

(b) *Application for payment for rehabilitation or repair, Form ACA-2044 (3-49)*. This form contains a formal statement of application for payment for rehabilitation or repair in a specified amount. It identifies the appropriate letter of notification of certification from the Administrator and the agreement, if any, between the petitioner and Administrator for progress payments. It contains spaces for describing briefly the items of restoration and betterment involved and for stating for each of such items the agreed-upon maximum amount of reimbursement, the revised total estimated cost, the costs of rehabilitation or repair incurred as of a specified date, the amount of reimbursement earned as of that date, the amount of all previous payments and unpaid applications, and the amount applied for. The following certification to be executed by a responsible official of the sponsor is provided for:

I certify that the above application for payment is correct and just, and for a payment which has not been received. I further certify that the cost estimates and statements of costs incurred, as set forth in this application, are true and correct, and relate only to items of rehabilitation or repair contemplated by the letter of notification of certification from the Administrator of Civil Aeronautics dated -----, 19-----, and the agreement entered into between the Petitioner and the United States, dated -----, 19-----; and that all such costs have been incurred in connection with rehabilitation or repair accomplished in accordance with said letter of notification and agreement* and applicable plans and specifications.

In addition, a certification is provided for signature by the District Airport Engineer.

Instructions for the preparation of this form are appended thereto.

(c) *Summary of project costs, Form ACA-1630 (5-48)*. This form contains spaces in which the petitioner is to insert a description of the rehabilitation or repair accomplished, the latest revised total estimated costs, the actual costs incurred to date, and the percentage that the latter bears to the former, all of these figures to be broken down into four main cost classifications: (1) Construction costs, (2) engineering costs, (3) administrative expenses, and (4) contingencies.

* This reference to an agreement should be stricken if no such agreement exists.

Instructions for the preparation of this form are appended thereto.

(d) *Periodic cost estimates, Form ACA-1629 (5-49)*. This form contains two certifications, as follows:

(1) A certification to be executed by the contractor (or the petitioner with respect to force account work) that "the work performed and the materials supplied to date, as shown on this periodic cost estimate, represent the actual value of accomplishment under the terms of this contract in conformity with approved plans and specifications, and that the quantities shown were properly determined and are correct."

(2) An "acknowledgment and concurrence of the petitioner's engineer," concurring in the contractor's certification (to be omitted in the case of force account work).

These certifications are preceded by spaces for inserting information regarding the progress of rehabilitation or repair, including the dates when the work was commenced and when completion is anticipated, the percentage of physical completion of rehabilitation or repair, the latest revised estimate of the quantity and cost of the various work items to be accomplished, and a statement of the quantities and value of all work items actually accomplished as of the end of the period for which the report is prepared.

Instructions for the preparation of this form are appended thereto.

PART 565—RELEASE OF AIRPORT PROPERTY FROM RESTRICTIONS OF SURPLUS AIRPORT PROPERTY INSTRUMENTS OF DISPOSAL [ADDED]

CODIFICATION: The following changes in terminology were made in Part 565, wherever they appeared, by Amendment 3, 24 F.R. 11079, Dec. 31, 1959:

1. The words "Regional Administrator" or "Regional Administrators" were deleted and the words "Chief, Regional Airports Division, and the Regional Manager," were substituted therefor.

2. The words "Administrator of Civil Aeronautics" were deleted and the word "Administrator" was substituted in lieu thereof.

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AUTHORITY: §§ 565.1 to 565.7 issued under sec. 4, 63 Stat. 700; 50 U. S. C. App. 1622c.

SOURCE: §§ 565.1 to 565.7 appear at 19 F. R. 4603, July 27, 1954, except as otherwise noted.

§ 565.1 *Definitions.* (a) "Administrator" means the Administrator of the Federal Aviation Agency.

(b) "Public Law 311" means the Act of October 1, 1949 (63 Stat. 700) which amended section 13 (g) (2) (A) of the Surplus Property Act of 1944, as amended.

(c) "Chief, Regional Airports Division" means the head of the FAA Regional Airports Division in Regions 1 through 4.

(d) "Regional Manager" means the staff head of the FAA Regional Office in Region 5 and Region 6.

(e) "Instrument of disposal" means any deed, surrender of leasehold, or other instrument of transfer or conveyance by which some right, title, or interest of the United States in real or personal property has been conveyed to a non-Federal public agency under authority of section 13 of the Surplus Property Act of 1944 as approved October 3, 1944 (58 Stat. 765) or as amended by the act of July 30, 1947 (Pub. Law 289, 80th Cong.; 61 Stat. 678) for use by such public agency for the development, improvement, operation or maintenance of a public airport or to provide a source of revenue from non-aviation business at a public airport.

CODIFICATION: § 565.1 was amended as follows by Amendment 3, 24 F.R. 11079, Dec. 31, 1959:

1. In paragraph (a) the words "Administrator of Civil Aeronautics, Department of Commerce" were changed to "Administrator of the Federal Aviation Agency."

2. Paragraph (c) was amended, former paragraph (d) was redesignated paragraph (e) and a new paragraph (d) was added.

§ 565.2 *Applicable law.* (a) (1) Section 4 of Public Law 311 authorizes the Administrator to grant a release from any of the terms, conditions, reservations and restrictions contained in, and to convey, quitclaim, or release any right or interest reserved to the United States by, any instrument of disposal under which surplus airport property was conveyed to a non-Federal public agency pursuant to section 13 of the

Surplus Property Act of 1944 (58 Stat. 765), if he determines that:

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

(ii) Such release, conveyance or quitclaim will not prevent accomplishment of the purpose for which the property was made subject to such terms, conditions, reservations and restrictions and is necessary to protect or advance the interests of the United States in civil aviation.

(2) That section further provides that no such release, conveyance or quitclaim may be granted except upon the condition that in the event the property to which the release relates is sold to a third party within five years from October 1, 1949, the proceeds from such sale, shall be devoted exclusively to the development, improvement, operation or maintenance of a public airport. In addition, the section authorizes the Administrator to grant any releases, conveyances or quitclaims authorized thereunder, subject to such other terms and conditions as he deems necessary to protect or advance the interests of the United States in civil aviation.

(b) Section 2 of Public Law 311 provides that the restriction against use of structures for industrial purposes, as contained in any instrument of disposal issued pursuant to section 13 (g) (2) (A) of the Surplus Property Act of 1944, as amended by the act of July 30, 1947 (61 Stat. 678), shall, from and after October 1, 1949, be deemed extinguished and of no force and effect. That section also authorizes the Administrator to issue such instruments of release or correction as may be necessary to effect the removal of record of such restriction from any instrument of disposal, without monetary consideration to the United States.

(c) Section 68 of the Atomic Energy Act of 1954, as amended (72 Stat. 632; 42 U.S.C. sec. 2098), releases, remises, and quitclaims to the persons entitled thereto all reserved rights, of the United States, concerning radioactive minerals contained in any instrument disposing of its interest in public or acquired lands. In addition, the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1622(b)), authorizes the Administrator of the Federal Aviation Agency to issue such instruments of reform, correction,

or amendment as he shall determine to be necessary for the correction of any instrument of disposal by which surplus property was transferred to a nonfederal public agency for airport purposes or to conform such transfer to the requirements of applicable law. Accordingly, upon written application by persons duly entitled to the ownership, occupancy or use of the land involved under applicable Federal or State laws the Administrator will issue appropriate instruments of reform, correction, or amendment to release of record any reservations of radioactive mineral rights in surplus property instruments of disposal.

[Paragraph (c) added by Amdt. 2, 24 F.R. 5017, June 20, 1959]

§ 565.3 *Scope of part.* The regulations of this part are applicable to:

(a) All classes and types of real and personal property which is subject to the terms, conditions, reservations and restrictions of instruments of disposal, and

(b) All types of releases from any or all of the terms, conditions, reservations and restrictions contained in such instruments, including but not limited to:

(1) Releases of personal property, equipment, buildings and other structures from such terms, conditions, etc., as are necessary to permit disposition of such property for salvage purposes,

(2) Releases of land, personal property, equipment, structures, etc., from the provisions requiring that such property be used for airport purposes, in order to permit the use, lease or sale thereof for non-airport use in place,

(3) Releases of land, personal property, equipment, structures, etc., from the provisions requiring their maintenance for airport use;

(4) Releases of land, personal property, equipment, structures, etc., from all terms, conditions, restrictions and reservations in order to permit the use, lease, sale or other disposal of such property for non-airport purposes, and

(5) Releases of land, personal property, equipment, structures, etc., from the reservation of right of use by the United States during the time of national emergency or war, or from the reverter provision, in whole or in part, in order to facilitate the financing of the operation and maintenance or the further development of the airport for civil airport purposes.

§ 565.4 Policies.

(a) In accordance with the provisions of section 2 of Public Law 311, such instrument as may be necessary to effect removal of record of any restriction against use of property for industrial purposes contained in an instrument of disposal, will be issued by the Administrator or his duly authorized representative upon request therefor submitted in accordance with the requirements of the regulations of this part.

(b) No release of property from any of the terms, conditions, reservations or restrictions of an instrument of disposal which would permit or authorize the sale of such property to a third party, will be granted unless and until the public agency involved has obligated itself to use the proceeds derived from such sale exclusively for the development, improvement, operation or maintenance of a public airport.

(c) No release of property from any of the terms, conditions, reservations or restrictions of an instrument of disposal, except releases from the restriction against use of property for industrial purposes, will be granted unless the facts and circumstances surrounding the request for release support and justify one of the above determinations required by Public Law 311, namely, either that:

(1) The property no longer serves the purpose for which it was made subject to such terms, conditions, reservations and restrictions, or

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

(d) While it was the primary purpose of every transfer of surplus airport property under section 13 of the Surplus Property Act of 1944 to make the property available to serve public or civil airport needs, it was also the purpose of each such transfer to ensure the availability of the property transferred and of the entire airport, for use by the United States during time of national emergency or war, if the need therefor should arise. That such purpose was also intended to be served by conveyance of surplus airport property under authority of section 13 of the Surplus Property Act of 1944, is evidenced by the fact

that practically all instruments of disposal of such property contain a provision reserving or granting to the United States a right of exclusive possession and control of the airport involved during time of war or national emergency. To effect such a reservation or grant of a right of exclusive possession and control, there was incorporated in instruments of disposal issued pursuant to War Assets Administration Regulation No. 16, as in effect prior to the enactment of Public Law 289, 80th Congress (50 U. S. C. 1622), a provision reading substantially as follows:

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

Similarly, there was incorporated in instruments of disposal issued pursuant to the said Public Law 289, a somewhat like provision, reading substantially as follows:

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

The primary purpose of incorporating such provisions in instruments of disposal was to serve the needs of the military agencies of the United States.

Furthermore, the legislative history of Public Law 311 clearly indicates that the Congress intended that in the administration of that statute the interests and needs of the military agencies in properties subject to instruments of disposal be adequately safeguarded. Accordingly, no release from any of the terms, conditions, reservations or restrictions of an instrument of disposal which, in the opinion of the Administrator, might be prejudicial to the interests or needs of the military agencies of the United States, will be granted until after consultation with the Department of Defense. As an example, any requested release which would involve any abrogation or limitation of the rights of the United States under a national emergency use provision such as quoted above, other than a requested release which could be granted by a Chief, Regional Airports Division, and the Regional Manager, pursuant to § 565.5, will be considered a release which might be prejudicial to the interests or needs of the military agencies of the United States and therefore require consultation with the Department of Defense.

(e) Release from the terms, conditions, reservations or restrictions of instruments of disposal will be made subject to such other terms and conditions as the Administrator or his duly authorized representative, in each individual case, deems necessary to protect or advance the interests of the United States in civil aviation. The terms and conditions to which releases are made subject, including conditions regarding the use of proceeds derived from the sale of property, will be imposed in the form of personal covenants or obligations of the public agency involved rather than in the form of conditions to the release or covenants running with the land, except in those cases in which the Administrator or his duly authorized representative determines that the purpose of a particular term or condition would be better effectuated by making it a condition or covenant running with the land.

(f) Any letter or other document issued by the Administrator or his representative which merely grants consent to or approval of a lease, or consent to or approval of the use of property for other than the airport use contemplated by the instrument of disposal to which it is subject, shall not be considered as otherwise releasing such property from

the terms, conditions, reservations and restrictions of such instrument of disposal.

CODIFICATION: § 565.4 amended as follows by Amendment 2, 24 F.R. 5017, June 20, 1959:

1. Former paragraph (a) deleted.
2. Former paragraphs (b) through (g) redesignated paragraphs (a) through (f), respectively.

§ 565.5 *Delegations of authority.* (a) Authority is hereby delegated to the Chief, Regional Airports Division, and the Regional Manager, to:

(1) Execute such instruments of release or correction or other instruments as may be necessary to effect the removal of record of (i) any restriction against use of structures for industrial purposes, and (ii) any reservations of radioactive mineral substances, fissionable materials, or source materials, together with the right to enter upon the land and prospect for, mine, and remove the same, contained in any surplus property instrument of disposal.

(2) Consent to or approve, conditionally or unconditionally, the leasing or use of any real or personal property for other than the airport use or purpose contemplated by the instrument of disposal to which such property is subject, as provided in § 565.4(f), when in the opinion of the Chief, Regional Airports Division, and the Regional Manager, such property is not needed for such airport use or purpose and the use or the exercise of the rights granted by the lease will not materially and adversely affect the use, operation, maintenance, development, or improvement of the airport;

(3) Execute such instruments of release or correction or other instruments as may be necessary to release from any or all of the terms, conditions, reservations, and restrictions of instruments of disposal, (i) any structures, facilities or items of personal property which, in the opinion of the Chief, Regional Airports Division, and the Regional Manager, have outlived their useful life or deteriorated beyond economical repair, notwithstanding the performance of such maintenance work by the airport owner as it could reasonably have been expected to perform in maintaining the property in accordance with the applicable instrument of disposal, (ii) any structures or facilities which, in the opinion of the Chief, Regional Airports Division, and the Regional Manager,

must be removed to permit the accomplishment of needed airport improvement or expansion, (iii) any equipment such as machinery, machine tools, and vehicular equipment which, in the opinion of the Chief, Regional Airports Division, and the Regional Manager, is no longer needed for the purpose for which it was conveyed or, because of size, type or other reason, is uneconomical to use for the purpose for which it was conveyed, and (iv) any electric, water, gas, heating, sewerage, aircraft fuel and other similar utility system and the component parts thereof when, in the opinion of the Chief, Regional Airports Division, and the Regional Manager, such system cannot economically be maintained and operated by the airport owner because of the lack of qualified operating personnel or for other reason and the release is necessary to assure accomplishment of the purpose for which the system was conveyed to such owner;

(4) Consent to or approve, conditionally or unconditionally, the conveyance or grant of rights-of-way (easements) and licenses for streets, roadways, utility lines and other pipe, pole and wire lines and drainage and irrigation facilities on, over and under lands subject to an instrument of disposal: *Provided*, That in each case the Chief, Regional Airports Division, and the Regional Manager, first determines that exercise of the rights granted by the right-of-way or license will not adversely and materially interfere with the use, operation, maintenance, development, or improvement of the airport.

(b) Except as set forth in paragraph (a) of this section, all authority contained in Public Law 311 is reserved to the Administrator and will be exercised only by the Administrator.

CODIFICATION: § 565.5 revised by Amendment 1, 22 F.R. 1959, Mar. 13, 1957. Subsequently, paragraph (a)(1) further amended, by Amendment 2, 24 F.R. 5017, June 20, 1959.

§ 565.6 *Procedures.* (a) Requests for releases of surplus airport property from the terms, conditions, reservations or restrictions of surplus airport property instruments of disposal need not be in any particular form but must be in writing and signed by a duly authorized officer of the airport owner. All requests shall be submitted in triplicate to the Chief, Regional Airports Division, and the Regional Manager having jurisdiction over the area in which the airport is located

and should contain or include at least the following:

(1) Identification of the instrument or instruments of disposal to which the property involved is subject;

(2) Description of the property to which the release relates;

(3) Condition of the property to which the release relates;

(4) Purpose for which the property was transferred, i. e., for use as part of or in connection with the operation of the airport or for the production of revenues from non-aviation businesses;

(5) Nature of the release desired;

(6) Purpose to be accomplished by the release;

(7) Statement of the facts and circumstances necessitating and justifying the release on the basis set forth in § 565.4 (d), namely, that either (i) the property involved is no longer needed for the purpose for which it was made subject to the terms, conditions, reservations and restrictions of the instrument of disposal, or (ii) the release will not prevent accomplishment of the purpose for which the property was made subject to such terms, conditions, reservations and restrictions and is necessary to protect or advance the interests of the United States in civil aviation;

(8) Documentary evidence substantiating and supporting the statement referred to in subparagraph (7) of this paragraph;

(9) Copies of such maps, photographs, plans, etc., of the airport and the property involved as may be appropriate or necessary to the consideration of the request and determination as to whether the release is justified on the basis set forth in § 565.4 (d);

(10) Proposed use or disposition to be made of the property (including the terms and conditions of any proposed sale or lease and the status of negotiations therefor);

(11) If the requested release would permit sale of the property or any part thereof, a certified copy of a resolution or ordinance of the governing body of the airport owner obligating itself to devote the proceeds derived from the sale of the property exclusively to the development, improvement, operation or maintenance of a public airport; and

(12) A suggested form of letter or deed or other instrument of release which would meet all requirements of

state and local law for the purpose of effecting the release requested.

(b) (1) Upon receipt of a request and supporting documents by the Chief, Regional Airports Division, and the Regional Manager, they will be examined by his office for the purpose of determining whether the request involves a matter within the cognizance of his office as provided in § 565.5. If it is determined by the Chief, Regional Airports Division, and the Regional Manager, that the request involves a matter so within the cognizance of his office he will determine and advise the airport owner whether the release requested or a modification thereof may be granted. If such advice is to the effect that the release requested may be granted, the Chief, Regional Airports Division, and the Regional Manager, will execute and transmit to the airport owner with such advice, such instrument as may be necessary to effect the release. If such advice is that the release requested may not be granted but that a modification thereof may be granted, the Chief, Regional Airports Division, and the Regional Manager, upon receipt of advice from the airport owner that such a modified release would be acceptable, will execute and forward to the airport owner such instrument as may be necessary to effectuate such modified release.

(2) If the request involves a matter that is not within the cognizance of the Chief, Regional Airports Division, and the Regional Manager's office as provided in § 565.5, he will forward it to the Administrator with such recommendation and other comment as may be pertinent to the issues presented.

(c) (1) Upon receipt of a request by the Administrator, it will be examined for the purpose of determining whether, in the opinion of the Administrator, the requested release meets the requirements of Public Law 311, insofar as concerns the interests of the United States in civil aviation, and whether it might be prejudicial to the interests of the military agencies of the United States. If, in his opinion, the requested release might prejudice the interests of the military agencies of the United States, he will consult with the Department of Defense in regard thereto, as provided in § 565.4 (e), through appropriate channels.

(2) Upon completion of his review of the request and other appropriate docu-

ments and information, and upon receipt of advice from the Department of Defense where the case was referred to that Department, the Administrator will advise the appropriate Chief, Regional Airports Division, and the Regional Manager, whether the release requested, or a modification thereof, may be granted. If such advice is that the release may be granted, the Administrator will execute and forward to the Chief, Regional Airports Division, and the Regional Manager, for delivery to the airport owner, such instrument or instruments as may be necessary to effectuate such release, or will authorize the Chief, Regional Airports Division, and the Regional Manager, to execute and deliver such instrument or instruments to the owner.

(3) If the Administrator's advice to the Chief, Regional Airports Division, and the Regional Manager, is that the requested release may not be granted but that a modification thereof may be granted, the Chief, Regional Airports Division, and the Regional Manager, will so advise the airport owner. Upon receipt of advice from the airport owner, submitted through the Chief, Regional Airports Division, and the Regional Manager, that such a modified release would be acceptable to the airport owner, the Administrator will execute and forward to the Chief, Regional Airports Division, and the Regional Manager, for delivery to the airport owner, such instrument or instruments as are necessary to effectuate such a modified release, or will authorize the Chief, Regional Airports Division, and the Regional Manager, to execute and forward to the airport owner such instrument or instruments.

§ 565.7 *Hearings.* (a) If, upon receipt of a request for the release of property from the terms, conditions, reservations or restrictions of an instrument of disposal, the Administrator deems it necessary in connection with his consideration of the request to hold a hearing thereon, at which written and oral testimony of the facts and circumstances pertinent to the request shall be submitted under oath, the airport owner will be notified promptly and will be advised of the time and place set for such hearing. All hearings held pursuant to the regulations of this part will be held in the Office of the Administrator in Washington, D. C., unless otherwise specified in the notice to the airport owner. The

time of the hearing will be set so as to avoid undue delay in disposing of the subject request for release, but so as to afford a reasonable time for all parties concerned to prepare for the hearing.

(b) A hearing will be held pursuant to the regulations of this part only for the purpose of ascertaining all the facts and circumstances which should be considered by the Administrator in determining whether (1) the property to which the request for release relates any longer serves the purpose for which such property was made subject to the terms, conditions, reservations and restrictions of the applicable instrument of disposal, or (2) the release requested will prevent accomplishment of the purpose for which the property was made subject to such terms, conditions, reservations and restrictions and is necessary to protect or advance the interests of the United States in civil aviation.

(c) All hearings pursuant to the regulations of this part will be regarded as hearings in which there are no adverse interests, and in which there will be no defendant or respondent. They are not hearings of the type described in sections 5, 7 and 8 of the Administrative Procedures Act (60 Stat. 237; 5 U. S. C. 1001), and will not terminate in an "adjudication" as defined in that act.

(d) Hearings under the regulations of this part will be conducted on behalf of the Administrator by such examiner or examiners as the Administrator may designate. Such hearings will be recorded in such form and manner as may be determined by the examiner or examiners and the record shall become a part of the permanent file of the Federal Aviation Agency. However, decisions of the Administrator with respect to a request for release of property from the terms, conditions, reservations or restrictions of an instrument of disposal will not be made solely upon the record of any such hearing, but upon all relevant facts and circumstances within the knowledge of the Administrator, from whatever source obtained.

Part 570—Washington National Airport

MOTOR VEHICLE RULES

Sec.	
570.24	Speed. [Revised]
570.25	Operation rules. [Amended]
570.27	Parking. [Revised]