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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 110, 119, 121, 125, and 136

[Docket No. FAA-2022-1563; Amdt. Nos. 91-370, 110-3, 119-20, 121-390, 125-74, 136-2]

RIN 2120-AL80

Update to Air Carrier Definitions

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is amending the regulatory definitions of certain air carrier and commercial operations. This final rule adds powered-lift to these definitions to ensure the appropriate sets of rules apply to air carriers' and certain commercial operators' operations of aircraft that FAA regulations define as powered-lift. The FAA is also updating certain basic requirements that apply to air carrier oversight, such as the contents of operations specifications and the experience applicable to certain management personnel. In addition, this final rule applies the rules for commercial air tours to powered-lift. This final rule is an important step in the FAA's integration of new entrant aircraft in the National Airspace System (NAS).

DATES: Effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see "How to Obtain Additional Information" in the **SUPPLEMENTARY INFORMATION** section of this document.

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I. Executive Summary

The FAA is adopting the regulatory amendments proposed in the notice of proposed rulemaking (NPRM), Update to Air Carrier Definitions.[1] The Update to Air

[1] Update to Air Carrier Definitions NPRM, 87 FR 74995 (Dec. 7, 2022).

Carrier Definitions NPRM proposed adding powered-lift to the definitions of five kinds of air carrier operations—commuter, domestic, flag, on-demand, and supplemental. This final rule will adopt those items proposed in the Update to Air Carrier Definitions NPRM without change.

In this final rule, the FAA adds powered-lift to the definitions in § 110.2 of title 14 of the Code of Federal Regulations (14 CFR) to enable air carrier operations with powered-lift. This rule also extends the applicability of certain operating rules to powered-lift, such as the rules that apply to certain noncommon carriage operations involving larger aircraft and rules that apply to commercial air tours.

In addition, this rule updates various provisions within 14 CFR part 119 (Certification: Air Carriers and Commercial Operators) to address air carriers' operations of powered-lift; amends certain aircraft-specific provisions in § 119.1, which outline the applicability of and exceptions from part 119; and adds sight-seeing flights in gliders to the exclusions from part 119. Furthermore, this rule amends the experience requirements for personnel in certain management positions for air carriers to ensure they have appropriate experience in powered-lift operations. This rule also makes various technical amendments to part 119 for clarity and to reflect current FAA practices pertaining to the information included in operations specifications.

Lastly, this rule amends part 136 by applying it to rotorcraft and powered-lift, making limited changes to "suitable landing area" and § 136.11(a)(2), and recodifying appendix A to subpart D as a technical amendment.

II. Authority for this Rulemaking

The FAA's authority to issue rules on aviation safety is codified throughout Title 49 of the United States Code. The FAA issues this final rule under the authority in section 106. Section 106(f) establishes that the Administrator may promulgate regulations

and rules. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. Furthermore, section 44701(a)(5) requires the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and setting minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security. Section 44702 provides express authority to the Administrator to issue certificates under and oversee aviation safety. In addition, section 44701(d)(1)(A) specifically states the Administrator, when prescribing safety regulations, must consider "the duty of an air carrier to provide service with the highest possible degree of safety in the public interest."

The FAA also issues this rule in accordance with sections 44711 and 44713. Section 44711(a)(4) prohibits a person from operating as an air carrier without an air carrier operating certificate or in violation of a term of the certificate. Similarly, section 44711(a)(5) prohibits a person from operating aircraft in air commerce in violation of a regulation prescribed or a certificate that the FAA issues under section 44701(a) or (b) or under sections 44702-44716. In addition, section 44713 requires air carriers to make, or cause to be made, inspections, repairs, or maintenance of equipment used in air transportation as required by part A of subtitle VII of Title 49 of the United States Code or regulations prescribed or orders issued by the FAA.

III. Background

At present, various manufacturers are developing powered-lift for civilian use. These aircraft vary in size and passenger-seating configurations and employ both new and traditional kinds of propulsion systems. The operations conceptualized include vertical takeoff and landing capability, transition from low airspeed to high-speed horizontal flight, and sustained level forward flight.

Powered-lift is defined in 14 CFR 1.1 as "a heavier-than-air aircraft capable of vertical takeoff, vertical landing, and low speed flight that depends principally on engine-driven lift devices or engine thrust for lift during these flight regimes and on nonrotating airfoil(s) for lift during horizontal flight."

Operations with powered-lift could offer many benefits over traditional rotorcraft. For example, some powered-lift may be capable of transporting heavier loads at higher altitudes and faster cruise speeds than a rotorcraft, while maintaining vertical takeoff and landing capability. Such capability may increase efficiency in transporting crew and material to remote locations such as offshore oil rigs.

Operators may also seek to use certain powered-lift for transporting passengers point-to-point; for example, such transportation could occur from a heliport and proceed at turboprop airspeeds and ranges. Other opportunities may also exist in concentrated urban environments, where short point-to-point distances coupled with vertical takeoff and landing capability may allow for more efficient transportation of passengers or cargo than existing ground transportation methods. Application of the appropriate set of rules for powered-lift in a range of certificate holders' operations serves as both a risk mitigation measure and a framework for FAA oversight, as necessary to achieve the requisite level of safety.

The FAA is engaging in a multi-step process of updating the regulations that apply to aircraft that traditionally have not operated under these parts. Overall, the FAA maintains a risk-based approach to the integration of new entrant aircraft into the national airspace system. When operations present a higher level of risk, based on volume of passengers carried and frequency of operation, the FAA will subject such operations to a regulatory framework designed to mitigate those risks.

In addition to this rulemaking, the FAA is proposing a Special Federal Aviation Regulation (SFAR), "Integration of Powered-Lift: Pilot Certification and Operations;

Miscellaneous Amendments Related to Rotorcraft and Airplanes" (RIN 2120-AL72) (88 FR 38946, June 14, 2023), to establish temporary operating and airman certification regulations for powered-lift. The FAA plans to use the information gathered in this interim process to update its regulations to address powered-lift operations broadly.

A. Statement of the Problem

Currently, part 119 and the corresponding definitions in §110.2 only allow airplanes or rotorcraft to be used in air carrier or commercial service operations. The primary purpose of this rulemaking is to amend the language of § 110.2, Definitions, and part 119, Certification: Air Carriers and Commercial Operators, to allow powered-lift to operate for compensation or hire. The rule will enable an air carrier or commercial operator to operate powered-lift in air commerce. Without this rule, air carriers and commercial operators are not allowed to operate powered-lift in air commerce.

B. The Notice of Proposed Rulemaking

On December 7, 2022, the FAA published a NPRM titled "Update to Air Carrier Definitions."[2] In the NPRM, the FAA proposed adding "powered-lift" to certain part 91 regulations, to the air carrier and commercial operator certification parts (parts 110 and 119), as well as to the applicability for certain commercial operations. The FAA also proposed amendments that would reference "rotorcraft" instead of "helicopter" to be more consistent with other existing regulations. Adding references to "powered-lift" in these parts will enable the FAA to certificate operators for certain commercial operations and will serve as the first step for powered-lift entering commercial service.

The NPRM provided a 60-day comment period, which ended on February 6, 2023. The FAA received nine comments from industry (Airlines for America (A4A), Air Line Pilots Association, Int'l (ALPA), General Aviation Manufacturers Association

[2] Update to Air Carrier Definitions NPRM, 87 FR 74995 (Dec. 7, 2022).

(GAMA), Helicopter Association International (HAI), Jack Harter Helicopters, Inc., Joby Aviation (Joby), Wisk Aero, and two anonymous comments).

The FAA received four comments in general support of the NPRM, four comments proposing revisions to the rule, and one anonymous comment in general opposition.

IV. Discussion of the Final Rule and Comments Received

A. Certification of Air Carrier and Operator Definitions

Title 14 CFR 110.2 provides definitions that pertain to the certification of air carriers and operators for compensation or hire. Specifically, it defines commuter operation, domestic operation, flag operation, on-demand operation, and supplemental operation. In the NPRM, the FAA proposed to amend those definitions to include powered-lift. Therefore, the rules and applicability sections in 14 CFR chapter 1, subchapter G, would include use of powered-lift in those kinds of operations. Amending these definitions along with other provisions of part 119 enables powered-lift to engage in operations consistent with the applicable statutory framework that applies to air carrier and commercial operations. The FAA received four comments in general support of the revision of existing regulations to address powered-lift. None of the commenters raised concerns or commented directly on the revision of these definitions.

For the foregoing reasons, the FAA adopts as final § 110.2 that incorporates "powered-lift" into the following definitions: commuter operation, domestic operation, flag operation, on-demand operation, and supplemental operation.

B. Requirements and Applicability of Part 119

Part 119 contains basic requirements that apply to each person that operates or intends to operate a civil aircraft as an air carrier or commercial operator in air

commerce. Part 119 also details the process for obtaining and maintaining an operating certificate.

The FAA proposed revising § 119.1(a)(2) to apply part 119 to each person operating or intending to operate, when common carriage is not involved, airplanes or powered-lift with a passenger-seat configuration of 20 or more seats and a payload capacity of 6,000 pounds or more. The FAA also proposed to add § 119.1(a)(3) for consistency with § 119.23 which was omitted during the creation of part 119. This new paragraph applies part 119 to each person operating or intending to operate airplanes or powered-lift for noncommon carriage or private carriage operations for compensation or hire with a passenger-seat configuration of less than 20 seats and a payload capacity of less than 6,000 pounds.

Similarly, the FAA proposed amending § 119.5(c) to include powered-lift operations in the description of which persons will be issued an operating certificate for operations when common carriage is not involved. The FAA also proposed amending §§ 119.21 and 119.23 to apply appropriate requirements to powered-lift operations of commercial operators engaged in intrastate common carriage, direct air carriers, or when common carriage is not involved.

Many operations are subject to exclusion from part 119. Some of the exclusions in § 119.1(e) do not specify the type of aircraft; however, some exclusions apply only to helicopters or only to airplanes and helicopters. Using the term “rotorcraft” throughout § 119.1 ensures consistency with other applicability provisions of part 119.

The FAA proposed replacing “helicopter” with “rotorcraft” and adding “powered-lift” to the exclusion described at § 119.1(e)(4)(v) for aerial work operations. The FAA anticipates powered-lift would perform functions in aerial work in much the same manner as rotorcraft currently do. Allowing powered-lift to operate under this exception poses low risk to the general public. The FAA also proposed a technical amendment in the

NPRM regulatory text to clarify that the exception under § 119.1(e)(4)(v) does not apply to transportation to and from the site of construction or repair work operations. The FAA did not receive comments on this proposed amendment and adopts language clarifying the exception as final.

The FAA also proposed broadening the exclusion in § 119.1(e)(7) for helicopter flights conducted within a 25 statute mile radius of the airport of takeoff meeting specific conditions[3] to permit those flights to occur using powered-lift or rotorcraft, rather than only helicopters. Expanding this exclusion to rotorcraft and powered-lift ensures consistency with other applicability provisions of part 119.

In addition, the FAA proposed adding operations conducted in gliders to the exception that applies to sightseeing flights. The addition of gliders to this exception ensures the regulatory text of § 119.1(e)(5) reflects the FAA's current practices of permitting glider operations under this exception from part 119 and is consistent with the level of risk mitigation necessary for such operations.

Lastly, the FAA proposed adding powered-lift to § 119.1(e)(2), which currently excludes certain nonstop commercial air tour flights conducted in either an airplane or helicopter from the applicability of part 119. The FAA also proposed amending "helicopter" to "rotorcraft". The FAA did not receive any comments on the aforementioned amendments. Consequently, the FAA adopts these changes as final.

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[3] The conditions listed in § 119.1(e)(7) include: (i) not more than two passengers are carried in the helicopter in addition to the required flightcrew; (ii) each flight is made under day visual flight rules (VFR) conditions; (iii) the helicopter used is certificated in the standard category and complies with the 100-hour inspection requirements of part 91; (iv) the operator notifies the responsible Flight Standards office at least 72 hours before each flight and furnishes any essential information that the office requests; (v) the number of flights does not exceed a total of six in any calendar year; (vi) each flight has been approved by the Administrator; and (vii) cargo is not carried in or on the helicopter.

1. Records Regarding Operations

The existing text of § 119.49(a)(12), (b)(12), and (c)(11) requires operations specifications to contain "[a]ny authorized deviation and exemption" issued under 14 CFR chapter 1. The FAA determined this requirement as written is too broad, as it obligates certificate holders to ensure their operations specifications contain exemptions and deviations that also apply to the aircraft the certificate holder uses. The FAA proposed narrowing the current requirements in § 119.49 by requiring that operations specifications contain only exemptions and deviations the FAA has issued that apply to the certificate holder.

Similar to this rule's amendments to § 119.49(a)(12), (b)(12), and (c)(11), the FAA proposed revising § 91.1015(a)(9) in a similar manner. Section 91.1015(a)(9) applies to management specifications that persons who participate in a fractional ownership program under part 91, subpart K, maintain. Requiring a listing or copies of exemptions that apply to the aircraft rather than the operator is unnecessary for the FAA's oversight of participants' operations under part 91, subpart K. The FAA did not receive comments regarding these proposed changes. As a result, the FAA adopts them as final.

2. Management of Operation

Sections 119.65 through 119.71 set forth management personnel requirements that certificate holders must comply with to ensure the highest degree of safety in their operations. The FAA proposed amending the experience requirements for operations conducted under part 121 by making these requirements applicable to aircraft as opposed to only airplanes. The FAA also proposed requiring at least one Chief Pilot for each category of aircraft that each certificate holder uses, when the certificate holder uses both airplanes and powered-lift. To enable eventual powered-lift operations in part 121, the FAA proposed amending these management personnel requirements to ensure these operations maintain the highest degree of safety.

The FAA received a comment from the Air Line Pilots Association (ALPA) indicating that they did not support proposed rules which lower the qualification and experience requirements for Directors of Operations, Chief Pilots, Directors of Maintenance, and Chief Inspectors for certificate holders. ALPA stated that the FAA is modifying §§ 119.65, 119.67, 119.69, and 119.71, which is not entirely correct. The FAA did not propose to change § 119.69 or § 119.71 because those sections already use the term "aircraft" rather than "airplane" and are therefore not specific to any particular category of aircraft. However, for §§ 119.65 and 119.67—the part 121 requirements—the term "airplane" is used, and therefore the FAA proposed changes to those sections to accommodate powered-lift. In addition, the FAA proposed in § 119.65 to have a chief pilot for each category of aircraft used. This would extend the level of safety currently provided in the regulation to powered-lift operations. The change proposed to § 119.67 is limited to changing "airplane" to "aircraft" and rewording the experience requirements for clarity.

The FAA disagrees with ALPA's comment that indicates it believes the FAA is lowering the qualification and experience requirements for Directors of Operations, Chief Pilots, Directors of Maintenance, and Chief Inspectors for certificate holders. The FAA is not lowering the qualification nor the experience requirements for any of the part 119 required management positions. Rather, the FAA is applying the same qualification and experience requirements to powered-lift as currently required for airplanes. Consequently, the FAA adopts the proposed amendments as final without changes.

The FAA also proposed removing the FAA internal routing codes from the regulatory text of § 119.67(e), as the FAA no longer uses such codes in its regulations. The FAA did not receive comments on this proposed change and adopts it as final.

Director of Operations

Currently, § 119.67(a)(2) (Management personnel: Qualifications for operations conducted under part 121 of this chapter) requires Directors of Operations to have experience in large "airplanes." To broaden this section to cover Directors of Operations for certificate holders that use powered-lift, the FAA proposed using the general term large “aircraft” in that paragraph. Under the proposal, for certificate holders that conduct operations under part 121, the Director of Operations is required to have at least 3 years of supervisory or managerial experience within the last 6 years in a position that exercised operational control over any operations conducted with large aircraft under part 121 or part 135. In the alternative, if the certificate holder uses only small aircraft in its operations, then the Director of Operations may obtain this experience in large or small aircraft.

Existing § 119.67(a)(3) outlines the requirements for anyone who serves for the first time in a Director of Operations role for a certificate holder that conducts operations under part 121. The FAA proposed under this rule that a person who serves as Director of Operations needs to have experience as pilot-in-command in at least one of the categories of aircraft the certificate holder uses in its operations. In using the term “category” in this context, this rule means the broad classification of aircraft regarding the certification, ratings, privileges, and limitations of airmen. The FAA did not receive comments regarding the aforementioned proposed changes and adopts them as final.

Chief Pilot

To be qualified to serve as a Chief Pilot, a person must meet the qualification requirements of § 119.67(b). The FAA proposed requiring the Chief Pilot for powered-lift to hold an airline transport pilot (ATP) certificate and be appropriately rated in at least one of the powered-lift the certificate holder uses. This requirement is important because the Chief Pilot must maintain a detailed level of understanding of the particular aircraft

the certificate holder operates to communicate effectively with the pilots who serve in a certificate holder's operations while performing his or her oversight duties.

Under § 119.67(b), the FAA also proposed clarifying that the ATP certificate with appropriate ratings must be for an aircraft the certificate holder uses in operations "under part 121". This clarification ensures certificate holders who may hold authority to conduct operations under both part 121 and part 135 know that they must have a Chief Pilot who holds an ATP certificate with appropriate ratings for an aircraft used in their part 121 operations. In addition, as with the Director of Operations qualifications discussed previously, the FAA proposed amending "large airplane[s]" and "small airplane[s]" to "large aircraft" and "small aircraft" under § 119.67(b).

The FAA also proposed requiring the Chief Pilot to have pilot-in-command experience in the category of aircraft for which he or she will exercise responsibility. In addition, the FAA proposed that the three years of experience as pilot-in-command must have occurred under either part 121 or part 135 and must have occurred within the past six years if the Chief Pilot candidate has not previously served as a Chief Pilot.

Finally, the FAA proposed amending § 119.65(a)(3) to require one Chief Pilot for each category of aircraft because the Chief Pilot must have a detailed understanding of the particular aircraft the certificate holder operates. The agency has long emphasized that it adopted the Chief Pilot experience requirements to ensure familiarity with operations of a certificate holder, and that such familiarity is critical to attain prior to assuming the responsibilities of Chief Pilot.[4]

In amending part 119 to apply to operations of powered-lift, the FAA has also remained mindful of the discretion that § 119.65(b) provides, which allows the FAA to approve positions or numbers of positions other than those listed in § 119.65(a). The

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[4] See, Provision for Deviations from Qualifications Requirements for Chief Pilots, 34 FR 7175 (Apr. 30, 1969).

FAA did not receive comments on the aforementioned proposed changes to the Chief Pilot requirements, and therefore adopts them as final. In making these amendments, the FAA ensures each certificate holder has sufficient qualified management personnel to ensure the highest degree of safety and address the risks that each category of aircraft may present.

Director of Maintenance

Section 119.65 requires each certificate holder that conducts operations under part 121 to have a Director of Maintenance, and § 119.67(c) describes the qualifications that must be met to serve as Director of Maintenance. The FAA proposed replacing the term "airplane" in § 119.67(c) with "aircraft" for the reasons previously articulated.

The FAA also proposed requiring the minimum one year of supervisory experience with either maintaining or repairing at least one of the aircraft in the same category and class of aircraft the certificate holder uses.[5] The Director of Maintenance needs to have accumulated three years of experience within the past six years in maintaining or repairing aircraft in the same category and class of aircraft the certificate holder uses. These experience and qualification requirements within § 119.67(c) are key components of ensuring the Director of Maintenance is adequately qualified to serve in the role of overseeing other mechanics and personnel performing maintenance. The FAA believes experience with aircraft of the same category and class of aircraft the certificate holder uses would achieve the FAA's objective of ensuring the Director of Maintenance has appropriate experience with adhering to procedures and ensuring compliance with rules and programs relevant to maintenance. The FAA did not receive comments on these proposed changes and therefore adopts them as final.

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[5] The term "category" in this context would mean the grouping of aircraft based upon the intended use or operating limitations. The definition in 14 CFR 1.1 cites as examples: transport, normal, utility, acrobatic, limited, restricted and provisional. Similarly, the use of the term "class" in the context of §119.67(c), means a broad grouping of aircraft having similar characteristics of propulsion, flight or landing. The definition cites the following as examples of class: balloon, glider, land airplane, rotorcraft and seaplane.

Chief Inspector

Section 119.67(d) outlines the requirements for a person to serve as a Chief Inspector for operations conducted under part 121. Chief Inspectors have direct authority and responsibility over people performing the requisite inspections for the certificate holder. The FAA proposed amending the rule to permit the three years of maintenance experience to occur on different types of large aircraft with 10 or more passenger seats, rather than only large airplanes. This amendment is consistent with the other changes in this rule that assist in incorporating powered-lift into the framework of part 121. As with the Director of Maintenance qualifications, this retention of the 10-seat threshold ensures the Chief Inspector will have experience with an air carrier maintenance program[6] or a certificated repair station. The FAA did not receive comments on this proposed amendment and adopts it as final.

3. Operations Under Parts 121 and 135

Part 121 currently applies to any turbojet-powered airplane with one or more passenger seats used for scheduled operations. Scheduled operations under part 135 that are generally "commuter" operations are limited to 9 seats or fewer and cannot occur in turbojet airplanes. To ensure safety of passengers carried in those kinds of operations, the provisions of part 121 apply to scheduled operations of turbojet airplanes. The FAA proposed to include turbojet-powered powered-lift alongside the term "turbojet powered airplane" to ensure consistency in applying the appropriate risk mitigation measures for operations of turbojet-powered aircraft.

The FAA received an anonymous comment requesting that the FAA enable single-engine turbojet airplanes to conduct part 135 commuter operations. Specifically, the commenter requested that the FAA permit use of the Cirrus SF-50 single-engine jet in

[6] 14 CFR 135.411(a)(2); see also § 121.367. These regulations require a certificate holder to have an inspection program and a program covering other maintenance, preventative maintenance, and alterations.

part 135 commuter operations. The commenter asserted that, due to the Cirrus SF-50's limited capacity – it has six seats – this aircraft should be permitted to conduct part 135 commuter operations. The commenter stated that if the Cirrus SF-50 was allowed to operate in commuter operations, the pilot in command would be required to hold an ATP certificate and a type rating since it is a turbojet airplane. Conversely, the pilot in command of a single-engine reciprocating airplane in commuter operations is only required to hold a commercial certificate. The FAA determined that this comment is not within the scope of this rulemaking. Although the FAA considered general changes pertaining to the definition of commuter operations to enable powered-lift operations, it did not specifically contemplate whether single-engine turbo-jet airplanes should be able to conduct part 135 commuter operations. As a result, the comment is not within the scope of this rule, and the FAA declines to make the requested change.

121 Applicability

Section 121.1 establishes the applicability of part 121, which prescribes the rules governing air carrier operations conducted under domestic, flag, or supplemental operations. Section 121.1(g) is the only paragraph in § 121.1 that currently uses the term "airplane." The FAA proposed revising this paragraph to apply to "aircraft" instead of "airplane." This change in § 121.1 is necessary to correspond to the changes in parts 110 and 119 to extend the applicability of these parts to eventual powered-lift operations. The FAA also proposed a technical correction to § 121.1(c) by removing "SFAR No. 58" and replacing it with "subpart Y" which was codified on September 16, 2005.[7] The FAA did not receive any comments on these proposed changes. As a result, the FAA adopts as final § 121.9(g) to apply to "aircraft" and § 121.1(c) to state "subpart Y".

[7] Advanced Qualification Program, Final Rule, 70 FR 54810 (Sept. 16, 2005).

Certain Flight Time Limitations and Rest Requirements under Part 121

Regarding flight time limitations and rest requirements, the FAA proposed amending §§ 121.470, 121.480, and 121.500 to replace the word "airplanes" with the term "aircraft." Permitting this option for powered-lift that conduct operations in aircraft with a seat configuration of 30 seats or fewer (excluding each crewmember seat) and a payload capacity of 7,500 pounds or less is appropriate because the FAA has previously determined that specific flight time limitations and rest requirements of §§ 135.261 through 135.273 adequately address the risk associated with lack of rest in such operations.[8]

In addition, § 121.470 contains an exception for operations conducted entirely within Alaska or Hawaii with certain airplanes. Permitting this option for powered-lift that conduct such operations entirely within the States of Alaska or Hawaii is appropriate for the same reasons the FAA permits this exception for similarly sized airplanes. For such operations, the specific flight time limitations and rest requirements of subpart R adequately address the risk associated with lack of rest.[9] The FAA did not receive any comments on these proposed revisions. As a result, the FAA adopts them as final.

4. Operations Under Part 125

Part 125 applies to certain air carrier operations referenced in 14 CFR 125.1. The FAA proposed to amend § 125.1 such that those provisions would include powered-lift. Specifically, the FAA proposed to amend paragraphs (a), (b), (c), and (e) of § 125.1, to add the term "powered-lift" or, where appropriate, "aircraft."

Large powered-lift, due to their size, weight, and passenger capacity, present a level of risk that part 125 mitigates. Extending these requirements and standards to

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[8] Flightcrew Member Duty and Rest Requirements, 77 FR 330, 332 (Jan. 4, 2012).

[9] Flightcrew Member Duty and Rest Requirements, 77 FR 330, 331 (Jan. 4, 2012); 78 FR 69287 (Nov. 19, 2013).

applicable operations of large powered-lift aircraft is consistent with the FAA's strategy for mitigating risks. The FAA's amendments to §§ 119.23 and 125.1 clarify that operators that conduct operations when common carriage is not involved in powered-lift would do so under the rules of part 125, provided they fall within the scope outlined in § 119.23(a).

In addition, the FAA proposed changing the "airplane" to "aircraft" in the title of part 125 and amending § 125.23 to change the word "airplane" to "aircraft," as § 125.23 generally addresses applicability of certain rules and standards concerning operations subject to part 125. The FAA did not receive any comments on these proposed changes. Therefore, the FAA adopts them as final.

C. Commercial Air Tours and Flights for the Benefit of Charitable, Nonprofit, or Community Events

Commercial air tours are currently limited to flights conducted for compensation or hire in an airplane or helicopter in which the purpose of the flight is sightseeing.[10] Passenger-carrying flights may also be conducted without compensation or hire for certain charitable, nonprofit, and community events. As discussed in more detail below, the FAA proposed incorporating powered-lift for commercial air tours and flights for the benefit of charitable, nonprofit or community events, and revising the necessary provisions to address "rotorcraft" instead of "helicopter". These proposals ensure consistency with the changes made to the definition of commercial air tour in part 110, as well as the change made to nonstop commercial air tours within § 119.1.

[10] 14 CFR 110.2 and 136.1(d). Some flights that are commercial air tours under part 136 or § 91.147 may also be subject to other requirements. For example, the requirements of 49 U.S.C. 40128 ("Overflights of national parks") or 14 CFR part 93, subpart U ("Special Flight Rules in the Vicinity of Grand Canyon National Park, AZ"), refer to certain types of commercial air tours in "powered aircraft." This rule would not affect the applicability of any such requirements.

1. Incorporation of New Types of Aircraft

Section 91.147 and the requirements of part 136, subpart A, are currently limited in applicability to airplanes and helicopters. The FAA proposed replacing "helicopter" with the term "rotorcraft" and adding "powered-lift" to the relevant applicability provisions of § 91.147 to ensure the appropriate safety risk mitigations apply to all commercial air tours. The FAA did not receive comments on this proposed change, and therefore adopts it as final.

In addition, as discussed in more detail below, the FAA proposed changing the term "helicopter" to "rotorcraft" throughout part 136 to ensure the safety standards of part 136 apply to all rotorcraft and not only helicopters. Applying the requirements of part 136 to airplanes, powered-lift, and rotorcraft that conduct commercial air tours is an appropriate step in ensuring safe integration of new types of aircraft.

2. Suitable Landing Area for Emergencies

The current definition of "suitable landing area for helicopters" in § 136.1(d) states such an area is one that provides the operator reasonable capability to land without damage to equipment or injury to persons. It further provides that such areas must be site-specific, designated by the operator, and accepted by the FAA. The FAA proposed broadening the applicability to incorporate rotorcraft to ensure they are subject to the safety standards of part 136. The FAA did not receive specific comments on broadening the applicability to incorporate rotorcraft, and therefore adopts that change as final.

The FAA also proposed removing the phrase "damage to equipment" from the definition of "suitable landing area," and adding "serious" before "injury." The FAA intends to clarify that a suitable landing area is one that provides a reasonable capability for rotorcraft to land without causing *serious* injury to persons.

In addition, the FAA proposed removing the last sentence of the definition that states the purpose of the definition is to provide an emergency landing area for

helicopters that would not have the capability to reach a safe landing area after an engine power loss. The FAA determined this sentence is too narrow. The proposed definition includes the phrase “in an emergency” to describe the context for which the operator would designate landing areas for rotorcraft.

The FAA received two comments that agreed the current definition of “suitable landing area for helicopters” needed to be changed. Jack Harter Helicopters wanted the FAA to eliminate the definition entirely, and Helicopter Association International (HAI) wanted the FAA to remove the “injury” element. The FAA has determined that there is not a safety case to entirely remove this definition, agreeing with HAI in that the purpose of this definition is to ensure operators designate potential landing areas in advance of the operation so that the pilot in command is aware of these potential sites in case of an emergency landing. Furthermore, the FAA is already modifying the current definition from “injury” to “serious injury” which is relieving. The FAA has determined that in the interest of safety, the injury element should not be entirely eliminated and changing “injury” to “serious injury” strikes the appropriate balance.

Finally, both commenters expressed a concern with the policy of having FAA-accepted suitable landing areas. The concern is that the current requirement for operators to establish FAA-accepted suitable landing areas for helicopters does not mirror real-world operations. The FAA disagrees with these comments. In the air tour industry, those suitable landing areas should be designated in advance and the FAA should be involved in that determination. The FAA has concluded that removing the requirement to have those designated sites accepted by the FAA would then allow these operators to choose new sites that may have negative safety and environmental consequences for the surrounding communities. Allowing operators to determine their own landing areas without FAA acceptance could lead to some operators creating new routes that have not been vetted by the FAA. This could result in increased noise in the surrounding

community and could impact the safety of the air tour and individuals on the ground. Therefore, the FAA is adopting the proposed changes as final with no further amendment.

3. Life Preservers for Operations Over Water

The FAA also proposed in the NPRM regulatory text amending § 136.9. Section 136.9 outlines requirements for life preservers for operations over water.[11] The FAA proposed amending the text in § 136.9(b)(3) to require operators to base performance plans on information derived from the "approved aircraft flight manual for that aircraft". Using this term is consistent with the reference to aircraft flight manual in § 135.81. The FAA also proposed a technical amendment to § 136.9 by adding the term "or" after § 136.9(b)(2). The FAA did not receive comments on these proposed changes and therefore adopts them as final.

4. Rotorcraft Floats for Over Water

Section 136.11 outlines requirements for helicopter floats for over water operations. The FAA proposed extending the § 136.11 requirements to rotorcraft operations that occur under part 136 to help mitigate the risks associated with emergency water landings.

Additionally, § 136.11(b)(2) does not include a reference to "beyond the shoreline". The FAA proposed adding this reference to clarify the requirement to have the flotation system armed when the aircraft is over water beyond the shoreline.[12] The FAA did not receive comments on the aforementioned proposed amendments and therefore adopts them as final.

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[11] This requirement also applies to operations that occur under §§ 91.146 ("Passenger-carrying flights for the benefit of a charitable, non-profit, or community event") and 91.147 ("Passenger carrying flights for compensation or hire").

[12] Shoreline means that area of the land adjacent to the water of an ocean, sea, lake, pond, river or tidal basin that is above the high water mark and excludes land areas unsuitable for landing such as vertical cliffs or land intermittently under water during the particular flight. See, 14 CFR 136.1.

5. Performance Plans

Section 136.13(a) currently requires commercial air tour operators to complete helicopter performance plans before each operation that will occur under part 136.[13] The FAA proposed amending § 136.13(a) by changing the term "helicopter" to "rotorcraft" for the reasons already cited. The FAA also proposed amending the text in § 136.13(a) to require operators to base performance plans on information derived from the "approved aircraft flight manual for that aircraft" for the reasons cited in § 136.9(b)(2). The FAA did not receive comments on these proposed changes and therefore adopts them as final.

6. Commercial Air Tours in Hawaii

Appendix A to part 136 applies to airplane and helicopter tours in Hawaii. The appendix A requirements are equally important for air tour operations in aircraft other than helicopters.

Section 1 of appendix A outlines the applicability for air tour operations conducted in Hawaii. Based on the uses of terms "airplane" and "helicopter," the appendix does not apply to other types of aircraft, such as powered-lift and rotorcraft that are not helicopters. The FAA proposed amending the applicability of appendix A to incorporate powered-lift and rotorcraft to apply the minimum flight altitude limitations to other categories of aircraft seeking to conduct air tours in Hawaii.

The FAA also proposed amending the references to "Rotorcraft Flight Manual (RFM)" currently throughout part 136 to "aircraft flight manual". As with the amendment to § 136.13, described above in section III.C.4 of this preamble, using this term is consistent with the reference to Aircraft Flight Manual in § 135.81. The FAA did not receive comments on these proposed changes, and therefore adopts them as final.

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[13] This requirement also applies to operations that occur under §§ 91.146 ("Passenger-carrying flights for the benefit of a charitable, non-profit, or community event") and 91.147 ("Passenger carrying flights for compensation or hire").

Finally, the FAA proposed amending part 136 by recodifying appendix A as a new subpart and applying the requirements to operations of powered-lift and rotorcraft. Jack Harter Helicopters objected to the continuation of the appendix A requirements and recodifying them into subpart D, stating this was originally SFAR 71 before it was brought into appendix A for part 136 and that the FAA previously stated it would reconsider whether appendix A should be removed at some point in the future. This commenter also stated that they wanted various changes to part 136 and objected that the FAA had failed to notify industry and the public that the FAA was "opening" part 136 for changes. This commenter also wanted an extension of the comment period. In response, the FAA notes that it is only making a limited change by applying part 136 rules to rotorcraft and incorporating powered-lift. The FAA is not opening part 136 for extensive changes at this time. The FAA is also making limited changes to part 136 which includes amending the definition of "suitable landing area", adding "beyond the shoreline" to § 136.11(a)(2), and recodifying appendix A to subpart D—which is a technical amendment. These limited changes help clarify part 136 and align part 136 with other changes made throughout this rule. The FAA disagrees that the remainder of part 136 should be modified at this time. As a result, the FAA is adopting the proposed changes as final with no further amendment.

7. Flights for the Benefit of Charitable, Nonprofit, or Community Events

Operators that conduct passenger-carrying flights for certain charitable, nonprofit, and community events must comply with § 91.146. The FAA proposed replacing "helicopter" with the term "rotorcraft" and adding "powered-lift" to the relevant applicability provisions of § 91.146 for the benefit of a charitable, nonprofit, or community event. The FAA did not receive comments on these proposed changes. As such, the FAA adopts them as final.

V. Regulatory Notices and Analyses

Federal agencies consider impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is $177 million using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this rule.

In conducting these analyses, the FAA has determined that this rule: will result in benefits that justify costs; is not an economically “significant regulatory action” as defined in section 3(f) of Executive Order 12866; is not “significant” as defined in DOT’s Regulatory Policies and Procedures; will not have a significant economic impact on a substantial number of small entities; will not create unnecessary obstacles to the foreign commerce of the United States; and will not impose an unfunded mandate on State, local, or Tribal governments, or on the private sector by exceeding the threshold identified above.

A. Regulatory Evaluation

This rule enables operations of powered-lift to occur in accordance with 49 U.S.C. 44701(d), 44705, and 44711. Currently, the FAA's rules governing certificate holders' operations only apply to airplanes and rotorcraft, and do not mention powered-lift. The rule amends the definitions for the five kinds of operations codified at § 110.2—commuter, domestic, flag, on-demand, and supplemental—to ensure the operations occur in accordance with the statutory mandates, and to apply the appropriate set of operating rules to operations in powered-lift. The rule also amends the appropriate applicability of sections within part 119 to enable powered-lift, subject to applicable exemptions, to conduct air carrier and certain other commercial operations, commercial air tours, and noncommon carriage operations.

The rule also amends certain aircraft-specific exceptions from the applicability of part 119. Furthermore, this rule alters the requirements for management personnel in certain certificate holder management positions to ensure personnel have appropriate experience. This rule extends the applicability of certain operating rules that apply to commercial air tours such that they apply to operators that conduct flights in powered-lift and rotorcraft. Finally, this rule makes various additional amendments in the interest of ensuring clarity. By including powered-lift in the existing operational framework, the rule does not result in a reduction in safety because it maintains the risk-based approach to safety. When operations present a higher level of risk, based on volume and frequency, the FAA subjects such operations to a regulatory framework that mitigates those risks.

The current parameters for determining whether a certificate holder is conducting operations under part 121, 125, or 135 will be identical for certificate holders using powered-lift in their operations under this rule. These parameters are shown below.

Table 1: Operating Rules by Part

Part 135 Operating Rules *				
	Passenger		Cargo	
Parameter	Scheduled	Nonscheduled	Scheduled/ Nonscheduled	Non-Common Carriage
Passenger Seating	<= 9 seats	<= 30 seats	NA	< 20 seats
Maximum Payload	<= 7,500 lbs.		<= 7,500 lbs.	< 6,000 lbs.
Kind of Operation	Part 135 Commuter if 5 or more roundtrips/week; otherwise, Part 135 On Demand	Part 135 On Demand	Part 135 On Demand	Part 135 On Demand
Aircraft Type	Non-Turbojet	Includes Turbojet	Includes Turbojet	Includes Turbojet
Part 121 Operating Rules				**Part 125**
	Passenger		Cargo	
Parameter	Scheduled	Nonscheduled	Scheduled/ Nonscheduled	Non-Common Carriage
Passenger Seating	> 9 seats	> 30 seats	NA	>= 20 seats
Maximum Payload	> 7,500 lbs.		> 7,500 lbs.	>= 6,000 lbs.
Kind of Operation	Part 121 Domestic if flown within the 48 contiguous United States or DC; otherwise, Part 121 Flag	Part 121 Supplemental	Part 121 Supplemental	Part 125
Aircraft Type	Includes Turbojet		Includes Turbojet	Includes Turbojet

*All Rotorcraft Operations are conducted under part 135.
NA= Not applicable.

The table below lists the amendments adopted by this rule. The first column identifies the affected 14 CFR part and section; the second column describes the change from existing regulations; the third column provides the economic impact as a result of the change.

Table 2: Amendments to Rule by Part

14 CFR Part and Section	Change	Economic Impact
PART 91 – GENERAL OPERATING AND FLIGHT RULES **SUBPART B – FLIGHT RULES**		

§ 91.146 Passenger-carrying flights for the benefit of a charitable, nonprofit, or community event.	The regulatory text is revised to allow passenger-carrying flights for the benefit of a charitable, nonprofit, or community event to be conducted with powered-lift. The section is also amended to replace the term "helicopters" with "rotorcraft."	Enabling
§ 91.147 Passenger-carrying flights for compensation or hire.	The regulatory text is revised to allow passenger-carrying flights for compensation or hire to be conducted with powered-lift. The section is also amended to replace the term "helicopters" with "rotorcraft."	Enabling
PART 91 – GENERAL OPERATING AND FLIGHT RULES SUBPART K – FRACTIONAL OWNERSHIP OPERATION		
§ 91.1015 Management specifications.	The regulatory text replaces the requirement for operations specifications to contain copies of *all* deviations and exemptions (including those applicable to a specific aircraft) with a requirement to include deviations and exemptions applicable only to the person conducting the operation.	Relieving
PART 110 – GENERAL REQUIREMENTS		
§ 110.2 Definitions.	Certain definitions in this section are revised to enable powered lift to conduct the kinds of air carrier operations.	Enabling
PART 119 – CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS SUBPART A -- GENERAL		
§ 119.1 Applicability.	Section 119.1(a) is revised to incorporate powered-lift with seating for 20 or more passengers or a maximum payload capacity of 6,000 pounds or more, of certificate holders when common carriage is not involved. Section 119.1(e) includes powered-lift and rotorcraft in the list of certain, specific types of operations that are excluded from the applicability of part 119. Section 119.1(a) is corrected to include certain airplanes and powered-lift with a passenger-seat configuration of less than 20 seats and a payload capacity of less than 6,000 pounds to be consistent with the existing § 119.23.	Enabling Technical amendment
§ 119.5 Certifications, authorizations, and prohibitions.	Section 119.5 is revised to incorporate powered-lift with seating for 20 or more passengers or a maximum payload capacity of 6,000 pounds or more into the aircraft types authorized by the Administrator to be issued an operating certificate for conducting operations when common carriage is not involved.	Enabling
PART 119 – CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS SUBPART B – APPLICABILITY OF OPERATING REQUIREMENTS TO DIFFERENT KINDS OF OPERATIONS UNDER PART 121, 125, AND 135 OF THIS CHAPTER		
§ 119.21 Commercial operators engaged in intrastate common carriage and direct air carriers.	Section 119.21(a) is revised to require commercial operators of powered-lift that are engaged in intrastate common carriage of persons or property for compensation or hire, or as a direct air carrier, to comply with either part 121 or part 135 depending on the kind of operation they conduct. Domestic, flag, and supplemental operations are to be conducted under part 121. Commuter and on-demand operations are to be conducted under part 135.	Imposes requirements on certain operators of powered-lift that are equivalent to the requirements currently imposed on operators conducting similar operations with airplanes or rotorcraft.

		No additional regulatory cost.
§ 119.23 Operators engaged in passenger-carrying operations, cargo operations, or both with airplanes when common carriage is not involved.	Section 119.23(a) is revised to require commercial operators of powered-lift when common carriage is not involved to comply in accordance with requirements in either part 125 or part 135. Aircraft size in terms of number of seats and payload capacity determines which part is applicable to the operator.	Imposes requirements on certain operators of powered-lift that are equivalent to the requirements currently imposed on operators conducting similar operations with airplanes. No additional regulatory cost.
§ 119.49 Contents of operations specifications.	The regulatory text replaces the requirement for a certificate holder's operations specifications to contain copies of *all* deviations and exemptions (including those applicable to a specific aircraft) with a requirement to include deviations and exemptions applicable only to the person conducting the operation.	Relieving
§ 119.65 Management personnel required for operations conducted under part 121 of this chapter.	The rule requires certificate holders have a Chief Pilot, as qualified under § 119.67, for *each* category of aircraft the certificate holder uses. The rule continues to permit the Administrator to approve positions or numbers of positions other than those described in the regulation, based in part on the number and type of *aircraft* used.	Potential cost only if a certificate holder uses powered-lift and airplanes to conduct operations and the Chief Pilot is not dual qualified.
§ 119.67 Management personnel: Qualifications for operations conducted under part 121 of this chapter.	*Director of Operations:* The regulatory text for the part 121 certificate holder Director of Operations management position is restructured for clarity. It also replaces the term "airplane" with "aircraft." *Chief Pilot:* The regulatory text is restructured for clarity and replaces "airplanes" with "aircraft," which encompasses airplanes and powered-lift. The amendment also requires the holder(s) of the Chief Pilot position for a part 121 certificate holder to have an airline transport pilot (ATP) certificate, with appropriate ratings, for at least one of the aircraft within each category of the certificate holder's fleet. Similarly, the Chief Pilot will need the Pilot in Command time as the current regulation states. *Director of Maintenance:* The regulatory text replaces "airplanes" with "aircraft," which encompasses airplanes and powered-lift. *Chief Inspector:* The regulatory text is restructured for clarity and replaces "airplanes" with "aircraft," which encompasses airplanes and powered-lift.	Imposes requirements on operators of powered-lift that are equivalent to the requirements currently imposed on certificate holders that use airplanes. No additional regulatory cost.
PART 121 – OPERATING REQUIREMENTS; DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS **SUBPART A - GENERAL**		
§ 121.1 Applicability.	The regulatory text replaces "airplanes" with "aircraft" that certificate holders would take actions to support continued airworthiness of each aircraft, which includes powered-lift used in domestic, flag, or supplemental operations as defined in § 110.2.	Imposes requirements on operators of powered-lift that are equivalent to the requirements currently imposed on certificate

		holders that use airplanes. No additional regulatory cost.
§ 121.1(c) Applicability.	The regulatory text makes a technical correction to § 121.1(c) by removing "SFAR No. 58" and replacing it with "subpart Y" which was codified on September 16, 2005.	No impact – technical amendment
PART 121 – OPERATING REQUIREMENTS; DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS SUBPART Q – FLIGHT TIME LIMITATIONS AND REST REQUIREMENTS: DOMESTIC OPERATIONS		
§ 121.470 Applicability.	The regulatory text of paragraph (a) replaces "airplanes" with "aircraft" to permit certificate holders using powered-lift in domestic, all-cargo operations of a certain size, to adhere to the requirements of §§ 135.261 through 135.272. These requirements set forth flight time limitations and rest requirements. In addition, paragraph (b) permits certificate holders that conduct scheduled operations entirely within Alaska or Hawaii using specific size aircraft to have the option of complying with subpart R of part 121 for those operations.	Provides options to certificate holders using powered-lift in operations under part 121 that are equivalent to the options currently allowed. No additional regulatory cost.
PART 121 – OPERATING REQUIREMENTS; DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS SUBPART R – FLIGHT TIME LIMITATIONS AND REST REQUIREMENTS: FLAG OPERATIONS		
§ 121.480 Applicability.	The regulatory text replaces "airplanes" with "aircraft" to permit certificate holders using powered-lift in flag, all-cargo operations, and operations of a certain size to adhere to the requirements of §§ 135.261 through 135.273. These requirements set forth flight time limitations and rest requirements.	Provides options to certificate holders using powered-lift in operations under part 121 that are equivalent to the options currently allowed. No additional regulatory cost.
PART 121 – OPERATING REQUIREMENTS; DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS SUBPART S – FLIGHT TIME LIMITATIONS AND REST REQUIREMENTS: SUPPLEMENTAL OPERATIONS		
§ 121.500 Applicability.	The regulatory text replaces "airplanes" with "aircraft" to permit certificate holders using powered-lift in supplemental, all-cargo operations, of a certain size, to adhere to the requirements of §§ 135.261 through 135.273. These requirements set forth flight time limitations and rest requirements.	Provides options to certificate holders using powered-lift in operations under part 121 that are equivalent to the options currently allowed. No additional regulatory cost.
PART 125 – CERTIFICATION AND OPERATIONS: <u>AIRCRAFT</u> HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT		
§ 125.1 Applicability.	Part 125 applies only to operations when common carriage is not involved conducted with airplanes that have a seating configuration of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more.	Imposes requirements on operators conducting operations with powered-lift that are equivalent to the requirements

	The rule amends § 125.1 to incorporate powered lift into the statements regarding applicability of part 125.	currently imposed on operators conducting operations with airplanes. No additional regulatory cost.
§ 125.23 Rules applicable to operations subject to this part.	This rule also amends § 125.23 to change the word "airplane" to "aircraft," as § 125.23 generally addresses applicability of certain rules and standards concerning operations.	Imposes requirements on operators conducting operations with powered-lift and rotorcraft that are equivalent to the requirements currently imposed on operators conducting operations with airplanes. No additional regulatory cost.
PART 136 – COMMERCIAL AIR TOURS AND NATIONAL PARKS AIR TOUR MANAGEMENT **SUBPART A – NATIONAL AIR TOUR SAFETY STANDARDS**		
§ 136.1 Applicability and definitions.	This change incorporates powered-lift into part 136 and changes "helicopter" to "rotorcraft" in several definitions. This change also provides relief to the definition of suitable landing area for rotorcraft..	Enabling
§ 136.3 Letters of Authorization.	The change is a technical amendment that changes the phrase "14 CFR 119.51" to "§ 119.51 of this chapter"	No impact – technical amendment
§ 136.5 Additional requirements for Hawaii.	The amendment is updated to reflect the recodification of appendix A as subpart D.	No impact – technical amendment
§ 136.9 Life preservers for operations over water.	The change is a technical amendment to § 136.9 from "airplane flight manual or rotorcraft flight manual" to "aircraft flight manual".	No impact – technical amendment
§ 136.11 Rotorcraft floats for over water.	The section title and this section are revised to extend to all rotorcraft the requirements for helicopter floats for operations that occur overwater beyond the shoreline.	Enabling – no impact over and above current requirements.
§ 136.13 Performance plan and operations.	The section title and this section are revised to extend requirements for helicopter performance plans to rotorcraft. The performance plan must be based on information in the approved Aircraft Flight Manual for that aircraft.	Enabling – no impact over and above current requirements.
Subpart D - Special Operating Rules for Air Tour Operators in the State of Hawaii	This amendment recodifies "appendix A" as "subpart D" and extends the applicability of operating rules for Air Tour Operators in the State of Hawaii to include operations conducted with powered-lift and rotorcraft.	Enabling – no impact over and above current requirements.

1. Benefits

This rule enables air carrier and other commercial operations of powered-lift by extending applicability of the appropriate set of operating rules that would serve as both a risk mitigation measure and a framework for FAA oversight, as necessary to ensure the requisite level of safety.

Powered-lift operations could offer many benefits. For example, some powered-lift may be capable of transporting heavier loads at higher altitudes and faster cruise speeds than helicopters, while maintaining the capability of taking off and landing vertically. The faster cruise speeds could improve response times by as much as 50 percent for search and rescue operations and allow a higher level of life-saving care during transport because of a smoother flight profile compared to helicopters.[14] In addition, powered-lift operations could increase the efficiency of crew transport to oil rigs as they move further from land, or other locations with smaller landing areas. Certificate holders may also seek to use powered-lift for transporting passengers point-to-point; for example, transportation could occur from a heliport and proceed at turbo-prop airspeeds and ranges. Using powered-lift for transport of passengers could increase the capacity of the NAS and reduce delays without requiring additional infrastructure.[15]

Powered-lift projects exist that are either in certification, design, proof of concept, or prototype phases of design refinement. One project underway is a 9-passenger tilt-rotor turboshaft design. This manufacturer is also in the conceptual design phase of a 20-passenger powered-lift. Another powered-lift project underway is seeking to become the first certificated electric Vertical Takeoff and Landing (eVTOL) operator under part 119 to carry passengers in the United States.

2. Costs and Costs Savings

Cost Savings – Operations Specifications.

The FAA amends provisions in §§ 119.49(a)(12), (b)(12), and (c)(11) and 91.1015(b)(9) as the FAA has determined they are broad and unduly burdensome. Currently, these provisions require a certificate holder's operations specifications to

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[14] *Military*, GLOBALSECURITY.ORG (last visited August 22, 2022), available at https://www.globalsecurity.org/military/world/europe/aw609.htm.

[15] Costa, Guillermo J., *Conceptual Design of a 150-Passenger Civil Tiltrotor*, NASA Ames Research Center—Aeromechanics Branch (Aug. 2012), (last visited August 22, 2022) available at https://rotorcraft.arc.nasa.gov/Publications/files/Guillermo_Costa_TR150_Paper.pdf.

contain a list of exemptions and deviations issued under 14 CFR chapter 1 that are applicable to the aircraft, the operator, and airmen. The rule requires *only* exemptions and deviations that apply to the certificate holder (rather than to the aircraft) to be retained in operations specifications. Although the amendment to these provisions is relieving, the costs savings are minimal because the operations specifications are maintained electronically.

Costs –Part 121 Chief Pilot Management Position

This rulemaking expands the part 119 certificate holder requirements for the part 121 management position of Chief Pilot (§ 119.65). As amended, the certificate holder is required to have a Chief Pilot for each category of aircraft used by the certificate holder to conduct operations. Currently, the Chief Pilot is required to have an ATP certificate, with appropriate ratings, for at least one of the airplanes used in the certificate holder's operations. While one person could meet the requirements of the Chief Pilot, this person would have to be dual qualified in airplanes and powered-lift. Consequently, a certificate holder conducting operations with airplanes and powered-lift may have an increase in costs if more than one Chief Pilot is hired to meet the qualification requirements.

Should a certificate holder operating under part 121 choose to conduct operations with airplanes and powered-lift, the incremental cost to meet the Chief Pilot qualification requirements would be minimal because the individual(s) acting in this position could also serve as a line pilot. The FAA determines that certificate holders operating under part 121 that choose to conduct operations with powered-lift would do so only if the benefits of conducting the operations exceeded its costs.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121)

and the Small Business Jobs Act of 2010 (Pub. L. 111–240), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term "small entities" comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The FAA published an Initial Regulatory Flexibility Analysis (IRFA) in the proposed rule and determined that the proposal would not result in a significant economic impact on a substantial number of small entities. The FAA requested public comment regarding this determination. The FAA did not receive comments from the public regarding this determination, nor were comments to the proposed rule filed by Chief Counsel for Advocacy of the Small Business Administration (SBA).

The final rule may impact small entities but will have a minimal economic impact as the final rule is enabling while imposing minimal costs. First and foremost, the final rule changes definitions contained in § 110.2 and the appropriate applicability of sections within part 119 to enable powered-lift to conduct air carrier and other certain commercial operations, commercial air tours and operations not involving common carriage. Absent this final rule, an air carrier desiring to conduct operations using powered-lift would not be able to comply with the requirements of 49 U.S.C. 44701(d) or 44705. Such operations, therefore, would be prohibited in the absence of this final rule.

Secondly, the final rule removes the requirement for a certificate holder to maintain a list of exemptions and deviations related to aircraft in its fleet as required by §§ 119.49(a)(12), (b)(12), and (c)(11) and 91.1015(a)(9). The impact could provide minimal relief for certificate holders by reducing the volume of records certificate holders must retain in their operations specifications.

Lastly, due to a change in the definitions contained in 14 CFR 110.2, this final rule enables part 121 certificate holders to conduct operations using powered-lift. As a result, the final rule revises part 121 certificate holder management qualifications for the Chief Pilot. Current regulations require Chief Pilots to have an ATP certificate for at least one of the airplanes used in a certificate holder's operations. The regulations will require the certificate holder to have a Chief Pilot qualified for each category of aircraft that the certificate holder uses.

As stated in the proposed rule, the FAA determines that the expansion of the qualifications for the position of Chief Pilot resulting from enabling additional aircraft categories to conduct part 121 operations imposes a minimal economic impact for part 121 certificate holders. Considering that this rulemaking is enabling, a part 121 certificate holder will voluntarily choose to operate a fleet of more than one aircraft category only if the expected benefits of doing so exceed the costs.

If an agency determines that a rulemaking would not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the Regulatory Flexibility Act. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking would not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety and does not operate in a manner that excludes imports that meet this objective. The

statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has analyzed this rule in conjunction with the requirements of the Trade Agreements Act of 1979, as amended by the Uruguay Round Agreements Act. The FAA has determined the rule does not present any obstacle to foreign commerce of the United States. In addition, the rule is not contrary to international standards.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. The FAA determined that this final rule will not result in the expenditure of $177 million or more by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

The Office of Management and Budget previously approved the FAA's collection of information affiliated with this rule.[16] None of the information collection instruments

[16] Certification: Air Carriers and Commercial Operators, Supporting Statement: Information Collection Request Reference No. 2120-0593 (April 19, 2021), available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202011-2120-001.

will change due to this rule, however, the number of respondents to whom the information collection requirements apply may increase. The FAA will continue to collect the necessary information in the same manner as described in its prior notices concerning the information collections.

Each section below identifies the information collections affected by this rule. The FAA has estimated the increase in the existing burden based on four-part 119 certificate holders beginning part 135 operations with powered-lift by the end of the third year following publication of the final rule.[17] While this rule allows part 119 certificate holders to conduct operations under part 121, the FAA does not believe that any such certificate holders would do so in the first three years following adoption of the rule. Therefore, the FAA has not estimated any burden increase for existing information collection 2120-0008 (Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations). Further, the FAA does not believe that any such certificate holders would conduct operations under part 125 in the first three years following adoption of this rule. Therefore, the FAA has not estimated any burden increase for existing information collection 2120-0085 (Certification and Operations: Airplanes Having a Seating Capacity of 20 or More Passengers or a Maximum Payload Capacity of 6,000 Pounds or More).

[17] Official FAA forecasts related to the operation of powered-lift in the National Airspace System (NAS) have yet to be developed. As of July 2022, approximately 10 applicants were undergoing type certification at FAA for powered-lift projects. Two of these projects have progressed further through the approval process and could be issued a type certificate as early as 2024. For purposes of estimating the increase in the existing information collection, it is determined four-part 119 certificate holders will begin part 135 operations with powered-lift by the end of the third year following adoption of this rule. Publicly available data was used to forecast the powered-lift fleet. Forecasts for airmen and departures were developed based on utilization of the fleet (i.e., hours flown).

1. Revision of Existing Information Collection 2120-0593: Federal Aviation Regulation part 119 – Certification: Air Carriers and Commercial Operators[18]

Summary: This rule would extend the requirements of part 119 to certificate holders that conduct operations with powered-lift.

Public Comment: There were no comments submitted to the notice of proposed rulemaking concerning this information collection.

Use*:* Organizations that desire to become or remain certified as air carriers or commercial operators are mandated to report information to the FAA. The information collected reflects requirements necessary under parts 135, 121, and 125 to conform to 14 CFR part 119 – Certification: Air Carriers and Commercial Operators. The FAA will use the information it collects and reviews to ensure compliance and adherence to regulations and, if applicable, to take enforcement action on violators of the regulations.

The FAA has estimated the increase in the existing burden based on four certificate holders beginning powered-lift operations by the end of the third year following adoption of this rule.[19] Note that not all information collection requirements are expected to increase as a result of the revision to this information collection.

Table 3: Three-Year Burden Estimate for Information Collection 2120-0593 Certification: Air Carriers and Commercial Operators

Section	Section Title	# of Respondents	# of Responses	Total Responses	Time per Response-Technical ($32.21/hr.)	Time per Response-Admin. Asst. ($24.51/hr.)	Total Burden (Hours)	Total Burden (Cost)

[18] Ibid.

[19] This burden is based on work performed by technical specialists and/or administrative assistants. The fully-burdened hourly wage used to estimate costs includes the base hourly wage for each job category plus an increase to account for fringe benefits and overhead. The base hourly wage for the technical specialist and administrative assistant is estimated to be $20.95 and $15.95, respectively (source: https://www.payscale.com/research/US/Job=Technical_Specialist/Salary; https://www.payscale.com/research/US/Job=Administrative_Assistant/Hourly_Rate). The base wage is increased by a multiplier of 34.1 percent for fringe benefits (source: https://www.bls.gov/news.release/ecec.nr0.htm) and 17.0 percent for overhead (source) Cody Rice, U.S. Environmental Protection Agency, "Wage Rates for Economic Analyses of the Toxics Release Inventory Program" June 10, 2002, https://www.regulations.gov/document?D=EPA-HQ-OPPT-2014-0650-0005. Summing together the base hourly wage, fringe benefits, and overhead results in a fully-loaded hourly wage of $32.21 for a technical specialist and $24.51 for an administrative assistant.

Section	Section Title	# of Respondents	# of Responses	Total Responses	Time per Response-Technical ($32.21/hr.)	Time per Response-Admin. Asst. ($24.51/hr.)	Total Burden (Hours)	Total Burden (Cost)
119.33c	Proving Test Plan	4	1	4	2.0	1.0	12	$356
119.35	Certificate Application Reqts - all Operators	4	1	4	80.0	16.0	384	$11,876
119.36	Certificate Application Reqts for Commercial Operators	4	1	4	2.0	4.0	24	$650
119.41c	Amending a Certificate	1	1	1	0.5	0.1	0.6	$19
119.69e3	Management Personnel Required, Part 135	4	1	4	1.0	0.5	6	$178
119.71f	Management Personnel Qualifications, Part 135	4	1	4	1.0	0.5	6	$178
							433	$13,256

Note: Column and row totals may not sum due to rounding.

2. Revision of Existing Information Collection 2120-0607: Pilot Records Improvement Act of 1996/Pilot Records Database[20]

Summary: With the exception of Form 8060-14 and -15, an operator utilizes the various 8060 forms to report a request for the applicable records of all applicants for the position of pilot with their company as needed under the Pilot Records Improvement Act (PRIA).

Public Comment: There were no comments submitted to the notice of proposed rulemaking concerning this information collection.

Use*:* The information collected on these forms will be used only to facilitate search and retrieval of the requested records, and submission is mandatory until PRIA

[20] Official FAA forecasts related to the operation of powered-lift in the National Airspace System (NAS) have yet to be developed. Thus, forecasts for operators of part 135 aircraft and fleet were prepared solely for the purpose of estimating the cost of the information collections affiliated with this rule, and developed using publicly available data related to orders and options for powered-lift. FAA notes that none of the orders for the multitude of powered-lift aircraft models being developed are firm as of the time of this writing, with the exception of one model. Using the fleet forecast and an assumption for fleet utilization (i.e. hours flown), forecasts for airmen and departures were also developed to estimate costs of the paperwork burden.

sunsets. Operators then "may use such records only to assess the qualification of the individual in deciding whether or not to hire the individual as a pilot." (49 U.S.C. 44703(h)(11)). For purposes of this incremental information collection the FAA expects pilots to access the pilot records database web-based application to release records to operators for review and to update employment history. In turn, the hiring operator uses the information to help them perform a comprehensive assessment of the pilot prior to making a hiring decision, as required by the Act.

The FAA has estimated the increase in the existing burden for this collection based on four part 119 certificate holders employing 129 commercial pilots holding an airmen's certificate in the powered-lift category by the end of the third year following adoption of this rule. Note that not all information collection requirements are expected to increase as a result of the revision to this information collection.

Table 4: Three-Year Burden Estimate for Information Collection 2120-0607[21]
Pilot Records Database

			Year 1	*Year 2*	*Year 3*	*Total*
New Pilots			0	44	85	129
Cumulative Pilots			0	44	129	
Pilot Activity - by Event	***Events Per Year***	***Hrs Per Event***	***Year 1 (hrs)***	***Year 2 (hrs)***	***Year 3 (hrs)***	***Total (hrs)***
Database Registration - New Pilots	1.0	0.33	0	14.5	28.1	42.6
Input Employment History - New Pilots	1.0	0.03	0	1.3	2.6	3.9
Total Time (Hours)			0.0	15.8	30.7	46.5

[21] Occupational Employment and Wages, May 2019, 11-3121 Human Resources Managers, Bureau of Labor Statistics, Mean Hourly Wage Rate ($62.29). https://www.bls.gov/oes/2019/may/oes113121.htm. The fully-burdened wage rate is $91.33 and includes employee compensation that is related to fringe benefits and is estimated to be 31.8 percent of the fully-burdened wage. Source: Bureau of Labor Statistics, Employer Costs for Employee Compensation (https://www.bls.gov/news.release/pdf/ecec.pdf; data provided in news release vary slightly by month). The FAA used a ground instructor base hourly wage rate ($31.56) as a proxy for the pilot non-flying base hourly wage rate (source: Bureau of Labor Statistics (BLS) Occupational Employment Statistics for Air Transportation Industry). https://www.bls.gov/oes/2019/may/oes131151.htm: Training and Development Specialists (13-1151). The fully-burdened wage rate is $46.28 and includes employee compensation related to benefits that is estimated to be 31.8 percent of the fully-burdened wage. (Source: Bureau of Labor Statistics, Employer Costs for Employee Compensation.)

Pilot Activity - by Cost		*Cost Per Hr*	*Year 1*	*Year 2*	*Year 3*	*Total*
Database Registration - New Pilots		$46.28	$0	$671	$1,301	$1,972
Input Employment History - New Pilots		$46.28	$0	$60	$120	$181
Total Cost			$0	$731	$1,421	$2,152
Operator Activity - by Event	*Events Per Year*	*Hrs Per Event*	*Year 1 (hrs)*	*Year 2 (hrs)*	*Year 3 (hrs)*	*Total (hrs)*
Training/checking events - Cumul. Pilots	2.7	0.07	0	8.3	24.4	32.7
Ground training events - Cumul. Pilots	1.0	0.07	0	3.1	9.0	12.1
Verification of NDR* Search - New Pilots	0.5	0.01	0	0.2	0.4	0.6
Initial train/check - New Pilots	1.0	0.07	0	3.1	6.0	9.1
Total Time (Hours)			0	14.7	39.8	54.5
Operator Events - by Cost		*Cost Per Hr*	*Year 1*	*Year 2*	*Year 3*	*Total*
Training/checking events - Cumul. Pilots		$91.33	$0	$758	$2,228	$2,986
Ground training events - Cumul. Pilots		$91.33	$0	$283	$822	$1,105
Verification of NDR* Search - New Pilots		$91.33	$0	$18	$37	$55
Initial train/check - New Pilots		$91.33	$0	$283	$548	$4,146
Total Cost			$0	$1,343	$3,635	$8,293

Note: Row and column totals may not sum due to rounding.

3. Revision of Existing Information Collection 2120-0535: Anti-Drug Program for Personnel Engaged in Specified Aviation Activities[22]

Summary: Part 119 certificate holders with the authority to operate under parts 121 and 135, air tour operators as defined in 14 CFR 91.147, non-FAA or Military Air Traffic Control Facilities, contractors, or repair stations under 14 CFR part 145 that conduct drug and alcohol testing programs are mandated to report information to this collection.

Public Comment: There were no comments submitted to the notice of proposed rulemaking concerning this information collection.

[22] Official FAA forecasts related to the operation of powered-lift in the National Airspace System (NAS) have yet to be developed. Thus, forecasts for operators of part 135 aircraft and fleet were prepared solely for the purpose of estimating the cost of the information collections affiliated with this rule, and developed using publicly available data related to orders and options for powered-lift. FAA notes that none of the orders for the multitude of powered-lift aircraft models being developed are firm as of the time of this writing, with the exception of one model. Using the fleet forecast and an assumption for fleet utilization (i.e. hours flown), forecasts for airmen and departures were also developed to estimate costs of the paperwork burden.

Use: The FAA uses this information for determining program compliance or non-compliance of regulated aviation employers, oversight planning, determining who must provide a mandatory annual Management Information System (MIS) testing information, and communicating with entities subject to the program regulations. In addition, the information is used to ensure that appropriate action is taken regarding crewmembers and other safety-sensitive employees who have tested positive for drugs or alcohol or have refused to submit to testing. The collection includes reporting, recordkeeping, and disclosure information. Using the information reported on the annual MIS allows the FAA Administrator to determine the random testing rates for the following year, which is published in the *Federal Register*.

The FAA has estimated the incremental increase in the existing burden for this collection based on four powered-lift operators entering service by the end of the third year following adoption of this rule. Below are the reporting requirements for this information collection. Note that not all information collection requirements are expected to increase as a result of the revision to this information collection.

Table 5: Three-Year Burden Estimate for Information Collection 2120-0535 Anti-Drug Program for Personnel Engaged in Specified Aviation Activities

PRA Task Item	Responses (Three Years)	Time Per Response (Hours)	Total 3-Yr Burden (Hours)	Fully-Burdened Hourly Wage ($25.33)	Total 3-Yr Burden ($)
Promulgate Policy	4	16.00	64.0	$25.33	$1,621
Registration (New or Amended)	4	1.00	4.0	$25.33	$101
Supervisory Drug and Alcohol Training	6	0.25	1.6	$25.33	$41
Employee Training Documentation	129	0.25	32.3	$25.33	$817
Reasonable Cause/Suspicion Documentation	1.5	2.00	3.0	$25.33	$76
Voluntary Disclosure	1.0	40.00	40.0	$25.33	$1,013
Emergency Maintenance	1	1.25	1.3	$25.33	$32
Scientifically Valid Random Testing Process	83	1.00	82.8	$25.33	$2,097
Medical Review Officer Recordkeeping Provision	4	0.25	1.0	$25.33	$25
Total Incremental Change for OMB 2120-0535	234		229.9		$5,823

Note: Row and column totals may not sum due to rounding.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA) in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5-6.6f for regulations and involves no extraordinary circumstances.

VI. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, will not have federalism implications.

B. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

Consistent with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,[23] and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures,[24] the FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; or to affect uniquely or significantly their respective Tribes. At this point, the FAA has not identified any unique or significant effects, environmental or otherwise, on Tribes resulting from this final rule.

C. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. The FAA has determined that it is not a "significant energy action" under the executive order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health,

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[23] 65 FR 67249 (Nov. 6, 2000).

[24] FAA Order No. 1210.20 (Jan. 28, 2004), available at https://www.faa.gov/documentLibrary/media/1210.pdf.

safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action will have no effect on international regulatory cooperation.

VII. Additional Information

A. Electronic Access and Filing

A copy of the NPRM, all comments received, this final rule, and all background material may be viewed online at https://www.regulations.gov using the docket number listed above. A copy of this rule will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at https://www.federalregister.gov and the Government Publishing Office's website at https://www.govinfo.gov. A copy may also be found at the FAA's Regulations and Policies website at https://www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W., Washington, D.C. 20591, or by calling (202) 267-9677. Commenters must identify the docket or amendment number(s) of this rulemaking.

All documents the FAA considered in developing this final rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about

compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit https://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 91

Air carrier, Air taxis, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Charter flights, Reporting and recordkeeping requirements, Transportation.

14 CFR Part 110

Administrative practice and procedure, Air carriers, Aircraft, Aviation safety, Charter flights, Reporting and recordkeeping requirements.

14 CFR Part 119

Administrative practice and procedure, Air carriers, Aircraft, Aviation safety, Charter flights, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 125

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 136

Air transportation, Aircraft, Aviation safety, National parks, Recreation and recreation areas, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506-46507, 47122, 47508, 47528-47531, 47534, Pub. L. 114-190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

2. Amend § 91.146 by revising paragraphs (b) introductory text and (b)(2), (3), (5), and (7) to read as follows:

§ 91.146 Passenger-carrying flights for the benefit of a charitable, nonprofit, or community event.

* * * * *

(b) Passenger-carrying flights in airplanes, powered-lift, or rotorcraft for the benefit of a charitable, nonprofit, or community event identified in paragraph (c) of this section are not subject to the certification requirements of part 119 of this chapter or the drug and alcohol testing requirements in part 120 of this chapter, provided the following conditions are satisfied and the limitations in paragraphs (c) and (d) of this section are not exceeded:

* * * * *

(2) The flight is conducted from a public airport that is adequate for the aircraft used, or from another location the FAA approves for the operation;

(3) The aircraft has a maximum of 30 seats, excluding each crewmember seat, and a maximum payload capacity of 7,500 pounds;

* * * * *

(5) Each aircraft holds a standard airworthiness certificate, is airworthy, and is operated in compliance with the applicable requirements of subpart E of this part;

* * * * *

(7) Reimbursement of the operator of the aircraft is limited to that portion of the passenger payment for the flight that does not exceed the pro rata cost of owning, operating, and maintaining the aircraft for that flight, which may include fuel, oil, airport expenditures, and rental fees;

* * * * *

3. Amend § 91.147 by revising paragraph (a) to read as follows:

§ 91.147 Passenger-carrying flights for compensation or hire.

* * * * *

(a) For the purposes of this section and for drug and alcohol testing, *Operator* means any person conducting nonstop passenger-carrying flights in an airplane, powered-lift, or rotorcraft for compensation or hire in accordance with § 119.1(e)(2), § 135.1(a)(5), or § 121.1(d) of this chapter that begin and end at the same airport and are conducted within a 25-statute mile radius of that airport.

* * * * *

4. Amend § 91.1015 by revising paragraph (a)(9) to read as follows:

§ 91.1015 Management specifications.

(a) * * *

(9) Any authorized deviation and exemption that applies to the person conducting operations under this subpart; and

* * * * *

PART 110—GENERAL REQUIREMENTS

5. The authority citation for part 110 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40102, 40103, 40113, 44105, 44106, 44111, 44701-44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

6. Amend § 110.2 by revising the introductory text of the definition of "Commercial air tour" and by revising the definitions of "Commuter operation", "Domestic operation", "Flag operation", "On-demand operation", and "Supplemental operation" to read as follows:

§ 110.2 Definitions.

* * * * *

Commercial air tour means a flight conducted for compensation or hire in an airplane, powered-lift, or rotorcraft 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:

* * * * *

Commuter operation means any scheduled operation conducted by any person operating one of the following types of aircraft with a frequency of operations of at least five round trips per week on at least one route between two or more points according to the published flight schedules:

(1) Rotorcraft; or

(2) Airplanes or powered-lift that:

(i) Are not turbojet-powered;

(ii) Have a maximum passenger-seat configuration of 9 seats or less, excluding each crewmember seat; and

(iii) Have a maximum payload capacity of 7,500 pounds or less.

* * * * *

Domestic operation means any scheduled operation conducted by any person operating any aircraft described in paragraph (1) of this definition at locations described in paragraph (2) of this definition:

(1) Airplanes or powered-lift that:

(i) Are turbojet-powered;

(ii) Have a passenger-seat configuration of more than 9 passenger seats, excluding each crewmember seat; or

(iii) Have a payload capacity of more than 7,500 pounds.

(2) Locations:

(i) Between any points within the 48 contiguous States of the United States or the District of Columbia; or

(ii) Operations solely within the 48 contiguous States of the United States or the District of Columbia; or

(iii) Operations entirely within any State, territory, or possession of the United States; or

(iv) When specifically authorized by the Administrator, operations between any point within the 48 contiguous States of the United States or the District of Columbia and any specifically authorized point located outside the 48 contiguous States of the United States or the District of Columbia.

* * * * *

Flag operation means any scheduled operation conducted by any person operating any aircraft described in paragraph (1) of this definition at locations described in paragraph (2) of this definition:

(1) Airplanes or powered-lift that:

(i) Are turbojet-powered;

(ii) Have a passenger-seat configuration of more than 9 passenger seats, excluding each crewmember seat; or

(iii) Have a payload capacity of more than 7,500 pounds.

(2) Locations:

(i) Between any point within the State of Alaska or the State of Hawaii or any territory or possession of the United States and any point outside the State of Alaska or the State of Hawaii or any territory or possession of the United States, respectively; or

(ii) Between any point within the 48 contiguous States of the United States or the District of Columbia and any point outside the 48 contiguous States of the United States and the District of Columbia; or

(iii) Between any point outside the U.S. and another point outside the U.S.

* * * * *

On-demand operation means any operation for compensation or hire that is one of the following:

(1) Passenger-carrying operations conducted as a public charter under part 380 of this chapter or any operations in which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative that are any of the following types of operations:

(i) Common carriage operations conducted with airplanes or powered-lift, including any that are turbojet-powered, having a passenger-seat configuration of 30 seats or fewer, excluding each crewmember seat, and a payload capacity of 7,500 pounds or less. The operations described in this paragraph do not include operations using a specific airplane or powered-lift that is also used in domestic or flag operations and that is so listed in the operations specifications as required by § 119.49(a)(4) of this chapter for those operations are considered supplemental operations;

(ii) Noncommon or private carriage operations conducted with airplanes or powered-lift having a passenger-seat configuration of less than 20 seats, excluding each crewmember seat, and a payload capacity of less than 6,000 pounds; or

(iii) Any rotorcraft operation.

(2) Scheduled passenger-carrying operations conducted with one of the following types of aircraft, other than turbojet-powered aircraft, with a frequency of operations of less than five round trips per week on at least one route between two or more points according to the published flight schedules:

(i) Airplanes or powered-lift having a maximum passenger-seat configuration of 9 seats or less, excluding each crewmember seat, and a maximum payload capacity of 7,500 pounds or less; or

(ii) Rotorcraft.

(3) All-cargo operations conducted with airplanes or powered-lift having a payload capacity of 7,500 pounds or less, or with rotorcraft.

* * * * *

Supplemental operation means any common carriage operation for compensation or hire conducted with any aircraft described in paragraph (1) of this definition that is a type of operation described in paragraph (2) of this definition:

(1) Airplanes or powered-lift that:

(i) Have a passenger-seat configuration of more than 30 seats, excluding each crewmember seat.

(ii) Have a payload capacity of more than 7,500 pounds.

(iii) Are propeller-powered and:

(A) Have a passenger-seat configuration of more than 9 seats and less than 31 seats, excluding each crewmember seat; and

(B) Are used in domestic or flag operations but are so listed in the operations specifications as required by § 119.49(a)(4) of this chapter for such operations.

(iv) Are turbojet-powered and:

(A) Have a passenger seat configuration of 1 or more but less than 31 seats, excluding each crewmember seat; and

(B) Are used in domestic or flag operations and are so listed in the operations specifications as required by § 119.49(a)(4) of this chapter for such operations.

(2) Types of operation:

(i) Operations for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative.

(ii) All-cargo operations.

(iii) Passenger-carrying public charter operations conducted under part 380 of this chapter.

* * * * *

PART 119—CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS

7. The authority citation for part 119 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40102, 40103, 40113, 44105, 44106, 44111, 44701-44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105; sec. 215, Pub. L. 111-216, 124 Stat. 2348.

8. Amend § 119.1 by:

a. Revising paragraph (a)(2);

b. Adding paragraph (a)(3); and

c. Revising paragraphs (e) introductory text, (e)(2), (e)(4)(v), (e)(5), (e)(7) introductory text, and (e)(7)(i), (iii), and (vii).

The revisions and addition read as follows:

§ 119.1 Applicability.

(a) * * *

(2) When common carriage is not involved, in operations of any U.S.-registered civil airplane or powered-lift with a seat configuration of 20 or more passengers, or a maximum payload capacity of 6,000 pounds or more; or

(3) When noncommon carriage is involved, except as provided in § 91.501(b) of this chapter, or in private carriage for compensation or hire, in operations of any U.S.-

registered civil airplane or powered-lift with a passenger-seat configuration of less than 20 seats and a payload capacity of less than 6,000 pounds.

* * * * *

(e) Except for operations when common carriage is not involved conducted with any airplane or powered-lift having a passenger-seat configuration of 20 seats or more, excluding any required crewmember seat, or a payload capacity of 6,000 pounds or more, this part does not apply to—

* * * * *

(2) Nonstop Commercial Air Tours that occur in an airplane, powered-lift, or rotorcraft having a standard airworthiness certificate and passenger-seat configuration of 30 seats or fewer and a maximum 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, in compliance with the Letter of Authorization issued under § 91.147 of this chapter. For nonstop Commercial Air Tours conducted in accordance with part 136, subpart B, of this chapter, National Parks Air Tour Management, the requirements of this part apply unless excepted in § 136.37(g)(2). For Nonstop Commercial Air Tours conducted in the vicinity of the Grand Canyon National Park, Arizona, the requirements of SFAR 50-2, part 93, subpart U, of the chapter and this part, as applicable, apply.

* * * * *

(4) * * *

(v) Powered-lift or rotorcraft operations in construction or repair work (but part 119 of this chapter does apply to transportation to and from the site of operations); and

* * * * *

(5) Sightseeing flights conducted in hot air balloons or gliders;

* * * * *

(7) Powered-lift or rotorcraft flights conducted within a 25 statute mile radius of the airport of takeoff if—

(i) Not more than two passengers are carried in the aircraft in addition to the required flightcrew;

* * * * *

(iii) The aircraft used is certificated in the standard category and complies with the 100-hour inspection requirements of part 91 of this chapter;

* * * * *

(vii) Cargo is not carried in or on the aircraft;

* * * * *

9. Amend § 119.5 by revising paragraphs (b) and (c) to read as follows:

§ 119.5 Certifications, authorizations, and prohibitions.

* * * * *

(b) A person not authorized to conduct direct air carrier operations, but authorized by the Administrator to conduct operations as a U.S. commercial operator, will be issued an Operating Certificate.

(c) A person not authorized to conduct direct air carrier operations, but authorized by the Administrator to conduct operations when common carriage is not involved as an operator of any U.S.-registered civil airplane or powered-lift with a seat configuration of 20 or more passengers, or a maximum payload capacity of 6,000 pounds or more, will be issued an Operating Certificate.

* * * * *

10. Amend § 119.21 by revising paragraph (a) introductory text to read as follows:

§ 119.21 Commercial operators engaged in intrastate common carriage and direct air carriers.

(a) Each person who conducts airplane or powered-lift operations as a commercial operator engaged in intrastate common carriage of persons or property for compensation or hire in air commerce, or as a direct air carrier, shall comply with the certification and operations specifications requirements in subpart C of this part, and shall conduct its:

* * * * *

11. Amend § 119.23 by revising the section heading, paragraphs (a) introductory text, (a)(2), and (b) introductory text to read as follows:

§ 119.23 Operators engaged in passenger-carrying operations, cargo operations, or both with airplanes or powered-lift when common carriage is not involved.

(a) Each person who conducts operations when common carriage is not involved with any airplane or powered-lift having a passenger-seat configuration of 20 seats or more, excluding each crewmember seat, or a payload capacity of 6,000 pounds or more, must, unless deviation authority is issued—

* * * * *

(2) Conduct its operations in accordance with the requirements of part 125 of this chapter; and

* * * * *

(b) Each person who conducts noncommon carriage (except as provided in § 91.501(b) of this chapter) or private carriage operations for compensation or hire with any airplane or powered-lift having a passenger-seat configuration of less than 20 seats,

excluding each crewmember seat, and a payload capacity of less than 6,000 pounds, must—

* * * * *

12. Amend § 119.49 by revising paragraphs (a)(12), (b)(12), and (c)(11) to read as follows:

§ 119.49 Contents of operations specifications.

(a) * * *

(12) Any authorized deviation or exemption from any requirement of this chapter that applies to the certificate holder.

* * * * *

(b) * * *

(12) Any authorized deviation or exemption from any requirement of this chapter that applies to the certificate holder.

* * * * *

(c) * * *

(11) Any authorized deviation or exemption from any requirement of this chapter that applies to the certificate holder.

* * * * *

13. Amend § 119.65 by revising paragraphs (a)(3) and (b)(2) to read as follows:

§ 119.65 Management personnel required for operations conducted under part 121 of this chapter.

(a) * * *

(3) Chief Pilot for each category of aircraft the certificate holder uses, as listed in § 61.5(b)(1) of this chapter.

* * * * *

(b) * * *

(2) The number and type of aircraft used; and

* * * * *

14. Revise § 119.67 to read as follows:

§ 119.67 Management personnel: Qualifications for operations conducted under part 121 of this chapter.

(a) *Director of Operations.* To serve as Director of Operations under § 119.65(a), a person must hold an airline transport pilot certificate and --

(1) If the certificate holder uses large aircraft, at least 3 years of supervisory or managerial experience within the last 6 years in large aircraft, in a position that exercised operational control over any operations conducted under part 121 or 135 of this chapter.

(2) If the certificate holder uses large aircraft, at least 3 years of experience as pilot in command under part 121 or 135 of this chapter in large aircraft in at least one of the categories of aircraft the certificate holder uses, as listed in § 61.5(b)(1) of this chapter. In the case of a person becoming Director of Operations for the first time, he or she must have accumulated this experience as pilot in command within the past 6 years.

(3) If the certificate holder uses only small aircraft in its operations, the experience required in paragraphs (a)(1) and (2) of this section may be obtained in either large or small aircraft.

(b) *Chief Pilot*. To serve as Chief Pilot under § 119.65(a), a person must:

(1) Hold an airline transport pilot certificate with appropriate ratings in the category of aircraft that the certificate holder uses in its operations under part 121 of this chapter and over which the Chief Pilot exercises responsibility; and

(2) Have at least 3 years of experience as pilot in command in the same category of aircraft that the certificate holder uses, as listed in § 61.5(b) of this chapter. The experience as pilot in command described in this paragraph (b)(2) must:

(i) Have occurred within the past 6 years, in the case of a person becoming a Chief Pilot for the first time.

(ii) Have occurred in large aircraft operated under part 121 or 135 of this chapter. If the certificate holder uses only small aircraft in its operation, this experience may be obtained in either large or small aircraft.

(iii) Be in the same category of aircraft over which the Chief Pilot exercises responsibility.

(c) *Director of Maintenance*. To serve as Director of Maintenance under §119.65(a), a person must:

(1) Hold a mechanic certificate with airframe and powerplant ratings;

(2) Have 1 year of experience in a position responsible for returning aircraft to service;

(3) Have at least 1 year of experience in a supervisory capacity under either paragraph (c)(4)(i) or (ii) of this section maintaining the same category and class of aircraft as the certificate holder uses; and

(4) Have 3 years of experience within the past 6 years in one or a combination of the following—

(i) Maintaining large aircraft with 10 or more passenger seats, including, at the time of appointment as Director of Maintenance, experience in maintaining the same category and class of aircraft as the certificate holder uses; or

(ii) Repairing aircraft in a certificated airframe repair station that is rated to maintain aircraft in the same category and class of aircraft as the certificate holder uses.

(d) *Chief Inspector*. To serve as Chief Inspector under §119.65(a), a person must:

(1) Hold a mechanic certificate with both airframe and powerplant ratings, and have held these ratings for at least 3 years;

(2) Have at least 3 years of maintenance experience on different types of large aircraft with 10 or more passenger seats with an air carrier or certificated repair station, 1 year of which must have been as maintenance inspector; and

(3) Have at least 1 year of experience in a supervisory capacity maintaining the same category and class of aircraft as the certificate holder uses.

(e) *Deviation.* A certificate holder may request a deviation to employ a person who does not meet the appropriate airman experience, managerial experience, or supervisory experience requirements of this section if the Manager of the Air Transportation Division or the Manager of the Aircraft Maintenance Division, as appropriate, finds that the person has comparable experience and can effectively perform the functions associated with the position in accordance with the requirements of this

chapter and the procedures outlined in the certificate holder's manual. Deviations under this paragraph (e) may be issued after consideration of the size and scope of the operation and the qualifications of the intended personnel. The Administrator may, at any time, terminate any grant of deviation authority issued under this paragraph (e).

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

15. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note); Pub. L. 115–254, 132 Stat. 3186 (49 U.S.C. 44701 note).

16. Amend § 121.1 by revising paragraphs (c) and (g) to read as follows:

§ 121.1 Applicability.

* * * * *

(c) Each person who applies for provisional approval of an Advanced Qualification Program curriculum, curriculum segment, or portion of a curriculum segment under subpart Y of this part, and each person employed or used by an air carrier or commercial operator under this part to perform training, qualification, or evaluation functions under an Advanced Qualification Program under subpart Y of this part.

* * * * *

(g) This part also establishes requirements for operators to take actions to support the continued airworthiness of each aircraft.

§ 121.470 [Amended]

18. Amend § 121.470 in paragraphs (a) and (b) by removing the word "airplanes" and adding in its place the word "aircraft".

§ 121.480[Amended]

19. Amend § 121.480 in paragraph (a) by removing the word “airplanes” and adding in its place the word “aircraft”.

§ 121.500 [Amended]

20. Amend § 121.500 in paragraph (a) by removing the word “airplanes” and adding in its place the word “aircraft”.

PART 125—CERTIFICATION AND OPERATIONS: AIRCRAFT HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

21. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

22. The heading for part 125 is revised to read as set forth above.

23. Amend § 125.1 by revising paragraphs (a), (b) introductory text, (b)(4), (c), and (e) to read as follows:

§ 125.1 Applicability.

(a) Except as provided in paragraphs (b) through (d) of this section, this part prescribes rules governing the operations of U.S.-registered civil airplanes and powered-lift, when those aircraft have a seating configuration of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more when common carriage is not involved.

(b) The rules of this part do not apply to the operations of aircraft specified in paragraph (a) of this section, when—

* * * * *

(4) They are being operated under part 91 of this chapter by an operator certificated to operate those aircraft under the rules of part 121, 135, or 137 of this chapter, they are being operated under the applicable rules of part 121 or 135 of this chapter by an applicant for a certificate under part 119 of this chapter or they are being operated by a foreign air carrier or a foreign person engaged in common carriage solely outside the United States under part 91 of this chapter;

* * * * *

(c) This part, except § 125.247, does not apply to the operation of aircraft specified in paragraph (a) of this section when they are operated outside the United States by a person who is not a citizen of the United States.

* * * * *

(e) This part also establishes requirements for operators to take actions to support the continued airworthiness of each aircraft.

24. Amend § 125.23 by revising the introductory text to read as follows:

§ 125.23 Rules applicable to operations subject to this part.

Each person operating an aircraft in operations under this part shall—

* * * * *

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

25. The authority citation for part 136 is revised to read as follows:

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

26. Amend § 136.1:

a. By revising paragraphs (a), (b) introductory text, and (c); and

b. In paragraph (d):

i. In the definition of "Commercial Air Tour":

A. By removing "Commercial Air Tour" and adding "Commercial air tour" in its place;

B. By revising the introductory text; and

C. By redesignating paragraphs (1) through (8) as paragraphs (i) through (viii);

ii. By removing the definition of "Suitable landing area for helicopters"; and

iii. By adding a definition for "Suitable landing area for rotorcraft" in alphabetical order.

The revisions and addition read as follows:

§ 136.1 Applicability and definitions.

(a) This subpart applies to each person operating or intending to operate a commercial air tour in an airplane, powered-lift, or rotorcraft and, when applicable, to all occupants of those aircraft 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) This subpart applies to:

* * * * *

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

(d) * * *

Commercial air tour means a flight conducted for compensation or hire in an airplane, powered-lift, or rotorcraft 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:

* * * * *

Suitable landing area for rotorcraft means an area that provides the operator reasonable capability to land in an emergency without causing serious injury to persons. These suitable landing areas must be site specific, designated by the operator, and accepted by the FAA.

* * * * *

27. Revise § 136.3 to read as follows:

§ 136.3 Letters of Authorization.

Operators subject to this subpart who have Letters of Authorization may use the procedures described in § 119.51 of this chapter to amend or have the FAA reconsider those Letters of Authorization.

28. Revise § 136.5 to read as follows:

§ 136.5 Additional requirements for Hawaii.

Any operator subject to this subpart who meets the criteria of § 136.71 must comply with the additional requirements and restrictions in subpart D of this part.

29. Amend § 136.9 by revising the section heading and paragraphs (b)(1) through (3) to read as follows:

§ 136.9 Life preservers for operations over water.

* * * * *

(b) * * *

(1) The aircraft is equipped with floats;

(2) The airplane is within power-off gliding distance to the shoreline for the duration of the time that the flight is over water; or

(3) The aircraft is a multiengine that can be operated with the critical engine inoperative at a weight that will allow it to climb, at least 50 feet a minute, at an altitude of 1,000 feet above the surface, as provided in the approved aircraft flight manual for that aircraft.

* * * * *

30. Revise § 136.11 to read as follows:

§ 136.11 Rotorcraft floats for over water.

(a) A rotorcraft used in commercial air tours over water beyond the shoreline must be equipped with fixed floats or an inflatable flotation system adequate to accomplish a safe emergency ditching, if—

(1) It is a single-engine rotorcraft; or

(2) It is a multi-engine rotorcraft that cannot be operated with the critical engine inoperative at a weight that will allow it to climb, at least 50 feet a minute, at an altitude of 1,000 feet above the surface, as provided in the approved aircraft flight manual for that aircraft.

(b) Each rotorcraft that is required to be equipped with an inflatable flotation system under this section must have:

(1) The activation switch for the flotation system on one of the primary flight controls; and

(2) The flotation system armed when the rotorcraft is over water beyond the shoreline and is flying at a speed that does not exceed the maximum speed prescribed in the approved aircraft flight manual for flying with the flotation system armed.

(c) Neither fixed floats nor an inflatable flotation system is required for a rotorcraft under this section when that rotorcraft is:

(1) Over water only during the takeoff or landing portion of the flight; or

(2) Operated within power-off gliding distance to the shoreline for the duration of the flight and each occupant is wearing a life preserver from before takeoff until the aircraft is no longer over water.

31. Revise § 136.13 to read as follows:

§ 136.13 Performance plan.

(a) Each operator that uses a rotorcraft must complete a performance plan before each commercial air tour or flight operated under § 91.146 or § 91.147 of this chapter. The pilot in command must review for accuracy and comply with the performance plan on the day the flight occurs. The performance plan must be based on information in the approved aircraft flight manual for that aircraft taking into consideration the maximum density altitude for which the operation is planned, in order to determine:

(1) Maximum gross weight and center of gravity (CG) limitations for hovering in ground effect;

(2) Maximum gross weight and CG limitations for hovering out of ground effect; and

(3) Maximum combination of weight, altitude, and temperature for which height/velocity information in the approved aircraft flight manual is valid.

(b) Except for the approach to and transition from a hover for the purpose of takeoff and landing, or during takeoff and landing, the pilot in command must make a reasonable plan to operate the rotorcraft outside of the caution/warning/avoid area of the limiting height/velocity diagram.

(c) Except for the approach to and transition from a hover for the purpose of takeoff and landing, during takeoff and landing, or when necessary for safety of flight, the pilot in command must operate the rotorcraft in compliance with the plan described in paragraph (b) of this section.

Appendix A to Part 136—[Removed]

32. Remove appendix A to part 136.

33. Add subpart D to part 136 to read as follows:

Subpart D—Special Operating Rules for Air Tour Operators in the State of Hawaii

Sec.

136.71 Applicability.
136.73 Definitions.
136.75 Equipment and requirements.

Subpart D—Special Operating Rules for Air Tour Operators in the State of Hawaii

§ 136.71 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart prescribes operating rules for air tour flights conducted in airplanes, powered-lift, or rotorcraft under visual flight rules in the State of Hawaii pursuant to parts 91, 121, and 135 of this chapter.

(b) This subpart does not apply to:

(1) Operations conducted under part 121 of this chapter in airplanes with a passenger seating configuration of more than 30 seats or a payload capacity of more than 7,500 pounds.

(2) Flights conducted in gliders or hot air balloons.

§ 136.73 Definitions.

For the purposes of this subpart:

Air tour means any sightseeing flight conducted under visual flight rules in an airplane, powered-lift, or rotorcraft for compensation or hire.

Air tour operator means any person who conducts an air tour.

§ 136.75 Equipment and requirements.

(a) *Flotation equipment.* No person may conduct an air tour in Hawaii in a rotorcraft beyond the shore of any island, regardless of whether the rotorcraft is within gliding distance of the shore, unless:

(1) The rotorcraft is amphibious or is equipped with floats adequate to accomplish a safe emergency ditching and approved flotation gear is easily accessible for each occupant; or

(2) Each person on board the rotorcraft is wearing approved flotation gear.

(b) *Performance plan*. Each operator must complete a performance plan that meets the requirements of this paragraph (b) before each air tour flight conducted in a rotorcraft.

(1) The performance plan must be based on information from the current approved aircraft flight manual for that aircraft, considering the maximum density altitude for which the operation is planned to determine the following:

(i) Maximum gross weight and center of gravity (CG) limitations for hovering in ground effect;

(ii) Maximum gross weight and CG limitations for hovering out of ground effect; and

(iii) Maximum combination of weight, altitude, and temperature for which height-velocity information from the performance data is valid.

(2) The pilot in command (PIC) must comply with the performance plan.

(c) *Operating limitations.* Except for approach to and transition from a hover, and except for the purpose of takeoff and landing, the PIC of a rotorcraft may only operate such aircraft at a combination of height and forward speed (including hover) that would permit a safe landing in event of engine power loss, in accordance with the height-speed envelope for that rotorcraft under current weight and aircraft altitude.

(d) *Minimum flight altitudes*. Except when necessary for takeoff and landing, or operating in compliance with an air traffic control clearance, or as otherwise authorized by the Administrator, no person may conduct an air tour in Hawaii:

(1) Below an altitude of 1,500 feet above the surface over all areas of the State of Hawaii;

(2) Closer than 1,500 feet to any person or property; or

(3) Below any altitude prescribed by Federal statute or regulation.

(e) *Passenger briefing*. Before takeoff, each PIC of an air tour flight of Hawaii with a flight segment beyond the ocean shore of any island shall ensure that each passenger has been briefed on the following, in addition to requirements set forth in § 91.107, § 121.571, or § 135.117 of this chapter:

(1) Water ditching procedures;

(2) Use of required flotation equipment; and

(3) Emergency egress from the aircraft in event of a water landing.

Issued in Washington, D.C., under the authority of 49 U.S.C. 106(f) and (g), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5).

Polly Trottenberg,

Acting Administrator.

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