

**CHANGE**

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION

2150.3A CHG 22

7/16/96

**SUBJ: COMPLIANCE AND ENFORCEMENT PROGRAM**

1. PURPOSE. This change transmits revised paragraph 1207 of Chapter 12, LEGAL ENFORCEMENT ACTION, and related sample documents.
  
2. EXPLANATION OF CHANGES. This change revises the policy guidance on informal conference procedures. The revised paragraph authorizes FAA attorneys to conduct informal conferences by telephone or in-person at selected locations. It also permits FAA attorneys to exercise discretion to conduct informal conferences at field locations when, because of unusual circumstances, the public interest is better served by doing so, or when the informal conference can be scheduled to coincide with other previously scheduled business. These changes are expected to result in better use of agency resources while providing alleged violators with a meaningful opportunity to be heard before the FAA decides whether to take further action on an alleged violation.
  
3. DISPOSITION OF TRANSMITTAL. After filing the attached pages, this transmittal should be retained.

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Chief Counsel

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e. Order of Civil Penalty. When a person who has received a Notice of Proposed Civil Penalty submits a written request for a hearing to the FAA attorney, the attorney shall issue an Order of Civil Penalty to the alleged violator. See Figure 12-21.

f. Orders Assessing Civil Penalty.

(1) The Order Assessing Civil Penalty shall order the payment of the specified penalty regardless of whether payment of such penalty has been received by the FAA. An Order Assessing Civil Penalty is issued in five situations (see Figure 12-22):

A. When the person charged with the violation submits the proposed civil penalty. Receipt of the amount shall be acknowledged in the order.

B. When the person charged with a violation does not respond within 30 days from their receipt of the Notice of Proposed Civil Penalty.

C. When the person charged with a violation does not respond within 10 days from the receipt of an interim reply (including a second interim reply) from legal counsel or within 10 days of the informal conference if no agreement is reached at an informal conference.

D. When the person charged with a violation does not comply with any agreement reached between the parties during the informal conference.

E. When the person charged with a violation does not file an Answer to the Order of Civil Penalty or a motion pursuant to Section 13.218(f) (1-4) within 30 days after service of the Order.

(2) After a hearing, if the administrative law judge affirms or modifies the Order, it becomes an Order Assessing Civil Penalty. See, FAR 13.232(d).

g. Appeals.

(1) Hearings. When a hearing is requested, legal counsel shall file a copy of the order of Civil Penalty, which will serve as the complaint, on the hearing docket clerk not later than 20 days after receipt of the request. A copy of the request for hearing and a suggested location for the hearing must be attached to the complaint. Any hearing will be held in accordance with the Rules of Practice in FAA Civil Penalty Actions in Subpart G of FAR Part 13.

(2) Appeals to the FAA decisionmaker. An initial decision issued by an administrative law judge may be appealed to the FAA decisionmaker by either party, within 10 days after an oral decision is entered on the record or a written decision is served on the parties. Each party has an opportunity to submit an appeal brief, or reply brief, as appropriate. The FAA decisionmaker's decision and order is the final FAA order in the case, and may be appealed to the U.S. courts of appeal under Section 1006 of the FA Act.



h. Collection of assessed civil penalties. When an assessed civil penalty is not paid within 60 days after service of the order assessing it, Section 903 of the FA Act authorizes the FAA to refer the case to the Attorney General for action in U.S. district court to collect the penalty. A civil penalty has been assessed for this purpose when an Order Assessing Civil Penalty is issued, when after a hearing, the ALJ's decision affirms or modifies the Order of Civil Penalty (see FAR 13.232(d)), or when the FAA decisionmaker affirms or modifies the Order Assessing Civil Penalty.

(1) Referrals should be made directly to the appropriate U.S. Attorney.

(2) It is the FAA position that action in U.S. district court to collect a civil penalty does not involve a de novo hearing because the penalty has already been assessed by adjudicatory process before the FAA, pursuant to statutory procedures, which included either a formal evidentiary hearing or the opportunity for such hearing. Therefore, the U.S. Attorney should be requested to file an action for a judgment based on the FAA order which assessed a civil penalty.

i. Settlement of civil penalties. Section 110(a) of the HMT Act provides that a civil penalty assessed under that section may be settled prior to referral to the Attorney General for collection. Therefore, any settlement is negotiated only after an order assessing a civil penalty has been issued and the penalty appears to be uncollectable. Also, since findings of violations of the HMR were made in the order, any settlement involves only the amount of the penalty and does not absolve liability for the violations.



\*1207. INFORMAL CONFERENCES.

a. Purpose and Policy.

(1) The informal conference provides an alleged violator with an opportunity to be heard as required by 49 U.S.C. §§ 44709, 44710, and 46301 (1994) and 14 C.F.R. §§ 13.16(d) and 13.19(c). Except in emergency cases, the FAA must provide an opportunity for an informal conference before issuing an order of suspension or revocation, or an order of assessment or a final notice of proposed civil penalty.

(2) The alleged violator has an opportunity at the informal conference to speak to an FAA attorney directly and to present evidence or information in response to the proposed enforcement action. The FAA attorney evaluates any new information obtained at the informal conference in accordance with paragraph 1202(e) of this order.

(3) The FAA does not use the informal conference to gather additional evidence or admissions to prove the charges in the enforcement action. However, the FAA may use any information revealed by the alleged violator for impeachment purposes if the alleged violator makes a contrary statement regarding a material fact in subsequent proceedings.

b. Procedure.

(1) The FAA attempts to hold informal conferences within 90 days of receiving the request for informal conference.

(2) Informal conferences are scheduled and held by FAA attorneys. The FAA attorney asks the program office that processed the EIR to assign a representative to attend the conference, if practicable. The FAA attorney may

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conduct the conference even if a program office representative is not present.

(3) Ordinarily, the FAA holds the informal conference either by telephone or in person at one of the following locations: an FAA regional office; the FAA Aeronautical Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters, Washington, DC.

(4) In the limited circumstances described below, FAA attorneys, in the exercise of their discretion, may schedule an in-person informal conference at a location other than those listed in paragraph 1207b(3) at the request, or with the agreement, of the alleged violator. An FAA attorney may exercise such discretion when because of unusual circumstances, the public interest is better served by holding an in-person informal conference at a location other than those listed in paragraph 1207b(3). An FAA attorney also may exercise such discretion when an in-person informal conference can be scheduled to coincide with other previously scheduled business and can be held within approximately 90 days from the date the alleged violator requests the informal conference.

(5) When, at the alleged violator's request, the FAA attorney schedules an informal conference at a location other than those listed in paragraph 1207b(3), the FAA attorney advises the alleged violator that if the alleged violator fails to attend the informal conference, a rescheduled conference, if any, might be available only at one of the offices listed in paragraph 1207b(3) or by telephone.

(6) An alleged violator may request that an in-person informal conference be held at an office designated in paragraph 1207b(3) other than the office that issued the notice proposing the enforcement action (hereafter referred

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to in this subparagraph as "the initiating office."). When this occurs, the initiating office ordinarily transfers the case to the office requested by the alleged violator for full disposition and handling in accordance with the guidance set forth in paragraph 208(e) of this order, if (1) a transfer is in the public interest, and (2) the transfer will be more convenient to the alleged violator's domicile or place of business. When these conditions are not present, the initiating office transfers the case for purposes of the informal conference only; and the office receiving the case for purposes of the informal conference consults and coordinates with the initiating office before settling or otherwise disposing of the case at the informal conference. In those cases transferred to another office for purposes of the informal conference only, the receiving office returns the file to the initiating office as soon as practicable after the informal conference has been held.

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1208. SEIZURE OF AIRCRAFT UNDER THE FEDERAL AVIATION ACT (SECTION 903(B)).

a. Seizure to collect civil penalty. Section 903(b) of the FAAct and FAR 13.17 provide for seizure of an aircraft involved in a violation when the violation is by the owner or person in command and such violator is known to have insufficient assets, other than the aircraft concerned to compromise the civil penalty or to satisfy a court judgment assessing the civil penalty (see paragraph 206d.(1)). Because the constitutionality of these statutory and regulatory provisions have been interpreted differently by different courts, seizure of an aircraft should be done only in instances where the violation is particularly egregious, e.g., use of the aircraft in a continuing violation. Note that in rem actions are excluded from the Civil Penalty Demonstration Program under Section 905(c)(2) and (3) of the FAAct.

b. Issuance of civil penalty letter. An aircraft may be seized after a civil penalty letter is issued or when the issuance of such letter is contemplated. In the latter case, if immediate action is essential, it is not absolutely necessary that a civil penalty letter be issued since the written notice of seizure to the registered owner of the aircraft serves to advise the owner of the violations committed and the liabilities incurred. If the aircraft is seized after a district court assesses a civil penalty, a civil penalty letter need not be issued.

c. Coordination. Coordination with headquarters is required before an Assistant Chief Counsel issues an order of Seizure, see paragraph 1201b(3).

d. Person seizing aircraft. Seizure under Section 903(b) of the FA Act may be made by a State or Federal law enforcement officer or by an FAA safety inspector, if authorized to do so in an Order of Seizure issued by the Administrator, or by the Chief Counsel, or an Assistant Chief Counsel.

e. Order of Seizure.

(1) An Order of Seizure may be issued by the Administrator, the Chief Counsel, or an Assistant Chief Counsel. See Figure 12-23.

(2) The Order of Seizure shall be directed to the person ordered to seize the aircraft. It shall be signed by a person identified in (1). The order shall --

A. Include the finding that the aircraft has been involved in one or more violations of the FAR:

B. Properly identify the aircraft by type and number;

C. Identify the registered owner of the aircraft by name and address; and

D. State that the aircraft is subject to a lien by reason of the violations described.

(3) The Order shall order that the aircraft be seized and placed in the nearest available public storage facility within the judicial district in which seizure is made.

(4) If the aircraft is seized after a district court assesses a civil penalty, the form of the order of seizure shall reflect the fact that a judgment was issued against the owner or person in command for a violation in which the aircraft was involved. (An aircraft may not be seized under Section 903(b) of the FA Act unless it was itself involved in the violation for which the civil penalty is incurred.)

(5) The order shall designate the person seizing the aircraft, or other appropriate person, as its custodian.

f. Procedure. These procedures are for guidance of FAA personnel in seizing aircraft. They are not intended to be all inclusive or applicable to each situation. In each instance, legal counsel should be consulted for guidance. Upon receipt of an Order of Seizure, the person directed to seize an aircraft should proceed as follows:

(1) Take appropriate steps to locate the aircraft. This should be done discretely so as not to alert the owner of the impending seizure in order to avoid movement of the aircraft from the jurisdiction of the court or to



**FIGURE 12-2. SAMPLE INFORMATION SHEET TO ACCOMPANY  
NOTICE OF PROPOSED CERTIFICATE ACTION**

**INFORMATION WITH RESPECT TO NOTICE  
OF PROPOSED CERTIFICATE ACTION**

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Under 49 U.S.C. §§ 44701 et seq., any certificate holder who violates pertinent provisions of Chapter 447 of the statute, or any rule, regulation, or order issued thereunder, is subject to a certificate action to amend, modify, suspend, or revoke all or any part of a certificate issued under Chapter 447. The notice of proposed certificate action to which this information sheet is attached specifies the facts and regulatory and/or statutory provisions alleged to have been violated. The notice also states the specific certificate action the Administrator proposes to take.

This proceeding is governed by the Federal Aviation Regulations (FAR) set forth in 14 C.F.R. § 13.19. WITHIN FIFTEEN (15) DAYS AFTER YOU RECEIVE THIS NOTICE OF PROPOSED CERTIFICATE ACTION, you may elect to proceed in one of the five ways set forth below by marking the appropriate box(es) on the attached election sheet and returning it by mail or personal delivery to the address provided below. An explanation of each option is set forth below.

1. You may surrender your certificate on or before the date indicated in the notice of proposed certificate action. In this event, the order proposed in the notice will be issued at once, effective the date your certificate is surrendered or mailed to the office listed below. WHEN YOU SURRENDER YOUR CERTIFICATE PURSUANT TO THIS PARAGRAPH, YOU WAIVE YOUR RIGHT TO APPEAL TO THE NATIONAL TRANSPORTATION SAFETY BOARD, AS DESCRIBED IN PARAGRAPH 2, BELOW.

2. You may indicate your desire to have an order issued as proposed in the notice of proposed certificate action so that you may appeal to the National Transportation

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Safety Board (NTSB), as provided in 49 U.S.C. § 44709 and the NTSB's Rules of Practice (49 C.F.R. Part 821). This may be done by checking item no. 2 on the enclosed reply form or by not responding to the notice. PLEASE NOTE: You may elect, instead, to proceed at this time in accordance with option 3, 4 or 5, below, without waiving your right to appeal to the NTSB later.

If you appeal to the NTSB, an administrative law judge will be appointed to decide the case. At the hearing, held under 49 C.F.R. Part 821, the FAA will present witnesses and other evidence. You also will have the opportunity to present witnesses and other evidence. The FAA will have the burden of proof. If either party, the FAA or you, is dissatisfied with the judge's decision, that party can appeal that decision to the full Board. A further appeal, to the United States Courts of Appeals, is also available.

3. You may answer the charges in writing. You may submit, in writing, information and evidence demonstrating that a violation of the regulations was not committed or that, if it were, the facts and circumstances do not warrant the proposed sanction. The FAA will consider the information you provide in determining whether a certificate action should be taken and the extent of the sanction that should be imposed. You may also submit this information in conjunction with a request for an informal conference under paragraph 4. Electing this option will not affect your right to appeal to the NTSB later.

4. You may request an opportunity to discuss the matter with an FAA attorney by a telephonic informal conference, or at an in-person informal conference at one of the following locations: an FAA regional office; the FAA Aeronautical Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters in Washington, DC. A list of the addresses of

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these offices (hereafter referred to as "the Informal Conference Location list" or "the list") is attached to the enclosed reply form.

A request for an in-person informal conference at any of the offices on the Informal Conference Location list will be granted, regardless of whether the office you choose is the office that issued the notice to which this information sheet is attached.

If you choose an office on the Informal Conference Location list other than the office that issued the notice, the case ordinarily will be transferred to the office you request for full disposition and handling in accordance with the FAA's existing transfer policy, which is set forth in paragraph 208(e) of FAA Order No. 2150-3A, *provided that*

- (1) a transfer is in the public interest, and
- (2) the transfer is to an office more convenient to your domicile or principal place of business.

When conditions (1) and (2) are not present, the case will be transferred to the office you request for purposes of the informal conference only. Moreover, the office receiving the case only for purposes of the informal conference will consult and coordinate with the office that issued the notice before settling or otherwise disposing of the case after the informal conference.

You also may request an in-person informal conference at an FAA office other than those on the Informal Conference Location list. If you do so, you should indicate on the response form your reason for requesting that particular location. NOTE: Requests for in-person informals at locations not on the list will be granted only in very limited circumstances. You should not, therefore, expect to have an in-person informal conference at a location other than those on the list. The FAA attorney assigned to your case has discretion to grant a request for an in-person

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informal conferences at a location other than those on the list only when (1) because of unusual circumstances, the public interest is better served by holding an in-person informal conference at such location, or (2) an in-person informal conference can be scheduled to coincide with other previously scheduled business at the location requested. In addition, the FAA attorney must be able to schedule the conference within approximately 90 days of the date you request an informal conference. Because of these restrictions, you are requested to indicate both the FAA office you prefer and one of the offices from the Informal Conference Location list.

To elect a telephone informal conference, choose option 4.a. on the reply form. To elect an in-person informal conference at one of the locations on the Informal Conference Location list, choose option 4.b. To elect an in-person informal conference at a location other than those on the list, choose option 4.c.

IF YOU REQUEST AN INFORMAL CONFERENCE WITH AN FAA ATTORNEY, DO NOT ALSO REQUEST AT THIS TIME THAT AN ORDER BE ISSUED AS PROPOSED IN THE NOTICE OF PROPOSED CERTIFICATE ACTION IN ORDER TO APPEAL IMMEDIATELY TO THE NTSB. Your selection of an informal conference will not affect your right to appeal to the NTSB later.

**IMPORTANT:** The informal conference is intended to provide you with an opportunity to present your reasons why the FAA should not proceed with the action as proposed. It also is intended to provide you with an opportunity to present any supporting documentation or information you wish the FAA to consider before the agency decides whether to proceed with the proposed action.

5. If you are an individual and have filed an FAA Aviation Safety Report with the National Aeronautics and Space Administration (NASA) concerning the incident or occurrence set forth in the attached notice of proposed

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certificate action, you may be entitled to a waiver of any penalty. THIS PROGRAM DOES NOT APPLY TO VIOLATIONS OF FEDERAL RULES GOVERNING CIVIL AVIATION SECURITY, SUCH AS CARRYING WEAPONS ON AN AIRCRAFT. You may present evidence of entitlement to a waiver of penalty under the ASRP in connection with options 2, 3, or 4, above, or you may present it separately, under this option (i.e., option 5). YOUR CLAIM OF ENTITLEMENT TO A WAIVER OF PENALTY UNDER THIS OPTION CONSTITUTES YOUR AGREEMENT THAT AN ORDER OF SUSPENSION MAY BE ISSUED WITHOUT FURTHER INFORMAL PROCEEDINGS BEFORE THE FAA. In the event that you prove you are entitled to a waiver of penalty, the order will be issued finding you in violation but imposing no certificate suspension. Following issuance of the order, you will have the right to appeal the order to the National Transportation Safety Board under the provisions of 49 U.S.C. § 44709 regardless of whether the FAA accepts your claim to a waiver of penalty or not. You will be entitled to a waiver only if all of the following are found:

- a. That this violation was inadvertent and not deliberate;
- b. That this violation did not involve a criminal offense, or accident, or disclose a lack of competency or qualification to be the holder of a certificate;
- c. You have not paid a civil penalty pursuant to 49 U.S.C. § 46301 (formerly Section 901 of the Federal Aviation Act) or been found in any prior FAA enforcement action to have committed a violation of 49 U.S.C. §§ 40101, et seq. (formerly the Federal Aviation Act), or any regulation adopted pursuant to 49 U.S.C. §§ 40101, et seq., for a period of 5 years before the date of the occurrence; and

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d. You prove that within 10 days after the violation, you completed and delivered or mailed a written report of the incident or occurrence to NASA under the Aviation Safety Reporting Program.

Address all communications in this matter to:

Assistant Chief Counsel  
Federal Aviation Administration  
Address

If the certificate holder is an individual:

#### PRIVACY ACT NOTICE

This notice is provided in accordance with Section (e) (3) of the Privacy Act, 5 U.S.C. § 552a(e) (3), and concerns the information requested in the letter or form with which this Notice is enclosed.

A. Authority. This information is solicited pursuant to 49 U.S.C. §§ 40101, et seq., and regulations issued thereunder, codified in Part 13 of Title 14 of the Code of Federal Regulations. Submitting the telephone number is voluntary. The request for information is intended to provide you with an opportunity to participate in the investigation.

B. Principal purpose. The requested information is intended to assist us in contacting you regarding this enforcement case.

C. Routine uses. Records from this system of records may be disclosed in accordance with the routine uses set forth in System of Records No. DOT/FAA 847, as published from time to time in the Federal Register.

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D. Effect of failure to respond: If you do not provide the requested information, there may be delay in contacting you regarding this enforcement case.

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FIGURE 12-3. SAMPLE CERTIFICATE HOLDER REPLY

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Date: \_\_\_\_\_

To: Assistant Chief Counsel  
ADDRESS

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Subject: Notice of Proposed Certificate Action

In reply to your notice of proposed certificate action and the accompanying information sheet, I elect to proceed as indicated below:

1.  I hereby transmit my certificate. I understand that an order will be issued as proposed in the notice. The order will be effective on the date I mail this reply. I ALSO UNDERSTAND THAT I AM WAIVING MY RIGHT TO APPEAL THE ORDER TO THE NATIONAL TRANSPORTATION SAFETY BOARD.

2.  I request that the order be issued so that I may appeal directly to the National Transportation Safety Board.

3.  I hereby submit my answer to your notice and request that my answer and any information attached thereto be considered in connection with the allegations set forth in your notice.

4.a.  I hereby request a telephonic informal conference to discuss this matter with an FAA attorney. (An attorney will call you at the telephone number you provide here: ( ) \_\_\_\_\_. You will be provided at least 2 weeks advance notice of the date and time of this conference.)

NOTE: If you choose to discuss this matter informally by telephone, you should provide any documents or other information you wish to have considered on your behalf before the date of the informal conference.

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b.  I hereby request an in-person informal conference with an FAA attorney to discuss this matter at \_\_\_\_\_ (choose an FAA office from the attached list).

c.  I hereby request an in-person informal conference with an FAA attorney to discuss this matter at \_\_\_\_\_. I am requesting an in-person informal conference at this location because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have also indicated an alternate location from the attached list under item 4.b. in the event the FAA is unable to grant my request under this option.

5.  I hereby claim entitlement to a waiver of penalty under the Aviation Safety Reporting Program and enclose evidence that a timely report was filed with NASA.

Certificate holder:

Signature: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

I request that future documents in this case be sent to my representative:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

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**FIGURE 12-9. SAMPLE INFORMATION SHEET TO ACCOMPANY  
A CIVIL PENALTY LETTER**

INFORMATION REGARDING CIVIL PENALTIES  
UNDER TITLE 49 U.S.C. SECTION 46301

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Under 49 U.S.C. § 46301, any person who violates pertinent provisions of 49 U.S.C. §§ 40101, *et seq.*, or any rule, regulation, or order issued thereunder, is subject to a civil penalty for each violation. The maximum civil penalty for each violation is also prescribed by law, as specified in the letter to which this is attached.

The statute authorizes the Administrator to compromise civil penalties. The attached letter states the sum that the FAA would accept in full settlement of the alleged violation or violations described therein. Your acceptance of the settlement proposed in the attached letter will not constitute an admission of the alleged violation(s).

You are not required to accept the offer of settlement in the attached letter or to make a counter-offer of settlement. If you do not wish to settle the case, the matter will be presented to a U.S. attorney, who may bring a civil action for the full amount of the civil penalty prescribed by law. A U.S. district court will decide all issues of fact and law, following a trial at which you will have the right to present evidence on your behalf and cross-examine the Administrator's witnesses.

WITHIN FOURTEEN (14) DAYS FROM THE RECEIPT OF THIS LETTER, you may proceed in one of the following ways by marking the appropriate box(es) on the attached election sheet and returning it by mail or personal-delivery to the address provided below. An explanation of each option is set forth below.

1. You may submit the amount suggested in the attached letter, by certified check or money order payable to the

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Federal Aviation Administration, to the Office of Accounting, [insert address of appropriate accounting office].

2. You may wish to have the issues of fact and law in this matter decided by the U.S. district court. If so, please advise us immediately.

3. You may submit, in writing, information and evidence demonstrating that a violation of the regulations was not committed or that, if it were, the facts and circumstances do not warrant the proposed civil penalty. The FAA will consider the information you provide in determining whether, or not, to pursue a civil penalty action by forwarding the matter to the Department of Justice for prosecution or not as well as the amount of any civil penalty sought. You may submit this information in conjunction with a request for an informal conference under paragraph 4.

4. You may request an opportunity to discuss the matter with an FAA attorney by a telephonic informal conference, or at an in-person informal conference at one of the following locations: an FAA regional office; the FAA Aeronautical Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters in Washington, DC. A list of the addresses of these offices (hereafter referred to as "the Informal Conference Location list" or "the list") is attached to the enclosed reply form.

A request for an in-person informal conference at any of the offices on the Informal Conference Location list will be granted, regardless of whether the office you choose is the office that issued the notice to which this information sheet is attached.

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If you choose an office on the Informal Conference Location list other than the office that issued the notice, the case ordinarily will be transferred to the office you request for full disposition and handling in accordance with the FAA's existing transfer policy; which is set forth in paragraph 208(e) of FAA Order No. 2150-3A, *provided that*

- (1) a transfer is in the public interest, and
- (2) the transfer is to an office more convenient to your domicile or principal place of business.

When conditions (1) and (2) are not present, the case will be transferred to the office you request for purposes of the informal conference only. Moreover, the office receiving the case only for purposes of the informal conference will consult and coordinate with the office that issued the notice before settling or otherwise disposing of the case after the informal conference.

You also may request an in-person informal conference at an FAA office other than those on the Informal Conference Location list. If you do so, you should indicate on the response form your reason for requesting that particular location. NOTE: Requests for in-person informals at locations not on the list will be granted only in very limited circumstances. You should not, therefore, expect to have an in-person informal conference at a location other than those on the list. The FAA attorney assigned to your case has discretion to grant a request for an in-person informal conferences at a location other than those on the list only when (1) because of unusual circumstances, the public interest is better served by holding an in-person informal conference at such location, or (2) an in-person informal conference can be scheduled to coincide with other previously scheduled business at the location requested. In addition, the FAA attorney must be able to schedule the conference within approximately 90 days of the date you request an informal conference. Because of these

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restrictions, you are requested to indicate both the FAA office you prefer and one of the offices from the Informal Conference Location list.

To elect a telephone informal conference, choose option 4.a. on the reply form. To elect an in-person informal conference at one of the locations on the Informal Conference Location list, choose option 4.b. To elect an in-person informal conference at a location other than those on the list, choose option 4.c.

**IMPORTANT:** The informal conference is intended to provide you with an opportunity to present your reasons why the FAA should not proceed with the action as proposed. It also is intended to provide you with an opportunity to present any supporting documentation or information you wish the FAA to consider before the agency decides whether to proceed with the proposed action.

All correspondence in this matter should be forwarded to the following address:

Office of the Assistant Chief Counsel  
**ADDRESS**

If the certificate holder is an individual:

PRIVACY ACT NOTICE

This notice is provided in accordance with Section (e) (3) of the Privacy Act, 5 U.S.C. § 552a(e) (3), and concerns the information requested in the letter or form with which this Notice is enclosed.

A. Authority. This information is solicited pursuant to 49 U.S.C. §§ 40101, et seq., and regulations issued thereunder, codified in Part 13 of Title 14 of the Code of Federal Regulations.

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Submitting the telephone number is voluntary. The request for information is intended to provide you with an opportunity to participate in the investigation.

B. Principal purpose. The requested information is intended to assist us in contacting you regarding this enforcement case.

C. Routine uses. Records from this system of records may be disclosed in accordance with the routine uses set forth in System of Records No. DOT/FAA 847, as published from time to time in the Federal Register.

D. Effect of failure to respond: If you do not provide the requested information, there may be delay in contacting you regarding this enforcement case.

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**FIGURE 12-10. SAMPLE REPLY TO CIVIL PENALTY LETTER**

\*

Date: \_\_\_\_\_

To: Assistant Chief Counsel  
Address

Subject: Civil Penalty Letter

In reply to your letter proposing to settle this matter and the accompanying information sheet, I elect to proceed as indicated below:

1.  I hereby submit the amount proposed in settlement of this matter.

2.  I wish to have this matter decided by a U.S. district court.

3.  I hereby submit my response to your letter and request that my response, and any information attached to it, be considered in connection with the allegations set forth in your letter.

4. a.  I hereby request a telephonic informal conference to discuss this matter with an FAA attorney. (An attorney will call you at the telephone number you provide here:

( ) \_\_\_\_\_. You will be provided at least 2 weeks advance notice of the date and time of this conference.)

NOTE: If you choose to discuss this matter informally by telephone, you should provide any documents or other information you wish to have considered on your behalf before the date of the informal conference.

b.  I hereby request an in-person informal conference with an FAA attorney to discuss this matter at

\_\_\_\_\_ (choose an FAA office from the attached list).

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c. [ ] I hereby request an in-person informal conference with an FAA attorney to discuss this matter at \_\_\_\_\_ . I am requesting an in-person informal conference at this location because

\_\_\_\_\_  
\_\_\_\_\_

I have also indicated an alternate location from the attached list under item 4.b. in the event the FAA is unable to grant my request under this option.

Certificate holder:

Signature: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

[ ] I request that future documents in this case be sent to my representative:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

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12/14/88

2150.3A

**FIGURE 12-11. SAMPLE FORM OF RECEIPT FOR CIVIL PENALTIES  
(Federal Aviation Act)**

November 15, 1988

Whimsicality Airways, Inc.  
Vieux Carre  
New Orleans, Louisiana

Attention: Ms. Karen Gibbs  
President

RE: Case No. 88SW234567

Dear Ms. Gibbs:

Receipt is acknowledged of your check (money order) of November 1, 1988, in the amount of \$75,000, submitted as an offer in settlement of your alleged violations of the Federal Aviation Regulations.

This amount is hereby accepted in full settlement of any civil penalty incurred under Section 901(a) of the Federal Aviation Act of 1958, as amended, by reason of Whimsicality Airways' alleged violation of the Federal Aviation Regulations, as described in our letter of September 30, 1988. It is understood that this settlement does not constitute an admission of any violation.

You may consider this matter closed.

Sincerely,

Assistant Chief Counsel



**FIGURE 12-13. SAMPLE LANGUAGE FOR NOTICE OF PROPOSED CIVIL PENALTY  
(Federal Aviation Act)**

Under Section 901(a) of the Federal Aviation Act, as amended, you are subject to a civil penalty not to exceed \$1,000 for each of the violations noted. By reason of the foregoing facts and circumstances, we propose to assess a civil penalty in the amount of \$4,000.

Unless we receive, in writing, your choice of the alternatives provided and set forth on the enclosed information form, on or before 30 days after you receive this Notice, we will issue an order Assessing Civil Penalty as proposed, and you will have no further right to appeal the order.

Assistant Chief Counsel

By: \_\_\_\_\_  
Attorney

Enclosures



**FIGURE 12-14. SAMPLE INFORMATION SHEET TO ACCOMPANY  
NOTICE OF PROPOSED CIVIL PENALTY**

**INFORMATION REGARDING CIVIL PENALTIES  
UNDER TITLE 49 U.S.C. SECTION 46301**

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Under 49 U.S.C. § 46301, any person who violates pertinent provisions of 49 U.S.C. §§ 40101, et seq., or any rule, regulation, or order issued thereunder, is subject to a civil penalty for each violation. The maximum assessment for each violation is also prescribed by law, as specified in the notice to which this is attached. The notice also states the amount of the proposed civil penalty for the alleged violation(s).

This proceeding is governed by the Federal Aviation Regulations (FAR) set forth in 14 C.F.R. § 13.16 and 14 C.F.R. Part 13, Subpart G. Copies of these regulations are enclosed. WITHIN THIRTY (30) DAYS AFTER YOU RECEIVE THE NOTICE TO WHICH THIS INFORMATION SHEET IS ATTACHED, you may elect to proceed in one or more of the following ways by marking the appropriate box(es) on the attached election sheet and returning it by mail or personal-delivery to the address provided below. An explanation of each option is set forth below.

1. You may submit the amount of the civil penalty specified in the notice by certified check or money order payable to the "Federal Aviation Administration" to the Office of Accounting [insert address of appropriate accounting office]. SUBMITTING THE AMOUNT OF CIVIL PENALTY CONSTITUTES YOUR AGREEMENT THAT AN ORDER ASSESSING CIVIL PENALTY IN THAT AMOUNT MAY BE ISSUED WITHOUT FURTHER NOTICE. SUBMITTING THE AMOUNT OF CIVIL PENALTY ALSO CONSTITUTES YOUR AGREEMENT THAT YOU WAIVE YOUR RIGHT TO A HEARING IN THIS MATTER.

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2. You may submit, in writing, information and evidence demonstrating that a violation of the regulations was not committed or that, if it were, the facts and circumstances do not warrant the proposed civil penalty. Information provided will be considered in determining whether a civil penalty should be assessed or imposed and the amount of any such civil penalty. This information may be submitted in conjunction with a request for an informal conference under paragraph 5. Choosing this option will not affect your right to a hearing, unless you also elect paragraph 4.

3. You may submit, in writing, information and records indicating that you are financially unable to pay the proposed civil penalty, or showing that payment of the proposed penalty would prevent you from continuing in business. Choosing this option will not affect your right to a hearing, unless you also elect paragraph 4.

4. You may request that a civil penalty be assessed in a specific amount other than that proposed in the notice. If you choose this option, you should explain why a reduction in the civil penalty is appropriate, and provide any supporting documentation. The information you provide will be considered in determining whether the amount you specified should be assessed. If the FAA accepts your offer, your request constitutes your agreement that an order assessing civil penalty in that amount may be issued without further notice. YOUR REQUEST ALSO CONSTITUTES YOUR AGREEMENT THAT YOU WAIVE YOUR RIGHT TO A HEARING. IF THE FAA DOES NOT ACCEPT YOUR OFFER, HOWEVER, YOUR RIGHT TO A HEARING WILL NOT BE AFFECTED.

5. You may request an opportunity to discuss the matter with an FAA attorney by a telephonic informal conference, or at an in-person informal conference at one of the following locations: an FAA regional office; the FAA Aeronautical Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters in

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Washington, DC. A list of the addresses of these offices (hereafter referred to as "the Informal Conference Location list" or "the list") is attached to the enclosed reply form.

A request for an in-person informal conference at any of the offices on the Informal Conference Location list will be granted, regardless of whether the office you choose is the office that issued the notice to which this information sheet is attached.

If you choose an office on the Informal Conference Location list other than the office that issued the notice, the case ordinarily will be transferred to the office you request for full disposition and handling in accordance with the FAA's existing transfer policy, which is set forth in paragraph 208(e) of FAA Order No. 2150-3A, *provided that*

- (1) a transfer is in the public interest, and
- (2) the transfer is to an office more convenient to your domicile or principal place of business.

When conditions (1) and (2) are not present, the case will be transferred to the office you request for purposes of the informal conference only. Moreover, the office receiving the case only for purposes of the informal conference will consult and coordinate with the office that issued the notice before settling or otherwise disposing of the case after the informal conference.

You also may request an in-person informal conference at an FAA office other than those on the Informal Conference Location list. If you do so, you should indicate on the response form your reason for requesting that particular location. NOTE: Requests for in-person informals at locations not on the list will be granted only in very limited circumstances. You should not, therefore, expect to have an in-person informal conference at a location other than those on the list. The FAA attorney assigned to your case has discretion to grant a request for an in-person

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informal conferences at a location other than those on the list only when (1) because of unusual circumstances, the public interest is better served by holding an in-person informal conference at such location, or (2) an in-person informal conference can be scheduled to coincide with other previously scheduled business at the location requested. In addition, the FAA attorney must be able to schedule the conference within approximately 90 days of the date you request an informal conference. Because of these restrictions, you are requested to indicate both the FAA office you prefer and one of the offices from the Informal Conference Location list.

To elect a telephone informal conference, choose option 5.a. on the reply form. To elect an in-person informal conference at one of the locations on the Informal Conference Location list, choose option 5.b. To elect an in-person informal conference at a location other than those on the list, choose option 5.c.

If you request an informal conference with an FAA attorney, do not also request at this time a formal hearing under 14 C.F.R. § 13.16, i.e., option 7. Your request for an informal conference will not affect your right to request a formal hearing later.

**IMPORTANT:** The informal conference is intended to provide you with an opportunity to present your reasons why the FAA should not proceed with the action as proposed. It also is intended to provide you with an opportunity to present any supporting documentation or information you wish the FAA to consider before the agency decides whether to proceed with the proposed action. Any additional information you submit will be given our careful consideration. Since the attached letter may become a part of the publicly available records, you may wish to submit a letter which would be included in these records.

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6. You may request that the FAA impose a civil penalty without making findings of violations, and submit the reasons and any additional information in writing (with appropriate supporting documentation) to support your request. If the FAA accepts your offer, your request will constitute your agreement that a Compromise Order in that amount may be issued. YOUR REQUEST WILL ALSO CONSTITUTE YOUR AGREEMENT THAT YOU WAIVE YOUR RIGHT TO A HEARING. IF THE FAA DOES NOT ACCEPT YOUR OFFER, HOWEVER, YOUR RIGHT TO A HEARING WILL NOT BE AFFECTED.

7. You may request a hearing in accordance with section 13.16 of the FAR. Your request must be dated and signed. If you request a hearing, a Complaint will be filed and an administrative law judge will be appointed to decide the case. At the hearing, held under Subpart G of 14 C.F.R. Part 13, the agency will present witnesses and other evidence. You also will have the opportunity to present witnesses and other evidence. The FAA will have the burden of proof. At the conclusion of the hearing, all issues of fact and law will be decided and a decision will be rendered whether, and in what amount, a civil penalty will be assessed. If either party, the agency or you, is dissatisfied with the judge's decision, that party can appeal the judge's decision to the FAA decisionmaker. If you are dissatisfied with the FAA decisionmaker's decision, you may seek review of the FAA decisionmaker's decision in the United States Courts of Appeals.

Your request for a hearing must be made to the Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC, 20591, Attention: Hearing Docket Clerk. You must mail a copy to the FAA attorney handling this case at the address indicated below.

8. If you are an individual and have filed an FAA Aviation Safety Report with the National Aeronautics and Space Administration (NASA) concerning the incident or occurrence set forth in the attached Notice of Proposed

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Civil Penalty, you may be entitled to a waiver of any penalty. THIS PROGRAM DOES NOT APPLY TO VIOLATIONS OF FEDERAL RULES GOVERNING CIVIL AVIATION SECURITY, SUCH AS CARRYING WEAPONS ON AN AIRCRAFT. You may present evidence of entitlement to a waiver of penalty under the ASRP in connection with options 2, 3, 4, 5, 6, or 7, above, or you may present it separately, under this option (i.e., option 8). YOUR CLAIM OF ENTITLEMENT TO A WAIVER OF PENALTY UNDER THIS OPTION CONSTITUTES YOUR AGREEMENT THAT AN ORDER ASSESSING CIVIL PENALTY MAY BE ISSUED WITHOUT FURTHER INFORMAL PROCEEDINGS. In the event that you prove you are entitled to a waiver of penalty, an order assessing civil penalty will be issued finding you in violation but waiving imposition of any civil penalty. Following issuance of the order, you will have the right to appeal the order to the FAA decisionmaker under the provisions of 49 U.S.C. §§ 46301(d)(2) and (d)(7). You will be entitled to waiver only if all of the following are found:

a. That this violation was inadvertent and not deliberate;

b. That this violation did not involve a criminal offense, or an accident, or disclose a lack of competency or qualification to be the holder of a certificate;

c. You have not paid a civil penalty pursuant to 49 U.S.C. §§ 46301, et seq. (formerly Section 901 of the Federal Aviation Act), or been found in any prior FAA enforcement action to have committed a violation of 49 U.S.C. §§ 40101, et seq., for a period of 5 years before the date of the occurrence; and

d. You prove that within 10 days after the violation, you completed and delivered or mailed a written report of the incident or occurrence to NASA under the Aviation Safety Reporting Program.

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2150.3A CHG 22

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Please address all communications in this matter to the FAA attorney who signed the Notice at the following address:

Office of Assistant Chief Counsel  
Federal Aviation Administration  
**ADDRESS**

Your response to the Notice of Proposed Civil Penalty may be delivered personally to the Office of the Assistant Chief Counsel for the \_\_\_\_\_ Region at the above address during normal business hours.

Telephone: \_\_\_\_\_ (Collect calls cannot be accepted).

If you are an individual:

#### PRIVACY ACT NOTICE

This notice is provided in accordance with Section (e) (3) of the Privacy Act, 5 U.S.C. § 552a(e) (3), and concerns the information requested in the letter or form with which this notice is enclosed.

A. Authority. This information is solicited pursuant to 49 U.S.C. §§ 40101, et seq., and regulations issued thereunder, codified in Part 13 of Title 14 of the Code of Federal Regulations. Submitting your telephone number is voluntary. This request for information is intended to provide you with an opportunity to participate in the investigation.

B. Principal purpose. The requested information is intended to assist us in contacting you regarding this enforcement case.

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C. Routine uses. Records from this system of records may be disclosed in accordance with the routine uses as set forth in System of Records No. DOT/FAA 847, as published from time to time in the Federal Register.

D. Effect of failure to respond. If you do not provide the requested information, there may be delay in contacting you regarding this enforcement case, and you may forfeit your right to a hearing on the merits of this case.

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**FIGURE 12-15. SAMPLE REPLY FORM FOR NOTICE OF PROPOSED CIVIL PENALTY**

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Date \_\_\_\_\_

Assistant Chief Counsel for the \_\_\_\_\_ Region  
Federal Aviation Administration  
P.O. Box 55555  
City, State 00000

Subject: Notice of Proposed Civil Penalty

In reply to your Notice of Civil Penalty, I elect to proceed as indicated by my check mark beside the numbered paragraph below:

1.  I hereby submit the amount of the proposed civil penalty with the understanding that an order assessing a civil penalty will be issued in that amount without further notice. I ALSO UNDERSTAND THAT I AM WAIVING MY RIGHT TO A HEARING.

2.  I hereby submit evidence and information, demonstrating that a violation of the regulations did not occur or that the amount of the penalty is not warranted by the circumstances.

3.  I hereby submit information and records showing that I am financially unable to pay the proposed civil penalty, or that payment of the penalty would prevent me from continuing in business.

4.  I hereby request that a civil penalty be assessed in the amount of \$\_\_\_\_\_ and I submit the reasons for the reduction. My request constitutes my agreement that if this offer is accepted by the FAA, an order assessing civil penalty in the amount I have specified may be issued without

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further notice. MY REQUEST ALSO CONSTITUTES MY AGREEMENT THAT I HAVE WAIVED MY RIGHT TO A HEARING IF MY OFFER IS ACCEPTED. IF THE FAA DOES NOT ACCEPT THIS OFFER, HOWEVER, MY RIGHT TO A HEARING IS NOT AFFECTED.

5. a. [ ] I hereby request a telephonic informal conference to discuss this matter with an FAA attorney. (An attorney will call you at the telephone number you provide here: ( ) \_\_\_\_\_ . You will be provided at least 2 weeks advance notice of the date and time of this conference.) NOTE: If you choose to discuss this matter informally by telephone, you should provide any documents or other information you wish to have considered on your behalf before the date of the informal conference.

b. [ ] I hereby request an in-person informal conference with an FAA attorney to discuss this matter at \_\_\_\_\_ (choose an FAA office from the attached list).

c. [ ] I hereby request an in-person informal conference with an FAA attorney to discuss this matter at \_\_\_\_\_ . I am requesting an in-person informal conference at this location because

\_\_\_\_\_  
\_\_\_\_\_

I have also indicated an alternate location from the attached list under item 5.b. in the event the FAA is unable to grant my request under this option.

6. [ ] I hereby request that the FAA impose a civil penalty without making findings of violations, and submit my reasons. My request constitutes my agreement that if this offer is accepted, a compromise order will be issued in the amount set forth in the Notice of Proposed Civil Penalty. MY REQUEST ALSO CONSTITUTES MY AGREEMENT THAT IF THIS OFFER IS ACCEPTED, I HAVE WAIVED MY RIGHT TO A HEARING.

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7.  I hereby request a hearing in accordance with Subpart G of Part 13 of the Federal Aviation Regulations with the understanding that a Complaint will be filed. I request that the hearing be held in \_\_\_\_\_.

I am sending this request both to the FAA attorney at (INSERT ADDRESS OF THE APPROPRIATE OFFICE OF THE ASSISTANT CHIEF COUNSEL), and to the Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591, Attention: Hearing Docket Clerk.

8.  I hereby claim entitlement to a waiver of penalty under the Aviation Safety Reporting Program and enclose evidence that a timely report was filed. As to the allegations of fact and violations --

I request that an order assessing civil penalty with waiver of penalty be issued and I waive my right to a hearing.

I request a hearing in this matter in accordance with paragraph 7, above.

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Case No.: \_\_\_\_\_

I request that future documents in this case be sent to my representative:

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

\*

**FIGURE 12-16. SAMPLE ORDER OF CIVIL PENALTY  
(Federal Aviation Act)**

September 6, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Adele Transport, Inc.  
3 Coffee Run  
Carson City, Nevada

Re: Case No. 88WP456789

ORDER OF CIVIL PENALTY

On July 31, 1988, Adele Transport, Inc. (ATI) was advised through a Notice of Proposed Civil Penalty that the FAA proposed to assess a civil penalty in the amount of \$30,000.

After consideration of all of the available information, it has been determined that:

1. Adele Transport, Inc. (ATI) is now, and at all times mentioned herein was, the holder of Air Carrier Operating Certificate No. WP-BCR-69S.

2. Between February 15, 1988, and February 30, 1988, ATI operated the following aircraft in scheduled passenger-carrying revenue flights when the inspection times had not been accomplished as required by Part D of its approved operations specifications, as follows:

<u>Item</u>	<u>Due</u>	<u>Hours Flown Between Checks</u>	<u>Overdue</u>
<u>Aircraft N24U - 7 flights</u>			
"L" Service Check	Every 50 hours	60	10 hours
<u>Aircraft N44ME - 5 flights</u>			
"M" Service Check	Every 75 hours	90	15 hours

3. ATI's failure to accomplish the above-described service checks rendered civil aircraft N24U and N44ME unairworthy.

By reason of the foregoing facts and circumstances, ATI violated the following Federal Aviation Regulations:

1. Section 121.3(a), in that ATI engaged in operations contrary to and in violation of its approved operations specifications, and



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3. Section 175.20 (49 C.F.R. 175.20), in that ABC, as operator, failed to thoroughly instruct its employees in relation to the applicable Hazardous Materials Regulations.

In accordance with Section 110(a)(1) of the Hazardous materials Transportation Act (49 U.S.C. 1809(a)(1)), ABC is liable for a civil penalty not to exceed \$10,000 for each violation of the regulations. After reviewing our investigative file, including your letter of September 22, 1987, we propose to issue an order assessing a civil penalty in the amount of \$20,000 for these violations.

An Order assessing a civil penalty will be issued as proposed unless, not later than thirty days after the receipt of this notice, ABC elects to proceed in accordance with the alternatives listed on the enclosed election and information forms. A copy of 14 C.F.R. Part 13 is also enclosed for your reference.

Please address all communications to \_\_\_\_\_, Regulations and Enforcement Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Assistant Chief Counsel

By: \_\_\_\_\_

Enclosure



**FIGURE 12-19. SAMPLE INFORMATION SHEET  
(Hazardous Materials)**

DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION

INFORMATION REGARDING CIVIL PENALTIES  
UNDER TITLE 49 U.S.C. SECTION 5123

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Under 49 U.S.C. § 5123, any person who violates pertinent provisions of Chapter 51 of the statute, entitled "Transportation of Hazardous Material," or any rule, regulation, or order issued thereunder, is subject to a civil penalty for each violation. The maximum assessment for each violation is also prescribed by law, as specified in the notice to which this information sheet is attached. The notice also states the amount of the proposed civil penalty for the alleged violation(s).

This proceeding is governed by the Federal Aviation Regulations (FAR) set forth in 14 C.F.R. § 13.16 and 14 C.F.R. Part 13, Subpart G. Copies of these regulations are enclosed. WITHIN THIRTY (30) DAYS AFTER YOU RECEIVE THE NOTICE OF PROPOSED CIVIL PENALTY, you may elect to proceed in one or more of the following ways by marking the appropriate box(es) on the attached election sheet and returning it by mail or personal-delivery to the address provided below. An explanation of each option is set forth below.

1. You may submit the amount of the civil penalty specified in the notice by certified check or money order payable to the "Federal Aviation Administration." SUBMITTING THE AMOUNT OF THE CIVIL PENALTY CONSTITUTES YOUR AGREEMENT THAT AN ORDER ASSESSING CIVIL PENALTY IN THAT AMOUNT MAY BE ISSUED WITHOUT FURTHER NOTICE. SUBMITTING THE AMOUNT OF CIVIL PENALTY ALSO CONSTITUTES YOUR AGREEMENT THAT YOU HAVE WAIVED YOUR RIGHT TO A HEARING IN THIS MATTER.

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2. You may submit, in writing, information and evidence demonstrating that a violation of the regulations was not committed or that, if it were, the facts and circumstances do not warrant a civil penalty or the amount of the civil penalty proposed. Information provided will be considered in determining whether a civil penalty should be imposed and the amount of any such civil penalty. This information may be submitted in conjunction with a request for informal conference under paragraph 5. Choosing this option will not affect your right to a hearing unless you also elect paragraph 4. If you also elect paragraph 4, your offer will be considered and will constitute your agreement that an Order Assessing Civil Penalty in the amount you specified may be issued without further notice.

3. You may submit, in writing, information and records indicating that you are financially unable to pay the proposed civil penalty, or showing that payment of the proposed penalty would prevent you from continuing in business. Choosing this option will not affect your right to a hearing unless you also elect paragraph 4.

4. You may request that a civil penalty be assessed in a specific amount other than that proposed in the notice. If you choose this option, you should also explain why a reduction is appropriate and provide any supporting documentation. Information you provide will be considered in determining whether the amount you specified should be assessed. If the FAA accepts your offer, your request constitutes your agreement that an Order Assessing Civil Penalty in that amount may be issued without further notice, and that you waive your right to a hearing. If the FAA does not accept your offer, your right to a hearing will not be affected.

5. You may request an opportunity to discuss the matter with an FAA attorney by a telephonic informal conference, or at an in-person informal conference at one of the following locations: an FAA regional office; the FAA Aeronautical

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Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters in Washington, DC. A list of the addresses of these offices (hereafter referred to as "the Informal Conference Location list" or "the list") is attached to the enclosed reply form.

A request for an in-person informal conference at any of the offices on the Informal Conference Location list will be granted, regardless of whether the office you choose is the office that issued the notice to which this information sheet is attached.

If you choose an office on the Informal Conference Location list other than the office that issued the notice, the case ordinarily will be transferred to the office you request for full disposition and handling in accordance with the FAA's existing transfer policy, which is set forth in paragraph 208(e) of FAA Order No. 2150-3A, *provided that*

- (1) a transfer is in the public interest, and
- (2) the transfer is to an office more convenient to your domicile or principal place of business.

When conditions (1) and (2) are not present, the case will be transferred to the office you request for purposes of the informal conference only. Moreover, the office receiving the case only for purposes of the informal conference will consult and coordinate with the office that issued the notice before settling or otherwise disposing of the case after the informal conference.

You also may request an in-person informal conference at an FAA office other than those on the Informal Conference Location list. If you do so, you should indicate on the response form your reason for requesting that particular location. NOTE: Requests for in-person informals at locations not on the list will be granted only in very limited circumstances. You should not, therefore, expect to have an in-person informal conference at a location other

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than those on the list. The FAA attorney assigned to your case has discretion to grant a request for an in-person informal conferences at a location other than those on the list only when (1) because of unusual circumstances, the public interest is better served by holding an in-person informal conference at such location, or (2) an in-person informal conference can be scheduled to coincide with other previously scheduled business at the location requested. In addition, the FAA attorney must be able to schedule the conference within approximately 90 days of the date you request an informal conference. Because of these restrictions, you are requested to indicate both the FAA office you prefer and one of the offices from the Informal Conference Location list.

To elect a telephone informal conference, choose option 5.a. on the reply form. To elect an in-person informal conference at one of the locations on the Informal Conference Location list, choose option 5.b. To elect an in-person informal conference at a location other than those on the list, choose option 5.c.

IF YOU REQUEST AN INFORMAL CONFERENCE WITH AN FAA ATTORNEY, DO NOT ALSO REQUEST A FORMAL HEARING UNDER § 13.16 OF THE FAR AT THIS TIME (i.e., option 7). YOUR REQUEST FOR AN INFORMAL CONFERENCE WILL NOT AFFECT YOUR RIGHT TO REQUEST A FORMAL HEARING LATER.

**IMPORTANT:** The informal conference is intended to provide you with an opportunity to present your reasons why the FAA should not proceed with the action as proposed. It also is intended to provide you with an opportunity to present any supporting documentation or information you wish the FAA to consider before the agency decides whether to proceed with the proposed action. Any additional information you submit will be given our careful consideration. Since the attached letter may become a part of the publicly available records, you may wish to submit a letter which would be included in these records.

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6. You may request that the FAA impose a civil penalty without making findings of violations. You should submit the reasons for your request, together with any additional information and documentation to support your request. If the FAA does not accept your offer, this will not affect your right to a hearing. If the FAA accepts your offer, your request will constitute your agreement that a Compromise Order in that amount may be issued and that you waive your right to a hearing.

7. You may request a hearing in accordance with section 13.16 of the FAR. Your request must be dated and signed. If you request a hearing, a Complaint will be filed and an administrative law judge will be appointed to decide the case. At a hearing, held under Subpart G of 14 C.F.R. Part 13, the agency will present witnesses and other evidence. You also will have the opportunity to present witnesses and other evidence. The FAA will have the burden of proof. At the conclusion of the hearing, all issues of fact and law will be decided and a decision will be rendered whether, and in what amount, a civil penalty will be assessed. If either party, the agency or you, is dissatisfied with the judge's decision, that party can appeal the judge's decision to the FAA decisionmaker. If you are dissatisfied with the FAA decisionmaker's decision, you may seek review of the FAA decisionmaker's decision in the United States Courts of Appeals.

Your request for a hearing must be made to the Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC, 20591, Attention: Hearing Docket Clerk. You must mail a copy to the FAA attorney handling this case at the address indicated below.

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Please address all communications in this matter to the FAA attorney specified in the Notice at the following address:

Office of the Assistant Chief Counsel  
**ADDRESS**

Your response to the Notice of Proposed Civil Penalty may be delivered personally to the Office of the Assistant Chief Counsel for the \_\_\_\_\_ Region at the above address during normal business hours.

Telephone: \_\_\_\_\_ (Collect calls cannot be accepted).

If you are an individual:

**PRIVACY ACT NOTICE**

This notice is provided in accordance with Section (e) (3) of the Privacy Act, 5 U.S.C. § 552a(e) (3), and concerns the information requested in the letter or form with which this notice is enclosed.

A. Authority. This information is solicited pursuant to 49 U.S.C. §§ 40101, et seq., and regulations issued thereunder codified in Part 13 of Title 14 of the Code of Federal Regulations. Submitting your telephone number is voluntary. The request for information is intended to provide you with an opportunity to participate in the investigation.

B. Principal purpose. The requested information is intended to assist us in contacting you regarding this enforcement case.

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C. Routine uses. Records from this system of records may be disclosed in accordance with the routine uses set forth in System of Records No. DOT/FAA 847, as published from time to time in the Federal Register.

D. Effect of failure to respond: If you do not provide the requested information, there may be delay in contacting you regarding this enforcement case, and you may forfeit your right to a hearing on the merits of this case.

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**FIGURE 12-20. SAMPLE REPLY TO NOTICE OF PROPOSED CIVIL PENALTY (HAZARDOUS MATERIALS)**

\*

Date \_\_\_\_\_

Office of the Assistant Chief Counsel  
Federal Aviation Administration  
**ADDRESS**

Subject: Notice of Proposed Civil Penalty(HM)

In reply to your Notice of Proposed Civil Penalty, I elect to proceed as indicated by my check mark beside the numbered paragraph(s) below:

1.  I hereby submit the amount of the proposed civil penalty with the understanding that an order assessing a civil penalty will be issued in that amount without further notice. I understand that I have waived my right to a hearing.

2.  I hereby submit evidence and information, demonstrating that a violation of the regulations did not occur as alleged or that the amount of the penalty is not warranted by the circumstances.

3.  I hereby submit information and records showing that I am financially unable to pay the proposed civil penalty, or that payment of the penalty would prevent me from continuing in business.

4.  I hereby request that the proposed civil penalty be assessed in the amount of \$ \_\_\_\_\_ and I submit the reasons for the reduction of the proposed amount. My request constitutes my agreement that if this offer is accepted by the FAA, an order assessing civil penalty in the amount I have specified may be issued without further notice. My request also constitutes my agreement that I have waived my right to a hearing.

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5.a. [ ] I hereby request a telephonic informal conference to discuss this matter with an FAA attorney. (An attorney will call you at the telephone number you provide here:

( ) \_\_\_\_\_. You will be provided at least 2 weeks advance notice of the date and time of this conference.)

NOTE: If you choose to discuss this matter informally by telephone, you should provide any documents or other information you wish to have considered on your behalf before the date of the informal conference.

b. [ ] I hereby request an in-person informal conference with an FAA attorney to discuss this matter at

\_\_\_\_\_ (choose an FAA office from the attached list).

c. [ ] I hereby request an in-person informal conference with an FAA attorney to discuss this matter at

\_\_\_\_\_. I am requesting an in-person informal conference at this location because

\_\_\_\_\_  
\_\_\_\_\_

I have also indicated an alternate location from the attached list under item 5.b. in the event the FAA is unable to grant my request under this option.

6. [ ] I hereby request that the FAA propose a civil penalty without making findings of violations, and submit my reasons in support of this request. My request constitutes my agreement that if this order is accepted, a Compromise Order will be issued in that amount and I waive my right to a hearing.

7. [ ] I hereby request a hearing in accordance with Subpart G of Part 13 of the Federal Aviation Regulations (14 CFR 13, Subpart G) with the understanding that a Complaint will be filed. I request that the hearing be held in \_\_\_\_\_. I am sending this request both to the FAA attorney and to the Hearing Docket, Federal Aviation

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Administration, 800 Independence Avenue, SW., Room 924A,  
Washington, DC, 20591, Attention: Hearing Docket Clerk.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Date: \_\_\_\_\_  
Case No.: \_\_\_\_\_

[ ] I request that future documents in this case be sent to  
my representative:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

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**FIGURE 12-21. SAMPLE ORDER OF CIVIL PENALTY  
(Hazardous Materials Transportation Act)**

July 22, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

ABC Airlines, Inc.  
P.O. Box 5200  
Jonesboro, Arkansas 72401

RE: Case No. 87WP123456; Docket No. 87-00 (HM)

ORDER OF CIVIL PENALTY

On January 22, 1988, ABC was advised through a Notice of Proposed Civil Penalty that the FAA proposed to assess a civil penalty in the amount of \$20,000.

After consideration of all of the available information, it has been determined that:

1. On or about May 15, 16, and 17, 1988, ABC, Inc., (ABC) accepted, and transported aboard a passenger-carrying flight, a shipment of approximately 30 pounds of special fireworks and approximately 200 pounds of propellant explosive from Los Angeles, California, to Las Vegas, Nevada.
2. Special fireworks is classified as a hazardous material under Section 172.101 of the Hazardous Materials Regulations (HMR) (49 C.F.R. 172.101).
3. The proper shipping name for this material is "Fireworks, special," which is in the Class B explosive hazard class.
4. Propellant explosive is classified as a hazardous material under Section 172.101 of the HMR.
5. The proper shipping name for this material is "Propellant explosive," which is in the Class A explosive hazard class.
6. At all times mentioned herein, Fireworks, special and Propellant explosive are forbidden aboard passenger-carrying aircraft.

By reason of the above, ABC violated the following Department of Transportation Hazardous Materials Regulations:

1. Section 175.30(a)(1) (49 C.F.R. 175.30(a)(1)), in that ABC accepted a hazardous material for transportation aboard an aircraft when the material was not authorized and was not within the quantity limitations specified for carriage aboard aircraft according to Section 172.101 (49 C.F.R. 172.101).



12/14/88

2150.3A

**FIGURE 12-25. SAMPLE LETTER TO U.S. ATTORNEY  
(Aircraft Seizure)**

June 10, 1988

Edward F. Noone, Esq.  
United States Attorney  
Southern District of Florida  
Miami, Florida

Dear Mr. Noone:

This is with further reference to our telephone conversation of June 9, 1988, pertaining to the seizure of a Douglas DC-8 aircraft, Registration No. N8989, from the P & Q Corporation.

Pursuant to the requirement contained in Title 49 U.S.C. Section 1473(b)(2), we wish to report that such aircraft was seized by Inspector John B. Quick, Federal Aviation Administration, Miami, Florida, at Broward County International Airport, Fort Lauderdale, Florida, at 2:45 p.m. on June 8, 1988.

Inasmuch as the seizure of this aircraft took place within the Southern District of Florida, pursuant to the above statute, we request that you institute appropriate proceedings for the enforcement of the liens to which this aircraft is subject.

In order to facilitate your commencement of the lien proceedings, we have enclosed a draft of a libel of information. The violations of the Federal Aviation Act of 1958, as amended, and of the Federal Aviation Regulations, upon which this seizure is based, are fully set forth in the draft libel of information.

We realize that these proceedings will require considerable additional information, as well as cooperation by this office. Therefore, please do not hesitate to contact us at any time.

Sincerely yours,

Assistant Chief Counsel

Enclosure

(FOR INDIVIDUALS ACTING AS PILOTS, MECHANICS,  
FLIGHT ENGINEERS, AND REPAIRMEN)

FIGURE 12-26. SAMPLE INFORMATION SHEET TO ACCOMPANY  
NOTICE OF PROPOSED ASSESSMENT

INFORMATION REGARDING CIVIL PENALTIES  
UNDER TITLE 49 U.S.C. SECTION 46301

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Under 49 U.S.C. § 46301, any person who violates pertinent provisions of 49 U.S.C. §§ 40101 et seq., or any rule, regulation, or order issued thereunder, is subject to a civil penalty for each violation. The maximum assessment for each violation is prescribed by law, as specified in the notice to which this is attached. The notice also states the amount of the proposed assessment of civil penalty for the alleged violation(s).

This proceeding is governed by applicable sections of FAR Part 13 and by 49 C.F.R. Part 821. Copies of these regulations are enclosed. WITHIN FIFTEEN (15) DAYS AFTER YOU RECEIVE THE NOTICE TO WHICH THIS INFORMATION SHEET IS ATTACHED, you may elect to proceed in one or more of the following ways by marking the appropriate box(es) on the attached election sheet and returning it by mail or personal-delivery to the address provided below. An explanation of each option is set forth below.

1. You may submit the amount of the civil penalty specified in the notice by certified check or money order payable to the "Federal Aviation Administration" to the Office of Accounting [insert address of appropriate accounting office]. SUBMITTING THE AMOUNT OF CIVIL PENALTY CONSTITUTES YOUR AGREEMENT THAT AN ORDER OF ASSESSMENT IN THAT AMOUNT MAY BE ISSUED WITHOUT FURTHER NOTICE. IT ALSO CONSTITUTES YOUR AGREEMENT THAT YOU WAIVE YOUR RIGHT TO A HEARING IN THIS MATTER.

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2. You may submit, in writing, information and evidence demonstrating that a violation of the regulations was not committed or that, if it was, the facts and circumstances do not warrant a civil penalty or the amount of the civil penalty proposed. Information provided will be considered in determining whether a civil penalty should be assessed or imposed and the amount of any such civil penalty. This information may be submitted in conjunction with a request for an informal conference under paragraph 5. Choosing this option will not affect your right to a hearing, unless you also elect paragraph 4.

3. You may submit, in writing, information and records indicating that you are financially unable to pay the proposed civil penalty, or showing that payment of the proposed penalty would prevent you from continuing in business. Choosing this option will not affect your right to a hearing unless you also elect paragraph 4.

4. You may request that a civil penalty be assessed in a specific amount other than that proposed in the notice. If you choose this option, you should also explain why a reduction is appropriate and provide any supporting documentation. The information you provide will be considered in determining whether the amount you specified should be assessed. If the FAA accepts your offer, your request constitutes your agreement that an order of assessment in that amount may be issued without further notice. Your request also constitutes your agreement that you waive your right to a hearing. If the FAA does not accept your offer, however, your right to a hearing will not be affected.

5. You may request an opportunity to discuss the matter with an FAA attorney by a telephonic informal conference, or at an in-person informal conference at one of the following locations: an FAA regional office; the FAA Aeronautical Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters in

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Washington, DC. A list of the addresses of these offices (hereafter referred to as "the Informal Conference Location list" or "the list") is attached to the enclosed reply form.

A request for an in-person informal conference at any of the offices on the Informal Conference Location list will be granted, regardless of whether the office you choose is the office that issued the notice to which this information sheet is attached.

If you choose an office on the Informal Conference Location list other than the office that issued the notice, the case ordinarily will be transferred to the office you request for full disposition and handling in accordance with the FAA's existing transfer policy, which is set forth in paragraph 208(e) of FAA Order No. 2150-3A, provided that

- (1) a transfer is in the public interest, and
- (2) the transfer is to an office more convenient to your domicile or principal place of business.

When conditions (1) and (2) are not present, the case will be transferred to the office you request for purposes of the informal conference only. Moreover, the office receiving the case only for purposes of the informal conference will consult and coordinate with the office that issued the notice before settling or otherwise disposing of the case after the informal conference.

You also may request an in-person informal conference at an FAA office other than those on the Informal Conference Location list. If you do so, you should indicate on the response form your reason for requesting that particular location. NOTE: Requests for in-person informals at locations not on the list will be granted only in very limited circumstances. You should not, therefore, expect to have an in-person informal conference at a location other than those on the list. The FAA attorney assigned to your case has discretion to grant a request for an in-person

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informal conferences at a location other than those on the list only when (1) because of unusual circumstances, the public interest is better served by holding an in-person informal conference at such location, or (2) an in-person informal conference can be scheduled to coincide with other previously scheduled business at the location requested. In addition, the FAA attorney must be able to schedule the conference within approximately 90 days of the date you request an informal conference. Because of these restrictions, you are requested to indicate both the FAA office you prefer and one of the offices from the Informal Conference Location list.

To elect a telephone informal conference, choose option 5.a. on the reply form. To elect an in-person informal conference at one of the locations on the Informal Conference Location list, choose option 5.b. To elect an in-person informal conference at a location other than those on the list, choose option 5.c.

IF YOU REQUEST AN INFORMAL CONFERENCE WITH AN FAA ATTORNEY, DO NOT ALSO REQUEST A FORMAL HEARING UNDER 14 C.F.R. § 13.16 AT THIS TIME (i.e., option 7). Your request for an informal conference will not affect your right to request a formal hearing later.

**IMPORTANT:** The informal conference is intended to provide you with an opportunity to present your reasons why the FAA should not proceed with the action as proposed. It also is intended to provide you with an opportunity to present any supporting documentation or information you wish the FAA to consider before the agency decides whether to proceed with the proposed action. Any additional information you submit will be given our careful consideration. Since the attached letter may become a part of the publicly available records, you may wish to submit a letter which would be included in these records.

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6. You may request that the FAA impose a civil penalty without making findings of violations, and submit the reasons and any additional information in writing (with appropriate supporting documentation) to support your request. If the FAA accepts your offer, your request will constitute your agreement that a compromise order in that amount may be issued. Your request will also constitute your agreement that you waive your right to a hearing. If the FAA does not accept your offer, however, your right to a hearing will not be affected.

7. You may request that an order be issued as proposed in the notice of proposed assessment so that you may appeal directly to the National Transportation Safety Board (NTSB), as provided in 49 U.S.C. § 46301(d)(5)(A) and the NTSB's Rules of Practice (49 C.F.R. Part 821). This may be done by checking item no. 7 on the enclosed reply form or by not responding to the notice.

If you appeal to the NTSB, a complaint will be filed and an administrative law judge will be appointed to decide the case. At the hearing, held under 49 C.F.R. Part 821, the FAA will present witnesses and other evidence. You also will have the opportunity to present witnesses and other evidence. The FAA will have the burden of proof. At the conclusion of the hearing, all issues of fact and law will be decided and a decision will be rendered whether, and in what amount, a civil penalty will be assessed.

Your appeal must be made to the National Transportation Safety Board, Office of Administrative Law Judges, Suite 5531, Fifth Floor, 490 L'Enfant Plaza East, S.W., Washington, DC 20594. You must mail a copy to the FAA attorney handling this case at the address indicated below.

8. If you have filed an FAA Aviation Safety Report with the National Aeronautics and Space Administration (NASA) concerning the incident set forth in the attached Notice of Proposed Assessment, you may be entitled to a

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waiver of any penalty. THIS PROGRAM DOES NOT APPLY TO VIOLATIONS OF FEDERAL RULES GOVERNING CIVIL AVIATION SECURITY, SUCH AS CARRIAGE OF WEAPONS ON AN AIRCRAFT. You may present evidence of entitlement to a waiver of penalty under the ASRP in connection with options 2, 3, 4, 5, 6, or 7, above, or you may present it separately under this option (i.e., option 8). YOUR CLAIM OF ENTITLEMENT TO A WAIVER OF PENALTY UNDER THIS OPTION CONSTITUTES YOUR AGREEMENT THAT AN ORDER OF ASSESSMENT MAY BE ISSUED WITHOUT FURTHER INFORMAL PROCEEDINGS BEFORE THE FAA. In the event that you prove you are entitled to a waiver of penalty, an order of assessment will be issued finding you in violation, but waiving any civil penalty. Following issuance of the order, you will have the right to appeal the order to the National Transportation Safety Board under the provisions of 49 U.S.C. § 46301(d)(5)(B), regardless of whether the FAA accepts your claim to a waiver of penalty or not. You will be entitled to a waiver only if all of the following are found:

a. That this violation was inadvertent and not deliberate;

b. That this violation did not involve a criminal offense, or an accident, or disclose a lack of competency or qualification to be the holder of a certificate;

c. You have not paid a civil penalty pursuant to 49 U.S.C. §§ 46301, et seq., (formerly Section 901 of the Federal Aviation Act), or been found in any prior FAA enforcement action to have committed a violation of 49 U.S.C. §§ 40101, et seq., or any regulation promulgated thereunder, for a period of five (5) years before the date of the occurrences; and

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d. You prove that within 10 days after the violation, you completed and delivered or mailed a written report of the incident or occurrence to NASA under the Aviation Safety Reporting Program.

Please address all communications in this matter to the FAA attorney who signed the notice at the following address:

Office of Assistant Chief Counsel  
Federal Aviation Administration  
**ADDRESS**

Your response to the Notice of Proposed Assessment may be delivered personally to the Office of the Assistant Chief Counsel for the \_\_\_\_\_ Region at the above address during normal business hours.

Telephone: \_\_\_\_\_ (Collect calls cannot be accepted.)

If you are an individual:

PRIVACY ACT NOTICE

This notice is provided in accordance with section (e) (3) of the Privacy Act, 5 U.S.C. § 552a(e) (3), and concerns the information requested in the letter or form with which this Notice is enclosed.

A. Authority. This information is solicited pursuant to 49 U.S.C. §§ 40101 et seq., and regulations issued thereunder and codified in Part 13 of Title 14 of the Code of Federal Regulations. Submitting a telephone number is voluntary. The request for information is intended to provide you with an opportunity to participate in the investigation.

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B. Principal purpose. The requested information is intended to assist us in contacting you regarding this enforcement case.

C. Routine uses. Records from this system of records may be disclosed in accordance with the routine uses set forth in System of Records No. DOT/FAA 847 as published from time to time in the Federal Register.

D. Effect of failure to respond. If you do not provide the requested information, there may be delay in contacting you regarding this enforcement case and you may forfeit your right to a hearing on the merits of this case.

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(FOR INDIVIDUALS ACTING AS PILOTS, MECHANICS,  
FLIGHT ENGINEERS, AND REPAIRMEN)

FIGURE 12-27. SAMPLE REPLY FORM FOR  
NOTICE OF PROPOSED ASSESSMENT  
(49 U.S.C. § 46301(d)(5))

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Date: \_\_\_\_\_

To: Assistant Chief Counsel  
ADDRESS

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Subject: Notice of Proposed Assessment

In reply to your Notice of Proposed Assessment, I elect to proceed as indicated by my check mark(s) beside the numbered paragraph(s) below:

1. [ ] I hereby submit the amount of the proposed civil penalty with the understanding that an Order of Assessment will be issued in that amount without further notice. I also understand that I am waiving my right to a hearing.

2. [ ] I hereby submit evidence and information, demonstrating that a violation of the regulations did not occur as alleged or that the penalty or the amount of the penalty proposed is not warranted by the circumstances.

3. [ ] I hereby submit information and records showing that I am financially unable to pay the proposed civil penalty, or that payment of the penalty would prevent me from continuing in business.

4. [ ] I hereby request that a civil penalty be assessed in the amount of \$\_\_\_\_\_ and I submit the reasons for reducing the proposed amount. My request constitutes my agreement that if this offer is accepted by the FAA, an order of assessment in the amount I have specified may be

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issued without further notice. My request also constitutes my agreement that I have waived my right to a hearing if my offer is accepted. If the FAA does not accept this offer, however, my right to a hearing is not affected.

5.a. [ ] I hereby request a telephonic informal conference to discuss this matter with an FAA attorney. (An attorney will call you at the telephone number you provide here: ( ) \_\_\_\_\_ . You will be provided at least 2 weeks advance notice of the date and time of this conference.)  
NOTE: If you choose to discuss this matter informally by telephone, you should provide any documents or other information you wish to have considered on your behalf before the date of the informal conference.

b. [ ] I hereby request an in-person informal conference with an FAA attorney to discuss this matter at \_\_\_\_\_ (choose an FAA office from the attached list).

c. [ ] I hereby request an in-person informal conference with an FAA attorney to discuss this matter at \_\_\_\_\_ . I am requesting an in-person informal conference at this location because \_\_\_\_\_

\_\_\_\_\_

I have also indicated an alternate location from the attached list under item 5.b. in the event the FAA is unable to grant my request under this option.

6. [ ] I hereby request that the FAA impose a civil penalty without making findings of violations, and submit my reasons. My request constitutes my agreement that if this offer is accepted, a compromise order will be issued in the amount set forth in the notice of proposed assessment. My request also constitutes my agreement that I am waiving my

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right to a hearing if the FAA accepts this offer. If the FAA does not accept this offer, I understand that my right to a hearing is not be affected.

7. [ ] I hereby request that the Order of Assessment be issued so that I may appeal directly to the National Transportation Safety Board.

8. [ ] I hereby claim entitlement to a waiver of penalty under the Aviation Safety Reporting Program and enclose evidence that a timely report was filed. As to the allegations of fact and violations --

[ ] I request that an Order of Assessment with Waiver of Penalty be issued. I also hereby waive my right to a hearing.

[ ] I request a hearing in this matter in accordance with paragraph 7, above.

Certificate holder:

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Date: \_\_\_\_\_  
Case No.: \_\_\_\_\_

[ ] I request that future documents in this case be sent to my representative:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

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**FAA LEGAL COUNSEL OFFICE LOCATIONS**  
**FOR INFORMAL CONFERENCES**

**AERONAUTICAL CENTER**

Federal Aviation Administration  
Office of the Assistant Chief Counsel (AMC-7)  
Mike Monroney Aeronautical Center  
6500 South MacArthur Boulevard  
Room 251  
Oklahoma City, OK 73125

**ALASKA REGION**

Federal Aviation Administration  
Office of the Assistant Chief Counsel (AAL-7)  
Alaskan Region Headquarters  
222 West 7th Avenue  
Anchorage, AK 99513

**CENTRAL REGION**

Federal Aviation Administration  
Office of the Assistant Chief Counsel (ACE-7)  
Central Region Headquarters  
601 East 12th Street  
Federal Building, Room 1558A  
Kansas City, MO 64106

**EASTERN REGION**

Federal Aviation Administration  
Office of the Assistant Chief Counsel (AEA-7)  
Eastern Region Headquarters  
JFK International Airport  
Fitzgerald Federal Building  
Jamaica, NY 11430

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**FAA LEGAL COUNSEL OFFICE LOCATIONS**  
**FOR INFORMAL CONFERENCES**

**GREAT LAKES REGION**

Federal Aviation Administration  
Office of the Assistant Chief Counsel (AGL-7)  
Great Lakes Region Headquarters  
O'Hare Lake Office Center, Room 419  
2300 East Devon Avenue  
Des Plaines, IL 60018

**NEW ENGLAND REGION**

Federal Aviation Administration  
Office of the Assistant Chief Counsel (ANE-7)  
New England Region Headquarters  
12 New England Executive Park, Room 311  
Burlington, MA 01803

**NORTHWEST MOUNTAIN REGION**

Federal Aviation Administration  
Office of the Assistant Chief Counsel (ANM-7)  
Northwest Mountain Region Headquarters  
1601 Lind Avenue, SW.  
Renton, WA 98055-4056

**SOUTHERN REGION**

Federal Aviation Administration  
Office of the Assistant Chief Counsel (ASO-7)  
Southern Region Headquarters  
1701 Columbia Avenue, Room 530  
College Park, GA 30337

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