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

JAN -2 2015

Martin Palmaz, Executive Director
United States Hang Gliding & Paragliding Association
PO Box 1330
Colorado Springs, CO 80901

Re: Applicability of Part 101 to Ultralight Vehicles During Tethered Takeoff

Dear Mr. Palmaz:

This letter responds to your request for a legal interpretation regarding the applicability of part 101 of Title 14 of the Code of Federal Regulations (14 CFR) to certain ultralight vehicle operations. You also clarified your question in a telephone call with this office on November 24, 2014. In your letter, you ask whether a "part 103 compliant unpowered ultralight vehicle" is required to operate under "part 101 during the takeoff phase of flight while towing to altitude . . . ." For the reasons described below, the answer to your question is no. An ultralight is subject to part 103 unless it is designed to be tethered to a vehicle on the surface of the earth *for the duration of its flight*. Only under those limited circumstances would an ultralight be regulated as a kite under part 101.

As a general matter, ultralights are regulated under part 103 (Ultralight Vehicles), rather than part 101. Section 103.1 defines the scope of part 103, stating that the part "prescribes rules governing the operation of ultralight vehicles in the United States." The same section continues, in relevant part, by defining ultralight vehicles as any "vehicle that: (a) [i]s used or intended to be used for manned operation in the air by a single occupant; (b) [i]s used or intended to be used for recreation or sport purposes only; (c) [d]oes not have any U.S. or foreign airworthiness certificate; and (d) [i]f unpowered, weighs less than 155 pounds . . . ."

Part 101, in contrast, prescribes rules governing moored balloons, kites, amateur rockets, and unmanned free balloons. Section 101.1(a) and (b) sets out the numerous types of aircraft regulated under part 101. Many of these aircraft, such as "any amateur rocket except aerial firework displays," are plainly not ultralight vehicles. Your question, however, may arise out of § 101.1(b), which states, "[f]or the purposes of this part, a *gyroglider* attached to a vehicle on the surface of the earth is considered to be a kite." (Emphasis in original.) Although gyroglider is not defined in our regulations, the term generally refers to an *unpowered*, rotary-wing aircraft. Because of its design, the gyroglider is typically operated by being secured to and pulled by another vehicle on the ground for the duration of its flight. Therefore, in 1957, the FAA promulgated the rule now codified as § 101.1(b), providing that a gyroglider, while attached to a vehicle on the surface of the earth, is considered a kite under our regulations.[1]

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[1] *Policies and Interpretations*, Final Rule, 22 Fed. Reg. 5978 (July 30, 1957).

Since 1957, the FAA has repeatedly affirmed its position that any vehicle designed for tethered operations only, and not for "free flight," should be considered a kite.[2] In contrast, if an ultralight vehicle is designed to be tethered only until it achieves a predetermined altitude and is *released for free flight*, that ultralight is an aircraft regulated under part 103 during the entire operation.

This response was prepared by Benjamin Jacobs, an attorney in the International Law, Legislation, and Regulations Division of the Office of the Chief Counsel, and was coordinated with the General Aviation Operations Branch (AFS-830) of the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-3073.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for
International Law, Legislation, and Regulations

[2] *See* FAA Memorandum, *Applicability of 14 C.F.R. part 101 (Moored Balloons, Kites, Unmanned Rockets and Unmanned Free Baloons) to parasails and parasail operations*, Nov. 9, 2009; FAA Legal Interpretation to Mark S. Dodge, 1975 WL 342714, Mar. 25, 1975.