

Part VI: Land Use

Chapter 21. Land Use Compliance Inspection

21.1 Introduction.

This chapter provides guidance for conducting land use inspections at federally obligated airports. The purpose of the land use inspections is to determine whether a sponsor is in compliance with its federal obligations for land use. These federal obligations accrue to the sponsor when the sponsor accepts a federal grant or federal transfer of property. (See chapter 3, *Federal Obligations from Property Conveyances* and chapter 4, *Federal Grant Obligations and Responsibilities*). Land use is an important aspect of ensuring safe and lawful airport management and operation.

21.2 Responsibilities.

In accordance with the guidance provided below, it is the responsibility of the FAA Regional Offices (Region) and Airports District Offices (ADOs) to conduct a minimum of two land use inspections annually per region for General Aviation (GA) airports and to resolve issues identified during the inspections. ADOs and state block grant agencies support the Region's efforts. Prior to conducting a land use compliance inspection, the Regions and ADOs should review existing related internal guidance, policies, and procedures, including Office of Airport Safety and Standards (AAS) guidance on conducting a simultaneous Airfield Site Visit (ASV).

The FAA Office of Airport Compliance (ACO-100) provides overall guidance and technical support in the conduct of the land use inspections program and provide opportunities to improve the quality of the program. ACO-100 is available to assist Regions in the interpretation of compliance policy, the applicability of conditions or assurances to a particular airport, and for guidance and assistance, as needed, in pursuing and requesting corrective action or enforcement. ACO-100 reports the results of these inspections to Congress.

21.3 Authority.

a. Applicable Law.

The following statutes, regulations and orders are generally applicable to land use compliance inspections:

- 49 U.S.C. § 47107, *Project Grant Application Approval Conditioned on Assurances about Airport Operations*
- 49 U.S.C. § 47125, *Conveyances of United States Government Land, and Revision Note--Release from Restrictions*

- 49 U.S.C. § 47103, *National Plan of Integrated Airport Systems*
- 49 U.S.C. § 47151, *Authority to Transfer an Interest in Surplus Property*
- 49 U.S.C. § 47152, *Terms of Conveyances*
- 49 U.S.C. § 47153, *Waiving and Adding Terms*
- FAA Reauthorization Act of 2024 (Pub. L. 118-63)

b. Congressional Requirement.

As a result of GAO/RCED-99-109, *General Aviation Airports: Unauthorized Land Use Highlights Need for Improved Oversight and Enforcement*, Congress issued Senate Report No. 106-55, in May 1999.¹ The Report questioned the FAA's monitoring of general aviation airport compliance with land use obligations and stated that the FAA did not have internal controls in place to ensure such compliance, that self-certification is not sufficient, and that unauthorized land uses impact airport revenue and safety. The Report directed the FAA to conduct inspections of airports on land acquired with Federal assistance and to report the scope of unauthorized use of airport land and the extent of FAA-approved land releases.

In accordance with 49 U.S.C. § 47121 and the GAO Report, the FAA implemented this compliance oversight by adopting a program that requires Regions on an annual basis to conduct land-use inspections at federally obligated airports and target a minimum of 18 airports (two per FAA region per year).

c. Report to Congress.

49 U.S.C. § 47103(d), *National Plan of Integrated Airport Systems*, non-compliant Airports requires the Secretary to provide, every two years, a detailed statement of airports that are not in compliance with grant assurances or other requirements with respect to airport lands.² The report must include:

- the circumstances of noncompliance;
- the timeline for corrective action with respect to such noncompliance; and

¹ Report GAO/RCED-99-109 "Unauthorized Land Use Highlights Need for Improved Oversight and Enforcement," p. 2.

² Prior to the FAA Reauthorization Act of 2024, this list was required under Section 722 of Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), codified at 49 U.S.C. § 47131.

- any corrective action the Secretary intends to require to bring the airport sponsor into compliance.

The statute also states that the Secretary is not required to conduct an audit or make a final determination before including an airport on the list.

21.4 Elements of the Land Use Inspection.

The inspections are built on several processes – airport selection, pre-inspection, onsite inspection, potential non-compliance areas, corrective action, and post-inspection land use report. The inspections contribute to the completeness of land use records and supporting data that may be useful for formal and informal compliance determinations.

a. Airport Selection.

There are several factors that may assist in selecting a particular airport for an inspection. Due to the limited number of inspections to be conducted on a yearly basis, a random process in selecting airports is not considered to be efficient.

Therefore, each Region should develop its own selection process using the variables, conditions, and recommendations listed in this chapter. Coordination with the ADOs, State Block Grant states, and state aeronautical agencies is appropriate. ADOs and state block grant aeronautical agencies may be the most knowledgeable and familiar with specific airport conditions and potential compliance problems.

Generally speaking, preference should be given to selecting airports where it is known or suspected that the airport is not in compliance with one or more of the grant assurances, particularly where it appears that federally acquired or federally conveyed airport property has been disposed of, and/or is being used for non-aeronautical purposes, without FAA approval.

The information needed to identify airports for selection in land use inspections is available from many sources including previous site inspections, complaints, and existing documents including the Airport Layout Plan (ALP) or Exhibit “A”.

Several factors may assist the Region in selecting an airport for a land use inspection. These factors include:

(1) Specific Request from FAA Headquarters.

ACO-100 may request an airport land use inspection when that inspection would directly benefit a current investigation or formal complaint or otherwise address a potential land use problem.

(2) Excessive Number of Requests for Airport Property Release.

An excessive number of requests for airport property releases and/or a significant amount of released land may require additional oversight. This

situation could lead to an increase in the potential for misuse of airport property. It could generally indicate systematic nonaeronautical use of the airport.

(3) Size, Classification, and Total Number of Operations at an Airport.

The size, classification, and total number of operations at an airport are important elements in selecting an airport. This is because of the potential high return that can be derived from the land use inspection given the acreage, amount of federally acquired or federally conveyed property, role and importance of the facility, number of based aircraft, and level of operations.

b. Pre-inspection.

Once the airports have been selected, the actions taken to prepare for each inspection depend on the specifics of the airport, such as airport size, number of tenants, and availability of land use property records. An adequate pre-inspection is essential in ensuring a successful land use inspection.

The Region or ADO conducting the inspection should notify the airport of the upcoming inspection and include information regarding the planned visit, the purpose of the inspection, and what the inspection will entail.

The first phase of the pre-inspection process should include a review of all relevant airport data available in the Region, ADO, or state block grant aeronautical agency.

This includes:

(1) Obligating Documents.

Review applicable grant, surplus, and nonsurplus property documents to understand the specific commitments of the airport owner, especially any special conditions in such documents. The intent of the land use inspection is to ensure that all federally acquired and federally conveyed land, is used or is available for use for the purposes intended by the land conveyance or grant agreement.

(2) Land Use Maps/Land Files.

The majority of the pre-inspection should focus on inconsistencies between the ALP, Exhibit "A," parcel maps, or any other land use document relevant to the airport sponsor's land use and planning. Documents such as airport diagrams and the Airport Facility Directory (AFD) should also be consulted for general familiarization.

(3) Self-certification Documents.

The person conducting the inspection should review any documents and records of self-certification, if applicable. Although self-certification may be an important element of a regional airport compliance program, it is not a substitute for an

actual land use inspection. However, self-certification data can be used as background or reference information.

(4) Grant-Acquired Land, Surplus and Nonsurplus Property.

While reviewing airport property and land use documents such as the ALP or Exhibit "A," pay particular attention to all land acquired with grant funding, including land acquired for noise protection, as well as federal surplus and nonsurplus property. Is this land still being used for the purpose for which it was acquired? Also note whether the conditions associated with any previous disposal are being followed.

(5) Release Documentation.

Review all documentation relating to past releases and disposal of airport property. Identify land released by tract or legal description. Check that release conditions or requirements (*i.e.*, environmental requirements, height restrictions, designated uses of proceeds from land sales or leases, Fair Market Value (FMV), and general compatibility requirements) are followed. Also look at the amount of land released (or to be released). Compare this information with correspondence files, land files, ALP and Exhibit "A." Determine if land released for sale has been sold, the deed recorded by the county recorder's office, and proceeds deposited into the airport account.

(6) Master Plan, Part 150, and Environmental Impact Statements.

Review the Master Plan, any Part 150 studies, any Environmental Impact Statement's (EIS), and any other planning and environmental documents for relevant information. Environmental determinations might be relevant for understanding land uses to confirm the land is still used for the purpose for which it was acquired.

(7) General Correspondence.

Review recent general correspondence, including complaints, that may be relevant to the land use inspection.

(8) Leasehold Review.

Obtain a list of leaseholds, both aeronautical and nonaeronautical, so they are known to the inspection team before the onsite inspection occurs. In addition, use this leasehold information to crosscheck the ALP and Exhibit "A" for appropriate land uses.

(9) Special Requirements.

Review any special requirements other than those controlled by project payments under the [Airport Improvement Program](#) (AIP). Such special conditions might include specific commitments regarding the disposition of proceeds from the disposal of surplus property and any other continuing pledges undertaken by the airport sponsor. It might also include compatible land use requirements or development restrictions.

c. Onsite Inspection³.

The onsite inspection may last from a half a day to multiple days depending on the size and complexity of the airport. Below are several items that should be included in the onsite inspection:

- (1) Determine whether any improvements being currently processed under [FAA Form 7460-1, Notice of Proposed Construction or Alteration](#), or that are under construction are inconsistent with the ALP or other land use requirements. No actual or proposed development or use of land and facilities should be contrary to the FAA-approved ALP.
- (2) Confirm land uses to ensure the intended or approved use corresponds to the actual use. Such identification should extend to aeronautical service areas, industrial areas, agricultural areas, recreation areas, and those parcels that help in protecting aerial approaches.
- (3) Review and compare airport property and the ALP. Specifically note whether all land acquired with federal funds, including land acquired for noise mitigation, is still being used for the purpose for which it was acquired. The FAA must approve any non-aeronautical or mixed use of land purchased with federal funding or that was federally conveyed.
- (4) Review leases, use agreements, and applicable financial data (such as airport account records and appraisals) if appropriate or required based on inconsistencies between depicted and actual land use.
- (5) Ensure that all airport property released from its federal obligations is being used in accordance with the release document and any special conditions or requirements.

³ Regions may conduct an Airfield Site Visit (ASV) in conjunction with the land use inspection. However, the ASV is not part of the land use inspection and should not be included in the land use inspection report.

d. Potential Non-Compliance Areas.

There are many types of issues that may be identified during or after a land use inspection. Several of these may be indicative of improper and noncompliant land use. If non-compliance situations are uncovered as a result of the land use inspections, the state block grant agency should be in a position to play a role in requesting and supervising corrective action and notification, as well as informal resolution.

Examples of these include:

(1) Missing Release Documents.

Release documents cannot be found to substantiate the ALP or Exhibit "A." In several instances, specific airports have told FAA that certain property was released from federal obligations or an ALP shows airport property released from federal obligations, yet no release documents can be found. Without the actual release documents, there is no way to confirm whether the property was actually released and/or if special conditions were issued along with the release. (See chapter 22, *Land Use Changes and Releases of Federally Acquired and Federally Conveyed Land*).

(2) ALP or Exhibit "A".

An outdated ALP or Exhibit "A" may be an indicator of unauthorized land uses. An ALP may show airport property to be a nonaeronautical leasehold while the Exhibit "A" depicts the land in question as grant acquired property. In determining obligations, Exhibit "A" takes precedence since it is part of the grant agreement establishing the obligation. Where a question or conflict is found, Exhibit "A" from all grants within the 20 years prior to the inspection should be reviewed to determine if the sponsor changed the description of obligated airport property, possibly without FAA being aware.

(3) Special Conditions.

Failure to comply with special conditions, restrictions, reservations, or covenants associated with land releases makes it difficult to determine whether the land is being used properly. It also makes it difficult to reconcile actual versus approved land use. For example, it would be an improper land use if the FAA released airport land under special land use conditions that include a specific use, but the airport is not using the land in accordance with the special conditions in the release. Other examples of violations of the sponsor's obligations include failing to sell FAA-released property at fair market value following an appraisal as required in the release, or not using the sale proceeds for airport purposes.

(4) Nonaeronautical Leaseholds.

The most common improper and noncompliant land uses are situations where nonaeronautical leaseholds are located on designated aeronautical use land without FAA consent or approval or on property not released by FAA and permitting dedicated aeronautical property to be used for nonaeronautical uses. Examples of typical uses include using hangars to store vehicles or other unrelated items.⁴ Other improper land uses found in the past have included using aeronautical land for nonaeronautical purposes such as animal control facilities, nonairport vehicle and maintenance equipment storage, museums, and municipal administrative offices.

NOTE: Approval of an ALP showing future nonaeronautical land use does not constitute FAA approval for that nonaeronautical use when it may actually occur. The ALP is a planning document only. FAA approval will be required at the time the land is to be used for a nonaeronautical purpose. (See chapter 22, *Land Use Changes and Releases of Federally Acquired and Federally Conveyed Land*).

(5) Incompatible Land Uses.

Incompatible land uses include obstructions or residential construction built on airport property or in violation of conditions of released land or residential development within grant funded aircraft noise compatibility land. Introducing a wildlife attractant or failure to take adequate steps to mitigate hazardous wildlife at the airport can also result in an incompatible land use. Incompatible land uses can include wastewater ponds, municipal flood control channels and drainage basins, sanitary landfills, solid waste transfer stations, electrical power substations, water storage tanks, golf courses, and other bird attractants. Other incompatible uses would be towers or buildings that penetrate Part 77 surfaces or are located within a Runway Protection Zone (RPZ), Runway Object Free Area (ROFA), Object Free Zone (OFZ), clearway or stopway. (See section 7.12, *Hazards and Mitigation*).

⁴ See FAA's [Policy on the Non-Aeronautical Use of Airport Hangars](#), 81 Fed. Reg. 38906, June 15, 2016.

(6) Eminent Domain.

An improper land use may include a situation involving eminent domain. For example, a local government may have taken one or more parcels of airport property without FAA approval through eminent domain to widen a road.⁵

(7) Airspace Determination Cases.

A favorable airspace determination on a proposed structure does not by itself satisfy land use compliance requirements. There is a misconception among airport sponsors that if a proposed structure is accepted by the FAA based on airspace standards, it constitutes FAA de facto approval of proposed land use. That is not the case. For example, a hangar on the airport might not pose an airspace issue, but if that hangar is intended to be used as a residential hangar, it would still represent a compliance problem as an incompatible land use. The Region or ACO-100 makes the determination on land use compliance separately from any related airspace determination, and the Region or ADO should advise the sponsor of the distinction between the two independent FAA determinations.

(8) Unapproved Land Uses.

An unapproved land use might occur following approval for farming near the RPZ if a land use inspection finds permanent structures instead of the authorized farming use. It is also an unapproved land use if nonsurplus land transferred for approach protection was approved for farming purposes for a three-year period, but the lease term is for more than three years or the lease shows a rental rate set at less than fair market value. The sponsor must resolve this type of land use issue promptly. The inspection team should pay particular attention to golf courses on airport property. This is because experience has shown airport sponsors are reluctant to give up the facility later on and return the land to its aeronautical function. Also, experience has shown that golf course operations create revenue use problems, particularly since golf courses may be operated at below fair market value rents.

⁵ See also discussion of Halfmoon Bay Airport in *Montara Water & Sanitary District v. County of San Mateo*, 598 F.Supp. 2d 1070 (N.D. Cal. 2009), outlined in chapter 23, *Reversions of Airport Property*.

Close attention should also be exercised in cases where the proposed use involves shooting ranges. In most instances, shooting ranges should not be permitted at all, and should only be considered in very limited and unusual circumstances. A range can be inherently hazardous unless properly controlled and mitigated. Moreover, use as a shooting range may be difficult to discontinue later if the land is needed for an aeronautical use. (For more information on land use changes, see chapter 22, *Land Use Changes and Releases of Federally Acquired and Federally Conveyed Land*).

NOTE: Care must be taken when considering recreational use to avoid encumbering the property under provisions of section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. § 303).⁶

(9) Roads and Other Structures.

A public road built through airport property without FAA approval is a problem if it impacts a Runway Safety Area (RSA), Part 77 surfaces, the Runway Protection Zone (RPZ), or Runway Object Free Area (ROFA). This is especially problematic if the property where the RSA sits was acquired with federal assistance. The sponsor may have constructed roads or allowed nonsponsor roads to be built on and through airport property, effectively isolating airport parcels from the rest of the airport and making them unsuitable for aeronautical use. At the same time, if a sponsor permits structures to be built in the RSA, this would raise safety issues and potentially be a violation of its federal obligations.

e. Corrective Action.

Corrective action should be initiated when discrepancies are found following an inspection. A letter stating the results of the inspection, including all land use discrepancies, should be sent to the airport sponsor as soon as practical. The letter should include detailed information on how the airport can return to compliance with its federal obligations. It should also include a timeline for completion. The letter could be as simple as requesting an updated ALP within 120 days or requesting the airport to submit a formal request for a land release to correct a land use situation within 30 days.

⁶ Section 4(f) property refers to public parks and recreation lands, wildlife and waterfowl refuges, and historic sites. It also applies to wild and scenic rivers. Section 4(f) was recodified as section 49 U.S.C. § 303(c).

In some cases, the corrective action may be as drastic as requiring the removal of an obstruction to air navigation. Failure to take corrective action may lead to compliance action by FAA. Often, improper use of airport property can lead to violations of additional federal obligations or grant assurances, such as revenue use and exclusive rights. While the purpose of the inspection is to review land use, the person conducting the land use inspection should nonetheless advise the airport sponsor of other grant assurance violations noted, as well as any recommended remedies and deadlines for the sponsor to complete corrective action. However, only noncompliant land uses need to be reported to ACO-100 for inclusion in the report to Congress. ACO-100 will include noncompliant land uses in the Report to Congress if those land uses remain unresolved at the end of the fiscal year.

f. Post-Inspection Land Use Report.

It is important to maintain adequate records of all land use inspections. The relevant land use information collected from the inspection should be compiled in a post-inspection land use report, which will include narrative comments. The inspection report should include: the inspection date, background, findings, required corrective action and timeline for corrective action. Narrative comments should be included detailing any inconsistencies or noncompliance situations discovered during the inspection, as well as the necessary corrective action(s) as appropriate.

If there are no required corrective actions, the inspection can be concluded and closed out. If a corrective action is required, the land use inspection will remain open until the Region or ADO finds the sponsor has completed the corrective action in a manner that is satisfactory to the FAA.

Within 30 days of completing the land use inspection, but before the end of the fiscal year in which the inspection took place, the Region should forward a copy of the land use report to ACO-100.

21.5 through 21.9 Reserved.