

SUBCHAPTER I—AIRPORTS

[Docket No. 9256]

PART 169—EXPENDITURE OF FEDERAL FUNDS FOR NONMILITARY AIRPORTS OR AIR NAVIGATION FACILITIES THEREON

The purpose of this part is to implement the first two sentences of section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) with respect to the written recommendation and certification by the Administrator, required by those provisions, that a proposed project is reasonably necessary for use in air commerce or in the interests of national defense. Section 308(a) requires such a recommendation and certification where Federal funds are to be expended for nonmilitary purposes for airports or air navigation facilities thereon. The new part does not change the established practice for issuing grants under the Federal Airport Act (49 U.S.C. 1101 through 1120).

The adoption of this part was proposed in Notice 68-30 and published in the FEDERAL REGISTER on November 22, 1968 (33 F.R. 17315). The two public comments received on the notice concurred in the proposal.

This part is now issued to facilitate the performance of the Administrator's functions under the first two sentences of section 308(a) of the Federal Aviation Act of 1958, as proposed but with one additional situation where application for recommendation and certification is unnecessary. Section 169.3(b) provides that, like approval of a project under section 9 of the Federal Airport Act, inclusion of an airport in the National Airport Plan also has the effect of a recommendation and certification. However, for this purpose, notice of construction or alteration required by Part 157 of the Federal Aviation Regulations must have been given, and the Administrator must have determined that there is no objection to the proposed construction or alteration.

Interested persons have been afforded an opportunity to participate in the rule making, and due consideration has been given to all matters presented.

In consideration of the foregoing, Title 14, Chapter I, of the Code of Federal Regulations is amended, effective April 26, 1969, by adding the following new Part 169 to Subchapter I.

Issued in Washington, D.C., on March 20, 1969.

D. D. THOMAS,
Acting Administrator.

Sec.
169.1 Applicability.
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AUTHORITY: The provisions of this Part 169 issued under secs. 308(a), 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1349(a), 1354(a)), and sec. 8(c), Department of Transportation Act (49 U.S.C. 1655 (c)).

§ 169.1 Applicability.

(a) This part prescribes the requirements for issuing a written recommendation and certification that a proposed project is reasonably necessary for use in air commerce or in the interests of national defense. The first two sentences of section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)): (1) Require such a recommendation and certification where Federal funds are to be expended for nonmilitary purposes for airports or air navigation facilities thereon; and (2) provide that any interested person may apply to the Administrator, under regulations prescribed by him, for a recommendation and certification.

(b) This part does not apply to projects for the expenditure of Federal funds for military purposes or for airports, or air navigation facilities thereon, operated by the Federal Aviation Administration.

§ 169.3 Application for recommendation and certification.

(a) Any interested person may apply to the Administrator for a recommendation and certification with respect to a proposed project for the acquisition, establishment, construction, alteration, repair, maintenance, or operation of an airport or an air navigation facility thereon by or in his interests, on which Federal funds are proposed to be expended for nonmilitary purposes. The application shall be filed with the Area Office in whose area the airport is located. The application must state—

(1) The name and address of the applicant, the owner of the airport, and the individual responsible for its operation and maintenance, and the interest of the applicant in the matter;

(2) The location of the airport, and of any air navigation facilities thereon;

(3) A technical description of the project;

(4) The information contained in the notice required by § 157.3 of this chapter; and

(5) All available pertinent data relating to the necessity of the airport or air navigation facility for use in air commerce including where applicable—

(i) The number and type of aircraft that use or would use the airport or facility;

(ii) The present and expected level of activity;

(iii) Any special use of the airport or facility such as its providing access to places of recreation as national forests or parks or to isolated communities where access by other means is not available or is curtailed by climatic condition; and

(iv) In the case of an airport or air navigation facility owned, operated, or maintained by a Federal agency other than the FAA, the relationship of the airport or facility to the performance of that agency's functions.

(b) Each of the following has the effect of a recommendation and certification, and a separate application under this part with respect thereto is not required:

(1) Approval of a project under section 9 of the Federal Airport Act (49 U.S.C. 1108).

(2) Inclusion of an airport in the National Airport Plan, if—

(i) Notice of construction or alteration required by § 157.3 of this chapter has been given; and

(ii) The Administrator has determined that there is no objection to the proposed construction or alteration.

§ 169.5 FAA determination.

(a) The Administrator issues a recommendation and certification if he finds that the airport or facility is reasonably necessary for use in air commerce or in the interests of national defense; that it conforms to all applicable plans and policies for, and allocations of, airspace; and that it otherwise complies with requirements of Federal law properly considered by the Administrator. The Administrator may grant the recommendation and certification subject to conditions that ensure conformity of the airport or facility with these standards.

(b) A recommendation and certification under this part, express or implied, does not extend to a modified version of an airport or facility to which it applies, or to an additional area or facility at the same airport.

(c) If the application is denied the Administrator notifies the applicant of the grounds for the denial. The Administrator may revoke a recommendation and certification for proper cause.

(d) The authority of the Administrator under this part is exercised by Area Managers as to airports or facilities located within their respective areas.

[F.R. Doc. 68-3613; Filed, Mar. 26, 1969; 8:49 a.m.]