

§ 13.7

(4) Contain a concise but complete statement of the facts relied upon to substantiate each allegation;

(5) State the name, address and telephone number of the person filing the complaint; and

(6) Be signed by the person filing the complaint or a duly authorized representative.

(c) Complaints which do not meet the requirements of paragraph (b) of this section will be considered reports under § 13.1.

(d) Complaints which meet the requirements of paragraph (b) of this section will be docketed and a copy mailed to each person named in the complaint.

(e) Any complaint filed against a member of the Armed Forces of the United States acting in the performance of official duties shall be referred to the Secretary of the Department concerned for action in accordance with the procedures set forth in § 13.21 of this part.

(f) The person named in the complaint shall file an answer within 20 days after service of a copy of the complaint.

(g) After the complaint has been answered or after the allotted time in which to file an answer has expired, the Administrator shall determine if there are reasonable grounds for investigating the complaint.

(h) If the Administrator determines that a complaint does not state facts which warrant an investigation or action, the complaint may be dismissed without a hearing and the reason for the dismissal shall be given, in writing, to the person who filed the complaint and the person named in the complaint.

(i) If the Administrator determines that reasonable grounds exist, an informal investigation may be initiated or an order of investigation may be issued in accordance with Subpart F of this part, or both. Each person named in the complaint shall be advised which official has been delegated the responsibility under § 13.3(b) or (c) for conducting the investigation.

(j) If the investigation substantiates the allegations set forth in the complaint, a notice of proposed order may

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be issued or other enforcement action taken in accordance with this part.

(k) The complaint and other pleadings and official FAA records relating to the disposition of the complaint are maintained in current docket form in the Enforcement Docket (AGC–10), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D. C. 20591. Any interested person may examine any docketed material at that office, at any time after the docket is established, except material that is ordered withheld from the public under applicable law or regulations, and may obtain a photostatic or duplicate copy upon paying the cost of the copy.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, 1502); sec. 6(c), Dept. of Transportation Act (49 U.S.C. 1655(c)))

[Doc. No 13–14, 44 FR 63723, Nov. 5, 1979; as amended by Amdt. 13–16, 45 FR 35307, May 27, 1980; Amdt. 13–19, 54 FR 39290, Sept. 25, 1989]

§ 13.7 Records, documents and reports.

Each record, document and report that the Federal Aviation Regulations require to be maintained, exhibited or submitted to the Administrator may be used in any investigation conducted by the Administrator; and, except to the extent the use may be specifically limited or prohibited by the section which imposes the requirement, the records, documents and reports may be used in any civil penalty action, certificate action, or other legal proceeding.

Subpart B—Administrative Actions

§ 13.11 Administrative disposition of certain violations.

(a) If it is determined that a violation or an alleged violation of the Federal Aviation Act of 1958, or an order or regulation issued under it, or of the Hazardous Materials Transportation Act, or an order or regulation issued under it, does not require legal enforcement action, an appropriate official of the FAA field office responsible for processing the enforcement case or other appropriate FAA official may take administrative action in disposition of the case.

(b) An administrative action under this section does not constitute a formal adjudication of the matter, and may be taken by issuing the alleged violator—

(1) A “Warning Notice” which recites available facts and information about the incident or condition and indicates that it may have been a violation; or

(2) A “Letter of Correction” which confirms the FAA decision in the matter and states the necessary corrective action the alleged violator has taken or agrees to take. If the agreed corrective action is not fully completed, legal enforcement action may be taken.

Subpart C—Legal Enforcement Actions

§ 13.13 Consent orders.

(a) At any time before the issuance of an order under this subpart, the official who issued the notice and the person subject to the notice may agree to dispose of the case by the issuance of a consent order by the official.

(b) A proposal for a consent order, submitted to the official who issued the notice, under this section must include—

(1) A proposed order;

(2) An admission of all jurisdictional facts;

(3) An express waiver of the right to further procedural steps and of all rights to judicial review; and

(4) An incorporation by reference of the notice and an acknowledgment that the notice may be used to construe the terms of the order.

(c) If the issuance of a consent order has been agreed upon after the filing of a request for hearing in accordance with Subpart D of this part, the proposal for a consent order shall include a request to be filed with the Hearing Officer withdrawing the request for a hearing and requesting that the case be dismissed.

§ 13.14 Civil penalties: General.

(a) Any person who violates any of the following statutory provisions, or any rule, regulation, or order issued thereunder, is subject to a civil penalty of not more than the amount specified in 49 U.S.C. chapter 463 for each violation:

(1) Chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117);

(2) Chapter 441 (except section 44109);

(3) Section 44502(b) or (c);

(4) Chapter 447 (except sections 44717 and 44719–44723);

(5) Chapter 451;

(6) Sections 46301(b), 46302 (for a violation of 49 U.S.C. 46504), or 46318;

(7) Section 47107(b); or

(8) Sections 47528 through 47530.

(b) Any person who knowingly commits an act in violation of 49 U.S.C. chapter 51 or a regulation prescribed or order issued under that chapter, is subject to a civil penalty under 49 U.S.C. 5123.

(c) The minimum and maximum amounts of civil penalties for violations of the statutory provisions specified in paragraphs (a) and (b) of this section, or rules, regulations, or orders issued thereunder, are periodically adjusted for inflation in accordance with the formula established in 28 U.S.C. 2461 note and implemented in 14 CFR part 13, subpart H.

[Amdt. 13–32; 69 FR 59495, Oct. 4, 2004; Amdt. 13–32; 70 FR 1813, Jan. 11, 2005; 71 FR 70464, Dec. 5, 2006]

§ 13.15 Civil penalties: Other than by administrative assessment.

(a) The FAA uses the procedures in this section when it seeks a civil penalty other than by the administrative assessment procedures in §§ 13.16 or 13.18.

(b) The authority of the Administrator, under 49 U.S.C. chapter 463, to seek a civil penalty for a violation cited in § 13.14(a), and the ability to refer cases to the United States Attorney General, or the delegate of the Attorney General, for prosecution of civil penalty actions sought by the Administrator is delegated to the Chief Counsel; the Deputy Chief Counsel for Operations; the Assistant Chief Counsel for Enforcement; the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office; the Regional Counsel; the Aeronautical Center Counsel; and the Technical Center Counsel. This delegation applies to cases involving:

(1) An amount in controversy in excess of: