



[4913]

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Chapter I**

**Docket No. FAA-2015-2022**

**Petition of the Aircraft Owner and Pilots Association (AOPA) to Amend FAA Policy Concerning Flying Club Operations at Federally-Obligated Airports.**

**AGENCY:** Federal Aviation Administration (FAA).

**ACTION:** Notice of petition; request for comments.

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**SUMMARY:** This notice requests comments on a petition by the Aircraft Owner and Pilots Association (AOPA) to revise certain policies concerning flying clubs in the Federal Aviation Administration (FAA) Order 5190.6B, *FAA Airport Compliance Manual*. As part of its effort to promote flying clubs, AOPA has requested certain revisions to FAA guidance intended to lower barriers for new flying clubs. These revisions allow flight instructors and mechanics who are club members to receive monetary compensation for services provided to club members.

On April 3, 2015, the AOPA Senior Vice President for Government Affairs & Advocacy, James W. Coon, wrote to Mr. Randall Fiertz, FAA's Director of the Office of Airport Compliance and Management Analysis proposing revision to FAA guidance regarding compensation for flight instructors and persons maintaining aircraft within the context of flying club operations. AOPA seeks "to help current flying clubs and airport sponsors comply with the FAA guidance outlined in 5190.6B, and to provide future flying clubs the opportunity to strengthen and unify general aviation pilots." AOPA states that its goal is "to provide guidance that is attainable and ensures educated compliance from all airport users," and thus asks for "updated guidance regarding compensation for flight instructors and maintainers" because "flight instructors and aviation mechanics are valuable assets to the aviation industry, and should be granted the privilege of fair compensation for their efforts on a local level."

**DATES:** Send your comments on or before [Insert date 30 days after date of publication in the Federal Register]. The FAA will consider comments on the petition. Any revisions resulting from the original petition or 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-2015-2022] 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.

*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](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.

**FOR FURTHER INFORMATION CONTACT:** Miguel Vasconcelos, Airport Compliance Division, ACO-100, Federal Aviation Administration, 800 Independence Avenue, SW. Washington, DC 20591, telephone (202) 267-3085; facsimile: (202) 267-4620.

**SUPPLEMENTARY INFORMATION:** FAA Order 5190.6B, *FAA Airport Compliance Manual* (Order), published on September 30, 2009 defines flying clubs as: “a nonprofit or not-for-profit entity (e.g., corporation, association, or partnership) organized for the express purpose of providing its members with aircraft for their personal use and enjoyment only.” The Order states that “the ownership of the club aircraft must be vested in the name of the flying club or owned by all its members. The property rights of the members of the club shall be equal; no part of the net earnings of the club will benefit any one individual in any form, including salaries, bonuses, etc. The flying club may not derive greater revenue from the use of its aircraft than the amount needed for the operation, maintenance and replacement of its aircraft.” The Order also notes that “flying clubs may not offer or conduct...aircraft rental operations. They may conduct aircraft flight instruction for regular members only, and only members of the flying club may operate the aircraft.” While members may not be monetarily compensated, existing policy allows flying clubs to allow compensation only in the form of credit against payment of dues or flight time.

In addition, the Order states that “no flying club shall permit its aircraft to be used for flight instruction for any person, including members of the club owning the aircraft, when such person pays or becomes obligated to pay for such instruction. An exception applies when the instruction is given by a lessee based on the airport who provides flight training and the person receiving the training is a member of the flying club. Flight instructors who are also club members may not receive payment for instruction except that they may be compensated by credit against payment of dues or flight time” and that “any qualified mechanic who is a

registered member and part owner of the aircraft owned and operated by a flying club may perform maintenance work on aircraft owned by the club. The flying club may not become obligated to pay for such maintenance work except that such mechanics may be compensated by credit against payment of dues or flight time.” [See FAA Order 5190.6B, paragraphs 10.6(a), (b), and (c).] Flying clubs are defined in such a way as to differentiate from for-profit aeronautical businesses offering aeronautical services to general public, *e.g.*, FBOs, flight schools and aircraft rental providers.

The owner of any airport (airport sponsor) developed with Federal grant assistance is required to operate the airport for the use and benefit of the public and to make it available to all types, kinds, and classes of aeronautical activity on fair and reasonable terms, and without unjust discrimination. This includes flying clubs. Assurance 22, *Economic Nondiscrimination*, of the prescribed sponsor assurances implements the provisions of 49 USC 47107(a)(1) through (6), and requires, in pertinent part, that the sponsor of a federally obligated airport

"...will make its airport available as an airport for public use on reasonable terms, and without unjust discrimination, to all types, kinds, and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport." Assurance 22(a)

"...may establish such fair, equal, and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport." Assurance 22(h)

At issue is the fact that some entities operating at federally-obligated airports identify themselves as “flying clubs,” while not meeting the definition of a “flying club.” Rather, they are engaged in providing commercial services at the airport. In some instances, these “flying clubs” present themselves to the public as alternatives to traditional flight schools and aircraft rental providers. Some publish flight training rates, including instruction fees and rental rates, and only charge nominal annual “club fees.” FAA policy reflects the concern that some entities claiming to be flying clubs are actually commercial service providers. These commercial service providers use the term “flying club” to avoid compliance with airport minimum standards for commercial service providers. This can result in unjust discrimination because legitimate service providers at the airport would be at an economic disadvantage in competition with the flying club, contrary to the federal grant assurances, specifically Grant Assurance 22, *Economic Nondiscrimination*

Therefore, if proposed changes to the definition of a flying club and the related activities must be consistent with Grant Assurance 22.

As part of its effort to promote flying clubs, AOPA has recommended revisions to FAA guidance. These recommendations, designed to promote flying clubs, include allowing flight instructors and mechanics who are club members to receive monetary compensation for services conducted for other club members or club aircraft. Specifically, AOPA proposes the following language for consideration in FAA flying club policies:

AOPA Policy Proposal Item 1:

“No flying club shall permit its aircraft to be used for flight instruction for any person, including members of the club owning the aircraft, when such person pays or becomes obligated to pay for such instruction except in the following circumstances; (a) The flight instruction is provided to a club member by a commercial operator authorized by the airport sponsor to provide flight instruction on field. (b) The flight instruction is provided to a club member by a flight instructor who is also a club member that is in good standing according to the club bylaws. In either case, the flight instructor may receive monetary compensation; however the flying club is prohibited from holding itself out to the public as a fixed based operator, a specialized aviation service operation, or a flight school. In the case of (b) above, the Airport Sponsor has the right to limit flight instruction for monetary compensation but must permit the club to compensate club instructors with credit against payment of dues or flight time.”

AOPA Policy Proposal Item 2:

“Any qualified mechanic who is a member of the flying club may perform maintenance work on aircraft owned or exclusively used by the flying club. The flying club may not become obligated to pay for such maintenance work except that such mechanics may be compensated not to exceed a reasonable rate for the work performed at the discretion of club members. The club however may not hold out to the public as operating as a fixed base operator, a specialized aviation service operation, or maintenance facility. The Airport Sponsor has the right to limit maintenance work for monetary compensation but must permit the club to compensate club mechanics with credit against payment of dues or flight time.”

In brief, AOPA requests that flight instructors and mechanics who are club members be permitted to receive monetary compensation for services conducted within the club. AOPA’s request also emphasizes that

airport sponsors *must* [emphasis added] permit the club to compensate club instructors and mechanics with credit against payment of dues or flight time.

AOPA-recommended revisions are available for review on the FAA Airports Web site, as well as in the docket locations described under AVAILABILITY OF DOCUMENTS in this notice.

**REQUEST FOR COMMENTS:** The FAA requests comments on whether AOPA’s recommendations can be considered consistent with the FAA’s general policies regarding commercial aeronautical services and flying clubs on an airport, and if so, whether the stated agency policy on flying clubs should be revised to amend its definition of flying clubs. In particular, the FAA seeks comments from commercial service providers that engage in flight training and aircraft rental, from associations representing such service providers, and other interested parties.

Issued in Washington, DC on July 9, 2015

Randall S. Fiertz

*Director, Office of Airport Compliance and Management Analysis*

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