

§ 1503.3 Investigations (general).

(a) The Administrator may conduct investigations, hold hearings, issue subpoenas, require the production of relevant documents, records, and property, and take evidence and depositions.

(b) For the purpose of investigating alleged violations 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 Administrator's authority may be exercised by the various offices for matters within their respective areas for all routine investigations. When the compulsory processes of section 49 U.S.C. 46104 are invoked, the Administrator's authority has been delegated to the Chief Counsel, each Deputy Chief Counsel, and in consultation with the Office of the Chief Counsel, the Assistant Under Secretary for Aviation Operations, the Assistant Under Secretary for Maritime and Land Security, the Assistant Under Secretary for Inspections, and each Federal Security Director.

[67 FR 51483, Aug. 8, 2002, as amended at 68 FR 49720, Aug. 19, 2003]

§ 1503.5 Formal complaints.

(a) Any person may file a complaint with the Administrator with respect to any act or omission by any person in contravention of 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. This section does not apply to complaints against the Administrator or employees of the TSA acting within the scope of their employment.

(b) Complaints filed under this section must—

(1) Be submitted in writing and identified as a complaint filed for the purpose of seeking an appropriate order or other enforcement action;

(2) Be submitted to the U.S. Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, TSA-2, Attention: Enforcement Docket, 601 South 12th Street, Arlington, VA 22202-4220;

(3) Set forth the name and address, if known, of each person who is the subject of the complaint and, with respect to each person, the specific provisions of the statute or regulation or order that the complainant believes were violated;

(4) Contain a concise but complete statement of the facts relied upon to substantiate each allegation;

(5) State the name, address, and telephone number of the person filing the complaint; and

(6) Be signed by the person filing the complaint or a duly authorized representative.

(c) Complaints that do not meet the requirements of paragraph (b) of this section will be considered reports under § 1503.1.

(d) Complaints that meet the requirements of paragraph (b) of this section will be docketed and a copy mailed to each person named in the complaint.

(e) Any complaint filed against a member of the Armed Forces of the United States acting in the performance of official duties will be referred to the Secretary of the Department concerned for action in accordance with the procedures set forth in § 1503.21.

(f) The person named in the complaint must file an answer within 20 days after service of a copy of the complaint.

(g) After the complaint has been answered or after the allotted time in which to file an answer has expired, the Administrator will determine if there are reasonable grounds for investigating the complaint.

(h) If the Administrator determines that a complaint does not state facts that warrant an investigation or action, the complaint may be dismissed without a hearing and the reason for the dismissal will be given, in writing, to the person who filed the complaint and the person named in the complaint.

(i) If the Administrator determines that reasonable grounds exist, an informal investigation may be initiated. Each person named in the complaint will be advised which official has been delegated the responsibility under § 1503.3(b) for conducting the investigation.

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(j) If the investigation substantiates the allegations set forth in the complaint, a notice of proposed order may be issued or other enforcement action taken in accordance with this part.

(k) The complaint and other pleadings and official TSA records relating to the disposition of the complaint are maintained in current docket form in the TSA Enforcement Docket, TSA Headquarters, Visitor Center, 701 South 12th Street, Arlington, Virginia 22202.

(1) *Generally.* Any person interested in reviewing or obtaining a copy of a record may do so only by submitting a FOIA request under 5 U.S.C. 552 and 49 CFR part 7. Portions of the record may be exempt from disclosure pursuant to FOIA.

(2) *Docket Files or Documents Not for Public Disclosure.* (i) Only the following persons may review docket files or particular documents that are not for public disclosure:

- (A) Parties to the proceedings;
- (B) Their designated representatives; and
- (C) Persons who have a need to know as determined by the Administrator.

(ii) Those persons with permission to review these documents or docket files may view the materials at the TSA Enforcement Docket, TSA Headquarters, Visitor Center, 701 South 12th Street, Arlington, Virginia 22202. Persons with access to these records may have a copy of the records after payment of reasonable costs.

[67 FR 51483, Aug. 8, 2002, as amended at 68 FR 49720, Aug. 19, 2003; 68 FR 58281, Oct. 9, 2003]

§ 1503.7 Records, documents and reports.

Each record, document, and report that the Transportation Security Regulations require to be maintained, exhibited, or submitted to the Administrator may be used in any investigation conducted by the Administrator; and, except to the extent the use may be specifically limited or prohibited by the section that imposes the requirement, the records, documents, and reports may be used in any civil penalty action or other legal proceeding.

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Subpart B—Administrative Actions

§ 1503.11 Administrative disposition of certain violations.

(a) If it is determined that a violation or an alleged 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, does not require legal enforcement action, an appropriate official of the TSA may take administrative action in disposition of the case.

(b) An administrative action under this section does not constitute a formal adjudication of the matter, and may be taken by issuing the alleged violator—

(1) A “Warning Notice” that recites available facts and information about the incident or condition and indicates that it may have been a violation; or

(2) A “Letter of Correction” that confirms the TSA decision in the matter and states the necessary corrective action the alleged violator has taken or agrees to take. If the agreed corrective action is not fully completed, legal enforcement action may be taken.

Subpart C—Legal Enforcement Actions

§ 1503.12 Request for portions of the enforcement investigative report (EIR).

(a) Discovery and pre-litigation disclosure. Pursuant to this section, any alleged violator or designated representative may request, from the Chief Counsel or designee, portions of the EIR that are not privileged (e.g., under the deliberative process, attorney work-product, or attorney-client privileges). This information will be provided for the sole purpose of providing the information necessary to prepare a response to the allegations contained in the legal enforcement action document. SSI contained in the EIR is released pursuant to 49 CFR part 1520. Information released under this section is not produced under the Freedom of Information Act (FOIA).

(b) Any person not listed in paragraph (a) of this section that is interested in obtaining a copy of the EIR