

actment of Pub. L. 115-254, which was approved Oct. 5, 2018.

#### SUBPART IV—ENFORCEMENT AND PENALTIES

### CHAPTER 461—INVESTIGATIONS AND PROCEEDINGS

Sec.

- 46101. Complaints and investigations.
- 46102. Proceedings.
- 46103. Service of notice, process, and actions.
- 46104. Evidence.
- 46105. Regulations and orders.
- 46106. Enforcement by the Department of Transportation.
- 46107. Enforcement by the Attorney General.
- 46108. Enforcement of certificate requirements by interested persons.
- 46109. Joinder and intervention.
- 46110. Judicial review.
- 46111. Certificate actions in response to a security threat.

#### Editorial Notes

##### AMENDMENTS

2003—Pub. L. 108-176, title VI, § 601(b), Dec. 12, 2003, 117 Stat. 2563, added item 46111.

2001—Pub. L. 107-71, title I, § 140(b)(8), Nov. 19, 2001, 115 Stat. 641, substituted “Department of Transportation” for “Secretary of Transportation and Administrator of the Federal Aviation Administration” in item 46106.

#### § 46101. Complaints and investigations

(a) GENERAL.—(1) A person may file a complaint in writing with the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) about a person violating this part or a requirement prescribed under this part. Except as provided in subsection (b) of this section, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall investigate the complaint if a reasonable ground appears to the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration for the investigation.

(2) On the initiative of the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, as appropriate, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration may conduct an investigation, if a reasonable ground appears to the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration for the investigation, about—

(A) a person violating this part or a requirement prescribed under this part; or

(B) any question that may arise under this part.

(3) The Secretary of Transportation, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration may dismiss a complaint without a hearing when the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration is of the opinion that the complaint does not state facts that warrant an investigation or action.

(4) After notice and an opportunity for a hearing and subject to section 40105(b) of this title, the Secretary of Transportation, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall issue an order to compel compliance with this part if the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration finds in an investigation under this subsection that a person is violating this part.

(b) COMPLAINTS AGAINST MEMBERS OF ARMED FORCES.—The Secretary of Transportation, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall refer a complaint against a member of the armed forces of the United States performing official duties to the Secretary of the department concerned for action. Not later than 90 days after receiving the complaint, the Secretary of that department shall inform the Secretary of Transportation, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration of the action taken on the complaint, including any corrective or disciplinary action taken.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1226; Pub. L. 107-71, title I, § 140(b)(1)–(3), Nov. 19, 2001, 115 Stat. 641; Pub. L. 115-254, div. K, title I, § 1991(f)(1)–(4), Oct. 5, 2018, 132 Stat. 3642.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
46101(a)(1) ..	49 App.:1482(a) (1st, 2d sentences). 49 App.:1551(b)(1)(E).  49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §1002(a), (b), 72 Stat. 788. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704. Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
46101(a)(2) ..	49 App.:1482(b). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	
46101(a)(3) ..	49 App.:1482(a) (3d sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	
46101(a)(4) ..	49 App.:1482(c).  49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §1002(c), 72 Stat. 789; Feb. 15, 1980, Pub. L. 96-192, §25, 94 Stat. 47.
46101(b) .....	49 App.:1482(a) (4th, last sentences). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsection (a)(1), the words “the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) about a person violating this part or a requirement prescribed under this part” are sub-

stituted for “the Secretary of Transportation or the Board, as to matters within their respective jurisdictions . . . with respect to anything done or omitted to be done by any person in contravention of any provisions of this chapter, or of any requirement established pursuant thereto” for clarity and because of the restatement. The words “Except as provided in subsection (b) of this section” are added because of the restatement of the source provisions in subsection (b) of this section. The words “If the person complained against shall not satisfy the complaint and” are omitted as surplus.

In subsection (a)(2), before clause (A), the words “the Secretary of Transportation or the Administrator, as appropriate” are substituted for “The Secretary of Transportation or Board, with respect to matters within their respective jurisdictions” to eliminate unnecessary words. The words “if a reasonable ground appears to the Secretary or Administrator for the investigation” are substituted for 49 App.:1482(b) (last sentence) for clarity and to eliminate unnecessary words. Clause (A) is substituted for “in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Secretary of Transportation or Board by any provision of this chapter . . . or relating to the enforcement of any of the provisions of this chapter” for clarity and to eliminate unnecessary words.

In subsection (a)(4), the words “an opportunity for a, are added for consistency in the revised title and with other titles of the United States Code. The words “compel compliance with this part” are substituted for “compel such person to comply therewith” for clarity. The words “in an investigation under this subsection” are substituted for “in any investigation instituted upon complaint or upon their own initiative” to eliminate unnecessary words. The words “is violating this part” are substituted for “has failed to comply with any provision of this chapter or any requirement established pursuant thereto” for clarity and to eliminate unnecessary words. The words “with respect to matters within their jurisdiction” are omitted as unnecessary because of the restatement.

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115–254, §1991(f)(4), substituted “Administrator of the Transportation Security Administration,” for “Under Secretary,” wherever appearing.

Pub. L. 115–254, §1991(f)(2), substituted “or Administrator of the Federal Aviation Administration” for “or Administrator” wherever appearing.

Subsec. (a)(1). Pub. L. 115–254, §1991(f)(3), substituted “by the Administrator of the Federal Aviation Administration” for “by the Administrator”.

Pub. L. 115–254, §1991(f)(1), substituted “Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration” for “Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary”.

2001—Subsec. (a)(1). Pub. L. 107–71, §140(b)(1), (2), inserted “the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or, after “(or” and substituted “, Under Secretary, or Administrator” for “or Administrator” in two places.

Subsec. (a)(2). Pub. L. 107–71, §140(b)(2), (3), in introductory provisions, substituted “, Under Secretary, or Administrator, as” for “of Transportation or the Administrator, as” and substituted “, Under Secretary, or Administrator” for “or Administrator” in two places.

Subsec. (a)(3), (4). Pub. L. 107–71, §140(b)(2), substituted “, Under Secretary, or Administrator” for “or Administrator” wherever appearing.

Subsec. (b). Pub. L. 107–71, §140(b)(2), substituted “, Under Secretary, or Administrator” for “or Administrator” in two places.

#### Statutory Notes and Related Subsidiaries

##### AUTHORITY FOR LEGAL COUNSEL TO ISSUE CERTAIN NOTICES

Pub. L. 115–254, div. B, title III, §396, Oct. 5, 2018, 132 Stat. 3327, provided that: “Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall designate the appropriate legal counsel of the [Federal Aviation] Administration as an appropriate official for purposes of section 13.11 of title 14, Code of Federal Regulations.”

#### § 46102. Proceedings

(a) CONDUCTING PROCEEDINGS.—Subject to subchapter II of chapter 5 of title 5, the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) may conduct proceedings in a way conducive to justice and the proper dispatch of business.

(b) APPEARANCE.—A person may appear and be heard before the Secretary, the Administrator of the Transportation Security Administration, and the Administrator of the Federal Aviation Administration in person or by an attorney. The Secretary may appear and participate as an interested party in a proceeding the Administrator of the Federal Aviation Administration conducts under section 40113(a) of this title.

(c) RECORDING AND PUBLIC ACCESS.—Official action taken by the Secretary, Administrator of the Transportation Security Administration, and Administrator of the Federal Aviation Administration under this part shall be recorded. Proceedings before the Secretary, Administrator of the Transportation Security Administration, and Administrator of the Federal Aviation Administration shall be open to the public on the request of an interested party unless the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration decides that secrecy is required because of national defense.

(d) CONFLICTS OF INTEREST.—The Secretary, the Administrator of the Transportation Security Administration, the Administrator of the Federal Aviation Administration, or an officer or employee of the Federal Aviation Administration may not participate in a proceeding referred to in subsection (a) of this section in which the individual has a pecuniary interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1226; Pub. L. 107–71, title I, §140(b)(1), (2), (4)–(6), Nov. 19, 2001, 115 Stat. 641; Pub. L. 115–254, div. K, title I, §1991(f)(1)–(5), Oct. 5, 2018, 132 Stat. 3642.)

##### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
46102(a) .....	49 App.:1481 (1st sentence). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §1001, 72 Stat. 788. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.