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# FAA CLARIFIES HANGAR-USE POLICY

June 15, 2016

By Joe Kildea

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**The FAA published a policy update to the Federal Register on June 15 focusing on hangar use at federally obligated airports.**

**The update will take effect July 1, 2017, and is meant to be a clarification of “how aviation facilities—including hangars can be used on airports that receive federal funds,” according to the FAA.**



The FAA published a policy update to the Federal Register on June 15 focusing on hangar use at federally obligated airports. Photo by Mike Fizer.

Jim Coon, AOPA senior vice president of government affairs, said AOPA supports the changes.

“AOPA would like to thank Congressmen Graves (R-Mo.) and Rokita (R-Ind.) and Senator Moran (R-Kan.) for their advocacy as well as the FAA for working with us to ensure hangar use policies match the realities of general aviation flying and aircraft ownership.

Graves and Rokita included language on hangar use in the House of Representative’s FAA reauthorization legislation and sent a letter to the FAA in 2014. Moran introduced an amendment on hangar use that was included in the Senate’s FAA reauthorization bill.

Most notably, the update will allow noncommercial experimental and kit aircraft builders to do more work at airport hangars.

In the past the FAA did not define aircraft building as an aeronautical activity and only final assembly was permitted at hangars on federally obligated airports. The new definition, which AOPA has long **fought for**, changes that definition to include noncommercial aircraft construction and not just final assembly.

“AOPA believes that constructing an aircraft, not just the final assembly, is an aeronautical activity, which the update appropriately reflects,” said Coon.

The FAA also clarified that aircraft down for repair and maintenance are still considered “operational aircraft” and may be kept in hangars at the discretion of airport sponsors.

The update also will allow the storage of nonaeronautical items in hangars provided they do not interfere with the intended aeronautical use of the hangar and are allowed by the airport sponsor.

Finally, for airports with hangar capacity that exceeds local demand, the FAA said, “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.”

For further information, the FAA has published a web page with **frequently asked questions**.



## Federal Aviation Administration

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

Updated: 6/9/2016

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

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

## Frequently Asked Questions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Permitted uses include:

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

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

Uses not permitted include:

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

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

The policy:

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

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

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

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

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

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

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

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

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

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

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

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

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

- **Option 1.** When a sponsor wants to lease aeronautical hangars to a tenant for an extended time period (usually 3 to 5 years), it can request FAA approval for interim non-aeronautical use of a hangar until there is demand for an aeronautical purpose. The sponsor must charge a fair market commercial rental rate for any hangar rental or use for non-aeronautical purposes.
- **Option 2.** A sponsor may also request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis. Once the sponsor receives initial FAA approval, it may lease the open space for consecutive 30-day periods without further approval. The sponsor must charge a fair market commercial rental rate for any hangar rental or use for non-aeronautical purposes.

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

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