The New FAA Airport Compliance Manual

FAA Order 5190.6B & Small Airport Management Guide

Presented to: New England Region Winter Conference 2009
By: Kevin C. Willis, AAE
Date: December 9, 2009
New FAA Order 5190.6B

Overview: Objectives of New Order

- One stop shopping for compliance guidance, policy, and source documentation
- Guidance for FAA personnel, sponsors, and aeronautical users based on new law, policy, regulatory changes, precedent from Part 16 decisions, and compliance guidance materials
Overview Review: Objectives of New Order

- Consolidating guidance into single document (with larger appendix)
- Includes references to 39 current grant assurances (revisions through March 2005)
- Organized by topic in accordance with Grant Assurances
New FAA Order 5190.6B

- Cites new law, policies and regulations that did not exist in 1989:
  - *New* law and Policy on Airport Revenue (2/16/99)
  - *New* Part 16 Regulations (1996)
  - *New* Land Use Inspections (1999)
  - *New* ANCA and Part 161 Regulations (1990)
  - *New* Airport Privatization (FAA Reauth Act 1996)
  - *More* Part 13.1 Complaint Process Info
## New FAA Order 5190.6B

<table>
<thead>
<tr>
<th>Original Order</th>
<th>New Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 8 Chapters</td>
<td>• 23 Chapters</td>
</tr>
<tr>
<td>• 8 Items in Appendix</td>
<td>• 28 Items in Appendix</td>
</tr>
<tr>
<td>• Restrictive on line searches – “paper based”</td>
<td>• Appendix will be “e-based” (searchable) &amp; easier for on line users</td>
</tr>
<tr>
<td>• Limited references, not self-contained</td>
<td>• Improved guidance by referencing letters, documentation, graphs, pictures</td>
</tr>
<tr>
<td>• Sections are not topic oriented</td>
<td>• Sections are topic oriented and bundled</td>
</tr>
</tbody>
</table>
# New FAA Order 5190.6B

## Compliance Program Guidance

### Original Order
- Minimal compliance program guidance
- No procedural Part 13.1 guidance
- Part 16 didn’t exist
- Lacks precedential support

### New Order
- See Chapter 5
- Extensive Guidance
  - Differentiates Part 16 and Part 13.1 processes
  - Extensive Part 13.1 guidance
  - References precedent from Part 16 decisions
# New FAA Order 5190.6B

## Good Title and Rights & Powers

<table>
<thead>
<tr>
<th>Original Order</th>
<th>New Order</th>
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<tbody>
<tr>
<td>• Limited guidance on ownership interests and management responsibilities</td>
<td>• Chapters 6 &amp; 21</td>
</tr>
<tr>
<td>• Discussion limited to delegation of sponsor obligations and subordination of title</td>
<td>• Clear explanation of Grant Assurances 4 &amp; 5</td>
</tr>
<tr>
<td></td>
<td>• Expands on discussion of delegation of sponsor obligations within the context of airport management, property transfers, and airport privatization</td>
</tr>
<tr>
<td></td>
<td>• Discusses inter-related nature of grant assurances in one place</td>
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## New FAA Order 5190.6B

**Compatible Land Use, Airspace, & Inspections**

<table>
<thead>
<tr>
<th>Original Order</th>
<th>New Order</th>
</tr>
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<tbody>
<tr>
<td>• Minimal guidance on compatible land use</td>
<td>• Compatible Land Use &amp; Airspace Protections, See Chapter 20</td>
</tr>
<tr>
<td>• Limited to Part 77 protections</td>
<td>• Provides references to guidance documents and sample letters on noise, obstructions, and other incompatible land uses</td>
</tr>
<tr>
<td>• Lack of definitions</td>
<td>• Includes definitions</td>
</tr>
<tr>
<td>• Little guidance on incompatible residential use</td>
<td>• Residential on-airport hangar homes and through-the-fence residential airparks</td>
</tr>
</tbody>
</table>
New FAA Order 5190.6B
Compatible Land Use, Airspace, & Inspections

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<tr>
<th>Original Order</th>
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<tbody>
<tr>
<td>• Minimal guidance on Land Use Inspections criteria because the GAO report didn’t exist until 1999</td>
<td>• Compliance Inspections, See Chapter 21</td>
</tr>
<tr>
<td>• Lacks details and explanations for actual inspection process</td>
<td>• Explains authority and history for conducting land use inspections</td>
</tr>
<tr>
<td></td>
<td>• Step by step guidance with graphics and pictures</td>
</tr>
<tr>
<td></td>
<td>• Exhibit A and ALP inconsistencies</td>
</tr>
<tr>
<td></td>
<td>• Sample letters</td>
</tr>
</tbody>
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## New FAA Order 5190.6B

### Economic Nondiscrimination

<table>
<thead>
<tr>
<th>Original Order</th>
<th>New Order</th>
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<tbody>
<tr>
<td>• Presented only within context of exclusive rights and availability on fair and reasonable terms</td>
<td>• See Chapters 9, 10, 12, 13, 14 &amp; 18</td>
</tr>
<tr>
<td>• Abstract, theoretical approach</td>
<td>• Real discussion of Grant Assurance 22</td>
</tr>
<tr>
<td></td>
<td>• Discusses Grant Assurance 22 within context of similarly situated, Minimum Standards, leases, restrictions, and rates &amp; charges</td>
</tr>
</tbody>
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## New FAA Order 5190.6B

### Economic Nondiscrimination

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<tr>
<td>• Presented only within context of exclusive rights and availability on fair and reasonable terms</td>
<td>• Fair and Reasonable (rates &amp; charges) expanded</td>
</tr>
<tr>
<td>• Abstract, theoretical approach</td>
<td>• Availability of leased space</td>
</tr>
<tr>
<td></td>
<td>• Air carrier access</td>
</tr>
<tr>
<td></td>
<td>• Entire chapters on:</td>
</tr>
<tr>
<td></td>
<td>• Minimum Standards</td>
</tr>
<tr>
<td></td>
<td>• Lease agreements</td>
</tr>
<tr>
<td></td>
<td>• Noise Restrictions</td>
</tr>
<tr>
<td></td>
<td>• Safety &amp; Efficiency</td>
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## New FAA Order 5190.6B

### Rates & Charges and Revenue Use

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<tr>
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<tr>
<td>• Policies did not exist</td>
<td>• See Chapters 15, 16, 17, 18, &amp; 19</td>
</tr>
<tr>
<td>• Limited to:</td>
<td>• Includes full legislative history</td>
</tr>
<tr>
<td>• Context of nondiscrimination</td>
<td>• Expands context to include:</td>
</tr>
<tr>
<td>• NEUP/reverter with surplus property</td>
<td>• Defines airport revenue</td>
</tr>
<tr>
<td>• Failed to reflect evolution of FAA’s involvement in assessing management agreements and leases</td>
<td>• Permitted and prohibited uses</td>
</tr>
<tr>
<td></td>
<td>• Ground access projects</td>
</tr>
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</table>

Original Order and New Order:

- **Original Order**
  - Rates & Charges and Revenue Use
  - Policies did not exist
  - Limited to:
    - Context of nondiscrimination
    - NEUP/reverter with surplus property
    - Failed to reflect evolution of FAA’s involvement in assessing management agreements and leases

- **New Order**
  - See Chapters 15, 16, 17, 18, & 19
  - Includes full legislative history
  - Expands context to include:
    - Defines airport revenue
    - Permitted and prohibited uses
    - Ground access projects
## New FAA Order 5190.6B

### Rates & Charges and Revenue Use

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<tr>
<td>• No discussion of financial reports</td>
<td>• Entire Chapters on:</td>
</tr>
<tr>
<td>• Does not address rate-making methodologies beyond rates and charges</td>
<td>• Revenue Diversion (consolidated)</td>
</tr>
<tr>
<td></td>
<td>• Resolving Revenue Diversion</td>
</tr>
<tr>
<td></td>
<td>• Self-sustainability</td>
</tr>
<tr>
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<td>• Financial Reporting</td>
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### Exclusive Rights

<table>
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<tbody>
<tr>
<td>• Under Chapter 3</td>
<td>• See Chapters 8, 11, &amp; 12</td>
</tr>
<tr>
<td>• Limited to:</td>
<td>• Chapter 8 has 14 pages fully devoted to this topic that adds:</td>
</tr>
<tr>
<td>• Background</td>
<td>• Specifically outlines remedies</td>
</tr>
<tr>
<td>• Policy</td>
<td>• Identifies its linkage to #22</td>
</tr>
<tr>
<td>• Qualifications and Standards</td>
<td>• Examples of how to identify Exclusive Rights terms and context in leases</td>
</tr>
<tr>
<td><em>(Total of 5 pages)</em></td>
<td>• Samples we’ve used</td>
</tr>
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FAA Order 5190.6B and Small Airport Management Guide
Wednesday, December 9, 2009
# New FAA Order 5190.6B

## Exclusive Rights

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<tr>
<td>• Limited to (cont’d):</td>
<td>• Chap. 11 Self Service adds:</td>
</tr>
<tr>
<td>• Single service provider</td>
<td>• Citations to Orders</td>
</tr>
<tr>
<td>• Self-service v. proprietary exclusive</td>
<td>• Exclusive Rights restrictions based on precedent</td>
</tr>
<tr>
<td>• General guidance on lease agreements</td>
<td>• New Fractional Ownership info</td>
</tr>
<tr>
<td></td>
<td>• Chap. 12 Lease Agreements adds:</td>
</tr>
<tr>
<td></td>
<td>• TTF</td>
</tr>
<tr>
<td></td>
<td>• Reasonable access</td>
</tr>
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</table>
New FAA Order 5190.6B
Where can I find a copy?

http://www.faa.gov/airports

What else can I find there?

• Link to FAA Part 16 Decisions Database
• Airport Financial Reporting System (CATS)
• Links to 150 series (airports) Advisory Circulars
• Grant Assurances (Sponsor, Noise & Planning)
ACRP: Small Airport Mgmt Guide

Project: DA0101

Research Goal:

*Develop an easy to use guidebook for managing small airports that identifies best practices to achieve safe and efficient operation while maintaining compliance with regulatory requirements and federal obligations.*
ACRP: Small Airport Mgmt Guide

Project Objectives: WHY?

• Resources at small airports is limited due to budget and personnel constraints

• Need a one stop shop for current and comprehensive guidance/advice on a wide array of management issues, such as:
  • Taxes
  • Employment
  • Revenue accountability
  • Capital funding

  • Law enforcement
  • Contracting
  • Real estate
  • Capital funding
  • Environmental protection
ACRP: Small Airport Mgmt Guide

Project Objectives: WHAT?

- Geared for owners, operators, managers, and policy makers of small airports
- To help them:
  1) Identify fundamental management principles;
  2) Identify best practices for effective use and management of resources and facilities; and
  3) Communicate their needs and strategies effectively to decision makers and regulators.
ACRP: Small Airport Mgmt Guide

Project Objectives: FINDINGS

• Focused on:
  • airport finance
  • operations
  • planning and development
  • public relations
  • issues relating to commercial service
  • emerging trends and their impact
  • airport education and training
ACRP: Small Airport Mgmt Guide

Project Objectives: FINDINGS

- **Finance** addresses the airports obligations in areas such as:
  - Revenue Generation
  - Leases
  - Minimum Standards
  - Flying Clubs
  - Rates and Charges
  - Funding (local, state, and federal)
ACRP: Small Airport Mgmt Guide

Project Objectives: FINDINGS

• **Operations** addresses the airports obligations in areas such as:
  • Safety
  • Maintenance
  • Security
  • Emergency preparedness
ACRP: Small Airport Mgmt Guide

Project Objectives: FINDINGS

• Planning & development addresses the airports obligations in areas such as:
  • National and State transportation plans
  • Zoning
  • Construction standards
  • Environmental concerns
  • Part 77
ACRP: Small Airport Mgmt Guide

Project Objectives: FINDINGS

• Public Relations addresses the airports obligations in areas such as:
  • Marketing and advertising
  • Community and Media relations
  • Events and activities for the public
ACRP: Small Airport Mgmt Guide

Project Objectives: FINDINGS

- **Commercial Service** addresses the airports obligations in areas such as:
  - FAA Part 139 requirements
  - Master planning issues
  - EAS
  - Airline agreements
ACRP: Small Airport Mgmt Guide

Project Objectives: FINDINGS

- **Airport Education and Training** addresses the airports obligations in areas such as:
  - Management, staff, and contractors training programs
  - Educating local officials (i.e. sponsor is a county, educating county Board)
  - How to show your airport’s strengths and correct weaknesses through benchmarking
ACRP: Small Airport Mgmt Guide

Where can I find a copy?

http://www.trb.org/Publications/Public/Blurbs/Guidebook_for_Managing_Small_Airports_162145.aspx

TRB and ACRP Projects

• Visit: www.trb.org/acrp
• Learn about upcoming projects
• Learn how to submit ideas, nominate yourself/others
• Get copies of all completed projects
Airport Compliance Program

COMMENTS?
WWW.REGULATIONS.GOV
FAA DOCKET 2009-0924
QUESTIONS?

Kevin.Willis@faa.gov