

(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.

(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 Headquarters, 601 South 12th Street, Arlington, Virginia 20598-6002. Persons with access to these records may have a copy of the records after payment of reasonable costs.

#### § 1503.653 Argument before the ALJ.

(a) *Arguments during the hearing.* During the hearing, the ALJ 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 ALJ may request written arguments during the hearing if the ALJ finds that submission of written arguments is necessary before the ALJ issues the ruling or order.

(b) *Final oral argument.* At the conclusion of the hearing and before the ALJ 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 ALJ, 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 ALJ may request written posthearing briefs before the ALJ 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 ALJ, and supporting arguments for the findings, conclusions, or exceptions. The ALJ must give the parties a reasonable opportunity, not more than 30 days after receipt of the transcript, to prepare and submit the briefs.

#### § 1503.655 Initial decision.

(a) *Contents.* The ALJ may issue an initial decision after the conclusion of the hearing or after the submission of written posthearing briefs, if so ordered. In each oral or written decision, the ALJ 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 ALJ's discretion, the amount of any civil penalty found appropriate by the ALJ, and a discussion of the basis for any order issued in the proceedings. The ALJ 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 ALJ refers to any previous unreported or unpublished initial decision, the ALJ must make copies of that initial decision available to all parties and the TSA decision maker.

(b) *Written decision.* At the conclusion of the hearing, the ALJ may issue the initial decision and order orally on the record. The ALJ must issue a written initial decision and order not later than 30 days after the conclusion of the hearing or submission of the last posthearing brief. The ALJ must serve a copy of any written initial decision on each party.

(c) *Order assessing civil penalty.* Unless appealed pursuant to § 1503.657, the initial decision issued by the ALJ will be considered an order assessing civil penalty if the ALJ finds that an alleged violation occurred and determines that a civil penalty, in an amount found appropriate by the ALJ, is warranted.

(d) *Effect of initial decision.* An initial decision of an ALJ is persuasive authority in any other civil penalty action, unless appealed and reversed by the TSA decision maker or a court of competent jurisdiction.

#### § 1503.657 Appeal from initial decision.

(a) *Notice of appeal.* Either party may appeal the initial decision, and any decision not previously appealed pursuant to § 1503.631, by filing a notice of appeal with the Enforcement Docket Clerk. A party must file the notice of