

AIRPORT LAW DIGEST

2026 MID-YEAR UPDATE

Semi-Annual Report



Articles

Litigation

**Federal Rules,
Orders, &
Guidance**

**Reports, Studies,
Articles, & Other
Publications**

JULY 2026

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INTRODUCTION

We are pleased to share Kaplan Kirsch's Airport Law Digest – 2026 Mid-Year Update.

This Airport Law Digest includes a list of principal cases decided over the past six months; new federal rules, policies, and guidance; and reports, studies, and articles of interest to airport legal professionals. We have attempted to provide links to publicly available documents, and most other documents are available via subscription services such as Westlaw or LexisNexis.

This Digest is provided for informational purposes only and should not be relied upon for legal advice.

We hope you find this Digest useful in your efforts to remain current in the always-evolving legal and regulatory framework that governs airports. If you have questions about any of the materials in this Digest, please contact editors [Nicholas M. Clabbers](#) and [Laura K. Kilgarriff](#), or any other Kaplan Kirsch attorney who normally represents you.

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ARTICLES

OMB Proposes Overhaul of Federal Grant Administration Regulations

On May 29, 2026, the [Office of Management and Budget \(OMB\)](#) published a [proposed rule](#) which would make changes to the way the federal government awards and administers grants (primarily, 2 CFR Part 200). The proposed changes are detailed and numerous. However, among the most significant proposed modifications, discretionary grant awards would require approval from a senior political appointee to ensure that the projects are “in the national interest.” Similarly, agencies would be given discretion to terminate grants that “no longer effectuate[] program goals, agency priorities, or the national interest” (which would not be subject to appeal) and to order suspension of grants for up to 90 days.

Comments on the proposed rule were due July 13, 2026. OMB states that it intends to publish a final rule with an effective date of October 1, 2026. If you have any questions regarding the proposed rule, please do not hesitate to reach out to [Tracy Davis](#), or any other Firm attorney with whom you usually work.

FAA Airport Compliance Manual Update

On February 20, 2026, the FAA published an updated Airport Compliance Manual, FAA Order 5190.6C, replacing FAA Order 5190.6B (issued September 2023). The Manual provides guidance to FAA personnel on the implementation of the FAA’s airport compliance program. While not directly binding on airport sponsors, the guidance offers the most comprehensive explanation of the FAA’s interpretation of airport sponsors’ federal obligations and the FAA’s enforcement policies.

FAA Order 5190.6C makes a number of material changes, as well as incorporates interim revisions, FAA policies, and statutory changes over the past few years. The FAA has published a [Summary of Updates](#) that generally describes its revisions to the Airport Compliance Manual. As we [previously reviewed](#) and among other changes, the new FAA Order 5190.6C revises language to reflect several intervening and pre-existing policy changes (e.g., procedures and requirements from the 2023 Land Use Policy and Section 743 of the FAA Reauthorization Act of 2024), adds an expanded definition of “government aircraft” for the purposes of Grant Assurance 27, and includes new language concerning the use of sponsor-imposed aeronautical restrictions on the grounds of “efficiency.” As the FAA continues to implement the new Order, additional changes may prove to be significant.

If you have any questions regarding the FAA Airport Compliance Manual update, please do not hesitate to reach out to [Steven Osit](#), [Nicholas Clabbers](#), or any other Firm attorney with whom you usually work.



FAA Releases Draft Airport Improvement Program Handbook



On May 19, 2026, the FAA provided an updated draft of the [FAA Order 5100-38E, Airport Improvement Program \(AIP\) Handbook](#) for public comment. The AIP Handbook provides guidance to FAA staff about the administration of the AIP, which provides grants to airport sponsors for the planning and development of public-use airports that are included in the National Plan of Integrated Airport Systems (NPIAS).

The draft would make substantial revisions to the current Order FAA Order 5100-38D, Change 1, which was issued February 26, 2019. The updated version incorporates legal and policy changes over the last few years, including the FAA Reauthorization Acts of 2018 and 2024. Significant updates include proposing to rescind Program Guidance Letters (PGLs) and Reauthorization Program Guidance Letters (R-PGLs) and delegating additional authority to Regional Airports Division and District Offices (ADOs).

Comments on the proposed Order are due August 17, 2026. If you have any questions regarding the proposed AIP Handbook updates, please do not hesitate to reach out to [Peter Kirsch](#), [Catherine M. van Heuven](#), or any other Firm attorney with whom you usually work.

LITIGATION

U.S. CIRCUIT COURTS



Grant Assurances; Standing.

Modernwest Longmont, LLC v. FAA, No. 25-1150, 2026 LX 223630 (D.C. Cir. May 29, 2026) (dismissing petition for review for lack of standing where petitioner alleged that Federal Aviation Administration (FAA) letters advising a City that approval of petitioner's proposed development would violate Grant Assurance 21 caused the City to reject petitioner's proposal, but petitioner was unable to demonstrate that withdrawal of FAA's letters was likely to redress its injury).

NEPA; Standing.

City of Culver City v. FAA, 167 F.4th 1260 (9th Cir. Mar. 2, 2026) (dismissing Cities of Culver City and Malibu's petition for review of the FAA's determination that a NEPA categorical exclusion applied to its amended NexGen flight procedures because the Cities were unable to show a reasonable probability that the amended procedures threaten their natural resource interests and therefore lack standing).



Airport Security Programs.

Spokane Airport Bd. v. Transp. Sec. Admin., 164 F.4th 933 (D.C. Cir. Jan. 20, 2026) (denying petition for review of TSA's emergency amendment requiring airport and aircraft operators to incorporate cybersecurity measures and controls into their security programs because TSA regulatory authority encompasses cybersecurity, regulatory requirements for airport security programs are not exclusive, and the amendment was reasonable in light of cybersecurity concerns to aviation).

EAS Contracts.

Boutique Air Inc. v. DOT, No. 24-1369, 2026 LX 40390 (D.C. Cir. Jan. 13, 2026) (denying petition for review of a DOT Essential Air Service (EAS) decision to select Denver Air Connection to service a small airport over petitioner because DOT addressed each statutory factor and reasonably explained why the balance of considerations led to its decision).



U.S. DISTRICT COURTS

DBE Programs. *Mid-America Milling Co., LLC, v. United States DOT*, No. 3:23-cv-00072-GFVT, 2026 LX 144050 (E.D. Ky. Mar. 19, 2026) (dismissing the action as moot where plaintiffs challenged DOT's former Disadvantaged Business Enterprise (DBE) contract policies wherein DBE eligibility was determined by race-and-sex-based presumptions, and the policy was subsequently eliminated at the direction of the Trump administration).

Airport Leaseholds. *Errands Plus, Inc. v. Signature Flight Support, LLC*, No. 3:25-cv-00098, 2026 LX 186817 (W.D. Va. Mar. 16, 2026) (denying plaintiff chauffeur company's motion for temporary restraining order and preliminary injunction of an airport fixed base operator's (FBO's) nationwide ban on plaintiff operating on its leaseholds because plaintiff was not likely to succeed on its tortious interference with contract or business relations claims and plaintiff could not show it had a legal right to access its leaseholds with the FBO).

Airport Lease Agreements.
Felts Field Dev., Ltd. Liab. Co. v. Aero. Ctr. Felts Field, Ltd. Liab. Co., No. 2:25-CV-0368-TOR, 2026 LX 94530 (E.D. Wash. Feb. 19, 2026) (denying summary judgment where it was unclear whether an agreement between an FBO and sub-lessee was valid without required Airport Board approval).

First Amendment; Airport Advertisements.
Megan Thomas L. PLLC v. Syracuse Reg'l Airport Auth., 819 F. Supp. 3d 126 (N.D.N.Y. Jan. 15, 2026) (holding that the Authority's rejection of a law firm's advertisement was unconstitutional viewpoint discrimination under the First Amendment).

TSA Standard Operating Procedures.
Brown v. Transp. Sec. Admin., No. 2:20-CV-00064-MJH-KT, 2026 LX 64488 (W.D. Pa. Feb. 11, 2026) (holding that the TSA's Standard Operating Procedures constitute final agency decisions, of which the courts of appeals have exclusive jurisdiction for judicial review).

STATE COURTS

Airport-Related Businesses. *Hicks Airfield Pilots Ass'n v. Brunson*, No. 02-25-00177-CV, 2026 LX 316331 (Tex. App. June 11, 2026) (upholding a decision that a restaurant and event venue located adjacent to a private airport are airport-related commercial businesses consistent with the maintenance of the airfield because they were used and visited by people who used the airfield).

Preemption. *Town of Superior v. Bd. of Cty. Comm'rs of the Cty. of Jefferson*, 589 P.3d 939 (Colo. App. 2026) (petition for cert. filed) (finding that state courts are preempted from enjoining touch-and-go operations to abate an alleged nuisance from aircraft noise).

Preemption. *Warren v. Appalachian Power Co.*, No. 25-ICA-289, 2026 LX 309996 (W. Va. Ct. App. June 11, 2026) (upholding a ruling that a negligence claim against a power company for failing to mark or remove its inactive powerlines because they were an obstruction to air navigation is preempted by the FAA's exclusive authority to regulate airspace).

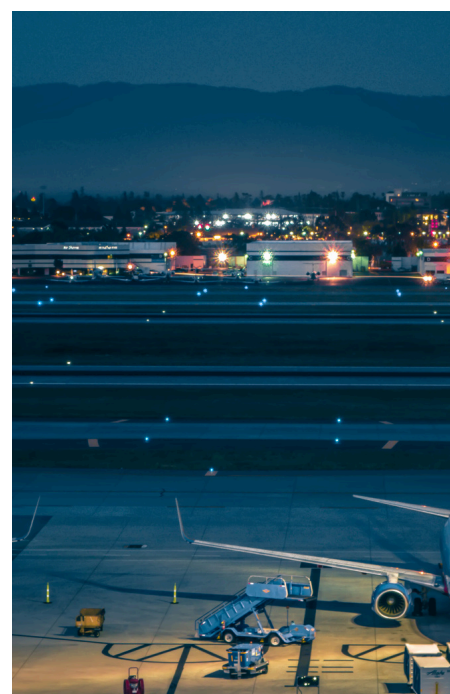
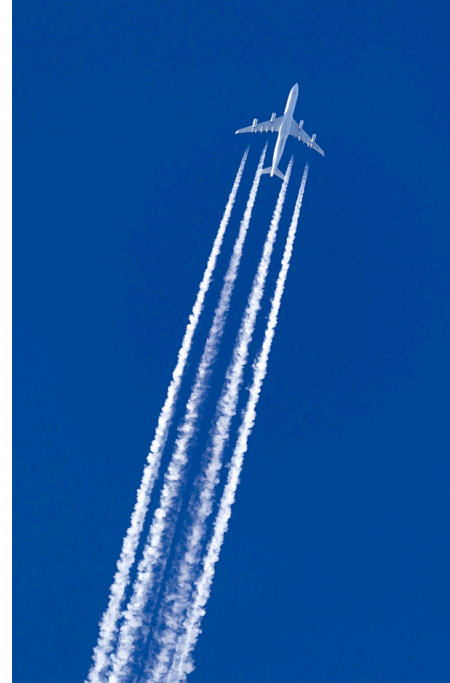
PART 16 DECISIONS

Hangar Leases. *Francisco Ferraiouli-Laborde v. Puerto Rico Ports Authority*, FAA Docket No. 16-24-05, Director's Determination (Mar. 13, 2026) (among other allegations, finding that the airport sponsor did not violate Grant Assurance 38 by declining to renew a hangar lease on favorable terms to an aircraft owner, who constructed the hangar at his own expense and breached the terms of a prior lease agreement).

Hangar Leases. *Save a Connie, d.b.a. Airline History Museum (AHM) v. Kansas City Aviation Dept. and the City of Kansas City, MO*, FAA Docket No. 16-24-04, Director's Determination (Mar. 25, 2026) (finding that the City had historically violated Grant Assurances 5, 22, and 23 by denying an aviation museum tenant access to fly and park its aircraft on a ramp adjacent to the hangar that the museum occupied and instead granting "near total deference" to the airport's master tenant).

Unjust Economic Discrimination. *Above All Aviation, Inc., v. City of Santa Barbara, CA*, FAA Docket No. 16-25-05, Order (Apr. 9, 2026) (finding that the City is in violation of Grant Assurances 22 and 23 by allowing a flying club to advertise and act as a commercial flight training provider in competition with the complainant while not being required to meet the minimum standards for a commercial operator).

Airport Sponsors. *Heinen Bros. Agra Service, Inc. v. City of Hartington, Nebraska*, FAA Docket No. 16-25-14, Order of Dismissal (Jan. 21, 2026) (dismissing complaint brought against the City alleging grant assurance violations at the Hartington Municipal Airport because the City is not the airport sponsor).



FEDERAL RULES, ORDERS, & GUIDANCE



The White House

- Exec. Order No. 14411, 91 Fed. Reg. 35,125, [Strengthening Customs Enforcement](#), (June 3, 2026).
- Exec. Order No. 14402, 91 Fed. Reg. 24,325, [Promoting Efficiency, Accountability, and Performance in Federal Contracting](#) (Apr. 30, 2026).
- Exec. Order No. 14398, 91 Fed. Reg. 16,147, [Addressing DEI Discrimination by Federal Contractors](#), (Mar. 26, 2026).
- Exec. Order No. 14385, 91 Fed. Reg. 6,505, [Protecting the National Security Welfare of the United States and Its Citizens From Criminal Actors and Other Public Safety Threats](#), (Feb. 6, 2026).

Office of Management and Budget (OMB)

- OMB, [Regulation for Federal Financial Assistance](#), 91 Fed. Reg. 32,198 (May 29, 2026) (proposing revisions to 2 CFR Part 200).

Department of Transportation (DOT) and Federal Aviation Administration (FAA)

- DOT, [Final Rule, Rescinding Portions of Department of Transportation's Title VI Regulations To Conform More Closely With the Statutory Text and To Implement Executive Order 14281](#), 91 Fed. Reg. 35,424 (June 11, 2026).
- FAA, [Notice of Proposed Rulemaking, Flexibility Enhancements of Weather Reporting Systems](#), 91 Fed. Reg. 30,249 (May 22, 2026).
- FAA, [Notice of Draft, FAA Order 5100-38E, Airport Improvement Program Handbook](#), 91 Fed. Reg. 29,247 (May 19, 2026)
- FAA, [Notice of Proposed Rulemaking, Designation—Restrict the Operation of Unmanned Aircraft in Close Proximity to a Fixed Site Facility](#), 91 Fed. Reg. 24,650 (May 6, 2026).
- DOT, [Final Rule, Administrative Rulemaking, Guidance, and Enforcement Procedures](#), 91 Fed. Reg. 22,431 (Apr. 27, 2026)
- FAA, [Order Establishing Scheduling Limits, Operating Limitations at Chicago O'Hare International Airport](#), 91 Fed. Reg. 21,071 (Apr. 20, 2026).
- FAA, [Notification of Enforcement Policy, Settlement Policy for Small Unmanned Aircraft System \(UAS\) Cases](#), 91 Fed. Reg. 20,578 (Apr. 17, 2026)
- DOT, [Final Guidance, Evaluation of the Appropriateness of Public-Private Partnership Project Delivery, Including Value for Money or Comparable Analyses; Infrastructure Investment and Jobs Act](#), 91 Fed. Reg. 10,440 (March 3, 2026)
- FAA, [Airport Compliance Manual](#), FAA Order 5190.6C (Feb. 20, 2026).
- FAA, [Notice of Availability, Draft FAA Transition Plan to Unleaded Aviation Gasoline](#), 91 Fed. Reg. 1230 (Jan. 12, 2026).

Department of Homeland Security (DHS), Transportation Security Administration (TSA) and Customs and Border Protection (CBP)

- TSA, [New Agency Information Collection Activity Under OMB Review: Real-Time Wait-Time Dashboarding](#), 91 Fed. Reg. 35,536 (June 11, 2026)
- TSA, [Revision of Agency Information Collection Activity Under OMB Review: TSA PreCheck® Application Program](#), 91 Fed. Reg. 33,190 (June 3, 2026)
- TSA, [Gold+ Airport Screening Privatization Program](#) (May 21, 2026)
- CBP, [Fee for Fingerprints Collected by CBP](#), 91 Fed. Reg. 28,599 (May 18, 2026)
- TSA, Aviation and Cargo Bulletin Criminal History Record Information (April 24, 2026) (available on the Homeland Security Information Network, [HSIN.gov](#))

Council on Environmental Quality

- Memorandum for Heads of Federal Departments and Agencies: [Establishing, Revising, Adopting, and Applying Categorical Exclusions under the National Environmental Policy Act](#) (Apr. 9, 2026).
- Memorandum for Heads of Federal Departments and Agencies: [Guidance on Emergencies and the National Environmental Policy Act](#) (Jan. 21, 2026).

REPORTS, STUDIES, ARTICLES, & OTHER PUBLICATIONS



In Reverse Chronological Order

U.S. Department of Transportation

Office of Inspector General

- [Report No. AV20262022](#), FAA Took Action to Improve Monitoring and Increase Staffing Levels at Contract Towers, but Staffing Shortages Remain (Mar. 24, 2026).

Government Accountability Office

- [Report No. GAO-26-107856](#), Aviation Workforce: FAA Could Strengthen Regional Pilot Pipeline by Establishing Timelines for Training Initiatives (Apr. 30, 2026)
- [Report No. GAO-26-107938](#), Airport Financial Reporting: FAA Should Implement Controls to Improve Data Quality (Apr. 14, 2026).
- [Report No. GAO-26-107648](#), Transforming Aviation: FAA Planning Efforts Should Address How Drones Will Communicate with and Avoid Other Aircraft (Feb. 4, 2026).
- [Report No. GAO-26-107817](#), Accessing Airports: Available Public Transit Options and Efforts to Promote Their Use (Jan. 28, 2026).

Congressional Research Service

- [Report R48984](#), The Certification of Advanced Air Mobility (AAM) Aircraft: In Brief (June 12, 2026).
- [Report No. IN12589](#), Recent Developments in International Tourism to the United States (May 1, 2026).
- [Report No. IF11783](#), Biometric Technologies and Global Security (Apr. 16, 2026).
- [Report No. IN12675](#), Collision at LaGuardia Spotlights Long-standing Concerns Over Runway Safety (Mar. 30, 2026).
- [Report No. IF12757](#), Sustainable Aviation Fuel (SAF): An Overview of Current Laws and Legislation Introduced in the 119th Congress (Feb. 4, 2026).

REPORTS, STUDIES, ARTICLES, & OTHER PUBLICATIONS (cont.)

In Reverse Chronological Order



Transportation Research Board, Airport Cooperative Research Program

Research Reports

- [Synthesis 145](#): Collecting and Utilizing ADS-B Data at Airports (2026).
- [Primer](#): Understanding the Transition to Unleaded Aviation Gasoline (2026).
- [Research Report 285](#): Revenue and Financing Alternatives for Medium and Small U.S. Airports in an Evolving Landscape (2026).
- [Research Report 284](#): Transitioning to Unleaded Aviation Gasoline: A Guide and Tools (2026).
- [Synthesis 143](#): Ramp Safety Practices: Update (2026).
- [Consensus Study Report](#): Assessing Radiation Exposure, Health Outcomes, and Mitigation Strategies for Flight Crewmembers (2026).
- [Summary](#): Exploring Cellular-Based Private Wireless Networks (June 2026).
- [Research Report 282](#): Exploring Cellular-Based Private Wireless Networks for the U.S. Aviation Industry (2026).
- [Consensus Study Report](#): Health and Safety Impacts of Aircraft Cabin Temperatures (2026).
- [Synthesis 142](#): Mechanisms to Address Off-Airport Obstructions (May 2026).
- [Legal Research Digest 50](#): Buy America Requirements for Federally Obligated Airports (Apr. 2026).
- [Research Report 281](#): Data Protection and Privacy Management at U.S. Airports: Guidelines (2026).
- [Insight](#): Preparing U.S. Airport Infrastructure for Weather Events (2026).
- [Synthesis 141](#): Total Rewards for Airport Sponsor Employees (2026).

Web-Only Documents

- [Web-Only Document 68](#): DOT and FAA Airport Legal Determination and Opinion Letter Abstracts of 2024 (2026)
- [Web-Only Document 67](#): Exploring the Impact of Artificial Intelligence on the Airport Industry (2026).



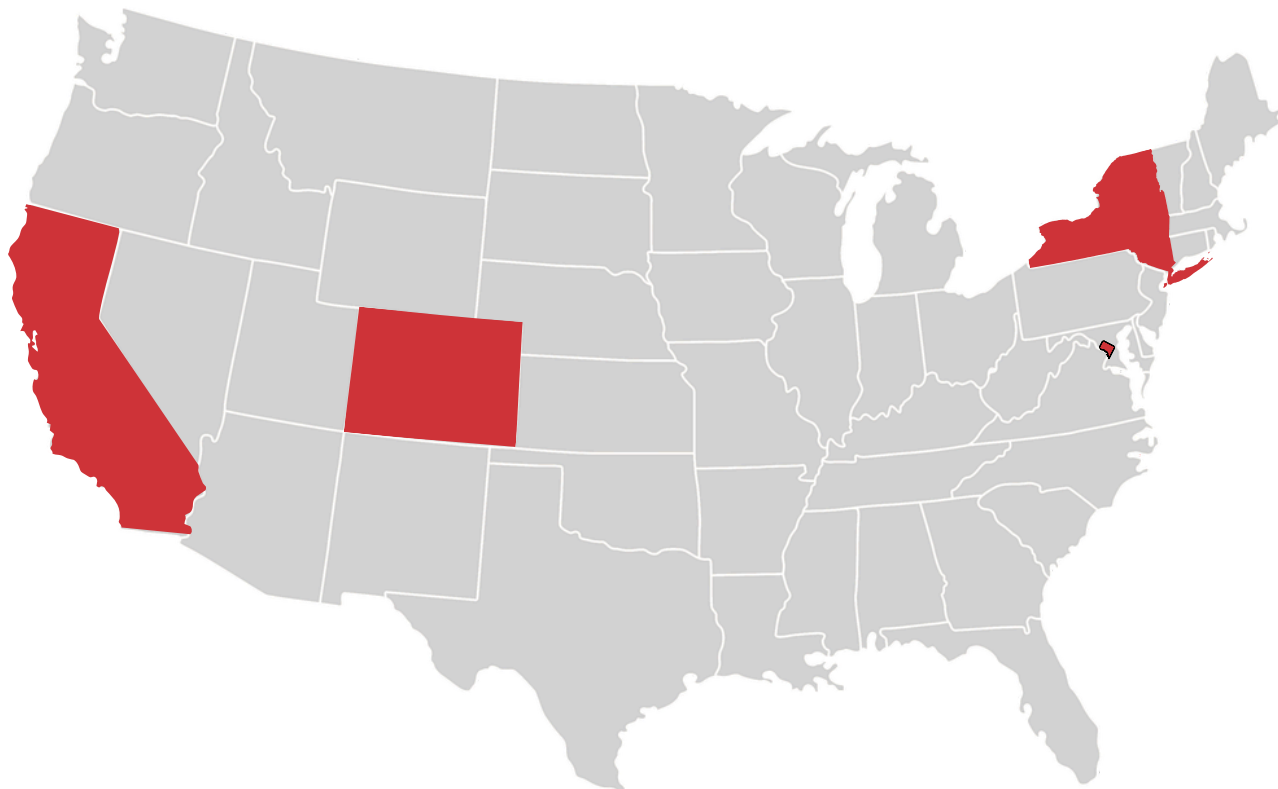
EDITOR'S NOTE

Kaplan Kirsch's airports practice is one of the largest and most experienced in the country. The Firm's attorneys have counseled clients on issues associated with complex airport development and master planning projects, land use, environmental review, rates and charges, airline incentives, finance, security, safety, airport proprietors' rights, and compliance with federal requirements. The Firm has represented clients throughout the nation in regulatory and legislative advocacy on a wide range of policy matters and in litigation related to airport operations and development. The Firm's clients have included airport proprietors, local and state governments, airport tenants, and users and businesses affected by airport operations.

The Airport Law Digest is a semi-annual publication of Kaplan Kirsch LLP and is provided as a complimentary service to registrants of the annual Airport Law Workshop. The Digest is for informational purposes only and is not for the purpose of providing legal advice – including the application of law to any particular set of facts and circumstances. Readers are urged to consult their counsel and consultants concerning their own situations and any specific legal questions. If you have any questions or would like to learn more about the topics addressed in this Digest, please contact the attorney who normally represents you or contact us at info@kaplankirsch.com or at one of our offices below.

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