

38TH ANNUAL

AIRPORT LAW WORKSHOP



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Airport Proprietor Relations With Airport Users

Minimum Standards, Leasing Policies,
Rules & Regulations

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All that stands between you and drinks



- Grant Assurances – again!
- Key governance documents – what do they do and how can they keep you out of trouble?
- Best practices for developing key governance documents
- Hot topics



Grant Assurance 22: Economic Nondiscrimination



“Make the 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.”

Reasonable terms without unjust discrimination



- Attainable
- Rational
- Uniformly applied
- Treats *similarly* situated users offering similar services similarly
 - Age, condition, and use of facilities
 - Degree of operational or financial risk
 - Signatory and non-signatory status
 - Change in airport policies



**Minimum
Standards**

**HIGHLY
RECOMMENDED**



What Are Minimum Standards?



- Threshold qualifications that commercial aeronautical enterprises must meet to provide services at the airport
- Important management tool for controlling development and services available at the airport and ensuring compliance
- Advisory Circular 150/5190-7



TABLE OF CONTENTS

- I. DEFINITIONS.....4**
- II. INTRODUCTION.....6**
 - A. General6
 - B. Effectiveness and Amendment.....6
 - C. Covered *Entities* and *Activities*.....7
 - D. Non-Covered *Entities* and *Activities*.....7
 - E. Prohibited Activities.....7
 - F. Waivers and Variances8
 - G. Additive Standards and Conflicts.....8
- III. APPLICATIONS FOR COMMERCIAL AERONAUTICAL LEASES.....9**
 - A. Statement of Interest.....9
 - B. Notice / Procurement.....9
 - C. Written Application.....10
 - D. Supporting Documents10
- IV. REVIEW OF APPLICATION11**
- V. STANDARD REQUIREMENTS FOR ALL COMMERCIAL AERONAUTICAL ACTIVITIES ..12**
 - A. Capability/Experience12
 - B. Agreement Requirements.12
 - C. Insurance Requirement.....13
 - D. Compliance.....13
 - E. Facilities, Maintenance and Equipment.....14
 - F. Personnel15
 - G. Notice and Reporting.....15
 - H. Subcontracting, Subleasing and Assignment.....15
- VI. MINIMUM STANDARDS FOR FIXED BASE OPERATORS (FBOs).....16**
- VII. MINIMUM STANDARDS FOR SPECIALIZED AERONAUTICAL SERVICE OPERATORS (SASOS).....17**
 - A. Minimum Standards for all SASOs:.....17
 - B. Air Charter and Taxi Service.....18
 - C. Aircraft Engine and Airframe Maintenance and Accessory Sales18
 - D. Aircraft Rental and Sales18
 - E. Agricultural Operations19
 - F. Commercial Ground Handling Services19
 - G. Flight Training20
 - H. Hangar Keepers20
 - I. Specialty Shops and Other Aeronautical Functions21
 - J. Unmanned Aerial Systems (UAS) Operators.....21
 - K. Non-Commercial Flying Clubs.....22



Application requirements – financial, licenses, business plan

General requirements – staff, space, insurance, etc.

FBO requirements (fuel)

SASO requirements

Why do Minimum Standards matter?



Minimum Standards serve many purposes:

- Assure ***equitable and nondiscriminatory*** treatment
- Protect airport users from ***unlicensed and unauthorized*** products and services
- Maintain/enhance availability of ***adequate services*** for all airport users
- Promote the ***orderly development*** of airport land
- Ensure ***efficiency*** of operations
- Reduce questions and uncertainty



The dos and do nots



Minimum Standards should:

- Provide clear direction to prospective tenants
- Ensure high quality products and services
- Support airport growth and development
- Supply best evidence in the event of a dispute

Minimum Standards should NOT:

- Guarantee equal rates or tenant operating costs
- Identify maximum standards
- Reflect “cut and paste” approach from other airports
- Set minimum thresholds solely based upon existing developments



Leasing Policies



- Govern the terms and conditions under which sponsor will lease airport property
 - Rent and subsequent adjustments
 - Address how rents are determined, not actual rents
 - Address the structure of rent adjustments, not the actual adjustments
 - NOTE: Non-aero tenants treated differently!
 - Term of agreement (may vary depending upon type)
 - Ground lease only
 - Land and facility lease (with or without capital requirement)
 - Land versus facilities
 - Reversion of improvements – Grant Assurance 5!
- Set expectations for tenants
- Give sponsor ability to guide development
- Provide upfront expectations for prospective tenants

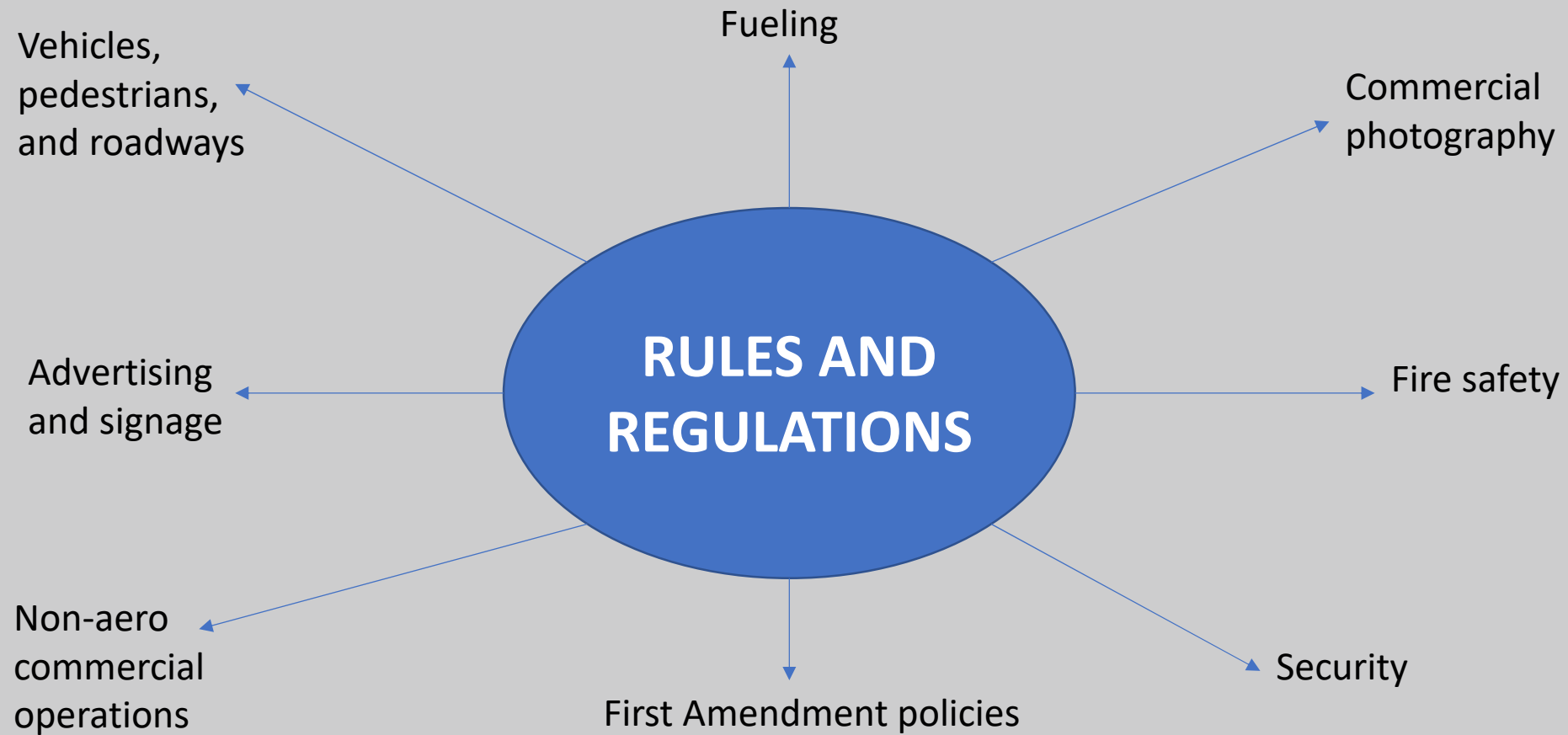


Rules and Regulations



- Standards to protect health, safety, and welfare and to promote operational efficiency
- Apply to all airport tenants, the public and users
- Apply across the airport
- Enforceable by penalties, suspension of privileges
- Regulatory in nature (ordinances or





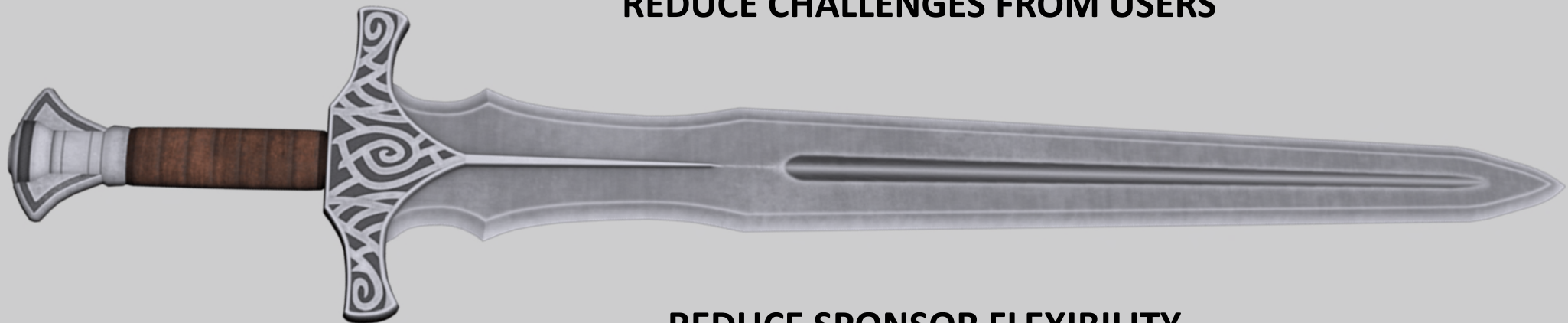
Best practices



- Advance planning and preparation – it’s a chess game!
- Be prepared to explain and justify deviations from past practice
 - Address retroactivity
 - Safety and security vs. other changes
 - Waivers and/or variances
- Monitor changes in FAA policies
- Regularly review, update and revise documents
- Keep people informed
 - Tenant meetings and opportunity for comments...
 - ...but no obligation to incorporate those suggestions.



Double-edged sword



REDUCE CHALLENGES FROM USERS

REDUCE SPONSOR FLEXIBILITY



Hot topics



- Independent mechanics and flight instructors
- Hangar reversion (or not)
- Grandfathering or retroactivity
- Through-the-fence activities
- Sponsor as “mediator”
- Non-aeronautical use of hangars
- Management agreements





Questions?

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