



**Federal Aviation
Administration**

Office of Airports

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VIA ELECTRONIC MAIL

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Subject: Review of Part 13 Complaint Skyhaven Airport (RCM) Corrective Action Plan (CAP) – November 11 and 25, 2025

Dear Mr. Little:

The Federal Aviation Administration (FAA) has completed its review of Skyhaven Airport (RCM) November 11 and 25, 2025 Corrective Action Plans (CAPs), submitted in response to the Part 13 complaint concerning RCM. After careful evaluation, the FAA has identified areas where the CAP remains deficient and does not demonstrate compliance with federal grant assurances or FAA policy.

Section 1. Improved Commercial Operations Vendor Application and Agreement Process

Status: NOT ACCEPTED / STILL OUTSTANDING

FAA has reviewed RCM's November 11 and November 25, 2025 CAP updates addressing Item 1. Although RCM has taken steps to modify their internal processes, the core compliance deficiency identified under Item 1 remains unresolved.

1.A. FAA Authority Regarding Commercial Vendor Agreements (CVAs)

FAA does **not** prescribe any specific contractual instrument titled a "Commercial Vendor Agreement (CVA)," nor does it require the use of any particular agreement format. FAA oversight authority arises from:

- 49 U.S.C. § 47107(a),
- Grant Assurance 22 (Economic Nondiscrimination),
- Grant Assurance 23 (Exclusive Rights),

- FAA Order 5190.6B, *Airport Compliance Manual*, and
- Advisory Circular (AC) 150/5190-8, *Minimum Standards for Commercial Aeronautical Activities*.

Accordingly, FAA's review does not concern the form of RCM's agreement but rather whether the sponsor's chosen commercial regulatory framework is applied reasonably, uniformly, and without unjust discrimination. FAA's involvement in RCM's CVA framework arises solely because RCM elected to adopt the CVA as its chosen regulatory instrument within its Rules and Minimum Standards.

FAA is not directing RCM to create or expand a CVA system. FAA is requiring RCM to apply its own adopted commercial framework uniformly as written with all commercial operators on the airfield.

1.B. FAA Framework for Commercial Aeronautical Activity

FAA does not rely on a single sentence definition titled "commercial aeronautical activity."

Rather, commercial status is determined functionally based on:

- Whether an activity constitutes an aeronautical activity referencing definitions found in FAA Order 5190.6B, Appendix Z; and
- Whether aeronautical services are offered or provided to the public at the airport (Grant Assurance 22).

Under this framework, commercial status flows from the nature of the public-facing aeronautical service, not from:

- Physical footprint or leasehold,
- Itinerant versus based status, or
- Frequency of the activity.

FAA Part 16 precedent, including Docket 16-01-05 (Grand Forks), confirms that commercial status arises from services provided to the public, not from corporate form, footprint, or space occupancy.

This activity-based standard has been consistently articulated by the FAA throughout the handling of this matter.

1.C. Uniform Application of RCM's Single Commercial Category

RCM has adopted a single, broad category of "commercial aeronautical activity" within its Rules and Minimum Standards. RCM's documents do not establish multiple regulatory classes of commercial aeronautical services with differing requirements. Instead, RCM elected to regulate commercial aeronautical activity as a singular category.

Because RCM chose to regulate commercial activity in this broad, undifferentiated manner, all providers whose activities meet RCM's own definition of commercial aeronautical activity must be subject to the same regulatory framework, regardless of whether they:

- Maintain a physical presence at the airport;
- Are based at or itinerant to the airport; or

- Operate from a hangar, apron, terminal area, or other location on airport property.

RCM may not narrow the application of its own commercial framework through footprint-based carve-outs, informal exemptions, or administrative convenience. Selective narrowing of a broadly written commercial category results in unequal regulatory treatment of providers and directly implicates Grant Assurances 22 (Economic Nondiscrimination) and 23 (Exclusive Rights).

1.D. FAA Does Not Require CVAs for All Transient or Incidental Operations

FAA does not require a sponsor to impose a written commercial agreement for:

- Every transient aircraft landing, or
- True incidental, non-public, subordinate uses.

However, FAA policy clearly provides that an airport sponsor may not categorically exempt an entire class of public-facing commercial aeronautical service providers from its regulatory framework under the label of “incidental” activity.

The term *incidental* in aviation is typically limited to non-public, subordinate activity and cannot be used to exempt aeronautical services that are otherwise offered or provided to the public under RCM’s own definitions.

1.E. Documented Evolution of RCM’s Physical-Presence Trigger

The administrative record reflects a documented shift in RCM’s treatment of physical presence:

- **2011 Rules & Regulations** — Defined “Commercial Business” broadly as the solicitation of goods or services at the Airport, closely mirroring FAA’s public-service-based framework.
- **Early 2024 Position (January 2025 correspondence describing then-current practice)** — RCM asserted that CVAs were required only when a business sought to use physical space “to the exclusion of others.”
- **2024–2025 Integrated Rules & Minimum Standards** — RCM adopted:
 - A broad definition of commercial aeronautical activity, but
 - Limited CVA applicability to a subset of activities based on designated physical space.

This structure recognizes that many services are commercial while simultaneously exempting entire categories of public-facing commercial services from the CVA framework solely due to lack of physical footprint. That internal contradiction is the direct source of FAA’s Item 1 concern.

1.F. Effect of RCM’s Generalized Rules Structure and Departure from FAA’s Recommended Minimum Standards Model

FAA finds that a substantial contributor to the ongoing compliance deficiencies under Item 1 is RCM’s decision to adopt a highly generalized, consolidated “Rules and Regulations Including Minimum Standards” document, rather than a traditional aeronautical service-specific Minimum Standards framework as recommended in FAA published documents (i.e. AC 150/5190-8

Minimum Standards for Commercial Aeronautical Activities, etc.) which is also accepted and understood in the aviation community.

Through acceptance of Airport Improvement Program (AIP) grant funds, the airport sponsor is obligated to operate the airport for the use and benefit of the public and to make the airport available for all types, kinds, and classes of aeronautical activity, in accordance with Grant Assurance 22 (Economic Nondiscrimination). Under these obligations:

- The terms and conditions imposed on those who use the airport and its services must be reasonable and applied without unjust discrimination;
- The development of minimum standards is the sponsor's prerogative, but that prerogative exists only within the constraints of federal obligations;
- The purpose of minimum standards is to ensure that a safe, efficient, and adequate level of services is offered to the public, including requirements for licensing, credentials, insurance, and safety oversight; and
- FAA guidance provides that airport sponsors should establish reasonable minimum standards that are relevant to the proposed aeronautical activity with the goal of protecting the level and quality of each service offered to the public.

Consistent with these principles, FAA guidance (including AC 150/5190-8) discusses that:

- Minimum standards should be tailored to specific types and classes of aeronautical services;
- Standards must be relevant to the particular aeronautical activity being regulated; and
- Overly broad or undifferentiated standards can result in:
 - Regulatory gaps,
 - Unequal application, and
 - Exclusive-rights exposure.

By regulating all “commercial aeronautical activity” through a single generalized concept, without discrete service-type differentiation (for example, flight instruction, aircraft maintenance, charter, aircraft rental, fueling, etc.), RCM's Rules have:

- Mixed facility-access concepts with commercial service regulation;
- Substituted physical-presence tests for activity-based commercial determinations;
- Created internal ambiguity as to:
 - When a CVA is required,
 - Which activities are subject to commercial fees and insurance,
 - Which operators are considered commercial for enforcement purposes; and
- Produced inconsistent interpretations across:
 - Airport management staff,
 - University departments and programs,
 - External operators, and
 - The public-facing CVA application process.

FAA further recommends that a well-structured, activity-specific minimum standards document is a principal mechanism by which airport sponsors may satisfy their grant-assurance obligations, including ensuring public access, preventing unjust discrimination, and avoiding the creation of exclusive rights through unreasonable standards or selective enforcement. Where minimum

standards are overly generalized, detached from specific aeronautical service types, or structured primarily around facility footprint rather than service activity, the sponsor's ability to meet these obligations is materially undermined.

The confusion and compliance gaps identified under Item 1 are therefore not attributable solely to enforcement practice. Rather, they are structurally embedded in the current Rules format itself. Adoption of a service-specific minimum-standards framework, consistent with FAA guidance, could materially reduce the ambiguity and disconnection now requiring corrective action.

1.G. Need for a Comprehensive Operational Inventory and Activity Classification

FAA further finds that the recurring emergence, during our investigation, of previously unidentified commercial activities at Skyhaven is indicative of a broader systemic lack of comprehensive operational visibility and classification by RCM.

During the course of this investigation and the CAP process, FAA has identified multiple commercial aeronautical activities that were either:

- Not previously inventoried by RCM as commercial,
- Not consistently regulated as commercial under RCM's Rules, or
- Not known by all functional units of the University and Airport to be occurring at all.

These have included, among other examples:

- After-hours student activity involving publicly owned aircraft,
- Aircraft rental and related services conducted from apron and common-use areas,
- Designated Pilot Examiner activities conducted from terminal office space.

The incremental discovery of these activities demonstrates that RCM does not currently maintain a complete, centralized inventory of all aeronautical and non-aeronautical activities occurring on the airfield, nor a systematic process for:

- Classifying each activity as commercial, non-commercial, or incidental under the Rules;
- Determining what regulatory instruments (CVA, license, lease, policy authorization, etc.) apply; and
- Verifying that the Rules are being applied uniformly across all similarly situated operators.

This lack of a comprehensive inventory materially contributes to:

- Inconsistent enforcement,
- Internal operational confusion across departments and programs,
- External confusion among airport users, and
- Recurrent exclusive-rights exposure through unintentional selective regulation.

FAA notes that effective compliance with Grant Assurances 22 and 23 accepts that the sponsor has an accurate and current understanding of:

- Who is operating on the airport,
- What activity is being performed,
- Whether that activity is commercial in nature, and
- What regulatory framework is being applied to that activity.

Absent such an inventory and classification process, RCM cannot reasonably ensure uniform application of its Rules and Minimum Standards.

1.H. FAA’s Repeated, Documented Corrective Efforts

The FAA has made multiple documented attempts since the outset of the Part 13 process to correct and narrow RCM’s footprint-based framework:

- **January 2, 2024** – FAA advised that RCM’s Rules must apply uniformly to all users, warned of exclusive-rights exposure, and cautioned against selective commercial enforcement.
- **January 14, 2025** – FAA reiterated that Rules must apply to all users, warned against exclusive rights created by unreasonable standards, and advised that tying commercial regulation to physical space was unsupported under the grant assurances.
- **June 24, 2025** – FAA observed that RCM continued to limit CVA applicability to operators with designated physical space and directed revision.
- **November 7, 2025** – FAA formally determined that RCM’s Rules remained internally inconsistent and failed to ensure equitable application of the commercial framework.
- **November 11 and November 25, 2025 CAP Updates** – RCM continued to assert that FAA’s position represented a “change,” despite the consistent documentary record to the contrary.

1.I. Effect of RCM’s Broad Definition Combined with Selective Application

Because RCM adopted a broad commercial category but applies regulatory requirements only to a narrow physical-presence subset, the current framework:

- Has allowed some public-facing commercial providers to operate without CVAs, fees, or insurance requirements;
- Requires other public-facing commercial providers to execute CVAs and meet higher regulatory burdens; and
- Creates unequal regulatory treatment of commercial operators, which is precisely what the exclusive-rights prohibition is designed to prevent.

1.J. Required Corrective Action Under Item 1

To close Item 1 of the CAP, RCM must:

1. Apply RCM’s own single commercial category uniformly as written until such time as RCM chooses to formally revise its Rules;
2. Remove categorical exemptions for commercial service providers that arise solely from lack of physical footprint;
3. Clarify that commercial status flows from public-facing aeronautical service activity, not from occupancy of space;
4. Align all public-facing guidance, applications, and screening materials with the adopted Rules; and
5. Eliminate internally contradictory “incidental” and “designated space” constructs that function as effective carve-outs from RCM’s commercial framework.
6. Conduct and maintain a complete inventory of all aeronautical and non-aeronautical activities occurring at Skyhaven Airport, with documented classification of each activity per the Minimum Standards’ operator definition (i.e. commercial) and identification of

the applicable regulatory instrument for each. This inventory will assist, if the RCM chooses, with the creation of a revised Minimum Standards document applicable to the aeronautical service providers currently operating at the airport and may help determine deficiencies in services the airport may want to attract or be presented with in the future.

1.L. FAA Determination

As explained above, **Item 1 remains open and unaccepted.** RCM's current Rules and enforcement practices continue to result in unequal regulatory treatment of commercial aeronautical service providers in violation of Grant Assurances 22 and 23. Bi-weekly CAP reporting for this item remains in effect until corrective action is fully implemented and verified.

ITEM 2 — DESIGNATED PILOT EXAMINER (DPE) TERMINAL OFFICE USE

Status: NOT ACCEPTED / STILL OUTSTANDING

FAA has reviewed RCM's November 11 and November 25, 2025 CAP updates addressing Item 2. Although RCM has taken steps to modify office allocations within the terminal, the core compliance deficiency identified under Item 2 remains unresolved.

2.A. FAA Did Not Direct Relinquishment or Reassignment of Office Space

FAA did not direct RCM to relinquish private offices held by the Department of Aviation or to create new public-use office space for DPEs. FAA's concern under Item 2 has never centered on office availability, but rather on:

- Whether individuals conducting DPE-related activity outside the scope of UCM employment are engaged in commercial aeronautical activity under RCM's Rules, and
- Whether such activity is being uniformly regulated through RCM's commercial framework, including appropriate agreements, insurance, and credential validation, where applicable.

The reassignment of office space does not resolve the underlying regulatory deficiency identified by the FAA.

2.B. Use of Public Offices Does Not Remove Commercial Regulatory Requirements

RCM's November 25, 2025 statement that Skyhaven-based DPEs may either:

- Use public offices without a CVA, or
- Enter into a CVA only if they wish to occupy a private office,

again reflects a physical-presence-based interpretation of commercial regulation that the FAA has repeatedly determined to be inconsistent with the grant assurances.

The FAA reiterates that:

- Whether an individual's DPE-related activity is commercial is determined by the nature of the activity, not by whether it occurs in a public or private office.
- Use of a public office does not exempt an otherwise commercial aeronautical activity from RCM's regulatory framework.

- Conditioning CVA applicability solely on whether a DPE occupies private versus public space is not an acceptable compliance mechanism under Grant Assurances 22 and 23.

Accordingly, offering a “public office” alternative does not resolve Item 2.

2.C. Recognition That Certain DPE Activities Are Commercial Is Correct but Incompletely Implemented

The FAA acknowledges RCM’s statement in its November 11, 2025 CAP update that: “Individuals who are conducting DPE flights outside the scope of their UCM employment are engaged in commercial aeronautical activity.”

This determination is correct. However, RCM has not yet fully implemented the regulatory consequences of that determination across all affected individuals.

2.D. Status of Identified DPEs

RCM has identified three DPEs currently conducting services at Skyhaven:

- [REDACTED]
- [REDACTED]
- [REDACTED]

RCM indicates that:

- [REDACTED] intend to execute CVAs to occupy private office space.
- [REDACTED] has declined to enter into a CVA and will continue to conduct DPE services from publicly available offices.

FAA finds this approach insufficient and non-compliant for the following reasons:

1. The requirement for commercial regulatory coverage is not optional once the activity is determined to be commercial.
2. [REDACTED] election to use public office space does not eliminate the need for commercial status and CVA under RCM’s Rules.
3. If [REDACTED] already operates under an existing CVA for other approved commercial activities:
 - RCM may amend that CVA, if necessary, to expressly include DPE activity as an approved commercial service.
4. If [REDACTED] does not currently hold a CVA:
 - RCM must require execution of a CVA or other commercially equivalent authorizing instrument consistent with its Rules.

Absent one of these actions, **Item 2 remains unresolved.**

2.E. FAA Test-Environment Guidance Is Not a Substitute for Commercial Regulation

RCM’s reliance on FAA Order 8900.2 test-environment provisions governing privacy and distraction-free space for oral examinations does not address the commercial-activity regulatory question under the grant assurances. Test-environment requirements govern how a practical test is conducted, but does not:

- Determine whether the activity is commercial,

- Govern sponsor obligations for minimum standards, fee parity, or exclusive rights.

Accordingly, compliance with FAA testing-environment standards does **not resolve Item 2**.

2.F. Required Corrective Actions to Close Item 2

To close Item 2, RCM must provide documentation demonstrating that:

1. Each individual conducting DPE services outside the scope of UCM employment is properly authorized under RCM's commercial regulatory framework, regardless of whether the activity occurs in public or private space.
2. [REDACTED] current operating authority has been amended, if necessary, to expressly authorize DPE activity, or a new CVA has been executed if no commercial authorization exists.
3. Applicable insurance, credentials, and fee requirements are being applied uniformly to all similarly situated DPEs.
4. Removal of FAA Order 8900.2 practical test requirements from the Minimum Standards
5. RCM's Rules, guidance documents, and internal practices no longer condition commercial regulation on occupancy of private office space.

2.G. FAA Determination — Item 2 (Designated Pilot Examiner Terminal Office Use)

For the reasons discussed above and consistent with the FAA's findings under Item 1 (Commercial Vendor Agreements & Minimum Standards Enforcement), the FAA determines that **Item 2 remains open and unaccepted**. Although the airport has reallocated terminal office space and provided public-use office alternatives for Designated Pilot Examiners, these actions do not resolve the underlying deficiency identified under Item 1—namely, the failure to uniformly apply RCM's commercial regulatory framework based on the nature of the aeronautical service activity rather than physical footprint. Continued reliance on office location as the controlling factor for commercial authorization results in unequal regulatory treatment of similarly situated commercial aeronautical service providers, inconsistent with Grant Assurances 22 and 23. Bi-weekly CAP reporting for Item 2 shall remain in effect until full corrective action is implemented and verified by the FAA.

ITEM 3 — Hangar Developer Lease & Commercial Fee Parity

Status: NOT ACCEPTED / STILL OUTSTANDING

The FAA has reviewed RCM's November 11 and November 25, 2025 CAP updates for Item 3. Based on the documentation provided to date, RCM has not yet demonstrated commercial fee parity for the hangar developer, and Item 3 remains open.

3.A. Summary of RCM's November 11, 2025 Position

RCM states that:

- The original Ground Lease executed with 423 East Young LLC predates the Part 13 CVA discussions and "is a CVA" in substance.
- Amendment 1 was issued solely to incorporate the Commercial Operations Vendor Agreement into the Ground Lease.

- Amendment 1 does not restate a fee structure because the original Ground Lease already established rent for commercial operations, currently stated as \$10,200 per year.
- RCM therefore contends that no additional CVA fee structure is required for this operator.

RCM's November 25, 2025 CAP update does **not** address Item 3 or supplement the November 11 submission.

3.B. FAA Deficiency – Fee Parity Has Not Been Demonstrated

FAA's concern under Item 3 has never centered on whether the Ground Lease predates the Part 13 proceeding, nor on whether the Ground Lease may function as a CVA-type instrument in substance. Rather, FAA's concern is whether:

- The commercial operations fee structure applied to the hangar developer is equivalent to that imposed on other commercial aeronautical operators, and
- Such equivalency can be objectively demonstrated and documented.

RCM has not provided documentation demonstrating parity between:

- The \$10,200 annual Ground Lease rent paid by [REDACTED] and
- The CVA fees, charges, and economic burdens imposed on other commercial aeronautical service providers operating at Skyhaven.

Absent such a showing, the FAA cannot determine that:

- The hangar developer is being regulated and charged on terms materially equivalent to other commercial operators, or that
- The Ground Lease structure does not confer a preferential economic position through differentiated fee treatment.

3.C. Amendment 1 Does Not Resolve the Parity Question

FAA acknowledges that Amendment 1 incorporates CVA concepts into the Ground Lease by reference. However:

- Incorporation alone does not establish fee equivalence.
- Reference to an existing rent amount does not demonstrate that the economic burden imposed on the developer is comparable to the cumulative CVA, permit, insurance, and fee obligations imposed on other commercial entities.

Accordingly, Amendment 1 does **not** resolve Item 3.

3.D. Required Corrective Actions to Close Item 3

To close Item 3, RCM must submit confirmation that commercial fees are being assessed and collected uniformly in practice.

Until the confirmation is provided and verified, **Item 3 remains open.**

FAA Determination — Item 3 (Hangar Developer Lease & Commercial Fee Parity)

For the reasons discussed above and consistent with the FAA's findings under Item 1 (Commercial Vendor Agreements & Minimum Standards Enforcement), the Federal Aviation

Administration determines that Item 3 remains open and unaccepted. RCM has not yet demonstrated that the commercial fee structure applied to the hangar developer is economically equivalent to that imposed on other commercial aeronautical service providers. Continued operation of the developer under an undemonstrated fee-parity structure constitutes unequal economic treatment within RCM's single commercial category, directly implicating Grant Assurances 22 and 23. Bi-weekly CAP reporting for Item 3 shall remain in effect until full corrective action is implemented and verified by the FAA.

Item 4 - Hangar Availability & Co-Registration Processing

Based on the information currently available, Item 4 will remain open pending completion of FAA review. At this time, the FAA is conducting additional internal evaluation regarding the July 29, 2025 hangar co-registration. No further action is required from RCM at this time. FAA will issue an update—either confirming closure of Item 4 or identifying any remaining compliance concerns—as soon as our review is complete.

FAA Instruction Summary on Service-Category-Based Minimum Standards

To resolve the interrelated deficiencies identified under Items 1, 2, and 3, the Federal Aviation Administration recommends that RCM transition from its current generalized commercial framework to a service category-based minimum standards structure consistent with FAA published guidance documents and which are accepted industry standards. RCM may establish different licensing, fee, insurance, facility, and operational requirements for each distinct aeronautical service activity category (such as flight instruction, aircraft maintenance, charter, rental, flying clubs, and Designated Pilot Examiners, etc.), provided that: (1) each category is formally defined in the adopted Rules or Minimum Standards; (2) the requirements imposed are reasonably related to the nature and risk profile of the specific aeronautical activity; and (3) the standards are applied uniformly to all similarly situated providers within each category without exception, informal carve-out, or footprint-based exemption. This activity-based regulatory model is the mechanism by which federally obligated airports satisfy their obligations for public access, reasonable conditions of use, and the prevention of unjust discrimination and exclusive rights under the grant assurances.

In the event RCM elects to retain its current Rules and Minimum Standards document, FAA expects the same outcome as is expected with a service-category-based minimum standards document. Application of the rules, requirements, fees, etc. must be established and enforced uniformly on all applicable aeronautical users of the airport.

We would like to reiterate our position found in our September 4, 2025 letter, that until corrective actions are fully accepted, documented, and implemented, FAA will continue to include the zero-pay clause on all existing and future grants. Additionally, FAA continues to reserve the right to withhold future discretionary funding.

If you have any questions or need additional information, please contact Angie Muder, Central Region, Compliance Specialist at (816) 329-2620 or angela.muder@faa.gov.

Sincerely,

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