

commercial air tours. The FAA is proposing a new subpart A in part 136 that would establish the general safety regulations particular to all commercial air tours, including those over the Grand Canyon, and those "commercial air tour operations" conducted over national parks. The FAA anticipates that part 136 would be dedicated to air tour regulation. Included in this part would be the regulations pertaining to Grand Canyon National Park and Rocky Mountain National Park, and the regulations implementing the National Parks Air Tour Management Act.

In proposing any such regulation, the FAA is required by Federal law to consider whether an exception is necessary for the state of Alaska. Specifically, § 1205 of the Federal Aviation Reauthorization Act of 1996, Pub. L. 104–264, states:

In modifying regulations contained in title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate. The FAA has considered this requirement and proposes to impose these regulations on all commercial air tours including those occurring in the State of Alaska. Alaska has a number of air tour operators that conduct commercial air tours over national parks, water, and rugged, remote terrain. Because of its remoteness, the terrain in Alaska is more difficult to reach and thus, persons may need to rely on their survival skills for a longer period of time prior to rescue. Passengers on Alaskan air tours would benefit from increased safety like passengers elsewhere. This rule would not negatively impact the ability of the average Alaskan to travel by air to remote villages since the proposed rule would only apply to passengers on commercial air tours.

FAA agrees with the NTSB that the same safety standard should be applied to all commercial air tours wherever they are conducted. The FAA believes that applying these proposed requirements to Alaskan commercial air tours would improve safety in Alaska and would establish the same standard for Alaska that is being applied to the rest of the country.

A. Applicability and Definitions Sections

The proposed amendments would create a new subpart A in part 136. This subpart would apply to any person operating or intending to operate a commercial air tour and, when applicable, to all occupants of an aircraft engaged in a commercial air tour. This would include persons conducting commercial air tours for

charitable or community events, in accordance with the proposed certification exception at part 119.1(e)(11).

The terms "sightseeing" and "sightseeing flights" have been used for years in the FAA's regulations, but are now being replaced with the term "commercial air tour." As previously noted above, the Air Tour Act specifically defines the term "commercial air tour operation" to apply only to sightseeing flights over units of the national park system, or adjoining tribal lands that meet specified conditions. The regulations pertaining to GCNP (14 CFR part 93, subpart U), contain a broad definition for "commercial air tour". The FAA proposes to adopt the definition of "commercial air tour" that is currently contained in Title 14 CFR section 93.303 (the definition section for subpart U) and incorporate it into subpart A of part 136. This would create a uniform definition for all commercial air tours, except those regulated by the Air Tour Act. Under the proposed rule, new definitions would be added for the terms "air tour operator," "raw terrain," "suitable landing area," and "shoreline". The term "commercial air tour operator" is already a defined term under the Air Tour Act and is particular to flights over national parks. Thus, we must use another term to refer to these operators and to differentiate them from those operators regulated by the Air Tour Act. Consequently, the FAA is proposing to use the term "air tour operator."

B. The Exceptions

Section 119.1(e) contains the exceptions to the part 119 certification requirements. Currently, part 119 does not apply to the following operations, unless the aircraft has a passenger-seat configuration of 20 seats or more or a payload capacity of 6,000 pounds or more and common carriage is not involved: (1) Student instruction; (2) nonstop sightseeing flights with aircraft having a passenger seat configuration of 30 or fewer and a payload capacity of 7,500 pounds or less that begin and end at the same airport and are conducted within a 25 statute mile radius of that airport; (3) ferry or training flights; (4) aerial work operations, including (i) crop dusting, seeding, spraying and bird chasing; (ii) banner towing; (iii) aerial photography or survey; (iv) firefighting; (v) helicopter operations in construction or repair work (but it does apply to transportation to and from the site of operations); and (vi) powerline or pipeline patrol; (5) sightseeing flights conducted in hot air balloons; (6)

nonstop flights conducted within a 25 statute mile radius of the airport of takeoff for the purpose of parachute jumps; (7) certain helicopter operations; (8) operations conducted under part 133 of this chapter or 375 of this title; (9) emergency mail service under 49 U.S.C. 41906; or (10) flights carrying candidates in elections.

Under this proposed rule, § 119.1(e) would be amended to clarify certain exceptions and modify the exception for nonstop sightseeing flights conducted within 25 miles of the departing airport. Specifically, the student instruction exception at § 119.1(e)(1) would be amended to include flights for the purpose of introducing persons to flight. Introductory flights are intended to be part of flight instruction or to encourage new pilot certification.

Section 119.1(e)(2) would be removed 6 months from the date the final rule is published in the **Federal Register**.

Section 119.1(e)(3) would be amended to add to the current exception aircraft demonstration flights including aerobatic demonstration or training flights, air combat or formation training flights, and aircraft sales demonstration flights.

New § 119.1(e)(11), would apply only to nonstop passenger carrying flights in aircraft having a passenger seating configuration of 30 seats or fewer, excluding each crewmember seat, having a maximum payload capacity of 7500 pounds, that begin and end at the same airport. The flights would be required to be conducted within a 25 statute mile radius and part of a charitable or community event. Charitable and community events are infrequent functions that enable the general aviation community to contribute in a positive way to charitable and local causes. These flights are offered at local charitable or community events to raise funds for the sponsoring cause and to foster positive and productive working relations among the community, pilots, airport authorities, airport neighbors, and other members of the general public. When conducted by nonprofit organizations dedicated to promoting aviation safety, these events also assist in educating the general public about general aviation. Such events serve the public policy goals of allowing grass roots support of charitable and community fundraising efforts or of promoting aviation safety initiatives. In creating the proposed exceptions to the air carrier certification requirements for certain charitable and community events, the FAA has attempted to strike a careful balance between the recognition of the public benefits of such fundraising activities