

## § 13.201

of a party or a person testifying or producing evidence.

### Subpart G—Rules of Practice in FAA Civil Penalty Actions

SOURCE: Amdt. 13-21, 55 FR 27575, July 3, 1990, unless otherwise noted.

#### § 13.201 Applicability.

(a) This subpart applies to all civil penalty actions initiated under § 13.16 of this part in which a hearing has been requested.

(b) This subpart applies only to proceedings initiated after September 7, 1988. All other cases, hearings, or other proceedings pending or in progress before September 7, 1988, are not affected by the rules in this subpart.

[Amdt. 13-21, 55 FR 27575, July 3, 1990, as amended by Amdt. 13-32; 69 FR 59497, Oct. 4, 2004]

#### § 13.202 Definitions.

*Administrative law judge* means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. 3105.

*Agency attorney* means the Deputy Chief Counsel for Operations, the Assistant Chief Counsel, Enforcement, the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office, each Regional Counsel, the Aeronautical Center Counsel, or the Technical Center Counsel, or an attorney on the staff of the Assistant Chief Counsel, Enforcement, the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office, each Regional Counsel, the Aeronautical Center Counsel, or the Technical Center Counsel who prosecutes a civil penalty action. An agency attorney shall not include:

(1) The Chief Counsel, the Deputy Chief Counsel for Policy and Adjudication, or the Assistant Chief Counsel for Litigation;

(2) Any attorney on the staff of the Assistant Chief Counsel for Litigation;

(3) Any attorney who is supervised in a civil penalty action by a person who provides such advice to the FAA decisionmaker in that action or a factually-related action.

*Attorney* means a person licensed by a state, the District of Columbia, or a territory of the United States to prac-

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tice law or appear before the courts of that state or territory.

*Complaint* means a document issued by an agency attorney alleging a violation of a provision of the Federal aviation statute listed in the first sentence of 49 U.S.C. 46301(d)(2) or in 49 U.S.C. 47531, or of the Federal hazardous materials transportation statute, 49 U.S.C. 5121-5128, or a rule, regulation, or order issued under those statutes, that has been filed with the Hearing Docket after a hearing has been requested under § 13.16(f)(3) or (g)(2)(ii) of this part.

*FAA decisionmaker* means the Administrator of the Federal Aviation Administration, acting in the capacity of the decisionmaker on appeal, or any person to whom the Administrator has delegated the Administrator's decision-making authority in a civil penalty action. As used in this subpart, the FAA decisionmaker is the official authorized to issue a final decision and order of the Administrator in a civil penalty action.

*Mail* includes U.S. certified mail, U.S. registered mail, or use of an overnight express courier service.

*Order assessing civil penalty* means a document that contains a finding of a violation of a provision of the Federal aviation statute listed in the first sentence of 49 U.S.C. 46301(d)(2) or in 49 U.S.C. 47531, or of the Federal hazardous materials transportation statute, 49 U.S.C. 5121-5128, or a rule, regulation or order issued under those statutes, and may direct payment of a civil penalty. Unless an appeal is filed with the FAA decisionmaker in a timely manner, an initial decision or order of an administrative law judge shall be considered an order assessing civil penalty if an administrative law judge finds that an alleged violation occurred and determines that a civil penalty, in an amount found appropriate by the administrative law judge, is warranted. Unless a petition for review is filed with a U.S. Court of Appeals in a timely manner, a final decision and order of the Administrator shall be considered an order assessing civil penalty if the FAA decisionmaker finds that an alleged violation occurred and a civil penalty is warranted.