

FAA has solicited comments on the proposed establishment of a 5,000 foot AGL over or within 1/2 mile outside National Park boundary as completing the definition of a commercial air tour operation.

First, it is noted that the definition only applies to powered aircraft. I can see no reason for the rule not to apply to all aircraft at whatever altitude is finally determined.

Second, the 5,000 AGL proposal is ridiculously high. NPS is apparently interested in having FAA secure massive amounts of airspace above the parks far in excess of previously expressed limits. For many years the Sectional Aeronautical Charts containing National Park, etal, property have contained the legend which states in part, "All aircraft are requested to maintain a minimum altitude of 2,000 feet above the surface..." Why is it suddenly necessary to place any "commercial sightseeing" flight within essentially a mile above the surface within this block? At the Arizona Memorial, this rule would create a cylinder within Class B airspace that would be 1/2 mile radius and 5,000 feet tall.

To my knowledge, there is no proposed rule to limit any other type of "sightseeing" flight over national parks at any altitude. This allows all Part 91 operations by private pilots with a plane load of "friends" and so called "flight instruction flights" to fly through national park property without limitation except for the request note on the Sectional Aeronautical Chart.

Irrespective of the discriminatory nature of the rule, this writer cannot envision the point in setting the altitude at such a high level. Here in Hawaii this rule would have the altitude over Haleakala vary from 5,000 MSL to over 15,000 MSL and at Hawaii Volcanoes from 5,000 MSL to 18,680 MSL. Since sightseeing aircraft here in Hawaii are nonpressurized, the practical limit is 12,000 MSL.

Furthermore, here in Hawaii most "commercial sightseeing" flights are currently operating at altitudes of 1,500 AGL or below, by FAA deviation. For the viewing of the sites, there is little demand from passengers for higher altitudes. Additionally, because Haleakala actually extends offshore along about a mile of coastline at Kipahulu, any commercial air tour flying the shoreline around Maui and not otherwise flying over Haleakala N. P. would be subject to the ATMP of Haleakala due to the thirty seconds or so of the flight if it was lower than 5,000. Having to climb up to 5,000 MSL along the shore or offshore in this case could place the flight into typical day clouds in that area. Even having to leave the shore to avoid the short stretch could cause weather problems as rain showers may require a lengthy deviation to sea when the flight could have passed along the shore at a reasonable altitude out of the weather. Safety must be a prime concern. The higher you set the limit the more likely you are to create safety problems.

Hawaii Volcanoes has a longer shoreline, but the same potential problem exists by jacking up the altitude above what is really necessary. Many of us run tours here in Hawaii where the N.P. is a tiny portion of the tour. For example, the tour might be 2 - 2 1/4 hours with the N.P. overflight portion 8-12 minutes. Congress may have mandated these heavy rules, but we need practical application for safety which demands realistic determination of this altitude. This writer views an altitude greater than 2,000 AGL as unnecessary due to realities of the business and compromising safety.

The NPRM states that "FAA has determined that this proposed rule imposes no costs on small commercial air tour operators because the actual effect on small entities will be determined by individual ATMPs." This is a ludicrous statement as just responding to this NPRM takes time and effort from other duties in this business. The setting of the altitude at 2,000 feet vs 5,000 feet has large potential consequences not only for the reasons detailed above, but it may subject the small operator to additional costs in the ATMP process or limit his business if caps on flights are placed by the ATMP. If the operator has the ability to hop over the short portion of the park at a safe and reasonable altitude, he may not suffer as he would otherwise. Hawaii is a very competitive market with small family owned operators who depend on the income earned from their air tour businesses for living.