



U.S. Department
of Transportation

**Federal Aviation
Administration**

Memorandum

Subject: **ACTION:** Compliance Guidance Letter 2003-2
Procedures for Public Notice for a Change in Use
of Aeronautical Property

Date: February 18, 2004

From: Manager, Airport Compliance Division, AAS-400

Reply to
Attn. of:

To: Regional and District Compliance Specialists

I-SUMMARY: This Compliance Guidance Letter (CGL) sets forth FAA guidance for public notice of the agency's intent to release aeronautical property or facilities from Federal obligations under the grant assurances and surplus property agreements. Section 125 of *The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21)* requires the FAA to provide an opportunity for public notice and comment prior to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport land for aeronautical purposes.

II-RESPONSIBILITIES: FAA Regional Airports Offices and Airports District Offices are responsible for complying with the requirements of the statute and policy guidance governing the notice and release of aeronautical property.

III-AUTHORITY: Section 125 has been codified as amendments to 49 U.S.C. §§47107(h), 47125, 47151, and 47153. A copy of Section 125 is attached.
FAA Order 5190.6A, Airport Compliance Requirements, Chapter 7. Release, Modification, Reformation or Amendment of Airport Agreements; Section 5. Procedures.

IV-SCOPE AND APPLICABILITY: As a matter of policy, FAA will provide public notice of a proposed release of a sponsor from its Federal obligations regarding any land, facilities and improvements used or depicted on an Airport Layout Plan for aeronautical use where the release would affect the aeronautical use of the property, including certain releases for which notice is not expressly required by Section 125. The public notice requirements of this CGL apply to release of the following types of property:

1. Land acquired for an aeronautical purpose (except noise compatibility) with federal assistance in accordance with 49 U.S.C. §47107(c)(2)(B).
2. Land (surplus property) provided for aeronautical purpose in accordance with 49 U.S.C §47151.

3. Land conveyances of the United States Government for aeronautical purposes in accordance with 49 U.S.C. §47125.
4. Land used as an aircraft movement area with federally financed airport improvements.

V-PURPOSE: Airport property becomes federally obligated for airport purposes when an airport sponsor receives federal financial assistance. The FAA's land release procedures evaluate the sponsor's request for release of land to the extent that such action will protect, advance or benefit the public interest in civil aviation, or specifically the public's investment in the national airport system. Section 125 of AIR-21 requires the FAA to solicit and consider public comment as a part of the agency's decision making on a sponsor's request. The FAA's evaluation will be based on the agency's general policy for protecting the public's investment and will include consideration of pertinent factors as outlined in FAA Order 5190.6A, para.7-37, entitled FAA Action On Owner Requests.

VI-PROCEDURES:

Release: General policy, as outlined in FAA Order 5190.6A, permits the agency to release, modify, reform or amend any of its agreements with an airport sponsor to the extent that such action will protect, advance, or benefit the public interest in aviation. In evaluating a sponsor's request for a release from its Federal obligations, the FAA is required to consider a number of factors, including:

- The past and present compliance record of the sponsor under all of its grant assurances and surplus property agreements and its actions to make available a safe and usable airport for maximum aeronautical use by the public.
- Evidence that the sponsor has taken or agreed to take all actions necessary to bring itself into compliance with its grant assurances and surplus property agreements, if applicable.
- The reasonableness and practicality of the sponsor's request in terms of the priority of need for the aeronautical facility, that is the subject of a request for release.
- The net benefit to be derived by civil aviation and the compatibility of the proposal with the needs of civil aviation.
- Consistency with the guidelines for specific types of releases as discussed in Chapter 7 of FAA Order 5190.6A.

Change in Use of Airport Property: FAA Order 5190.6A, Chapter 4, Section 5, specifies the requirements for the use of airport property. Specifically, the FAA requires an approved Airport Layout Plan (ALP) as a prerequisite to the grant of Airport Improvement Program funds for airport development or the modification of the terms and conditions of a surplus property agreement. The ALP reflects the agreement between FAA and the airport sponsor as to the proposed allocation of specific uses of airport property. A proposed change in the use of aeronautical property to a non-aeronautical

purpose would require prior FAA approval that incorporates public notice and an opportunity for public comment under Section 125.

Notice Requirements: At least 30 days prior to the an agency determination of an airport sponsor's request to release aeronautical property or facilities, notice must be published in the Federal Register to afford the public an opportunity to comment. Public notice is also an opportunity for the FAA to obtain additional information as a part of its evaluation of the airport sponsor's request, and to take public comment into account in agency decision making.

Public notice is not required for:

- Approval of the interim-use of airport property for on a short -term period, generally not exceeding 5 years;
- Grant of utility or other types of easements that will have no adverse effect on the aeronautical use of the airport;
- Release of aeronautical property as a part of a major environment action in which public notice and comment is an integral part of the environment review; or
- Release of Noise Compatibility Land.

A handwritten signature in black ink, reading "Charles C. Erhard". The signature is fluid and cursive, with the first name "Charles" and last name "Erhard" clearly legible.

Charles C. Erhard

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Public Notice for a Change in Use of Aeronautical Property at**

[xxxxx International Airport] city, state.

AGENCY: Federal Aviation Administration (FAA) DOT

ACTION: Request for Public Comment

SUMMARY: The Federal Aviation Administration is requesting public comment on [the sponsor's] request to change a [portion –how many acres] of airport property from aeronautical use to non-aeronautical use.

[Summary should address: (1) The Property's location - layman's description, i.e. use streets and landmarks, if possible, metes and bounds can be included in supplement information; (2) The Property's existing aeronautical use; (3) The Sponsor's proposed non-aeronautical use of the property.]

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Airport Manager's office and the FAA Airport District Office.

DATES: Comments must be received on or before **[Please insert the date of publication in the Federal Register.]**

ADDRESSES: Documents are available for review at the Airport Manager's office ***[include name, address and telephone number]*** and the FAA Airport District Office ***[name, address and telephone number]***. Written comments on the Sponsor's request must be delivered or mailed, ***[number of copies]*** to: ***[Staff person in charge at the Federal Aviation Administration], [address and telephone number]***.

FOR FURTHER INFORMATION CONTACT: ***[Staff person in charge at the Federal Aviation Administration], [address and telephone number]***.

SUPPLEMENTARY INFORMATION

Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) requires the FAA to provide an opportunity for public notice and comment prior to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport land for aeronautical purposes.

Items to address: (1) Property's location [general layman's description, use streets and landmarks if possible. Metes and bounds, if available, can be included in supplementary information; (2) Property's existing aeronautical use. How was the land acquired, AIP, Surplus property, U.S. government land conveyances. (3) Other items to address:

- **Sponsor's proposed non-aeronautical use.**
- **Lease or sale**
- **Type of proposed non-aeronautical use**
- **Disposition of sale or lease proceeds**
- **Don't use pre-decisional statements such as "there are no impacts to the airport".**