

Commercial Space Transportation, FAA, DOT

§ 406.9

- judge and Assistant Chief Counsel for Litigation.
- 406.115 Serving documents on other parties.
 - 406.117 Confidential information.
 - 406.119 Computation of time.
 - 406.121 Extension of time.
 - 406.123 Waivers.
 - 406.127 Complaint and answer in civil penalty adjudications.
 - 406.133 Amendment of pleadings.
 - 406.135 Withdrawal of complaint or request for hearing.
 - 406.137 Intervention.
 - 406.139 Joint procedural or discovery schedule.
 - 406.141 Motions.
 - 406.143 Discovery.
 - 406.147 Notice of hearing.
 - 406.149 Evidence.
 - 406.151 Standard of proof.
 - 406.153 Burden of proof.
 - 406.155 Offer of proof.
 - 406.157 Expert or opinion witnesses.
 - 406.159 Subpoenas.
 - 406.161 Witness fees.
 - 406.163 Record.
 - 406.165 Argument before the administrative law judge.
 - 406.167 Initial decision.
 - 406.173 Interlocutory appeals.
 - 406.175 Appeal from initial decision.
 - 406.177 Petition to reconsider or modify a final decision and order of the FAA decisionmaker on appeal.
 - 406.179 Judicial review of a final decision and order.

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