

§ 1503.230 Record.

(a) *Exclusive record.* The request for hearing, complaint, answer, transcript of all testimony in the hearing, all exhibits received into evidence, and all motions, applications, requests, and rulings will constitute the exclusive record for decision of the proceedings and the basis for the issuance of any orders in the proceeding.

(b) *Examination and copying of record—(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]

§ 1503.231 Argument before the administrative law judge.

(a) *Arguments during the hearing.* During the hearing, the administrative law judge must give the parties a reasonable opportunity to present arguments on the record supporting or opposing motions, objections, and rulings if the parties request an opportunity for argument. The administrative law judge may request written arguments during the hearing if the administrative law judge finds that submission of written arguments would be reasonable.

(b) *Final oral argument.* At the conclusion of the hearing and before the administrative law judge issues an initial decision in the proceedings, the parties

are entitled to submit oral proposed findings of fact and conclusions of law, exceptions to rulings of the administrative law judge, and supporting arguments for the findings, conclusions, or exceptions. At the conclusion of the hearing, a party may waive final oral argument.

(c) *Posthearing briefs.* The administrative law judge may request written posthearing briefs before the administrative law judge issues an initial decision in the proceedings. If a party files a written posthearing brief, the party must include proposed findings of fact and conclusions of law, exceptions to rulings of the administrative law judge, and supporting arguments for the findings, conclusions, or exceptions. The administrative law judge must give the parties a reasonable opportunity, not more than 30 days after receipt of the transcript, to prepare and submit the briefs.

§ 1503.232 Initial decision.

(a) *Contents.* The administrative law judge must issue an initial decision at the conclusion of the hearing. In each oral or written decision, the administrative law judge must include findings of fact and conclusions of law, and the grounds supporting those findings and conclusions, upon all material issues of fact, the credibility of witnesses, the applicable law, any exercise of the administrative law judge's discretion, the amount of any civil penalty found appropriate by the administrative law judge, and a discussion of the basis for any order issued in the proceedings. The administrative law judge is not required to provide a written explanation for rulings on objections, procedural motions, and other matters not directly relevant to the substance of the initial decision. If the administrative law judge refers to any previous unreported or unpublished initial decision, the administrative law judge must make copies of that initial decision available to all parties and the TSA decision maker.

(b) *Oral decision.* Except as provided in paragraph (c) of this section, at the conclusion of the hearing, the administrative law judge must issue the initial decision and order orally on the record.