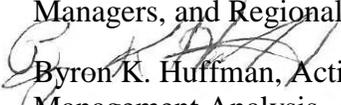


Federal Aviation Administration

Memorandum

Date: April 25, 2016

To: Airports Division Managers, 610 and 620 Managers, Airport District Office Managers, and Regional Compliance Specialists

From:  Byron K. Huffman, Acting Director, Office of Airport Compliance & Management Analysis, ACO-1

Subject: Compliance Guidance Letter 2016–Interim Procedures for Review of Restrictions on Banner Towing, Powered Parachute, Gliders, Light Sport Aircraft, Parachute Operations, and Ultralights at Federally Obligated Airports

INTRODUCTION

This Compliance Guidance Letter (CGL) is intended to provide interim guidance to personnel in the Federal Aviation Administration's (FAA's) Office of Airports who are requested to provide an agency determination on the conduct of various types of aeronautical activity at a federally obligated airport. This CGL discusses general principles, key terms, relevant statutory and regulatory requirements, and the process and procedures for resolving disputes about Banner Towing, Gliders, Light Sport Aircraft, Parachute, and Ultralight operations at federally obligated airports. Final guidance will be issued following completion of final internal agency procedures for coordinating risk assessments of general aviation aeronautical activities.

This CGL addresses restrictions on a class of activity, e.g., all parachute operations. The CGL does not address an airport sponsor's grounds for denying access for a particular operator, which might include lack of required FAA authorizations, lack of financial resources, or compliance history, for example.

I. GENERAL PRINCIPLES

The sponsor of an airport developed with federal financial assistance is required to operate the airport for the use and benefit of the public and to make it available to all types, kinds, and classes of aeronautical activity on reasonable terms, and without unjust discrimination. However, the airport sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the airport if such action is reasonable and necessary for the safe operation of the airport

or necessary to serve the civil aviation needs of the public. While sponsors are required to keep their airport/s safe and serviceable, a sponsor proposing to restrict access for one or more of the aeronautical activities addressed in this CGL should request an FAA review of the restriction prior to implementation. In a situation where the sponsor finds it necessary to take immediate action to maintain the safety, utility or efficiency of the airport, the sponsor should notify the FAA as soon as practical.

Any restriction proposed by an airport sponsor must be adequately justified and supported. The FAA's Office of Airports, Flight Standards Division and/or the Air Traffic Organization, will analyze supporting data and documentation submitted by the airport sponsor and determine whether a particular activity can be conducted safely and efficiently at an airport. The FAA, not the sponsor, is the final authority to approve or disapprove restrictions on aeronautical activity based on established federal safety standards and/or potential efficiency impacts at federally obligated airports. In all cases, the FAA will make the final determination regarding the reasonableness of the sponsor's proposed measures that restrict, limit, or deny access to the airport. The goal of this guidance is to provide a standard procedure for addressing technical safety and efficiency claims in support of an airport access restriction.

II. EXPLANATION OF TERMS USED

- A. Classes of Aeronautical Activity - Aeronautical use includes services provided by air carriers related directly and substantially to the movement of passengers, baggage, mail, and cargo on the airport. A person or entity, whether individuals or businesses, engaged in aeronautical uses involving the operation of aircraft, or providing flight support directly related to the operation of aircraft, are considered to be aeronautical users. Activities within this definition, commonly conducted on airports, include, but are not limited to the following: general and corporate aviation, air taxi and charter operations, banner towing, light sport aircraft, parachute operations and ultralights and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities. This CGL specifically addresses restrictions on Banner Towing, Powered Parachute, Gliders, Light Sport Aircraft, Parachute Operations, and Ultralights.
- B. Light Sport Aircraft – In 2004, the FAA approved a new pilot certificate and aircraft category program to allow individuals to join the aviation community by reducing training requirements that affect the overall cost of learning to fly. The Sport Pilot Certificate was created for pilots flying light-weight; simple aircraft and offers limited privileges. The category of aircraft called the Light Sport Aircraft (LSA) includes Airplane (Land/Sea), Gyroplane, Airship, Balloon, Weight-shift Control (Land/Sea), Glider, and Powered Parachute.¹

¹ See 14 CFR part 1, for additional details about the Light Sport Aircraft definition.

- C. Model Aircraft – Unmanned aircraft for hobby or recreational use are covered by FAA Advisory Circular (AC) 91-57A, which generally limits operations to below 400 feet above ground level and away from airports and air traffic. FAA Advisory 91-57A only applies to model aircraft operators (modelers), and specifically excludes individuals or companies flying model aircraft for business purposes. A public agency cannot operate under the guidelines of AC 91-57A.
- D. Parachute jump – A parachute operation that involves the descent of one or more persons to the surface, after jumping from an aircraft or other aeronautical vehicle in flight.
- E. Parachute Operation – All activities associated with or in support of, a parachute jump or a parachute drop. This parachute operation can involve, but is not limited to, the following persons: parachutist, parachutist in command and passenger in tandem parachute operations, drop zone or owner operator, jump master, certificated parachute rigger, or pilot.
- F. Parachutist – Any person who intends to exit an aircraft while in flight using a parachute to descend to the surface.
- G. Parachute Drop Zone – Any pre-determined area designated for the landing of parachutists or objects after an intentional parachute jump or drop.
- H. Parasail Operations – falls within the definition of a “kite” and not a parachute because a parasail is intended to be flown at the end of a rope or cable and held aloft by the force of the wind moving past its surfaces. The FAA regulates kites (including parasails) under 14 CFR part 101 only to the extent they are objects in the airspace.²
- I. Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) – The OE/AAA coordination and review process involves a wide range of aeronautical subjects. It is interrelated with nearly every aeronautical activity for which the FAA has responsibility. Non-rulemaking cases include: (a) existing and proposed objects affecting navigable airspace; (b) airport airspace analysis involving proposed airport development, airport plans, airport layout standards; (3c) proposed landing areas and changes to existing landing areas; and, (4d) air navigational aids. AVN’s Flight Procedures Office(s), along with Flight Standards, Airway Facilities, Air Traffic, and Airports Divisions in the Regional Office are the organizations normally involved in the OE/AAA matters, either as the office of primary interest (OPI) or as a coordinating office in the review and response process. Many Regional Airports Divisional offices use this process to solicit information on the impact of aeronautical activities using an airport.

A. ² See 2009 Interpretation and applicable regulations are contained in subpart A (§§ 101.1-101.7) and B (§§ 101.11- 101.17) of part 101.

- J. Risk Assessment for Various Airport Aeronautical Activities – An FAA team comprising Airports, Flight Standards and sometimes Air Traffic conducts an assessment to determine the risk level for a particular aeronautical activity at an airport. The results of the risk assessment, along with the suggested mitigations, can help the Regional Airports Division manager determine whether an activity can be safely accommodated at the airport. See FAA Order 8900.1, *Flight Standards Information Management System*.
- K. Ultralight Vehicles – A vehicle that meets the requirements of 14 CFR part 103. To qualify, an Ultralight must:
- be single occupancy;
 - be used for sport or recreational purposes only;
 - require no airworthiness certificate;
 - if unpowered, weigh less than 155 pounds; and
 - if powered weigh less than 254 pounds.

Ultralight vehicles do not require any form of pilot license or certification if they are flown within 14 CFR part 103 rules, which generally limit their flight to uncontrolled airspace and flight outside airspace over populated areas.

III. STATUTORY AND REGULATORY REQUIREMENTS

A. Statutes

1. 49 U.S.C. § 47107(a)(1)-(6), (16) *Project Grant Application Approval Conditioned On Assurances About Airport Operations*

B. Code of Federal Regulations

1. 14 CFR § 91.309 *Towing: Gliders and unpowered ultralights*
2. 14 CFR § 91.311 *Towing: Other than under § 91.309*
3. 14 CFR Part 103 *Ultralight Vehicles*
4. 14 CFR Part 105 *Parachute Operations*

C. Grant Assurances

1. Grant Assurance 19, *Operation and Maintenance*
2. Grant Assurance 20, *Hazard Removal and Mitigation*
3. Grant Assurance 22, *Economic Nondiscrimination*
4. Grant Assurance 29, *Airport Layout Plan*

D. Policy

1. FAA Order 5190.6B *FAA Airport Compliance Manual*
2. FAA Order 7110.65V *Air Traffic Control*
3. FAA Order 7210.3Y *Facility Operation and Administration*
4. FAA Order 8900.1 *Flight Information Systems Manual*
5. FAA Advisory Circular 90-66A *Recommended Standards Traffic Patterns and Practices for Aeronautical Operations at Airports Without Operating Control Towers*
6. FAA Advisory Circular 150/5190-6 *Exclusive Rights* and FAA Advisory Circular 150/5190-7 *Minimum Standards for Commercial Aeronautical Activities*
7. FAA Advisory Circular 103-7 *Ultralight Vehicle*
8. FAA Advisory Circular 150/5210-20 *Ground Vehicle Operations on Airports*
9. FAA Advisory Circular 150/5300-13 *Airport Design*
10. FAA Advisory Circular 105-2 *Sport Parachuting*
11. FAA/FS-I-8700-1 *Information for Banner Towing Operations*
12. FAA Advisory Circular 91-57A, *Model Aircraft Operating Standards*
13. FAA-H-8083-29 *Powered Parachute Handbook*
14. FAA-H-8083-13A *Glider Handbook*

IV. SPECIAL REQUIREMENTS FOR AERONAUTICAL ACTIVITIES

Certain specialized aeronautical activities are the subject of FAA regulations specific to those activities. In any case where there is an inconsistency between this CGL and an FAA regulation, the requirements of the regulation will control.

A. Banner Tow Operations

Under 14 CFR § 91.311, all banner tow operations require a FAA certificate of waiver or authorization to operate (FAA form 7711-2). An operator seeking to conduct banner tow operations should obtain airport management's approval before banner tow operations commence on an airport. The certificate of waiver may limit banner tow flights to operation in Visual Flight Rules (VFR) conditions only and between the hours of sunrise and sunset.

A certificate of waiver will typically include other notice requirements and operational restrictions for banner towers. In the case of airports with FAA control towers, the banner tow operator must notify the manager of the control tower about the time and duration of the operations. The operator must notify appropriate airport officials when banner tow operations will be in close proximity to non-towered airports. When banner tow operations are conducted around congested areas, due care will be exercised to ensure operations do not result in hazard to persons and property.

Banner pick-up or banner drop activities should be in a pre-designated area more than 500 feet away from taxiways, runways, persons, buildings, parked automobiles, and other aircraft whenever possible. *See* FAA/FS I 8700-1.

B. Parachute Operations on to Airports

Under 14 CFR § 105.23, parachute operations on an airport require prior approval of the airport management. In the case of airports with control towers, approval of the control tower is also required. Part 105 contains various requirements to notify Air Traffic and obtain authorizations from Air Traffic and Flight Standards for parachute operations. An airport sponsor should confirm that a parachute operator has obtained the necessary authorizations under Part 105 before approving parachute operations on the airport. If the airport sponsor approves the parachute operation and the parachute operator has obtained appropriate authorizations from Flight Standards and Air Traffic, no further review is required by Airports.

C. Ultralight Vehicle

Operation of ultralight vehicles is governed by 14 CFR part 103. To qualify for operation under Part 103, an ultralight must be single occupancy; be used for sport or recreational purposes only; require no airworthiness certificate; if unpowered, weigh less than 155 pounds; and if powered, weigh less than 254 pounds. Ultralight vehicles do not require any form of pilot license or certification if they are flown within Part 103 rules, which generally limit their flight to uncontrolled airspace under visual flight rules and prohibit flight over populated areas. Commercial aeronautical activities such as aerial advertising, aerial applications, aerial surveying, etc., that use aircraft for commercial purposes, cannot operate under Part 103 or use an ultralight vehicle for commercial aeronautical activities.

See FAA Advisory Circular 103-7 *Ultralight Vehicle*.

D. Gliders

Glider means a heavier-than-air aircraft, that is supported in flight by the dynamic reaction of the air against its lifting surfaces and whose free flight does not depend principally on an engine (14 CFR part 1.1). A glider has the right-of-way over an airship, powered parachute, weight-shift-control aircraft, airplane, or rotorcraft in accordance with 14 CFR part 91.113, and will typically be launched from an airport by a towline attached to a towing aircraft, or by ground based winch launcher. In most cases, the Standard American Soaring Signals are used to communicate between the launch crew and tow plane. In some cases, however, specific local procedures may be in effect. The tow pilot should be thoroughly briefed on any specific local procedures. The tow pilot may be required to observe these signals through the mirror or through an additional signal relay person positioned safely on the side of the runway adjacent to the tow plane.

E. Powered Parachutes

Powered parachute means a powered aircraft comprised of a flexible or semi-rigid wing connected to a fuselage so that the wing is not in position for flight until the aircraft is in motion. The fuselage of a powered parachute contains the aircraft engine, a seat for each occupant and is attached to the aircraft's landing gear (14 CFR part 1.1). Powered Parachutes (PPC) operating on or in the vicinity of an airport in Class G airspace according to 14 CFR part 91.126 when approaching to land at an airport without an operating control tower must avoid the flow of fixed-wing aircraft. The ideal departure area for a powered parachute is an open grassy area clear of debris and obstacles with a groomed, even surface. Concrete and asphalt surfaces should be avoided, as well as lit runways, as the structural integrity of the wing and suspension lines may be compromised during takeoffs and landings if the wing catches on the runway surface or surrounding lighting. Powered parachutes do not normally take off where the rest of the airport traffic takes off. This is to help both the PPC pilot and the pilots of other aircraft. A powered parachute requires time to set up and depart; it is not polite or safe to tie up an active runway while this is being done. Exceptions to this would be the edge of a very wide runway or an undeveloped area next to the active runway where setup can take place well away from the centerline of that active runway. A traffic pattern may be established for an off-runway operating area. The traffic pattern may not, and probably will not, conform to the airplane traffic pattern. It is still the PPC pilot's responsibility to avoid the flow of airplane traffic.

V. THE AIRPORT SPONSOR'S FEDERAL OBLIGATIONS

The sponsor of any airport developed with federal financial assistance is required to operate the airport for the use and benefit of the public and to make the airport available to all types, kinds, and classes of aeronautical activity on reasonable terms, and without unjust discrimination. Grant Assurance 22, *Economic Nondiscrimination*, of the prescribed sponsor assurances, implements the provisions of 49 U.S.C. § 47107(a) (1)-(6). Grant Assurance 22 (a) requires that the sponsor of a federally obligated airport:

...will make its airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds, and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

Grant Assurance 22(h) provides that the sponsor:

...may establish such reasonable and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

Grant Assurance 22(i) refers to the airport sponsor's limited ability to prohibit or limit aeronautical operations by whole classes or types of operation, not individual operators.

The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

In addition, Grant Assurance 23, *Exclusive Rights*, prohibits the airport sponsor from allowing an exclusive right for any aeronautical service provider at the airport. A prohibition or significant burden on an operator when another operator is permitted to provide the same service can be considered an exclusive right as well as unjust discrimination.

In sum, a sponsor can restrict certain activities at the airport if necessary for safety or the efficient operation of the airport, without violating the general obligation to provide reasonable access for aeronautical activities. However, the FAA will make the final determination of whether a restriction is reasonable and necessary.

The following sections outline the requirements of a sponsor's justification for a particular access restriction.

VI. JUSTIFICATION FOR AN ACCESS RESTRICTION

An airport sponsor that intends to deny or restrict access to the airport for an aeronautical activity should be prepared to demonstrate the restriction is reasonable by presenting supporting information to the local airports district office or regional Airports Division.

A. The following questions present reasonable factors the sponsor might consider in determining whether access restrictions are necessary for safety or the efficient operation of the airport. These questions and factors refer to proposed restrictions on parachute, banner towing, or ultralight aeronautical operations, but apply equally to restrictions already in effect.

(1) Can the proposed operations be safely accommodated at the airport? Stated differently, will the proposed activity present or create a safety hazard to the operations of fixed-wing aircraft arriving or departing from the airport? (While the safety of all operations is equally important, the airport runway and taxiway system was provided for fixed-wing operations, and those operations are necessarily limited to use of the runway/taxiway system. Therefore, an airport sponsor may consider the particular effects of other aeronautical activities on fixed-wing operations.) If the proposed operations can be safely accommodated only with mitigation, would that mitigation result in an unacceptable level of adverse impact on the efficiency of airport operations generally?

(2) Is there an appropriate location on the airport for the proposed activity? For parachute operations, for example, the issue is whether a drop zone consistent with the recommended standards in FAA AC 150/5300-13A can safely be established within the boundaries of the airport.

(3) If the proposed activity creates an adverse impact on the efficient operation of the airport, such as a traffic conflict at peak periods, what reasonable time periods

can be designated for the activity that do not have an effect on safe or efficient operations?

(4) For a commercial activity, are the fees charged similar to the fees for other commercial aeronautical businesses on the airport?

(5) Has the relevant air traffic control facility or Flight Standards District Office (FSDO) been consulted about the proposed operation? Are authorizations required by Air Traffic and Flight Standards? Is a letter of agreement and formal notifications required by the local air traffic facility?

(6) Will it be necessary to determine the impact of the proposed activity on the airport's instrument approaches or on nearby Instrument Flight Rules (IFR) operations? If so, has FAA Air Traffic reviewed the matter and issued a finding?

B. The airport sponsor's written justification should, as a minimum:

1. For parachute operations, identify the elements of the recommended parachute drop zone standards that the Airport cannot meet, and provide a complete explanation of why the criteria cannot be met.

(a) Hazards adjacent to the site or that otherwise conflict with the recommended PDZ or landing area should be fully described in supporting documentation, to include illustrations, photos, measurements, etc. detailing the impact of the hazard.

(b) Drop zone sites should be fully described in supporting documentation to include dimensions, illustrations, photos, measurements, etc. detailing the current constraints.

(c) Site locations should be fully described in supporting documentation to include hazard clearance measurements for each hazard that does not meet the recommended PDZ siting criteria.

2. Describe site locations that fall within, or overlap, the protected areas (e.g., runway, taxiway, runway or taxiway safety area, object free area) in supporting documentation, to include drawings, illustrations, photos, measurements, etc. indicating the extent to which the site location conflicts with the protected areas..

3. Identify any operational conflicts with other airport traffic or other safety issues that would arise or become worse as a result of the proposed activity at the airport. Include the aircraft categories and number of operations affected, and why it is believed that such concerns cannot be reasonably mitigated.

4. Identify the steps or actions taken by the sponsor to mitigate operational conflicts and hazards of selected sites to accommodate parachute or other aeronautical operations.

C. A Sponsor may deny access during review of a new application. An airport sponsor may restrict or deny access to a proposed aeronautical activity until the sponsor completes its due diligence review of a new proposal to ensure that the activity being proposed will be conducted in accordance with applicable Federal regulations and FAA guidance, airport rules and regulations, and/or airport minimum commercial standards.

Initial denials or restrictions during a sponsor's review and approval process, such as those related to the development of airport rules and regulations or minimum commercial standards, will generally not be considered to be unreasonable. Sponsors without a documented review and approval process must be able to demonstrate they are actively pursuing a path to review and take action on the proposal. However, airport sponsors must make reasonable efforts to complete their due diligence review of the proposed activity in a timely manner.

Non-responsiveness to proposals, untimely and/or continual delays, and continual undocumented impediments that prevent aeronautical access are a few examples of reasons that the FAA has found airport sponsors to be in conflict with their Federal obligation regarding reasonable and not unjustly discriminatory access for aeronautical activities.

VII. FAA REVIEW OF AN AIRPORT SPONSOR'S DENIAL OF AIRPORT ACCESS FOR AN AERONAUTICAL ACTIVITY

A. FAA Determinations on Safety and Efficiency

A current or proposed operator of an aeronautical activity or other person impacted by an Airport Sponsor's prohibition or limitation of that activity may file an informal complaint under 14 CFR part 13 or a formal complaint under 14 CFR part 16. The FAA Airports District Office (ADO) or Regional Airports Division will make an informal determination on a Part 13 complaint. The Office of Compliance and Management Analysis (ACO) will issue a Director's Determination on a formal complaint filed under Part 16. In both cases, the determination will address whether a particular access restriction is a violation of the airport sponsor's grant assurances. The Part 16 Director's Determination is subject to appeal to the Associate Administrator for Airports for a Final Agency Decision.

For a complaint filed regarding an access restriction based on safety or efficiency, ACO should obtain assistance from the appropriate FAA office, usually Flight Standards for safety issues and Air Traffic for efficiency issues. While Flight Standards has jurisdiction for safety determinations, coordination with Air Traffic or other FAA offices will likely be required in cases where the aeronautical activity being denied may have an impact on the efficient use of the airport and nearby airspace.

B. Methodology

When a new activity is being introduced to the airport, it may be appropriate to conduct an Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) and a Risk Assessment for Various Airport Aeronautical Activities to determine whether that activity can be safely integrated into airport traffic. These determinations may be an important part of the decision making process and material record for a Director's Determination (DD) and Final Agency Decision (FAD), and possibly for a decision on judicial review.

A sponsor's justification for a proposed restriction will be fully considered, but will also be subjected to an independent analysis by appropriate FAA offices. Early contact with Flight

Standards, during the sponsor's review or due diligence is desirable since it is possible the FAA has already completed a safety determination. For example, certain operators may already possess a "Certificate of Waiver or Authorization" from Flight Standards to conduct the aeronautical activity the airport is attempting to restrict, such as banner towing. Such a document would allow certain operations to remain in compliance with Part 91. These "waivers" or "authorizations" are de facto safety determinations; their issuance implies that the activity in question can be safely accommodated provided specified conditions are followed.

Similarly, if applicable, the appropriate FAA Airports Office should check with Air Traffic early in the investigation in order to determine whether or not Air Traffic has issued any special authorization or completed any studies affecting the aeronautical activity in question.

The investigating FAA Airports Office should coordinate with ACO-100. ACO-100 will then coordinate with AFS-830 and/or Air Traffic as appropriate. Depending on Flight Standards/Air Traffic familiarity with the affected airport and its operation, a site inspection may or may not be required. After an evaluation, Flight Standards and/or Air Traffic will issue an assessment on whether the proposed activity can be safely conducted at the airport. The ADO, regional airports division, or ACO will issue a determination based on the analysis of all responses.

C. Request for Obstruction Evaluation/Airport Airspace Analysis (OE/AAA)

Upon the request of either the airport sponsor or the aeronautical activity operator, Airports will initiate an OE/AAA for the proposed operation. Airports will be considered as the office of primary interest (OPI), the coordinating office in the review and response process.

D. Request for Risk Assessment for Various Airport Aeronautical Activities

The request for an aeronautical activity risk assessment process is initiated by the Airports Compliance Office (ACO-100) in coordination with the Airports Division (i.e., ADO or Regional Airports Division Office) requesting an Aeronautical Activity risk assessment from the General Aviation and Commercial Division (AFS-830), who coordinates with the Regional Flight Standards Division (RFSD), specifically the AFS-230 Branch. The RFSD then forwards that request to the jurisdictional FSDO asking it to participate in an on-site evaluation in the event of one of the following:

1. An informal complaint filed under 14 CFR part 13;
2. A formal complaint filed under 14 CFR part 16; or
3. A request from a Regional Airports Division Office. The request from a Regional Airports Division office will identify the specific circumstances or documented safety issue that justifies a risk assessment for the identified aeronautical activity. The following meets the criteria for a request:
 - a) Change in status quo for existing Aeronautical Activity (e.g. new type of aeronautical activity or significant operational change) at the identified airport and documented safety issue;

- b) Existing aeronautical activity and a documented safety issue; or
- c) Initial proposal for an aeronautical activity and a documented safety issue identified during the Obstruction Evaluation/Airport Airspace Analysis (OE/AAA).

Note: An OE/AAA for an aeronautical activity covered under this policy does not automatically generate a requirement for a Risk Assessment to be conducted. When Flight Standards receives a request for an OE/AAA for a parachute, banner tow, glider, powered parachute aeronautical activity, they should stand by until the other lines of business have conducted their OE/AAA requirements. If a documented safety issue is identified during the OE/AAA, the Airports Compliance Office (ACO-100) in coordination with the Airports Division (i.e., ADO or Regional Airports Division Office) will request an Aeronautical Activity risk assessment from the General Aviation and Commercial Division (AFS-830).

2. The Regional Airports Division Letter of Request to ACO-100 should contain the following information:

- The type of aviation activity being evaluated (i.e., banner towing, light sport aircraft, parachute operations, and ultralights);
- The rationale given by the airport sponsor for restricting the proposed activity;
- Proposed mitigation, if applicable;
- A diagram of the proposed ground and/or aerial operations area(s), (in the case of parachute operations, the drop zone) if known;
- An airport location map with a description of the location and geographic coordinates;
- An airport layout plan including obstacles, NAVAIDS, noise sensitive areas, instrument approach corridor(s) and traffic pattern(s) if, or when, the airport is not Class D;
- Any training material, operator information, or materials available to users about the operation via a public website;
- A current aerial photo of the airport; and
- Current or proposed procedures for conducting operations on the airport.

The Regional Airports Division shall obtain this information from the airport sponsor and the aeronautical activity operator.

3. A risk assessment will be conducted by an FAA team consisting of an FAA Aviation Safety Inspector, an FAA Airports Representative, and an FAA Air Traffic Representative as needed. The FAA Airports Representative is designated as the team lead. It may be necessary for additional FAA specialists to participate in the assessment in certain situations. The FAA Airports Representative will make that decision in consultation with the team. The airport management and aeronautical activity operator must be available during the assessment to provide information to the team. Non-FAA participation in the assessment will not be permitted unless the FAA Airports

Representative believes the non-FAA participants would have useful information to contribute to the assessment.

4. It is the responsibility of the FAA, the airport management, and the operator to lower risk of the operation as much as practical utilizing recommended or other mitigation strategies.

5. The FAA Flight Standards Representative makes the final safety recommendation to the FAA Airports Representative. The Regional Airports Division will make the final decision regarding commencement of the proposed operations.

VIII. FAA DETERMINATION ON SAFETY AND EFFICIENCY

A. FAA review of a restriction based on safety or efficiency. The FAA will review a denial or restriction of aeronautical operations on an airport under Grant Assurance 22(i) if requested by the airport operator or if the FAA receives a complaint from a person affected by the restriction. . Once an airport sponsor presents the justification and supporting evidence for its proposed denial or restriction of aeronautical access to the local FAA airports district or regional office for consideration, the Office of Airports (ARP), working in conjunction with Flight Standards and the Air Traffic Organization, will analyze the supporting data and documentation to make a determination on the reasonableness of the sponsor's proposed denial or restriction.

B. Corrective Action Plan. Airport sponsors that are found to be in noncompliance by unreasonably restricting or denying access to aeronautical activities based on safety and/or efficiency reasons that are not supported by the FAA, will be directed to develop a corrective action plan. In those cases, the Office of Airports will work with the Flight Standards Division and the sponsor to determine the appropriate mitigation of concerns identified by the airport sponsor.

C. Appeal. If a sponsor contests an FAA finding that the airport can safely accommodate the proposed activity and does not take the suggested corrective action; the sponsor may request a review of the findings by ACO and Flight Standards Headquarters. If the sponsor fails to implement a corrective action plan, the FAA Office of Airport Compliance and Management Analysis may initiate an investigation under 14 CFR part 16. Alternatively, if the FAA preliminary determination finds the airport sponsor's denial of access is reasonable and not unjustly discriminatory; a person affected by the denial of access may file a Part 16 complaint with the FAA.

The FAA will investigate the airport sponsor's actions and justification for a denial of access for proposed aeronautical operations at the airport, and issue a Director's Determination under Part 16. If the determination finds that the airport sponsor is in violation of its grant assurances, the FAA may find the sponsor in noncompliance with its federal obligations. The Director's Determination is subject to further appeal in accordance with Part 16.

D. Reasonable Accommodation. The purpose of any investigation regarding a safety-based or efficiency-based restriction of an aeronautical use is to determine whether or not the restricted activity can be safely accommodated on less restrictive terms than the terms proposed by the

airport sponsor without adversely affecting the efficiency and utility of the airport. If so, the sponsor must revise or eliminate the restriction in order to remain in compliance with its grant assurances and federal surplus property obligations.

A complete prohibition on all aeronautical operations of one type, such as banner towing, gliders, light sport aircraft, parachute operations and ultralights, should be approved only if the FAA concludes that such operations cannot be mixed with other existing operations without an unacceptable impact on safety or the efficiency and utility of the airport.

When it is determined there are less restrictive ways or alternative methods of accommodating the activity while maintaining a high level of safety and efficiency, these alternative measures can be incorporated in the sponsor's rules or minimum standards for the activity in question at that airport.