



# Advisory Circular

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**Subject:** Minimum Standards for Commercial  
Aeronautical Activities

**Date:** 12/7/2023

**AC No:** 150/5190-8

**Initiated By:** ACO-100

**Change:**

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1 **Purpose.**

This advisory circular (AC) provides basic information pertaining to the Federal Aviation Administration's (FAA's) recommendations on commercial minimum standards and related policies. Although minimum standards are optional, the FAA highly recommends their use and implementation as a means to minimize the potential for violations of Federal obligations at federally obligated airports.

2 **Cancellation.**

This AC cancels AC 150/5190-7, *Exclusive Rights and Minimum Standards for Commercial Aeronautical Activities* (Change 1), dated August 28, 2006.

3 **Background.**

In accordance with the Airport and Airway Improvement Act of 1982, 49 United States Code (U.S.C.) § 47101, *et seq.*, and the Airport Improvement Program Sponsor Assurances, the owner or operator of any airport (airport sponsor) that has been developed or improved with Federal grant assistance or conveyances of Federal property assistance is required to operate the airport for the use and benefit of the public and to make it available for all types, kinds, and classes of aeronautical activity.<sup>1</sup> The Surplus Property Act of 1944 (as amended by 49 U.S.C., §§ 47151-47153) contains a parallel obligation under its terms for the conveyance of Federal property for airport purposes. Similar obligations exist for airports that have received nonsurplus government property under 49 U.S.C. § 47125 and previous corresponding statutes.

These Federal obligations involve several distinct requirements. Most important is that the airport and its facilities must be available for public use as an airport. The terms imposed on those who use the airport and its services must be reasonable and applied without unjust discrimination, whether by the airport sponsor or by a contractor or

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<sup>1</sup> The legislative background for the provisions discussed in this AC began as early as 1938 and evolved under the Federal Aid to Airports Program (FAAP), Airport Development Aid Program (ADAP), and Airport Improvement Program (AIP).

licensee who has been granted a right by the airport sponsor to offer services or commodities normally required to serve aeronautical users of the airport.

Federal law requires that recipients of Federal grants (administered by the FAA) sign a grant agreement or covenant in a conveyance of property that sets out the obligations that an airport sponsor assumes in exchange for Federal assistance. The FAA's policy recommending minimum standards stems from the airport sponsor's grant assurances and similar property conveyance obligations to make the airport available for public use on reasonable conditions and without unjust discrimination.

#### 4 **Use of this AC.**

This AC addresses FAA's policy on minimum standards and provides guidance on developing effective minimum standards. This AC describes the sponsor's prerogative to establish minimum standards for commercial aeronautical service providers at federally obligated airports. Additionally, this AC provides guidance for self-service operations and self-service rules and regulation of other aeronautical activities. It does not address requirements imposed on nonaeronautical entities, which are usually addressed as part of the airport's contracts, leases, rules and regulations, and/or local laws. The FAA does not approve minimum standards. However, the FAA airports district and regional offices will review proposed minimum standards at the request of an airport sponsor. The FAA regional and district offices may advise airport sponsors on the appropriateness of proposed standards to ensure the standards do not place the airport in a position inconsistent with its Federal obligations.

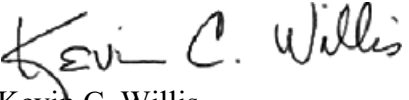
#### 5 **Related Reading Materials.**

Changes are marked with vertical bars in the margin. The AC incorporates the following principal changes:

1. *FAA Airport Compliance Manual*, [FAA Airport Compliance Manual - Order 5190.6B - Change 3](#).
2. Further information can be obtained at the Regional/ADO Office in your area. A listing of ADOs can be found at <https://www.faa.gov/airports/regions>.

#### 6 **Feedback on this AC.**

If you have suggestions for improving this AC, you may use the Advisory Circular Feedback form at the end of this AC.

  
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## CHAPTER 1. MINIMUM STANDARDS

### 1.1 **Policy.**

1.1.1 The airport sponsor of a federally obligated airport agrees to make available the opportunity to engage in commercial aeronautical activities by persons, firms, or corporations that meet reasonable minimum standards established by the airport sponsor. The airport sponsor's purpose in imposing standards is to ensure a safe, efficient and adequate level of operation and services is offered to the public. Such standards must be reasonable and not unjustly discriminatory. In exchange for the opportunity to engage in a commercial aeronautical activity, an aeronautical service provider engaged in an aeronautical activity agrees to comply with the minimum standards developed by the airport sponsor. Compliance with the airport's minimum standards should be made part of an aeronautical service provider's lease agreement with the airport sponsor.

1.1.2 The FAA suggests that airport sponsors establish reasonable minimum standards that are relevant to the proposed aeronautical activity with the goal of protecting the level and quality of services offered to the public. Once the airport sponsor has established minimum standards, it should apply them objectively and uniformly to all similarly situated on-airport aeronautical service providers. The failure to do so may result in a violation of the prohibition against exclusive rights and/or a finding of unjust economic discrimination for imposing unreasonable terms and conditions for airport use.

### 1.2 **Developing Minimum Standards.**

#### 1.2.1 Objective.

The FAA objective in recommending the development of minimum standards serves to promote safety in all airport activities, protect airport users from unlicensed and unauthorized products and services, maintain and enhance the availability of adequate services for all airport users, promote the orderly development of airport land, and ensure efficiency of operations. Therefore, airport sponsors should strive to develop minimum standards that are fair and reasonable to all on-airport aeronautical service providers and relevant to the aeronautical activity to which it is applied. Any use of minimum standards to protect the interests of an exclusive business operation may be interpreted as the grant of an exclusive right and a potential violation of the airport sponsor's grant assurances and the FAA's policy on exclusive rights.

#### 1.2.2 Authority Vested in Airport Sponsors.

1.2.2.1 Grant Assurance 22 *Economic Nondiscrimination* Sections (h) and (i) (see 49 U.S.C. § 47107) provides that the sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport. The sponsor may prohibit or limit any given type, kind or

class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

1.2.2.2 Under certain circumstances, an airport sponsor could deny airport users the opportunity to conduct aeronautical activities at the airport for reasons of safety and efficiency.<sup>2</sup> A denial based on safety must be based on evidence demonstrating that safety will be compromised if the applicant is allowed to engage in the proposed aeronautical activity. Airport sponsors should carefully scrutinize the safety reasons for denying an aeronautical service provider the opportunity to engage in an aeronautical activity if the denial has the possible effect of limiting competition.

1.2.2.3 The FAA is the final authority in determining what, in fact, constitutes a compromise of safety. As such, an airport sponsor that is contemplating the denial of a proposed on-airport aeronautical activity is encouraged to contact the local Airports District Office (ADO) or the Regional Airports Office before taking action. Those offices will then seek assistance from FAA Flight Standards (FS) and Air Traffic (AT) to assess the reasonableness and whether unjust discrimination results from the proposed restrictions on aeronautical activities based on safety and efficiency.

### 1.2.3 Developing Minimum Standards.

When developing minimum standards, the most critical consideration is the particular nature of the aeronautical activity and operating environment at the airport. Minimum standards should be tailored to the specific aeronautical activity and the airport to which they are to be applied. For example, it would be unreasonable to apply the minimum standards for a fixed-base operator (FBO) at a medium or large hub airport to a general aviation airport serving primarily piston-powered aircraft. The imposition of unreasonable requirements illustrates why “fill-in-the-blank” minimum standards and the blanket adoption of standards of other airports may not be effective. Instead, in Section 2 of this document, the FAA has provided guidance in the form of questions and examples to illustrate an approach to the development and implementation of minimum standards. It is important that the reader understand that what follows does not constitute a complete model for minimum standards, but rather a source of ideas to which the airport sponsor can turn when developing minimum standards.

### 1.2.4 Sponsor Prerogative to Establish Minimum Standards.

When the airport sponsor imposes reasonable and not unjustly discriminatory minimum standards for airport operations through the use of reasonable minimum standards, the FAA generally will not find the airport sponsor in violation of the Federal obligations.

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<sup>2</sup> The word efficiency refers to the efficient use of navigable airspace, which is an Air Traffic Control function. It is not meant to be an interpretation that could be construed as protecting the “efficient” operation of an existing aeronautical service provider at the airport.

Considerations for applying those standards may include, but are not limited to, the following:

1. Apply standards to all providers of aeronautical services, from full service FBOs to single service providers;
2. Impose conditions that ensure safe and efficient operation of the airport in accordance with FAA rules, regulations, and guidance;
3. Ensure standards are reasonable, not unjustly discriminatory, attainable, uniformly applied and reasonably protect the investment of providers of aeronautical services to meet minimum standards from competition not making a similar investment;
4. Ensure standards are relevant to the activity to which they apply; and
5. Ensure standards provide the opportunity for newcomers who meet the minimum standards to offer their aeronautical services within the market demand for such services.

**Note:** There is no requirement for inclusion of nonaeronautical activities (such as a restaurant, parking, car rental concession, or airline passenger bus service) in minimum standards since those activities are not covered under the grant assurances or covenants in conveyance of Federal property.

#### 1.2.5 Practical Considerations.

Many airport sponsors include minimum standards in their lease agreements with aeronautical service providers. While minimum standards implemented in this manner can be effective, they also render the airport sponsor vulnerable to the challenges of prospective aeronautical service providers on the grounds that the minimum standards are not objective. The FAA encourages airport sponsors to publish their minimum standards periodically. Minimum standards can be amended periodically over time; however, a constant juggling of minimum standards is not encouraged. Notifying aeronautical service providers that the changes to minimum standards are to improve the quality of the aeronautical service offered to the public can facilitate earlier acceptance of changes. An airport sponsor can provide for periodic reviews of the minimum standards to ensure that the standards continue to be reasonable. To foster a more receptive environment, the FAA encourages airport sponsors to include aeronautical users in the process leading to changes in minimum standards.

#### 1.2.6 Factors to Consider.

Numerous factors can and should be considered when developing minimum standards. Airport sponsors may avoid unreasonable standards by selecting factors that accurately reflect the nature of the aeronautical activity under consideration. It is impossible for the FAA to present every possible factor necessary for a task, mostly because of the vast differences that exist between individual airports. Obvious factors one should consider are:

1. What type of airport is at issue? Is it a large airport or a small rural airport? Will the airport provide service to only small general aviation aircraft or will it serve high performance aircraft and air taxi operators as well?

2. What types of aeronautical activities will be conducted on the airport?
3. How much space will be required for each type of aeronautical activity that may prospectively operate at the airport?
4. What type of documentation will business applicants be required to present as evidence of financial stability and good credit?
5. To what extent will each type of aeronautical activity be required to demonstrate compliance with sanitation, health, and safety codes?
6. What requirements will be imposed regarding minimum insurance coverage and indemnity provisions?
7. Is each minimum standard relevant to the aeronautical activity for which it is to be applied?

#### 1.2.7 New Versus Existing Aeronautical Service Providers.

Airport sponsors are encouraged to develop minimum standards for new aeronautical business ventures it desires to attract to the airport. Minimum standards may be part of a competitive solicitation to encourage prospective service providers to be more responsive in their proposals. Minimum standards can be modified to reflect the airport's experience and to be watchful for new opportunities (i.e., such as Specialized Aviation Service Operations (SASOs)). Minimum standards should be updated to reflect current conditions that exist at the airport and not those that existed in the past. In any case, once an airport sponsor receives a proposal for a new aeronautical business, it must ascertain whether the existing minimum standards can be used for the new business or new minimum standards should be developed to better fit the new business venture. However, in all cases, the airport sponsor must ensure that in changing minimum standards for whatever reason, it is not applying unreasonable standards or creating a situation that will unjustly discriminate against other similarly situated aeronautical service providers. The FAA stands by the principle that once minimum standards have been established, airport sponsors must uniformly apply them to all similarly situated aeronautical service providers. Some points of consideration are as follows:

1. Can new minimum standards be designed to address the needs of both existing and future aeronautical business? If not, can a tiered set of minimum standards be developed to address the same type of aeronautical activity but differ significantly in scale and investment (i.e., an FBO building large hangars and serving high performance aircraft and a second FBO building and only T-hangars and serving only smaller general aviation aircraft)?
2. Was the minimum standard created under a lease agreement (with a specific aeronautical service provider) so the subject standard may not be reasonable if applied to other aeronautical service providers?
3. Has conformance to the minimum standards been made a part of the contract between the aeronautical service provider and the airport sponsor?

4. Has the financial performance of the airport improved or declined since the time the minimum standards were implemented?

### 1.3 **Minimum Standards Apply by Activity.**

Difficulties can arise if the airport sponsor requires that all businesses comply with all provisions of the published minimum standards. An airport sponsor should develop reasonable, relevant, and applicable standards for each type and class of service.

#### 1.3.1 Specialized Aviation Service Operations.

When specialized aviation service operations (SASOs), sometimes known as single-service providers or special FBOs, apply to do business on an airport, “all” provisions of the published minimum standards may not apply. This is not to say that all SASOs providing the same or similar services should not equally comply with all applicable minimum standards. However, an airport should not, without adequate justification, require that a service provider desiring to provide a single service or less than full service also meet the criteria for a full-service FBO. Examples of these specialized services may include aircraft flying clubs, flight training, aircraft airframe and powerplant repair/maintenance, aircraft charter, air taxi or air ambulance, aircraft sales, avionics, instrument or propeller services, or other specialized commercial flight support businesses. Airport sponsors generally do not allow fuel sales alone as a SASO, but usually require that fuel sales be bundled with other services.

#### 1.3.2 Independent Operators.

If individual operators are to be allowed to perform a single-service aeronautical activity on the airport (aircraft washing, maintenance, etc.), the airport sponsor should have a licensing or permitting process in place that provides a level of regulation and compensation satisfactory to the airport. Frequently, a yearly fee or percentage of the gross receipts fee is a satisfactory way of monitoring this type of operation.

#### 1.3.3 Self-Fueling and Other Self-Service Activities.

1.3.3.1 Since self-service operations performed by the owner or operator of the aircraft using his or her own employees and equipment are not commercial activities, the FAA recommends that airport sponsor requirements concerning those noncommercial activities be separate from the document designed to address commercial activities. Airport rules and regulations or specific language in leases can better address requirements concerning self-service operations and other airport activities.

1.3.3.2 Self-fueling means the fueling or servicing of an aircraft (i.e., changing the oil, washing) by the owner of the aircraft with his or her own employees and using his or her own equipment. Self-fueling and other self-services cannot be contracted out to another party. Self-fueling implies using fuel obtained by the aircraft owner from the source of his/her preference. As one of many self-service activities that can be conducted by the aircraft owner or operator by his or her own employees using his or her own



equipment, self-fueling, differs from using a self-service fueling pump made available by the airport, an FBO or an aeronautical service provider. The use of a self-service fueling pump is a commercial activity and is not considered self-fueling as defined herein.

- 1.3.3.3 In addition to self-fueling, other self-service activities that can be performed by the aircraft owner with his or her own employees includes activities such as maintaining, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner. Title 14 Code of Federal Regulations (CFR) Part 43 permits the holder of a pilot certificate to perform specific types of preventative maintenance on any aircraft owned or operated by the pilot.

#### 1.4 **Through-the-Fence Operator.**

The owner of an airport may, at times, enter into an agreement (i.e., access agreement or lease agreement) that permits access to the public landing area by independent operators offering an aeronautical activity or to non-commercial, residential owners of aircraft based on land adjacent to, but not a part of, the airport property. However, a through-the-fence operation could undermine an airport's minimum standards unless the airport sponsor is careful to apply its minimum standards through an airport access agreement, including conditions to protect the airport's ability to meet all of its Federal obligations.

##### 1.4.1 No Obligation to Permit Through-the-Fence.

- 1.4.1.1 The obligation to make an airport available for the use and benefit of the public does not require the airport sponsor to permit ground access by aircraft from adjacent property. Through-the-fence arrangements can place an encumbrance upon the airport property and reduce the airport's ability to meet its Federal obligations. As a general principal the FAA does not support agreements that grant access to the public landing area by aircraft stored and serviced off-site on adjacent property.

- 1.4.1.2 In some cases, however, the airport sponsor may opt to grant through-the-fence access, but it should do so on a case-by-case basis and only when the airport retains its ability to meet its Federal obligations. To minimize the possibility of conflict between a through-the-fence agreement and the airports' ability to meet its Federal obligations, the airport sponsor must retain the legal right to require the off-site property owner or party granted access to the airport to conform in all respects to the requirements of any existing or proposed grant agreement or Federal property conveyance obligation. This includes requirements to ensure operating safety and equitable compensation for use of the airport. Special safety and operational requirements should be incorporated into any access agreement to ensure that the through-the-fence access does not complicate

the control of vehicular and aircraft traffic or compromise the security of the airfield operations area.

- 1.4.1.3 Proposed new agreements granting access to a public landing area from off-site locations must be reported to the FAA Regional Airports Division with a full statement of the circumstances and a copy of the proposed through-the-fence or access agreement and proposed Airport Layout Plan (ALP) so the FAA can review it for consistency with the airport sponsor's Federal obligations.

#### 1.4.2 Access Agreement.

- 1.4.2.1 Any through-the-fence access should be subject to a written agreement between the airport sponsor and the party granted access. The access agreement should specify what specific rights of access are granted; payment provisions that provide, at a minimum, parity with similarly situated on-airport tenants and equitable compensation for the use of the airport; expiration date; default and termination provisions; insurance and indemnity provisions; escalation clauses; and a clear statement that the access agreement is subordinate to the grant assurances and/or Federal property conveyance obligations and that the sponsor shall have the express right to amend or terminate the access agreement to ensure continued compliance with all grant assurances and Federal property conveyance obligations.
- 1.4.2.2 The access agreement should have a fixed contract period and the airport sponsor is under no obligation to accept a proposed assignment or sale of the access agreement by one party to another. It is encouraged that airport sponsors expressly prohibit the sale or assignment of its access agreement.

#### 1.5 **Reserved.**

## CHAPTER 2. GUIDANCE ON DEVELOPING MINIMUM STANDARDS

### 2.1 Sample Questions.

As a guide for the airport sponsor, the following series of questions are provided to address some of the various types of specific services or activities frequently offered to the public.

#### 2.1.1 Fuel Sales.

The on-airport sale of fuel and oil requires numerous considerations that include, but are not limited to, the physical requirements for a safe and environmentally sound operation. Some recommended considerations are listed below:

1. Where on the airport will the fuel tanks be installed? Who will control access to the fueling site? What parties will be granted access to the site to receive fueling services?
2. Will fuel tanks be installed above or below ground? Will fuel trucks be utilized to fuel remotely parked aircraft?
3. Will the fueling operator have sufficient fuel capacity and types of fuel to accommodate the mix of aircraft using the airport?
4. How many days' supply of fuel will be available on airport? Are provisions to resupply the on-airport fuel tanks sufficient to ensure a continuous fuel supply?
5. Will the fueling operator have suitable liability insurance and indemnify the airport sponsor for liability for its fueling operation, including fuel spills and environmental contamination?

#### 2.1.2 Personnel Requirements.

An aeronautical service provider's need for personnel will be dictated by the size of the airport and the public demand for aeronautical services. In all instances, an airport sponsor will be well advised to ensure that aeronautical service providers have sufficient personnel to run their operation safely and meet aeronautical demand for the services in question. Naturally, the personnel requirements will vary with the specific aeronautical service being offered.

1. How many fully trained and qualified personnel will be available each day and over what hours to provide aeronautical services? Will this reasonably meet the demand by aeronautical users?
2. Describe the training and qualifications of personnel engaged in the services provided to aeronautical users.

#### 2.1.3 Airport and Passenger Services.

This is a necessary consideration in those instances where the airport has aeronautical service providers engaged in handling services for air carrier and/or cargo carriers that do not provide their own support personnel on-site:

1. Provide a list of the equipment and services (both above and below wing) that will be provided by the aeronautical service provider, including ground power units, overnight parking areas, towing equipment, starters, remote tie-down areas, jacks, oxygen, compressed air, tire repair, sanitary lavatory service, ticketing and passenger check-in services, office and baggage handling services and storage space.
2. What provisions have been made regarding passenger conveniences and services?
  - a. Access to passenger loading bridges/steps, sanitary restrooms, boarding hold rooms, telephones, food and beverage service, and other passenger concessions.
  - b. Access to concession and ground transportation services for the benefit of passengers and/or crewmembers.

#### 2.1.4 Flight Training Activities.

On-airport flight training can be provided by the airport sponsor/owner or by a service provider. The minimum standards imposed on flight instruction operations should take the following information into consideration:

1. What type of flight training will the service provider offer?
2. What arrangements have been made for the office space the school is required to maintain under 14 CFR 141.25? What is the minimum amount of classroom space that the service provider must obtain?
3. Will flight training be provided on a full-time or part-time basis?
4. What type of aircraft and how many will be available for training at the on-airport location?
5. What provisions have been made for the storage and maintenance of the aircraft?
6. What provisions will be made for rest rooms, briefing rooms, and food service?
7. What coordination and contacts exist with the local Flight Standards District Office?

#### 2.1.5 Aircraft Engine/Accessory Repair and Maintenance.

The applicant for an on-airport repair station is subject to several regulatory requirements under 14 CFR Part 145, *Repair Stations*. Depending on the type and size of the proposed repair station, the following questions may provide helpful guidelines:

1. What qualifications will be required of the repair station employees? Typically, the holder of a domestic repair station certificate must provide adequate personnel who can perform, supervise, and inspect the work for which the station is rated.
2. What repair station ratings does the applicant hold?
3. What types of services will the repair station offer to the public? These services can vary from repair to maintenance of aircraft and include painting, upholstery, etc.
4. Can the applicant secure sufficient airport space to provide facilities so work being done is protected from weather elements, dust, and heat? The amount of space

required will be directly related to the largest item or aircraft to be serviced under the operator's rating.

5. Will suitable shop space exist to provide a place for machine tools and equipment in sufficient proximity to where the work is performed?
6. What amount of space will be necessary for the storage of standard parts, spare parts, raw materials, etc.?
7. What type of lighting and ventilation will the work areas have? Will the ventilation be adequate to protect the health and efficiency of the workers?
8. If spray painting, cleaning, or machining is performed, has sufficient distance between the operations performed and the testing operations been provided to prevent adverse effects on testing equipment?

#### 2.1.6 Skydiving.

Skydiving is an aeronautical activity. Any restriction, limitation, or ban on skydiving on the airport must be based on the grant assurance that provides that the airport sponsor may prohibit or limit aeronautical use for the safe operation of the airport (subject to FAA approval). The following questions present reasonable factors the sponsor might contemplate when developing minimum standards that apply to skydiving:

1. Will this activity present or create a safety hazard to the normal operations of aircraft arriving or departing from the airport? If so, has the local Airports District Office (ADO) or the Regional Airports Office been contacted and have those FAA offices sought the assistance from FAA Flight Standards (FS) and Air Traffic (AT) to assess whether safe airport operations would be jeopardized?
2. Can skydiving operations be safely accommodated at the airport? Can a drop zone be safely established within the boundaries of the airport? Is guidance in the current version of FAA AC 90-66, *Non-Towered Airport Flight Operations*; 14 CFR Part 105; and United States Parachute Association's (USPA) *Basic Safety Requirements* being followed?
3. What reasonable time periods can be designated for jumping in a manner consistent with Part 105? What experience requirements are needed for an on-airport drop zone?
4. What is a reasonable fee that the jumpers and/or their organizations can pay for the privilege of using airport property?
5. Has the relevant air traffic control facility been advised of the proposed parachute operation? Does the air traffic control facility have concerns about the efficiency and utility of the airport and its related instrument procedures?
6. Will it be necessary to determine the impact of the proposed activity on the efficiency and utility of the airport, related instrument approaches or nearby Instrument Flight Rules (IFR)? If so, has FAA Air Traffic reviewed the matter and issued a finding?

### 2.1.7 Ultralight Vehicles and Light Sport Aviation.

The operation of ultralights and light sport aircraft are aeronautical activities and must, therefore, be generally accommodated on airports that have been developed with Federal airport development assistance. Airport sponsors are encouraged to consider some of the following questions:

1. Can ultralight aircraft be safely accommodated at the airport? Is guidance in the current version of FAA AC 90-66, *Non-Towered Airport Flight Operations*, and 14 CFR Part 103 being followed?
2. Can all types of Light Sport aircraft be safely accommodated at the airport?
3. Will this activity present or create a safety hazard to the normal operations of aircraft arriving or departing from the airport? If so, has FAA Flight Standards reviewed the matter and issued a finding?
4. Will an FAA airspace study be necessary to determine the efficiency and utility of the airport when considering the proposed activity? If so, has FAA Air Traffic reviewed the matter and issued a finding?

### 2.1.8 Fractional Aircraft Ownership.

Fractional ownership programs are subject to an FAA oversight program similar to that provided to air carriers, with the exception of en-route inspections. The FAA has for a long time and under certain circumstances, interpreted an aircraft owner's right to self-service to include operators. For example, a significant number of aircraft operated by airlines are not owned but leased under terms that give the operator airline owner-like powers. The same is true for other aeronautical operators such as charter companies, flight schools, and flying clubs, which may not hold title to the aircraft, but through leasing arrangements, for example, retain full and exclusive control of the aircraft for long periods of time. The same is true of 14 CFR Part 91 Subpart K. Fractional ownership companies are subject to operational control responsibilities, maintenance requirements, and safety requirements not unlike 14 CFR Part 135 operators. For additional information on fractional ownership, contact your local Flight Standards District Office.

### 2.1.9 Illegal Aircraft Charters.

The FAA broadly recognizes "illegal air charter" as an unauthorized air charter operation that is not authorized to operate under the applicable Federal Aviation Regulations. Illegal charters operate without meeting the safety requirements of a FAA certificated air carrier. These include aircraft owners that, in order to generate revenue, allow the use of their aircraft temporarily for charters or by management companies as a loaner without meeting the FAA requirements. An illegal air charter also might include fraudulent flight instruction or aircraft demonstration flights.

1. Airport sponsors should incorporate recommended language in their minimum standards and tenant leases, and airport rules and regulations that prohibit illegal commercial aeronautical activities such as illegal charter operations. Recommended language include provisions, such as:
  - a. Require all users to abide with all Federal Aviation Regulations and requirements while operating at the airport.

- b. Require tenants to provide listing of aircraft used for commercial activities and their owners.
  - c. Require copies of the current FAA-issued Air Operating Certificate, if the tenant is a commercial operator. This helps ensure that the airport sponsor charges the appropriate rates and charges to the commercial operator.
2. Airport sponsors should be careful not to define “commercial air charters” based on compliance with only one Federal Aviation Regulation, such as requiring a Part 135 certificate. There may be other Federal regulations that must be complied with to legally conduct commercial charter activities.
  3. Airport sponsors that suspect an illegal charter that is operating at their airport should discuss suspected concerns or questions with the local Flight Standards District Office (FSDO) since the FAA is the investigator and final decision maker on aviation safety. The FAA does not want airport sponsors to investigate suspected illegal aeronautical activities, such as illegal air charters. Airport sponsors do not have the responsibility or expertise to conduct investigations of suspected illegal aeronautical activities.

#### 2.1.10 Airline bus services for passengers between two airports.

Some airlines are requesting airport sponsors to permit land operations for the transporting of passengers, by bus, from one airport to enplane on an aircraft at another airport. There are questions whether the airport sponsor has the obligation to accommodate these requests under the grant assurances including Grant Assurance 22, Economic Nondiscrimination, Grant Assurance 24, Fee and Rental Structure, and related policies. The premise under Grant Assurance 22 is to accommodate and support the aeronautical activity taking place at the specific airport with fair and reasonable terms for all similarly situated aeronautical activities.

1. Department of Transportation (DOT) Bureau of Transportation Statistics/Office of Airline Information, DOT General Counsel, and Federal Aviation Administration (FAA) Airports staff reviewed the process for land operations for the transporting of passengers, by bus, from one airport to enplane on an aircraft at another airport. In September 2022, the FAA Office of Airports, Planning and Programming office issued a determination that:
  - a. These operations and revenue passenger movements do not statutorily meet the reporting requirement of “air transportation” and “enplanement” since they did not board an aircraft operated by an air carrier in air transportation.
  - b. They are eligible to be reported as an enplanement when the revenue passenger(s) board an aircraft at the second airport.
  - c. These air carrier reports on their passenger bus statistics are not used for categorizing airports for federal funding (49 USC Chapter 471).

2. An airport sponsor, therefore, does not have any obligations under the following conditions to:
  - a. Allow or perform activities/functions (aeronautical or nonaeronautical) in support of another airport;
  - b. Accommodate an airline that does not have an agreement/contract with their airport; or
  - c. Allow an airline to “partially” process and “enplane” passengers onto a bus at their airport; bus those passengers to a second airport; and finally enplane those passengers on one of their own aircraft at the second airport to “complete” the aeronautical activity.
3. An airport sponsor, though, is not prohibited from allowing airlines to transport passengers with buses from one airport to a second airport regardless of whether that airport is owned, or operated, by another airport sponsor. However, an airport sponsor should carefully weigh the impacts on their federal obligations when considering this nonaeronautical activity under Grant Assurance 36, Access by Intercity Buses, based on the specific circumstances at their airport.

#### 2.1.11 Other Requirements.

When drafting minimum standards documents, airport sponsors may have to take into account other Federal, state, and local requirements. This includes Federal requirements and guidance by the FAA, Transportation Safety Administration (TSA) and the Environmental Protection Agency (EPA), state requirements such as aircraft registration (in some states) and local fire regulations. For guidance on matters such as these, please contact the FAA’s Airports District Office (ADO) or Flight Standards District Office (FSDO) in your area and/or state aviation agency. A listing of ADOs and FSDOs can be found at <http://www.faa.gov>. Information and contacts regarding state aviation agencies is available at <http://www.nasao.org/>.

#### 2.2 **Through 2.5. Reserved.**



## APPENDIX A. DEFINITIONS

- A.1 The following are definitions for the specific purpose of this AC.
- A.1.1 **Aeronautical Activity.** Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to, the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities. Activities, such as model aircraft and model rocket operations, are not aeronautical activities.
- A.1.2 **Airport.** An area of land or water that is used, or intended to be used, for the aircraft takeoff and landing. It includes any appurtenant areas used, or intended to be used, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. It also includes any heliport.
- A.1.3 **Airport District Office (ADO).** These FAA offices are outlying units or extensions of regional airport divisions. They advise and assist airport sponsors with funding requests to improve and develop public airports. They also provide advisory services to the owners and operators of both public and private airports in the operation and maintenance of airports. See the FAA Web site for a complete listing of all ADO offices at [https://www.faa.gov/about/office\\_org/headquarters\\_offices/arp/offices/regional\\_offices](https://www.faa.gov/about/office_org/headquarters_offices/arp/offices/regional_offices).
- A.1.4 **Airport Sponsor.** The airport sponsor is either a public agency or a private owner of a public-use airport that submits to the FAA an application for financial assistance (such as AIP grants) for the airport. In accepting an application for financial assistance, the FAA will ensure that the airport sponsor is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required of sponsors, which are contained in the AIP grant agreement and property conveyances.
- A.1.5 **Commercial Self-Service Fueling.** A fueling concept that enables a pilot to fuel an aircraft from a commercial fuel pump installed for that purpose by an FBO or the airport sponsor. The fueling facility may or may not be attended.
- A.1.6 **Exclusive Right.** A power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An exclusive right can be conferred either by express agreement (i.e., lease agreement), by the imposition of unreasonable standards or requirements, or by any other means. Such a right conferred

on one or more parties, but excluding others from enjoying or exercising a similar right or rights, would be an exclusive right.

- A.1.7 **Federal Airport Obligations.** All references to a Federal grant program, Federal airport development assistance, or Federal aid contained in this AC are intended to address obligations arising from the conveyance of land or from grant agreements entered under one of the following acts:
- A.1.7.1 **Surplus Property Act of 1944 (SPA), as amended, 49 U.S.C. §§ 47151-47153.** Surplus property instruments of transfer were issued by the War Assets Administration (WAA) and are now issued by its successor, the General Services Administration (GSA). However, the law imposes upon the FAA (delegated to FAA from The Department of Transportation) the sole responsibility for determining and enforcing compliance with the terms and conditions of all instruments of transfer by which surplus airport property is or has been conveyed to non-Federal public agencies pursuant to the SPA. 49 U.S.C. § 47151(b).
  - A.1.7.2 **Federal Aid to Airports Program (FAAP).** This grant-in-aid program administered by the agency under the authority of the Federal Airport Act of 1946, as amended, assisted public agencies in the development of a nationwide system of public airports. The Federal Airport Act of 1946 was repealed and superseded by the Airport Development Aid Program (ADAP) of 1970.
  - A.1.7.3 **Airport Development Aid Program (ADAP).** This grant-in-aid program administered by the FAA under the authority of the Airport and Airway Development Act of 1970, as amended, assisted public agencies in the expansion and substantial improvement of the Nation's airport system. The 1970 act was repealed and superseded by the Airport and Airway Improvement Act of 1982 (AAIA).
  - A.1.7.4 **Airport Improvement Program (AIP).** This grant-in-aid program administered by the FAA under the authority of the Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47101, *et seq.*, assists in maintaining a safe and efficient nationwide system of public-use airports that meet the present and future needs of civil aeronautics.
- A.1.8 **Federal Grant Assurance.** A Federal grant assurance is a provision within a Federal grant agreement to which the recipient of Federal airport development assistance has agreed to comply in consideration of the assistance provided. Grant assurances are required by statute, 49 U.S.C. § 47101.
- A.1.9 **Fixed-Base Operator (FBO).** A commercial business granted the right by the airport sponsor to operate on an airport and provide aeronautical services such as fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, flight instruction, etc.

- A.1.10 **Fractional Ownership.** Fractional ownership operations are aircraft operations that take place under the auspices of 14 CFR Part 91 Subpart K. This type of operation offers aircraft owners increased flexibility in the ownership and operation of aircraft including shared or joint aircraft ownership. It provides for the management of the aircraft by an aircraft management company. The aircraft owners participating in the program agree not only to share their own aircraft with others having a shared interest in that aircraft, but also to lease their aircraft to other owners in the program (dry lease exchange program).<sup>3</sup> A fractional owner or owner means an individual or entity that possesses a minimum fractional ownership interest in a program aircraft and that has entered into the applicable program agreements. For additional information, please see 14 CFR 91.1001, *Applicability*, and contact your local Flight Standards District Office.
- A.1.11 **Grant Agreement.** A Federal grant agreement represents an agreement made between the FAA (on behalf of the United States) or state block grant state, and an airport sponsor for the grant of Federal funding.
- A.1.12 **Illegal aircraft charter.** Means an unauthorized air charter operator that is not certified to operate under the applicable federal regulations. It also may mean fraudulent flight instruction or aircraft demonstration flights carrying passengers not authorized to operate also under the applicable Federal regulations.
- A.1.13 **Public Airport.** Means an airport open for public use that is publicly owned and controlled by a public agency.
- A.1.14 **Public-Use Airport.** Means either a public airport or a privately owned airport open for public use.
- A.1.15 **Specialized Aviation Service Operations (SASO).** SASOs are sometimes known as single- service providers or special FBOs performing less than full services. These types of companies differ from a full service FBO in that they typically offer only a specialized aeronautical service such as aircraft sales, flight training, aircraft maintenance, or avionics services for example.
- A.1.16 **Self-Fueling and Self-Service.** Self-fueling means the fueling or servicing of an aircraft (i.e. changing the oil, washing) by the owner of the aircraft with his or her own employees and using his or her own equipment. Self-fueling and other self-services cannot be contracted out to another party. Self-fueling implies using fuel obtained by the aircraft owner from the source of his/her preference. As one of many self-service activities that can be conducted by the aircraft owner or operator by his or her own employees using his or her own equipment, self-fueling, differs from using a self-service fueling pump made available by the airport, an FBO, or an aeronautical service provider. The use of a self-service fueling pump is a commercial activity and is not considered self-fueling as defined herein. In addition to self-fueling, other self-service activities that can be performed by the aircraft owner with his or her own employees

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<sup>3</sup> A dry lease aircraft exchange means an arrangement, documented by the written program agreements, under which program aircraft are available, on an as needed basis without crew, to each fractional owner.

includes activities such as maintaining, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner.

- A.1.17 **Through-the-Fence Operations.** Through-the-fence operations are those activities permitted by an airport sponsor through an agreement that permits access to the public landing area by independent entities or operators offering an aeronautical activity or to owners of aircraft based on land adjacent to, but not a part of, the airport property. The obligation to make an airport available for the use and benefit of the public does not impose any requirement for the airport sponsor to permit ground access by aircraft from adjacent property.

**Advisory Circular Feedback**

**Paperwork Reduction Act Burden Statement:** A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0746. Public reporting for this collection of information is estimated to be approximately 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are voluntary FAA Order 1320.46D Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Barbara Hall, 800 Independence Ave, Washington, D.C. 20590.

If you find an error in this AC, have recommendations for improving it, or have suggestions for new items/subjects to be added, you may let us know by (1) mailing this form to Manager, Airport Compliance Division, Federal Aviation Administration ATTN: ACO-100, 800 Independence Avenue SW, Washington DC 20591 or (2) faxing it to the attention of ACO-100 at (202) 267-8663.

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*Please mark all appropriate line items:*

- An error (procedural or typographical) has been noted in paragraph \_\_\_\_\_ on page \_\_\_\_\_.
- Recommend paragraph \_\_\_\_\_ on page \_\_\_\_\_ be changed as follows:
- In a future change to this AC, please cover the following subject:  
*(Briefly describe what you want added.)*
- Other comments:
- I would like to discuss the above. Please contact me at (phone number, email address).

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_