

§ 15.9

time employee, and wages or salary actually lost.

(6) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(7) Any other evidence or information which may have a bearing on the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership of the property interest which is the subject of the claim.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, and salvage value, where repair is not economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

§ 15.9 Investigation and examination.

The FAA may investigate a claim or conduct a physical examination of a claimant. The FAA may request any other Federal agency to investigate a claim or conduct a physical examination of a claimant and provide a report of the investigation or examination to the FAA.

Subpart B—Indemnification Under Section 1118 of the Federal Aviation Act of 1958

SOURCE: Amdt. 15-2, 55 FR 18710, May 3, 1990, unless otherwise noted.

§ 15.101 Applicability.

This subpart prescribes procedural requirements for the indemnification of a publisher of aeronautical charts or maps under section 1118 of the Federal Aviation Act of 1958, as amended, when

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the publisher incurs liability as a result of publishing—

(a) A chart or map accurately depicting a defective or deficient flight procedure or airway that was promulgated by the FAA; or

(b) Aeronautical data that—

(1) Is visually displayed in the cockpit of an aircraft; and

(2) When visually displayed, accurately depicts a defective or deficient flight procedure or airway promulgated by the FAA.

§ 15.103 Exclusions.

A publisher that requests indemnification under this part will not be indemnified if—

(a) The complaint filed against the publisher, or demand for payment against the publisher, first occurred before December 19, 1985;

(b) The publisher does not negotiate a good faith settlement;

(c) The publisher does not conduct a good faith defense;

(d) The defective or deficient flight procedure or airway—

(1) Was not promulgated by the FAA;

(2) Was not accurately depicted on the publisher's chart or map;

(3) Was not accurately displayed on a visual display in the cockpit, or

(4) Was obviously defective or deficient;

(e) The publisher does not give notice as required by § 15.107 of this part and that failure is prejudicial to the Government; or

(f) The publisher does not appeal a lower court's decision pursuant to a request by the Administrator under § 15.111(d)(2) of this part.

§ 15.105 Filing of requests for indemnification.

A request for indemnification under this part—

(a) May be filed by—

(1) A publisher described in § 15.101 of this part; or

(2) The publisher's duly authorized agent or legal representative;

(b) Shall be filed with the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; and

(c) Shall state the basis for the publisher's assertion that indemnification under this part is required.

§ 15.107 Notification requirements.

A request for indemnification will not be considered by the FAA unless the following conditions are met:

(a) The publisher must notify the Chief Counsel of the FAA, within the time limits prescribed in paragraph (b) or (c) of this section, of the publisher's first receipt of a demand for payment, or service of a complaint in any proceeding, federal or state, in which it appears that indemnification under this part may be required.

(b) For each complaint filed, or demand for payment made, on or after December 19, 1985, and before June 4, 1990, the notice required by paragraph (a) of this section must be received by the FAA on or before July 2, 1990.

(c) For each complaint filed, or demand for payment made, on or after June 4, 1990, the notice required by paragraph (a) of this section must be received by the FAA within 60 days after the day the publisher first receives the demand for payment or service of the complaint.

(d) Within 5 days after the day a judgment is rendered against the publisher in any proceeding, or within 30 days of the denial of an appeal, whichever is later, the publisher must notify the FAA Chief Counsel that—

(1) There is an adverse judgment against the publisher; and

(2) The publisher has a claim for indemnification against the FAA arising out of that judgment.

§ 15.109 Settlements.

(a) A publisher may not settle a claim with another party, for which the publisher has sought, or intends to seek, indemnification under this part, unless—

(1) The publisher submits a copy of the proposed settlement, and a statement justifying the settlement, to the Chief Counsel of the FAA; and

(2) The Administrator and where necessary, the appropriate official of the Department of Justice, approves the proposed settlement.

(3) The publisher submits a signed release that clearly releases the United

States from any further liability to the publisher and the claimant.

(b) If the Administrator does not approve the proposed settlement, the Administrator will—

(1) So notify the publisher by registered mail within 60 days of receipt of the proposed settlement; and

(2) Explain why the request for indemnification was not approved.

(c) If the Administrator approves the proposed settlement, the Administrator will so notify the publisher by registered mail within 60 days after the FAA's receipt of the proposed settlement.

(d) If the Administrator does not have sufficient information to approve or disapprove the proposed settlement, the Administrator will request, within 60 days after receipt of the proposed settlement, the additional information needed to make a determination.

§ 15.111 Conduct of litigation.

(a) If a lawsuit is filed against the publisher and the publisher has sought, or intends to seek, indemnification under this part, the publisher shall—

(1) Give notice as required by § 15.107 of this part;

(2) If requested by the United States—

(i) Implead the United States as a third-party defendant in the action; and

(ii) Arrange for the removal of the action to Federal Court;

(3) Promptly provide any additional information requested by the United States; and

(4) Cooperate with the United States in the defense of the lawsuit.

(b) If the lawsuit filed against the publisher results in a proposed settlement, the publisher shall submit that proposed settlement to the FAA for approval in accordance with § 15.109 of this part.

(c) If the lawsuit filed against the publisher results in a judgment against the publisher and the publisher has sought, or intends to seek, indemnification under this part as a result of the adverse judgment, the publisher shall—

(1) Give notice to the FAA as required by § 15.107(d) of this part;