

## 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 of this Order, *Airport Noise and Access Restrictions*.

**14.2. Applicable Law.** 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 it available to all types, kinds, and classes of aeronautical activity on reasonable terms, and without unjust discrimination.<sup>37</sup> Grant Assurance 22, *Economic Nondiscrimination*, of the prescribed sponsor assurances, implements the provisions of 49 United States Code (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.*

The Airport Noise and Capacity Act (ANCA), as implemented by 14 Code of Federal Regulations (CFR) Part 161, establishes a national program for review of airport noise and access restrictions on operations by Stage 2 and 3 aircraft.<sup>38</sup> In reviewing proposed safety and efficiency restrictions affecting such operations, airports district offices (ADOs) and regional airports divisions should consult with the Airport Compliance Division (ACO-100) for possible referral to the Airport Planning and Environmental Division (APP-400) and Assistant Chief Counsel for Airports and Environmental Law (AGC-600).

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<sup>37</sup> 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.

<sup>38</sup> Safety and efficiency restrictions are typically imposed at generally aviation (GA) airports on aircraft that are not designated Stage 2 or 3 (e.g., hang gliding and banner towing aircraft). Accordingly, most safety and efficiency restrictions will be subject to review only for compliance with grant assurance and Surplus Property Act obligations, and not ANCA.

**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.” A prohibition or limit may be based on safety or on a conflict between classes or types of operations. This generally occurs as a conflict between fixed-wing operations and another class of operator that results in a loss of airport capacity for fixed-wing 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.

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.

The Associate Administrator for Airports, working in conjunction with Flight Standards and/or the Air Traffic Organization, 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. In all cases, the FAA is the final arbiter regarding aviation safety and will make the determination regarding the reasonableness of the sponsor’s proposed measures that restrict, limit, or deny access to the airport.

***The FAA, not the sponsor, is the authority to approve or disapprove aeronautical restrictions based on safety and/or efficiency at federally obligated airports.***

**14.4. Minimum Standards and Airport Regulations.** An airport proprietor 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. 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.

**a. Type, Kind, or Class.** 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 skydiving 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.

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.

**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, based on a safety or efficiency problem at the airport where the restrictions apply. 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. Purpose.** 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 based on the stated purpose, justification, and support offered by the sponsor. If it appears that the sponsor actually intends the restriction to partially or wholly serve other purposes, such as noise mitigation, the safety and efficiency basis of the restriction should receive special scrutiny.

**d. Examples of Grant Assurance 22(i) restrictions.**

(1). Examples of airport rules approved by the FAA prohibiting, limiting, or regulating operations under Grant Assurance 22(i) have included:

(a). Limiting skydiving, soaring, and banner towing operations to certain times of the day and week to avoid the times of highest operation by fixed-wing aircraft.

(b). Banning skydiving, soaring, ultralights, or banner towing when the volume of fixed-wing traffic at the airport would not allow those activities without significant delays in fixed-wing operations.

(c). Limiting skydiving, soaring, and ultralight operations to certain areas of the airfield and certain traffic patterns to avoid conflict with fixed-wing patterns.

(d). Restricting agricultural operations due to conflict with other types of operations or lack of facilities to handle pesticides safely that are used in this specialized operation.

(2). Examples of restrictions which the FAA has found were not justified for safety or efficiency under Grant Assurance 22(i) have included:

(a). A nighttime curfew for general aviation operations, based on safety, when Part 121 operators were allowed to operate in night hours.

(b). A ban on scheduled commercial operations, based partly on safety grounds, when nonscheduled commercial operations were permitted.

(c). A ban on certain categories of aircraft, based on safety, where the banned categories of operator were defined solely by aircraft design group, which is an airport planning and design criterion based on approach speed for each aircraft type.

(d). A total ban on skydiving, when skydiving could be accommodated safely at certain times of the week with no significant effect on fixed-wing traffic.

(3). Examples of operational restrictions that generally do not require justification under Grant Assurance 22(i).

(a). Examples of airport rules approved by the FAA prohibiting, limiting, or regulating aeronautical operations that would not require justification under Grant Assurance 22(i) have included:

(i). Designated runways, taxiways, and other paved areas that may be restricted to aircraft of a specified maximum gross weight or wheel loading.

(ii). Designated areas for maintenance, fueling, and aircraft painting.

(iii). Use of airport facilities by the general public may be restricted by vehicular, security, or crowd control rules.

**14.5 Agency Determinations on Safety and System Efficiency.** The FAA airports district office (ADO) or regional airports division will make the informal (Part 13.1) determination and the Office of Compliance and Field Operations (ACO) will make the formal (Part 16) determination on whether a particular access restriction is a violation of the airport sponsor's grant assurances, subject to appeal to the Associate Administrator for Airports. However, when an informal Part 13.1 report or formal Part 16 complaint is filed regarding an access restriction based on safety or air traffic efficiency, the FAA Office of the Associate Administrator for



*An Airports Airspace Analysis has been used to assess the safe and efficient use of the navigable airspace by aircraft and/or the safety of persons and property on the ground, including ultralights, banner towing, acrobatic flying, gliders, and parachute jumping functions. Analysis would include internal FAA coordination with the appropriate FAA offices (Flight Standards and/or Air Traffic) and a review of flight procedures. (Photo: FAA)*

Airports should obtain assistance from the appropriate FAA office, usually Flight Standards for safety issues and Air Traffic for efficiency and utility issues. While Flight Standards has jurisdiction for safety determinations, coordination with Air Traffic or other FAA offices might be required in cases where the aeronautical activity being denied has an impact on the efficient use of airspace and the utility of the airport.

**14.6. Methodology.** 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. It is often appropriate to ask Flight Standards to conduct a safety review or to ask Air Traffic for an airspace study to determine the impact of a restriction on the safety, efficiency, and utility of the airport. The determinations provided by these offices may be an important part of the decision making process and material record used as part of a Director's Determination (DD) and Final Agency Decision (FAD) and possibly for a decision subject to judicial review.

A sponsor's justification for a proposed restriction should be fully considered, but should also be subjected to an independent analysis by appropriate FAA offices. Early contact with Flight Standards as part of an investigation is desirable since it is possible that a safety determination may already have been made. 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, *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, if applicable, the FAA Office of the Associate Administrator for Airports should check with Air Traffic early in the investigation in order to determine whether or not any Air Traffic special authorization or study affecting the aeronautical activity in question was issued or exists.

However, when neither an FAA Flight Standards safety nor an Air Traffic determination or study exists, a review process that includes Flight Standards and/or Air Traffic should be coordinated by the FAA Office of the Associate Administrator for Airports to address the issue of accommodating the aeronautical activity in question at the airport. 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 may or may not decide that a particular activity may be able to be safely conducted at the airport. The ADO, regional airports division, or ACO will issue a determination 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 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 will need to 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 ultralights, gliders, parachute jumping, balloon and airship operations, acrobatic flying, or banner towing should be approved only if the FAA concludes that such operations cannot be mixed with other traffic without an unacceptable impact on safety or the efficiency and utility of the airport.

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 Code of Federal Regulations (CFR) Part 91, as well as specific FAA regulations and advisory circulars for the regulated activity. These include:

(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 90-66A, *Recommended Standard Traffic Patterns and Practices for Aeronautical Operations at Airports Without Operating Control Towers*.

(2). For skydiving: 14 CFR Part 105, *Parachute Operations*; and AC 105-2C, *Sport Parachute Jumping*.

(3). For balloon operations: AC 91-71, *Operation of Hot Air Balloons with Airborne Heaters*.

(4). For banner towing operations: Flight Standards Publication *Information for Banner Tow Operations*, available online on the FAA web site.

**b. Examples of Accommodation Measures.** Some measures that airports have used to accommodate activities safely and efficiently in lieu of a total ban 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 section 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 prohibited 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 limitation 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 of this Order, *Airport Noise and Access Restrictions*.

#### **14.9. Sport Pilot Regulations.**

**a. General.** In 2004, the FAA issued new certification requirements for light-sport aircraft, pilots, and repairmen. The FAA created two new aircraft airworthiness certificates: one for special light-sport aircraft, which may be used for personal as well as for commercial use; and a separate certificate for experimental light-sport aircraft (including powered parachutes and other light aircraft such as weight-shift and some homebuilt types), which may be used only for personal use. The rule also establishes requirements for maintenance, inspections, pilot training, and certification. The FAA worked with the general aviation (GA) community to create a rule that sets safety standards for people who will now earn FAA certificates to operate more than 15,000 uncertificated, ultralight-like aircraft. The rule's safety requirements should also give this segment of the GA community better access to insurance, financing, and airports.

**b. Compliance Implications.** A proposed restriction affecting these aircraft should be analyzed like the other cases addressed in this chapter, with coordination with Flight Standards and/or Air Traffic as appropriate.

**14.10. Coordination.** The sample correspondence at the end of this chapter will assist in coordinating action with either Flight Standards or Air Traffic. Sample correspondence includes a request for a safety determination, a Flight Standards response, an Air Traffic assessment and response, and an FAA objection to a proposed accommodation of an aeronautical activity.

**14.11. through 14.15. reserved.**





U.S. Department  
of Transportation  
Federal Aviation  
Administration

# Memorandum

Subject: **ACTION:** Request for Safety Determination -  
Formal Complaint 16-00-11

Date: **APR 10 2001**

Mr. William Dean Bardin  
v.  
County of Sacramento

From: Director, Airport Safety and Standards  
AAS-1

Reply to Wayne Heibeck  
Attn. of: (202) 267-3187

To: Manager, Western Pacific Airports Division -  
AWP-600

It is our responsibility to review and issue a Director's Determination on the above-mentioned complaint under FAR Part 16. The complaint relates to Sacramento County, prohibiting ultralight vehicles at Franklin Field (Q53 - uncontrolled airport) on the grounds that such operations are unsafe.

We believe that insufficient safety related information relating to this case exists for a compliance determination. The complaint filed requires the FAA to determinate whether or not the prohibition instituted by the airport sponsor violates the requirement "to 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 uses." Flight Standards assistance in the form of a safety determination and/or recommendation is required. It would:

1. Substantiate a FAA (AAS-1) decision on the reasonableness of the restriction.
2. Be worthwhile as both parties in the complaint disagree on whether or not ultralight operations at Franklin are safe.
3. Would permit AAS-1 to adhere to FAA order 5190.6A, section 4-8, which addresses safety related restriction at federally-obligated airport and specifies the role(s) of other FAA entities, one of which is Flight Standards. Specifically, FAA Order 5190.6A, Section 4-8 states:

In cases where complaints are filed with FAA, Flight Standards and Air Traffic should be consulted to help determine the reasonableness of the airport owner's restrictions. It may be appropriate to initiate an FAA airspace study to determine the efficiency and utility of the airport when

**Sample Request for Safety Determination, Page 1**

considering the proposed restriction. In all cases the FAA will make the final determination of the reasonableness of the airport owner's restrictions which denied or restricted use of the airport.

4. Strengthen the record given that the current complaint could lead to a Final Agency Decision, which in turn may be subjected to judicial review.

Given the existing situation, please coordinate with the region's Flight Standards Division, AWP-200, to have them conduct an analysis of options regarding the possibility of safely accommodating ultralight operations and the compatibility of ultralight operations with other aeronautical uses at Franklin Field as soon as possible.

Attached is a copy of the complaint documents we have received. Please notify us as soon as practicable of AWP-200's timeframe for completion of this analysis.



David L. Bennett

Attachment

*The following is the suggested response to the Airports Division request for a safety review of Franklin Field.*

Personnel of the Sacramento Flight Standards District Office (FSDO) have conducted a safety review of the Franklin Field Airport as request in the Memo dated April 10, 2001.

An Inspector reviewed the available safety related material provided by the users of Franklin Field, maps and the comments from the County of Sacramento. A site inspection was conducted and revealed an area on the northwest part of the airport could accommodate ultralight operations.

Franklin Field is a heavily used uncontrolled airport for pilot training and agricultural operations. Flight schools both helicopter and airplanes use the field. The mix of ultralight and aircraft traffic has generated numerous complains.

On June 5, 2001, the FSDO inspector met with the SFO-ADO and personnel for the County of Sacramento, Division of Airports. Another site visit was concluded with the above organizations and all parties agree it was possible for ultralights to operate within specific guidelines.

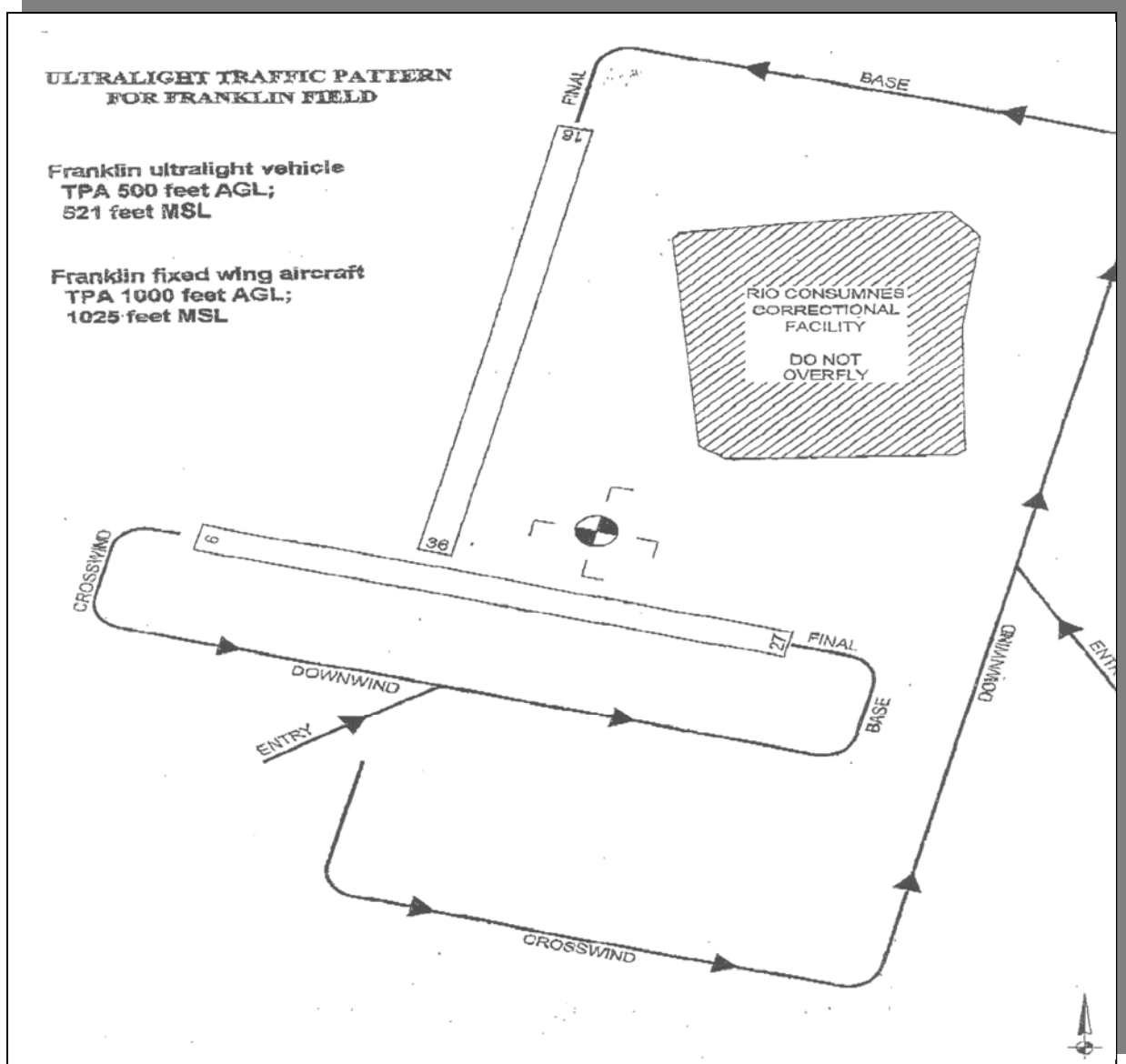
The area northwest along the airport boundaries is large enough to provide reasonable accommodation for ultralight operations. An area in the grass could be graded for a landing and ramp areas. The traffic pattern altitude should no higher than 400 feet; this would keep the ultralights away from the normal aircraft flow.

In addition, the following should be considered by the County of Sacramento in the effort to make reasonable accommodations for the ultralight activities:

- Establish designated operations area.
- Transient versus based ultralight operations.
- Alternative traffic patterns as per AC 90-66A.
- NOTAM requirements.
- Spocial use permits for pilot and aircraft.
- Level of purposed operations the airport.
- Times of operation and prior notification if required.
- Weather limitation.
- Daytime versus nighttime operations.

It is recommended that a meeting with the County of Sacramento, SFO-ADO, Sacramento FSDO and the ultralight users group be schedulc, as soon as possible, to work out the details and any special provisions for the operation of ultralights at Franklin Field.

### Sample Flight Standards Response



**Sample Visual Depiction of Flight Standards-Approved Flight Pattern to Accommodate Ultralight Operations**



U. S. Department  
of Transportation  
**Federal Aviation  
Administration**

## Memorandum

Air Traffic Control Tower  
St. Petersburg-Clearwater Int'l Airport  
Clearwater, FL 33762

**Subject:** INFORMATION: Review Aeronautical Study No. 01-ASO- 3059-NRA **Date:** 4/25/01

**From:** Air Traffic Manager,  
ATCT, Clearwater , Florida

**To:** Lee Blaney, ORL-610A

When I took over the position of Air Traffic Manager for St. Petersburg-Clearwater Air Traffic Control Tower (PIE) in 1996, I was briefed by my predecessor that the Pinellas County Airport Director did not allow banner towing operations at the airport. To my knowledge there have not been any banner towing operations, with the exception of one emergency landing by a banner tower. *I highly recommend that the Pinellas County Airport Authority continue its present policy to prohibit banner tow operations at PIE due to safety concerns.*

PIE Control Tower handled 229,215 operations in 2000. This is over a 30% increase in air carrier, corporate jet and general aviation since 1996. The layout of PIE runways makes this a very complex operation, which can only be worked safely under certain conditions. There are three crossing runways, which mean aircraft landing or departing one runway will cross the traffic path of one or more other runways. The determination of which runways to use is dependent upon the type of traffic at the time and the existing meteorological conditions. We try to use two or three runways at a time in pre-established patterns and this requires very precise timing. The preferred runway configuration is Runways 4, 9, 35R simultaneously. This configuration generally allows the controller to work the maximum number of aircraft and minimize delays. However, at times only one runway can be used. Because of the increased volume of traffic and existing runway configuration, the tower intermittently reaches a maximum safe number of aircraft operating at one time. The individual controller working the tower determines that number, based on the volume and complexity at the time. When that level is reached, any further aircraft movements are denied or curtailed. Presently, we estimate that occurs at PIE more than 10% of the time. As our volume increases, the frequency of denying services will increase.

We expect the volume of traffic to continue to increase at an even higher rate than in the past due to several upcoming events. First, we will be installing a CAT II ILS this year. The capability for pilots to shoot a CAT II ILS practice approach will attract more aircraft from other airports to make these practice approaches. Second, the three flight schools on the field are expanding. In fact, the number of practice operations increased by 7% in the last year. One of the flight schools has applied for a permit to open a new Part 141 school. Third, Embry Riddle Aeronautical University (ERAU) has recently gone into partnership

with St. Petersburg Junior College to provide bachelor's and master's degrees in professional aeronautics. This program is expected to draw students not only from the entire west coast of Florida, but also internationally. We anticipate ERAU's presence on the west coast will attract student activity similar to that experienced by ERAU at Daytona Beach Airport/Air Traffic Control Tower, on the east coast. The St. Petersburg-Clearwater Airport agreed to provide classroom and hanger space for ERAU's airplanes in the future and have already given approval for construction of a large building for classrooms on land adjacent to the airport.

In addition to flight training, the Airport is actively looking for additional commercial flights, both passenger and cargo. Funds have been appropriated to extend the main runway to 10,000 feet in order to accommodate overseas flights and heavy cargo planes. The Airport has been negotiating with various companies that would like to take advantage of the extended runway for their operations. There are plans to build a joint military reserve training center on the airport this year, which includes locally based helicopters and the probability of additional itinerant military traffic.

Banner towing operations would not readily fit into the patterns of established operations at PIE, practice or itinerant flights. They're low flying, slow moving operations that don't mix well with other flights. They also involve having a ground crew go out onto the airfield twice, to set up and later remove the banner. If the banner pick-up area is in the safety area of a runway, the runway is essentially closed from the time the crew goes out onto the airfield until the banner has been picked up and the site cleared. From a safety standpoint, banner towing is suited to small airfields without commercial flights.

In 2000, PIE had 229,215 operations and Tampa International Airport had 277,863 operations. The Hillsborough County Aviation Authority has not allowed banner towing for many years due to safety issues and traffic volume. When airports reach the volume that Tampa and St. Petersburg-Clearwater have, banner-towing operations cannot safely be worked into the traffic. High volume airports with commercial flights do not allow banner towing because it would result in interruption of the traffic flow and untenable delays for other aircraft in order to clear the way for banner-towing aircraft. Commercial jets are designed for fast flight and do not maneuver quickly when in landing or take-off configurations. It compromises their safety to mix in operations that have the potential to interrupt the traffic flow and cause aborted take-offs or landings. In addition to the airlines and air taxis, there are at least three air ambulance companies based at PIE. When they file as "Life Guard", they cannot be delayed for other aircraft. The Coast Guard has search and rescue flights that require priority handling. When any inbound commercial flights are delayed, they back up into Tampa's already congested airspace. For controllers to work several aircraft safely, they need routine procedures and flights. Whenever they have to interrupt the established flow, it is a distraction, and distractions always decrease safety. If banner towing were permitted at PIE, there are conceivably a minimum of two companies that intend to conduct some or all of their operations from PIE. They have a significant potential to interrupt air traffic and impact safety. Additionally, if banner towing were allowed at PIE, it would undoubtedly attract other banner tow companies due to PIE's

geographical location. There are no Hillsborough County airports which permit banner towing.

Traffic volume at PIE is quite variable. As stated above, there are times when PIE is forced to deny operations for safety reasons, and we do this by curtailing the number of aircraft making practice approaches or touch-and-go's. At times, touch-and-go's are not permitted due to traffic volume and complexity. Volume variations are intermittent and cannot be predicted in advance. While not optimal, student pilots can tolerate interruptions to their practice flights and they reschedule for another flight time. Banner towing is a commercial enterprise that could not operate in an environment where they were subject to having their flight requests denied.

*We highly recommend that the Pinellas County Airport Authority continue its present policy to prohibit banner tow operations at PIE due to safety concerns.*



Sandra L. Bathon



U.S. Department  
of Transportation  
**Federal Aviation  
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December 5, 2006

Mr. Nickolis A. Landgraff  
Airport Manager  
City of DeLand  
1777 Langley Ave.  
DeLand, FL 32724

Dear Mr. Landgraff:

RE: Agency Review  
DeLand Skydiving Agreement

We received your November 14, 2006 correspondence regarding the proposed agreement between the City of DeLand, the skydiving operators of DeLand Airport, and the proposed airport traffic control tower (ATCT). While we applaud the sponsor for its proactive efforts to come to agreement with the operators of skydiving operations at the airport, we are concerned that the structure of the document removes the airport's ability to adhere to its grant agreements into the future. Specifically, there are a number of provisions of the Agreement that concern the Federal Aviation Administration (FAA), which we have listed below.

- The FAA must review any agreement that includes safety requirements that differ from those required by federal regulation. This is true regardless if the requirements will be more or less stringent, and the requirements are continually subject to review, considering constantly changing circumstances. This review would not only include ATCT, as the agreement states, but also Flight Standards and Airports Divisions.
- While the agreement states that it will seek FAA concurrence, it appears that the parties only intended to seek input from the local FAA ATCT. FAA Flight Standards and Airports Divisions *must* be consulted. Therefore, once a final draft of this agreement is made, it should be coordinated through the Orlando ADO.
- II.C. – Both Skydive Deland and the city of Deland must understand that any provision agreed to in this document cannot overrule the applicable Federal Aviation Regulations. Specifically, one provision needing further review by Flight Standards includes #3, which states:

***"The first radio communication of the day by a Jump Aircraft shall activate the DZ. When the Deland Drop Zone is activated, the Tower Operator is***

**Sample FAA Objection to a Proposed Overreaching Accommodation of an Aeronautical Activity, Page 1**



**deemed to have authorized all Jump Aircraft, their pilots and Parachutists for continuous operations in the Deland Class 'D' airspace. This authorization will remain in effect until the last load of the day."** [emphasis added.]

FAR Part 105 requires the pilot-in-command to maintain radio communications with air traffic control at least 5 minutes before the parachute operations begin and must, during each flight, advise air traffic control when the last parachutist or object exits the aircraft. Specific information must be provided to air traffic control under certain circumstances as required by FAR Part 105.15 and Part 105.25.

There is no guarantee that transient aircraft will hear the first communication of the day activating the drop zone. Also, there may be times that the drop zone may need to be closed to conduct airfield inspections or to pick up foreign object debris. Again, FAA Flight Standards must review these provisions to ensure continued flight safety.

- II.D. – The Agreement specifies what the tower operator shall commit to. For example,

*"The Tower Operator shall comply with the following: The Tower Operator shall not impose unreasonable limitations because of wind speed or direction...the Tower Operator and the Skydiving Industry stipulate and agree that aircraft operations and skydiving operations shall operate concurrently as a preferred policy and that all parties shall act and engage in conduct that optimizes concurrent operation of flight and skydiving operation, without unnecessary delays."*

Who determines the reasonableness of limitations imposed by ATC? An operating control tower makes decisions based on operational safety and efficiency. Additionally, during a given situation, it may not be operationally efficient or safe for the concurrent operation of flight and skydiving activities -- those determinations must be made by Air Traffic, Flight Standards, and the pilot-in-command, not the airport or skydiving industry.

- The City cannot preempt the right to use the airport by skydivers above all other users in perpetuity. The federal obligations require access for *all* aeronautical users, not just skydivers. While the skydiving community provides large economic stimulus for the airport and surrounding community, any unreasonable restrictions limiting access to other aeronautical users would be a violation of grant assurance and will not be accepted.
- III. – The Agreement includes provisions for an advisory committee and specifies the members of that committee. Under the current Agreement, there are no provisions for an airport or FAA ATC representative to be part of the committee. While there is no regulation or statute to mandate inclusion, the airport should be

### Sample FAA Objection to a Proposed Overreaching Accommodation of an Aeronautical Activity, Page 2

advised of this oversight and guided to include members of these two important parties to ensure a complete representation of those involved in operations at the airport.

- The FAA is concerned that this agreement is a contract, which appears to be an enforceable agreement. The agreement should not be a contract.
- While it is acceptable that the Airport can promulgate procedures and policies, it is a violation of Grant Assurance 5 (Rights and Powers) to PREVENT the sponsor from ever changing the policies and procedures in response to the interests of the public in civil aviation. This contract would prevent such changes. While some of these procedures could be adopted (with the exceptions discussed above) as minimum standards and policies, the airport sponsor cannot give away its discretion to manage this airport in the interests of civil aviation. For example, commercial service airports cannot force themselves to deny general aviation because they've agreed to with certain wishes of commercial operators. There must be other conditions, and even then they can only encourage the use of relievers for general aviation.

If you have any questions regarding these comments, please feel free to call me.

Once you have addressed these comments and revised the agreement, please forward the final draft to this office in my attention for agency review.

Sincerely,

Original Signed By

Rebecca R. Henry  
Program Manager  
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