

§ 15.111

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§ 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;

(2) Submit a copy of the trial court's decision to the FAA Chief Counsel not more than 5 business days after the adverse judgment is rendered; and

(3) If an appeal is taken from the adverse judgment, submit a copy of the appellate decision to the FAA Chief Counsel not more than 30 days after that decision is rendered.

(d) Within 60 days after receipt of the trial court's decision, the Administrator by registered mail will—

(1) Notify the publisher that indemnification is required under this part;

(2) Request that the publisher appeal the trial court's adverse decision; or

(3) Notify the publisher that it is not entitled to indemnification under this part and briefly state the basis for the denial.

§ 15.113 Indemnification agreements.

(a) Upon a finding of the Administrator that indemnification is required under this part, and after obtaining the

concurrence of the United States Department of Justice, the FAA will promptly enter into an indemnification agreement providing for the payment of the costs specified in paragraph (c) of this section.

(b) The indemnification agreement will be signed by the Chief Counsel and the publisher.

(c) The FAA will indemnify the publisher for—

(1) Compensatory damages awarded by the court against the publisher;

(2) Reasonable costs and fees, including reasonable attorney fees at a rate not to exceed that permitted under the Equal Access to Justice Act (5 U.S.C. 504), and any postjudgment interest, if the publisher conducts a good faith defense, or pursues a good faith appeal, at the request, or with the concurrence, of the FAA.

(d) Except as otherwise provided in this section, the FAA will not indemnify the publisher for—

(1) Punitive or exemplary damages;

(2) Civil or criminal fines or any other litigation sanctions;

(3) Postjudgment interest;

(4) Costs;

(5) Attorney fees; or

(6) Other incidental expenses.

(e) The indemnification agreement must provide that the Government will be subrogated to all claims or rights of the publisher, including third-party claims, cross-claims, and counter-claims.

§ 15.115 Payment.

After execution of the indemnification agreement, the FAA will submit the agreement to the United States Department of Justice and request payment, in accordance with the agreement, from the Judgment Fund.

**PART 16—RULES OF PRACTICE FOR
FEDERALLY-ASSISTED AIRPORT
ENFORCEMENT PROCEEDINGS**

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Subpart A—General Provisions

§ 16.1 Applicability and description of part.

(a) *General.* The provisions of this part govern all proceedings involving Federally-assisted airports, except for disputes between U.S. and foreign air carriers and airport proprietors concerning the reasonableness of airport fees covered by 14 CFR part 302, whether the proceedings are instituted by order of the FAA or by filing with the FAA a complaint, under the following authorities:

(1) 49 U.S.C. 40103(e), prohibiting the grant of exclusive rights for the use of any landing area or air navigation facility on which Federal funds have been expended (formerly section 308 of the Federal Aviation Act of 1958, as amended).

(2) Requirements of the Anti-Head Tax Act, 49 U.S.C. 40116.

(3) The assurances contained in grant-in-aid agreements issued under the Federal Airport Act of 1946, 49 U.S.C. 1101 *et seq* (repealed 1970).

(4) The assurances contained in grant-in-aid agreements issued under the Airport and Airway Development Act of 1970, as amended, 49 U.S.C. 1701 *et seq*.

(5) The assurances contained in grant-in-aid agreements issued under

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the Airport and Airway Improvement Act of 1982 (AAIA), as amended, 49 U.S.C. 47101 *et seq.*, specifically section 511(a), 49 U.S.C. 47107(a) and (b).

(6) Section 505(d) of the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. 47113.

(7) Obligations contained in property deeds for property transferred pursuant to section 16 of the Federal Airport Act (49 U.S.C. 1115), section 23 of the Airport and Airway Development Act (49 U.S.C. 1723), or section 516 of the Airport and Airway Improvement Act (49 U.S.C. 47125).

(8) Obligations contained in property deeds for property transferred under the Surplus Property Act (49 U.S.C. 47151–47153).

(b) *Other agencies.* Where a grant assurance concerns a statute, executive order, regulation, or other authority that provides an administrative process for the investigation or adjudication of complaints by a Federal agency other than the FAA, persons shall use the administrative process established by those authorities. Where a grant assurance concerns a statute, executive order, regulation, or other authority that enables a Federal agency other than the FAA to investigate, adjudicate, and enforce compliance under those authorities on its own initiative, the FAA may defer to that Federal agency.

(c) *Other enforcement.* If a complaint or action initiated by the FAA involves a violation of the 49 U.S.C. subtitle VII or FAA regulations, except as specified in paragraphs (a)(1) and (a)(2) of this section, the FAA may take investigative and enforcement action under 14 CFR part 13, “Investigative and Enforcement Procedures.”

(d) *Effective date.* This part applies to a complaint filed with the FAA and to an investigation initiated by the FAA on or after December 16, 1996.

§ 16.3 Definitions.

Terms defined in the Acts are used as so defined. As used in this part:

Act means a statute listed in § 16.1 and any regulation, agreement, or document of conveyance issued or made under that statute.

Agency attorney means the Deputy Chief Counsel; the Assistant Chief

Counsel and attorneys in the Airports/Environmental Law Division of the Office of the Chief Counsel; the Assistant Chief Counsel and attorneys in an FAA region or center who represent the FAA during the investigation of a complaint or at a hearing on a complaint, and who prosecute on behalf of the FAA, as appropriate. An agency attorney shall not include the Chief Counsel; the Assistant Chief Counsel for Litigation, or any attorney on the staff of the Assistant Chief Counsel for Litigation, who advises the Associate Administrator regarding an initial decision of the hearing officer or any appeal to the Associate Administrator or who is supervised in that action by a person who provides such advice in an action covered by this part.

Agency employee means any employee of the U.S. Department of Transportation.

Associate Administrator means the Associate Administrator for Airports or a designee.

Complainant means the person submitting a complaint.

Complaint means a written document meeting the requirements of this part filed with the FAA by a person directly and substantially affected by anything allegedly done or omitted to be done by any person in contravention of any provision of any Act, as defined in this section, as to matters within the jurisdiction of the Administrator.

Director means the Director of the Office of Airport Safety and Standards.

Director’s determination means the initial determination made by the Director following an investigation, which is a non-final agency decision.

File means to submit written documents to the FAA for inclusion in the Part 16 Airport Proceedings Docket or to a hearing officer.

Final decision and order means a final agency decision that disposes of a complaint or determines a respondent’s compliance with any Act, as defined in this section, and directs appropriate action.

Hearing officer means an attorney designated by the FAA in a hearing order to serve as a hearing officer in a hearing under this part. The following are not designated as hearing officers: the Chief Counsel and Deputy Chief