

From: [Young, Carlette \(FAA\)](#)
To: [Case, Suzanne D](#)
Cc: [Donahue, Darlene \(FAA\)](#); [Jaress, Alana B \(FAA\)](#)
Subject: [EXTERNAL] RE: DLNR correspondence with FAA
Date: Monday, April 11, 2022 6:24:15 AM
Importance: High

Dear Ms. Case,

Thank you for your email of February 1, 2022, where you requested additional information concerning Federal Aviation Administration's (FAA) authority to regulate noise from helicopter flight paths, referencing items from an FAA letter dated August 13, 2021.

The FAA has limited authority to control where and how helicopters fly, as commercial tour helicopters fly in accordance with Visual Flight Rules (VFR). In most areas, outside direct control from Air Traffic Control, there are typically no specific flight paths depicted on aeronautical charts. Inside controlled airspace, near airports, there are published arrival and departure procedures, which are designed to maintain adequate aircraft separation. At Honolulu International Airport for example, which is in Class B airspace, there are five departure and three arrival procedures with instructions for VFR helicopters. They have specific flight routes and altitude requirements for each of these published procedures. Outside the airport environment, there are typically no such requirements.

14 CFR, Part 135

The majority of the air tour and charter operations conducted in Hawaii are conducted under 14 CFR Part 135. 135.203 establishes minimum altitudes for aircraft operating under Part 135, and it states:

Except when necessary for takeoff and landing, no person may operate under VFR -

(a) An airplane

- (1) During the day, below 500 feet above the surface or less than 500 feet horizontally from any obstacle; or
- (2) At night, at an altitude less than 1,000 feet above the highest obstacle within a horizontal distance of 5 miles from the course intended to be flown or, in designated mountainous terrain, less than 2,000 feet above the highest obstacle within a horizontal distance of 5 miles from the course intended to be flown; or

(b) A helicopter over a congested area at an altitude less than 300 feet above the surface

Please note that a helicopter may operate under Part 135 (Other than an air tour in Hawaii) over a congested area as low as 300 feet above the surface, although it is rare unless there is a specific purpose.

14 CFR, Part 136 Subpart A - National Air Tour Safety Standards

Requires all air tours in Hawaii to be flown at a minimum altitude of 1,500 feet above the surface unless otherwise authorized by the Administrator (FAA). Helicopter air tours that are authorized a regulatory deviation to descend below 1,500 feet above the surface must do so in accordance with the Hawaii Air Tours Common Procedures Manual (HATCPM).

Please note that if the operation is not an air tour, then 14 CFR 136 does not apply, nor does the HATCPM. The FAR Part under which the operation is being conducted will determine the minimum altitude limitations, if any exist.

The relevant sections of the most applicable FAR Parts are below.

14 CFR, Part 91.119

Part 91 contains the General Operating Flight Rules, and is the least restrictive with regard to altitudes. 14 CFR 91.119 addresses minimum safe altitudes, and states the following: Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes:

- (a) *Anywhere*. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.
- (b) *Over congested areas*. Over any congested area of a city, town, or settlement, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.
- (c) *Over other than congested areas*. An altitude of 500 feet above the surface, except over open water or sparsely populated areas. In those cases, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure.
- (d) *Helicopters, powered parachutes, and weight-shift-control aircraft*. If the operation is conducted without hazard to persons or property on the surface -
 - (1) A helicopter may be operated at less than the minimums prescribed in [paragraph \(b\)](#) or [\(c\)](#) of this section, provided each person operating the helicopter complies with any routes or altitudes specifically prescribed for helicopters by the FAA; and
 - (2) A powered parachute or weight-shift-control aircraft may be operated at less than the minimums prescribed in [paragraph \(c\)](#) of this section.

In addition to the aforementioned regulations, the FAA has the authority to identify specific helicopter routes and altitudes over national park units. The National Parks Air Tour Management Act of 2000 gives FAA and the National Park Service (NPS) the authority to develop air tour management plans (ATMPs) at parks where commercial air tour operators have applied to conduct air tours. The jurisdiction of an ATMP extends to areas with the park boundary and within a half-mile boundary of the park unit, and up to an altitude of 5,000 feet above ground level. The FAA and NPS are currently in the process of developing ATMPs for Hawaii Volcanoes National Park and Haleakala National Park. These ATMPs will have prescribed routes, altitudes, and other restrictions (including time of day, day of week, number of allowed tours, etc.) for both helicopters as well as fixed-wing operators when conducting air tours over national parks. Those authorities do not extend beyond the half-mile buffer surrounding the park boundary or in airspace above 5,000 above ground level over the park and half-mile boundary.

The FAA has served and will continue to serve as a technical advisor to the Hawaii Air Tour Noise and Safety Task Force (HANSTF). The task force, initially chaired by members of the air tour industry and the Hawaii Department of Transportation, addresses safety and noise issues related to helicopter and fixed wing aerial tours within the state. The FAA supports the efforts of the Task Force to address community noise concerns through various measures including possible adjustments to routes and/or altitudes where possible. FAA presentations can be found on the [HANSTF website](#).

The FAA's mission is to ensure a safe and efficient aviation system. Our desire is to work collaboratively to develop solutions in a way that thoughtfully balances the demand for air tours, as well as the impacts on communities. The FAA, including the FAA Community Engagement Officer for your region, is dedicated to establishing trust and confidence by continuously looking for viable opportunities to address community concerns.

Thank you,

Carlette Young

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