

§ 13.18

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(1) The alleged violator pays a civil penalty or an amount agreed upon in compromise, and the costs of seizing, storing, and maintaining the aircraft;

(2) The aircraft is seized under an order of a Federal Court in proceedings in rem to enforce a lien against the aircraft, or the United States District Attorney for the judicial district concerned notifies the FAA that the District Attorney refuses to institute those proceedings; or

(3) A bond in the amount and with the sureties prescribed by the Chief Counsel, the Regional Counsel, or the Assistant Chief Counsel is deposited, conditioned on payment of the penalty, or the compromise amount, and the costs of seizing, storing, and maintaining the aircraft.

[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 46865, Sept. 4, 1997]

§ 13.18 Civil penalties: Administrative assessment against an individual acting as a pilot, flight engineer, mechanic, or repairman.

(a) *General.* (1) This section applies to each action in which the FAA seeks to assess a civil penalty by administrative procedures against an individual acting as a pilot, flight engineer, mechanic, or repairman, under 49 U.S.C. 46301(d)(5), for a violation listed in 49 U.S.C. 46301(d)(2). This section does not apply to a civil penalty assessed for violation of 49 U.S.C. chapter 51, or a rule, regulation, or order issued thereunder.

(2) *District court jurisdiction.* Notwithstanding the provisions of paragraph (a)(1) of this section, the United States district courts have exclusive jurisdiction of any civil penalty action involving an individual acting as a pilot, flight engineer, mechanic, or repairman for violations described in that paragraph, under 49 U.S.C. 46301(d)(4), if:

(i) The amount in controversy is more than \$50,000.

(ii) The action involves an aircraft subject to a lien that has been seized by the Government; or

(iii) Another action has been brought for an injunction based on the same violation.

(b) *Definitions.* As used in this part, the following definitions apply:

(1) *Flight engineer* means an individual who holds a flight engineer certificate issued under part 63 of this chapter.

(2) *Individual acting as a pilot, flight engineer, mechanic, or repairman* means an individual acting in such capacity, whether or not that individual holds the respective airman certificate issued by the FAA.

(3) *Mechanic* means an individual who holds a mechanic certificate issued under part 65 of this chapter.

(4) *Pilot* means an individual who holds a pilot certificate issued under part 61 of this chapter.

(5) *Repairman* means an individual who holds a repairman certificate issued under part 65 of this chapter.

(c) *Delegation of authority.* (1) The authority of the Administrator under 49 U.S.C. 46301(d)(5), to initiate and assess civil penalties is delegated to the Chief Counsel; the Deputy Chief Counsel for Operations; the Assistant Chief Counsel for Enforcement; Assistant Chief Counsel, Europe, Africa, and Middle East Area Office; the Regional Counsel; the Aeronautical Center Counsel; and the Technical Center Counsel.

(2) The authority of the Administrator to refer cases to the Attorney General of the United States, or the delegate of the Attorney General, for collection of civil penalties is delegated to the Chief Counsel; the Deputy Chief Counsel for Operations; the Assistant Chief Counsel for Enforcement; Assistant Chief Counsel, Europe, Africa, and Middle East Area Office; the Regional Counsel; the Aeronautical Center Counsel; and the Technical Center Counsel.

(3) The authority of the Administrator to compromise the amount of a civil penalty under 49 U.S.C. 46301(f) is delegated to the Chief Counsel; the Deputy Chief Counsel for Operations; the Assistant Chief Counsel for Enforcement; Assistant Chief Counsel, Europe, Africa, and Middle East Area Office; the Regional Counsel; the Aeronautical Center Counsel; and the Technical Center Counsel.

(d) *Notice of proposed assessment.* A civil penalty action is initiated by

sending a notice of proposed assessment to the individual charged with a violation specified in paragraph (a) of this section. The notice of proposed assessment contains a statement of the charges and the amount of the proposed civil penalty. The individual charged with a violation may do the following:

(1) Submit the amount of the proposed civil penalty or an agreed-on amount, in which case either an order of assessment or a compromise order will be issued in that amount.

(2) Answer the charges in writing.

(3) Submit a written request for an informal conference to discuss the matter with an agency attorney and submit relevant information or documents.

(4) Request that an order be issued in accordance with the notice of proposed assessment so that the individual charged may appeal to the National Transportation Safety Board.

(e) *Failure to respond to notice of proposed assessment.* An order of assessment may be issued if the individual charged with a violation fails to respond to the notice of proposed assessment within 15 days after receipt of that notice.

(f) *Order of assessment.* An order of assessment, which assesses a civil penalty, may be issued for a violation described in paragraph (a) of this section after notice and an opportunity to answer any charges and be heard as to why such order should not be issued.

(g) *Appeal.* Any individual who receives an order of assessment issued under this section may appeal the order to the National Transportation Safety Board. The appeal stays the effectiveness of the Administrator's order.

(h) *Exhaustion of administrative remedies.* An individual substantially affected by an order of the NTSB or the Administrator may petition for review only of a final decision and order of the National Transportation Safety Board to a court of appeals of the United States for the circuit in which the individual charged resides or has his or her principal place of business or the United States Court of Appeals for the District of Columbia Circuit, under 49 U.S.C. 46110 and 46301(d)(6). Neither an

order of assessment that has not been appealed to the National Transportation Board, nor an order compromising a civil penalty action, may be appealed under those sections.

(i) *Compromise.* The FAA may compromise any civil penalty action initiated under this section, in accordance with 49 U.S.C. 46301(f).

(1) An agency attorney may compromise any civil penalty action where an individual charged with a violation agrees to pay a civil penalty and the FAA agrees to make no finding of violation. Under such agreement, a compromise order is issued following the payment of the agreed-on amount or the signing of a promissory note. The compromise order states the following:

(i) The individual has paid a civil penalty or has signed a promissory note providing for installment payments;

(ii) The FAA makes no finding of violation; and

(iii) The compromise order will not be used as evidence of a prior violation in any subsequent civil penalty proceeding or certificate action proceeding.

(2) An agency attorney may compromise the amount of any civil penalty proposed or assessed in an order.

(j) *Payment.* (1) An individual must pay a civil penalty by:

(i) Sending a certified check or money order, payable to the Federal Aviation Administration, to the FAA office identified in the order of assessment, or

(ii) Making an electronic funds transfer according to the directions specified in the order of assessment.

(2) The civil penalty must be paid within 30 days after service of the order of assessment, unless an appeal is filed with the National Transportation Safety Board. The civil penalty must be paid within 30 days after a final order of the Board or the Court of Appeals affirms the order of assessment in whole or in part.

(k) *Collection of civil penalties.* If an individual does not pay a civil penalty imposed by an order of assessment or other final order, the Administrator may take action provided under the law to collect the penalty.

[Amdt. 13-32; 69 FR 59497, Oct. 4, 2004]