

§ 136.35

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(f) *Tribal lands* means that portion of Indian country (as that term is defined in section 1151 of title 18 of the U.S. Code) that is within or abutting a national park.

(g) *Administrator* means the Administrator of the Federal Aviation Administration.

(h) *Director* means the Director of the National Park Service.

(i) *Superintendent* means the duly appointed representative of the National Park Service for a particular unit of the national park system.

[Doc. No. FAA–2001–8690, 67 FR 65667, Oct. 25, 2002. Redesignated and amended by Amdt. 136–1, 72 FR 6912, Feb. 13, 2007; Amdt. 136–1, 72 FR 31450, June 7, 2007]

§ 136.35 Prohibition of commercial air tour operations over the Rocky Mountain National Park.

All commercial air tour operations in the airspace over the Rocky Mountain National Park are prohibited regardless of altitude.

[Doc. No. FAA–2001–8690, 67 FR 65667, Oct. 25, 2002. Redesignated by Amdt. 136–1, 72 FR 6912, Feb. 13, 2007]

§ 136.37 Overflights of national parks and tribal lands.

(a) *General.* A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal land except—

(1) In accordance with this section;

(2) In accordance with conditions and limitations prescribed for that operator by the Administrator; and

(3) In accordance with any applicable air tour management plan for the park or tribal lands.

(b) *Application for operating authority.* Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park or tribal lands.

(c) *Number of operations authorized.* In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators

and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

(d) *Cooperation with National Park Service.* Before granting an application under this subpart, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with § 136.39 and implement such a plan.

(e) *Time limit on response to applications.* Every effort will be made to act on any application under this subpart and issue a decision on the application not later than 24 months after it is received or amended.

(f) *Priority.* In acting on applications under this paragraph to provide commercial air tour operations over a national park, the Administrator shall give priority to an application under this paragraph in any case where a new entrant commercial air tour operator is seeking operating authority with respect to that national park.

(g) *Exception.* Notwithstanding this section, commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of this chapter if—

(1) Such activity is permitted under part 119 of this chapter;

(2) The operator secures a letter of agreement from the Administrator and the Superintendent for that park describing the conditions under which the operations will be conducted; and

(3) The number of operations under this exception is limited to not more than a total of 5 flights by all operators in any 30-day period over a particular park.

(h) *Special rule for safety requirement.* Notwithstanding § 136.41, an existing commercial air tour operator shall apply, not later than January 23, 2003 for operating authority under part 119 of this chapter, for certification under part 121 or part 135 of this chapter. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands that are within or abut a national park. The Administrator shall make every effort to act on such application for a new entrant and issue a decision on the application not later than