

§ 16.25

(1) State the name and address of each person who is the subject of the complaint and, with respect to each person, the specific provisions of each Act that the complainant believes were violated;

(2) Be served, in accordance with § 16.15, along with all documents then available in the exercise of reasonable diligence, offered in support of the complaint, upon all persons named in the complaint as persons responsible for the alleged action(s) or omission(s) upon which the complaint is based;

(3) Provide a concise but complete statement of the facts relied upon to substantiate each allegation; and

(4) Describe how the complainant was directly and substantially affected by the things done or omitted to be done by the respondents.

(c) Unless the complaint is dismissed pursuant to § 16.25 or § 16.27, the FAA notifies the complainant and respondents in writing within 20 days after the date the FAA receives the complaint that the complaint has been docketed and that respondents are required to file an answer within 20 days of the date of service of the notification.

(d) The respondent shall file an answer within 20 days of the date of service of the FAA notification.

(e) The complainant may file a reply within 10 days of the date of service of the answer.

(f) The respondent may file a rebuttal within 10 days of the date of service of the complainant's reply.

(g) The answer, reply, and rebuttal shall, like the complaint, be accompanied by supporting documentation upon which the parties rely.

(h) The answer shall deny or admit the allegations made in the complaint or state that the person filing the document is without sufficient knowledge or information to admit or deny an allegation, and shall assert any affirmative defense.

(i) The answer, reply, and rebuttal shall each contain a concise but complete statement of the facts relied upon to substantiate the answers, admissions, denials, or averments made.

(j) The respondent's answer may include a motion to dismiss the complaint, or any portion thereof, with a supporting memorandum of points and

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authorities. If a motion to dismiss is filed, the complainant may respond as part of its reply notwithstanding the 10-day time limit for answers to motions in § 16.19(c).

§ 16.25 Dismissals.

Within 20 days after the receipt of the complaint, the Director will dismiss a complaint, or any claim made in a complaint, with prejudice if:

(a) It appears on its face to be outside the jurisdiction of the Administrator under the Acts listed in § 16.1;

(b) On its face it does not state a claim that warrants an investigation or further action by the FAA; or

(c) The complainant lacks standing to file a complaint under §§ 16.3 and 16.23. The Director's dismissal will include the reasons for the dismissal.

§ 16.27 Incomplete complaints.

If a complaint is not dismissed pursuant to § 16.25 of this part, but is deficient as to one or more of the requirements set forth in § 16.21 or § 16.23(b), the Director will dismiss the complaint within 20 days after receiving it. Dismissal will be without prejudice to the refiling of the complaint after amendment to correct the deficiency. The Director's dismissal will include the reasons for the dismissal.

§ 16.29 Investigations.

(a) If, based on the pleadings, there appears to be a reasonable basis for further investigation, the FAA investigates the subject matter of the complaint.

(b) The investigation may include one or more of the following, at the sole discretion of the FAA:

(1) A review of the written submissions or pleadings of the parties, as supplemented by any informal investigation the FAA considers necessary and by additional information furnished by the parties at FAA request. In rendering its initial determination, the FAA may rely entirely on the complaint and the responsive pleadings provided under this subpart. Each party shall file documents that it considers sufficient to present all relevant facts and argument necessary for the FAA to determine whether the sponsor is in compliance.

(2) Obtaining additional oral and documentary evidence by use of the agency's authority to compel production of such evidence under section 313 Aviation Act, 49 U.S.C. 40113 and 46104, and section 519 of the Airport and Airway Improvement Act, 49 U.S.C. 47122. The Administrator's statutory authority to issue compulsory process has been delegated to the Chief Counsel, the Deputy Chief Counsel, the Assistant Chief Counsel for Airports and Environmental Law, and each Assistant Chief Counsel for a region or center.

(3) Conducting or requiring that a sponsor conduct an audit of airport financial records and transactions as provided in 49 U.S.C. 47107 and 47121.

§ 16.31 Director's determinations after investigations.

(a) After consideration of the pleadings and other information obtained by the FAA after investigation, the Director will render an initial determination and provide it to each party by certified mail within 120 days of the date the last pleading specified in § 16.23 was due.

(b) The Director's determination will set forth a concise explanation of the factual and legal basis for the Director's determination on each claim made by the complainant.

(c) A party adversely affected by the Director's determination may appeal the initial determination to the Associate Administrator as provided in § 16.33.

(d) If the Director's determination finds the respondent in noncompliance and proposes the issuance of a compliance order, the initial determination will include notice of opportunity for a hearing under subpart F of this part, if such an opportunity is provided by the FAA. The respondent may elect or waive a hearing as provided in subpart E of this part.

§ 16.33 Final decisions without hearing.

(a) The Associate Administrator will issue a final decision on appeal from the Director's determination, without a hearing, where—

(1) The complaint is dismissed after investigation;

(2) A hearing is not required by statute and is not otherwise made available by the FAA; or

(3) The FAA provides opportunity for a hearing to the respondent and the respondent waives the opportunity for a hearing as provided in subpart E of this part.

(b) In the cases described in paragraph (a) of this section, a party adversely affected by the Director's determination may file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination.

(c) A reply to an appeal may be filed with the Associate Administrator within 20 days after the date of service of the appeal.

(d) The Associate Administrator will issue a final decision and order within 60 days after the due date of the reply.

(e) If no appeal is filed within the time period specified in paragraph (b) of this section, the Director's determination becomes the final decision and order of the FAA without further action. A Director's determination that becomes final because there is no administrative appeal is not judicially reviewable.

Subpart D—Special Rules Applicable to Proceedings Initiated by the FAA

§ 16.101 Basis for the initiation of agency action.

The FAA may initiate its own investigation of any matter within the applicability of this part without having received a complaint. The investigation may include, without limitation, any of the actions described in § 16.29(b).

§ 16.103 Notice of investigation.

Following the initiation of an investigation under § 16.101, the FAA sends a notice to the person(s) subject to investigation. The notice will set forth the areas of the agency's concern and the reasons therefor; request a response to the notice within 30 days of the date of service; and inform the respondent that the FAA will, in its discretion, invite good faith efforts to resolve the matter.