

Federal Aviation Administration, DOT

§ 16.303

(1) Set forth the new issues or evidence;

(2) Contain affidavits of prospective witnesses, authenticated documents, or both, or an explanation of why such substantiation is unavailable; and

(3) Contain a statement explaining why such new matter could not have been discovered in the exercise of due diligence prior to the date on which the evidentiary record closed.

(g) A Final Agency Decision may be appealed in accordance with subpart G of this part.

[Amdt. 16-1, 78 FR 56147, Sept. 12, 2013]

Subpart G—Judicial Review

SOURCE: Docket No. 27783, 61 FR 54004, Oct. 16, 1996, unless otherwise noted. Redesignated by Amdt. 16-1, 78 FR 56148, Sept. 12, 2013.

§ 16.247 Judicial review of a final decision and order.

(a) A person may seek judicial review, in a United States Court of Appeals, of a final decision and order of the Associate Administrator, and of an order of dismissal with prejudice issued by the Director, as provided in 49 U.S.C. 46110 or 49 U.S.C. 47106(d) and 47111(d). A party seeking judicial review shall file a petition for review with the Court not later than 60 days after the order has been served on the party or within 60 days after the entry of an order under 49 U.S.C. 46110.

(b) The following do not constitute final decisions and orders subject to judicial review:

(1) An FAA decision to dismiss a complaint without prejudice, as set forth in § 16.27;

(2) A Director's Determination;

(3) An initial decision issued by a hearing officer at the conclusion of a hearing;

(4) A Director's Determination or an initial decision of a hearing officer becomes the final decision of the Associate Administrator because it was not appealed within the applicable time periods provided under §§ 16.33(c) and 16.241(b).

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996. Redesignated and amended by Amdt. 16-1, 78 FR 56148, Sept. 12, 2013]

Subpart H—Ex Parte Communications

SOURCE: Docket No. 27783, 61 FR 54004, Oct. 16, 1996, unless otherwise noted. Redesignated at 78 FR 56148, Sept. 12, 2013.

§ 16.301 Prohibited ex parte communications.

(a) The prohibitions of this section shall apply from the time a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply at the time of the acquisition of such knowledge.

(b) Except to the extent required for the disposition of ex parte matters as authorized by law:

(1) No interested person outside the FAA and no FAA employee participating as a party shall make or knowingly cause to be made to any decisional employee an ex parte communication relevant to the merits of the proceeding;

(2) No FAA employee shall make or knowingly cause to be made to any interested person outside the FAA an ex parte communication relevant to the merits of the proceeding; or

(3) Ex parte communications regarding solely matters of agency procedure or practice are not prohibited by this section.

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996. Redesignated at Amdt. 16-1, 78 FR 56148, Sept. 12, 2013]

§ 16.303 Procedures for handling ex parte communications.

A decisional employee who receives or who makes or knowingly causes to be made a communication prohibited by § 16.303 shall place in the public record of the proceeding:

(a) All such written communications;

(b) Memoranda stating the substance of all such oral communications; and

(c) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (a) and (b) of this section.

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996. Redesignated at Amdt. 16-1, 78 FR 56148, Sept. 12, 2013]