



October 17, 2022

Mr. Kevin Willis
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Re: Draft FAA Policy Regarding Processing Land Use Changes on Federally Acquired or Federally Conveyed Airport Land
(Docket No. FAA-2022-1203)

Dear Mr. Willis:

On behalf of the National Association of State Aviation Officials (NASAO), I appreciate the opportunity to share these general comments and questions to the Federal Aviation Administration (FAA) in response to the Request for Comments on Draft FAA Policy Regarding Processing Land Use Changes on Federally Acquired or Federally Conveyed Airport Land, published on September 15, 2022.

NASAO is the nationally recognized voice for the public interest in aviation on behalf of the states and territories. NASAO represents state officials of all 50 states, Guam, and Puerto Rico, who, as part of their many responsibilities, make decisions on funding aviation systems and airport infrastructure at our nation's more than 3,300 public-use airports.

NASAO appreciates FAA's efforts to clarify its policy on airport land use changes, however there are several questions and issues that should be addressed with stakeholders before a final policy is published:

Lease Reviews

- NASAO is concerned that the draft policy will require lengthy FAA reviews of all leases where such reviews do not currently exist. This could inadvertently encourage airport sponsors to create longer term leases, which may not necessarily be in the best interest of the airport, to avoid the uncertainty of whether a lease could be approved again or delayed. It will be critical for the FAA to guard against unnecessarily holding up leases for approved land uses.
- The draft policy does not set a timeline for reviews. There needs to be a reasonable and standard timeframe for review and approvals of leases and land use changes to ensure timely decisions.

Lease Renewals or Extensions

- Requiring another approval process after the lease has expired could jeopardize the potential for airports to lease as the possibility of a non-approval could affect negotiable lease renewal rates and impact the fair market value.
- There is no process in the draft policy on how to extend the approved non-aeronautical and mixed-use change beyond the initial lease term. This could prevent an airport from adding a provision in the lease agreement about extending the initial lease term due to the uncertainty of the FAA approving the lease and non-aeronautical or mixed-use change again. There should be a way to expedite the approval process if the terms of the lease renewal or extension is similar or the same.

FAA's Evaluation of the Request

- The draft policy does not explain how the FAA will determine the “primary use” of a project as part of it considers whether the non-aeronautical use is significant. The FAA should explain how it will determine the “primary use” of property and how it will look at the entire proposal to find determination on one particular parcel.
- If FAA's decision is not in favor of the airport sponsor's request, will there be an appeal process and what would it entail? There should also be a standard timeframe for an appealed decision.
- The FAA should define what the agency discretion considerations will be as this may not be the same in each FAA region, thereby creating confusion among airports.

Tracking Lease Agreements

- As written, the draft policy raises questions as to whether those States who are required to review non-aeronautical leases for federally purchased land would also have to review lease renewals or extensions and track them to ensure that these properties convert back to aeronautical purposes at the expiration of the lease. This would be extremely difficult to track accurately for states with a high number of general aviation airports with a wide variety of non-aeronautical land uses and lengthy lease terms. It also raises questions as how these States would track all these lease agreements. This is an issue that needs further consideration and should be directly addressed with the States.

Additional comments/questions for consideration:

- **Section 163 Review Process:** This policy does not make the connection to the existing Section 163 Review Process. This policy should integrate any requirements to meet the expectations of the Section 163 Review process and the new proposed policy at the same time to prevent redundancy.

- **Impacts on Existing Leases:** How will the draft policy affect existing leases for the airport property? Will they need to be amended or will the policy become effective at the end of the lease?

Thank you for your time and consideration of NASAO's feedback on the FAA draft policy. I also encourage the FAA to carefully consider the input submitted by the individual states. Please do not hesitate to reach out to Jessica Nagasako (JNagasako@nasao.org), NASAO's Director of Government Affairs, or me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gy R", is positioned above the typed name and title.

Gregory Pecoraro
NASAO President and CEO