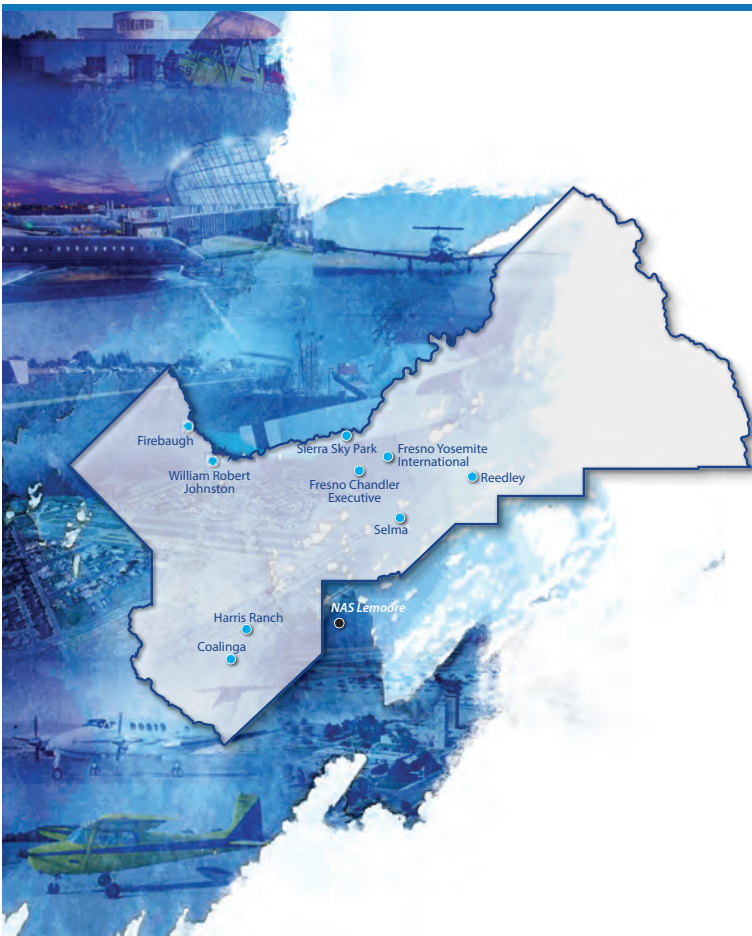




Fresno Council
of Governments

Chapter One

PURPOSE AND SCOPE





Chapter One

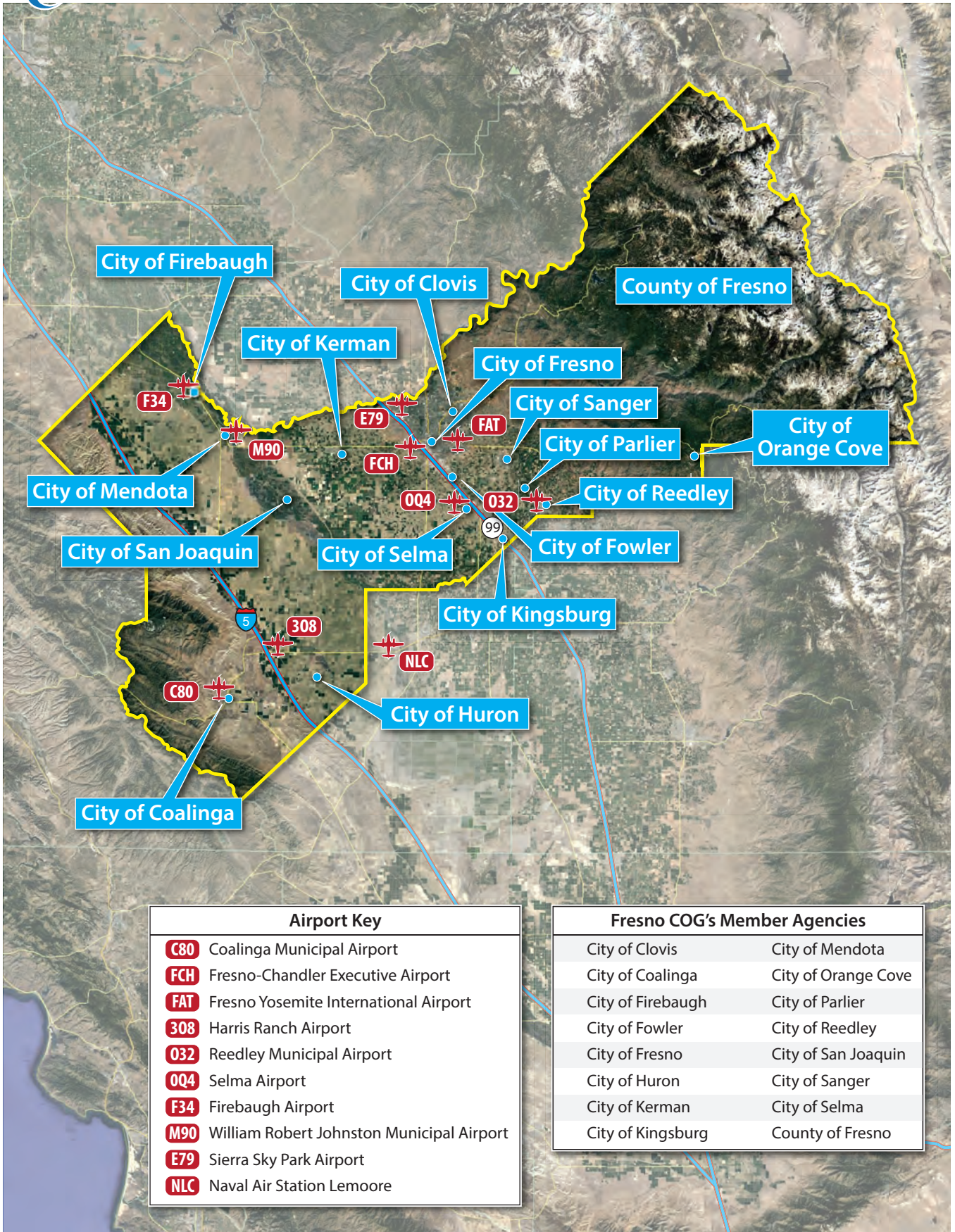
PURPOSE AND SCOPE

1.1 INTRODUCTION

This document represents an update of the state-mandated airport land use compatibility plan (ALUCP) for the environs of the nine public use airports in Fresno County. Additionally, this plan incorporates the recommendations from the Air Installations Compatible Use Zones (AICUZ) Report for Naval Air Station (NAS), Lemoore, California that apply within Fresno County. The Fresno County public use airports include Coalinga Municipal, Firebaugh, Fresno Chandler Executive, Fresno Yosemite International, Harris Ranch, Reedley Municipal, Selma, Sierra Sky Park, and William Robert Johnston Municipal. **Exhibit 1A** depicts the location of the public use airports and the portion of NAS Lemoore in Fresno County. This ALUCP was prepared by the Fresno County Airport Land Use Commission (ALUC) for Fresno County, under the authority of the *California State Aeronautics Act*, California Public Utilities Code Section 21001 et seq.

This ALUCP replaces the following list of compatibility plans for the Fresno County ALUC:

- *Coalinga Airport Land Use Policy Plan*, November 1994
- *Fresno County Airports Land Use Policy Plan* (Firebaugh, William Robert Johnston Municipal, Reedley Municipal, and Selma), January 1983
- *Fresno Chandler Downtown Airport Land Use Policy Plan*, Revised October 2014
- *Fresno Yosemite International Airport Compatibility Land Use Plan*, Revised June 2012
- *Harris Ranch Airport Land Use Policy Plan*, October 1995
- *Reedley Municipal Airport Land Use Compatibility Plan*, November 2007
- *Sierra Sky Park Land Use Policy Plan*, Revised October 1995



Airport Key	
C80	Coalinga Municipal Airport
FCH	Fresno-Chandler Executive Airport
FAT	Fresno Yosemite International Airport
308	Harris Ranch Airport
032	Reedley Municipal Airport
0Q4	Selma Airport
F34	Firebaugh Airport
M90	William Robert Johnston Municipal Airport
E79	Sierra Sky Park Airport
NLC	Naval Air Station Lemoore

Fresno COG's Member Agencies	
City of Clovis	City of Mendota
City of Coalinga	City of Orange Cove
City of Firebaugh	City of Parlier
City of Fowler	City of Reedley
City of Fresno	City of San Joaquin
City of Huron	City of Sanger
City of Kerman	City of Selma
City of Kingsburg	County of Fresno



This ALUCP has also been prepared with reference to, and is consistent with, the guidance provided by the California Department of Transportation, Division of Aeronautics (Division) in the 2011 version of the *California Airport Land Use Planning Handbook* (Handbook) pursuant to California Public Utility Code (PUC) Sections 21674.5 and 21674.7.

Similar to the previously listed airport compatibility plans, this ALUCP is intended to protect and promote the safety and welfare of residents, businesses, and airport users near the public use airports and NAS Lemoore in Fresno County, while supporting the continued operation of these facilities. Specifically, the plan seeks to: ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents; protect the public from the adverse effects of airport noise; and ensure that no structures or activities encroach upon, or adversely affect, the use of navigable airspace.

1.2 PURPOSE OF THE ALUCP

1.2.1 Purpose

Airports play a vital role in the transportation system and economy of cities and counties throughout the nation. The public use airports in Fresno County provide services, such as business travel, tourism, emergency response, fire suppression, law enforcement, and agriculture support. NAS Lemoore plays a vital role in our country's military preparedness and security by providing a home to the Pacific Strike Fighter Wing and supporting facilities. In recognition of the important role airports play and proper land use compatibility planning within the State of California, the California State Legislature enacted laws that mandate the creation of Airport Land Use Commissions (ALUCs). Adopted in 1967 to assist local agency land use compatibility efforts, the laws are intended to protect:

"... public health, safety, and welfare by encouraging orderly expansion of airports and the adoption of land use measures that minimizes 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."

To achieve this goal, the ALUC has two primary functions:

- To prepare and adopt an airport land use compatibility plan (ALUCP) with a 20-year planning horizon for each airport within its jurisdiction
- Review local agency land use actions and airport plans for consistency with the land use compatibility policies and criteria in the ALUCP

The Fresno County ALUCP is the key to implementation of the land use compatibility policies and criteria related to proposed development in the vicinity of public use airports and portions of NAS Lemoore in the county. It also establishes the planning boundaries around each of these airport facilities that define safety areas, noise contours, and height/airspace protection for policy implementation and areas within which notification is required as part of real estate transactions.



1.3 RESPONSIBILITIES AND REQUIREMENTS

Airport land use compatibility involves two overarching concepts: a community's need for safe and efficient air transportation and orderly compatible land use development within the airport environs. These two concepts need to be balanced to achieve a favorable result for the airport, the residents and businesses in the airport's vicinity.

Airport land use compatibility planning can be a complicated matter when considering the various levels of government and documentation involved. The sections below briefly discuss the specific responsibilities of each governmental entity with respect to aviation and land use as necessary. It is important to note that some levels of government are limited in the actions they may take with respect to airport land use compatibility and care is taken to describe these limitations where appropriate.

1.3.1 Federal Government

The federal government, primarily through the Federal Aviation Administration (FAA), has the authority and responsibility to control aircraft operations associated with airport noise impacts through the following methods:

- **Implement and Enforce Aircraft Operational Procedures.** These include pilot responsibilities, compliance with Air Traffic Control instructions, flight restrictions and monitoring careless and reckless operation of aircraft. Where and how aircraft are operated while not on the ground at an airport is under the complete jurisdiction of the FAA.
- **Manage the Air Traffic Control System.** The FAA is responsible for the control of navigable airspace and reviews any proposed alterations in flight procedures for noise abatement based on safety of flight operations, safe and efficient use of navigable airspace, management and control of the national airspace and air traffic control systems, effects on security and national defense and compliance with applicable laws and regulations.
- **Certification of Aircraft.** The FAA requires the reduction of aircraft noise through certification, modification of engines, or aircraft replacement as defined in Code of Federal Regulations Title 14 (14 CFR) Part 36.
- **Pilot Licensing.** Individuals licensed as pilots are trained under strict guidelines concentrating on safe and courteous aircraft operating procedures, many of which are designed to lessen the effects of aircraft noise.
- **FAA Airport Compliance and Grant Assurances:** FAA Order 5190.6B, *FAA Airport Compliance Manual*, defines the airport sponsor's role with regard to land use planning and implementation actions "to reduce the effect of noise on residents of the surrounding area. Such actions include optimal site location, improvements in airport design, noise abatement ground procedures, land



acquisition, and restrictions on airport use that do not unjustly discriminate against any user, impede the federal interest in safety and management of the air navigation system, or unreasonably interfere with interstate or foreign commerce.” Additionally, upon receipt of FAA grant funding, the airport sponsor agrees to take appropriate action, including the adoption of zoning laws, to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations in accordance with FAA Grant Assurance 21, Compatible Land Use.

- **Noise Compatibility Studies.** 14 CFR Part 150 establishes procedures and criteria for the evaluation of airport noise-related impacts. Although the FAA may provide guidance for airport land use compatibility, it has no jurisdiction over local planning decisions.

1.3.2 State of California

Aviation

With respect to aviation, the California Department of Transportation, Division of Aeronautics, is directed by the *State Aeronautics Act* to engage in activities that protect the public interest in aeronautics and aeronautical progress. In cooperation with, and in support of, the FAA, the Division serves as the advisor to Caltrans, ALUCs, and airport sponsors for ways to better include safe aviation into the fabric of California communities and multimodal transportation planning.

Land Use

The State of California grants the authority of land use regulation to local governments. This regulation is accomplished through the use of general plans and zoning ordinances. The state has also established airport noise standards, noise insulation standards and requirements for the establishment of an ALUC. State staff may also coordinate with local agencies to encourage environmental mitigation measures intended to discourage the encroachment of incompatible land uses near airport facilities. As with the federal government, local planning decisions are at the discretion of the local jurisdiction and the state may not interfere with these decisions.

Real Estate Disclosure

California State law also requires sellers of real property to disclose any facts materially affecting the value and desirability of the property. Such disclosure is required when the property is either within two miles of an airport or if it is within an Airport Influence Area (AIA). The law defines the AIA as the area where airport-related factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission. As outlined in PUC 21675(c), the AIA is usually the planning area designated by an airport land use commission for each airport.



Noise Insulation Standards

The California Noise Insulation Standards are found in California Building Code Title 24, Chapter 12, Section 1207. These standards establish uniform minimum noise insulation performance standards to protect persons within new buildings from the effects of noise. These minimum noise insulation performance standards require that the Community Noise Equivalent Level (CNEL) shall not exceed 45 decibels (dB) in any habitable room, with all doors and windows closed.

1.3.3 City and County Governments

Cities and counties may be engaged in the national aviation system by owning and operating an airport. As airport proprietors, cities and counties have limited power to control what types of civil aircraft use the airport, or to impose curfews or other use restrictions if the airport has received federal funds. This power is limited by the rules of 14 CFR Part 161, which states that airport proprietors may not take actions that (1) impose an undue burden on interstate or foreign commerce, (2) unjustly discriminate between different categories of airport users, or (3) involve unilateral action in matters pre-empted by the federal government.

Within the limits of the law and financial feasibility, airport proprietors may mitigate noise or acquire land or partial interests in land, such as air rights, easements, and development rights, to assure the use of property for purposes which are compatible with airport operations.

Cities and counties bear responsibility for the orderly development of areas surrounding the airports within their respective jurisdiction. To achieve this goal, each jurisdiction is charged with making sure all applicable planning documents and building codes are consistent with the ALUCP or go through the overrule process as outlined in Government Code, Section 65302.3. Local jurisdictions that include territory within the AIA boundary are also obligated to bring local plans into consistency with the ALUCP and submit land use actions, such as general plan or specific plan amendments, revisions to ordinances or regulations, airport plans, and individual development projects to the ALUC for a determination of consistency under Public Utility Code (PUC) Section 21676.

1.3.3.1 *Airport Land Use Commission*

At the county level of government exists a unique intersection of airport and land use compatibility planning with the administration of the Airport Land Use Commission. As previously discussed, the establishment of an airport land use commission is required for any county with an airport that is operated for the benefit of the public. The role of the commission is to *“formulate a comprehensive plan that will provide for the orderly growth at each public use airport and the area surrounding the airport within the jurisdiction of the commission”* (State of California, Public Utilities Code Section 21675).



In Fresno County, membership of the ALUC is comprised of seven commissioners. Two members are appointed by a City Selection Committee to represent Fresno County cities. The Fresno County Board of Supervisors appoints two members to represent the County on the ALUC. Two aviation experts are appointed by a selection committee comprised of the airport managers of public use airports within Fresno County. The final member of the ALUC is appointed by the other six members of the ALUC to represent the general public. A 2008 memorandum of understanding between the County of Fresno and Fresno Council of Governments¹ (COG) was established to transfer staffing and administrative support from the Fresno County Department of Public Works and Planning to the Fresno COG. This memorandum can be found in **Appendix M**.

1.4 SCOPE OF THE ALUCP

1.4.1 ALUCP Assumptions

The updated ALUCP is based on three key planning assumptions for each of the public use airports: (1) the Airport Layout Plan (ALP)/approved airport diagrams; (2) the aviation activity forecasts; and (3) the future noise exposure contours. These three key planning assumptions are provided by the individual airports or prepared in coordination with individual airports as part of the ALUCP update. State law requires that ALUCs base their ALUCPs on up-to-date airport master plans or ALPs (Pub. Util. Code §21675(a)). Additionally, as discussed in the Handbook, Caltrans, “will accept a signed ALP drawing in lieu of an FAA-approved ALP as the basis of an ALUCP update, provided the drawing is prepared consistent with the California Code of Regulations, Title 21, Section 3534.”

1.4.2 Geographic Scope

The geographic scope for this ALUCP is demarcated by an airport influence area (AIA) boundary for each airport within this plan. The AIA is “the area in which current and projected future airport-related noise, safety, airspace protection, or overflight factors/layers may significantly affect land use or necessitate restrictions on uses by an airport land use commission.” The AIA boundary was established using the outer boundary of the 14 CFR Part 77 Conical Surface for the following airports: Firebaugh Airport, Fresno-Chandler Executive Airport, Harris Ranch Airport, Reedley Municipal Airport, Selma Airport, Sierra Sky Park Airport, and William Robert Johnston Municipal Airport. 14 CFR Part 77 defines a series of airspace boundaries around an airport to determine if there are obstructions to air navigation. The Conical Surface is the outer boundary of the 14 CFR Part 77 airspace boundaries and generally represents the traffic pattern for an airport. The AIA boundaries for each airport are depicted on the following exhibits:

- Coalinga Municipal Airport (C80) Appendix A, Exhibit A1
- Firebaugh Airport (F34) Appendix B, Exhibit B1
- Fresno-Chandler Executive Airport (FCH) Appendix C, Exhibit C1

¹ Formerly known as the Council of Fresno County Governments



- Fresno Yosemite International Airport (FAT) Appendix D, Exhibit D1
- Harris Ranch Airport (308) Appendix E, Exhibit E1
- Reedley Municipal Airport (O32) Appendix F, Exhibit F1
- Selma Airport (0Q4) Appendix G, Exhibit G1
- Sierra Sky Park Airport (E79) Appendix H, Exhibit H1
- William Robert Johnston Municipal Airport (M90) Appendix J, Exhibit J1
- Naval Air Station Lemoore (NLC) Appendix K, Exhibit K1

For Coalinga Municipal Airport and Fresno Yosemite International Airport, the AIA includes the Conical Surface, Outer Approach Transitional Surface and the Precision Approach Surface. The Outer Approach Transitional Surface and Precision Approach Surface are used at airports with runways with a Precision Instrument Approach. The AIA boundary for Naval Air Station Lemoore is based upon the outer boundary of the Imaginary Surfaces for Class B Fixed Wing Runways and noise exposure contours as described in the November 2010 Air Installations Compatible Use Zones (AICUZ) report prepared by the United States Navy.

1.4.3 Limitations of the ALUCP

The ALUC has no authority over airport operations (Pub. Util. Code, Section 21674[e]). Therefore, nothing in this ALUCP shall be interpreted as regulating or conveying any recommendations concerning aircraft operations to/from/at the airport (See Section 2.3.2).

The ALUCP is not a specific development plan. This ALUCP does not designate specific land uses for any particular parcel or parcels of land. In addition, the land use compatibility policies and criteria contained within this document are intended to promote compatible land development in the vicinity of airports contained with this ALUCP. They are not intended to remove existing incompatible uses. ***None of the compatibility criteria contained herein are retroactive to existing land uses.***

Incompatible development that currently exists is recognized as existing nonconforming land use by the ALUC. Although this nonconforming land use is recognized, neither this ALUCP nor the ALUC finds these uses to be consistent with this ALUCP.

In addition to land uses that are currently developed and in use, “existing land uses” shall also include vested development projects that have not yet been built if at least one of the conditions outlined in Section 2.4.1 is met.

1.5 ALUCP ADOPTION, IMPLEMENTATION, AND AMENDMENTS

1.5.1 ALUCP Adoption

As outlined in the memorandum of understanding included in **Appendix M**, adoption of this ALUCP is coordinated through the Fresno COG, which provides staffing and administrative support for the Fresno



County ALUC. The ALUC is obligated to involve the affected local agencies in the adoption process by holding a public hearing on the document prior to formal adoption. For the purposes of this plan, affected local agencies include, but are not limited to, Fresno County and the cities of Coalinga, Firebaugh, Fresno, Mendota, Reedley and Selma (See Section 2.3). As discussed in the Handbook, adoption of the ALUCP begins a statutory 180-day period within which the local agencies must either modify its general plan and applicable specific plans or take the steps necessary to overrule the ALUC (Government Code, Section 65302.3) using the process outlined in Section 1.5.2 below.

1.5.2 Overrule Policy

1.5.2.1 Overrule Process

As outlined in the Handbook, Government Code (Gov. Code) Section 65302.3 (a) states that a county's or city's general plan, as well as any applicable specific plans, "shall be consistent" with an ALUCP and that every affected county or city must amend its general and specific plans as necessary to keep them consistent with the ALUCP. If the ALUC determines the local plan to be inconsistent with the ALUCP, the local agency shall reconsider its plan, or overrule the ALUC's decision.

The overrule process involves three mandatory steps:

- 1) Holding a public hearing
- 2) Making specific findings that the action proposed is consistent with the purposes of the ALUC statute
- 3) Approval of the proposed action by a two-thirds vote of the agency's governing body

In accordance with PUC 21676, at least 45 days prior to the decision to overrule the ALUC, the local agency shall provide the ALUC and the Division a copy of the proposed overrule decision and accompanying findings. The ALUC and the Division may provide comments to the local agency's governing body within 30 days of receiving the proposed decision and findings. While the ALUC and Division comments are advisory, they must be included in the public record of any decision to overrule the ALUC.

1.5.2.2 Substance of Finding

The essential substance of the findings which accompany a local agency overruling of an ALUC decision is indicated in PUC Section 21670. Section 21670(a) indicates that five separate purposes for the legislation are stated:

- "...to provide for the orderly development of each public use airport in this state..."
- "...to provide for the orderly development of...the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards..."



- “...to provide for the orderly development of...the area surrounding these airports so as...to prevent the creation of new noise and safety problems.”
- “...to protect the public health, safety, and welfare by ensuring the orderly expansion of airports...”
- “...to protect the public health, safety, and welfare by...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.”

Although findings do not need to address each of these purposes point by point, it is essential that, collectively, all of the purposes be addressed. The following sections outline possible approaches to demonstrating a proposed action that would indeed be consistent with these purposes.

(a) Providing for Orderly Development of the Airport. The findings shall document:

- (1) How the local agency has considered any adopted long-range development plans that may exist for the airport;
- (2) How the local agency plans to support development of the airport over at least the next 20 years; and
- (3) How local land use planning and zoning actions would serve to protect the approaches to the airport runways.

(b) Relationship to California Airport Noise Standards. The findings should:

- (1) Document any inconsistencies between noise element policies and noise compatibility criteria in the ALUC compatibility plan and attempt to resolve why the differences exist;
- (2) Show how noise element policies will assure conformance with the state noise airport standards; and
- (3) Identify any measures to be incorporated into local development to mitigate existing and foreseeable airport noise problems.

(c) Preventing Creation of New Noise and Safety Problems. The findings should:

- (1) Document any inconsistencies between the proposed land use action and safety compatibility criteria in the ALUC compatibility plan;
- (2) Describe the measures taken to assure that risks – both to people and property on the ground and to the occupants of aircraft – associated with the land use proposal are held to a minimum; and
- (3) Indicate that the proposed land use action falls within a level of acceptable risk considered to be a community norm.

(d) Protecting Public Health, Safety, and Welfare by Ensuring Orderly Expansion of the Airport. The findings should:



- (1) Document any inconsistencies between the proposed land use action and safety compatibility criteria in the ALUC compatibility plan;
- (2) Describe the measures taken to assure that risks – both to people and property on the ground and to the occupants of aircraft – associated with the land use proposal are held to a minimum; and
- (3) Indicate that the proposed land use action falls within a level of acceptable risk considered to be a community norm.

(e) Minimizing the Public’s Exposure to Excessive Noise and Safety Hazards. The statute implies a quantitative assessment of noise exposure and safety hazards. The purpose of the statute is not merely to reduce the public’s exposure to noise and safety hazards, but to minimize exposure in areas with excessive noise or safety concerns. To adopt a finding demonstrating consistency with this purpose, the local agency first must determine whether the existing noise exposure or safety hazards are excessive.

- (1) If existing noise and safety hazards are not excessive, then the actions taken by the local agency must “prevent the creation of new noise and safety problems” (see the third bullet above).
- (2) If the existing exposure is excessive, the local agency would have to show how its action in overruling an ALUC determination of inconsistency nonetheless minimizes additional exposure to those noise and safety concerns that have been identified.
- (3) Finally, the local agency needs to show the extent to which land uses in the area in question are already incompatible with airport operations and how an action to overrule would not create a new incompatible use or would not expose additional persons or property to noise and safety hazards associated with existing compatible uses.

1.5.3 ALUCP Implementation

Upon adoption of the ALUCP and where local agencies have amended their general and specific plans to be consistent with the ALUCP, the following types of actions proposed within the airport influence area must be submitted to ALUC for determination of consistency prior to approval by the local jurisdiction:

- Adoption of a general plan, specific plan, or any amendments
- Airport and heliport plans, including master plans, expansion plans and plans for the construction of a new facility (See Policy 2.9)

1.5.4 ALUCP Amendments

Major amendments (revising the policies in a manner that would change their applicability to a public agency, adding new policies, or revising maps) to the compatibility plan cannot be done more than once



per calendar year.² Minor amendments (addressing grammatical, typographical, or minor technical errors that do not affect policies or the manner in which those policies are applied) can be done as often as needed.³ ALUCP amendments may address any issue deemed appropriate by the ALUC. State law also requires that the ALUC review updates to airport master plans, airport layout plans, and proposals for airport expansion.⁴ The ALUCP must be amended as needed to reflect updates and revisions to airport plans.

1.6 ENVIRONMENTAL REVIEW

Preparation of *California Environmental Quality Act* (CEQA) documentation when adopting or amending an ALUCP is required based upon legal precedent. A decision reached by the California Supreme Court in 2007 clarified the application of CEQA to airport land use compatibility plans (*Muzzy Ranch Co. v. Solano County Airport Land Use Commission*, 41 Cal. 4th 372, June 21, 2007, modified September 12, 2007). The court ruled that an ALUCP is a “project” subject to environmental review under CEQA. The court explained that even if subsequent action by a local land use regulatory agency is required before development projects can be authorized, an ALUCP “carries significant, binding regulatory consequences for local government...” The court noted that even if an ALUCP would not cause a direct physical change in the environment, it still might affect the environment indirectly. The court specifically discussed the possibility that adoption of land use restrictions in the vicinity of an airport could cause development that would have occurred in the airport area to shift elsewhere, potentially giving rise to an adverse effect on the environment.

According to the court, a “common sense” exemption from CEQA may be invoked by an airport land use commission “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment” The CEQA exemption may be used, however, only when the specific facts in question reveal that use of the exemption is justified.

In accordance with Public Resources Code, Section 21096, the ALUCP and Handbook shall be utilized as technical resources to assist in the preparation of environmental documentation as the report relates to airport-related safety hazards and noise problems. Additionally, a lead agency shall not adopt a negative declaration for a development action unless the lead agency considers whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

² California Public Utilities Code §21675(a).

³ California Department of Transportation, Division of Aeronautics, *California Airport Land Use Planning Handbook*, October 2011, § 2.4.2 ALUCP Amendments,

⁴ California Public Utilities Code §§21674(d), 21676(c).



1.7 ABOUT THIS DOCUMENT

This document includes all components of the updated ALUCP for the nine public use airports and portions of NAS Lemoore within Fresno County. In addition to this chapter, which outlines the ALUCP purpose and scope, the remaining two chapters provide the following information:

1. Chapter Two, Implementation and Definitions, includes all applicable implementation policies and guidance for this ALUCP and definitions of land use compatibility terms used in this plan
2. Chapter Three, Compatibility Policies and Criteria, includes the safety, noise, and height restriction guidelines to be used when considering land use developments within the vicinity of the airport influence area boundaries for nine public use airports

Note: Compatibility policies for the area within Fresno County near NAS Lemoore can be found in **Appendix K**.

Additionally, appendices to supplement the analysis are presented in the ALUCP. These include airport facilities, operations, area land use, noise analysis, and safety information for all nine public use airports in Fresno County as well as NAS Lemoore.

Appendices are also provided that include implementation materials for use by ALUC staff and local planning agencies to achieve the land use compatibility goals of this plan.