SUBCHAPTER I—AIRPORTS

[Docket No. 7595; Amdt. 151-14]

PART 151—FEDERAL AID TO AIRPORTS

Exclusive Rights Prohibition

The purposes of this amendment are to conform § 151.121 with current Agency policy on exclusive rights and to correct the references contained in § 151.41(c)(2).

In making grant agreements under the Federal-aid Airport Program, FAA formerly permitted the continuing existence of exclusive rights at airports to engage in the sale of gasoline and oil, and even new grants of such rights, if the airport had in the past received a transfer of surplus property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)). (Sec. 13(g)(2)(c) prohibits exclusive rights for the use of airports that receive surplus property but excludes "the sale of gasoline and oil" for aircraft from its definition of activities for which exclusive rights may not be granted.) This was reflected in the last sentence of the sponsor's assurance set forth in § 151.121. The new exclusive rights policy of October 25, 1965 (30 F.R. 13661), requires as a condition on FAAP grants that the sponsor (including the operator of a "surplus airport") agree to the prospective application at all its airports of the unqualified prohibition of exclusive rights in section 308(a) of the Federal Aviation Act (49 U.S.C. 1349). To reflect this change of policy, the assurance in § 151.121 is reworded, and the present last sentence is deleted.

The preceding (next to last) sentence of the assurance, as now set forth in § 151.121, sets an absolute deadline for steps to terminate existing exclusive rights. The new policy merely requires termination at the earliest renewal, cancellation, or expiration date of the agreement establishing the exclusive right. This sentence is amended to conform it to the new policy.

Section 151.41(c)(2) of Part 151 contains a reference to the Federal Airport Act erroneously reading "section 13(3)" instead of "section 13(a)(3)". This error is being corrected.

The procedural requirements of section 4 of the Administrative Procedure Act do not apply to this amendment because it relates to public grants, benefits, and contracts and merely conforms § 151.121 to previously published Agency policy.

In consideration of the foregoing, Part 151 is amended, effective October 8, 1966, as follows:

1. Section 151.41(c)(2) is amended to read as follows:

§ 151.41 Project costs.

* * * * *

(c) * * *

(2) Be reasonable in amount (or be subject to partial disallowance under section 13(a)(3) of the Federal Airport Act (49 U.S.C. 1112(a)(3));

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2. The convenant set forth in § 151.121 is amended to read as follows:

§ 151.121 Procedures: offer; sponsor assurances.

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The sponsor will not grant or permit any exclusive right forbidden by section 308(a) of the Federal Aviation Act of 1958 on the airport or any airport that it may subsequently acquire. In furtherance of the policy of the FAA under this covenant the sponsor 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 for the conduct of any aeronautical activities on the airport or any airport subsequently acquired by it, 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. The sponsor further agrees that it will terminate any such exclusive right (including any exclusive right to engage in the sale of gasoline or oil, or both) now existing at the airport or at any airport owned or controlled by the sponsor, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right, and certifies that there is no exclusive right not subject to termination under this provision.

(Secs. 1-15, 17-21, Federal Airport Act (49 U.S.C. 1101-1114, 1116-1120); secs. 308(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1349, 1354))

Issued in Washington, D.C., on August 31, 1966.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 66-9781; Filed, Sept. 7, 1966; 8:45 a.m.]