

§ 16.247

(2) For those violations that cannot be remedied through corrective action, the Director may initiate action to revoke and/or deny the respondent's applications for Airport Improvement Program grants issued under 49 U.S.C. 47114(c)–(e) and 47115.

(e) On appeal from a hearing officer's initial decision, the Associate Administrator will consider the following questions:

(1) Are the findings of fact each supported by a preponderance of reliable, probative and substantial evidence?

(2) Are conclusions made in accordance with law, precedent and policy?

(3) Are the questions on appeal substantial?

(4) Have any prejudicial errors occurred?

(f) Any new issues or evidence presented in an appeal or reply will not be allowed unless accompanied by a certified petition and good cause found as to why the new matter was not presented to the Director. Such a petition must:

(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

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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