(ii) For airplanes with 18,600 or more total flight cycles as of the effective date of this AD: Within 500 flight cycles after the effective date of this AD.

(2) For airplanes on which nose rib 7 has been replaced in accordance with Airbus Service Bulletin A300–57–0242 or A300–57–6097, both dated December 18, 2003: Do the initial inspection within 5,000 flight cycles after accomplishing the replacement, or within 1,000 flight cycles after the effective date of this AD, whichever is later.

No Crack Found: Repetitive Inspections

(g) If no crack is found during the inspection required by paragraph (f) of this AD: Repeat the inspection at intervals not to exceed 1,000 flight cycles, until the terminating action in paragraph (i) of this AD is completed.

Crack Found: Related Investigative/ Corrective Actions

(h) If any crack is found during any inspection required by paragraph (f) or (g) of this AD: Before further flight, replace nose rib 7 with a new, improved rib and do all related investigative actions and applicable corrective actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0245, Revision 01, or A300–57–6100, Revision 01, both dated March 9, 2006, as applicable, except as provided by paragraph (j) of this AD. This terminates the repetitive inspections required by paragraph (g) of this AD for the modified flaps only.

Terminating Action

(i) Within 5,000 flight cycles or 36 months after the effective date of this AD, whichever is first: Replace nose rib 7 with a new, improved rib and do all related investigative actions and applicable corrective actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0245, Revision 01, or A300–57–6100, Revision 01, both dated March 9, 2006, as applicable, except as provided by paragraph (j) of this AD. This terminates the repetitive inspections required by paragraph (g) of this AD.

Repairing Per the FAA or Direction Générale de l'Aviation Civile (DGAC)

(j) If any crack or damage is found for which the applicable service bulletin specifies to contact Airbus: Before further flight, repair per a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

No Reporting Required

(k) Airbus Service Bulletins A300–57–0240 and A300–57–6095, both Revision 01, both dated December 2, 2004, specify to submit certain information to the manufacturer, but this AD does not include that requirement.

Actions Accomplished in Accordance With Initial Issue of Service Bulletins

(l) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A300–57–0245 or A300–57–6100, both dated August 31, 2005, are acceptable for compliance with the requirements of paragraphs (h) and (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(n) French airworthiness directive F–2005–198, dated December 7, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on March 14, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–4406 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 119

[Docket No. FAA–2006–24260]

Exemptions for Passenger Carrying Operations Conducted for Compensation and Hire in Other Than Standard Category Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of draft policy statement.

SUMMARY: This document identifies and provides guidance on the current FAA policies regarding requests for an exemption from the rules governing the operation of aircraft for the purpose of carrying passengers on living history flights in return for compensation. Specifically, this document clarifies which aircraft are potentially eligible for an exemption and what type of information petitioners should submit to the FAA for proper consideration of relief from the applicable regulations. This policy does not apply to flight crew training or commercial space transportation issues.

DATES: Comments must be received on or before April 26, 2006.

ADDRESSES: You may send comments that do not include national security or sensitive security information identified by Docket Number FAA–2006–24260 using any of the following methods:

- DOT Docket Web Site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide Rulemaking Web Site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Fax: 1–202–493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process or instructions on submitting comments that include national security or sensitive security information, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: Subject to review for national security or sensitive security information, we will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: General Aviation and Commercial Division, Certification and General Aviation Operations Branch (AFS–810), Flight Standards Service, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8212.

SUPPLEMENTARY INFORMATION:

Background

In 1996, the FAA granted an exemption from various requirements of part 91 and part 119 to an aviation museum/foundation allowing the exemption holder to operate a large, crew-served, piston-powered, multiengine, World War II (WWII) bomber carrying passengers for the purpose of preserving U.S. military aviation history. In return for donations, the contributors would receive a local flight in the restored bomber.

The petitioner noted that WWII combat aircraft are unique in that only a limited number remain in flyable condition, and that number is declining with the passage of time. In addition,

the petitioner noted replacement parts and the specific gasoline used by these airplanes will eventually be in short supply, and may substantially reduce the aircraft performance capability or require the airplanes to be grounded.

The petitioner indicated that compensation would be collected to help cover expenses associated with maintaining and operating the WWII airplane. Without these contributions, the petitioner asserted that the cost of operating and maintaining the airplane would be prohibitive.

The FAA determined that these airplanes were operated under a limited category airworthiness certificate. Without type certification under Title 14 Code of Federal Regulations (14 CFR) § 21.27, they are not eligible for standard airworthiness certificates. The high cost of type certification under § 21.27 makes this avenue impractical for operators providing living history flights. Comparable airplanes manufactured under a standard airworthiness certificate did not exist. Thus, the FAA determined that an exemption was an appropriate way to preserve aviation history and keep the airplanes operational.

In granting the exemption, the FAA found that there was an overwhelming public interest in preserving U.S. aviation history, just as the preservation of historic buildings, historic landmarks, and historic neighborhoods have been determined to be in the public interest. While aviation history can be represented in static displays in museums, in the same way historic landmarks could be represented in a museum, the public has shown support for and a desire to have these historic aircraft maintained and operated to allow them to experience a flight.

As with all exemptions, the FAA also recognized it was paramount that such operations not adversely affect safety. Therefore, the FAA required flight crewmembers to meet certain qualification and training requirements (for example, requirements for an FAA-approved training program and stringent pilot qualifications, comprehensive maintenance and inspection procedures and records, and in-flight maintenance and airworthiness failure reporting procedures.).

The FAA granted the exemption and relieved the petitioner from the following regulations contained in Title 14, Code of Federal Regulations (14 CFR):

- Section 91.315, which states that no person may operate a limited category civil aircraft carrying persons or property for compensation or hire.
- Section 91.319(a), which states that no person may operate an aircraft with an experimental certificate for other than the purpose for which the certificate was issued, or for carrying persons or property for compensation or hire.
- Section 119.5(g), which states, in pertinent part, that no person may operate as a commercial operator without, or in violation of, an appropriate certificate and appropriate operations specifications.
- Section 119.21(a), which states, in pertinent part, that each person who conducts operations as a commercial operator engaged in intrastate common carriage of persons for compensation shall comply with the certification and operations specifications requirements in subpart C of part 119. Subpart C of part 119 describes certification, operations specifications, and other requirements for operations conducted under part 121 or part 135.

Since the issuance of that exemption, the FAA has received many exemption requests seeking the same or similar relief, even though the particular circumstances were different. These subsequent petitions raised significant concerns within the FAA and led it to reexamine and refine its criteria for issuing exemptions.

In one case, petitioner requested relief to operate certain helicopters manufactured for U.S. Army operations in the Republic of Vietnam. These helicopters are similar in construction and design to a type-certificated product with a standard airworthiness certificate. The FAA generally does not issue exemptions from aviation safety regulations if the proposed operation can be performed in full compliance with the rules. However, the FAA reconsidered its position in this instance because the aircraft provided a unique, historical perspective due to the nature of its operations. The aircraft served in Viet Nam in the actual manner that they were flown in exhibition. Additionally, the particular make and model of aircraft have been on active service duty in the U.S. military longer than any other military helicopter and have carried more personnel and equipment into war zones and areas of conflict than any other aircraft. Thus, the FAA granted an exemption because of the aircraft's unique operating history.

In another case, a petitioner requested an exemption to operate several single-seat, piston-powered WWII fighter aircraft that were certificated in the limited category. While the historical significance and combat history of the aircraft were appropriate to the original standard, those in civil use had been modified to a two-seat version. Single-seat aircraft converted to a two-seat configuration no longer met the same design criteria of the original aircraft, and would not generally be considered as representative of the actual aircraft used in combat operations.

Another petitioner requested an exemption to operate certain large turbojet-powered aircraft, which included a foreign-manufactured and operated,[1] surplus military turbojet aircraft. Some turbojet-powered aircraft (L–29, L–39, TS–11, Alfa Jet, etc.) remain in active military service or are readily available in the current international market. The availability of these aircraft is indicative of an increasing market and thus undermines any argument that this aircraft meets the public interest goal of preserving unique, historical aircraft. Additionally, the FAA was concerned that the petitioner could not demonstrate that these aircraft had been adequately maintained. Unlike foreign-manufactured military surplus aircraft, operators of U.S.-manufactured surplus military aircraft certificated in an airworthiness category (experimental, limited, and restricted category under § 21.25(a)(2)) for which no common standards exist, were required to avoid potential safety issues through (1) the continued operation and maintenance requirements imposed on them, and (2) a requirement to provide adequate documentation of previous operational maintenance history.

FAA Policy

This document provides clarification on the FAA's policy on issuing exemptions to only non-profit organizations for the purpose of providing flight experiences to promote aviation history and preserve historic aircraft.

The FAA recognizes the need for and seeks to promote an exposure to and appreciation of aviation history. By enabling non-profit organizations, identified as such by the U.S. Department of the Treasury, to offer living history flights for compensation used to preserve and maintain these aircraft, the public will be assured access to this important part of history.

[1] Certification under § 21.19(d) does not require the aircraft be manufactured in the United States. Rather a foreign-manufactured aircraft operated by a branch of the U.S. Armed Forces would be treated the same as a U.S.-manufactured aircraft. However, foreign operations pose concerns over whether the aircraft, as designed, could have been certificated under § 21.19(d) and whether the aircraft has been maintained in a manner sufficient to ensure the safety of the flying public and bystanders.

The regulations in 14 CFR establish appropriate safety standards for aircraft operators and crewmembers. Therefore, an exemption from aviation safety regulations is not routinely granted if the proposed operation can be performed in full compliance with the rules. In addition, the FAA must be persuaded that operation of the affected aircraft will not pose an undue risk to the flying public or to bystanders. The use of turbine-engine powered aircraft, in particular, raises several concerns with respect to the type and quality of training available for the flight crews and maintenance and inspection personnel. Many of these aircraft are complex in nature and require special skills to operate safely. In addition, there is risk to passengers, ground personnel and spectators when ejection seat systems, utilizing armed, explosive pyrotechnic devices are installed and operational.

The FAA notes that in order to ensure that adequate consideration is given to petitioners intending to operate experimental exhibition, surplus foreign or domestic, turbojet or turbine-powered aircraft, the FAA will closely examine the proposed operation with respect to safety of flight, passenger safety considerations, and safety of the non-participating public during the operational period and within the operational area. Passenger/flight crew egress, emergency egress systems such as ejection seats, documentation or statistical make and model operational history, significance of the particular aircraft with respect to the operational history maintenance history, operational failure modes, and aging aircraft factors of individual aircraft will be taken into consideration in the analysis of an exemption request.

The FAA will not automatically exclude any aircraft from consideration unless the aircraft was acquired through an Act of Congress and Congress has specified that the aircraft may not be operated for compensation or hire.[2] Rather, the FAA will evaluate each exemption request on a case-by-case basis. Those requesting an exemption from a particular standard or set of standards must demonstrate the following: (1) That there is an overriding public interest in providing a financial means for non-profit organizations to continue to preserve and operate these historic aircraft, and (2) the measures that will be taken to ensure safety will not be adversely affected.

In order to allow the FAA to thoroughly evaluate and provide consideration to each request, petitioners should allow at least 120 days for processing and review of any exemption requests.

The FAA will use the following criteria in determining whether granting an exemption is in the public interest and does not compromise safety:

1. Aircraft holding any category of airworthiness certificate issued under 14 CFR part 21 may be considered for an exemption to provide living history flight experiences.

2. Exemptions will not be limited to a particular category of aircraft or to a particular type of engine; fixed wing or rotorcraft may apply as well as piston or turbine powered.

3. Non-U.S. aircraft may be considered for an exemption if the operational and maintenance history is adequately documented.

4. Aircraft with crew egress systems will be considered, provided that flight crew, ground personnel, and passengers have completed a training program approved by the FAA. Passenger training programs must be at least as thorough as what is provided by the manufacturer or military service user when preparing an individual for a ''familiarization'' flight. Aircraft of the same or similar make/model/series must not be in current production or in significant commercial use for the carriage of passengers. Exceptions may be considered where a particular airframe has documented historical significance (such as the aforementioned Vietnam-era helicopter).

5. All passenger seats and their installation must:

a. Take into consideration passenger egress in the event of an emergency; and be FAA-approved if installed on type-certificated aircraft; or

b. Meet the military seat and installation standards or equivalent standards in existence at the time the aircraft was manufactured as outlined in 14 CFR 21.27 if installed on experimental aircraft. The FSDO having oversight for that aircraft will then ensure the approved maintenance program is modified to incorporated the specific seat inspection procedures.

6. Exemptions will be issued for the sole purpose of providing living history flights to promote aviation and preserve historic aircraft. The operations authorized under these exemptions are specifically not air tour, sightseeing, or air carrier operations. The FAA may stipulate considerations and limitations to the operation to preserve commonality and standardization. The FAA, in determining the public interest derived in any grant of exemptions of this nature, will take into consideration the number of existing aircraft and petitioners available to provide the historic service to the public.

7. The FAA must be provided with proof that the petitioner is a non-profit museum or foundation, recognized as such by the U.S. Department of the Treasury, which uses the funds received from exhibitions to enable the continued display of the featured aircraft. The aircraft must be operated exclusively by the petitioner.

8. Flights must be non-stop and within 25 statute miles radius of the departure point. With concurrence of the local FSDO, special authorizations may be given to conduct flights up to a distance of 50 statute miles from the departure airport in order to meet ATC airspace restrictions or security needs.

9. Applicants may be required to submit an operational history of the make/model/type aircraft, or justification with respect to aviation history in order for the FAA to determine the public interest basis for granting an exemption.

10. If a petition for exemption is granted, the conditions and limitations may include revised operating limitations as part of the aircraft's airworthiness certificate. These operating limitations may be more restrictive than those originally issued to the aircraft.

11. Passengers must obtain a complete briefing prior to departure that adequately describes the differences between aircraft with a standard airworthiness certificate and aircraft holding either an experimental or limited airworthiness certificate (i.e., The FAA has not participated in or accepted the design standards, performance standards, handling qualities, or provided approval or operational acceptance of experimental aircraft, the adequacy of previous maintenance and inspection programs and accomplishment may be in doubt, that the aircraft may not comply with FAA passenger regulations and may be operated under separate maintenance standards). The briefing shall also advise that the FAA considers flights in these aircraft to be inherently dangerous activities and has approved this exemption on the condition that the passengers taking this flight be properly trained in emergency exiting, including proper use of the ejection seat and apprised of the risks involved in flying in such aircraft. Petitioners must prepare a ''waiver'' for signature by the potential passenger. While a waiver

[2] In the event an exemption is mistakenly granted for such an aircraft, the exemption shall be void and the FAA may take enforcement action against the operator at any time.

cannot absolve the operator of liability in the event of an accident, the document will provide proof that the passenger has been advised of the risks inherent in the type of operation to be conducted. In addition, the signature will acknowledge the fact that the FAA has NOT made a determination that the aircraft is considered safe to carry passengers for compensation or hire.

14. Crew Qualification and Training

a. Pilots must possess a minimum of a commercial pilot certificate with instrument rating appropriate to the category and class of aircraft to be flown. They must also hold a type rating is required by the type of aircraft flown along with a current second class medical certificate.

b. Initial and recurrent training must be performed to current ATP Practical Test Standards for aircraft requiring a special authorization or type rating to operate.

c. An initial ground and flight-training program must be developed by the organization and completed by all pilots.

d. Recurrent ground training must be developed and completed by all pilots or an annual cycle.

e. An annual proficiency check must be conducted and if necessary, recurrent flight training will be required. A minimum activity level and satisfactory flight proficiency check may allow the requirement for recurrent flight training to be waived.

f. The petitioner will state the minimum flight experience required for each pilot position.

g. Pilots will maintain takeoff and landing currency in each make and model.

h. A system for documenting and recording all crew qualifications, required training, checking and currency must be developed and maintained.

i. All training and checking programs must be approved by the FAA.

15. Maintenance/Inspection of Aircraft

a. The maintenance history of each individual aircraft must be provided.

b. The petitioner must provide an FAA approved maintenance/inspection program that may be a program based on military and/or original manufacturer's manuals and must be in accordance with the type certification data sheet and the aircraft's operating limitations.

c. All maintenance and inspections will be documented and recorded.

d. Applicants may be required to submit an operational history of the make/model/type in order for the FAA to verify that the submitted maintenance/inspection program is adequate.

16. All maintenance or operational incidents will be reported to the Flight Standards District Office in whose district the organization's principal base of operations is located.

17. Passenger Safety and Training

a. An FAA approved passenger briefing must be conducted appropriate to the scope of operations. Passengers must be fully informed of the risks associated with the proposed rides, and that occupying a seat in these aircraft may subject the rider to a high level of risk. Some operations may require passenger-briefing cards.

b. The passenger briefing must include normal and emergency egress procedures, passenger seating, and overview of safety restraint systems.

c. Passenger training equivalent to that provided for Department of Defense familiarization flights must be approved by the FAA and conducted for all flights involving any of the following:

i. Ejection seats, if the aircraft is so equipped;

ii. High altitude operations, if flight will be conducted above 10,000 feet MSL;

iii. Oxygen system, for flights above 10,000 feet MSL or if use of the system is required by type of operation.

Petitioners will be required to demonstrate their ability to safely perform the operations requested and to meet all operating and maintenance requirements. The extent of this demonstration will be dependent on the scope of the operation requested. Petitioners who have conducted this type of operation must provide a summary of their operating history.

Additionally, all petitioners will be required to submit documentation sufficient to allow the FAA to determine the number of passenger seats to be utilized during compensated operations and the FAA approval status of those seats. Petitioners will also be required to provide the U.S. registration number and make/model/serial number of the aircraft to be used.

Petitioners who have submitted requests should review this draft policy statement and consider supplementing their petitions if they have not previously provided the necessary information. The FAA will consider any information submitted and determine whether more information is necessary to make a decision on whether it is appropriate to grant an exemption for a particular aircraft. The FAA anticipates that some aircraft models that have been granted exemptions may no longer qualify for future exemptions.

Petitioners should be precise regarding the requirements from which they seek relief. In addition petitioners should provide copies of the airworthiness certificate, including a copy of the operating limitations issued for each aircraft that would be subject to the conditions and limitations of the proposed exemption. Those submitting petitions for exemption or additional information should submit the required information to the following: (1) for paper submissions, send the original signed copy of your submission to the U.S. Department of Transportation, Docket Management System, 400 7th Street, SW., Room PL 401, Washington, DC 20591–0001; or (2) for electronic submissions, submit your information to the FAA through the Internet using the Docket Management System Web site at this Internet address: *http://dms.dot.gov/*. If you already have received a docket number, you must reference that docket number in your request.

The FAA is soliciting comments from the public regarding this draft policy statement. We will not consider any new requests for exemption from the date this proposed policy is published to the time at which all comments are received and adjudicated.

Issued in Washington, DC on March 21, 2006.

James J. Ballough,

Director, Flight Standards Service.

[FR Doc. 06–2915 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[MT–026–FOR]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Montana regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act).

This document gives the times and locations that the Montana regulatory program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written