



FAA Issues Revised Final Policy Regarding Non-Aeronautical Use of Airport Hangars

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On June 15, 2016, the Federal Aviation Administration (FAA) published a notice of final policy on the non-aeronautical use of airport hangars (Final Policy). The Final Policy replaces a proposed policy statement that the FAA published in July 2014 setting forth the FAA's position regarding permitted and prohibited use of airport hangars (Proposed Policy). In addition to the Final Policy, the FAA states that it will post frequently asked questions and answers regarding the Final Policy on www.faa.gov/airports/airport_compliance/. The Final Policy becomes effective July 1, 2017.

The Final Policy addresses several of the issues raised by airport sponsors regarding the Proposed Policy. Among the most significant changes, the Final Policy no longer relies on the terms "incidental" or "de minimis" to describe permissible non-aeronautical use of airport hangars. Instead, the FAA simply describes the standard for permissible non-aeronautical use to be that which does not interfere with aeronautical activities. The Final Policy also allows airport sponsors to seek prior blanket approval from the FAA Office of Airports for month-to-month non-aeronautical leases where there is no aeronautical demand for hangars. In addition, the Final Policy clarifies that the FAA considers construction of amateur-built and kit-built aircraft to be an aeronautical use of hangar space, but urges airport sponsors to include provisions in airport leases that establish benchmarks for completion of such projects. The Final Policy also suggests that airport sponsors include provisions in hangar leases that require an automatic increase in rates to fair market value in the event that a tenant uses its hangar for non-aeronautical purposes.

For further information on this important policy change, please contact Peter Kirsch or Christian Alexander.