FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile (decreased from a 7-mile) radius of Mount Pleasant Municipal Airport, Mount Pleasant, MI; and updates the geographic coordinates of airport to coincide with the FAA's aeronautical database.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL MI E5 Mount Pleasant, MI [Amended]

Mount Pleasant Municipal Airport, MI
(Lat 43°37′18″ N, long 84°44′14″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Mount Pleasant Municipal Airport.

* * * * *

Issued in Fort Worth, Texas, on December 2, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–26862 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0432]

14 CFR Chapter I

Policy Regarding Processing Land Use Changes on Federally Acquired or Federally Conveyed Airport Land

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of final policy.

SUMMARY: This action finalizes the FAA's policy on the FAA's procedures for processing land use changes on federally acquired or federally conveyed airport land or in situations where a land use change impacts the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations. These changes were needed because of legislative changes made in the FAA Reauthorization Act of 2018. The policy is intended to simplify the procedures required to make a land use change and to protect airport land by limiting the use of releases to the actual sale or disposal of airport property.

DATES: This policy is effective January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Kevin C. Willis, Director, Airport Compliance and Management Analysis, ACO–1, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 267–4629.

ADDRESSES: You can get an electronic copy of this Policy and all other documents in this docket using the internet by:

(1) Searching the Federal eRulemaking portal (*https://www.regulations.gov*)

(2) Visiting FAA's Regulations and Policies web page at (*http://www.faa.gov/regulations/policies*); or

(3) Accessing the Government Publishing Office's web page at (*http://www.gpoaccess.gov/index.html*).

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Airport Compliance and Management Analysis, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–3085. Make sure to identify the docket number, notice number or amendment number of this proceeding.

SUPPLEMENTARY INFORMATION:

Authority for the Policy: This document is published under the authority described in Title 49 of the United States Code, Subtitle VII, part B, chapter 471, section 47122(a).

This policy should be used in conjunction with FAA Order 5190.6, *Airport Compliance Manual,* Chapter 22, Releases from Federal Obligations; and FAA Order 5100.38, *Airport Improvement Handbook;* and any related policy implemented in conjunction and complementary with Airports Planning and Programming (APP) guidance. Additionally, compliance specialists will consult with FAA environmental protection specialists to determine what, if any, environmental obligations under relevant statutes or regulations may apply to specific land use changes at specific airports.

Background

Congress authorized financial assistance for an airport development project to acquire land, including land for future airport development (See 49 U.S.C. 47104, 47107(c)(2)). Under the Airport Improvement Act, land is needed for an airport purpose ''if the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land, and revenue from interim uses of the land contributes to the financial self-sufficiency of the airport.'' (See 49 U.S.C. 47107(c)(1)). Congress also authorized the conveyance of Federal non-surplus and surplus property for

developing, improving, operating or maintaining a public airport. (See 49 U.S.C. 47125, 47151).

Federally conveyed or federally acquired land must be used for airport purposes until the FAA approves or consents to a change in land use. (See 49 U.S.C. 47153(a), 47125(a), and 47107(c)(2)(B)). In addition, Congress requires the FAA to submit an annual report listing airports not in compliance with airport land use restrictions and identifying necessary corrective action. (49 U.S.C. 47131(a)(5)).[1]

The FAA's decision to approve or consent to a non-aeronautical or mixed land use or to release Federal obligations depends on the obligating documents, the current and future aeronautical need for the property, and the requested land use. For example, residential use of airport property is incompatible with the needs of civil aviation. Incompatible land uses on the airport are prohibited by FAA policy and are contrary to Federal obligations. Limiting the use of aeronautical facilities to aeronautical purposes ensures that airport facilities are available to meet aviation demand at the airport. Aviation tenants and aircraft owners should not be displaced by non-aviation commercial uses that could be conducted off airport property.[2] The FAA must consider both the existing and future aviation demand.

Implications of FAA Reauthorization Act of 2018

Through the ''*FAA Reauthorization Act of 2018*'' (Pub. L. 115–254), Section 163, Congress changed the FAA's authority to regulate non-federally acquired or conveyed airport land. The FAA's authority over a proposed land use change may be limited when (1) it does not impact the safe and efficient operation of aircraft or the safety of people and property on the ground related to aircraft operations or (2) does not adversely affect the value of prior Federal investments to a significant extent. (*See* Pub. L. 115–254, section 163(b)(1)(A) and (d)(1)(B)). Section 163(a) limits the FAA's authority to directly or indirectly regulate an airport owner or operator's acquisition, use, lease, encumbrance, transfer, or disposal of land, any facility upon such land, or any portion of such land or facility. However, Section 163(b) contains three exceptions and provides that the limitations of Section 163(a) do not apply to the following:

1. Any regulation ensuring the safe and efficient operation of aircraft or the safety of people and property on the ground related to aircraft operations; [3]

2. Any regulation imposed with respect to land or a facility acquired or modified using Federal funding; [4]

3. Any authority contained in a Surplus Property Act instrument of transfer,[5] or section 40117 of title 49 United States Code (Passenger Facility Charge statute).[6]

When the FAA retains approval authority over a proposed land use change or sale, the FAA will follow this policy guidance and FAA Order 5190.6, *Airport Compliance Manual.* When the FAA does not have approval authority over a proposed land use change or sale, all of the airport sponsor's Federal statutory and grant assurance obligations remain in full force and effect, including over its remaining airport property. In addition, airport sponsors remain obligated under FAA's *Policies and Procedures Concerning the Use of Airport Revenue* (64 FR 7696, February 16, 1999) (Revenue Use Policy), and FAA's *Policy Regarding Rates and Charges* (78 FR 55330, September 10, 2013). Any land that is to be sold or leased must be at fair market value and the funds must be used in accordance with the FAA's *Revenue Use Policy.* (See 49 U.S.C. 47107(c)(2)(B)). The airport sponsor should retain sufficient authority over the disposed land to prevent uses that conflict with its Federal obligations and related requirements or create conditions resulting in violations of the Grant Assurances. To retain this authority, airport sponsors should consider using subordination clauses, reservations, covenants, or other restrictions in a deed, or other instrument, to protect the public's right to fly over the land, prohibit obstructions to air navigation or interference with the flight of aircraft, or assure compatible land use. The deed or other instrument containing the restrictions should be recorded in local land records.

The FAA may verify compliance with these requirements through a financial compliance review, request and review of supporting documentation, enforcement of grant assurances, or other enforcement mechanisms. The airport sponsor also has the responsibility to comply with all Federal, state, and local environmental laws and regulations.

In September 2022, the FAA issued a Draft FAA Policy Regarding Processing Land Use Changes on Federally Acquired or Federally Conveyed Airport Land and requested comments. (87 FR 56601, September 15, 2022). The FAA received comments from 29 commenters representing airport sponsors, industry groups, and airport consultants.

Discussion of Public Comments

The following summary of comments reflects the major issues raised and does not restate each comment received. The FAA considered all comments received even if not specifically identified and responded to in this notice.

1. Comment: Commenters asked for clarification on the purpose and reason for the policy clarification.

Response: As the steward of federally acquired and federally conveyed land, FAA's role is to ensure that such land is available to serve aviation needs. New aviation entrants (air mobility, UAS, etc.) are changing the nature of aviation and their ability to use land previously deemed inaccessible due to its distance from the runway and taxiway environment is changing. To ensure land is available to serve these growing aviation needs, the FAA, as a general policy, will only release Federal obligations when land is to be sold or conveyed. This policy allows airport sponsors to seek approval for non-aeronautical land use in excess of 3–5 years without a release of obligations.

2. Comment: Commenters asked whether the policy applies to land acquired for noise compatibility.

Response: This policy does not apply to land acquired for noise compatibility purposes. FAA's *Noise Land Management and Requirements for Disposal of Noise Land or Development Land Funded with AIP* issued June 2014 (*www.faa.gov/sites/faa.gov/files/airports/environmental/policy_guidance/Noise-Land-Management-Disposal-AIP-Funded-Noise-Development-Land.pdf*) provides guidance on disposal and retention of noise land through the Noise Land Reuse Plan.

[1] Airport sponsors that have accepted federally conveyed or federally acquired airport land have agreed to comply with certain obligations and policies included in the Federal grant agreement or the Federal conveyance documents regarding the use of the land. Those obligations derive from multiple statutes, deed covenants and the grant assurances.

[2] See *Policy on the Non-Aeronautical Use of Airport Hangars,* 81 FR 38906–38907, (June 15, 2016).

[3] See section 163(b)(1)(A).

[4] See section 163(b)(2).

[5] The FAA may retain approval authority over proposed changes in the use of lands granted to an airport sponsor from the United States, including under the *Surplus Property Act,* 49 U.S.C. 47125, section 16 of the *Federal Airport Act of 1946* Public Law 79– 377, section 23 of the *Airport and Airway Development Act of 1970,* Public Law 91–258, section 516 of the *Airport and Airway Development Act of 1982,* and former military airports conveyed to local public entities under the congressionally authorized Base Realignment and Closure program because lands granted under these statutes constitute Federal investments in the airport.

[6] See section 163(b)(3).

3. Comment: Commenters are concerned that the duration of FAA's approval or consent to a land use change will be limited to the length of a lease and create additional workload.

Response: The final policy clarifies that the duration of the FAA's approval or consent will be dependent on the circumstances at the airport. It may be permitted for the duration of the approved use so long as the land is not needed for aeronautical use. The duration is not limited to an individual lease term.

4. Comment: Commenters asked whether FAA will now review and approve leases.

Response: The policy does not change the FAA's approach to the review of an airport sponsor's leases. The FAA does not approve leases but will continue to review some leases, as needed, to ascertain compliance with an airport sponsor's Federal obligations.

5. Comment: Commenters asked whether aeronautical or airport purpose land uses need FAA consent or approval?

Response: Aeronautical and airport purpose land uses do not need FAA approval or consent for the use. However, airport sponsors are reminded that other approvals, such as airspace, may still be required.

6. Comment: Commenters asked FAA to provide a timeframe for completing a land use change review.

Response: FAA recommends that airport sponsors work closely with their Region/ADO to determine the timeframes for completing a land use change review. Each situation is unique and the timeframe is dependent upon the level of documentation submitted and airport-specific information.

7. Comment: Commenters asked if there is an appeal process if a sponsor's request is denied.

Response: Similar to an airport sponsor's request for a release, if the request is denied, the airport sponsor is encouraged to work with Region/ADO to find possible alternatives that will meet their needs, while protecting the aeronautical use of the airport. A Region/ADOs determination is not a final agency decision. The Region/ADO can coordinate with ACO–100 as needed.

8. Comment: Commenters asked if the policy is retroactive and if existing uses will be grandfathered.

Response: This policy is not retroactive. It will not apply to land that FAA has previously released for non-aeronautical use under a Letter of Release or a Deed of Release. However, existing interim/concurrent use approvals will be reviewed in accordance with this policy when the existing approval expires.

9. Comment: Commenters asked when under this policy must airport sponsors update their Exhibit A.

Response: Under this policy, an airport sponsor's Exhibit A must be updated when the FAA issues a letter of consent or approval or when the property is released for sale or conveyance off the airport.

10. Comment: Commenters asked if the designation of a non-aeronautical area on the Airport Layout Plan (ALP) mean the land use has been approved.

Response: The designation of non-aeronautical areas on the ALP does not mean a particular land use has been approved. These areas can still be shown as proposed on the ALP but must be updated on the Exhibit A once the FAA has approved or consented to the use.

11. Comment: Commenters asked whether NEPA applies to FAA's issuance of letters of consent or approval.

Response: These comments are not within the scope of the policy and have been shared with the appropriate office for consideration. Airport sponsors should coordinate with their local FAA Region/ADO to determine their National Environmental Policy Act (NEPA) obligations.

12. Comment: Commenters asked how this policy relates to the FAA's existing Section 163 guidance?

Response: This policy does not change FAA's review and approval authority for ALPs or land use under Section 163. The policy only addresses how land use approvals are processed after FAA has determined we retain approval authority.

13. Comment: Commenters noted that 49 U.S.C. 47107(c)(1)(A) includes ''(ii) revenue from interim uses of the land [that] contributes to the financial self-sufficiency of the airport . . .'' and should not be omitted from the definition of Airport Purpose.

Response: In the final policy, the FAA has included 49 U.S.C. 47107(c)(1)(A)(i) and (ii) in the definition of airport purpose.

14. *Comment: Commenters asked for additional detail on how the FAA will assess the primary purpose of a requested land use change. Some commenters suggested square footage, customer base, nature of the structure, etc.*

Response: The FAA recognizes that there are numerous ways a requested land use change can be evaluated to determine its primary purpose. Airport sponsors should work closely with their Region/ADO to complete the land use change review.

15. Comment: Some Commenters requested a response to specific individual examples at their airport.

Response: The FAA recognizes that land use decisions must be based on the specific use identified and the situation at the airport. The FAA has provided general guiding examples, but the determination is dependent on the specific facts of a situation and should be discussed with the local Region/ADO.

III. Final Policy

The FAA is adopting the following FAA policy and practice regarding processing land use changes on federally acquired or federally conveyed airport land: [7] (1) in reviewing an airport sponsor's request for a land use change on federally acquired or federally conveyed airport land, the FAA will review the primary purpose of the requested land use, rather than examining each individual component of the request as aeronautical or nonaeronautical; (2) FAA written approval or consent is only required for a change in land use to non-aeronautical use, mixed use, or for interim uses of the land that contribute to the financial self-sufficiency of the airport; (3) the duration of the FAA's approval or consent will be dependent on the circumstances at the airport and may be permitted for the duration of the approved use; [8] (4) The FAA will only release Federal obligations when the airport sponsor requests a release for the sale or conveyance of airport land that meets FAA release requirements, such a release must have ACO–100 concurrence; [9] and (5) FAA letters of approval or consent will be documented on the Exhibit A.

Applicability

This policy applies to all requests for land use changes on federally acquired or federally conveyed land as well as when a land use change impacts the safe and efficient operation of aircraft or the safety of people and property on the ground related to aircraft operations.

[7] This also applies in situations where a land use impacts the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations.

[8] This process supersedes the existing interim and concurrent use process discussed in FAA Order 5190.6B, *Airport Compliance Manual, 2009,* that was limited to 3–5 years.

[9] Airport sponsors should follow the existing release process in 14 CFR part 155, *Release of Airport Property from Surplus Property Disposal Restrictions* and FAA Order 5190.6, Chapter 22.

1. General

This policy and practice is intended to ensure that the Federal investment in federally obligated airports is protected by making the use of aeronautical land and facilities available for aeronautical purposes and to ensure that airport land and facilities are available to meet the current and future aeronautical demand of the airport. Aeronautical users should not be displaced by non-aviation commercial uses, especially those that could be conducted off airport property.

2. Explanation of Terms

Aeronautical Use—The FAA considers the aeronautical use of an airport to be any activity that involves, makes possible, is required for the safety of, or is otherwise directly related to, the operation of aircraft. Aeronautical use includes services provided by air carriers related directly and substantially to the movement of passengers, baggage, mail, and cargo at the airport. (*FAA's Policy Regarding Rates and Charges,* 78 FR 55331, September 10, 2013).

Over time, the definition of aeronautical use has remained relatively unchanged, except when changes were needed to reflect necessary access for sky diving and new entrants. Land on which an aeronautical activity takes place is by its nature aeronautical use (*e.g.,* drop zone, apron, hangar).

The FAA confirms the use of a narrow definition of what constitutes an ''aeronautical use'' for land use purposes. Congress authorized financial assistance for an airport development project to acquire land, including land for future airport development (See 49 U.S.C. 47104, 47107(c)(2)(B)). Congress also authorized the conveyance of Federal non-surplus and surplus property for developing, improving, operating or maintaining a public airport. (See 49 U.S.C. 47125, 47151). The Congressional intent is furthered by a policy that requires aeronautical land to be used for aeronautical purposes unless the FAA discharges the airport sponsor of that obligation. Limiting the use of aeronautical land and facilities for aeronautical purposes ensures that airport land and facilities are available to meet the aeronautical demand of the airport, including future demand. Also, aeronautical users should not be displaced by non-aviation commercial uses, especially those that could be conducted off airport property.

Aeronautical use lands receive additional protection and benefits. They are afforded the protection of the grant assurances and aeronautical users may be charged favorable below market aeronautical rates. Overall, a narrower definition of aeronautical use helps protect the Federal investment in aviation by ensuring that nonaeronautical uses cannot easily displace aeronautical uses and thereby diminish the safety, efficiency, and utility of the entire airport.

Examples of aeronautical use include:

1. Operational uses such as aerial approaches, navaids, runways, taxiways, aprons, hangars, or other aircraft movement areas;

2. Future developmental uses to reserve property interests for foreseeable aeronautical development (*e.g.,* a planned runway extension or a planned terminal building development); and

3. Essential services that directly support flight operations (*e.g.,* aircraft maintenance, fueling, and servicing; mail, passenger, and cargo processing facilities; communications and air traffic control; crash rescue, firefighting, and airport maintenance).

Airport Purpose: Uses of land that are (1) directly related to the actual operation or the foreseeable aeronautical development of a public airport and (2) whose nonaeronautical components do not conflict with existing or foreseeable aeronautical needs/demands. These uses do not require FAA consent or approval of land use. These are situations where a primary aeronautical facility has some nonaeronautical components, including parking, that support that facility's core aeronautical function within its operation. These nonaeronautical components should be paying a fair market value lease rate. Examples of this include:

1. A terminal complex: All components of a terminal complex (including the building, terminal concessions, airline ticket and car rental counters, parking, and roads);

2. A fixed base operator (FBO) facility, including parking and classrooms;

3. Parking associated with the airport purpose (*e.g.,* passenger and employee parking);

4. Airport service roads; and

5. Truck parking for air cargo processing facilities when it is directly related to moving inbound and outbound air cargo on and off the airport.

This does not include certain uses, such as aircraft manufacturing plants and warehouse distribution facilities, which are considered as mixed-use as defined below.

In addition, airport purpose includes land that may be needed in the future for an aeronautical purpose and revenue from an interim use of the land contributes to the financial self-sufficiency of the airport. Such interim uses require FAA approval or consent as described below.

Non-Aeronautical Use: All other uses that are not considered aeronautical or airport purpose. These uses will require FAA consent or approval of the land use. Examples of non-aeronautical use include:

1. Car rental facility (stand-alone);

2. Hotel;

3. Warehouse and distribution center; and

4. Parking associated with non-aeronautical uses (*e.g.,* customer and employee parking for hotel, warehouse and distribution center, car rental).

Non-aeronautical uses commonly occur at airports, but these uses do not have the priority or protection of the grant assurances. There is no Federal requirement that obligated airport sponsors accommodate non-aeronautical uses. This differentiation between aeronautical and non-aeronautical is intended to protect the Federal investment in aviation and ensure that non-aeronautical uses cannot easily displace aeronautical uses and thereby diminish the safety, efficiency, and utility of the airport.[10]

Mixed Uses—A mixed-use facility contains both aeronautical and non-aeronautical uses, but the non-aeronautical use could be located off airport property. These uses will need FAA consent or approval for the land use. The FAA will take into account whether the non-aeronautical component will impact existing uses or conflict with existing or foreseeable aeronautical needs/demand. Examples of mixed uses include:

1. Mail distribution centers that are connected to an air cargo operation;

2. Cargo operations where the primary purpose of the operation goes beyond air cargo processing facilities and expands into non-aeronautical elements, such as office building complexes, sorting facilities, long-term storage (warehousing), freight forwarders, and third-party logistics providers, certain access infrastructure, or certain truck parking/trailer facilities (stalls). Most of these are related to other transportation modes or aspects of the cargo business, not directly and substantially to its ''aeronautical activity'';

3. Aircraft manufacturing facility that includes final assembly, but also significant non-aeronautical uses such as engineering facilities, research and development facilities, parts

[10] FAA has provided guidance on the temporary non-aeronautical use of a hangar in FAA's Hangar Use Policy (*Policy on the Non-Aeronautical Use of Airport Hangars* (81 FR 38906), June 15, 2016). *www.govinfo.gov/content/pkg/FR-2016-06-15/pdf/2016-14133.pdf*).

manufacturing and storage, or office buildings; and

4. Parking associated with the mixed use (*e.g.,* customer and employee parking for mail distribution, cargo operations, aircraft manufacturing).

Federally acquired land—This is land that was acquired with Federal funds including the Airport Improvement Program (AIP), Federal Aid to Airports Program (FAAP), Airport Development Aid Program (ADAP), and as part of an AP–4 agreement.[11] It also includes airport sponsor-acquired land that was used for the airport sponsor match for an AIP project or was swapped for AIP purchased land.

Federally conveyed land—This is land conveyed to the airport sponsor by the Federal government through a written deed of conveyance (sometimes called a patent or included in a lease termination, etc.) that contained specific restrictions or allowances for the use of the land. The FAA recognizes that some Federal conveyance documents specifically permit non-aeronautical use for revenue production or a specific identified use—in these instances, there is not a change in land use. Federally conveyed land includes land transferred under:

1. Surplus Property Act, codified in 49 U.S.C. 47151–47153, including former military airports conveyed to local public entities under 10 U.S.C. 2687 of the Defense Base Closure and Realignment Act (BRAC) program or any other Federal laws; and,

2. Section 16 of the Federal Airport Act of 1946, 119 Public Law 79–377, Section 23 of the Airport and Airway Development Act of 1970, Public Law 91–258, and Section 516 of the Airport and Airway Development Act of 1982, codified in 49 U.S.C. 47125. These are sometimes referred to as non-surplus property transfers.

Release of Federal obligations—The formal, written authorization discharging and relinquishing all or part of the FAA's right to enforce an airport's contractual or deeded obligations. The FAA's authority to release, waive, or amend an obligation is contained in 49 U.S.C. 47153(a) and 47107(h)(2).

Letter of consent or approval—The FAA's action on a proposed land use change will be documented in the form of a letter of consent or a letter of approval, depending upon the obligating deeds or documents and the land at issue. Surplus Property Act deeds require the FAA's written consent for a non-aeronautical use, so a letter of consent is appropriate.

Alternatively, Grant Assurance 5, *Preserving Rights and Powers,* requires prior written approval of the Secretary for the sale or transfer of any property upon which Federal funds have been expended, which would require a letter of approval. In both cases, the letters serve the equivalent purpose of documenting the FAA's action on the airport sponsor's request. These letters also serve to approve interim uses for revenue production on property acquired for an airport purpose.

3. Process for Evaluating Land Use Changes

Uses of airport land will fall into one of four categories: (1) aeronautical use, (2) airport purpose, (3) non-aeronautical use, or (4) mixed-use.

The airport sponsor must obtain FAA approval or consent for all non-aeronautical and mixed uses of federally acquired or federally conveyed land.[12] FAA approval or consent is not needed for a proposed land use that meets the definition of aeronautical use or airport purpose. The following explains the process when an airport sponsor requests a change in land use on federally conveyed or federally acquired land:

A. What Airport Sponsors Must Submit

The airport sponsor's request needs to include the following:[13]

1. identification of the property and documentation on how the land was acquired (*i.e.,* Federal conveyance documents, Federal grant agreements, Exhibit A);

2. current use of the property;

3. current and future aeronautical demand of the airport and the property (*e.g.,* current Master Plan, forecasts, hangar waitlists); and,

4. proposed use of the property, including the anticipated length of the use.

B. FAA's Evaluation of the Request

Upon receipt of all documents, the FAA will promptly review the airport sponsor's request. The review involves a certain level of discretion by the FAA and the airport sponsor. The FAA may request additional information regarding the proposal. Major considerations in granting approval or consent include the:

1. Reasonableness and practicality of the airport sponsor's request,

2. The effect of the request on needed aeronautical facilities,

3. The net benefit to civil aviation, and

4. Compatibility of the proposal with the needs of civil aviation.

(Incompatible land uses on the airport, including residential use, are prohibited by FAA policy and are contrary to federal obligations.)

The distinctions may vary slightly depending on the circumstances of the situation, such as intermodal functionality, business model, project integrity, available airport land, project size and location, airport planning priorities, and funding requirements and restrictions. The land use must benefit the airport and its functions in support of aeronautical uses and must not adversely affect the value of the federal investment in the airport and its facilities. 49 U.S.C. 47107(a)(16)(B), 47125(a), and 47152(1).

The land use should be compatible with the airport's current or future aeronautical use or demand. FAA approval will not be granted if the FAA determines that an aeronautical demand for the land is likely to exist within the period of the requested land use. The duration of FAA's approval or consent will depend on the circumstances at the airport and may be permitted for the duration of the approved use. The approval or consent must state that the land will be returned to aeronautical use at the end of the approved period.

C. Documentation of FAA Decision

Upon completion of the review, the FAA will either issue a letter of approval or consent for the use or deny the request. Where possible, the FAA may issue the letter of approval or consent concurrently with a Section 163 determination letter.

The letter of approval or consent will document the FAA's determination of the land use on federally acquired or federally conveyed airport land. This letter will outline the conditions of the approval or consent and include a requirement that the land must be available for aeronautical use at the end of the approval or consent period. Generally, the approval or consent will remain in effect for the duration of the approved use. The letter of approval or letter of consent does not affect or negate the airport sponsor's Federal obligations.

The requirement for NEPA should be coordinated with the Regions/ADO Environmental Protection Specialist (EPS).

[11] In some instances, an AP–4 Agreement included a federal land purchase. The original agreement and funding should be reviewed to confirm the source of the funds.

[12] The airport sponsor must obtain FAA approval of interim land uses for revenue production on property acquired for an airport purpose (See 49 U.S.C. 47107(c)(1)).

[13] An airport sponsor may reference documents already submitted as part of a review under Section 163 and will not need to resubmit unless there have been changes or information is missing.

After an airport sponsor receives an FAA letter of consent or approval, it will update the Exhibit A.

Issued in Washington, DC, on December 5, 2023.

Kevin C. Willis,

Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2023–27017 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 738, 740, 742, and 774

[Docket No. 230920–0229]

RIN 0694–AJ29

Allied Governments Favorable Treatment: Revisions to Certain Australia Group Controls; Revisions to Certain Crime Control and Detection Controls

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by removing Proliferation of Chemical and Biological Weapons (CB) controls on specified pathogens and toxins that are destined for Australia Group (AG) member countries and by revising the Commerce Country Chart to remove Crime Control and Detection (CC) controls on certain items that are destined for Austria, Finland, Ireland, Liechtenstein, South Korea, Sweden, and Switzerland. These changes are being made as part of a broader effort announced today that will liberalize several categories of export licensing requirements and the availability of export license exceptions for key allied and partner countries, as well as for members of certain multilateral export control regimes.

DATES: This rule is effective December 8, 2023.

FOR FURTHER INFORMATION CONTACT: For questions on pathogens and toxins discussed in this rule, contact Dr. Tara Gonzalez, Chemical and Biological Controls Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Telephone: (202) 482–3343, Email: *Tara.Gonzalez@bis.doc.gov.* For all other questions pertaining to this rule, contact Logan Norton, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482–1762, Email: *RPD2@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Liberalizing Controls for Allies and Partners

Historically, the United States has relied on deep connections with its allies and partners to protect its vital national security and foreign policy interests. In particular, the United States acts in close cooperation with its allies and partners to bring together the international community to address military aggression, threats to sovereignty, and human rights abuses around the world. This is especially true in the context of export controls, in which multilateral and plurilateral controls are typically the most effective path toward accomplishing our national security and foreign policy objectives.

In remarks made at the U.S. State Department on February 4, 2021, regarding America's place in the world, President Biden noted that America's alliances are some of our greatest assets and that leading with diplomacy means standing shoulder to shoulder and working closely with our allies and key partners, thereby protecting the world against nefarious actors. At that time, President Biden highlighted the fact that the United States would be ''more effective in dealing with Russia when we work in coalition and coordination with other like-minded partners.'' (*https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/04/remarks-by-president-biden-on-americas-place-in-the-world/*). Consistent with this direction, a year later, following Russia's unjustifiable further invasion of Ukraine and Belarus's complicity in that invasion, the United States led the formation of and continues to lead alignment within the Global Export Controls Coalition (GECC), now comprising the United States and 38 other global economies. BIS's export controls on Russia and Belarus have been successful because they have been imposed and maintained in coordination with U.S. allies and partners. At the same time, in addition to the GECC, BIS has forged deeper ally and partner country relationships through a series of bilateral and multilateral export controls dialogues, including under the auspices of the U.S.-European Union Trade and Technology Council (TTC) and the U.S.-Japan Commercial and Industrial Partnership (JUCIP).

The changes made with this rule and two other ally and partner rules published today are part of a broad effort to liberalize controls for allies and partner countries under the EAR (15 CFR parts 730–774). Together, these rules will ease several categories of export licensing requirements and increase the availability of export license exceptions for key allied and partner countries, as well as members of certain multilateral export control regimes.

Overview of Regulatory Changes

As described below, in recognition of key allies' and partners' support of our efforts against Russia, along with their leadership in the areas of chemical and biological weapons nonproliferation and the promotion of human rights, BIS is making two sets of amendments to the EAR. First, it is revising the Chemical and Biological Nonproliferation (CB) controls that apply to certain pathogens and toxins that are destined for members of the Australia Group (AG). Second, it is removing Crime Controls (CC) on seven key allied and partner countries, Austria, Finland, Ireland, Liechtenstein, South Korea, Sweden, and Switzerland. These amendments to the EAR eliminate certain controls on allied and partner countries, as well as on AG member countries, thereby facilitating exports and reexports involving these countries and allowing BIS to apply its resources toward reviewing and monitoring more sensitive exports and higher-risk transactions. These amendments are part of a larger effort announced by BIS today that includes several EAR amendments eliminating certain license requirements and broadening the availability of license exceptions for allied and partner countries, including member countries of international regimes.

Pathogens and Toxins

The AG is the multilateral export control regime responsible for controlling chemical and biological items to ensure that such items do not contribute to chemical and biological weapons proliferation. The AG currently has 43 members, including the United States. All items controlled under ECCNs 1C351, 1C353, 1C354, 1E001, and 1E351 on the Commerce Control List (CCL) (supp. no. 1 to part 774 of the EAR) are controlled multilaterally by the AG, except those items controlled under ECCN 1C351.b.

Prior to this rule, entries for pathogens and toxins controlled under ECCNs 1C351, 1C353, 1C354, and their related technologies controlled under ECCNs 1E001, and 1E351, listed CB Column 1 (CB:1) (see Commerce