



U.S. Department
of Transportation

**Federal Aviation
Administration**

Memorandum

Subject: **ACTION:** Program Guidance Letter 09-01

Date: JUL 17 2009

From: Manager, Airports Financial Assistance Division,
APP-500

Reply to: Kendall Ball, APP-520
Attn. of: 202-267-7436

To: PGL Distribution List

This Program Guidance Letter (PGL) concerns wildlife hazard assessments (WHAs) and the implementation of Program Information Memorandum (PIM) 2 (see Attachment 1).

FAA Regional Airports Offices and Airports District Offices are encouraged to distribute this PGL widely to the airport and consultant community.

Further, FAA project management personnel should confirm that airports with known wildlife hazard problems and those required by FAR Part 139.337(b) to conduct WHAs, are going forward with the required WHAs.

GUIDANCE: No additional guidance is being issued with this PGL. This PGL is being issued only for clarification of existing guidance.

09-01 Eligibility of Wildlife Hazard Assessments

SOAR Code: PL PL WH

ELIGIBILITY: Paragraph 406(s) of the Airport Improvement Program (AIP) Handbook, FAA Order 5100.38C (Handbook), provides that wildlife hazard assessments (WHAs) are eligible if required by FAR Part 139. FAR Part 139.337(b) provides that certificated airports should conduct a WHA if it experiences a triggering event under FAR Part 139.337(b). Therefore, paragraph 406(s) of the Handbook implies that WHAs are eligible for AIP funding only at certificated airports and only if there is a triggering event at the certificated airport.

On June 11, 2009, the Airport Safety Certification Division (AAS-300) issued a Cert Alert regarding Wildlife Hazard Assessments in Accordance with Part 139 Requirements. The Cert Alert provides that "[a]s we move forward to Safety Management Systems, it is incumbent upon airports to be proactive and understand the risk of wildlife strikes before they experience a triggering event." Consequently, on June 12, 2009, the Office of Airport Planning and Programming issued Program Information Memo #2 (PIM 2) to clarify that the Cert Alert satisfies the "Part 139 requirement" set forth in Paragraph 406(s) of FAA Order 5100.38C. This means that wildlife assessments are AIP eligible at Part 139 certificated airports that have not experienced a triggering event, to the extent such an assessment is determined, by the Regional Office, appropriate and necessary to fulfill the intent of the Cert Alert.

By issuance of this Program Guidance Letter, we are amending FAA Order 5100.38C, Paragraph 406(s) to allow funding for WHA's at general aviation airports with documented reports of wildlife hazards.

AIP FUNDING POLICY: Normal AIP funding policy applies to these projects. These assessments are considered high priority projects and, as such, must be funded with available airport entitlements and state apportionment funds first before considering them for discretionary funding. If discretionary funding is required please contact APP-520.

PRIORITY: Funding of WHAs at commercial service Part 139 airports that have incurred a "triggering event" will be a high priority. WHAs at commercial service Part 139 airports with documented wildlife hazards should be considered next. WHAs at Part 139 airports without commercial service and general aviation airports with documented wildlife hazards may then be considered for funding.

SOAR ENTRY: The Office of Airport Planning and Programming has established a new Project Code to allow accurate identification and reporting of all wildlife hazard assessments and their assigned funding as of the June 12th Program Information Memo (see FAA Order 5100.39A, Airports Capital Improvement Plan, Paragraph 6(c) for an explanation of project codes and their uses). The new code is similar to other Planning purpose (PL) and Planning component (PL) codes, but adds a new type code for Wildlife Hazard Assessments (WH). The new project code is:

<u>Project Code</u>	<u>Project Description</u>
PL PL WH	Wildlife Hazard Assessments

The complete list of project codes is available to FAA employees using the System of Airports Reporting (SOAR) under the Grants and Planning Modules, Reports section, References category (see "Project Picklists"). The new Wildlife Hazard Assessments code will be included in future revisions of Order 5100.39A.

Specific Talking Point guidance for this and other special project categories is available in SOAR under the Grants Module, Reports section, References category (see "Talking Point Language"). The new talking point is: This grant will provide funds to conduct a Wildlife Hazard Assessment (WHA) [at AIRPORT NAME] to identify the wildlife species observed and assess their numbers, locations, local movements, and daily/seasonal activities

COST: Information received to date indicates that most assessments will be under \$50k, with only the most complex airport assessments exceeding \$100k. Headquarters has requested a list of recently completed assessments and their costs from the United States Department of Agriculture Wildlife Service (WS) in order to get a better estimate of what assessments will cost and the impact on the AIP.

TIMING: Due to the AIP end of year program closeout schedule, HQ anticipates that many sponsors will not be ready to accept a grant for wildlife hazard assessments in FY 2009. However, the sponsors and regions should move forward with programming actions to accomplish these assessments in FY 2010 and later years, focusing on the FAR Part 139 airports with triggering events in FY 2010.

PROCUREMENT OF QUALIFIED BIOLOGISTS: All consultant procurement must meet the requirements of Paragraph 904 of the AIP Handbook and Title 49 Section 18.36(c) Competition and Section 18.36(d) "Methods of Procurement to be Followed". If Section 18.36(d)(1) is utilized to procure services, the simplified acquisition threshold currently set at \$100k cannot be exceeded. If the small purchase procedures [simplified acquisition] are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

There may be a national shortage of qualified airport wildlife biologists in the private sector to conduct these assessments. If after soliciting qualifications from private sector consultants the airport sponsor determines that a qualified airport wildlife biologist is not available to complete a wildlife hazard assessment, the sponsor may utilize the services of the WS. See the Attachment 2, Memorandum of Understanding Between the FAA and WS dated June 20, 2005. However, the sponsor must certify to the FAA that they followed Title 49 CFR Section 18.36 and that no qualified consultants were available. The certification should be submitted with the sponsor's application.

SUGGESTED QUESTIONS FOR CONSULTANTS:

1. How many WHAs have you conducted for airports?
2. How many WHAs are you currently conducting and on which airports?

3. How many qualified airport wildlife biologists do you have on staff?
4. How long will it take to complete a thorough field analysis for our airport?
5. How long after the field analysis work is completed will the final report be completed and delivered?

SPECIFIC LANGUAGE FOR RFPs: The WS uses a statement of work template with minor edits to tailor the statement for each individual airport. (See Attachment 3 to this PGL.)

Keywords: Wildlife Hazard Assessments

ATTACHMENT 1

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

Memorandum

Subject: **ACTION: Program Information Memorandum
#2 – Stand-Alone Grants for Wildlife Hazard
Studies at Part 139 Certificated Airports** Date: June 12, 2009

From: Deputy Director, Airports Planning and
Programming, APP-2 Reply to
Attn. of:

To: PGL Distribution List

We are issuing this Program Information Memorandum #2 (PIM #2) to clarify the eligibility of wildlife hazard assessments.

FAA Order 5100.38C provides that "[w]ildlife hazard assessments and wildlife management plans required under FAR Part 139 are eligible whenever airport development actions may result." On June 11, 2009, Mike Brown, AAS-300, issued a Cert Alert regarding Wildlife Hazard Assessments in Accordance with Part 139 Requirements. The Cert Alert provides that "[a]s we move forward to Safety Management Systems, it is incumbent upon airports to be proactive and understand the risk of wildlife strikes before they experience a triggering event."

This PIM is being provided to clarify that the Cert Alert satisfies the "Part 139 requirement" set forth in Paragraph 406(s) of FAA Order 5100.38C. This means that wildlife assessments are AIP eligible at Part 139 certificated airports that have not experienced a triggering event, to the extent such an assessment is determined, by the Regional Office, appropriate and necessary to fulfill the intent of the Cert Alert.

OSB ___ Wayne T. Heibeck ___

ATTACHMENT 2

NO. 12-34-71 -0003-MOU

**Memorandum of Understanding
between the
United States Department of Transportation
Federal Aviation Administration
and the
United States Department of Agriculture
Animal and Plant Health Inspection Service
Wildlife Services**

ARTICLE 1

This Memorandum of Understanding (MOU) continues the cooperation between the Federal Aviation Administration and Wildlife Services (WS) for mitigating wildlife hazards to aviation.

ARTICLE 2

The FAA has the broad authority to regulate and develop civil aviation in the United States'. The FAA may issue Airport Operating Certificates to airports serving certain air carrier aircraft. Issuance of an Airport Operating Certificate indicates that the airport meets the requirements of Title 14, Code of Federal Regulations, Part 139 (14 CFR 139) for conducting certain air carrier operations.

The WS has the authority to enter agreements with States, local jurisdictions, individuals, public and private agencies, organizations, and institutions for the control of nuisance wildlife. The WS also has the authority to charge for services provided under such agreements and to deposit the funds collected into the accounts that incur the costs.

14 CFR 139.337 requires the holder of an Airport Operating Certificate (certificate holder) to conduct a wildlife hazard assessment (WHA) when specific events occur on or near the airport. A wildlife management biologist who has professional training and/or experience in wildlife hazard management

¹ FEDERAL AVIATION ACT OF 1958, 49 U.S.C. FJ40101, ET. SEQ.

THE ANIMAL DAMAGE CONTROL ACT OF MARCH 2, 1931, AS AMENDED, 46 STAT. 1468; 7 U.S.C. 426 -426B.

THE RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT OF 1988, AS AMENDED, 426C TO U.S.C. 426 -426B.

at airports, or someone working under the direct supervision of such an individual, must conduct the WHA required by 14 **CFW** 139.337. The FAA reviews all WHAs to determine if the certificate holder must develop and implement a wildlife hazard management plan (WHMP) designed to mitigate wildlife hazards to aviation on or near the airport. These regulations also require airport personnel implementing an FAA-approved WHMP to receive training conducted by a qualified wildlife damage management biologist.

ARTICLE 3

The FAA and the WS agree to the following.

- a. The WS has the professional expertise, airport experience, and training to provide support to assess and reduce wildlife hazards to aviation on and near airports. The WS can also provide the necessary training to airport personnel.
- b. Most airports lack the technical expertise to identify underlying causes of wildlife hazard problems. They can control many of their wildlife problems following proper instruction in control techniques and wildlife species identification from qualified wildlife management biologists.
- c. Situations arise where control of hazardous wildlife is necessary on and off airport property (i.e., roost relocations, reductions in nesting populations, and removal of wildlife). This often requires the specialized technical support of WS personnel.
- d. The FAA or the certificate holder may seek technical support from WS to lessen wildlife hazards. This help may include, but is not limited to, conducting site visits and WHAs to identify hazardous wildlife, their daily and seasonal movement patterns and habitat requirements. WS personnel may also provide:
 - i. support with developing WH MPs including recommendations on control and habitat management methods designed to minimize the presence of hazardous wildlife on or near the airport;
 - ii. training in wildlife species identification and the use of control devices;
 - iii. support with managing hazardous wildlife and associated habitats; and
 - iv. recommendations on the scope of further studies necessary to identify and minimize wildlife hazards.
- e. Unless specifically requested by the certificate holder, WS is not liable or responsible for development, approval, or implementation of a WHMP required by 14 CFR 139.337. Development of a WHMP is the responsibility of the certificate holder. The certificate holder will use the information developed by WS from site visits and/or conducting WHA in the preparation of a WHMP.

- f. The FAA and WS agree to meet at least yearly to review this agreement, identify problems, exchange information on new control methods, identify research needs, and prioritize program needs.

ARTICLE 4

The WS personnel will advise the certificate holder of their responsibilities to secure necessary permits and/or licenses for control of wildlife. This will ensure all wildlife damage control activities are conducted under applicable Federal, State, and local laws and regulations.

ARTICLE 5

This MOU defines in general terms, the basis on which the parties will cooperate and does not constitute a financial obligation to serve as a basis for expenditures. Request for technical, operational, or research assistance that requires cooperative or reimbursable funding will be completed under a separate agreement.

ARTICLE 6

This MOU will supersede all existing MOUs, supplements, and amendments about the conduct of wildlife hazard control programs between WS and the FAA.

ARTICLE 7

Under Section 22, Title 41, U.S.C., no member of or delegate to Congress will be admitted to any share or part of this MOU or to any benefit to arise from it.

ARTICLE 8

This MOU will become effective on the date of final signature and will continue indefinitely. This MOU may be amended by agreement of the parties in writing. Either party, on 60 days advance written notice to the other party, may end the agreement.

___OSB Woodie Woodward___
Associate Administrator for Airports
Federal Aviation Administration

Date ___June 20,2005___

___OSB William H Clay___
Deputy Administrator for Wildlife Services
Animal and Plant Health Inspection Service

Date ___June 27, 2005___

ATTACHMENT 3

Template to be provided by the WS