

STATEMENT OF THE HONORABLE DONALD D. ENGEN, FEDERAL AVIATION ADMINISTRATOR, BEFORE THE HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY, SUBCOMMITTEE ON TRANSPORTATION, AVIATION, AND MATERIALS, CONCERNING REGULATION OF ULTRALIGHT AIRCRAFT. MAY 21, 1984.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you today on the subject of ultralights. Although this marks my first appearance before this Subcommittee, I am well aware of the Subcommittee's dedication to the task of promoting aviation safety, and of the fine, professional working relationship between the Subcommittee and the FAA. You may be assured that I am committed not only to continuing that cooperative working relationship but to working with you to make it even stronger and better.

I welcome the Subcommittee's interest, today, in looking at ultralights. This relatively new segment of the aviation community has presented us with the novel opportunity to try to develop a framework which applies the regulatory powers of the FAA where necessary for safety, yet provides both the opportunity and incentive for the private sector to help in promoting a safe ultralight industry. Let me take a few moments to explain.

Ultralights are a relatively new phenomenon, having been introduced in the U.S. in the mid-1970's. In a short span of

time and as people experimented, what started out as very simple hang gliders became increasingly more sophisticated powered hang gliders and ultralights, with greater capabilities and range. As more ultralights came into use, the FAA began to receive reports of sightings of these vehicles in controlled airspace, and of operations over congested areas and spectators. The potential for compromising safety was becoming increasingly apparent, and the FAA concluded that regulatory action was needed to offer greater protection to other airspace users and to persons on the ground.

Fundamental to the FAA's approach to regulating ultralights, and based on strong sentiment from the ultralight community, were two basic tenets: 1) since ultralights were primarily used for sport or recreational purposes, the thrust of FAA's regulatory efforts would be to preserve the capability of persons to enjoy this recreational activity by taking the minimum number of regulatory actions necessary for safety; and 2) the private sector would be encouraged to play an important role in "self-regulation" and policing of the industry to promote further advances in safety.

Applying these principles, the FAA proposed the institution of rules governing ultralight operations in July 1981. After analysis of about 2,500 comments from the public, the FAA promulgated final rules for ultralights, accomodating disparate

views in a new Part 103 of the Federal Aviation Regulations, effective on October 4, 1982.

Under Part 103, a powered hang glider is considered to be an "ultralight" if it weighs less than 254 pounds; is limited to carrying 5 U.S. gallons of fuel; has a maximum speed of 55 knots; and a power-off stall speed of not more than 24 knots. Further, the vehicle may not possess an airworthiness certificate, must be limited to a single occupant, and may be used for recreation or sport purposes only. Any vehicles failing to meet any of these criteria are considered "aircraft" for purposes of airworthiness certification, airman certification, and registration. Any vehicle registered as an aircraft cannot be flown interchangeably as an ultralight and vice versa.

The weight, speed, and fuel limitations are intended to minimize the potential hazards in case of an accidental impact. The low flying speeds enable ultralights to operate from surfaces other than those designed for aircraft, thus lessening the potential for interference with aircraft operations. Restricting the vehicle to a single occupant recognizes that an individual engaging in a sport activity may accept the risks of doing so for himself, but should not be able to do so for others. An individual who elects to operate an ultralight without pilot qualifications should be assumed to

do so with an awareness of the risks involved; on the other hand, a passenger from the general public may well assume that the vehicle operator holds certification as a pilot, and thus not be in a position to make an informed decision about risks involved in flying with an uncertificated individual in an ultralight.

Part 103 also prescribes a number of operational requirements for ultralight operators. For example, in the same manner that FAA rules govern aircraft operators, ultralight operators are barred from engaging in any hazardous activity which jeopardizes the safety of persons or property on the ground or in the air. Their hours of operation are limited to provide greater "see-and-avoid" capabilities for aircraft operators: in controlled airspace, ultralights may operate only during the period from sunrise to sunset; in uncontrolled airspace, they may operate during the twilight period, provided they have installed an anticollision light. Ultralight operators are required to yield the right-of-way to aircraft, and are prohibited from operating over congested areas. Ultralight operators may not operate within an airport traffic area, control zone, terminal control zone, or positive control area, unless the operator has received prior authorization from the air traffic control facility having jurisdiction over that airspace. Ultralights must also be operated by visual reference to the surface of the earth, thus assuring that an

ultralight can descend and land safely at any time without entering obscured weather conditions which can cause spatial disorientation. Flight visibility and cloud clearance requirements are the same as those imposed for Visual Flight Rules flight operations by fixed-wing aircraft.

As I mentioned earlier, Part 103 is designed to place minimum constraints on ultralight operators while increasing the safety of their operations with respect to others in the air or on the ground. The vehicular and operational limitations imposed upon ultralights are such that the sport and recreational aspects of their use are little diminished, yet added protection has been ensured for others by the regulatory framework. I also mentioned that the FAA had intended to foster self-regulation and policing within the industry to add to the safety offered by our regulations. Since industry representatives are here today, I would prefer to let them offer detailed explanation of their efforts in the area of pilot training, design, working with local communities, and marking of aircraft. As keepers of the aviation regulations, the FAA needs to continue to evaluate these efforts to see if they will meet future safety needs. We are just 20 months into use of Part 103.

As the members of the Subcommittee know, I was not Administrator of the FAA when Part 103 was conceived or promulgated. I have, however, flown an ultralight and

participated in the evolution of their use. My view of this rule is that it addresses the issues involved for the purpose of sport flying. It permits the continued enjoyment of a recreational activity without the adverse impacts of unwarranted regulatory burdens. At the same time, it does prescribe reasonable limitations on the operation of these vehicles to provide an acceptable level of safety to the operator and to others. My view of the regulation of ultralights is to continue on as specified in Part 103, working closely with the entire aviation community and urging the ultralight community to continue efforts to further improve safety. We should consider such changes in the future as may be proposed by the aviation community or indicated by operational experience.

Have we done everything we will need to do to regulate ultralights? Probably not. On the other hand, the FAA made it clear in the preamble to Part 103 that future regulatory action may be taken by the FAA as circumstances dictate. It is my view that changes for Part 103 should be based on operational experience and be proposed by the aviation community from within.

I have the same potential safety concerns that others might have, including very likely some members of this Subcommittee. For example, even though substantial strides are being made by the aviation community with our support, is there more which

should be done to assure that ultralight pilots are adequately informed of the obligations imposed upon them by our regulations and by common sense? Does what we have done go far enough to minimize incursions of ultralights into unauthorized airspace?

Because of geographical and other unique characteristics of individual airports, we have not prescribed procedures to be used by ultralights at uncontrolled airports, leaving the individual solutions over the manner in which ultralights will mix with other traffic to be worked out on a local basis between airport operators and the ultralight community. Since parachuting operations are already conducted around uncontrolled airports without significant problems, we believe ultralight operations are similarly acceptable from a safety standpoint. Further, I should add that we have been encouraging separate landing strips to be made available at these airports for ultralight use so they will be taken out of the normal stream of traffic. Moreover, we encourage the establishment of separate flight parks for ultralights. Are these actions enough? I don't know.

Therefore, I intend to watch this area closely to fully assure myself that adequate measures have been taken to reduce the possibility of incidents between ultralights and conventional aircraft, particularly if there is a continued growth in the number of ultralights. I should note that we have seen some

progress--though I'd like to see some more initiatives--on the part of states and local communities in terms of establishing flight parks for ultralights. For example, San Diego County has established a flight park for ultralights on county land which already provided recreational use for off-the-road vehicles. Texas has helped to facilitate the establishment of flight parks within the State by recognizing the recreational rather than industrial nature of ultralight flight parks. In Virginia, the aeronautics commission testified in behalf of a prospective flight park operator before a local zoning commission.

Another area of continuing interest to me is whether adequate vigilance and oversight will be exercised within the industry over the design and construction of ultralights and whether there will be adequate standardization; or whether this will be an area where the FAA will need to reconsider its approach in the future.

In short, Mr. Chairman, I am satisfied with our regulatory progress up to this time. But, I too have questions which are not yet answerable given our limited operational experience under Part 103. I intend to satisfy myself that we have done enough, but that will take more time and added operational experience. I can assure you I will monitor closely our progress under Part 103, and that the FAA will take whatever

future actions may be necessary in the interest of safety. In this respect, Mr. Chairman, I would welcome any observations the Subcommittee may have concerning ultralights, and look forward to reviewing what is said before the Subcommittee.

That completes my prepared statement, Mr. Chairman. I would be pleased to respond to any questions you may have at this time.