

the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute a FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and a FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports Division office in Hawthorne, California.

The City of Chandler, Arizona, submitted the Noise Exposure Maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from July 1997 through January 2000 to the FAA on February 19, 1999 and May 28, 1999. The Chandler Municipal Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on June 24, 1999. Notice of this determination was published in the **Federal Register** on July 8, 1999.

The Chandler Municipal Airport study contains a proposed Noise Compatibility Program comprised of actions designed for implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in Section 104(b) of the Act. The FAA began its review of the program on January 13, 2000 and was

required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained sixteen proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The Associate Administrator for Airports approved the overall program effective July 10, 2000.

All sixteen of the program elements were approved. The following three measures were approved as voluntary measures: Request aircraft departing on Runway 22L to fly to runway end before turning left; request aircraft departing on Runway 22R to fly to runway end before turning right; and, promote use of AOPA Noise Awareness Steps by light single and twin engine aircraft. The following thirteen measures were approved outright: Relocate heliport to east side of airport; establish Airport Influence Area; use combined 2003 and 2020 noise contours as basis for noise compatibility planning; set 55 DNL as the threshold for promoting airport-compatible development; establish noise compatibility guidelines for the review of development projects within the 55 DNL contour; amend Airport Impact Overlay Zoning Ordinance; enact Airport Impact Overlay Zoning Ordinance (Maricopa County, Town of Gilbert); amend subdivision regulations to require recording of fair disclosure covenants and granting of avigational easement in Airport Impact Overlay District; amend building code to add sound insulation standards supporting Airport Impact Overlay zoning requirements; maintain system of receiving, analyzing, and responding to noise complaints; review Noise Compatibility Plan implementation; Update Noise Exposure Maps and Noise Compatibility Program; and, publish pilot guide.

These determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator for Airports on July 10, 2000. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal are available for review at the FAA office listed above and at the administrative offices of the city of Chandler, Arizona.

Issued in Hawthorne, California on July 17, 2000.

Herman C. Bliss,

*Manager, Airports Division, AWP-600
Western-Pacific Region.*

[FR Doc. 00-19529 Filed 8-1-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders In Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. This publication represents the quarter ending on June 30, 2000. This publication ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR Part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a cumulative subject-matter index and digests organized by order number. The indexes are published on a quarterly basis (*i.e.*, January, April, July, and October.)

The FAA first published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that only the subject-matter index would be published cumulatively and that the order number index would be non-cumulative. The FAA announced in a later notice that the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 4055; 1/19/93.

The previous quarterly publications of these indexes have appeared in the **Federal Register** as follows:

Dates of quarter	Federal Register publication
11/1/89–9/30/90	55 FR 45984; 10/31/90.
10/1/90–12/31/90 ..	56 FR 44886; 2/6/91.
1/1/91–3/31/91	56 FR 20250; 5/2/91.
4/1/91–6/30/91	56 FR 31984; 7/12/91.
7/1/91–9/30/91	56 FR 51735; 10/15/91.
10/1/91–12/31/91 ..	57 FR 2299; 1/21/92.
1/1/92–3/31/92	57 FR 12359; 4/9/92.
4/1/92–6/30/92	57 FR 32825; 7/23/92.
7/1/92–9/30/92	57 FR 48255; 10/22/92.
10/1/92–12/31/92 ..	58 FR 5044; 1/19/93.
1/1/93–3/31/93	58 FR 21199; 4/19/93.
4/1/93–6/30/93	58 FR 42120; 8/6/93.
7/1/93–9/30/93	58 FR 58218; 10/29/93.
10/1/93–12/31/93 ..	59 FR 5466; 2/4/94.
1/1/94–3/31/94	59 FR 22196; 4/29/94.
4/1/94–6/30/94	59 FR 39618; 8/3/94.

Dates of quarter	Federal Register publication
7/1/94–12/31/94	60 FR 4454; 1/23/95.
1/1/95–3/31/95	60 FR 19318; 4/17/95.
4/1/95–6/30/95	60 FR 36854; 7/18/95.
7/1/95–9/30/95	60 FR 53228; 10/12/95.
10/1/95–12/31/95 ..	61 FR 1972; 1/24/96.
1/1/96–3/31/96	61 FR 16955; 4/18/96.
4/1/96–6/30/96	61 FR 37526; 7/18/96.
7/1/96–9/30/96	61 FR 54833; 10/22/96.
10/1/96–12/31/96 ..	62 FR 2434; 1/16/97.
1/1/97–3/31/97	62 FR 24533; 5/2/97.
4/1/97–6/30/97	62 FR 38339; 7/17/97.
7/1/97–9/30/97	62 FR 53856; 10/16/97.
10/1/97–12/31/97 ..	63 FR 3373; 1/22/98.
1/1/98–3/31/98	63 FR 19559; 4/20/98.
4/1/98–6/30/98	63 FR 37914; 7/14/98.
7/1/98–9/30/98	63 FR 57729; 10/28/98.
10/1/98–12/31/98 ..	64 FR 1855; 1/12/99.
1/1/99–3/31/99	64 FR 24690; 5/7/99.
4/1/99–6/30/99	64 FR 43236; 8/9/99.
7/1/99–9/30/99	64 FR 58879; 11/1/99.
10/1/99–12/31/99 ..	65 FR 1654; 1/11/00.
1/1/00–3/31/00	65 FR 35973; 6/6/00.

The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. Also, the Administrator's civil penalty decisions have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callaghan) and are available on computer on-line services (Westlaw, LEXIS, Compuserve and FedWorld). A list of the addresses of the FAA offices where the civil penalty decisions may be reviewed and information

regarding these commercial publications and computer databases are provided at the end of this notice. Information regarding the accessibility of materials filed in recently initiated civil penalty cases in FAA civil penalty cases at the DOT Docket and over the Internet also appears at the end of this notice.

Civil Penalty Actions—Orders Issued by the Administrator

Order Number Index

(This index includes all decisions and orders issued by the Administrator from April 1, 2000 to June 30, 2000.)

2000—8—USA Jet Airlines, Inc.
5/9/00—CP99SW0009
DMS No. FAA—1999—5783
200—9—Tundra Copters, Inc.
5/11/00—CP99AL0011
DMS No. FAA—1999—5983
2000—10—Johnny Johnson
5/11/2000—CP99SW0011
DMS No. FAA—1999—5821
2000—11—Europex, Inc.
5/11/2000—CP98EA0042
DMS No. FAA—1998—4676
2000—12—Evergreen Helicopters of Alaska, Inc.
6/8/2000—CP97AL0001
2000—13—Empire Airlines, Inc.
6/8/2000—CP98NM0011
2000—14—Warbelow's Air Ventures, Inc.
6/8/2000—CP97AL0012

Civil Penalty Actions—Orders Issued by the Administrator

Subject Matter Index

(Current as of June 30, 2000)

Administrative Law Judges—Power and Authority:

Continuance of hearing	91–11 Continental Airlines; 92–29 Haggland.
Credibility findings	90–21 Caroll; 92–3 Park; 93–17 Metcalf; 94–3 Valley Air; 94–4 Northwest Aircraft Rental; 95–25 Conquest; 95–26 Hereth; 97–20 Werle; 97–30 Emery Worldwide Airlines; 97–32 Florida Propeller; 98–18 General Aviation; 99–6 Squire; 2000–3 Warbelow's.
Default Judgment	91–11 Continental Airlines; 92–47 Cornwall; 94–8 Nunez; 94–22 Harkins; 94–28 Toyota; 95–10 Diamond; 97–28 Continental Airlines; 97–33 Rawlings; 98–13 Air St. Thomas.
Discovery	89–6 American Airlines; 91–17 KDS Aviation; 91–54 Alaska Airlines; 92–46 Sutton-Sautter; 93–10 Costello.
Expert Testimony	94–21 Sweeney.
Granting extensions of time	90–27 Gabbert.
Hearing location	92–50 Cullop.
Hearing request	93–12 Langton; 94–6 Strohl; 94–27 Larsen; 94–37 Houston; 95–19 Rayner.
Initial Decision	92–1 Costello; 92–32 Barnhill.
Lateness of	97–31 Sanford Air.
Should include requirement to file appeal brief	98–5 Squire.
Jurisdiction:	
Generally	90–20 Degenhardt; 90–33 Cato; 92–1 Costello; 92–32 Barnhill.
After issuance of order assessing civil penalty	94–37 Houston; 95–19 Rayner; 97–33 Rawlings.
When complaint is withdrawn	94–39 Kirola.
Motion for Decision	92–73 Wyatt; 92–75 Beck; 92–76 Safety Equipment; 93–11 Merkley; 96–24 Horizon; 98–20 Koenig.
No authority to extend due date for late Answer without showing of good cause. (See also Answer).	95–28 Atlantic World Airways; 97–18 Robinson; 98–4 Larry's Flying Service.
Notice of Hearing	92–31 Eaddy.
Regulate proceedings	97–20 Werle.

Sanction	90-37 Northwest Airlines; 91-54 Alaska Airlines; 94-22 Harkins; 94-28 Toyota.
Service of law judges by parties	97-18 Robinson.
Vacate initial decision	90-20 Degenhardt; 92-32 Barnhill; 95-6 Sutton.
Aerial Photography	95-25 Conquest Helicopters.
Agency Attorney	93-13 Medel.
Air Carrier/Aircraft Operator:	
Agent/independent contractor of	92-70 USAir; 2000-13 Empire Airlines.
Careless or Reckless	92-48 & 92-70 USAir; 93-18 Westair Commuter.
Duty of care:	
Non-delegable	92-70 USAir; 96-16 Westair Commuter; 96-24 Horizon; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 99-12 TWA; 2000-3 Warbelow's; 2000-13 Empire Airlines.
Employee	93-18 Westair Commuter; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 99-12 TWA; 99-14 Alika Aviation; 2000-1 Gatewood; 2000-3 Warbelow's.
Ground Security Coordinator, Failure to provide	96-16 WestAir Commuter.
Intoxicated Passenger:	
Allowing to board	98-11 TWA.
Serving alcohol to	98-11 TWA.
Liability for acts/omissions of employees in scope of employment.	98-11 TWA, 99-12 TWA; 99-14 Alika Aviation; 2000-1 Gatewood; 2000-3 Warbelow's.
Liability for maintenance by independent repair station	2000-13 Empire Airlines.
Use of unqualified pilot	99-15 Blue Ridge; 99-11 Evergreen; 2000-12 Evergreen.
Aircraft Maintenance (See also Airworthiness, Maintenance Manual):	
Generally	90-11 Thunderbird Accessories; 91-8 Watts Agricultural Aviation; 93-36 & 94-3 Valley Air; 94-38 Bohan; 95-11 Horizon; 96-3 America West Airlines; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-9 Alphin; 97-10 Alphin; 97-11 Hampton; 97-30 Emery Worldwide Airlines; 97-31 Sanford Air; 98-18 General Aviation; 99-5 Africa Air; 2000-1 Gatewood; 2000-3 Warbelow's; 2000-13 Empire Airlines; 2000-14 Warbelow's.
Acceptable methods, techniques, and practices	96-3 America West Airlines.
After certificate revocation	92-73 Wyatt.
Airworthiness Directive, compliance with	96-18 Kilrain; 97-9 Alphin.
Approved data for major repairs	2000-13 Empire Airlines.
Advisory Circular 43.13-1, as amended alone not approved data.	2000-13 Empire Airlines.
Approved data for one aircraft not necessarily approved for major repair of another.	2000-13 Empire Airlines.
DER	2000-13 Empire Airlines.
Inspection	97-18 Kilrain; 97-10 Alphin; 99-14 Alika Aviation.
Major alterations:	
Failed to prove	99-5 Africa Air.
Major/minor repairs	96-3 America West Airlines.
Minimum Equipment List (MEL)	94-38 Bohan; 95-11 Horizon; 97-11 Hampton; 97-21 Delta; 97-30 Emery Worldwide Airlines; 2000-3 Warbelow's.
Operation when maintenance entries not made	2000-1 Gatewood.
Propellers	2000-1 Gatewood.
Aircraft Records:	
Aircraft Operation	91-8 Watts Agricultural Aviation; 2000-1 Gatewood.
Flight and Duty time	96-4 South Aero.
Maintenance Records	91-8 Watts Agricultural Aviation; 94-2 Woodhouse; 97-30 Emery Worldwide Airlines; 97-31 Sanford Air; 98-18 General Aviation; 2000-1 Gatewood; 2000-3 Warbelow's.
Description of maintenance	2000-1 Gatewood.
"Yellow tags"	91-8 Watts Agricultural Aviation.
Aircraft—Weight and Balance (see Weight and Balance)	
Airmen:	
Airline Transport Pilot certificates requirement in foreign aviation by Part 135 operator.	99-11 Evergreen Helicopters; 2000-12 Evergreen.
Altitude deviation	92-49 Richardson & Shimp.
Careless or Reckless	91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-49 Richardson & Shimp; 92-47 Cornwall; 93-17 Metcalf; 93-29 Sweeney; 96-17 Fenner.
Flight time limitations	93-11 Merkley.
Flight Time records	99-7 Premier Jets.
Follow ATC Instruction	91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-49 Richardson & Shimp.
Low Flight	92-47 Cornwall; 93-17 Metcalf.
Owner's responsibility	96-17 Fenner; 2000-1 Gatewood.
Pilots	91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-49 Richardson & Shimp; 93-17 Metcalf.
See and Avoid	93-29 Sweeney.
Unqualified for Part 135 flight	99-15 Blue Ridge.
Air Operations Area (AOA):	

Air Carrier:	
Responsibilities	90-19 Continental Airlines; 91-33 Delta Air Lines; 94-1 Delta Air Lines.
Airport Operator:	
Responsibilities	90-19 Continental Airlines; 91-4 [Airport Operator]; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 91-58 [Airport Operator]; 96-1 [Airport Operator]; 98-7 LAX.
Badge Display	91-4 [Airport Operator]; 91-33 Delta Air Lines; 99-1 American Airlines.
Definition of	90-19 Continental Airlines; 91-4 [Airport Operator]; 91-58 [Airport Operator].
Exclusive Areas	90-19 Continental Airlines; 91-4 [Airport Operator]; 91-58 [Airport Operator]; 98-7 LAX.
Airport Security Program (ASP):	
Compliance with	91-4 [Airport Operator]; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 91-58 [Airport Operator]; 94-1 Delta Air Lines; 96-1 [Airport Operator]; 97-23 Detroit Metropolitan; 98-7 LAX; Airport Operator.
Responsibilities	90-12 Continental Airlines; 91-4 [Airport Operator]; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 91-58 [Airport Operator]; 96-1 [Airport Operator]; 97-23 Detroit Metropolitan.
Air Traffic Control (ATC):	
Error as mitigating factor	91-12 & 91-31 Terry & Menne.
Error as exonerating factor	91-12 & 91-31 Terry & Menne; 92-40 Wendt.
Ground Control	91-12 Terry & Menne; 93-18 Westair Commuter.
Local Control	91-12 Terry & Menne.
Tapes & Transcripts	91-12 Terry & Menne; 92-49 Richardson & Shimp.
Airworthiness	91-8 Watts Agricultural Aviation; 92-10 Flight Unlimited; 92-48 & 92-70 USAir; 94-2 Woodhouse; 95-11 Horizon; 96-3 American West Airlines; 96-18 Kilrain; 94-25 USAir; 97-8 Pacific Av. d/b/a InterIsland Helicopters; 97-9 Alphin; 97-10 Alphin; 97-11 Hampton; 97-21 Delta; 97-30 Emery Worldwide Airlines; 97-32 Florida Propeller; 98-18 General Aviation; 99-14 Alike Aviation; 2000-3 Warbelow's; 2000-13 Empire Airlines; 2000-14 Warbelow's.
Amicus Curiae Briefs	90-25 Gabbert.
Answer:	
ALJ may not extend due date for late Answer unless good cause shown.	95-28 Atlantic World Airways; 97-18 Robinson; 97-33 Rawlings; 98-4 Larry's Flying Service.
Reply to each numbered paragraph in the complaint required	98-21 Blankson.
Timeliness of answer	90-3 Metz; 90-15 Playter; 92-32 Barnhill; 92-47 Cornwall; 92-75 Beck; 92-76 Safety Equipment; 94-5 Grant; 94-29 Sutton; 94-30 Columna; 94-43 Perrez; 95-10 Diamond; 95-28 Atlantic World Airways; 97-18 Robinson; 97-19 Missirlian; 97-33 Rawlings; 97-38 Air St. Thomas; 98-4 Larry's Flying Service; 98-13 Air St. Thomas; 99-8 McDermott; 99-9 Lifeflite Medical Air Transport; 99-16 Dorfman.
Timeliness not at issue once hearing Held	99-16 Dorfman.
What constitutes	92-32 Barnhill; 92-75 Beck; 97-19 Missirlian.
Appeals (See also Filing; Timeliness; Mailing Rule):	
Briefs, Generally	89-4 Metz; 91-45 Park; 92-17 Giuffrida; 92-19 Cornwall; 92-39 Beck; 93-24 Steel City Aviation; 93-28 Strohl; 94-23 Perez; 95-13 Kilrain.
Additional Appeal Brief	92-3 Park; 93-5 Wendt; 93-6 Westair Commuter; 93-28 Strohl; 94-4 Northwest Aircraft; 94-18 Luxemburg; 94-29 Sutton; 97-22 Sanford Air; 97-34 Continental Airlines; 97-38 Air St. Thomas; 98-18 General Aviation; 99-11 Evergreen Helicopter; 2000-7 Martinez.
Appeal dismissed as premature	95-19 Rayner.
Appeal dismissed as moot after complaint withdrawn	92-9 Griffin.
Appellate arguments	92-70 USAir.
Court of Appeals, appeal to (See Federal Courts)	
Good Cause for Late-Filed Brief or Notice of Appeal	90-3 Metz; 90-27 Gabbert; 90-39 Hart; 91-10 Graham; 91-24 Esau; 91-48 Wendt; 91-50 & 92-1 Costello; 92-3 Park; 92-17 Giuffrida; 92-39 Beck; 92-41 Moore & Sabre Associates; 92-52 Beck; 92-57 Detroit Metro Wayne Co. Airport; 92-69 McCabe; 93-23 Allen; 93-27 Simmons; 93-31 Allen; 95-2 Meronek; 95-9 Woodhouse; 95-25 Conquest; 97-6 WRA Inc.; 97-7 Stalling; 97-28 Continental; 97-38 Air St. Thomas; 98-1 V. Taylor; 98-13 Air St. Thomas; 99-4 Warbelow's Air Ventures; 2000-11 Europex.
Informal Conference Conduct of, not on appeal	99-14 Alike Aviation.
Motion to Vacate construed as a brief	91-11 Continental Airlines.
Perfecting an Appeal, generally	92-17 Giuffrida; 92-19 Cornwall; 92-39 Beck; 94-23 Perez; 95-13 Kilrain; 96-5 Alphin Aircraft; 98-20 Koenig.

Extension of Time for (good cause for)	89-8 Thunderbird Accessories; 91-26 Britt Airways; 91-32 Bargaen; 91-50 Costello; 93-2 & 93-3 Wendt; 93-24 Steel City Aviation; 93-32 Nunez; 98-5 Squire; 98-5 Squire; 99-3 Justice; 99-4 Warbelow's Air Ventures.
Failure to	89-1 Gressani; 89-7 Zenkner; 90-11 Thunderbird Accessories; 90-35 P. Adams; 90-39 Hart; 91-7 Pardue; 91-10 Graham; 91-20 Bargaen; 91-43, 91-44, 91-46 & 91-47 Delta Air Lines; 91-11 Alilin; 92-15 Dillman; 92-18 Bargaen; 92-34 Carrell; 92-35 Bay Land Aviation; 92-36 Southwest Airlines; 92-45 O'Brien; 92-56 Montauk Caribbean Airways; 92-67 USAir; 92-68 Weintraub; 92-78 TWA; 93-7 Dunn; 93-8 Nunez; 93-20 Smith; 93-23 & 93-31 Allen; 93-34 Castle Aviation; 93-35 Steel City Aviation; 94-12 Bartusiak; 94-24 Page; 94-26 French Aircraft; 94-34 American International Airways; 94-35 American International Airways; 94-36 American International Airways; 94-4 Hanson; 95-22 & 96-5 Alphin Aircraft; 96-2 Skydiving Center; 96-13 Winslow; 97-3 [Airport Operator], 97-6 WRA, Inc.; 97-15 Houston & Johnson County; 97-35 Gordon Air Services; 97-36 Avcon; 97-37 Roush; 98-10 Rawlings; 99-2 Oxygen Systems; 9000-9 Tundra Copters; 2000-10 Johnson.
Notice of appeal construed as appeal brief	92-39 Beck; 94-15 Columna; 95-9 Woodhouse; 95-23 Atlantic World Airways; 96-20 Missirlian; 97-2 Sanford Air; 98-5 Squire; 98-17 Blue Ridge; 98-23 Instead Balloon Services; 99-3 Justice; 99-8 McDermott; 2000-7 Martinez.
What Constitutes	90-4 Metz; 90-27 Gabbert; 91-45 Park; 92-7 West; 92-17 Giuffrida; 92-39 Beck; 93-7 Dunn; 94-15 Columna; 94-23 Perez; 94-30 Columna; 95-9 Woodhouse; 95-23 Atlantic World Airways; 96-20 Missirlian; 97-2 Sanford Air.
Service of brief:	
Fail to serve other party	92-17 Giuffrida; 92-19 Cornwall.
Timeliness of Notice of Appeal	90-3 Metz; 90-39 Hart; 91-50 Costello; 92-7 West; 92-69 McCabe; 93-27 Simmons; 95-2 Meronek; 95-9 Woodhouse; 95-15 Alphin Aviation; 96-14 Midtown Neon Sign Corp.; 97-7 & 97-17 Stallings; 97-28 Continental; 97-38 Air St. Thomas; 98-1 V. Taylor; 98-13 Air St. Thomas; 98-16 Blue Ridge; 98-17 Blue Ridge; 98-21 Blankson.
Withdrawal of	89-2 Lincoln-Walker; 89-3 Sittko; 90-4 Nordrum; 90-5 Sussman; 90-6 Dabaghian; 90-7 Steele; 90-8 Jenkins; 90-9 Van Zandt; 90-13 O'Dell; 90-14 Miller; 90-28 Puleo; 90-29 Sealander; 90-30 Steidinger; 90-34 D. Adams; 90-40 & 90-41 Westair Commuter Airlines; 91-1 Nestor; 91-5 Jones; 91-6 Lowery; 91-13 Kreamer; 91-14 Swanton; 91-15 Knipe; 91-16 Lopez; 91-19 Bayer; 91-21 Britt Airways; 91-22 Omega Silicone Co.; 91-23 Continental Airlines; 91-25 Sanders; 91-27 Delta Air Lines; 91-28 Continental Airlines; 91-29 Smith; 91-34 GASPRO; 91-35 M. Graham; 91-36 Howard; 91-37 Vereen; 91-39 America West; 91-42 Pony Express; 91-49 Shields; 91-56 Mayhan; 91-57 Britt Airways; 91-59 Griffin; 91-60 Brinton; 92-2 Koller; 92-4 Delta Air Lines; 92-6 Rothgeb; 92-12 Bertetto; 92-20 Delta Air Lines; 92-21 Cronberg; 92-22, 92-23, 92-24, 92-25, 92-26 & 92-28 Delta Air Lines; 92-33 Port Authority of NY & NJ; 92-42 Jayson; 92-43 Delta Air Lines; 92-44 Owens; 92-53 Humble; 92-54 & 92-55 Northwest Airlines; 92-60 Costello; 92-61 Romerdahl; 92-62 USAir; 92-63 Schaefer; 92-64 & 92-65 Delta Air Lines; 92-66 Sabre Associates & Moore; 92-79 Delta Air Lines; 93-1 Powell & Co.; 93-4 Harrah; 93-14 Fenske; 93-15 Brown; 93-21 Delta Air Lines; 93-22 Yannotone; 93-26 Delta Air Lines; 93-33 HPH Aviation; 94-9 B&G Instruments; 94-10 Boyle; 94-11 Pan American Airways; 94-13 Boyle; 94-14 B&G Instruments; 94-16 Ford; 94-33 Trans World Airlines; 94-41 Dewey Towner; 94-42 Taylor; 95-1 Diamond Aviation; 95-3 Delta Air Lines; 95-5 Araya; 95-6 Sutton; 95-7 Empire Airlines; 95-20 USAir; 95-21 Faisca; 95-24 Delta Air Lines; 96-7 Delta Air Lines; 96-8 Empire Airlines; 96-10 USAir; 96-11 USAir; 96-12 USAir; 96-21 Houseal; 97-4 [Airport Operator]; 97-5 West Air; 97-25 Martin & Jaworski; 97-26 Delta Air Lines; 97-27 Lock Haven; 97-39 Delta Air Lines; 98-9 Continental Express; 2000-8 USA Jet Airlines.
Assault (See also Battery, and Passenger Misconduct)	96-6 Ignatov; 97-12 Mayer; 99-16 Dorfman.
"Attempt"	89-5 Schultz.
Attorney Conduct:	
Obstreperous or Disruptive	94-39 Kirola.
Attorney Fees (See EAJA)	
Aviation Safety Reporting System	90-39 Hart; 91-12 Terry & Menne; 92-49 Richardson & Shimp.
Baggage Matching	98-6 Continental; 99-12 TWA.
Balloon (Hot Air)	94-2 Woodhouse.
Bankruptcy	91-2 Continental Airlines.

Battery (See also Assault and Passenger Misconduct	96-6 Ignatov; 97-12 Mayer; 99-16 Dorfman.
Certificates and Authorizations:	
Surrender when revoked	92-73 Wyatt.
Civil Air Security National Airport:	
Inspection Program (CASNAIP)	91-4 [Airport Operator]; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 91-58 [Airport Operator].
Civil Penalty Amount (See Sanction)	
Closing Argument (See Final Oral Argument)	
Collateral Estoppel	91-8 Watts Agricultural Aviation.
Complaint:	
Complainant Bound by	90-10 Webb; 91-53 Koller.
No Timely Answer to (See Answer)	
Partial Dismissal/Full Sanction	94-19 Pony Express; 94-40 Polynesian Airways.
Staleness (See Stale Complaint Rule)	
Statute of Limitations (See Statute of Limitations)	
Timeliness of complaint	91-51 Hagwood; 93-13 Medel; 94-7 Hereth; 94-5 Grant.
Withdrawal of	94-39 Kirola; 95-6 Sutton.
Compliance & Enforcement Program:	
(FAA Order No. 2150.3A	89-5 Schultz; 89-6 American Airlines; 91-38 Esau; 92-5 Delta Air Lines.
Compliance/Enforcement Bulletin 92-3	96-19 [Air Carrier].
Sanction Guidance Table	89-5 Schultz; 90-23 Broyles; 90-33 Cato; 90-37 Northwest Airlines; 91-3 Lewis; 92-5 Delta Air Lines; 98-18 General Aviation; 2000-3 Warbelow's.
Concealment of Weapons (See Weapons Violations)	
Consolidation of Cases	90-12, 90-18 & 90-19 Continental Airlines.
Constitutionality of Regulations (See also Double Jeopardy)	90-12 Continental Airlines; 90-18 Continental Airlines; 90-19 Continental Airlines; 90-37 Northwest Airlines; 96-1 [Airport Operator]; 96-25 USAir; 97-16 Mauna Kea; 97-34 Continental Airlines; 98-6 Continental Airlines; 98-11 TWA; 99-1 American; 99-12 TWA.
Continuance of Hearing	90-25 Gabbert; 92-29 Haggland.
Corrective Action (See Sanction)	
Counsel:	
Leave to withdraw	97-24 Gordon.
No right to assigned counsel (See Due Process)	
Credibility of Witnesses:	
Generally	95-25 Conquest Helicopters; 95-26 Hereth; 97-32 Florida Propeller.
Bias	97-9 Alphin.
Defer to ALJ determination of	90-21 Carroll; 92-3 Park 93-17 Metcalf; 95-26 Hereth; 97-20 Werle; 97-30 Emery Worldwide Airlines; 97-32 Florida Propeller; 98-11 TWA; 98-18 General Aviation 99-6 Squire; 2000-3 Warbelow's; 2000-14 Warbelow's.
Experts (See also Witness)	90-27 Gabbert; 93-17 Metcalf; 96-3 America West Airlines.
Impeachment	94-4 Northwest Aircraft Rental.
Reliability of eyewitness identification	97-20 Werle.
De facto answer	92-32 Barnhill.
Delay in initiating action	90-21 Carroll.
Deliberative Process Privilege	89-6 American Airlines; 90-12, 90-18 & 90-19 Continental Airlines.
Deterrence	89-5 Schult; 92-10 Flight Unlimited; 95-16 Mulhall; 95-17 Larry's Flying Service; 97-11 Hampton.
Discovery:	
Deliberative Process Privilege	89-6 American Airlines; 90-12, 90-18 & 90-19 Continental Airlines.
Depositions, generally	91-54 Alaska Airlines.
Notice of deposition	91-54 Alaska Airlines.
Failure to Produce	90-18 & 90-19 Continental Airlines, 91-17 KDS Aviation; 93-10 Costello.
Sanction for	91-17 KDS Aviation; 91-54 Alaska Airlines.
Regarding Unrelated Case	92-46 Sutton-Sautter.
Double Jeopardy	95-8 Charter Airlines; 96-26 Midtown.
Due Process:	
Generally	89-6 American Airlines; 90-12 Continental Airlines; 90-37 Northwest Airlines; 96-1 [Airport Operator]; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 99-12 TWA.
Before finding a violation	90-27 Gabbert.
Multiple violations	96-26 Midtown; 97-9 Alphin.
No right to assigned counsel	97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-9 Alphin; 99-6 Squire.
Violation of	89-6 American Airlines; 90-12 Continental Airlines; 90-37 Northwest Airlines; 96-1 [Airport Operator]; 97-8 Pacific Av. d/b/a Inter-Island Helicopter; 98-19 Martin & Jaworski.
EAJA:	
Adversary Adjudication	90-17 Wilson; 91-17 & 91-52 KDS Aviation; 94-17 TCI; 95-12 Toyota.

Amount of award	95-27 Valley Air.
Appeal from ALJ decision	95-9 Woodhouse.
Expert witness fees	95-27 Valley Air.
Final disposition	96-22 Woodhouse.
Further proceedings	91-52 KDS Aviation.
Jurisdiction over appeal	92-74 Wendt; 96-22 Woodhouse.
Late-filed application	96-22 Woodhouse.
Other expenses	93-29 Sweeney.
Position of agency	95-27 Valley Air.
Prevailing party	91-52 KDS Aviation.
Special circumstances	95-18 Pacific Sky.
Substantial justification	91-52 & 92-71 KDS Aviation; 93-9 Wendt; 95-18 Pacific Sky; 95-27 Valley Air; 96-15 Valley Air; 98-19 Martin & Jaworski.
Supplementation of application	95-27 Valley Air.
Evidence (See Proof & Evidence)	
Ex Parte Communications	93-10 Costello; 95-16 Mulhall; 95-19 Rayner.
Expert Witnesses (See Witness)	
Extension of Time:	
By Agreement of Parties	89-6 American Airlines; 92-41 Moore & Sabre Associates.
Dismissal by Decisionmaker	89-7 Zenkner; 90-39 Hart.
Good Cause for	89-8 Thunderbird Accessories.
Objection to	89-8 Thunderbird Accessories; 93-3 Wendt.
Who may grant	90-27 Gabbert.
Federal Courts	92-7 West; 97-1 Midtown Neon Sign; 98-8 Carr; 99-12 TWA.
Hazardous materials case appeals	97-1 Midtown Neon Sign; 98-8 Carr; 2000-4 Ryan International.
Federal Rules of Civil Procedure	91-17 KDS Aviation.
Federal Rules of Evidence (See also Proof & Evidence):	
Admissions	96-25 USAir, 99-5 Africa Air; 99-14 Alika Aviation.
Evidentiary admission are rebuttable	99-5 Africa Air.
Settlement Offers (Rule 408)	95-16 Mulhall; 96-25 USAir; 99-5 Africa Air.
Exclusion of admissions in settlement offers	99-5 Africa Air; 99-14 Alika Aviation.
Statements against interest	200-3 Warbelow's.
Subsequent Remedial Measures	96-24 Horizon; 96-25 USAir.
Final Oral Argument	92-3 Park.
Firearms (See Weapons)	
Ferry Flights	95-8 Charter Airlines
Filing (See also Appeals; Timeliness):	
Burden to prove date of filing	97-11 Hampton Air; 98-1 V. Taylor.
Discrepancy between certificate of service and postmark	98-16 Blue Ridge.
Service on designated representative	98-19 Martin & Jaworski.
Flight & Duty Time:	
Circumstances beyond crew's control:	
Generally	95-8 Charter Airlines.
Foreseeability	95-8 Charter Airlines.
Late freight	95-8 Charter Airlines.
Weather	95-8 Charter Airlines.
Competency check flights	96-4 South Aero.
Limitation of Duty Time	95-8 Charter Airlines; 96-4 South Aero.
Limitation of Flight Time	95-8 Charter Airlines.
"Other commercial flying"	95-8 Charter Airlines.
Recordkeeping:	
Individual flight time records for each Part 135 pilot	99-7 Premier Jets.
Flights	94-20 Conquest Helicopters.
Freedom of Information Act	93-10 Costello.
Fuel Exhaustion	95-26 Hereth.
Guns (See Weapons)	
Ground Security Coordinator, (See also Air Carrier; Standard Security Program):	
Failure to provide	96-16 WestAir Commuter.
Hazardous Materials:	
Transportation of, generally	90-37 Northwest Airlines; 92-76 Safety Equipment; 92-77 TCI; 94-19 Pony Express; 94-28 Toyota; 94-31 Smalling; 95-12 Toyota; 95-16 Mulhall; 96-26 Midtown.
Civil Penalty, generally	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
Corrective Action	92-77 TCI; 94-28 Toyota.
Culpability	92-77 TCI; 94-28 Toyota; 94-31 Smalling.
Financial hardship	95-16 Mulhall.
Installment plan	95-16 Mulhall.
First-time violation	92-77 TCI; 94-28 Toyota; 94-31 Smalling.
Gravity of violation	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 96-26 Midtown; 98-2 Carr.
Minimum penalty	95-16 Mulhall; 98-2 Carr.
Number of violations	95-16 Mulhall; 96-26 Midtown Neon Sign; 98-2 Carr.
Redundant violations	95-16 Mulhall; 96-26 Midtown Neon Sign; 98-2 Carr.
Criminal Penalty	92-77 TCI; 94-31 Smalling.

EAJA, applicability of	94-17 TCI; 95-12 Toyota.
Individual violations	95-16 Mulhall.
Judicial review under 49 U.S.C. 5123	97-1 Midtown Neon Sign; 98-8 Carr; 2000-4 Ryan International.
Knowingly	92-77 TCI; 94-19 Pony Express; 94-31 Smalling.
Specific hazard class transported:	
Combustible:	
Paint	95-16 Mulhall.
Corrosive:	
Wet Battery	94-28 Toyota Motor Sales.
Other	92-77 TCI.
Explosive:	
Fireworks	94-31 Smalling; 98-2 Carr.
Flammable:	
Paint	96-26 Midtown Neon Sign.
Turpentine	95-16 Mulhall.
Radioactive	94-19 Pony Express.
Hearing:	
Failure of party to attend	98-23 Instead Balloon Services.
Informal Conference	94-4 Northwest Aircraft Rental.
Initial Decision:	
What constitutes	92-32 Barnhill.
Interference with crewmembers (See also Passenger Misconduct; Assault).	92-3 Part; 96-6 Ignatov; 97-12 Mayer; 98-11 TWA; 98-12 Stout.
Interlocutory Appeal	89-6 American Airlines; 91-54 Alaska Airlines; 93-37 Airspect; 94-32 Detroit Metropolitan; 98-25 Gotbetter.
Internal FAA Policy &/or Procedures	89-6 American Airlines; 90-12 Continental Airlines; 92-73 Wyatt.
Jurisdiction:	
After initial decision	90-20 Degenhardt; 90-33 Cato; 92-32 Barnhill; 93-28 Strohl.
After Order Assessing Civil Penalty	94-37 Houston; 95-19 Rayner.
After withdrawal of complaint	94-39 Kirola.
\$50,000 Limit	90-12 Continental Airlines.
EAJA cases	92-74 Wendt; 96-22 Woodhouse.
HazMat cases	92-76 Safety Equipment.
NTSB	90-11 Thunderbird Accessories.
Statutory authority to regulate flights entirely outside of U.S. questioned.	99-11 Evergreen Helicopters; 2000-12 Evergreen.
Knowledge of concealed weapon (See also Weapons Violation)	89-5 Schultz; 90-20 Degenhardt.
Laches (See Delay in initiating action)	
Mailing Rule, generally	89-7 Zenkner; 90-3 Metz; 90-11 Thunderbird Accessories; 90-39 Hart; 98-20 Koenig.
Does not extend time for filing a request for hearing	2000-2 Ryan International.
Overnight express delivery	89-6 American Airlines.
Maintenance (See Aircraft Maintenance):	
Maintenance Instruction	93-36 Valley Air.
Maintenance Manual	90-11 Thunderbird Accessories; 96-25 USAir.
Air carrier maintenance manual	96-3 America West Airlines.
Approved/accepted repairs	96-3 America West Airlines; 2000-13 Empire Airlines.
Manufacturer's maintenance manual	96-3 America West Airlines; 97-31 Sanford Air; 97-32 Florida Propeller; 2000-3 Warbelow's; 2000-13 Empire Airlines.
Minimum Equipment List (MEL) (See Aircraft Maintenance)	
Mootness, appeal dismissed as moot	92-9 Griffin; 94-17 TCI.
National Aviation Safety Inspection Program (NASIP)	90-16 Rocky Mountain.
National Transportation Safety Board:	
Administrator not bound by NTSB case law	91-12 Terry & Menne; 92-49 Richardson & Shimp; 93-18 Westair Commuter.
Lack of Jurisdiction	90-11 Thunderbird Accessories; 90-17 Wilson; 92-74 Wendt.
Notice of Hearing:	
Receipt	92-31 Eaddy.
Notice of Proposed Civil Penalty:	
Initiates Action	91-9 Continental Airlines.
Signature of agency attorney	93-12 Langton.
Withdrawal of	90-17 Wilson.
Operate, generally	91-12 & 91-31 Terry & Menne; 93-18 Westair Commuter; 96-17 Fenner.
Responsibility of aircraft owner/operator for actions of pilot	96-17 Fenner; 2000-1 Gatewood.
Responsibility of aircraft owner/operator for employee's flying unairworthy aircraft.	2000-1 Gatewood.
Oral Argument before Administrator on appeal:	
Decision to hold	92-16 Wendt.
Instructions for	92-27 Wendt.
Order Assessing Civil Penalty:	
Appeal from	92-1 Costello; 95-19 Rayner.
Timeliness of request for hearing	95-19 Rayner.
Withdrawal of	89-4 Metz; 90-16 Rocky Mountain; 90-22 USAir; 95-19 Rayner; 97-7 Stalling.
Parachuting	98-3 Fedele.

Parts Manufacturer Approval (PMA):

Failure to obtain	93-19 Pacific Sky Supply.
Passenger List	99-13 Falcon Air Express.
Passenger Misconduct	92-3 Park.
Assault/Battery	96-6 Ignatov; 97-12 Mayer; 98-11 TWA; 99-16 Dorfman.
Compliance with Fasten Seat Belt Sign	99-16 Alika Aviation.
Interference with a crewmember	96-6 Ignatov; 97-12 Mayer; 98-11 TWA; 98-12 Stout; 99-16 Dorfman.
Smoking	92-37 Giuffrida; 99-6 Squire.
Hearing loss and failure to obey instructions re: not smoking.	99-6 Squire.
Stowing carry-on items	97-12 Mayer; 99-16.
Penalty (See Sanction; Hazardous Materials):	
Person	93-18 Westair Commuter.
Prima Facie Case (See also Proof & Evidence)	95-26 Hereth; 96-3 America West Airlines.
Proof & Evidence (See also Federal Rules of Evidence):	
Admissions	99-5 Africa Air; 2000-3 Warbelow's.
Evidentiary admission is rebuttable	99-5 Africa Air.
Affirmative Defense	92-13 Delta Air Lines; 92-72 Giuffrida; 98-6 Continental Airlines.
Burden of Proof	90-26 & 90-43 Waddell; 91-3 Lewis; 91-30 Trujillo; 92-13 Delat Air Lines; 92-72 Giuffrida; 93-29 Sweeney; 97-32 Florida Propeller; 2000-3 Warbelow's.
Circumstantial Evidence	90-12, 90-19 & 91-9 Continental Airlines; 93-29 Sweeney; 96-3 America West Airlines; 97-10 Alphin; 97-11 Hampton; 97-32 Florida Propeller; 98-6 Continental Airlines.
Credibility (See Administrative Law Judges; Credibility of Witnesses)	
Criminal standard rejected	91-12 Terry & Menne; 2000-3 Warbelow's.
Closing Argument (See also Final Oral Argument)	94-20 Conquest Helicopters.
Extra-record material	95-26 Hereth; 96-24 Horizon.
Hearsay	92-72 Giuffrida; 97-30 Emery Worldwide Airlines; 98-11 TWA.
New evidence	94-4 Northwest Aircraft Rental; 96-23 Kilrain; 99-15 Blue Ridge.
Offer of proof	97-32 Florida Propeller.
Preponderance of evidence	90-11 Thunderbird Accessories; 90-12 Continental Airlines; 91-12 & 91-31 Terry & Menne; 92-72 Giuffrida; 97-30 Emery Worldwide Airlines; 97-31 Sanford Air; 97-32 Florida Propeller; 98-3 Fedele; 98-6 Continental Airlines; 98-11 TWA.
Presumption that message on ATC tape is received as transmitted.	91-12 Terry & Menne; 92-49 Richardson & Shimp.
Presumption that a gun is deadly or dangerous	90-26 Waddell; 91-30 Trujillo.
Presumption that owner give pilot permission	96-17 Fenner.
Prima facie case	95-26 Hereth, 96-3 America West; 98-6 Continental Airlines.
Settlement offer	95-16 Mulhall; 96-25 USAir; 99-5 Africa Air.
Admission as part of settlement offer excluded	99-5 Africa Air; 99-14 Alika Aviation.
Subsequent remedial measures	96-24 Horizon; 96-25 USAir.
Substantial evidence	92-72 Giuffrida.
Pro Se Parties:	
Special Considerations	90-11 Thunderbird Accessories; 90-3 Metz; 95-25 Conquest.
Prosecutorial Discretion	89-6 American Airlines; 90-23 Broyles; 90-38 Continental Airlines; 91-41 [Airport Operator]; 92-46 Sutton-Sautter; 92-73 Wyatt; 95-17 Larry's Flying Service.
Administrator does not review Complainant's decision lot to bring action against anyone but respondent.	98-2 Carr.
Reconsideration:	
Denied by ALJ	89-4 & 90-3 Metz.
Granted by ALJ	92-32 Barnhill.
Late request for	97-14 Pacific Aviation; 98-14 Larry's Flying Service; 2000-5 Blue Ridge.
Petition based on new material	96-23 Kilrain; 2000-14 Warbelow's.
Repetitious petitions	96-9 [Airport Operator]; 2000-5 Blue Ridge; 2000-14 Warbelow's.
Stay of order pending	90-31 Carroll; 90-32 Continental Airlines; 2000-14 Warbelow's.
Redundancy, enhancing safety	97-11 Hampton.
Remand	89-6 American Airlines; 90-16 Rocky Moutain; 90-24 Bayer; 91-51 Hagwood; 91-54 Alaska Airlines; 92-1 Costello; 92-76 Safety Equipment; 94-37 Houston; 2000-5 Blue Ridge.
Repair Station	90-11 Thunderbird Accessories; 92-10 Flight Unlimited; 94-2 Woodhouse; 97-9 Alphin; 97-10 Alphin; 97-31 Sanford Air; 97-32 Florida Propeller; 2000-1 Gatewood.
Request for Hearing	94-37 Houston; 95-19 Rayner.
Constructive withdrawal of	97-7 Stalling; 98-23 Instead Balloon Services.
Timeliness of request	93-12 Langton; 95-19 Rayner; 2000-2 Ryan International.
Untimely request for hearing will be excused for good cause	94-27 Larsen; 93-12 Langton; 2000-2 Ryan International.
Rules of Practice (14 CFR Part 13, Subpart G):	
Applicability of	90-12, 90-18 & 90-19 Continental Airlines; 91-17 KDS Aviation.
Challenges to	90-12, 90-18 & 90-19 Continental Airlines; 90-21 Carroll; 90-37 Northwest Airlines.

Effect of Changes in	90-21 Carroll; 90-22 USAir; 90-38 Continental Airlines.
Initiation of Action	91-9 Continental Airlines.
Runway incursions	92-40 Wendt; 93-18 Westair Commuter.
Sanction:	
Ability to Pay	89-5 Schultz; 90-10 Webb; 91-3 Lewis; 91-38 Esau; 92-10 Flight Unlimited; 92-32 Barnhill; 92-37 & 92-72 Giuffrida; 92-38 Cronberg; 92-46 Sutton-Sautter; 92-51 Koblick; 93-10 Costello; 94-4 Northwest Aircraft Rental; 94-20 Conquest Helicopters; 95-16 Mulhall; 95-17 Larry's Flying Service; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-11 Hampton; 97-16 Mauna Kea; 98-4 Larry's Flying Service; 98-11 TWA; 99-12 TWA; 99-15 Blue Ridge; 2000-3 Warbelow's.
Agency policy:	
ALJ bound by	90-37 Northwest Airlines; 92-46 Sutton-Sautter; 96-19 [Air Carrier]; 2000-3 Warbelow's.
Changes after complaint	97-7 & 97-17 Stallings.
Statements of (e.g., FAA Order 2150.3A, Sanction Guidance Table, memoranda pertaining to)	90-19 Continental Airlines; 90-23 Broyles; 90-33 Cato; 90-37 Northwest Airlines; 92-46 Sutton-Sautter; 96-4 South Aero; 96-19 [Air Carrier]; 96-25 USAir.
Compliance Disposition	97-23 Detroit Metropolitan.
Consistency with Precedent	96-6 Ignatov; 96-26 Midtown; 97-30 Emery Worldwide Airlines; 98-12 Stout; 98-18 General Aviation.
But when precedent is based on superceded sanction policy	96-19 [Air Carrier].
Corrective Action	91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 92-5 Delta Air Lines; 93-18 Westair Commuter; 94-28 Toyota; 96-4 South Aero; 96-19 [Air Carrier]; 97-16 Mauna Kea; 97-23 Detroit Metropolitan; 98-6 Continental Airlines; 98-22 Northwest Airlines; 99-12 TWA; 99-14 Alika Aviation.
Discovery (See Discovery)	
Factors to consider	89-5 Schultz; 90-23 Broyles; 90-37 Northwest Airlines; 91-3 Lewis; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 92-10 Flight Unlimited; 92-46 Sutton-Sautter; 92-51 Koblock; 94-28 Toyota; 95-11 Horizon; 96-19 [Air Carrier]; 96-26 Midtown; 97-16 Mauna Kea; 98-2 Carr; 99-15 Blue Ridge; 2000-3 Warbelow's.
First-Time Offenders	89-5 Schultz; 92-5 Delta Air Lines; 92-51 Koblick.
HazMat (See Hazardous Materials)	
Inexperience	92-10 Flight Unlimited.
Installment Payments	95-16 Mulhall; 95-17 Larry's Flying Service.
Maintenance	95-11 Horizon; 96-3 America West Airlines; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-9 Alphin; 97-10 Alphin; 97-11 Hampton; 97-30 Emery Worldwide Airlines; 99-14 Alika Aviation; 2000-3 Warbelow's.
Maximum	90-10 Webb; 91-53 Koller; 96-19 [Air Carrier].
Minimum (HazMat)	95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
Modified	89-5 Schultz; 90-11 Thunderbird Accessories; 91-38 Esau; 92-10 Flight Unlimited; 92-13 Delta Air Lines; 92-32 Barnhill.
Partial Dismissal of Complaint/Full Sanction (See also Complaint).	94-19 Pony Express; 94-40 Polynesian Airways.
Sanctions in specific cases:	
Failure to comply with Security Directives	98-6 Continental Airlines; 99-12 TWA.
Passenger/baggage matching	98-6 Continental Airlines; 99-12 TWA.
Passenger Misconduct	97-12 Mayer; 98-12 Stout.
Person evading screening (See also Screening)	97-20 Werle.
Pilot Deviation	92-8 Watkins.
Test object detection	90-18 & 90-19 Continental Airlines; 96-19 [Air Carrier].
Unairworthy aircraft	97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-9 Alphin; 98-18 General Aviation; 99-14 Alika Aviation; 2000-3 Warbelow's.
Unauthorized access	90-19 Continental Airlines; 90-37 Northwest Airlines; 94-1 Delta Air Lines; 98-7 LAX.
Unqualified pilot	99-15 Blue Ridge.
Weapons violations	90-23 Broyles; 90-33 Cato; 91-3 Lewis; 91-38 Esau; 92-32 Barnhill; 92-46 Sutton-Sautter; 92-51 Koblick; 94-5 Grant; 97-7 & 97-17 Stallings.
Screening of Persons and Carry-on Items (See also Test Object Detection):	
Air carrier failure to detect weapon:	
Sanction	94-44 American Airlines.
Air carrier failure to match bag with passenger	98-6 Continental Airlines; 99-12 TWA.
Entering Sterile Areas	90-24 Bayer; 92-58 Hoedl; 97-20 Werle; 98-20 Koenig.
Sanction for individual evading screening (See also Sanction)	97-20 Werle; 98-20 Koenig.
Security Directive re: screening of carry-on items given to passenger by person unknown to the passenger.	2000-6 Atlantic Coast Aviation.
Security (See Screening of Persons, Standard Security Program, Test Object Detection, Unauthorized Access, Weapons Violations):	
Agency directives, violation of	99-12 TWA.

Giving false information about carrying a weapon or explosive on board an aircraft.	98-24 Stevens.
Sealing of Record	97-13 Westair Commuter; 97-28 Continental Airlines.
Separation of Functions	90-12 Continental Airlines; 90-18 Continental Airlines; 90-19 Continental Airlines; 90-21 Carroll; 90-38 Continental Airlines; 93-13 Medel.
Service (See also Mailing Rule; Receipt):	
Date of when no certificate of service	2000-2 Ryan International.
Of NPCP	90-22 USAir; 97-20 Werle.
Of FNPCP	93-13 Medel.
Receipt of document sent by mail	92-31 Eaddy; 2000-5 Blue Ridge.
Return of certified mail	97-7 & 97-17 Stallings; 2000-5 Blue Ridge.
Valid Service	92-18 Bargaen; 98-19 Martin & Jaworski.
Settlement	91-50 & 92-1 Costello; 95-16 Mulhall; 99-10 Azteca.
Request for hearing not withdrawn	99-10 Azteca.
Skydiving	98-3 Fedele.
Smoking	92-37 Giuffrida; 94-18 Luxemburg; 99-6 Squire.
Stale Complaint Rule:	
If NPCP not sent	97-20 Werle.
Standard Security Program (SSP):	
Compliance with	90-12, 90-18 & 90-19 Continental Airlines; 91-33 Delta Air Lines; 91-55 Continental Airlines; 92-13 & 94-1 Delta Air Lines; 96-19 [Air Carrier] 98-22 Northwest Airlines; 99-1 American.
Checkpoint Security Coordinator	98-22 Northwest Airlines.
Ground Security Coordinator	96-16 Westair Commuter.
When an airline is required to have a security program	2000-6 Atlantic Coast Aviation.
Statute of Limitations	97-20 Werle.
Stay of Orders	90-13 Carroll; 90-32 Continental Airlines.
Pending judicial review	95-14 Charter Airlines.
Strict Liability	89-5 Schultz; 90-27 Gabbert; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-58 [Airport Operator]; 97-23 Detroit Metropolitan; 98-7 LAX; 2000-3 Warbelow's.
Test Object Detection	90-12, 90-18, 90-19, 91-9 & 91-55 Continental Airlines; 92-13 Delta Air Lines; 96-19 [Air Carrier].
Proof of violation	90-18, 90-19 & 91-9 Continental Airlines; 92-13 Delta Air Lines.
Sanction	90-18 & 90-19 Continental Airlines; 96-19 [Air Carrier].
Timelines (See also Complaint; Filing; Mailing Rule; and Appeals):	
Burden to prove date of filing	97-11 Hampton Air; 98-1 V. Taylor.
Of response to NPCP	90-22 USAir.
Of complaint	91-51 Hagwood; 93-13 Medel; 94-7 Hereth.
Of initial decision	97-13 Sanford Air.
Of NPCP	92-73 Wyatt.
Of petition to reconsider	2000-5 Blue Ridge.
Of reply brief	97-11 Hampton.
Of request for hearing	93-12 Langston; 95-19 Rayner; 2000-2 Ryan International.
Of EAJA application (See EAJA-Final disposition, EAJA-Jurisdiction).	
Unapproved Parts (See also Parts Manufacturer Approval)	93-19 Pacific Sky Supply.
Unauthorized Access:	
To aircraft	90-12 & 90-19 Continental Airlines; 94-1 Delta Air Lines.
To Air Operations Area (AOA)	90-37 Northwest Airlines; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-58 [Airport Operator]; 94-1 Delta Airlines.
Visual Cues Indicating Runway, Adequacy of	92-40 Wendt.
Weapons Violations, generally	89-5 Schultz; 90-10 Webb; 90-20 Degenhardt; 90-23 Broyles; 90-33 Cato; 90-26 & 90-43 Waddell; 91-3 Lewis; 91-30 Trujillo; 91-38 Esua; 91-53 Koller; 92-32 Barnhill; 92-46 Sutton-Sautter; 92-51 Koblick; 92-59 Petek-Jackson; 94-5 Grant; 94-44 American Airlines.
Concealed weapon	89-5 Schultz; 92-46 Sutton-Sautter; 92-51 Koblick.
"Deadly or Dangerous"	90-26 & 90-43 Waddell; 91-30 Trujillo; 91-38 Esau.
First-time Offenders	89-5 Schultz.
Intent to commit violation	89-5 Schultz; 90-20 Degenhardt; 90-23 Broyles; 90-26 Waddell; 91-3 Lewis; 91-53 Koller.
Knowledge:	
Of Weapon Concealment (See also Knowledge)	89-5 Schultz; 90-20 Degenhardt.
Sanction (See Sanction)	
Weight and Balance	94-40 Polynesian Airways.
Passenger list	99-13 Falcon Air Express.
Witnesses (See also Credibility):	
Absence of, Failure to subpoena	92-3 Park; 98-2 Carr.
Expert testimony:	
Evaluation of	93-17 Metcalf; 94-3 Valley Air; 94-21 Sweeney; 96-3 America West Airlines; 96-15 Valley Air; 97-9 Alphin; 97-32 Florida Propeller.
Expert witness fees (See EAJA)	

Regulations (Title 14 CFR, unless otherwise noted)

1.1 (maintenance)	94-38 Bohan; 97-11 Hampton.
1.1 (major alteration)	99-5 Africa Air.
1.1 (major repair)	96-3 America West Airlines.
1.1 (minor repair)	96-3 America West Airlines.
1.1 (operate)	91-12 & 91-31 Terry & Menne; 93-18 Westair Commuter; 96-17 Fenner.
1.1 (person)	93-18 Westair Commuter.
1.1 (propeller)	96-15 Valley Air.
13.16	90-16 Rocky Mountain; 90-22 USAir; 90-37 Northwest Airlines; 90-38 & 91-9 Continental Airlines; 91-18 [Airport Operator]; 91-51 Hagwood; 92-1 Costello; 92-46 Sutton-Sautter; 93-13 Medel; 93-28 Strohl; 94-27 Larsen; 94-37 Houston; 94-31 Smalling; 95-19 Rayner; 96-26 Midtown Neon Sign; 97-1 Midtown Neon Sign; 97-9 Alphin; 98-18 General Aviation; 2000-2 Ryan International; 2000-3 Warbelow's.
13.201	90-12 Continental Airlines.
13.202	90-6 American Airlines; 92-76 Safety Equipment.
13.203	90-12 Continental Airlines; 90-21 Carroll; 90-38 Continental Airlines.
13.204	
13.205	90-20 Degenhardt; 91-17 KDS Aviation; 91-54 Alaska Airlines; 92-32 Barnhill; 94-32 Detroit Metropolitan; 94-39 Kirola; 95-16 Mulhall; 97-20 Werle.
13.206	
13.207	94-39 Kirola.
13.208	90-21 Carroll; 91-51 Hagwood; 92-73 Wyatt; 92-76 Safety Equipment; 93-13 Medel; 93-28 Strohl; 94-7 Hereth; 97-20 Werle; 98-4 Larry's.
13.209	90-3 Metz; 90-15 Player; 91-18 [Airport Operator]; 92-32 Barnhill; 92-47 Cornwall; 92-75 Beck; 92-76 Safety Equipment; 94-8 Nunez; 94-5 Grant; 94-22 Harkins; 94-29 Sutton; 94-30 Columna; 95-10 Diamond; 95-28 Atlantic World Airways; 97-7 Stalling; 97-18 Robinson; 97-33 Rawlings; 98-21 Blankson.
13.210	92-19 Cornwall; 92-75 Beck; 92-76 Safety Equipment; 93-7 Dunn; 93-28 Strohl; 94-5 Grant; 94-30 Columna; 95-28 Atlantic World Airways; 96-17 Fenner; 97-11 Hampton; 97-18 Robinson; 97-38 Air St. Thomas; 98-16 Blue Ridge.
13.211	89-6 American Airlines; 89-7 Zenkner; 90-3 Metz; 90-11 Thunderbird Accessories; 90-39 Hart; 91-24 Esau; 92-1 Costello; 92-9 Griffin; 92-18 Bargaen; 92-19 Cornwall; 92-57 Detroit Metro. Wayne County Airport; 92-74 Wendt; 92-76 Safety Equipment; 93-2 Wendt; 94-5 Grant; 94-18 Luxemburg; 94-29 Sutton; 95-12 Toyota; 95-28 Valley Air; 97-7 Stalling; 97-11 Hampton; 98-4 Larry's Flying Service; 98-19 Martin & Jaworski; 98-20 Koenig; 99-2 Oxygen Systems; 2000-2 Ryan International; 2000-5 Blue Ridge.
13.212	90-11 Thunderbird Accessories; 91-2 Continental Airlines; 99-2 Oxygen Systems.
13.213	
13.214	91-3 Lewis.
13.215	93-28 Strohl; 94-39 Kirola.
13.216	
13.217	91-17 KDS Aviation.
13.218	89-6 American Airlines; 90-11 Thunderbird Accessories; 90-39 Hart; 92-9 Griffin; 92-73 Wyatt; 93-19 Pacific Sky Supply; 94-6 Strohl; 94-27 Larsen; 94-37 Houston; 95-18 Rayner; 96-16 WestAir; 96-24 Horizon; 98-20 Koenig.
13.219	89-6 American Airlines; 91-2 Continental; 91-54 Alaska Airlines; 93-37 Airspect; 94-32 Detroit Metro. Wayne County Airport; 98-25 Gotbetter.
13.220	89-6 American Airlines; 90-20 Carroll; 91-8 Watts Agricultural Aviation; 91-17 KDS Aviation; 91-54 Alaska Airlines; 92-46 Sutton-Sautter.
13.221	92-29 Haggland; 92-31 Eaddy; 92-52 Cullop.
13.222	92-72 Giuffrida; 96-15 Valley Air.
13.223	91-12 & 91-31 Terry & Menne; 92-72 Giuffrida; 95-26 Hereth; 96-15 Valley Air; 97-11 Hampton; 97-31 Sanford Air; 97-32 Florida Propeller; 98-3 Fedele; 98-6 Continental Airlines; 2000-3 Warbelow's.
13.224	90-26 Waddell; 91-4 [Airport Operator]; 92-72 Giuffrida; 94-18 Luxemburg; 94-28 Toyota; 95-25 Conquest; 96-17 Fenner; 97-32 Florida Propeller; 98-6 Continental Airlines; 2000-3 Warbelow's.
13.225	97-32 Florida Propeller.
13.226	

13.227	90-21 Carroll; 95-26 Hereth.
13.228	92-3 Park.
13.229	
13.230	92-19 Cornwall; 95-26 Hereth; 96-24 Horizon.
13.231	92-3 Park.
13.232	89-5 Schultz; 90-20 Degenhardt; 92-1 Costello; 92-18 Bargaen; 92-32 Barnhill; 93-28 Strohol; 94-28 Toyota; 95-12 Toyota; 95-16 Mulhall; 96-6 Ignatov; 98-18 General Aviation.
13.233	89-1 Gressani; 89-4 Metz; 89-5 Schultz; 89-7 Zenkner; 89-8 Thunderbird Accessories; 90-3 Metz; 90-11 Thunderbird Accessories; 90-19 Continental Airlines; 90-20 Degenhardt; 90-25 & 90-27 Gabbert; 90-35 P. Adams; 90-19 Continental Airlines; 90-39 Hart; 91-2 Continental Airlines; 91-3 Lewis; 91-7 Pardue; 91-8 Watts Agricultural Aviation; 91-10 Graham; 91-11 Continental Airlines; 91-12 Bargaen; 91-24 Esau; 91-26 Britt Airways; 91-31 Terry & Menne; 91-32 Bargaen; 91-43 & 91-44 Delta; 91-45 Park; 91-46 Delta; 91-47 Delta; 91-48 Wendt; 91-52 KDS Aviation; 91-53 Koller; 92-1 Costello; 92-3 Park; 92-7 West; 92-11 Alilin; 92-15 Dillman; 92-16 Wendt; 92-18 Bargaen; 92-19 Cornwall; 92-27 Wendt; 92-32 Barnhill; 92-34 Carrell; 92-35 Bay Land Aviation; 92-36 Southwest Airlines; 92-39 Beck; 92-45 O'Brien; 92-52 Beck; 92-56 Montauk Caribbean Airways; 92-57 Detroit Metro. Wayne Co. Airport; 92-67 USAir; 92-69 McCabe; 92-72 Giuffrida; 92-74 Wendt; 92-78 TWA; 93-5 Wendt; 93-6 Westair Commuter; 93-7 Dunn; 93-8 Nunez; 93-27 Simmons; 93-28 Strohl; 93-31 Allen; 93-32 Nunez; 94-9 B & G Instruments; 94-10 Boyle; 94-12 Bartusiak; 94-15 Columna; 94-18 Luxemburg; 94-23 Perez; 94-24 Page; 94-26 French Aircraft; 94-28 Toyota; 95-2 Meronek; 95-9 Woodhouse; 95-13 Kilrain; 95-23 Atlantic World Airways; 95-25 Conquest; 95-26 Hereth; 96-1 [Airport Operator; 96-2 Skydiving Center; 97-1 Midtown Neon Sign; 97-2 Sanford Air; 97-7 Stalling; 97-22 Sanford Air; 97-24 Gordon Air; 97-31 Sanford Air; 97-33 Rawlings; 97-38 Air St. Thomas; 98-4 Larry's Flying Service; 98-3 Fedele; Continental Airlines 98-6; LAX 98-7; 98-10 Rawlings; 98-15 Squire; 98-18 General Aviation; 98-19 Martin & Jaworski; 98-20 Koenig; 99-2 Oxygen Systems; 99-11 Evergreen Helicopters.
13.234	90-19 Continental Airlines; 90-31 Carroll; 90-32 & 90-38 Continental Airlines; 91-4 [Airport Operator]; 95-12 Toyota; 96-9 [Airport Operator]; 96-23 Kilrain; 2000-5 Blue Ridge.
13.235	90-11 Thunderbird Accessories; 90-12 Continental Airlines; 90-15 Playter; 90-17 Wilson; 92-7 West.
Part 14	92-74 & 93-2 Wendt; 95-18 Pacific Sky Supply.
14.01	91-17 & 92-71 KDS Aviation.
14.04	91-17, 91-52 & 92-71 KDS Aviation; 93-10 Costello; 95-27 Valley Air.
14.05	90-17 Wilson.
14.12	95-27 Valley Air.
14.20	91-52 KDS Aviation; 96-22 Woodhouse.
14.22	93-29 Sweeney.
14.23	98-19 Martin & Jaworski.
14.26	91-52 KDS Aviation; 95-27 Valley Air.
14.28	95-9 Woodhouse.
21.181	96-25 USAir.
21.303	93-19 Pacific Sky Supply; 95-18 Pacific Sky Supply.
25.787	97-30 Emery Worldwide Airlines.
25.855	92-37 Giuffrida; 97-30 Emery Worldwide Airlines.
39.3	92-10 Flight Unlimited; 94-4 Northwest Aircraft Rental.
43.3	92-73 Wyatt; 97-31 Sanford Air; 98-18 General Aviation; 2000-1 Gatewood.
43.5	96-18 Kilrain; 97-31 Sanford Air.
43.9	91-8 Watts Agricultural Aviation; 97-31 Sanford Air; 98-4 Larry's Flying Service.
43.13	90-11 Thunderbird Accessories; 94-3 Valley Air; 94-38 Bohan; 96-3 America West Airlines; 96-25 USAir; 97-9 Alphin; 97-10 Alphin; 97-30 Emery Worldwide Airlines; 97-31 Sanford Air; 97-32 Florida Propeller; 2000-13 Empire Airlines.
43.15	90-25 & 90-27 Gabbert; 91-8 Watts Agricultural Aviation; 94-2 Woodhouse; 96-18 Kilrain.
61.3	99-11 Evergreen Helicopters; 2000-12 Evergreen.
65.15	92-73 Wyatt.
65.81	2000-1 Gatewood.
65.92	92-73 Wyatt.
91.7	97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-16 Mauna Kea; 98-18 General Aviation; 99-5 Africa Air; 2000-1 Gatewood; 2000-3 Warbelow's; 2000-14 Warbelow's.

91.8 (91.11 as of 8/18/90)	92-3 Park.
91.9 (91.13 as of 8/18/90)	90-15 Playter; 91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-40 Wendt; 92-48 USAir; 92-49 Richardson & Shimp; 92-47 Cornwall; 92-70 USAir; 93-9 Wendt; 93-17 Metcalf; 93-18 Westair Commuter; 93-29 Sweeney; 94-29 Sutton; 95-26 Hereth; 96-17 Fenner.
91.11	96-6 Ignatov; 97-12 Mayer; 98-12 Stout; 99-16 Dorfman.
91.29 (91.7 as of 8/18/90)	91-8 Watts Agricultural Aviation; 92-10 Flight Unlimited; 94-4 Northwest Aircraft Rental.
91.65 (91.111 as of 8/18/90)	91-29 Sweeney; 94-21 Sweeney.
91.67 (91.113 as of 8/18/90)	91-29 Sweeney.
91.71	97-11 Hampton.
91.75 (91.123 as of 8/18/90)	91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-40 Wendt; 92-49 Richardson & Shimp; 93-9 Wendt.
91.79 (91.119 as of 8/18/90)	90-15 Playter; 92-47 Cornwall; 93-17 Metcalf.
91.87 (91.129 as of 8/18/90)	91-12 & 91-31 Terry & Menne; 92-8 Watkins.
91.103	95-26 Hereth.
91.111	96-17 Fenner.
91.113	96-17 Fenner.
91.151	95-26 Hereth.
91.173 (91.417 as of 8/18/90)	91-8 Watts Agricultural Aviation.
91.203	99-5 Africa Air.
91.205	98-18 General Aviation.
91.213	97-11 Hampton.
91.403	97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-31 Sanford Air.
91.405	97-16 Mauna Kea; 98-4 Larry's Flying Service; 98-18 General Aviation; 99-5 Africa Air; 2000-1 Gatewood.
91.407	98-4 Larry's Flying Service; 99-5 Africa Air; 2000-1 Gatewood.
91.417	98-18 General Aviation.
91.517	98-12 Stout.
91.703	94-29 Sutton.
105.29	98-3 Fedele; 98-19 Martin & Jaworski.
107.1	90-19 Continental Airlines; 90-20 Degenhardt; 91-4 [Airport Operator]; 91-58 [Airport Operator]; 98-7 LAX.
107.9	98-7 LAX.
107.13	90-12 & 90-19 Continental Airlines; 91-4 [Airport Operator]; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 91-58 [Airport Operator]; 96-1 [Airport Operator]; 97-23 Detroit Metropolitan; 98-7 LAX.
107.20	90-24 Bayer; 92-58 Hoedl; 97-20 Werle; 98-20 Koenig.
107.21	89-5 Schultz; 90-10 Webb; 90-22 Degenhardt; 90-23 Broyles; 90-26 & 90-43 Waddell; 90-33 Cato; 90-39 Hart; 91-3 Lewis; 91-10 Graham; 91-30 Trujillo; 91-38 Esau; 91-53 Koller; 92-32 Barnhill; 92-38 Cronberg; 92-46 Sutton-Sautter; 92-51 Koblick; 92-59 Petek-Jackson; 94-5 Grant; 94-31 Smalling; 97-7 Stalling.
107.25	94-30 Columna.
108.5	90-12, 90-18, 90-19, 91-2 & 91-9 Continental Airlines; 91-33 Delta Air Lines; 91-54 Alaska Airlines; 91-55 Continental Airlines; 92-13 & 94-1 Delta Air Lines; 94-44 American Airlines; 96-16 WestAir; 96-19 [Air Carrier]; 98-22 Northwest Airlines; 99-1 American; 99-12 TWA; 2000-6 Atlantic Coast Aviation.
108.7	90-18 & 90-19 Continental Airlines; 99-1 American.
108.9	98-22 Northwest Airlines.
108.10	96-16 WestAir.
108.11	90-23 Broyles; 90-26 Waddell; 91-3 Lewis; 92-46 Sutton-Sautter; 94-44 American Airlines.
108.13	90-12 & 90-19 Continental Airlines; 90-37 Northwest Airlines.
108.18	98-6 Continental Airlines; 99-12 TWA; 2000-6 Atlantic Coast Aviation.
121.133	90-18 Continental Airlines.
121.153	92-48 & 92-70 USAir; 95-11 Horizon; 96-3 American West Airlines; 96-24 Horizon; 96-25 USAir; 97-21 Delta; 97-30 Emery Worldwide Airlines.
121.221	97-30 Emery Worldwide Airlines.
121.317	92-37 Giuffrida; 94-18 Luxemburg; 99-6 Squire; 99-16 Dorfman.
121.318	92-37 Giuffrida.
121.363	2000-13 Empire Airlines.
121.367	90-12 Continental Airlines; 96-25 USAir.
121.379	2000-13 Empire Airlines.
121.571	92-37 Giuffrida.
121.575	98-11 TWA.
121.577	98-11 TWA.
121.589	97-12 Mayer.
121.628	95-11 Horizon; 97-21 Delta; 97-30 Emery Worldwide Airlines.
121.693	99-13 Falcon Air Express.
121.697	99-13 Falcon Air Express.

135.1	95-8 Charter Airlines; 95-25 Conquest.
135.3	99-15 Blue Ridge; 2000-5 Blue Ridge.
135.5	94-3 Valley Air; 94-20 Conquest Helicopters; 95-25 Conquest; 95-27 Valley Air; 96-15 Valley Air.
135.25	92-10 Flight Unlimited; 94-3 Valley Air; 95-27 Valley Air; 96-15 Valley Air; 2000-3 Warbelow's; 2000-14 Warbelow's.
135.63	94-40 Polynesian Airways; 95-17 Larry's Flying Service; 95-28 Atlantic; 96-4 South Aero; 99-7 Premier Jets.
135.87	90-21 Carroll.
135.95	95-17 Larry's Flying Service; 99-15 Blue Ridge; 2000-5 Blue Ridge.
135.179	97-11 Hampton; 2000-3 Warbelow's; 2000-14 Warbelow's.
135.185	90-40 Polynesian Airways.
135.234	99-15 Blue Ridge; 2000-14 Warbelow's.
135.243	99-11 Evergreen Helicopters; 99-15 Blue Ridge; 2000-5 Blue Ridge; 2000-12 Evergreen.
135.263	95-9 Charter Airlines; 96-4 South Aero.
135.293	95-17 Larry's Flying Service; 96-4 South Aero; 99-15 Blue Ridge; 2000-5 Blue Ridge.
135.299	99-15 Blue Ridge; 2000-5 Blue Ridge.
135.343	95-17 Larry's Flying Service; 99-15 Blue Ridge; 2000-5 Blue Ridge.
135.411	97-11 Hampton.
135.413	94-3 Valley Air; 96-15 Valley Air; 97-8 Pacific Av. d/b/a Inter-Island Helicopters; 97-16 Mauna Kea; 99-14 Alika Aviation.
135.421	93-36 Valley Air; 94-3 Valley Air; 96-15 Valley Air; 99-14 Alika Aviation.
135.437	94-3 Valley Air; 96-15 Valley Air.
137.19	2000-12 Evergreen.
141.101	98-18 General Aviation.
145.1	97-10 Alphin.
145.3	97-10 Alphin.
145.25	97-10 Alphin.
145.45	97-10 Alphin.
145.47	97-10 Alphin.
145.49	97-10 Alphin.
145.51	2000-1 Gatewood.
145.53	90-11 Thunderbird Accessories.
145.57	94-2 Woodhouse; 97-9 Alphin; 97-32 Florida Propeller.
145.61	90-11 Thunderbird Accessories.
191	90-12 & 90-19 Continental Airlines; 90-37 Northwest Airlines; 98-6 Continental Airlines; 99-12 TWA.
298.1	92-10 Flight Unlimited.
302.8	90-22 USAir.

49 CFR

1.47	92-76 Safety Equipment.
171 et seq.	95-10 Diamond.
171.2	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
171.8	92-77 TCI.
172.101	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 96-26 Midtown.
172.200	92-77 TCI; 94-28 Toyota; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
172.203	94-28 Toyota.
172.204	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 982 Carr.
172.300	94-31 Smalling; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
172.301	94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.304	92-77 TCI; 94-321 Smalling; 95-16 Mulhall; 98-2 Carr.
172.400	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.402	94-28 Toyota.
172.406	92-77 TCI.
173.1	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
173.3	94-28 Toyota; 94-31 Smalling; 98-2 Carr.
173.6	94-28 Toyota.
173.22(a)	94-28 Toyota; 94-31 Smalling; 98-2 Carr.
173.24	94-28 Toyota; 95-16 Mulhall.
173.25	94-28 Toyota.
173.27	92-77 TCI.
173.62	98-2 Carr.
173.115	92-77 TCI.
173.240	92-77 TCI.
173.243	94-28 Toyota.
173.260	94-28 Toyota.
173.266	94-28 Toyota; 94-31 Smalling.

175.25	94-31 Smalling.
191.5	97-13 Westair Commuter.
191.7	97-13 Westair Commuter.
821.30	92-73 Wyatt.
821.33	90-21 Carroll.

Statutes

<i>5 U.S.C.:</i>	
504	90-17 Wilson; 91-17 & 92-71 KDS Aviation; 92-74, 93-2 & 93-9 Wendt; 93-29 Sweeney; 94-17 TCI; 95-27 Valley Air; 96-22 Woodhouse; 98-19 Martin & Jaworski.
552	90-12, 90-18 & 90-19 Continental Airlines; 93-10 Costello.
554	90-18 Continental Airlines; 90-21 Carroll; 95-12 Toyota.
556	90-21 Carroll; 91-54 Alaska Airlines.
557	90-20 Degenhardt; 90-21 Carroll; 90-37 Northwest Airlines; 94-28 Toyota.
705	95-14 Charter Airlines.
5332	95-27 Valley Air.
<i>11 U.S.C.:</i>	
362	91-2 Continental Airlines.
<i>28 U.S.C.:</i>	
2412	93-10 Costello; 96-22 Woodhouse.
2462	90-21 Carroll.
<i>49 U.S.C.:</i>	
5123	95-16 Mulhall; 96-26 & 97-1 Midtown Neon Sign; 98-2 Carr.
40102	96-17 Fenner.
41706	99-6 Squire.
44701	96-6 Ignatov; 96-17 Fenner; 99-12 TWA; 2000-3 Warbelow's.
44704	96-3 America West Airlines; 96-15 Valley Air.
46110	96-22 Woodhouse; 97-1 Midtown Neon Sign.
46301	97-1 Midtown Neon Sign; 97-16 Mauna Kea; 97-20 Werle; 99-15 Blue Ridge; 2000-3 Warbelow's.
46302	98-24 Stevens.
46303	97-7 Stalling.
<i>49 U.S.C. App.:</i>	
1301 (31) (operate)	93-18 Westair Commuter.
(32) (person)	93-18 Westair Commuter.
1356	90-18 & 90-19, 91-2 Continental Airlines.
1357	90-18, 90-19 & 91-2 Continental Airlines; 91-41 [Airport Operator]; 91-58 [Airport Operator].
1421	92-10 Flight Unlimited; 92-48 USAir; 92-70 USAir; 93-9 Wendt.
1429	92-73 Wyatt.
1471	89-5 Schultz; 90-10 Webb; 90-20 Degenhardt; 90-12, 90-18 & 90-19 Continental Airlines; 90-23 Broyles; 90-26 & 90-43 Waddlee; 90-33 Cato; 90-37 Northwest Airlines; 90-39 Hart; 91-2 Continental Airlines; 91-3 Lewis; 91-18 [Airport Operator]; 91-53 Koller; 92-5 Delta Air Lines; 92-10 Flight Unlimited; 92-46 Sutton-Sautter; 92-51 Koblick; 92-74 Wendt; 92-76 Safety Equipment; 94-20 Conquest Helicopters; 94-40 Polynesian Airways; 96-6 Ignatov; 97-7 Stalling.
1472	96-6 Ignatov.
1475	90-20 Degenhardt; 90-12 Continental Airlines; 90-18, 90-19 & 91-1 Continental Airlines; 91-3 Lewis; 91-18 [Airport Operator]; 94-40 Polynesian Airways.
1486	90-21 Carroll; 96-22 Woodhouse.
1809	92-77 TCI; 94-19 Pony Express; 94-28 Toyota; 94-31 Smalling; 95-12 Toyota.

**Civil Penalty Actions—Orders Issued
By the Administrator**
Digests

(Current as of June 30, 2000)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from April 1, 1999, to June 30, 1999. The FAA will publish non-cumulative supplements to

this compilation on a quarterly basis (e.g., April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of USA Jet Airlines, Inc.

Order No. 2008-8 (5/9/2000)

Appeal Dismissed. USA Jet Airlines withdrew its appeal; therefore, its appeal is dismissed.

In the Matter of Tundra Copters, Inc.

Order No. 2000-9 (5/11/2000)

Appeal Dismissed. Tundra Copters failed to perfect its appeal by filing an appeal brief. Therefore, its appeal is dismissed.

In the Matter of Johnny Johnson

Order No. 2000-10 (5/11/2000)

Appeal Dismissed. Mr. Johnson failed to perfect his appeal by filing an appeal brief; therefore, his appeal is dismissed.

In the Matter of Europex Inc.

Order No. 2000-11 (5/11/2000)

Appeal Dismissed. Europex has provided no explanation for its late filing of its notice of appeal; therefore, its appeal is dismissed.

In the Matter of Evergreen Helicopters of Alaska, Inc.

Order No. 2000-12 (6/8/2000)

Dismissal affirmed. Under a contract with the United Nations, Evergreen transported passengers on a U.S.-registered aircraft as part of a peacekeeping mission, using Angolan pilots on 19 flights that took place entirely inside Angola. The pilots held only Angolan airline transport pilot certificates; they did not hold U.S. airline transport pilot certificates. The Administrator rejected Complainant's argument that Evergreen violated 14 CFR 135.234(a) by using pilots who lacked U.S. airline transport pilot certificates. Regardless of what the drafters intended, the regulation on its face does not require that a pilot-in-command hold a U.S.-issued certificate. Moreover, 14 CFR 61.3 expressly permits the use of a certificate by the country in which the aircraft is operated. This plain meaning interpretation of the regulations is consistent with a prior written interpretation issued by the agency.

In the Matter of Empire Airlines, Inc.

Order No. 2000-13 (6/8/2000)

Failure to Use Approved Data when making a Major Repair. Conair Aerospace repaired the left engine mount of one of Empire Airlines' Fairchild F-27F aircraft using sleeve repair data set forth in Advisory Circular (AC) 43.13-1A. Neither the Fairchild F-27 overhaul nor structural repair manual provide for sleeve repairs. Instead, the Fairchild overhaul and structural repair manuals provide for repair of non-negligible engine mount corrosion by a patch repair, insertion or replacement, and prohibit patch repairs if the damage is in the middle third of the tube. In this case, the corrosion extended into the middle third of the tube.

Under Section 121.379, a certificate holder may approve an aircraft for return to service after maintenance performed by another person but major repairs or major alterations must be

done in accordance with technical data approved by the Administrator. It was undisputed that the left engine mount repair constituted a major repair, that Empire was obligated to use approved data, and that the Fairchild F-27 series overhaul and structural repair manuals contained approved data for a major repair of that aircraft. The sleeve repair was not included in either of these manuals as approved for the repair of the Fairchild F-27F's engine mount.

AC-43.13-1A is not normally considered to be approved data for a major repair, but it may be used as a basis for approval. There was no evidence that Empire or Conair had sought the approval of a DER for a sleeve repair of the left engine mount.

A sleeve repair was approved for an engine mount of another model aircraft, the Fairchild FH-227. The fact that a sleeve repair may be approved data for the repair of one model aircraft (*i.e.*, the Fairchild FH-227) does not mean necessarily that a sleeve repair is approved for the same type of damage to another similar aircraft (*i.e.*, the Fairchild F-27F). There may be subtle differences that would make a sleeve repair appropriate for the FH-227 and not for the F-27F. Aviation safety demands that maintenance personnel not assume that approved data for the repair of one specific aircraft can be used as approved data for a major repair on a different aircraft.

Empire argued that it was not precluded from using a sleeve repair because the manuals did not specifically prohibit the use of sleeve repairs. The Administrator held that it is unreasonable to expect the manufacturer to have listed all of the repairs that would not be appropriate for any given damage, and hence, the manufacturer's silence cannot be regarded as tacit approval of a repair.

The Administrator rejected Empire's argument that it was entitled to rely on the services performed by Conair. Empire's director of quality assurance and its customer coordinator were at the Conair facility when the repair was accomplished, and its customer coordinator observed the damage and the repair. The airworthiness release was signed by a Conair employee acting on Empire's behalf.

An air carrier cannot delegate away its primary responsibility for the airworthiness of its aircraft. While there may be certain limited circumstances in which an air carrier might not be held responsible for maintenance and inspections performed by a contractor or vendor, no such reasons exist in this case.

The Administrator denied Empire's appeal and affirmed the initial decision assessing a \$5,000 civil penalty.

In the Matter of Warbelow's Air Ventures, Inc.

Order No. 2000-14 (6/8/2000)

Reconsideration Denied. In a timely petition to reconsider FAA Order No. 2000-3, which assessed a \$6,500 civil penalty, Warbelow's renews two previous arguments. First, Warbelow's again challenges the credibility of its former Director of Maintenance, who testified that he failed to ensure that the screws on several fuel pumps were torques to the proper pressure. Second, Warbelow's again argues that the pumps must have been torques to the proper pressure because they did not leak in service. Neither argument is new; both were decided by the law judge and the Administrator. The Rules of Practice provide that the Administrator may summarily dismiss repetitious petitions to reconsider.

The only new argument in Warbelow's petition is its challenge to the factual accuracy of the following statement in FAA Order 2000-3: "Warbelow's demoted and fired [the Director of Maintenance] after he admitted to the FAA inspectors that he had been using an improper method to modify the fuel pumps." Warbelow's is correct that it actually fired the Director of Maintenance before he indicated at the hearing that he failed to use a torque wrench to ensure the proper pressure on the fuel pump screws. This factual error, however does not affected the outcome of this case. A law judge's credibility determinations are entitled to deference on appeal. The law judge was well aware of the Director of Maintenance's possible motives to misrepresent how he reassembled the fuel pumps, and yet the law judge specifically stated in his initial decision that he believed his testimony. Warbelow's has failed to provide sufficient grounds to overturn the law judge's credibility determinations, which were based on his personal observations of the witnesses.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are available in the following commercial publications:

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798-1677;

Federal Aviation Decisions, Clark Boardman Callaghan, a subsidiary of West Information Publishing Company, 50 Broad Street East, Rochester, NY 14694, 1-800-221-9428.

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3. *On-Line Services*. The Administrator's decisions and orders in civil penalty cases are available through the following on-line services:

- Westlaw (the Database ID is FTRAN-FAA)
- LEXIS [Transportation (TRANS) Library, FAA file.]
- Compuserve
- FedWorld

Docket

The FAA Hearing Docket is located at FAA Headquarters, 800 Independence Avenue, SW, Room 926A, Washington, DC, 20591, (tel. No. 202-267-3641). The clerk of the FAA Hearing Docket is Ms. Stephanie McClain. All documents that are required to be filed in civil penalty proceedings must be filed with the FAA Hearing Docket Clerk at the FAA Hearing Docket. (See 14 CFR 13.210.) Materials contained in the docket of any case not containing sensitive security information (protected by 14 CFR Part 191) may be viewed at the FAA Hearing Docket.

In addition, materials filed in the FAA Hearing Docket in non-security cases in which the complaints were filed on or after December 1, 1997, are available for inspection at the Department of Transportation Docket, located at 400 7th Street, SW, Suite PL-401, Washington, DC 20590, (tel. no. 202-366-9329). While the originals are retained in the FAA Hearing Docket, the DOT Docket scan copies of documents in non-security cases in which the complaint was filed after December 1, 1997, into their computer database. Individuals who have access to the Internet can view the materials in these dockets using the following Internet address: <http://dms.dot.gov>.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 926A, Washington, DC 20591; (202) 267-3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Regional Counsel for the Aeronautical Center (AMC-7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; (405) 954-3296.

Office of the Regional Counsel for the Alaskan Region (AAL-7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271-5269.

Office of the Regional Counsel for the Central Region (ACE-7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426-5446.

Office of the Regional Counsel for the Eastern Region (AEA-7), 1 Aviation Plaza, 159-30 Rockaway Blvd., Springfield Gardens, NY 11434; (718) 553-3285.

Office of the Regional Counsel for the Great Lakes Region (AGL-7), Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (847) 294-7085.

Office of the Regional Counsel for the New England Region (ANE-7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803; (781) 238-7040.

Office of the Regional Counsel for the Northwest Mountain Region (ANM-7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055; (425) 227-2007.

Office of the Regional Counsel for the Southern Region (ASO-7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305-5200.

Office of the Regional Counsel for the Southwest Region (ASW-7), Southwest Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137; (817) 222-5064.

Office of the Regional Counsel for the Technical Center (ACT-7), William J. Hughes Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485-7088.

Office of the Regional Counsel for the Western-Pacific Region (AWP-7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Hawthorne, CA 90261; (310) 725-7100.

Issued in Washington, DC on July 25th, 2000.

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Assistant Chief Counsel for Litigation.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2000-27]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 23, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267-7271, Forest Rawls (202) 267-8033, or Vanessa Wilkins (202) 267-8029 Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).