Oregon Department of Aviation

Chapter 738

Division 35
OPERATING MINIMUM STANDARDS FOR COMMERCIAL AERONAUTICAL ACTIVITY AT STATE-OWNED AIRPORTS

738-035-0005
Purpose and Overview

(1) Minimum operating standards are established at Oregon's State-owned airports so that:

(a) Any person or entity proposing to use or access State-airport property or facilities for commercial aeronautical activity compensates the Department for use of State property at fair market rent for such use and privilege.

(b) The Department consistently applies uniform requirements to all commercial operators at State-owned airports;

(c) Application of fair market rental rates creates parity between State-owned facilities and other public airports, ensuring that no person or entity receives a competitive advantage by using State facilities;

(d) State-owned airport public areas, roads, taxiways, runways and aprons remain available and open for public aeronautical use;

(e) Development of airport facilities and commercial aeronautical services at all State-owned airports is orderly and efficient;

(f) The environment at State-owned airports fosters high quality commercial aeronautical services for the airport users and tenants; and

(g) The Department, as airport sponsor for all State-owned airports, complies fully with federal grant assurances.

(2) The Department shall require all activities of commercial operators at State-owned airports to comply with the Operating Minimum Standards set forth in OAR 738-035, whether the commercial activity occurs:

(a) On the State-owned portion of the airport;

(b) On portions of the airport held in private ownership; or

(c) Where a private property owner accesses the State-owned land for landing and takeoff of aircraft through an access agreement with the Department.

(3) The specific minimum standards for each State-owned airport are based upon the airport category as set forth in the Oregon Aviation Plan, as well as unique conditions at the individual State-owned airport, including:

(a) Existing and planned facilities at the airport; and

(b) The current and anticipated future role of the airport in the State aviation system.

(4) Operating minimum standards provide threshold entry requirements for any person or entity proposing to enter into an agreement with the Department to provide public commercial aeronautical services to the public at a State-owned airport to ensure that services and facilities of service providers meet the needs of airport users.

(5) Operators are encouraged to exceed these minimum operating standards whenever possible.

(6) Each commercial operator shall agree to offer the specified minimum level of services to obtain an agreement with the Department granting permission to operate at the State-owned airport.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0010
Application of Operating Minimum Standards

(1) Existing operators with current agreements executed prior to February 1, 2003, shall not be required to conform to these minimum standards until renewal of their agreement with the Department; however, any exempt operator may voluntarily elect to comply with these operating minimum standards in advance of their renewal date.

(2) Existing operators who are unable to meet the requirements of these minimum standards at the time of their agreement renewal shall submit a written plan outlining a specific timeline for their full compliance with the minimum standards. The Director, or the Director's designee, must approve the compliance plan prior to renewal of the agreement.

(3) These operating minimum standards are deemed to be part of each commercial operator's agreement with the Department, whether or not expressly set forth in their written agreement, with the exception of those specific instances when provisions are expressly waived or modified in writing by the Director or the Director's designee. The omission of a specific reference to any particular minimum standard in an operator's written agreement with the Department shall not constitute a waiver or modification of these operating minimum standards.

(4) If a commercial operator conducts multiple aeronautical activities under a single written agreement with the Department, that operator shall comply with the minimum standards established for each separate activity or SASO. If the minimum standards for one aeronautical activity are inconsistent with the minimum standards for another, then the stricter or higher standard shall apply to all aeronautical activities of that operator.

(5) Activities with no specific minimum standards in these rules shall be addressed by the Department on a case-by-base basis in the commercial operator's written lease, license, permit or agreement.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0015
Authorization for Commercial Activity on State-Owned Airport Property

(1) The Oregon Department of Aviation has authority to authorize commercial aeronautical activity on State-owned airport property.

(2) When the Department determines that a person or entity is engaged in, or proposes to engage in, commercial activity at a State-owned airport, the Department may grant that person or entity permission to do so, may issue that person or entity a permit with restrictions or conditions, may require the person or entity to enter a lease or agreement with the Department, or may deny such permission.

(3) The Department shall consider the following criteria in determining if an operator shall be authorized to conduct business:

(a) The terms and conditions of any pre-existing commercial operators at the airport providing comparable services;

(b) The impact of the proposed new commercial activity on public safety and convenience;

(c) The amount of available space at the airport;

(d) The customary uses of the airport;

(e) Compatibility of the proposed new commercial activity with present and planned development at the airport; and

(f) Compliance of the proposed activity with all federal, state and local laws and regulations, including land use regulations.

(4) The Department may impose any conditions or restrictions necessary to ensure safety in the air and on the ground at the State-owned airport, including preservation of unobstructed traffic patterns and runway approaches.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055

History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0020
Waiver or Modification of Operating Minimum Standards

(1) The Director, or the Director's designee, may waive or modify any portion of these operating minimum standards for the benefit of:

(a) A government agency performing nonprofit public services; or

(b) Fire protection or emergency response operations.

(2) The Director, or the Director's designee, may waive or modify any portion of these operating minimum standards for any person or entity when it is determined that such waiver is in the best interest of the public and will not result in unjust discrimination against other commercial aeronautical operators at the airport.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0025
Review, Revisions and Amendments to Operating Minimum Standards

The Department shall review these operating minimum standards at least once every two (2) years to determine whether changes in either the airport business or the regulatory environment necessitate amendment of these standards.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0030
Enforcement

The Department shall provide consistent, uniform, and fair enforcement of these minimum standards to accomplish the Department's goals and promote successful commercial business operations at all State-owned airports. The Department may, therefore, provide in its written agreements any appropriate provisions to assist the Department in enforcing these operating minimum standards.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0035
Commercial Business Employee Conduct at State-Owned Airports

(1) All commercial operators at State-owned airports shall diligently provide consistently high quality, responsive and professional services that meet or exceed the needs of airport users.

(2) Each commercial operator shall employ the quantity of trained, on-duty management and personnel necessary to ensure compliance with its obligations to provide courteous, efficient and safe services to all customers.

(3) All personnel employed by any commercial operator shall meet all federal, state and local training requirements, and shall hold all appropriate certifications required for their duties.

(4) No commercial operator shall do, or permit to be done, anything that may interfere with the effectiveness or accessibility of any:

(a) Airport system;

(b) Public utility system;

(c) Drainage system;

(d) Sewer system;

(e) Fire protection system;

(f) Sprinkler system;

(g) Alarm system; or

(h) Fire hydrant.

(5) If any commercial operator discovers an event has occurred or a situation exists that interferes with the effectiveness or accessibility of any service described in paragraph (4) above, the commercial operator, or an employee of the operator, shall immediately notify the Department, and the local fire department or utility company or such other municipal or community services as are appropriate to effectively and immediately resolve the situation.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0040

Minimum Standards for Fixed Base Operators (FBOs) at State-Owned Airports

(1) An FBO is the only commercial operator permitted by the Department to provide fueling services and facilities at any category of State-owned airport.

(2) In addition to the mandatory primary operation of aircraft fueling, an FBO operating at a Category II, Category III or Category IV State-owned airport shall provide a minimum of two (2) of the following secondary services:

(a) Flight training;

(b) Airframe and power plant maintenance;

(c) Aircraft rental;

(d) Avionics maintenance and sales; or

(e) Aircraft storage.

(3) An FBO operating at a Category V State-owned airport may provide secondary services as the market demands, but shall be permitted to provide only fueling services facilities if an insufficient secondary market exists.

(4) Each FBO may subcontract or use third-party operators to provide any primary or secondary service. Subcontractors and third-party operators shall meet all minimum standards requirements.

(5) Each FBO shall conduct its business, and perform activities on and from the business premises, in a professional manner, consistent with the degree of care and skill exercised by experienced FBOs providing comparable products, services and activities from similar airports in like markets, and consistent with this section.

(6) Every FBO operating on State-owned airport shall comply with the following airport public building requirements:

(a) Category II Airport: The FBO shall provide on the property a public use terminal building with floor space for:

(A) Customer lobby;

(B) Office;

(C) Pilot's lounge;

(D) Flight planning and weather briefing area;

(E) Public rest rooms; and

(F) Additional facilities and services as listed in paragraphs (7), (8) and (9) below.

(b) Category III or IV Airports: The FBO shall lease or construct on the property, a public use terminal building capable of meeting business demand, as approved by the Director or the Director's designee.

(c) Category V Airport: The FBO is not required to lease or construct a public use terminal building on the property; however, if the FBO chooses to lease or construct a public use terminal building, the building must be capable of meeting business demand, as approved by the Director or the Director's designee.

(7) Each FBO shall provide adequate vehicle parking on the property to meet the needs of customers and employees, in accordance with local building codes, but in no event fewer than:

(a) Category II Airport: five (5) paved parking spaces;

(b) Category III or IV Airports: three (3) paved parking spaces;

(c) Category V Airport: two (2) paved or gravel parking spaces.

(8) Every FBO operating on a State-owned airport shall provide adequate property for its aircraft operating area (ramp), independent of any building area, vehicle parking area and fuel storage area. The aircraft operating area shall provide transient aircraft parking and tie-down areas for no fewer than:

(a) Category II Airport: five (5) aircraft;

(b) Category III or IV Airports: three (3) aircraft;

(c) Category V Airport: two (2) aircraft.

(9) Each tie-down ramp area on a State-owned airport shall be adequate to support all the activities of the FBO and all approved subtenants. The FBO shall maintain the ramp area and keep it clean and free of foreign object debris (FOD).

(10) Each FBO shall be open for business on a regular schedule and shall provide aircraft fueling and line services to adequately serve the airport category. Business hours, including holiday closures, shall be recorded with the Department in advance and regularly updated for accuracy:

(a) Category II Airport: Each FBO shall be open for business and provide aircraft fueling and line services seven (7) days per week, during appropriate business hours. In addition, each FBO shall:

(A) Be on call twenty-four (24) hours each day to provide after-hours fuel service within two (2) hours of a customer request; or

(B) Develop and record with the Department a shared on-call schedule, at those airports where multiple FBOs are located who mutually agree upon shared responsibilities, to provide after-hours fuel services; and

(C) Provide adequate notice to the public of the communication mode with a designated on-call employee to ensure that after-hours on-call fueling services are readily accessible and timely provided, whether after-hours services are provided by a sole FBO or shared between multiple FBOs.

(b) Category III and IV Airports: Each FBO shall be open for business and provide aircraft fueling and line services a minimum of five (5) days per week, during appropriate business hours. In addition, each FBO shall:

(A) Be on call twenty-four (24) hours each day to provide after-hours fuel service within two (2) hours of a customer request; or

(B) Develop and record with the Department a shared on-call schedule, at those airports where multiple FBOs are located who mutually agree upon shared responsibilities, to provide after-hours fuel services; and

(C) Provide adequate notice to the public of the communication mode with a designated on-call employee to ensure that after-hours on-call fueling services are readily accessible and timely provided, whether after-hours services are provided by a sole FBO or shared between multiple FBOs.

(c) Category V Airport: If the FBO provides a self-fueling station, it must be readily accessible to customers and illuminated for nighttime operations.

(11) Each FBO operating on a Category II, Category III or Category IV airport shall have on duty, during all required hours of operation, a minimum of one (1) employee and such additional personnel as needed to adequately meet the operating minimum standards for each specific aeronautical service offered by the FBO. Multiple responsibilities may be assigned to qualified employees, where feasible.

(12) Each FBO operating at a State-owned airport shall provide the Department with a current and accurate roster consisting of names, addresses and contact information for all persons responsible for the both management and operation of the FBO, even if the FBO is an unstaffed self-fueling operation sited at a Category V airport.

(13) Each FBO shall provide the Department with points of contact and appropriate telephone numbers to enable contact in any emergency situation.

(14) Each FBO shall obtain, and shall keep current at all times, any and all required fueling certifications and permits necessary for storing, handling and dispensing aircraft fuel storage. Each FBO shall train its management and fuel handling personnel to ensure safe and proper handling, dispensing and storage of aviation fuels. Periodic refresher training shall be provided as necessary.

(15) Each FBO shall develop and maintain Standard Operating Procedures (SOPs) for refueling and ground handling operations that comply with all Uniform Fire Code and FAA standards and requirements. The SOPs shall be submitted to the Department no later than thirty (30) days prior to the FBO commencing fueling activities and shall specifically address:

(a) Bonding protection;

(b) Fire protection;

(c) Public protection;

(d) Control of access to fuel storage areas; and

(e) Marking and labeling of fuel storage tanks and fuel dispensing equipment.

(16) Each FBO shall comply with all FAA regulations pertaining to aircraft fuel storage, handling and dispensing on airports, to all airport rules and regulations, and to any other applicable laws related to aircraft fuel handling, dispensing and storage.

(17) Each FBO shall meet all State of Oregon insurance requirements and shall maintain, at a minimum, the specific types and amounts of insurance specified in their agreement with the Department.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0045

Primary FBO Services Required at State-Owned Airports

(1) The following requirements apply to every FBO operating on a State-owned airport, regardless of airport category. Each FBO shall:

(a) Provide the sale and into-plane delivery of ASTM rated aviation fuels (to include either 100 LL octane avgas, Jet A fuel, or both), lubricants and other aviation petroleum products.

(b) Ensure that all equipment used for storing and dispensing petroleum products meets all applicable federal, state and local safety standards, codes and regulations.

(c) Provide a stationary fuel storage system design meets all applicable federal, state and local regulations and standards. The system shall be designed and operated to meet Air Transport Association (ATA) 103 requirements and the requirements of AC150/5230-4, as well as Environmental Protection Agency (EPA) standards that include proper fuel spill prevention features and containment capabilities.

(d) Provide filter-equipped fuel dispensers, with separate dispensing pumps and meter systems for each grade of fuel supplied.

(e) Ensure that all metering devices are inspected, checked and certified annually by appropriate local and state agencies.

(f) Monitor fuel inventories in accordance with current Environmental Protection Agency (EPA) standards and provide copies of fuel inventories to the Department upon request.

(g) Maintain a written plan for fuel spill prevention, countermeasures and control, and shall provide a current copy of the plan to the Director or the Director's designee.

(h) Receive prior written permission from the Director or the Director's designee before providing commercial self-service fueling equipment (cardlock) equipment. All cardlock equipment must comply with all state and local building codes, as well as the requirements of OAR 738-035-0070.

(i) Conduct the lawful, sanitary and timely handling and disposal of all solid waste, regulated waste and other materials, including but not limited to:

(A) Sump fuel;

(B) Used oils;

(C) Solvents; and

(D) Other regulated waste.

(j) Ensure that no crates, boxes, barrels, containers, refuse or other surplus property is piled or stored anywhere on the lease property.

(k) Provide an adequate supply of the proper type and size of operable fire extinguishers in all proper locations, in accordance with the Uniform Fire Code. All fire extinguisher certifications shall be kept current at all times.

(l) Meet all State of Oregon insurance requirements and maintain the type and amounts of insurance specified in their agreement with the Department.

(2) The following additional requirements shall apply to FBOs operating at Category II airports. Each FBO shall provide:

(a) Fuel storage tanks with a minimum capacity of eight thousand (8,000) gallons each.

(b) Mobile or stationary dispensing equipment.

(c) One (1) or more personnel to serve the fuel demand at the airport.

(d) Aircraft line services, including necessary equipment, supplies and trained personnel for aircraft parking and tie down areas.

(e) The following services and concessions inside their main building, unless otherwise approved by the Department:

(A) Customer service counter stocked with basic pilots supplies;

(B) Public lounge and waiting area;

(C) Flight planning work area, with Flight Service Station and weather service communication links;

(D) Public telephones;

(E) Snack food and beverage machines;

(F) Local ground transportation contacts; and

(G) Public indoor restrooms.

(3) The following additional requirements shall apply to FBOs operating on Category III or IV airports. The FBO shall provide:

(a) Fuel storage tanks with a minimum capacity of eight thousand (8,000) gallons each.

(b) Mobile or stationary dispensing equipment.

(c) One (1) or more personnel to serve the fuel demand at the airport.

(d) Aircraft line services, including necessary equipment, supplies and trained personnel for aircraft, parking and tie down areas.

(e) The following services and concessions inside their main building, unless otherwise approved by the Department:

(A) Customer service counter;

(B) Public lounge and waiting area;

(C) Public indoor restrooms;

(D) Public telephones; and

(E) Local ground transportation contacts.

(4) The following requirements shall apply only to FBOs operating on Category V airports. The FBO shall provide:

(a) Fuel storage tanks with a minimum capacity of five hundred (500) gallons each.

(b) Mobile or stationary dispensing equipment.

(c) The FBO is not required to provide aircraft line services.

(d) Although the FBO is not required to lease or construct a building at a State-owned airport, they may choose to do so. In that event, the FBO may provide services and concessions similar to (3)(E) above.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0050

Secondary FBO Services at State-Owned Airports

(1) An FBO providing flight training services shall:

(a) Make available a minimum of one (1) FAA-certified and currently qualified flight instructor, registered with the Department in compliance with Oregon pilot registration laws and as many additional instructors as are necessary to adequately meet the flight training demand and schedule requirements;

(b) Provide one or more properly maintained and equipped aircraft, registered with the Department in compliance with Oregon aircraft registration laws, to conduct the services offered; and

(c) Ensure that all student pilots are registered with the Department in compliance with Oregon pilot registration laws.

(2) An FBO providing airframe or power plant maintenance services may provide either or both of the following: major and minor airframe maintenance and repair, engine, and accessory overhaul repair services on single and multi-engine piston driven propeller aircraft. Turbine and jet aircraft maintenance services are optional. An airframe and power plant maintenance operator shall:

(a) Operate the service from a ventilated shop space capable of accommodating at least one (1) aircraft within the FBO property;

(b) Have in their employ a minimum of one (1) FAA-certified technician who possesses an airframe and/or power plant certificate, with inspection authorization, or conduct operations as a certified repair station pursuant to 14 CFR Part 145;

(c) Keep the premises open and services available as follows:

(A) Category II Airport: during appropriate business hours, five (5) days a week, excluding holidays;

(B) Category III or IV Airports: an on-demand operator shall be available;

(C) Category V Airport: services shall be available to meet market demand.

(d) Provide equipment, supplies and parts required for general aircraft airframe and power plant inspection, maintenance and repair.

(3) An FBO providing on-demand air transportation services shall:

(a) Make available at least one (1) person who is appropriately certified and currently qualified, and registered with the Department in compliance with Oregon pilot registration laws, to conduct the flight activity offered by the Operator;

(b) Provide at least one (1) properly maintained and equipped aircraft, registered with the Department in compliance with Oregon aircraft registration laws, to accomplish the services offered; and

(c) Hold and display a current 14 CFR Part 135 Certificate.

(4) An FBO providing aircraft rental services shall:

(a) Have at least one (1) person available to meet customer needs;

(b) Keep the premises open and services available as follows:

(A) Category II Airports: during appropriate business hours, six (6) days a week, excluding holidays;

(B) Category III and IV Airports: during appropriate business hours, five (5) days a week, excluding holidays;

(C) Category V Airports: to meet market demand.

(c) Have available for rental a minimum of one (1) owned or leased certified and airworthy aircraft that is registered with the Department in compliance with Oregon aircraft registration; and

(d) Ensure that all aircraft renters are in compliance with Oregon pilot registration laws.

(5) Any FBO providing avionics maintenance service shall:

(a) Operate the service in a heated and ventilated shop space to accommodate at least one (1) aircraft within the FBO property;

(b) Have at least one (1) trained, currently qualified FAA-certified technician;

(c) Keep the premises open and services available as follows:

(A) Category II, III and IV Airports: appropriate business hours, five (5) days a week, excluding holidays;

(B) Category V Airports: to meet market demand.

(d) Hold all appropriate FAA repair station certificates for the types of equipment the operator plans to install, service or repair.

(6) Any FBO providing aircraft storage and hangar services shall:

(a) Lease and rent hangars, multiple T-hangars, and/or shade hangars to aircraft owners or operators solely for aircraft storage purposes;

(b) Make available the necessary amount of land to accommodate the proper quantity and size of hangars for the quantity of stored aircraft;

(c) Post an informational sign for prospective customers, displaying:

(A) Contact names and numbers for all hangar operators; and

(B) Where to obtain information on hangar availability and rental rates.

(d) Ensure that each based aircraft stored within the operator's hangar facilities is registered with the Department in compliance with Oregon aircraft registration laws;

(e) Ensure that all hangar tenants are fully informed regarding what constitutes legal activities within the hangar property, including the following information:

(A) Only preventive aircraft maintenance as described in 14 CFR Part 43 may be performed by the aircraft owner on the leased or rented hangar property. All other aircraft maintenance services must be performed by an appropriately permitted FBO, SASO, MSP or by the operator in accordance with 14 CFR Part 43.3(d);

(B) Experimental aircraft construction and maintenance is allowed in accordance with 14 CFR Parts 21 and 65;

(C) Painting and welding activities, and storage of any hazardous or combustible materials, shall be permitted within the hangar property only as permitted by the Uniform Fire Code;

(D) The piling and storage of crates, boxes, barrels, containers, refuse, and surplus property shall not be permitted outside the hangar; and

(E) All maintenance activity shall be in accordance with the requirements of the Uniform Fire Code.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0055
Minimum Standards for Specialized Aviation Service Operations (SASO) at State-Owned Airports

(1) SASOs that provide the same or similar services shall comply equally with all applicable Minimum Standards; however, the Department will not require, without adequate justification, that a SASO meet all the criteria for a full-service FBO for the type of operation conducted.

(2) Each SASO shall operate out of a building located on the airport. The building shall be of an appropriate size to accommodate the services being offered, be accessible to the public, and shall be marked with appropriate external signage.

(3) Each SASO shall provide automobile parking area appropriate for the needs of the business. Parking areas on Category II, III and IV Airports shall be paved; parking areas on Category V Airports may be paved or gravel.

(4) Each SASO shall keep current and provide to the Department a written statement of names, addresses and contact information for all personnel responsible for the operation and management of the SASO.

(5) Each SASO shall meet all State of Oregon insurance requirements and shall maintain the types and amounts of insurance as specified in the agreement with the Department.

(6) Each SASO providing aircraft dual and solo ground and flight instruction, necessary to complete the written examination and flight check for any category of pilot certificate or rating, shall meet the following minimum requirements:

(a) Provide at least one (1) currently qualified FAA-certified flight instructor, registered with the Department in compliance with Oregon pilot registration laws, and additional qualified instructors as necessary to meet the flight training demand and schedule requirements;

(b) Provide at least one (1) properly maintained and equipped aircraft, registered with the Department in compliance with Oregon aircraft registration laws, to accomplish the services offered; and

(c) Ensure that all student pilots are registered in compliance with Department pilot registration laws.

(7) Each SASO providing aircraft airframe and power plant maintenance, which includes either major or minor airframe maintenance or engine and accessory overhaul repair services on single or multi-engine piston driven propeller aircraft, shall meet the following minimum standards:

(a) Operate the service from a ventilated shop space able to accommodate at least one (1) aircraft on the airport.

(b) Provide one (1) FAA-certified technician with an airframe and/or power plant, with inspection authorization, or possess and conduct operations pursuant to a repair station certificate pursuant to 14 CFR Part 145.

(c) Keep premises open and services available as follows:

(A) Category II, III and IV Airports: appropriate business hours, five (5) days a week, excluding holidays;

(B) Category V Airports: to meet market demand.

(d) Provide equipment, supplies and parts required for general aircraft airframe and power plant inspection, maintenance and repair.

(8) Each SASO providing on-demand air transportation of persons or property to the general public for hire shall:

(a) Provide at least one (1) currently qualified FAA-certified person, registered with the Department in compliance with Oregon pilot registration laws, to permit the flight activity offered by the operator.

(b) Provide at least one (1) properly maintained and equipped aircraft, registered with the Department in compliance with Oregon aircraft registration laws, to accomplish the services offered.

(c) Hold and display a current 14 CFR Part 135 Certificate.

(9) Each SASO providing aircraft rental services to the general public shall:

(a) Have at least one (1) person available to meet customer needs;

(b) Keep the operation open and services available as follows:

(A) Category II Airports: during appropriate business hours, six (6) days a week, excluding holidays;

(B) Category III and IV Airports: during appropriate business hours, five (5) days a week, excluding holidays;

(C) Category V Airports: to meet market demand.

(c) Have available for rental a minimum of one (1) owned or leased certified and airworthy aircraft, registered with the Department in compliance with Oregon aircraft registration laws; and

(d) Ensure that all aircraft renters are registered with the Department in compliance with Oregon pilot registration laws.

(10) Each SASO providing avionics maintenance and sales services shall:

(a) Operate the service in a heated and ventilated office or shop space able to accommodate at least one (1) aircraft on the airport;

(b) Provide at least one (1) trained and FAA certified technician;

(c) Keep premises open and services available as follows:

(A) Category II, III and IV Airports: during appropriate business hours, five (5) days a week, excluding holidays.

(B) Category V Airports: to meet market demand.

(d) Hold the appropriate FAA certificates required for the types of services offered.

(11) Each SASO providing aircraft storage and hangar services shall:

(a) Ensure that all hangars, multiple T-hangars, and/or shade hangars are used solely for aircraft storage purposes;

(b) Make available the necessary amount of land to accommodate the proper quantity and size of hangars for the quantity of stored aircraft;

(c) Post an informational sign for prospective customers, displaying:

(A) Contact names and numbers for all hangar operators; and

(B) Where to obtain information on hangar availability and rental rates.

(d) Ensure that each based aircraft stored within the operator's hangar facility(ies) is registered with the Department in compliance with Oregon aircraft registration laws;

(e) Ensure that all hangar tenants are fully informed of what constitutes legal activities within the hangar property, including the following information:

(A) Only preventive aircraft maintenance as described in 14 CFR Part 43 may be performed on the leased or rented hangar property;

(B) All other aircraft maintenance services must be performed by an appropriately permitted FBO, SASO, MSP or by the operator in accordance with 14 CFR Part 43.3(d);

(C) Experimental aircraft construction and maintenance is allowed in accordance with 14 CFR Parts 21 and 65;

(D) Painting and welding activities, and storage of any hazardous or combustible materials, shall be permitted within the hangar property only as permitted by the Uniform Fire Code;

(E) The piling and storage of crates, boxes, barrels, containers, refuse, and surplus property shall not be permitted outside the hangar; and

(F) All maintenance activity shall be in accordance with the requirements of the Uniform Fire Code.

(12) Each SASO providing new and/or used aircraft sales and aircraft brokerage services shall:

(a) Provide at least one (1) qualified aircraft salesperson that has a current commercial pilot certificate, with appropriate aircraft type ratings, and registered with the Department in compliance with Oregon aircraft registration laws;

(b) Keep premises open and services available as follows:

(A) Category II, III and IV Airports: during established business hours as recorded with the ODA.

(B) Category V Airports: to meet market demand.

(c) Be registered with the Department as an aircraft dealer.

(13) Each SASO providing restoration, painting or refurbishing services for aircraft structures, propellers, accessories, interiors, exteriors, and components shall:

(a) Provide at least one (1) qualified person who possesses certificates appropriate for the work performed;

(b) Keep the operation open and services available as follows:

(A) Category II, III and IV Airports: during appropriate business hours, five (5) days a week, excluding holidays.

(B) Category V Airports: to meet market demand.

(c) Meet all requirements of the Uniform Fire Code.

(14) Each SASO providing specialized commercial flying services, such as, but not limited to, non-stop sightseeing tours, aerial photography or surveying, power line or pipeline patrol, firefighting or fire patrol, air ambulance, airborne mineral exploration, banner towing, and other air transportation operations specifically excluded from 14 CFR Part 135, shall:

(a) Provide at least one (1) qualified person who holds a current FAA appropriate pilot certificate and medical certificate, with ratings appropriate for the operator's aircraft, and registered as an Oregon pilot in compliance with the Department's registration laws;

(b) Keep the operation open and services available as follows:

(A) Category II, III and IV Airports: during appropriate business hours, five (5) days a week, excluding holidays.

(B) Category V Airports: to meet market demand.

(c) Own or lease at least one (1) airworthy aircraft, appropriately registered in compliance with the Department's aircraft registration laws; and

(d) Maintain up-to-date copies of Material Safety Data Sheets (MSDS).

(15) Any SASO engaging in the transportation of persons for commercial parachuting, instruction in parachuting, and rental and sales of parachuting equipment shall:

(a) Provide at least one (1) properly certificated, airworthy aircraft, either owned or under lease, that has been registered with the Department in compliance with Oregon aircraft registration laws;

(b) Meet or exceed the Basic Safety Requirements (BSR) of the United States Parachute Association (USPA), 14 CFR Part 105, and related FAA Advisory Circulars; and

(c) Provide at least one (1) jump plane pilot who holds an appropriate pilot certificate, appropriately rated for the aircraft being operated, and registered with the Department in compliance with Oregon pilot registration laws.

(16) Any SASO engaging in aerial agricultural spraying or seeding shall:

(a) Provide at least one (1) person who holds a current FAA appropriate pilot certificate with ratings appropriate for the operator's aircraft and is registered with the Department in compliance with Oregon pilot registration laws;

(b) Own or lease at least one (1) properly certificated, airworthy aircraft that has been registered with the Department in compliance with Oregon aircraft registration laws;

(c) Provide a centrally drained and paved area of not less than ten thousand (10,000) square feet that meets all current requirements of state, federal and local agencies for purposes of aircraft loading, washing and servicing;

(d) Maintain complete compliance at all times with OAR 340-109-0010, Pesticide Residue Waste Management, and all applicable OARs contained within division 57, Pesticide Control, Oregon Department of Agriculture;

(e) Employ specific safeguards and safe operating practices to prevent spillage, including:

(A) Clean-up and removal of all containers at the end of each day's activities;

(B) Maintenance of all loading and mixing facilities in good condition;

(C) Use of dry break devices or equivalent couplings to the aircraft-loading receptacle to prevent leaks of all materials.

(f) Position all aircraft and loading equipment as to not interfere with normal aircraft operations at the airport;

(g) Immediately remove contaminated surface materials from the lease property in the event of a small pesticide or pesticide solution spill, and treat the area of the spill with SuperBugs or an equivalent product;

(h) Immediately contain all material in the event of a reportable amount of spilled pesticide, and contact those agencies required to receive notification under Department of Environmental Quality (DEQ) regulations;

(i) Keep an appropriate spill kit on site, in a known and easily accessible location; and

(j) Store all chemicals on airport in accordance with the Material Safety Data Sheet (MSDS) requirements for that chemical, and provide current MSDS sheets available to Department upon request.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0060
Minimum Standards for Mobile Service Providers (MSPs) at State-Owned Airports

(1) Each MSP shall maintain a current Airport Operating Permit (AOP) issued by the Department. All AOPs must be renewed annually and accompanied by the fee designated in OAR 738-010, the Rates and Charges rule.

(2) Each MSP shall maintain a current written statement of names, addresses and contact information for all personnel responsible for the operation and management of the MSP, and shall provide the Department with updated copies.

(3) Each MSP shall meet all State of Oregon insurance requirements and shall maintain the specific types and amounts of insurance as specified in their agreement with the Department.

(4) Each MSP shall employ a sufficient number of qualified personnel to meet these Minimum Standards for each aeronautical service provided; however, multiple responsibilities may be assigned to any qualified employee, where feasible.

(5) Each MSP that operates aircraft shall ensure that all aircraft and pilots are registered with the Department in compliance with Oregon aircraft and pilot registration laws.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0065

Minimum Standards for Commercial Self-Fueling Services at State-Owned Airports

(1) All commercial self-fueling operators situated on any State-owned airport must be an FBO, as defined in OAR 738-035-0035. All commercial self-fueling operators shall apply to the Department and receive written approval before commencing operations. The Department reserves the right to grant or deny authorization for a commercial self-fueling operation at a State-owned airport.

(2) Each commercial self-fueling operator shall provide, at a minimum, 100LL aviation gasoline.

(3) All commercial self-fueling products, dispensing equipment and fuel storage shall meet all applicable federal, state and local regulations and requirements regarding safety, testing, filtering, inventory management and quality assurance.

(4) Only those locations on the airport that have been designated by the Department as temporary or permanent fuel storage areas shall be used for storing aviation fuels.

(5) Each commercial self-fueling operator shall comply with all federal, state and local environmental laws, ordinances and regulations.

(6) Each commercial self-fueling operator shall provide the Department with a copy of its current fuel spill prevention, countermeasures and control plan, which must include methods and procedures to prevent, control and clean up a fuel spill on airport property.

(7) Each FBO authorized to install and maintain self-fueling equipment shall provide monthly fuel inventory reconciliation reports to the Department, listing the total amounts of fuel dispensed to all aircraft.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0070

Compliance with Operating Minimum Standards by Through-The-Fence Operators at State-Owned Airports

(1) The Department is obligated, on behalf of the aviation system of Oregon and the State-owned airports held in the state inventory, to regulate all aeronautical activities on property that accesses the State-owned land for landing and takeoff of aircraft. Therefore, the Department shall require any person or entity conducting commercial aeronautical activities at a State-owned airport by an access or through-the-fence agreement to comply fully with these operating minimum standards.

(2) If a person or entity has an existing access agreement with the Department, already in effect on February 1, 2003, that person or entity is not subject to these operating minimum standards during the remaining period of the agreement; however, the minimum standards shall apply at the time that agreement is renewed and shall be clearly incorporated in any new agreement.

(3) If a person or entity is performing through-the-fence commercial aeronautical activities without a current access agreement with the Department, that person or entity shall either:

(a) Obtain an access agreement within thirty (30) calendar days of notification by the Department; or

(b) Cease their access of State-owned airport property by the 30th day following notification by the Department.

(4) Each application for a new access agreement on a State-owned airport shall include:

(a) Proof of appropriate level of insurance;

(b) A written plan indicating compliance with all laws and regulations; and

(c) The identity and contact information for the individual who will be responsible for all aeronautical activities proposed in the proposed access agreement.

(5) The Department shall consider and evaluate a new development application on a case-by-case basis, with consideration to airport safety and operating efficiency factors.

(6) The Department retains the right to restrict or deny any access agreement if airport safety or efficiency is compromised by the existence of the proposed service or activity.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055

History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

738-035-0075
Exemption from Operating Minimum Standards for Flying Clubs at State-Owned Airports

(1) All aircraft owned by a flying club must be vested in the name of the club or in its owners on a pro-rata basis.

(2) The flying club shall not derive greater revenue from the use of the aircraft than the cost to operate, maintain, and replace or enhance the aircraft or fleet of aircraft.

(3) A flying club has the right to fuel and maintain the club aircraft with its members, since it qualifies as an individual under the FAA grant assurances.

(4) The regulation of flying clubs is not governed through these minimum standards, since flying clubs are not commercial aeronautical activities.

(5) The Department may require a flying club to furnish documents, such as insurance policies, by-laws, meeting minutes and notifications, and a current roster of members, to ensure that the club remains a non-commercial and non-profit organization.

Statutory/Other Authority: ORS 835.035, 835.040 & 835.112
Statutes/Other Implemented: ORS 835.035, 835.040, 835.112 & 836.055
History:
AVIA 1-2003, f. 2-24-03, cert. ef. 3-1-03

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