

[Docket No. 7194; Amdt. 161-17]

PART 151—FEDERAL AID TO AIRPORTS

Review of Miscellaneous Eligibility Criteria and Programing Standards

These amendments to Part 151 of the Federal Aviation Regulations add, revise, and clarify certain eligibility criteria and programing standards for obtaining Federal financial assistance for airport development under the Federal-aid Airport Program. This action is taken on the basis of proposals made in Notice 66-5 that was published in the FEDERAL REGISTER on March 17, 1966 (31 F.R. 4523).

It appears to the Agency that further study is needed of Proposal 2 of the Eligibility Criteria Proposals (Adequate Land for Airport Development) and Proposal 5 of the Programing Standards Proposals (Airport Entrance Roads). If further amendment is considered necessary as a result of this study, it will be the subject of separate rule making action. Therefore, these two proposed amendments are withdrawn.

All comments received in response to Notice 66-5 have been fully considered. A number of the proposals have been reduced in scope in light of the comments and upon a careful reexamination of their merits and feasibility at this time.

Comments from two sources concern more than one proposal. Thus, one comment, in its concern about several of the proposals, adverted to the problem of ascertaining hypothetical costs that limit Federal participation but are not actually incurred. For instance, a sponsor may choose to install high intensity runway edge lighting while Federal participation is limited to 50 percent of medium intensity lighting. No bids on medium intensity lighting are invited. This problem is not newly introduced by the present amendments. In the past, the sponsor submitted an estimate of the hypothetical cost in the engineer's report that accompanies the application. The Agency could then adjust the cost figure upon consultation with the sponsor in light of information in its possession or requested of the sponsor, or sometimes also in light of the bids for the work actually to be performed. This procedure never presented any specific problems in the past and the problem is not aggravated by the present amendment.

Another comment expressed fear that some of the proposals would in effect prevent the State Department of Aero-

nautics from acting as an agent for the airport sponsor in any negotiation with the Federal Government, even though so authorized by a State statute. It has been accepted Agency practice under Part 151 to allow an agent to act for an airport sponsor seeking FAAP assistance if the agent has valid authorization from the sponsor to so act. This practice will apply to the requirements introduced by this amendment.

ELIGIBILITY CRITERIA PROPOSALS

Proposal 1. Compliance with outstanding agreements. This portion of the notice proposed, in part, to expressly set forth a list of the non-FAAP Agreements with the United States that a sponsor must comply with in order to receive Federal assistance; and to provide that assistance is granted in the presence of noncompliance if the sponsor is able to show that the noncompliance was caused by factors beyond his control.

No adverse comment was received on these changes and they are incorporated into § 151.7(a) as proposed in Notice 66-5.

This portion of the notice further proposed to extend the compliance requirement to agreements made by the sponsor with the United States at airports owned or controlled by him other than the airport for which a grant is requested. A number of comments opposed this proposal. Basically these comments contended that a sponsor's noncompliance at one airport should not, of itself, preclude FAAP assistance to the sponsor's other airports since it was not in the public interest to refuse Federal aid for the development of one airport because another airport was not complying with all of its agreements. Some of the commentators based their objection on the ground that the proposed change was unnecessary since the legal remedy of an action for specific performance was available to the FAA in the event of a sponsor's noncompliance. Others felt that there was no basis for the proposed change in terms of safety or improvement of the National Airport System.

After careful consideration of these various viewpoints, the Agency finds them to be without merit. The basic purpose of the majority of the sponsor's covenants required in a project application is to promote safe and efficient operation of airports within a planned National Airport system. For this reason § 151.7(a) currently authorizes the Administrator to expend FAAP funds only if he is satisfied that "the sponsorship requirements have been or will be met under existing and proposed agreements with the United States with respect to the airport involved."

Rather than altering this basic policy of § 151.7(a), this amendment merely extends it well within its rational limits. In actuality, noncompliance is chargeable to the sponsor and not to the individual airport where it occurs. For this reason, it is not considered to be in the public interest to make a grant of FAAP funds to any sponsor who is failing to comply with the provisions of any

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agreement with the United States affecting another airport he owns or controls. Likewise although a legal remedy of specific performance exists, it is considered unreasonable for the Federal Government to grant assistance to a sponsor at one airport while at the same time it is forced to initiate legal action to compel the same sponsor to live up to his agreements at another airport.

A number of other comments criticized the proposal for its alleged lack of procedural safeguards for the protection of the sponsor. They asserted a need for: (1) A procedure for the waiving of minor instances of noncompliance with old, non-FAAP Agreements; (2) Giving timely notice of noncompliance; (3) Holding a hearing on the issue of noncompliance; and (4) An appeal procedure for disputed cases of noncompliance.

It should be emphasized that this amendment makes no change to the procedures heretofore utilized or the rights afforded in the enforcement of § 151.7(a). The present procedure makes no provision for an appeal or hearing in the case of noncompliance. Therefore, the comments urging procedural changes are not germane to this amendment. It is also noted that these comments failed to mention any specific instances indicating a need for revision of the procedures currently being utilized by the Agency. In response to the other comments, subparagraphs (2) and (3) (ii) are added to § 151.7(a) to reflect procedures already utilized by the Agency. Subparagraph (2) provides for the issuance of a notice of noncompliance by the Agency to the sponsor. Subparagraph (3) (ii) provides that assistance is not withheld in cases of minor defaults under old agreements where the sponsor is taking reasonable prompt action to correct the deficiency, or where the noncompliance relates to an obsolete obligation.

Sections 151.7(a) (3) (i) and (ii) excuse noncompliance with past agreements only under the specific conditions stated therein. Under the general rule, any continuing noncompliance (such as an exclusive right originally granted in violation of a covenant or agreement with the United States) disqualifies all of the sponsors' airports from FAAP assistance until the sponsor terminates the noncompliance.

This amendment will not be applied retroactively but will only govern grant applications made after its effective date. However, in passing on these future grant applications, the FAA will apply the requirement of compliance to all past agreements that fall within the scope of § 151.7(a) (1).

One comment submitted that the proposal would adversely affect smaller agencies that were not adequately staffed to properly keep pace with the number and variety of new requirements. However, this proposal merely relates to compliance with existing requirements.

Section 151.67 is amended to reflect the new requirements of § 151.7(a), as amended. It is not considered necessary

to amend § 151.37 that also was mentioned in Notice No. 66-5.

Proposal 3. Value of donated land. The third of the Eligibility Criteria Proposals stated that appraisals of value of property interests in land acquired by donation should no longer be furnished by the sponsor as now required under § 151.27(c) but that the FAA would make or obtain its own appraisal, and that the property interest would not be eligible for inclusion in any airport development project until that appraisal was made. A comment that the rule of § 151.41(b) (6) should be dropped is not germane to the proposal, and another comment that the FAA should make the value determination before the grant agreement is entered into only suggests what is implicit in the proposal.

Pertinent comments suggest appraisal by two local appraisers and one Federal appraiser; and raise the question of recourse if the sponsor considers the appraisal too low. The first of these suggestions would frustrate the purpose of this proposal. However, in response to the second comment, express provision for reconsideration of appraisals is being made in § 151.27(c). If he wishes, the sponsor may submit local appraisals with his request for reconsideration.

The amendments made to §§ 151.23, 151.27(c), and 151.39 (a) and (c) relate to this proposal. The principle of this proposal is also being applied to the other situations described in § 151.27(c) that require appraisal, and § 151.23 is being conformed accordingly.

Proposal 4. Consideration of local community interest. The purpose of this proposal was to require the sponsor to submit information to the Administrator that adequately demonstrates to him that fair consideration has been given to the interests of the communities in or near which the project is located.

A suggestion that FAA hold a public hearing for this purpose is beyond the scope of the notice. A majority of the adverse comments misconstrued the proposal as shifting to the sponsor the burden of determining whether fair consideration had been given to local community interest. Thus, a number of comments expressed fear that the new amendment would have the effect of delaying or inhibiting needed airport development by requiring the sponsor to enter into prolonged negotiations with local political subdivisions to obtain their approval. Other comments specifically advocated that the FAA should continue to satisfy itself in this matter by independent inquiry.

Section 151.39(a) (5) currently requires that the Administrator be satisfied that fair consideration has been given to local community interest. The amendment does not alter this requirement; it only requires the sponsor to submit with his project application a statement specifying what consideration has been given to local community interest, including the substance of any local objection or approval that has been made known to the sponsor. As amended, § 151.39(a) (5) specifically provides that the Adminis-

trator considers all pertinent information including the sponsor's statement. There is no requirement on the sponsor to enter into prolonged or unreasonable negotiations with local political subdivisions.

Sections 151.26 and 151.39(a) (5) are amended accordingly.

Proposal 5. Periodic cost estimate for force account work. The purpose of this proposal was to delete the requirement contained in §§ 151.51(b), 151.57(a) (2), and 151.67(a) (5) that a sponsor using a force account must file a Periodic Cost Estimate (FAA Form 1629) when he applies for a grant payment. The majority of comments received in response to Notice 66-5 were in favor of this change. One comment questioned the justification for the deletion unless the substantiating detail for FAA Form 1630 was submitted in some other manner. However, § 151.55 requires the sponsor to keep records of the itemized costs of force account work and to make these records available to the FAA after proper notice. These records may be used to substantiate FAA Form 1630. Therefore, §§ 151.51(b), 151.57(a) (2), and 151.67(a) (5) are amended as proposed in the Notice.

PROGRAMMING STANDARDS PROPOSALS

Proposal 1. High or medium intensity runway lighting. Programming Standards Proposal 1 related to the percentage of Federal participation in the cost of runway edge lighting. In the case of runways with approved straight-in approach procedures but not equipped with ILS that permits precision approach procedures (as required in certain instances by § 151.13(b) (3)) it proposed a reduction of the percentage of the cost of high intensity lighting from 75 to 50 percent. It proposed the same 50 percent for such lighting on runways with a navigational aid that allows use of instrument approach procedures. Finally, it proposed a Federal share of 50 percent in the cost of medium intensity lighting for runways eligible for runway edge lighting but not eligible for 75 or 50 percent Federal participation in high intensity lighting.

Comments opposed the reduction from 75 to 50 percent on the grounds that air safety is involved and that it would work a hardship in cases of extension in runways that were equipped with high intensity lighting under 75 percent Federal participation where Federal participation in the extension would be reduced to 50 percent. Upon reconsideration in light of these comments and other factors, the proposal to reduce now existing 75 percent participation in high intensity lighting to 50 percent is being dropped. Thus, under § 151.43(d) (1) which is not being substantively amended, Federal participation remains 75 percent of the cost of installing high intensity runway edge lighting on a designated instrument landing runway (where it is required by § 151.13(b) (3)) and on other runways with an approved straight-in procedure (where it is optional).

It was also commented that a sponsor who is willing to install high intensity runway edge lighting should always re-

ceive a Federal share of 50 percent of that cost, and not only 50 percent of the cost of medium intensity lighting. This comment fails to show that the proposed limitation to 50 percent of medium intensity lighting is not consistent with the aim of allocating available aid funds so as to produce the greatest progress towards the policy goals of the Federal Airport Act.

Accordingly, § 151.87(d) is being amended to fix the Federal share in runway edge lighting projects at 50 percent of the cost of medium intensity lighting in all instances where a higher Federal participation is not otherwise provided, except where low intensity lighting is installed. Section 151.43(b) is amended to cross reference the Federal participation provisions in Subpart C such as § 151.87(d), and the words "runway edge" are inserted in subparagraph (d) (1) for conformity.

Proposal 2. In-runway lighting. The purpose of Programming Standards Proposal 2 was to substitute the more accurate and comprehensive terms "touch-down zone lighting system, centerline lighting system and exit taxiway lighting system" in place of the language currently used in §§ 151.43(d) (2), 151.87(e) and Appendix F to describe the "in-runway lighting system." All of the comments to this proposal favored this change and therefore it is incorporated into the amendment as proposed.

Proposal 3. Paving second runways. This portion of the Notice proposed adoption of new standards recently developed by the FAA for the eligibility of second runway paving on the basis of wind conditions on airports that serve only small aircraft, and clarification of the distinction between eligibility based on wind conditions and eligibility based on other factors.

One comment misconstrued the amendment as possibly excluding turf landing strips from the FAAP program. Sections 151.77, 151.79, and new § 151.80 only apply to runway paving and therefore in no way exclude turf landing strips from other FAAP assistance.

One comment contended that wind coverage and noise were not the only factors to be considered in second runway orientation. The Agency believes this contention to be valid and therefore § 151.79(a) (3) will provide that due consideration be also given to topography, soil conditions and other pertinent factors in runway orientation.

One comment criticized the amendment for proposing several sets of criteria for eligibility of paving a second runway for general aviation airports. It considered this to be confusing and felt that no proper basis had been given for the proposal. As an alternative, it suggested that a single standard be adopted combining both the cross-wind component and the number of justifying aircraft operations. After careful consideration the Agency finds this comment to be without merit. The effect of the cross-wind varies according to the size of the aircraft. Therefore by classifying airports according to the size of

aircraft using them, this amendment provides more accurate standards for determining programming eligibility for various general aviation airports than a single criterion would yield. To make § 151.79 more easily comprehensible, paragraph catch lines have been supplied.

One comment asked what criteria the sponsor should use in demonstrating to the Administrator that aircraft noise has received due consideration in orienting the second runway. Such criteria have not been formulated and the sponsor is only required to state the considerations that have actually caused him to determine the proposed runway orientation, and why he thinks them adequate.

Accordingly, §§ 151.77 and 151.79 are being revised, and § 151.80 is added.

Proposal 4. Economy approach lighting aids. The purpose of this proposal was to provide programming standards for economy approach lighting aids in Part 151. All of the comments received favored this addition and agreed that these items should be eligible for Federal assistance. However, two comments felt that the programming standards as proposed were too restrictive and advocated that Federal assistance for economy approach landing aids not be limited to airports with visual deficiencies. One of the comments suggested that economy approach lighting aids should be eligible for airports with at least medium intensity lighting at the prime runway approach. The other maintained that all systems which simplify the approach and landing process, including economy approach lighting aids, should be eligible for Federal assistance at all air carrier airports.

In response to these comments, economy approach lighting aids are also made eligible at airports where they will reduce minimums for landing purposes. Therefore new § 151.87(j) provides for FAAP assistance where the economy approach lighting aids will either correct a visual deficiency or permit operations at lower minimums. Otherwise the standards suggested by the comments are unacceptable because the resulting benefits would not be commensurate with the Federal funds expended.

One comment opposed the programming standard under which the airport does not qualify for economy approach lighting aids if the FAA will install approach lighting aids under the Facilities and Equipment Program within the next 3 years. Because of the number of permanent airport improvements requiring Federal assistance, it is Agency policy not to expend funds for temporary development or construction except where necessary to permit uninterrupted operation of the airport during stages of construction. The expenditure of FAAP funds for lighting aids that would be replaced within 3 years is contrary to this policy and therefore this requirement is retained in new § 151.87(j). In addition, new § 151.87(j) contains a list of some of the economy approach lighting aids that are within the scope of that section.

Proposal 6. Airport utilities. The purpose of Programming Standard Pro-

posal 6 was to amend § 151.93(b) to limit Federal participation in airport utility construction, installation and connection when the utility serves both eligible and ineligible airport areas and to restate the programming standards for water utility systems.

A number of comments objected to the proposal that costs of airport utilities serving both eligible and ineligible airport areas should be eligible only so far as they exceed the cost of providing utility service necessary for all ineligible airport facilities. One comment advocated the continuation of the present system of prorating these costs while another suggested that the prorating of costs be continued just for the electrical facilities required for runway lighting. A third comment felt that airport utilities should be eligible to the extent of providing service to eligible areas.

We agree that the statutory provisions allow for some exercise of discretion in this area. However, it is established Agency policy that Federal funds should not be used to provide any supporting utility for an ineligible airport area or facility. The proposed amendment to limit the Federal participation merely extends this policy within its logical limits and is considered necessary to ensure that the Federal funds available for assistance are utilized to promote the greatest degree of airport safety. Therefore § 151.93(b) is amended to incorporate the programming standard limitation proposed in Notice 66-5.

One comment suggested a standard for determining the Federal share of the cost for airport water utilities in terms of the cost of installations of a specific size and description. This type of standard is considered to be too narrow in scope to effectively be administered to the number and variety of airports seeking Federal assistance. No other comments were received adverse to this portion of the proposal and therefore it also is incorporated into § 151.93(b).

Proposal 7. Remarketing runways and taxiways. It was proposed to clarify the programming standards for runway and taxiway marking and remarketing. No adverse comments were received, but one comment suggested that eligibility of remarketing necessitated by the obliteration of runway or taxiway markings by construction equipment routing be mentioned specifically. This amendment, together with the suggestion, is being affected by adding a new § 151.15 and amending § 151.95(f).

Proposal 8. Aprons for cargo buildings. The purpose of the last Programming Standards proposal was to remove an ambiguity in Appendix E regarding the eligibility of aprons for cargo buildings. It was originally considered that all aprons for cargo buildings were ineligible and therefore it was proposed to amend item 4 of Appendix E, Typical Ineligible Items, to read: "Aprons for any cargo building." A majority of the comments received opposed this proposal contending that these aprons should be treated the same way as aprons serving terminal buildings.

After careful reconsideration of this problem, the Agency agrees that the primary criterion in the determination of the eligibility of aprons serving cargo buildings should be the type of usage of the apron itself. Therefore, item 5 has been added to the list of Typical Eligible Items in Appendix E to provide for the eligibility of aprons for cargo buildings that serve the public, and item 4 of the Typical Ineligible Items is modified to reflect this change. In addition, several other editorial changes have been made to the list of Typical Eligible Items.

One comment inquired as to the eligibility of taxiways leading to cargo areas. Taxiways are regulated by § 151.81 and Appendix D and are beyond the scope of this amendment.

Other matters. In addition to these proposals contained in Notice 66-5, it is considered that the acquisition of small parcels of land for nonlanding area facilities should be eligible for FAAP assistance. The present restriction is relieved by the deletion of the exception contained in item 1(b) of the list of Typical Eligible Items in Appendix A.

In consideration of the foregoing, Part 151 is amended, effective January 27, 1967, as follows:

1. Section 151.7(a) is amended to read as follows:

§ 151.7 Grant of funds: general policies.

(a) *Compliance with sponsorship requirements.* The FAA authorizes the expenditure of funds under the Federal-aid Airport Program for airport planning and engineering or for airport development only if the Administrator is satisfied that the sponsor has met or will meet the requirements established by existing and proposed agreements with the United States with respect to any airport that the sponsor owns or controls.

(1) Agreements with the United States to which this requirement of compliance applies include—

(i) Any grant agreement made under the Federal-aid Airport Program;

(ii) Any covenant in a conveyance under section 16 of the Federal Airport Act;

(iii) Any covenant in a conveyance of surplus airport property under section 13(g) of the Surplus Property Act (50 U.S.C. App. 1622(g)); and

(iv) Any AP-4 agreement made under the terminated Development Landing Areas National Defense Program and the Development Civil Landing Areas Program.

This requirement does not apply to assurances required under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1) and § 15.7 of the Federal Aviation Regulations (14 CFR 15.7).

(2) If it appears that a sponsor has failed to comply with a requirement of any of the agreements listed in subparagraph (1) of this paragraph, the FAA notifies him of this fact and affords him an opportunity to submit materials to refute the allegation of noncompliance or to achieve compliance.

(3) If a project is otherwise eligible under the Federal-aid Airport Program, a grant may be made to a sponsor who has not complied with an agreement included in subparagraph (1) of this paragraph if the sponsor shows—

(i) That the noncompliance is caused by factors beyond his control; or

(ii) That the following circumstances exist:

(a) The noncompliance consisted of a failure, through mistake or ignorance, to perform minor conditions in old agreements with the Federal Government; and

(b) The sponsor is taking reasonable action promptly to correct the deficiency or the deficiency relates to an obligation that is no longer required for the safe and efficient use of the airport under existing law and policy.

2. The following new section is added after § 151.13:

§ 151.15 Federal-aid Airport Program: policy affecting runway or taxiway remarking.

No project for developing or improving an airport may be approved for the Program unless it provides for runway or taxiway remarking if the present marking is obliterated by construction, alteration or repair work included in a FAAP project or by the required routing of construction equipment used therein.

3. The last sentence of § 151.23 is amended to read as follows:

§ 151.23 Procedures: application; funding information.

* * * If any part of the estimated project costs consists of the value of donated land, labor, materials, or equipment, or of the value of a property interest in land acquired at a cost that (as represented by the sponsor) is not the actual cost or the amount of an award in eminent domain proceedings, the sponsor must so state in the application, indicating the nature of the donation or other transaction and the value it places on it.

4. Section 151.26 is amended as follows:

a. The heading of § 151.26 is amended to read as follows:

§ 151.26 Procedures: applications; compatible land use information; consideration of local community interest.

b. The introductory paragraph is designated as paragraph (a) and subparagraphs (a), (b), and (c) are redesignated as (1), (2), and (3), respectively.

c. A new paragraph (b) is added to read as follows:

§ 151.26 Procedures: applications; compatible land use information; consideration of local community interest.

(a) * * *

(b) Each sponsor must submit with his application a written statement specifying what consideration has been given to the interest of all communities in or near which the project is located. This statement must contain the substance of

any objection to, or approval of, the proposed project made known to the sponsor by any local individual, group or community.

5. Section 151.27(c) is amended to read as follows:

§ 151.27 Procedures: application, plans, specifications, and appraisals.

* * * * *
(c) If the project involves acquiring a property interest in land by donation, or at a cost that (as represented by the sponsor) is not the actual cost or the amount of an award in eminent domain proceedings, the Administrator, before passing on the eligibility of the project, makes or obtains an appraisal of the interest. If the appraised value is less than the value placed on the interest by the sponsor (§ 151.23), the Administrator notifies the sponsor that he may, within a stated time, ask in writing for reconsideration of the appraisal and submit statements of pertinent facts and opinion.

6. Section 151.39 is amended as follows:

a. Paragraph (a) (5) is amended to read as follows:

§ 151.39 Project eligibility.

(a) * * *
(5) The Administrator is satisfied, after considering the pertinent information including the sponsor's statement required by § 151.26, that fair consideration has been given to the interest of communities in or near which the project is located;

* * * * *
b. Paragraph (c) is amended by deleting the words "the estimated value of the donated land," and inserting in place thereof the words "the value of the donated land as appraised by the Administrator."

7. Section 151.43 is amended as follows:

Paragraph (b) and (d) (1) and (2) are amended to read as follows:

§ 151.43 United States' share of project costs.

* * * * *
(b) Except as provided in paragraphs (c) and (d) of this section and in Subpart C of this part, the United States' share of the costs of an approved project for airport development (regardless of its size or location) is 50 percent of the allowable costs of the project.

* * * * *
(d) * * *

(1) The costs of installing high intensity runway edge lighting on a designated instrument landing runway or other runway with an approved straight-in approach procedure.

(2) The costs of installing in-runway lighting (touchdown zone lighting system, centerline lighting system, and exit taxiway lighting system).

8. Section 151.51(b) is amended to read as follows:

§ 151.51 Performance of construction work: force accounts.

(b) [Reserved]

§ 151.57 [Amended]

9. Subparagraph (2) of § 151.57(a) is amended by striking out the words "or force account".

§ 151.67 [Amended]

10. Section 151.67(a) is amended as follows:

a. Paragraph (a) (2) (ii) is amended by striking out the words "the existence of any defaults on other obligations to the United States" and inserting the words "the existence of any default on the compliance requirements of § 151.77 (a)" in place thereof.

b. Subparagraph (5) is amended by striking out the words "(or the sponsor, in the case of force account work)".

11. The second sentence of § 151.77(a) is amended to read as follows:

§ 151.77 Runway paving: general rules.

(a) * * * Program participation in constructing, reconstructing or resurfacing is limited to a single runway at each airport, unless more than one runway is eligible under a standard in § 151.79 or § 151.80.

12. Section 151.79 is amended to read as follows:

§ 151.79 Runway paving: second runway; wind conditions.

(a) All airports. Paving a second runway on the basis of wind conditions is eligible for inclusion in a project only if the sponsor shows that—

(1) The airport meets the applicable standards of paragraph (b), (c), (d), or (e) of this section;

(2) The operational experience, and the economic factors of air traffic at the location, justify an additional runway for the airport; and

(3) The second runway is oriented with the existing paved runway to achieve the maximum wind coverage, with due consideration to the airport noise factor, topography, soil conditions, and other pertinent factors affecting the economy and efficiency of the runway development.

(b) Airports serving large and small aircraft. The airport serves both large and small aircraft and the existing paved runway is subject to a crosswind component of more than 15 miles per hour (13 knots) more than 5 percent of the time.

(c) Airports serving small aircraft only. The airport serves small aircraft exclusively, and—

(1) The airport has 10,000, or more, aircraft operations each year; and

(2) The existing paved runway is subject to a crosswind component of more than 15 miles per hour (13 knots) more than 5 percent of the time.

(d) Airports serving aircraft of less than 8,000 pounds only. The airport

serves small aircraft of less than 8,000 pounds maximum certificated takeoff weight exclusively and—

(1) The airport has 5,000, or more, aircraft operations each year; and

(2) The existing paved runway is subject to a crosswind component of more than 15 miles per hour (13 knots) more than 5 percent of the time.

(e) Airports with limited facilities serving small aircraft only. The airport serves small aircraft exclusively, has limited facilities, and is limited to VFR operations, and the existing paved runway is subject to a cross-wind component of more than 11.5 miles per hour (10 knots) more than 5 percent of the time.

13. The following new section is added after § 151.79:

§ 151.80 Runway paving: additional runway; other conditions.

Paving an additional runway on an airport that does not qualify for a second runway under § 151.79 is eligible if the Administrator, upon consideration on a case-to-case basis, is satisfied that—

(a) The volume of traffic justifies an additional paved runway and the layout and orientation of the additional runway will expedite traffic; or

(b) A combination of traffic volume and aircraft noise problems justifies an additional paved runway for that airport.

§ 151.87 [Amended]

14. Section 151.87 is amended as follows:

a. Paragraph (d) is amended by adding the words "runway edge" after the words "high intensity" wherever they occur and by adding a sentence at the end, to read as follows:

(d) * * * If a runway is not eligible for 75 or 50 percent Federal participation in high intensity runway edge lighting but is otherwise eligible for runway lighting, the U.S. share of the cost of runway edge lighting is 50 percent of the cost of the lighting installed but not more than 50 percent of the cost of medium intensity lighting.

b. Paragraph (e) is amended to read as follows:

(e) In-runway lighting (touchdown zone lighting system, centerline lighting system, and exit taxiway lighting system) is eligible on the designated instrument landing runway.

c. Paragraph (j) is redesignated as paragraph (k) and new paragraph (j) is added to read as follows:

(j) Economy approach lighting aids are eligible for inclusion in a project at an airport that will not qualify within the next three years for approach lighting aids installed by FAA under the Facilities and Equipment Program if the economy approach lighting aids—

(1) Will correct a visual deficiency on one of the lighted runways of the airport; or

(2) Will permit operations at an airport at lower minimums.

"Economy approach lighting aids" includes a medium intensity approach lighting system (MALS) that may include a sequence flasher (SF); a runway end identifier lights system (REILS); and an abbreviated visual approach slope indicator (AVASI).

15. Section 151.93(b) is amended to read as follows:

§ 151.93 Buildings; utilities; sidewalks; parking areas; and landscaping.

(b) Airport utility construction, installation, and connection are eligible under the Federal-aid Airport Program as follows:

(1) An airport utility serving only eligible areas and facilities is eligible; and

(2) An airport utility serving both eligible and ineligible airport areas and facilities is eligible only to the extent of the additional cost of providing the capacity needed for eligible areas and facilities over and above the capacity necessary for the ineligible areas and facilities.

However, a water system is eligible only to the extent necessary to provide fire protection for aircraft operations, and to provide water for a fire and rescue equipment building.

16. Paragraph (f) of § 151.95 is amended to read as follows:

§ 151.95 Fences; distance markers; navigational and landing aids; and off-site work.

(f) The initial marking of runway and taxiway systems is eligible for inclusion in a project. The remarking of existing runways or taxiways is eligible if—

(1) Present marking is obsolete under current FAA standards; or

(2) Present marking is obliterated by construction, alteration or repair work included in a FAAP project or by the required routing of construction equipment used therein.

However, apron marking that is not allied with runway and taxiway marking systems, is not eligible.

17. Item 1(b) of the list of Typical Eligible Items in Appendix A is amended to read as follows:

APPENDIX A

Typical Eligible Items

1. * * *

(b) Expansion of airport facilities.

18. Appendix E is amended as follows:

a. The list "Typical Eligible Items" is amended by amending Items 3 and 4 and adding a new Item 5, to read as follows:

APPENDIX E

Typical Eligible Items

3. Aprons available for public parking, storage, and service or a combination of any of the three.

4. Aprons serving hangars used for public storage of aircraft or service to the public, or both.

5. Aprons for cargo buildings used for public storage or service to the public, or both.

b. Item 4 of the list of "Typical Ineligible Items" is amended to read as follows:

APPENDIX E

• • • • •
Typical Ineligible Items
• • • • •

4. Aprons for cargo buildings not under Item 5 of "Typical Eligible Items".

19. Item 2 of the list of "Typical Eligible Items" listed in Appendix F is amended to read as follows:

APPENDIX F

• • • • •
Typical Eligible Items
• • • • •

2. In-runway lighting (touchdown zone lighting system, centerline lighting system, and exit taxiway lighting system).

(Secs. 1-15 and 17-20 of the Federal Airport Act; 49 U.S.C. 1101-1114, 1116-1119)

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WILLIAM F. MCKEE,
Administrator.

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