

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC**

In the Matter of: REGENT AEROSPACE CORPORATION

FAA Order No. 2015-6

FDMS No. FAA-2013-0852¹

Served: October 16, 2015

**ORDER CONSTRUING MOTION TO ALTER OR AMEND
THE INITIAL DECISION AS A NOTICE OF APPEAL**²

On July 27, 2015, Administrative Law Judge Richard C. Goodwin served a written initial decision finding that Respondent Regent Aerospace Corporation violated 14 C.F.R. §§ 145.207(a) and 145.211(c)(viii). The ALJ assessed a \$3,000 civil penalty for these violations.

Under the Rules of Practice in Civil Penalty Actions, 14 C.F.R. §§ 13.233(a) and 13.211(e),³ any notice of appeal must be filed within 15 days of the issuance of a written initial decision. A late-filed notice of appeal is subject to dismissal unless good cause is shown to excuse the late filing.⁴

Respondent's notice of cross-appeal should have been filed no later than August 11, 2015, 15 days after the service of the ALJ's written initial decision. Respondent filed its cross-appeal on August 14, 2015, 3 days late.

¹ Materials filed in the FAA Hearing Docket (except for materials in security cases or materials under seal) are also available for viewing at the following Internet address: www.regulations.gov.

² The Administrator's civil penalty decisions, along with indexes of the decisions, the rules of practice, and other information, are available on the Internet at the following address: www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/AGC400/Civil_Penalty/. See 14 C.F.R. § 13.210(e)(2). In addition, Thomson Reuters/West Publishing publishes Federal Aviation Decisions. Finally, the decisions are available through LEXIS (TRANS library) and WestLaw (FTRAN-FAA database). For additional information, see the Web site.

³ Section 13.233(a) provides that "[a] party shall file the notice of appeal not later than 10 days after entry of an oral initial decision on the record or service of the written initial decision on the parties" Section 13.211(e), the "mailing rule," provides that [w]henever a party has a right or a duty to act or to make any response within a prescribed period after service by mail, 5 days shall be added to the prescribed period."

⁴ A late-filed notice of appeal will only be excused upon a showing of good cause. *E.g., D&M Custom Injection Molding Corporation*, FAA Order No. 2013-3 (July 18, 2013).

However, on August 10, 2015, Respondent filed a motion requesting that the ALJ amend or alter the initial decision.⁵ The Rules of Practice do not provide for motions to amend or alter an initial decision. Instead, Section 13.232(d) provides that unless appealed under Section 13.233, an initial decision becomes an order assessing civil penalty.

Respondent has filed an appeal brief in which it raised the same arguments that it set forth in its motion to amend or alter.

Because Respondent filed its motion within the timeframe for filing a notice of appeal, Respondent's motion is hereby construed as a notice of appeal. The motion will be considered as well as the appeal brief.

Complainant recently requested an extension of time in which to file its reply brief. Complainant's reply brief is currently due no later than October 26, 2015. This order does not affect the time for filing the reply brief.

MICHAEL P. HUERTA, ADMINISTRATOR
Federal Aviation Administration

Original signed by Vicki S. Leemon

VICKI SHERMAN LEEMON⁶
Manager, Adjudication Branch

⁵ Judge Goodwin has retired. He did not rule on the motion before he retired.

⁶ Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by memorandum dated October 27, 1992, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202 (*see* 57 Fed. Reg. 58,280 (1992)) and redelegated by the Assistant Chief Counsel for Litigation to the Manager, Adjudication Branch, by Memorandum dated August 6, 1993.