

Current	Redesignated as:
136.7	136.37
136.9	136.39
136.11	136.41

15. Add a new subpart A to read as follows:

Subpart A—Commercial Air Tours

Sec.

- 136.1 Applicability and definitions.
- 136.3 Minimum altitudes.
- 136.5 Standoff distance.
- 136.7 Visibility.
- 136.9 Cloud clearance.
- 136.11 Passenger briefing.
- 136.13 Life Preservers.
- 136.15 Helicopter floats.
- 136.17 Helicopter performance plan.
- 136.19 Helicopter operating limitations.
- 136.21 Deviation procedures.
- 136.23–136.29 [Reserved]

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

§ 136.1 Applicability and definitions.

(a) This subpart applies to each 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. When any requirement of this part is more stringent than any other requirement of this chapter, the person operating the commercial air tour must comply with the requirement in this part. Furthermore, when a flight for compensation or hire has another purpose in addition to sightseeing, that flight is subject to this subpart as well as any other applicable rules.

(b) As of the effective date of this rule, no person may conduct a commercial air tour without notifying the FAA and receiving commercial air tour authority in its operations specifications, or for part 91 operators seeking certification under part 119, receiving transitional operations specifications.

(c) For the purposes of this part the following definitions apply.

Air tour operator means any person who conducts a commercial air tour.

Commercial air tour—

- (1) Means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing.
- (2) The Administrator may consider the following factors in determining whether a flight is a commercial air tour for purposes of this part—
 - (i) Whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

- (ii) Whether the person offering the flight provided a narrative that referred to areas or points of interest on the surface below the route of the flight;
- (iii) The area of operation;
- (iv) How often the person offering the flight conducts such flights;
- (v) The route of flight;
- (vi) The inclusion of sightseeing flights as part of any travel arrangement package;
- (vii) Whether the flight in question would have been canceled based on poor visibility of the surface below the route of the flight; and
- (viii) Any other factors that the Administrator and Director consider appropriate.

Raw terrain means any area on the surface, including water, devoid of any person, structure, vehicle, or vessel.

Shoreline means that area of the land adjacent to the water of an ocean, sea, lake, river or tidal basin that is above the high water mark and excludes land areas that are intermittently under water.

Suitable landing area means an area that provides the operator reasonable capability to land without damage to equipment or persons, designated by the operator and accepted by the Administrator, at a specific site that provides an emergency landing area for a single-engine helicopter in the event of an engine power loss, or a multiengine helicopter that does not have the capability to reach a safe landing area after an engine power loss.

§ 136.3 Minimum altitudes.

(a) Except when necessary for takeoff and landing, or unless otherwise authorized by the Administrator, no person may conduct a commercial air tour:

(1) Below an altitude of 1,500 feet AGL above any person, structure, vehicle, or vessel.

(2) Below an altitude of 1,000 feet AGL over raw terrain.

(b) Notwithstanding paragraph (a)(2) of this section, operators conducting commercial air tours in helicopters may be authorized by the Administrator to operate:

(1) Multi-engine helicopters that are not capable of flying under power to a safe landing area with one engine out, and single engine helicopters, at altitudes as low as 500 feet AGL at site-specific areas of raw terrain in accordance with the deviation procedures of § 136.21, or

(2) Multi-engine helicopters that are capable of flying under power to a safe landing area with one engine out, at altitudes as low as 300 feet AGL at site-

specific areas of raw terrain in accordance with the deviation procedures of § 136.21.

(c) When operating at approved altitudes of less than 1,000 feet AGL, air tour operators must comply with the following:

(1) For multi-engine helicopters that are not capable of flying under power to a safe landing area with one engine out, and single-engine helicopters:

(i) Have an approved, suitable landing area available at all times and

(ii) Operate at an approved combination of airspeed and altitude that is not within the avoid areas of the helicopter's height velocity diagram, according to the data in the appropriate rotorcraft flight manual. When designating a suitable landing area, the air tour operator must ensure that the area selected can be reached based upon the helicopter's autorotative capabilities, as provided in the appropriate rotorcraft flight manual.

(2) For multi-engine helicopters that are capable of flying under power to a safe landing area with one engine out:

(i) Be able to reach a safe landing area after an engine power loss, considering weight and atmospheric conditions; and

(ii) Operate at an approved combination of airspeed and altitude that is not within the avoid areas of the helicopter's height velocity diagram according to the data in the appropriate rotorcraft flight manual.

(3) For multi-engine helicopters that are not capable of flying under power to a safe landing area with one engine out, and single engine helicopters:

(i) Designate and document the specific areas of proposed operation below 1,000 feet and suitable landing areas within those areas, in a form and manner acceptable to the Administrator; and

(ii) Have the pilot demonstrate to the Administrator in-flight familiarity with the designated areas of low-level operation and the suitable landing area.

§ 136.5 Standoff distance.

(a) No person may conduct a commercial air tour in an aircraft closer than a horizontal radius of —

(1) 1,500 feet to any person, structure, vehicle, or vessel; or

(2) 1,000 feet to raw terrain.

(b) Notwithstanding paragraph (a)(2) of this section, an air tour operator of airplanes may be authorized by the Administrator to conduct commercial air tours at specific areas of raw terrain, at a horizontal radius of no less than 500 feet to raw terrain in accordance with the deviation procedures of § 136.21.

(c) Notwithstanding paragraph (a)(2) of this section, air tour operators of