

§ 405.1

SOURCE: Docket No. 43810, 53 FR 11014, Apr. 4, 1988, unless otherwise noted.

§ 405.1 Monitoring of licensed and other activities.

Each licensee must allow access by and cooperate with Federal officers or employees or other individuals authorized by the Associate Administrator to observe licensed facilities and activities, including launch sites and reentry sites, as well as manufacturing, production, and testing facilities, or assembly sites used by any contractor or a licensee in the production, assembly, or testing of a launch or reentry vehicle and in the integration of a payload with its launch or reentry vehicle. Observations are conducted to monitor the activities of the licensee or contractor at such time and to such extent as the Associate Administrator considers reasonable and necessary to determine compliance with the license or to perform the Associate Administrator's responsibilities pertaining to payloads for which no Federal license, authorization, or permit is required.

[Doc. No. FAA-1999-5535, 65 FR 56657, Sept. 19, 2000]

§ 405.3 Authority to modify, suspend or revoke.

(a) Upon application by the licensee or upon the Office's own initiative, the Office may modify a license issued under this chapter if the Office finds that the modification is consistent with the requirements of the Act.

(b) If the Office finds that a licensee has substantially failed to comply with any requirement of the Act, any regulation issued under the Act, the terms and conditions of a license, or any other applicable requirement, or that public health and safety, the safety of property or any national security or foreign policy interest of the United States so require, the Office may suspend or revoke any license issued to such licensee under this chapter.

(c) Unless otherwise specified by the Office, any modification, suspension or revocation made by the Office under this section:

- (1) Takes effect immediately; and
- (2) Continues in effect during any review of such action under Part 406 of this chapter.

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(d) Whenever the Office takes any action under this section, the Office immediately notifies the licensee in writing of the Office's finding and the action which the Office has taken or proposes to take regarding such finding.

§ 405.5 Emergency orders.

The Associate Administrator may immediately terminate, prohibit, or suspend a licensed launch, reentry, or operation of a launch or reentry site if the Associate Administrator determines that—

(a) The licensed launch, reentry, or operation of a launch or reentry site is detrimental to public health and safety, the safety of property, or any national security or foreign policy interest of the United States; and

(b) The detriment cannot be eliminated effectively through the exercise of other authority of the Office.

[53 FR 11014, Apr. 4, 1988, as amended by Amdt. 405-1, 65 FR 56657, Sept. 19, 2000]

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AUTHORITY: 49 U.S.C. 70101-70121.

SOURCE: Docket No. FAA-2001-8607, 66 FR 2180, Jan. 10, 2001, unless otherwise noted.

Subpart A—Investigations and Enforcement

§ 406.1 Hearings in license and payload actions.

(a) Pursuant to 49 U.S.C. 70110, the following are entitled to a determination on the record after an opportunity for a hearing in accordance with 5 U.S.C. 554.

(1) An applicant for a license and a proposed transferee of a license regarding any decision to issue or transfer a license with conditions or to deny the issuance or transfer of such license;

(2) An owner or operator of a payload regarding any decision to prevent the launch or reentry of the payload; and

(3) A licensee regarding any decision to suspend, modify, or revoke a license or to terminate, prohibit, or suspend any licensed activity therefore.

(b) An administrative law judge will be designated to preside over any hearing held under this part.

§ 406.3 Submissions; oral presentation in license and payload actions.

(a) Determinations in license and payload actions under this subpart will be made on the basis of written submissions unless the administrative law judge, on petition or on his or her own initiative, determines that an oral presentation is required.

(b) Submissions shall include a detailed exposition of the evidence or arguments supporting the petition.

(c) Petitions shall be filed as soon as practicable, but in no event more than 30 days after issuance of decision or finding under § 406.1.

§ 406.5 Administrative law judge's recommended decision in license and payload actions.

(a) The Associate Administrator, who shall make the final decision on the matter at issue, shall review the recommended decision of the administrative law judge. The Associate Administrator shall make such final decision within thirty days of issuance of the recommended decision.

(b) The authority and responsibility to review and decide rests solely with the Associate Administrator and may not be delegated.

§ 406.7 [Reserved]

§ 406.9 Civil penalties.

(a) *Civil penalty liability.* Under 49 U.S.C. 70115(c), a person found by the FAA to have violated a requirement of the Act, a regulation issued under the Act, or any term or condition of a license issued or transferred under the Act, is liable to the United States for a civil penalty of not more than \$100,000 for each violation, as adjusted for inflation. A separate violation occurs for each day the violation continues.

(b) *Delegations.* The authority to impose civil penalties is exercised by an agency attorney as described in § 406.105.

(c) *Notice of proposed civil penalty.* A civil penalty action is initiated when the agency attorney advises a person, referred to as the respondent, of the