

June 29, 1967

applicability of the technical guidelines made mandatory by § 151.72 to an airport project, and to clarify § 151.7.

Since technical guidelines must be amended from time to time to keep them current with technological progress and the state of the art, it may happen that a substantial change is made in the standards while a project is pending before the FAA. The sponsor normally makes his basic decision on the technical and economic feasibility of a project on the basis of the technical guidelines in effect when he prepares the request, Form FAA-1623, as required by § 151.21 (a). It therefore appears that, normally, the standards should attach to the project as they are in effect on the date written on the notification to the sponsor of tentative allocation of funds under § 151.21(b), and this amendment so provides.

However, it may happen that an amendment to the technical guidelines becomes effective after that date, and that the public interest would be advanced by applying that amendment to the project. It is therefore provided herein that this may be done by agreement between the sponsor and the Administrator. This amendment also spells out the established interpretation that generally the standards of Subpart C applicable to a project are those in effect when the grant agreement is made. Changes corresponding to this amendment will be made in the FAA forms affected.

Section 151.7(a) provides that Federal-aid Airport grants are made only to sponsors who have met the requirements of any past agreements with the United States, and subparagraph (1) lists some such agreements by way of illustration. Conveyances under Regulation 16 of the War Assets Administration are being added to the list. The present wording of subparagraphs (2) and (3) could be misconstrued as providing procedural safeguards and excuses for noncompliance only in relation to the agreements listed in subparagraph (1). Subparagraphs (2) and (3) are therefore reworded to make them clearly applicable to all agreements covered by paragraph (a), whether listed or not.

Since these amendments relate to public grants and benefits and are clarifying in nature or make the regulation less burdensome to comply with, notice and public procedure thereon are not required and the amendments may be made effective immediately.

These amendments are made under the authority of sections 1-15 and 17-21 of the Federal Airports Act (49 U.S.C. 1101-1114, 1116-1120).

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations (14 CFR Part 151) is amended, effective June 28, 1967.

1. By amending subparagraphs (1) and (2) and the introductory paragraph of subparagraph (3) of § 151.7(a) to read as follows:

§ 151.7 Grant of funds: general policies.

(a) * * *

(1) Agreements with the United States to which this requirement of compliance applies include—

(i) Any grant agreement made under the Federal-Aid Airport Program;

(ii) Any covenant in a conveyance under section 16 of the Federal Airport Act;

(iii) Any covenant in a conveyance of surplus airport property either under section 13(g) of the Surplus Property Act (50 U.S.C. App. 1622(g)) or under Regulation 16 of the War Assets Administration; and

(iv) Any AP-4 agreement made under the terminated Development Landing Areas National Defense Program and the Development Civil Landing Areas Program.

This requirement does not apply to assurances required under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1) and § 15.7 of the Federal Aviation Regulations (14 CFR 15.7).

(2) If it appears that a sponsor has failed to comply with a requirement of an agreement with the United States with respect to an airport, the FAA notifies him of this fact and affords him an opportunity to submit materials to refute the allegation of noncompliance or to achieve compliance.

(3) If a project is otherwise eligible under the Federal-Aid Airport Program, a grant may be made to a sponsor who has not complied with an agreement if the sponsor shows—

2. By amending § 151.71 to read as follows:

§ 151.71 Applicability.

(a) This subpart prescribes programming and design and construction standards for projects under the Federal-Aid Airport Program to assure the most efficient use of Program funds and to assure that the most important elements of a national system of airports are provided.

(b) Except for the standards made mandatory by § 151.72(a), the standards prescribed in this subpart that apply to any particular project are those in effect on the date the sponsor accepts the Administrator's offer under § 151.29(c). The standards of § 151.72(a) applicable to a project are those in effect on the date written on the notification of tentative allocation of funds (§ 151.21(b)). Standards that become effective after that date may be applied to the project by agreement between the sponsor and the Administrator.

Issued in Washington, D.C., on June 21, 1967.

WILLIAM F. MCKEE,
Administrator.

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[Docket No. 8236; Amdt. 151-71]

PART 151—FEDERAL AID TO AIRPORTS

Critical Date for Applicability of Technical Guidelines; Compliance With Past Agreements

The purpose of this amendment is to specify the date that controls the ap-