

(h) *Method of payment.* A respondent must pay a civil penalty by check or money order, payable to the Federal Aviation Administration.

(i) *Collection of civil penalties.* If a respondent does not pay a civil penalty imposed by an order imposing civil penalty or a compromise order within 60 days after service of the final order, the FAA may refer the order to the United States Department of Treasury or Department of Justice to collect the civil penalty.

(j) *Exhaustion of administrative remedies.* A respondent may seek judicial review of a final decision and order of the FAA decisionmaker as provided in §406.179. A respondent has not exhausted administrative remedies for purposes of judicial review if the final order is one of the following:

(1) An order imposing civil penalty issued by an agency attorney under paragraph (e)(1)(i) of this section.

(2) A final notice of proposed civil penalty that becomes an order imposing civil penalty under paragraph (e)(1)(ii) of this section.

(3) An initial decision of an administrative law judge that was not appealed to the FAA decisionmaker.

(4) A compromise order under paragraph (f) of this section.

(k) *Compromise.* The FAA may compromise or remit a civil penalty that has been proposed or imposed under this section.

[Docket No. FAA–2001–8607, 66 FR 2180, Jan. 10, 2001, as amended by Amdt. 406–4, 72 FR 17017, Apr. 6, 2007; 72 FR 68475, Dec. 5, 2007]

§§ 406.10–406.100 [Reserved]

**Subpart B—Rules of Practice in FAA Space Transportation Adjudications**

**§ 406.101 Applicability.**

(a) *Adjudications to which these rules apply.* These rules apply to the following adjudications:

(1) A civil penalty action in which the respondent has requested a hearing under § 406.9.

(2) [Reserved]

(b) [Reserved]

**§ 406.103 Definitions that apply in part 406.**

For the purpose of this part:

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

*Attorney* means a person licensed by a state, the District of Columbia, or a territory of the United States to practice law or appear before the courts of that state or territory.

*Complainant* in a civil penalty action means the proponent of the civil penalty in the FAA.

*FAA decisionmaker* means the Associate Administrator for Commercial Space Transportation, or the Administrator of the Federal Aviation Administration, acting in the capacity of the decisionmaker on appeal; or a person who has been delegated the authority to act for the FAA decisionmaker. As used in this part, the FAA decisionmaker is the official authorized to issue a final decision and order of the Secretary in an action.

*Mail* means U.S. first class mail, U.S. certified mail, U.S. registered mail, or an express courier service.

*Party* means the respondent or the complainant.

*Personal delivery* includes hand-delivery or use of a same-day messenger service. “Personal delivery” does not include the use of Government inter-office mail service.

*Properly addressed* means using an address contained in agency records; a residential, business, or other address used by a person on any document submitted under this part; or any other address determined by other reasonable and available means.

*Respondent* means a person who has been charged with a violation.

**§ 406.105 Separation of functions for prosecuting civil penalties and advising the FAA decisionmaker.**

(a) *Agency attorney.* The authority to prosecute civil penalties within the FAA is exercised by an agency attorney in accordance with § 406.9.

(1) The following officials have the authority to act as the agency attorney under this part: The Deputy Chief Counsel; the Assistant Chief Counsel for Enforcement; the Assistant Chief Counsel for Regulations; the Assistant