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General Aviation Minimum Standards and Lease Approaches

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Mission

- Aviation Management Consulting Group's mission is to promote general aviation management excellence through the provision of trusted services, support, and resources to airports, aviation businesses, agencies, associations, and other industry stakeholders.



Discussion Framework

Introduction

- General Aviation Industry Overview
- Primary Management and Compliance Documents
 - ☞ Rules and Regulations
 - ☞ **Minimum Standards**
 - ☞ Development Standards
 - ☞ **Leasing/Rents and Fees Policy**
- Applicability
- What's New?



General Aviation Industry Overview

Aviation Industry Segments

- **Air Carrier** – includes scheduled and unscheduled passenger and cargo air carrier airlines
- **Military** – includes all branches of the military
- **General Aviation** – includes all aviation (including government) with the exception of the air carrier and military segments



General Aviation Industry Overview

● General Aviation Statistics (2015)

- **1.1 Million** jobs
- **\$219 Billion** economic output
- **\$109 Billion** GDP contribution
- **\$69 Billion** labor income





General Aviation Industry Overview

- **General Aviation Aircraft**
 - **416,000** aircraft population (worldwide)
 - **210,030** Active US GA Aircraft (2015)
- **GA Fuel Consumption (2015)**
 - **1,671,770,300 Gallons Fuel (US)**
 - ☞ 1,454,161,200 Jet Fuel
 - ☞ 199,259,300 Avgas





General Aviation Industry Overview

● Number of FBOs (US)

- **1995 – 3,301**
 - ☞ Airports with one or zero FBOs – **89.3%**
- **2005 – 3,399**
 - ☞ Airports with one or zero FBOs – **90.3%**
- **2010 – 3,389**
 - ☞ Airports with one or zero FBOs – **90.2%**
- **2015 – 3,384**
 - ☞ Airports with one or zero FBOs – **91.7%**





Relationship Framework

Why is this topic important?

➤ Airport Sponsor Assurance compliance

☞ To secure Airport Improvement Program (AIP) funds – a grant, an airport sponsor is required to give certain assurances to the FAA known as the **Airport Sponsor Assurances**

☞ In essence, airport sponsors must agree to comply with the assurances (currently 39) as a condition of receiving AIP funds

☞ Specific Assurances of Discussion

- 22. Economic Nondiscrimination
- 23. Exclusive Rights
- 24. Fee and Rental Structure





Airport Sponsor Assurances

Economic Nondiscrimination

- Sponsor will make its airport available as an airport for public use on **reasonable terms and without unjust discrimination** to all types, kinds, and classes of aeronautical activities.



Economic
Nondiscrimination

Exclusive Rights

Fee and Rental Structure



Airport Sponsor Assurances

● Exclusive Rights

- Sponsor will permit **no exclusive right for the use of the airport** by any person providing, or intending to provide, aeronautical services to the public.



Economic
Nondiscrimination

Exclusive Rights

Fee and Rental Structure



Airport Sponsor Assurances

● Fee and Rental Structure

- Sponsor will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as **self-sustaining as possible** under the **circumstances existing** at the particular airport.



Economic
Nondiscrimination

Exclusive Rights

Fee and Rental Structure



Primary Management and Compliance Documents

Definition

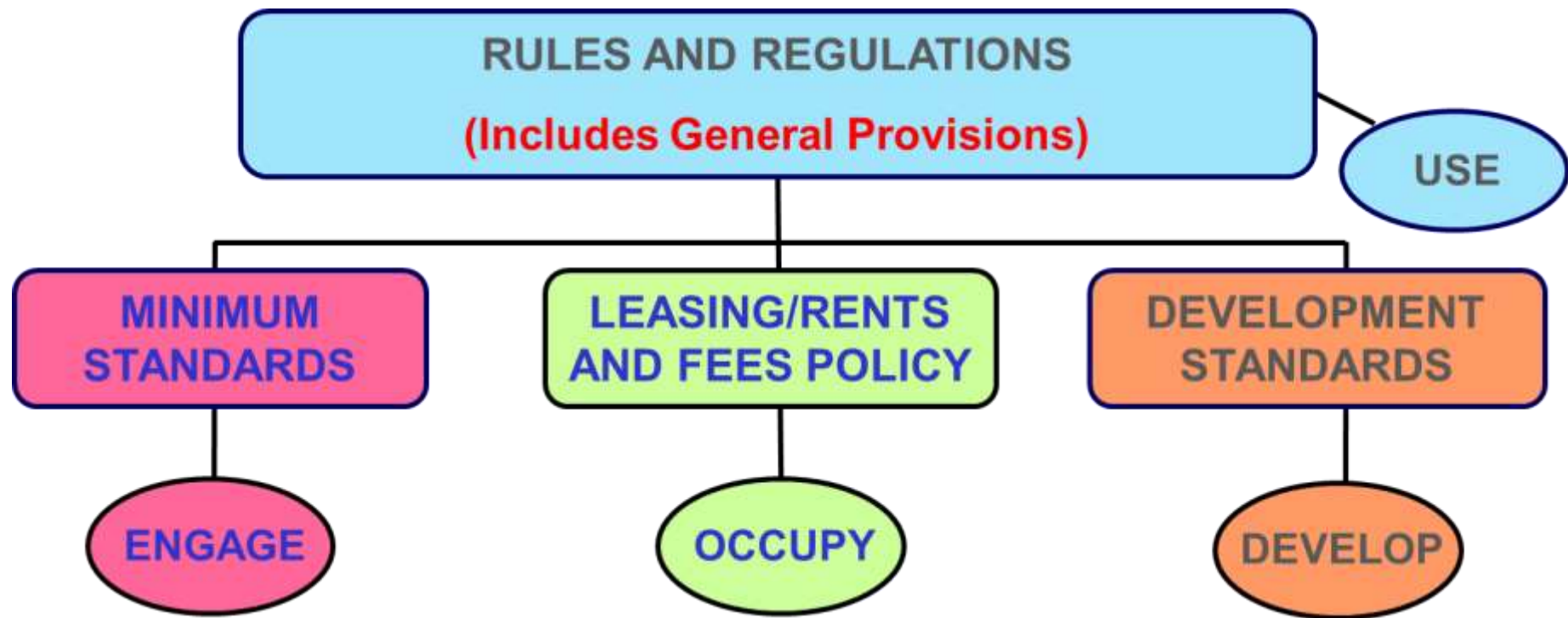
- Govern the operation, management and development of an airport
 - ☞ Rules and Regulations
 - Includes General Provisions
 - ☞ Minimum Standards
 - ☞ Development Standards
 - ☞ Leasing/Rents and Fees Policy
 - Lease, Use, or Operating Agreements

Purpose

- Contribute to the financial health of an airport
- Facilitate orderly development
- Promote the provision of quality products, services, and facilities
- Protect health, safety, interest, and general welfare of the public
- Reduce the potential for and help facilitate the successful resolution of conflicts/disputes, complaints, and lawsuits



Primary Management and Compliance Documents





Overview of Specific PMCDs

Minimum Standards

- Definition: Sets forth the requirements that need to be met to engage in commercial aeronautical activities at an airport
- Purpose: Establishes consistent threshold requirements – which levels the playing field and promotes fair competition among operators (minimum “ante”)

Leasing/Rents and Fees Policy

- Definition: Sets forth the parameters for leasing airport land and improvements for general aviation purposes and outlines the process for establishing and adjusting general aviation rents and fees
- Purpose: Conveys the airport’s general aviation leasing and rents and fees policies/practices



Applicability

Minimum Standards

- Ensures compliance with FAA requirements
 - ☞ 22. Economic Nondiscrimination
 - ☞ 23. Exclusive Rights

- Ensures type, level, and quality of commercial aeronautical service providers (specifically sole source providers)
 - ☞ FBO vs. SASO

- System airports can define role of each airport



Applicability

● Minimum Standards

➤ Provides avenue to protect existing operators and limit new entrants

(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;

AC 150/5190-7 Minimum Standards for Commercial Aeronautical Activities

(A) Statutory Requirement Relating to Single Activities. Since 1938, there has been a statutory prohibition on exclusive rights, 49 U.S.C. § 40103(e), independent of the parallel grant assurance requirement at 49 U.S.C. § 47107(a)(4). This statutory prohibition currently states, “A person does not have an exclusive right to use an air navigation facility on which Government money has been expended.” (An “air navigation facility” includes, among other things, an airport. See “Definitions” at 49 U.S.C. § 40102.) The statutory prohibition, however, contains an exception relating to single activities. Specifically, providing services at an airport by only one fixed base operator (FBO) is not an exclusive right if it is unreasonably costly, burdensome, or impractical for more than one FBO to provide the services, and allowing more than one FBO to provide the services requires a reduction in space leased under an existing agreement between one FBO and the airport sponsor. Both conditions must be met. See 49 U.S.C. § 47107(a)(4) (A and B).

AC 150/5190-6 Exclusive Rights at Federally-Obligated Airports



Applicability

● General Aviation Leasing/Rents and Fees Policy

➤ Ensures compliance with FAA requirements

☞ 24. Fee and Rental Structure

prohibition applies to both commercial entities engaging in providing aeronautical services and individual aeronautical users of the airport. The intent of the prohibition on exclusive rights is to promote fair competition at federally-obligated, public use airports for the benefit of aeronautical users. The exclusive rights prohibition remains in effect as long as the airport is operated as an airport, even if the original period for which an airport sponsor was obligated has expired.

AC 150/5190-6 Exclusive Rights at Federally-Obligated Airports

➤ FAA Requirements

☞ Methodology for general aviation must be reasonable, justified, and consistently applied

☞ Rent can be established using negotiation, rent study, or appraisal (only if required to calculate a rental rate)

➤ Reversion policy



What's New?



Minimum Standards

- Commercial aeronautical operators only
 - ☞ Commercial – or the purpose of securing earnings, income, Compensation (including exchange or barter of goods and services), and/or profit.

- Specific standards for each type of operator at each airport
 - ☞ Do not utilize reasonable, adequate, or sufficient

- Applicability of new standards
 - ☞ “As amended from time to time” vs. “manage by lease” approach

- Independent Operators
 - ☞ Aircraft Maintenance Operator and Flight Training Operator



What's New?

General Aviation Leasing/Rents and Fees Policy

- Reversion deferral fee
 - ☞ A fee to defer reversion of tenant improvements

- Transaction fee
 - ☞ A fee for assigning (transferring interest in) a lease agreement

- Landing fees
 - ☞ Increasing implementation for GA aircraft and at GA airports

- Fuel flowage fees
 - ☞ Fixed fee per year (versus per gallon)

- Commercial business fees
 - ☞ Annual permit fee for entities engaging in commercial aeronautical activities



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