

Federal Aviation Administration, DOT

§ 13.27

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 FAA exercises enforcement responsibility, or, with respect to the transportation or shipment by air of any hazardous materials, in any act or practice constituting a violation of the Hazardous Materials Transportation Act, or any regulation or order issued under it for which the FAA exercises enforcement responsibility, 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 may request the United States

Attorney General, or the delegate of the Attorney General, to bring an action in the appropriate United States District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages, as provided by section 1007 of the Federal Aviation Act of 1958 (49 U.S.C. 1487) and section 111(a) of the Hazardous Materials Transportation Act (49 U.S.C. 1810).

(b) Whenever it is determined that there is substantial likelihood that death, serious illness, or severe personal injury, will result from the transportation by air of a particular hazardous material before an order of compliance proceeding, or other administrative hearing or formal proceeding to abate the risk of the harm can be completed, 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 may bring, or request the United States Attorney General to bring, an action in the appropriate United States District Court for an order suspending or restricting the transportation by air of the hazardous material or for such other order as is necessary to eliminate or ameliorate the imminent hazard, as provided by section 111(b) of the Hazardous Materials Transportation Act (49 U.S.C. 1810).

[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]

§ 13.27 Final order of Hearing Officer in certificate of aircraft registration proceedings.

(a) If, in proceedings under section 501(b) of the Federal Aviation Act of 1958 (49 USC 1401), the Hearing Officer determines that the holder of the Certificate of Aircraft Registration has refused or failed to submit AC Form 8050-73, as required by § 47.51 of this chapter, or that the aircraft is ineligible for a Certificate of Aircraft Registration, the Hearing Officer shall suspend or revoke the respondent's certificate, as

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proposed in the notice of proposed certificate action.

(b) If the final order of the Hearing Officer makes a decision on the merits, it shall contain a statement of the findings and conclusions of law on all material issues of fact and law. If the Hearing Officer finds that the allegations of the notice have been proven, but that no sanction is required, the Hearing Officer shall make appropriate findings and issue an order terminating the notice. If the Hearing Officer finds that the allegations of the notice have not been proven, the Hearing Officer shall issue an order dismissing the notice. If the Hearing Officer finds it to be equitable and in the public interest, the Hearing Officer shall issue an order terminating the proceeding upon payment by the respondent of a civil penalty in an amount agreed upon by the parties.

(c) If the order is issued in writing, it shall be served upon the parties.

[Doc. No. 13-14, 44 FR 63723, Nov. 5, 1979; as amended by Amdt. 13-15, 45 FR 20773, Mar. 31, 1980]

§ 13.29 Civil penalties: Streamlined enforcement procedures for certain security violations.

This section may be used, at the agency's discretion, in enforcement actions involving individuals presenting dangerous or deadly weapons for screening at airports or in checked baggage where the amount of the proposed civil penalty is less than \$5,000. In these cases, sections 13.16(a), 13.16(c), and 13.16 (f) through (l) of this chapter are used, as well as paragraphs (a) through (d) of this section:

(a) *Delegation of authority.* The authority of the Administrator, under 49 U.S.C. 46301, to initiate the assessment of civil penalties for a violation of 49 U.S.C. Subtitle VII, or a rule, regulation, or order issued thereunder, is delegated to the regional Civil Aviation Security Division Manager and the regional Civil Aviation Security Deputy Division Manager for the purpose of issuing notices of violation in cases involving violations of 49 U.S.C. Subtitle VII and the FAA's regulations by individuals presenting dangerous or deadly weapons for screening at airport checkpoints or in checked baggage. This au-

thority may not be delegated below the level of the regional Civil Aviation Security Deputy Division Manager.

(b) *Notice of violation.* A civil penalty action is initiated by sending a notice of violation to the person charged with the violation. The notice of violation contains a statement of the charges and the amount of the proposed civil penalty. Not later than 30 days after receipt of the notice of violation, the person charged with a violation shall:

(1) Submit the amount of the proposed civil penalty or an agreed-upon amount, in which case either an order assessing a civil penalty or a compromise order shall be issued in that amount; or

(2) Submit to the agency attorney identified in the material accompanying the notice any of the following:

(i) Written information, including documents and witness statements, demonstrating that a violation of the regulations did not occur or that a penalty or the penalty amount is not warranted by the circumstances; or

(ii) A written request to reduce the proposed civil penalty, the amount of reduction, and the reasons and any documents supporting a reduction of the proposed civil penalty, including records indicating a financial inability to pay or records showing that payment of the proposed civil penalty would prevent the person from continuing in business; or

(iii) A written request for an informal conference to discuss the matter with an agency attorney and submit relevant information or documents; or

(3) Request a hearing in which case a complaint shall be filed with the hearing docket clerk.

(c) *Final notice of violation and civil penalty assessment order.* A final notice of violation and civil penalty assessment order ("final notice and order") may be issued after participation in any informal proceedings as provided in paragraph (b)(2) of this section, or after failure of the respondent to respond in a timely manner to a notice of violation. A final notice and order will be sent to the individual charged with a violation. The final notice and order will contain a statement of the charges and the amount of the proposed civil