

under any of those provisions, the Chief Counsel or the Deputy Chief Counsel for Civil Enforcement will send a copy of the report to the appropriate military authority for such disciplinary action as that authority considers appropriate and a report to the Administrator thereon.

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

§ 1503.23 [Reserved]

§ 1503.25 Injunctions.

Whenever it is determined that a person has engaged, or is about to engage, in any act or practice constituting 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 for which the TSA exercises enforcement responsibility, the Chief Counsel or the Deputy Chief Counsel for Civil Enforcement may request the United States Attorney General, or the delegate of the Attorney General, to bring an action in the appropriate United States district court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages, as provided by 49 U.S.C. 46107.

[68 FR 49720, Aug. 19, 2003]

§ 1503.27 [Reserved]

§ 1503.29 Civil penalties: Streamlined enforcement procedures for certain security violations.

This section may be used, at the agency's discretion, in enforcement actions involving individuals presenting dangerous or deadly weapons for screening at airports or in checked baggage where the amount of the proposed civil penalty is less than \$5,000. In these cases, §§ 1503.16(a), 1503.16(c), and 1503.16 (f) through (l) are used, as well as paragraphs (a) through (d) of this section:

(a) *Delegation of authority.* The authority of the Administrator, under 49 U.S.C. 46301, to initiate civil penalty actions in accordance with TSA policies and procedures promulgated pursuant to 49 U.S.C. 46301 et seq. and 49 CFR

part 1540, is delegated to each Federal Security Director for the purpose of issuing notices of violation in cases involving violations of 49 U.S.C. chapter 449, or a regulation prescribed or order issued under any of those provisions.

(b) *Notice of violation.* A civil penalty action is initiated by sending a notice of violation to the person charged with the violation. The notice of violation contains a statement of the charges and the amount of the proposed civil penalty. Not later than 30 days after receipt of the notice of violation, the person charged with a violation must:

(1) Submit the amount of the proposed civil penalty or an agreed-upon amount, in which case either an order assessing a civil penalty or a compromise order will be issued in that amount; or

(2) Submit to the agency attorney identified in the material accompanying the notice any of the following:

(i) Written information, including documents and witness statements, demonstrating that a violation of the regulations did not occur or that a penalty or the penalty amount is not warranted by the circumstances; or

(ii) A written request to reduce the proposed civil penalty, the amount of reduction, and the reasons and any documents supporting a reduction of the proposed civil penalty, including records indicating a financial inability to pay or records showing that payment of the proposed civil penalty would prevent the person from continuing in business; or

(iii) A written request for an informal conference to discuss the matter with an agency attorney and submit relevant information or documents; or

(3) Request a hearing in which case a complaint will be filed with the Enforcement Docket Clerk.

(c) *Final notice of violation and civil penalty assessment order.* A final notice of violation and civil penalty assessment order ("final notice and order") may be issued after participation in any informal proceedings as provided in paragraph (b)(2) of this section, or after failure of the respondent to respond in a timely manner to a notice of violation. A final notice and order will be sent to the individual charged with

§ 1503.201

49 CFR Ch. XII (10–1–07 Edition)

a violation. The final notice and order will contain a statement of the charges and the amount of the proposed civil penalty and, as a result of information submitted to the agency attorney during any informal procedures, may reflect a modified allegation or proposed civil penalty. A final notice and order may be issued—

(1) If the person charged with a violation fails to respond to the notice of violation within 30 days after receipt of that notice; or

(2) If the parties participated in any informal procedures under paragraph (b)(2) of this section and the parties have not agreed to compromise the action or the agency attorney has not agreed to withdraw the notice of violation.

(d) *Order assessing civil penalty.* An order assessing civil penalty may be issued 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, the amount of civil penalty proposed in the notice of violation.

(2) An order assessing civil penalty may be issued if a person charged with a violation submits, or agrees to submit, an agreed-upon amount of civil penalty that is not reflected in either the notice of violation or the final notice and order.

(3) The final notice and order becomes (and contains a statement so indicating) an order assessing a civil penalty when the person charged with a violation submits the amount of the proposed civil penalty that is reflected in the final notice and order.

(4) The final notice and order becomes (and contains a statement so indicating) an order assessing a civil penalty 16 days after receipt of the final notice and order, unless not later than 15 days after receipt of the final notice and order, the person charged with a violation does one of the following—

(i) Submits an agreed-upon amount of civil penalty that is not reflected in the final notice and order, in which case an order assessing civil penalty or

a compromise order will be issued in that amount; or

(ii) Requests a hearing in which case a complaint will be filed with the Enforcement Docket Clerk.

(5) Unless there is an appeal to the TSA decision maker, 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 to be appropriate by the administrative law judge, is warranted.

(6) 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.

Subparts D–F [Reserved]

Subpart G—Rules of Practice in Transportation Security Administration (TSA) Civil Penalty Actions

§ 1503.201 Applicability.

(a) This subpart applies to the following actions:

(1) A civil penalty action in which a request for hearing has been filed and the amount sought does not exceed \$50,000 for a violation arising under 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.

(b) [Reserved]

(c) Notwithstanding the provisions of paragraph (a) of this section, the United States district courts will have exclusive jurisdiction of any civil penalty action initiated by the Administrator:

(1) Which involves an amount in controversy in excess of \$50,000;

(2) Which is an in rem action or in which an in rem action based on the same violation has been brought;