

SUBCHAPTER I—AIRPORTS

[Docket No. 9441; Amdts. 151-30; 153-4]

PART 151—FEDERAL AID TO AIRPORTS

PART 153—ACQUISITION OF U.S. LAND FOR PUBLIC AIRPORTS

Exclusive Rights at Airports

The purpose of these amendments is to clarify the policy of the Federal Aviation Administration relating to exclusive rights at airports, as set forth in Parts 151 and 153 of the Federal Aviation Regulations.

On August 31, 1966, the FAA issued Amendment 151-14 to conform § 151.121 with the current policy on exclusive rights, at airports on which sponsors desired assistance under the Federal-aid Airport Program, that were contrary to section 308(a) of the Federal Aviation Act (49 U.S.C. 1349(a)) and the Policy on Exclusive Rights at Airports issued October 25, 1965 (30 F.R. 13661). Later, on April 28, 1967, the FAA issued Amendments 151-18 and 153-2 whose purpose was to further clarify and fully state the intent of the exclusive rights policy by specifically barring exclusive rights at airports thereafter controlled by the sponsor, and requiring termination of exclusive rights at airports thereafter owned or controlled by the sponsor.

However, §§ 151.121 and 153.13(d) still do not accurately reflect the exclusive rights policy. These provisions presently require the termination of existing exclusive rights at the earliest renewal, cancellation, or expiration date applicable to the agreements that established such exclusive rights. The FAA distinguishes between exclusive rights that were contrary to the policy at the time they were granted, and those that were not, by requiring termination at different times. The latter must be terminated at the earliest renewal, cancellation, or expiration date applicable to the agreement that established them, whereas the former must be terminated before any grant offer under the Federal-aid Airport Program, or upon any conveyance affected by Part 153. Therefore, the covenants in §§ 151.121 and 153.13(d) are amended to accurately make the dis-

inction. In view of the changes made by this amendment, the sponsor's certification that there is no exclusive right not subject to termination is unnecessary, and it is deleted.

Since these amendments relate to public grants and benefits, notice and public procedure thereon are not required and they may be made effective upon publication.

In consideration of the foregoing, effective March 1, 1969, Parts 151 and 153 of the Federal Aviation Regulations are amended as follows:

1. By amending § 151.121 to read as follows:

§ 151.121 Procedures: offer; sponsor assurances.

Each sponsor must adopt the following covenant implementing the exclusive rights provisions of section 308(a) of the Federal Aviation Act of 1958, that is incorporated by reference into Part I of the Advance Planning Agreement:

The sponsor—

(a) Will not grant or permit any exclusive right forbidden by section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349 (a)) at the airport, or at any other airport now or hereafter owned or controlled by it;

(b) Agrees that, in furtherance of the policy of the FAA under this covenant, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the airport, or at any other airport now or hereafter owned or controlled by it, to conduct any aeronautical activities, including, but not limited to, charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity;

(c) Agrees that it will terminate any existing exclusive right to engage in the sale of gasoline or oil, or both, granted before July 17, 1962, at such an airport, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right; and

(d) Agrees that it will terminate any other exclusive right now existing at such an airport before the grant of any assistance under the Federal Airport Act.

2. By amending paragraph (d) of § 153.13 to read as follows:

§ 153.13 Covenants and reverter clauses in conveyances.

(d) That in furtherance of the policy of the FAA under this covenant the grantee—

(1) Agrees that, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm, or corporation the exclusive right at the airport, or at any other airport now or hereafter owned or controlled by it, to conduct any aeronautical activities, including, but not limited to, charter flights, pilot training, aircraft rental and sightseeing, aerial

photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity;

(2) Agrees that it will terminate any existing exclusive right to engage in the sale of gasoline or oil, or both, granted before July 17, 1962, at such an airport, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right; and

(3) Agrees that it will terminate forthwith any other exclusive right now or hereafter existing at such an airport;

(Secs. 308(a), 313, Federal Aviation Act of 1958 (49 U.S.C. 1349(a), 1354); Federal Airport Act (49 U.S.C. 1101-1119); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 1.4(b)(2), regulations of the Office of the Secretary of Transportation)

Issued in Washington, D.C., on February 25, 1969.

D. D. THOMAS,
Acting Administrator.

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