

Part IV: Airports and Aeronautical Users

Chapter 14. Restrictions Based on Safety and Efficiency Procedures and Organization

14.1 Introduction.

This chapter outlines guidance and standard methodology by which FAA reviews existing or proposed restrictions on aeronautical activities at federally obligated airports on the basis of safety and efficiency for compliance with federal obligations. It does not address other airport noise and access restrictions, which are discussed in chapter 13, *Airport Noise and Access Restrictions*. This chapter also discusses justification and review of restrictions on a specific class of activity, e.g., banning all parachute operations on an airport.

14.2 Applicable Law.

Section 47107(a) of Title 49 of the United States Code sets forth statutory requirements for an airport sponsor's obligations under written grant assurances. The sponsor of any airport developed with federal financial assistance is required to operate and maintain the airport and all facilities which are necessary to serve the aeronautical users of the airport in a safe and serviceable condition. [Grant Assurance 19, Operation and Maintenance](#), implements 49 U.S.C. § 47107(a)(7).

Grant Assurance 19(a) requires,

The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions...

In addition, the sponsor 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.¹ [Grant Assurance 22, Economic Nondiscrimination](#), of the prescribed sponsor assurances, implements the provisions of 49 U.S.C. § 47107(a) (1) through (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 23, Exclusive Rights](#) provides that the sponsor:

...will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. . .

In addition, airport sponsors must comply with federal obligations from federal surplus and non-surplus property conveyances as discussed in chapter 3, *Federal Obligations from Property Conveyances*.

14.3 Restricting Aeronautical Activities.

While the airport sponsor must allow use of its airport by all types, kinds, and classes of aeronautical activity, as well as by the general public, [Grant Assurance 22, Economic Nondiscrimination](#), also provides for a limited exception: “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.”

¹ The FAA shall develop plans and policy for the use of navigable airspace to ensure the safety of aircraft and efficient use of airspace. (49 U.S.C. § 40103). The U.S. Government has exclusive sovereignty over airspace of the United States and thus makes the final decision regarding safety of aircraft.

Any restriction proposed by an airport sponsor based upon safety and efficiency, including those proposed under Grant Assurance 22(i) must be adequately justified and supported.² If a proposed aeronautical activity cannot be safely accommodated based on FAA's Flight Standards Service (Flight Standards) review, ARP will make a determination that the activity may be restricted or prohibited without violating [Grant Assurance 22, Economic Nondiscrimination](#). Prohibitions and limits are within the sponsor's proprietary power only to the extent that they are consistent with the sponsor's obligations to provide access to the airport on reasonable and not unjustly discriminatory terms and other applicable federal law.

Working in conjunction with Flight Standards and/or the Air Traffic Organization, ARP will carefully analyze supporting data and documentation and make the final call on whether a particular activity can be conducted safely and efficiently at an airport and whether an access restriction is reasonable. The FAA determines all issues on Aviation Safety.

At federally obligated airports, ARP, not the sponsor, is the authority to approve or disapprove aeronautical restrictions under Grant Assurance 22, *Economic Nondiscrimination*, based on safety and/or efficiency and the reasonableness of the restriction.

14.4 Minimum Standards and Airport Regulations.

An airport sponsor may adopt reasonable minimum standards for aeronautical businesses and adopt routine regulations for use and maintenance of airport property by aeronautical users and the public.³ These kinds of rules typically do not restrict aeronautical operations, and therefore would generally not require justification under Grant Assurance 22(i). For example, an airport sponsor may require a reasonable amount of insurance as part of their minimum standards.

² The word "efficiency" refers to the efficient use of navigable airspace, which is an Air Traffic Control function. It is not meant to be an interpretation that could be construed as protecting the operation of an existing aeronautical service provider at the airport. (See FAA Advisory Circular 150/5190-8, *Minimum Standards for Commercial Aeronautical Activities*, December 7, 2023).

³ See chapter 10, *Reasonable Commercial Minimum Standards*.

a. Type, Kind, or Class.⁴

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. If a class or type of operation may cause a problem, all operators of that type or class would be subject to the same restriction. For example, if the sponsor of a busy airport finds that skydiving unacceptably interferes with the use of the airport by fixed-wing aircraft, and the FAA agrees, the sponsor may ban skydiving at the airport. However, the sponsor could not ban some diving operators and allow others to operate. If a sponsor believes there is a safety issue with the flight operations of an individual aeronautical operator, rather than a class of operations, the sponsor should report the issue to the Flight Standards Service as well as bringing it to the attention of the operator's management.

b. Multi-Airport Systems.

The operator of a system of airports may have some ability to accommodate operations at its other airports if those operations are restricted at one airport in the system. However, any access restrictions must still be fully justified under the applicable federal obligations, and must be approved by the FAA, which includes safety or efficiency considerations at the airport where the restrictions apply. In addition, such restrictions must also comply with ANCA. The operator may not simply allocate classes or types of operations among airports based on preference for each airport's function in the system.

c. Rationale for Restrictions.

A prohibition or limit on aeronautical operations justified by the sponsor on the basis of safety or efficiency, under Grant Assurance 22(i), will be evaluated by ARP based on the stated purpose of the limitation, the justification, and the reasonableness of the restriction under the given circumstance and review of the available evidence. Prior permission requirements (PPR), Notice to Airmen (NOTAM) or remarks in the chart supplement shall not be used as a cover to restrict access. If it appears that the sponsor intends the restriction to serve other purposes, such as safety, ARP will give special scrutiny to the safety and efficiency basis of the restriction when evaluating the reasonableness of the sponsor's request to limit a given authority.

⁴ The term "kind" in [Grant Assurance 22\(i\)](#) is not defined in the Federal Aviation Act of 1958 (FAA Act), the Airport and Airway Improvement Act of 1982 (AAIA), or in FAA regulations, and has been interpreted not to add any meaning distinct from "class" and "type" of operation or operator.

14.5 Agency Determinations on Safety and System Efficiency.

Complaints on the reasonableness of restrictions based on safety and efficiency are investigated by the Regional Airports Division (Region) or local FAA Airports District Office (ADO).

The Region or ADO will make an informal determination on a 14 CFR part 13 (Part 13) complaint. ACO will issue a Director's Determination on a formal complaint filed under 14 CFR part 16 (Part 16). (See chapter 5, *Initiating, Accepting and Investigating Informal and Formal Complaints*). 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 complaint regarding an access restriction based on safety or air traffic 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.

An airport sponsor may request an FAA assessment in advance on whether a proposed restriction on aeronautical activity would be justified and consistent with the sponsor's grant assurances. An FAA team comprised of ARP, 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 Regions and ADOs determine whether a particular access restriction is a violation of the airport sponsor's grant assurances.

14.6 FAA Review of an Airport Sponsor's Safety and Efficiency Justification.

The goal of this guidance is to provide a standard procedure for the FAA to review technical, safety and efficiency justifications offered by an airport sponsor in support of an airport access restriction. This review may be conducted at the request of the airport sponsor, or during an informal or formal complaint under 14 CFR parts 13 or 16.

When evaluating the reasonableness of a restriction, Office of Airports (ARP) will consider a sponsor's justification for the proposed restriction. As appropriate, ARP, through the Airport Compliance Division (ACO-100), will coordinate with Flight Standards, to conduct a safety review, or with Air Traffic to issue an airspace study, to determine the impact of a restriction on the safety, efficiency, and utility of the airport.

Since Flight Standards may have made a safety determination, ARP should coordinate early in the investigatory process. 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 14 CFR part 91, General Operating and Flight Rules. 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, as appropriate, ARP coordinating with Air Traffic early in the investigation will help determine whether Air Traffic issued a special authorization or study affecting the aeronautical activity in question.

However, when neither an FAA Flight Standards safety determination nor an Air Traffic study exists, a review process that includes Flight Standards and/or Air Traffic will be coordinated by ARP to address the issue of accommodating the aeronautical activity in question at the airport. In some instances, an FAA site inspection may be required. After an evaluation, Flight Standards and/or Air Traffic will decide whether a particular activity represents a high, medium, or low risk. The final determination of the reasonableness of the restriction under [Grant Assurance 22, Economic Nondiscrimination](#), will be made by ARP and may be issued under a Part 13 or Part 16, based on the analysis of all responses.

14.7 Reasonable Accommodation.

The purpose of any investigation regarding a safety-based or efficiency-based restriction of an aeronautical use is to determine whether 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 will need to revise or eliminate the restriction in order to remain in compliance with its grant assurances and federal surplus property obligations.

When it is determined that there are less restrictive ways or alternative methods of accommodating the activity while maintaining 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.

a. Other Agency Guidance.

Any accommodation should consider [14 CFR part 91](#), *General Operating and Flight Rules*, as well as specific FAA regulations and advisory circulars for the regulated activity. These include, but is not limited to:

- (1) For ultralight operations: [14 CFR part 103, Ultralight Vehicles](#); [Advisory Circular \(AC\) 103-6, Ultralight Vehicle Operations, Airports, Air Traffic Control, and Weather](#); and [AC 90-66C, Non-Towered Airport Flight Operations](#).

- (2) For skydiving: [14 CFR part 105, Parachute Operations](#); and [AC 105-2E, Sport Parachuting](#).
- (3) For balloon operations: [AC 91-71, Operation of Hot Air Balloons with Airborne Heaters](#).
- (4) For banner towing operations: Flight Standards Publication [FS-I-8700-1, Information for Banner Tow Operations](#).
- (5) For sport pilot information: [Sport Pilot](#) and [14 CFR part 61, Subpart J, Sport Pilots](#).

b. Examples of Accommodation Measures.

Some measures that airports have used to accommodate activities safely and efficiently include:

- (1) Establishing designated operations areas on the airport. An airport can designate certain runways or other aviation use areas at the airport for a particular class or classes of aircraft as a means of enhancing airport capacity or ensuring safety.
- (2) Alternative traffic patterns and touchdown areas. Examples of this would be a glider operating area next to a runway or a helicopter practice area next to a runway as long as there is proper separation to maintain safety.
- (3) Special NOTAM (Notice to Airmen) requirements.
- (4) Special handheld radio requirements.
- (5) Special procedures and required training.
- (6) Seasonal authorization or special permission.
- (7) Waivers issued by Flight Standards under [14 CFR § 103.5](#) or other applicable regulations and policies.
- (8) Special use permit, pilot registration, and fees.
- (9) Limits on the total number of operations in the restricted class. (It might be easier to accommodate just a few operations).
- (10) Letters of agreement with Air Traffic Control (ATC), if applicable.
- (11) Restricted times of operations and prior notification.
- (12) Weather limitations.
- (13) Nighttime limitations.

14.8 Restrictions on Touch-and-Go Operations.

A touch-and-go operation is an aircraft procedure used in flight training. It is considered an aeronautical activity. As such, it cannot be restricted by the airport sponsor without justification. For an airport sponsor to limit a particular aeronautical activity for safety and efficiency, including touch-and-go operations, the restriction must be based on an analysis of safety and/or efficiency and capacity, and meet any other applicable requirements for airport noise and access restrictions explained in chapter 13, *Airport Noise and Access Restrictions*.

14.9 Restrictions on Banner Towing, Powered Parachutes, Gliders, Light Sport Aircraft, Parachute Operations, and Ultralights.

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 Region or ADO. This includes denial of or access restrictions on banner towing, powered parachutes, gliders, light sport aircraft, parachute operations (including drop zones) and ultralights.

The airport sponsor must adequately justify and support any proposed denial or restriction. ARP, Flight Standards and/or Air Traffic, will analyze supporting data and documentation submitted by the airport sponsor and determine whether a particular activity can be conducted safely at an airport. The FAA, not the sponsor, is the final approval authority to approve or disapprove restrictions on aeronautical activity based on established Federal safety standards 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.

14.10 Unpaved Landing Areas.

Certain aeronautical operations may take place on/from an airport's unpaved areas such as from grass areas adjacent to runways or taxiways. There is some misperception that these operational practices are inherently unsafe or risky.

In those cases where an airport imposes a restriction on these operations, or an aeronautical user files a Part 13 or Part 16 complaint, the FAA will review the matter. If so, it must be done in a consistent manner and balance the (1) specific circumstances of the case, (2) airport compliance requirements, (3) Flight Standards oversight of operational safety determinations, and (4) as applicable, the role of the airport design standard(s).

14.11 through 14.15 Reserved.