

§ 1503.661

49 CFR Ch. XII (10–1–10 Edition)

that has not been appealed by any party to the TSA decision maker and filed with the Enforcement Docket Clerk.

(b) *Form and number of copies.* A party must file in writing a petition to reconsider or modify. The party must file the original petition with the Enforcement Docket Clerk and must serve a copy of the petition on each party.

(c) *Contents.* A party must state briefly and specifically the alleged errors in the final decision and order on appeal, the relief sought by the party, and the grounds that support the petition to reconsider or modify.

(1) If the petition is based, in whole or in part, on allegations regarding the consequences of the TSA decision maker's decision, the party must describe and support those allegations.

(2) If the petition is based, in whole or in part, on new material not previously raised in the proceedings, the party must set forth the new material and include affidavits of prospective witnesses and authenticated documents that would be introduced in support of the new material. The party must explain, in detail, why the new material was not discovered through due diligence prior to the hearing.

(d) *Repetitious and frivolous petitions.* The TSA decision maker will not consider repetitious or frivolous petitions. The TSA decision maker may summarily dismiss repetitious or frivolous petitions to reconsider or modify.

(e) *Reply petitions.* Any other party may reply to a petition to reconsider or modify, not later than 30 days after service of the petition on that party, by filing a reply with the Enforcement Docket Clerk. A party must serve a copy of the reply on each party.

(f) *Effect of filing petition.* Unless otherwise ordered by the TSA decision maker, filing a petition pursuant to this section will stay the effective date of the TSA decision maker's final decision and order on appeal.

(g) *The TSA decision maker's decision on petition.* The TSA decision maker has sole discretion to grant or deny a petition to reconsider or modify. The TSA decision maker will grant or deny a petition to reconsider or modify within a reasonable time after receipt of the petition or receipt of the reply

petition, if any. The TSA decision maker may affirm, modify, or reverse the final decision and order on appeal, or may remand the case for any proceedings that the TSA decision maker determines may be necessary.

[74 FR 36039, July 21, 2009, as amended at 75 FR 58334, Sept. 24, 2010]

§ 1503.661 **Judicial review of a final order.**

For violations of a TSA requirement, a party may petition for review of a final order of the Administrator only to the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia pursuant to 49 U.S.C. 46110. A party seeking judicial review of a final order must file a petition for review not later than 60 days after the final order has been served on the party.

Subpart H—Judicial Assessment of Civil Penalties

§ 1503.701 **Applicability of this subpart.**

(a) *Jurisdictional minimums.* This subpart applies to a civil penalty action under this part in which the total amount in controversy exceeds the following amounts.

(b) *In general.* Except as provided in paragraph (c) of this section, in the case of violation of title 49 U.S.C. or 46 U.S.C chapter 701, a regulation prescribed, or order issued under any of those provisions, the amount in controversy exceeds the following:

(1) \$50,000, in the case of violation by an individual or small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632).

(2) \$400,000, in the case of violation by any other person.

(c) *Certain aviation related violations.* In the case of 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 amount in controversy exceeds the following:

(1) \$50,000, in the case of violation by an individual (except an airman serving as an airman), any person not operating an aircraft for the transportation