

any Future Contracts funded through Existing or Future Accounts meet the standards of sections 6(c). Applicants believe that any future request for relief with respect to any Future Contract would be substantively and materially the same as the relief sought herein. Applicants believe that the requested relief would eliminate the need for the filing of redundant exemptive applications or amendments, thereby reducing administrative expenses, maximizing efficient use of resources and, thus, promoting competitiveness in the variable annuity market. The delay and expense of repeatedly seeking exemptive relief would impair the Companies' ability to take advantage of business opportunities as they arise.

5. The Companies believe that the level of the mortality and expense risk charges is within the range of industry practice for comparable annuity products and is reasonable in relation to the risks assumed under the Contracts. This representation is based upon the Companies' analysis of publicly available information regarding other insurance companies of similar size and risk ratings offering similar products. The Companies will maintain at their administrative offices, made available to the SEC upon request, memoranda setting forth in detail the products analyzed in the course of, and the methodology and results of, their comparative review.

6. The Companies represent that, in connection with Future Contracts (substantially similar in all material respects to Subject Contracts Nos. 1 and 2 if a mortality and expense risk charge is imposed; Subject Contract No. 3 if only a mortality risk charge is imposed), any mortality and expense risk charges assessed shall be within the range of industry practice for comparable annuity products and shall be reasonable in relation to the risks assumed under the Contracts. This representation will be based upon the Companies' analysis of publicly available information regarding other insurance companies of similar size and risk ratings offering similar products. The Companies will maintain at their administrative offices, made available to the SEC upon request, memoranda setting forth in detail the products analyzed in the course of, and the methodology and results of, their comparative review.

7. The Companies believe that there is a reasonable likelihood that this distribution financing arrangement will benefit Existing Accounts and Contract owners. The basis of this conclusion is set forth in memoranda maintained by the Companies at their administrative

offices, made available to the SEC upon its request.

8. Applicants represent that, with respect to Future Contracts that shall be substantially similar in all material respects to Subject Contracts Nos. 1, 2, or 3, the Companies shall determine that there is a reasonable likelihood that this distribution financing arrangement will benefit Future or Existing Accounts and Future Contract owners. The basis of this conclusion will be set forth in memoranda maintained by the Companies at their administrative offices, made available to the SEC upon its request.

9. Applicants represent that investments of the Separate Accounts will be made only in investment companies that, if they adopt any distribution financing plan under rule 12b-1 under the Act, will have such plan formulated and approved by the investment companies' boards of trustees or directors, the majority of which will not be "interested persons" as defined in the Act.

#### Conclusion

For the reasons set forth above, applicants believe that the requested exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95-25253 Filed 10-11-95; 8:45 am]

BILLING CODE 8010-01-M

---

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 95-080]

#### Navigation Safety Advisory Council Meeting

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** The Navigation Safety Advisory Council (NAVSAC) will meet to discuss various issues. Agenda items include adequacy of barge lighting, and the human element in integrated systems under Chapter 5, Safety of Navigation, of the Safety of Life at Sea Convention (SOLAS). The meeting will be open to the public.

**DATES:** The meeting will be held November 10 and 11, 1995, from 8:00 to 5:00 p.m. daily. Written material must

be received on or before October 26, 1995.

**ADDRESSES:** The meeting will be held at the Holiday Inn Downtown/Convention Center, 811 North Ninth Street, St. Louis, MO 63101. Written material should be submitted to Margie G. Hegy, Executive Director, Commandant (G-NVT-3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

**FOR FURTHER INFORMATION CONTACT:** Margie G. Hegy, Executive Director, Commandant (G-NVT-3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-0415.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2 Section 1 *et seq.* The agenda will include discussion of the following topics:

- (1) District 2—Western River Bridge Pier Marking Quality Action Team (QAT) Report;
- (2) American Waterway Operators' (AWO) Responsible Carrier Program;
- (3) The Role of an Electronic Chart Display and Information System (ECDIS) in river navigation;
- (4) Adequacy of barge lighting under Navigation Rule 24; and
- (5) Review of SOLAS Chapter 5, Safety of Navigation.

Attendance is open to the public. With advance notice, and at the Chairman's discretion, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the Executive Director, listed above under **ADDRESSES**, no later than November 2, 1995. Written material may be submitted at any time for presentation to the Council. However, to ensure distribution to each Council member, persons submitting written material are asked to provide 21 copies to the Executive Director no later than October 26, 1995.

Dated: October 5, 1995.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95-25291 Filed 10-11-95; 8:45 am]

BILLING CODE 4910-14-M

---

## 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. The FAA is publishing an index by order number, an index by subject matter, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. Publication of these indexes and digests is intended to increase the public's awareness of the Administrator's decisions and orders. Also, the publication of these indexes and digests should assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number, as supplemented by the index by subject matter, ensures that the agency is in compliance with statutory indexing requirements.

**FOR FURTHER INFORMATION CONTACT:** James S. Dillman, Assistant Chief Counsel of Litigation (AGC-400), Federal Aviation Administration, 701 Pennsylvania Avenue NW, Suite 925, Washington, DC 20004; telephone (202) 376-6441.

**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 subject-matter index, and digests organized by order number.

In a notice issued on October 26, 1990, the FAA 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 it would publish supplements to these indexes and digests on a quarterly basis (*i.e.*) in January, April, July, and October of each year). The FAA announced further in that notice that only the subject-matter index would be published cumulatively, and that both the order number index and the digests would be non-cumulative.

Since that first index was issued on October 26, 1990 (55 FR 45984; October 31, 1990), the FAA has issued supplementary notices containing the quarterly indexes of the Administrator's civil penalty decisions as follows:

Dates of quarter	Federal Register publication
10/1/90-12/3/90 .....	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.
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.

\* Due to administrative oversight, the index for the third quarter of 1994, including information pertaining to the decisions and orders issued by the Administrator between July 1 and September 30, 1994, was not published on time. The information regarding the third quarter's decisions and orders, as well as the fourth quarter's decisions and orders in 1994, were included in the index published on January 23, 1995.

In the notice published on January 19, 1993, the Administrator announced that for the convenience of the users of these indexes, the order number index published at the end of the year would reflect all of the civil penalty decisions for that year. 58 FR 5044; 1/19/93. The order number indexes for the first, second, and third quarters would be non-cumulative.

The Administrator's final decision and orders, indexes, and digests are available for public inspection and copying at all FAA legal offices. (The addresses of the FAA legal offices are listed at the end of this notice.)

Also, the Administrator's decisions and orders have been published by commercial publishers and are available on computer databases. (Information about these commercial publications and computer databases is provided 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 July 1, 1995, to September 30, 1995.)

- 95-15—Alphin Aviation  
7/19/95—CP93EA0324
- 95-16—John Mulhall  
8/4/95—CP94NM0026
- 95-17—Larry's Flying Service  
8/4/95—CP93AL0267, CP93AL0268
- 95-18—Pacific Sky Supply  
8/4/95—CP93NM0398;  
93EAJANM0014
- 95-19—Ben Rayner  
8/4/95—CP95EA0155
- 95-20—USAir, Inc.  
8/15/95—CP94EA0126
- 95-21—Ezequiel G. Faisca  
9/26/95—CP94EA0209

**Civil Penalty Actions—Orders Issued by the Administrator**

*Subject Matter Index*

(Current as of September 30, 1995)

**Administrative Law Judges—Power and Authority:**

Continuance of hearing .....	91-11 Continental Airlines; 92-29 Haggland.
Credibility findings .....	90-21 Carroll; 92-3 Park; 93-17 Metcalf; 94-3 Valley Air; 94-4 Northwest Aircraft Rental.
Default Judgment .....	91-11 Continental Airlines; 92-47 Cornwall; 94-8 Nunez; 94-22 Harkins; 94-28 Toyota; 95-10 Diamond.
Discovery .....	89-6 American Airlines; 91-7 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.
Jurisdiction .....	90-20 Degenhardt; 90-33 Cato; 92-1 Costello; 92-32 Barnhill.
After order assessing civil penalty .....	94-37 Houston; 95-19 Rayner.

After complaint withdrawn .....	94-39 Kirola.
Motion for Decision .....	92-73 Wyatt; 92-75 Beck; 92-76 Safety Equipment; 93-11 Merkley.
Notice of Hearing .....	92-31 Eaddy.
Sanction .....	90-37 Northwest Airlines; 91-54 Alaska Airlines; 94-22 Harkins; 94-28 Toyota.
Vacating initial decision .....	90-20 Degenhardt; 92-32 Barnhill; 95-6 Sutton.
Agency Attorney .....	93-13 Medel.
Air Carrier:	
Agent/independent contractor of .....	92-70 USAir.
Careless or Reckless .....	92-48 & 92-70 USAir; 93-18 Westair Commuter.
Employee .....	93-18 Westair Commuter.
Aircraft Maintenance .....	90-11 Thunderbird Accessories; 91-8 Watts Agricultural Aviation; 93-36 & 94-3 Valley Air; 94-38 Bohan; 95-11 Horizon.
After certificate revocation .....	92-73 Wyatt.
Minimum Equipment List (MEL) .....	94-38 Bohan; 95-11 Horizon.
Aircraft Records:	
Aircraft Operation .....	91-8 Watts Agricultural Aviation.
Maintenance Records .....	91-8 Watts Agricultural Aviation; 94-2 Woodhouse.
"Yellow tags" .....	91-8 Watts Agricultural Aviation.
Aircraft-Weight and Balance (See Weight and Balance)	
Airmen:	
Pilots .....	91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-49 Richardson & Shimp; 93-17 Metcalf.
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.
Flight time limitations .....	93-11 Merkley.
Follow ATC Instruction .....	91-12 & 91-31 Terry & Menne; 92-8 Watkins; 92-49 Richardson & Shimp.
Low Flight .....	92-47 Cornwall; 93-17 Metcalf.
See and Avoid .....	93-29 Sweeney.
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].
Badge Display .....	91-4 [Airport Operator]; 91-33 Delta Air Lines.
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].
Airport Security Program (ASP)	
Compliance with .....	91-4 [Airport Operator]; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 94-1 Delta Air Lines.
Airports:	
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].
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.
Amicus Curiae Briefs .....	90-25 Gabbert.
Answer:	
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 Perez; 95-10 Diamond.
What constitutes .....	92-32 Barnhill; 92-75 Beck
Appeals (See also 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; 95-4 Northwest Aircraft; 94-18 Luxemburg; 94-29 Sutton.
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.
Appeal dismissed as premature .....	95-19 Rayner.
Appeal dismissed as moot after complaint withdrawn .....	92-9 Griffin.
Motion to Vacate construed as a brief .....	91-11 Continental Airlines.
Perfecting an Appeal .....	92-17 Giuffrida; 92-19 Cornwall; 92-39 Beck; 94-23 Perez; 95-13 Kilrain.
Extension of Time for (good cause for) .....	89-8 Thunderbird Accessories; 91-26 Britt Airways; 91-32 Bargen; 91-50 Costello; 93-2 & 93-3 Wendt; 93-24 Steel City Aviation; 93-32 Nunez.

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; 92-11 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 & 92-31 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; 95-4 Hanson.
What Constitutes .....	90-4 Metz; 90-27 Gabbert; 91-45 Park; 92-7 West; 92-17 Giuffrida; 92-39 Beck; 92-7 Dunn; 94-15 Columna; 94-23 Perez; 94-30 Columna; 95-9 Woodhouse.
Service of brief Failure 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.
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; 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.
"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.
Balloon (Hot Air) .....	94-2 Woodhouse.
Bankruptcy .....	91-2 Continental Airlines.
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.
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.
Sanction Guidance Table .....	89-5 Schultz; 90-23 Broyles; 90-33 Cato; 90-37 Northwest Airlines; 91-3 Lewis; 92-5 Delta Air Lines.
Concealment of Weapons .....	89-5 Schultz; 92-46 Sutton-Sautter; 92-51 Koblick.
Consolidation of Cases .....	90-12, 90-18 & 90-19 Continental Airlines.
Continuance of Hearing .....	90-25 Gabbert; 92-29 Haggland.
Corrective Action (See Sanction)	
Credibility of Witnesses:	
Deference to ALJ .....	90-21 Carroll; 92-3 Park; 93-17 Metcalf.
Expert witnesses	
(see also Witnesses) .....	90-27 Gabbert; 93-17 Metcalf.
Impeachment .....	94-4 Northwest Aircraft Rental.
De facto answer .....	92-32 Barnhill.
Deliberative Process Privilege .....	89-6 American Airlines; 90-12, 90-18 & 90-19 Continental Airlines.
Deterrence .....	89-5 Schultz; 92-10 Flight Unlimited; 95-16 Mulhall; 95-17 Larry's Flying Service.
Discovery	
Deliberative Process	
Privilege .....	89-6 American Airlines; 90-12, 90-18 & 90-19 Continental Airlines.
Depositions .....	91-54 Alaska Airlines.
Notice of .....	91-54 Alaska Airlines.
Failure to Produce .....	90-18 & 90-19 Continental Airlines; 91-17 KDS Aviation; 93-10 Costello.

Of Investigative File in Unrelated Case .....	92-46 Sutton-Sautter.
Sanctions for .....	91-17 KDS Aviation; 91-54 Alaska Airlines.
Double Jeopardy .....	95-8 Charter Airlines.
Due Process:	
Before finding a violation .....	90-27 Gabbert.
Violation of .....	89-6 American Airlines; 90-12 Continental Airlines; 90-37 Northwest Airlines.
EAJA:	
Adversary Adjudication .....	90-17 Wilson; 91-17 & 91-52 KDS Aviation; 94-17 TCI; 95-12 Toyota.
Appeal from ALJ decision .....	95-9 Woodhouse.
Further proceedings .....	91-52 KDS Aviation.
Jurisdiction over appeal .....	92-74 Wendt.
Other expenses .....	93-29 Sweeney.
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.
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.
Federal Rules of Civil Procedure .....	91-17 KDS Aviation.
Federal Rules of Evidence Settlement Offers .....	95-16 Mulhall.
Final Oral Argument .....	92-3 Park.
Firearms (See Weapons)	
Ferry Flights .....	95-8 Charter Airlines.
Flight & Duty Time:	
Circumstances beyond control of the crew .....	95-8 Charter Airlines.
Foreseeability .....	95-8 Charter Airlines.
Late freight .....	95-8 Charter Airlines.
Weather .....	95-8 Charter Airlines.
Limitation of Duty Time .....	95-8 Charter Airlines.
Limitation of Flight Time .....	95-8 Charter Airlines.
"Other commercial flying" .....	95-8 Charter Airlines.
Flights .....	94-20 Conquest Helicopters.
Freedom of Information Act .....	93-10 Costello.
Guns (See Weapons)	
Hazardous Materials Transp. Act .....	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.
Ability to Pay .....	95-16 Mulhall.
Installment payments .....	95-16 Mulhall.
Civil Penalty .....	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall.
Financial hardship and inability to pay .....	95-16 Mulhall.
Minimum penalty .....	95-16 Mulhall.
Corrective Action .....	92-77 TCI; 94-28 Toyota.
Criminal Penalty .....	92-77 TCI; 94-31 Smalling.
Culpability .....	92-77 TCI; 94-28 Toyota; 94-31 Smalling.
EAJA, Applicability of .....	94-17 TCI; 95-12 Toyota.
First-time violation .....	92-77 TCI; 94-28 Toyota; 94-31 Smalling.
Gravity of violation .....	92-77 TCI; 94-28 Toyota; 94-31 Smalling.
Individual violations .....	95-16 Mulhall.
Knowingly .....	92-77 TCI; 94-19 Pony Express; 94-31 Smalling.
Informal Conference .....	94-4 Northwest Aircraft Rental.
Initial Decision:	
What constitutes .....	92-32 Barnhill.
Interference with crewmembers .....	92-3 Park.
Interlocutory Appeal .....	89-6 American Airlines; 91-54 Alaska Airlines; 93-37 Airspect; 94-32 Detroit Metropolitan.
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.
\$50,000 Limit .....	90-12 Continental Airlines.
EAJA cases .....	92-74 Wendt.
HazMat cases .....	92-76 Safety Equipment.
NTSB .....	90-11 Thunderbird Accessories.
Knowledge (See also Weapons Violations) Of concealed weapon.	89-5 Schultz; 90-20 Degenhardt.
Laches (See Unreasonable Delay) Mailing Rule .....	89-7 Zenkner; 90-3 Metz; 90-11 Thunderbird Accessories; 90-39 Hart.
Overnight express delivery .....	89-6 American Airlines.
Maintenance (See Aircraft Maintenance)	
Maintenance Instruction .....	93-36 Valley Air.

Maintenance Manual .....	90-11 Thunderbird Accessories.
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 .....	91-12 & 91-31 Terry & Menne; 93-18 Westair Commuter.
Oral Argument:	
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.
Parts Manufacturer Approval Failure to obtain .....	93-19 Pacific Sky Supply.
Passenger Misconduct .....	92-3 Park.
Smoking .....	92-37 Giuffrida
Penalty (see Sanction)	
Person .....	93-18 Westair Commuter
Proof & Evidence:	
Affirmative Defense .....	92-13 Delta Air Lines; 92-72 Giuffrida.
Burden of Proof .....	90-26 & 90-43 Waddell; 91-3 Lewis; 91-30 Trujillo; 92-13 Delta Air Lines; 92-72 Giuffrida; 93-29 Sweeney.
Circumstantial Evidence .....	90-12, 90-19 & 91-9 Continental Airlines; 93-29 Sweeney.
Credibility (See Administrative Law Judges; Credibility of Witnesses)	
Criminal standard rejected .....	91-12 Terry & Menne.
Closing Arguments .....	94-20 Conquest Helicopters.
Hearsay .....	92-72 Giuffrida.
Preponderance of evidence .....	90-11 Thunderbird Accessories; 90-12 Continental Airlines; 91-12 & 91-31 Terry & Menne; 92-72 Giuffrida;
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.
Settlement offer .....	95-16 Mulhall.
Substantial evidence .....	92-72 Giuffrida.
Pro Se Parties:	
Special Considerations .....	90-11 Thunderbird Accessories; 90-3 Metz.
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.
Reconsideration:	
Denied by ALJ .....	89-4 & 90-3 Metz.
Granted by AL .....	92-32 Barnhill.
Stay of Order Pending .....	90-31 Carroll; 90-32 Continental Airlines.
Remand .....	89-6 American Airlines; 90-16 Rocky Mountain; 90-24 Bayer; 91-51 Hagwood; 91-54 Alaska Airlines; 92-1 Costello; 92-76 Safety Equipment; 94-37 Houston.
Repair Station .....	90-11 Thunderbird Accessories; 92-10 Flight Unlimited; 94-2 Woodhouse.
Request for Hearing .....	94-37 Houston; 95-19 Rayner.
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.
Agency Policy:	
ALJ Bound by .....	90-37 Northwest Airlines; 92-46 Sutton-Sautter.
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.
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.

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 Koblick; 94-28 Toyota; 95-11 Horizon.
First-Time Offenders .....	89-5 Schultz; 92-5 Delta Air Lines; 92-51 Koblick.
HazMat (See Hazardous Materials Transp. Act)	
Inexperience .....	92-10 Flight Unlimited.
Installment Payments .....	95-16 Mulhall; 95-17 Larry's Flying Service.
Maintenance .....	95-11 Horizon.
Maximum .....	90-10 Webb; 91-53 Koller.
Minimum (HazMat) .....	95-16 Mulhall.
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 (also see Complaint).	94-19 Pony Express; 94-40 Polynesian Airways.
Pilot Deviation .....	92-8 Watkins.
Test object detection .....	90-18 & 90-19 Continental Airlines.
Unauthorized access .....	90-19 Continental Airlines; 90-37 Northwest Airlines; 94-1 Delta Air Lines.
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.
Screening of Persons:	
Air Carrier-failure to detect weapon Sanction ..	94-44 American Airlines.
Entering Sterile Areas .....	90-24 Bayer; 92-58 Hoedl.
Separation of Functions .....	90-12 Continental Airlines; 90-18 Continental Airlines; 90-19 Continental Airlines; 90-21 Carrol; 90-38 Continental Airlines; 93-13 Medel.
Service (See also Mailing Rule)	
Of NPCP .....	90-22 USAir.
Of FNPCP .....	93-13 Medel.
Valid Service .....	92-18 Bargaen.
Settlement .....	91-50 & 92-1 Costello; 95-16 Mulhall.
Smoking .....	92-37 Giuffrida; 94-18 Luxemburg.
Standard Security Program (SSP) Compliance with	
Stay of Orders .....	90-12, 90-18 & 90-19 Continental Airlines; 91-33 Delta Air Lines; 91-55 Continental Airlines; 92-13 & 94-1 Delta Air Lines.
Pending judicial review .....	90-31 Carroll; 90-32 Continental Airlines.
Strict Liability .....	95-14 Charter Airlines.
Test Object Detection .....	89-5 Schultz; 90-27 Gabbert; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-58 [Airport Operator].
Proof of violation .....	90-12, 90-18, 90-19, 91-9 & 91-55 Continental Airlines; 92-13 Delta Air Lines.
Sanction .....	90-18, 90-19 & 91-9 Continental Airlines; 92-13 Delta Air Lines.
Timeliness (See also Complaint; Mailing Rule; and Appeals)	
Of response to NPCP .....	90-22 USAir.
Of complaint .....	91-51 Hagwood; 93-13 Medel; 94-7 Hereth.
Of NPCP .....	92-73 Wyatt.
Of request for hearing .....	93-12 Langton; 95-19 Rayner.
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 Air Lines.
Unreasonable Delay In Initiating Action .....	90-21 Carroll.
Visual Cues Indicating Runway, Adequacy of .....	92-40 Wendt.
Weapons Violations .....	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 Esau; 91-53 Koller; 92-32 Barnhill; 92-46 Sutton-Sautter; 92-51 Koblick; 92-59 Petek-Jackson; 94-5 Grant; 94-44 American Airlines.
Concealment (See Concealment)	
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.
Witnesses:	
Absence of, Failure to subpoena .....	92-3 Park.
Expert testimony (see also Credibility).	
Evaluation of .....	93-17 Metcalf; 94-3 Valley Air; 94-21 Sweeney.

## REGULATIONS [Title 14 CFR, unless otherwise noted]

1.1 (maintenance) .....	94-38 Bohan.
1.1 (operate) .....	91-12 & 91-31 Terry & Menne; 93-18 Westair Commuter.

1.1 (person) .....	93-18 Westair Commuter.
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.
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.
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.
13.209 .....	90-3 Metz; 90-15 Playter; 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.
13.210 .....	92-19 Cornwall; 92-75 Beck; 92-76 Safety Equipment; 93-7 Dunn; 93-28 Strohl; 94-5 Grant; 94-30 Columna.
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.
13.212 .....	90-11 Thunderbird Accessories; 91-2 Continental Airlines.
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.
13.219 .....	89-6 American Airlines; 91-2 Continental Airlines; 91-54 Alaska Airlines; 93-37 Airspect; 94-32 Detroit Metro. Wayne Airport.
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.
13.223 .....	91-12 & 91-31 Terry & Menne; 92-72 Giuffrida.
13.224 .....	90-26 Waddell; 91-4 [Airport Operator]; 92-72 Giuffrida; 94-18 Luxemburg; 94-28 Toyota.
13.225 .....	
13.226 .....	
13.227 .....	90-21 Carroll.
13.228 .....	92-3 Park.
13.229 .....	
13.230 .....	92-19 Cornwall.
13.231 .....	92-3 Park.
13.232 .....	89-5 Schultz; 90-20 Degenhardt; 92-1 Costello; 92-18 Bargaen; 92-32 Barnhill; 93-28 Strohl; 94-28 Toyota; 95-12 Toyota; 95-16 Mulhall.
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; 93-19 Pacific Sky Supply; 93-23 Allen; 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
13.234 .....	90-19 Continental Airlines; 90-31 Carroll; 90-32 & 90-38 Continental Airlines; 91-4 [Airport Operator]; 95-12 Toyota.
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.



14.05 .....	90-17 Wilson.
14.20 .....	91-52 KDS Aviation.
14.22 .....	93-29 Sweeney.
14.26 .....	91-52 KDS Aviation.
14.28 .....	95-9 Woodhouse.
21.303 .....	93-19 Pacific Sky Supply; 95-18 Pacific Sky Supply.
25.855 .....	92-37 Giuffrida.
39.3 .....	92-10 Flight Unlimited; 94-4 Northwest Aircraft Rental.
43.3 .....	92-73 Wyatt.
43.9 .....	91-8 Watts Agricultural Aviation.
43.13 .....	90-11 Thunderbird Accessories; 94-3 Valley Air; 94-38 Bohan.
43.15 .....	90-25 & 90-27 Gabbert; 91-8 Watts Agricultural Aviation; 94-2 Woodhouse.
65.15 .....	92-73 Watt.
65.92 .....	92-73 Watt.
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.
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.
91.75 (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.
91.173 (91.417 as of 8/18/90) .....	91-8 Watts Agricultural Aviation.
91.703 .....	94-29 Sutton.
107.1 .....	90-19 Continental Airlines; 90-20 Degenhardt; 91-4 [Airport Operator]; 91-58 [Airport Operator].
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].
107.20 .....	90-24 Bayer; 92-58 Hoedl.
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.
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.
108.7 .....	90-18 & 90-19 Continental Airlines.
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.
121.133 .....	90-18 Continental Airlines.
121.153 .....	92-48 & 92-70 USAir; 95-11 Horizon.
121.317 .....	92-37 Giuffrida; 94-18 Luxemburg.
121.318 .....	92-37 Giuffrida.
121.367 .....	90-12 Continental Airlines.
121.571 .....	92-37 Giuffrida.
121.628 .....	95-11 Horizon.
135.1 .....	95-8 Charter Airlines.
135.5 .....	94-3 Valley Air; 94-20 Conquest Helicopters.
135.25 .....	92-10 Flight Unlimited; 94-3 Valley Air.
135.63 .....	94-40 Polynesian Airways; 95-17 Larry's Flying Service.
135.87 .....	90-21 Carroll.
135.95 .....	95-17 Larry's Flying Service.
135.185 .....	94-40 Polynesian Airways.
135.263 .....	95-9 Charter Airlines.
135.267 .....	95-8 Charter Airlines; 95-17 Larry's Flying Service.
135.293 .....	95-17 Larry's Flying Service.
135.343 .....	95-17 Larry's Flying Service.
135.413 .....	94-3 Valley Air.
135.421 .....	93-36 Valley Air; 94-3 Valley Air.
135.437 .....	94-3 Valley Air.
145.53 .....	90-11 Thunderbird Accessories.
145.57 .....	94-2 Woodhouse.
145.61 .....	90-11 Thunderbird Accessories.
191 .....	90-12 & 90-19 Continental Airlines; 90-37 Northwest Airlines.
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.

171.8 .....	92-77 TCI.
172.101 .....	92-77 TCI; 94-28 Toyota; 94-31 Smalling.
172.200 .....	92-77 TCI; 94-28 Toyota; 95-16 Mulhall.
172.202 .....	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall.
172.203 .....	94-28 Toyota.
172.204 .....	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall.
172.300 .....	94-31 Smalling; 95-16 Mulhall.
172.301 .....	94-31 Smalling; 95-16 Mulhall.
172.304 .....	92-77 TCI; 94-31 Smalling; 95-16 Mulhall.
172.400 .....	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall.
172.402 .....	94-28 Toyota.
172.406 .....	92-77 TCI.
173.1 .....	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall.
173.3 .....	94-28 Toyota; 94-31 Smalling.
173.6 .....	94-28 Toyota.
173.22(a) .....	94-28 Toyota; 94-31 Smalling.
173.24 .....	94-28 Toyota; 95-16 Mulhall.
173.25 .....	94-28 Toyota.
173.27 .....	92-77 TCI.
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.
821.30 .....	92-73 Wyatt.
821.33 .....	90-21 Carroll.
STATUTES	
5 U.S.C.:	
504 .....	90-17 Wilson; 91-17 & 92-71 KDS Aviation; 92-74, 93-2 & 93-9 Wendt; 93-29 Sweeney; 94-17 TCI.
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.
11 U.S.C.:	
362 .....	91-2 Continental Airlines.
28 U.S.C.:	
2412 .....	93-10 Costello.
2462 .....	90-21 Carroll.
49 U.S.C.:	
5123 .....	95-16 Mulhall.
49 U.S.C. App.:	
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 Waddell; 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.
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.
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 September 30, 1995)

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 July 1, 1995, to September 30, 1995. The FAA will publish noncumulative 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 Alphin Aviation Inc.*  
Order No. 95-15 (7/19/95)

*Appeal Dismissed.* Respondent failed to file a timely notice of appeal. The appeal is dismissed.

*In the Matter of John Mulhall*

Order No. 95-16 (8/4/95)

*Settlement Offer.* Prior to the hearing, Mr. Mulhall sent a letter to the law judge, setting out a settlement offer made by the agency attorney. Complainant argued on appeal that it was error for the law judge to admit this letter into evidence at the hearing. Technically, the law judge should not have admitted the evidence of the settlement offer. By apprising the law judge of the terms of the settlement offer, Mr. Mulhall circumvented Rule 408 of the Federal Rules of Evidence, which prohibits the introduction of settlement offers for the purpose of proving liability and amount of damages. But this was an ex parte communication. It was not improper for the law judge to include the letter in the record because by admitting the letter, he made a record of the information to which he had had access. Also, while the judge's order and the settlement offer have some similarities, these similarities are not so strong as to prove that the law judge was unduly influenced by the disclosure of the terms of the settlement offer.

*Civil Penalty Payable in Installments.* It was held that law judges may prescribe payment plans, but for policy reasons, the law judges should use this authority on only rare occasions, such as in this case in which the respondent is an individual with severely limited financial means. In such cases, the deterrent value of the penalty will not be overly diluted by an installment payment plan. When an installment plan is appropriate, the law judge should consult with the agency attorney to work out a payment schedule that will not be unduly burdensome for Complainant to administer.

The law judge's order is modified to correct an apparent oversight. The \$750 civil penalty shall be paid in 30 monthly installments of \$25.00 each.

*Minimum Penalty under the Federal Hazardous Materials Transportation Law.* In reconciling 49 U.S.C. 5123 (a) and (c), it is held that the only sensible way to interpret these sections, without rendering any of the language superfluous, meaningless or inconsistent, is to read them to say that in cases of inability to pay a fine of \$250 multiplied by the number of violations, a penalty of less than that amount may be assessed.

*In the Matter of Larry's Flying Service*

Order No. 95-17 (8/4/95)

The law judge reduced the combined \$35,000 civil penalty to \$15,000 payable

in 15 installments of \$1,000 each due to Larry's Flying Service's financial hardship. Complainant did not appeal from the reduction of the civil penalty, but instead contested on appeal the law judge's authority to assess a civil penalty payable in installments. Referring to *In the Matter of Mulhall*, FAA Order No. 95-16 (8/4/95), the Administrator held that law judges may prescribe payment plans, but for policy reasons, the law judges should use this authority on only rare occasions, such as in cases in which the respondent has severely limited financial means. The law judge should consult the agency attorney to determine whether a payment schedule under consideration would be unduly burdensome for the agency to administer.

*In the Matter of Pacific Sky Supply, Inc.*

Order No. 95-18 (8/4/95)

*Award of Attorney Fees Reversed.* The law judge's award of \$87,724.19 in attorney fees and costs to Pacific Sky is reversed because the FAA's position was substantially justified and because special circumstances make an award of fees unjust.

*Reasonable Basis in Law.* The standard advanced by the FAA—*i.e.*, that a violation had been proven if it was reasonably likely that some of the parts would be installed on type-certificated products—was a reasonable standard, and the Administrator's ultimate determination that the slightly more rigorous "substantially certain" standard should be applied does not alter this.

This case involved an unsettled, complex issue. It was a case of first impression, and a very close case. In such cases, courts have held there was a reasonable basis in law. The FAA did not depart from its reasonable overall objectives in advancing the "reasonably likely" standard, particularly in light of the increasing concern on the part of the American people about the proliferation of unapproved aircraft parts.

*Reasonable Basis in Fact.* Although the law judge believed there was not enough in the official record to support the FAA's position, that is because he too narrowly defined the record. The law judge erred in refusing to consider exhibits that the FAA filed with him pursuant to his own pre-hearing order.

Contrary to the law judge's holding, there was enough evidence in the record to support FAA's theory of the case—that Pacific Sky produced the parts at issue when it did not hold a Parts Manufacturer Approval and that Pacific Sky sold parts indiscriminately in a market where it was reasonably likely

that at least some of them would be installed in civil aircraft.

Because there was a reasonable basis in law and in fact for the FAA's position, it was substantially justified.

*Special Circumstances.* The special circumstances exception is a "safety valve" to insure that the government is not deterred from "advancing in good faith the novel but credible extensions and interpretations of law that often underlie vigorous enforcement efforts." Probably no case fits the special circumstances exception better than this one. The government's enforcement role requires it to take a broad view of what it may prosecute because judicial review stands guard against an error in that direction, while an error in the opposite direction is unlikely ever to be corrected.

*In the Matter of Ben Rayner*

Order No. 95-19 (8/4/95)

*Appeal from Order Assessing Civil Penalty Dismissed.* The Administrator construed Mr. Rayner's Motion to Set Aside Order Assessing Civil Penalty as a request for hearing. The Administrator further construed the Agency's Motion to Dismiss as a motion to dismiss a late-filed request for hearing. The motion to dismiss should be decided by the law judge to be assigned to this case. Mr. Rayner's appeal to the Administrator is dismissed as premature.

*In the Matter of USAir, Inc.*

Order No. 95-20 (8/20/95)

*Appeal Dismissed.* Complainant has withdrawn its notice of appeal. Therefore, Complainant's appeal is dismissed.

*In the Matter of Ezequiel G. Faisca*

Order No. 95-21 (9/26/95)

*Appeal Dismissed.* Complainant has withdrawn its notice of appeal. Therefore, Complainant's appeal is dismissed.

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

In June 1991, as a public service, the FAA began releasing to commercial publishers the Administrator's decisions and orders in civil penalty cases. The goal was to make these decisions and orders more accessible to the public. The Administrator's decisions and orders in civil penalty cases are now available in the following commercial publications:

AvLex, published by Aviation Daily,  
1156 15th Street, NW, Washington,  
DC 20005, (202) 822-4669;

*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, 50 Broad Street East, Rochester, NY 14694, (716) 546-1490.

The decisions and orders may be obtained on disk from Aviation Records, Inc., P.O. Box 172, Battle Ground, WA 98604, (206) 896-0376. Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040 (806) 733-2483, is placing the decisions on CD-ROM. Finally, the Administrator's decisions and orders in civil penalty cases are available on Compuserve and FedWorld.

The FAA has stated previously that publication of the subject-matter index and the digests may be discontinued once a commercial reporting service publishes similar information in a timely and accurate manner. No decision has been made yet on this matter, and for the time being, the FAA will continue to prepare and publish the subject-matter index and digests.

#### 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 924A, 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 Assistant Chief Counsel for the Aeronautical Center (AMC-7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954-3296

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

Office of the Assistant Chief 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 Assistant Chief Counsel for the Eastern Region (AEA-7), Eastern Region Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553-3285

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL-7), 2300

East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294-7108  
 Office of the Assistant Chief Counsel for the New England Region (ANE-7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803-5299; (617) 238-7050

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM-7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055-4056; (206) 227-2007

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

Office of the Assistant Chief Counsel for the Southwest Region (ASW-7), Southwest Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137-4298; (817) 222-5087

Office of the Assistant Chief Counsel for the Technical Center (ACT-7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485-7087

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP-7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 726-7100

Issued in Washington, DC on October 4, 1995.

James S. Dillman,  
*Assistant Chief Counsel for Litigation.*

[FR Doc. 95-25293 Filed 10-11-95; 8:45 am]

BILLING CODE 4910-13-M

#### **Air Traffic Procedures Advisory Committee (ATPAC) Meeting To Review Present Air Traffic Control Procedures and Practices for Standardization, Clarification, and Upgrading of Terminology and Procedures; Correction**

**AGENCY:** Federal Aviation Administration.

**ACTION:** Correction.

**SUMMARY:** In notice Document 95-23340 beginning on page 48743 in the issue of Wednesday, September 20, 1995, make the following correction:

On page 48743 in the third column, third and fifth paragraphs, the location of the meeting October 23-26 should be changed to the Sheraton Suites, 801 North Saint Asaph Street, Alexandria, Virginia 22314. The locations previously published were MacCracken Room, FAA, and National Business Aircraft Association.

Dated: October 5, 1995.

W. Frank Price,

*Executive Director, Air Traffic Procedures Advisory Committee.*

[FR Doc. 95-25300 Filed 10-11-95; 8:45 am]

BILLING CODE 4910-13-M

#### **Notice of Intent to Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Kansas City International Airport, Kansas City, MO**

**AGENCY:** Federal Aviation Administration, (FAA), DOT.

**ACTION:** Notice of Intent to Rule on Application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Kansas City International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before November 13, 1995.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John D. Solomon, Director of Aviation, at the following address: Kansas City Aviation Department, 150 Richards Road, Suite 265, Kansas City, Missouri 64116.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Kansas City International Airport, under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Lorna Sandridge, PFC Coordinator, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426-4730. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Kansas City International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).