

SEMI-ANNUAL AIRPORT LAW DIGEST

2022 MID-YEAR UPDATE

JULY 2022

NO. 36

The first six months of 2022 have been turbulent, and the airport world has been no exception. Airports have faced climbing material and labor prices from inflation, continued supply-chain disruptions, and the challenge of accommodating resurgent passenger demand in a capacity-constrained industry. With flight delays and cancellations at extraordinary levels, airlines have begun making difficult decisions about the profitability of particular routes, sometimes just months after resuming such service. However, the FAA has also begun rolling out the first tranche of Bipartisan Infrastructure Law grant funds, which should provide needed assistance for many projects at airports across the country. The next six months will likely prove just as unsettled for the industry, with the potential for the November midterm elections to influence the upcoming FAA reauthorization process.

This Airport Law Digest includes a list of principal cases decided over the past six months; new DOT and FAA rules, policies, and guidance; and reports, studies, and articles of interest to airport legal professionals. We have attempted to provide links to publicly available documents, and most other documents are available via subscription services such as Westlaw or LexisNexis. As airports continue to recover from the effects of the COVID-19 pandemic, we have provided a select subset of materials relevant to COVID-19 at the end of this Digest.

We hope you find this Digest useful in your efforts to remain current in the always-evolving legal and regulatory framework that governs airports. If you have questions about any of the materials in this Digest, please contact editors [Nicholas M. Clabbers](#) and [Adam Gerchick](#), or [any other Kaplan Kirsch & Rockwell attorney](#) who normally represents you.

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THE BIPARTISAN INFRASTRUCTURE LAW (BIL)

The Infrastructure Investment and Jobs Act, better known as the Bipartisan Infrastructure Law (BIL), continues to occupy considerable attention among airports and their counsel. The sheer magnitude of potential new grants, the new grant-application process, and the extension of grant eligibility to projects not generally eligible for traditional AIP funding have generated a flurry of activity as sponsors repackage their projects to meet the policy and legal criteria of the new law. Like any new funding program, the BIL program is experiencing growing pains, which have been exacerbated by (unsurprisingly) enormous interest from airport sponsors: During the first round of applications for the broader Airport Infrastructure Grants, the FAA received requests for more than ten times the available grant funds.

The FAA's Associate Administrator for Airports, Shannetta Griffin, has been candid that the administration's criteria for awarding BIL grants are new and weigh factors that have not previously been considered in airport-development projects under AIP and other grant programs, including environmental justice, sustainability, and diversity, equity, and inclusion. (For an interesting interview with Griffin, [click here](#).) The agency's [formal Notice of Funding Opportunity](#) for the Airport Terminal Program grants also contains essential information about the bases upon which grants will be awarded. While newly nominated FAA Administrator-designate Phil Washington has yet to speak publicly on the BIL grant criteria, it is expected that he will endorse Associate Administrator Griffin's approach and the criteria set forth in the Notice of Funding Opportunity.

The first round of Airport Terminal Program grants, totaling nearly \$1 billion, was announced in early July. For a complete list of airports that were awarded these grants, [click here](#). An additional \$1 billion will be available under the Airport Terminal Program each year for the next four years.

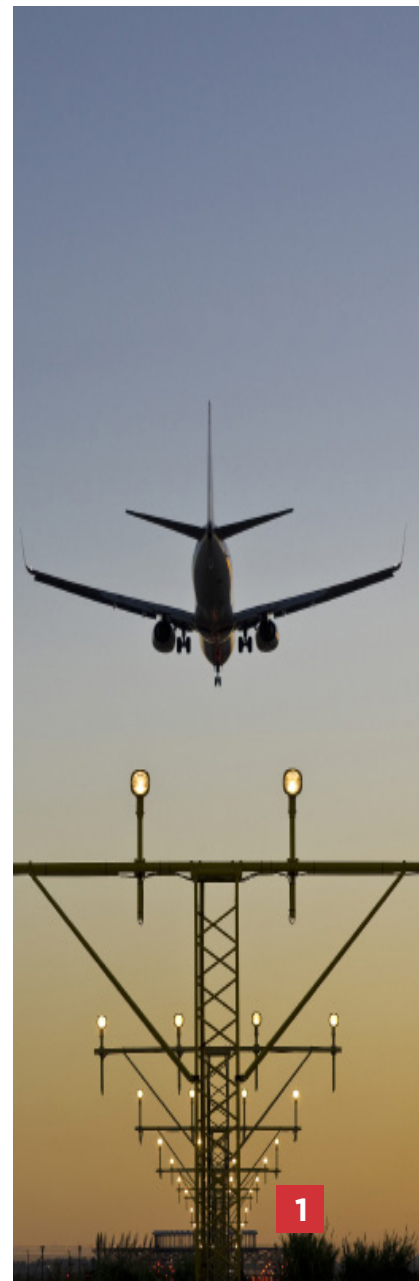
FAA has also issued guidance documents and [a FAQ document](#) (most recently updated on May 13, 2022) on the BIL grant process. While the BIL grant process is intended in many respects to mimic the AIP grant process, there are substantial differences between the two, including eligibility criteria that differ substantively between the BIL and AIP programs. Sponsors seeking BIL funds should carefully review these criteria and take them into consideration when applying for any grants available under the BIL.

AIRPORT INDUSTRY PREPARES FOR ADVANCED AIR MOBILITY

[Advanced Air Mobility](#) (AAM) promises to revolutionize air transportation through the introduction of advanced aircraft designs capable of providing cost-effective transportation in local and regional environments – both rural and urban – that are un- or underserved by conventional aircraft.

The certification of AAM aircraft including, most notably, electric vertical takeoff and landing (eVTOL) aircraft, remains pending before the FAA. However, many airports and communities are beginning to consider developing vertiports and other ground-based infrastructure necessary to support AAM once those aircraft enter the market. On February 28, 2022, the FAA released [Draft Engineering Brief No. 105](#), which will provide interim guidance to those sponsors seeking to develop vertiports while the FAA continues to work toward a more comprehensive Advisory Circular. The interim guidance leaves many questions about the AAM operating environment unanswered. Until the FAA has provided greater regulatory certainty regarding the siting, development, and operation of vertiports, airport sponsors and other early vertiport developers must prepare for substantial uncertainty and risk. It also remains unclear how quickly AAM is likely to become a reality. While many aircraft manufacturers have announced entry-into-service dates as early as 2024, the FAA's approach to certifying and regulating AAM aircraft continues to evolve: Most recently, the FAA confirmed it would certify eVTOL aircraft as "powered-lift" vehicles, rather than apply more traditional aircraft-certification standards.

Congress has also turned its attention to AAM. In recent months, the House passed the [Advanced Aviation Infrastructure Modernization Act](#), which would establish a pilot program to award planning and construction grants to entities seeking to develop AAM infrastructure. Additionally, the Senate passed the [Advanced Air Mobility Coordination and Leadership Act](#), which would establish an interagency working group to coordinate the [many complex issues](#) arising from the integration of AAM. Airport sponsors should not only continue to monitor these regulatory and legislative developments, but also carefully consider how their own planning efforts should incorporate AAM. The siting and development of vertiports – both on-airport and off – may raise a host of technical, legal, and political challenges, as well as introduce novel operational and legal risks. For additional questions regarding AAM and vertiport development, please contact [Steven Osit](#).



TURO

An emerging ground-vehicle business model seen at an increasing number of airports is peer-to-peer car sharing, such as Turo, which allows individuals to rent the personally owned vehicles of another individual or organization and arrange for exchange of the vehicle at various locations, including airports. Turo has maintained that it is not a “rental car company” and cannot be regulated as such.

The most recent decision on this issue came down decisively in Turo’s favor. In *Turo Inc. v. Superior Court of S.F.*, No. A160200, 2022 Cal. App. LEXIS 564 (Ct. App. June 28, 2022), a California state appellate court held that Turo is not a “rental car company” for the purposes of California Code, Gov. § 50474.1, which authorizes airports operated by cities and counties to collect user fees from rental car companies. Thus, the court granted Turo’s writ of mandate and directed the respondent Superior Court to vacate its previous decision to the contrary.

However, in another recent decision, the Massachusetts Supreme Judicial Court affirmed a preliminary injunction prohibiting Turo from “[p]osting motor vehicles on Turo’s website, or by means of any other Turo application, as available for pickup or drop-off at Logan Airport,” where, the airport’s sponsor alleged, Turo was violating regulations prohibiting commercial activity without authorization and aiding and abetting an ongoing trespass. *Mass. Port Auth. v. Turo, Inc.*, 166 N.E.3d 972 (Mass. 2021).

These recent decisions indicate that airport operators are likely to have greater success regulating Turo and other peer-to-peer companies as “commercial activity operators” than as “rental car companies.” The scope and means of local governments’ regulation of these new peer-to-peer companies is a rapidly developing area of law likely to continue to be defined through future litigation. It is also worth noting that while Turo and similar companies had long-resisted executing operating permits governing their relationship with and payment of fees to airports, there are now agreements in place at several airports and Turo appears to be more open to negotiating with airport sponsors so long as they are not treated as a “rental car company.”



LITIGATION

Listed in Reverse Chronological Order

FEDERAL AND SELECT STATE COURT DECISIONS

Airline Deregulation Act. *Virgin Am., Inc. v. Bernstein*, U.S. Sup. Ct. Docket No. 21-260, and *Air Transp. Ass'n of Am., Inc. v. Wash. Dep't of Lab. & Indus.*, U.S. Sup. Ct. Docket No. 21-627 (both petitions for writ of certiorari denied June 30, 2022) (petitions to review Ninth Circuit decisions on the scope of the Airline Deregulation Act's preemptive effect on state laws of general applicability, such as minimum-wage and other labor requirements).

Pouring Rights. *Host Int'l, Inc. v. MarketPlace, PHL, LLC*, 32 F.4th 242 (3d Cir. 2022) (private firm acting as landlord on behalf of sponsor did not commit antitrust violation by requiring airport concessionaire to enter into pouring-rights agreement as condition of concessions lease).

NEPA. *City of Scottsdale v. FAA*, No. 20-1070, 2022 U.S. App. LEXIS 17395 (D.C. Cir. June 24, 2022) (City lacked standing to challenge FAA's compliance with NEPA in approving new flight routes because City failed to demonstrate that it was affected by shifted air traffic).

Exclusive Rights. *Atl. Beechcraft Servs. v. FAA*, No. 21-1047, 2022 U.S. App. LEXIS 14795 (D.C. Cir. May 27, 2022) (affirming FAA decision in Part 16 proceeding that Grant Assurance 23 does not prohibit a particular airport tenant from granting an exclusive right to provide services within its leasehold, but rather prohibits a sponsor from granting an exclusive right to provide a service on the airport as a whole).

Appellate Jurisdiction. *Kurtz v. FAA*, No. 20-73440, 2022 U.S. App. LEXIS 5358 (9th Cir. Mar. 1, 2022) (neither FAA's conditional approval of corrective action plan nor brief FAA letter clarifying conditions of such plan constituted final agency order subject to judicial review).

Equal Protection; Preemption. *Delux Pub. Charter, LLC v. Cty. of Orange*, No. SACV 20-2344 JVS (KESx), 2022 U.S. Dist. LEXIS 104462 (C.D. Cal. May 6, 2022) (dismissing various constitutional claims asserted against airport sponsor arising from the location on the airport where JSX was permitted to operate and related sponsor actions).



First Amendment Retaliation. *AH Aero Servs., LLC v. Heber City*, No. 2:17-cv-1118, 2022 U.S. Dist. LEXIS 78250 (D. Utah Apr. 28, 2022) (holding that sponsor and its airport managers had not unlawfully retaliated against FBO, in part because City had an interest in regulating its relationship with the FBO as a public contractor).

First Amendment; Drones. *Nat'l Press Photographers Ass'n v. McCraw*, No. 1:19-CV-946-RP, 2022 U.S. Dist. LEXIS 56475 (W.D. Tex. Mar. 28, 2022) (holding that journalists' use of drones "to document the news" is protected expression under the First Amendment, such that state law restricting their use for certain recording was subject to strict scrutiny and ultimately unconstitutional).

Premises Liability. *Criss v. United Airlines*, Civil Action No. 20-cv-1670-WJM-NRN, 2022 U.S. Dist. LEXIS 39771 (D. Colo. Mar. 7, 2022) (under Colorado premises-liability law, airline was "landowner" of its preferential-use jet bridge but could not be held to have actual or constructive knowledge of jet bridge's allegedly dangerous wet condition because personal-injury plaintiff had only established that employees of airline's independent regional affiliate, not the airline itself, had traversed the jet bridge that day).

Contract. *Corotoman, Inc. v. Cent. W. Va. Reg'l Airport Auth., Inc.*, No. 2:21-cv-00545, 2022 U.S. Dist. LEXIS 14696 (S.D. W. Va. Jan. 26, 2022) (by its actions, airport sponsor entered into land-use contract with nearby property owner, regardless of whether sponsor's employee had actual authority to sign contract or whether sponsor fully understood terms of agreement).

Legal Status of Sponsor. *MAG US Lounge Mgmt. LLC v. Ontario Int'l Airport Auth.*, No. 2:21-cv-04909-ODW (RAOx), 2022 U.S. Dist. LEXIS 76904 (C.D. Cal. Jan. 19, 2022) (with respect to whether a public sponsor of an airport is an “arm of the state,” holding that “the operation and maintenance of an important hub of public transportation,” “especially” a major international airport, is a “central government function”).

Reversionary Clauses. *Ogden Reg'l Airport Ass'n v. Ogden City Airport*, No. 1:21-cv-00075-DBB-DBP, 2022 U.S. Dist. LEXIS 5750 (D. Utah Jan. 11, 2022) (sponsor was not estopped from deciding not to renew its airport leases or enforce those leases' reversionary clauses).

Turo. *Turo Inc. v. Superior Court of S.F.*, No. A160200, 2022 Cal. App. LEXIS 564 (Ct. App. June 28, 2022) (Turo not a rental car company under California law, including statute authorizing airports to collect user fees from rental car companies).

ADMINISTRATIVE DECISIONS

Leases and Indemnity. *HTX Helicopters, LLC v. R.I. Airport Corp.*, FAA Docket No. 16-21-10, Director's Determination (May 19, 2022) (finding that sponsor did not violate Grant Assurance 22 by requiring a lease to operate at airport, but finding sponsor not compliant with Grant Assurance 22 by requiring operator to indemnify sponsor for aircraft noise in order to obtain new lease).

Lease Conditions and Hangar Access. *Mealy v. Clarion Cty. Airport Auth.*, FAA Docket No. 16-18-06, Director's Determination (May 11, 2022) (finding no violation of Grant Assurances 22 or 23 where sponsor provided different (but similar) lease terms to dissimilarly situated tenants, granted dedicated hangar space to air-ambulance operator requiring such space, but not to a dissimilar tenant, and required tenant to agree to code of conduct as condition of lease).

Skydiving. *Theuma v. Arizona*, FAA Docket No. 16-19-16, Director's Determination (Jan. 21, 2022) (finding sponsor violated Grant Assurance 22 by requiring skydiving operator to provide not-reasonably obtainable insurance, restricting solo skydiving operations, and imposing higher gross-receipts fees on operator than upon similarly situated tour operators).



RESEARCH WARNING FOR AIRPORT LAWYERS

As we have indicated in prior *Airport Law Digests*, Lexis Advance has only inconsistently updated its database of FAA Part 16 decisions since September 2017, and we cannot confirm that the database is complete. While many recent decisions do appear to be present, there are also several which are missing. We have been unable to determine why this continues to be an issue. We have been unable to confirm if Westlaw Next is currently experiencing a similar issue, but know that it has in the past. We recommend caution when researching FAA Part 16 decisions on either Lexis Advance or Westlaw Next and to supplement that research with FAA resources and the recent updates to the Airport Cooperative Research Program Legal Research Digest 21. New Part 16 decisions are intermittently uploaded to [FAA's website](https://www.faa.gov) and [Regulations.gov](https://www.regulations.gov).

FEDERAL LEGISLATION

[Consolidated Appropriations Act, 2022](#) (Pub. L. No. 117-103) (Mar. 15, 2022) (containing the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2022).

FEDERAL RULES, ORDERS, AND GUIDANCE

Listed in Reverse
Chronological Order

THE WHITE HOUSE

Statement, [The Domestic Counter-Unmanned Aircraft Systems National Action Plan](#) (Apr. 25, 2022) (recommending eight steps to address dangers posed by UAS).

Executive Order No. 14,058, [Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government](#) (Dec. 13, 2021) (among other things, directing TSA to test technologies to reduce passenger-screening wait times and to improve customer communications).

DEPARTMENT OF TRANSPORTATION AND FAA ORDERS, POLICIES, AND ADVISORY CIRCULARS

Notice of Proposed Rulemaking, [Airplane Fuel Efficiency Certification](#), 87 Fed. Reg. 36,076 (June 15, 2022) (proposing fuel-efficiency requirements for certification of certain aircraft).

Advisory Circular No. 150/5000-0B, [Guidelines for Sound Insulation of Structures Exposed to Aircraft Noise](#) (June 7, 2022).

Notice, [Temporary Waiver of Buy America Requirements for Construction Materials](#), 87 Fed. Reg. 31,931 (May 25, 2022) (temporarily waiving certain Buy America provisions of Bipartisan Infrastructure Law with respect to construction materials).

Advisory Circular No. 159/5200-28G, [Notice to Air Missions \(NOTAMS\) for Airport Operators](#) (May 24, 2022) (standards and guidance for issuance of NOTAMS).

Notice, [Airport Improvement Program \(AIP\) Grant Assurances](#), 87 Fed. Reg. 25,691 (May 2, 2022) (announcing modification of AIP grant assurances).

Advisory Circular No. 150/5335-5D, [Standardized Method of Reporting Airport Pavement Strength - PCR](#) (Apr. 28, 2022).

Bulletin, [Information for Airport Sponsors Considering COVID-19 Restrictions or Accommodations](#) (Apr. 28, 2022) (updated).

Notice, [FY 2022 Competitive Funding Opportunity: Airport Improvement Program Discretionary Grants](#), 87 Fed. Reg. 23,690 (Apr. 20, 2022).



Notice, [Funding Opportunity](#), 87 Fed. Reg. 23,687 (Apr. 20, 2022) (notice of opportunity to apply for Airport Infrastructure Grants under FAA Contract Tower (FCT) Competitive Grant Program established by Bipartisan Infrastructure Law).

Draft Advisory Circular No. 150/5200-10F, [Guide Specification for Aircraft Rescue and Fire Fighting \(ARFF\) Vehicles](#) (Apr. 6, 2022) (comment period expired May 6, 2022).

Advisory Circular No. 150/5300-13B, [Airport Design](#) (Mar. 31, 2022) (standards and guidance for design of airfield and other airport facilities).

Notice, [Funding Opportunity for the Department of Transportation's Multimodal Project Discretionary Grant Opportunity](#), 87 Fed. Reg. 17,108 (Mar. 25, 2022) (soliciting applications for several federal grant programs).

Final Rule, [Revisions to Civil Penalty Amounts](#), 87 Fed. Reg. 15,839 (Mar. 21, 2022) (among other things, adjusting upward maximum penalty for permanently closing airport without sufficient notice).

DOT Order 2022-3-8, [Order Prohibiting Termination of Service and Requesting Proposals](#), DOT-OST-2008-0112-0067 (Mar 11, 2022) (prohibiting SkyWest from terminating EAS service to 29 cities).

Notice, [Notice of Availability, Notice of Industry Day Meeting, and Request for Comment on the Draft Engineering Brief 105 for Vertiport Design](#), 87 Fed. Reg. 11,804 (Mar. 2, 2022).

Draft Engineering Brief No. 105, [Vertiport Design](#) (draft released Feb. 28, 2022).

Notice, [Funding Opportunity](#), 87 Fed. Reg. 10,890 (Feb. 25, 2022) (notice of opportunity to apply for discretionary grants for Airport Terminal Program established by Bipartisan Infrastructure Law).

Draft Advisory Circular No. 150/5020-1A, [Noise Control and Compatibility Planning for Airports](#) (Jan. 12, 2022) (comment period expired Mar. 11, 2022).

Proposed Rule, [Streamline and Update the Department of Transportation Acquisition Regulation \(TAR Case 2020-001\)](#), 86 Fed. Reg. 69,452 (Dec. 7, 2021) (among other things, proposing “minor administrative,” “minor grammatical,” and “editorial non-substantive edits” to federal construction and architect-engineer contract clause regarding precautions for work at airports).

Notice, [Airport Compliance Program](#), 86 Fed. Reg. 68,719 (Dec. 3, 2021) (notice of availability of Change 1 to FAA Order 5190.6B, Airport Compliance Manual).

COUNCIL ON ENVIRONMENTAL QUALITY

Final Rule, [National Environmental Policy Act Implementing Regulations Revisions](#), 87 Fed. Reg. 23,453 (Apr. 20, 2022) (amending certain NEPA regulations and discussing potential health effects of PFAS and PFOS).

ENVIRONMENTAL PROTECTION AGENCY

Notice, [Lifetime Drinking Water Health Advisories for Four Perfluoroalkyl Substances](#), 87 Fed. Reg. 36,848 (June 21, 2022).

Notice, [Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic Acid \(PFOA\) and Perfluorooctane Sulfonic Acid \(PFOS\)](#), 87 Fed. Reg. 26,199 (May 3, 2022).

Proposed Rule, [Control of Air Pollution From Aircraft Engines: Emission Standards and Test Procedures](#), 87 Fed. Reg. 6324 (Feb. 3, 2022) (proposing emissions standards for certain jet aircraft and discussing environmental impact of aircraft pollutants in airport vicinities).

DEPARTMENT OF DEFENSE

Notice, MIL-PRF-XX727, [Fire Extinguishing Agent, Fluorine-Free Foam \(F3\) Liquid Concentrate, For Land-Based, Fresh Water Applications](#) (June 2, 2022) (notice of Navy’s draft military specification (MILSPEC) for fluorine-free firefighting foam, which MILSPEC the FAA intends to adopt for civil airports once published) (actual draft MILSPEC only available by request to Navy).

REPORTS, STUDIES, ARTICLES, & OTHER PUBLICATIONS

Listed in Reverse Chronological Order

U.S. DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA, Report to Congress, [Air Traffic Controller Hiring Reform](#) (Feb. 8, 2022).

FAA, Report to Congress, [Update of the FAA Comprehensive Plan and Unmanned Aircraft Systems \(UAS\) Program Alignment](#) (Feb. 3, 2022).

FAA, Report, [Modernization of the Air Transportation System](#) (Dec. 21, 2021).

Office of Inspector General

Office of Inspector General, [Audit Announcement](#), Audit Initiated of FAA’s Prevention and Detection of Airport Revenue Diversion (May 20, 2022).

Office of Inspector General, [Report No. AV2022027](#), FAA Made Progress Through Its UAS Integration Pilot Program, but FAA and Industry Challenges Remain to Achieve Full UAS Integration (Apr. 27, 2022).

Office of Inspector General, [Report No. AV2022026](#), While FAA Is Coordinating with Other Agencies on Counter-UAS, Delays in Testing Detection and Mitigation Systems Could Impact Aviation Safety (Mar. 30, 2022).

Office of Inspector General, [Report No. AV2022023](#), FAA Needs Additional Accountability and Transparency in Reporting Performance Measures and Targets for Major System Investments and Environmental Reviews (Mar. 14, 2022).

Office of Inspector General, [Report No. AV2022016](#), Changes in Requirements and Schedule Delays Contributed to the Termination of the NAS Voice System Contract (Jan. 12, 2022).

Office of Inspector General, [Capstone Memorandum CC2022002](#), Observations and Common Themes in OIG's Recent Work on FAA's Oversight of Air Carrier Maintenance Programs (Jan. 5, 2022).

U.S. GOVERNMENT ACCOUNTABILITY OFFICE

[Report No. GAO-22-105020](#), Transforming Aviation: Stakeholders Identified Issues to Address for 'Advanced Air Mobility' (May 2022).

[Report No. GAO-22-104144](#), DHS Privacy: Selected Component Agencies Generally Provided Oversight of Contractors, but Further Actions Are Needed to Address Gaps (Dec. 2021).

CONGRESSIONAL RESEARCH SERVICE

[Report No. R42781](#), Federal Civil Aviation Programs: In Brief (updated June 23, 2022).

[Report No. R47067](#), Unmanned Aircraft Systems: Current and Potential Programs (Apr. 13, 2022).

[Report No. IF12055](#), The U.S. DOT Disadvantaged Business Enterprise Program (Feb. 25, 2022).

[Report No. IN11864](#), Infrastructure Investment and Jobs Act (IIJA) and Airport Funding (Feb. 24, 2022).

[Report No. IF12046](#), National Spectrum Policy: Interference Issues in the 5G Context (Feb. 14, 2022).

[Report No. IF11696](#), Aviation, Air Pollution, and Climate Change (updated Feb. 8, 2022).

[Report No. IF12028](#), Aviation Concerns Regarding the Rollout of 5G Wireless Telecommunications Networks (Jan. 26, 2022).

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TRANSPORTATION RESEARCH BOARD, AIRPORT COOPERATIVE RESEARCH PROGRAM

Research Reports

[Research Report 237](#): Primer and Framework for Considering an Airport Noise and Operations Monitoring System (Mar. 2022).

[Research Report 236](#): Preparing Your Airport for Electric Aircraft and Hydrogen Technologies (Feb. 2022).

Synthesis Reports

[Synthesis 117](#): Agricultural Operations on Airport Grounds (Mar. 2022).

[Synthesis 116](#): Examples of Facility Space Provided for Community Use at Airports (Mar. 2022).

COVID-19 MATERIALS

ADMINISTRATIVE MATERIALS

Presidential Proclamation, [A Proclamation on Advancing the Safe Resumption of Global Travel During the COVID-19 Pandemic](#) (Oct. 25, 2021) (lifting certain travel restrictions on vaccinated foreign visitors to the United States).

SELECT CASES

Employer Vaccine Mandate. *Nat'l Fed'n of Indep. Bus. v. U.S. Dep't of Labor, OSHA*, 142 S. Ct. 661 (2022) (holding that OSHA exceeded its statutory authority by mandating COVID-19 vaccination or testing for most American workers).

Federal Employee Vaccine Mandate. *Feds for Med. Freedom v. Biden*, 30 F.4th 503 (5th Cir. 2022) (vacating district court's nationwide preliminary injunction against executive order requiring COVID-19 vaccination for most federal employees because Civil Service Reform Act denied district court jurisdiction over mandate).

Mask Mandate. *Health Freedom Def. Fund, Inc. v. Biden*, No. 8:21-cv-1693-KKM-AEP, 2022 U.S. Dist. LEXIS 71206 (M.D. Fla. Apr. 18, 2022) (striking down CDC mask mandate for public transportation on grounds that CDC exceeded its authority and failed to follow administrative procedure).

OTHER PUBLICATIONS

Congressional Research Service, [Report No. R46745](#), State and Federal Authority to Mandate COVID-19 Vaccination (May 17, 2022).

Congressional Research Service, [Report No. LSB10681](#), Status of Federal COVID-19 Vaccination Mandate Litigation (updated May 17, 2022).

Congressional Research Service, [Report No. R46288](#), Occupational Safety and Health Administration (OSHA): COVID-19 Emergency Temporary Standards (ETS) on Health Care Employment and Vaccinations and Testing for Large Employers (updated Mar. 24, 2022).

Congressional Research Service, [Report No. LSB10689](#), Supreme Court Stays OSHA Vaccination and Testing Standard (Jan. 21, 2022).

Congressional Research Service, [Report No. LSB10659](#), COVID-19: Restrictions on Noncitizen Travel (updated Dec. 2, 2021).



EDITOR'S NOTES

Kaplan Kirsch & Rockwell's airports practice is one of the largest and most experienced in the country. The Firm's attorneys have counseled clients on issues associated with complex airport development and master planning projects, land use, environmental review, rates and charges, airline incentives, finance, security, safety, airport proprietors' rights, and compliance with federal requirements. The Firm has represented clients throughout the nation in regulatory and legislative advocacy on a wide range of policy matters and in litigation related to airport operations and development. The Firm's clients have included airport proprietors, local and state governments, airport tenants, and users and businesses affected by airport operations.

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If you have any questions or would like to learn more about the topics addressed in this Digest, please contact the attorney who normally represents you or contact us at info@kaplankirsch.com or at one of our offices below.

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