

forced landing if necessary. The base altitudes proposed in these sections for airplanes and helicopters are higher than those contained in § 91.119. The FAA believes that higher altitudes are necessary because these are passenger-carrying operations over typically remote and rugged terrain or over water.

The FAA recognizes that having a higher Above Ground Level (AGL) altitude may, in some instances, create a compressed flight environment. The NTSB voiced this concern in its comments to SFAR 71 (which has an altitude of 1,500 feet AGL). In its comments on SFAR 71, the NTSB stated, “* * * that the altitude restriction may result in a compression of air traffic at a common altitude of 1,500 feet AGL, spread over fewer routes, and in areas with the best weather. * * * However, the Safety Board believes that the current SFAR 71 altitude restriction should be reviewed to assure that there is no increase in the potential for in-flight collisions or inadvertent encounters with cloud layers.” The NTSB also asked the FAA to “* * * consider the negative effects of such restrictions that may result in unintended degradation of the existing level of safety.” The NTSB reiterated its concern that the SFAR 71 minimum flight altitudes concentrate air traffic “* * * into a compressed flight environment,” in its letter to the FAA Administrator dated January 26, 1996.

The FAA has considered these comments in light of its years of experience with both SFAR 71 in Hawaii and regulation of commercial air tours at Grand Canyon National Park. While the FAA agrees with the NTSB that some areas of raw terrain and some scenic areas may experience a compressed flight environment, the FAA believes that these proposed rules would provide the flexibility necessary to separate aircraft to accommodate for traffic density and differences in speed and maneuverability between airplanes and helicopters. Under proposed § 136.3(a), unless otherwise authorized by the Administrator, airplanes and helicopters would be allowed to fly no closer than 1,500 feet AGL above any person, structure, vehicle, or vessel over any area on the surface, including water, or no lower than 1,000 feet AGL over raw terrain. Under proposed § 136.3(b), the Administrator could approve a lower minimum altitude not below 500 feet AGL, at specific areas of raw terrain for single engine helicopters and multi-engine helicopters that are not capable of flying under power to a safe landing area with one engine out. Multi-engine helicopters capable of flying under power to a safe landing area with one

engine out, could be approved by the Administrator for flight at specific areas of raw terrain for flight at altitudes as low as 300 feet AGL.

Section 136.3(c) would require operators of multi-engine helicopters that are not capable of flying with only one engine to a safe landing area and all single engine helicopters, to have a suitable landing area available at all times when operating at approved altitudes of less than 1,000 feet. These helicopters would also be required to operate at a combination of airspeed and altitude that is outside the avoid area of that helicopter's height/velocity diagram. The operators would be required to designate and document both the specific areas for such low level operations and suitable landing areas, in a form and manner acceptable to the Administrator. Photographs could be used for this purpose. In addition, the Administrator would require the pilot operating the helicopter to demonstrate in flight familiarity with the designated areas and suitable landing areas.

Multi-engine helicopters that are capable of flying under power to a safe landing area with one engine out, when operating at approved altitudes below 1,000 feet AGL would be required to be able to reach a safe landing area after an engine power loss. A safe landing area, in comparison to a suitable landing area required for single engine helicopters, is not required to be within the autorotation range of the helicopter, does not require prior FAA approval, and includes any area where the helicopter could safely land.

2. Standoff Distance

Section 136.5 would contain standoff distance requirements for commercial air tours. Under proposed paragraph (a), no person may conduct a commercial air tour closer than a horizontal radius of 1,500 feet to any person, structure, vehicle, or vessel; or 1,000 feet to raw terrain. Paragraph (b) of this section would, however, provide for deviations from the limits for raw terrain. Under this provision, the Administrator could authorize an air tour operator to conduct commercial air tours at site-specific areas of raw terrain, at a horizontal radius of no less than 500 feet to raw terrain for airplanes and 300 feet AGL for helicopters. The determination of whether to grant a deviation under these provisions would be made in accordance with § 136.21.

3. Visibility

Proposed § 136.7 would contain visibility requirements for commercial air tours operating in Class G airspace

(i.e., uncontrolled airspace) at an altitude of 1,200 feet or less above the surface, regardless of Mean Sea Level (MSL) altitude. Under the proposed rule, pilots would be prohibited from conducting a commercial air tour in an airplane or a helicopter when the visibility is less than 2 statute miles during the day or 3 statute miles at night. Section 136.7(b) would permit the Administrator to authorize a helicopter to operate during the day when the visibility is at least 1 statute mile. Section 136.7(c) would permit the Administrator to authorize a helicopter to operate at night when the visibility is at least 2 statute miles and the helicopter is being operated at a speed that provides adequate opportunity to see and avoid air traffic or obstructions. The determination of whether to grant a deviation under §§ 136.7(b) or (c) would be made in accordance with § 136.21. This proposal would help pilots avoid changing weather conditions and maintain visual reference to the ground.

Currently, under § 91.155, pilots operating in Class G airspace at 1,200 feet or less above the surface, must have visibility of at least 1 statute mile during the day and 3 statute miles at night. The proposed requirement would be stricter in daytime than that provided for under § 91.155 because the operations that would be conducted under the new subparts are common carriage passenger-carrying operations often conducted over rugged terrain or water. A higher visibility requirement for nighttime operations is not deemed to be necessary at this time. The FAA believes that 3 miles would provide an adequate level of safety.

4. Cloud Clearance

Proposed § 136.9 would provide that while operating in Class G airspace at an altitude of 1,200 feet AGL or less above the surface, regardless of Mean Sea Level (MSL) altitude, no person may conduct a commercial air tour in an aircraft closer than 500 feet below, 1,000 feet above, and 2,000 feet horizontally from any cloud. Section 136.9 would permit deviations from these requirements for certain helicopter operations. The determination of whether to grant a deviation under § 136.9 would be made in accordance with § 136.21.

Under § 136.9, a person could operate a helicopter clear of clouds in accordance with the deviation procedures of § 136.21 if (1) the helicopter is in compliance with the equipment requirements of § 135.159 (carrying passengers under VFR at night or under VFR over-the-top); and (2) the pilot conducting the flight has