

§ 155.1 Applicability.

This part applies to releases from terms, conditions, reservations, or restrictions in any deed, surrender of leasehold, or other instrument of transfer or conveyance (in this part called "instrument of disposal") by which some right, title, or interest of the United States in real or personal property was conveyed to a non-Federal public agency under section 13 of the Surplus Property Act of 1944 (58 Stat. 765; 61 Stat. 678) to be used by that agency in developing, improving, operating, or maintaining a public airport or to provide a source of revenue from non-aviation business at a public airport.

§ 155.3 Applicable law.

(a) Section 4 of the Act of October 1, 1949 (63 Stat. 700) authorizes the Administrator to grant the releases described in §155.1, if he determines that—

(1) The property to which the release relates no longer serves the purpose for which it was made subject to the terms, conditions, reservations, or restrictions concerned; or

(2) The release will not prevent accomplishing the purpose for which the property was made subject to the terms, conditions, reservations, or restrictions, and is necessary to protect or advance the interests of the United States in civil aviation.

In addition, section 4 of that Act authorizes the Administrator to grant the releases subject to terms and conditions that he considers necessary to protect or advance the interests of the United States in civil aviation.

(b) Section 2 of the Act of October 1, 1949 (63 Stat. 700) provides that the restrictions against using structures for industrial purposes in any instrument of disposal issued under section 13(g)(2)(A) of the Surplus Property Act of 1944, as amended (61 Stat. 678) are considered to be extinguished. In addition, section 2 authorizes the Administrator to issue any instruments of release or conveyance necessary to remove, of record, such a restriction, without monetary consideration to the United States.

(c) Section 68 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2098) releases, remises, and quitclaims, to persons entitled thereto, all reserved rights of the United States in radioactive minerals in instruments of disposal of public or acquired lands. In addition, section 3 of the Act of October 1, 1949 (50 U.S.C. App. 1622b) authorizes the Administrator to issue instruments that he considers necessary to correct any instrument of disposal by which surplus property was transferred to a non-Federal public agency for airport purposes or to conform the transfer to the requirements of applicable law. Based on the laws cited in this paragraph, the Administrator issues appropriate instruments of correction upon the written request of persons entitled to ownership, occupancy, or use of the lands concerned.

§ 155.5 Property and releases covered by this part.

This part applies to—

(a) Any real or personal property that is subject to the terms, conditions, reservations, or restrictions in an instrument of disposal described in §155.1; and

(b) Any release from a term, condition, reservation, or restriction in such an instrument, including a release of—

(1) Personal property, equipment, or structures from any term, condition, reservation, or restriction so far as necessary to allow it to be disposed of for salvage purposes;

(2) Land, personal property, equipment or structures from any term, condition, reservation, or restriction requiring that it be used for airport purposes to allow its use, lease, or sale for nonairport use in place;

(3) Land, personal property, equipment, or structures from any term, condition, reservation, or restriction requiring its maintenance for airport use;

(4) Land, personal property, equipment, or structures from all terms, conditions, restrictions, or reservations to allow its use, lease, sale, or other disposal for nonairport purposes; and

(5) Land, personal property, equipment, or structures from the reservation of right of use by the United

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States in time of war or national emergency, to facilitate financing the operation and maintenance or further development of a public airport.

§ 155.7 General policies.

(a) Upon a request under § 155.11, the Administrator issues any instrument that is necessary to remove, of record, any restriction against the use of property for industrial purposes that is in an instrument of disposal covered by this part.

(b) The Administrator does not issue a release under this part if it would allow the sale of the property concerned to a third party, unless the public agency concerned has obligated itself to use the proceeds from the sale exclusively for developing, improving, operating, or maintaining a public airport.

(c) Except for a release from a restriction against using property for industrial purposes, the Administrator does not issue a release under this part unless it is justified under § 155.3(a) (1) or (2).

(d) The Administrator may issue a release from the terms, conditions, reservations, or restrictions of an instrument of disposal subject to any other terms or conditions that he considers necessary to protect or advance the interests of the United States in civil aviation. Such a term or condition, including one regarding the use of proceeds from the sale of property, is imposed as a personal covenant or obligation of the public agency concerned rather than as a term or condition to the release or as a covenant running with the land, unless the Administrator determines that the purpose of the term or condition would be better achieved as a condition or covenant running with the land.

(e) A letter or other document issued by the Administrator that merely grants consent to or approval of a lease, or to the use of the property for other than the airport use contemplated by the instrument of disposal, does not otherwise release the property from the terms, conditions, reservations, or restrictions of the instrument of disposal.

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§ 155.9 Release from war or national emergency restrictions.

(a) The primary purpose of each transfer of surplus airport property under section 13 of the Surplus Property Act of 1944 was to make the property available for public or civil airport needs. However, it was also intended to ensure the availability of the property transferred, and of the entire airport, for use by the United States during a war or national emergency, if needed. As evidence of this purpose, most instruments of disposal of surplus airport property reserved or granted to the United States a right of exclusive possession and control of the airport during a war or emergency, substantially the same as one of the following:

(1) That during the existence of any emergency declared by the President or the Congress, the Government shall have the right without charge except as indicated below to the full, unrestricted possession, control, and use of the landing area, building areas, and airport facilities or any part thereof, including any additions or improvements thereto made subsequent to the declaration of the airport property as surplus: *Provided, however,* That the Government shall be responsible during the period of such use for the entire cost of maintaining all such areas, facilities, and improvements, or the portions used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid.

(2) During any national emergency declared by the President or by Congress, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which the surplus property is located or used or of such portion thereof as it may desire: *Provided, however,* That the United States shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively, or over which it may have exclusive possession and control, during the period of such use, possession, or control and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of such property as it may use