

Commenters Proposing Changes to SFAR 71

Elected officials, the Sierra Club, and some commenters seek elimination of the SFAR's 500-foot deviations or "exemptions" from the minimum altitude requirements. They believe that eliminating the deviations would mean less noise and less impact on the human environment, forests, and plants of Hawaii.

Elected officials and other commenters oppose petitioners' request that the FAA amend the SFAR to allow tour helicopter flights at 300 feet above uncongested terrain because they believe noise would increase.

Still other elected officials and commenters want to raise the SFAR's minimum altitudes because they believe air tour operations at higher altitudes would generate less noise.

Still other commenters request that overflights of national parks in Hawaii be eliminated.

The petitioners and some commenters want to lower minimum altitudes and standoff distances for helicopters because that would allow helicopters to fly comfortably in the rainforest and away from populated noise-sensitive areas. They claim it would greatly reduce air traffic in the SFAR's flight corridors.

FAA's Response

SFAR 71 continues to serve a safety purpose. The FAA chooses to continue the altitude minimums and the deviation authority of SFAR 71 for safety reasons. The minimum altitude and standoff distances provide pilots with more time to make decisions, to recover in the event of an error, or land in the event of an emergency. Because the FAA maintains control of deviations, they reduce the potential for congestion over a particular site at the SFAR's 1500-foot altitude while still allowing for a safe landing in the event of engine failure. The SFAR's regulatory safety requirements were promulgated based on NTSB safety recommendations. We disagree that the minimum altitudes and stand off distances should be increased, or decreased, for alleged noise benefits. Noise abatement is beyond the scope of this rulemaking.

Overflights of the national parks are part of the national airspace system. The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000. The Act applies to any person who conducts a commercial air tour operation over a unit of the National Park System, over tribal lands that are within or abutting a unit of the

National Park System, or any area within ½ mile outside a unit of the National Park System. The regulations codifying the National Parks Air Tour Management Act of 2000 can be found in Title 14, Code of Federal Regulations, Part 136. The FAA has no mandate to eliminate overflights of national parks. Banning or restricting air tour aircraft from national parks, or other areas, for asserted noise benefits or to avoid asserted impacts, is beyond the scope of this rule.

The national parks in Hawaii will be subject to the development of an ATMP under 14 CFR Part 136 (67 FR 65667; October 25, 2002). The FAA encourages persons interested in the development of these ATMPs to visit the Web site at <http://www.atmp.faa.gov>. There you may search by individual park for the status of any ATMP development.

Potential for Mid-Air Collisions

Commenters' concerns on the potential for mid-air collisions can be divided into four categories:

- (1) The mix of airplanes and helicopters;
- (2) Congestion at the same altitude;
- (3) The use of different frequencies; and
- (4) Weather-related factors.

(1) Commenters state that helicopters should not be flown in an airplane environment. A helicopter pilot's initial reaction to unforecasted poor weather, and/or a mechanical problem, is to immediately descend to a lower altitude with slower airspeed. Fixed-wing aircraft do not have this option.

(2) A commenter states that the primary routes for small commuter and private fixed wing aircraft around the Hawaiian Islands are around the coastal shorelines 1000–2500 MSL. This commenter maintains that SFAR 71 places Hawaii air tour helicopters at the same altitudes, in opposite directions, and at points of no two-way communications with commuter and general aviation aircraft.

Petitioners and commenters state that because of SFAR 71's altitude requirement and the normal orographic cloud ceiling that forms along the windward sides of the Hawaiian islands, helicopter tours are often forced to fly over, or close to, coastal communities. In these circumstances, general aviation airplanes fly low to stay below the helicopters. Commenters maintain that the practice is contrary to safe practices and increases the potential risk of midair collisions as well as noise exposure.

(3) Commenters find that because one aircraft may be on a common frequency and another on an airport frequency,

they may not be able to talk to each other. If these aircraft are at the same altitude, this could be a problem.

Another individual comments that the present route structures tend to concentrate air traffic too densely in certain areas presenting greater midair accident potential. Examples are the Pahoa NDM and the "Mill" in Hilo. At these points a pilot must fly between frequencies or off communication frequencies to monitor STID in very critical areas.

(4) Commenters also state that in marginal weather, SFAR 71 concentrates air traffic along specific routes, which is not conducive to a safe flight environment. Pilots have come close to mid-air collisions in the valleys and open areas because the SFAR requires them to maintain the same altitudes in the same areas. Pilots are forced to fly over noise sensitive areas at 1,500 feet above the surface when they could have avoided the areas if they could have flown lower and not had such cloud restriction rules.

FAA Response

The FAA is not aware of any safety issue with allowing helicopters and airplanes to operate in the same airspace in Hawaii. The air tour environment in Hawaii is "see and be seen." There has been no identified problem with mid-air accidents in Hawaii; the preponderance of accidents involve weather factors and engine shutdowns with the pilot having insufficient time to recover or no place to land.

The SFAR has never prescribed routes, and this rulemaking did not propose doing so. If the FAA were to propose routes, to include frequencies, it would have to be done in a separate rulemaking.

The FAA is aware of areas all over the country where certain aircraft operate safely on different frequencies. If air tour operators have identified an issue that needs to be brought to the attention of the local flight standards district office or air traffic control facility, then those offices will work with the operators to develop a common frequency format for the areas of concern. Through their own organizations, operators can develop common frequency monitoring procedures, and in an emergency, a guard channel can be used. The FAA is not aware of any reason to develop rules that will regulate the routes in these areas, and a proposal was not included in this document.

Standoff Distances in Valleys

Commenters suggest that complying with the SFAR's 1,500-foot standoff