

**NOTICE OF PROPOSED
CHANGES IN THE REGULATIONS OF THE
ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

17 AAC 45 - RURAL AIRPORTS

The Alaska Department of Transportation and Public Facilities (DOT&PF) proposes to amend regulations in Title 17 of the Alaska Administrative Code, dealing with Rural Airports (17 AAC 45), including the following:

- (1) 17 AAC 45.127(b) (3) – (5) is proposed to be amended to correct and update rural airport land rental rates for Gustavus and Northway Airports.
- (2) 17 AAC 45.127 (g) is proposed to be amended to include the option of establishing fair market rent for rural seaplane facilities by market survey in addition to the option of an appraisal.
- (3) 17 AAC 45.295 is proposed to be amended to clarify the rules related to adjustment of rental and fee rates during the term of a lease, permit, or concession.

A draft of the full text of the proposed regulation changes can be found on the Internet at <http://www.dot.state.ak.us> (NEW button under Highlights).

Interested parties may also obtain a paper copy of the proposed regulation changes by contacting DOT&PF at:

Becky Iles, Chief, Statewide Aviation Leasing
Department of Transportation and Public Facilities
P.O. Box 196900
Anchorage, Alaska 99519-6900
e-mail: becky.iles@alaska.gov (or Phone: 907-269-0730; Fax: 907-269-0489)

Written Comments : You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting comments in writing to the Department of Transportation and Public Facilities, Statewide Aviation, by letter, fax, or e-mail, which should be sent to the address/fax number for Becky Iles provided above. Written comments must be received no later than 4:30 p.m. on **January 7, 2011**.

Public Hearing: Oral or written comments may be submitted at a hearing to be held on **December 20, 2010**, in **Room 210, Anchorage Legislative Information Office; 716 W. 4th Avenue, Suite 200; Anchorage, Alaska 99501-2133**. The hearing will be held from 2:00 p.m. to 3:00 p.m. and might be extended to accommodate those present before 3:00 p.m. who did not have an opportunity to comment. You may participate in this hearing telephonically by calling, toll free, **(877) 763-5073**. There may be a limited number of people who can participate telephonically at the same time. If you receive a busy signal, call **(907) 269-0111** and inform the receptionist that you wish to participate in the hearing.

Special Accommodations: If you are a person with a disability who needs a special accommodation to participate in this process, please contact Becky Iles at 907-269-0730, or by TDD at 907-269-0473, to make necessary arrangements. Requests for special accommodations must be made to the department by no later than **December 13, 2010**.

Comments Public Information: All written comments received by DOT&PF regarding the proposed regulation changes are public records and are subject to public inspection.

Action: After the public comment period ends, the Department of Transportation and Public Facilities will either adopt the proposed regulation changes or other provisions dealing with some or all of the same subjects, without further notice, or decide to take no action on them. The language of the final regulation changes may be different from that of the proposed changes. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.

Statutory Authority: AS 02.10.010 and AS 02.15.020.

Statutes Being Implemented, Interpreted, or Made Specific: AS 02.10.010, AS 02.15.060, AS 02.15.090, and AS 02.15.200.

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

Dated November 30, 2010



Marc Luiken
Deputy Commissioner of Aviation
Department of Transportation & Public Facilities

17 AAC 45.127(b) is amended to read:

(b) Except as otherwise determined under (f) or (g) of this section, the following annual land rental rates apply to the following listed airports:

(1) beginning April 23, 2009 and ending December 31, 2009, the annual rental rates are as follows:

| <u>Airport Location</u> | <u>Rate Per Square Foot</u> | |
|---|-------------------------------|--|
| | <u>Aviation Land Uses</u> | <u>Auxiliary and Nonaviation Land Uses</u> |
| Barrow | \$0.114 | \$0.164 |
| Bethel | 0.114 | 0.164 |
| Bettles (including Bettles VOR Lake) | 0.040 | 0.040 |
| Big Lake | 0.060 | 0.032 |
| Cold Bay | 0.080 | 0.048 |
| Cordova | 0.114 | 0.084 |
| Dillingham | 0.114 | 0.080 |
| Galena | 0.080 | 0.052 |
| Gulkana | 0.068 | 0.024 |
| Gustavus | 0.114 | 0.050 |
| Haines | 0.080 | 0.076 |
| Homer | 0.114 | 0.100 |
| Iliamna | 0.066 | 0.060 |
| King Salmon | 0.114 | 0.112 |
| Kodiak | 0.114 | 0.164 |
| Kotzebue | 0.114 | 0.164 |
| Nome | 0.114 | 0.108 |
| Petersburg | 0.114 | 0.160 |
| Sitka | 0.114 | 0.164 |
| St. Mary's | 0.088 | 0.044 |
| Tok | 0.068 | 0.032 |
| Unalaska | 0.076 | 0.109 |
| Valdez | 0.114 | 0.030 |
| Willow | 0.060 | 0.032 |
| Wrangell | 0.114 | 0.120 |

(2) beginning January 1, 2010 and ending December 31, 2010, the annual rental rates are as follows:

| <u>Airport Location</u> | <u>Rate Per Square Foot</u> | |
|---|-----------------------------|---|
| | Aviation Land Uses | Auxiliary and Nonaviation Land Uses |
| Barrow | \$0.114 | \$0.177 |
| Bethel | 0.114 | 0.177 |
| Bettles (including Bettles VOR Lake) | 0.040 | 0.040 |
| Big Lake | 0.060 | 0.035 |
| Cold Bay | 0.080 | 0.048 |
| Cordova | 0.114 | 0.091 |
| Dillingham | 0.114 | 0.086 |
| Galena | 0.080 | 0.052 |
| Gulkana | 0.068 | 0.026 |
| Gustavus | 0.114 | 0.054 |
| Haines | 0.080 | 0.082 |
| Homer | 0.114 | 0.108 |
| Iliamna | 0.066 | 0.065 |
| King Salmon | 0.114 | 0.121 |
| Kodiak | 0.114 | 0.177 |
| Kotzebue | 0.114 | 0.177 |
| Nome | 0.114 | 0.177 |
| Petersburg | 0.114 | 0.173 |
| Sitka | 0.114 | 0.177 |
| St. Mary's | 0.088 | 0.048 |
| Tok | 0.068 | 0.032 |
| Unalaska | 0.076 | 0.118 |
| Valdez | 0.114 | 0.032 |
| Willow | 0.060 | 0.035 |
| Wrangell | 0.114 | 0.130 |

(3) beginning January 1, 2011 and ending December 31, 2012, the annual rental rates are as follows:

| <u>Airport Location</u> | <u>Rate Per Square Foot</u> | |
|---|-----------------------------|---|
| | Aviation Land Uses | Auxiliary and Nonaviation Land Uses |
| Barrow | \$0.119 | \$0.191 |
| Bethel | 0.119 | 0.191 |
| Bettles (including Bettles VOR Lake) | 0.042 | 0.040 |
| Big Lake | 0.062 | 0.037 |
| Cold Bay | 0.080 | 0.048 |
| Cordova | 0.119 | 0.098 |
| Dillingham | 0.119 | 0.093 |
| Galena | 0.080 | 0.052 |
| Gulkana | 0.071 | 0.028 |
| Gustavus | 0.119 | 0.100 [0.058] |
| Haines | 0.083 | 0.089 |
| Homer | 0.119 | 0.117 |
| Iliamna | 0.069 | 0.070 |
| King Salmon | 0.119 | 0.131 |
| Kodiak | 0.119 | 0.191 |
| Kotzebue | 0.119 | 0.191 |
| Nome | 0.119 | 0.126 |
| <u>Northway</u> | 0.100 | 0.100 |
| Petersburg | 0.119 | 0.187 |
| Sitka | 0.119 | 0.191 |
| St. Mary's | 0.092 | 0.051 |
| Tok | 0.068 | 0.032 |
| Unalaska | 0.079 | 0.127 |
| Valdez | 0.119 | 0.035 |
| Willow | 0.062 | 0.037 |
| Wrangell | 0.119 | 0.140 |

(4) beginning January 1, 2013 and ending December 31, 2014, the annual

rental rates are as follows:

| <u>Airport Location</u> | <u>Rate Per Square Foot</u> | |
|-------------------------|-----------------------------|---------------|
| | Aviation | Auxiliary and |

| | Land Uses | Nonaviation Land Uses |
|---|---------------------|--------------------------|
| Barrow | \$0.123 | \$0.203 |
| Bethel | 0.123 | 0.203 |
| Bettles (including Bettles VOR Lake) | 0.043 | 0.040 |
| Big Lake | 0.065 | 0.040 |
| Cold Bay | 0.080 | 0.048 |
| Cordova | 0.123 | 0.104 |
| Dillingham | 0.123 | 0.099 |
| Galena | 0.080 | 0.052 |
| Gulkana | 0.074 | 0.030 |
| Gustavus | 0.123 | 0.100 [0.062] |
| Haines | 0.087 | 0.094 |
| Homer | 0.123 | 0.124 |
| Iliamna | 0.071 | 0.074 |
| King Salmon | 0.123 | 0.138 |
| Kodiak | 0.123 | 0.203 |
| Kotzebue | 0.123 | 0.203 |
| Nome | 0.123 | 0.134 |
| <u>Northway</u> | <u>0.100</u> | <u>0.100</u> |
| Petersburg | 0.123 | 0.198 |
| Sitka | 0.123 | 0.203 |
| St. Mary's | 0.095 | 0.054 |
| Tok | 0.068 | 0.032 |
| Unalaska | 0.082 | 0.135 |
| Valdez | 0.123 | 0.037 |
| Willow | 0.065 | 0.040 |
| Wrangell | 0.123 | 0.148 |

(5) beginning January 1, 2015, the annual rental rates are as follows:

| <u>Airport Location</u> | <u>Rate Per Square Foot</u> | |
|-------------------------|-----------------------------|---|
| | Aviation Land Uses | Auxiliary and Nonaviation Land Uses |
| Barrow | \$0.123 | \$0.213 |
| Bethel | 0.123 | 0.213 |
| Bettles (including | 0.043 | 0.040 |

| | | |
|------------------------|---------------------|-----------------------------|
| Bettles VOR Lake) | | |
| Big Lake | 0.065 | 0.042 |
| Cold Bay | 0.080 | 0.048 |
| Cordova | 0.123 | 0.109 |
| Dillingham | 0.123 | 0.104 |
| Galena | 0.080 | 0.052 |
| Gulkana | 0.074 | 0.031 |
| Gustavus | 0.123 | <u>0.100</u> [0.065] |
| Haines | 0.087 | 0.099 |
| Homer | 0.123 | 0.130 |
| Iliamna | 0.071 | 0.078 |
| King Salmon | 0.123 | 0.145 |
| Kodiak | 0.123 | 0.213 |
| Kotzebue | 0.123 | 0.213 |
| Nome | 0.123 | 0.140 |
| <u>Northway</u> | <u>0.100</u> | <u>0.100</u> |
| Petersburg | 0.123 | 0.208 |
| Sitka | 0.123 | 0.213 |
| St. Mary's | 0.095 | 0.057 |
| Tok | 0.068 | 0.032 |
| Unalaska | 0.082 | 0.142 |
| Valdez | 0.123 | 0.039 |
| Willow | 0.065 | 0.042 |
| Wrangell | 0.123 | 0.156 |

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17 AAC 45.127(g) is amended to read:

(g) At department-owned seaplane floats and turnaround facilities, excluding assigned space designated by the department for float-equipped aircraft under 17 AAC 45.500 - 17 AAC 45.590, the department will charge fair market rent, as determined by appraisal, **or market survey** for the use of land, tideland, dock frontage, and float space.

(Eff. 3/28/2002, Register 161; am 11/23/2003, Register 168; am 3/22/2008, Register 185;

Register _____, _____, 201__ TRANSP. AND PUBLIC FACILITIES

em am 6/16/2008 - 10/13/2008, Register 187; am 4/23/2009, Register 190; am
____/____/____, Register _____)

Authority: AS 02.15.020 AS 02.15.070 AS 44.42.020
 AS 02.15.060 AS 02.15.090

17 AAC 45.295 is amended to read:

17 AAC 45.295. Rental rate or fee rate adjustment. (a) Unless otherwise **provided** [SPECIFIED] in a lease, permit, or concession and subject to **the limitations contained in** [(b) OF] this section, 17 AAC 45.297(f), and 17 AAC 45.300(e), the department will adjust the **rental rate or fee rate** [RENT] for a lease, permit, or concession if applying the applicable rental rate **or** [IN THE] fee **rate** [SCHEDULE] established under 17 AAC 45.127 results in an increase or decrease in the rent **or fee rate** for that lease, permit, or concession.

(b) The department will not adjust the **rental rate or fee rate** [RENT] for a lease, permit, or concession under (a) of this section more often than once in a twelve-month period and, except for a successive lease, will not adjust the **rental rate or fee rate** [RENT] for a lease, permit, or concession with a term of more than 10 years during the first five years of that term.

(c) Unless otherwise **provided** [SPECIFIED] in a lease, permit, or concession and subject to **the limitations contained in** [(d) AND (e) OF] this section, in **adjusting a**

rental rate or fee rate [MAKING A RENT ADJUSTMENT] for a premises, the department will

(1) determine the new rate applicable to the lease, permit, or concession [UNDER THE FEE SCHEDULE ESTABLISHED] under 17 AAC 45.127;

(2) establish the effective date of the rent adjustment, **which** [; THE EFFECTIVE DATE] may not be earlier than 30 days after the date of the department's notice **to the lessee, permittee, or concessionaire** [OF RENT ADJUSTMENT] under (3) of this subsection; and

(3) send to the lessee, permittee, or concessionaire a written [RENT ADJUSTMENT] notice that identifies the lease, permit, or concession that is the subject of the [RENT] adjustment, the amount of the adjusted rent **or fee**, the effective date of the adjustment, and the procedure for protesting the adjustment.

(d) Unless otherwise provided in the lease, permit, or concession, a **land rental rate or land use permit or concession fee rate** [RENT] adjustment under this section will not increase the **land rental rate or fee rate per square foot** [RENT] applicable to a **land** lease, permit, or concession by more than 10 percent per year, compounded for each year since the date the **land rental rate or fee rate** [RENT] for that **land** lease, permit, or concession was last set or adjusted, and will not result in **application of a** [RENT] greater than fair market **land rental rate or fee rate** [RENT]. **However, the land rental rate or fee rate adjustment limitation in this subsection does not apply to the setting**

of the initial rental rate of a successive land lease, permit, or concession, or to a building space rental rate established by the department under 17 AAC 45.127(h).

(e) A **rental rate or fee rate** [RENT] adjustment under this section may not be applied to a competitively awarded lease, permit, or concession [FOR AN AUXILIARY OR NONAVIATION USE] if the **lease, permit or concession was awarded competitively on the basis of the highest rent or fee offered and the** adjustment would result in a reduction of the **rental rate or fee rate** [OR RENT] to below the **applicable** rate established by competitive bid or proposal, **except as provided for aviation use under 17 AAC 45.300(e)** [WHEN THE LEASE, PERMIT, OR CONCESSION WAS AWARDED].

(f) **This section applies only to rental rates and fee rates that are based upon land rental value and applied upon the basis of the total land area of the leased or permitted premises. Nothing in this section shall limit the frequency or amount of any adjustment to concession rates, or to any rental rate or fee rate based on a factor other than land rental value and applied on a basis other than land area.**

(g) **Nothing in this section shall be construed to limit a change in the total rent or fees payable caused by**

(1) a change in the size of the leased or permitted premises;

(2) a change in the use of the premises, or in the infrastructure of the airport at which the premises are located, that results in a change in the rental rate applicable to the premises under 17 AAC 45.127; or

(3) the expiration of a rental rate reduction under 17 AAC 45.127(d)

or (f).

(h) For the purposes of determining whether the limitations on the frequency of a new or successive lease, permit, or concession to the same lessee, permittee, or concessionaire at the same rental rate or fee rate per square foot as the previous lease, permit, or concession does not constitute the establishment of a new rental rate or fee rate. (Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am

4/23/2009, Register 190; am __/__/__, Register _____)

Authority: AS 02.15.020 AS 02.15.060 AS 02.15.090