announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA’s civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR part 13, subpart G.

The FAA maintains an index of the Administrator’s decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a cumulative subject-matter index and digests organized by order number. The indexes are published on a quarterly basis (i.e., January, April, July, and October.)

The FAA first published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that only the subject-matter index would be published cumulatively and that the order number index would be non-cumulative. The FAA announced in a later notice that the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 5044; 1/19/93.

The previous quarterly publications of these indexes have appeared in the Federal Register as follows:

<table>
<thead>
<tr>
<th>Dates of quarter</th>
<th>Federal Register publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>11/1/89–9/30/90</td>
<td>55 FR 45984; 10/31/90</td>
</tr>
<tr>
<td>10/1/90–12/31/90</td>
<td>56 FR 44886; 2/6/91</td>
</tr>
<tr>
<td>1/1/91–3/31/91</td>
<td>56 FR 20250; 5/2/91</td>
</tr>
<tr>
<td>4/1/91–6/30/91</td>
<td>56 FR 31984; 7/12/91</td>
</tr>
<tr>
<td>7/1/91–9/30/91</td>
<td>56 FR 51735; 10/15/91</td>
</tr>
<tr>
<td>10/1/91–12/31/91</td>
<td>57 FR 2299; 1/12/92</td>
</tr>
<tr>
<td>1/1/92–3/31/92</td>
<td>57 FR 12359; 4/9/92</td>
</tr>
<tr>
<td>4/1/92–6/30/92</td>
<td>57 FR 32825; 7/23/92</td>
</tr>
<tr>
<td>7/1/92–9/30/92</td>
<td>57 FR 48255; 10/22/92</td>
</tr>
<tr>
<td>10/1/92–12/31/92</td>
<td>58 FR 5044; 1/19/93</td>
</tr>
<tr>
<td>1/1/93–3/31/93</td>
<td>58 FR 21199; 4/19/93</td>
</tr>
<tr>
<td>4/1/93–6/30/93</td>
<td>58 FR 42120; 8/6/93</td>
</tr>
<tr>
<td>7/1/93–9/30/93</td>
<td>58 FR 58218; 10/29/93</td>
</tr>
<tr>
<td>10/1/93–12/31/93</td>
<td>59 FR 5466; 2/4/94</td>
</tr>
<tr>
<td>7/1/94–9/30/94</td>
<td>60 FR 4454; 1/23/95</td>
</tr>
<tr>
<td>10/1/94–12/31/94</td>
<td>60 FR 19318; 4/17/95</td>
</tr>
<tr>
<td>1/1/95–3/31/95</td>
<td>60 FR 36854; 7/18/95</td>
</tr>
<tr>
<td>4/1/95–6/30/95</td>
<td>60 FR 53228; 10/12/95</td>
</tr>
<tr>
<td>7/1/95–9/30/95</td>
<td>61 FR 1972; 1/24/96</td>
</tr>
<tr>
<td>10/1/95–12/31/95</td>
<td>61 FR 16855; 4/18/96</td>
</tr>
<tr>
<td>1/1/96–3/31/96</td>
<td>61 FR 35756; 7/18/96</td>
</tr>
<tr>
<td>4/1/96–6/30/96</td>
<td>61 FR 54833; 10/22/96</td>
</tr>
<tr>
<td>7/1/96–9/30/96</td>
<td>62 FR 2434; 1/16/97</td>
</tr>
<tr>
<td>10/1/96–12/31/96</td>
<td>62 FR 24533; 5/2/97</td>
</tr>
<tr>
<td>1/1/97–3/31/97</td>
<td>62 FR 38339; 7/17/97</td>
</tr>
<tr>
<td>4/1/97–6/30/97</td>
<td>62 FR 53856; 10/16/97</td>
</tr>
<tr>
<td>7/1/97–9/30/97</td>
<td>63 FR 3373; 1/22/98</td>
</tr>
<tr>
<td>10/1/97–12/31/97</td>
<td>63 FR 19559; 4/20/98</td>
</tr>
</tbody>
</table>

The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. Also, the Administrator’s civil penalty decisions have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callaghan) and are available on computer on-line services (Westlaw, LEXIS, and Compuserve).

A list of the addresses of the FAA offices where the civil penalty decisions may be reviewed and information regarding these commercial publications and computer databases are provided at the end of this notice. Information regarding the accessibility of materials filed in recently initiated civil penalty cases in FAA civil penalty cases at the DOT Docket and over the Internet also appears at the end of this notice.

Civil Penalty Actions—Orders Issued by the Administrator

Order Number Index

(Includes all decisions and orders issued by the Administrator during calendar year 2000.)

2000–1—Ronald L. Gatewood
2/2/00—CP97EA0071, DMS No. FAA–1997–3292
2000–2—Ryan International Airlines
2/2/00—CP99CL0011, DMS No. FAA–1999–5805
2000–3—Warbelow’s Air Ventures
2/2/00—CP97AL0012
2000–4—Ryan International Airlines
2000–5—Blue Ridge Airlines
3/23/00—CP97NM0024
2000–6—Atlantic Coast Airlines
3/29/00—CP97SO0047
2000–7—Daniel A. Martinez
3/30/00—CP99NM0012, DMS No. FAA–1999–5984
2000–8—USA Jet Airlines
5/9/00—CP99SW0009, DMS No. FAA–1999–5783
2000–9—Tundra Copters
5/11/00—CP99AL0011, DMS No. FAA–1999–5083
2000–10—Johnny Johnson
<table>
<thead>
<tr>
<th>Administrative Law Judges—Power and Authority:</th>
<th>Civil Penalty Actions—Orders Issued by the Administrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expert Testimony ...................................................</td>
<td>94–21 Sweeney.</td>
</tr>
<tr>
<td>Granting extension of time ....................................</td>
<td>90–27 Gabbert.</td>
</tr>
<tr>
<td>Hearing location ..................................................</td>
<td>92–50 Cullop.</td>
</tr>
<tr>
<td>Hearing request ..................................................</td>
<td>93–12 Langton; 94–6 Strohl; 94–27 Larsen; 94–37 Houston; 95–19 Rayner.</td>
</tr>
<tr>
<td>Initial Decision ...................................................</td>
<td>92–1 Costello; 92–32 Barnhill.</td>
</tr>
<tr>
<td>Should include requirement to file appeal brief ......</td>
<td>90–5 Squire.</td>
</tr>
<tr>
<td>Jurisdiction ...........................................................</td>
<td>90–20 Degenhardt; 90–3 Cato; 92–1 Costello; 92–32 Barnhill.</td>
</tr>
<tr>
<td>Generally ..............................................................</td>
<td>94–37 Houston; 95–19 Rayner; 97–33 Rawlings.</td>
</tr>
<tr>
<td>After issue of order assessing civil penalty ..........</td>
<td>94–39 Kirola.</td>
</tr>
<tr>
<td>When complaint is withdrawn ...............................</td>
<td>92–73 Wyatt; 92–75 Beck; 92–76 Safety Equipment; 93–11 Merkley; 96–24 Horizon; 96–20 Koenig.</td>
</tr>
<tr>
<td>Motion for Decision ...............................................</td>
<td>95–28 Atlantic World Airways; 97–18 Robinson; 98–4 Larry’s Flying Service.</td>
</tr>
<tr>
<td>No authority to extend due date for late Answer without showing of good cause. (See also Answer)</td>
<td>92–31 Eaddy.</td>
</tr>
<tr>
<td>Notice of Hearing ..................................................</td>
<td>97–20 Werle.</td>
</tr>
<tr>
<td>Regulate proceedings ............................................</td>
<td>90–37 Northwest Airlines; 91–54 Alaska Airlines; 94–22 Harkins; 94–28 Toyota.</td>
</tr>
<tr>
<td>Sanction ...................................................................</td>
<td>97–18 Robinson.</td>
</tr>
<tr>
<td>Service of law judges by parties ............................</td>
<td>90–20 Degenhardt; 95–6 Sutton; 2000–24 SONICO.</td>
</tr>
<tr>
<td>Vacate initial decision ..........................................</td>
<td>95–25 Conquest Helicopters.</td>
</tr>
<tr>
<td>Aerial Photography .................................................</td>
<td>93–13 Medel.</td>
</tr>
<tr>
<td>Agency Attorney .....................................................</td>
<td>92–70 USAir; 2000–13 Empire Airlines.</td>
</tr>
<tr>
<td>Air Carrier/Aircraft Operator: ...............................</td>
<td>92–48 &amp; 92–70 USAir; 93–18 Westair Commuter.</td>
</tr>
<tr>
<td>Agent/independent contractor of .........................</td>
<td>92–70 USAir; 96–16 Westair Commuter; 96–24 Horizon; 97–8 Pacific Av. d/b/a Inter-Island Helicopters; 99–12 TWA; 2000–3 Warbelow’s; 2000–13 Empire airlines.</td>
</tr>
<tr>
<td>Careless or Reckless ..............................................</td>
<td>93–18 Westair Commuter; 97–8 Pacific Av. d/b/a Inter-Island Helicopters; 99–12 TWA; 99–14 Alika Aviation; 2000–1 Gateway; 2000–3 Warbelow’s.</td>
</tr>
<tr>
<td>Duty of care: Non-delegable .....................................</td>
<td>96–16 WestAir Commuter.</td>
</tr>
<tr>
<td>Employee ...............................................................</td>
<td>98–11 TWA.</td>
</tr>
<tr>
<td>Ground Security Coordinator, Failure to provide .......</td>
<td>98–11 TWA.</td>
</tr>
<tr>
<td>Intoxicated Passenger: ...........................</td>
<td>98–11 TWA.</td>
</tr>
<tr>
<td>Allowing to board ..................................................</td>
<td>98–11 TWA.</td>
</tr>
<tr>
<td>Serving alcohol to ..................................................</td>
<td>98–11 TWA.</td>
</tr>
<tr>
<td>Liability for maintenance by independent repair station</td>
<td>2000–13 Empire Airlines.</td>
</tr>
</tbody>
</table>
Aircraft Maintenance (See also Airworthiness, Maintenance Manual) Generally.

Acceptable methods, techniques, and practices ........................................ 
After certificate revocation ..................................................................... 
Airworthiness Directive, compliance with ............................................ 
Approved data for major repairs ............................................................. 
Advisory Circular 43.13–1, Not approved data ........................................ 
DER ....................................................................................................... 
Inspection .............................................................................................. 
Major alterations: 
Failed to prove .................................................................................... 
Major/minor repairs ............................................................................. 
Minimum Equipment List (MEL) ............................................................ 
Inspection .............................................................................................. 
Operation no maintenance entries ........................................................ 
Approved data for major repairs ............................................................ 
Acceptable methods, techniques, and practices ....................................... 
Aircraft Operation ............................................................................... 
Repairs between required inspections .................................................. 
Careless or Reckless ............................................................................. 
Altitude deviation ................................................................................ 
Check airman: 
Competency test ................................................................................ 
Proficiency test .................................................................................. 
Flight time limitations .......................................................................... 
Follow ATC Instruction ........................................................................ 
Low Flight ........................................................................................... 
Owner’s responsibility .......................................................................... 
Pilots ....................................................................................................... 
See and Avoid ...................................................................................... 
Unqualified for Part 135 flight ............................................................... 
Aircraft Records: 
Aircraft Operation ............................................................................... 
Flight Duty Time ................................................................................ 
Maintenance Records .......................................................................... 
Description of maintenance .................................................................. 
Squawk sheets ...................................................................................... 
"Yellow tags" ....................................................................................... 
Aircraft-Weight and Balance (See Weight and Balance) 
Airmen: 
Airline Transport Pilot certificates requirement in foreign aviation by Part 135 operator. 
Altitude deviation ................................................................................ 
Careless or Reckless ............................................................................. 
Check airman: 
Competency test ................................................................................ 
Proficiency test .................................................................................. 
Flight time limitations .......................................................................... 
Follow ATC Instruction ........................................................................ 
Low Flight ........................................................................................... 
Owner’s responsibility .......................................................................... 
Pilots ....................................................................................................... 
See and Avoid ...................................................................................... 
Unqualified for Part 135 flight ............................................................... 
Air Operations Area (AOA): 
Air Carrier Responsibilities ................................................................... 
Airport Operator Responsibilities ......................................................... 
Badge Display ....................................................................................... 
Definition of ........................................................................................ 
Exclusive Areas .................................................................................... 
Airport Security Program (ASP): 
Compliance with ................................................................................ 
Responsibilities ..................................................................................
Air Traffic Control (ATC):
   Error as mitigating factor ......................................................... 91–12 & 91–31 Terry & Menne.
   Error as exonerating factor ...................................................... 91–12 & 91–31 Terry & Menne; 92–40 Wendt.
   Ground Control ................................................................. 91–12 Terry & Menne; 93–18 Westair Commuter.
   Local Control ............................................................................. 91–12 Terry & Menne.
   Tapes & Transcripts .......................................................... 91–8 Watts Agricultural Aviation; 92–10 Flight Unlimited; 92–48 &
   Airworthiness .......................................................... 92–70 USAir; 94–2 Woodhouse; 95–11 Horizon; 96–3 America
   – West Airlines; 96–18 Kilrain; 94–25 USAir; 97–8 Pacific Av. d/b/a
   – Inter-Island Helicopters; 97–9 Alphin; 97–10 Alphin; 97–11
   Hampton; 97–21 Delta; 97–30 Emory Worldwide Airlines; 97–32
   Florida Propeller; 96–18 General Aviation; 99–14 Alika Aviation;
   Warbelow’s; 2000–18 California Helitech.

Amicus Curiae Briefs ............................................................ 90–25 Gabbert.

Answer:
   Extension of due date for late Answer—good cause required .... 95–28 Atlantic World Airways; 97–18 Robinson; 97–33 Rawlings;
   Good cause Not shown for late answer .................................. 2000–29 Stevenson.
   Reply to each numbered paragraph in complaint required ........ 90–12 Blankson.
   Timeliness of answer .......................................................... 90–3 Metz; 90–15 Playtor; 92–32 Barnhill; 92–75
   Beck; 92–76 Safety Equipment; 94–5 Grant; 94–29 Sutton; 94–30
   Columna; 94–43 Perez; 95–10 Diamond; 95–28 Atlantic World
   Airways; 97–18 Robinson; 97–19 Missirlian; 97–33 Rawlings; 97–
   38 Air St. Thomas; 96–4 Larry’s Flying Service; 98–13 Air St.
   Thomas; 99–8 McDermott; 99–9 Lifelite Medical Air Transport;
   Timeliness not an issue after hearing ................................. 92–32 Barnhill; 92–75 Beck; 97–19 Missirlian.
   What does Not constitute Response to pre-complaint ........... 89–4 Metz; 91–45 Park; 92–17 Giuffrida; 92–19 Cornwall; 92–39
   Beck; 93–24 Steel City Aviation; 93–28 Strohl; 94–23 Perez; 95–13
   Kilrain.
   Appeals (See also Filing; Timeliness; Mailing Rule):
   Additional Brief: ................................................................. 93–6 Westair Commuter; 97–22 Sanford Air; 2000–23 Federal
   – Express.
   Granted ................................................................................. 92–3 Park; 93–5 Wendt; 94–4 Northwest Aircraft; 94–18 Luxemburg;
   Denied/Struck ........................................................................ 93–28 Strohl; 94–29 Sutton; 97–38 Air St. Thomas; 99–11 Evergreen
   Requested by Decisionmaker .............................................. 95–19 Rayner.
   Appeal dismissed as premature ............................................... 11 Evergreen
   – Air Ventures.
   Appeal dismissed as moot after complaint withdrawn .............. 13 Air St.
   – Thomas; 98–1 V. Taylor; 98–13 Air St. Thomas; 99–4 Warbelow’s
   Appellate arguments .......................................................... 99–14 Alika Aviation.
   Court of Appeals, appeal to (See Federal Courts) .............. 90–3 Metz; 90–27 Gabbert; 90–39 Hart; 91–10 Graham; 91–24 Esau;
   – 91–48 Wendt; 91–50 & 92–1 Costello; 92–3 Park; 92–17 Giuffrida;
   Detroit Metro Wayne Co. Airport; 92–69 McCabe; 93–23 Allen;
   – 93–27 Simmons; 93–31 Allen; 95–2 Meronek; 95–9 Woodhouse;
   – 95–25 Conquest; 97–6 WRA Inc.; 97–7 Stallling; 97–28 Conti-
   nental; 97–38 Air St. Thomas; 98–1 V. Taylor; 98–13 Air St.
   – Thomas; 99–4 Warbelow’s Air Ventures; 2000–11 Europe; 2000–
   21 Martinez.
   Good Cause for Late Filed Brief or Notice of Appeal .............. 99–14 Alika Aviation.
   Informal Conference Conduct of, not on appeal ................. 91–11 Continental Airlines.
   Motion to Vacate construed as a brief ..................................... 92–17 Giuffrida; 92–19 Cornwall; 92–39 Beck; 94–23 Perez; 95–13
   Kilrain; 96–5 Alphin Aircraft; 98–20 Koeing.
   Perfecting an Appeal, generally ........................................... 89–8 Thunderbird Accessories; 91–26 Britt Airea ways; 91–32
   Bargen; 91–50 Costello; 93–2 & 93–3 Wendt; 93–24 Steel City
   Aviation; 93–32 Nunex; 98–5 Squire; 98–15 Squire; 99–3 Justice;
   – 99–4 Warbelow’s Air Ventures.


Service of brief:

Fail to serve other party ................................................................. 92–17 Giuffrida; 92–19 Cornwall.


Assault (See also Battery, and Passenger Misconduct) ........................... 96–6 Ignatov; 97–12 Mayer; 99–16 Dorfman; 2000–17 Gotbetter.

“Attempt” ................................................................. 89–5 Schultz.

“Attorney Conduct: Obstreperous or Disruptive” ............................ 94–39 Kirola.

“Attorney Fees (See EAJA)” ............................................................. 90–39 Hart; 91–12 Terry & Menne; 92–49 Richardson & Shimp.

Baggage Matching ........................................................................... 90–6 Continental; 99–12 TWA.

Bankruptcy .................................................................................. 94–2 Woodhouse.

Battery (See also Assault and Passenger Misconduct) ........................ 96–6 Ignatov; 97–12 Mayer; 99–16 Dorfman; 2000–17 Gotbetter.

Certificates and Authorizations:


Surrender when revoked ............................................................. 92–73 Wyatt.
Check Airman: Proficiency and competence tests ........................................
Civil Air Security National Airport Inspection Program (CASNAIP) ...........
Civil Penalty amount (See Sanction)
Closing Argument (See Final Oral Argument)
Counsel
Complaint:
Complainant Bound By .................................................................
No Timely Answer to (See Answer)
Partial Dismissal/Full Sanction ......................................................
Staleness (See Stale Complaint Rule)
Statute of Limitations (See Statute of Limitations)
Timeliness of complaint .............................................................
Withdrawal of ............................................................................
Compliance & Enforcement Program:
(FAA Order No. 2150.3A) ............................................................
Compliance/Enforcement Bulletin 92–3 ...........................................
Sanction Guidance Table .............................................................
Concealment of Weapons (See Weapons Violations)
Consolidation of Cases ...............................................................
Constitutionality of Regulations (See also Double Jeopardy) ..........
Continuance of Hearing ...............................................................
Amount of award ................................................................. 95–27 Valley Air.
Appeal from ALJ decision .................................................. 95–9 Woodhouse.
Expert witness fees ............................................................ 95–27 Valley Air.
Final disposition ................................................................. 96–22 Woodhouse.
Further proceedings .......................................................... 91–52 KDS Aviation.
Jurisdiction over appeal ..................................................... 92–74 Wendt; 96–22 Woodhouse.
Late-filed application .......................................................... 96–22 Woodhouse.
Other expenses ................................................................. 93–29 Sweeney.
Position of agency .............................................................. 95–27 Valley Air.
Prevailing party ................................................................. 91–52 KDS Aviation.
Special circumstances .......................................................... 95–18 Pacific Sky.
95–27 Valley Air.

Supplementation of application ............................................. 93–10 Costello; 95–16 Mullhall; 95–19 Rayner.
Evidence (See Proof & Evidence)
Ex Parte Communications .................................................. 89–6 American Airlines; 92–41 Moore & Sabre Associates.
Expert Witnesses (See Witness) .............................................. 99–7 Zenkner; 90–39 Hart.
Extension of Time (See also Answer) .......................................... 98–4 Thunderbird Accessories.
Final Oral Argument ............................................................ 93–3 Wendt.
Hazardous materials case appeals ......................................... 92–7 West; 97–1 Midtown Neon Sign; 98–8 Carr; 99–12 TWA.
Federal Rules of Evidence (See also Proof & Evidence):
Admissions ....................................................................... 96–24 Horizon; 96–25 USAir.
Evidentiary admissions are rebuttable ................................... 96–25 USAir; 95–9 Africa Air; 99–14 Alika Aviation.
Settlement Offers (Rule 408) ............................................... 99–5 Africa Air.
Exclusion of admissions in settlements offers ......................... 95–16 Mulhall; 95–25 USAir; 99–5 Africa Air.
Statements against interest .................................................. 99–5 Africa Air; 99–14 Alika Aviation.
Subsequent Remedial Measures ............................................. 2000–3 Warbelow’s.
Final Oral Argument ............................................................ 96–24 Horizon; 96–25 USAir.
Firearms (See Weapons)
Ferry Flights ....................................................................... 92–3 Park.
Filing (See also Appeals; Timeliness):
Burden to prove date of filing ................................................ 95–8 Charter Airlines.
Discrepancy between certificate of service and postmark .......... 97–11 Hampton Air; 98–1 V. Taylor.
Firearms (See Weapons)
Service on designated representative .................................... 98–16 Blue Ridge.
98–19 Martin & Jaworski.

Flight & Duty Time:
Circumstances beyond crew’s control: ................................. 95–8 Charter Airlines.
Generally ........................................................................ 95–8 Charter Airlines.
Foreseeability .................................................................... 95–8 Charter Airlines.
Late freight .......................................................................... 95–8 Charter Airlines.
Weather .............................................................................. 95–8 Charter Airlines.
Competency check flights .................................................... 96–4 South Aero.
Limitation of Duty Time ........................................................ 95–8 Charter Airlines; 96–4 South Aero.
Limitation of Flight Time ....................................................... 95–8 Charter Airlines.
“Other commercial flying” .................................................... 95–8 Charter Airlines.
Recordkeeping: Individual flight time records for each Part 135 pilot 99–7–10 Costello.
94–20 Premier Jets.
95–26 Hereth.

Guns (See Weapons):
Ground Security Coordinator, (See also Air Carrier; Standard Security Program): Failure to provide “Guilt by association” ............... 96–16 WestAir Commuter.
Hazardous Materials:
Financial hardship ............................................................. 95–16 Mulhall.
Installment plan ................................................................. 95–16 Mulhall.
First-time violation ............................................................. 95–16 Mulhall.
Minimum penalty .......................................................... 95–16 Mulhall; 98–2 Carr.
Redundant violations .......................................................... 95–16 Mulhall; 96–26 Midtown Neon Sign; 98–2 Carr.
Criminal Penalty ................................................................. 92–77 TCI; 94–31 Smalling.
EAJA, applicability of .......................................................... 94–17 TCI; 95–12 Toyota.
Individual violations ............................................................. 95–16 Mulhall.
Knowing ................................................................. 92–77 TCI; 94–19 Pony Express; 94–31 Smalling.
Shipping name contested .................................................. 2000–25 Riverdale Mills.
Specific hazard class transported: .................................. 95–16 Mulhall.
– Wet Battery ................................................. 92–77 TCI.
– Other .............................................................. 94–31 Smalling; 98–2 Carr.
Explosive Fireworks ....................................................... 96–26 Midtown Neon Sign.
– Proper shipping name contested ................................. 95–16 Mulhall.
– Noxious Fumes ......................................................... 94–19 Pony Express.
– Radioactive .............................................................. 98–23 Instead Balloon Services.
– What constitutes ....................................................... 94–4 Northwest Aircraft Rental.
Hearing: ......................................................................... 92–32 Barnhill.
– Failure of party to attend ............................................. 2000–24 SONICO.
– Interference with crewmembers (See also Passenger Misconduct; Assault). ........................................... 89–6 American Airlines; 91–54 Alaska Airlines; 93–37 Airsport; 94–32 Detroit Metropolitan; 98–25 Gotbetter.
– After initial decision .................................................... 94–37 Houston; 95–19 Rayner.
– After withdrawal of complaint .................................. 90–12 Continental Airlines.
– EAJA cases ................................................................ 92–74 Wndt; 96–22 Woodhouse.
– HazMat cases ............................................................. 92–76 Safety Equipment.
– NTsSB ................................................................. 90–11 Thunderbird Accessaries.
– Knowledge of concealed weapon (See also Weapons Violation) ............................................. 89–5 Schultz; 90–20 Degenhardt.
– Does not extend time for filing a request for hearing ................................................. 89–6 American Airlines.
– Overnight express delivery ........................................ 93–36 Valley Air.
– Motion to Dismiss: ....................................................... 90–11 Thunderbird Accessories; 96–25 US Air.
– Burden of proof ....................................................... 96–3 America West Airlines.
– Motion to Vacate Denied .......................................... 90–12 Continental Airlines.
– Administrator not bound by NTSB case law .................................................. 91–12 Terry & Menne; 92–49 Richardson & Shimp; 93–18 Westair Commuter.
– Initiates Action ......................................................... 93–12 Langton.
– Signature of agency attorney ..................................... 90–17 Wilson.
Oral Argument before Administrator on appeal:

Decision to hold ................................................................. 92–16 Wendt.
Instructions for ................................................................. 92–27 Wendt.

Order Assessing Civil Penalty:

Appeal from ................................................................. 92–1 Costello; 95–19 Rayner.
Timeliness of request for hearing ........................................ 95–19 Rayner.
Withdrawal of ................................................................. 89–4 Metz; 90–16 Rocky Mountain; 90–22 USAir; 95–19 Rayner;
97–7 Stalling.

Parachuting ................................................................. 98–3 Fedele
Parts Manufacturer Approval (PMA) Failure to obtain ..... 93–19 Pacific Sky Supply.

Passenger Misconduct ........................................................ 99–13 Falcon Air Express.

Passenger List ................................................................. 92–3 Park.

Alcoholic beverages ........................................................... 2000–29 Stevenson.

Assault/Battery ............................................................... 96–6 Ignatov; 97–12 Mayer; 98–11 TWA; 99–16 Dorfman.

Compliance with Fasten Seat Belt Sign ................................ 99–16 Alika Aviation.

Interference with a crewmember ........................................ 96–6 Ignatov; 97–12 Mayer; 98–11 TWA; 98–12 Stout; 99–16
Dorfman; 2000–29 Stevenson.

Smoking ................................................................. 92–37 Giuffrida; 99–6 Squire Claimed unable to hear “No Smoking”
instruction; 99–6 Squire.

Stowing carry-on items ...................................................... 97–12 Mayer; 99–16.

Penalty (See Sanction; Hazardous Materials):

Person ................................................................. 93–18 Westair Commuter.

Prima Facie Case (See also Proof & Evidence) .................. 95–26 Hereth; 96–3 America West Airlines.

Proof & Evidence (See also Federal Rules of Evidence):

Admissions ................................................................. 99–5 Africa Air; 2000–3 Warbelow’s.
Evidence admissibility is rebuttable ................................... 99–5 Africa Air.

Burden of Proof ............................................................ 90–26 & 90–43 Waddell; 91–3 Lewis; 91–30 Trujillo; 92–13 Delta
Air Lines; 92–72 Giuffrida; 93–29 Sweeney; 97–32 Florida Propeller;
2000–3 Warbelow’s.

Circumstantial Evidence .................................................... 90–19 & 91–9 Continental Airlines; 93–29 Sweeney; 96–3
America West Airlines; 97–10 Alphin; 97–11 Hampton; 97–32
Florida Propeller; 98–6 Continental Airlines.

Credibility (See Administrative Law Judges; Credibility of Wit-
nesses):

Criminal standard rejected ................................................. 91–12 Terry & Menne; 2000–3 Warbelow’s.

Closing Arguments (See also Final Oral Argument) ............ 94–20 Conquest Helicopters.

Extra-record evidence ...................................................... 95–26 Hereth; 96–24 horizon.

Hearsay ................................................................. 92–72 Giuffrida; 97–30 Emery Worldwide Airlines; 98–11 TWA.


New evidence 94–4 Northwest Aircraft Rental; 96–23 Kilrain;
99–15 blue Ridge.

Offer of Proof ............................................................... 97–32 Florida Propeller.

Preponderance of evidence .............................................. 90–11 Thunderbird Accessories; 90–12 Continental Airlines; 91–12
& 91–31 Terry & Menne; 92–72 Giuffrida; 97–30 Emery Worldwide
Airlines; 97–31 Sanford Air; 97–32 Florida Propeller; 98–3
Fedele; 98–6 Continental Airlines; 98–11 TWA.

Presumption that message on ATC tape is received as trans-
mittted. ................................................................. 91–12 Terry & Menne; 92–49 Richardson & Shimp.

Presumption that a gun is deadly or dangerous .................. 90–26 Waddell; 92–30 Trujillo.

Presumption that owner gave pilot permission ................... 96–17 Fenner.

Prima facie case ............................................................. 95–26 Hereth, 96–3 America West; 98–6 Continental Airlines.

Settlement offer ............................................................. 95–16 Mulhall; 96–25 USAir; 99–5 Africa Air.

Admission as part of settlement offer excluded .................. 99–5 Africa Air; 99–14 Alika Aviation.

Subsequent remedial measures ......................................... 96–24 Horizon; 96–25 USAir.

Substantial evidence ...................................................... 92–72 Giuffrida Pro Se Parties.

Special Considerations .................................................... 90–11 Thunderbird Accessories; 90–3 Metz; 95–25 conquest.

Prosecutorial discretion .................................................... 89–6 American Airlines; 90–23 Bryoles; 90–38 Continental Airlines;
91–41 [Airport Operator]; 92–46 Sutton-Sautter; 92–73 Wyatt; 95–
17 Larry’s Flying Service.

Administrator does not review Complainant’s decision not to
bring action against anyone but respondent.
Reconsideration:

Denied by ALJ .............................................................. 98–2 Carr.

Denied by Administrator .................................................. 89–4 90–3 Metz.

Phillips Building Supply.

Late request for ............................................................. 92–32 Barnhill.

Petition based on new material ........................................... 97–14 Pacific Aviation; 98–14 Larry’s Flying Service; 2000–5 Blue
Ridge.

Repetitious petitions ........................................................ 96–23 Kilrain; 2000–14 Warbelow’s.

Stay of order pending ........................................................ 96–9 [Airport Operator]; 2000–5 Blue Ridge; 2000–14 Warbelow’s;
2000–16 Warbelow’s.


97–11 Hampton.


Request for Hearing ................................................................. 94–7 Houston; 95–19 Rayner.

Constructive withdrawal of ................................................................. 97–7 Stalling; 98–23 Instead Balloon Services.


Rules of Practice (14 CFR Part 13, Subpart G):

Runway incursions ................................................................. 90–12, 90–18 & 90–19 Continental Airlines; 91–17 KDS Aviation.

Untimely request for hearing will be excused for good cause .... 94–27 Larsen; 93–12 Langton; 2000–2 Ryan International.

Applicability of ................................................................. 90–12, 90–18 and 90–19 Continental Airlines; 90–21 Carroll; 90–37 Northwest Airlines.

Initiation of Action ................................................................. 90–21 Carroll; 90–22 USAir; 90–38 Continental Airlines.

Effect of Changes in ................................................................. 91–9 Continental Airlines.

Agency policy:

Ability to Pay ................................................................. 92–40 Wendt; 93–18 Westair Commuter Sanction.

Discovery (See Discovery).

But when precedent is based on superceded sanction policy


Changes after complaint ................................................................. 97–7 & 97–17 Stallings.

Consistency with Precedent ................................................................. 90–19 Continental Airlines; 90–23 Broyles; 90–33 Cato; 90–37 Northwest Airlines; 92–46 Sutton-Sautter; 96–4 South Aero; 96–19 [Air Carrier]; 96–25 USAir.

Community Service ................................................................. 2000–21 Martinez.

Compliance Disposition ................................................................. 97–23 Detroit Metropolitan.


Disability (See Discovery).

First-Time Offenders ................................................................. 96–19 [Air Carrier].

HazMat (See Hazardous Materials).


Maintenance ................................................................. 96–16 Mulhall; 95–17 Larry's Flying Service.


Minimum (HazMat) ................................................................. 90–10 Webb; 91–53 Koller; 96–19 [Air Carrier].

Modified ................................................................. 95–16 Mulhall; 96–26 Midtown; 98–2 Carr.

Partial Dismissal of Complaint/Full Sanction (See also Claim).

Failed to comply with Security Directives ................................................................. 89–5 Schultz; 92–5 Delta Air Lines; 92–51 Koblick.

Passenger/bag match ................................................................. 92–10 Flight Unlimited.

Passenger misconduct ................................................................. 95–16 Mulhall; 95–17 Larry's Flying Service.

Person evading screening (See also Screening) ................................................................. 95–11 Horizon; 96–3 America West Airlines; 97–8 Pacific Av. d/b/a Inter-Island Helicopters; 97–9 Alphin; 97–11 Hampton; 97–30 Emery Worldwide Airlines; 99–14 Alika Aviation; 2000–3 Warbelow's.

Pilot Deviation ................................................................. 90–10 Webb; 91–53 Koller; 96–19 [Air Carrier].

Test object detection ................................................................. 90–18 & 90–19 Continental Airlines; 96–19 [Air Carrier].


Unauthorized access ................................................................. 90–19 Continental Airlines; 90–37 Northwest Airlines; 94–1 Delta Air Lines; 98–7 LAX.

Sanctions in specific cases:

98–6 Continental Airlines; 99–12 TWA.

98–6 Continental Airlines; 99–12 TWA.


92–8 Watkins.

90–18 & 90–19 Continental Airlines; 96–19 [Air Carrier].


90–19 Continental Airlines; 90–37 Northwest Airlines; 94–1 Delta Air Lines; 98–7 LAX.
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surrender of certificate (See also Certificates and Authorizations)</td>
<td>2000–28 Lifelite.</td>
</tr>
<tr>
<td>Screening of Persons and Carry-on Items (See also Test Object Detection)</td>
<td>94–44 American Airlines.</td>
</tr>
<tr>
<td>Air carrier failure to detect weapon Sanction</td>
<td>98–6 Continental Airlines; 99–12 TWA.</td>
</tr>
<tr>
<td>Air carrier failure to match bag with passenger</td>
<td>2000–6 Atlantic Coast Aviation.</td>
</tr>
<tr>
<td>Sanction for evading screening (See also Sanction)</td>
<td>90–12 TWA.</td>
</tr>
<tr>
<td>Security (See also Screening of Persons and Carry-on Items; Standard Security Program; Test Object Detection; Unauthorized Access; Weapons Violations)</td>
<td>98–24 Stevens.</td>
</tr>
<tr>
<td>False information about carrying weapon or explosive</td>
<td>90–12 Continental Airlines; 90–18 Continental Airlines; 90–19 Continental Airlines; 90–21 Carroll; 90–38 Continental Airlines; 93–13 Medel.</td>
</tr>
<tr>
<td>Sealing of Record</td>
<td>97–3 Fedele.</td>
</tr>
<tr>
<td>Service (See also Mailing Rule; Receipt)</td>
<td>2000–18 California Helitech.</td>
</tr>
<tr>
<td>Of NPCP</td>
<td>97–20 Werle.</td>
</tr>
<tr>
<td>Of FNPCP</td>
<td>90–22 USAir; 97–20 Werle.</td>
</tr>
<tr>
<td>Of FNPCP</td>
<td>93–13 Medel.</td>
</tr>
<tr>
<td>Of request for hearing not withdrawn</td>
<td>92–31 Eddy; 2000–5 Blue Ridge.</td>
</tr>
<tr>
<td>Of return of certified mail</td>
<td>97–7 &amp; 97–17 Stallings; 2000–5 Blue Ridge.</td>
</tr>
<tr>
<td>Of valid service</td>
<td>92–18 Bargen; 98–19 Martin &amp; Jaworski.</td>
</tr>
<tr>
<td>Of when no certificate of service</td>
<td>2000–2 Ryan International.</td>
</tr>
<tr>
<td>Of airport</td>
<td>91–50 &amp; 92–1 Costello; 95–16 Mulhall; 99–10 Azteca; 2000–24 SONICO.</td>
</tr>
<tr>
<td>Request for hearing not withdrawn</td>
<td>99–10 Azteca.</td>
</tr>
<tr>
<td>Of NRPCP</td>
<td>98–3 Fedele.</td>
</tr>
<tr>
<td>Of “Squawk sheets”</td>
<td>2000–18 California Helitech.</td>
</tr>
<tr>
<td>State Complaint Rule</td>
<td>97–20 Werle.</td>
</tr>
<tr>
<td>Compliance with</td>
<td>96–16 Westair Commuter.</td>
</tr>
<tr>
<td>Checkpoint Security Coordinator</td>
<td>2000–6 Atlantic Coast Aviation.</td>
</tr>
<tr>
<td>Ground Security Coordinator</td>
<td>97–20 Werle.</td>
</tr>
<tr>
<td>When airline required to have security program</td>
<td>90–31 Carroll; 90–32 Continental Airlines.</td>
</tr>
<tr>
<td>Statute of Limitations</td>
<td>95–14 Charter Airlines.</td>
</tr>
<tr>
<td>Of proof of violation</td>
<td>90–18 &amp; 90–19 Continental Airlines; 96–19 [Air Carrier].</td>
</tr>
<tr>
<td>Sanction</td>
<td>97–11 Hampton Air; 98–1 V. Taylor.</td>
</tr>
<tr>
<td>Timeliness (See also Complaint; Filing; Mailing Rule; and Appeals)</td>
<td>90–22 USAir.</td>
</tr>
<tr>
<td>Burden to prove date of filing</td>
<td>90–12 &amp; 90–19 Continental Airlines; 94–1 Delta Air Lines.</td>
</tr>
<tr>
<td>Of response to NPCP</td>
<td>90–37 Northwest Airlines; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–58 [Airport Operator]; 94–1 Delta Air Lines.</td>
</tr>
<tr>
<td>Of complaint</td>
<td>2000–24 SONICO.</td>
</tr>
<tr>
<td>Of initial decision</td>
<td>93–12 Langton; 95–19 Rayner; 2000–2 Ryan International.</td>
</tr>
<tr>
<td>Of additional brief</td>
<td>93–19 Pacific Sky Supply.</td>
</tr>
<tr>
<td>Of reply brief</td>
<td>90–12 &amp; 90–19 Continental Airlines; 94–1 Delta Air Lines.</td>
</tr>
<tr>
<td>Of request for hearing</td>
<td>90–37 Northwest Airlines; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–58 [Airport Operator]; 94–1 Delta Air Lines.</td>
</tr>
<tr>
<td>Of EAJA application (See EAJA-Final disposition, EAJA-Jurisdiction)</td>
<td>2000–24 SONICO.</td>
</tr>
<tr>
<td>To aircraft</td>
<td>90–22 USAir.</td>
</tr>
<tr>
<td>To Air Operations Area (AOA)</td>
<td>90–37 Northwest Airlines; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–58 [Airport Operator]; 94–1 Delta Air Lines.</td>
</tr>
<tr>
<td>Vacating Initial Decision</td>
<td>93–19 Pacific Sky Supply.</td>
</tr>
</tbody>
</table>
Weapons Violations, generally .............................................................. 90
Concealed weapon ........................................................................ 90
‘‘Deadly or Dangerous’’ ................................................................. 90
First-time Offenders ................................................................... 90
Intent to commit violation ........................................................... 90
Knowledge Of Weapon Concealment (See also Knowlede) ........ 90
Sanction (See Sanction) ................................................................. 90
Weight and Balance ..................................................................... 90
Passenger list .............................................................................. 90
Witnesses (See also Credibility): ................................................ 90
Absence of, Failure to subpoena .................................................. 90
Expert testimony Evaluation of ................................................... 90
Expert witness fees (See EA) ....................................................... 90
Sequester order ......................................................................... 90

Regulations (Title 14 CFR, unless otherwise noted)

1.1(maintenance) ........................................................................ 90
1.1(major alteration) ................................................................. 90
1.1(major repair) ......................................................................... 90
1.1(minor repair) ........................................................................ 90
1.1(person) .................................................................................. 90
1.1(propeller) ............................................................................ 90
3.16 .............................................................................................. 90
3.201 ............................................................................................ 90
3.202 ............................................................................................ 90
3.203 ............................................................................................ 90
3.204 ............................................................................................ 90
3.205 ............................................................................................ 90
3.206 ............................................................................................ 90
3.207 ............................................................................................ 90
3.209 ............................................................................................ 90
3.209 ............................................................................................ 90
3.210 ............................................................................................ 90
3.211 ............................................................................................ 90
3.212 ............................................................................................ 90
3.213 ............................................................................................ 90
3.214 ............................................................................................ 90
3.215 ............................................................................................ 90
3.216 ............................................................................................ 90
91–17 KDS Aviation.
92–72 Giuffrida; 96–15 Valley Air.
97–32 Florida Propeller.
90–21 Carroll; 95–26 Hereth.
92–3 Park.
92–19 Cornwall; 95–26 Hereth; 96–24 Horizon.
92–3 Park.

90–11 Thunderbird Accessories; 90–12 Continental Airlines; 90–15 Playter; 90–17 Wilson; 92–7 West.
92–74 & 93–2 Waddell; 95–18 Pacific Sky Supply.
91–17 & 92–71 KDS Aviation.
91–17, 91–52 & 92–71 KDS Aviation; 93–10 Costello; 95–27 Valley Air.
90–17 Wilson.
95–27 Valley Air
91–52 KDS Aviation; 96–22 Woodhouse.
93–29 Sweeney.
98–19 Martin & Jaworski.
| 14.26 | 91–52 KDS Aviation; 95–27 Valley Air. |
| 14.28 | 95–9 Woodhouse. |
| 21.18 | 96–25 USAir. |
| 39.3 | 92–10 Flight Unlimited; 94–4 Northwest Aircraft Rental. |
| 43.3 | 92–73 Wyatt; 97–31 Sanford Air; 98–18 General Aviation; 2000–1 Gateway. |
| 43.5 | 96–18 Kilrain; 97–31 Sanford Air. |
| 43.9 | 91–8 Watts Agricultural Aviation; 97–31 Sanford Air; 98–4 Larry’s Flying Service. |
| 43.15 | 90–25 & 90–27 Gabbert; 91–8 Watts Agricultural Aviation; 94–2 Woodhouse; 96–18 Kilrain. |
| 65.15 | 92–73 Wyatt. |
| 65.81 | 2000–1 Gateway. |
| 65.92 | 92–73 Wyatt. |
| 91.8 (91.11 as of 8/18/90) | 92–3 Park. |
| 91.9 (91.13 as of 8/18/90) | 90–15 Player; 91–12 & 91–31 Terry & Menne; 92–8 Watkins; 92–40 Wendt; 92–48 USAir; 92–49 Richardson & Shimp; 92–47 Cornwall; 92–70 USAir; 93–9 Wendt; 93–17 Metcalf; 93–18 Westair Commuter; 93–29 Sweeney; 94–29 Sutton; 95–26 Hereth; 96–17 Fenner. |
| 91.29 (91.7 as of 8/18/90) | 91–8 Watts Agricultural Aviation; 92–10 Flight Unlimited; 94–4 Northwest Aircraft Rental. |
| 91.65 (91.111 as of 8/18/90) | 91–29 Sweeney; 94–21 Sweeney. |
| 91.67 (91.113 as of 8/18/90) | 91–29 Sweeney. |
| 91.151 | 97–11 Hampton. |
| 91.75 (91.123 as of 8/18/90) | 91–12 & 91–31 Terry & Menne; 92–8 Watkins; 92–40 Wendt; 92–49 Richardson & Shimp; 93–9 Wendt. |
| 91.79 (91.119 as of 8/18/90) | 90–15 Player; 92–47 Cornwall; 93–17 Metcalf. |
| 91.87 (91.129 as of 8/18/90) | 91–12 & 91–31 Terry & Menne; 92–8 Watkins. |
| 91.103 | 95–26 Hereth. |
| 91.111 | 96–17 Fenner. |
| 91.113 | 96–17 Fenner. |
| 91.156 | 95–26 Hereth. |
| 91.173 (91.417 as of 8/18/90) | 91–8 Watts Agricultural Aviation. |
| 91.203 | 99–5 Africa Air. |
| 91.205 | 98–18 General Aviation. |
| 91.213 | 97–11 Hampton. |
| 91.403 | 97–8 Pacific Av. d/b/a Inter-Island Helicopters; 98–31 Sanford Air. |
| 91.407 | 98–4 Larry’s Flying Service; 99–5 Africa Air; 2000–1 Gateway. |
| 91.417 | 98–18 General Aviation. |
| 91.517 | 98–12 Stout. |
| 91.703 | 94–29 Sutton. |
| 105.29 | 98–3 Fedele; 98–19 Martin & Jaworski. |
| 107.9 | 98–7 LAX. |
| 107.13 | 90–12 & 90–19 Continental Airlines; 91–4 [Airport Operator]; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–41 [Airport Operator]; 91–58 [Airport Operator]; 96–1 [Airport Operator]; 97–23 Detroit Metropolitan; 96–7 LAX. |
| 107.25 | 94–30 Columna. |
108.1 90-12, 90-13 & 90-14 Delta Air Lines; 91-2 & 91-9 Continental Airlines; 91-33 Delta Air Lines; 91-54 Alaska Airlines; 91-55 Continental Airlines; 92-13 & 94-1 Delta Air Lines; 94-44 American Airlines; 96-16 WestAir; 96-19 [Air Carrier]; 98-22 Northwest Airlines; 99-1 American; 99-12 TWA; 2000-6 Atlantic Coast Aviation.

108.3 90-18 & 90-19 Continental Airlines; 99-1 American.

108.9 98-22 Northwest Airlines; 2000-19 Hornet.

108.11 90-23 Broyles; 90-26 Waddell; 91-3 Lewis; 92-46 Sutton-Sautter; 94-44 American Airlines.

108.13 90-12 & 90-19 Continental Airlines; 90-37 Northwest Airlines.

108.18 98-6 Continental Airlines; 99-12 TWA; 2000-6 Atlantic Coast Aviation.

121.133 90-18 Continental Airlines.

121.153 92-48 & 92-70 USAir; 95-11 Horizon; 96-3 America West Airlines; 96-24 Horizon; 96-25 USAir; 97-21 Delta; 97-30 Emery Worldwide Airlines.

121.221 97-30 Emery Worldwide Airlines.

121.317 92-37 Guiffrda; 94-18 Luxembourg; 99-6 Squire; 99-16 Dorfman.

121.363 2000-13 Empire Airlines.

121.367 90-12 Continental Airlines; 96-25 USAir.

121.379 2000-13 Empire Airlines.

121.571 92-37 Guiffrda.

121.575 98-11 TWA.

121.577 98-11 TWA.

121.589 97-12 Mayer.

121.628 95-11 Horizon; 97-21 Delta; 97-30 Emery Worldwide Airlines.

121.693 99-12 Falcon Air Express.

121.697 99-13 Falcon Air Express.

135.1 95-8 Charter Airlines; 95-25 Conquest.

135.3 99-15 Blue Ridge; 2000-5 Blue Ridge.

135.5 94-3 Valley Air; 94-20 Conquest Helicopters; 95-25 Conquest; 95-27 Valley Air; 96-15 Valley Air.

135.25 92-10 Flight Unlimited; 94-3 Valley Air; 95-27 Valley Air; 96-15 Valley Air; 2000-3 Warbelow’s; 2000-14 Warbelow’s.

135.63 94-40 Polynesian Airways; 95-17 Larry’s Flying Service; 95-28 Atlantic; 96-4 South Aero; 99-7 Premier Jets.

135.87 90-21 Carroll.

135.95 95-17 Larry’s Flying Service; 99-15 Blue Ridge; 2000-5 Blue Ridge.

135.179 97-11 Hampton; 2000-3 Warbelow’s; 2000-14 Warbelow’s.

135.185 94-40 Polynesian Airways.


135.263 95-9 Charter Airlines; 96-4 South Aero.

135.267 95-8 Charter Airlines; 95-17 Larry’s Flying Service; 96-4 South Aero.

135.293 95-17 Larry’s Flying Service; 96-4 South Aero; 99-15 Blue Ridge; 2000-5 Blue Ridge.


135.343 95-17 Larry’s Flying Service; 99-15 Blue Ridge; 2000-5 Blue Ridge.

135.411 97-11 Hampton.

135.413 94-3 Valley Air; 96-15 Valley Air; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-16 Mauna Kea; 99-14 Alikas Aviation.

135.421 93-36 Valley Air; 94-3 Valley Air; 96-15 Valley Air; 99-14 Alikas Aviation.

135.437 94-3 Valley Air; 96-15 Valley Air.

137.19 2000-12 Evergreen.

141.101 98-18 General Aviation.

145.1 97-10 Alphin.

145.3 97-10 Alphin.

145.20 97-10 Alphin.

145.45 97-10 Alphin.

145.47 97-10 Alphin.

145.49 97-10 Alphin.

145.51 2000-1 Gatewood.

145.53 90-11 Thunderbird Accessories.

145.57 94-2 Woodhouse; 97-9 Alphin; 97-32 Florida Propeller.

145.61 90-11 Thunderbird Accessories.

191 90-12 & 90-19 Continental Airlines; 90-37 Northwest Airlines; 98-6 Continental Airlines; 99-12 TWA.

298.1 92-10 Flight Unlimited.

302.8 90-22 USAir.
### 49 CFR

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>147</td>
<td>92–76 Safety Equipment.</td>
</tr>
<tr>
<td>171.8 ...</td>
<td>92–77 TCI.</td>
</tr>
<tr>
<td>172.203</td>
<td>94–28 Toyota.</td>
</tr>
<tr>
<td>172.301</td>
<td>94–31 Smalling; 95–16 Mulhall; 98–2 Carr.</td>
</tr>
<tr>
<td>172.402</td>
<td>94–28 Toyota.</td>
</tr>
<tr>
<td>172.406</td>
<td>92–77 TCI.</td>
</tr>
<tr>
<td>173.3</td>
<td>94–28 Toyota; 94–31 Smalling; 98–2 Carr.</td>
</tr>
<tr>
<td>173.6</td>
<td>94–28 Toyota.</td>
</tr>
<tr>
<td>173.22(a)</td>
<td>94–28 Toyota; 94–31 Smalling; 98–2 Carr.</td>
</tr>
<tr>
<td>173.24</td>
<td>94–28 Toyota; 95–16 Mulhall.</td>
</tr>
<tr>
<td>173.25</td>
<td>94–28 Toyota.</td>
</tr>
<tr>
<td>173.27</td>
<td>92–77 TCI.</td>
</tr>
<tr>
<td>173.62</td>
<td>98–2 Carr.</td>
</tr>
<tr>
<td>173.115</td>
<td>92–77 TCI.</td>
</tr>
<tr>
<td>173.240 ...</td>
<td>92–77 TCI.</td>
</tr>
<tr>
<td>173.243</td>
<td>94–28 Toyota.</td>
</tr>
<tr>
<td>173.260</td>
<td>94–28 Toyota.</td>
</tr>
<tr>
<td>173.266</td>
<td>94–28 Toyota; 94–31 Smalling.</td>
</tr>
<tr>
<td>175.25</td>
<td>94–31 Smalling.</td>
</tr>
<tr>
<td>191.5</td>
<td>97–13 Westair Commuter.</td>
</tr>
<tr>
<td>191.7</td>
<td>97–13 Westair Commuter.</td>
</tr>
<tr>
<td>821.30</td>
<td>92–73 Wyatt.</td>
</tr>
<tr>
<td>821.33</td>
<td>90–21 Carroll.</td>
</tr>
</tbody>
</table>

### STATUTES

<table>
<thead>
<tr>
<th>Statute</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>552</td>
<td>90–12, 90–18 &amp; 90–19 Continental Airlines; 93–10 Costello.</td>
</tr>
<tr>
<td>554</td>
<td>90–18 Continental Airlines; 90–21 Carroll; 95–12 Toyota.</td>
</tr>
<tr>
<td>556</td>
<td>90–21 Carroll; 91–54 Alaska Airlines.</td>
</tr>
<tr>
<td>557</td>
<td>90–20 Degenhardt; 90–21 Carroll; 90–37 Northwest Airlines; 94–28 Toyota.</td>
</tr>
<tr>
<td>705</td>
<td>95–14 Charter Airlines.</td>
</tr>
<tr>
<td>5332</td>
<td>95–27 Valley Air.</td>
</tr>
<tr>
<td>2462</td>
<td>90–21 Carroll.</td>
</tr>
<tr>
<td>40102</td>
<td>96–17 Fenner.</td>
</tr>
<tr>
<td>41706</td>
<td>99–6 Squire.</td>
</tr>
<tr>
<td>44704</td>
<td>96–3 America West Airlines; 96–15 Valley Air.</td>
</tr>
<tr>
<td>46110</td>
<td>96–22 Woodhouse; 97–1 Midtown Neon Sign.</td>
</tr>
<tr>
<td>46302</td>
<td>98–24 Stevens.</td>
</tr>
<tr>
<td>46303</td>
<td>97–7 Stalling.</td>
</tr>
<tr>
<td>1356</td>
<td>93–18 Westair Commuter.</td>
</tr>
</tbody>
</table>
Civil Penalty Actions—Orders Issued by the Administrator

Digests

(Current as of December 31, 2000)

The digests of the Administrator’s final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from July 1, 2000, to September 30, 2000. The FAA will publish non-cumulative supplements to this compilation on a quarterly basis (e.g., April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator’s decisions before citing them in any context.

In the Matter of John Nelson Meyer
Order No. 2000–22 (12/13/00)

Appeal dismissed. Complainant’s appeal was dismissed as a result of its withdrawal of its notice of appeal.

In the Matter of Federal Express Corporation
Order No. 2000–23 (12/13/00)

Leave to file an additional brief granted. Federal Express demonstrated good cause to file an additional brief addressing the issue of whether the shipment involved in this case constituted an interline shipment, and as a result, whether Federal Express should be held to the higher standard of care to which air carriers are held. This is a new issue, raised for the first time in Complainant’s reply brief. Federal Express was granted 30 days from the date of service of this order in which to file its additional brief, and Complainant was granted 30 days from the date of service of the additional brief to file a reply.

In the Matter of SONICO, Inc.
Order No. 2000–24 (12/21/00)

Cross-appeals dismissed. As a result of a settlement agreement, the parties withdrew their cross-appeals before filing their reply briefs. The parties’ notices of appeal were dismissed.

Motion to vacate the law judge’s decision denied. Complainant withdrew the complaint, and SONICO withdrew the answer. The parties requested by motion that the Administrator vacate the law judge’s initial decision.

Once the complaint is withdrawn, there is no jurisdictional basis for the law judge’s decision. The initial decision, then, has no force and effect, and Complainant cannot collect any civil penalty assessed by the law judge.

The parties’ request that the Administrator vacate the law judge’s initial decision was denied because it was unclear whether the Administrator has the authority to vacate an initial decision, because to do so would be inconsistent with Federal precedent. See U.S. Bancorp. Mortgage Co. v. Bonner Mall Partnership, 513 U.S. 18, 25 (1994), holding that “[w]here mootness results from settlement, * * * the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim to the equitable remedy of vacatur.”

In the Matter of Riverdale Mills
Order No. 2000–25 (12/21/00)

Order dismissing the case reversed. At the beginning of the hearing, the agency attorney moved to amend the complaint. The agency attorney explained that Complainant had just learned that the correct proper shipping name and number for the substance that was shipped were Adhesives, UN 1133, not Methyl Ethyl Ketone, UN 1193, as alleged in the complaint. The law judge denied the motion to amend the complaint, and subsequently granted Riverdales’ motion to dismiss.

The law judge failed to accept as true all the material allegations of the complaint when ruling on the motion to dismiss. Regardless of the proper shipping name, the complaint alleged that the substance in the cans was a hazardous material and that Riverdale violated the Hazardous Materials Regulations by failing to package, mark, and label the boxes properly, and to provide shipping papers and emergency response information. If the law judge had accepted these allegations as true, the only logical conclusion would have been that the complaint stated a valid cause of action.

Even if the wrong shipping name was alleged in the complaint, Riverdale had adequate notice of the charges against it. The allegation that Riverdale improperly shipping a flammable hazardous material still applies, as do all the same regulations allegedly violated. The issue is not whether Riverdale shipped Methyl Ethyl Ketone or Adhesives, but whether the substance it shipped was a hazardous material, and whether Riverdale complied with the regulations pertaining to packaging, marking, labeling, shipping papers, and emergency response information.
Further, no prejudice to Riverdale was shown. The Administrator reversed the order of dismissal, and remanded the case to the law judge for a hearing.

In the Matter of Aero National, Inc.
Order No. 2000–26 (12/21/00)

Competency and proficiency checks. Aero National used a check airman to administer an instrument proficiency test to another pilot when the check airman was not current on his own instrument proficiency tests. The law judge held that this was a violation of 14 CFR 135.337(b).

A competency test is a demonstration by an airman that he is able to fly a specific make and model of aircraft. A proficiency check is a test of a pilot’s capability to fly on instruments and is not aircraft-specific.

On appeal, Aero National argued that 14 CFR 135.337(b) required only that the check airman be current on either his competency or proficiency test, and that the check airman, in this instance, was current on his competency test (although not on his instrument proficiency test). The Administrator rejected this argument.

The Administrator held that Aero National’s interpretation of 14 CFR 135.337(b) was flawed because it focused on the word “or,” ignoring the language “that are required to serve as a pilot in command in operations under this part” that modifies proficiency or competency checks. The use of the disjunctive “or” is appropriate because it indicates that there are times when the check airman must have satisfactorily passed in a timely fashion either only the appropriate competency check (to fly VFR-only flights), or both the competency and instrument proficiency checks (to fly IFR and VFR flights). Under this regulation, the Part 135 operator may not use a check airman to perform flight checks for operations in which the check airman himself would not qualify to serve as pilot in command.

Civil Penalty. The $3,300 civil penalty is appropriate in light of the potential hazards that could result when a check airman performs checks that he is not qualified to perform.

In the Matter of Phillips Buildings Supply
Order No. 2000–27 (12/21/00)

Reconsideration denied. Phillips’ argument that the Administrator in FAA Order No. 2000–20 (August 11, 2000) used a mathematical formula in determining to assess a $14,000 civil penalty. The law judge considered the factors that are required to be considered by 49 U.S.C. § 5123(c). The Administrator did not intend to criticize Phillips for training its employees after the incident concerning the transportation of hazardous materials. However, the training was not intensive or timely enough to constitute a significant mitigating factor. By informing the UPS driver that the shipment contained Formica glue, Phillips’ clerk did not shift responsibility for the violation to UPS. The clerk did not contact the UPS employees who had expertise in hazardous materials and ask for advice regarding how to package and ship the Formica glue properly. It was reasonable for the Administrator to assume that Phillips regularly handles hazardous materials in light of the fact that hardware stores commonly stock many items that are regulated under the Hazardous Materials Regulations, such as paint, turpentine, and paint thinner.

In the Matter of Lifeflite Medical Air Transport
Order No. 2000–28 (12/21/00)

Lifeflite filed a motion, requesting that the law judge dismiss the case because Lifeflite had surrendered its operating certificate, closed its business, and had no staff, money or assets. The law judge canceled the hearing and dismissed the complaint with prejudice, finding that “further proceedings, even if successful, would amount to * * * beating * * * a dead horse.”

Reversed and remanded. The Administrator granted Complainant’s appeal, finding that Lifeflite had failed to sustain its burden to prove that it had no assets. The Administrator held that Lifeflite’s surrender of its certificate did not obviate the need for a punitive sanction. A civil penalty would deter others similarly situated, and itself, if recertificated. The law judge’s decision was reversed, and the case remanded to the Office of Hearings.

In the Matter of William Stevenson
Order No. 2000–29 (12/21/00)

The law judge construed Stevenson’s failure to file an answer and to respond to an order to show cause as both a constructive withdrawal of his request for a hearing, and as an admission of the complaint’s allegations.

Good cause not shown for failure to file an answer and response to order to show cause. Stevenson’s argument on appeal that these failures were attributable to the use of the agency attorney and the law judge of the wrong address is rejected. Stevenson had actual notice of the requirement to file an answer because he did receive the complaint, which included information about that requirement. Also, Stevenson never supplied his new address to the agency attorney or to the law judge.

Penalty. The law judge’s assessment of a $3,300 civil penalty is warranted in light of Stevenson’s (1) drinking an alcoholic beverage not served to him by a flight crewmember; (2) threatening and intimidating a flight attendant, and (3) interfering with the duties of the pilot. The law judge’s order was affirmed.

Commercial Reporting Services of the Administrator’s Civil Penalty Decisions and Orders

1. Commercial Publications: The Administrator’s decisions and orders in civil penalty cases are available in the following commercial publications:

   Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;


2. On-Line Services. The Administrator’s decisions and orders in civil penalty cases are available through the following on-line services:

   • Westlaw (the Database ID is FTRAN–FAA)
   • LEXIS [Transportation (TRANS) Library, FAA file.]
   • Compuserve

Docket

The FAA Hearing Docket is located at FAA Headquarters, 800 Independence Avenue, SW, Room 926A, Washington, DC, 20591 (tel. no. 202–267–3641). The clerk of the FAA Hearing Docket is Ms. Stephanie McClain. All documents that are required to be filed in civil penalty proceedings must be filed with the FAA Hearing Docket Clerk at the FAA Hearing Docket. (See 14 CFR 13.210.) Materials contained in the docket of any case not containing sensitive security information (protected by 14 CFR Part 191) may be viewed at the FAA Hearing Docket.

In addition, materials filed in the FAA Hearing Docket in non-security cases in which the complaints were filed on or after December 1, 1997, are available for inspection at the Department of Transportation Docket, located at 400 7th Street, SW, Suite PL–40, Washington, DC, 20590, (tel. no. 202–366–9329). While the originals are retained in the FAA Hearing Docket, the DOT Docket scans copies of documents in non-security cases in which the
complaint was filed after December 1, 1997, into their computer database. Individuals who have access to the Internet can view the materials in these dockets using the following Internet address: http://dms.dot.gov.

FAA Offices
The Administrator’s decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:
FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW, Room 926A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and central legal offices at the following locations:
Office of the Regional Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; (405) 954–3260.
Office of the Regional Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AK 99513; (907) 271–5269.
Office of the Regional Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.
Office of the Regional Counsel for the Great Lakes Region (AGL–7), Great Lakes Region Headquarters, O’Hare Lake Office Center, 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (847) 294–7085.
Office of the Regional Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200.
Office of the Regional Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137; (817) 222–3064.
Office of the Regional Counsel for the Technical Center (ACT–7), William J. Hughes Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7088.
Office of the Regional Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Hawthorne, CA 90261; (301) 725–7100.
  James S. Dillman, Assistant Chief Counsel for Litigation.
  [FR Doc. 01–1675 Filed 1–22–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Ford Airport, Iron Mountain, Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.


On December 28, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by Dickinson County was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 4, 2001.

The following is a brief overview of the application.

PFC Application No.: 01–04–C–00–IMT.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 2001.

Proposed charge expiration date: December 1, 2003.

Total estimated PFC revenue: $73,815.00.

Brief description of proposed projects: Impose and Use: Rehabilitate Runway 01/19 and Runway 31.

Impose Only: Rehabilitate Runway 13.

Class of or class of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under FOR FURTHER INFORMATION CONTACT.

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Dickinson County Airport.


Robert Benko,
Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–2042 Filed 1–22–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 01–04–C–00–ISP To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Long Island MacArthur Airport, Ronkonkoma, New York

AGENCY: Federal Aviation Administration (FAA), DOT.