

Chapter 10: Reasonable Commercial Minimum Standards

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10.1. Introduction. This chapter describes the sponsor's discretion to establish minimum standards for commercial service providers and airport regulations for all other airport activities. Flying clubs are not-for-profit commercial operations and are not normally covered by commercial minimum standards. However, flying clubs are covered within this chapter since a majority of federally obligated airports where flying clubs exist have historically addressed the issue in their minimum standards.

While minimum standards are developed by airport sponsors, the regional airports divisions (Regions) and airports district offices (ADOs) are available to advise sponsors on the proposed standards including whether the standards appear to protect or convey an exclusive right. The FAA does not provide formal approval of minimum standards.

10.2. FAA Recognition of Minimum Standards. A sponsor's establishment of minimum standards and airport regulations contribute to nondiscriminatory treatment of airport tenants and users. It also helps the sponsor avoid granting an exclusive right.⁵¹ When the sponsor imposes reasonable and not unjustly discriminatory minimum standards for airport operations, and the sponsor then denies access or services based on those standards, the FAA will not find the sponsor in violation of the assurances regarding exclusive rights and unjust discrimination, provided those standards:

- a. Apply uniformly to all similarly situated providers of aeronautical services including full service Fixed-Base Operators (FBOs)⁵² and Specialized Aviation Service Operators (SASOs).
- b. Impose conditions that ensure safe and efficient operation of the airport in accordance with FAA guidance when available.
- c. Are reasonable, not unjustly discriminatory, attainable, uniformly applied and reasonably protect providers of aeronautical services from unreasonable competition.
- d. Are relevant to the activity for which they apply.
- e. Provide the opportunity for others who meet the standards to offer aeronautical services.

Note: There is no requirement to include nonaeronautical activities (such as a restaurant, parking or car rental) in minimum standards since those activities are not covered under the grant assurances or covenants in conveyances of federal property.

10.3. Use of Minimum Standards to Protect an Exclusive Right. When the sponsor implements minimum standards for the purpose of protecting an exclusive right, the FAA may find the sponsor in violation of the exclusive rights prohibition. Evidence of intent to grant an

⁵¹ See chapter 8 of this Order, *Exclusive Rights*, and chapter 9 of this Order, *Unjust Discrimination between Aeronautical Users*, and chapter 11 of this Order, *Self-Service*.

⁵² An FBO is a commercial entity providing multiple aeronautical services such as fueling, maintenance, storage, ground and flight instruction, etc., to the public. See section 10.5(f) for more information on SASOs.

exclusive right might be, for example, the adoption of a standard that only one particular operator can reasonably or practically meet.

10.4. Benefits of Minimum Standards. The FAA strongly recommends developing minimum standards because these standards typically:

- a. Promote safety in all airport activities and maintain a higher quality of service for airport users.
- b. Protect airport users from unlicensed and unauthorized products and services.
- c. Enhance the availability of adequate services for all airport users.
- d. Promote the orderly development of airport land.
- e. Provide a clear and objective distinction between service providers that will provide a satisfactory level of service and those that will not.
- f. Prevent disputes between aeronautical providers and reduce potential complaints.

10.5. Developing and Applying Minimum Standards.

a. Advisory Circular (AC) on Minimum Standards. When developing minimum standards, the most critical consideration is the particular nature of the activity and the operating environment at the airport. Airport sponsors should tailor their minimum standards to their individual airports. For example, consider the requirements for an FBO located at a small, rural airport that serves only small General Aviation (GA) aircraft. A minimum standard requiring the FBO to make jet fuel available if there were few jet operations at the airport would likely be unreasonable. If that same FBO serviced ultralight vehicles, light-sport aircraft, or type-certificated aircraft that use automotive fuel, it would be unreasonable to establish a commercial aeronautical activity standard that would prevent the FBO from selling ethanol-free premium unleaded automotive fuel (commonly referred to as MoGas) or ASTM 6227 standard aviation gasoline (commonly referred to as AvGas), or establish a minimum fuel storage tank size that is unreasonable for the type of fuel sold.

The potential imposition of unreasonable requirements illustrates why “fill-in-the-blank” minimum standards and the blanket adoption of another airport’s standards are usually not effective. This could result in the imposition of irrelevant and unreasonable standards. Instead, the FAA has provided guidance in the form of AC 150/5190-7, [*Minimum Standards for Commercial Aeronautical Activities*](#), to illustrate an approach to developing and implementing minimum standards.

b. Safety and Efficiency Standards. Federal law and policies requiring airport sponsors to provide airport access to all types, kinds, and classes of aeronautical activity, as well as to the general public, include certain exceptions. Exceptions to the general rule may apply when airport safety or efficiency would be compromised.

However, a restriction imposed for safety or efficiency purposes that is subsequently challenged by an aeronautical user will require concurrence from FAA Flight Standards (FS) and/or Air Traffic (AT) before the FAA headquarters Airport Compliance Division (ACO-100) or the

Region or ADO can determine the restriction is reasonable and approve the restriction. This is because the federal government, through this exercise of its constitutional and statutory powers (49 U.S.C. § 40103(a)), has preempted the areas of airspace use and management, air traffic control, and aviation safety.⁵³

c. Aircraft Weight Restrictions. A sponsor may impose a restriction based on specified maximum gross weight or wheel loading based on the design load bearing capacity of the pavement. Any restrictions should allow for occasional operations by aircraft above the weight limit that do not result in excessive wear or deterioration. Before imposing a weight-based restriction, however, the FAA recommends the sponsor seek FAA review of the proposal to ensure compliance with federal obligations.

d. Public Access. The sponsor may also impose restrictions that apply to the general public. For example, the public is generally subject to restrictions concerning vehicle and pedestrian access, security, and crowd control when using airport facilities.

e. Availability of FAA Assistance. Airport sponsors can obtain assistance from Regions and ADOs in determining the reasonableness of restrictions imposed through minimum standards.

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

⁵³ See chapter 14 of this Order, *Restrictions Based on Safety and Efficiency Procedures and Organization*; Grant Assurance 19, *Operation and Maintenance* (for safe and serviceable airport), and Grant Assurance 29, *Airport Layout Plan* (adverse effects on airport safety, utility, or efficiency not in conformity with the ALP).

required to permit a SASO for fuel sales alone. The right to sell fuel is generally bundled with other required services.⁵⁴

g. Independent Operators. If independent operators⁵⁵ are to be allowed to perform a single-service aeronautical activity⁵⁶ on the airport (aircraft washing, maintenance, etc.), the airport sponsor should have a licensing or permitting process in place that provides a level of regulation and compensation satisfactory to the airport. Frequently, a yearly fee or percentage of the gross receipts fee is a satisfactory way of monitoring this type of operation.

10.6. Flying Clubs.

a. Definition. The FAA defines a flying club as a nonprofit entity (*e.g.*, corporation, association, or partnership) organized for the express purpose of providing its members with aircraft for their personal use and enjoyment only. (*See* 81 Fed. Reg. 13719 (March 15, 2016).

b. General. The ownership of the club aircraft must be vested in the name of the flying club or owned by all its members. The property rights of the members of the club shall be equal; no part of the net earnings of the club will inure to the benefit of any individual in any form, including salaries, bonuses, etc. The flying club may not derive greater revenue from the use of its aircraft than the amount needed for the operation, maintenance and replacement of its aircraft.

c. Policies. A flying club qualifies as an individual under the grant assurances and, as such, has the right to fuel and maintain the aircraft with its members. The airport owner has the right to require the flying club to furnish documents, such as



A flying club qualifies as an individual under the grant assurances and, as such, has the right to fuel and maintain the aircraft with its members. The airport owner has the right to require the flying club to furnish documents, such as insurance policies and a current list of members, as may be reasonably necessary to assure that the flying club is a nonprofit organization rather than a fixed-base operator or other commercial entity that purports to be a flying club. (Photo: FAA)

⁵⁴ [AC 150/5190-7, Minimum Standards for Commercial Aeronautical Activities.](#)

⁵⁵ Independent operators also may be termed “freelance” operators and generally are self-employed persons who are not employed continuously but hired to do specific assignments or jobs.

⁵⁶ See chapter 8 of this Order, *Exclusive Rights*, and Section 8.6, “Airports Having a Single Aeronautical Service Provider”.

insurance policies and a current list of members, as may be reasonably necessary to assure that the flying club is a nonprofit organization rather than an FBO or other commercial entity.

The FAA suggests several definitions and items as guidance for inclusion by airports in their minimum standards and airport rules and regulations. (See [Appendix O of this Order, *Minimum Standards for Commercial Aeronautical Activities*](#), and [Appendix P, *Sample Airport Rules and Regulations*](#). Note: Information in samples is for example only.) These items include:

- (1). All flying clubs desiring to base their aircraft and operate at an airport must comply with the applicable provisions of airport specific standards or requirements. However, flying clubs will not be subject to commercial FBO requirements provided the flying club fulfills the conditions contained in the stated airport standards or requirements satisfactorily.
- (2). Flying clubs may not offer or conduct charter, air taxi, or aircraft rental operations. They may conduct aircraft flight instruction for regular members only, and only members of the flying club may operate the aircraft.
- (3). A flying club may permit its aircraft to be used for flight instruction (1) in a club-owned aircraft as long as both the instructor providing instruction and person receiving instruction are members of the club owning the aircraft, or (2) when the instruction is given by a lessee based on the airport who provides flight training and the person receiving the training is a member of the flying club. In either circumstance, a flight instructor may receive monetary compensation for instruction or may be compensated by credit against payment of dues or flight time; however that individual may not receive both compensation and waived or discounted dues or flight time concurrently. The airport sponsor may set limits on the amount of instruction that may be performed for compensation.
- (4). A qualified mechanic who is a registered member and part owner of the aircraft owned and operated by a flying club may perform maintenance work on aircraft owned by the club. The mechanic may receive monetary compensation for such maintenance work or may be compensated by credit against payment of dues or flight time; however that individual may not receive both compensation and waived or discounted dues or flight time concurrently. The airport sponsor may set limits on the amount of maintenance that may be performed for compensation.
- (5). All flying clubs and their members are prohibited from leasing or selling any goods or services whatsoever to any person or firm other than a member of such club at the airport, except that said flying club may sell or exchange its capital equipment.
- (6). A flying club at any airport shall comply with all federal, state, and local laws, ordinances, regulations and the rules and regulations of the airport.
- (7). The flying club should file periodic documents as required by the sponsor, including tax returns, insurance policies, membership lists, and other documents that the sponsor reasonably requires.

(8). Flying clubs may not hold themselves out to the public as fixed based operators, a specialized aviation service operation, maintenance facility or a flight school and are prohibited from advertisements as such or be required to comply with the appropriate airport minimum standards.

Flying clubs may not indicate in any form of marketing and/or communications that they are a flight school, and flying clubs may not indicate in any form of marketing and/or communications that they are a business where people can learn to fly.

d. Violations. A flying club that violates the requirements for a flying club – or that permits one or more members to do so – may be required to terminate all operations as a flying club at all airports controlled by the airport sponsor.

10.7. Illegal Air Charters.

a. Definition. The FAA broadly recognizes “illegal air charters” as unauthorized air charter operations. Illegal Part 135 charters operate without meeting the safety requirements of a certificated air carrier. These include aircraft owners that in order to generate revenue, allow the use of their aircraft temporarily for charters or by management companies as a loaner without meeting the FAA requirements. An illegal air charter also can present as flight instruction or aircraft demonstration flights.

b. General Airport sponsors that suspect an illegal charter should discuss concerns or questions with local FAA Flight Standards District Office since the FAA is the investigator and final decision maker on aviation safety. The FAA does not want airport sponsors to investigate suspected illegal aeronautical activities such illegal air charters. The sponsors do not have the responsibility or expertise to conduct investigations of suspected illegal aeronautical activities.

Some airport sponsors have incorporated language in their tenant leases, airport rules and regulations, and minimum standards that prohibit illegal commercial aeronautical activities such as illegal charter operations. These airport documents contain language that:

1. Requires all users will abide by all FAA regulations and requirements while operating at the airport.
2. Requires tenants to provide listing of aircraft used for commercial activities and their owners.
3. Require copies of the current FAA-issued Air Operating Certificate if the tenant is a commercial operator. This helps ensure that the airport sponsor charges the appropriate rates and charges to the commercial operator.

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