

§ 16.25

(2) Include all documents then available in the exercise of reasonable diligence, to be offered in support of the complaint, and to be served 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) Except for complaints filed under 49 CFR 26.105(c), 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 respondent in writing within 20 days after the date the FAA receives the complaint that the complaint has been docketed.

(d) The respondent shall file an answer within 20 days of the date of service of the FAA notification or, if a motion is filed under §16.26, within 20 days of the date of service of an FAA order denying all or part of that motion.

(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) Amendments or supplements to the pleadings described in this section will not be allowed without showing good cause through a motion and supporting documents.

(k) *Burden of proof.* Except as used in subpart F of this part,

(1) The burden of proof is on the complainant to show noncompliance with

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an Act or any regulation, order, agreement or document of conveyance issued under the authority of an Act.

(2) Except as otherwise provided by statute or rule, the proponent of a motion, request, or order has the burden of proof.

(3) A party who has asserted an affirmative defense has the burden of proving the affirmative defense.

(1) Except for good cause shown through motion and supporting documents, discovery is not permitted except as provided in §§ 16.213 and 16.215.

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996, as amended at Amdt. 16–1, 78 FR 56143, Sept. 12, 2013]

§ 16.25 Dismissals.

(a) Within 20 days after the receipt of the complaint, unless a motion has been filed under §16.26, the Director will dismiss a complaint, or any claim made in a complaint, with prejudice if:

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

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

(3) The complainant lacks standing to file a complaint under §§16.3 and 16.23.

(b) A dismissal under this section will include the reasons for the dismissal.

[Amdt. 16–1, 78 FR 56144, Sept. 12, 2013]

§ 16.26 Motions to dismiss and motions for summary judgment.

(a) In lieu of an answer, the respondent may file a motion to dismiss the complaint or a motion for summary judgment on the complaint. The respondent may move for dismissal of the entire complaint or move for dismissal of particular issues from adjudication. The motion must be filed within 20 days after the date of service of the FAA notification of docketing.

(b) *Motions to dismiss.* (1) A motion to dismiss shall be accompanied by a concise statement of the reasons for seeking dismissal. The respondent must show that the complaint should be dismissed, with prejudice, if:

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