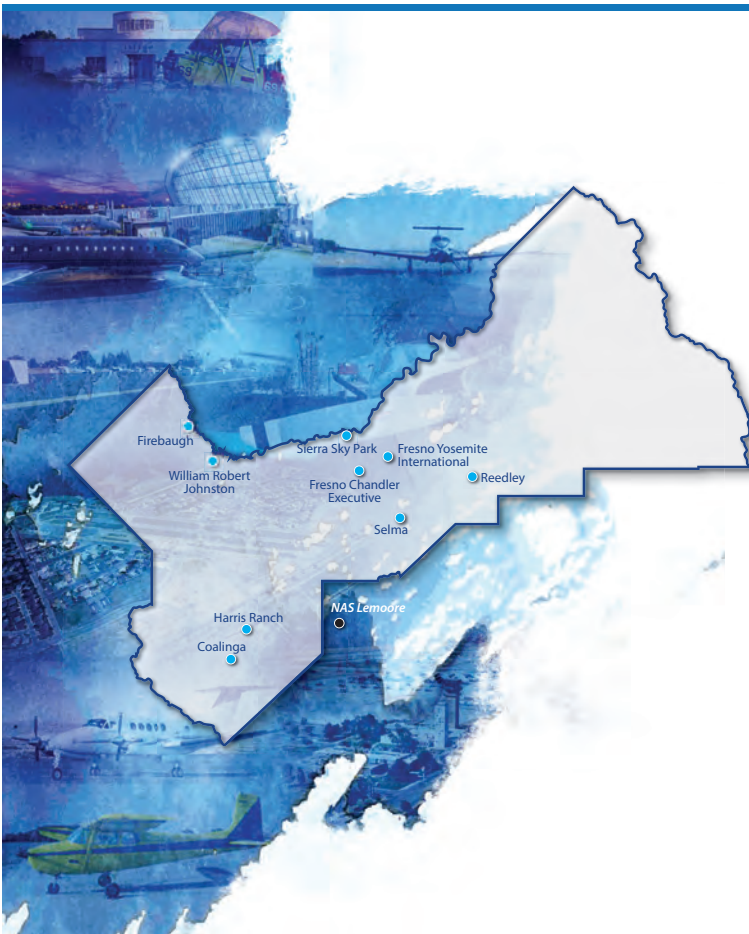




Fresno Council  
of Governments

Appendix M

## SUPPORTING MATERIALS



## Appendix M: Supporting Materials

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This appendix includes the following supporting information related to airport land use compatibility planning:

- Safety Supporting Information from the *California Airport Land Use Compatibility Planning Handbook*.
- *California State Aeronautics Act* (PUC Sections 21670-21679.5) – which was most recently amended in August 2012.
- Code of Federal Regulations Title 14, Part 77 – Safe, Efficient Use, and Preservation of the Navigable Airspace
- Memorandum of Understanding transferring the staffing and administrative support functions of the Fresno County Airport Land Use Commission (ALUC) from the Fresno County Department of Public Works to the Fresno Council of Governments
- ALUCP Resolution of Adoption

Additional information regarding this topic can be found on the Caltrans Division of Aeronautics website: <http://www.dot.ca.gov/aeronaut/index.html>

The *California Airport Land Use Planning Handbook* (Handbook) provides guidance for establishing safety zones for airports. The example zones, as described in the Handbook and shown on **Exhibit M1**, are based on mathematical analyses of NTSB aircraft accident data and aircraft flight characteristics. The purpose of the zones is to delineate areas with relatively uniform risk levels. **Table M1** provides

the Handbook's analysis of the safety zones, including the distribution of accident data points within each zone.

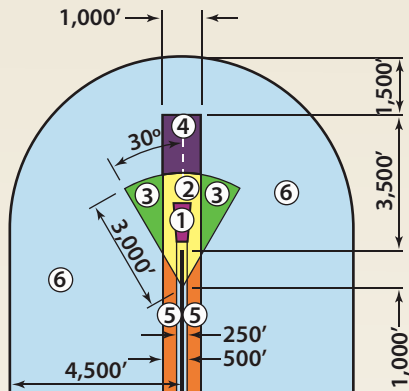
**TABLE M1**

**Analysis of Safety Zone Examples**

	<b>% of Points</b>	<b>Acres</b>	<b>% / Acres</b>
Primary Surface	15%	-	-
Zone 1: Runway Protection Zone	21%	49	0.40
Zone 2: Inner Approach/Departure Zone	10%	101	0.10
Zone 3: Inner Turning Zone	7%	151	0.05
Zone 4: Outer Approach/Departure Zone	5%	69	0.07
Zone 5: Sideline Zone	5%	-	-
Zone 6: Traffic Pattern Zone	23%	-	-
Total Zones 1-6 + Primary Surface	85%	-	-

Source: *California Airport Land Use Planning Handbook* (2011), Table 3B, Example 2

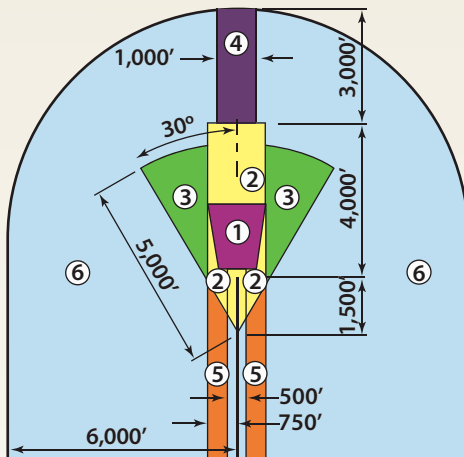
Safety zones at commercial service and general aviation airports can be differentiated by runway length and airport activity.



### SHORT GENERAL AVIATION RUNWAY

#### Assumptions:

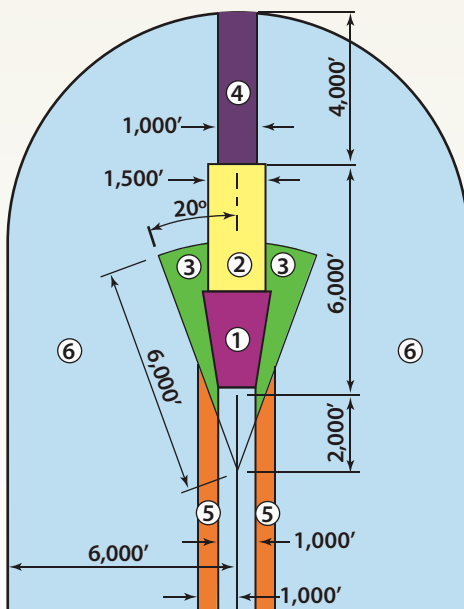
- Length less than 4,000 feet
- Approach visibility minimums  $\geq 1$  mile or visual approach only
- Zone 1 = 250' x 450' x 1,000'



### MEDIUM GENERAL AVIATION RUNWAY

#### Assumptions:

- Length 4,000 to 5,999 feet
- Approach visibility minimums  $\geq \frac{3}{4}$  mile and  $< 1$  mile
- Zone 1 = 1,000' x 1,510' x 1,700'



### LONG GENERAL AVIATION RUNWAY

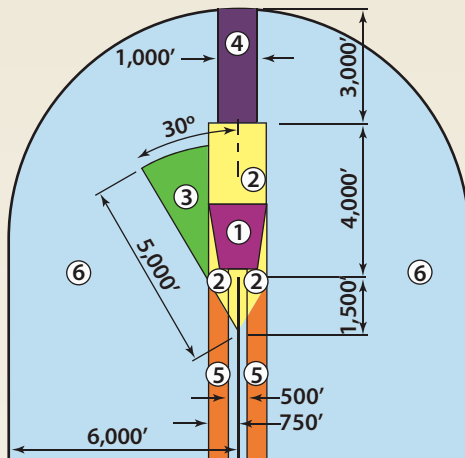
#### Assumptions:

- Length 6,000 or more
- Approach visibility minimums  $< \frac{3}{4}$  mile
- Zone 1 = 1,000' x 1,750' x 2,500'

### LEGEND

① Runway Protection Zone	③ Inner Turning Zone	⑤ Sideline Zone
② Inner Approach/Departure Zone	④ Outer Approach/Departure Zone	⑥ Traffic Pattern Zone

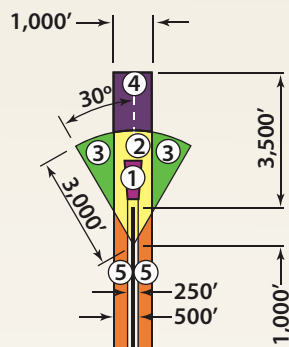
Source: California Airport Land Use Planning Handbook, 2011.



### GENERAL AVIATION RUNWAY WITH SINGLE-SIDED TRAFFIC PATTERN

#### Assumptions:

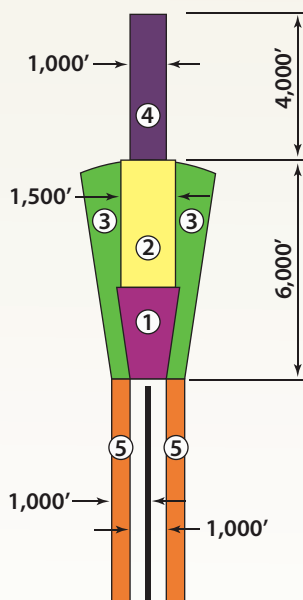
- Length 4,000 to 5,999 feet
  - Approach visibility minimums  $\geq \frac{3}{4}$  mile and  $< 1$  mile
  - Zone 1 = 1,000' x 1,510' x 1,700
- See Note.



### LOW ACTIVITY GENERAL AVIATION RUNWAY

#### Assumptions:

- Less than 2,000 takeoffs and landings per year at individual runway end.
  - Length less than 4,000 feet
  - Approach visibility minimums  $\geq 1$  mile or visual approach only
- See Note.



### LARGE AIR CARRIER RUNWAY

#### Assumptions:

- Minimal light-aircraft general aviation activity
  - Predominately straight-in and straight-out flight routes
  - Approach visibility minimums  $< \frac{3}{4}$  mile
- See Note.

#### Note:

RPZ (Zone 1) size in each example is as indicated by FAA criteria for the approach type assumed. Adjustment may be necessary if the Approach type differs.

These examples are intended to provide general guidance for establishment of airport safety compatibility zones. They do not represent California Department of Transportation standards of policy.

### LEGEND

- |                                 |                                 |                        |
|---------------------------------|---------------------------------|------------------------|
| ① Runway Protection Zone        | ③ Inner Turning Zone            | ⑤ Sideline Zone        |
| ② Inner Approach/Departure Zone | ④ Outer Approach/Departure Zone | ⑥ Traffic Pattern Zone |

Source: California Airport Land Use Planning Handbook, 2011.



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California Public Utilities Code  
Section 21001 et seq.  
relating to the  
**State Aeronautics Act**

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Prepared by  
California Department of Transportation  
Division of Aeronautics  
Sacramento, CA

**August 2015**



**Gary Cathey**  
**Division Chief**



## **About this booklet**

The law contained herein was copied from [www.leginfo.ca.gov](http://www.leginfo.ca.gov), a website maintained by the Legislative Counsel of California. We periodically update this booklet as changes are made to the State Aeronautics Act and at the Counsel's website. You can view the text of the State Aeronautics Act online by opening the [www.leginfo.ca.gov](http://www.leginfo.ca.gov) homepage, selecting "California Law" and searching within the Public Utilities Code.

This booklet contains one new section since its last update in February 2013:

- Section 21602 Amended by Stats.2014, c. 27 (S.B.853), § 1, eff. June 20, 2014

California Department of Transportation  
Division of Aeronautics  
1120 N Street, MS 40  
Sacramento, CA 95814  
<http://www.dot.ca.gov/hq/planning/aeronaut/index.htm>



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# **CALIFORNIA PUBLIC UTILITIES CODE**

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# **AERONAUTICS LAW STATE AERONAUTICS ACT PUBLIC UTILITIES CODE**

## **Chapter 1. General Provisions and Definitions**

### **Title of Part**

21001. This part may be cited as the "State Aeronautics Act."

### **Purpose**

21002. The purpose of this part is to further and protect the public interest in aeronautics and aeronautical progress by the following means:

- (a) Encouraging the development of private flying and the general use of air transportation.
- (b) Fostering and promoting safety in aeronautics.
- (c) Effecting uniformity of the laws and regulations relating to aeronautics consistent with federal aeronautics laws and regulations.
- (d) Granting to a state agency powers, and imposing upon it duties, so that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property, assist in the development of a statewide system of airports, encourage the flow of private capital into aviation facilities, and cooperate with and assist political subdivisions and others engaged in aeronautics in the development and encouragement of aeronautics.
- (e) Establishing only those regulations which are essential and clearly within the scope of the authority granted by the Legislature, in order that persons may engage in every phase of aeronautics with the least possible restriction consistent with the safety and the rights of others.
- (f) Providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state.
- (g) Assuring that persons residing in the vicinity of airports are protected to the greatest possible extent against intrusions by unreasonable levels of aircraft noise.
- (h) Fostering and promoting the development of a stable and efficient regional air carrier system to provide access for small and rural communities to the national air transportation system consistent with federal policies favoring deregulation.
- (i) Developing, in cooperation with the private sector, airport management, local jurisdictions, federal authorities, and the general public, informational programs to increase the understanding of current air transportation issues including, but not limited to, aviation safety, planning, airport noise, airport development and management, and the role of aviation in the economic development of the state, as an integral part of the state's transportation system.
- (j) Sponsoring or cosponsoring, with representatives of the aerospace and aviation industry, aviation educational and informational seminars which meet the needs of pilots and other members of the industry for current information on aviation safety, planning, and airport development and management.

### **Definitions; Effect**

21003. Unless the context otherwise requires, the definitions and general provisions set forth in this chapter govern the construction of this part.

### **Public and Government Functions; Public Necessity**

21004. The acquisition of any land or interest therein pursuant to this part, the planning, acquisition, establishment, construction, improvement, maintenance, equipment, and operation of airports and air navigation facilities, whether by the state separately or jointly with any political subdivision, and the exercise of any other powers granted to the department by this part are public and governmental functions, exercised for a public purpose, and are matters of public necessity. All land and other property and privileges acquired and used by or on behalf of the state pursuant to this part are acquired and used for public and governmental purposes as a matter of public necessity.

### **Effect of Part on Zoning Regulations**

21005. This part shall not be construed as limiting any power of the state or a political subdivision to regulate airport hazards by zoning.



## **Effect of Chapter on Use of Helicopters**

21006. This chapter or any other law shall not be construed as prohibiting, restricting, or permitting the prohibition of the operation or landing in populated areas of helicopters and similar aircraft capable of approximately vertical ascent and descent, subject to such reasonable rules affecting the public safety as the department may promulgate. The department shall adopt rules and regulations, effective January 1, 1989, for the conditions under which helicopters may make temporary use of a landing site.

## **Department**

21006.5. "Department" means the Department of Transportation.

## **Aeronautics Commission; Division; Department**

21007. Whenever the term "California Aeronautics Commission," "Division of Aeronautics," or "Department of Aeronautics" is used in any other law, it means the Department of Transportation.

## **Director**

21008. "Director" means the Director of Transportation. Any reference in any law or regulation to the Director of Aeronautics shall be deemed to refer to the Director of Transportation.

## **Division**

21008.3. "Division" means the Division of Aeronautics in the department.

## **Commission**

21008.5. "Commission" means the California Transportation Commission.

## **Person**

21009. "Person" means any individual, firm, partnership, corporation, limited liability company, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative.

## **Political Subdivision**

21010. "Political subdivision" means any county, city, city and county, public corporation, district or other political entity or public corporation of this State.

## **Aeronautics**

21011. "Aeronautics" means:

- (a) The science and art of flight, including transportation by aircraft.
- (b) The operation, construction, repair, or maintenance of aircraft and aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes.
- (c) The design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities.

## **Aircraft**

21012. "Aircraft" means any manned contrivance used or designed for navigation of, or flight in, the air requiring certification and registration as prescribed by federal statute or regulation. Notwithstanding the foregoing provisions of this section, manned lighter-than-air balloons and ultralight vehicles as defined in the regulations of the Federal Aviation Administration (14 C.F.R. Part 103), whether or not certificated by the Federal Aviation Administration, shall not be considered to be aircraft for purposes of this part.

## **Airport**

21013. "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights of way, and all airport buildings and facilities located thereon.

### **Air Navigation Facility**

21014. "Air navigation facility" means any facility, other than facilities owned or operated by the United States, used, or available or designed for use, in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other facilities used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport.

### **Operation of Aircraft; Operate Aircraft**

21015. "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the air space over this State or upon any airport within this State.

### **Airman**

21016. "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air traffic control-tower operator. "Airman" does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him.

### **Airport Hazard**

21017. "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for flight of aircraft in landing or taking off at an airport or which is otherwise hazardous to the landing or taking off.

### **Airway**

21018. "Airway" means a route in the navigable air space over the land or waters of this State, designated by proper authority as a route suitable for air navigation.

### **Violations; Punishment**

21019. Any person violating any of the provisions of this part, other than Section 21407.1, or any of the rules or orders issued under this part, is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment of not more than six months, or both.

### **Land**

21020. "Land" includes tide and submerged lands or other lands subject to the public trust for commerce, navigation, or fisheries.

## **Chapter 2. Department of Transportation and State Aeronautics Board**

### **Article 1. Department of Transportation**

#### **Rules and Regulations**

21204. The department may adopt, administer, and enforce rules and regulations for the administration of this part.

#### **Statement of Estimated Revenues; Budget**

21206. The department shall prepare a statement of all estimated revenues of the Aeronautics Account in the State Transportation Fund and revenues available for local subventions from any other sources for the next succeeding fiscal year, together with a statement of proposed expenditures to be made to local agencies and the University of California during the next succeeding fiscal year, or obligations to be incurred in connection therewith.

The statement shall be included in the printed fiscal year budget submitted to the Legislature. Insofar as the matters to which it pertains, it shall constitute as submitted the budget submitted to the Department of Finance pursuant to Section 13320 of the Government Code, and, as to such matters, shall be administered by the Department of Finance as the fiscal year budget of the Department of Transportation under the provisions of this

section and of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

Any changes or modifications in the budget described in this section shall be approved by the Director of Finance.

In the event, during an annual period, the budgetary amount approved and allocated for any purpose exceeds the amount actually necessary therefor, with a resultant available surplus, such surplus may be allocated to any other purpose or supplemental project upon the written approval of the Director of Finance.

In administering the budget, the Director of Finance shall not limit expenditures or incurrence of obligations thereunder to quarterly, semiannual, or other periods of the fiscal year.

### **Noise Mitigation Projects**

21207. Whenever a political subdivision owning and operating an airport constructs or implements a noise mitigation project at the airport, including, but not limited to, the installation of noise monitoring equipment at any time after the project has been included within the aeronautics program in the state transportation improvement program and prior to funding of the project, the department shall, when funding for the project becomes available, reimburse the political subdivision for the eligible costs of the project, without interest, not to exceed the amount of the funds made available to the department or the political subdivision's actual eligible costs, whichever is lower. Reimbursement under this section shall be made only if the political subdivision completes the project to the standards approved by the department including, but not limited to, bidding and contracting procedures and the project is approved by the commission. This section does not apply to any project for which state funding is not specifically made available.

## **Article 1.5. State Aeronautics Board**

### **State Aeronautics Board Abolished**

21215. (a) The State Aeronautics Board is hereby abolished, and the California Transportation Commission succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction vested in the State Aeronautics Board.

(b) Any reference in any law or regulation to the State Aeronautics Board shall be deemed to refer to the California Transportation Commission.

(c) The California Transportation Commission shall have the possession and control of all licenses, permits, leases, agreements, contracts, orders, claims, judgments, records, papers, equipment, supplies, bonds, moneys, funds, appropriations, buildings, land and other property, real or personal, held for the benefit, use, or obligation of the State Aeronautics Board.

### **Appeals**

21216. Any person or entity injured or aggrieved by any procedure or action of the department with respect to aeronautics may appeal to the California Transportation Commission for relief, and the decision of the commission as to such matter shall, after hearing thereon, be conclusive, subject to such review as may be otherwise provided by law. This section shall not apply to any procedure or action for which a hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code is specified in this part as the means for reviewing or finalizing the procedure or action.

## **Article 2: Powers and Duties**

### **Recognition of Federal Authority; Intrastate Rates**

21240. This state recognizes the authority of the federal government to regulate the operation of aircraft and to control the use of the airways, and nothing in this act shall be construed to give the department the power to so regulate and control safety factors in the operation of aircraft or to control use of the airways. This section does not affect the state's power to regulate the intrastate rates of common carriers by air, and such power is hereby reserved to the state.

### **Encouragement of Aeronautics, Airports, and Air Navigation Facilities**

21241. The department shall encourage, foster, and assist in the development of aeronautics in this state and encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, political subdivisions of this state, and others in the development of aeronautics, and shall seek to coordinate their aeronautical activities.

Political subdivisions may cooperate with the department in the development of aeronautics and aeronautics facilities in this state.

### **Legislation; Representation of State**

21242. The department may:

- (a) Draft and recommend necessary legislation to advance the interest of the state in aeronautics.
- (b) Represent the state in aeronautical matters before federal and other agencies.
- (c) Participate as plaintiff or defendant or as intervenor on behalf of the state or any political subdivision or citizen in any controversy which involves the interest of the state in aeronautics.
- (d) Assist political subdivisions and their law enforcement agencies in becoming acquainted with and enforcing the civil air regulations.

### **Rules, Regulations, Procedures, and Standards; Classification of Airports**

21243. The department may make and amend general or special rules, regulations, and procedures and establish minimum standards, consistent with and clearly within the scope of federal legislation governing aeronautics and the rules, regulations, and standards issued thereunder. The department may, by regulation, classify airports into several reasonable classes or groups according to their facilities and the types and number of aircraft which they are capable of handling and may make and amend rules, regulations, and procedures and establish minimum standards for each separate class or group.

### **Temporary Rules, Regulations, Procedures, and Standards**

21244. For the purpose of protecting and insuring the general public interest and safety and the safety of persons operating, using, or traveling in aircraft and developing aeronautics in this state, and after appropriate public hearings, the department may make and amend temporary general or special rules and procedures and establish temporary minimum standards consistent with this part as it deems necessary to administer this part. The department shall draft these temporary rules, procedures, and standards in the form of proposed aviation law and shall submit them to the next general session of the Legislature. These temporary rules, procedures, and standards shall not remain in effect beyond 90 days after the final adjournment of that session of the Legislature.

### **Rules; Copies for Public Inspection**

21245. The department shall keep on file with the Secretary of State, and at its principal office, a copy of all its rules for public inspection.

### **Publication and Distribution of Orders, Rules, and Procedures**

21246. The department shall provide for the publication and general distribution of all its orders, rules, and procedures having general effect.

### **Contracts**

21247. The department may enter into any contracts necessary to the execution of its powers under this part. All contracts made by the department, either as the agent of the state or as the agent of any political subdivision, shall be made pursuant to the laws of the state governing the making of like contracts. Where the planning, acquisition, construction, improvement, maintenance, or operation of any airport or air navigation facility is financed wholly or partially with federal money the department, as agent of the state or of any political subdivision, may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules made thereunder.

### **Joint Exercise of Powers**

21248. The department may exercise any of its powers under this part jointly with any political subdivision, state agency, other states or their political subdivisions, or the United States.

### **Conferences and Joint Hearings with Federal Agencies**

21249. The department may confer or hold joint hearings with any federal agency in connection with any matter arising under this part or relating to the sound development of aeronautics.

## **Cooperation with Federal Agencies**

21250. The department may avail itself of the cooperation, services, records, and facilities of the federal agencies in the administration and enforcement of this part. It shall cooperate with and make available to the federal agencies, its services, records, and facilities, insofar as practicable.

## **Administration**

21251. In administering this part the department may use the facilities and services of other state agencies and political subdivisions to the utmost extent possible. These agencies and political subdivisions shall make available to the department their facilities and services.

## **Enforcement**

21252. (a) The department, its members, the director, officers and employees of the department, and every state and peace officer charged with the enforcement of state and subordinate laws or ordinances, may enforce and assist in the enforcement of this part, the rules and orders issued under this part, and all other laws of this state relating to aeronautics. In the enforcement of such rules, orders, and laws, the director, and such officers and employees as the director may designate, shall have the authority, as public officers, to arrest without a warrant, any person who, in his presence, has violated or as to whom there is probable cause to believe has violated any of such rules, orders, or laws.

In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting officer may, instead of taking such person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the Penal Code. The provisions of such chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(b) There shall be no civil liability on the part of and no cause of action shall arise against any person, acting pursuant to subdivision (a) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting officer, at the time of such arrest, had reasonable cause to believe was lawful. No such officer shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(c) The director, and such officers and employees as the director may designate, may serve all processes and notices throughout the state.

## **Enforcement of Part; Injunction and Other Legal Process**

21253. In the name of the state, the department may enforce this part and rules and orders issued under this part by injunction or other legal process in the courts of this state.

## **Reports of Violations to Federal and Other State Agencies**

21254. The department may report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violations of Section 21407, and Sections 21409 to 21412, inclusive, and all penalties of which it has knowledge imposed upon airmen or the owners or operators of aircraft for violations of the law of this state relating to aeronautics or for violations of the rules or orders of the department.

## **Reports from Federal and Other State Agencies**

21255. The department may receive reports of penalties and other data from agencies of the federal government and other states, and may enter into agreements with these agencies governing the delivery, receipt, exchange, and use of reports and data. The department may make the reports and data of these agencies and of the courts of this state available to any court of this state and to any officer of the state or of any political subdivision authorized to enforce the aeronautics laws by Section 21252.

## **Receipt and Disbursement of Funds**

21256. The department may accept, receive, receipt for, disburse, and expend federal and other money, public or private, made available to accomplish in whole or in part any of the purposes of this part. All federal money accepted under this part shall be accepted and expended by the department upon the terms and conditions prescribed by the United States. In accepting federal money under this part, the department shall have the same authority to enter into contracts on behalf of the state as is granted to the department under Section 21603. The department shall deposit all money received under this section in the Special Deposit Fund in the State Treasury, to be disbursed or expended in accordance with the terms and conditions upon which it was made available.

## **Ownership and Operation of Aircraft**

21257. The department may own and operate aircraft for use in the furtherance of its duties, employ airmen and mechanics for proper operation and maintenance of the aircraft, and insure its employees against injury or death arising from aircraft accidents incurred in the performance of their assigned duties, within the limits of appropriations for these purposes.

## **Department Responsibility**

21258. The department shall represent the state and local agencies before the Civil Aeronautics Board and other federal agencies in all matters related to the Airline Deregulation Act of 1978 (P.L. 95-504, as amended) and the essential air service program created by that act. The department shall assist and cooperate with federal, state, and local agencies and private entities in the development of a stable and efficient regional air carrier system.

# **Chapter 3. Regulation of Aeronautics**

## **Sovereignty**

21401. Sovereignty in the space above the land and waters of this state rests in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of the state.

The operation of aircraft in such space is a privilege subject to the laws of this state.

## **Ownership; Prohibited Use of Airspace**

21402. The ownership of the space above the land and waters of this State is vested in the several owners of the surface beneath, subject to the right of flight described in Section 21403. No use shall be made of such airspace which would interfere with such right of flight; provided, that any use of property in conformity with an original zone of approach of an airport shall not be rendered unlawful by reason of a change in such zone of approach.

## **Lawful Flight; Flight Within Airport Approach Zone**

21403. (a) Flight in aircraft over the land and waters of this state is lawful, unless at altitudes below those prescribed by federal authority, or unless conducted so as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the land or waters of another, without his or her consent, is unlawful except in the case of a forced landing or pursuant to Section 21662.1. The owner, lessee, or operator of the aircraft is liable, as provided by law, for damages caused by a forced landing.

(b) The landing, takeoff, or taxiing of an aircraft on a public freeway, highway, road, or street is unlawful except in the following cases:

(1) A forced landing.

(2) A landing during a natural disaster or other public emergency if the landing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road, or street.

(3) When the landing, takeoff, or taxiing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road or street.

The prosecution bears the burden of proving that none of the exceptions apply to the act which is alleged to be unlawful.

(c) The right of flight in aircraft includes the right of safe access to public airports, which includes the right of flight within the zone of approach of any public airport without restriction or hazard. The zone of approach of an airport shall conform to the specifications of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, Department of Transportation.

## **Tort Liability; Injury or Death of Passengers**

21404. Liability of the owner or pilot of an aircraft carrying passengers for injury or death to the passengers is determined by the rules of law applicable to torts on the land or waters of this state, arising out of similar relationships. Every owner of an aircraft is liable and responsible for death or injury to person or property resulting from a negligent or wrongful act or omission in the operation of the aircraft, in the business of the owner or otherwise, by any person using or operating the same with the permission, express or implied, of the owner.

## **Limitation on Liability**

21404.1. (a) The liability of an owner, bailee of an owner, or personal representative of a decedent imposed by Section 21404 and not arising through the relationship of principal and agent or master and servant is limited to the

amount of fifteen thousand dollars (\$15,000) for the death of or injury to one person in any one accident and, subject to the limit as to one person, is limited to the amount of thirty thousand dollars (\$30,000) for the death of or injury to more than one person in any one accident and is limited to the amount of five thousand dollars (\$5,000) for damage to property of others in any one accident.

(b) An owner, bailee of an owner, or personal representative of a decedent is not liable under this section for damages imposed for the sake of example and by way of punishing the operator of the aircraft. Nothing in this subdivision makes an owner, bailee of an owner, or personal representative immune from liability for damages imposed for the sake of example and by way of punishing him for his own wrongful conduct.

### **Tort Liability; Collision Damage**

21405. The liability of the owner of one aircraft to the owner of another aircraft, or to operators or passengers on either aircraft, for damage caused by collision on land or in the air, is determined by the rules of law applicable to torts on land.

### **Careless or Reckless Operation**

21407. It is unlawful for any person to operate an aircraft in the air, or on the ground or water in a careless or reckless manner so as to endanger the life or property of another. In any proceeding charging operation of aircraft in violation of this section, the court in determining whether the operation was careless or reckless shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics.

### **Operation While Under the Influence**

21407.1. (a) It is unlawful for any person, who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, to operate an aircraft in the air, or on the ground or water, or to engage in parachuting for sport.

(b) No person shall operate an aircraft in the air or on the ground or water who has 0.04 percent or more, by weight, of alcohol in his or her blood.

### **Consent to Chemical Testing**

21407.2. (a) (1) (A) Any person who operates an aircraft in the air or on the ground or water is deemed to have given his or her consent to chemical testing of his or her blood or breath for the purpose of determining the alcoholic content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 21407.1 or if the officer requests chemical testing as part of any investigation of a suspected violation of state or local law. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) Any person who operates an aircraft in the air or on the ground or water is deemed to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 21407.1 or if the officer requests chemical testing as part of an investigation of a suspected violation of state or local law.

(C) The testing shall be administered at the direction of a peace officer having reasonable cause to believe the person was operating an aircraft in violation of Section 21407.1 under either of the following conditions:

(i) The person is lawfully arrested.

(ii) The officer requests the person to submit to chemical testing as part of an investigation of a suspected violation of state or local law.

(D) The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing may result in prohibition from operating an aircraft for not more than one year and, if the person is convicted of a violation of Section 21407.1, a fine, imprisonment, prohibition from operating an aircraft for not more than one year, or any combination thereof.

(2) (A) If the person is lawfully arrested for operating an aircraft under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood or breath, and the officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing the chosen test, the person shall submit to the remaining test. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) If the person is lawfully arrested for operating an aircraft under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(C) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the officer has reasonable cause to believe that the person was operating an aircraft under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or

urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. If the person who is arrested is either incapable or states that he or she is incapable of completing a blood test, that person shall submit to and complete a urine test. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 21407.1 and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests which are available at the facility to which that person has been transported. In that event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests may result in a fine, imprisonment, and prohibition from operating an aircraft for not more than one year. Any person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(c) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(d) (1) A person lawfully arrested for any offense allegedly committed while the person was operating an aircraft in violation of Section 21407.1 may request the arresting officer to have a chemical test made of the arrested person's blood or breath for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

(2) If a blood or breath test is not available under subparagraph (A) of paragraph (1) of subdivision (a), or under subparagraph (A) of paragraph (2) of subdivision (a), or under paragraph (1) of this subdivision, the person shall submit to the remaining test in order to determine the percent, by weight, of alcohol in the person's blood. If both the blood and breath tests are unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

## **Punishment**

21407.6. (a) Any person convicted under Section 21407.1 shall be punished upon a first conviction by imprisonment in the county jail for not less than 30 days nor more than six months or by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) or by both such fine and imprisonment.

Any person convicted under Section 21407.1 shall be punished upon a second or any subsequent conviction by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), without being granted probation by the court and without having the court suspend the execution of the sentence.

(b) Any person convicted under Section 21407.1 and who, when so operating an aircraft, has done any act forbidden by law or neglects any duty imposed by law in the operation of the aircraft, which act or neglect proximately causes bodily injury to any person other than the operator shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year and by fine of not less than two hundred fifty dollars (\$250) nor more than ten thousand dollars (\$10,000).

## **Authority to Prohibit Violator from Operation Aircraft**

21408. For any violation of Section 21407 or 21407.1, in addition to the penalties provided by Section 21019 or 21407.6, the court may prohibit the violator from operating an aircraft within the state for a period not exceeding one year. Violation of the prohibition of the court may be treated as a separate offense under this section or as a contempt of court. Upon a plea of guilty or conviction under Section 21407 or 21407.1, the department shall cause a record of the plea or conviction and of the sentence imposed to be maintained. This section does not authorize the court or any other agency or person to take away, impound, hold, or mark any federal certificate, permit, rating, or license. The peace officer requesting that a person submit to a chemical test of the blood, breath, or urine pursuant to Section 21407.2 shall report anyone refusing to submit to the chemical test to the Federal Aviation Administration for appropriate administrative action.



## **Unlicensed Operation**

21409. It is unlawful for any person to engage in aeronautics as an airman in the State unless he has an appropriate effective airman certificate, permit, rating, or license issued by the United States authorizing him to engage in the particular class of aeronautics in which he is engaged, if the certificate, permit, rating, or license is required by the United States.

## **Possession and Inspection of Certificate, License, Etc.**

21410. Every airman shall keep any certificate, permit, rating, or license required for him by the United States in his personal possession when he is operating within the state. He shall present it for inspection upon the demand of any peace officer, any other officer of the state or of a political subdivision, or member, official, or employee of the department, authorized by Section 21252 to enforce the aeronautics laws, or any official, manager, or person in charge of any airport upon which the airman lands, or upon the reasonable request of any other person.

## **Unlicensed Aircraft**

21411. It is unlawful for any person to operate, or cause or authorize to be operated, any civil aircraft within this State unless the aircraft has an appropriate effective certificate, permit, or license issued by the United States if required by the United States.

## **Posting Aircraft License; Inspection**

21412. Any certificate, permit, or license required by the United States for an aircraft shall be carried in the aircraft at all times while the aircraft is operating in the state, shall be conspicuously posted in the aircraft where it may be readily seen by passengers or inspectors, and shall be presented for inspection upon the demand of any peace officer, any other officer of the state or of a political subdivision, or member, official, or employee of the department, authorized by Section 21252 to enforce the aeronautics laws, or any official, manager, or person in charge of any airport upon which the aircraft lands, or upon the reasonable request of any person.

## **Accidents; Reports; Preservation of Parts Pending Investigation**

21413. The department shall report to the appropriate federal agency all accidents in aeronautics in this state of which it is informed, and shall, insofar as is practicable, preserve, protect, and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation.

## **Intoxicated Persons In or About Aircraft**

21415. No person shall be in, or perform any act in connection with the maintenance or operation of, any aircraft when under the influence of intoxicating liquor.

This section does not apply to a person who is in an aircraft merely as a passenger, but this section shall not be construed to relieve any such person of criminal liability imposed by any other law for being intoxicated while in an aircraft.

## **Locking Door Separating Pilot Compartment from Passenger Compartment**

21416. On all commercial aircraft which transport passengers for compensation or hire the door which separates the pilot compartment from the passenger compartment shall be kept locked at all times the aircraft is in a flight over this state during which passengers are being transported except:

(a) During takeoff and landing of the airplane when such door is the means of access to a required passenger emergency exit.

(b) At such times as it may be necessary to provide access to the flight crew or passenger compartments for the crew members in the performance of their duties, or to provide access for other persons authorized admission to the flight crew compartment.

The pilot of the aircraft shall be guilty of a misdemeanor if the door is not so locked.

It shall be unlawful for any person, except a member of the crew, to have in his possession in the passenger compartment at any time the aircraft is in a flight over this state during which passengers are being transported a key or other device for opening such door from the passenger side of the door.

## **Meteorological Towers**

21417. (a) As used in this section, the following terms have the following meanings:

- (1) "Meteorological instrument" means an instrument for measuring and recording the speed of the wind.
- (2) "Meteorological tower" means a structure, including all guy wires and accessory facilities, on which a meteorological instrument is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.
- (3) "Prime agricultural land" means land that satisfies the requirements of paragraph (1), (2), or (4) of subdivision (c) of Section 51201 of the Government Code.
- (b) A meteorological tower below 200 feet in height and above 50 feet in height that is located on prime agricultural land, or within one mile of prime agricultural land, and erected after January 1, 2013, shall be marked as follows:
- (1) The full length of the meteorological tower shall be painted in equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the marked portion of the tower. The bands shall be between 20 and 30 feet in width.
- (2) Two or more high visibility spherical marker balls, also called cable balls, that are aviation orange shall be attached to each outside guy wire that is connected to a meteorological tower.
- (3) One or more seven-foot high visibility safety sleeves shall be placed at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.
- (c) A light may be affixed to the highest point on a meteorological tower as an additional option for the marking of the meteorological tower.
- (d) (1) A local agency may incorporate any requirements of this section into any applicable land use permit that the agency administers.
- (2) This section shall not be construed to authorize a local agency to require a new permit that applies to a meteorological tower.
- (3) To the extent that the requirements of this section conflict with local permitting requirements, the requirements of this section shall supersede those permitting requirements.
- (e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

## **Chapter 3.7 Wire Strike Education and Prevention**

### **Legislative Intent**

21504. The Legislature finds and declares as follows:

- (a) Representatives from the aviation community, electric utility industry, and government agencies voluntarily convened a working group in July 1992 to develop a comprehensive program to improve low-level flight safety throughout California.
- (b) The working group found that the prevention of aircraft wire strikes and losses through (1) pilot education and awareness and (2) selective marking of those wires and supporting structures that present a hazard to low-level flight safety are equally important to improving low-level flight safety throughout the state.
- (c) The working group developed criteria for marking selected wires and supporting structures based upon visibility and likelihood of aircraft activity, which now must be evaluated in the field.
- (d) It is, therefore, the intent of the Legislature in enacting this chapter to implement recommendations of the working group to undertake a pilot education and awareness program and to evaluate the criteria for marking selected wires and supporting structures in the field.

### **Pilot Awareness Program**

21505. (a) The Division of Aeronautics, in cooperation with the aviation industry and the electric utility industry and in consultation with the Federal Aviation Administration, shall coordinate and disseminate information provided by the working group to pilots to increase awareness of wire hazards and to communicate techniques for identifying and avoiding wires.

(b) For purposes of coordinating and disseminating the information provided to the division by the working group pursuant to subdivision (a), every electrical corporation and publicly owned electrical utility in this state which serves 250,000 or more customers shall pay a one-time fee in a sufficient amount so that the total of all fees collected does not exceed one hundred thousand dollars (\$100,000). The fee shall be in the proportion that each utility's total miles of transmission line greater than 110 kilovolts bears to the total miles of transmission line greater than 110 kilovolts statewide.

(c) All fees collected pursuant to subdivision (b) shall be deposited in the Aeronautics Account in the State Transportation Fund to be continuously appropriated to the Department of Transportation for the purposes set forth in subdivision (a).

## **Cost Recovery**

21507. All costs incurred by an electrical corporation pursuant to this chapter shall be deemed reasonable by the commission and shall be fully recoverable through rates.

# **Chapter 4. Airports and Air Navigation Facilities**

## **Article 1. Assistance to Political Subdivisions**

### **Engineering and Technical Services**

21601. The department may make available its engineering and other technical services, with or without charge, to any political subdivision or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or air navigation facilities, subject to rules promulgated by the department.

### **Financing**

21602. (a) Subject to the terms and within the limits of special appropriations made by the Legislature, the department may render financial assistance by grant or loan, or both, to political subdivisions jointly, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by a political subdivision or subdivisions, if the financial assistance has been shown by public hearing to be appropriate to the proper development or maintenance of a statewide system of airports. Financial assistance may be furnished in connection with federal or other financial aid for the same purpose.

(b) Notwithstanding subdivision (a) of Section 21681, a city or county designated by the Airport Land Use Commission is eligible to compete for funds held in the Aeronautics Account in the State Transportation Fund on behalf of any privately owned, public use airport that is included in an airport land use compatibility plan. However, the city or county shall be eligible to compete for the funds only when zoning on the parcel is tantamount to a taking of all reasonable uses that might otherwise be permitted on the parcel. The eligible airport and aviation purposes are limited to those specified in paragraphs (4), (5), (6), (9), and (14) of subdivision (f) of Section 21681, and, further, any capital improvements or acquisitions shall become the property of the designated city or county. Matching funds pursuant to subdivision (a) of Section 21684 may include the in-kind contribution of real property, with the approval of the department.

(c) Any grant of funds held in the Aeronautics Account in the State Transportation Fund on behalf of any privately owned airports shall contain a covenant that the airport remain open for public use for 20 years. Any grant made to a city or county on behalf of a privately owned airport shall contain a payback provision based upon existing market value at the time the private airport ceases to be open for public use.

(d) Upon request, California Aid to Airports Program (CAAP) projects included within the adopted Aeronautics Program, may be funded in advance of the year programmed, with the concurrence of the department, in order to better utilize funds in the account.

(e) There is, in the Aeronautics Account in the State Transportation Fund, a subaccount, the Local Airport Loan Account, for the management of funds for loans to local entities pursuant to this chapter. All funds for airport loans in the Special Deposit Fund are hereby transferred to the subaccount. With the approval of the Department of Finance, the department shall deposit in the subaccount all money received by the department from repayments of and interest on existing and future airport loans, including, but not limited to, the sums of five hundred forty thousand dollars (\$540,000) in repayments from the General Fund due in July 1987, and July 1988, and may, upon appropriation, transfer additional funds from the Aeronautics Account in the State Transportation Fund to the subaccount as the department deems appropriate. Interest on money in the subaccount shall be credited to the subaccount as it accrues.

(f) (1) Notwithstanding subdivision (a) of Section 13340 of the Government Code, the money in the subaccount created by subdivision (e) is hereby continuously appropriated to the department without regard to fiscal years for purposes of loans to political subdivisions for airport purposes.

(2) Upon a determination by the department that the balance in the subaccount exceeds projected needs, funds in the subaccount may be transferred by the department to the Aeronautics Account to fund the California Aid to Airports Program with the approval of the California Transportation Commission and the Department of Finance. The transfers shall not reduce the amount of funds in the subaccount below five million dollars (\$5,000,000).

## **Agent for Political Subdivisions; Contracts; Handling of Funds**

21603. Upon the request of any political subdivision or political subdivisions acting jointly, the department may act as agent in accepting, receiving, receipting for, and disbursing federal money, and other money public or private, made available to finance, in whole or in part, the planning, acquisition, construction, improvement, maintenance, or operation of a public airport or air navigation facility. The department may act as agent in contracting for and supervising the planning, acquisition, construction, improvement, maintenance, or operation. Any political subdivision may designate the department as its agent for these purposes.

The department as principal on behalf of the state, and any political subdivision on its own behalf, may enter into any contracts with each other, the United States, or any person, which may be required in connection with a grant or loan of federal money for public airport or air navigation facility purposes.

All federal money accepted under this section shall be accepted and transferred or expended by the department upon such terms and conditions as are prescribed by the United States. All money received by the department pursuant to this section shall be deposited in the Special Deposit Fund in the State Treasury, to be disbursed or expended in accordance with the terms and conditions upon which it was made available.

## **Airport Closing Procedures**

21605. No proprietor of any permitted airport which is open to the public and has received public funds shall close or suspend operation of the airport, or close an existing runway or taxiway except on a temporary basis for inspection, maintenance, construction, or emergency purposes, without notifying the department in writing 60 days prior to the intended closure or suspension of operations. On its own motion or upon the request of an affected or interested person, the department may conduct a public hearing to determine the impact of the intended closure or suspension of operations, both economically and on the entire state air transportation system. The department may take appropriate action to assist the proprietor in keeping the airport operational and open for public use.

## **Article 2. State Airports and Air Navigation Facilities**

### **Establishment; Planning; Construction**

21631. From appropriations or other money made available for the purpose, the department, on behalf of and in the name of the state, may plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities, either within or without the state, including the construction, installation, equipment, maintenance, and operation at the airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers.

### **Acquisition of Existing Facilities**

21632. (a) The department may also acquire existing airports and air navigation facilities, but it shall not acquire any airport or air navigation facility owned or controlled by a political subdivision of this or any other state without the consent of the political subdivision.

(b) Whenever an airport owned or operated by the United States in this state ceases to be so owned or operated, the department, in consultation with local and regional transportation planning agencies, may evaluate the present and future need for the airport in the state's public-use airport system, including the need for both the transportation of people and goods. The purpose of the evaluation is to determine aviation needs and does not eliminate any requirement of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(c) Prior to finalizing the evaluation, the department shall submit a copy of its report to the commission for review and comment.

The commission shall complete its review and forward any comments to the department not later than 45 days after receiving the evaluation.

(d) Upon completion of its evaluation, the department may make a recommendation to the Legislature, the commission, the affected local agencies, and the appropriate federal agency for the airport's ownership and type of operation as a public-use airport, if the department determines that the airport would be of significant benefit to the state's airport system. It is the intent of the Legislature that the department, in making its recommendation, give priority for ownership and operation of these public-use airports to a local political subdivision or subdivisions acting jointly.

(e) Notwithstanding Section 21606, if a political subdivision or subdivisions acting jointly notify the department of their intentions to prepare a reuse plan for the airport, and simultaneously apply to the Federal Aviation Administration for a federal grant to develop an airport master plan for the airport, the department shall not make its recommendation pursuant to subdivision (d). If the department's evaluation determines that the airport would be of

significant benefit to the state's airport system, and the political subdivision or subdivisions acting jointly fail to convert the federal airport to a civil public-use airport in accordance with the department's evaluation within five years of notification to the department, or fail to evidence substantial progress toward that purpose as determined by the department, then the department may take action in accordance with subdivision (f).

(f) If the department determines the airport is of present or future benefit to the state's public-use airport system, and no political subdivision applies to the appropriate federal agency to acquire or operate the airport, or has notified the department of its intention to prepare a reuse plan for the airport and thereafter fails to act upon its application pursuant to subdivision (e), the department may, subject to subdivision (g), assist in the formation of a public entity to own and operate the airport which shall be representative of political subdivisions in the area which surrounds and is served by the airport, as determined by the department. If established, the owning and operating entity may, subject to subdivision (g), prepare and submit an application to the appropriate federal agency to acquire or operate, or acquire and operate, the airport as a public airport.

(g) Notwithstanding subdivision (f), if any political subdivision has previously applied to the appropriate federal agency to acquire and operate the airport as a public airport, has completed all required environmental and fiscal evaluations, and subsequently withdrew its application prior to December 31, 1988, the department shall not file any application to acquire or operate the airport or assist in the formation of a public entity to own and operate the airport.

### **Acquisition of Real or Personal Property**

21633. For the purposes of this article, the department, by purchase, gift, devise, lease, condemnation, or otherwise, may acquire real or personal property, or any interest therein, including any property described in Section 21652.

### **Disposal of Property**

21636. The department may dispose of any property, airport, air navigation facility, or portion or interest, acquired pursuant to this article, by sale, lease, or otherwise. The disposal shall be in accordance with the laws of this state governing the disposition of other state property, except that in the case of disposals to any political subdivision or government or the United States for aeronautical purposes, the disposal may be effected in the manner and upon the terms the department deems in the best interests of the state.

### **Contracts and Leases for Operation**

21637. In operating an airport or air navigation facility owned or controlled by the state, the department may enter into contracts, leases, and other arrangements for a term not exceeding 20 years with any person, granting the privilege of using or improving the airport or air navigation facility or space therein for commercial purposes, conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility, or making available services to be furnished by the department or its agents at the airport or air navigation facility. In each case the department may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with regard to the property and improvement used and the expenses of operation to the state. In no case shall the public be deprived of its rightful, equal, and uniform use of the airport, air navigation facility, or portion of either. The department shall grant no exclusive privilege for the sale or delivery of gasoline or other petroleum products.

### **Lease of Airports**

21638. The department shall call for bids for the operation of any state-owned airport and shall lease the airport for a term not to exceed five years to the highest qualified bidder or bidders. No person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the department might not have undertaken under Section 21637. The state may operate an airport only if no acceptable bid is received.

### **Exclusive Right for Use Prohibited**

21639. The department shall grant no exclusive right for the use of any airport or air navigation facility under its jurisdiction. This section shall not be construed to prevent the making of contracts, leases, and other arrangements pursuant to this article.

## **Lien for Charges; Enforcement**

21640. To enforce the payment of any charges for repairs, improvements, storage, or care of any personal property by the department or its agents in connection with the operation of an airport or air navigation facility owned or operated by the state, the state has a lien on the property, which is enforceable by the department as provided by law.

## **Flying or Releasing Balloon, Kite or Rocket Near Airport as Misdemeanor**

21646. It shall be a misdemeanor for any person to release or fly or cause to be released or flown, within five miles of any airport, any moored balloon, kite, unmanned rocket, or unmanned free balloon which might be ingested by an aircraft engine or might cause a pilot's view of the airport and zone approach to be obstructed, or which could be used to suspend an object capable of endangering airborne aircraft or impairing a pilot's vision.

## **Article 2.5. Non-Public Use Airports**

### **Airport Defined**

21650. "Airport" for the purposes of this article means an airport not open to the general public.

### **Airport Marks; Federal Aviation Administration Standards**

21650.1. An airport shall be marked as required by rule of the department with letters or symbol selected by the department to designate that the airport is not open to the general public. In selecting the letters or symbol, the department shall be guided by letters or symbols currently in use by the Federal Aviation Administration for similar or comparable purposes.

### **Permit; Application and Receipt Under Article 3**

21650.2. Nothing shall prevent an airport from applying for and receiving a permit pursuant to Article 3 (commencing with Section 21661) of this chapter.

## **Article 2.6 Hazard Elimination; Flight Disturbance**

### **Eminent Domain**

21652. (a) Any person authorized to exercise the power of eminent domain for airport purposes may acquire by purchase, gift, devise, lease, condemnation, or otherwise:

(1) Any property necessary to permit the safe and efficient operation of the airport, or to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards.

(2) Airspace or an easement in such airspace above the surface of property where necessary to permit imposition upon such property of excessive noise, vibration, discomfort, inconvenience, interference with use and enjoyment, and any consequent reduction in market value, due to the operation of aircraft to and from the airport.

(3) Remainder property underlying property taken pursuant to paragraph (2), where permitted by Section 1240.410 of the Code of Civil Procedure.

(b) As used in this section, "property" includes real and personal property and any right or interest therein, whether within, beyond, adjacent to, or in the vicinity of, the boundaries of an airport or airport site, and, by way of illustration and not by way of limitation, includes air rights, airspace, air easements, and easements in airport hazards.

### **Removal of Hazards**

21653. Any person authorized to exercise the power of eminent domain for airport purposes may provide, by purchase, gift, devise, lease, condemnation, or otherwise, for the removal or relocation of any airport hazard or the removal or relocation of all facilities, structures, and equipment that may interfere with the location, expansion, development, or improvement of the airport and other air navigation facilities or with the safe approach thereto and takeoff therefrom by aircraft. Any person acting under authority of this section shall pay the cost of such removal or relocation.

## **Article 2.7 Regulation of Obstructions**

### **Proposed Site for Construction of State Building Within Two Miles of Airport Boundary**

21655. Notwithstanding any other provision of law, if the proposed site of any state building or other enclosure is within two miles, measured by air line, of that point on an airport runway, or runway proposed by an airport master plan, which is nearest the site, the state agency or office which proposes to construct the building or other enclosure shall, before acquiring title to property for the new state building or other enclosure site or for an addition to a present site, notify the Department of Transportation, in writing, of the proposed acquisition. The department shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the state agency or office which proposes to construct the building or other enclosure a written report of the investigation and its recommendations concerning acquisition of the site.

If the report of the department does not favor acquisition of the site, no state funds shall be expended for the acquisition of the new state building or other enclosure site, or the expansion of the present site, or for the construction of the state building or other enclosure, provided that the provisions of this section shall not affect title to real property once it is acquired.

### **Permit for Extension of Structure More Than 500 Feet Above Ground**

21656. No person shall erect or add to the height of any structure within the boundaries of this state which will result in a structure that extends more than 500 feet above the ground on which such structure rests until a permit therefor has been issued for such purpose by the department. This section is not applicable to the construction of any structure if the Federal Communications Commission is required to approve the height of the structure or if the height of the structure is required to be approved under the Federal Aviation Act of 1958 (Public Law 85-726; 72 Stat. 731).

### **Refusal to Issue Permit; Request for Hearing**

21657. The department may refuse issuance of a permit under Section 21656 if it determines that the erection of or addition to a structure would obstruct the airspace overlying the state so as to create an unsafe condition for the flight of aircraft.

Any person denied a permit shall, upon request, be granted a hearing by the department to determine whether a permit shall be issued. The hearing shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

### **Construction of Utility Pole or Line in Vicinity of Aircraft Landing Area**

21658. No public utility shall construct any pole, pole line, distribution or transmission tower, or tower line, or substation structure in the vicinity of the exterior boundary of an aircraft landing area of any airport open to public use, in a location with respect to the airport and at a height so as to constitute an obstruction to air navigation, as an obstruction is defined in accordance with Part 77 of the Federal Aviation Regulations, Federal Aviation Administration, or any corresponding rules or regulations of the Federal Aviation Administration, unless the Federal Aviation Administration has determined that the pole, line, tower, or structure does not constitute a hazard to air navigation. This section shall not apply to existing poles, lines, towers, or structures or to the repair, replacement, or reconstruction thereof if the original height is not materially exceeded and this section shall not apply unless just compensation shall have first been paid to the public utility by the owner of any airport for any property or property rights which would be taken or damaged hereby.

### **Hazards Near Airports Prohibited**

21659. (a) No person shall construct or alter any structure or permit any natural growth to grow at a height which exceeds the obstruction standards set forth in the regulations of the Federal Aviation Administration relating to objects affecting navigable airspace contained in Title 14 of the Code of Federal Regulations, Part 77, Subpart C, unless a permit allowing the construction, alteration, or growth is issued by the department.

(b) The permit is not required if the Federal Aviation Administration has determined that the construction, alteration, or growth does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation. Subdivision (a) does not apply to a pole, pole line, distribution or transmission tower, or tower line or substation of a public utility.

(c) Section 21658 is applicable to subdivision (b).

### **Refusal to Issue Permit; Request for Hearing**

21660. The department may refuse issuance of a permit under Section 21659 if it determines that the construction or alteration of the structure or growth of the natural growth would constitute a hazard to air navigation or create an unsafe condition for air navigation.

Any person denied a permit shall, upon request, be granted a hearing by the department to determine whether a permit shall be issued. The hearing shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

## **Article 3. Regulation of Airports**

### **Exemptions**

21661. This article does not apply to any temporary seaplane landing site, ultralight vehicle flightpark, or to airports owned or operated by the United States. To the extent necessary, the department may exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or requirement thereof, adopted pursuant to this article, if it finds that its application would be an undue burden on the class and is not required in the interest of public safety.

This section shall become operative on January 1, 1989.

### **City Council or Board of Supervisors and ALUC Approvals**

21661.5. (a) No political subdivision, any of its officers or employees, or any person may submit any application for the construction of a new airport to any local, regional, state, or federal agency unless the plan for construction is first approved by the board of supervisors of the county, or the city council of the city, in which the airport is to be located and unless the plan is submitted to the appropriate commission exercising powers pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9, and acted upon by that commission in accordance with the provisions of that article.

(b) A county board of supervisors or a city council may, pursuant to Section 65100 of the Government Code, delegate its responsibility under this section for the approval of a plan for construction of new helicopter landing and takeoff areas, to the county or city planning agency.

### **Submission of Plan for Expansion or Enlargement of Airport**

21661.6. (a) Prior to the acquisition of land or any interest therein, including tide and submerged lands or other lands subject to the public trust for commerce, navigation, or fisheries, by any political subdivision for the purpose of expanding or enlarging any existing publicly owned airport, the acquiring entity shall submit a plan of that expansion or enlargement to the board of supervisors of the county, or the city council of the city, in which the property proposed to be acquired is located.

(b) The plan shall show in detail the airport-related uses and other uses proposed for the property to be acquired.

(c) The board of supervisors or the city council, as the case may be, shall, upon notice, conduct a public hearing on the plan, and shall thereafter approve or disapprove the plan.

(d) Upon approval of the plan, the proposed acquisition of property may begin.

(e) The use of property so acquired shall thereafter conform to the approved plan, and any variance from that plan, or changes proposed therein, shall first be approved by the appropriate board of supervisors or city council after a public hearing on the subject of the variance or plan change.

(f) The requirements of this section are in addition to any other requirements of law relating to construction or expansion of airports.

### **Approval of Sites; Issuance of Permits; Charges**

21662. The department shall have the authority to issue airport site approval permits, amended airport site approval permits, airport permits, and amended airport permits. No charge shall be made for the issuance of any permit.

### **Emergency Service Helicopters**

21662.1. (a) At or as near as practical to the site of a medical emergency and at a medical facility, an officer authorized by a public safety agency may designate an area for the landing and taking off of an emergency service helicopter, in accordance with regulations established not later than January 1, 1989, pursuant to Section 21243.

(b) "Public safety agency" means any city, county, state agency, or special purpose district authorized to arrange for emergency medical services.



## **Emergency Flights for Medical Purposes**

21662.4. (a) Emergency aircraft flights for medical purposes by law enforcement, firefighting, military, or other persons who provide emergency flights for medical purposes are exempt from local ordinances adopted by a city, county, or city and county, whether general law or chartered, that restrict flight departures and arrivals to particular hours of the day or night, that restrict the departure or arrival of aircraft based upon the aircraft's noise level, or that restrict the operation of certain types of aircraft.

(b) As used in this section, "emergency aircraft flights for medical purposes" are those flights in which undue delay would threaten a patient's life. "Emergency aircraft flights for medical purposes" include, but are not limited to, flights for the transportation of any of the following:

- (1) Patients accompanied by licensed or certificated medical attendants such as paramedics, nurses, physicians, and respiratory therapists.
- (2) Surgical transplant teams for the purpose of procuring human organs for reimplantation in recipients.
- (3) Organ procurement agency coordinators responding to a potential donor.
- (4) Temporarily viable human organs such as a heart, liver, lungs, kidneys, and pancreas, and human tissue, blood, or blood components.
- (5) Human tissue and blood samples for clinical testing to determine compatibility between a donor and a recipient.
- (6) Mechanical adjuncts or biological replacements for human organs.
- (7) Medical equipment and supplies.
- (8) Aircraft or equipment used during a medical emergency, or emergency personnel and first responders involved in treating the medical emergency, for the purpose of returning to its base of operation.

"Emergency aircraft flights for medical purposes" do not include the transportation of medical personnel to attend seminars, conferences, or speaking appearances in which undue delay would not jeopardize any patient's medical condition.

(c) (1) Written information concerning the emergency shall be submitted to the airport proprietor for all emergency aircraft flights within 72 hours prior or subsequent to the departure or arrival of the aircraft. For all emergency aircraft flights for medical purposes, the information shall include the patient's name and address, the names of medical attendants or personnel and the discipline in which they are licensed or hold a certificate to practice, a signed statement by the attending physician specifying that a medical emergency was involved, the requesting medical facility or agency, the intended destination, the type and registration number of the aircraft, and the names of all flight crew members, provided that the disclosure is authorized by and made in a manner consistent with the standards with respect to the privacy of individually identifiable health information of Title II (commencing with Section 200) of the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the regulations issued by the United States Department of Health and Human Services pursuant to that act (45 C.F.R. Pts. 160 and 164), and the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(2) This subdivision does not apply to emergency aircraft flights for medical purposes by law enforcement, firefighting, or military personnel.

(d) Any airport that incurs additional expenses in order to accommodate the arrival or departure of emergency aircraft flights for medical purposes may charge the patient on whose behalf the flight is made, or any organization or entity which has volunteered to reimburse the airport, for those expenses.

(e) For emergency aircraft flights for medical purposes, when two airports are located in the same geographical area, and one of the airports is a "closed" or restricted airport, the Legislature encourages the use of the "open" or unrestricted airport when feasible, rather than using the "closed" or restricted airport.

(f) When leasing aircraft for flights for emergency medical purposes, the Legislature encourages the use, when feasible, of aircraft which comply with local noise ordinances.

## **Helicopters in Proximity to Certain Schools Prohibited**

21662.5. Notwithstanding Section 21006 or Section 21661 or any other provision of law to the contrary, no helicopter may land or depart in any area within 1,000 feet, measured by air line, of the boundary of any public or private school maintaining kindergarten classes or any classes in grades 1 through 12, without approval of the department or by a public safety agency designated by the department, unless the landing or departure takes place at a permitted permanent heliport, or is a designated emergency medical service landing site.

Before approval of the landing or departure of a helicopter pursuant to this section, all schools within the specified area shall be notified by the department or public safety agency of the application and shall have 15 days after the notice in which to demand a public hearing. The public hearing shall be held at a location in the immediate vicinity

of the landing or departure site. The department or public safety agency shall not grant approval pursuant to this section unless it has first found that helicopter operations at the proposed site can be conducted in a safe manner, and in accordance with criteria established by the department.

This section shall not prevent the governing body of any city or county from enacting ordinances or regulations imposing restrictions equal to or greater than those imposed by this section.

### **Operation Without Permit**

21663. It is unlawful for any political subdivision, any of its officers or employees, or any person to operate an airport unless an appropriate airport permit required by rule of the department has been issued by the department and has not subsequently been revoked.

### **Approval of Sites; Application**

21664. Any political subdivision or person planning to construct, establish, or expand an airport shall apply for the appropriate permit from the department prior to the construction, establishment or expansion. The application shall set forth the location of all highways, railways, wires, cables, poles, fences, schools, residential areas and places of public gathering, and any other information as may be required by the rules and regulations of the department. Whenever an airport owned or operated by the United States ceases to be so owned or operated, any political subdivision or person desiring or planning to own or operate the airport shall apply to the department in compliance with the provisions of this article. If the airport holds a permit issued by the department, the application shall be confined to consideration of the matters enumerated in subdivision (e) of Section 21666.

### **Amended Airport Permits; Airport Expansion Defined**

21664.5. (a) An amended airport permit shall be required for every expansion of an existing airport. An applicant for an amended airport permit shall comply with each requirement of this article pertaining to permits for new airports. The department may by regulation provide for exemptions from the operation of this section pursuant to Section 21661, except that no exemption shall be made limiting the applicability of subdivision (e) of Section 21666, pertaining to environmental considerations, including the requirement for public hearings in connection therewith.

(b) As used in this section, "airport expansion" includes any of the following:

(1) The acquisition of runway protection zones, as defined in Federal Aviation Administration Advisory Circular 150/1500-13, or of any interest in land for the purpose of any other expansion as set forth in this section.

(2) The construction of a new runway.

(3) The extension or realignment of an existing runway.

(4) Any other expansion of the airport's physical facilities for the purpose of accomplishing or which are related to the purpose of paragraph (1), (2), or (3).

(c) This section does not apply to any expansion of an existing airport if the expansion commenced on or prior to the effective date of this section and the expansion met the approval, on or prior to that effective date, of each governmental agency that required the approval by law.

### **Issuance of Permits; Requirements; Conditions**

21666. The department shall issue a permit if it is satisfied that all of the following requirements have been met:

(a) The site meets or exceeds the minimum airport standards specified by the department in its rules and regulations, provided, however, that the department may modify its minimum airport standards when issuing a permit if it is satisfied that the airport will conform to minimum standards of safety.

(b) Safe air traffic patterns have been established for the proposed airport and for all existing airports and approved airport sites in its vicinity.

(c) The zone of approach of the airport has been engineered in conformity with the provisions of Section 21403, the documents relating thereto are available for public inspection.

(d) The department when issuing a permit may impose reasonable conditions which it deems necessary to effectuate the purposes of this article.

(e) The advantages to the public in selection of the site of a proposed new airport outweigh the disadvantages to the environment or, in the case of an amended permit, the advantages to the public of the proposed airport expansion outweigh the disadvantages to the environment. Environmental considerations include but are not limited to noise, air pollution, and the burden upon the surrounding area caused by the airport or airport expansion, including but not limited to, surface traffic and expense. The standards by which noise considerations are weighed shall be the level of noise acceptable to a reasonable person residing in the vicinity of the airport. The regulations adopted by the department pursuant to Section 21669 may be considered in determining such level of noise.

Each permit issued by the department shall set forth any conditions imposed thereon, and any modification of the general minimum airport standards prescribed by the department relative to such airport or airport site.

The department may refuse to issue a permit under this article if it determines that the requirements of this section have not been met. Any person denied a permit shall, upon request, be granted a hearing by the department to determine whether the permit should be issued.

### **Revocation of Permit; Grounds**

21668. The department may revoke any airport permit if it determines that any of the following conditions are present:

- (a) There has been an abandonment of a site or an airport.
- (b) There has been a failure within the time prescribed to develop the site as an airport or to comply with the conditions of the approval as set forth in the permit.
- (c) The airport or site no longer conforms to the minimum airport standards prescribed by the department, or no longer complies with the conditions imposed in the airport permit or site approval.
- (d) The owner or operator of a permitted airport has failed to comply with any rule or regulation of the department.
- (e) The site may no longer be safely used by the general public because of a change in physical or legal conditions either on or off the airport site.

The department shall not revoke a permit under this section without prior notice or opportunity for hearing, unless the department determines in writing that public safety considerations require a summary revocation. In this event, any person aggrieved by the action of the department shall, upon request, be granted a hearing by the department to determine whether the revocation shall remain in effect.

### **Suspension of Operation**

21668.2. In lieu of revoking an airport permit pursuant to Section 21668, the department may suspend any airport permit, or may require suspension of operations of a portion of an airport, and such suspension shall remain in effect until the department determines that the conditions requiring the suspension no longer exist.

The department shall not order a suspension under this section without prior notice or opportunity for hearing, unless the department determines in writing that public safety considerations require a summary suspension. In this event, any person aggrieved by the action of the department shall, upon request, be granted a hearing by the department to determine whether the suspension shall remain in effect.

### **Adoption of Noise Standards**

21669. The department shall adopt noise standards governing the operation of aircraft and aircraft engines for airports operating under a valid permit issued by the department to an extent not prohibited by federal law. The standards shall be based upon the level of noise acceptable to a reasonable person residing in the vicinity of the airport.

### **Existing Residential Conversion**

21669.1. (a) Land use conversion involving existing residential communities shall generally be considered the least desirable action for achieving compliance with noise standards regulations adopted by the Department of Transportation pursuant to Section 21669.

(b) Nothing in this section creates a private right of action in any civil litigation.

(c) This section is declaratory of existing regulations of the department.

### **Guidelines**

21669.2. In its deliberations, the department shall be governed by the following guidelines:

(a) Statewide uniformity in standards of acceptable airport noise need not be required, and the maximum amount of local control and enforcement shall be permitted.

(b) Due consideration shall be given to the economic and technological feasibility of complying with the standards promulgated by the department.

### **Effective Date of Regulations**

21669.3. Any regulations designed to establish a noise monitoring program at an airport entering service after November 30, 1971, shall go into effect on the date the airport enters service.

## **Violation of Standards; Enforcement; Penalties**

21669.4. (a) The violation of the noise standards by any aircraft shall be deemed a misdemeanor and the operator thereof shall be punished by a fine of one thousand dollars (\$1,000) for each infraction.

(b) It shall be the function of the county wherein an airport is situated to enforce the noise regulations established by the department. To this end, the operator of an airport shall furnish to the enforcement authority designated by the county the information required by the department's regulations to permit the efficient enforcement thereof. The operator of each airport shall reimburse the county for its costs of implementing the airport noise regulations contained in Article 8 (commencing with Section 5050) of subchapter 6 of Title 4 of the California Administrative Code, which shall, for purposes of subdivision (c), credit the operator for any amounts received from penalties assessed for violations at such airport. Upon request of the operator, the department shall review and shall determine the reasonableness of such costs, and such costs may be considered in fixing any airport user fees.

(c) Penalties assessed for the violation of the noise regulations shall be used first to reimburse the General Fund for the amount of any money appropriated to carry out the purposes for which the noise regulations are established, and second be used in the enforcement of the noise regulations at participating airports.

## **Noise-sensitive projects; approval conditioned upon grant of aviation easement**

21669.5. (a) For purposes of this section, the following terms have the following meanings:

(1) (A) "Avigation easement" means a less-than-fee-title transfer of real property rights from the property owner that may convey to an owner or operator of an airport any or all of the following rights:

(i) A right-of-way for the free and unobstructed passage of aircraft through the airspace over the property at any altitude above a specified surface.

(ii) A right to subject the property to noise, vibration, fumes, dust, and fuel particle emissions associated with normal airport activity.

(iii) A right to prohibit the erection or growth of any structure, tree, or other object that would enter the acquired airspace.

(iv) A right-of-entry onto the property, with proper advance notice, for the purpose of removing, marking, or lighting any structure or other object that enters the acquired airspace.

(v) A right to prohibit electrical interference, glare, misleading lights, visual impairments, and other hazards to aircraft flight from being created on the property.

(B) "Avigation easement" includes an easement obtained pursuant to paragraph (2) of subdivision (a) of Section 21652.

(2) "CNEL" means community noise equivalent level established pursuant to Chapter 6 (commencing with Section 5000) of Division 2.5 of Title 21 of the California Code of Regulations.

(3) "Noise-sensitive land use" means residential uses, including detached single-family dwellings, multifamily dwellings, highrise apartments or condominiums, mobilehomes, public and private educational facilities, hospitals, convalescent homes, churches, synagogues, temples, and other places of worship.

(4) "Noise-sensitive project" means a project involving new construction or reconstruction for a planned noise-sensitive land use within an airport's 65 decibels CNEL or higher noise contour.

(b) If a political subdivision conditions approval of a noise-sensitive project upon the grant of an avigation easement to the owner or operator of an airport, the avigation easement shall be required to be granted to the owner or operator of the airport prior to the issuance of the building permit that allows construction or reconstruction of the noise-sensitive project. The owner or operator of an airport that is granted an avigation easement as a condition for approval of a noise-sensitive project pursuant to this subdivision shall be entitled to immediately record it upon receipt.

(c) An avigation easement granted to the owner or operator of an airport as a condition for approval of a noise-sensitive project shall include a termination clause that operates to terminate the avigation easement if the noise-sensitive project is not built and the permit or any permit extension authorizing construction or reconstruction of the noise-sensitive project has expired or has been revoked.

(d) Within 30 days after expiration or revocation of a permit or permit extension that authorized construction or reconstruction of a noise-sensitive project and was conditioned upon the property owner granting an avigation easement to the owner or operator of an airport, the political subdivision that had issued the permit shall notify the owner or operator of the airport of the expiration or revocation of the permit. Within 90 days after receipt of the notice from the political subdivision, the owner or operator of the airport shall record a notice of termination with the county recorder in which the property is located. Proof of filing of the notice of termination shall be provided to the political subdivision by the owner or operator of the airport within 30 days of recordation.

(e) Notwithstanding Sections 6103 and 27383 of the Government Code, in filing any instrument, paper, or notice pursuant to this section, the owner or operator of an airport shall pay all applicable recording fees prescribed by law.

## **Hearing Procedures**

21669.6. Hearings under this article required by the provisions of Sections 21666, 21668, 21668.2, and 21669, or regulations adopted pursuant to those provisions, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

## **Article 3.5. Airport Land Use Commission**

### **Creation; Membership; Selection**

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation.

For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all of the public airports within that county.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him or her in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(e) A person having an "expertise in aviation" means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport.

(f) It is the intent of the Legislature to clarify that, for the purposes of this article, that special districts, school districts, and community college districts are included among the local agencies that are subject to airport land use laws and other requirements of this article.

### **Action by Designated Body Instead of Commission**

21670.1. (a) Notwithstanding any other provision of this article, if the board of supervisors and the city selection committee of mayors in the county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.

(b) A body designated pursuant to subdivision (a) that does not include among its membership at least two members having expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the

capacity of an airport land use commission, be augmented so that body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.

(c) (1) Notwithstanding subdivisions (a) and (b), and subdivision (b) of Section 21670, if the board of supervisors of a county and each affected city in that county each makes a determination that proper land use planning pursuant to this article can be accomplished pursuant to this subdivision, then a commission need not be formed in that county.

(2) If the board of supervisors of a county and each affected city makes a determination that proper land use planning may be accomplished and a commission is not formed pursuant to paragraph (1), that county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:

(A) Adopt processes for the preparation, adoption, and amendment of the airport land use compatibility plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.

(B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the airport land use compatibility plans.

(C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the airport land use compatibility plans.

(D) Adopt processes for the amendment of general and specific plans to be consistent with the airport land use compatibility plans.

(E) Designate the agency that shall be responsible for the preparation, adoption, and amendment of each airport land use compatibility plan.

(3) The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent with the procedure required by this article and will do all of the following:

(A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.

(B) Rely on the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.

(C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.

(4) If the county does not comply with the requirements of paragraph (2) within 120 days, then the airport land use compatibility plan and amendments shall not be considered adopted pursuant to this article and a commission shall be established within 90 days of the determination of noncompliance by the division and an airport land use compatibility plan shall be adopted pursuant to this article within 90 days of the establishment of the commission.

(d) A commission need not be formed in a county that has contracted for the preparation of airport land use compatibility plans with the Division of Aeronautics under the California Aid to Airports Program (Chapter 4 (commencing with Section 4050) of Title 21 of the California Code of Regulations), Project Ker-VAR 90-1, and that submits all of the following information to the Division of Aeronautics for review and comment that the county and the cities affected by the airports within the county, as defined by the airport land use compatibility plans:

(1) Agree to adopt and implement the airport land use compatibility plans that have been developed under contract.

(2) Incorporated the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations, as part of the general and specific plans for the county and for each affected city.

(3) If the county does not comply with this subdivision on or before May 1, 1995, then a commission shall be established in accordance with this article.

(e) (1) A commission need not be formed in a county if all of the following conditions are met:

(A) The county has only one public use airport that is owned by a city.

(B) (i) The county and the affected city adopt the elements in paragraph (2) of subdivision (d), as part of their general and specific plans for the county and the affected city.

(ii) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics. If the county and the affected city do not submit the elements specified in paragraph (2) of subdivision (d), on or before May 1, 1996, then a commission shall be established in accordance with this article.

## **Los Angeles County**

21670.2. (a) Sections 21670 and 21670.1 do not apply to the County of Los Angeles. In that county, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission by any public agency involved. The action taken by the county regional planning commission on an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.

(b) By January 1, 1992, the county regional planning commission shall adopt the airport land use compatibility plans required pursuant to Section 21675.

(c) Sections 21675.1, 21675.2, and 21679.5 do not apply to the County of Los Angeles until January 1, 1992. If the airport land use compatibility plans required pursuant to Section 21675 are not adopted by the county regional planning commission by January 1, 1992, Sections 21675.1 and 21675.2 shall apply to the County of Los Angeles until the airport land use compatibility plans are adopted.

## **San Diego County**

21670.3. (a) Sections 21670 and 21670.1 do not apply to the County of San Diego. In that county, the San Diego County Regional Airport Authority, as established pursuant to Section 170002, shall be responsible for the preparation, adoption, and amendment of an airport land use compatibility plan for each airport in San Diego County.

(b) The San Diego County Regional Airport Authority shall engage in a public collaborative planning process when preparing and updating an airport land use compatibility plan.

## **Intercounty Airports**

21670.4. (a) As used in this section, "intercounty airport" means any airport bisected by a county line through its runways, runway protection zones, inner safety zones, inner turning zones, outer safety zones, or sideline safety zones, as defined by the department's Airport Land Use Planning Handbook and referenced in the airport land use compatibility plan formulated under Section 21675.

(b) It is the purpose of this section to provide the opportunity to establish a separate airport land use commission so that an intercounty airport may be served by a single airport land use planning agency, rather than having to look separately to the airport land use commissions of the affected counties.

(c) In addition to the airport land use commissions created under Section 21670 or the alternatives established under Section 21670.1, for their respective counties, the boards of supervisors and city selection committees for the affected counties, by independent majority vote of each county's two delegations, for any intercounty airport, may do either of the following:

(1) Establish a single separate airport land use commission for that airport. That commission shall consist of seven members to be selected as follows:

(A) One representing the cities in each of the counties, appointed by that county's city selection committee.

(B) One representing each of the counties, appointed by the board of supervisors of each county.

(C) One from each county having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.

(D) One representing the general public, appointed by the other six members of the commission.

(2) In accordance with subdivision (a) or (b) of Section 21670.1, designate an existing appropriate entity as that airport's land use commission.

## **Actions subject to mediation**

21670.6. Any action brought in the superior court relating to this article may be subject to a mediation proceeding conducted pursuant to Chapter 9.3 (commencing with Section 66030) of Division 1 of Title 7 of the Government Code.

## **Airport Owned by a City, District, or County**

21671. In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the city selection committee of mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph (2) of subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

## **Term of Office**

21671.5. (a) Except for the terms of office of the members of the first commission, the term of office of each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members is four years. The body that originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which that member's term is to expire. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.

(b) Compensation, if any, shall be determined by the board of supervisors.

(c) Staff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.

(d) Notwithstanding any other provisions of this article, the commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.

(e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.

(f) The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission that has not adopted the airport land use compatibility plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

(g) In any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary to comply with this article until June 30, 1992, and, if the airport land use compatibility plans are complete by that date, may continue charging fees after June 30, 1992. If the airport land use compatibility plans are not complete by June 30, 1992, the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

## **Rules and Regulations**

21672. Each commission shall adopt rules and regulations with respect to the temporary disqualification of its members from participating in the review or adoption of a proposal because of conflict of interest and with respect to appointment of substitute members in such cases.

## **Initiation of Proceedings for Creation by Owner of Airport**

21673. In any county not having a commission or a body designated to carry out the responsibilities of a commission, any owner of a public airport may initiate proceedings for the creation of a commission by presenting a request to the board of supervisors that a commission be created and showing the need therefor to the satisfaction of the board of supervisors.

## **Powers and Duties**

21674. The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

(a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses.

(b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.

(c) To prepare and adopt an airport land use compatibility plan pursuant to Section 21675.

(d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.

(e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.



(f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

### **Training of Airport Land Use Commission's Staff**

21674.5. (a) The Department of Transportation shall develop and implement a program or programs to assist in the training and development of the staff of airport land use commissions, after consulting with airport land use commissions, cities, counties, and other appropriate public entities.

(b) The training and development program or programs are intended to assist the staff of airport land use commissions in addressing high priority needs, and may include, but need not be limited to, the following:

- (1) The establishment of a process for the development and adoption of airport land use compatibility plans.
- (2) The development of criteria for determining the airport influence area.
- (3) The identification of essential elements that should be included in the airport land use compatibility plans.
- (4) Appropriate criteria and procedures for reviewing proposed developments and determining whether proposed developments are compatible with the airport use.

(5) Any other organizational, operational, procedural, or technical responsibilities and functions that the department determines to be appropriate to provide to commission staff and for which it determines there is a need for staff training or development.

(c) The department may provide training and development programs for airport land use commission staff pursuant to this section by any means it deems appropriate. Those programs may be presented in any of the following ways:

- (1) By offering formal courses or training programs.
- (2) By sponsoring or assisting in the organization and sponsorship of conferences, seminars, or other similar events.
- (3) By producing and making available written information.
- (4) Any other feasible method of providing information and assisting in the training and development of airport land use commission staff.

### **Airport Land Use Planning Handbook**

21674.7. (a) An airport land use commission that formulates, adopts, or amends an airport land use compatibility plan shall be guided by information prepared and updated pursuant to Section 21674.5 and referred to as the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation.

(b) It is the intent of the Legislature to discourage incompatible land uses near existing airports. Therefore, prior to granting permits for the renovation or remodeling of an existing building, structure, or facility, and before the construction of a new building, it is the intent of the Legislature that local agencies shall be guided by the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations, to the extent that the criteria has been incorporated into the plan prepared by a commission pursuant to Section 21675. This subdivision does not limit the jurisdiction of a commission as established by this article. This subdivision does not limit the authority of local agencies to overrule commission actions or recommendations pursuant to Sections 21676, 21676.5, or 21677.

### **Land Use Plan**

21675. (a) Each commission shall formulate an airport land use compatibility plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission's airport land use compatibility plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating an airport land use compatibility plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the airport influence area. The airport land use compatibility plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission shall include, within its airport land use compatibility plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any military airport for all of the purposes specified in subdivision (a). The airport land use compatibility plan shall be consistent with the safety and noise

standards in the Air Installation Compatible Use Zone prepared for that military airport. This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The airport influence area shall be established by the commission after hearing and consultation with the involved agencies.

(d) The commission shall submit to the Division of Aeronautics of the department one copy of the airport land use compatibility plan and each amendment to the plan.

(e) If an airport land use compatibility plan does not include the matters required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan.

### **Adoption of Land Use Plan**

21675.1. (a) By June 30, 1991, each commission shall adopt the airport land use compatibility plan required pursuant to Section 21675, except that any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, shall adopt that airport land use compatibility plan on or before June 30, 1992.

(b) Until a commission adopts an airport land use compatibility plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land that will be included or reasonably could be included within the airport land use compatibility plan. If the commission has not designated an airport influence area for the airport land use compatibility plan, then "vicinity" means land within two miles of the boundary of a public airport.

(c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:

(1) The commission is making substantial progress toward the completion of the airport land use compatibility plan.

(2) There is a reasonable probability that the action, regulation, or permit will be consistent with the airport land use compatibility plan being prepared by the commission.

(3) There is little or no probability of substantial detriment to or interference with the future adopted airport land use compatibility plan if the action, regulation, or permit is ultimately inconsistent with the airport land use compatibility plan.

(d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.

(e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the airport land use compatibility plan.

(f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit.

(g) A commission may adopt rules and regulations that exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

(1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.

(2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

### **Approval or Disapproval of Actions, Regulations, or Permits**

21675.2. (a) If a commission fails to act to approve or disapprove any actions, regulations, or permits within 60 days of receiving the request pursuant to Section 21675.1, the applicant or his or her representative may file an action pursuant to Section 1094.5 of the Code of Civil Procedure to compel the commission to act, and the court shall give the proceedings preference over all other actions or proceedings, except previously filed pending matters of the same character.

(b) The action, regulation, or permit shall be deemed approved only if the public notice required by this subdivision has occurred. If the applicant has provided seven days advance notice to the commission of the intent to provide public notice pursuant to this subdivision, then, not earlier than the date of the expiration of the time limit established by Section 21675.1, an applicant may provide the required public notice. If the applicant chooses to provide public notice, that notice shall include a description of the proposed action, regulation, or permit substantially similar to the descriptions which are commonly used in public notices by the commission, the location

of any proposed development, the application number, the name and address of the commission, and a statement that the action, regulation, or permit shall be deemed approved if the commission has not acted within 60 days. If the applicant has provided the public notice specified in this subdivision, the time limit for action by the commission shall be extended to 60 days after the public notice is provided. If the applicant provides notice pursuant to this section, the commission shall refund to the applicant any fees which were collected for providing notice and which were not used for that purpose.

(c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65946, inclusive, of the Government Code, may constitute grounds for disapproval of actions, regulations, or permits.

(d) Nothing in this section diminishes the commission's legal responsibility to provide, where applicable, public notice and hearing before acting on an action, regulation, or permit.

## **Review of Local General Plans**

21676. (a) Each local agency whose general plan includes areas covered by an airport land use compatibility plan shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the airport land use compatibility plan. If the plan or plans are inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its airport land use compatibility plans. The local agency may propose to overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, propose to overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the public record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(c) Each public agency owning any airport within the boundaries of an airport land use compatibility plan shall, prior to modification of its airport master plan, refer any proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, propose to overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the public agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the public agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the public agency governing body may act without them. The comments by the division or the commission are advisory to the public agency governing body. The public agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the airport land use compatibility plan.

## **Review of Local Plans**

21676.5. (a) If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670, the commission may require that the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may propose to overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that individual projects shall be reviewed by the commission.

## **Marin County Override Provisions**

21677. Notwithstanding the two-thirds vote required by Section 21676, any public agency in the County of Marin may overrule the Marin County Airport Land Use Commission by a majority vote of its governing body. At least 45 days prior to the decision to overrule the commission, the public agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the public agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the public agency governing body may act without them. The comments by the division or the commission are advisory to the public agency governing body. The public agency governing body shall include comments from the commission and the division in the public record of the final decision to overrule the commission, which may be adopted by a majority vote of the governing body.

## **Airport Owner's Immunity**

21678. With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation.

## **Court Review**

21679. (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use compatibility plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, that directly affects the use of land within one mile of the boundary of a public airport within the county.

(b) The court may issue an injunction that postpones the effective date of the zoning change, zoning variance, permit, or regulation until the governing body of the local agency that took the action does one of the following:

- (1) In the case of an action that is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.
- (2) In the case of an action that is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.
- (3) Rescinds the action.
- (4) Amends its action to make it consistent with the purposes of this article stated in Section 21670, and complies with either paragraph (1) or (2), whichever is applicable.

(c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency that took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use compatibility plan as provided in Section 21675.

(d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever is longer.

(e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a publicly owned airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.

(f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.

### **Deferral of Court Review**

21679.5. (a) Until June 30, 1991, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in any county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan.

(b) If a commission has been prevented from adopting the airport land use compatibility plan by June 30, 1991, or if the adopted airport land use compatibility plan could not become effective, because of a lawsuit involving the adoption of the airport land use compatibility plan, the June 30, 1991, date in subdivision (a) shall be extended by the period of time during which the lawsuit was pending in a court of competent jurisdiction.

(c) Any action pursuant to Section 21679 commenced prior to January 1, 1990, in a county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body adopts an airport land use compatibility plan on or before June 30, 1991, the action shall be dismissed. If the commission or other designated body does not adopt an airport land use compatibility plan on or before June 30, 1991, the plaintiff or plaintiffs may proceed with the action.

(d) An action to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport for which an airport land use compatibility plan has not been adopted by June 30, 1991, shall be commenced within 30 days of June 30, 1991, or within 30 days of the decision by the local agency, or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever date is later.

## **Article 4. Aeronautics Fund**

### **Continuation; Continuous Appropriation**

21680. (a) The Aeronautics Fund is hereby continued in existence as the Aeronautics Account in the State Transportation Fund. The moneys deposited to the credit of the account are continuously appropriated for expenditure by the board and the department as provided in this article.

(b) Any reference in any law or regulation to the Airport Assistance Revolving Fund, the Airport Assistance Fund, or the Aeronautics Fund shall be deemed to refer to the Aeronautics Account in the State Transportation Fund. As used in this article, "fund" shall be deemed to refer to the Aeronautics Account in the State Transportation Fund.

### **Definitions**

21681. As used in this article, the following terms have the following meanings:

(a) "Own and operate" means that the public entity shall own the property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and shall maintain dominion and control of the property, except that the public entity may provide by contract with a person for the operation and management of an airport otherwise meeting the requirements of this article. Operations of the airport shall be for, and on behalf of, the public entity. All leases to the public entity of property are required to be approved by the department. A lease of the property by the public entity to an agent or agency other than to a public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money that is provided by the public entity and does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

- (c) "General aviation" means all aviation except air carrier and military aviation.
- (d) "Public entity" means any city, county, airport district, airport authority, port district, port authority, public district, public authority, political subdivision, airport land use commission, community services district, or public corporation and the University of California.
- (e) "Public agency" means the various agencies of the State of California and the federal government.
- (f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, and expenditures for compatible land use planning in the area surrounding an airport, for any of the following purposes:
  - (1) Land acquisition for development and improvement of general aviation aircraft landing facilities.
  - (2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.
  - (3) Construction or reconstruction of runways or taxiways.
  - (4) Acquisition of "runway protection zones" as defined in Federal Aviation Administration Advisory Circular 150/1500-13.
  - (5) Acquisition of easements through, or other interests in, airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.
  - (6) Removal of natural obstructions from runway protection zones.
  - (7) Installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.
  - (8) Installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.
  - (9) Installation of minimum security fencing around the perimeter of an aircraft landing facility.
  - (10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.
  - (11) Construction or reconstruction of transient general aviation aircraft parking areas.
  - (12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.
  - (13) Air navigational facilities.
  - (14) Engineering and preliminary engineering related directly to a project funded under this article.
  - (15) Other capital improvements as may be designated in rules and regulations adopted by the department.
  - (16) Activities of an airport land use commission in connection with the preparation of a new or updated airport land use compatibility plan pursuant to Section 21675. Expenditures that cannot be clearly identified as capital improvements shall be submitted to the department for consideration and approval.
  - (17) Airport master plans and airport layout plans.
- (g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital expenditures that are included in insurance, professional services, supplies, construction equipment, upkeep and landscaping, and other items of expenditure designated as "operation and maintenance" in rules and regulations adopted by the department.
- (h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding of the aircraft. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or interstate passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

## **Payments from Fund**

21682. (a) The department shall establish individual revolving fund subaccounts for eligible airports in the Aeronautics Account in the State Transportation Fund. Money payable under this section shall be credited to individual airport subaccounts annually, and may be accumulated for a maximum period of five years.

(b) The department shall, subject to Section 21684, credit from the Aeronautics Account to each public entity owning and operating an airport or airports under a valid permit issued by the department for every airport which has not been designated by the Federal Aviation Administration as (1) a reliever airport, as defined in Section 503 (a) (19) of the federal Airport and Airway Improvement Act of 1982, as amended, or (2) a commercial service airport, as defined in Section 503 (a) (5) of the federal Airport and Airway Improvement Act of 1982, as amended, the sum of ten thousand dollars (\$10,000) annually for each qualifying airport. These funds shall be paid to public entities upon request for expenditure on preapproved eligible projects. Eligible public entities may submit applications for the withdrawal of credited funds for expenditure on proposed projects in letter form to the department for review and approval. Projects identified shall be for airport and aviation purposes and operation and maintenance purposes. No payment made under this section is transferable, but shall be expended only upon the

airport for which the payment is made, unless the department authorizes a payment to be transferred for expenditure on another airport owned or operated by the public entity. The department may establish any accounting systems it deems necessary to provide for the cumulation and expenditure of funds under this subdivision.

(c) If, in any year, there is insufficient money in the Aeronautics Account to make the credits specified in subdivision (b), the department shall, subject to Section 21684, credit to each public entity subaccount an amount which is equal to the total amount of money in the Aeronautics Account multiplied by a percentage equivalent to the proportion which the airport or airports of the public entity for which credit is required to be made pursuant to subdivision (b) bear to the total number of airports for which credit is required to be made pursuant to subdivision (b).

(d) No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct these activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

(e) The department shall adopt rules and regulations and establish procedures to effect prompt payment to public entities for eligible airport projects from money credited pursuant to this section.

### **Payment of Aviation Share of Comprehensive Transportation Planning Costs**

21682.5. The department shall pay, from the Aeronautics Account to the Transportation Planning and Development Account in the State Transportation Fund, a sum equal to the pro rata share of the comprehensive transportation duties attributable to aviation planning and research, as determined by the Director of Transportation.

### **Use of Balance**

21683. Any public entity may apply to the department each year for the allocation of funds for the acquisition or development of airports. The commission may, pursuant to rules and regulations promulgated by the department, make an allocation to the public entity if it determines that the proposed acquisition or development is feasible and in accordance with the policies and standards established by the department. The department shall make recommendations to the commission on all applications. Such allocations shall be represented as subventions in the department budget in accordance with Section 21206.

No moneys paid under this section shall be expended for operation and maintenance. No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct such activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

### **Use of Funds for Local Match for Federal Airport Improvement Program Grants**

21683.1. (a) At the discretion of the commission, any balance remaining in the Aeronautics Account, after the payments made under Section 21682, may be used to provide a portion of the local match for federal Airport Improvement Program grants. Matching shall be provided only for grants at general aviation airports, or at airports that have been designated by the Federal Aviation Administration as reliever airports, as defined in Section 503(a)(19) of the federal Airport and Airway Improvement Act of 1982, as amended.

(b) Funds shall not be allocated by the commission until the federal grant offer is accepted by the public entity. Upon allocation by the commission, the department may pay a public entity an amount equal to 5 percent of the amount of a federal Airport Improvement Program grant. These funds are excluded from the requirements of Section 21684.

(c) Funds shall not be allocated by the commission until the federal grant offer is accepted by the public entity. Upon allocation by the commission, the department may, until December 31, 2006, pay a public entity an amount equal to the 10 percent local match required for a federal Airport Improvement Program grant for security projects at small general aviation airports. For purposes of this section, a "security project" means a project to install or maintain fencing, gates, security lighting, access controls systems, and surveillance systems. For purposes of this section a "small general aviation airport" means an airport with fewer than 80,000 annual landings and take-offs of aircraft.

### **Use of Balance in Aeronautics Account**

21683.2. Any balance remaining in the Aeronautics Account, after the payments made under Section 21682 and Section 21683.1, shall be used at the discretion of the commission for airport and aviation purposes subject to the provisions of Section 21684.

## **Special Aviation Fund**

21684. (a) No payment shall be made to a public entity pursuant to this article unless the public entity has established a special aviation fund in which all payments received by a public entity under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made to a public entity for a project pursuant to Section 21683.2 unless the public entity deposits in its special aviation fund a sum from other than state or federal sources, established annually by the commission at not less than 10 percent nor more than 50 percent of the nonfederal portion of the project.

Notwithstanding the provisions of this subdivision requiring matching funds, the department shall pay to each public entity owning and operating an airport or airports the annual amount that is in accordance with Section 21682.

(b) No payment shall be made for any airport to the University of California pursuant to this article unless the university has established a special aviation fund in which all payments received by the university under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made for any airport to the University of California pursuant to Section 21683.2 unless the university deposits in its special aviation fund each year, for expenditure solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on the rate established annually by the commission pursuant to subdivision (a), or unless a city located within 10 miles of the airport or the county within which the airport is located pays to the university a sum based on the rate established annually by the commission pursuant to subdivision (a). However, any sums so deposited by the university or paid by the city or county may be considered jointly as meeting the requirements of this section. The payments received from a city or county pursuant to these sections are to be expended solely for the airport and for aviation purposes related to such airport. All payments received by the university shall be deposited in its special aviation fund.

## **Use of Balance of Fund to Purchase Emergency Search and Rescue Equipment**

21684.1. Notwithstanding the provisions of Section 21683, any balance remaining in the fund after the payments made under Section 21682 may be used by the department to purchase emergency search and rescue equipment and to make such equipment available for use by recognized search and rescue groups. The equipment shall remain the property of the department. No more than eight thousand dollars (\$8,000) shall be expended pursuant to this section for the purchase of emergency search and rescue equipment.

## **Allocation of Funds for Construction of Airports**

21684.5. Notwithstanding the provisions of this article inasmuch as they require matching funds the department may allocate funds to public agencies for the construction of airports.

## **Allocation of Funds to Counties**

21684.6. Notwithstanding the provisions of this article, inasmuch as they require matching funds, the department may allocate funds to a county or a city for the construction of recreational airports or reliever training airstrips in accordance with regulations of the department if the county or city supplies the land and maintains and operates all facilities of such airport or airstrip.

## **Special Aviation Fund; Payments to State College or University Branch**

21685. Any public entity may pay any part of the money in its special aviation fund to a state college or branch of the University of California located within its boundaries to be expended for the same purposes as the public entity may expend such money. Any money paid to a state college or branch of the University of California shall be expended within the public entity paying the money.

## **Audit of Books and Records of Public Agencies**

21686. It shall be the duty of any public entity receiving payments or allocations under this article to periodically audit its books and records as deemed necessary by the department for the purpose of determining that the money received has been expended for the purposes and under the conditions authorized by this article.

## **Airports No Longer Open to the General Public; Payments to State**

21687. (a) (1) If an airport, for which payments have been made from the Aeronautics Account, ceases to be open to the general public for more than one year, the public entity to which those payments were made shall pay to the state funds equal to the amount computed by the department pursuant to paragraph (2), and those funds shall be deposited in the Aeronautics Account.



(2) (A) The department shall compute an amount equal to the total of all payments made for the airport from the Aeronautics Account during the preceding 20 years, less 5 percent of the amount of a particular payment multiplied by the number of years since the payment was made, or the unused balance, whichever is greater.

(B) The computation described in subparagraph (A) shall not include any payment the department made pursuant to Section 21682, if, upon the request of the public entity that owns and operates the airport, the department determines that the airport is not necessary to the system of public airports in this state. When making this determination, the department shall consider all of the following factors:

- (i) Whether the airport is approved for night operations.
  - (ii) Whether the airport has an approved instrument approach procedure.
  - (iii) How many aircraft are based at the airport.
  - (iv) Whether the airport is used for airborne fire attacks.
  - (v) Whether the airport is used for emergency medical transportation.
  - (vi) What services the airport provides for the community.
  - (vii) The size of the community that is served by the airport.
  - (viii) Whether any aviation or transportation planning agency has designated the airport as having a significant role.
  - (ix) Whether a suitable, public-use airport is situated within a reasonable distance.
  - (x) Whether closure of the airport will have a negative effect on other airports.
  - (xi) Whether the airport is used for law enforcement purposes.
- (b) This section does not apply to either of the following:
- (1) An airport that is replaced by a comparable facility, as determined by the department, within a period of one year.

(2) An airport for which the department, on or after January 1, 1981, has suspended the airport permit and for which payments made pursuant to this article are being expended to correct the deficiency or condition that resulted in the suspension of the airport's permit.

### **Limitation on Expenditure of Funds**

21688. (a) No payments shall be made from the Aeronautics Account for expenditure on any airport or for the acquisition or development of any airport, if the department determines that the height restrictions around the airport are inadequate to provide reasonable assurance that the landing and taking off of aircraft at the airport will be conducted without obstruction or will be otherwise free from hazards.

Height restrictions shall be considered adequate if as a minimum they meet the obstruction standards of subchapter C of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, as these standards apply to civil airport imaginary surfaces related to runways.

The airport-owning entity shall have sufficient control over obstructions in the airspace in the vicinity of the airport to assure that height restrictions can be maintained. This control may be in the form of ownership of any land from which obstructions may rise, air navigation easements to guarantee maintenance of restrictions, or height limitation or land use zoning which will prohibit obstructions which would violate the obstruction standards.

(b) This section shall not prevent or prohibit the department from assisting any public agency or public entity in planning airport development or in planning the zoning needs around an airport.

## **Article 4.5. Airport Facilities and Concessions**

### **Legislative Findings**

21690.5. The Legislature finds and declares as follows:

(a) The proper operation of California's publicly owned or operated airports is essential to the welfare of the state and its people.

(b) California's publicly owned or operated airports establish a vital transportation link between the state and the economic systems of the nation and the world, and enable the state to enjoy and provide the benefits of an international tourist and commercial center.

(c) The economic validity and stability of California's publicly owned or operated airports is, consequently, a matter of statewide importance.

(d) The policy of this state is to promote the development of commerce and tourism to the end of securing to the people of this state the benefits of these activities conducted in the state.

(e) Therefore, since the proper operation of the state's publicly owned or operated airports is essential to the welfare of the state and its people, the Legislature recognizes and affirms such operation as a governmental function

to be discharged in furtherance of the policy of securing the benefits of commerce and tourism for the state and its people.

### **Scope of Law**

21690.6. The provisions of this article shall apply to any airport owned or operated by a political subdivision, including a charter city.

### **Promotion of Commerce and Tourism**

21690.7. The governing bodies of publicly owned or operated airports shall manage airport facilities and grant airport concessions in furtherance of the development of commerce and tourism in or affecting the state. In managing facilities and granting concessions for services to the public, such airport governing bodies shall promote the development of commerce and tourism by (a) securing a diversity of airport services; (b) avoiding wasteful duplication of such services; (c) securing to the users of airports safe, courteous, and quality service; (d) limiting or prohibiting business competition which is destructive of the ends of promoting commerce and tourism in the state; (e) allocating limited airport resources to promote such ends; and (f) fostering California's image as a commercial and tourist center.

### **Exclusive Agreements**

21690.8. The Legislature recognizes that to further the policies and fulfill the objectives stated in this article, it is often necessary that publicly owned or operated airports enter into exclusive or limited agreements with a single operator or a limited number of operators. The governing bodies of publicly owned or operated airports shall grant exclusive or limited agreements to displace business competition with regulation or monopoly service whenever the governing body determines, in consideration of the factors set forth in Section 21690.9, that such agreements are necessary to further the policies and to fulfill the objectives stated in this article. The Legislature contemplates that publicly owned or operated airports will grant exclusive or limited agreements in furtherance of the policy of this state to displace business competition by exclusive or limited agreements to fulfill these policies and objectives.

### **Determination of Necessity**

21690.9. Before entering any exclusive or limited agreement in connection with the management of any airport facility or the operation of any airport concession, the governing body of a publicly owned or operated airport shall, under authority hereby expressly delegated by the state, determine the necessity for an exclusive or limited agreement. The governing body shall consider the following factors to determine the necessity for an exclusive or limited agreement to further the policies and objectives stated in this article:

- (a) Public safety.
- (b) Public convenience.
- (c) Quality of service.
- (d) The need to conserve airport space.
- (e) The need to avoid duplication of services.
- (f) The impact on the environment or facilities of the airport as an essential commercial and tourist service center.
- (g) The need to avoid destructive competition which may impair the quality of airport services to the public, lead to uncertainty, disruption, or instability in the rendering of such services, or detract from the state's attractiveness as a center of tourism and commerce.

In making its determination, the airport operator shall not be required to take evidence or to make findings of fact.

### **Compliance with Other States**

21690.10. Nothing in this article shall excuse any local agency from complying with applicable state or local requirements for competitive bidding or public hearings which may be required prior to the awarding or entering into of any bid, agreement or lease.

## **Article 5. Los Angeles International Airport Relocation and Development**

### **Legislative Findings**

21690.20. The Legislature hereby finds that Los Angeles International Airport is one of the important air terminals of the world, making a significant contribution daily to the economy of California.

Since 1959, jet air traffic at the airport has increased from 80 flights daily to nearly 1,000 daily. This increasing air traffic and necessary expansion of airport facilities has had an adverse affect on the residents of the surrounding

areas. Expansion and development has and is expected to require the acquisition of many homes in the vicinity of the airport and has rendered other homes in areas subjected to aircraft noise nearly uninhabitable. Property owners in the vicinity of the airport are either unable to sell their homes or able to sell only at depressed market prices. Under present laws, the Department of Airports of the City of Los Angeles is required only to pay homeowners "fair market value" for their property. With increasing property costs and current high interest rates, it is impossible for a homeowner to purchase a comparable dwelling in a comparable residential area for amounts now being paid as "fair market value."

The City Council of the City of Los Angeles has initiated this legislation to enable the city to (1) assist displaced homeowners to relocate in comparable residential areas and housing, (2) provide, where available, replacement housing acceptable to affected homeowners, and (3) purchase affected homes to compensate homeowners for the depressed values of their property.

There is precedent for the provision of replacement housing, where available, in Chapter 953 of the Statutes of 1968, by which the Department of Public Works is authorized to provide relocation assistance and replacement housing to certain individuals and families displaced because of construction of certain state highway projects. Further, there is precedent for relocation payments to compensate certain homeowners in Public Law 90-495 and in Chapter 3 of the Statutes of 1968, First Extraordinary Session.

### **Definitions**

21690.21. Unless the context otherwise requires, the following definitions shall govern the construction of this article:

- (a) "Airport" means Los Angeles International Airport.
- (b) "Department" means the Department of Airports, City of Los Angeles.
- (c) "Mayor" means the Mayor of the City of Los Angeles.
- (d) "Board" means the Los Angeles International Airport Property Acquisition Board.

### **Authority of Department**

21690.22. Notwithstanding any other provision of law, the department is authorized to:

- (a) Assist homeowners displaced by the expansion of the airport to relocate in comparable residential areas and housing.
- (b) Provide, where available, replacement housing acceptable to affected homeowners.
- (c) Purchase affected property to compensate homeowners for the depressed values of their property as a result of the proximity of the airport to enable such homeowners to purchase comparable housing under more normal market conditions.

### **Expenditure of Available Funds**

21690.23. The department is authorized to expend any available funds, including state and federal funds, for the purpose of purchasing homes from homeowners displaced by the expansion of the airport and relocating or providing suitable replacement housing for such persons, notwithstanding any other provision of law.

### **Petition for Payment of Additional Compensation**

21690.24. Upon establishment of a program for additional payments to homeowners by the department pursuant to this article, the affected property owners may petition as provided in Section 21690.26 for the payment of additional compensation for the depressed value of the affected property resulting from the presence and operation of the airport, provided that such owner has not previously recovered any sums in the nature of an inverse condemnation award by reason of the presence and operation of the airport.

### **Appointment of Board**

21690.25. Upon establishment by the department of a program for such additional compensation, the mayor shall appoint, subject to the approval of the city council, five persons who shall constitute the board.

### **Tenure of Board; Quorum; Duties**

21690.26. The members of the board shall serve at the pleasure of the mayor, and any action taken by a majority thereof shall constitute the action of the board. The board shall hear petitions from homeowners dislocated by reason of airport expansion and operations for amounts to be paid in excess of market value of affected property. The board shall establish procedures for the conduct of its business.

### **Payment of Awards**

21690.27. The Board of Airport Commissioners of the City of Los Angeles is directed to pay any sum awarded by the board pursuant to Section 21690.26.

### **Persons Eligible; Time for Filing Petition; Time for Payment**

21690.28. The provisions of this article are available only to persons who own residential property which has been or is being condemned or sold for airport purposes. Petitions for additional compensation may be filed with the board at the same time that condemnation proceedings or acquisition negotiations are initiated; and the board shall pay any sum awarded pursuant to Section 21690.26 within 60 days after condemnation or other acquisition proceedings are completed.

### **Partial Invalidity**

21690.29. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

## **Chapter 5. Proceedings**

### **Investigation, Inquiries, and Hearings**

21692. The department, any member, the director, or any officer or employee of the department designated by it may hold investigations, inquiries, and hearings concerning matters covered by this part and the rules and orders of the department, and concerning accidents in aeronautics within this state. Hearings shall be open to the public and, except as provided in Section 21691, shall be held upon such call or notice as the department deems advisable. Each member of the department, the director, and every officer or employee of the department designated by it to hold any inquiry, investigation, or hearing may administer oaths and affirmations, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books, and documents. If any person fails to comply with any subpoenas or order issued under the authority of this section, the department or its authorized representative may invoke the aid of any court of general jurisdiction. The court may order such person to comply with the requirements of the subpoena or order to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as contempt.

### **Reports of Investigations and Hearings**

21693. In order to facilitate the making of investigations by the department in the interest of public safety and promotion of aeronautics, the reports of investigations or hearings or any part of the reports, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in the investigation, hearing, or report, except in case of any suit, action, or proceeding, civil or criminal, instituted by or in behalf of the department or in the name of the state under the provisions of this part or other laws of the state relating to aeronautics. Any member of the department, the director, or any officer or employee of the department shall not be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, nor be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. Subject to these limitations, the department may make available to appropriate federal, state, and political subdivision agencies information and material developed in the course of its investigations and hearings.

### **Orders of Department; Contents; Service; Review**

21694. Every order of the department requiring performance of certain acts or compliance with certain requirements shall set forth the reasons, state the acts to be done or requirements to be met, and be served upon the person affected either by registered mail or in person. Any person aggrieved by an order of the department may have the action of the department reviewed by the courts in the manner provided by law.

## **Chapter 6. Airport Planning**

### **California Aviation System Plan**

21701. The division, in consultation with transportation planning agencies as designated by the director pursuant to Section 29532 of the Government Code, shall prepare a California Aviation System Plan, which shall include, but not be limited to, every California airport designated in the federal National Plan of Integrated Airport Systems and any other existing or proposed public use airports, as designated by the division.

## **Elements in Plan**

21702. The California Aviation System Plan shall include, but not be limited to, all of the following elements:

(a) A background and introduction element, which summarizes aviation activity in California and establishes goals and objectives for aviation improvement.

(b) An air transportation issues element, which addresses issues such as aviation safety, airport noise, airport ground access, transportation systems management, airport financing, airport land use compatibility planning, and institutional relationships.

(c) A regional plan alternative element, which consists of the aviation elements of the regional transportation plans prepared by each transportation planning agency. This element shall include consideration of regional air transportation matters relating to growth, capacity needs, county activity, airport activity, and systemwide activity in order to evaluate adequately the overall impacts of regional activity in relation to the statewide air transportation system. This element shall propose general aviation and air carrier public use airports for consideration by the commission for funding eligibility under this chapter.

(d) A state plan alternative element, which includes consideration of statewide air transportation matters relating to growth, including, but not limited to, county activity, airport activity, and systemwide activity in order to evaluate adequately the state aviation system and to designate an adequate number of general aviation and air carrier public use airports for state funding in order to provide a level of air service and safety acceptable to the public.

(e) A comparative element, which compares and contrasts the regional plan alternative with the state plan alternative, including, but not limited to, airport noise, air quality, toxic waste cleanup, energy, economics, and passengers served.

(f) A 10-year capital improvement plan for each airport, based on each airport's adopted master plan if the airport has a master plan, approved by the applicable transportation planning agency, and submitted to the division for inclusion in the California Aviation System Plan.

(g) Any other element deemed appropriate by the division and the transportation planning agencies.

(h) A summary and conclusion element, which presents the findings and recommended course of action.

## **Submittal to Commission**

21703. The division shall submit the California Aviation System Plan to the commission.

## **Periodic Revision of Plan**

21704. The division, in consultation with the transportation planning agencies, shall biennially revise the capital improvement plan developed pursuant to subdivision (f) of Section 21702, and the division shall submit the revised capital improvement plan to the commission. The division, in consultation with the transportation planning agencies, shall revise all other elements of the California Aviation System Plan every five years, and shall submit the revised system plan to the commission.

## **Adoption of Revisions by Commission**

21705. The commission shall review, hold public hearings on, and, based on these hearings, adopt or revise and adopt as revised, the California Aviation System Plan and its subsequent revisions.

## **Project Funding Applications**

21706. The division shall require that every project submitted for funding from the Aeronautics Account in the State Transportation Fund shall be consistent with the California Aviation System Plan. Applications for funding shall be processed in accordance with the procedures adopted by the commission. In determining the priorities of projects, the division shall, and the transportation planning agencies may, utilize the methodology adopted by the commission for determining the priorities of projects that the commission selects for allocation pursuant to Sections 21683 and 21683.2 and the procedures adopted by the commission.

## **Federal Grant Funds**

21707. Any funds necessary to carry out Sections 21701, 21702, and 21704 shall be obtained from federal grants, except for updates of the capital improvement plan and policy elements of the California Aviation System Plan, which may be funded from nonfederal sources.

# **FAR PART 77 -- SAFE, EFFICIENT USE, AND PRESERVATION OF THE NAVIGABLE AIRSPACE**

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**Authority:** 49 U.S.C. 106 (g), 40103, 40113-40114, 44502, 44701, 44718, 46101-46102, 46104.

## **Subpart A--General**

### **Sec. 77.1 Purpose.**

This part establishes:

(a) The requirements to provide notice to the FAA of certain proposed construction, or the alteration of existing structures;

(b) The standards used to determine obstructions to air navigation, and navigational and communication facilities;

(c) The process for aeronautical studies of obstructions to air navigation or navigational facilities to determine the effect on the safe and efficient use of navigable airspace, air navigation facilities or equipment; and

(d) The process to petition the FAA for discretionary review of determinations, revisions, and extensions of determinations.

### **Sec. 77.3 Definitions.**

For the purpose of this part:

*Non-precision instrument runway* means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service military airport planning document.

*Planned or proposed airport* is an airport that is the subject of at least one of the following documents received by the FAA:

- (1) Airport proposals submitted under 14 CFR part 157.
- (2) Airport Improvement Program requests for aid.
- (3) Notices of existing airports where prior notice of the airport construction or alteration was not provided as required by 14 CFR part 157.
- (4) Airport layout plans.
- (5) DOD proposals for airports used only by the U.S. Armed Forces.
- (6) DOD proposals on joint-use (civil-military) airports.
- (7) Completed airport site selection feasibility study.

*Precision instrument runway* means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA-approved airport layout plan; a military service approved military airport layout plan; any other FAA planning document, or military service military airport planning document.

*Public use airport* is an airport available for use by the general public without a requirement for prior approval of the airport owner or operator.

*Seaplane base* is considered to be an airport only if its sea lanes are outlined by visual markers.

*Utility runway* means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

*Visual runway* means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan, a military service approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

## **Subpart B--Notice Requirements**

### **Sec. 77.5 Applicability.**

(a) If you propose any construction or alteration described in Sec. 77.9, you must provide adequate notice to the FAA of that construction or alteration.

(b) If requested by the FAA, you must also file supplemental notice before the start date and upon completion of certain construction or alterations that are described in Sec. 77.9.

(c) Notice received by the FAA under this subpart is used to:

(1) Evaluate the effect of the proposed construction or alteration on safety in air commerce and the efficient use and preservation of the navigable airspace and of airport traffic capacity at public use airports;

(2) Determine whether the effect of proposed construction or alteration is a hazard to air navigation;

(3) Determine appropriate marking and lighting recommendations, using FAA Advisory Circular 70/7460-1, Obstruction Marking and Lighting;

(4) Determine other appropriate measures to be applied for continued safety of air navigation; and

(5) Notify the aviation community of the construction or alteration of objects that affect the navigable airspace, including the revision of charts, when necessary.

### **Sec. 77.7 Form and time of notice.**

(a) If you are required to file notice under Sec. 77.9, you must submit to the FAA a completed FAA Form 7460-1, Notice of Proposed Construction or Alteration. FAA Form 7460-1 is available at FAA regional offices and on the Internet.

(b) You must submit this form at least 45 days before the start date of the proposed construction or alteration or the date an application for a construction permit is filed, whichever is earliest.

(c) If you propose construction or alteration that is also subject to the licensing requirements of the Federal Communications Commission (FCC), you must submit notice to the FAA on or before the date that the application is filed with the FCC.

(d) If you propose construction or alteration to an existing structure that exceeds 2,000 ft. in height above ground level (AGL), the FAA presumes it to be a hazard to air navigation that results in an inefficient use of airspace. You must include details explaining both why the proposal would not constitute a hazard to air navigation and why it would not cause an inefficient use of airspace.

(e) The 45-day advance notice requirement is waived if immediate construction or alteration is required because of an emergency involving essential public services, public health, or public safety. You may provide notice to the FAA by any available, expeditious means. You must file a completed FAA Form 7460-1 within 5 days of the initial notice to the FAA. Outside normal business hours, the nearest flight service station will accept emergency notices.

#### **Sec. 77.9 Construction or alteration requiring notice.**

If requested by the FAA, or if you propose any of the following types of construction or alteration, you must file notice with the FAA of:

- (a) Any construction or alteration that is more than 200 ft. AGL at its site.
- (b) Any construction or alteration that exceeds an imaginary surface extending outward and upward at any of the following slopes:
  - (1) 100 to 1 for a horizontal distance of 20,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway more than 3,200 ft. in actual length, excluding heliports.
  - (2) 50 to 1 for a horizontal distance of 10,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway no more than 3,200 ft. in actual length, excluding heliports.
  - (3) 25 to 1 for a horizontal distance of 5,000 ft. from the nearest point of the nearest landing and takeoff area of each heliport described in paragraph (d) of this section.
- (c) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of paragraph (a) or (b) of this section.
- (d) Any construction or alteration on any of the following airports and heliports:
  - (1) A public use airport listed in the Airport/Facility Directory, Alaska Supplement, or Pacific Chart Supplement of the U.S. Government Flight Information Publications;
  - (2) A military airport under construction, or an airport under construction that will be available for public use;
  - (3) An airport operated by a Federal agency or the DOD.
  - (4) An airport or heliport with at least one FAA-approved instrument approach procedure.
- (e) You do not need to file notice for construction or alteration of:
  - (1) Any object that will be shielded by existing structures of a permanent and substantial nature or by natural terrain or topographic features of equal or greater height, and will be located in the congested area of a city, town, or settlement where the shielded structure will not adversely affect safety in air navigation;
  - (2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device meeting FAA-approved siting criteria or an appropriate military service siting criteria on military airports, the location and height of which are fixed by its functional purpose;
  - (3) Any construction or alteration for which notice is required by any other FAA regulation.
  - (4) Any antenna structure of 20 feet or less in height, except one that would increase the height of another antenna structure.

#### **Sec. 77.11 Supplemental notice requirements.**

- (a) You must file supplemental notice with the FAA when:
  - (1) The construction or alteration is more than 200 feet in height AGL at its site; or
  - (2) Requested by the FAA.
- (b) You must file supplemental notice on a prescribed FAA form to be received within the time limits specified in the FAA determination. If no time limit has been specified, you must submit supplemental notice of construction to the FAA within 5 days after the structure reaches its greatest height.
- (c) If you abandon a construction or alteration proposal that requires supplemental notice, you must submit notice to the FAA within 5 days after the project is abandoned.



(d) If the construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

## **Subpart C--Standards for Determining Obstructions to Air Navigation or Navigational Aids or Facilities**

### **Sec. 77.13 Applicability.**

This subpart describes the standards used for determining obstructions to air navigation, navigational aids, or navigational facilities. These standards apply to the following:

(a) Any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus.

(b) The alteration of any permanent or temporary existing structure by a change in its height, including appurtenances, or lateral dimensions, including equipment or material used therein.

### **Sec. 77.15 Scope.**

(a) This subpart describes standards used to determine obstructions to air navigation that may affect the safe and efficient use of navigable airspace and the operation of planned or existing air navigation and communication facilities. Such facilities include air navigation aids, communication equipment, airports, Federal airways, instrument approach or departure procedures, and approved off-airway routes.

(b) Objects that are considered obstructions under the standards described in this subpart are presumed hazards to air navigation unless further aeronautical study concludes that the object is not a hazard. Once further aeronautical study has been initiated, the FAA will use the standards in this subpart, along with FAA policy and guidance material, to determine if the object is a hazard to air navigation.

(c) The FAA will apply these standards with reference to an existing airport facility, and airport proposals received by the FAA, or the appropriate military service, before it issues a final determination.

(d) For airports having defined runways with specially prepared hard surfaces, the primary surface for each runway extends 200 feet beyond each end of the runway. For airports having defined strips or pathways used regularly for aircraft takeoffs and landings, and designated runways, without specially prepared hard surfaces, each end of the primary surface for each such runway shall coincide with the corresponding end of the runway. At airports, excluding seaplane bases, having a defined landing and takeoff area with no defined pathways for aircraft takeoffs and landings, a determination must be made as to which portions of the landing and takeoff area are regularly used as landing and takeoff pathways. Those determined pathways must be considered runways, and an appropriate primary surface as defined in Sec. 77.19 will be considered as longitudinally centered on each such runway. Each end of that primary surface must coincide with the corresponding end of that runway.

(e) The standards in this subpart apply to construction or alteration proposals on an airport (including heliports and seaplane bases with marked lanes) if that airport is one of the following before the issuance of the final determination:

(1) Available for public use and is listed in the Airport/Facility Directory, Supplement Alaska, or Supplement Pacific of the U.S. Government Flight Information Publications; or

(2) A planned or proposed airport or an airport under construction of which the FAA has received actual notice, except DOD airports, where there is a clear indication the airport will be available for public use; or,

(3) An airport operated by a Federal agency or the DOD; or,

(4) An airport that has at least one FAA-approved instrument approach.

### **Sec. 77.17 Obstruction standards.**

(a) An existing object, including a mobile object, is, and a future object would be an obstruction to air navigation if it is of greater height than any of the following heights or surfaces:

(1) A height of 499 feet AGL at the site of the object.

(2) A height that is 200 feet AGL, or above the established airport elevation, whichever is higher, within 3 nautical miles of the established reference point of an airport, excluding heliports, with its longest runway more than 3,200 feet in actual length, and that height increases in the proportion of 100 feet for each additional nautical mile from the airport up to a maximum of 499 feet.

(3) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any

point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

(4) A height within an en route obstacle clearance area, including turn and termination areas, of a Federal Airway or approved off-airway route, that would increase the minimum obstacle clearance altitude.

(5) The surface of a takeoff and landing area of an airport or any imaginary surface established under Sec. 77.19, 77.21, or 77.23. However, no part of the takeoff or landing area itself will be considered an obstruction.

(b) Except for traverse ways on or near an airport with an operative ground traffic control service furnished by an airport traffic control tower or by the airport management and coordinated with the air traffic control service, the standards of paragraph (a) of this section apply to traverse ways used or to be used for the passage of mobile objects only after the heights of these traverse ways are increased by:

(1) 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance.

(2) 15 feet for any other public roadway.

(3) 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.

(4) 23 feet for a railroad.

(5) For a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

#### **Sec. 77.19 Civil airport imaginary surfaces.**

The following civil airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach procedure existing or planned for that runway end.

(a) *Horizontal surface.* A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of a specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

(1) 5,000 feet for all runways designated as utility or visual;

(2) 10,000 feet for all other runways. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

(b) *Conical surface.* A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(c) *Primary surface.* A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

(1) 250 feet for utility runways having only visual approaches.

(2) 500 feet for utility runways having non-precision instrument approaches.

(3) For other than utility runways, the width is:

(i) 500 feet for visual runways having only visual approaches.

(ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute mile.

(iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.

(iv) The width of the primary surface of a runway will be that width prescribed in this section for the most precise approach existing or planned for either end of that runway.

(d) *Approach surface.* A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

(1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

- (i) 1,250 feet for that end of a utility runway with only visual approaches;
- (ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
- (iii) 2,000 feet for that end of a utility runway with a non-precision instrument approach;
- (iv) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;
- (v) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
- (vi) 16,000 feet for precision instrument runways.

(2) The approach surface extends for a horizontal distance of:

- (i) 5,000 feet at a slope of 20 to 1 for all utility and visual runways;
- (ii) 10,000 feet at a slope of 34 to 1 for all non-precision instrument runways other than utility; and
- (iii) 10,000 feet at a slope of 50 to 1 with an additional 40,000 feet at a slope of 40 to 1 for all precision instrument runways.

(3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

(e) *Transitional surface.* These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

#### **Sec. 77.21 Department of Defense (DOD) airport imaginary surfaces.**

(a) *Related to airport reference points.* These surfaces apply to all military airports. For the purposes of this section, a military airport is any airport operated by the DOD.

(1) *Inner horizontal surface.* A plane that is oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these arcs with tangents.

(2) *Conical surface.* A surface extending from the periphery of the inner horizontal surface outward and upward at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.

(3) *Outer horizontal surface.* A plane, located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.

(b) *Related to runways.* These surfaces apply to all military airports.

(1) *Primary surface.* A surface located on the ground or water longitudinally centered on each runway with the same length as the runway. The width of the primary surface for runways is 2,000 feet. However, at established bases where substantial construction has taken place in accordance with a previous lateral clearance criteria, the 2,000-foot width may be reduced to the former criteria.

(2) *Clear zone surface.* A surface located on the ground or water at each end of the primary surface, with a length of 1,000 feet and the same width as the primary surface.

(3) *Approach clearance surface.* An inclined plane, symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the approach clearance surface is 50 to 1 along the runway centerline extended until it reaches an elevation of 500 feet above the established airport elevation. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is the same as the primary surface, it flares uniformly, and the width at 50,000 is 16,000 feet.

(4) *Transitional surfaces.* These surfaces connect the primary surfaces, the first 200 feet of the clear zone surfaces, and the approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.

**Sec. 77.23 Heliport imaginary surfaces.**

(a) Primary surface. The area of the primary surface coincides in size and shape with the designated take-off and landing area. This surface is a horizontal plane at the elevation of the established heliport elevation.

(b) Approach surface. The approach surface begins at each end of the heliport primary surface with the same width as the primary surface, and extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.

(c) Transitional surfaces. These surfaces extend outward and upward from the lateral boundaries of the primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

**Subpart D--Aeronautical Studies and Determinations****Sec. 77.25 Applicability.**

(a) This subpart applies to any aeronautical study of a proposed construction or alteration for which notice to the FAA is required under Sec. 77.9.

(b) The purpose of an aeronautical study is to determine whether the aeronautical effects of the specific proposal and, where appropriate, the cumulative impact resulting from the proposed construction or alteration when combined with the effects of other existing or proposed structures, would constitute a hazard to air navigation.

(c) The obstruction standards in subpart C of this part are supplemented by other manuals and directives used in determining the effect on the navigable airspace of a proposed construction or alteration. When the FAA needs additional information, it may circulate a study to interested parties for comment.

**Sec. 77.27 Initiation of studies.**

The FAA will conduct an aeronautical study when:

- (a) Requested by the sponsor of any proposed construction or alteration for which a notice is submitted; or
- (b) The FAA determines a study is necessary.

**Sec. 77.29 Evaluating aeronautical effect.**

(a) The FAA conducts an aeronautical study to determine the impact of a proposed structure, an existing structure that has not yet been studied by the FAA, or an alteration of an existing structure on aeronautical operations, procedures, and the safety of flight. These studies include evaluating:

- (1) The impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;
- (2) The impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;
- (3) The impact on existing and planned public use airports;
- (4) Airport traffic capacity of existing public use airports and public use airport development plans received before the issuance of the final determination;
- (5) Minimum obstacle clearance altitudes, minimum instrument flight rules altitudes, approved or planned instrument approach procedures, and departure procedures;
- (6) The potential effect on ATC radar, direction finders, ATC tower line-of-sight visibility, and physical or electromagnetic effects on air navigation, communication facilities, and other surveillance systems;
- (7) The aeronautical effects resulting from the cumulative impact of a proposed construction or alteration of a structure when combined with the effects of other existing or proposed structures.

(b) If you withdraw the proposed construction or alteration or revise it so that it is no longer identified as an obstruction, or if no further aeronautical study is necessary, the FAA may terminate the study.

**Sec. 77.31 Determinations.**

(a) The FAA will issue a determination stating whether the proposed construction or alteration would be a hazard to air navigation, and will advise all known interested persons.

(b) The FAA will make determinations based on the aeronautical study findings and will identify the following:

(1) The effects on VFR/IFR aeronautical departure/arrival operations, air traffic procedures, minimum flight altitudes, and existing, planned, or proposed airports listed in Sec. 77.15(e) of which the FAA has received actual notice prior to issuance of a final determination.

(2) The extent of the physical and/or electromagnetic effect on the operation of existing or proposed air navigation facilities, communication aids, or surveillance systems.

(c) The FAA will issue a Determination of Hazard to Air Navigation when the aeronautical study concludes that the proposed construction or alteration will exceed an obstruction standard and would have a substantial aeronautical impact.

(d) A Determination of No Hazard to Air Navigation will be issued when the aeronautical study concludes that the proposed construction or alteration will exceed an obstruction standard but would not have a substantial aeronautical impact to air navigation. A Determination of No Hazard to Air Navigation may include the following:

(1) Conditional provisions of a determination.

(2) Limitations necessary to minimize potential problems, such as the use of temporary construction equipment.

(3) Supplemental notice requirements, when required.

(4) Marking and lighting recommendations, as appropriate.

(e) The FAA will issue a Determination of No Hazard to Air Navigation when a proposed structure does not exceed any of the obstruction standards and would not be a hazard to air navigation.

#### **Sec. 77.33 Effective period of determinations.**

(a) A determination issued under this subpart is effective 40 days after the date of issuance, unless a petition for discretionary review is received by the FAA within 30 days after issuance. The determination will not become final pending disposition of a petition for discretionary review.

(b) Unless extended, revised, or terminated, each Determination of No Hazard to Air Navigation issued under this subpart expires 18 months after the effective date of the determination, or on the date the proposed construction or alteration is abandoned, whichever is earlier.

(c) A Determination of Hazard to Air Navigation has no expiration date.

#### **Sec. 77.35 Extensions, terminations, revisions and corrections.**

(a) You may petition the FAA official that issued the Determination of No Hazard to Air Navigation to revise or reconsider the determination based on new facts or to extend the effective period of the determination, provided that:

(1) Actual structural work of the proposed construction or alteration, such as the laying of a foundation, but not including excavation, has not been started; and

(2) The petition is submitted at least 15 days before the expiration date of the Determination of No Hazard to Air Navigation.

(b) A Determination of No Hazard to Air Navigation issued for those construction or alteration proposals not requiring an FCC construction permit may be extended by the FAA one time for a period not to exceed 18 months.

(c) A Determination of No Hazard to Air Navigation issued for a proposal requiring an FCC construction permit may be granted extensions for up to 18 months, provided that:

(1) You submit evidence that an application for a construction permit/license was filed with the FCC for the associated site within 6 months of issuance of the determination; and

(2) You submit evidence that additional time is warranted because of FCC requirements; and

(3) Where the FCC issues a construction permit, a final Determination of No Hazard to Air Navigation is effective until the date prescribed by the FCC for completion of the construction. If an extension of the original FCC completion date is needed, an extension of the FAA determination must be requested from the Obstruction Evaluation Service (OES).

(4) If the Commission refuses to issue a construction permit, the final determination expires on the date of its refusal.

## **Subpart E--Petitions for Discretionary Review**

### **Sec. 77.37 General.**

(a) If you are the sponsor, provided a substantive aeronautical comment on a proposal in an aeronautical study, or have a substantive aeronautical comment on the proposal but were not given an opportunity to state it, you may petition the FAA for a discretionary review of a determination, revision, or extension of a determination issued by the FAA.

(b) You may not file a petition for discretionary review for a Determination of No Hazard that is issued for a temporary structure, marking and lighting recommendation, or when a proposed structure or alteration does not exceed obstruction standards contained in subpart C of this part.

### **Sec. 77.39 Contents of a petition.**

(a) You must file a petition for discretionary review in writing and it must be received by the FAA within 30 days after the issuance of a determination under Sec. 77.31, or a revision or extension of the determination under Sec. 77.35.

(b) The petition must contain a full statement of the aeronautical basis on which the petition is made, and must include new information or facts not previously considered or presented during the aeronautical study, including valid aeronautical reasons why the determination, revisions, or extension made by the FAA should be reviewed.

(c) In the event that the last day of the 30-day filing period falls on a weekend or a day the Federal government is closed, the last day of the filing period is the next day that the government is open.

(d) The FAA will inform the petitioner or sponsor (if other than the petitioner) and the FCC (whenever an FCC-related proposal is involved) of the filing of the petition and that the determination is not final pending disposition of the petition.

### **Sec. 77.41 Discretionary review results.**

(a) If discretionary review is granted, the FAA will inform the petitioner and the sponsor (if other than the petitioner) of the issues to be studied and reviewed. The review may include a request for comments and a review of all records from the initial aeronautical study.

(b) If discretionary review is denied, the FAA will notify the petitioner and the sponsor (if other than the petitioner), and the FCC, whenever a FCC-related proposal is involved, of the basis for the denial along with a statement that the determination is final.

(c) After concluding the discretionary review process, the FAA will revise, affirm, or reverse the determination.

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE COUNTY OF FRESNO AND  
THE COUNCIL OF FRESNO COUNTY GOVERNMENTS (COG)**

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is made and executed this 28<sup>th</sup> day of October, 2008, by and between the COUNTY OF FRESNO, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), and the COUNCIL OF FRESNO COUNTY GOVERNMENTS (COG), a voluntary association of local governments in the County of Fresno (hereinafter referred to as "COG").

**WITNESSETH**

WHEREAS, COUNTY wishes to transfer staffing and administrative support functions of the Fresno County Airport Land Use Commission (ALUC) from the Department of Public Works and Planning to COG; and

WHEREAS, the ALUC serves the Fresno County region by assisting local agencies in attempting to ensure, to the extent possible given the parameters of the ALUC's jurisdiction as defined by statute, the compatibility of proposed land uses in the vicinity of the nine public use airports located within Fresno County; and

WHEREAS, COG is a voluntary association of local governments, one of 25 in California and 522 nationwide, whose responsibility is to foster intergovernmental communication and coordination, undertakes comprehensive regional planning with an emphasis on transportation, provides for citizen involvement in the planning process and supplies technical services to its member governments; and

WHEREAS, in 2007, COUNTY and COG engaged in discussions to consider the possibility of transferring staffing and administrative support functions of the ALUC to COG and both staffs acknowledge that such a transfer is appropriate given COG's established regional transportation emphasis; and

WHEREAS, COG Transportation Technical Committee, Policy Advisory Committee, and Policy Board support the transfer of administrative/staffing

responsibilities for the ALUC from COUNTY Department of Public Works and Planning to COG and desire to conduct the transfer for an initial period of one (1) year as a trial, after which the arrangement may be continued by mutual consent; and

WHEREAS, at the present time, the following three California Council of Government Associations (COGs) provide staffing and/or administrative support functions to the Airport Land Use Commission in their respective areas: the Association of Monterey Bay Area Governments, the Sacramento Area Council of Governments and the Santa Barbara County Association of Governments; and

WHEREAS, it is mandated by controlling statutory provisions (specifically Public Utilities Code §21670, *et seq.*) that the membership of the ALUC shall be comprised of seven (7) commissioners consisting of two city representatives, appointed by a city selection committee, two County representatives, appointed by the Board of Supervisors, two aviation experts, appointed by a selection committee comprised of the managers of the public use airports, and one representative of the general public appointed by the other six members of the commission; and

WHEREAS, current ALUC membership would not change with the transfer of staffing and administrative support functions of the ALUC from the Department of Public Works and Planning to COG; and

WHEREAS, COG's assumption of the ALUC's staffing and administrative functions is both complementary to COG's current duties and consistent with the organization's broad purpose for regional transportation planning.

NOW, THEREFORE, COUNTY and COG do hereby agree as follows:

#### ARTICLE I

#### COG RESPONSIBILITIES

COG represents that it is qualified, willing and able to perform the following staffing and administrative duties in support of the ALUC for a period of one calendar year:

1.1 Coordinating with local agency staff to obtain information regarding



1 specific projects to be reviewed by the ALUC.

2 1.2 Providing general assistance to local agency staff regarding airport  
3 compatibility issues and determining if projects need to be reviewed by the ALUC.

4 1.3 Working with ALUC chairman regarding meeting schedules and agendas  
5 and polling commissioners for availability to meet as a quorum.

6 1.4 Preparing (and forwarding advance copies to Commission members and  
7 other interested persons as appropriate) and presenting at meetings of the ALUC, all of  
8 the following: staff reports, meeting calendars, resolutions, and meeting agendas.

9 1.5 Issuing and posting required public notices of pending commission  
10 actions; updating the rosters of the Commission and the list of other interested persons  
11 having requested special notice or meetings and/or agendas; and amending/updating  
12 the Commission's Rules of Order.

13 1.6 Scheduling and related arrangements for setting up hearings or specific  
14 agenda items, including reserving the Board of Supervisors' chambers for meetings;  
15 recording the minutes of meetings; and preparing action summaries as appropriate to  
16 document the action taken by the Commission upon conclusion of its hearing of a  
17 specific item.

18 1.7 Notifying local agencies of commission decisions on items submitted for  
19 review.

20 1.8 Issuing and collecting State Conflict of Interest Statements (Form 700),  
21 and submitting completed forms from ALUC commissioners and proxies to the Clerk to  
22 the Fresno County Board of Supervisors.

23 1.9 Preparing and submitting semi-annual ALUC reports to the Director of the  
24 Department of Public Works and Planning, as public documents, in accordance with the  
25 oversight responsibilities retained by the County pursuant to the governing provisions of  
26 the Public Utilities Code: (a) the dates of the meetings; (b) the dates and subjects of  
27 workshops/tours; (c) the categories of matters acted upon by the ALUC; (d) the voting  
28 record of the ALUC and its members on each agenda item considered; and (e)

1 upcoming issues of major importance.

## 2 ARTICLE II

### 3 COUNTY RESPONSIBILITIES

4 2.1 The COUNTY shall make arrangements with COG staff to provide  
5 appropriate training and if requested by COG, County staff will also attend ALUC  
6 hearings for a period of six (6) months, unless a longer period is deemed necessary by  
7 mutual agreement between COG and COUNTY.

8 2.2 In the course of providing such training, COUNTY staff shall make  
9 available to COG staff all documents, studies, and other information in its possession  
10 determined by County staff to be relevant in facilitating an orderly and effective transfer  
11 and assumption by COG staff of the administrative and staffing functions of the ALUC  
12 enumerated in the preceding Article I.

13 2.3 COUNTY staff, whenever requested by COG at any time throughout the  
14 initial one-year term of this MOU, shall review agendas, staff reports, hearing action  
15 summaries, determinations of consistency, and any other ALUC related documents  
16 prepared by COG, and shall provide comments as appropriate.,

17 2.4 The COUNTY shall make available to COG the Board of Supervisors'  
18 Chambers, Hall of Records, Room 301, 2281 Tulare Street, Fresno, CA 93721, to hold  
19 regularly scheduled ALUC hearings, on a bi-monthly basis, with scheduled dates and  
20 times to be determined through coordination with the Clerk to the Board of Supervisors.  
21 Special ALUC hearings shall be accommodated according to the availability of the  
22 Board Chambers at the time of the request for reservation from COG through  
23 coordination with the Clerk to the Board of Supervisors.

## 24 ARTICLE III

### 25 EXPENSES

26  
27 It is understood and agreed between the parties that that there will be no  
28 payments by COUNTY to COG for ALUC staffing and administrative expenses, incurred

1 by COG pursuant to the provisions of this MOU, which are hereby assumed by COG in  
2 their entirety.

#### 3 ARTICLE IV

#### 4 NOTIFICATION

5 COUNTY shall notify California Department of Transportation's Division of  
6 Aeronautics ("Caltrans Aeronautics") in writing of the transfer of ALUC administrative  
7 support to COG upon execution of this Memorandum of Understanding (MOU) and  
8 send a copy to the Chairman of the ALUC (Exhibit 2). The address for Caltrans  
9 Aeronautics is listed below.

10  
11 Department of Transportation  
12 Division of Aeronautics, MS # 40  
13 P. O. Box 942874  
14 Sacramento, CA 94274-0001

#### 14 ARTICLE V

#### 15 GENERAL PROVISIONS

##### 16 5.1 Term of MOU

17 The term of this MOU shall become effective as of the date of execution by  
18 COUNTY, following execution hereof by COG, and shall remain in full force and effect  
19 for a period of one (1) year subject to extension as provided hereinafter per provisions  
20 of Subsection 5.1.1, unless terminated as provided for in Section 5.2 of this agreement .

21 In addition, should any portion of this MOU be declared invalid or inoperative by  
22 a court of competent jurisdiction, this MOU shall be construed as not containing such  
23 provision, and all other provisions which are otherwise lawful shall remain in full force  
24 and effect, and to this end the provisions of this MOU are hereby declared to be  
25 severable.

##### 26 5.1.1 Extension

27 The one (1) year term may be extended by an affirmative action by the COG  
28 Board prior to completion of the first year. Action by the COG Board to extend the

1 MOU will continue the terms of this MOU in full force and effect until terminated by  
2 either party as hereinafter provided.

### 3 5.2 Termination

4 This agreement may be terminated by either party upon appropriate written  
5 notice to the other party, which shall be a minimum of 60 days' notice if given during the  
6 initial one-year trial term, and a minimum of 120 days' notice if given at any time  
7 thereafter. If this agreement is terminated at any time after the three-year anniversary  
8 of its effective date, such that staffing and support functions of the ALUC revert back to  
9 the County, then COG shall provide reciprocal training and materials (consistent with  
10 the responsibilities detailed in Sections 2.1 and 2.2 above) to County staff, upon  
11 COUNTY's request.

#### 12 5.2.1 Termination Due to Changes in Law

13 The purpose of this MOU is to transfer staffing and support functions of the  
14 ALUC, a net County cost activity, to the COG, which is responsible for fostering  
15 intergovernmental communication, coordination and regional transportation planning  
16 within Fresno County. Accordingly, it is mutually understood and agreed that this MOU  
17 may, by mutual agreement, be terminated should changes occur subsequent to the  
18 execution of this MOU in controlling statutory or decisional law, or in state administrative  
19 regulations, which negate the basic tenets underlying the parties' execution of this  
20 MOU.

### 21 5.3 Modification

22 This MOU and all of the covenants and conditions set forth herein may be  
23 modified or amended only by a writing executed by the duly authorized representatives  
24 of COUNTY and COG.

### 25 5.4 Enforcement

26 COUNTY and COG each acknowledge that this instrument cannot bind or limit  
27 either party in the exercise of its respective discretion and authority. However, each  
28 party hereby represents its intention to carry out the intent and purposes of this MOU to

1 the fullest extent consistent with such party's legal responsibilities and obligations.

2 5.5 Entire MOU

3 With respect to the subject matter hereof, this MOU supersedes any and all  
4 previous negotiations, proposals, commitments, writings, understandings and  
5 agreements of any nature whatsoever between COUNTY and COG except as otherwise  
6 expressly provided herein.

7 5.6 Notice

8 All notices, required to be provided by the parties to this MOU shall be in writing  
9 and shall be delivered by first class mail or an equal or better form of delivery to the  
10 respective parties at the following addresses:

11 COUNTY

12 Director  
13 Department of Public Works and Planning  
2220 Tulare Street, 6<sup>th</sup> Floor  
14 Fresno, CA 93721

COG

Executive Director  
Council of Fresno County  
Governments  
2035 Tulare Street  
Suite 201  
Fresno, CA 93721

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 IN WITNESS WHEREOF, the parties hereto have executed this MOU in the  
26 County of Fresno, State of California, as of the day and year first above written.


27

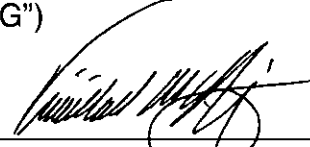
28 COUNTY OF FRESNO, a Political

COUNCIL OF FRESNO COUNTY  
GOVERNMENTS (COG), a Voluntary

Subdivision of the State of California  
("COUNTY") OCT 28 2008

Association of Local Governments  
("COG")

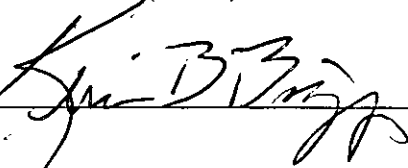
By:   
Henry R. Perea, Chairman,  
Board of Supervisors

By:   
Trinidad M. Rodriguez, Chairman  
Policy Board  
Council of Fresno County  
Governments (COG)

ATTEST:  
Bernice E. Seidel,  
Clerk to the Board of Supervisors


APPROVED AS TO LEGAL FORM  
Kevin Briggs, Chief Deputy County  
Counsel for Council of Fresno County  
Governments (COG)

By:   
Handwritten (Deputy)

By: 

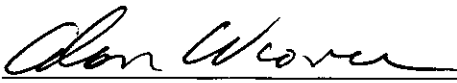
REVIEWED AND RECOMMENDED  
FOR APPROVAL  
John Navarrete,  
Interim County Administrative Officer

ATTEST:  
Tony Boren, Executive Director  
Council of Fresno County  
Governments (COG)

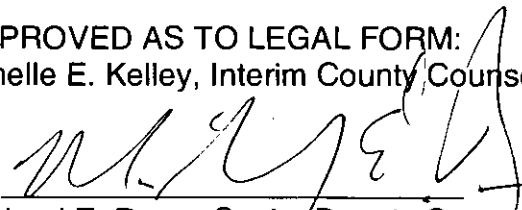
By: 

REVIEWED AND RECOMMENDED  
FOR APPROVAL

By: 

By:   
Alan Weaver, Director  
Department of Public Works and  
Planning

APPROVED AS TO LEGAL FORM:  
Janelle E. Kelley, Interim County Counsel

By:   
Michael E. Rowe, Senior Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:  
Auditor-Controller/Treasure-Tax Collector

By:   
Vicki Crow, C.P.A.

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1 BEFORE THE FRESNO COUNTY AIRPORT LAND USE COMMISSION

2  
3 IN THE MATTER OF ADOPTING THE )  
4 FRESNO COUNTY AIRPORT LAND USE ) RESOLUTION  
5 COMPATIBILITY PLAN AND RELATED )  
6 INITIAL STUDY/NEGATIVE DECLARATION )

7 WHEREAS, the Fresno County Airport Land Use Commission (“Commission”) is duly  
8 formed and operating under the State Aeronautics Act (the “Act”), California Public Utilities Code  
9 Section 21001 et seq., including Article 3.5, Sections 21670-21679.5 of the Act;

10 WHEREAS, on June 12, 2017, the Commission engaged Coffman Associates, Inc.  
11 (“Consultant”) to prepare the Airport Land Use Compatibility Plan, also known as the Airport Land  
12 Use Compatibility Plan Update (“ALUCP”) and the related Initial Study/Negative Declaration and  
13 assist the Commission in such matters; Commission staff, the Consultant and airport operators and  
14 local agency staff members comprise the Project Development Team (“PDT”); on January 10, 2018,  
15 the public draft of the ALUCP (“Public Draft ALUCP”) was released for review to the airport  
16 operators in Fresno County, including their respective staff, and the public, and comments on it were  
17 received through February 10, 2018 (“Public Draft Review Period”); on January 24, 2018 a PDT  
18 meeting and a public workshop open house were held during the Public Draft Review Period to  
19 discuss the ALUCP process, plan overview, and policies; many airport operators reviewed the Public  
20 Draft ALUCP and provided comments, including City of Fresno staff; those comments were  
21 addressed and the Public Draft ALUCP was updated;

22 WHEREAS, a Commission project website was established in mid-2017 and continues to  
23 hold the project documents referenced herein, which documents have been and are available for  
24 public review; the Public Draft ALUCP was loaded to the website on January 10, 2018, and all  
25 updates to the Public Draft ALUCP have been available on the website since that time; notifications  
26 of the ALUCP progress were also placed on ALUC, Fresno COG Transportation Technical  
27 Committee, Policy Advisory Committee, and Policy Board agendas during the month of July 2018;

28 WHEREAS, the public review and initial comment period for the Draft Airport Land Use  
Compatibility Plan (“Draft ALUCP”) and the Initial Study/Negative Declaration pursuant to the

1 California Environmental Quality Act, California Code of Regulations, Title 14, Division 6, Chapter  
2 3, Sections 15000–15387 (collectively, “CEQA”), was held from July 13, 2018 through August 13,  
3 2018; a public notice thereof was published and all the involved agencies including airport operators  
4 were notified via multiple emails thereof; the Governor’s Office of Planning and Research, State  
5 Clearinghouse and Planning Unit (“State Clearinghouse”), informed the ALUC, by letter dated  
6 September 11, 2018, that, with respect to the Initial Study/Negative Declaration, the ALUC complied  
7 with the State Clearinghouse review requirements for draft environmental documents, pursuant to  
8 CEQA, and assigned thereto State Clearinghouse number 2018081025; a news alert regarding the  
9 ALUCP public hearing and public meeting was sent out on August 2, 2018 to 1344 individuals in the  
10 Commission’s database, including transportation planners, consultants, elected officials, member  
11 agencies, and the public, and the Commission held a public hearing on the Draft ALUCP and the  
12 Initial Study/Negative Declaration during its regularly scheduled meeting on August 6, 2018; the  
13 Commission further heard and continued the consideration and action on the ALUCP and the Initial  
14 Study/Negative Declaration to its regularly scheduled meeting on October 1, 2018; the Commission  
15 further heard and continued the consideration and action on, including adoption of, the ALUCP and  
16 the Initial Study/Negative Declaration to its regularly scheduled meeting on December 3, 2018; the  
17 Commission posted a Notice of Intent to Adopt an Initial Study and Negative Declaration at the  
18 office of the County Clerk on October 26, 2018;

19 WHEREAS, the ALUC consulted with, and received written comments, dated October 26,  
20 2018, from the Division of Aeronautics of the California Department of Transportation with respect  
21 to the ALUCP, and the ALUC provided a written response to each of such comments and, made  
22 certain appropriate, responsive revisions to the ALUCP accordingly; and

23 WHEREAS, at such workshops, meetings, public meetings and the public hearings, members  
24 of the public and involved local agencies were given full and fair opportunities to comment upon, and  
25 provide any information related to the proposed ALUCP and the Initial Study/Negative Declaration;  
26 and during such workshops, meetings, public meetings and public hearings, the Commission, or its  
27 staff as applicable, consulted with the involved agencies.

28 ///



1 NOW THEREFORE, BE IT RESOLVED, that the Initial Study/Negative Declaration has  
2 been prepared in accordance with CEQA;

3 BE IT FURTHER RESOLVED, that the Airport Land Use Compatibility Plan has been  
4 prepared in accordance with the Act;

5 BE IT FURTHER RESOLVED, that the Commission adopts the Initial Study/Negative  
6 Declaration;

7 BE IT FURTHER RESOLVED, that the Commission adopts the Airport Land Use  
8 Compatibility Plan; and

9 BE IT FURTHER RESOLVED, that the Commission directs Commission staff to post notice  
10 of this Resolution on the Commission's website and to notify local agencies having jurisdiction  
11 within the Airport Influence Area of each affected airport of the Commission's adoption of this  
12 Resolution, provide a copy of the adopted Airport Land Use Compatibility Plan to the Division of  
13 Aeronautics of the California Department of Transportation, and to take any further actions in order  
14 to carry out the purposes of this Resolution.

15 THE FOREGOING was passed and adopted by the following vote of the Fresno County  
16 Airport Land Use Commission this 3rd day of December 2018

17 AYES: 6

18 NOES: 0

19 ABSENT: 1

20 Don Bied  
CHAIR, AIRPORT LAND USE COMMISSION

21 ATTEST:  
22 Secretary, Stephanie Maxwell

23 By Stephanie Maxwell  
24  
25  
26  
27  
28