

## Federal Aviation Administration, DOT

## § 136.1

with this appendix for any airplane until August 13, 2008.

[Doc. No. FAA-2002-6717, 72 FR 1885, Jan. 16, 2007, as amended by Amdt. 135-108, 72 FR 7348, Feb. 15, 2007; 72 FR 26542, May 10, 2007; Amdt. 135-112, 73 FR 8798, Feb. 15, 2008; Amdt. 135-115, 73 FR 33882, June 16, 2008; Docket FAA-2018-0119, Amdt. 135-139, 83 FR 9175, Mar. 5, 2018]

### PART 136—COMMERCIAL AIR TOURS AND NATIONAL PARKS AIR TOUR MANAGEMENT

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#### APPENDIX A TO PART 136—SPECIAL OPERATING RULES FOR AIR TOUR OPERATORS IN THE STATE OF HAWAII

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

SOURCE: Docket No. FAA-2001-8690, 67 FR 65667, Oct. 25, 2002, unless otherwise noted.

#### Subpart A—National Air Tour Safety Standards

SOURCE: Docket No. FAA-1998-4521, 72 FR 6912, Feb. 13, 2007, unless otherwise noted.

#### § 136.1 Applicability and definitions.

(a) This subpart applies to each person operating or intending to operate a commercial air tour in an airplane or helicopter and, when applicable, to all occupants of the airplane or helicopter engaged in a commercial air tour. When any requirement of this subpart is more stringent than any other requirement of this chapter, the person operating the commercial air tour must comply with the requirement in this subpart.

(b) As of September 11, 2007, this subpart is applicable to:

(1) Part 121 or 135 operators conducting a commercial air tour and holding a part 119 certificate;

(2) Part 91 operators conducting flights as described in § 119.1(e)(2); and

(3) Part 91 operators conducting flights as described in 14 CFR 91.146

(c) This subpart is not applicable to operations conducted in balloons, gliders (powered or un-powered), parachutes (powered or un-powered), gyroplanes, or airships.

(d) For the purposes of this subpart the following definitions apply:

*Commercial Air Tour* means a flight conducted for compensation or hire in an airplane or helicopter where a purpose of the flight is sightseeing. The FAA may consider the following factors in determining whether a flight is a commercial air tour for purposes of this subpart:

(1) Whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

(2) 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;

(3) The area of operation;

(4) How often the person offering the flight conducts such flights;

(5) The route of the flight;

(6) The inclusion of sightseeing flights as part of any travel arrangement package;

(7) Whether the flight in question would have been canceled based on poor visibility of the surface below the route of the flight; and

(8) Any other factors that the FAA considers appropriate.