

Attachment 6

STANDARDS FOR DETERMINING OBSTRUCTIONS FAR PART 77, PARAGRAPHS 77.13, 77.15, 77.17 and 77.23

The following paragraphs are excerpted from Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace:

77.13 Construction or alteration requiring notice.

(a) Except as provided in §77.15, each sponsor who proposes any of the following construction or alteration shall notify the Administrator in the form and manner prescribed in §77.17:

(1) Any construction or alteration of more than 200 feet [60.96 m] in height above the ground level at its site.

(2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

(i) 100 to 1 for a horizontal distance of 20,000 feet [6 096.00 m] from the nearest point of the nearest runway of each airport specified in subparagraph (5) of this paragraph with at least one runway more than 3,200 feet [975.36 m] in actual length, excluding heliports.

(ii) 50 to 1 for a horizontal distance of 10,000 feet [3 048.00 m] from the nearest point of the nearest runway of each airport specified in subparagraph (5) of this paragraph with its longest runway no more than 3,200 feet [975.36 m] in actual length, excluding heliports.

(iii) 25 to 1 for a horizontal distance of 5,000 feet [1 524.00 m] from the nearest point of the nearest landing and takeoff area of each heliport specified in subparagraph (5) of this paragraph.

(3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet [5.18 m] for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet [5.18 m] vertical distance, 15 feet [4.57 m] for any other public roadway, 10 feet [3.05 m] or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet [7.01 m] for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (1) or (2) of this paragraph.

(4) When requested by the FAA, any construction or alteration that would be in an instrument approach area (defined in the FAA standards governing instrument approach procedures) and available information indicates it might exceed a standard of Subpart C of this part.

(5) Any construction or alteration on any of the following airports (including heliports):

(i) An airport that is available for public use and is listed in the Airport Directory of the current Airman's Information Manual or in either the Alaska or Pacific Airman's Guide and Chart Supplement.

(ii) An airport under construction, that is the subject of a notice or proposal on file with the Federal Aviation Administration, and except for military airports, it is clearly indicated that that airport will be available for public use.

(iii) An airport that is operated by an armed force of the United States.

(b) Each sponsor who proposes construction or alteration that is the subject of a notice under paragraph (a) of this section and is advised by an FAA regional office that a supplemental notice is required shall submit that notice on a prescribed form to be received by the FAA regional office at least 48 hours before the start of the construction or alteration.

(c) Each sponsor who undertakes construction or alteration that is the subject of a notice under paragraph (a) of this section shall, within 5 days after that construction or alteration reaches its greatest height, submit a supplemental notice on a prescribed form to the FAA regional office having jurisdiction over the area involved, if -

(1) The construction or alteration is more than 200 feet [60.96 m] above the surface level of its site; or

(2) An FAA regional office advises him that submission of the form is required.

77.15 Construction or alteration not requiring notice.

No person is required to notify the Administrator for any of the following construction or alteration:

(a) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

(b) Any antenna structure of 20 feet [6.10 m] or less in height except one that would increase the height of another antenna structure.

(c) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator, or any appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

(d) Any construction or alteration for which notice is required by any other FAA regulation.

77.17 Form and time of notice.

(a) Each person who is required to notify the Administrator under §77.13 (a) shall send one executed form set (four copies) of FAA Form 7460-1, Notice of Proposed Construction or Alteration, to the Chief, Air Traffic Division, FAA Regional Office having jurisdiction over the area within which the construction or alteration will be located. Copies of FAA Form 7460-1 may be obtained from the headquarters of the Federal Aviation Administration and the regional offices.

(b) The notice required under §77.13 (a) (1) through (4) must be submitted at least 30 days before the earlier of the following dates -

- (1) The date the proposed construction or alteration is to begin.
- (2) The date an application for a construction permit is to be filed.

However, a notice relating to proposed construction or alteration that is subject to the licensing requirements of the Federal Communications Act may be sent to the FAA at the same time the application for construction is filed with the Federal Communications Commission, or at any time before that filing.

(c) A proposed structure or an alteration to an existing structure that exceeds 2,000 feet [609.60 m] in height above the ground will be presumed to be a hazard to air navigation and to result in an inefficient utilization of airspace and the applicant has the burden of overcoming that presumption. Each notice submitted under the pertinent provisions of Part 77 proposing a structure in excess of 2,000 feet [609.60 m] aboveground, or an alteration that will make an existing structure exceed that height, must contain a detailed showing, directed to meeting this burden. Only in exceptional cases, where the FAA concludes that a clear and compelling showing has been made that it would not result in an inefficient utilization of the airspace and would not result in a hazard to air navigation, will a determination of no hazard be issued.

(d) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (b) of this section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed FAA Form 7460-1 submitted within five days thereafter. Outside normal business hours, emergency notices by telephone or telegraph may be submitted to the nearest FAA Flight Service Station.

(e) Each person who is required to notify the Administrator by paragraph (b) or (c) of §77.13, or both, shall send an executed copy of FAA Form 117-1, Notice of Progress of Construction or Alteration, to the Chief, Air Traffic Division, FAA Regional Office having jurisdiction over the area involved.

77.23 Standards for determining obstructions.

(a) An existing object, including a mobile object, is, and a future object would be, an obstruction to air navigation if it is of greater height than any of the following heights or surfaces:

- (1) A height of 500 feet [152.40 m] above ground level at the site of the object.
- (2) A height that is 200 feet [60.96 m] above ground level or above the established airfield elevation, whichever is higher, within 3 nautical miles [5 559.55 m] of the established reference point of an airport, excluding heliports, with its longest runway more than 3,200 feet [975.36 m] in actual length and that height increases in the proportion of 100 feet [30.48 m] for each additional nautical mile [1852.00 m] of distance from the airport up to a maximum of 500 feet [152.4 m].
- (3) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

(4) A height within an en route obstacle clearance area, including turn and termination areas, of a Federal airway or approved off-airway route that would increase the minimum obstacle clearance altitude.

(5) The surface of a takeoff and landing area of an airfield or any imaginary surface established under §77.25, §77.28, or §77.29 (of FAA Part 77). However, no part of the takeoff or landing area itself will be considered an obstruction.

(b) Except for traverse ways on or near an airport with an operative ground traffic control service, furnished by an air traffic control tower or by the airport management and coordinated with the air traffic control service, the standards of paragraph (a) of this section apply to traverse ways used or to be used for the passage of mobile objects only after the heights of these traverse ways are increased by:

(1) Seventeen feet [5.18 m] for an Interstate Highway that is part of the National System of Military and Interstate Highways where over crossings are designed for a minimum of 17 feet [5.18 m] vertical distance.

(2) Fifteen feet [4.57 m] for any other public roadway.

(3) Ten feet [3.05 m] or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.

(4) Twenty-three feet [7.01 m] for a railroad.

(5) For a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.