

Counsel (as to matters under Title V of the FA Act) issues the order of the Administrator, except that if the holder has made a valid request for a formal hearing on a matter under Title V of the FA Act initially or after an informal conference, Subpart D of this part governs further proceedings.

(d) Any person whose certificate is affected by an order issued under this section may appeal to the National Transportation Safety Board. If the certificate holder files an appeal with the Board, the Administrator's order is stayed unless the Administrator advises the Board that an emergency exists and safety in air commerce requires that the order become effective immediately. If the Board is so advised, the order remains effective and the Board shall finally dispose of the appeal within 60 days after the date of the advice. This paragraph does not apply to any person whose Certificate of Aircraft Registration is affected by an order issued under this section.

[Doc. No. 13-14, 44 FR 63723, Nov. 5, 1979, as amended by Amdt. 13-15, 45 FR 20773, Mar. 31, 1980; Amdt. 13-19, 54 FR 39290, Sept. 25, 1989; Amdt. 13-29, 62 FR 46865, Sept. 4, 1997]

§ 13.20 Orders of compliance, cease and desist orders, orders of denial, and other orders.

(a) This section applies to orders of compliance, cease and desist orders, orders of denial, and other orders issued by the Administrator to carry out the provisions of the Federal Aviation Act of 1958, as amended, the Hazardous Materials Transportation Act, the Airport and Airway Development Act of 1970, and the Airport and Airway Improvement Act of 1982, or the Airport and Airway Improvement Act of 1982 as amended by the Airport and Airway Safety and Capacity Expansion Act of 1987. This section does not apply to orders issued pursuant to section 602 or section 609 of the Federal Aviation Act of 1958, as amended.

(b) Unless the Administrator determines that an emergency exists and safety in air commerce requires the immediate issuance of an order under this section, the person subject to the order shall be provided with notice prior to issuance.

(c) Within 30 days after service of the notice, the person subject to the order may reply in writing or request a hearing in accordance with Subpart D of this part.

(d) If a reply is filed, as to any charges not dismissed or not subject to a consent order, the person subject to the order may, within 10 days after receipt of notice that the remaining charges are not dismissed, request a hearing in accordance with Subpart D of this part.

(e) Failure to request a hearing within the period provided in paragraphs (c) or (d) of this section—

(1) Constitutes a waiver of the right to appeal and the right to a hearing, and

(2) Authorizes the official who issued the notice to find the facts to be as alleged in the notice, or as modified as the official may determine necessary based on any written response, and to issue an appropriate order, without further notice or proceedings.

(f) If a hearing is requested in accordance with paragraph (c) or (d) of this section, the procedure of Subpart D of this part applies. At the close of the hearing, the Hearing Officer, on the record or subsequently in writing, shall set forth findings and conclusions and the reasons therefor, and either—

(1) Dismiss the notice; or

(2) Issue an order.

(g) Any party to the hearing may appeal from the order of the Hearing Officer by filing a notice of appeal with the Administrator within 20 days after the date of issuance of the order.

(h) If a notice of appeal is not filed from the order issued by a Hearing Officer, such order is the final agency order.

(i) Any person filing an appeal authorized by paragraph (g) of this section shall file an appeal brief with the Administrator within 40 days after the date of issuance of the order, and serve a copy on the other party. A reply brief must be filed within 20 days after service of the appeal brief and a copy served on the appellant.

(j) On appeal the Administrator reviews the available record of the proceeding, and issues an order dismissing, reversing, modifying or affirming the

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order. The Administrator's order includes the reasons for the Administrator's action.

(k) For good cause shown, requests for extensions of time to file any document under this section may be granted by—

(1) The official who issued the order, if the request is filed prior to the designation of a Hearing Officer; or

(2) The Hearing Officer, if the request is filed prior to the filing of a notice of appeal; or

(3) The Administrator, if the request is filed after the filing of a notice of appeal.

(l) Except in the case of an appeal from the decision of a Hearing Officer, the authority of the Administrator under this section is also exercised by the Chief Counsel, Deputy Chief Counsel, each Assistant Chief Counsel, each Regional Counsel, and the Aeronautical Center Counsel (as to matters under Title V of the Federal Aviation Act of 1958).

(m) Filing and service of documents under this section shall be accomplished in accordance with §13.43; and the periods of time specified in this section shall be computed in accordance with §13.44.

[Doc. No. 18884, 44 FR 63723, Nov. 5, 1979, as amended by Amdt. 13-17, 53 FR 33783, Aug. 31, 1988; Amdt. 13-19, 54 FR 39290, Sept. 25, 1989; Amdt. 13-29, 62 FR 46865, Sept. 4, 1997]

§ 13.21 Military personnel.

If a report made under this part indicates that, while performing official duties, a member of the Armed Forces, or a civilian employee of the Department of Defense who is subject to the Uniform Code of Military Justice (10 U.S.C. Ch. 47), has violated the Federal Aviation Act of 1958, or a regulation or order issued under it, the Chief Counsel, the Assistant Chief Counsel, Enforcement, the Assistant Chief Counsel, Regulations, the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office, each Regional Counsel, and the Aeronautical Center Counsel send a copy of the report to the appropriate military authority for such disciplinary action as that authority con-

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siders appropriate and a report to the Administrator thereon.

[Doc. No. 18884, 44 FR 63723, Nov. 5, 1979, as amended by Amdt. 13-19, 54 FR 39290, Sept. 25, 1989; Amdt. 13-29, 62 FR 46866, Sept. 4, 1997]

§ 13.23 Criminal penalties.

(a) Sections 902 and 1203 of the Federal Aviation Act of 1958 (49 U.S.C. 1472 and 1523), provide criminal penalties for any person who knowingly and willfully violates specified provisions of that Act, or any regulation or order issued under those provisions. Section 110(b) of the Hazardous Materials Transportation Act (49 U.S.C. 1809(b)) provides for a criminal penalty of a fine of not more than \$25,000, imprisonment for not more than five years, or both, for any person who willfully violates a provision of that Act or a regulation or order issued under it.

(b) If an inspector or other employee of the FAA becomes aware of a possible violation of any criminal provision of the Federal Aviation Act of 1958 (except a violation of section 902 (i) through (m) which is reported directly to the Federal Bureau of Investigation), or of the Hazardous Materials Transportation Act, relating to the transportation or shipment by air of hazardous materials, he or she shall report it to the Office of the Chief Counsel or the Regional Counsel or Assistant Chief Counsel for the region or area concerned. If appropriate, that office refers the report to the Department of Justice for criminal prosecution of the offender. If such an inspector or other employee becomes aware of a possible violation of a Federal statute that is within the investigatory jurisdiction of another Federal agency, he or she shall immediately report it to that agency according to standard FAA practices.

[Doc. No. 18884, 44 FR 63723, Nov. 5, 1979, as amended by Amdt. 13-19, 54 FR 39290, Sept. 25, 1989; Amdt. 13-29, 62 FR 46866, Sept. 4, 1997]

§ 13.25 Injunctions.

(a) Whenever it is determined that a person has engaged, or is about to engage, in any act or practice constituting a violation of the Federal Aviation Act of 1958, or any regulation or order issued under it for which the