Federal Aviation Administration

Memorandum

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To: Lawrence Fields, Manager, Flight Standards Division, AEA-200

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Subject: Interpretation on Regulation of Sightseeing Rides in Gliders

This memorandum is in response to your April 27, 2012 request for interpretation of the regulations governing sightseeing rides conducted in gliders. In your request you discuss that an operator had a website on which he was offering to the public sightseeing rides in a powered glider. You ask which part of the FAA's regulations would govern such sightseeing operations.

As we will discuss later, the type of aircraft in which the operation will be conducted is important because it will help to determine what regulations apply. In your scenario the flights are being offered in a Stemme S 10-VT motorglider. A glider is "a heavier-than-air aircraft, that is supported in flight by the dynamic reaction of the air against its lifting surfaces and whose free flight does not depend principally on an engine." *See* 14 C.F.R. § 1.1. Although they have engines, powered gliders are certified as gliders and are eligible for a standard airworthiness certificate.[1] *See* § 21.17(b) (describing special classes of aircraft); FAA Advisory Circular (AC) 21.17-2A, *Type Certification – Fixed-Wing Gliders (Sailplanes), Including Powered Gliders* (Feb. 10, 1993).

First, we will discuss that the FAA's regulations governing sightseeing fights conducted for compensation or hire – referred to as "commercial air tours" in the regulations – do not apply to this scenario. Then, we will discuss why the operations would not need to be conducted under the authority of a part 119 operating certificate.

The FAA has two areas of regulations governing air tours – part 136 and § 91.147. Part 136 applies to part 119 certificate holders with authority to conduct commercial air tour flights in accordance with part 121 or part 135. Part 136 does not apply to gliders. *See* 14 C.F.R. § 110.2

[1] Because these gliders hold standard category airworthiness certificates they are not subject to the restrictions on carrying persons or property for compensation or hire applicable to aircraft holding restricted, limited, provisional, or experimental airworthiness certificates. *See* §§ 91.313-.319.

(defining "commercial air tour" as a flight in an airplane or helicopter where a purpose is sightseeing); § 136.1(a) ("This subpart applies to each person operating or intending to operate a commercial air tour in an airplane or helicopter . . . ."); National Air Tour Safety Standards Final Rule, 72 Fed. Reg. 6884, 6885 (Feb. 13, 2007) (stating the rule "does not apply to gliders (powered or unpowered)"). Likewise, § 91.147 states that it applies to air tours conducted in airplanes and helicopters; it therefore does not apply to air tours conducted in gliders. *See* § 91.147(a).

Operations conducted for compensation or hire must generally be conducted pursuant to a part 119 operating certificate. Part 119 applies, in pertinent part, to persons operating civil aircraft as an air carrier or commercial operator. *See* § 119.1(a)(1). A person who offers powered glider sightseeing rides for compensation or hire may be "commercial operator." *See* §§ 1.1. However several types of commercial operations, including certain nonstop commercial air tours and hot air balloon sightseeing flights are excepted from the requirement to hold a part 119 certificate. *See* § 119.1(e).

Although glider sightseeing rides are not explicitly excepted from part 119, it is our opinion that such operations would not need to be conducted under the authority of a part 119 certificate. First, a glider operation could not be conducted under part 121 or part 125 rules, which apply to airplanes, or part 135 rules, which apply to airplanes and rotorcraft. *See* §§ 119.21-.25. Next, as discussed above, the final rule implementing the part 136 air tour rules and the § 91.147 rule affirmatively state that glider sightseeing operations are not covered by the rule thereby indicating the FAA's intent to not include these operations in the part 119 construct. *See* 72 Fed. Reg. at 6885 (stating the rule "does not apply to gliders (powered or unpowered)"). Therefore, the FAA would not require an operator that conducts air tours for compensation or hire in gliders to hold a part 119 certificate.

Accordingly, an air tour conducted for compensation or hire in a glider may be conducted under the part 91 operating rules. It need not comply with the § 91.147 commercial air tour rules or the part 136 air tour rules. The operator need not hold a part 119 certificate.[2]

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[2] This interpretation does not relieve a glider pilot who provides air tours for compensation or hire from the requirement to hold a commercial pilot certificate. *See* §§ 61.113 (private pilot privileges); 61.133 (commercial pilot privileges); Legal Interpretation to Forrest Blossom from Clark H. Onstad, Chief Counsel (Feb. 11, 1978) (noting that a fee paid by a glider passenger greater than a pro rata share of operating expenses indicates a pilot is not sharing expenses and therefore the flight would be for compensation or hire).

We also note that, with limited exceptions, aircraft carrying persons for hire are subject to the 100-hour inspection requirement of § 91.409. *See* § 91.409(b); Legal Interpretation to Blossom (applying the requirement to commercial glider operations).