



# Regulations Governing Airports in the U.S.



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## Regulatory Levels

- ❖ **Federal**
- ❖ **State**
- ❖ **Local**

## Federal Regulations & Policies

- **U.S. Constitution**
- **Federal Aviation Regulations**
- **Grant Assurances**
- **FAA Orders and Advisory Circulars**
- **National Environmental Policy Act of 1969**
- **Federal Limits on Airport Use Restrictions**

## **U.S. Constitution**

**Article I, Section 8**

**(Interstate Commerce Clause):**

***“Congress has the power to regulate commerce with foreign nations, and among the several states, and with the Indian tribes”***

## **U.S. Constitution (continued)**

### **Article VI (Supremacy Clause):**

***“This Constitution, and the laws of the United States which shall be made in pursuance thereof;... shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.”***

## **U.S. Constitution (continued)**

### **Amendment X**

***“The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”***

## Federal Aviation Regulations

The Federal Aviation Regulations (FARs) are rules prescribed by the Federal Aviation Administration (FAA) governing all aviation activities in the States.

The FARs are part of Title 14 of the Code of Federal Regulations (CFR), and regulate a wide variety of “aeronautical and space” activities.



## Federal Aviation Regulations (continued)

### Organization

The FARs are organized into sections, called *parts*, within the Code of Federal Regulations. Each part deals with a specific type of activity. For example, *14 CFR Parts 1-199 pertain to the Federal Aviation Administration (FAA)*.

## FAA Airport Grant Assurances

Section 49 USC 47107(a) of the Federal Reauthorization Act of 1996 sets forth certain assurances which an airport sponsor requesting Federal financial assistance must agree to as a condition prior to receiving a grant.

Section 49 USC 47107(g), authorizes the Secretary of Transportation (hereinafter referred to as “FAA”) to prescribe project sponsorship requirements to insure compliance with 49 USC 47107(a). These sponsorship requirements are included as *Grant Assurances* in every airport improvement program (AIP) grant agreement.

Upon acceptance of an AIP grant by an airport sponsor, the assurances become a binding contractual obligation between the airport sponsor and the Federal government.

### **Grant Assurances**

#### **(Airport Sponsor Obligations) (continued)**

**The assurances appear either in the application for Federal assistance and become part of the final grant offer or in restrictive covenants to property deeds.**

**The duration of these obligations depends on the type of recipient, the useful life of the facility being developed, and other conditions stipulated in the assurances.**

**In the event that the airport sponsor does not comply with the grant assurances, the FAA then follows the Federal Regulations contained in 14 CFR Part 13 - Investigative and Enforcement Procedures, 14 CFR Part 16 - Rules of Practice for Federally Assisted Airports and the provisions contained in Title 49 USC.**

## **Airport Planning Undertaken by an Airport Sponsor**

**The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project. The sponsor must assure and certify that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for the project.**

## **Consistency with Local Plans**

**The Sponsor must certify that the project is reasonably consistent with plans (existing at the time of application) of public agencies... for the development of the area surrounding the airport.**

## **Consideration of Local Interest**

**The Sponsor must certify that it has given fair consideration to the interest of communities in or near where the project may be located.**

## **Consultation with Airport Users**

**In deciding to undertake any airport development project, Sponsor must certify that it has undertaken reasonable consultations with affected parties using the airport**

## **Public Hearings**

**For projects involving the location of an airport, an airport runway, or a major runway extension, Sponsor must certify that it has “afforded the opportunity” for public hearings for the purpose of considering the economic, social, and environmental effects of the project**

## **Air and Water Quality Standards**

**For projects involving airport location, a major runway extension, or runway location Sponsor must provide for the Governor of the state to certify in writing that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.**

## **Hazard Removal and Mitigation**

**Sponsor will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards**

## **Compatible Land Use**

**Sponsor will take appropriate action, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.**

**In addition, if the project is for noise compatibility, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility**

## **Use by Government Aircraft**

**Sponsor must make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge**

**If the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used**

## **Airport Layout Plan**

**Sponsor must keep up to date at all times an airport layout plan (ALP) of the airport showing:**

- **boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor**
- **the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and**
- **the location of all existing and proposed nonaviation areas and of all existing improvements thereon.**

**Airport layout plans and each amendment, revision, or modification are subject to the approval of the FAA. The Sponsor may not make any changes or alterations on the airport or any of its facilities which are not in conformity with the approved ALP.**

## **Policies, Standards, and Specifications**

**Sponsor must certify that it will carry out the project in accordance with policies, standards, and specifications approved by the FAA, including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, and in accordance with applicable state policies, standards, and specifications approved by the FAA**

## **Relocation and Real Property Acquisition**

**Sponsor must certify that:**

- **it will be guided by state and federal laws and will pay or reimburse property owners for necessary expenses.**
- **it will provide a relocation assistance program and relocation payments and assistance to displaced persons.**
- **it will make available within a reasonable period of time comparable replacement dwellings to displaced persons.**

## **FAA Orders and Advisory Circulars**

### **FAA Orders**

**Generally set forth policies, guidance, and procedures to be followed in carrying out FAA functions. (e.g., FAA Order 5050.4A, “Airport Environmental Handbook”)**

### **FAA Advisory Circulars (ACs)**

**Provide recommendations and guidance for airport Sponsors and others on a variety of airport and aviation issues.**

**The 150 series of ACs apply exclusively to airports (e.g., AC No. 150/5300-13, “Airport Design”)**

## National Environmental Policy Act of 1969 (NEPA)

An Act to establish a national policy for the environment (Pub. L. 91-90, 42 U.S.C. 4321-4347, January 1, 1970, as amended).

- Applies to all executive agencies of the Federal Government
- Requires guidelines for assessment of impact of Federal actions significantly affecting quality of natural and human environments
- Requires statement by responsible official on:
  - a) Environmental impact of a proposed action
  - b) Any adverse environmental effects which cannot be avoided (if action is implemented)
  - c) Alternatives to the proposed action
  - d) Relationship between local short-term uses of environment vs. maintenance and enhancement of long-term productivity
  - e) Any irreversible or irretrievable commitments of resources (if action is implemented)
- Prior to making any detailed statement, the responsible Federal official must consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved

### *References*

- FAA Order 1050.1E “Policies and Procedures for Considering Environmental Impacts”
- FAA Order 5050.4B, “National Environmental Policy Act (NEPA) Implementing Procedures for Airport Actions” (Pending)

## **Federal Limits on Airport Use Restrictions**

- **Airport Noise and Capacity Act of 1990 (ANCA)**
  - Apply to any noise or access restriction having the effect of controlling aircraft noise.
  - FAA approval required for mandatory aircraft operating procedures (e.g., flight tracks).
  - Failure to comply risks loss of FAA funding eligibility.

# Questions