

must submit a FOIA request pursuant to 49 U.S.C. 552 and 49 CFR part 7. Portions of the EIR may be exempt from disclosure pursuant to FOIA.

§ 1503.13 Consent orders.

(a) At any time before the issuance of an order under this subpart, the official who issued the notice and the person subject to the notice may agree to dispose of the case by the issuance of a consent order by the official.

(b) A proposal for a consent order, submitted to the official who issued the notice, under this section must include—

- (1) A proposed order;
- (2) An admission of all jurisdictional facts;
- (3) An express waiver of the right to further procedural steps and of all rights to judicial review; and
- (4) An incorporation of the notice by reference and an acknowledgment that the notice may be used to construe the terms of the order.

§ 1503.15 Civil penalties: Civil penalties involving an amount in controversy in excess of \$ 50,000, an in rem action, or injunctive relief.

(a) Any person who violates any provision of 49 U.S.C. chapter 449 (except sections 44902, 44903(d), 44907(a)-(d)(1)(A), 44907(d)(1)(C)-(f), 44908, and 44909), or a regulation prescribed or order issued under any of those provisions, is subject to a civil penalty of not more than the amount specified for each violation in accordance with 49 U.S.C. 46301, in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 (note), as amended.

(b) The authority of the Administrator, under 49 U.S.C. 46301 to propose a civil penalty for a violation of that chapter, or a rule, regulation, or order issued thereunder, and the ability to refer cases to the United States Attorney General, or the delegate of the Attorney General, for prosecution of civil penalty actions proposed by the Administrator, involving an amount in controversy in excess of \$ 50,000, an in rem action, or suit for injunctive relief, or for collection of an assessed civil penalty, is delegated to the Chief

Counsel and the Deputy Chief Counsel for Civil Enforcement.

(c) The Administrator may compromise any civil penalty, proposed in accordance with 49 U.S.C. 46301, involving an amount in controversy in excess of \$ 50,000, an in rem action, or suit for injunctive relief, prior to referral of the civil penalty action to the United States Attorney General, or the delegate of the Attorney General, for prosecution.

(1) The Administrator, through the Chief Counsel or the Deputy Chief Counsel for Civil Enforcement, will send a civil penalty letter to the person charged with a violation of 49 U.S.C. chapter 449 (except sections 44902, 44903(d), 44907(a)-(d)(1)(A), 44907(d)(1)(C)-(f), 44908, and 44909), or a regulation prescribed or order issued under any of those provisions. The civil penalty letter contains a statement of the charges; the applicable law, rule, regulation, or order; the amount of civil penalty that the Administrator will accept in full settlement of the action or an offer to compromise the civil penalty.

(2) Not later than 30 days after receipt of the civil penalty letter, the person charged with a violation may present any material or information in answer to the charges to the agency attorney, either orally or in writing, that may explain, mitigate, or deny the violation or that may show extenuating circumstances. The Administrator will consider any material or information submitted in accordance with this paragraph (c) to determine whether the person is subject to a civil penalty or to determine the amount for which the Administrator will compromise the action.

(3) If the person charged with the violation offers to compromise for a specific amount, that person must send a certified check or money order for that amount to the agency, made payable to the Transportation Security Administration. The Chief Counsel or the Deputy Chief Counsel for Civil Enforcement may accept the certified check or money order or may refuse and return the certified check or money order.

(4) If the offer to compromise is accepted by the Administrator, the agency will send a letter to the person

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charged with the violation stating that the certified check or money order is accepted in full settlement of the civil penalty action.

(5) If the parties cannot agree to compromise the civil penalty action or the offer to compromise is rejected and the certified check or money order submitted in compromise is returned, the Administrator may refer the civil penalty action to the United States Attorney General, or the delegate of the Attorney General, to begin proceedings in a United States district court, pursuant to the authority in 49 U.S.C. 46305 to prosecute and collect the civil penalty.

[67 FR 51483, Aug. 8, 2002, as amended at 68 FR 46720, Aug. 19, 2003]

§ 1503.16 Civil penalties: Civil penalties involving an amount in controversy not exceeding \$50,000.

(a) *General.* The following penalties apply to persons who violate chapter 449, as specified in subsection (1), of Title 49 of the United States Code:

(1) Any person who violates any provision of 49 U.S.C. chapter 449 (except sections 44902, 44903(d), 44907(a)-(d)(1)(A), 44907(d)(1)(C)-(f), 44908, and 44909), or a regulation prescribed or order issued under any of those provisions is subject to a civil penalty of not more than the amount specified in the chapter or section for each violation in accordance with 49 U.S.C. 46301, in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 (note), as amended.

(2)-(3) [Reserved]

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

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

(2) An order assessing civil penalty may be issued if a person charged with a violation does not request a hearing under paragraph (e)(2)(ii) of this sec-

tion within 15 days after receipt of a final notice of proposed civil penalty.

(3) Unless an appeal is filed in a timely manner, an initial decision or order of an administrative law judge will be considered an order assessing civil penalty if an administrative law judge finds that an alleged violation occurred and determines that a civil penalty, in an amount found appropriate by the administrative law judge, is warranted.

(4) For penalties issued under § 1503.16(a)(1), unless a petition for review is filed with a U.S. court of appeals in a timely manner, a final decision and order of the Administrator will be considered an order assessing civil penalty if the TSA decision maker finds that an alleged violation occurred and a civil penalty is warranted.

(c) *Delegation of authority.* The authority of the Administrator, under 49 U.S.C. 46301 to initiate and assess civil penalties for a violation under chapter 449, or a rule, regulation, or order issued thereunder, is delegated to the Deputy Chief Counsel for Civil Enforcement. The authority of the Administrator to refer cases to the Attorney General of the United States, or the delegate of the Attorney General, for the collection of civil penalties, is delegated to the Chief Counsel and the Deputy Chief Counsel for Civil Enforcement.

(d) *Notice of proposed civil penalty.* A civil penalty action is initiated by sending a notice of proposed civil penalty to the person charged with a violation of 49 U.S.C. chapter 449 (except sections 44902, 44903(d), 44907(a)-(d)(1)(A), 44907(d)(1)(C)-(f), 44908, and 44909), or a regulation prescribed or order issued under any of those provisions. A notice of proposed civil penalty will be sent to the individual charged with a violation or to the president of the corporation or company charged with a violation. In response to a notice of proposed civil penalty, a corporation or company may designate in writing another person to receive documents in that civil penalty action. The notice of proposed civil penalty contains a statement of the charges and the amount of the proposed civil penalty. Not later than 30