

Repl. by 150-7A

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ADVISORY CIRCULAR

DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

SUBJECT: REQUIREMENT FOR PUBLIC HEARINGS IN THE AIRPORT DEVELOPMENT
AID PROGRAM

1. **PURPOSE.** This advisory circular provides guidance to sponsors of airport development projects under the Airport Development Aid Program (ADAP) on the necessity for and conduct of public hearings.
2. **REFERENCES.** Section 16(d), Airport and Airway Development Act of 1970 (P.L. 91-258).
3. **SCOPE.** This advisory circular is limited to providing guidance on meeting the statutory requirement for affording an opportunity for a public hearing with respect to certain projects for airport development. Other requirements to qualify a project for consideration for Federal aid are dealt with elsewhere, particularly in AC 150/5100-3A, Federal-aid Airport Program Procedures Guide for Sponsors.
4. **HOW TO GET THIS ADVISORY CIRCULAR.** Additional copies of this advisory circular may be obtained from the Department of Transportation, Distribution Unit, TAD-484.3, Washington, D. C. 20590.


CHESTER G. BOWERS
Director, Airports Service

Initiated by: AS-602

1. INTRODUCTION. A growing concern for sound and orderly economic and social development of the Nation and for protection and enhancement of the human and natural environments has caused a number of restraints and requirements to be imposed on programs and projects for airport development under the Airport and Airway Development Act of 1970 (P.L. 91-258). Among these is a requirement that the public be given an opportunity to express their views on proposed airport development which may have a significant impact on the community.
2. STATUTORY REQUIREMENT ON HEARINGS. Section 16(d) of the Act provides--
 - (1) No airport development project involving the location of an airport, an airport runway, or a runway extension may be approved by the Secretary unless the public agency sponsoring the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community.
 - (2) When hearings are held under paragraph (1) of this subsection, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.
3. ACTION REQUIRED. To comply with the requirement, the project sponsor--
 - a. Gives notice to the public of its intention to undertake the proposed airport development and that interested persons may request a public hearing to consider the economic, social, and environmental effects of the airport location.
 - b. Holds the hearing when one is requested.
 - c. Provides for a transcript of the hearing for submission to the Secretary when requested.
4. APPLICABILITY. The requirement applies to an airport development project that involves one or more of the following:
 - a. The location of an airport.
 - b. A new runway.
 - c. The extension of a runway.

- d. The acquisition of land for a new airport, new runway, or extension of a runway.

The requirement does not apply to a project for paving, strengthening, resurfacing or reconstruction of a runway the location of which has already been established on the airport. For example, where site preparation for a runway has been accomplished, a project for paving the same runway is not subject to the requirement since the runway location has already been determined. If, however, the proposed project involves a change in the location, extension, or realignment of an existing runway, the hearing requirement applies.

5. TIME OF HEARING.

- a. The Act does not specify at which stage in project formulation the opportunity for a hearing shall be afforded. It is obvious, however, that it should be at a time when there is still flexibility to respond to the views of those who are or may be affected by the proposed development. The FAA, therefore, requires the sponsor to afford the opportunity for a hearing, and conduct the hearing if one is requested, before submitting a request for aid for a project under the ADAP.
- b. In any event, the FAA does not act upon a request for aid unless and until the required actions are taken and the necessary certifications with respect thereto are submitted as explained hereinafter.
- c. The sponsor is required to meet the hearing requirements in those projects which involve development as described in paragraph 4 of this advisory circular. However, the sponsor may and is advised to hold public hearings in the early stages of project formulation. This is particularly true when the need for projects involving the location of an airport, an airport runway, or a runway extension are developed as part of a master plan effort under the Planning Grant Program. In this event, the sponsor is urged to hold public hearings at the time the master plan is presented to the public for adoption. If the opportunity for public hearings is afforded at this time, the need for public hearings at the time of application for development projects may be forestalled by the earlier public acceptance.

6. NOTICE OF OPPORTUNITY FOR PUBLIC HEARINGS.

- a. A project sponsor satisfies the requirements for a public hearing by publishing a notice of opportunity for a public hearing and

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holding a hearing if any written requests for such a hearing are received. The notice is published in a newspaper of general circulation in the vicinity of the airport location and in any newspaper having substantial circulation in the area, such as a local community paper.

- b. The notice includes a concise description of the airport development included in the proposed project and states that interested persons and agencies are afforded an opportunity for a public hearing for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of existing urban planning for the community.
- c. The notice specifies a deadline for submission of a request for a hearing not less than 14 days after the date of publication and states the manner in which the request may be made.
- d. If no requests are received in response to the notice within the time specified for submission of such requests, the project sponsor certifies that fact and submits the certification with proofs of publication of the notice to the FAA. These accompany the request for aid throughout FAA approval processes.

7. HEARING PROCEDURES.

a. Notice of Public Hearing.

- (1) When a public hearing is to be held, the project sponsor publishes a notice of that fact in the same newspaper in which the notice of opportunity for a hearing was published. The notice is published at least 14 days before the date set for the hearing.
- (2) The notice specifies the date, time, and place of the hearing and contains a concise description of the proposed project. The notice should also indicate where and at what times more detailed information concerning the proposed project may be obtained.
- (3) In addition to publishing the notice of hearing, the sponsor mails copies of the notice to all persons or agencies who requested the hearing or who have requested notice of the hearing, and to such Federal agencies, local public officials,

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advisory groups or agencies who, by nature of their function, interest, or responsibility, the sponsor knows or believes might be interested in or affected by the proposed project.

b. Conduct of Public Hearing.

- (1) The public hearing is held at a place and time generally convenient for persons affected by the proposed project, particularly those who have requested the hearing.
- (2) At the outset of the hearing, participants and attendees are informed that written statements and other exhibits in place of, or in addition to, oral statements at the hearing may be submitted. A final date for receipt of such statements or exhibits is specified.
- (3) Free and open discussion and presentation of views germane to the purpose of the hearing are allowed. Proceedings are informal, and presentations should not be subject to cross-examination, unless otherwise required by local law.
- (4) Proponents of the proposed project should present information and data supporting the project and show the efforts and planning proposed to minimize any adverse effects the project in the airport may have on the community, the alternatives considered, and the advantages and benefits expected from the airport development. In short, the hearing should not be limited to the presentation and consideration of only objections to the project.

c. Transcript of the Hearing.

- (1) The sponsor provides for the making of a verbatim transcript of the oral proceedings at the hearing. The transcript shall incorporate written statements, exhibits, and other pertinent matter used or filed in connection with the hearing.
- (2) A copy of the transcript of the hearing is sent to the Secretary upon request.
- (3) The transcript of the hearing may be used by the FAA to determine compliance with the requirements of the Airport and Airway Development Act of 1970 for public hearings and to assist in making the determinations required by Section 16(c) of the Act when a project is found to have adverse effect on the environment.

8. SUBJECT MATTER OF HEARINGS. The purpose of the hearing is to consider the social, economic, and environmental effects of the airport location and its consistency with local urban planning. "Social, economic, and environmental effects" mean the direct and indirect benefits or losses to the community as a result of the proposed development. These may include but are not limited to--
 - a. Safe and efficient air transportation.
 - b. Economic activity.
 - c. Public health and safety.
 - d. Property values.
 - e. The human and natural environment.
 - (1) Displacement of persons and replacement housing.
 - (2) Noise, air and water pollution.
 - (3) Neighborhood character and location.
 - (4) Aesthetics, parks, and recreation areas.
 - (5) Natural and historic landmarks.
 - (6) Conservation (erosion, sedimentation, wildlife, and general ecology of the area).
9. ELIGIBILITY OF HEARING COSTS. The costs of affording an opportunity for a hearing and/or conducting the hearing and making the transcript of the hearing are eligible for consideration as an allowable project cost.
10. FAA PARTICIPATION.
 - a. The provisions of the Airport and Airway Development Act, Section 4(f) of the Department of Transportation Act, and the National Environmental Policy Act require the Federal Aviation Administration (FAA) to consider and evaluate the effects the proposed project may have in many if not all of the areas that would be considered and discussed in the hearing. Therefore, to remain objective in its evaluation of such effects, the FAA will not present testimony or participate in the hearings except to

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clarify or supply technical information such as utilization of airspace, basis for FAA recommended airport development in the NASP and similar data not otherwise available to the public. FAA personnel may attend the hearings as observers to report on the validity of the hearings.

- b. The sponsor should utilize fully the expertise of its consultants and data such as surveys, statistics, projections, studies available from the FAA and other sources to support the proposed airport development.

11. SPONSOR CONCLUSIONS ON HEARINGS. Whether or not the sponsor is requested to submit a transcript of the hearing, the sponsor submits a summary of the issues raised at the hearings, the sponsor's conclusions thereon, and reasons supporting the conclusions. The summary is submitted with the sponsor's request for aid, or as soon as possible after submitting the request. The FAA does not act upon a request for aid which is subject to the hearing requirement until the sponsor has afforded an opportunity for a hearing, has held the hearing if one is requested, and submits the summary as above.