



## Federal Aviation Administration

[Docket No. FAA–2023–1739]

### Policy on the Definition of Aeronautical Activities

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

**ACTION:** Proposed policy: request for comments.

**SUMMARY:** This notice announces a proposed update of the FAA’s Office of Airports policy regarding the definition of “aeronautical activity” to include unmanned aircraft systems (UAS), advanced air mobility (AAM), and commercial space launch or re-entry vehicle operations.

Under Federal law, an airport operator that has accepted Federal grants or certain Federal land conveyances is obligated to maintain the airport for public aviation use. This proposed update will add UAS, AAM, and commercial space operations to the existing definition of aeronautical activity that is included in FAA Order 5190.6B, *FAA Airport Compliance Manual*, Appendix Z, and subsequent revisions. This revised definition does not affect any international agreements or policies regarding commercial space operations. The FAA is seeking comments on the proposed statement of policy.

**DATES:** Send your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may send comments identified by Docket Number FAA-2023-1739 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery:* Deliver to mail address above between 9:00 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays;
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

For more information, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* In accordance with 5 U.S.C., 553(c), the Department of Transportation (DOT) solicits comments from the public on its proposed Policy on the Definition of Aeronautical Activities. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL– 14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> and follow the online instructions for accessing the docket. Or, go to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

*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](http://www.faa.gov/regulations/search));
- (2) Visiting FAA’s Regulations and Policies web page at ([https://www.faa.gov/regulations\\_policies](https://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.

*AUTHORITY FOR THE POLICY:* This notice is published under the authority described in Title 49 of the United States Code, Subtitle VII, part B, chapter 471, section 47122(a).

**FOR FURTHER INFORMATION CONTACT:** Kevin C. Willis, Director, Office of Compliance and Management Analysis, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 267–5257; e-mail: kevin.willis@faa.gov.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Under Federal law, Airport owners/operators (“sponsors”) that have accepted grants under the Airport Improvement Program (AIP) must comply with certain Federal policies included in each AIP grant agreement as sponsor assurances. In addition, sponsors who have acquired land from the Federal government using certain conveyance instruments must abide by similar obligations included in property deeds. The Airport and Airway Improvement Act of 1982 (AAIA) (Pub. L. 97-248), as amended and recodified at 49 U.S.C. 47107(a)(1), as implemented by Sponsor Assurance 22, *Economic Nondiscrimination*, requires that “the airport will be made available for public use on reasonable conditions 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.” The FAA defines aeronautical activities as any activity that involves, makes possible, is required for the operation of an aircraft/vehicle, or that contributes to or is required for the safety of such operations (FAA Order 5190.6B, *Airport Compliance Manual*, Appendix Z, (2009)). The order lists examples of aeronautical activities.

The FAA's definition has evolved over time, primarily in response to emerging technologies and increased interest in locating certain activities at public use airports not previously contemplated or subject to FAA oversight. This updated definition serves to accommodate commercial space transportation, UAS, and AAM activities, as well as supports Congressional interest in integrating new technology into the array of services and capabilities offered by federally funded airports. As a result, the FAA believes that commercial space activities, UAS, and AAM operations should be considered aeronautical activities for the purposes of access to a federally-obligated airport.

However, some types of commercial space, UAS, or AAM operations may affect the safety of existing airport facilities, airport operations, or the efficiency of the airspace. Consistent with and in support of the airport sponsor's obligation not to introduce or permit unsafe conditions at the airport, and to mitigate such conditions if they arise, the FAA uses its planning approval, safety review, and/or risk assessment processes to make a determination on (1) whether a particular activity can be safely accommodated at the airport and, if so, (2) the terms and conditions to mitigate risk to an acceptable level for that activity at the airport. In that regard, Congress has made the FAA the final arbiter regarding aviation safety (49 U.S.C. 40101 and 47101.)

## **II. The Proposed Policy**

The updated definition of aeronautical activity in FAA Order 5190.6B, *FAA Airport Compliance Manual*, Appendix Z will be the following:

Any activity that involves, makes possible, or is required for the operation of an aircraft, launch or reentry vehicle, or that contributes to or is required for the safety of such operations. It includes but is not limited to: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, aerial application of agricultural agents, aerial advertising and surveying,

aircraft sales and services, aircraft storage, sale of aviation fuel products, repair and maintenance of aircraft, repair and maintenance of launch or reentry vehicles, construction of amateur-built/recreational aircraft, sale of aircraft, sale of launch or reentry vehicle parts, parachute or ultralight activities, certain unmanned aircraft systems (UAS), advanced air mobility (AAM) operations, commercial space vehicle operations, and any other activities that because of their direct relationship to the operation of aircraft, UAS, or commercial space launch and re-entry vehicles can appropriately be regarded as aeronautical activities.

Activities such as aircraft and parts manufacturing and storage, aerospace design, research and development, flight simulation/training/management facilities, and/or engine testing facilities that are not associated with the final assembly of an aircraft or commercial space vehicle are not considered aeronautical activities for the purposes of airport access. Model rocket, model aircraft, and recreational UAS operations are not aeronautical activities for the purposes of airport access.

Issued in Washington, DC, on November 7, 2023.

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