

(5) The action involves an aircraft subject to a lien that has been seized by the Government; or

(6) Another action has been brought for an injunction based on the same violation.

(c) *Hazardous materials violations.* The FAA may assess a civil penalty against any person who knowingly commits an act in violation of 49 U.S.C. chapter 51 or a regulation prescribed or order issued under that chapter, under 49 U.S.C. 5123 and 49 CFR 1.47(k). An order assessing a civil penalty for a violation under 49 U.S.C. chapter 51, or a rule, regulation, or order issued thereunder, is issued only after the following factors have been considered:

(1) The nature, circumstances, extent, and gravity of the violation;

(2) With respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue to do business; and

(3) Such other matters as justice may require.

(d) *Order assessing civil penalty.* An order assessing civil penalty may be issued for a violation described in paragraphs (a) or (c) of this section, or as otherwise provided by statute, after notice and opportunity for a hearing. A person charged with a violation may be subject to an order assessing civil penalty in the following circumstances:

(1) An order assessing civil penalty may be issued if a person charged with a violation submits or agrees to submit a civil penalty for a violation.

(2) An order assessing civil penalty may be issued if a person charged with a violation does not request a hearing under paragraph (g)(2)(ii) of this section within 15 days after receipt of a final notice of proposed civil penalty.

(3) 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.

(4) 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.

(e) *Delegation of authority.* (1) The authority of the Administrator under 49 U.S.C. 46301(d), 47531, and 5123, and 49 CFR 1.47(k) to initiate and assess civil penalties for a violation of those statutes or a rule, regulation, or order issued thereunder, is delegated to the Deputy Chief Counsel for Operations; the Assistant Chief Counsel for Enforcement; the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office; the Regional Counsel; the Aeronautical Center Counsel; and the Technical Center Counsel.

(2) The authority of the Administrator under 49 U.S.C. 5123, 49 CFR 1.47(k), 49 U.S.C. 46301(d), and 49 U.S.C. 46305 to refer cases to the Attorney General of the United States, or the delegate of the Attorney General, for collection of civil penalties is delegated to the Deputy Chief Counsel for Operations; the Assistant Chief Counsel for Enforcement; Assistant Chief Counsel, Europe, Africa, and Middle East Area Office; the Regional Counsel; the Aeronautical Center Counsel; and the Technical Center Counsel.

(3) The authority of the Administrator under 49 U.S.C. 46301(f) to compromise the amount of a civil penalty imposed is delegated to the Deputy Chief Counsel for Operations; the Assistant Chief Counsel for Enforcement; Assistant Chief Counsel, Europe, Africa, and Middle East Area Office; the Regional Counsel; the Aeronautical Center Counsel; and the Technical Center Counsel.

(4) The authority of the Administrator under 49 U.S.C. 5123 (e) and (f) and 49 CFR 1.47(k) to compromise the amount of a civil penalty imposed is delegated to the Deputy Chief Counsel for Operations; the Assistant Chief Counsel for Enforcement; Assistant Chief Counsel, Europe, Africa, and Middle East Area Office; the Regional Counsel; the Aeronautical Center Counsel; and the Technical Center Counsel.

(f) *Notice of proposed civil penalty.* A civil penalty action is initiated by