

[Reg. Docket No. 1896; Amdt. 153-1]

**PART 153—ACQUISITION OF U.S.  
LAND FOR PUBLIC AIRPORTS  
[NEW]**

**Covenants and Reverter Clauses in  
Conveyances**

The purpose of this amendment is to provide for the inclusion, in instruments of conveyance of property interests in United States land to public agencies for airport purposes under section 16 of the Federal Airport Act (49 U.S.C. 1115), of covenants that the transferees will not grant or permit any exclusive right to conduct any aeronautical activity on the Airport unless authorized by the Administrator.

On August 6, 1963, this Agency issued notice of proposed rule making No. 63-33 (28 F.R. 8292) in which it set forth a proposal to conform Part 153 (New) of the Federal Aviation Regulations with the Agency's determination, announced in its Policy Statement issued July 17, 1962, Prohibition of Exclusive Rights on Airports Receiving Federal Funds (27 F.R. 7054), that ordinarily it regards the grant of an exclusive right on an airport on which Federal funds have been expended as contrary to the requirements of section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349). Several comments were received from interested persons, and due consideration has been given to all relevant matter presented. The only adverse comment suggested that local governmental authority, rather than the Administrator, should exercise the function of permitting exclusive rights in exceptional situations. This suggestion can not be followed since the decision whether exceptional circumstances exist that justify an exclusive right, is a function of the Administrator under the Agency's policy announced in its Policy Statement issued July 17, 1962.

The covenants provided by this amendment do not apply to the sale of gasoline and oil at an airport embracing property acquired under the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1622(g)), in view of the exclusion of that kind of sale from the definition of "exclusive right" contained in that statute.

In consideration of the foregoing, effective April 20, 1964, § 153.13 of Part 153 [New] of the Federal Aviation Regulations is amended as follows:

By inserting the designation "Covenants" at the beginning of paragraph (a), by redesignating subparagraphs (3), (4), and (5) of paragraph (a) as subparagraphs (5), (6), and (7), respectively, and adding new subparagraphs (3) and (4), by inserting the designation "Reverter clause" at the beginning of paragraph (b), and by adding a new paragraph (c). The amended and added portions read as follows:

**§ 153.13 Covenants and reverter clauses  
in conveyances.**

(a) Covenants. \* \* \*

\* \* \* \* \*

(3) That the grantee will not grant or permit any exclusive right for the use of the airport contrary to the prohibition in section 308 of the Federal Aviation Act of 1958 and will otherwise comply with all applicable law;

(4) That in furtherance of this covenant, but without limiting its general applicability and effect, the grantee specifically agrees that, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right for the conduct of any aeronautical activity on the airport, including charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activities, repair and maintenance of aircraft, sale of aircraft parts, and any other activities that because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity;

\* \* \* \* \*

(c) *Surplus property airports.* The covenants set forth in paragraph (a) of this section that prohibit exclusive rights do not affect the rights or obligations of the grantee under a surplus property instrument of transfer that conveyed surplus property of the United States to the grantee under section 13(g) of the Surplus Property Act of 1944, as amended, 50 U.S.C. App. 1622(g).

This amendment is issued under the authority of section 16 of the Federal Airport Act (49 U.S.C. 1115); section 13(g) of the Surplus Property Act, as amended (50 U.S.C. App. 1622(g)); and section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349).

Issued in Washington, D.C., on March 13, 1964.

N. E. HALABY,  
Administrator.

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8:45 a.m.]