

§ 13.203

14 CFR Ch. I (1–1–19 Edition)

territory of the United States to practice law or appear before the courts of that state or territory.

Complaint means a document issued by an agency attorney alleging a violation of a provision of the Federal aviation statute listed in the first sentence of 49 U.S.C. 46301(d)(2) or in 49 U.S.C. 47531, or of the Federal hazardous materials transportation statute, 49 U.S.C. 5121–5128, or a rule, regulation, or order issued under those statutes, that has been filed with the Hearing Docket after a hearing has been requested under § 13.16(f)(3) or (g)(2)(ii) of this part.

FAA decisionmaker means the Administrator of the Federal Aviation Administration, acting in the capacity of the decisionmaker on appeal, or any person to whom the Administrator has delegated the Administrator's decision-making authority in a civil penalty action. As used in this subpart, the FAA decisionmaker is the official authorized to issue a final decision and order of the Administrator in a civil penalty action.

Mail includes U.S. certified mail, U.S. registered mail, or use of an overnight express courier service.

Order assessing civil penalty means a document that contains a finding of a violation of a provision of the Federal aviation statute listed in the first sentence of 49 U.S.C. 46301(d)(2) or in 49 U.S.C. 47531, or of the Federal hazardous materials transportation statute, 49 U.S.C. 5121–5128, or a rule, regulation or order issued under those statutes, and may direct payment of a civil penalty. Unless an appeal is filed with the FAA decisionmaker in a timely manner, an initial decision or order of an administrative law judge shall be considered an order assessing civil penalty if an administrative law judge finds that an alleged violation occurred and determines that a civil penalty, in an amount found appropriate by the administrative law judge, is warranted. Unless a petition for review is filed with a U.S. Court of Appeals in a timely manner, a final decision and order of the Administrator shall be considered an order assessing civil penalty if the FAA decisionmaker finds that an alleged violation occurred and a civil penalty is warranted.

Party means the respondent or the Federal Aviation Administration (FAA).

Personal delivery includes hand-delivery or use of a contract or express messenger service. "Personal delivery" does not include the use of Government interoffice mail service.

Pleading means a complaint, an answer, and any amendment of these documents permitted under this subpart.

Properly addressed means a document that shows an address contained in agency records, a residential, business, or other address submitted by a person on any document provided under this subpart, or any other address shown by other reasonable and available means.

Respondent means a person, corporation, or company named in a complaint.

[Amdt. 13–21, 55 FR 27575, July 3, 1990, as amended by Amdt. 13–24, 58 FR 50241, Sept. 24, 1993; Amdt. 13–29, 62 FR 46866, Sept. 4, 1997; 70 FR 8238, Feb. 18, 2005; 71 FR 70464, Dec. 5, 2006]

§ 13.203 Separation of functions.

(a) Civil penalty proceedings, including hearings, shall be prosecuted by an agency attorney.

(b) An agency employee engaged in the performance of investigative or prosecutorial functions in a civil penalty action shall not, in that case or a factually-related case, participate or give advice in a decision by the administrative law judge or by the FAA decisionmaker on appeal, except as counsel or a witness in the public proceedings.

(c) The Chief Counsel, the Deputy Chief Counsel for Policy and Adjudication, and the Assistant Chief Counsel for Litigation, or an attorney on the staff of the Assistant Chief Counsel for Litigation will advise the FAA decisionmaker regarding an initial decision or any appeal of a civil penalty action to the FAA decisionmaker.

[Amdt. 13–21, 55 FR 27575, July 3, 1990, as amended by Amdt. 13–24, 58 FR 50241, Sept. 24, 1993; 70 FR 8238, Feb. 18, 2005]

§ 13.204 Appearances and rights of parties.

(a) Any party may appear and be heard in person.

(b) Any party may be accompanied, represented, or advised by an attorney