

§ 406.3

§ 406.3 Submissions; oral presentation in license, permit, and payload actions.

(a) The FAA will make decisions about license, permit, and payload actions under this subpart based on written submissions unless the administrative law judge requires an oral presentation.

(b) Submissions must include a detailed exposition of the evidence or arguments supporting the petition. Where an applicant must demonstrate an equivalent level of safety or fidelity, the applicant must make a clear and convincing demonstration.

(c) Petitions shall be filed as soon as practicable, but in no event more than 30 days after issuance of decision or finding under § 406.1.

[Docket No. FAA-2001-8607, 66 FR 2180, Jan. 10, 2001, as amended by Amdt. 406-3, 71 FR 50530, Aug. 25, 2006; Amdt. 406-4, 72 FR 17017, Apr. 6, 2007]

§ 406.5 Administrative law judge's recommended decision in license, permit, and payload actions.

(a) The Associate Administrator, who shall make the final decision on the matter at issue, shall review the recommended decision of the administrative law judge. The Associate Administrator shall make such final decision within thirty days of issuance of the recommended decision.

(b) The authority and responsibility to review and decide rests solely with the Associate Administrator and may not be delegated.

§ 406.7 [Reserved]

§ 406.9 Civil penalties.

(a) *Civil penalty liability.* Under 49 U.S.C. 70115(c), a person found by the FAA to have violated a requirement of the Act, a regulation issued under the Act, or any term or condition of a license or permit issued or transferred under the Act, is liable to the United States for a civil penalty of not more than \$100,000 for each violation, as adjusted for inflation. A separate violation occurs for each day the violation continues.

(b) *Delegations.* The authority to impose civil penalties is exercised by an

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agency attorney as described in § 406.105.

(c) *Notice of proposed civil penalty.* A civil penalty action is initiated when the agency attorney advises a person, referred to as the respondent, of the charges or other reasons upon which the FAA bases the proposed action and allows the respondent to answer the charges and to be heard as to why the civil penalty should not be imposed. A notice of proposed civil penalty states the facts alleged; any requirement of the Act, a regulation issued under the Act, or any term or condition of a license or permit issued or transferred under the Act allegedly violated by the respondent; and the amount of the proposed civil penalty. Not later than 30 days after receipt of the notice of proposed civil penalty the respondent may elect to proceed by one or more of the following:

(1) Pay the amount of the proposed civil penalty or an agreed upon amount, in which case the agency attorney will issue either an order imposing civil penalty or a compromise order in that amount.

(2) Submit to the agency attorney one of the following:

(i) Written information, including documents and witnesses statements, demonstrating that a violation did not occur or that a penalty, or the amount of the proposed penalty, is not warranted by the circumstances.

(ii) A written request to reduce the proposed civil penalty, the amount of reduction, and the reasons and any document supporting a reduction of the proposed civil penalty, including records indicating a financial inability to pay or records showing that payment of the proposed civil penalty would prevent the person from continuing in business.

(iii) A written request for an informal conference to discuss the matter with the agency attorney and to submit relevant information.

(3) Request that a final notice of proposed civil penalty be issued so that the respondent may request a hearing in accordance with paragraph (g) of this section.

(d) *Final notice of proposed civil penalty.* A final notice of proposed civil penalty (final notice) provides the last