

**UKIAH REGIONAL AIRPORT COMMISSION**  
**September 5<sup>th</sup>, 2017**  
**Minutes**

**COMMISSIONERS PRESENT**

Randal Beckler, Chair  
 Don Albright  
 Eric Crane  
 Mark Ashiku, Vice Chair  
 Bill Beard

**STAFF PRESENT**

Greg Owen, Airport Manager  
 Ken Ronk, Airport Assistant / Recording Sec.

**COMMISSIONERS ABSENT**

**OTHERS PRESENT**

Ronald Hunt

**1. CALL TO ORDER**

The Airport Commission meeting was called to order by Chair Beckler at 6:15p.m. at the Ukiah Regional Airport, Old Flight Service Station, 1403 South State Street, Ukiah, California. Roll Call was taken with the results listed above.

**2. PLEDGE OF ALLEGIANCE - Everyone recited the pledge of allegiance.**

**3. APPROVAL OF MINUTES – Aug 1<sup>st</sup>, 2017**

- Motion made to approve Aug. 1<sup>st</sup>, 2017 minutes by Commissioner Crane and 2<sup>nd</sup> by Commissioner Beard. Aye 5 - 0

**4. AUDIENCE COMMENTS ON NON-AGENDA ITEMS**

**5. DISCUSSION / ACTION / REPORTS**

**5A. Fuel Pricing / User Fee's**

**Airport Manager Owen:**

- The new self-service Avgas tank has been installed. Staff is requesting the Commission recommend a new fuel pricing resolution to Council. With the current budget short fall of almost \$60,000 Staff is purposing a new fuel price resolution this increase is approximately .50 per gallon increase on all current fueling operations.
- Current full service Avgas is \$1.03 +/- 30% depending on current market prices. Staff is requesting that the new full service price be set \$1.50 over the City's cost of the fuel with a +/- 30% adjustment and CPI. The new Self-service price will be \$1.03 over the City's cost of the fuel with a +/- 30% adjustment and CPI Staff is also requesting a new pricing for bulk Jet A and Jet A truck service. Currently bulk Jet A is \$1.50 per gallon over the cost of the fuel Staff is requesting to increase to \$2.00 per gallon over the cost the City pays for the fuel with a +/- 30% adjustment and CPI. The current Jet A truck pricing is \$2.28 per gallon over the cost the City pays for the fuel +/- 30% depending on current Jet A truck pricing with a +/- 30% adjustment and CPI. Staff is requesting to increase the mark up to \$2.75 per gallon over the cost the City pays for the fuel +/- 30% depending on current market prices with a +/- 30% adjustment and CPI.
- This resolution would be reviewed every 5 years.
- Below is an estimate of FY 2017 gallons sold and how the purposed markup would increase revenue.

| Bulk Jet A       | Gallons Sold FY 2017 | Current Fuel Revenue | Purposed Fuel Revenue |
|------------------|----------------------|----------------------|-----------------------|
| Current Mark up  | \$1.50 33,233.00     | \$49,849.50          |                       |
| Purposed Mark up | \$2.00 33,233.00     |                      | \$66.466.00           |

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|                                       |                       |           |              |
|---------------------------------------|-----------------------|-----------|--------------|
| Jet A truck                           | Gallons Sold FY 2017  |           |              |
| Current Mark up                       | \$2.28                | 89,187.00 | \$203,446.00 |
| Purposed Mark up                      | \$2.75                | 89,187.00 | \$245,265.00 |
| Avgas Truck                           | Gallons Sold FY 2017  |           |              |
| Current Mark up                       | \$1.03                | 42,739.00 | \$44,021.00  |
| Avgas Truck                           | Est. Gallons          |           |              |
| Purposed Mark up                      | \$1.50                | 21,369.00 | \$32,053.00  |
| Self-Service Tank                     |                       |           |              |
| Purposed Mark up                      | \$1.03                | 21,369.00 | \$22,010.00  |
|                                       | Current Fuel Revenue  |           | \$297,316.50 |
|                                       | Purposed Fuel Revenue |           | \$365,794.00 |
| Avgas Price                           |                       |           |              |
| Current fuel cost: \$3.72             |                       |           |              |
| Current full-service price: 4.65      |                       |           |              |
| Proposed full-service \$4.77 - \$5.67 |                       |           |              |
| Proposed self-service \$4.44 - \$5.06 |                       |           |              |

**Commissioners:**

- Discussion about the pricing. This is a band-aid fix to the pricing structure.

**Commissioner Crane:**

- Would like to see this come back in a few months.

**Commissioners:**

- Recommend approval Commissioner Crane and 2<sup>nd</sup> by Commissioner Ashiku. Discussion: Motion carries 5-0.

**5B. Hangar Uses**

**Airport Manager Owen:**

- Turned over to Commissioner Crane

**Commissioner Crane:**

- Requested this be discussed due to the use of airport hangars for non-aviation use.
  - Taylor Hangars – Thurston’s hangar A
  - Taylor Hangars – Ground freight transport co.
- Would like to turn the discussion over to Ron Hunt he has done research on the FAA regulations.

**Ron Hunt:**

- Shared his research on the FAA regulations and discussed his findings. Left his research material with us to review and make a copy.

Attached is the material presented by Mr. Hunt.

1 **5C. Airport Maintenance**

2 **Airport Manager Owen:**

- 3 • Cleaned up on State street fence line and moved Ukiah Aviation tie downs away from self-serve
- 4 island.

6 **5D. Airport Monthly Financial**

7 **Airport Manager Owen:**

- 8 • Jet a fuel has been slow and the Avgas is right about on track from previous years.

10 **5E. FAA Grants**

11 **Airport Manager Owen:**

- 12 • RWY 15-33 Pavement Rehab and TWY Realign 60% design submittal by 11/21/2017
- 13 • PMMP: Field work completed 8/31/2017
- 14 • Review Documents Completed 9/20/2017
- 15 • Final Signed Documents 10/20/2017
- 16 • Submit Grant Closeout Documentation 11/20/2017

18 **5F. Jet A Storage Tank**

19 **Airport Manager Owen:**

- 20 • The current Jet A / Avgas bulk storage tank was inspected to evaluate what was going to be
- 21 needed to complete the conversion to 20,000 gallons of Jet A. The inspection revealed that the
- 22 tank is no longer serviceable and replacement of the tank would be cheaper. Staff is working on
- 23 an estimate to replace the tank.

26 **7. AGENDA ITEMS FOR FEBRUARY**

- 27 1.
- 28 2.
- 29 3.
- 30 4.
- 31 5.

33 **8. COMMISSIONER COMMENTS/STAFF COMMENTS**

36 **9. ADJOURNMENT**

37 There being no further business, the meeting adjourned at 7:04 p.m.

39  
40 \_\_\_\_\_  
Kenneth Ronk, Recording Secretary

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## Federal Aviation Administration

# FAA Airport Compliance Manual - Order 5190.6B Airports

« [Back to Airports Orders \(www.faa.gov/airports/resources/publications/orders/\)](http://www.faa.gov/airports/resources/publications/orders/)

September 2009

Order 5190.6B sets forth policies and procedures for the FAA Airport Compliance Program. It provides basic guidance for FAA personnel in interpreting and administering the various continuing commitments airport owners make to the United States as a condition for the grant of federal funds or the conveyance of federal property for airport purposes. The Order discusses the obligations set forth in the standard airport sponsor assurances, addresses the application of the assurances in the operation of public-use airports, and facilitates interpretation of the assurances by FAA personnel.

The complete Order is 22 MB and may be difficult to download. You can access the **complete Order 5190.6B**

([www.faa.gov/airports/resources/publications/orders/compliance\\_5190\\_6/media/5190\\_6b.pdf](http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/media/5190_6b.pdf)) (PDF, 22 MB) or, using the index below, individual Chapters and Appendices.

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### Coversheet and Table of Contents

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**References**

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([www.faa.gov/airports/resources/publications/orders/compliance\\_5190\\_6/media/5190\\_6/Index.pdf](http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/media/5190_6/Index.pdf))  
(PDF)

**See also . . .**

- Airport Compliance ([www.faa.gov/airports/airport\\_compliance/](http://www.faa.gov/airports/airport_compliance/))
- Grant Assurances ([www.faa.gov/airports/aip/grant\\_assurances/](http://www.faa.gov/airports/aip/grant_assurances/))

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# Compliance Updates



Federal Aviation  
Administration

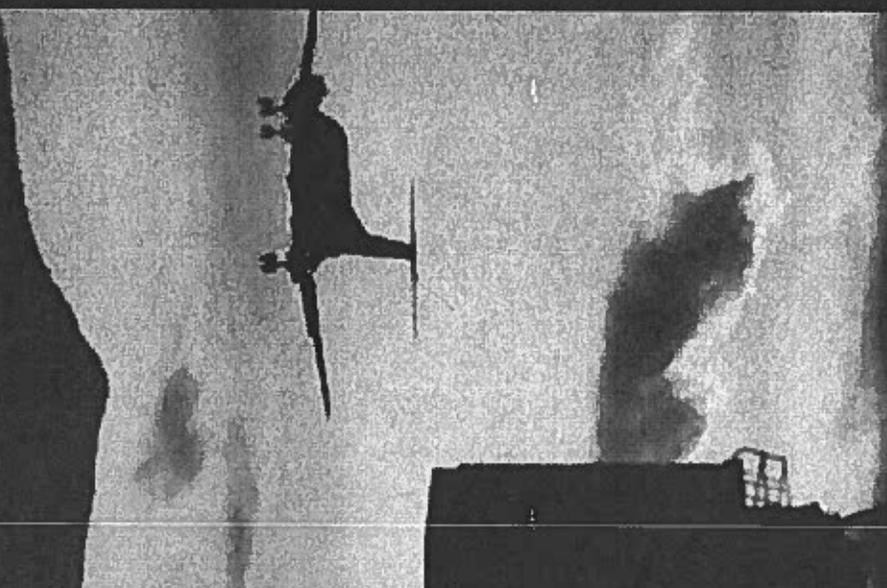
RTTF

New Hangar Use Policy

Presented to: MAMA Meeting

By: Steve Engebrecht, P.E.

Date: September 23, 2014



# Definition

**Residential-Through-the-Fence (RTTF) refers to access granted to a federally-obligated, public airfield from non-airport, private property.**



# FAA Modernization and Reform Act of 2012

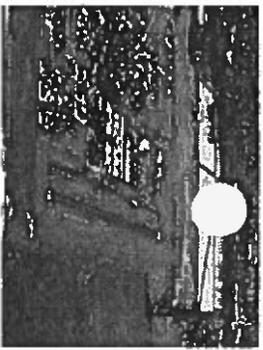
- **Section 136 of Public Law 112-95 – February 14, 2012**
- **Policy Regarding Access to Airports from Residential Property Published in Federal Register – July 16, 2013**
- **Compliance Guidance Letter 2013-01 – July 16, 2013**



# Sec. 136 of P.L. 112-95

- **Permits GA airports to keep existing and establish new RTTF arrangements.**
- **Is silent on commercial service airports.**
- **Requires written access agreements.**
- **Places specific conditions and limitations on these agreements.**
- **No compliance action can be taken against sponsors solely because they enter into RTTF arrangements.**



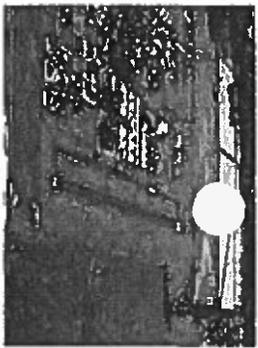


## **Sec. 136 of P.L. 112-95**

**General Aviation Airports may have RTTF, if written agreement requires property owner to:**

- Pay an access charge comparable to similar uses on the airport
- Bear cost of building/maintaining infrastructure necessary for access to airfield
- Maintain property as residential/non-commercial
- Prohibit “piggy back” access
- Prohibit aircraft refueling on the property

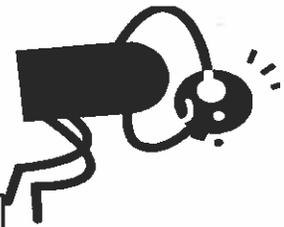




# Sec. 136 of P.L. 112-95

- **Revised Grant Assurance 5g**
  - Prohibits new RTTF at Commercial Service Airports
  - Requires that General Aviation Airports entering into RTTF meet the requirements of Sec. 136 of P.L. 112-95
- **Revised Grant Assurance 29a(4)**
  - Sponsor will keep up to date at all times an airport layout plan of the airport showing... **(4) all proposed and existing access points used to taxi aircraft across the airport's property boundary**





# Existing RTTF

| FAA Region         | Number of Existing Residential Through-the Fence Access Agreements (Subject to Change) |                             |            |
|--------------------|--|-----------------------------|------------|
|                    | GA Airports  | Commercial Service Airports | Total      |
| Alaska             | 4  | 1                           | 5          |
| Central            | 7  | 0                           | 7          |
| Eastern            | 13   | 0                           | 13         |
| Great Lakes        | 25   | 1                           | 26         |
| New England        | 6  | 0                           | 6          |
| Northwest Mountain | 31   | 2                           | 33         |
| Southern           | 7  | 0                           | 7          |
| Southwest          | 12   | 0                           | 12         |
| Western Pacific    | 9  | 0                           | 9          |
| <b>Total</b>       | <b>114</b>   | <b>4</b>                    | <b>118</b> |

Commercial service airports are: Skagway, AK; Charlevoix, MI; Orcas Island, WA; and San Luis Valley Regional, CO.



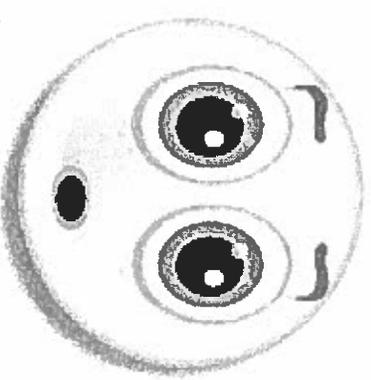
# Existing RTTF IN ANM

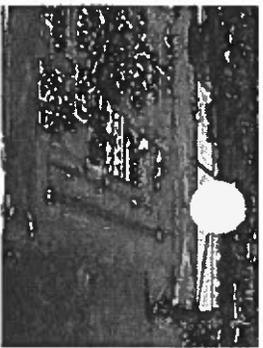
- **Helena ADO**
  - ID – 3
  - MT – 4
- **Seattle ADO**
  - OR – 10
  - WA – 9 (1 Commercial Service)
- **DEN ADO**
  - CO – 4 (1 Commercial Service)
  - UT – 0
  - WY – 3



# Sec. 136 of P.L. 112-95

- **Some homeowners are saying the law doesn't apply to us because:**
  - We've never had to pay anything before
  - We're sure we're grandfathered
  - We used to be a commercial service airport
  - The 2013 law supersedes the 2012 law
  - We have the equivalent of deeded access

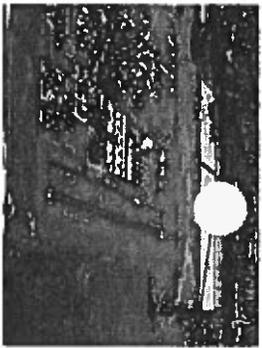




# Existing RTTF Important Dates

- **August 30, 2013** – Notification Letters to Airports
  - Initial notification to ID and MT airports met timeframe
  - Reminder emails sent to ID and MT airports in July 2014

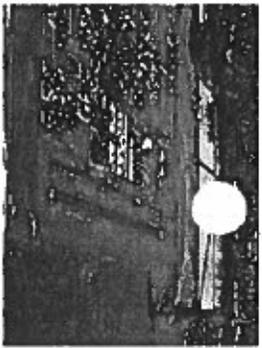




# Existing RTTF Important Dates

- **October 1, 2014** – Airports must submit their Access Agreements/Access Agreement Review Sheets (Appendix C of the CGL)
  - Failure to provide evidence of compliance with the law may result in further compliance action

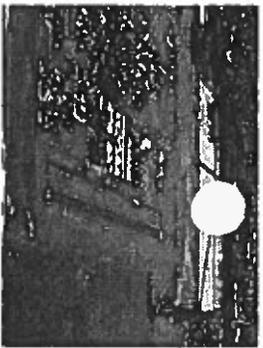




# FAA Review of Access Agreement(s)

- ADO reviews the Access Agreement(s)
- ADO may request additional information to facilitate review
- ADO may request the Sponsor amend the agreement if it does not comply with the law
- ADO forwards Access Agreement(s) and related documents to the Regional Office with recommendation

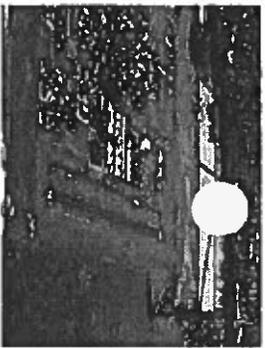




# FAA Review of Access Agreement(s)

- Regional Office (RO) reviews the Access Agreement(s)
- RO may request additional information to facilitate review
- RO may request the Sponsor amend the agreement if it does not comply with the law

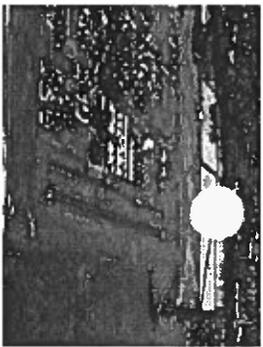




# FAA Review of Access Agreement(s)

- RO forwards Access Agreement(s) and related documents to HQ if agreement doesn't meet the terms and conditions contained in the law  
**or**
- RO accepts the Access Agreement(s) if they meet the terms and conditions contained in the law and notifies the Airport Sponsor





# FAA Review of Access Agreement(s)

- HQ works with Airport Sponsor to find alternative methods of compliance with the terms and conditions contained in law on a case by case basis
- If HQ cannot identify any actions to effectively address the requirements of the terms and conditions contained in law, it may review the matter for further compliance action



# Options FAA May Consider

- Initiate compliance actions at airports when their RTTF agreements do not comply with law
- Decline to invest discretionary AIP funds at the airport
- Put the airport into pending non-compliance status
- Issue formal finding of non-compliance, preventing the airport sponsor from receiving entitlement or discretionary AIP funds
- Report the non-compliance to Congress in the annual AIP report
- Remove the airport from the NPIAS





# FAA Review of Access Agreement(s)

- **Access Agreements must meet the terms and conditions contained in the law**
  - Pay an access charge comparable to similar uses on the airport
  - Bear cost of building/maintaining infrastructure necessary for access to airfield
  - Maintain property as residential/non-commercial
  - Prohibit “piggy back” access
  - Prohibit aircraft refueling on the property

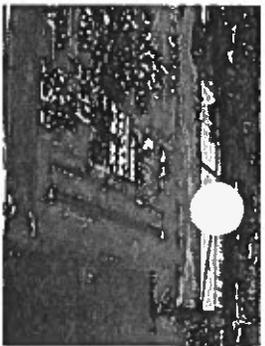




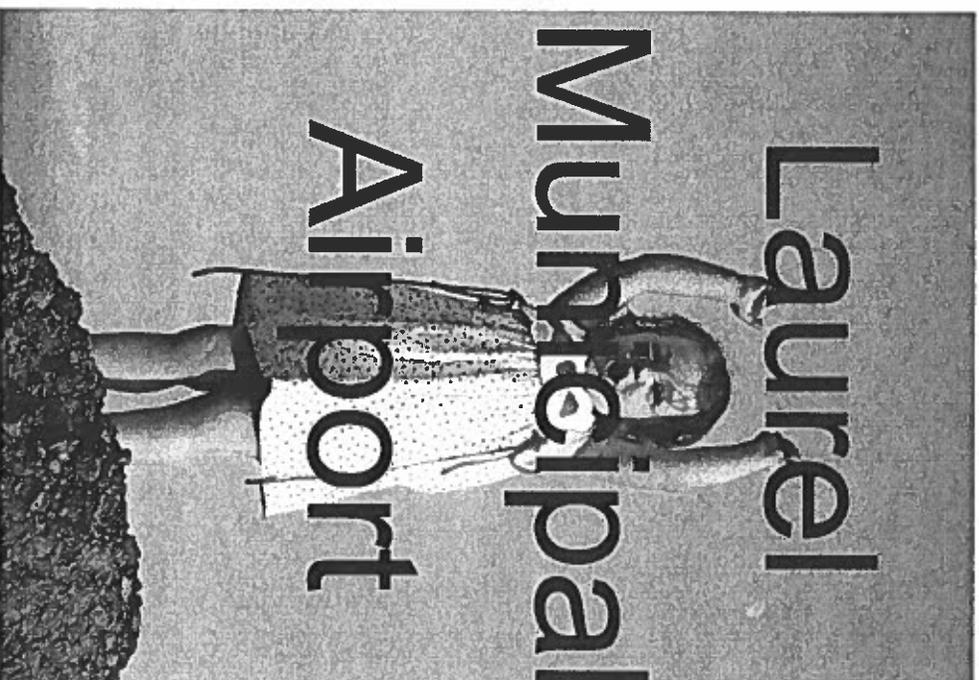
# FAA Review of Access Agreement(s)

- As of 9/22/2014, Helena ADO has received Access Agreements/Access Agreement Review Sheets (or other related information) from 4 of 7 airports with RTTF access.
- As of 9/22/2014, Helena ADO has had 1 Access Agreement accepted by RO





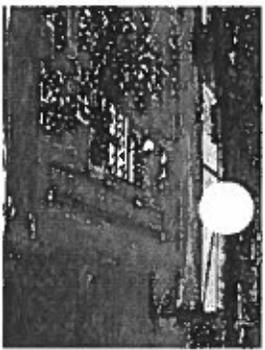
# FAA Review of Access Agreement(s)



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# FAA Review of Access Agreement(s)

- RTTF access was included as a condition of land acquisition and no separate access agreement exists
- Mixed residential and commercial aeronautical use
- On-going lawsuit with RTTF developer



# RTTF impacts include potential violations of:

- **Grant Assurance 5, Rights and Powers** by making it difficult for an airport sponsor to control airport access and use its property;
- **Grant Assurance 19, Operation and Maintenance** by limiting a sponsor's ability to ensure safe operations
- **Grant Assurance 21, Compatible Land Use** by weakening a sponsor's ability to address incompatible land uses;
- **Grant Assurance 22, Economic Nondiscrimination** by creating unjustly discriminatory conditions for tenants on the airport;
- **Grant Assurance 23, Exclusive Rights** by granting an exclusive right; and
- **Grant Assurance 24, Fee and Rental Structure** by affecting a sponsor's ability to be self-sustaining.



# RTTF Issues Summary

**RTTF may:**

- **Create safety concerns**
- **Constrain future airport development**
- **Lead sponsors to develop airport property to reflect interests of RTTF homeowners**
- **Result in poor public perception of FAA's funding decisions**
- **Limit the utility of the federally-funded infrastructure**
- **Compromise security**





# RTTF vs. Residential Use of Airport Property

- RTTF and Residential Use of Airport Property are Separate issues
- FAA's Policy on Residential Use of Airport Property has not changed...it is generally not allowed.



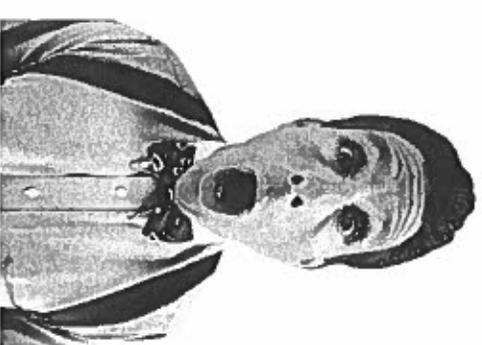
# ANY RTTF QUESTIONS?

[http://www.faa.gov/airports/airport\\_compliance/residential\\_through\\_the\\_fence/](http://www.faa.gov/airports/airport_compliance/residential_through_the_fence/)



# Hangar Use Policy

- **Federal Register Notice FAA-2014-0463**  
*Policy on the Non-aeronautical Use of  
Airport Hangars*
- **FAA Airport Compliance Manual- Order  
5190.6B**



# Hangar Policy

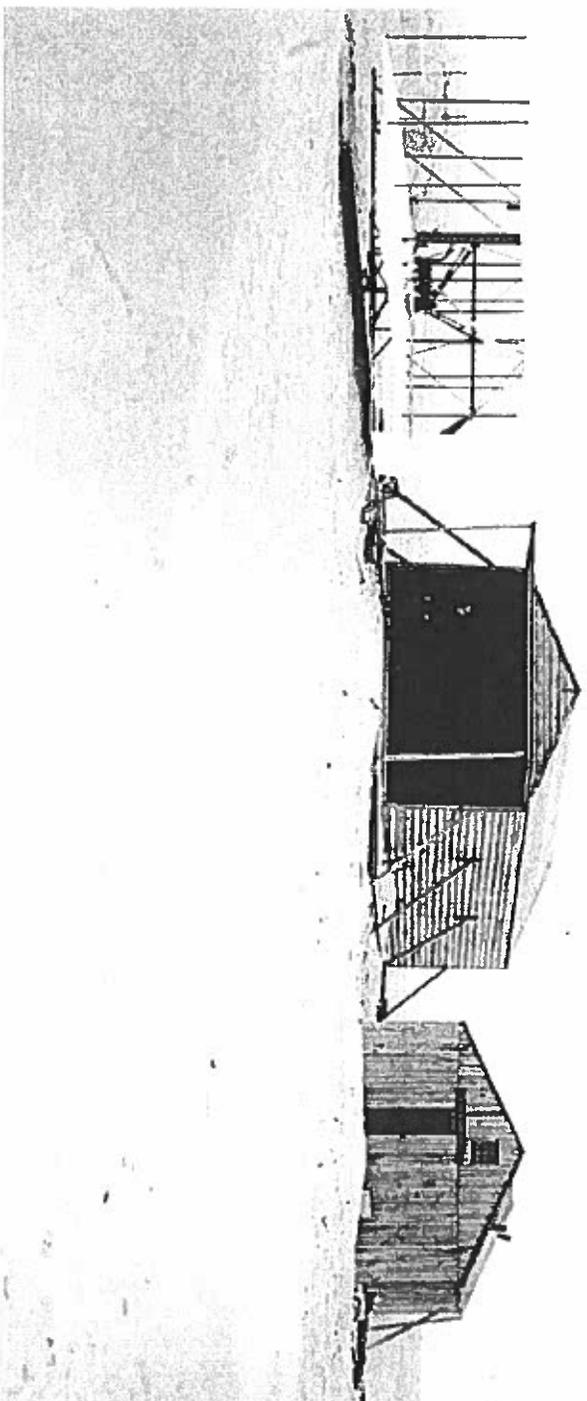
## Definitions

- Hangar = a building that you store planes in
- Hanger = things that multiply in your closet



# Background

First hangar to store a piston powered Aircraft. Kitty Hawk, 1903



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# **Background: Why did we publish this policy statement?**

- **Existing policy not clearly documented**
- **Valley Aviation Services v. Glendale (DD 16-09-06) Part 16 and associated corrective action plan**
- **PBOR2**





# **Non-Aeronautical Use of Hangars**

*Valley Aviation Services v. City of Glendale*

(Directors Determination 16-09-06, May 29, 2011)

## **Violation of Grant Assurance 19, Operation and Maintenance**

- Allowed Nonaeronautical use in hangars and operating non-aviation related industries in hangars
- RV caught fire; police vehicles, classic cars, carpet rolls, etc.

## **Violation of Grant Assurance 29, Airport**

### **Layout Plan**

- Did not correctly reflect aeronautical/nonaeronautical uses of airport property

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# Pilot's Bill of Rights 2

7 SEC. 4. USE OF PRIVATELY BUILT AND PRIVATELY OWNED

8 HANGARS AT AIRPORTS RECEIVING AIRPORT

9 IMPROVEMENT GRANTS.

10 Not later than 30 days after the date of the enact-

11 ment of this Act, the Administrator of the Federal Avia-

12 tion Administration shall issue regulations establishing the

13 local airport authority as the sole authority to determine

14 the appropriate uses of any privately built and owned

15 hangar at an airport that receives a grant under sub-

16 chapter I of chapter 471 of title 49, United States Code.



# Is the Policy controversial?

- >2,000 public comments received so far
- Much of the existing policy is being communicated to the general public for the first time
- Many hangar users consider any federal oversight on use of hangars to be a violation of personal property rights
- FAA does not internally interpret existing policy consistently



# Has the policy changed?

- The core policy has not changed
- We now acknowledge that if the presence of non-aeronautical items in a hangar does not interfere with federal obligations, then the FAA will generally not consider their presence to constitute a violation of the sponsor's obligation to provide reasonable access to aeronautical users and tenants.



# Highlights: What the policy says (cont.)

**How do we determine whether items in a hangar are considered limited, incidental non-aeronautical use?**

1. Do not interfere with the aeronautical use of the hangar
2. Do not displace the aeronautical contents of the hangar
3. Do not impede access to aircraft or other aeronautical contents of the hangar
4. Do not require a larger hangar than would otherwise be necessary if such items were not present
5. Occupy an insignificant amount of hangar space
6. Are owned by the hangar owner or tenant
7. Are not used for non-aeronautical commercial purposes (i.e., the tenant is not conducting a non-aeronautical business from the hangar including storing inventory)
8. Are not stored in violation of airport rules and regulations



# Highlights: What the policy says (cont.)

- **Sponsors should have a program to monitor use of hangars and take measures to prevent unapproved non-aeronautical use of hangars**
  - Monitor waiting list
  - Incorporating provisions in leases to adjust rental rates to FMV for any non-incidental non-aeronautical use of the leased facilities
  - FAA personnel conducting inspections may request a copy of the sponsor's hangar use program and evidence that the sponsor has limited hangars to aviation use



# Highlights: What the policy says (cont.)

- **Sponsor may request approval for interim use of a hangar for non-aeronautical purposes for a period no more than five years**
  - Lease terms should allow the hangars to be recovered on short notice for aeronautical purposes.
- **No right to non-aeronautical use**
  - Sponsors may restrict or prohibit storage of non-aeronautical items
  - Sponsors should consider factors such as emergency access, fire codes, security, insurance, and the impact of vehicular traffic on their surface areas when enacting rules regarding hangar storage. In some cases, permitting certain non-aeronautical items in hangars could inhibit the sponsor's ability to meet obligations associated with grant assurance 19, Operations and Maintenance.



# Highlights: What the policy says

- Aeronautical facilities be used or be available for use for aeronautical activities.
- Final, active assembly of an aircraft in the manufacturing or homebuilt construction process is OK
- Provided the hangar is used primarily for aeronautical purposes, an airport sponsor may permit limited, non-aeronautical items to be stored in hangars provided the items are incidental to aeronautical use of the hangar and occupy an insignificant amount of hangar space

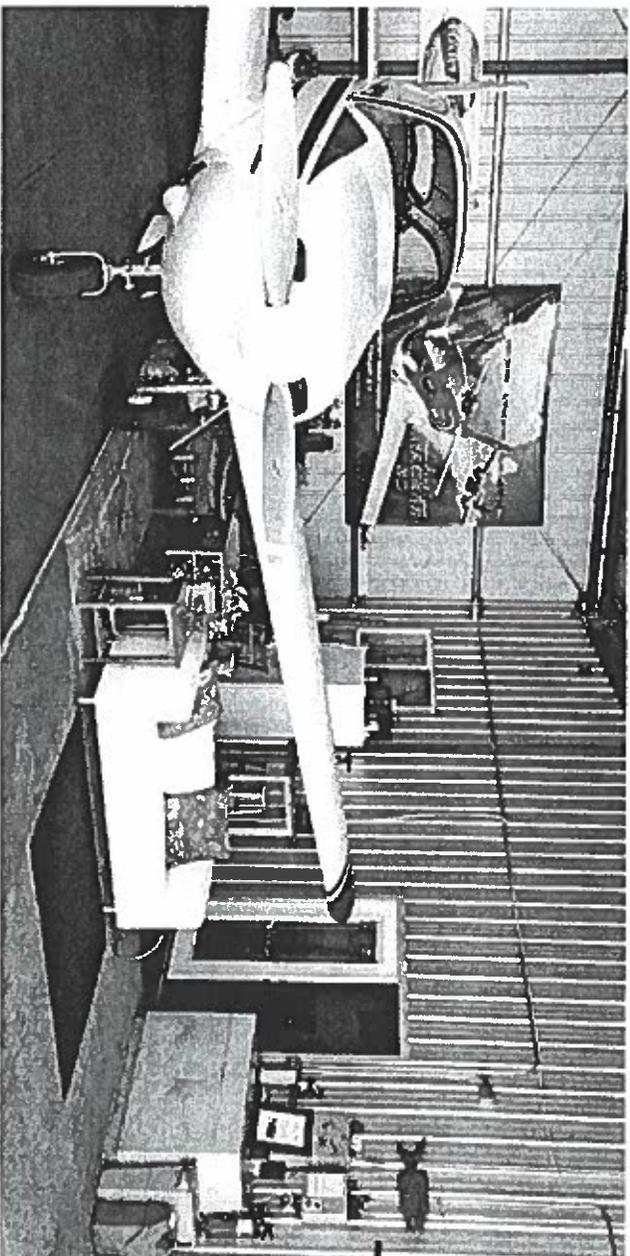


# Highlights: What the policy says

- Hangars should be leased with consideration of the size and quantity of aircraft to be stored
- Hangars must not be used as a residence
- Policy applies regardless of whether the hangar occupant leases the structure from the airport sponsor or developer, or the hangar occupant constructed the hangar at their own expense and holds a ground lease only



# What do you think?



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# What do you think?

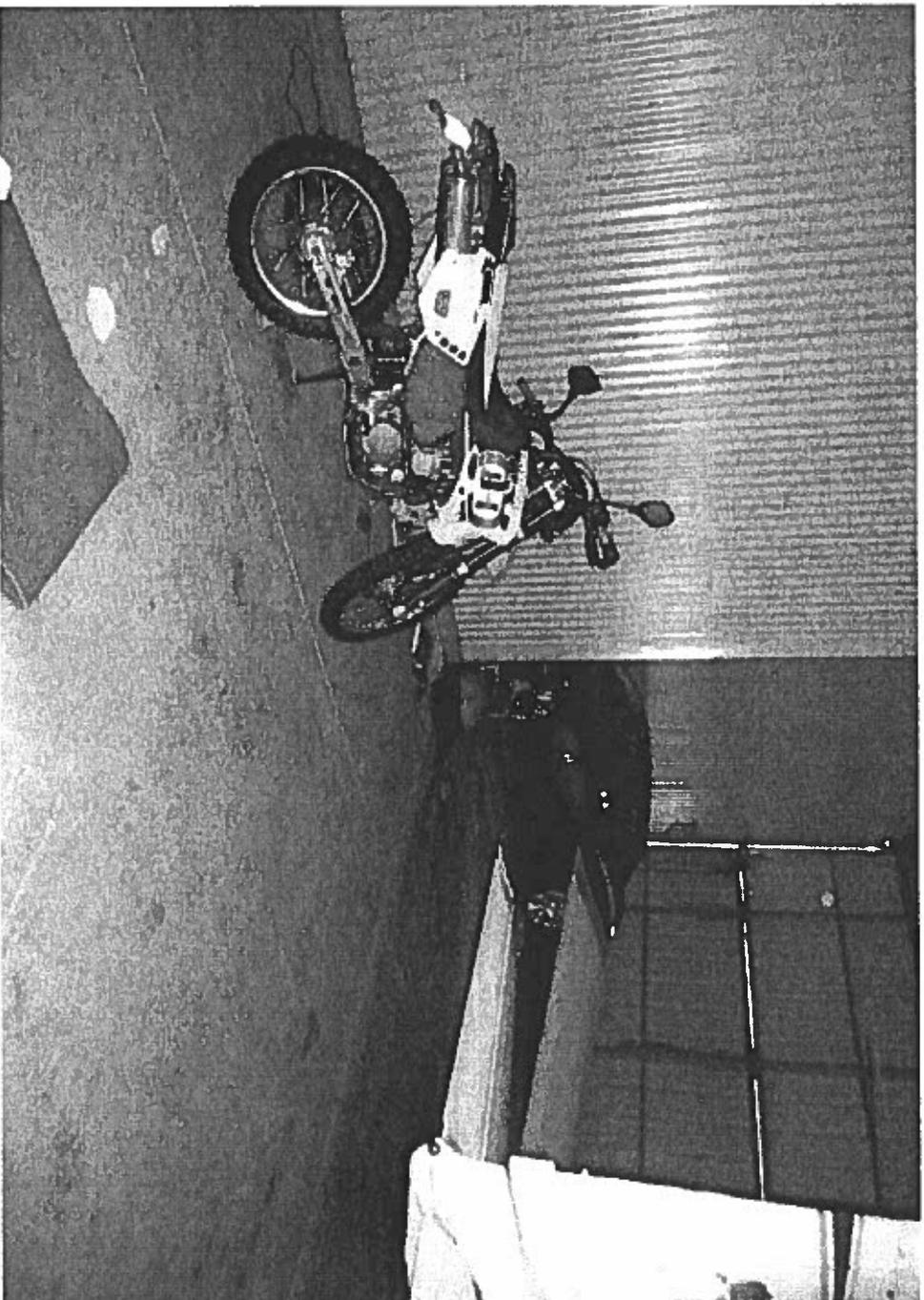


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# What do you think?

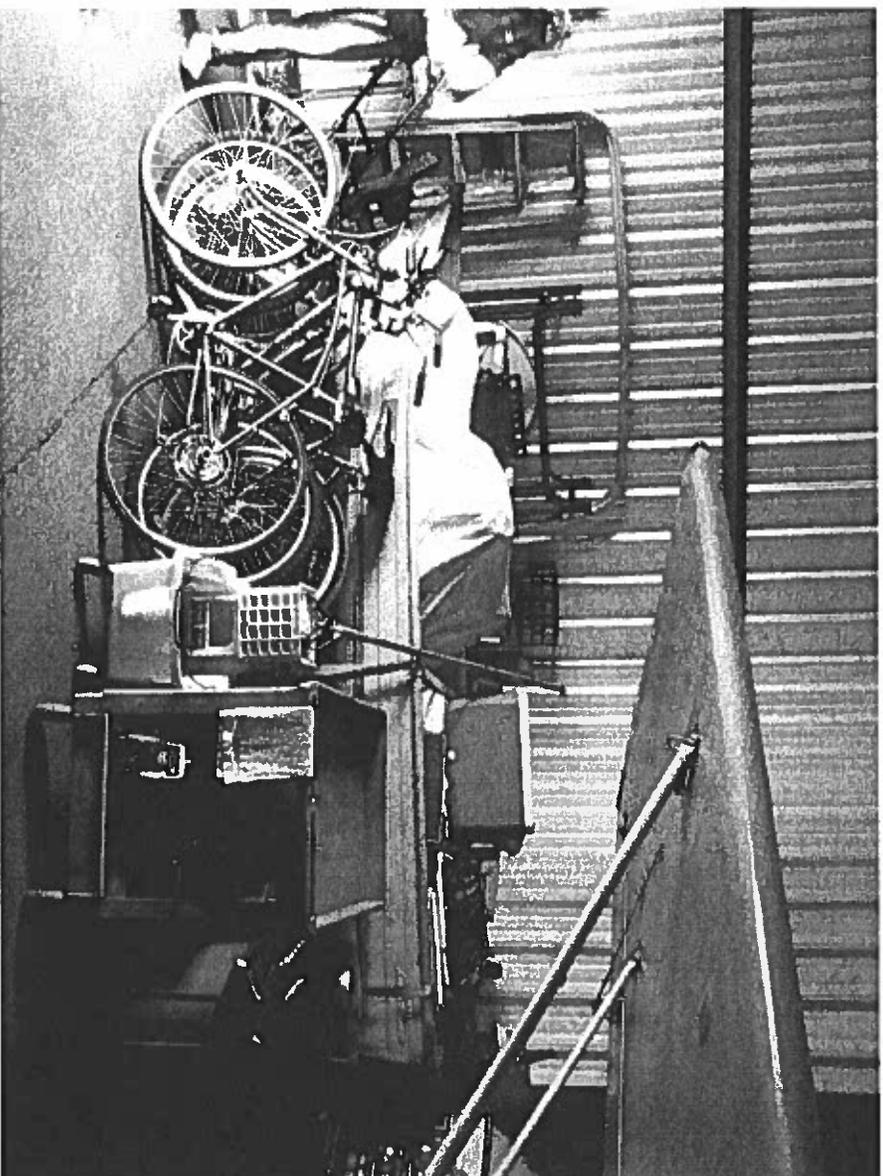


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# What do you think?

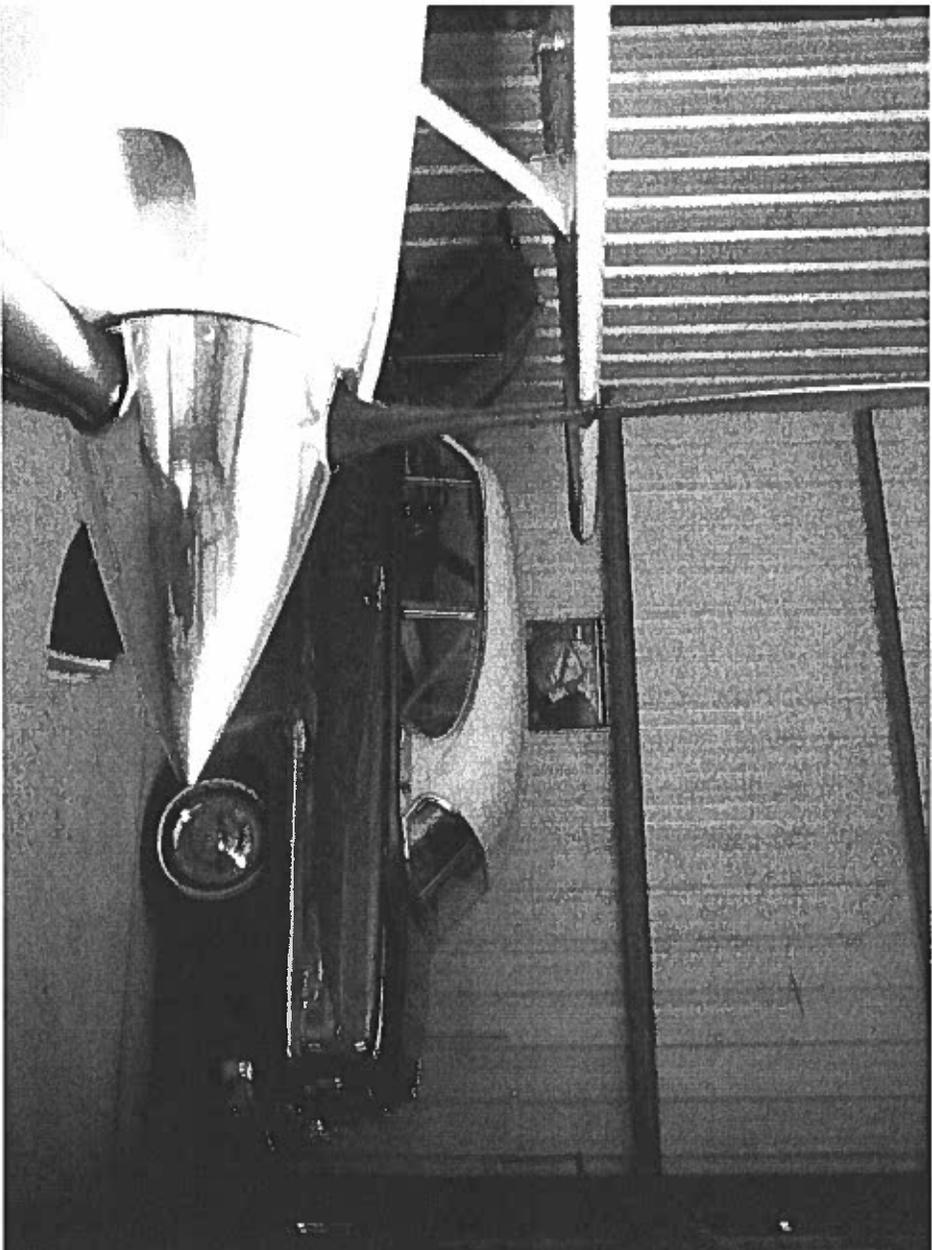


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# What do you think?

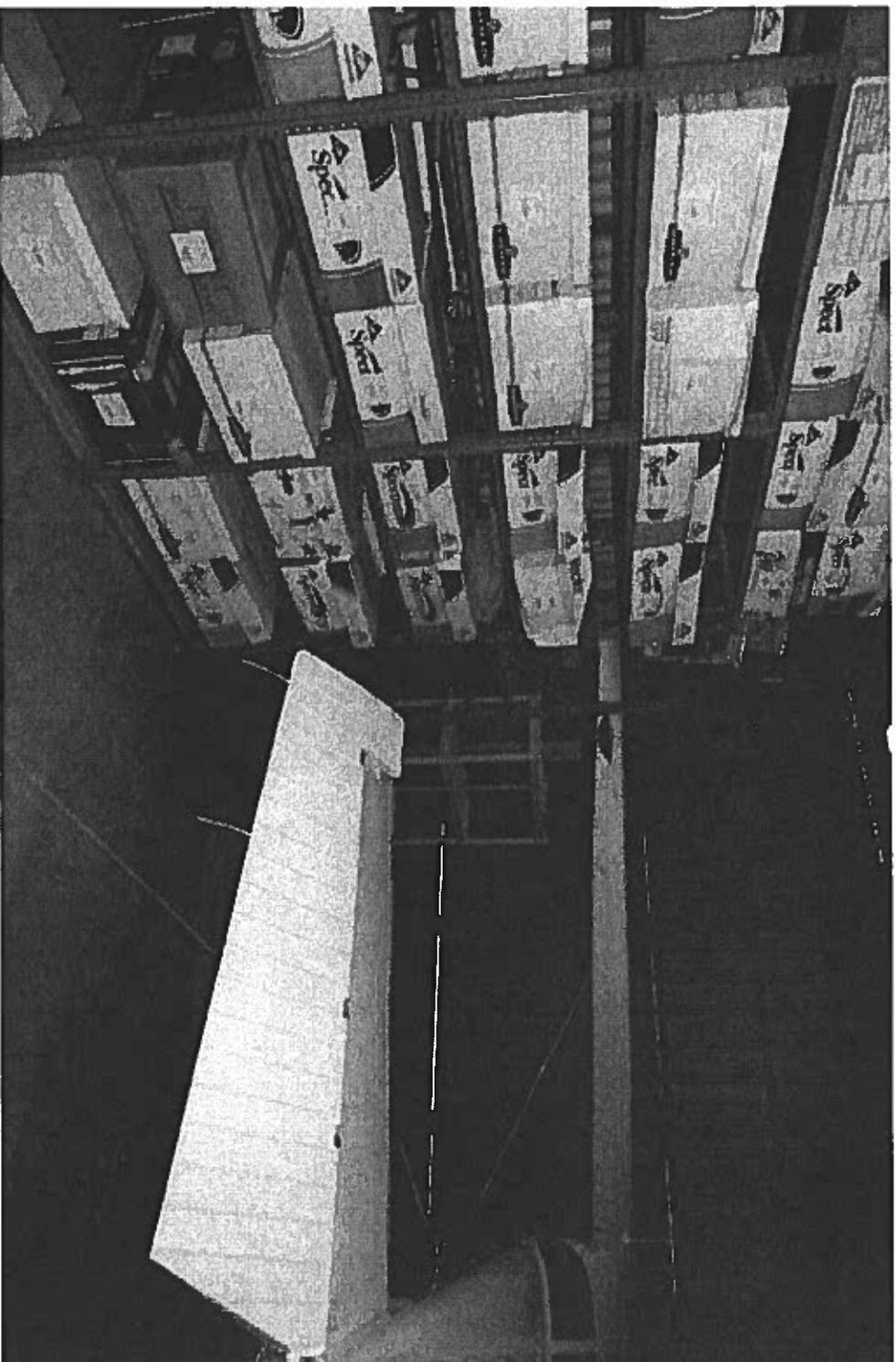


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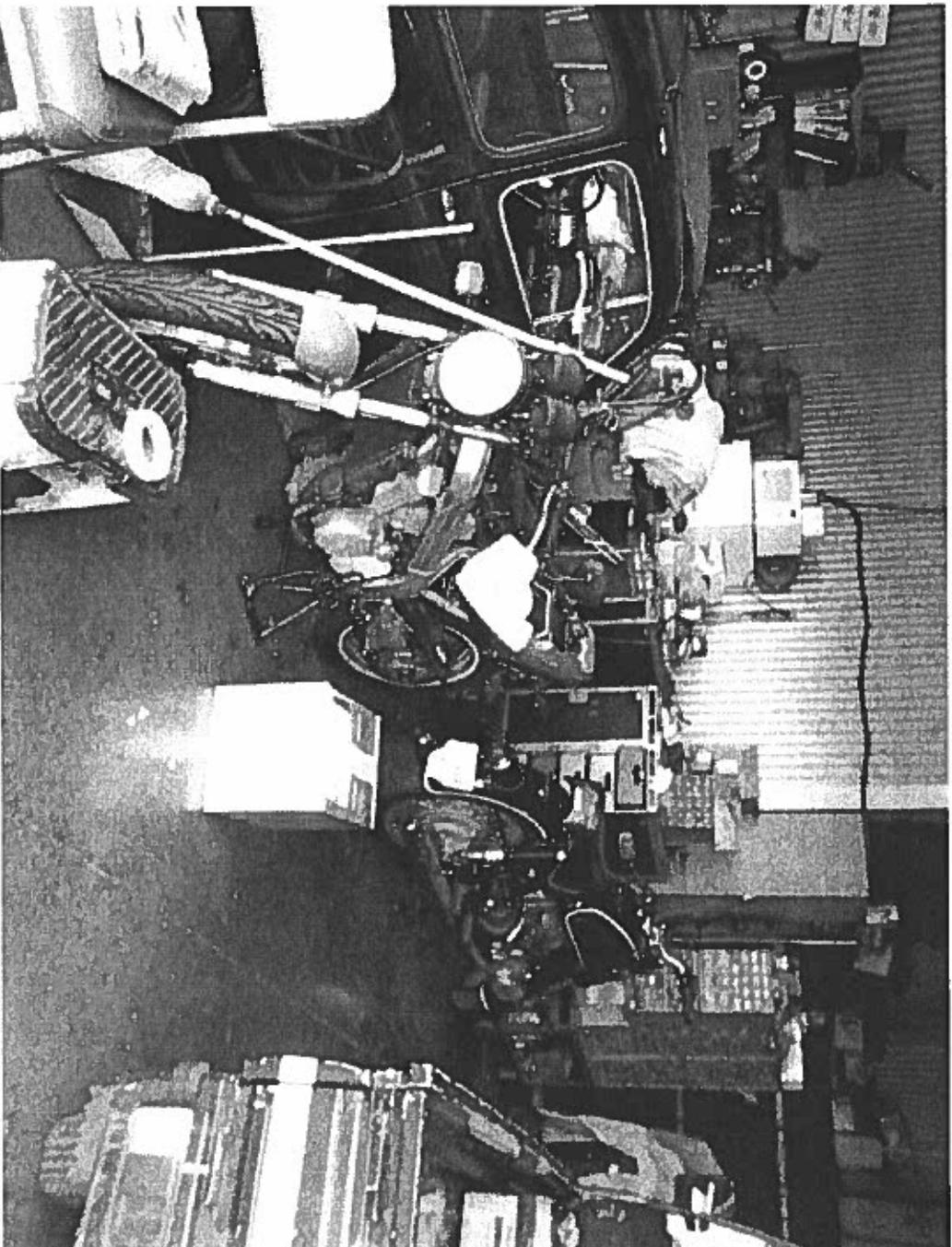


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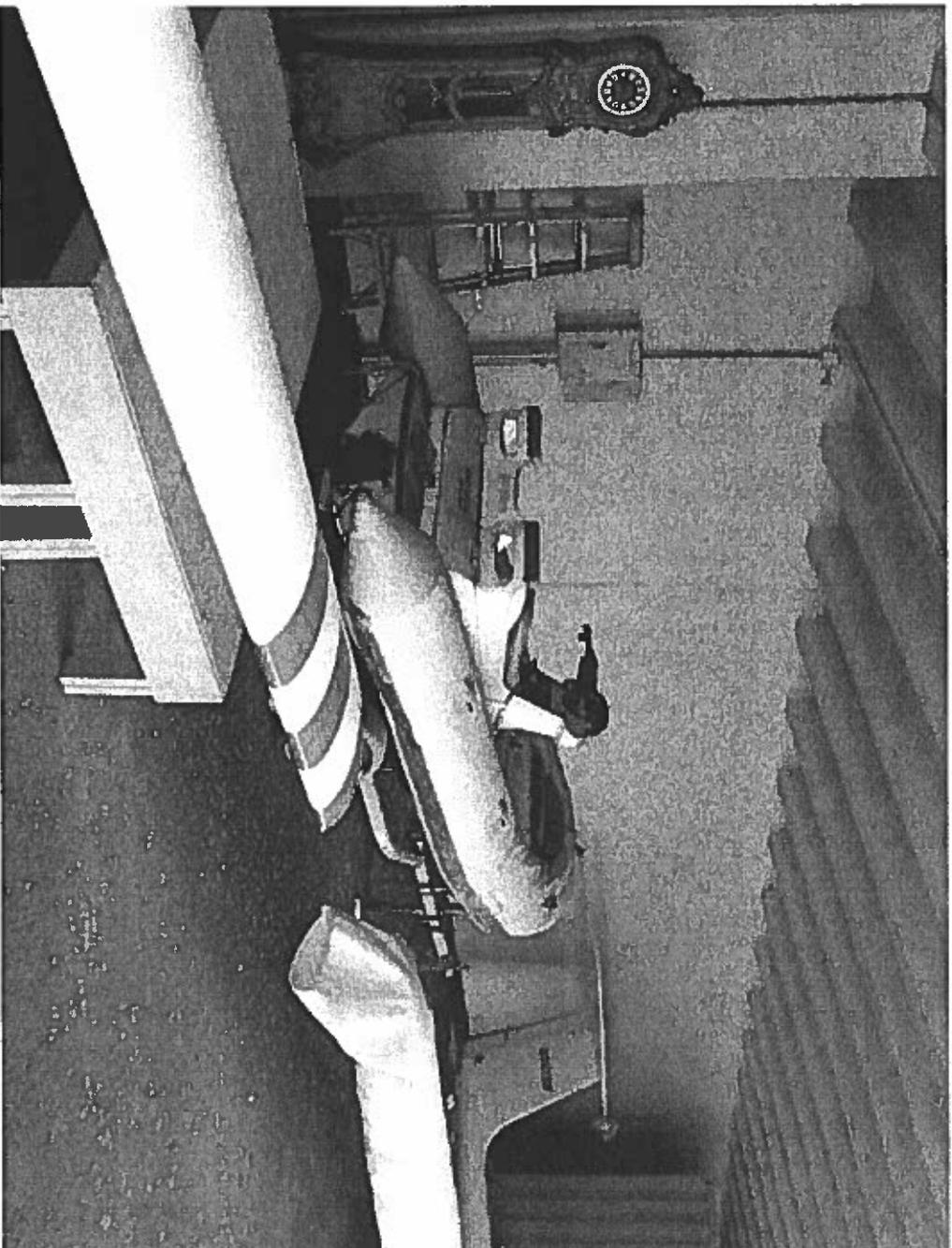


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# What do you think?



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# What do you think?

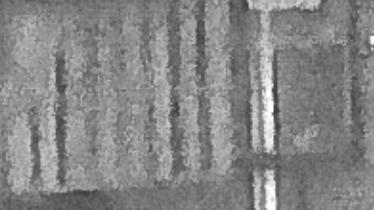
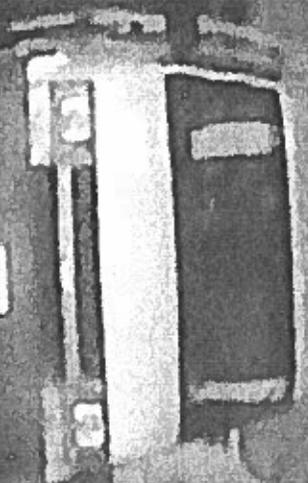
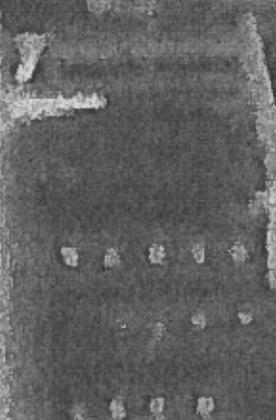
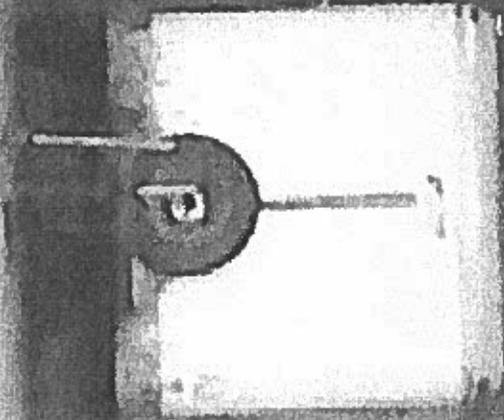


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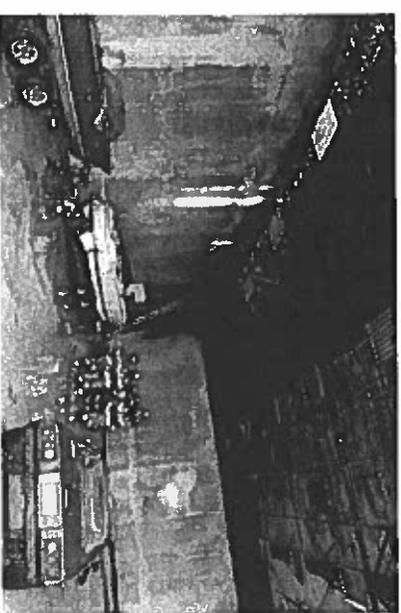
Existing Taylor Hangar  
What do You Think



# Non-Aeronautical Use of Hangars

## Lessons Learned

- Hangars and Aeronautical property are to be used for aeronautical purposes
- Incidental non-aeronautical is okay
- Request Concurrent/Interim Use for Non-Aeronautical Uses
- Charge Fair Market Value



United States Department of  
Transportation  
(<https://www.transportation.gov/>)

About DOT (<https://www.transportation.gov/about>)

Our Activities (<https://www.transportation.gov/our-activities>)

Areas of Focus (<https://www.transportation.gov/areas-of-focus>)



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# Frequently Asked Questions & Answers On FAA Policy on Use of Hangars at Obligated Airports Airports

Updated: 6/9/2016

An airport operator who accepts federal airport grants agrees to the conditions and assurances in those grant agreements. These assurances include the obligation to use hangars and other designated aeronautical facilities on the airport exclusively for aeronautical purposes.

On June 9, 2016, the FAA issued a [notice of final policy about the storage of non-aeronautical items in airport facilities designated for aeronautical](http://www.gpo.gov/fdsys/pkg/FR-2016-06-15/pdf/2016-14133.pdf) (<http://www.gpo.gov/fdsys/pkg/FR-2016-06-15/pdf/2016-14133.pdf>) (PDF). In conjunction with that notice of policy, the FAA is posting this series of Frequently Asked Questions and Answers (FAQs). These FAQs, intended to assist airport sponsors and users, will be periodically updated and may be included in the next update to [FAA Order 5190.6, Airport Compliance Handbook](http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/) ([www.faa.gov/airports/resources/publications/orders/compliance\\_5190\\_6/](http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/)).

## Frequently Asked Questions

1. [Why are hangars limited to certain kinds of use?](#)
2. [What is an airport sponsor's responsibility for hangar use?](#)
3. [What is the primary purpose of an aircraft hangar?](#)
4. [Why is the FAA issuing a separate policy statement on hangar use?](#)
5. [To what airport facilities does the policy apply?](#)
6. [Does the policy apply to airports that have never received federal assistance in the form of AIP grants or federal surplus or non-surplus property conveyances?](#)

7. Does the policy apply to privately owned hangars on private property?
  8. What aeronautical uses of a hangar are permissible?
  9. What uses are not permissible under the policy?
  10. What discretion does the policy allow the airport sponsor?
  11. What are the policy changes for homebuilders?
  12. Is it possible that some aspects of aircraft construction may not be permissible in all hangars?
  13. Does the policy apply to privately constructed hangars on federally obligated airports?
  14. May hangars be used for aviation museums or non-profit organizations activities encouraging aviation?
  15. How does the use of a hangar affect the rent charged?
  16. If there is no unsatisfied aviation demand for hangars, can they be leased to generate revenue from non-aeronautical uses?
- 

## 1. Why are hangars limited to certain kinds of use?

Airport sponsors that have accepted FAA grants or deeds of federal surplus property are obligated to use dedicated aviation facilities for aeronautical use. If hangars are not reserved for aeronautical use, federal airport grant funds could inadvertently subsidize non-aeronautical users, and aeronautical users could be denied access to needed airport facilities.

Conditions in AIP grant assurances that can apply to hangar use include:

- preserving rights and powers (Grant Assurance 5);
- making the airport available for aviation use on certain terms (Grant Assurance 22);
- not granting exclusive rights (Grant Assurance 23);
- ensuring safe operations (Grant Assurance 19); and
- complying with the ALP (Airport Layout Plan) process and requirements (Grant Assurance 29).

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## 2. What is an airport sponsor's responsibility for hangar use?

To assure appropriate use of hangars, an airport sponsor should:

- manage the use of hangars through an airport leasing program that requires a written lease agreement or permit;
- monitor the use of hangars on the airport and take steps to prevent unapproved non-aeronautical use;
- ensure that the length of time on a waiting list of those in need of a hangar for aircraft storage is minimized; and
- in cases where temporary non-aeronautical use of a vacant hangar is permitted, ensure that non-aviation users pay a fair market rental for the use of the hangar, and that the hangar can be returned to aviation use when needed.

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### **3. What is the primary purpose of an aircraft hangar?**

The primary purpose of an aircraft hangar is aircraft storage. If a hangar is serving its primary purpose, the storage of aircraft, then storage of non-aeronautical items in the hangar does not violate the airport sponsor's federal obligations.

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### **4. Why is the FAA issuing a separate policy statement on hangar use?**

The FAA had received a number of questions from airport sponsors and airport tenants about the possible uses of hangars, and about how rigidly the aeronautical use requirement should be applied. In developing the policy statement, the FAA focused on giving discretion to the local airport sponsor and allowing reasonable accommodation of activities that do not impact other aeronautical uses and do not create unjustly discriminatory conditions at the airport.

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### **5. To what airport facilities does the policy apply?**

The policy applies to all aircraft storage areas or facilities on a federally obligated airport that are designated for aeronautical use on an FAA-approved Airport Layout Plan (ALP). The policy does not apply to property designated for non-aeronautical use on an approved ALP or otherwise approved for non-aeronautical use by the FAA.

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## **6. Does the policy apply to airports that have never received federal assistance in the form of AIP grants or federal surplus or non-surplus property conveyances?**

No, it does not. An airport operator-owner of a non-federally obligated airport may impose any restrictions the owner-operator deems necessary. FAA standards and policies are acceptable guidance for non-obligated airports.

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## **7. Does the policy apply to privately owned hangars on private property?**

The policy does not apply to privately owned facilities located off the airport.

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## **8. What aeronautical uses of a hangar does the FAA permit?**

Permitted uses include:

- storing active aircraft;
- sheltering aircraft for maintenance, repair, or refurbishment, but not indefinitely storing non-operational aircraft;
- constructing amateur-built or kit-built aircraft provided that activities are conducted safely;
- storing aircraft handling equipment, e.g., tow bar, glider tow equipment, workbenches, and tools and materials used to service, maintain, repair or outfit aircraft; items related to ancillary or incidental uses that do not affect the hangars' primary use;
- storing materials related to an aeronautical activity, e.g., balloon and skydiving equipment, office equipment, teaching tools, and materials related to ancillary or incidental uses that do not affect the hangars' primary use;
- storing non-aeronautical items that do not interfere with the primary aeronautical purpose of the hangar, e.g., televisions and furniture; or
- parking a vehicle at the hangar while the aircraft usually stored in that hangar is flying, subject to local airport rules and regulations.

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## 9. What uses are *not* permissible under the policy?

Uses not permitted include:

- use as a residence;
- operation of a non-aeronautical business, e.g., limo service, car and motorcycle storage, storage of inventory, and non-aeronautical business office;
- activities that impede the movement of the aircraft in and out of the hangar or other aeronautical contents of the hangar;
- activities that displace the aeronautical contents of the hangar or impede access to aircraft or other aeronautical contents of the hangar;
- storage of household items that could be stored in commercial storage facilities;
- long-term storage of derelict aircraft and parts;
- storage of items or activities prohibited by local or state law;
- storage of fuel and other dangerous and Hazmat materials; or
- storage of inventory or equipment supporting a municipal agency function unrelated to the aeronautical use.

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## 10. What discretion does the policy allow the airport sponsor?

The policy:

- preserves the airport sponsor's discretion to manage or address issues including:
  - adopting rules covering the different uses of hangars;
  - mitigating related safety concerns (e.g., emergency access, fire codes, insurance, and the impact of vehicular traffic);
  - managing airport planning;
  - preserving airport efficiency; and
  - managing funding aspects of airport management;
- provides protection against claims of discrimination by imposing consistent rules for incidental storage in all similar facilities at the airport;
- provides airport sponsors with the ability to permit certain non-aeronautical items to be stored in hangars provided the items do not interfere with the aeronautical use of the hangar;
- allows an airport sponsor to request FAA approval of an interim use of a hangar for non-aeronautical purposes for a period of 3 to 5 years; and
- allows an airport sponsor to request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis.

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## **11. What are the policy changes for homebuilders?**

The FAA understands the substantial convenience to aircraft builders of locating the entire aircraft construction process at the same location, specifically in an airport hangar. The new policy offers protections that never existed in the FAA's prior policy. First, the FAA recognizes amateur-built aircraft construction as an aeronautical activity to be accommodated at airports on reasonable terms, without unjust discrimination and without granting an exclusive right. Second, the new policy provides for the safe construction of amateur-built aircraft in hangars (see [Question 8](#)). As an airport asset management tool, an airport sponsor leasing a vacant hangar for amateur-built aircraft construction may incorporate progress benchmarks in the lease to ensure the construction project proceeds to completion in a reasonable time.

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## **12. Is it possible that some aspects of aircraft construction may not be permissible in all hangars?**

Some hangars may not have been designed to accommodate aircraft construction or all phases of aircraft construction. Airport sponsors have an obligation to mitigate inherent hazards in the operation, and to prevent unsafe conditions or practices. For example, a sponsor could prohibit painting or other use of volatile or highly flammable materials in a hangar.

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## **13. Does the policy apply to privately constructed hangars on federally obligated airports?**

An airport sponsor's permission to lease aeronautical land on the airport for construction of a hangar accepts the sponsor's conditions that come with that land, in return for the special benefits of the location. The fact that the tenant uses the land through a ground lease with the airport sponsor and constructs the hangar using tenant funds does not affect the airport sponsor's agreement with the FAA. That agreement requires the airport land and facilities, including aircraft hangars, to be used for aeronautical purposes.

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## **14. May hangars be used for aviation museums or non-profit organizations' activities encouraging aviation?**

An airport sponsor, at its discretion, may provide access to airport property at less than fair market rent to aviation museums and other non-profit, aviation-related organizations (including aviation-focused community-based organizations). However, there is no reason for such activities to displace aircraft owners seeking hangar space for storage of operating aircraft, unless the non-profit or community activity itself involves use and storage of operating aircraft. Accordingly, aviation museums and non-profit organizations have the same access to vacant hangar space as other activities that do not actually require a hangar for aviation use.

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## **15. How does the use of a hangar affect the rent charged?**

If a hangar is being used for an aeronautical use, the airport sponsor will generally charge the tenant the airport's standard rate for aeronautical leases, which should recover the airport's costs but which may be less than fair market rent. If the hangar is used for an interim non-aeronautical purpose, the sponsor must charge a fair market rent for the hangar. Please consult the Airport Compliance Handbook for the application of below-market rent for aviation museums and other aviation related non-profit organizations.

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## **16. If there is no unsatisfied aviation demand for hangars, can they be leased to generate revenue from non-aeronautical uses?**

If a sponsor has empty aeronautical use hangars for which it has no current aeronautical demand, it may seek FAA approval to lease those hangars to non-aeronautical tenants in one of two ways.

- **Option 1.** When a sponsor wants to lease aeronautical hangars to a tenant for an extended time period (usually 3 to 5 years), it can request FAA approval for interim non-aeronautical use of a hangar until there is demand for an aeronautical purpose. The sponsor must charge a fair market commercial rental rate for any hangar rental or use for non-aeronautical purposes.

- **Option 2.** A sponsor may also request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis. Once the sponsor receives initial FAA approval, it may lease the open space for consecutive 30-day periods without further approval. The sponsor must charge a fair market commercial rental rate for any hangar rental or use for non-aeronautical purposes.

Aeronautical use must receive priority and accommodation over non-aeronautical use, even if the rental rate would be higher for the non-aeronautical use.

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This page was originally published at: [https://www.faa.gov/airports/airport\\_compliance/hangar\\_use/](https://www.faa.gov/airports/airport_compliance/hangar_use/)

Notice of final policy.

## **SUMMARY:**

This action clarifies the FAA's policy regarding storage of non-aeronautical items in airport facilities designated for aeronautical use. Under Federal law, airport operators that have accepted federal grants and/or those that have obligations contained in property deeds for property transferred under various Federal laws such as the Surplus Property Act generally may use airport property only for aviation-related purposes unless otherwise approved by the FAA. In some cases, airports have allowed non-aeronautical storage or uses in some hangars intended for aeronautical use, which the FAA has found to interfere with or entirely displace aeronautical use of the hangar. At the same time, the FAA recognizes that storage of some items in a hangar that is otherwise used for aircraft storage will have no effect on the aeronautical utility of the hangar. This action also amends the definition of aeronautical use to include construction of amateur-built aircraft and provides additional guidance on permissible non-aeronautical use of a hangar."

## **DATES:**

The policy described herein is effective July 1, 2017.

## **FOR FURTHER INFORMATION CONTACT:**

Kevin C. Willis, Manager, Airport Compliance Division, ACO-100, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3085; facsimile: (202) 267-4629.

## **ADDRESSES:**

You can get an electronic copy of this Policy and all other documents in this docket using the Internet by:

(1) Searching the Federal eRulemaking portal (<http://www.faa.gov/regulations/search> (<http://www.faa.gov/regulations/search>));

(2) Visiting FAA's Regulations and Policies Web page at ([http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies) ([http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies))); or

(3) Accessing the Government Printing Office's Web page at (<http://www.gpoaccess.gov/index.html> (<http://www.gpoaccess.gov/index.html>)).

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Airport Compliance and Management Analysis, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3085. Make sure to identify the docket number, notice number, or amendment number of this proceeding.

## **SUPPLEMENTARY INFORMATION:**

*Authority for the Policy:* This document is published under the authority described in Title 49 of the United States Code, Subtitle VII, part B, chapter 471, section 47122(a).

## **Background**

### **Airport Sponsor Obligations**

In July 2014, the FAA issued a proposed statement of policy on use of airport hangars to clarify compliance requirements for airport sponsors, airport managers, airport tenants, state aviation officials, and FAA compliance staff. (79 **Federal Register** (FR) 42483, July 22, 2014).

Airport sponsors that have accepted grants under the Airport Improvement Program (AIP) have agreed to comply with certain Federal policies included in each AIP grant agreement as sponsor assurances. The Airport and Airway Improvement Act of 1982 (AAIA) (Pub. L. 97-248), as amended and recodified at 49 United States Codes (U.S.C.) 47107(a)(1), and the contractual sponsor assurances require that the airport sponsor make the airport available for aviation use. Grant Assurance 22, *Economic Nondiscrimination*, requires the sponsor to make the airport available on reasonable terms without unjust discrimination for aeronautical activities, including aviation services. Grant Assurance 19, *Operation and Maintenance*, prohibits an airport sponsor from causing or permitting any activity that would interfere with use of airport property for airport purposes. In some cases, sponsors who have received property transfers through surplus property and nonsurplus property agreements have similar federal obligations.

The sponsor may designate some areas of the airport for non-aviation use,<sup>(1)</sup> with FAA approval, but aeronautical facilities of the airport must be dedicated to use for aviation purposes. Limiting use of aeronautical facilities to aeronautical purposes ensures that airport facilities are available to meet aviation demand at the airport. Aviation tenants and aircraft owners should not be displaced by non-aviation commercial uses that could be conducted off airport property.

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It is the longstanding policy of the FAA that airport property be available for aeronautical use and not be available for non-aeronautical purposes unless that non-aeronautical use is approved by the FAA. Use of a designated aeronautical facility for a non-aeronautical purpose, even on a temporary basis, requires FAA approval. See FAA Order 5190.6B, *Airport Compliance Manual*, paragraph 22.6, September 30, 2009. The identification of non-aeronautical use of aeronautical areas receives special attention in FAA airport land use compliance inspections. See Order 5190.6B, paragraphs 21.6(f)(5).

Areas of the airport designated for non-aeronautical use must be shown on an airport's Airport Layout Plan (ALP). The AAIA, at 49 U.S.C. 47107 (<https://api.fdsys.gov/link?collection=uscode&title=49&year=mostrecent&section=47107&type=usc&link-type=html>)(a)(16), requires that AIP grant agreements include an assurance by the sponsor to maintain an ALP in a manner prescribed by the FAA. Sponsor assurance 29, *Airport Layout Plan*, implements § 47107(a)(16) and provides that an ALP must designate non-aviation areas of the airport. The sponsor may not allow an alteration of the airport in a manner inconsistent with the ALP unless approved by the FAA. See Order 5190.6B, paragraph 7.18, and Advisory Circular 150/5070-6B, *Airport Master Plans*, Chapter 10.

Clearly identifying non-aeronautical facilities not only keeps aeronautical facilities available for aviation use, but also assures that the airport sponsor receives at least Fair Market Value (FMV) revenue from non-aviation uses of the airport. The AAIA requires that airport revenues be used for airport purposes, and that the airport maintain a fee structure that makes the airport as self-sustaining as possible. 49 U.S.C. 47107 (<https://api.fdsys.gov/link?collection=uscode&title=49&year=mostrecent&section=47107&type=usc&link-type=html>)(a)(13)(A) and (b)(1). The FAA and the Department of Transportation Office of the Inspector General have interpreted these statutory provisions to require that non-aviation activities on an airport be charged a fair market rate for use of airport facilities rather than the aeronautical rate. See *FAA Policies and Procedures Concerning the Use of Airport Revenue*, (64 FR 7696 (/citation/64-FR-7696), 7721, February 16, 1999) (FAA Revenue Use Policy).

If an airport tenant pays an aeronautical rate for a hangar and then uses the hangar for a non-aeronautical purpose, the tenant may be paying a below-market rate in violation of the sponsor's obligation for a self-sustaining rate structure and FAA's Revenue Use Policy. Confining non-aeronautical activity to designated non-aviation areas of the airport helps to ensure that the non-aeronautical use of airport property is monitored and allows the airport sponsor to clearly identify non-aeronautical fair market value lease rates, in order to meet their federal obligations. Identifying non-aeronautical uses and charging appropriate rates for these uses prevents the sponsor from subsidizing non-aviation activities with aviation revenues.

### FAA Oversight

A sponsor's Grant Assurance obligations require that its aeronautical facilities be used or be available for use for aeronautical activities. If the presence of non-aeronautical items in a hangar does not interfere with these obligations, then the FAA will generally not consider the presence of those items to constitute a violation of the sponsor's obligations. When an airport has unused hangars and low aviation demand, a sponsor can request the FAA approval for interim non-aeronautical use of a hangars, until demand exists for those hangars for an aeronautical purpose. Aeronautical use must take priority and be accommodated over non-aeronautical use, even if the rental rate would be higher for the non-aeronautical use. The sponsor is required to charge a fair market commercial rental rate for any hangar rental or use for non-aeronautical purposes. (64 FR 7721 (/citation/64-FR-7721)).

The FAA conducts land use inspections at 18 selected airports each year, at least two in each of the nine FAA regions. See Order 5190.6B, paragraph 21.1. The inspection includes consideration of whether the airport sponsor is using designated aeronautical areas of the airport exclusively for aeronautical purposes, unless otherwise approved by the FAA. See Order 5190.6B, paragraph 21.6.

### The Notice of Proposed Policy

In July 2014, the FAA issued a notice of proposed policy on use of hangars and related facilities at federally obligated airports, to provide a clear and standardized guide for airport sponsors and FAA compliance staff. (79 FR 42483 (/citation/79-FR-42483), July 22, 2014). The FAA received more than 2,400 comments on the proposed policy statement, the majority from persons who have built or are in the process of building an amateur-built aircraft. The FAA also received comments from aircraft owners, tenants and owners of hangars, and airport operators. The Aircraft Owners and Pilots Association (AOPA) and the Experimental Aircraft Association (EAA) also provided comments on behalf of their membership. Most of the comments objected to some aspect the proposed policy statement. Comments objecting to the proposal tended to fall into two general categories:

- The FAA should not regulate the use of hangars at all, especially if the hangar is privately owned.
- While the FAA should have a policy limiting use of hangars on federally obligated airports to aviation uses, the proposed policy is too restrictive in defining what activities should be allowed.

### Discussion of Comments and Final Policy

The following summary of comments reflects the major issues raised and does not restate each comment received. The FAA considered all comments received even if not specifically identified and responded to in this notice. The FAA discusses revisions to the policy based on comments received. In addition, the FAA will post frequently asked Questions and Answers regarding the Hangar Use Policy on [www.faa.gov/airport](http://www.faa.gov/airport) (<http://www.faa.gov/airport>) compliance. These Questions and Answers will be periodically updated until FAA Order 5190.6B is revised to reflect the changes in this notice.

1. *Comment: Commenters stated that the FAA should defer to local government and leave all regulation of*

*hangar use to the airport operator.*

*Response:* The FAA has a contract with the sponsor of an obligated airport, either through AIP grant agreements or a surplus property deed, to limit the use of airport property to certain aviation purposes. Each sponsor of an obligated airport has agreed to these terms. The FAA relies on each airport sponsor to comply with its obligations under this contract. To maintain a standardized national airport system and standardized practices in each of the FAA's nine regional offices, the agency issues guidance on its interpretation of the requirements of the AIP and surplus property agreements. It falls to the local airport sponsor to implement these requirements. The FAA allows airport sponsors some flexibility to adapt compliance to local conditions at each airport.

However, some airport sponsors have adopted hangar use practices that led to airport users to complain to the FAA. Some airport users have complained that sponsors are too restrictive, and fail to allow reasonable aviation-related uses of airport hangars. More commonly, aircraft owners have complained that hangar facilities are not available for aircraft storage because airport sponsors have allowed the use of hangars for purposes that are unrelated to aviation, such as operating a non-aviation business or storing multiple vehicles. By issuing the July 2014 notice, the FAA intended to resolve both kinds of complaints by providing guidance on appropriate management of hangar use. The agency continues to believe that FAA policy guidance is appropriate and necessary to preserve reasonable access to aeronautical facilities on federally obligated airports. However, the final policy has been revised in response to comments received on the proposal.

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*2. Comment: Commenters, including AOPA, stated that the FAA lacks the authority to regulate the use of privately owned hangars.*

*Response:* The FAA has a statutory obligation to assure that facilities on aeronautically designated land at federally obligated airports are reasonably available for aviation use. Designated aeronautical land on a federally obligated airport is a necessary part of a national system of aviation facilities. Land designated for aeronautical use offers access to the local airfield taxiway and runway system. Land designated for aeronautical use is also subject to certain conditions, including FAA policies concerning rates and charges (including rental rates) which were designed to preserve access for aeronautical users and to support aeronautical uses. A person who leases aeronautical land on the airport to build a hangar accepts conditions that come with that land in return for the special benefits of the location. The fact that the tenant pays the sponsor for use of the hangar or the land does not affect the agreement between the FAA and the sponsor that the land be used for aeronautical purposes. (In fact, most hangar owners do not have fee ownership of the property; typically airport structures revert to ownership of the airport sponsor upon expiration of the lease term). An airport sponsor may choose to apply different rules to hangars owned by the sponsor than it does to privately constructed hangars, but the obligations of the sponsor Grant Assurances and therefore the basic policies on aeronautical use stated in this notice, will apply to both.

*3. Comment: Commenters believe that a policy applying the same rules to all kinds of aeronautical structures, and to privately owned hangars as well as sponsor-owned hangars, is too general. The policy should acknowledge the differences between categories of airport facilities.*

*Response:* A number of commenters thought that rules for use of privately constructed and owned hangars should be less restrictive than rules for hangars leased from the airport sponsor. The Leesburg Airport Commission commented that there are different kinds of structures on the airport, with variations in rental and ownership interests, and that the FAA's policy should reflect those differences. The FAA acknowledges that ownership or lease rights and the uses made of various aeronautical facilities at airports will vary. The

agency expects that airport sponsors' agreements with tenants would reflect those differences. The form of property interest, be it a leasehold or ownership of a hangar, does not affect the obligations of the airport sponsor under the Grant Assurances. All facilities on designated aeronautical land on an obligated airport are subject to the requirement that the facilities be available for aeronautical use.

*4. Comment: Commenters agree that hangars should be used to store aircraft and not for non-aviation uses, but, they argue the proposed policy is too restrictive on the storage of non-aviation related items in a hangar along with an aircraft. A hangar with an aircraft in it still has a large amount of room for storage and other incidental uses, and that space can be used with no adverse effect on the use and storage of the aircraft.*

*Response:* In response to the comments, the final policy deletes the criteria of "incidental" or "de minimis" use and simply requires that non-aviation storage in a hangar not interfere with movement of aircraft in or out of the hangar, or impede access to other aeronautical contents of the hangar. The policy lists specific conditions that would be considered to interfere with aeronautical use. Stored non-aeronautical items would be considered to interfere with aviation use if they:

- Impede the movement of the aircraft in and out of the hangar;
- Displace the aeronautical contents of the hangar. (A vehicle parked at the hangar while the vehicle owner is using the aircraft will not be considered to displace the aircraft);
- Impede access to aircraft or other aeronautical contents of the hangar;
- Are used for the conduct of a non-aeronautical business or municipal agency function from the hangar (including storage of inventory); or
- Are stored in violation of airport rules and regulations, lease provisions, building codes or local ordinances.

Note: Storage of equipment associated with an aeronautical activity (*e.g.*, skydiving, ballooning, gliding) would be considered an aeronautical use of a hangar.

*5. Comment: Commenters stated the policy should apply different rules to situations where there is no aviation demand for hangars, especially when hangars are vacant and producing no income for the sponsor.*

*Response:* At some airports, at some times, there will be more hangar capacity than needed to meet aeronautical demand, and as a result there will be vacant hangars. The FAA agrees that in such cases it is preferable to make use of the hangars to generate revenue for the airport, as long as the hangar capacity can be recovered on relatively short notice for aeronautical use when needed. See Order 5190.6B, paragraph 22.6. The final policy adopts a provision modeled on a leasing policy of the Los Angeles County Airport Commission, which allows month-to-month leases of vacant hangars for any purpose until a request for aeronautical use is received. The final policy requires that a sponsor request FAA approval before implementing a similar leasing plan:

- The airport sponsor may request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis.
- The plan may be implemented only when there is no current aviation demand for the vacant hangars.
- Leases must require the non-aeronautical tenant to vacate the hangar on 30 days' notice, to allow aeronautical use when a request is received.

- Once the plan is approved, the sponsor may lease vacant hangars on a 30 days' notice without further FAA approval.

The agency believes this will allow airports to obtain some financial benefit from vacant hangars no, while allowing the hangars to be quickly returned to aeronautical use when needed. FAA pre-approval of a month-to-month leasing plan will minimize the burden on airport sponsors and FAA staff since it is consistent with existing interim use guidance.

6. *Comment: Commenter indicates that the terms "incidental use" and "insignificant amount of space" are too vague and restrictive.*

*Response:* The FAA has not used these terms in the final policy. Instead, the policy lists specific prohibited conditions that would be considered to interfere with aeronautical use of a hangar.

7. *Comment: Commenter states Glider operations require storage of items at the airport other than aircraft, such as tow vehicles and towing equipment. This should be an approved use of hangars.* □

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*Response:* Tow bars and glider tow equipment have been added to the list of examples of aeronautical equipment. Whether a vehicle is dedicated to use for glider towing is a particular fact that can be determined by the airport sponsor in each case. Otherwise the general rules for parking a vehicle in a hangar would apply.

8. *Comment: Commenter states it should be clear that it is acceptable to park a vehicle in the hangar while the aircraft is out of the hangar being used.*

*Response:* The final policy states that a vehicle parked in the hangar, while the vehicle owner is using the aircraft will not be considered to displace the aircraft, and therefore is not prohibited.

9. *Comment: Commenters, including Experimental Aircraft Association (EAA), stated that aviation museums and non-profit organizations that promote aviation should not be excluded from hangars.*

*Response:* Aviation museums and other non-profit aviation-related organizations may have access to airport property at less than fair market rent, under section VII.E of the FAA Policy and Procedures Concerning the Use of Airport Revenue. (64 FR 7710 (/citation/64-FR-7710), February 16, 1999). However, there is no special reason for such activities to displace aircraft owners seeking hangar space for storage of operating aircraft, unless the activity itself involves use and storage of aircraft. Accordingly, aviation museums and non-profit organizations will continue to have the same access to vacant hangar space as other activities that do not actually require a hangar for aviation use, that is, when there is no aviation demand (aircraft storage) for those hangars and subject to the discretion of the airport operator.

10. *Comment: Commenters suggest that the policy should allow a 'grace period' for maintaining possession of an empty hangar for a reasonable time from the sale of an aircraft to the purchase or lease of a new aircraft to be stored in the hangar.*

*Response:* The FAA assumes that airport lease terms would include reasonable accommodation for this purpose and other reasons a hangar might be empty for some period of time, including the aircraft being in use or at another location for maintenance. The reasons for temporary hangar vacancy and appropriate "grace periods" for various events depend on local needs and lease policies, and the FAA has not included any special provision for grace periods in the final policy.

*11. Comment: <sup>FAA</sup> Commenters believe that the policy should allow some leisure spaces in a hangar, such as a lounge or seating area and kitchen, in recognition of the time many aircraft owners spend at the airport, and the benefits of an airport community.*

*Response:* The final policy does not include any special provision for lounge areas or kitchens, either specifically permitting or prohibiting these areas. The policy requires only that any non-aviation related items in a hangar not interfere in any way with the primary use of the hangar for aircraft storage and movement. The airport sponsor is expected to have lease provisions and regulations in place to assure that items located in hangars do not interfere with this primary purpose.

*12. Comment: Commenters, including EAA, stated that all construction of an aircraft should be considered aeronautical for the purpose of hangar use, because building an aircraft is an inherently aeronautical activity. The policy should at least allow for use of a hangar at a much earlier stage of construction than final assembly.*

*Response:* The FAA has consistently held that the need for an airport hangar in manufacturing or building aircraft arises at the time the components of the aircraft are assembled into a completed aircraft. Prior to that stage, components can be assembled off-airport in smaller spaces. This determination has been applied to both commercial aircraft manufacturing as well as homebuilding of experimental aircraft.

A large majority of the more than 2,400 public comments received on the notice argued that aircraft construction at any stage is an aeronautical activity. The FAA recognizes that the construction of amateur-built aircraft differs from large-scale, commercial aircraft manufacturing. It may be more difficult for those constructing amateur-built or kit-built aircraft to find alternative space for construction or a means to ultimately transport completed large aircraft components to the airport for final assembly, and ultimately for access to taxiways for operation.

Commenters stated that in many cases an airport hangar may be the only viable location for amateur-built or kit-built aircraft construction. Also, as noted in the July 2014 notice, many airports have vacant hangars where a lease for construction of an aircraft, even for several years, would not prevent owners of operating aircraft from having access to hangar storage.

Accordingly, the FAA will consider the construction of amateur-built or kit-built aircraft as an aeronautical activity. Airport sponsors must provide reasonable access to this class of users, subject to local ordinances and building codes. Reasonable access applies to currently available facilities; there is no requirement for sponsors to construct special facilities or to upgrade existing facilities for aircraft construction use.

Airport sponsors are urged to consider the appropriate safety measures to accommodate aircraft construction. Airport sponsors leasing a vacant hangar for aircraft construction also are urged to incorporate progress benchmarks in the lease to ensure the construction project proceeds to completion in a reasonable time. The FAA's policy with respect to commercial aircraft manufacturing remains unchanged.

*13. Comment: Commenter suggests that the time that an inoperable aircraft can be stored in a hangar should be clarified, because repairs can sometimes involve periods of inactivity.*

*Response:* The term "operational aircraft" in the final policy does not necessarily mean an aircraft fueled and ready to fly. All operating aircraft experience downtime for maintenance and repair, and for other routine and exceptional reasons. The final policy does not include an arbitrary time period beyond which an aircraft

is no longer considered operational. An airport operator should be able to determine whether a particular aircraft is likely to become operational in a reasonable time or not, and incorporate provisions in the hangar lease to provide for either possibility.

14. *Comment: Commenter suggests that the FAA should limit use of hangars on an obligated airport as proposed in the July 2014 notice. Airport sponsors frequently allow non-aeronautical use of hangars now, denying the availability of hangar space to aircraft owners.*

*Response:* Some commenters supported the relatively strict policies in the July 2014 notice, citing their experience with being denied access to hangars that were being used for non-aviation purposes. The FAA believes that the final policy adopted will allow hangar tenants greater flexibility than the proposed policy in the use of their hangars, but only to the extent that there is no impact on the primary purpose of the hangar. The intent of the final policy is to minimize the regulatory burden on hangar tenants and to simplify enforcement responsibilities for airport sponsors and the FAA, but only as is consistent with the statutory requirements for use of federally obligated airport property.

## Final Policy

In accordance with the above, the FAA is adopting the following policy statement on use of hangars at federally obligated airports:□

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## Use of Aeronautical Land and Facilities

### Applicability

This policy applies to all aircraft storage areas or facilities on a federally obligated airport unless designated for non-aeronautical use on an approved Airport Layout Plan or otherwise approved for non-aviation use by the FAA. This policy generally refers to the use of hangars since they are the type of aeronautical facility most often involved in issues of non-aviation use, but the policy also applies to other structures on areas of an airport designated for aeronautical use. This policy applies to all users of aircraft hangars, including airport sponsors, municipalities, and other public entities, regardless of whether a user is an owner or lessee of the hangar.

### I. General

The intent of this policy is to ensure that the federal investment in federally obligated airports is protected by making aeronautical facilities available to aeronautical users, and by ensuring that airport sponsors receive fair market value for use of airport property for non-aeronautical purposes. The policy implements several Grant Assurances, including Grant Assurance 5, *Preserving Rights and Powers*; Grant Assurance 22, *Economic Nondiscrimination*; Grant Assurance 24, *Fee and Rental Structure*; and Grant Assurance 25, *Airport Revenues*.

### II. Standards for Aeronautical Use of Hangars

a. Hangars located on airport property must be used for an aeronautical purpose, or be available for use for an aeronautical purpose, unless otherwise approved by the FAA Office of Airports as described in Section III.

b. Aeronautical uses for hangars include:

1. Storage of active aircraft.
2. Final assembly of aircraft under construction.

3. Non-commercial construction of amateur-built or kit-built aircraft.
  4. Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
  5. Storage of aircraft handling equipment, *e.g.*, towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- c. Provided the hangar is used primarily for aeronautical purposes, an airport sponsor may permit non-aeronautical items to be stored in hangars provided the items do not interfere with the aeronautical use of the hangar.
- d. While sponsors may adopt more restrictive rules for use of hangars, the FAA will generally not consider items to interfere with the aeronautical use of the hangar unless the items:
1. Impede the movement of the aircraft in and out of the hangar or impede access to aircraft or other aeronautical contents of the hangar.
  2. Displace the aeronautical contents of the hangar. A vehicle parked at the hangar while the vehicle owner is using the aircraft will not be considered to displace the aircraft.
  3. Impede access to aircraft or other aeronautical contents of the hangar.
  4. Are used for the conduct of a non-aeronautical business or municipal agency function from the hangar (including storage of inventory).
  5. Are stored in violation of airport rules and regulations, lease provisions, building codes or local ordinances.
- e. Hangars may not be used as a residence, with a limited exception for sponsors providing an on-airport residence for a full-time airport manager, watchman, or airport operations staff for remotely located airports. The FAA differentiates between a typical pilot resting facility or aircrew quarters versus a hangar residence or hangar home. The former are designed to be used for overnight and/or resting periods for aircrew, and not as a permanent or even temporary residence. *See* FAA Order 5190.6B paragraph 20.5(b)
- f. This policy applies regardless of whether the hangar occupant leases the hangar from the airport sponsor or developer, or the hangar occupant constructed the hangar at the occupant's own expense while holding a ground lease. When land designated for aeronautical use is made available for construction of hangars, the hangars built on the land are subject to the sponsor's obligations to use aeronautical facilities for aeronautical use.

### III. Approval for Non-Aeronautical Use of Hangars

A sponsor will be considered to have FAA approval for non-aeronautical use of a hangar in each of the following cases:

- a. FAA advance approval of an *interim use*: Where hangars are unoccupied and there is no current aviation demand for hangar space, the airport sponsor may request that FAA Office of Airports approve an interim use of a hangar for non-aeronautical purposes for a period of 3 to 5 years. The FAA will review the request in accordance with Order 5190.6B paragraph 22.6. Interim leases of unused hangars can generate revenue for the airport and prevent deterioration of facilities. Approved interim or concurrent revenue-production uses

must not interfere with safe and efficient airport operations and sponsors should only agree to lease terms that allow the hangars to be recovered on a 30 days' notice for aeronautical purposes. In each of the above cases, the airport sponsor is required to charge non-aeronautical fair market rental fees for the non-aeronautical use of airport property, even on an interim basis. (64 FR 7721 (/citation/64-FR-7721)).

b. FAA approval of a *month-to-month leasing plan*: An airport sponsor may obtain advance written approval month-to-month leasing plan for non-aeronautical use of vacant facilities from the local FAA Office of Airports. When there is no current aviation demand for vacant hangars, the airport sponsor may request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis. The plan must provide for leases that include an enforceable provision that the tenant will vacate the hangar on a 30-day notice. Once the plan is approved, the sponsor may lease vacant hangars on a 30-day notice basis without further FAA approval. If the airport sponsor receives a request for aeronautical use of the hangar and no other suitable hangar space is available, the sponsor will notify the month-to-month tenant that it must vacate.

A sponsor's request for approval of an interim use or a month-to-month leasing plan should include or provide for (1) an inventory of aeronautical and non-aeronautical land/uses, (2) information on vacancy rates; (3) the sponsor's procedures for accepting new requests for aeronautical use; and (4) assurance that facilities can be returned to aeronautical use when there is renewed aeronautical demand for hangar space. In each of the above cases, the airport sponsor is required to charge non-aeronautical fair market rental fees for the non-aeronautical use of airport property, even on an interim basis. (64 FR 7721 (/citation/64-FR-7721)).

c. *Other cases*: Advance written release by the FAA for all other non-aeronautical uses of designated aeronautical facilities. Any other non-aeronautical use of a designated aeronautical facility or parcel of airport land requires advance written approval from the FAA Office of Airports in accordance with Order 5190.6B chapter 22.□

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#### **IV. Use of Hangars for Construction of an Aircraft**

Non-commercial construction of amateur-built or kit-built aircraft is considered an aeronautical activity. As with any aeronautical activity, an airport sponsor may lease or approve the lease of hangar space for this activity without FAA approval. Airport sponsors are not required to construct special facilities or upgrade existing facilities for construction activities. Airport sponsors are urged to consider the appropriate safety measures to accommodate these users.

Airport sponsors also should consider incorporating construction progress targets in the lease to ensure that the hangar will be used for final assembly and storage of an operational aircraft within a reasonable term after project start.

#### **V. No Right to Non-Aeronautical Use**

In the context of enforcement of the Grant Assurances, this policy allows some incidental storage of non-aeronautical items in hangars that do not interfere with aeronautical use. However, the policy neither creates nor constitutes a right to store non-aeronautical items in hangars. Airport sponsors may restrict or prohibit storage of non-aeronautical items. Sponsors should consider factors such as emergency access, fire codes, security, insurance, and the impact of vehicular traffic on their surface areas when enacting rules regarding hangar storage. In some cases, permitting certain incidental non-aeronautical items in hangars could inhibit the sponsor's ability to meet obligations associated with Grant Assurance 19, *Operations and Maintenance*.

To avoid claims of discrimination, sponsors should impose consistent rules for incidental storage in all similar facilities at the airport. Sponsors should ensure that taxiways and runways are not used for the vehicular transport of such items to or from the hangars.

## VI. Sponsor Compliance Actions

- a. It is expected that aeronautical facilities on an airport will be available and used for aeronautical purposes in the normal course of airport business, and that non-aeronautical uses will be the exception.
- b. Sponsors should have a program to routinely monitor use of hangars and take measures to eliminate and prevent unapproved non-aeronautical use of hangars.
- c. Sponsors should ensure that length of time on a waiting list of those in need of a hangar for aircraft storage is minimized.
- d. Sponsors should also consider including a provision in airport leases, including aeronautical leases, to adjust rental rates to FMV for any non-incidental non-aeronautical use of the leased facilities. In other words, if a tenant uses a hangar for a non-aeronautical purpose in violation of this policy, the rental payments due to the sponsor would automatically increase to a FMV level.
- e. FAA personnel conducting a land use or compliance inspection of an airport may request a copy of the sponsor's hangar use program and evidence that the sponsor has limited hangars to aeronautical use.

The FAA may disapprove an AIP grant for hangar construction if there are existing hangars at the airport being used for non-aeronautical purposes.

Issued in Washington, DC, on the 9th of June 2016.

Robin K. Hunt,

Acting Director, Office of Airport Compliance and Management Analysis.

## Footnotes

1. The terms "non-aviation" and "non-aeronautical" are used interchangeably in this Notice.

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PUBLISHED DOCUMENT

**1.04 General Lease Clauses****A) For all Airport Lease Agreements**

**1. Aircraft Service by Owner or Operator of Aircraft:** No right or privilege granted herein shall prevent any entity operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees (including, but not limited to, maintenance repair and self-fueling) that it may choose to perform, subject to board and federal restrictions and these minimum standards.

**2. Airport Development:** The Board reserves the right to further develop or improve the airfield. If the physical development of the Airport requires the relocation of Operator-owned facilities, the Board agrees to provide a comparable location, and agrees to relocate all Operator-owned buildings or provide similar facilities for the Operator at no cost to the Operator.

**3. Board's Rights:** The Board reserves the right (but shall not be obligated to the Operator) to maintain and keep in repair the airfield. The Board shall have the right to regularly audit the financial records of all Operators if the Board has an interest in the records. The Board shall have the right to inspect all Operators in order to establish proof of currency of all licenses, compliance with all laws, rules, regulations, and standards with which the Operator is required to comply. The Board reserves the right to operate or conduct any or all aeronautical activities, as a part of airport operations, as necessary to benefit the Airport.

**4. Airport Obstructions:** The Board reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent the Operator from erecting, or permitting to be erected, any building or other structure on the Airport which in the opinion of the Board, would limit the usefulness of the Airport or constitute a hazard to aircraft.

**5. Subordination:** Airport leases shall be subordinate to the provisions of any existing or future agreement between the County of Livingston and the United States, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

**6. Compliance with Laws, Etc.:** The Operator shall at all times comply with the airport rules and regulations, federal, state, and local laws, ordinances, codes and other regulatory measures now in existence or, as may be hereafter modified or amended, applicable to the specific type of operation contemplated. The Operator shall procure and maintain during the term of the Agreement all licenses, permits, and other similar authorizations required for the conduct of his business operations.

**7. Misrepresentation:** All terms and conditions with respect to these Minimum Standards are expressly contained herein, and the Operator agrees that no representation or promise has been made with respect to these Minimum Standards not expressly contained herein.

Federal Register Notice FAA-2014-0463  
Policy on Non-aeronautical Use of Airport Hangars

FAA Airport Compliance Manual- Order 5190.6B

History – Why did the FAA enact FAA order 5190.6B?

1. Non-aeronautical use of hangars has lead to a long list of problems as noted by the FAA for airports.
2. Hangar waiting lists are growing to unmanageable size as little or no airport owned hangars are being built.
3. The pricing of airport owned hangars in comparison to commercial storage pricing has made aircraft hangars attractive for rental for storage and non-aeronautical uses.
4. The alternative of parking aircraft outside exposed to the sun, wind and rain is very damaging to aircraft.
5. Airport management has often turned a blind eye to uses of hangars for non-aeronautical uses in search of additional revenue.
6. Existing hangar policy was not definitive.

## Research

First San Jose FISDO and then the Sacramento FISDO were contacted. Then an exhaustive Federal Register search was conducted for any reference to FAA Hangar Orders or legislation passed that specifically addressed hangar usage.

Whenever possible, FAA Orders, interview comments and Legislation verbiage was used word-for-word.

## San Jose FISDO

I started my phone research with San Jose FISDO because several years ago I called them to point out departures on Ukiah runway 15 were NA. Suddenly I was part of an unpaid one year FAA task force to get a workable instrument departure official on the KUKI 15 runway. So I thought I might have a friend(s) who would do some hanger research for me.

A year of conference calls and several meetings at FISDO, the HUKI 15 departure (along with a new 33 departure) was done. Then completely to my surprise they named the 33 departure RONHU. The 15 departure was named RYPAX.

The person I talked to was not familiar with airport FAA Order 5190.6 enforcement, but said that in general recent/current FFA orders would prevail over existing agreements with hangar tenants who signed leases under previous orders. It was suggested I contact Sacramento FISDO as they were responsible for KUKI.

### Sacramento FISO

I found a lady at Sacramento FISO who also said current/new FAA orders always prevailed over older FAA orders. For example, older aircraft that could not meet new noise requirements are forced to go to routes or countries where they could meet existing noise abatement regulations. The same logic applied to the change in minimum flight hours required for an ATP was increased from 250 to 1500. That immediately changed a lot of leases and contracts.

My next effort was to find as much FAA published information or legislative action as possible on private hangar usage on airports that have received grants – airports that have not received grants are exempt.

The results of that effort are attached with pertinent sections annotated and listed in conclusions.

### What the polity says

FAA order 5190.6B, Pilots Bill of Rights 2 applies regardless of whether the hangar occupant leases the structure from the airport sponsor, developer or the hangar occupant constructed the hangar at their own expense and holds a ground lease only.

### Policy Highlights:

General rules indicated are to be considered for limited hangar FAA hangar incidental non-aeronautical use.

1. Hangars and Aeronautical property are to be used first for aeronautical purposes.
2. Non-aeronautical use does not displace the aeronautical contents of the hangar
2. Does not impede access to aircraft or other aeronautical contents of the hangar
3. Does not require a larger hangar than would otherwise be necessary if such items were not present.
4. Occupy an insignificant amount of hangar space.
5. Are owned by the hangar owner or tenant.
6. (the hangar) is not being used for non-aeronautical commercial purposes.
7. Incidental concurrent use for non-aviation use is OK.
8. Active assembly of an aircraft in the manufacturing or homebuilt construction is OK. Sheltering aircraft for maintenance, repair or refurbishment, but not indefinitely storing of non-airworthy non-owned or owned aircraft.
9. Non-aeronautical hangar use requires FAA Written Approval
10. Hangar use policy is noted in the Federal Register Notice FAA-2014-0463- Policy on the non-aeronautical use of airport hangars.

## Conclusion

Private hangars built on airport land are subject to Airport Management as well as public hangars. Existing leases are subordinate to existing or future agreements between the airport and the (FAA) United States.

Provided the hanger is used primarily for aeronautical purposes, an airport sponsor (Airport Management) with FAA written approval may permit limited, non-aeronautical uses in hangars provided the items are incidental to aeronautical use of the hanger and occupy an insignificant amount of hanger space. The New FAA Hangar Use Policy has been adjudicated in the Courts and made the Law of the Land in Pilots Bill of Rights 2. NOTE: *underlining is FAA emphasis*

Some tenants will claim any part or piece of an aircraft or a non-owned derelict airplane is substantial proof they are in compliance – not exactly. *The glacial movement of the Hangar Waiting List into hangars is further proof change is needed.*

Existing private hangars such as the old Eagle's Nest, at least 2 Taylor Hangars and several Public Pasco Hangars are being used for non-aeronautical purposes or long term storage of non-operational airplanes. This is outside of FAA hangar guidelines published September 23, 2014, updated 6/9/2016 with a Notice of Final Policy and as outlined in the 2016 Pilots Bill of Rights 2, effective 7/1/2017.

Question & Answer paper (see previous tab) concerning the use of hangars was also included with the Notice of Final (Hangar) Policy. Section 4 of the Pilots Bill of Rights 2, provides local airport offices the right to manage the use of private and public hangars at airports to ensure they are being used primarily and first for aeronautical purposes.

**Subordination:** (of airport leases) Appendix O, 1.04 – 5 – FAA Order 5190.6B. State that airport leases shall be subordinate to the provisions of any existing or future agreements between the airport and the United States (Airport). (County of Livingston v. United States) Discussion with 2 FISDO offices confirmed this.

FAA personnel conducting inspections will request a copy of the sponsor's (Airport Management) hangar use program and evidence that the sponsor is limiting hangar use to aviation use and FAA approved non-aeronautical use.

Airport Management has not given FAA Airport Compliance Manual - Order 5190.6B and Pilots Bill of Rights 2 hangar rulings any attention, They should issue notification of the new rules, inspect hangars promptly, request FAA approval for non-aeronautical hangar use and bring the airport into compliance with the FAA Airport Compliance Manual. (Personal Comment) I strongly recommend an Airport Open House Meeting be held to clarify new hangar approved uses, new gas price increases and proposed hangar price increases.



**Federal Aviation  
Administration**

## FAA Issues Final Policy on the Use of Airport Hangars

Search:

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**June 15-** The FAA's final policy on the non-aeronautical use of airport hangars appears in today's *Federal Register* and will take effect on July 1, 2017. The FAA is issuing the policy to clarify how aviation facilities – including hangars can be used on airports that receive federal funds.

The final policy strikes a balance between hangar use for aviation and non-aviation purposes.

The policy ensures hangars are available when there is an aviation need, and if demand is low, allows hangars to be used for non-aviation activities. The FAA recognizes that non-aviation hangar space rental allows airport sponsors to be economically independent when hangars are not being used to fulfill aviation needs. Airport sponsors must receive approval from the FAA before hangars can be used for non-aviation purposes.

In addition, the policy outlines the type of aircraft that can be built in a hangar, the equipment and items that can be stored in hangars, and the role of the airport sponsors to ensure tenants pay fair market value for hangar space.

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