

The USTR seeks comment on whether any WTO members that have accepted the WTO Basic Telecommunications Agreement have not made the necessary legislative or regulatory changes to implement their commitments, or permit acts, policies, or practices in their markets that do not appear to be in compliance with these commitments. In addition, the USTR seeks comments on whether any WTO members permit acts, policies, or practices that do not appear to be in compliance with other WTO obligations, e.g. the GATS, that affect market opportunities for telecommunications products and services of the United States.

NAFTA and Bilateral Trade Agreements

The USTR seeks comments on the operation and effectiveness of NAFTA and the following bilateral trade agreements regarding telecommunications products and services, See 63 FR 1140 (January 8, 1998) for further information concerning these agreements and USTR Press Release 98-38 (available at www.ustr.gov) for the results of the 1997-98 section 1377 review concerning these agreements.

Canada: NAFTA Chapter 13 and other telecommunications-related provisions.

Japan: The Nippon Telephone and Telegraph (NTT) agreement, which expires on June 30, 1999; the 1994 U.S.-Japan Public Sector Procurement Agreement on Telecommunications Products and Services; and, additional telecommunications trade agreements with Japan, including a series of agreements on: international value-added network services (IVANS) (1990-91); open government procurement of all satellites, except for government research and development (R&D) satellites (1990); network channel terminating equipment (NCTE) (1990); and cellular and third-party radio systems (1989) and cellular radio systems (1994).

Korea: Agreements in the areas of protection of intellectual property rights (IPR), type approval of telecommunications equipment, transparent standard-setting processes and non-discriminatory access to Korea Telecommunications' procurement of telecommunications products.

Mexico: NAFTA Chapter 13 and other telecommunications-related provisions; and, the 1997 understanding regarding test data acceptance agreements between product safety testing laboratories.

Taiwan: The February 1998 agreement on WTO accession commitments in telecommunications services and

interconnection pricing for provision of wireless services in Taiwan; and, the July 1996 agreement on the licensing and provision of wireless services through the establishment of a competitive, transparent and fair wireless market in Taiwan.

Technical Assistance

The USTR also seeks comments on what foreign countries' compliance with their telecommunications trade agreement commitments would benefit most from bilateral or multilateral technical assistance, especially with respect to the pro-competitive regulatory commitments made under the WTO Basic Telecommunications Agreement. The USTR's goal is to collect information that will help to refine U.S. government programs and U.S. policies towards relevant multilateral organizations. This will assist concerned agencies in giving due weight to technical assistance activities in support of implementation of telecommunications trade commitments under the WTO.

Global Electronic Commerce

On November 30, 1998, the President of the United States reported on the progress that the United States has made in the past fifteen months on implementing the July 1997 "Framework for Global Electronic Commerce" and launched five new initiatives, including an initiative to eliminate foreign barriers to the deployment of advanced telecommunications capabilities. See U.S. Government Working Group on Electronic Commerce, First Annual Report, November 1998 (available at www.ecommerce.gov). The particular focus of this initiative will be to identify issues that affect the competitive international marketplace for Internet and other interactive computer services as advanced telecommunications capabilities are deployed in foreign countries. Accordingly, the USTR seeks comments on issues affecting market opportunities for electronic commerce in foreign countries.

Public Comment: Requirements for Submissions

USTR requests comments on: the operation and effectiveness of the WTO Basic Telecommunications Agreement, other WTO agreements affecting market opportunities for telecommunications products and services of the United States, the NAFTA, and other telecommunications trade agreements with Japan, Korea, Mexico, and Taiwan; technical assistance for compliance with telecommunications commitments; and

issues affecting market opportunities for electronic commerce. All comments must be in English, identify on the first page of the comments the telecommunications trade agreement(s) discussed therein, be addressed to Gloria Blue, Executive Secretary, TPSC, ATTN: Section 1377 Comments, Trade Policy Staff Committee, Office of the U.S. Trade Representative, and be submitted in 15 copies by noon on Tuesday, February 15, 1999.

All comments will be placed in the USTR Reading Room for inspection shortly after the filing deadline, except business Confidential information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential information submitted in accordance with 15 CFR 2003.6, must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 15 copies, and must be accompanied by 15 copies of a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the USTR Public Reading Room.

An appointment to review the comments may be made by calling Brenda Webb at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. *This publication represents the quarter ending on December 31, 1998.* This publication ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC-400), Federal Aviation Administration, 400 7th Street, SW., Suite PL 200-A,

Washington, DC 20590; telephone number: (202) 366-4118.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries providing identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority. In the same notice, the FAA provided information about the rules of practice governing hearings and appeals of civil penalty actions set forth in 14 CFR part 13, subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a cumulative subject-matter index and digests organized by order number. The indexes are published on a quarterly basis (i.e., January, April, July, and October.)

The FAA first published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that only the subject-matter index would be published cumulatively and that the order number index would be non-cumulative. The FAA announced in a later notice that the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 5044; 1/19/93.

The previous quarterly publications of the indexes have appeared in the **Federal Register** as follows:

Dates of quarter	Federal Register publication
11/1/89-9/30/90	55 FR 45984; 10/31/90.
10/1/90-12/31/90	56 FR 44886; 2/6/91.
1/1/91-3/31/91	56 FR 20250; 5/2/91.

Dates of quarter	Federal Register publication
4/1/91-6/30/91	56 FR 31984; 7/12/91.
7/1/91-9/30/91	56 FR 51735; 10/15/91.
10/1/91-12/31/91	57 FR 2299; 1/21/92.
1/1/92-3/31/92	57 FR 12359; 4/9/92.
4/1/92-6/30/92	57 FR 32825; 7/23/92.
7/1/92-9/30/92	57 FR 48255; 10/22/92.
10/1/92-12/31/92	58 FR 5044; 1/19/93.
1/1/93-3/31/93	58 FR 21199; 4/19/93.
4/1/93-6/30/93	58 FR 42120; 8/6/93.
7/1/93-9/30/93	58 FR 58218; 10/29/93.
10/1/93-12/31/93	59 FR 5466; 2/4/94.
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7/1/94-12/31/94	60 FR 4454; 1/23/95.
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4/1/95-6/30/95	60 FR 36854; 7/18/95.
7/1/95-9/30/95	60 FR 53228; 10/12/95.
10/1/95-12/31/95	61 FR 1972; 1/24/96.
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4/1/97-6/30/97	62 FR 38339; 7/17/97.
7/1/97-9/30/97	62 FR 53856; 10/16/97.
10/1/97-12/31/97	63 FR 3373; 1/22/98.
1/1/98-3/31/98	63 FR 19559; 4/20/98.
4/1/98-6/30/98	63 FR 37914; 7/14/98.
7/1/98-9/30/98	63 FR 57729; 10/18/98.

Availability of Decisions and Orders. The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. Also, the Administrator's civil penalty decisions have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callahan) and are available on computer on-line services (Westlaw, LEXIS, CompuServe and FedWorld). A list of the addresses of the FAA offices where the civil penalty decisions may be reviewed and information regarding these commercial publications and computer databases appear at the end of this notice.

Accessibility through the Internet. Information regarding the accessibility over the Internet of documents contained in the FAA Civil Penalty Docket in non-security cases in which the complaint was filed on or after

December 1, 1997, is set forth at the end of this notice.

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98-4	Larry's Flying Service CP97AL0002
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13.233	89-1 Gressani; 89-4 Metz; 89-5 Schultz; 89-7 Zenkner; 89-8 Thunderbird Accessories; 90-3 Metz; 90-11 Thunderbird Accessories; 90-19 Continental Airlines; 90-20 Degenhardt; 90-25 & 90-27 Gabbert; 90-35 P. Adams; 90-19 Continental Airlines; 90-39 Hart; 91-2 Continental Airlines; 91-3 Lewis; 91-7 Pardue; 91-8 Watts Agricultural Aviation; 91-10 Graham; 91-11 Continental Airlines; 91-12 Bargaen; 91-24 Esau; 91-26 Britt Airways; 91-31 Terry & Menne; 91-32 Bargaen; 91-43 & 91-44 Delta; 91-45 Park; 91-46 Delta; 91-47 Delta; 91-48 Wendt; 91-52 KDS Aviation; 91-53 Koller; 92-1 Costello; 92-3 Park; 92-7 West; 92-11 Alilin; 92-15 Dillman; 92-16 Wendt; 92-18 Bargaen; 92-19 Cornwall; 92-27 Wendt; 92-32 Barnhill; 92-34 Carrell; 92-35 Bay Land Aviation; 92-36 Southwest Airlines; 92-39 Beck; 92-45 O'Brien; 92-52 Beck; 92-56 Montauk Caribbean Airways; 92-57 Detroit Metro. Wayne Co. Airport; 92-67 USAir; 92-69 McCabe; 92-72 Giuffrida; 92-74 Wendt; 92-78 TWA; 93-5 Wendt; 93-6 Westair Commuter; 93-7 Dunn; 93-8 Nunez; 93-19 Pacific Sky Supply; 93-23 Allen; 93-27 Simmons; 93-28 Strohl; 93-31 Allen; 93-32 Nunez; 94-9 B & G Instruments; 94-10 Boyle; 94-12 Bartusiak; 94-15 Columna; 94-18 Luxemburg; 94-23 Perez; 94-24 Page; 94-26 French Aircraft; 94-28 Toyota; 95-2 Meronek; 95-9 Woodhouse; 95-13 Kilrain; 95-23 Atlantic World Airways; 95-25 Conquest; 95-26 Hereth; 96-1 [Airport Operator]; 96-2 Skydiving Center; 97-1 Midtown Neon Sign; 97-2 Sanford Air; 97-7 Stalling; 97-22 Sanford Air; 97-24 Gordon Air; 97-31 Sanford Air; 97-33 Rawlings; 97-38 Air St. Thomas; 98-4 Larry's Flying Service; 98-3 Fedele; Continental Airlines 98-6; LAX 98-7; 98-10 Rawlings; 98-15 Squire; 98-18 General Aviation; 98-19 Martin & Jaworski; 98-20 Koenig.
13.234	90-19 Continental Airlines; 90-31 Carroll; 90-32 & 90-38 Continental Airlines; 91-4 [Airport Operator]; 95-12 Toyota; 96-9 [Airport Operator]; 96-23 Kilrain.
13.235	90-11 Thunderbird Accessories; 90-12 Continental Airlines; 90-15 Ployter; 90-17 Wilson; 92-7 West.
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25.787	97-30 Emery Worldwide Airlines.
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43.9	91-8 Watts Agricultural Aviation; 97-31 Sanford Air; 98-4 Larry's Flying Service.

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91.8 (91.11 as of 8/18/90)	92-3 Park.
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91.11	96-6 Ignatov; 97-12 Mayer; 98-12 Stout.
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91.79 (91.119 as of 8/18/90)	90-15 Playter; 92-47 Cornwall; 93-17 Metcalf.
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91.517	98-12 Stout.
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107.1	90-19 Continental Airlines; 90-20 Degenhardt; 91-4 [Airport Operator]; 91-58 [Airport Operator]; 98-7 LAX.
107.9	98-7 LAX
107.13	90-12 & 90-19 Continental Airlines; 91-4 [Airport Operator]; 91-18 [Airport Operator]; 91-40 [Airport Operator]; 91-41 [Airport Operator]; 91-58 [Airport Operator]; 96-1 [Airport Operator]; 97-23 Detroit Metropolitan; 98-7 LAX.
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108.7	90-18 & 90-19 Continental Airlines.
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108.11	90-23 Broyles; 90-26 Waddell; 91-3 Lewis; 92-46 Sutton-Sautter; 94-44 American Airlines.
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121.153	92-48 & 92-70 USAir; 95-11 Horizon; 96-3 America West Airlines; 96-24 Horizon; 96-25 USAir; 97-21 Delta; 97-30 Emery Worldwide Airlines.
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121.318	92-37 Giuffrida.
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121.577	98-11 TWA.
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135.1	95-8 Charter Airlines; 95-25 Conquest.
135.5	94-3 Valley Air; 94-20 Conquest Helicopters; 95-25 Conquest; 95-27 Valley Air; 96-15 Valley Air.
135.25	92-10 Flight Unlimited; 94-3 Valley Air; 95-27 Valley Air 96-15 Valley Air.
135.63	94-40 Polynesian Airways; 95-17 Larry's Flying Service; 95-28 Atlantic; 96-4 South Aero.
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145.3	97-10 Alphin.
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172.200	92-77 TCI; 94-28 Toyota; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
172.202	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.203	94-28 Toyota.
172.204	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.300	94-31 Smalling; 95-16 Mulhall; 96-26 Midtown; 98-2 Carr.
172.301	94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.304	92-77 TCI; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.400	92-77 TCI; 94-28 Toyota; 94-31 Smalling; 95-16 Mulhall; 98-2 Carr.
172.402	94-28 Toyota.
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Civil Penalty Actions—Orders Issued by the Administrator Digests

(This digest includes all decisions and orders issued by the Administrator from October 1, 1998, to December 31, 1998.)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from October 1, 1998, to December 31, 1998. The FAA publishes non-cumulative supplements to this compilation on a quarterly basis (e.g., April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not

intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of General Aviation, Inc.

Order No. 98-18 (10/9/98)

Uncleared Mechanical Discrepancies. This case involves a company that allegedly rented out to the public a Cessna with uncleared mechanical discrepancies on numerous flights. The law judge found the violations and assessed a \$7,500 civil penalty. General Aviation appealed.

Effect of Change in ALJ's and Late-Issued Decision. General Aviation argues that a change in the law judges

and a 3-month delay in issuing the initial decision caused unacceptable delay and confusion. According to the Chief administrative law judge's order reassigning the case, reassignment was in the interest of judicial efficiency. If the original law judge's caseload was so heavy that it delayed the hearing the change in law judges may have expedited the case. As for alleged confusion, General Aviation fails to specify what confusion occurred, how it unfairly prejudiced General Aviation, and why General Aviation failed to act to cure the alleged confusion. Arguably, confusion and loss of detail were less likely because, rather than simply issuing an oral decision at the end of the hearing, the law judge took the time to obtain the transcript, review the record,

deliberate and issue a written decision. The law judge's decision is more than 5 single-spaced decision, detailed, logical, and well-supported by references to the record.

Airworthiness. Despite General Aviation's argument that the agency failed to prove that the left fuel gauge was inoperative and the aircraft unairworthy, General Aviation's President admitted both orally and in writing that the left fuel gauge was unreliable and had been for some time.

Squawk Sheet as Maintenance Record. General Aviation's argument that the squawk sheet, on which a renter pilot had noted that several mechanical discrepancies, did not constitute a maintenance record, is rejected. It would defy logic and the agency's safety mandate to hold that a record of mechanical discrepancies does not constitute a maintenance record.

Tapping of Fuel Gauge Not Preventive Maintenance. Tapping on a fuel gauge does not constitute preventive maintenance, as it is not listed Appendix 4 to 14 CFR part 43.

Appropriateness of Sanction. General Aviation failed to preserve the issue of financial hardship for appeal. It is too late to raise the issue now, for the first time, on appeal. Under all the circumstances of this case, a \$7,500 penalty is appropriate. There were numerous flights with an unairworthy aircraft (26 flights over the course of 19 days), repeated failures to correct the discrepancies, even after the inspectors called the problem to General Aviation's attention, and General Aviation had a prior violation. A \$7,500 penalty is markedly less than that suggested by the Sanction Guidance Table, and takes into account the relatively small size of General Aviation's operation.

In the Matter of Peter A. Martin and James C. Jaworski

Order No. 98-19 (10/9/98)

Attorney Fees Case. In the underlying civil penalty action, the FAA alleged that Martin and Jaworski parachuted too close to clouds, but the law judge determined that even though the FAA made out a prima facie case, it failed to prove the violations by a preponderance of the evidence. Martin and Jaworski then filed an application to recover their attorney fees, which the law judge denied, and Martin and Jaworski have appealed.

Alleged Failure to Investigate Thoroughly as Violation of Due Process. Although Martin and Jaworski fail to say who else the inspectors should have interviewed and what they would have said that would have made a difference.

Martin and Jaworski also say the inspectors failed to gather evidence—specifically, a videotape Jaworski made of the jump and weather reports. But the inspectors did view the videotape—they simply did not find it probative because they had questions about its authenticity. If Martin and Jaworski believed the videotape would exonerate them, they could have subpoenaed it and introduced it themselves. Given the inspectors' certainty that they saw the violations with their own eyes, it is not surprising that they did not attempt to interview further witnesses or obtain weather reports.

FAA's Alleged Intent to Show Down Parachute Operations. Martin and Jaworski have no evidence that the FAA had a nefarious purpose, which was to shut down all parachute operations at the airport. The inspectors did testify that the FAA had increased surveillance because of complaints of safety violations by skydivers, but there is nothing improper about this.

Alleged Failure to Provide Martin and Jaworski and Chance to Replay. Under agency rules, applicants for attorney fees may file a reply to the FAA's answer to their fee applications. Martin and Jaworski had such an opportunity, but failed to do so.

Alleged Failure to Notify Martin and Jaworski of Withdrawal of Appeal. Martin and Jaworski argue that the FAA must pay the fees they incurred after the FAA withdrew its appeal in the underlying civil penalty action because the agency failed to notify Martin and Jaworski of its withdrawal. But the only work performed for Martin and Jaworski after the FAA withdrew its appeal was 2 hours preparing the application for fees. If Martin and Jaworski were not entitled to fees because the agency was substantially justified, as here, they are not entitled to fees incurred in preparing the application. Also, the agency did notify Martin and Jaworski of its withdrawal. It served them personally, if not their designated representative. Designation and notice of withdrawal seem to have crossed in the mail.

In the Matter of Richard S. Koenig

Order No. 98-20 (10/9/98)

Alleged Failure to Submit to Security Screening. Koenig allegedly failed to submit to security screening. The agency filed a motion for decision arguing that Koenig admitted the violation in his answer to the complaint. The law judge granted the motion, assessed the \$500 civil penalty requested in the complaint, and Koenig appealed.

Motion to Dismiss Based on Allegedly Untimely Appeal Brief. The agency filed a motion to dismiss Koenig's appeal, arguing that Koenig failed to file a timely appeal brief. But the agency attorney failed to take into account the mailing rule. Koenig's appeal brief is in fact timely, so the motion to dismiss is denied.

Alleged Error in Concluding Koenig Admitted Violation. The law judge did not err in finding the violation admitted. Koenig admitted that he became impatient and angry, that he grabbed his backpack, which was still setting at the entrance of the belt, and that he took off to meet his flight. He further admitted that when the security people called him back, he told them, "Sorry, you had your chance and you blew it."

Alleged ALJ Conflict of Interest. Koenig argues that the law judge is an FAA employee and has a conflict of interest. The law judges are not employed by FAA, but by the Department of Transportation. Federal courts have upheld the adjudicatory system used in FAA civil penalty cases.

Alleged Violation as Too Small to Pursue. Despite Koenig's argument that his violation is too small for the FAA to pursue, refusal to submit to security screening is a serious matter. The screenings are designed to prevent violence and terrorism aboard aircraft. The risk of missing a flight can never justify violating security regulations.

In the Matter of Ottoo L. Blankson

Order No. 98-21 (10/9/98)

Late-Filed Appeal. Blankson filed his notice of appeal 11 days late. The Administrator holds that Blankson failed to demonstrate good cause for filing a late notice of appeal. Blankson claimed that the law judge had mailed the order assessing civil penalty to his former address in the Bronx with the wrong zip code for that address. However, Blankson had not provided the law judge with his new address in Georgia. Held: Blankson's negligence in not giving the law judge the new address outweighs the law judge's inadvertent use of the wrong zip code. Blankson's failure to provide the law judge with the change of address reflects an unacceptable degree of diligence in the prosecution of his appeal.

Dismissal of Request for Hearing. The Administrator holds, in the alternative, that it was not error for the law judge to dismiss Blankson's request for hearing. Blankson argued that he did not know that he was required to respond to each allegation in the complaint specifically. However, Rules of Practice require that a person filing

an answer respond to each numbered paragraph of the complaint, and provide that a general denial is deemed a failure to file an answer. 14 CFR 13.209(e). This rule was summarized in the complaint as well as in the law judges orders, including the Order Requiring a Proper Answer to the Complaint. Consequently, Blankson should have known the requirements for an answer.

In the Matter of Northwest Airlines, Inc.

Order No. 98-22 (11/10/98)

Appeal Denied. Northwest appealed from the assessment of a \$40,000 civil penalty by the law judge for multiple violations of 14 CFR 108.5(a)(1) and 108.9(c). The Administrator rejects Northwest's arguments that the sanction was excessive.

This case involves the failure by Northwest, through its contractor, ITS, to adhere to certain requirements in Northwest's Air Carrier Standard Security Program (ACSSP). Specifically, it was alleged that over a three-day period, Northwest assigned an individual who was not qualified to serve as a Checkpoint Security Supervisor (CSS) to the CSS position at a particular checkpoint. Further, at another checkpoint at the same airport, Northwest, through ITS, did not have an agent working in the capacity of a CSS. Also, at yet another checkpoint, an agent assigned to serve as the CSS was performing nonscreening duties, and another employee was conducting screening duties although he was not current on his recurrent training.

In its Answer, Northwest admitted the allegations contained in Counts I-III of the Complaint. Subsequently, Northwest's counsel submitted a letter to the law judge explaining that the parties had agreed that the facts alleged in the Complaint will be deemed admitted and that written briefs would be submitted on the issue of sanction. Thus, no hearing was held in this matter. Northwest did not submit any evidence to support the arguments that it made in its brief to justify a reduction in the civil penalty. Unsubstantiated and unsupported factual allegations by attorneys in briefs do not constitute evidence. Hence, Northwest failed to prove that it had taken any corrective action that warranted a reduction in the civil penalty. Furthermore, even if Northwest had introduced the necessary evidence, Northwest's arguments did not justify a reduction in the civil penalty. The Administrator finds that due to the number and gravity of the violations, a significant civil penalty is appropriate. The law judge properly applied the guidance set forth in the

Sanction Guidance Table regarding these violations.

In the Matter of Instead Balloon Services

Order No. 98-23 (11/24/98)

Notice of Appeal Construed as a Brief. Instead Balloon Services (IBS) failed to file a separate appeal brief. However, IBS's notice of appeal was sufficiently detailed to be construed as an appeal brief.

Appeal Denied. The law judge regarded IBS's failure to appear at the hearing (about which IBS has notice) as a constructive withdrawal of its request for hearing. The Administrator rejected IBS's explanation for its failure to attend the hearing—that the law judge's prehearing rulings displayed a clear bias against IBS and that a ruling against IBS at the hearing was a foregone conclusion. Held: The Administrator could find no bias in the law judge's prehearing rulings. Failure to appear at a hearing does not constitute an acceptable means of protesting rulings by a law judge. The Administrator agrees with the law judge—if IBS wanted a hearing, it should have taken the opportunity that it was given.

In the Matter of Peter Stevens

Order No. 98-24 (12/18/98)

Appeal Denied. The Administrator denied Stevens appeal from the law judge's initial decision findings that Stevens had violated 49 U.S.C. 46302 by giving false information about having a bomb in his suitcase to a skycap at the airport. The Administrator found that the law judge had addressed the circumstances in the record that led to his conclusion that Stevens' words could reasonably be believed. Those circumstances included two recent high-profile plan crashes, one involving suspected sabotage, and security concerns connected with the impending 50th anniversary of the United Nations and the Pope's visit. The \$500 civil penalty was affirmed.

In the Matter of Howard Gotbetter

Order No. 98-25 (12/23/98)

Interlocutory Appeal of Right Dismissed. Gotbetter filed what purported to be an interlocutory appeal of right. However, Gotbetter was not entitled to file an interlocutory appeal of right under 14 C.F.R. § 13.219(c). Hence, the interlocutory appeal was dismissed, and the case was remanded to the law judge, who was instructed to give Gotbetter additional time in which to file an answer.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are available in the following commercial publications:

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc. P.O. Box 480, Mayo, MD, 21106, (410) 798-1677;
Federal Aviation Decisions, Clark Boardman Callaghan, a subsidiary of West Information Publishing Company, 50 Board Street East, Rochester, NY 14694, 1-800-221-9428.

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- Westlaw (the Database ID is FTRAN-FAA)
- LEXIS [Transportation (TRANS) Library, FAA file.]
- Compuserve
- FedWorld

Docket

The FAA Hearing Docket is located at FAA Headquarters, 800 Independence Avenue, SW, Room 926A, Washington, DC, 20591 (tel. no. 202-267-3641.) The clerk of the FAA Hearing Docket is Ms. Stephanie McCain. All documents required to be filed in civil penalty proceedings must be filed with the FAA Hearing Docket Clerk at the FAA Hearing Docket. (See 14 CFR 13.210.) Materials contained in the dockets of any case not containing sensitive security information (protected by 14 CFR Part 191) may be viewed at the FAA Hearing Docket.

In addition, materials filed in the FAA Hearing Docket in non-security cases in which the complaints were filed on or after December 1, 1997, are available for inspection at the Department of Transportation Docket, located at 400 7th Street, SW, Room PL-401, Washington, DC, 20590, (tel. No. 202-366-9329.) While the originals will be retained in the FAA Hearing Docket, the DOT Docket will scan copies of documents in non-security cases in which the complaint was filed after December 1, 1997, into their computer database. Individuals who have access to the Internet can view the materials in these dockets using the following Internet address: <http://dms.dot.gov>.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters: FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., room 924A, Washington, DC 20591; (202) 267-3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

- Office of the Regional Counsel for the Aeronautical Center (AMC-7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954-3296.
- Office of the Regional Counsel for the Alaskan Region (AAL-7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271-5269.
- Office of the Regional Counsel for the Central Region (ACE-7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426-5446.
- Office of the Regional Counsel for the Eastern Region (AEA-7), Eastern Region Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553-3285.
- Office of the Regional Counsel for the Great Lakes Region (AGL-7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294-7108.
- Office of the Regional Counsel for the New England Region (ANE-7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803-5299; (617) 238-7050.
- Office of the Regional Counsel for the Northwest Mountain Region (ANM-7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton WA 98055-4056; (425) 227-2007.
- Office of the Regional Counsel for the Southern Region (ASO-7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305-5200.
- Office of the Regional Counsel for the Southwest Region (ASW-7), Southwest Region Headquarters, 2601 Meacham Blvd., Forth Worth, TX 76137-4298; (817) 222-5087.
- Office of the Regional Counsel for the Technical Center (ACT-7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485-7087.
- Office of the Regional Counsel for the Western-Pacific Region (AWP-7),

Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 725-7100.

Issued in Washington, DC on January 4, 1999.

James S. Dillman,

Assistant Chief Counsel for Litigation.

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DEPARTMENT OF TRANSPORTATION**Federal Transit Administration**

Major Investment Study and Draft Environmental Impact Statement on the Proposed Schuylkill Valley Metro Project Between the City of Philadelphia and the City of Reading and the Borough of Wyomissing, Berks County, PA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to conduct a Major Investment Study and prepare a Draft Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), as Federal lead agency, and the Southeastern Pennsylvania Transportation Authority (SEPTA), as local lead agency, in conjunction with the Berks Area Reading Transportation Authority (BARTA) intend to conduct a Major Investment Study (MIS) and prepare a Draft Environmental Impact Statement (DEIS) on a proposed investment strategy to improve mobility in the Schuylkill Valley Corridor (Corridor). The Corridor is approximately 62 miles long and varies from one half to two miles in width from the City of Philadelphia to the City of Reading and the Borough of Wyomissing in Berks County, Pennsylvania.

Among the alternatives that the MIS/DEIS will evaluate are: (1) No Build Alternative. This alternative involves no change to transportation services or facilities in the Corridor beyond already committed projects. (2) Transportation Systems Management (TSM) Alternative. This alternative would optimize existing transportation facilities with low-cost investments to meet the travel demand expected over the next 20 years. Components of this alternative that will be investigated include selected highway capacity enhancements and express bus service. (3) Commuter Rail Alternative. This alternative would utilize existing rail rights-of-way from Philadelphia to Reading and share trackage with freight rail operations. (4) Light Rail Alternative. This alternative would

require dedicated trackage and utilize existing rights-of-way for most of its length. Street running of light rail vehicles through selected portions of Philadelphia may be necessary. Other alternatives or revisions to the above alternatives generated through the scoping process will also be considered.

Scoping will be accomplished through correspondence with interested persons, organizations, and Federal, State, and local agencies, and three public meetings.

DATES: Comment Due Date: Written comments on the scope of the alternatives and impacts to be considered should be submitted by February 26, 1999. Written comments should be sent to Mr. Jim Fritz, Senior Operations Planner and Project Manager, SEPTA, 1234 Market Street, 9th Floor, Philadelphia, PA 19107-3780. Written comments may also be provided at the public scoping meetings scheduled below: The public scoping meetings will take place on: (1) February 9, 1999, (2) February 10, 1999 and (3) February 11, 1999. See **ADDRESSES** below.

People with special needs should contact Mr. Jim Fritz at SEPTA at the address below or by calling (215) 580-7438. The buildings in which the scoping meetings will be conducted are accessible to people with disabilities, and provisions will be made for the hearing impaired.

The meetings will be held in an "open-house" format, and representatives will be available to discuss the project throughout the time periods given. Informational displays and written material will also be available throughout the time periods given.

ADDRESSES: Written comments should be sent to Mr. Jim Fritz, Senior Operations Planner and Project Manager, SEPTA, 1234 Market Street, 9th Floor, Philadelphia, PA 19107-3780. Written comments may also be made at the public scoping meetings. The meetings will be held at the following locations:

(1) February 9, 1999 from 4:00 to 8:00 PM at Winnet Student Life Building Great Hall, Room S219, Philadelphia Community College, 1700 Spring Garden Street, Philadelphia, PA 19130.

(2) February 10, 1999 from 4:00 to 8:00 PM at Upper Merion Township Building Freedom Hall, 175 West Valley Forge Road, King of Prussia, PA 19406.

(3) February 11, 1999 from 4:00 to 8:00 PM at Berks County Services Center Multi-purpose Room, 2nd Floor, Berks County Courthouse, 633 Court Street, Reading, PA 19601.