ST JOHNS COUNTY AIRPORT AUTHORITY

February 3, 2025

From: Aviation Counsel,
St. Johns County Airport Authority

To:
- St. Johns County Airport Authority Board
- Courtney K. Pittman, Interim Executive Director
- General Counsel

Subj: FAA Policy Concerning Hangar Use;
Non-Aeronautical Use of T-Hangars and Box Hangars;
Airport Authority Compliance and Monitoring Requirements;
Memorandum and Reference Documents

Attachments:

A. FAA Frequently Asked Questions & Answers On FAA Policy on Use of Hangars at Obligated Airports;

B. FAA Final Rule: Policy on the Non-Aeronautical Use of Airport Hangars, June 15, 2016;

C. FAA Notice of Proposed Rule Making: Policy on the Non-Aeronautical Use of Airport Hangars, July 22, 2014

I. Summary

This Memorandum summarizes the Airport Authority's regulatory compliance obligations concerning the management of its T-Hangar and Box Hangar inventory as a Public Use Airport. The FAA concerns itself with the known tendency for non-aeronautical uses to spread into an airport's hangar inventory and publishes policy guidance on an airport's obligation to monitor and address this tendency.

The FAA published its Notice of Proposed Rule Making concerning the Policy of Non-Aeronautical Use of Airport Hangars on July 22, 2014. In it, the FAA described the need for a Final Rule:

> In response to this second report, the FAA began conducting land use inspections at 18 selected airports each year, at least two in each of the nine FAA regions. A frequent finding from these inspections has been the prevalence of non-aeronautical items stored in aircraft hangars designated for aeronautical use. In some cases, the aircraft hangars contained only non-aeronautical items, such as automobiles (including sponsor-owned police cruisers), boats, large recreational vehicles, etc. In other cases, non-aeronautical items shared space

> with legitimate aeronautical use of hangars. Inspections have frequently uncovered motorcycles, furniture, tools, and other non-aeronautical items stored in hangars along with aircraft. Some hangar tenants were found to be operating non-aviation commercial businesses out of an airfield hangar.

FAA Notice of Proposed Rule Making: Policy on the Non-Aeronautical Use of Airport Hangars, July 22, 2014 (attached).

Following a period of public comment, the FAA published the Final Rule on the Non-Aeronautical Use of Airport Hangars on June 15, 2016, which is attached. To help explain the meaning and practical application of the Final Rule, the FAA publishes interpretive guidance on this policy on its "Frequently Asked Questions" website page, which is also attached.

II. Discussion

A. The Public Policy behind the Prohibition of Non-Aeronautical Use

Why does the FAA care about the storage of non-aeronautical items in the hangars of a Public Use Airport? Tenants may ask: "If there is extra space left over in my hangar after my aircraft is in it, what is the harm if I use the hangar to also store additional household goods and other non-aeronautical personal property in my hangar?"

The public policy concern is that this type of non-aeronautical use results in a federally subsidized benefit to private parties. The FAA supports a Public Use Airport's hangars for a single purpose: the storage of an operational aircraft. Taxpayers who are not airport tenants object to the public expenditure of federal dollars to Public Use Airports when those dollars become non-aeronautical commercial benefits to private parties.

Under Federal Law, and as a condition to the substantial investment of public taxpayer dollars, Public Use Airports may only use their property for aviation related purposes unless otherwise approved by the FAA. As part of the broader national aviation policy, Public Use Airports receive federal taxpayer monies conditioned upon the restriction that those monies may only be used for aeronautical purposes. An airport is also required by law to set and receive Fair Market Value prices for aeronautical land use, including the use of hangars, and to not engage in practices that may, directly or indirectly, divert public benefits to private persons or entities.

Airports establish prices for aircraft hangar rental ***based upon the market rates for the hangar's aeronautical use***: ***the storage of an operational aircraft.*** Hangar rental rates are not established based on the cost of general commercial storage facilities that permit the unrestricted wall-to-wall, floor-to-ceiling storage of things other than an operational aircraft.

When hangar tenants co-opt their opportunity to store an aircraft at a federally supported Airport with the concurrent and additional storage of non-aviation items, they receive an unpaid-for benefit that other taxpayers do not receive. Additionally, the Airport does not receive the Fair Market Value for the non-aeronautical use of the hangar. From the FAA's Final Rule (where a "sponsor" is the operator of the airport):

> 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***.
>
> . . .
>
> However, some airport sponsors have adopted hangar use practices that led to airport users to complain to the FAA.
>
> . . .
>
> 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.

FAA Final Rule: Policy on the Non-Aeronautical Use of Airport Hangars, June 15, 2016.

When hangar rental rates for the storage of an operational aircraft at an airport are below the market rates for general storage facilities in the commercial marketplace outside of the airport, there is a clear tendency for non-aeronautical use to spread into the hangar inventory of a Public Use Airport. In some cases, "incidental" storage grows to become the predominant use and distorts the rational use of the hangar by a tenant.

On the following pages are some examples of non-aeronautical use of T-hangars at the St. Augustine Airport observed in October of 2024. Observed uses include the storage of boats, automobiles, utility trailers, jet skis, recreational vehicles, household goods, motorcycles, spare parts, and the *long-term storage* of non-operational aircraft. Following these examples is a discussion of the application of current FAA rules.

Fig. 1 – Automobiles (5) and Household Goods

Examples of non-aeronautical storage uses observed in October of 2024, not exhaustive.

Fig. 2 – Boats on trailers (2) and no aircraft

Fig. 3 – Utility Trailer and no aircraft

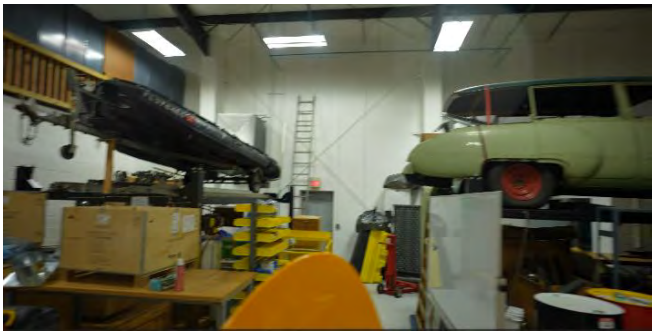

Fig. 4 – Automobile, Boat and Trailer, Spare Parts, Household Goods, non-operational aircraft

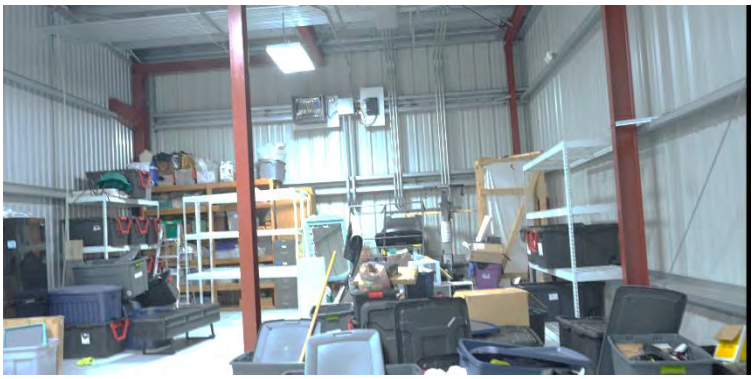

Fig. 5 –Household Goods

Fig. 6 –Boat on Trailer, derelict aircraft fuselage, household goods, no operational aircraft present.

Fig. 7 – Automobiles, derelict aircraft.

Fig. 8 – Utility trailer, household goods, no aircraft

B. The Airport Authority's documented and verifiable Airport Compliance Program for T-Hangar and Box Hangar use is mandatory.

As to the requirement that the Airport have a documented and verifiable compliance program for T-Hangar and Box Hangar use, the FAA's Final Rule is clear and unambiguous. The failure to have such a program will constitute grounds for the denial of federal grants for hangar construction. From the Final Rule:

> 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 nonincidental non-aeronautical use of the leased facilities. In other words, ***if a tenant uses a hangar for a nonaeronautical 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***.

FAA Final Rule: Policy on the Non-Aeronautical Use of Airport Hangars, June 15, 2016.

C. What kinds of non-aeronautical things may be kept in a Hangar?

1. The hierarchy and use of the FAA Final Rule

The FAA's Final Rule, published on June 15, 2016, is primarily for the guidance of Airport operators ("Sponsors"). It establishes some clarity as to the kinds of things that would not be a violation of an Airport Authority's federal grant assurances. The Final Rule is given context and interpretation by the FAA's "Frequently Asked Questions & Answers" webpage. By its express terms, the minimum standards established by the Final Rule do not preempt an Airport Authority's own rules, policies, and lease terms concerning the incidental storage of non-aeronautical items. The Final Rule is not a substitute for an Airport Authority's own rules, policies, and lease terms concerning the incidental storage of non-aeronautical items. From the Final Rule:

> V. No Right to Non-Aeronautical Use
>
> ***In the context of enforcement of the Grant Assurances, this policy allows some incidental storage of nonaeronautical items in hangars that do not interfere with aeronautical use. However, the policy neither creates nor constitutes a right to store nonaeronautical 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.

FAA Final Rule: Policy on the Non-Aeronautical Use of Airport Hangars, June 15, 2016. The Airport Authority T-Hangar lease form does list non-aeronautical storage as a permissible use:

> **SECTION 3. PERMITTED USES** –Hangar use shall be limited to the following aeronautical uses: 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. No other use is permitted.

Airport Authority T-Hangar Lease, Section 3.

2. The Final Rule has language that "the FAA will generally not consider items to interfere with the aeronautical use of the hangar unless the items impede the movement of the aircraft in and out of the hangar . . . ." Does this language "green light" the storage of non-aeronautical items as long as an aircraft can come and go?

It does not. This language means that if an Airport Authority does permit the presence of non-aeronautical items in a hangar, the items may not impede the movement of an aircraft. For example, the FAA specifically considered public comments concerning *the presence of accommodation items* such as lounge furniture and kitchen facilities in a hangar. In this instance, the presence of the items was for accommodation and not storage. The FAA explained that it choose not to prohibit accommodation items in a hangar as long as they did not impede the movement of the aircraft in and out of the hangar. From the Final Rule:

> *11. Comment: 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 nonaviation 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.

FAA Final Rule: Policy on the Non-Aeronautical Use of Airport Hangars, June 15, 2016.

To resolve any uncertainty about this issue, the FAA's *Frequently Asked Questions* website (updated August 1, 2022) makes clear that certain items remain inconsistent with use of a Public Use Airport's hangar. From the FAQ website:

> **What uses are not permissible under the policy?**
>
> **FAA Response.**
>
> - Use as a residence.
> - Operation of a non-aeronautical business, e.g., limo service, ***car and motorcycle storage, storage of inventory***, non-aeronautical business office.

- Activities which impede the movement of the aircraft in and out of the hangar or other aeronautical contents of the hangar.
- Activities which 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.
- Fuel, and other dangerous and Hazmat materials.
- Storage of inventory or equipment supporting a municipal agency function unrelated to the aeronautical use.

FAA Frequently Asked Questions & Answers on FAA Policy on Use of Hangars at Obligated Airports. August 1, 2022.

As is apparent, "Activities which impede the movement of the aircraft in and out of the hangar . . ." is simply one of the nine categories of uses listed as prohibited by the Rule, which also ***specifically includes car and motorcycle storage, household items that could be stored in commercial storage facilities, derelict aircraft, and aircraft parts***.

III. Conclusion

To remain eligible for federal grants, the FAA requires the Airport Authority to have in place a meaningful and verifiable hangar use compliance program. The Airport Authority's hangar use compliance program is grounded by an understanding of the applicable FAA rules.

Attachment “A”

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

FAA Website: Frequently Asked Questions & Answers On FAA Policy on Use of Hangars at Obligated Airports | Federal Aviation Administration

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

An Airport sponsor who accepts Federal airport grants is bound by the conditions and assurances in the associated grant agreements. These obligations include grant assurances related to use of hangars and other designated aeronautical facilities on the airport for exclusively aeronautical purposes. On June 9, 2016, FAA issued a notice of final policy regarding the storage of non-aeronautical items in airport facilities designated for aeronautical use. In conjunction with that notice of policy, FAA is posting a series of frequently asked Questions and Answers (Q&As) to the FAA Airport Compliance website. These Q&As, which are intended to assist airport sponsors and users, will be periodically updated and may be included in the next update to FAA Order 5190.6B, Airport Compliance Handbook.

- Notice of final policy about the storage of non-aeronautical items in airport facilities designated for aeronautical (PDF)
- FAA Order 5190.6B, Airport Compliance Handbook

Frequently Asked Questions

Expand All Collapse All

Why are hangars limited to certain kinds of use?

FAA Response. 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, relevant 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).

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

FAA Response. To ensure 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;***
- ***minimize the length of time to provide hangar space for those on a "waiting list"; and require non-aviation users pay a fair market rental for the use of the hangar*** and if needed, the hangar is returned to aviation use, under circumstances where temporary non-aeronautical use of a vacant hangar is permitted.

What is the primary purpose of an aircraft hangar?

FAA Response. 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.

Why is FAA issuing a separate policy statement on hangar use?

FAA Response. The FAA received a number of questions from airport sponsors and airport tenants about the possible uses of hangars and how rigidly the aeronautical use requirement should be applied. In developing the policy statement, 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.

To what airport facilities does the policy apply?

FAA Response. 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. The policy does not apply to property designated for non-aeronautical use on an approved Airport Layout Plan or otherwise approved for non-aeronautical use by FAA.

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?

FAA Response. No, it does not. An airport operator-owner of a non-federally obligated airport may impose any restrictions the owner-operator deems necessary. However, certain federal requirements, such as exclusive rights and civil rights may be applicable.

Does the policy apply to privately owned hangars on private property?

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

What aeronautical uses of a hangar are permissible?

FAA Response.

- ***Storage of active aircraft.***
- Shelter for maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of non-operational aircraft.
- Construction of amateur-built or kit-built aircraft provided that activities are conducted safely;
- Storage of 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.
- Storage of 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; V' Storage of non-aeronautical items that do not interfere with the primary aeronautical purpose of the hangar (for example, televisions, furniture).
- ***A vehicle parked at the hangar while the aircraft usually stored in that hangar is flying***, subject to local airport rules and regulations.

What uses are not permissible under the policy?

FAA Response.

- Use as a residence.
- Operation of a non-aeronautical business, e.g., limo service, ***car and motorcycle storage, storage of inventory***, non-aeronautical business office.
- Activities which impede the movement of the aircraft in and out of the hangar or other aeronautical contents of the hangar.
- Activities which 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.
- Fuel, and other dangerous and Hazmat materials.
- Storage of inventory or equipment supporting a municipal agency function unrelated to the aeronautical use.

For the purpose of airport access and hangar use, how are UAS categorized?

FAA Response. UAS activities regulated or authorized by FAA are categorized as "aircraft operations" under 49 U.S.C. §47102(a)(6). Further, the interpretation of 49 U.S.C. §47107(a)(1) and Grant Assurance 22 includes certain UAS activities as aeronautical. Therefore, airport access for UAS, either as an aircraft or as an aeronautical activity is linked to FAA's UAS regulatory actions which may include, but are not limited to; airworthiness, operational rules, flight training, airspace integration, etc. An UAS operation is an aeronautical activity/use for the purpose of airport access and use, if the UAS (as a complete UAS system) is regulated by FAA as one of the following:

- Operations under 14 CFR Part 107 or any future 14 CFR UAS operating regulation; or
- Certificate of Waiver or Authorization (COA) Section 333; or
- UAS operations with an Airworthiness Certificate issued under 14 CFR Part 21; and
- Under 49 U.S.C. 47107 (a), an activity necessitating the use of an airport's infrastructure , facilities, and services, protected airspace, or ATC services to conduct operations;
- UAS Department of Defense and Public Aircraft operations pursuant to 49 U.S.C.) 40102(a)(41) and 40125;

In cases where an UAS operator seeks hangar access/use, how should the airport sponsor manage UAS vis-à-vis other conventional aircraft or aeronautical activities?

FAA Response. With the FAA Response to Question 10 as baseline, in all cases, the airport sponsor must reasonably accommodate the UAS activity without unjust discrimination and do so safely. Accommodating an UAS or UAS activity may necessitate:

- developing safety requirements;
- providing access to the airport runway and other movement areas (take-off and landing, taxing);
- providing access to other airport infrastructure, airport protected airspace/surfaces, and airport services (including storage); and
- access to undeveloped airport property.

Making hangar space available to an UAS operator is consistent with the federal obligations and established policy. UAS operator may "compete" with other aeronautical users for hangar space. This competition is also common for traditional users, namely airplane and jet operators, in places where demand is higher than the space available. Ultimately, it is the sponsor's decision on how it allocates hangar space. For example, a sponsor needs to consider many factors to decide whether to build a larger hangar for a jet corporate operator or smaller T-Hangars for single-engine aircraft.

In all cases, FAA expects airport sponsors to exercise adequate discretion and reasonably apply lease terms, rules and regulations, rates, and take into account relevant variables. Such

considerations may include: available space in vacant hangars; hangar sharing and subleasing; available ramp space; and land accessibility for UAS set-up, preflight, or storage. Related specifically to UAS operations and hangars, reasonable and non-unjustly discriminatory airport and hangar use will depend upon the type and characteristics of the UAS system in question. For example, a reasonable accommodation for a small Part 107 UAS may include permitting smaller storage structures (possibly mobile) creating training areas (i.e., secluded ramp area, "drone cage"), ingress and egress routes, etc. On the other hand, reasonably accommodating a larger Section 333 UAS with a 20-foot wingspan may include access to both standard hangar usually used by GA aircraft and the airport's taxiways. Finally, it is important to take into account that certain UAS operations may require addressing specific safety issues not previously considered for more traditional aeronautical activities. Any safety-based measures should be risk-based and coordinated with FAA.

What discretion does the policy allow the airport sponsor?

FAA Response. The policy:

- Preserves the airport sponsor's discretion to manage or address issues, including:
    1. adopting rules covering the different uses of hangars;
    2. mitigating related safety concerns (e.g., emergency access, fire codes, insurance, and the impact of vehicular traffic);
    3. airport planning;
    4. preserving airport efficiency; and
    5. 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.
- 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.

What are the policy changes for homebuilders?

FAA Response. 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 FAA's prior policy. First, 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.

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

FAA Response. Some hangars may not be 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.

Does the policy apply to privately constructed hangars on federally obligated airports?

FAA Response. 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 FAA. That agreement requires the airport land and facilities, including aircraft hangars, to be used for aeronautical purposes.

May hangars be used for aviation museums or non-profit organization activities encouraging aviation?

FAA Response. 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.

How does the use of a hangar affect the rent charged?

FAA Response. 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.

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

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

Last updated: Monday, August 1, 2022

Attachment “B”

FAA Final Rule: Policy on the Non-Aeronautical Use of Airport Hangars, June 15, 2016

in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0255, dated November 25, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7524.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on July 20, 2016.

(i) Saab Service Bulletin 2000–38–011, dated October 22, 2014.

(ii) Reserved.

(4) The following service information was approved for IBR on September 9, 2014 (79 FR 45337, August 5, 2014).

(i) Saab Service Bulletin 2000–38–010, dated July 12, 2013.

(ii) Saab Service Newsletter SN 2000–1304, Revision 01, dated September 10, 2013, including Attachment 1 Engineering Statement to Operator 2000PBS034334, Issue A, dated September 9, 2013.

(5) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab340techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.*

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on May 31, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–13740 Filed 6–14–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. FAA 2014–0463]

Policy on the Non-Aeronautical Use of Airport Hangars

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: 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);*

(2) Visiting FAA's Regulations and Policies Web page at (*http://www.faa.gov/regulations_policies);* or

(3) Accessing the Government Printing Office's Web page at (*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,[1] 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-

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

aviation commercial uses that could be conducted off airport property.

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(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(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, 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).

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, 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 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.

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.*

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, 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: 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:

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).

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).

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.

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.

[FR Doc. 2016–14133 Filed 6–14–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 660, 801, and 809

[Docket No. FDA–2013–N–0125]

RIN 0910–AG74

Use of Symbols in Labeling

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is issuing this final rule revising its medical device and certain biological product labeling regulations to explicitly allow for the optional inclusion of graphical representations of information, or symbols, in labeling (including labels) without adjacent explanatory text (referred to in this document as "stand-alone symbols") if certain requirements are met. The final rule also specifies that the use of symbols, accompanied by adjacent explanatory text continues to be permitted. FDA is also revising its prescription device labeling regulations to allow the use of the symbol statement "Rx only" or "℞ only" in the labeling for prescription devices.

DATES: This rule is effective September 13, 2016.

FOR FURTHER INFORMATION CONTACT: *For information concerning the final rule as it relates to devices regulated by the Center for Devices and Radiological Health (CDRH):* Antoinette (Tosia) Hazlett, Center for Devices and Radiological Health, Food and Drug Administration, Bldg. 66, Rm. 5424, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–6119, email: *Tosia.Hazlett@fda.hhs.gov.*

For information concerning the final rule as it relates to devices regulated by the Center for Biologics Evaluation and Research: Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

The final rule explicitly permits the use of symbols in medical device labeling without adjacent explanatory text if certain requirements are met. The medical device industry has requested the ability to use stand-alone symbols on domestic device labeling, consistent with their current use on devices manufactured for European and other foreign markets. The final rule seeks to harmonize the U.S. device labeling requirements for symbols with international regulatory requirements, such as the Medical Device Directive 93/42/EEC of the European Union (EU) (the European Medical Device Directive) and global adoption of International Electrotechnical Commission (IEC) standard IEC 60417 and International Organization for Standardization (ISO) standard ISO 7000–DB that govern the use of device symbols in numerous foreign markets.

Summary of the Major Provisions of the Regulatory Action in Question

FDA has generally interpreted existing regulations not to allow the use of symbols in medical device labeling, except with adjacent English-language explanatory text and/or on in vitro diagnostic (IVD) devices intended for professional use. Under the final rule, symbols established in a standard developed by a standards development organization (SDO) may be used in medical device labeling without adjacent explanatory text as long as: (1) The standard is recognized by FDA under its authority under section 514(c) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360d(c)) and the symbol is used according to the specifications for use of the symbol set

Attachment “C”

FAA Notice of Proposed Rule Making: Policy on the Non-Aeronautical Use of Airport Hangars, July 22, 2014

■ 4. Amend § 401.5 by adding the definition of *Tether system* in alphabetical order to read as follows:

§ 401.5 Definitions.

* * * * *

Tether system means a device that contains launch vehicle hazards by physically constraining a launch vehicle in flight to a specified range from its launch point. A tether system includes all components, from the tether's point of attachment to the vehicle to a solid base, that experience load during a tethered launch.

* * * * *

Issued in Washington, DC, on July 9, 2014.

George C. Nield,

Associate Administrator, Commercial Space Transportation.

[FR Doc. 2014–16954 Filed 7–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. FAA–2014–0463]

Policy on the Non-aeronautical Use of Airport Hangars

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of Proposed Policy; Request for Comments

SUMMARY: 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. Compliance inspections by FAA staff, as well as audits by the Government Accountability Office, have found that some hangars intended for aircraft storage are routinely used to store non-aeronautical items such as vehicles and large household items. In some cases, this storage interferes with—or entirely displaces—aeronautical use of the hangar. Moreover, many airports have a waiting list for hangar space, and a tenant's use of a hangar for non-aeronautical purposes prevents aircraft owners from obtaining access to hangar storage on the airport. At the same time, the FAA realizes that storage of some small incidental items in a hangar that is otherwise used for aircraft storage will have no effect on the aeronautical utility of the hangar. The FAA is proposing a statement of policy on use of airport hangars to clarify compliance requirements for airport sponsors, airport manager, airport tenants, state aviation officials, and FAA compliance staff. This notice solicits public comment on the proposed policy statement.

DATES: Send your comments on or before September 5, 2014. The FAA will consider comments on the proposed policy statement. Any necessary or appropriate revisions resulting from the comments received will be adopted as of the date of a subsequent publication in the **Federal Register**.

ADDRESSES: You may send comments [identified by Docket Number FAA–2014–0463] using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Fax:* 1–202–493–2251.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the notice and comment process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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.

SUPPLEMENTARY INFORMATION:

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Availability of Documents

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*);

(2) Visiting FAA's Regulations and Policies Web page at (*http://www.faa.gov/regulations_policies*; or

(3) Accessing the Government Printing Office's Web page at (*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.

Authority for the Policy

This notice 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

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), as amended and recodified at 49 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,[1] 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 sponsors should not be displaced by non-aviation commercial uses that could be conducted off of airport property.

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-aviation purpose, even on a temporary basis, requires FAA approval. See FAA Order 5190.6B, *Airport Compliance Manual*, paragraph 22.6. The identification of non-aviation use of aeronautical areas receives special attention in FAA airport compliance inspections. See Order 5190.6B, paragraphs 21.6.e and 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(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 FAA Order 5190.6B, *Airport Compliance Manual*, 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(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*, § VII.C, 64 FR 7696, 7721(Feb. 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 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

The FAA's enforcement of appropriate use of airport property has been the subject of two audits by the General Accounting Office (now called Government Accountability Office, or GAO). In August 1980, the GAO released a report to the Secretary of Transportation entitled "Misuse of Airport Land Acquired through Federal Assistance." This report highlighted several cases of federally funded land being used for various non-aeronautical purposes. The report cited a lack of oversight by FAA and recommended more active involvement in oversight. In May 1999, the GAO released the report, "General Aviation Airports: Unauthorized Land Use Highlights Need for Improved Oversight and Enforcement". This report highlighted the need for the FAA to increase its efforts to monitor airports for unauthorized use of land.

In response to this second report, the FAA began conducting land use inspections at 18 selected airports each year, at least two in each of the nine FAA regions. A frequent finding from these inspections has been the prevalence of non-aeronautical items stored in aircraft hangars designated for aeronautical use. In some cases, the aircraft hangars contained only non-aeronautical items, such as automobiles (including sponsor-owned police cruisers), boats, large recreational vehicles, etc. In other cases, non-aeronautical items shared space with legitimate aeronautical use of hangars. Inspections have frequently uncovered motorcycles, furniture, tools, and other non-aeronautical items stored in hangars along with aircraft. Some hangar tenants were found to be operating non-aviation commercial businesses out of an airfield hangar.

In May 2011, The Director of the Office of Airport Compliance and Management Analysis issued a Director's Determination under 14 CFR Part 16,[2] finding the City in violation of Grant Assurance 19. *Operations and Maintenance* by allowing non-aeronautical use of airport hangars for storing non-aviation items. The FAA ordered the City to submit a Corrective Action Plan to bring the airport back into compliance. As part of the City of Glendale's effort to formulate a Corrective Action Plan, the City requested the FAA to provide written confirmation on the status of certain items as aeronautical or non-aeronautical. The agency's July 12, 2012 response to the letter became widely circulated in the airport community and has been interpreted by some as general policy. Insofar as that letter suggested that all non-aeronautical items stored in a hangar would constitute a violation of the grant assurances, it applied to a specific situation at a specific airport and does not represent general agency policy.

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 their presence to constitute a violation of the sponsor's obligation to provide reasonable access to aeronautical users and tenants. In cases where excess hangar capacity is unused because of low aviation demand, a sponsor can request FAA approval for interim non-aeronautical use of a hangar until that hangar is needed again for an aeronautical purpose. However, 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 (See FAA Order 5190.6B, ¶ 22.6). The sponsor is required to charge a fair market commercial rental rate for any hangar rental or use for non-aeronautical purposes.

Use of Hangars for Fabrication and Assembly of Aircraft

While building an aircraft results in an aeronautical product, the FAA has not found all stages of the building process to be aeronautical for purposes of hangar use. A large part of the

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

[2] *Valley Aviation Services, LLP* v. *City of Glendale, Arizona*, FAA Docket No. 16–09–06 (May 24, 2011) (Director's Determination).

construction process can be and often is conducted off-airport. Only when the various components are assembled into a final functioning aircraft is access to the airfield necessary.

In *Ashton* v. *City of Concord, NC,*[3] the complainant objected to the airport sponsor's prohibition of construction of a homebuilt aircraft in an airport T-hangar. The decision was based on a FAA determination that aircraft construction is not *per se* an aeronautical activity. While final stages of aircraft construction can be considered aeronautical, the airport sponsor prohibited this level of maintenance and repair in T-hangars but provided an alternate location on the airport. The FAA found that the airport sponsor's rules prohibiting maintenance and repair in a T-hangar, including construction of a homebuilt aircraft, did not violate the sponsor's grant assurances.

There have been industry objections to the FAA's designation of any aircraft construction stages as non-aeronautical. While the same principles apply generally to large aircraft manufacturing, compliance issues involving aircraft construction have typically been limited to homebuilt aircraft construction at general aviation airports. Commercial aircraft manufacturers use dedicated, purpose-built manufacturing facilities, and questions of aeronautical use for these facilities are generally resolved at the time of the initial lease. In contrast, persons constructing homebuilt aircraft sometimes seek to rent airport hangars designed for storage of operating aircraft and easy access to a taxiway, even though it may be years before a homebuilt aircraft kit will be able to take advantage of the convenient access to the airfield.

The FAA is not proposing any change to existing policy other than to clarify that final assembly of an aircraft, leading to the completion of the aircraft to a point where it can be taxied, will be considered an aeronautical use.

Proposed Policy and Request for Public Comment

The FAA intends to produce an agency policy on use of hangars and related facilities at federally obligated airports in sufficient detail to provide a clear and standardized guide for airport sponsors and FAA compliance staff. The FAA is proposing a policy statement for public comment based on the following general principles:

1. The primary goal of this policy is to protect federal investment in federally obligated airports by ensuring aeronautical facilities are available to aeronautical users. Aeronautical users requesting the use of a hangar for aircraft storage should not be denied access because the airport sponsor is permitting tenants to use hangars to store vehicles or household items, or to operate non-aviation businesses.

2. A secondary goal of the policy is to ensure that airport sponsors receive fair market rental for any approved use of airport property for non-aviation purposes.

3. The primary purpose of a hangar in an aeronautical area of the airport is aircraft storage or operation of an aeronautical service business that requires maintenance or repair work on aircraft. If a hangar is serving one of these purposes, then incidental storage of non-aviation items that does not interfere with the primary purpose of the hangar and occupies an insignificant amount of physical hangar space will not be considered to constitute a violation of the grant assurances. In such cases, incidental storage of non-aviation items will be treated as having *de minimis* value (for purposes of compliance with the self-sustaining assurance) and will not require the sponsor to increase rent as a result of the storage of these incidental non-aeronautical items.

4. If an airport's hangar capacity substantially exceeds aviation demand (e.g., there are multiple vacant hangars and no requests to rent them for aeronautical purposes), the sponsor may request and FAA may approve interim non-aeronautical use of vacant hangars under the provisions found in FAA Order 5190.6B, Chapter 22.6. FMV non-aeronautical rental rates would apply to any non-aviation use.

5. Final, active assembly of an aircraft in the manufacturing or homebuilt construction process, resulting in a completed, operational aircraft requiring access to the airfield, is considered an aeronautical activity for the purposes of this policy.

6. Using hangar space as a residence on a full-time or even temporary basis is not a compatible land use, no matter where it is located on the airport, and is not permitted.

7. Airport sponsors are expected to take measures to ensure that aeronautical facilities on the airport are reserved for aeronautical use. These measures should include a periodic inspection program to ensure that the waiting time for those persons who are legitimately in need of a hangar for aircraft storage is minimized.

8. Airport sponsors may adopt more stringent rules for use of hangars than required by the grant assurances, based on proprietary concerns for the safe and efficient use of airport property. However, such rules must be reasonable and not unjustly discriminatory against any aeronautical user. For example, an airport sponsor may limit storage of vehicles in hangars if there is concern that vehicular traffic on taxilanes or taxiways may create a safety hazard.

9. The sponsor's federal obligations do not protect non-aeronautical users and/or storage of non-aeronautical items. Non-aeronautical use is not a protected activity.

Proposed Policy and Request for Comments

In accordance with the above, the FAA proposes to adopt the following policy statement on use of hangars at federally obligated airports. The agency requests public comments on the proposed policy statement, as described in the "Address" and "Dates" information in this notice. Comments received by the due date will be considered in the development of a final agency policy statement.

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

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 to ensure that airport sponsors receive fair market value for rental of approved non-aviation use of airport property. Sponsors who fail to comply with grant assurances and this policy may be subject to administrative sanctions such as the denial of funding from current and future AIP grants.

[3] *Ashton* v. *City of Concord,* FAA Docket No. 16–99–09 (January 28, 2000) (Director's Determination and affirmed by Final Agency Decision).

II. Standards for Aeronautical Use of Hangars

- Hangars located on airport property must be used for an aeronautical purpose, or be available for use for one, unless otherwise approved by the FAA.
- Aeronautical uses for hangars include:
  - Storage of operational aircraft
  - Final assembly of aircraft
  - Short-term storage of non-operational aircraft for purposes of maintenance, repair, or refurbishment
- 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 (e.g., a small refrigerator). The incidental storage of non-aeronautical items will be considered to be of *de minimis* value for the purpose of assessing rent.
- Generally, items are considered incidental if they:
  - Do not interfere with the aeronautical use of the hangar;
  - Do not displace the aeronautical contents of the hangar;
  - Do not impede access to aircraft or other aeronautical contents of the hangar;
  - Do not require a larger hangar than would otherwise be necessary if such items were not present;
  - Occupy an insignificant amount of hangar space;
  - Are owned by the hangar owner or tenant;
  - 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);
  - Are not stored in violation of airport rules and regulations.
- Hangars should be leased with consideration of the size and quantity of aircraft to be stored therein. To maximize the availability of hangars for all aeronautical users, sponsors should avoid leasing a hangar that is disproportionately large for the aircraft to be stored in the hangar (i.e., hangars built to store multiple aircraft should be used for multiple aircraft storage).
- Hangars must not be used as a residence. 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.
- This policy on hangar use applies regardless of whether the hangar occupant leases the hangar from the airport sponsor or developer, or the hangar occupant constructed the hangar at their own expense and holds a ground lease only. When designated aeronautical land is made available for construction of hangars, the hangars built on the land will be fully subject to the sponsor's obligations to use aeronautical facilities for aeronautical use.

III. Approval for Non-Aeronautical Use of Hangars

Where hangars are unoccupied and there is no current aviation demand for hangar space, the airport sponsor may request that FAA approve an interim use of a hangar for non-aeronautical purposes for a period no more than five years. Interim leases of unused hangars can generate revenue for the airport and prevent deterioration of facilities. FAA will review the request in accordance with Order 5190.6B, ¶ 22.6. 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 short notice for aeronautical purposes.

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. (See *Policies and Procedures Concerning Airport Revenue, § VII.C.*)

IV. 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. 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.* Sponsors should ensure that taxiways and runways are not used for the vehicular transport of such items to or from the hangars.

V. Sponsor Compliance Actions

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. Sponsors should have a program to routinely monitor use of hangars and take measures to eliminate and prevent unapproved non-aeronautical use of hangars. Sponsors should ensure that length of time on a waiting list of those legitimately in need of a hangar for aircraft storage is minimized. Sponsors should also consider incorporating provisions in airport leases, including aeronautical leases, to adjust rental rates to FMV for any non-incidental non-aeronautical use of the leased facilities. 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 aviation use.

Issued in Washington, DC, on July 15, 2014.

Randall S. Fiertz,

Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2014–17031 Filed 7–21–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506–AB27

Imposition of Special Measure Against FBME Bank Ltd., Formerly Known as Federal Bank of the Middle East, Ltd., as a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network ("FinCEN"), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In a finding, notice of which is published elsewhere in this issue of the **Federal Register** ("Notice of Finding"), the Director of FinCEN found that FBME Bank Ltd. ("FBME"), formerly known as Federal Bank of the Middle East, Ltd., is a financial institution operating outside of the United States that is of primary money laundering concern. FinCEN is issuing this notice of proposed rulemaking ("NPRM") to propose the imposition of a special measure against FBME.

DATES: Written comments on this NPRM must be submitted on or before September 22, 2014.

ADDRESSES: You may submit comments, identified by 1506–AB27, by any of the following methods: