



Minimum Standards for Commercial Aeronautical Activities

An Airport Owner and Management Reference Document

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Introduction

Minimum Standards for Commercial Aeronautical Activities (hereafter known as “minimum standards”) are a set of requirements that commercial operators must meet or exceed in order to conduct business at an airport. The Wisconsin Department of Transportation Bureau of Aeronautics (BOA) and the Federal Aviation Administration (FAA) recommend that Wisconsin airports develop minimum standards in order to promote safety in airport activities, encourage a high level of service for airport users, and protect the airport, the public, and the airport’s operators.

This guide, in conjunction with FAA’s Advisory Circular 150/5190-7, *Minimum Standards for Commercial Aeronautical Services* (published August 28, 2006) and Advisory Circular 150/5190-6, *Exclusive Rights at Federally-Obligated Airports* (published January 4, 2007), is intended to assist airports in the development or revision of their minimum standards. This guidance document summarizes some of the critical components of these Advisory Circulars, but airports should review both of these documents before creating or revising their minimum standards.

- FAA AC 150/5190-7, *Minimum Standards for Commercial Aeronautical Services* can be accessed here: http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/22332
- FAA AC 150/5190-6, *Exclusive Rights at Federally-Obligated Airports* can be accessed here: http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/3df9402e6cae52048625725d00699cb2!OpenDocument

Because each airport is unique, this document does not provide fill-in-the-blank minimum standards; rather, it provides general items that airports should consider when developing their minimum standards policy. It is important that each airport develop standards that are relevant and effective at their airport. Please contact BOA for specific guidance prior to adopting any new or revised minimum standards policy.

Benefits of Minimum Standards

By establishing and enforcing minimum standards, an airport is better equipped to ensure that safe, efficient, and adequate levels of service are offered to the public. In turn, airports can effectively protect the public, the airport’s operators, and the airport itself.

Protecting the Public

The development of minimum standards allows the airport to promote safety in all activities and protect airport users from unlicensed and unauthorized products and services. Setting these standards not only protects the public users of the airport, it protects those members of the public on the ground near the airport.

Protecting Airport Operators

Minimum standards provide protection for airport operators by facilitating fair and equitable treatment among similarly-situated operators. Standards prevent unjustly discriminatory treatment to both prospective and existing tenants and thus promote fair competition at the airport.

Protecting the Airport

Sponsors of public use airports are responsible for protecting the public's investment in the facility. Minimum standards allow the airport to develop and maintain a high level of aeronautical service and promote the orderly development of businesses at the airport. By outlining standards, expectations, and

responsibilities for airport operators, property-related issues, tenant concerns, and problems can be more easily managed if and when they arise.

An airport is “federally obligated” when the airport sponsor has accepted federal funds to buy land or develop or improve the airport. With the acceptance of federal funds, airports agree to comply with certain grant assurances, some of which relate to businesses operating on an airport. A complete list of federal grant assurances can be found here:

http://www.faa.gov/airports/aip/grant_assurances/media/airport_sponsor_assurances.pdf

For those airports that are federally obligated, grant assurances stipulate that the opportunity to engage in commercial aeronautical activity at the airport must be available to any person, firm, or corporation that meets reasonable minimum standards. Moreover, the airport must prevent economic discrimination and the granting of an exclusive right to conduct aeronautical activities at the airport. An exclusive rights violation occurs when an airport owner prohibits others, either intentionally or

unintentionally, from participating in an on-airport activity. It is important to keep in mind that it is the impact of an owner's actions, and not the intent of the owner, that constitutes an exclusive rights violation. While an airport can deny, restrict, or limit specific aeronautical use based on safety or efficiency concerns, the FAA is the final authority in determining what constitutes a compromise of safety. Developing minimum standards and applying them uniformly helps the airport avoid exclusive rights violations and the appearance of discrimination.

How to Develop Minimum Standards

It is important to be mindful that every airport is unique and therefore, there is no one-size-fits-all approach to minimum standards. Minimum standards should be developed to meet the individual needs of the airport and community and should not be borrowed from a similar airport. Most importantly, standards should be specific, reasonable, and not unjustly discriminatory. The following are some recommendations regarding things to consider when developing minimum standards. The FAA's Advisory Circular 150/5190-7 provides guidance on developing minimum standards which airport sponsors should review before beginning the development or revision of standards. The guidance presented here and in the FAA's advisory circulars reflects aviation and federal grant assurance considerations only; airport sponsors should also seek legal guidance from their local counsels when developing minimum standards.

Involve stakeholders in the development process

Minimum standards should be developed by the airport sponsor; however, it is important to obtain feedback from all commercial aeronautical service providers at some point during the process. Additionally, the Bureau of Aeronautics is available to provide airport-specific guidance and to review and comment on minimum standards drafts.

Develop standards for each type and class of aeronautical activity

The airport owner should develop standards for each type and class of aeronautical service and standards should be relevant to the activity for which they apply. For example, a Specialized Aeronautical Service Operator (SASO) should not be required to meet the minimum standards of a full-service Fixed Base Operator (FBO). While standards should be developed for services currently operating on the airport, they should also be developed for new types and classes of services that the airport wishes to attract.

It is important to note that self-service activities are not considered commercial activities and thus, are not governed by minimum standards for commercial operators. The FAA recommends that airports adopt a separate document to address requirements for self-service activities. Additionally, independent operators, such as aircraft washing or maintenance, should be licensed or acquire a permit from the airport to provide a level of regulation and compensation for the airport.

Self-service activities are those that are performed by the owner or operator of the aircraft using his or her own employees and equipment (such as self-fueling) and are not covered by minimum standards for commercial operators. Self-fueling and other self-services cannot be contracted out to another party.

However, self-fueling differs from a self-service fuel pump made available by the airport, an FBO, or an aeronautical service provider. The use of a self-service pump is a commercial activity and therefore not considered self-fueling.

Consider how business should be run at the airport

One of the primary objectives of minimum standards is to promote a safe and efficient airport. Sponsors should consider the minimum business requirements for each type of aeronautical activity to ensure that demand is adequately being met and the airport is being operated safely. Some general questions for sponsors to consider when developing their specific requirements include:

Business requirements: How will commercial operators demonstrate their financial stability and good credit? What is the minimum insurance that is required for each type of aeronautical activity?

Space requirements: How much space will be required for each type of aeronautical activity? Is there a minimum amount of space that each operator needs to lease? Are there sanitation, health, and safety codes that operators need to comply with? Are restrooms required for any or all types of activity? What sorts of parking is to be made available?

Personnel requirements: How many staff are necessary for each type of aeronautical activity? How many days and over which hours should staff be available? Are there personnel training and certification requirements for each activity?

Questions related to specific aeronautical activities include the following:

The FAA provides a comprehensive list of questions a sponsor should ask when developing minimum standards. Please refer to AC 150/5190-7, *Minimum Standards for Commercial Aeronautical Activities* for additional information.

Aircraft Maintenance and Repair: What types of services will be offered to the public? What qualifications will be required of employees? What amount of space must be leased in order to have adequate space for equipment and parts? What type of lighting and ventilation must work areas have?

Flight Training Activities: What type of flight training will the service provider offer? Is there a minimum amount of classroom space that must be maintained? What type of aircraft and how many will be available for training at the on-airport location?

Fuel sales: Where will fuel tanks be installed? Will tanks be installed above ground or below ground? Who will control access to the fueling site? What parties will be granted access to the site? What capacity, types, and how many days' supply of fuel must be available on the airport? Will the fueling operator have suitable liability insurance and indemnify the airport sponsor for liability for its fueling operation, including fuel spills and environmental contamination?

Skydiving: Skydiving is an aeronautical activity and, as such, any restriction, limitation, or ban on skydiving must be based on the safe operation of the airport and approved by FAA. When developing minimum standards related to skydiving, airport sponsors should assess whether or not it will present or create a safety hazard to the normal operations. Can skydiving be safely accommodated at the airport and/or can a drop zone be safely established within the boundaries of the airport? What reasonable time periods and reasonable fees can be allotted to skydiving?

Ultralight Vehicles and Light Sport Aviation: The operation of ultralights and light sport aircraft must be generally accommodated on airports that are federally obligated. Airport sponsors should consider whether ultralight and light sport activities can be safely accommodated at the airport and whether or not these activities present or create a safety hazard for normal operations of aircraft departing from the airport.

Through the Fence Operators

One aspect to consider when developing minimum standards is whether or not the airport has through-the-fence commercial operators. It is important to keep in mind that the airport sponsor is not obligated to permit through-the-fence access and, generally speaking, the FAA does not support through-the-fence agreements. However, if an airport does have through-the-fence commercial operators, it should ensure that requirements are established. An access agreement between the airport and the party

granted access should ensure that the rights of the airport are protected. For additional information and assistance with through-the-fence agreements, please contact BOA.

Document Components

Minimum standards can be structured in a number of ways, but some general components are outlined below. It is important to note that this list is meant to serve as a starting point and is not intended to be viewed as a comprehensive list. Sponsors may choose to add or eliminate components as they begin work on their own document.

Introduction: Airport sponsors may want to include an introduction that states the reason(s) for establishing minimum standards at the airport and any goals sponsors wish to achieve through the use of minimum standards.

Definitions: Airport sponsors may want to define the terms used in their minimum standards document to ensure that there is no confusion among readers. Appendix A contains a glossary of common words and definitions that may be used in a minimum standards document. Sponsors should edit the glossary to fit their individual needs.

Standards: Airport sponsors should explicitly state their minimum requirements for each aeronautical activity. Specific guidance on what airport sponsors should consider addressing in this section is discussed above.

Enforcement: The minimum standards document should include an outline of the process used to enforce the standards. Attempting to anticipate and answer questions related to the enforcement of minimum standards helps ensure that standards are applied objectively and uniformly. Some questions to consider addressing in the minimum standards document include:

- How will the sponsor enforce compliance with minimum standards?
- What will be the penalty, if any, for commercial operators that operate outside of the minimum standards? What will the penalty be, if any, for repeat offenders?
- What happens if an activity is not specifically covered by minimum standards? Will standards be determined on a case-by-case basis? Airport sponsors can set up minimum standards to attract new businesses to the airport; however, they must ensure that they are not unjustly discriminating against similarly-situated aeronautical service providers. One way to prevent unjust discrimination is to avoid having excessively high threshold requirements or lowering the standards for the benefit of a new or potential tenant.
- Will there be an opportunity to waive/modify minimum standards for government agencies and/or non-profit groups? How will those operators that provide multiple services be handled? Some sponsors choose to stipulate that in the case of conflicting or inconsistent standards for providers of multiple services, those requirements that are most stringent shall apply.

Review and Updates: The FAA recommends that minimum standards be periodically reviewed, and revised, if necessary. The minimum standards document should outline a process for review and state how tenants, users, and the public can have input in the process.

References: Some readers may not be familiar with FAA and BOA requirements and would benefit from a list of references. Appendix B contains a sample of some common references that may be useful in a minimum standards document. Sponsors should be mindful that this list is merely a sample and should be used solely as a starting point; for those sponsors that rely on additional resources in developing minimum standards, those reference should be included in the list as well.

Implementing Minimum Standards

As mentioned previously, there is no one-size-fits-all approach to minimum standards, so the development of standards is largely at the discretion of airport sponsors. However, the implementation of minimum standards is important in order to ensure that airport sponsors do not grant an exclusive right or economically discriminate against service providers. The following are some things to keep in mind when implementing minimum standards.

Notify stakeholders

Once minimum standards have been adopted, it is important to introduce the document to various stakeholders, particularly airport operators. As mentioned previously, it is recommended that stakeholders be involved in the development process, so they will likely be familiar with the adopted minimum standards document. Ways in which the airport sponsor can distribute the final, adopted version of the minimum standards includes posting a copy at the airport, mailing and/or emailing a copy of the document, and holding meetings to discuss the document and answer any questions.

Minimum standards must be uniformly applied

Perhaps the most important thing to remember regarding minimum standards is that once adopted, they must be enforced. Moreover, minimum standards must be applied uniformly; they cannot be applied to one service provider and not another or to new service providers and not existing providers.

Minimum standards and lease agreements

Compliance with minimum standards should be made part of an aeronautical service provider's lease agreement with the airport sponsor. However, by including minimum standards as an attachment to a lease agreement, it prevents the airport from making changes to the minimum standards outside the lease renewal process. One option to consider is keeping the minimum standards a separate document and referencing the "existing standards" in the lease document. This could prevent new leases from being subject to different standards than older, existing leases and helps the airport sponsor to ensure that minimum standards are being applied objectively and uniformly. For additional guidance regarding airport lease agreements, please contact BOA.

Amend minimum standards on a consistent basis

FAA recommends that airport sponsors review and publish minimum standards periodically and notify providers before a change takes place. Overtime, minimum standards can be amended, but airport sponsors should be careful not to amend standards too frequently or inconsistently. Constantly juggling and editing minimum standards can create the appearance that some operators are receiving

preferential treatment. One way to prevent the appearance of preferential treatment is to outline a review schedule in the minimum standards document and make any changes on that schedule.

Summary

While minimum standards are strongly recommended, they are not required. It is important to remember that once adopted, they must be applied objectively and uniformly among all similarly-situated aeronautical service providers. The guidance presented here is meant to serve as a starting point for airports looking to develop or revise their minimum standards. Because every airport is unique, it is important that airport sponsors develop standards that can best serve their individual needs and not borrow standards from similar airports. The BOA can provide assistance throughout the minimum standard process, including reviewing and commenting on draft documents. Please contact BOA for guidance specific to your airport.

Appendix A: Definitions

Aeronautical Activity

Any activity that involves, makes possible, or is required for the operation of aircraft or which contributes to or is required for the safety of such operations.

Agricultural Land

Airport property currently not needed for aeronautical use and is available for agrarian purposes.

Air Charter

A Person that provides on-demand, non-scheduled passenger or cargo transportation service in aircraft having less than 30 passenger seats. The entity must operate under the appropriate Federal Aviation Regulations (FARs)

Aircraft

Any contrivance invented, used or designed for navigation of or flight in the air.

Aircraft Operation

An aircraft's takeoff from or its landing at an airport. A touch-and-go is two operations.

Aircraft Owner

A person or entity holding legal title to an aircraft, or any person having exclusive possession of an aircraft.

Aircraft Parking and Storage Areas

Hangar and apron locations on the Airport which are designated by the airport owner or airport manager for the parking and storage of aircraft.

Aircraft Rental

The commercial operation of renting or leasing aircraft to the public for compensation.

Aircraft Sales

The sale of new or used aircraft through brokerage, ownership, franchise, distributorship, or licensed dealership.

Airframe and Power Plant Maintenance

The commercial operation of providing airframe and power plant services, which includes any of the following: the repair, maintenance, inspection, constructing, and making of modifications and alterations to aircraft, aircraft engines, propellers and appliances including the removal of engines for major overhaul. This category of service also includes the sale of aircraft parts and accessories.

Airport

Any area of land or water which is used, or intended for use, for the landing and taking-off of aircraft and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

Airport Owner

The local municipal government unit, or in some cases multiple municipalities, or in other cases Persons, that are the legal owners of the airport's real property and improvements.

Airport Layout Plan (ALP)

The FAA approved plans and drawings of an airport depicting the layout of existing and proposed airport facilities.

Airport Manager

The designated individual, appointed by the airport owner, duly authorized to administer and manage all operations of the airport and airport facilities.

Aviation Fuel

Flammable liquids composed of a mixture of selected hydrocarbons manufactured and blended for the purpose of operating an internal combustion, jet, or turbine engine, which meet federal fuel standards.

Avionics Sales and Maintenance

The commercial operation of providing for the repair and maintenance of aircraft radios, instruments and accessories. Such operation may include the sale of new or used aircraft radios, instruments and accessories.

Aviation-Related Activity

Any activity conducted on the airport that provides service or support to aircraft passengers or air cargo. The following are examples of aviation-related activities: ground transportation, restaurants, auto parking and concessions.

Based Aircraft

An aircraft which the owner physically locates at the airport for an undetermined period, and whenever absent from the airport, its owner intends to return the aircraft to the airport for long-term storage.

Commercial Activity

The conduct of any aspect of a business, concession, operation, or agency in order to provide goods or services to any person for compensation or hire. An activity is considered a commercial activity regardless of whether the business is nonprofit, charitable, or tax-exempt.

Commercial Operator (Operator)

Is a person, firm, corporation, or other entity conducting commercial aeronautical services or activities at the airport for compensation or hire. The Operator may be classified as either a Fixed Base Operator (FBO) or a Specialized Aviation Service Operator (SASO).

Commercial Self-Service Fueling

The fueling of an aircraft by the pilot using commercial fuel pumps installed for that purpose. The fueling facility may or may not be attended by the owner/operator of such a facility.

Exclusive Right

A power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An exclusive right can be conferred either by express agreement, by the imposition of unreasonable standards or requirements, or by any other means.

Federal Obligation

Contractual commitment of the airport owner that arises from the conveyance of land or from a grant agreement.

Fixed Base Operator (FBO)

A full service commercial operator who engages in the primary activity of aircraft refueling and a minimum of one (1) of the following secondary activities: airframe and power plant maintenance, flight training, aircraft rental, air charter operations, avionics maintenance and sales or aircraft storage/hangars rentals.

Flight Training

The commercial operation of instructing pilots in dual and solo flight, in any aircraft, and related ground school instruction as necessary to complete a FAA written pilot's knowledge test and practical flight test for various categories of pilot certificates and ratings.

Flying Club

A non-commercial and nonprofit entity organized for the purpose of providing its members with any number of aircraft for their personal use and enjoyment. Aircraft must be vested in the name of the flying club owners on a pro-rata share, and the club may not derive greater revenue from the use of the aircraft than the cost to operate, maintain, and replace the aircraft.

Fuel Storage Area

Any portion of the airport designated temporarily or permanently by the airport owner as an area in which aircraft fuel or any other type of fuel may be stored or loaded.

Fueling or Fuel Handling

The transportation, sale, delivery, dispensing, or draining of fuel or fuel waste products to or from an aircraft.

General Aviation

All civil aviation operations other than scheduled air services and nonscheduled air transport operations for remuneration or hire.

Grant Assurance

A provision contained in a Federal grant agreement to which the recipient of Federal airport development assistance has voluntarily agreed to comply in consideration of the assistance provided.

Hazardous Material

Any substance, waste, or material which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, and is or becomes regulated by any governmental

authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Wisconsin, political subdivision thereof, and the presence of which requires investigation, removal and/or remediation.

Independent Operator

A commercial operator offering a single aeronautical service but without established place of business on the airport. An airport owner may or may not allow this type of servicing to exist on the airport.

Lease

The written contract between the airport or airport owner and a Person (Lessee) specifying the terms and conditions under which an Person may conduct commercial, aeronautical or agricultural activities within the established minimum standards.

Minimum Standards

The qualifications or criteria which may be established by the airport owner as the minimum requirements that shall be met as a condition for the right to conduct a Commercial Activity on the airport.

Person

Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

Preventive Aircraft Maintenance

Maintenance that is not considered a major aircraft alteration or repair and does not involve complex assembly operations as listed in FAR Part 43, Appendix A, Paragraph C.

Roadway

Any street or road whether improved or unimproved, within the boundaries of the airport and designated for use by ground vehicles.

Self-Service

Fueling or maintenance of an aircraft on airport property, performed by the aircraft owner or their employees in accordance with the airport's reasonable standards or requirements.

Specialized Aviation Service Operation (SASO)

An aeronautical business that offers a single or limited service according to established minimum standards. Examples of a SASO include, but are not limited to: flight training, aircraft maintenance, on-demand operation or ambulance, aircraft sales, avionics maintenance and sales, and aircraft storage.

Sublease

The written agreement stating the terms and conditions under which a third party Person leases space from a Lessee for the purpose of providing aeronautical services at the airport.

Through-the-fence Agreement

An agreement between the airport owner and an adjacent property owner permitting access to the public landing area.

Through-the-fence commercial operation

A commercial activity, directly related to the use of the airport, developed or located off airport and requiring a Through-the-fence Agreement to access the airport.

Taxilane

That portion of the airport apron area, or any other area, used for access between taxiways and aircraft parking or storage areas.

Taxiway

A defined path established for the taxiing of aircraft from one part of the airport to another.

UNICOM

A non-government communication facility, which may provide airport information at certain airports.

Vehicle Parking Area

Any portion of the airport designated and made available temporarily or permanently by the airport owner for the parking of vehicles.

Appendix B: References

1. FAA Advisory Circular 150/5190-7, Minimum Standards for Commercial Aeronautical Activities
http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/22332
2. FAA Advisory Circular 150/5190-6, *Exclusive Rights at Federally Obligated Airports*
http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/22331
3. Chapter 114, Aeronautics, Wisconsin State Statutes
<http://legis.wisconsin.gov/statutes/Stat0114.pdf>
4. Wisconsin Conditions of State Aid for Airport Improvement, Chapter Trans 55
<http://www.dot.wisconsin.gov/localgov/docs/airport-trans55.pdf>
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http://www.faa.gov/airports/aip/grant_assurances/media/airport_sponsor_assurances.pdf
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7. Rules of Practice for Federally-Assisted Airport Proceedings, Final Rule, 14CFR Parts 13 and 16,
http://www.faa.gov/airports/airport_compliance/complaints/