 1996)

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;
§ 13.305

(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>
<thead>
<tr>
<th>United States Code cite</th>
<th>Civil monetary penalty description</th>
<th>Minimum penalty amount</th>
<th>New or adjusted minimum penalty amount</th>
<th>Maximum penalty amount when last set or adjusted pursuant to law</th>
<th>New or adjusted maximum penalty amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>49 U.S.C. 5123(a), sub-paragraph (1).</td>
<td>Violation of hazardous materials transportation law.</td>
<td>$250 per violation</td>
<td>No change</td>
<td>$50,000 per violation, reset 8/10/2005.</td>
<td>$55,000 per violation.</td>
</tr>
<tr>
<td>49 U.S.C. 5123(a), sub-paragraph (2).</td>
<td>Violation of hazardous materials transportation law resulting in death, serious illness, severe injury, or substantial property destruction.</td>
<td>$250 per violation, reset 8/10/2005.</td>
<td>No change</td>
<td>$50,000 per violation, reset 8/10/2005.</td>
<td>$110,000 per violation.</td>
</tr>
<tr>
<td>49 U.S.C. 5123(a), sub-paragraph (3).</td>
<td>Violation of hazardous materials transportation law relating to training.</td>
<td>$450 per violation, reset 8/10/2005.</td>
<td>No change</td>
<td>$50,000 per violation, reset 8/10/2005.</td>
<td>$55,000 per violation.</td>
</tr>
<tr>
<td>49 U.S.C. 46301(a)(1)</td>
<td>Violation by a person other than an individual or small business concern under 49 CFR 46301(a)(1)(A) or (B).</td>
<td>N/A</td>
<td>N/A</td>
<td>$25,000 per violation, reset 12/12/2003.</td>
<td>$27,500 per violation.</td>
</tr>
<tr>
<td>49 U.S.C. 46301(a)(1)</td>
<td>Violation by an airman serving as an airman under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered by 46301(a)(5)(A) or (B).</td>
<td>N/A</td>
<td>N/A</td>
<td>$1,100 per violation, reset 12/12/2003.</td>
<td>No change.</td>
</tr>
<tr>
<td>49 U.S.C. 46301(a)(1)</td>
<td>Violation by an individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered by 49 U.S.C. 46301(a)(5)).</td>
<td>N/A</td>
<td>N/A</td>
<td>$1,100 per violation, reset 12/12/2003.</td>
<td>No change.</td>
</tr>
<tr>
<td>49 U.S.C. 46301(a)(3)</td>
<td>Violation of 49 U.S.C. 47107(b) (or any assurance made under such section) or 49 U.S.C. 47133.</td>
<td>N/A</td>
<td>N/A</td>
<td>Increase above otherwise applicable maximum amount not to exceed 3 times the amount of revenues that are used in violation of such section.</td>
<td>No change.</td>
</tr>
<tr>
<td>49 U.S.C. 46301(a)(5)(A).</td>
<td>Violation by an individual or small business concern (except an airman serving as an airman) under 49 U.S.C. 46301(a)(5)(A) or (B).</td>
<td>N/A</td>
<td>N/A</td>
<td>$11,000 per violation, adjusted 6/15/2006.</td>
<td>No change.</td>
</tr>
<tr>
<td>49 U.S.C. 46301(a)(5)(B).</td>
<td>Violation by an individual or small business concern related to the transportation of hazardous materials.</td>
<td>N/A</td>
<td>N/A</td>
<td>$11,000 per violation, adjusted 6/15/2006.</td>
<td>No change.</td>
</tr>
</tbody>
</table>
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