

facilitate transactions in securities, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should

refer to File No. SR-PCX-98-33 and should be submitted by August 4, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-18639 Filed 7-13-98; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. *This publication represents the quarter ending on June 30, 1998.* This publication ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC-400), Federal Aviation Administration, 400 7th Street, SW., Suite PL 200-A, Washington, DC 20590; telephone number: (202) 366-4118.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA 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 the indexes have appeared in the **Federal Register** as follows:

Dates of quarter	Federal Register publication
11/1/89-9/30/90	55 FR 45984; 10/31/90
10/1/90-12/31/90 ..	56 FR 44886; 2/6/91
1/1/91-3/31/91	56 FR 20250; 5/2/91
4/1/91-6/30/91	56 FR 31984; 7/12/91
7/1/91-9/30/91	56 FR 51735; 10/15/91
10/1/91-12/31/91 ..	57 FR 2299; 1/21/92
1/1/92-3/31/92	57 FR 12359; 4/9/92
4/1/92-6/30/92	57 FR 32825; 7/23/92
7/1/92-9/30/92	57 FR 48255; 10/22/92
10/1/92-12/31/92 ..	58 FR 5044; 1/19/93
1/1/93-3/31/93	58 FR 21199; 4/19/93
4/1/93-6/30/93	58 FR 42120; 8/6/93
7/1/93-9/30/93	58 FR 58218; 10/29/93
10/1/93-12/31/93 ..	59 FR 5466; 2/4/94
1/1/94-3/31/94	59 FR 22196; 4/29/94
4/1/94-6/30/94	59 FR 39618; 8/3/94
7/1/94-12/31/94	60 FR 4454; 1/23/95
1/1/95-3/31/95	60 FR 19318; 4/17/95
4/1/95-6/30/95	60 FR 36854; 7/18/95
7/1/95-9/30/95	60 FR 53228; 10/12/95
10/1/95-12/31/95 ..	61 FR 1972; 1/24/96
1/1/96-3/31/96	61 FR 16955; 4/18/96
4/1/96-6/30/96	61 FR 37526; 7/18/96
7/1/96-9/30/96	61 FR 54833; 10/22/96
10/1/96-12/31/96 ..	62 FR 2434; 1/16/97
1/1/97-3/31/97	62 FR 24533; 5/2/97
4/1/97-6/30/97	62 FR 38339; 7/17/97
7/1/97-9/30/97	62 FR 53856; 10/16/97
10/1/97-12/31/97 ..	63 FR 3373; 1/22/98
1/1/98-3/31/98	63 FR 19559; 4/20/98

The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. In addition, the Administrator's civil penalty decisions have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callahan) and are available on computer on-line services (Westlaw, LEXIS, Compuserve and FedWorld). 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 appear 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 is also set forth at the end of this notice.

Civil Penalty Actions—Orders Issued by the Administrator

Order Number Index

[This index includes all decisions and orders issued by the Administrator from April 1, 1998, to June 30, 1998.]

98-6 Continental Airlines
4/7/98 CP97NM0003
98-7 City of Los Angeles, Dep't of
Airports
4/7/98 CP96WP0046

98-8 Paul A. Carr
5/4/98 CP96NM0106
98-9 Continental Express
5/4/9 CP97EA0049
98-10 Daniel B. Rawlings
5/8/98 CP97WP0025
98-11 TWA
6/16/98 CP96NE0294
98-12 David G. Stout
6/16/98 CP96WP0304
98-13 Air St. Thomas
6/16/98 CP97SO0007

Civil Penalty Actions—Orders Issued by the Administrator

Subject Matter Index

(Current as of June 30, 1998)

Administrative Law Judges—Power and Authority:

Continuance of hearing	91-11 Continental Airlines; 92-29 Haggland.
Credibility findings	90-21 Carroll; 92-3 Park; 93-17 Metcalf; 94-3 Valley Air; 94-4 Northwest Aircraft Rental; 95-25 Conquest; 95-26 Hereth; 97-20 Werle; 97-30 Emery Worldwide Airlines; 97-32 Florida Propeller.
Default Judgment	91-11 Continental Airlines; 92-47 Cornwall; 94-8 Nunez; 94-22 Harkins; 94-28 Toyota; 95-10 Diamond; 97-28 Continental Airlines; 97-33 Rawlings; 98-13 Air St. Thomas.
Discovery	89-6 American Airlines; 91-17 KDS Aviation; 91-54 Alaska Airlines; 92-46 Sutton-Sautter; 93-10 Costello.
Expert Testimony	94-21 Sweeney.
Granting extensions of time	90-27 Gabbert.
Hearing location	92-50 Cullop.
Hearing request	93-12 Langton; 94-6 Strohl; 94-27 Larsen; 94-37 Houston; 95-19 Rayner.
Initial Decision	92-1 Costello; 92-32 Barnhill.
Lateness of	97-31 Sanford Air.
Should include requirement to file appeal brief	98-5 Squire.
Jurisdiction:	
Generally	90-20 Degenhardt; 90-33 Cato; 92-1 Costello; 92-32 Barnhill.
After issuance of order assessing civil penalty	94-37 Houston; 95-19 Rayner; 97-33 Rawlings.
When complaint is withdrawn	94-39 Kirola.
Motion for Decision	92-73 Wyatt; 92-75 Beck; 92-76 Safety Equipment; 93-11 Merkley; 96-24 Horizon.
No authority to extend due date for late Answer without showing of good cause. (See also Answer)	95-28 Atlantic World Airways; 97-18 Robinson; 98-4 Larry's Flying Service.
Notice of Hearing	92-31 Eaddy.
Regulate proceedings	97-20 Werle.
Sanction	90-37 Northwest Airlines; 91-54 Alaska Airlines; 94-22 Harkins; 94-28 Toyota.
Service of law judges by parties	97-18 Robinson.
Vacate initial decision	90-20 Degenhardt; 92-32 Barnhill; 95-6 Sutton.
Aerial Photography	95-25 Conquest Helicopters.
Agency Attorney	93-13 Medel.
Air Carrier:	
Agent/independent contractor of	92-70 US Air.
Careless or Reckless	92-48 & 92-70 US Air; 93-18 Westair Commuter.
Duty of care:	
Non-delegable	92-70 US Air; 96-16 Westair Commuter; 96-24 Horizon; 97-8 Pacific Av. d/b/a InterIsland Helicopters.
Employee	93-18 Westair Commuter; 97-8 Pacific Av. d/b/a Inter-Island helicopters.
Ground Security Coordinator, Failure to provide	96-16 WestAir Commuter.
Intoxicated Passenger:	
Allowing to board	98-11 TWA.
Serving alcohol to	98-11 TWA.
Liability for acts/omissions of employees in the scope of employment.	98-11 TWA.
Aircraft Maintenance (See also Airworthiness, Maintenance Manual):	
Generally	90-11 Thunderbird Accessories; 91-8 Watts Agricultural Aviation; 93-36 & 94-3 Valley Air; 94-38 Bohan; 95-11 Horizon; 96-3 America West Airlines; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-9 Alphin; 97-10 Alphin; 97-11 Hampton; 97-30 Emery Worldwide Airlines; 97-31 Sanford Air.

Acceptable methods, techniques, and practices	96-3 America West Airlines.
After certificate revocation	92-73 Wyatt.
Airworthiness Directive, compliance with	96-18 Kilrain; 97-9 Alphin.
Inspection	96-18 Kilrain; 97-10 Alphin.
Major/minor repairs	96-3 America West Airlines.
Minimum Equipment List (MEL)	94-38 Bohan; 95-11 Horizon; 97-11 Hampton; 97-21 Delta; 97-30 Emery Worldwide Airlines.
Aircraft Records:	
Aircraft Operation	91-8 Watts Agricultural Aviation.
Flight and Duty Time	96-4 South Aero.
Maintenance Records	91-8 Watts Agricultural Aviation; 94-2 Woodhouse; 97-30 Emery Worldwide Airlines; 97-31 Sanford Air.
"Yellow tags"	91-8 Watts Agricultural Aviation.
Aircraft-Weight and Balance (See Weight and Balance): Airmen	
Pilots	91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-49 Richardson & Shimp; 93-17 Metcalf.
Altitude deviation	92-49 Richardson & Shimp.
Careless or Reckless	91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-49 Richardson & Shimp; 92-47 Cornwall; 93-17 Metcalf; 93-29 Sweeney; 96-17 Fenner.
Flight time limitations	93-11 Merkley.
Follow ATC Instruction	91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-49 Richardson & Shimp.
Low Flight	92-47 Cornwall; 93-17 Metcalf.
Owner's responsibility	96-17 Fenner.
See and Avoid	93-29 Sweeney.
Air Operations Area (AOA):	
Air Carrier:	
Responsibilities	90-19 Continental Airlines; 91-33 Delta Air Lines; 94-1 Delta Air Lines.
Airport Operator:	
Responsibilities	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]; 98-7 LAX.
Badge Display	91-4 [Airport Operator]; 91-33 Delta Air Lines.
Definition of	90-19 Continental Airlines; 91-4 [Airport Operator]; 91-58 [Airport Operator].
Exclusive Areas	90-19 Continental Airlines; 91-4 [Airport Operator]; 91-58 [Airport Operator]; 98-7 LAX.
Airport Security Program (ASP):	
Compliance with	91-4 [Airport Operator]; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 91-58 [Airport Operator]; 94-1 Delta Air Lines; 96-1 [Airport Operator]; 97-23 Detroit Metropolitan; 98-7 LAX.
Airport Operator Responsibilities	90-12 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.
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	91-12 Terry & Menne; 92-49 Richardson & Shimp.
Airworthiness	91-8 Watts Agricultural Aviation; 92-10 Flight Unlimited; 92-48 & 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 Emery Worldwide Airlines; 97-32 Florida Propeller.
Amicus Curiae Briefs	90-25 Gabbert.
Answer:	
ALJ may not extend due date for late Answer unless good cause shown.	95-28 Atlantic World Airways; 97-18 Robinson; 97-33 Rawlings; 98-4 Larry's Flying Service.
Timeliness of answer	90-3 Metz; 90-15 Playter; 92-32 Barnhill; 92-47 Cornwall; 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; 98-4 Larry's Flying Service; 98-13 Air St. Thomas.
What constitutes	92-32 Barnhill; 92-75 Beck; 97-19 Missirlian.
Appeals (See also Filing; Timeliness; Mailing Rule):	
Briefs, Generally	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.

Additional Appeal Brief	92-3 Park; 93-5 Wendt; 93-6 Westair Commuter; 93-28 Strohl; 94-4 Northwest Aircraft; 94-18 Luxemburg; 94-29 Sutton; 97-22 Sanford Air; 97-34 Continental Airlines; 97-38 Air St. Thomas.
Appeal dismissed as premature	95-19 Rayner.
Appeal dismissed as moot after complaint withdrawn	92-9 Griffin.
Appellate arguments	92-70 USAir.
Court of Appeals, appeal to (See Federal Courts) Good Cause for Late-Filed Brief or Notice of Appeal.	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; 92-39 Beck; 92-41 Moore & Sabre Associates; 92-52 Beck; 92-57 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 Stalling; 97-28 Continental; 97-38 Air St. Thomas; 98-1 V. Taylor; 98-13 Air St. Thomas.
Motion to Vacate Construed as a brief	91-11 Continental Airlines.
Perfecting an Appeal, generally	92-17 Giuffrida; 92-19 Cornwall; 92-39 Beck; 94-23 Perez; 95-13 Kilrain; 96-5 Alphin Aircraft.
Extension of Time for (good cause for)	89-8 Thunderbird Accessories; 91-26 Britt Airways; 91-32 Bargaen; 91-50 Costello; 93-2 & 93-3 Wendt; 93-24 Steel City Aviation; 93-32 Nunez; 98-5 Squire.
Failure to	89-1 Gressani; 89-7 Zenkner; 90-11 Thunderbird Accessories; 90-35 P. Adams; 90-39 Hart; 91-7 Pardue; 91-10 Graham; 91-20 Bargaen; 91-43, 91-44, 91-46, 91-47 Delta Air Lines; 92-11 Alilin; 92-15 Dillman; 92-18 Bargaen; 92-34 Carrell; 92-35 Bay Land Aviation; 92-36 Southwest Airlines; 92-45 O'Brien; 92-56 Montauk Caribbean Airways; 92-67 USAir; 92-68 Weintraub; 92-78 TWA; 93-7 Dunn; 93-8 Nunez; 93-20 Smith; 93-23 & 93-31 Allen; 93-34 Castle Aviation; 93-35 Steel City Aviation; 94-12 Bartusiak; 94-24 Page; 94-26 French Aircraft; 94-34 American International Airways; 94-35 American International Airways; 94-36 American International Airways; 95-4 Hanson; 95-22 & 96-5 Alphin Aircraft; 96-2 Skydiving Center; 96-13 Winslow; 97-3 [Airport Operator], 97-6 WRA, Inc.; 97-15 Houston & Johnson County; 97-35 Gordon Air Services; 97-36 Avcon; 97-37 Roush; 98-10 Rawlings.
Notice of appeal construed as appeal brief	92-39 Beck; 94-15 Columna; 95-9 Woodhouse; 95-23 Atlantic World Airways; 96-20 Missirlan; 97-2 Sanford Air; 98-5 Squire.
What Constitutes	90-4 Metz; 90-27 Gabbert; 91-45 Park; 92-7 West; 92-17 Giuffrida; 92-39 Beck; 93-7 Dunn; 94-15 Columna; 94-23 Perez; 94-30 Columna; 95-9 Woodhouse; 95-23 Atlantic World Airways; 96-20 Missirlan; 97-2 Sanford Air.
Service of brief:	
Failure to Serve Other party	92-17 Giuffrida; 92-19 Cornwall.
Timeliness of Notice of Appeal	90-3 Metz; 90-39 Hart; 91-50 Costello; 92-7 West; 92-69 McCabe; 93-27 Simmons; 95-2 Meronek; 95-9 Woodhouse; 95-15 Alphin Aviation; 96-14 Midtown Neon Sign Corp.; 97-7 & 97-17 Stallings; 97-28 Continental 97-38 Air St. Thomas; 98-1 V. Taylor; 98-13 Air St. Thomas.

Withdrawal of	89-2 Lincoln-Walker; 89-3 Sittko; 90-4 Nordrum; 90-5 Sussman; 90-6 Dabaghian; 90-7 Steele; 90-8 Jenkins; 90-9 Van Zandt; 90-13 O'Dell; 90-14 Miller; 90-28 Puleo; 90-29 Sealander; 90-30 Steidinger; 90-34 D. Adams; 90-40 & 90-41 Westair Commuter Airlines; 91-1 Nestor; 91-5 Jones; 91-6 Lowery; 91-13 Kreamer; 91-14 Swanton; 91-15 Knipe; 91-16 Lopez; 91-19 Bayer; 91-21 Britt Airways; 91-22 Omega Silicone Co.; 91-23 Continental Airlines; 91-25 Sanders; 91-27 Delta Air Lines; 91-28 Continental Airlines; 91-29 Smith; 91-34 GASPRO; 91-35 M. Graham; 91-36; Howard; 91-37 Vereen; 91-39 America West; 91-42 Pony Express; 91-49 Shields; 91-56 Mayhan; 91-57 Britt Airways; 91-59 Griffin; 91-60 Brinton; 92-2 Koller; 92-4 Delta Air Lines; 92-6 Rothgeb; 92-12 Bertetto 92-20 Delta Air Lines; 92-21 Cronberg; 92-22, 92-23, 92-24, 92-25, 92-26 & 92-28 Delta Air Lines; 92-33 Port Authority of NY & NJ; 92-42 Jayson; 92-43 Delta Air Lines; 92-44 Owens; 92-53 Humble 92-54 & 92-55 Northwest Airlines; 92-60 Costello; 92-61 Romerdahl; 92-62 USAir; 92-63 Schaefer; 92-64 & 92-65 Delta Air Lines; 92-66 Sabre Associates & Moore; 92-79 Delta Air Lines; 93-1 Powell & Co.; 93-4 Harrah; 93-14 Fenske; 93-15 Brown; 93-21 Delta Air Lines; 93-22 Yannotone; 93-26 Delta Air Lines; 93-33 HPH Aviation; 94-9 B & G Instruments; 94-10 Boyle; 94-11 Pan American Airways; 94-13 Boyle; 94-14 B & G Instruments; 94-16 Ford; 94-33 Trans World Airlines; 94-41 Dewey Towner; 94-42 Taylor; 95-1 Diamond Aviation; 95-3 Delta Air Lines; 95-5 Araya; 95-6 Sutton; 95-7 Empire Airlines, 95-20 USAir; 95-21 Faisca; 95-24 Delta Air Lines; 96-7 Delta Air Lines; 96-8 Empire Airlines; 96-10 USAir; 96-11 USAir; 96-12 USAir; 96-21 Houseal; 97-4 [Airport Operator]; 97-5 WestAir; 97-25 Martin & Jaworski; 97-26 Delta Air Lines; 97-27 Lock Haven; 97-39 Delta Air Lines; 98-9 Continental Express.
Assault (See also Battery, and Passenger Misconduct)	96-6 Ignatov; 97-12 Mayer.
"Attempt"	89-5 Schultz.
Attorney Conduct:	
Obstreperous or Disruptive	94-39 Kirola.
Attorney Fees (See EAJA)	
Aviation Safety Reporting System	90-39 Hart; 91-12 Terry & Menne; 92-49 Richardson & Shimp.
Baggage Matching	98-6 Continental.
Balloon (Hot Air)	94-2 Woodhouse.
Bankruptcy	91-2 Continental Airlines.
Battery (See also Assault and Passenger Misconduct)	96-6 Ignatov; 97-12 Mayer.
Certificates and Authorizations Surrender when revoked	92-73 Wyatt.
Civil Air Security National Airport:	
Inspection Program (CASNAIP)	91-4 [Airport Operator]; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 91-58 [Airport Operator].
Civil Penalty Amount (See Sanction)	
Closing Argument (See Final Oral Argument)	
Collateral Estoppel	91-8 Watts Agricultural Aviation.
Complaint:	
Complainant Bound By	90-10 Webb; 91-53 Koller.
No Timely Answer to (See Answer)	
Partial Dismissal/Full Sanction	94-19 Pony Express; 94-40 Polynesian Airways.
Staleness (See Stale Complaint Rule)	
Statute of Limitations (See Statute of Limitations)	
Timeliness of complaint	91-51 Hagwood; 93-13 Medel; 94-7 Hereth; 94-5 Grant.
Withdrawal of	94-39 Kirola; 95-6 Sutton.
Compliance & Enforcement Program:	
(FAA Order No. 2150.3A)	89-5 Schultz; 89-6 American Airlines; 91-38 Esau; 92-5 Delta Air Lines.
Compliance/Enforcement Bulletin 92-3	96-19 [Air Carrier]
Sanction Guidance Table	89-5 Schultz; 90-23 Broyles; 90-33 Cato; 90-37 Northwest Airlines; 91-3 Lewis; 92-5 Delta Air Lines.
Concealment of Weapons (See Weapons Violations)	
Consolidation of Cases	90-12, 90-18 & 90-19 Continental Airlines.
Constitutionality of Regulations (See also Double Jeopardy)	90-12 Continental Airlines; 90-18 Continental Airlines; 90-19 Continental Airlines; 90-37 Northwest Airlines; 96-1 [Airport Operator]; 96-25 USAir; 97-16 Mauna Kea; 97-34 Continental Airlines; 98-6 Continental Airlines; 98-11 TWA.
Continuance of Hearing	90-25 Gabbert; 92-29 Haggland.
Corrective Action (See Sanction)	
Counsel:	
Leave to withdraw	97-24 Gordon.
No right to assigned counsel (See Due Process)	
Credibility of Witnesses:	
Generally	95-25 Conquest Helicopters; 95-26 Hereth; 97-32 Florida Propeller.
Bias	97-9 Alphin.

Defer to ALJ determination of	90-21 Carroll; 92-3 Park; 93-17 Metcalf; 95-26 Hereth; 97-20 Werle; 97-30 Emery Worldwide Airlines; 97-32 Florida Propeller; 98-11 TWA.
Expert witnesses (See also Witnesses)	90-27 Gabbert; 93-17 Metcalf; 96-3 America West Airlines.
Impeachment	94-4 Northwest Aircraft Rental.
Reliability of Identification by eyewitnesses	97-20 Werle.
De Facto answer	92-32 Barnhill.
Delay in initiating action	90-21 Carroll.
Deliberative Process Privilege	89-6 American Airlines; 90-12, 90-18 & 90-19 Continental Airlines.
Deterrence	89-5 Schultz; 92-10 Flight Unlimited; 95-16 Mulhall; 95-17 Larry's Flying Service; 97-1 Hampton.
Discovery:	
Deliberative Process Privilege	89-6 American Airlines; 90-12, 90-18 & 90-19 Continental Airlines.
Depositions, generally	91-54 Alaska Airlines.
Notice of deposition	91-54 Alaska Airlines.
Failure to Produce	90-18 & 90-19 Continental Airlines; 91-17 KDS Aviation; 93-13 Costello.
Sanction for	91-17 KDS Aviation; 91-54 Alaska Airlines.
Regarding unrelated case	92-46 Sutton-Sautter.
Double Jeopardy	95-8 Charter Airlines; 96-26 Midtown.
Due Process:	
Generally	89-6 American Airlines; 90-12 Continental Airlines; 90-37 Northwest Airlines; 96-1 [Airport Operator]; 97-8 Pacific Av. d/b/a Inter-Island Helicopter.
Before finding a violation	90-27 Gabbert.
Multiple violations	96-26 Midtown; 97-9 Alphin.
No right to assigned counsel	97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-9 Alphin.
Violation of	89-6 American Airlines; 9-12 Continental Airlines; 90-37 Northwest Airlines; 96-1 [Airport Operator]; 97-8 Pacific Av. d/b/a Inter-Island Helicopters.
EAJA:	
Adversary Adjudication	90-17 Wilson; 91-17 & 91-52 KDS Aviation; 94-17 TCI; 95-12 Toyota.
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.
Substantial justification	91-52 & 92-71 KDS Aviation; 93-9 Wendt; 95-18 Pacific Sky; 95-27 Valley Air; 96-15 Valley Air.
Supplementation of application	95-27 Valley Air.
Evidence (See Proof & Evidence)	
Ex Parte Communications	93-10 Costello; 95-16 Mulhall; 95-19 Rayner.
Expert Witnesses (See Witness)	
Extension of Time:	
By Agreement of Parties	89-6 American Airlines; 92-41 Moore & Sabre Associates.
Dismissal by Decisionmaker	89-7 Zenkner; 90-39 Hart.
Good Cause for	89-8 Thunderbird Accessories.
Objection to	89-8 Thunderbird Accessories; 93-3 Wendt.
Who may grant	90-27 Gabbert.
Federal Courts	92-27 West; 97-1 Midtown Neon Sign; 98-8 Carr.
Federal Rules of Civil Procedure	91-17 KDS Aviation.
Federal Rules of Evidence (See also Proof & Evidence):	
Admissions	96-25 USAir.
Settlement Offers	95-16 Mulhall; 96-25 USAir.
Subsequent Remedial Measures	96-24 Horizon; 96-25 USAir.
Final Oral Argument	92-3 Park.
Firearms (See Weapons)	
Ferry Flights	95-8 Charter Airlines.
Filing (See also Appeals; Timeliness)	
Burden to prove date of filing	97-11 Hampton Air; 98-1 V. Taylor.
Flight & Duty Time:	
Circumstances beyond crew's control:	
General	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.
Flights	94-20 Conquest Helicopters.
Freedom of Information Act	93-10 Costello.
Fuel Exhaustion	95-26 Hereth.
Guns (See Weapons)	
Ground Security Coordinator (See also Air Carrier; Standard Security Program) Failure to provide.	
Hazardous Materials:	
Transportation of, generally	90-37 Northwest Airlines; 92-76 Safety Equipment; 92-77 TCI; 94-19 Pony Express; 94-28 Toyota; 94-31 Smalling; 95-12 Toyota; 95-16 Mulhall; 96-26 Midtown.
Civil Penalty, generally	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
Corrective Action	92-77 TCI; 94-28 Toyota.
Culpability	92-77 TCI; 94-28 Toyota; 94-31 Smalling.
Financial hardship	95-16 Mulhall.
Installment plan	95-16 Mulhall.
First-time violation	92-77 TCI; 94-28 Toyota; 94-31 Smalling.
Gravity of violation	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 96-26 Midtown; 98-2 Carr.
Minimum penalty	95-16 Mulhall; 98-2 Carr.
Number of violations	95-16 Mulhall; 96-26 Midtown Neon Sign; 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.
Judicial review	97-1 Midtown Neon Sign; 98-8 Carr.
Knowingly	92-77 TCI; 94-19 Pony Express; 94-31 Smalling.
Specific hazard class transported:	
Combustible:	
Paint	95-16 Mulhall.
Corrosive:	
Wet Battery	94-28 Toyota Motor Sales.
Other	92-77 TCI.
Explosive:	
Fireworks	94-31 Smalling; 98-2 Carr.
Flammable:	
Paint	96-26 Midtown Neon Sign.
Turpentine	95-16 Mulhall.
Radioactive	94-19 Pony Express.
Informal Conference	94-4 Northwest Aircraft Rental.
Initial Decision:	
What constitutes	92-32 Barnhill.
Interference with crewmembers (See also Passenger Misconduct; Assault).	
Interloctory Appeal	89-6 American Airlines; 91-54 Alaska Airlines; 93-37 Airspect; 94-32 Detroit Metropolitan.
Internal FAA Policy &/or Procedures	89-6 American Airlines; 90-12 Continental Airlines; 92-73 Wyatt.
Jurisdiction:	
After initial decision	90-20 Degenhardt; 90-33 Cato; 92-32 Barnhill; 93-28 Strohl.
After Order Assessing Civil Penalty	94-37 Houston; 95-19 Rayner.
After withdrawal of complaint	94-39 Kirola.
\$50,000 Limit	90-12 Continental Airlines.
EAJA cases	92-74 Wendt; 96-22 Woodhouse.
HazMat cases	92-76 Safety Equipment.
NTSB	90-11 Thunderbird Accessories.
Knowledge of concealed weapon (See also Weapons Violation)	89-5 Schultz; 90-20 Degenhardt.
Laches (See Delay in initiating action)	
Mailing Rule, generally	89-7 Zenkner; 90-3 Metz; 90-11 Thunderbird Accessories; 90-39 Hart.
Overnight express delivery	89-6 American Airlines.
Maintenance (See Aircraft Maintenance)	
Maintenance Instruction	93-36 Valley Air.
Maintenance Manual	90-11 Thunderbird Accessories; 96-25 USAir.
Air carrier maintenance manual	96-3 America West Airlines.
Approved/accepted repairs	96-3 America West Airlines.
Manufacturer's maintenance manual	96-3 America West Airlines; 97-31 Sanford Air; 97-32 Florida Propeller.
Minimum Equipment List (MEL) (See Aircraft Maintenance)	
Mootness, appeal dismissed as moot	92-9 Griffin; 94-17 TCI.
National Aviation Safety Inspection Program (NASIP)	90-16 Rocky Mountain.
National Transportation Safety Board Administrator not bound by NTSB case law.	
Lack of Jurisdiction	91-12 Terry & Menne; 92-49 Richardson & Shimp; 93-18 Westair Commuter.
	90-11 Thunderbird Accessories; 90-17 Wilson; 92-74 Wendt.

Notice of Hearing:	
Receipt	92-31 Eaddy.
Notice of Proposed Civil Penalty:	
Initiates Action	91-9 Continental Airlines.
Signature of agency attorney	93-12 Langton.
Withdrawal of	90-17 Wilson.
Operate, generally	91-12 & 91-31 Terry & Menne; 93-18 Westair Commuter; 96-17 Fenner.
Responsibility of aircraft owner/operator for actions of pilot	96-17 Fenner.
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	92-3 Park.
Assault/Battery	96-6 Ignatov; 97-12 Mayer; 98-11 TWA.
Interference with a crewmember	96-6 Ignatov; 97-12 Mayer; 98-11 TWA; 98-12 Stout.
Smoking	92-37 Giuffrida.
Stowing carry-on items	97-12 Mayer.
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):	
Affirmative Defense	92-13 Delta Air Lines; 92-72 Giuffrida; 98-6 Continental Airlines.
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.
Circumstantial Evidence	90-12, 90-19 & 91-9 Continental Airlines; 93-29 Sweeney; 96-3 America West Airlines; 97-10 Alphin; 97-11 Hampton; 97-2 Florida Propeller; 98-6 Continental Airlines.
Credibility (See Administrative Law Judges; Credibility of Witnesses)	
Criminal standard rejected	91-12 Terry & Menne.
Closing Arguments (See also Final Oral Argument)	94-20 Conquest Helicopters.
Extra-record material	95-26 Hereth; 96-24 Horizon.
Hearsay	92-72 Giuffrida; 97-30 Emery Worldwide Airlines; 98-11 TWA.
Offer of proof	97-32 Florida Propeller.
Preponderance of evidence	90-11 Thunderbird Accessories; 90-12 Continental Airlines; 91-12 & 91-31 Terry & Menne; 97-72 Giuffrida; 97-30 Emery Worldwide Airlines; 97-31 Sanford Air; 97-2 Florida Propeller; 98-3 Fedele; 98-6 Continental Airlines; 98-11 TWA.
Presumption that message on ATC tape is received as transmitted.	91-12 Terry & Menne; 92-49 Richardson & Shimp.
Presumption that a gun is deadly or dangerous	90-26 Waddell; 91-30 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.
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 Broyles; 90-8 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.	98-2 Carr.
Reconsideration:	
Denied by ALJ	89-4 & 90-3 Metz.
Granted by ALJ	92-32 Barnhill.
Late request for	97-14 Pacific Aviation.
Petition based on new material	96-23 Kilrain.
Repetitious petitions	96-9 [Airport Operator].
Stay of order pending	90-31 Carroll; 90-32 Continental Airlines.
Redundancy, enhancing safety	97-11 Hampton.
Remand	89-6 American Airlines; 90-16 Rocky Mountain; 90-24 Bayer; 91-51 Hagwood; 91-54 Alaska Airlines; 92-1 Costello; 92-76 Safety Equipment; 94-37 Houston.
Repair Station	90-11 Thunderbird Accessories; 92-10 Flight Unlimited; 94-2 Woodhouse; 97-9 Alphin; 97-10 Alphin; 97-31 Sanford Air; 97-32 Florida Propeller.

Request for Hearing	94-37 Houston; 95-19 Rayner.
Constructive withdrawal of	97-7 Stalling.
Rules of Practice (14 CFR Part 13, Subpart G):	
Applicability of	90-12, 90-18 & 90-19 Continental Airlines; 91-17 KDS Aviation.
Challenges to	90-12, 90-18 & 90-19 Continental Airlines; 90-21 Carroll; 90-37 Northwest Airlines.
Effect of Changes in	90-21 Carroll; 90-22 USAir; 90-38 Continental Airlines.
Initiation of Action	91-9 Continental Airlines.
Runway incursions	92-40 Wendt; 93-18 Westair Commuter.
Sanction:	
Ability to Pay	89-5 Schultz; 90-10 Webb; 91-3 Lewis; 91-38 Esau; 92-10 Flight Unlimited; 92-32 Barnhill; 92-37 & 92-72 Giuffrida; 92-38 Cronberg; 92-46 Sutton-Sautter; 92-51 Koblick; 93-10 Costello; 94-4 Northwest Aircraft Rental; 94-20 Conquest Helicopters; 95-16 Mulhall; 95-17 Larry's Flying Service; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-11 Hampton; 97-16 Mauna Kea; 98-4 Larry's Flying Service; 98-11 TWA.
Agency policy:	
ALJ bound by	90-37 Northwest Airlines; 92-46 Sutton-Sautter; 96-19 [Air Carrier].
Changes after complaint	97-7 & 97-17 Stallings.
Statements of (e.g., FAA Order 2150.3A, Sanction Guidance Table, memoranda pertaining to)	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.
Compliance Disposition	97-23 Detroit Metropolitan.
Consistency with Precedent	96-6 Ignatov; 96-26 Midtown; 97-30 Emery Worldwide Airlines; 98-12 Stout.
When precedent is based on superceded sanction policy	96-19 [Air Carrier].
Corrective Action	91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 92-5 Delta Air Lines; 93-18 Westair Commuter; 94-28 Toyota; 96-4 South Aero; 96-19 [Air Carrier]; 97-16 Mauna Kea; 97-23 Detroit Metropolitan; 98-6 Continental Airlines.
Discovery (See Discovery)	
Factors to consider	89-5 Schultz; 90-23 Broyles; 90-37 Northwest Airlines; 91-3 Lewis; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 92-10 Flight Unlimited; 92-46 Sutton-Sautter; 92-51 Koblick; 94-28 Toyota; 95-11 Horizon; 96-19 [Air Carrier]; 96-26 Midtown; 97-16 Mauna Kea; 98-2 Carr.
First-Time Offenders	89-5 Schultz; 92-5 Delta Air Lines; 92-51 Koblick.
HazMat (See Hazardous Materials)	
Inexperience	92-10 Flight Unlimited.
Installment Payments	96-16 Mulhall; 95-17 Larry's Flying Service.
Maintenance	95-11 Horizon; 96-3 America West Airlines; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-9 Alphin; 97-10 Alphin; 97-11 Hampton; 97-30 Emery Worldwide Airlines.
Maximum	90-10 Webb; 91-53 Koller; 96-19 [Air Carrier].
Minimum (HazMat)	95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
Modified	89-5 Schultz; 90-11 Thunderbird Accessories; 91-38 Esau; 92-10 Flight Unlimited; 92-13 Delta Air Lines; 92-32 Barnhill.
Partial Dismissal of Complaint/Full Sanction (See also Complaint).	94-14 Pony Express; 94-40 Polynesian Airways.
Sanctions in specific cases:	
Unairworthy aircraft	97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-9 Alphin.
Passenger/baggage matching	98-6 Continental Airlines.
Passenger Misconduct	97-12; 98-12 Stout.
Person evading screening (See also Screening)	97-20 Werle.
Pilot Deviation	92-8 Watkins.
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.
Weapons Violations	90-23 Broyles; 90-33 Cato; 91-3 Lewis; 91-38 Esau; 92-32 Barnhill; 92-46 Sutton-Sautter; 92-51 Koblick; 94-5 Grant; 97-7 & 97-17 Stallings.
Screening of Persons:	
Air carrier failure to detect weapon:	
Sanction	94-44 American Airlines.
Air carrier failure to match bag with passenger	98-6 Continental Airlines.
Entering Sterile Areas	90-24 Bayer; 92-58 Hoedl; 97-20 Werle.
Sanction for individual evading screening (See also Sanction)	97.20 Werle.
Security (See Screening of Persons, Standard Security Program, Test Object Detection, Unauthorized Access, Weapons Violations)	
Sealing of Record	97-13 Westair Commuter; 97-28 Continental Airlines.
Separation of Functions	90-12 Continental Airlines; 90-18 Continental Airlines; 90-19 Continental Airlines; 90-21 Carroll; 90-38 Continental Airlines; 93-13 Medel.
Service (See also Mailing Rule; Receipt):	

Of NPCP	90-22 USAir; 97-20 Werle.
Of FNPCP	93-13 Medel.
Receipt of document sent by mail	92-31 Eaddy.
Return of certified mail	97-7 & 97-17 Stallings.
Valid Service	92-18 Bargen.
Settlement	91-50 & 92-1 Costello; 95-16 Mulhall.
Skydiving	98-3 Fedele.
Smoking	92-37 Giuffrida; 94-18 Luxemburg.
Stale Complaint Rule:	
If NPCP not sent	97-20 Werle.
Standard Security Program (SSP):	
Compliance with	90-12, 90-18 & 90-19 Continental Airlines; 91-33 Delta Air lines; 91-55 Continental Airlines; 92-13 & 94-1 Delta Air Lines; 96-19 [Air Carrier].
Ground Security Coordinator	96-16 Westair Commuter.
Statute of Limitations	97-20 Werle.
Stay or Orders	90-31 Carroll; 90-32 Continental Airlines.
Pending judicial review	95-14 Charter Airlines.
Strict Liability	89-5 Schultz; 90-27 Gabbert; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-58 [Airport Operator]; 97-23 Detroit Metropolitan; 98-7 LAX.
Test Object Detection	90-12, 90-18, 90-19, 91-9 & 91-55 Continental Airlines; 92-13 Delta Air Lines; 96-19 [Air Carrier].
Proof of violation	90-18, 90-19 & 91-9 Continental Airlines; 92-13 Delta Air Lines.
Sanction	90-18 & 90-19 Continental Airlines; 96-19 [Air Carrier].
Timeliness (See also complaint; Filing; Mailing Rule; and Appeals):	
Burden to prove date of filing	97-11 Hampton Air; 98-1 V. Taylor.
Of response to NPCP	90-22 USAir.
Of complaint	91-51 Hagwood; 93-13 Medel; 94-7 Hereth.
Of initial decision	97-31 Sanford Air.
Of NPCP	92-73 Wyatt.
Of reply brief	97-11 Hampton.
Of request for hearing	93-12 Langton; 95-19 Rayner.
Of EAJA application (See EAJA-Final disposition, EAJA-Jurisdiction)	
Unapproved Parts (See also Parts Manufacturer Approval)	93-19 Pacific Sky Supply.
Unauthorized Access:	
To aircraft	90-12 & 90-19 Continental Airlines; 94-1 Delta Air Lines.
To Air Operations Area (AOA)	90-37 Northwest Airlines; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-58 [Airport Operator]; 94-1 Delta Air Lines.
Visual Cues Indicating Runway, Adequacy of	92-40 Wendt.
Weapons Violations, generally	89-5 Schultz; 90-10 Webb; 90-20 Degenhardt; 90-23 Broyles; 90-33 Cato; 90-26 & 90-43 Waddell; 91-3 Lewis; 91-30 Trujillo; 91-38 Esau; 91-53 Koller; 92-32 Barnhill; 92-46 Sutton-Sautter; 92-51 Koblick; 92-59 Petek-Jackson; 94-5 Grant; 94-44 American Airlines.
Concealed weapon	89-5 Schultz; 92-46 Sutton-Sautter; 92-51 Koblick.
"Deadly or Dangerous"	90-26 & 90-43 Waddell; 91-30 Trujillo; 91-39 Esau.
First-time Offenders	89-5 Schultz.
Intent to commit violation	89-5 Schultz; 90-20 Degenhardt; 90-23 Broyles; 90-26 Waddell; 91-3 Lewis; 91-53 Koller.
Knowledge:	
Of Weapon Concealment (See also Knowledge)	89-5 Schultz; 90-20 Degenhardt.
Sanction (See Sanction)	
Weight and Balance	94-40 Polynesian Airways.
Witnesses (See also Credibility):	
Absence of, Failure to subpoena	92-3 Park; 98-2 Carr.
Expert testimony:	
Evaluation of	93-17 Metcalf; 94-3 Valley Air; 94-21 Sweeney; 96-3 America West Airlines; 96-15 Valley Air; 97-9 Alphin; 97-32 Florida Propeller.
Expert witness fees (See EAJA)	

REGULATIONS (TITLE 14 CFR, UNLESS OTHERWISE NOTED)

1.1 (maintenance)	94-38 Bohan; 97-11 Hampton.
1.1 (major repair)	96-3 America West Airlines.
1.1 (minor repair)	96-3 America West Airlines.
1.1 (operate)	91-12 & 91-31 Terry & Menne; 93-18 Westair Commuter; 96-17 Fenner.
1.1 (person)	93-18 Westair Commuter.
1.1 (propeller)	95-15 Valley Air.

13.16	90-16 Rocky Mountain; 90-22 USAir; 90-37 Northwest Airlines; 90-38 & 91-9 Continental Airlines; 91-18; [Airport Operator]; 91-51 Hagwood; 92-1 Costello; 92-46 Sutton-Sautter; 93-13 Medel; 93-28 Strohl; 94-27 Larsen; 94-37 Houston; 94-31 Smalling; 95-19 Rayner; 96-26 Midtown Neon Sign; 97-1 Midtown Neon Sign; 97-9 Alphin.
13.201	90-12 Continental Airlines.
13.202	90-6 American Airlines; 92-76 Safety Equipment.
13.203	90-12 Continental Airlines; 90-21 Carroll; 90-38 Continental Airlines.
13.204	
13.205	90-20 Degenhardt; 91-17 KDS Aviation; 91-54 Alaska Airlines; 92-32 Barnhill; 94-32 Detroit Metropolitan; 94-39 Kirola; 95-16 Mulhall; 97-20 Werle.
13.206	
13.207	94-39 Kirola.
13.208	90-21 Carroll; 91-51 Hagwood; 92-73 Wyatt; 92-76 Safety Equipment; 93-13 Medel; 93-28 Strohl; 94-7 Hereth; 97-20 Werle; 98-4 Larry's Flying Service.
13.209	90-3 Metz; 90-15 Playter; 91-18 [Airport Operator]; 92-32 Barhnull; 92-47 Cornwall; 92-75 Beck 92-76 Safety Equipment; 94-8 Nunez; 94-5 Grant; 94-22 Harkins; 94-29 Sutton; 94-30 Columna; 95-10 Diamond; 94-29 Atlantic World Airways; 97-7 Stalling; 97-18 Robinson; 97-33 Rawlings.
13.210	92-19 Cornwall; 92-75 Beck; 92-76 Safety Equipment; 93-7 Dunn; 93-28 Strohl; 94-5 Grant; 94-30 Columna; 95-28 Atlantic World Airways; 96-17 Fenner; 97-11 Hampton; 97-18 Robinson; 97-38 Air St. Thomas.
13.211	89-6 American Airlines; 89-7 Zenkner; 90-3 Metz; 90-11 Thunderbird Accessories; 90-39 Hart; 91-24 Esau; 92-1 Costello; 92-9 Griffin; 92-18 Bargaen; 92-19 Cornwall; 92-57 Detroit Metro. Wayne County Airport; 92-74 Wendt; 92-76 Safety Equipment; 93-2 Wendt; 94-5 Grant; 94-18 Luxemburg; 94-29 Sutton; 95-12 Toyota; 95-28 Valley Air; 97-7 Stalling; 97-11 Hampton; 98-4 Larry's Flying Service.
13.212	90-11 Thunderbird Accessories; 91-2 Continental Airlines.
13.213	
13.214	91-3 Lewis.
13.215	93.28 Strohl; 94-39 Kirola.
13.216	
13.217	91-17 KDS Aviation.
13.218	89-6 American Airlines; 90-11 Thunderbird Accessories; 90-39 Hart; 92-9 Griffin; 92-73 Wyatt; 93-19 Pacific Sky Supply; 94-6 Strohl; 94-27 Larsen; 94-37 Houston; 95-18 Rayner; 96-16 WestAir; 96-24 Horizon.
13.219	89-6 American Airlines; 91-2 Continental Airlines; 91-54 Alaska Airlines; 93-37 Airspect; 94-32 Detroit Metro. Wayne Airport.
13.220	89-6 American Airlines; 90-20 Carroll; 91-8 Watts Agricultural Aviation; 91-17 KDS Aviation; 91-54 Alaska Airlines; 92-46 Sutton-Sautter.
13.221	92-29 Haggland; 92-31 Eaddy; 92-52 Cullop.
13.222	92-72 Giuffrida; 96-15 Valley Air.
13.223	91-12 & 91-31 Terry & Menne; 92-72 Giuffrida; 95-26 Hereth; 96-15 Valley Air; 97-11 Hampton; 97-31 Sanford Air; 97-32 Florida Propeller; 98-3 Fedele; 98-6 continental Airlines.
13.224	90-26 Waddell; 91-4 [Airport Operator]; 92-72 Giuffrida; 94-18 Luxemburg; 94-28 Toyota; 95-25 Conquest; 96-17 Fenner; 97-32 Florida Propeller; 98-6 Continental Airlines.
13.225	97-32 Florida Propeller.
13.226	
13.227	90-21 Carroll; 95-26 Hereth.
13.228	92-3 Park.
13.229	
13.230	92-19 Cornwall; 95-26 Hereth; 96-24 Horizon.
13.231	92-3 Park.
13.232	89-5 Schultz; 90-20 Degenhardt; 92-1 Costello; 92-18 Bargaen; 92-32 Barnhill; 93-28 Strohl; 94-28 Toyota; 95-12 Toyota; 95-16 Mullhall; 96-6 Ignatov.

13.233	89-1 Gressani; 89-4 Metz; 89-5 Schultz; 89-7 Zenkner; 89-8 Thunderbird Accessories; 90-3 Metz; 90-11 Thunderbird Accessories; 90-19 Continental Airlines; 90-20 Degenhardt; 90-25 & 90-27 Gabbert; 90-35 P. Adams; 90-19 Continental Airlines; 90-39 Hart; 91-2 Continental Airlines; 91-3 Lewis; 91-7 Pardue; 91-8 Watts Agricultural Aviation; 91-10 Graham; 91-11 Continental Airlines; 91-12 Bargaen; 91-24 Esau; 91-26 Britt Airways; 91-31 Terry & Menne; 91-32 Bargaen; 91-43 & 91-44 Delta; 91-45 Park; 91-46 Delta; 91-47 Delta; 91-48 Wendt; 91-52 KDS Aviation; 91-53 Koller; 92-1 Costello; 92-3 Park; 92-7 West; 92-11 Alilin; 92-15 Dillman; 92-16 Wendt; 92-18 Bargaen; 92-19 Cornwall; 92-27 Wendt; 92-32 Barnhill; 92-34 Carrell; 92-35 Bay Land Aviation; 92-36 Southwest Airlines; 92-39 Beck; 92-45 O'Brien; 92-52 Beck; 92-56 Montauk Caribbean Airways; 92-57 Detroit Metro. Wayne Co. Airport; 92-67 USAir; 92-69 McCabe; 92-72 Giuffrida; 92-74 Wendt; 92-78 TWA; 93-5 Wendt; 93-6 Westair Commuter; 93-7 Dunn; 93-8 Nunez; 93-19 Pacific Sky Supply; 93-23 Allen; 93-27 Simmons; 93-28 Strohl; 93-31 Allen; 93-32 Nunez; 94-9 B & G Instruments; 94-10 Boyle; 94-12 Bartusiak; 94an15 Columna; 94-18 Luxemburg; 94-23 Perez; 94-24 Page; 94-26 French Aircraft; 94-28 Toyota; 95-2 Meronek; 95-9 Woodhouse; 95-13 Kilrain; 95-23 Atlantic World Airways; 95-25 Conquest; 95-26 Hereth; 96-1 [Airport Operator; 96-2 Skydiving Center; 97-1 Midtown Neon Sign; 97-2 Sanford Air; 97-7 Stalling; 97-22 Sanford Air; 97-24 Gordon Air; 97-31 Sanford Air; 97-33 Rawlings; 97-38 Air St. Thomas; 98-4 Larry's Flying Service; 98-3 Fedele; Continental Airlines 98-6; LAX 98-7; 98-10 Rawlings.
13.234	90-19 Continental Airlines; 90-31 Carroll; 90-32 & 90-38 Continental Airlines; 91-4 [Airport Operator]; 95-12 Toyota; 96-9 [Airport Operator]; 96-23 Kilrain.
13.235	90-11 Thunderbird Accessories; 90-12 Continental Airlines; 90-15 Playter; 90-17 Wilson; 92-7 West.
Part 14	92-74 & 93-2 Wendt; 95-18 Pacific Sky Supply.
14.01	91-17 & 92-71 KDS Aviation.
14.04	91-17, 91-52 & 92-71 KDS Aviation; 93-10 Costello; 95-27 Valley Air.
14.05	90-17 Wilson.
14.12	95-27 Valley Air.
14.20	91-52 KDS Aviation; 96-22 Woodhouse.
14.22	93-29 Sweeney.
14.26	91-52 KDS Aviation; 95-27 Valley Air.
14.28	95-9 Woodhouse.
21.181	96-25 USAir.
21.303	93-19 Pacific Sky Supply; 95-18 Pacific Sky Supply.
25.787	97-30 Emery Worldwide Airlines.
25.855	92-37 Giuffrida; 97-30 Emery Worldwide Airlines.
39.3	92-10 Flight Unlimited; 94-4 Northwest Aircraft Rental.
43.3	92-73 Wyatt; 97-31 Sanford Air.
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.
43.13	90-11 Thunderbird Accessories; 94-3 Valley Air; 94-38 Bohan; 96-3 America West Airlines; 96-25 USAir; 97-9 Alphin; 97-10 Alphin; 97-30 Emery Worldwide Airlines; 97-31 Sanford Air; 97-32 Florida Propeller.
43.15	90-25 & 90-27 Gabbert; 91-8 Watts Agricultural Aviation; 94-2 Woodhouse; 96-18 Kilrain.
65.15	92-73 Wyatt.
65.92	92-73 Wyatt.
91.7	97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-16 Mauna Kea.
91.8 (91.11 as of 8/18/90)	92-3 Park.
91.9 (91.13 as of 8/18/90)	90-15 Playter; 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.
91.11	96-6 Ignatov; 97-12 Mayer; 98-12 Stout.
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.
91.71	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 Playter; 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.
91.151	95-26 Hereth.
91.173 (91.417 as of 8/18/90)	91-8 Watts Agricultural Aviation.
91.213	97-11 Hampton.
91.403	97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-31 Sanford Air.
91.405	97-16 Mauna Kea; 98-4 Larry's Flying Service.
91.407	98-4 Larry's Flying Service.
91.517	98-12 Stout.
91.703	94-29 Sutton.
105.29	98-3 Fedele.
107.1	90-19 Continental Airlines; 90-20 Degenhardt; 91-4 [Airport Operator]; 91-58 [Airport Operator]; 98-7 LAX.
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; 98-7 LAX.
107.20	90-24 Bayer; 92-58 Hoedl; 97-20 Werle.
107.21	89-5 Schultz; 90-10 Webb; 90-22 Degenhardt; 90-23 Broyles; 90-26 & 90-43 Waddell; 90-33 Cato; 90-39 Hart; 91-3 Lewis; 91-10 Graham; 91-30 Trujillo; 91-38 Esau; 91-53 Koller; 92-32 Barnhill; 92-38 Cronberg; 92-46 Sutton-Sautter; 92-51 Koblick; 92-59 Petek-Jackson; 94-5 Grant; 94-31 Smalling; 97-7 Stalling.
107.25	94-30 Columna.
108.5	90-12, 90-18, 90-19, 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; 94-4 American Airlines; 96-16 WestAir; 96-19 [Air Carrier].
108.7	90-18 & 90-19 Continental Airlines.
108.10	96-16 WestAir.
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.
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 Giuffrida; 94-18 Luxemburg.
121.318	92.37 Giuffrida.
121.367	90-12 Continental Airlines; 96-25 USAir.
121.571	92.37 Giuffrida.
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.
135.1	95-8 Charter Airlines; 95-25 Conquest.
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.
135.63	94-40 Polynesian Airways; 95-17 Larry's Flying Service; 95-28 Atlantic; 96-4 South Aero.
135.87	90-21 Carroll.
135.95	95-17 Larry's Flying Service.
135.179	97-11 Hampton.
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.
135.343	95-17 Larry's Flying Service.
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.
135.421	93-36 Valley Air; 94-3 Valley Air; 96-15 Valley Air.
135.437	94-3 Valley Air; 96-15 Valley Air.
145.1	97-10 Alphin.
145.3	97-10 Alphin.
145.25	97-10 Alphin.
145.45	97-10 Alphin.
145.47	97-10 Alphin.
145.49	97-10 Alphin.

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.
298.1	92-10 Flight Unlimited.
302.8	90-22 USAir.

49 CFR

1.47	92-76 Safety Equipment.
171 et seq.	95-10 Diamond.
171.2	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
171.8	92-77 TCI.
172.101	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 96-26 Midtown.
172.200	92-77 TCI; 94-28 Toyota; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
172.202	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.203	94/28 Toyota.
172.204	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.300	94-31 Smalling; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
172.301	94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.304	92-77 TCI; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.400	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.402	94-28 Toyota.
172.406	92-77 TCI.
173.1	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
173.3	94-28 Toyota; 94-31 Smalling; 98-2 Carr.
173.6	94-28 Toyota.
173.22(a)	94-28 Toyota; 94-31 Smalling; 98-2 Carr.
173.24	94-28 Toyota; 95-16 Mulhall.
173.25	94-28 Toyota.
173.27	92-77 TCI.
173.62	98-2 Carr.
173.115	92-77 TCI.
173.240	92-77 TCI.
173.243	94-28 Toyota.
173.260	94-28 Toyota.
173.266	94-28 Toyota; 94-31 Smalling.
175.25	94-31 Smalling.
191.5	97-13 Westair Commuter.
191.7	97-13 Westair Commuter.
821.30	92-73 Wyatt.
821.33	90-21 Carroll.

STATUTES

5 U.S.C.:	
504	90-17 Wilson; 91-17 & 92-71 KDS Aviation; 92-74, 93-2 & 93-9 Wendt; 93-29 Sweeney; 94-17 TCI; 95-27 Valley Air; 96-22 Woodhouse.
552	90-12, 90-18 & 90-19 Continental Airlines; 93-10 Costello.
554	90-18 Continental Airlines; 90-21 Carroll; 95-12 Toyota.
556	90-21 Carroll; 91-54 Alaska Airlines.
557	90-20 Degenhardt; 90-21 Carroll; 90-37 Northwest Airlines; 94-28 Toyota.
705	95-14 Charter Airlines.
5332	95-27 Valley Air.
11 U.S.C.:	
362	92-2 Continental Airlines.
28 U.S.C.:	
2412	93-10 Costello 96-22 Woodhouse.
2462	90-21 Carroll.
49 U.S.C.:	
5123	95-16 Mulhall; 96-26 & 97-1 Midtown Neon Sign; 98-2 Carr.
40102	96-17 Fenner.
44701	96-6 Ignatov; 96-17 Fenner.
44704	96-3 America West Airlines; 96-15 Valley Air.
46110	96-22 Woodhouse; 97-1 Midtown Neon Sign.
46301	97-1 Midtown Neon Sign; 97-16 Mauna Kea; 97-20 Werle.
46303	97-7 Stalling.
49 U.S.C. App.:	

1301(31) (operate)	93-18 Westair Commuter.
(32) (person)	93-18 Westair Commuter.
1356	90-18 & 90-19, 91-2 Continental Airlines.
1357	90-18, 90-19 & 91-2 Continental Airlines; 91-41 [Airport Operator]; 91-58 [Airport Operator].
1421	92-10 Flight Unlimited; 92-48 USAir; 92-70 USAir; 93-9 Wendt.
1429	92-73 Wyatt.
1471	89-5 Schultz, 90-10 Webb; 90-20 Degenhardt; 90-12, 90-18 & 90-19 Continental Airlines; 90-23 Broyles; 90-26 & 90-43 Waddell; 90-33 Cato; 90-37 Northwest Airlines; 90-39 Hart; 91-2 Continental Airlines; 91-3 Lewis, 91-18 [Airport Operator]; 91-53 Koller; 92-5 Delta Air Lines; 92-10 Flight Unlimited; 92-46 Sutton-Sautter; 92-51 Koblick; 92-74 Wendt; 92-76 Safety Equipment; 94-20 Conquest Helicopters; 94-40 Polynesian Airways; 96-6 Ignatov; 97-7 Stalling.
1472	96-6 Ignatov.
1475	90-20 Degenhardt; 90-12 Continental Airlines; 90-18, 90-19 & 91-1 Continental Airlines; 91-3 Lewis; 91-18 [Airport Operator]; 94-40 Polynesian Airways.
1486	90-21 Carroll; 96-22 Woodhouse.
1809	92-77 TCI; 94-19 Pony Express; 94-28 Toyota; 94-31 Smalling; 95-12 Toyota.

Civil Penalty Actions—Orders Issued by the Administrator—Digests

(Current as of June 30, 1998)

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 April 1, 1998, to June 30, 1998. 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 Continental Airlines

Order No. 98-6 (4/7/98)

Standard of Review. Nowhere do the Rules of Practice state that the Administrator may only reverse a law judge's findings if they are "clearly erroneous and unsupported by any evidence." Under the Rules, reversal may be appropriate if the law judge's findings of fact are unsupported by a preponderance of reliable, probative, and substantial evidence.

Passenger/baggage matching. The law judge erred in finding that Complainant failed to prove that Continental did not carry out its passenger/baggage match procedures. Continental admitted in a letter that it failed to perform its passenger/baggage match procedures and that it could not refute the allegations. Hence, a preponderance of

the evidence indicates that Continental violated the security directive requiring passenger/baggage matching.

Sanction. It is unnecessary to delay the resolution of the case by remanding it to the law judge for sanction determination. The matter is straightforward and the record is clear. A penalty in the maximum range (\$7,500 to \$10,000 for large air carriers) is appropriate when an air carrier fails to comply with its security program. Due to the corrective action taken by Continental, the lowest penalty in the maximum range is appropriate. A civil penalty of \$7,500 for a violation of 14 CFR 107.13(a) is assessed.

In the Matter of City of Los Angeles, Department of Airports

Order No. 98-7 (4/7/98)

Appealable Issue. LAX's appeal challenges the law judge's application of the law to the case. Thus, LAX has raised an appealable issue.

Transfer of Responsibility for Airport Security. Contrary to LAX's claim, a proposed airport security program amendment that transfers away crucial security responsibilities cannot be approved by default. Thus, LAX is responsible for the breach in airport security in the instant case, in which an unbadged FAA security agent gained access to a restricted-access elevator and the air operations area. The law judge's decision assessing a \$500 civil penalty for a violation of 14 CFR 107.13(a) is affirmed.

In the Matter of Paul A. Carr

Order No. 98-8 (5/4/98)

Order No. 98-2 Modified. Footnote 27 of FAA Order No. 98-2 is modified to omit footnote 27 in which it was stated that Respondent may petition a Federal

Court of Appeals for review under 49 U.S.C. 46110. The footnote is deleted because that statutory provision does not apply to hazardous materials cases initiated under 49 U.S.C. 5123 (such as this case.)

In the Matter of Continental Express

Order No. 98-9 (5/4/98)

Appeal Dismissed. Complainant and Respondent filed a joint motion to withdraw their appeals. Joint motion is granted.

In the Matter of Daniel Rawlings

Order No. 98-10 (5/8/98)

Failure to Perfect Appeal. By FAA Order No. 97-33, Mr. Rawlings was ordered to perfect his appeal by filing an appeal brief by November 25, 1997. Mr. Rawlings failed to file an appeal brief. Accordingly, Rawlings' appeal is dismissed under 14 CFR 13.233(d)(2).

In the Matter of Trans World Airlines

Order No. 98-11 (6/16/98)

Intoxicated Passenger. The law judge ruled that TWA violated 14 CFR 121.575(c), by allowing a passenger to board an aircraft although she appeared intoxicated, and 14 CFR 121.575(b)(1), by serving alcoholic beverages to her during the flight while she appeared intoxicated. Further, the law judge held that TWA violated 14 CFR 121.575(d) by failing to report the disturbance created by the apparently intoxicated passenger to the FAA, and 14 CFR 121.577(a) by taking off without first collecting a champagne glass from this passenger. TWA appeals from the law judge's findings and assessment of a \$40,000 civil penalty. The Administrator denies TWA's appeal.

Constitutionality of the Appearance of Intoxication Standard. The

Administrator declines to rule on whether 14 CFR 121.575(c) and (b)(1) were unconstitutionally vague, holding that such constitutional challenges belong in a Federal court of appeals. The Administrator holds that the flight crew in this case understood the standard "appears intoxicated" and that the preponderance of the evidence supports the law judge's findings that TWA (1) allowed the passenger to board when she appeared intoxicated, and (2) served alcoholic beverages to this passenger when she appeared intoxicated. The evidence of an appearance of intoxication included: (1) the passenger was loud and verbally abusive to the flight attendants and her daughter; (2) the passenger was drinking alcoholic beverages on board; (3) the flight crew had a difficult time keeping the passenger in her seat; (4) the passenger at times was unable to control her anger and at other times wept in the arms of a flight attendant.

Responsibility for the Actions of Employees. The Administrator rejected TWA's argument that it should not be held responsible for the actions of its flight crew because the crew acted contrary to the regulations and TWA policy. An employer, in this case, an air carrier, is responsible for the acts or omissions of its employees acting in the scope of their employment. In this case, the flight crew was acting in the scope of their authority, but they exercised poor judgment.

Penalty. The Administrator affirms the \$40,000 civil penalty.

In the Matter of David G. Stout

Order No. 98-12 (6/16/98)

Sanction in Passenger Misconduct Case. Mr. Stout refused to follow the flight attendant's repeated instructions to fasten his seat belt, and refused to return the flight attendant's security badge to her. Complainant appealed, arguing that the law judge incorrectly reduced the civil penalty from the \$3,000 sought by the agency to \$1,700. Complainant argues that the law judge improperly failed to defer to the FAA inspector's sanction determination and failed to consider the extent and egregiousness of Mr. Stout's misconduct. Nothing in the Rules of Practice, however, requires law judges to defer to an FAA inspector's sanction determination. The agency bears the burden of proving the appropriate sanction amount. Although Mr. Stout's behavior cannot be minimized or condoned, the sanction imposed by the law judge is consistent with precedent and is sufficient under the circumstances. The agency's appeal is

denied and the law judge's decision assessing a \$1,700 civil penalty is affirmed.

In the Matter of Air St. Thomas

Order No. 98-13 (6/16/98)

Reconsideration Denied. Air St. Thomas allegedly operated an aircraft on 560 air carrier flights with deactivated and partially dismantled carburetor heat systems. After Air St. Thomas failed to file both an answer and a response to the law judge's order to show cause, the law judge entered a \$20,000 default judgment. Air St. Thomas then filed a notice of appeal, but it was late, leading the Administrator to dismiss Air St. Thomas's appeal. Air St. Thomas then filed a petition for reconsideration.

The Administrator granted Air St. Thomas an additional opportunity to show good cause for the lateness of its appeal, and Air St. Thomas has filed a brief explaining that its President misread the law judge's order and thought that the case against it had been dismissed. Air St. Thomas's brief also explains that its president is confused by legal matters, but chose not to hire an attorney because he thought his money would be better spent maintaining his aircraft.

Air St. Thomas has filed to show good cause for the lateness of its notice of appeal. Air St. Thomas's petition for reconsideration is denied, and a \$20,000 civil penalty is assessed.

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;
Federal Aviation Decisions, Clark Boardman Callaghan, a subsidiary of West Information Publishing Company, 50 Broad Street East, Rochester, NY 14694, 1-800-221-9428.

2. **CD-ROM.** The Administrator's order and decisions are available on CD-ROM through Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733-2483.

3. **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.
- FedWorld.

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. Materials contained in the dockets of any case not containing sensitive security information (protected by 14 CFR Part 191) may be viewed at the FAA Hearing Docket. All documents 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.)

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, will also be available for inspection at the Department of Transportation Docket, located at 400 7th Street, SW, Room PL-401, Washington, DC, 20590, (tel. no. 202-366-9329.) While the originals will be retained in the FAA Hearing Docket, the DOT Docket will scan 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 924A, Washington, DC 20591; (202) 267-3641.

These materials are also available at all FAA regional and center 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 73125, (405) 954-3296.

Office of the Regional Counsel for the Alaskan Region (AAL-7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 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 Eastern Region (AEA-7), Eastern Region

Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553-3285.

Office of the Regional Counsel for the Great Lakes Region (AGL-7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294-7108.

Office of the Regional Counsel for the New England Region (ANE-7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803-5299; (617) 238-7050.

Office of the Regional Counsel for the Northwest Mountain Region (ANM-7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055-4056; (206) 227-2007.

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., Forth Worth TX 76137-4298; (817) 222-5087.

Office of the Regional Counsel for the Technical Center (ACT-7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485-7087.

Office of the Regional Counsel for the Western-Pacific Region (AWP-7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 725-7100.

Issued in Washington, DC on July 6, 1998.

James S. Dillman,

Assistant Chief Counsel.

[FR Doc. 98-18706 Filed 7-10-98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-98-14]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's

regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 3, 1998.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-CMTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Tawana Matthews (202) 267-9783 or Terry Stubblefield (202) 267-7624, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11)

Issued in Washington, DC, on July 8, 1998.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions For Exemption

Docket No.: 29230.

Petitioner: Delta Air Lines, Inc.

Sections of the FAR Affected: 14 CFR 121.417(c)(2)(i)(A).

Description of Relief Sought: To permit Delta to use pictorial and text-based differences training in lieu of hands-on training to accomplish the training and qualification of crewmembers on Type III emergency automatic overwing exits installed on the Boeing 737-800 aircraft, when the crewmembers previously have been trained and qualified on Type III emergency manual overwing exits installed on other versions of Boeing 737 aircraft.

Dispositions of Petitions

Docket No.: 29239.

Petitioner: Bombardier Aerospace.

Sections of the FAR Affected: 14 CFR 25.571(e)(1).

Description of Relief Sought/Disposition: To permit use of " V_c at sea level or .85 V_c at 8,000 feet, whichever is greater," instead of the current § 25.571(e)(1) requirement to test from " V_c at sea level to V_c at 8,000 feet."

Grant, June 25, 1998, Exemption No. 6790.

Docket No.: 28574.

Petitioner: Federal Express Corporation.

Sections of the FAR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/

Disposition: To permit FedEx to use qualified and authorized check airmen, in lieu of an FAA inspector, to observe a qualifying pilot in command who is completing the initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing.

Grant, June 26, 1998, Exemption No. 6473A.

Docket No.: 28529.

Petitioner: Atlantic Aero, Inc.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/

Disposition: To permit Atlantic Aero Inc., and any part 135 operator who rents, leases, or otherwise uses any aircraft identified in Exemption No. 6459, as amended, to operate its aircraft without a TSO-C112 (Mode S) transponder installed. This exemption also allows Atlantic to operate any aircraft for which the installation of a TSO-74b or TSO-C74c ATC transponder is needed, provided the Principal Operations Inspector is notified.

Grant, June 26, 1998, Exemption No. 6459B.

Docket No.: 27294.

Petitioner: Air Transport Association of America.

Sections of the FAR Affected: 14 CFR 121.309(f)(2).

Description of Relief Sought/

Disposition: To permit ATA-member airlines to locate the aft megaphone at door 4-left on their Boeing 747 aircraft.

Grant, June 29, 1998, Exemption No. 6140B.

Docket No.: 23492.

Petitioner: United States Hang Gliding Association, Inc.

Sections of the FAR Affected: 14 CFR 103.1(a) and (b).

Description of Relief Sought/

Disposition: To permit individuals authorized by USHGA to operate unpowered ultralight vehicles (hang gliders) weighing less than 155 pounds, with another occupant, for the purpose of sport, training or recreation.

Grant, June 26, 1998, Exemption No. 4721F.