

agency, or instrumentality of the United States Government with the approval of the FAA, or by an exemption issued by the Administrator. The FAA will process requests for approval or exemption in a timely manner, with an order of preference first for those operations in support of U.S. government-sponsored activities, second for those operations in support of government-sponsored activities of another State with the support of a U.S. government agency, and third for all other operations.

(2) Flight operations are coordinated with any mechanism established by paragraph 8 of U.N. Security Council Resolution 1973 (2011).

(d) *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this section to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of 14 CFR parts 119, 121, 125, or 135, each person who deviates from this section must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the nearest FAA Flight Standards District Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons for it.

(e) *Expiration.* This Special Federal Aviation Regulation will remain in effect for 3 years from the effective date. The FAA may amend, rescind, or extend this Special Federal Aviation Regulation as necessary.

Issued in Washington, DC on March 20, 2011.

**J. Randolph Babbitt,**  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 91 and 119

#### Moratorium on New Exemptions for Passenger Carrying Operations Conducted for Compensation and Hire in Other Than Standard Category Aircraft

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Policy statement.

**SUMMARY:** This document announces a temporary moratorium on new requests,

or changes to exemptions from certain sections of Title 14, Code of Federal Regulations (14 CFR) for the purpose of carrying passengers for compensation or hire on Living History Flight Experiences (LHFE). It explains the history of these exemptions and the reason for the temporary moratorium.

**DATES:** This moratorium becomes effective on March 23, 2011.

**FOR FURTHER INFORMATION CONTACT:** Raymond Stinchcomb, General Aviation and Commercial Division, General Aviation Operations Branch (AFS-830), 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. 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 and experimental 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 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 flight in these aircraft.

A 2004 policy explicitly limited the scope of LHFE exemptions to WWII or earlier vintage airplanes. The reasons enumerated in the statement addressed both public interest (*e.g.* the unique opportunity to experience flight in a B-17 or B-24 while such aircraft can still be safely maintained) and public safety (*i.e.* older and slower multiengine airplanes allow time for appropriate corrective measures in the event of an in-flight emergency and such crews must meet FAA qualifications and training requirements). The FAA stated that the agency did not believe it prudent to grant exemptions from the FAA regulations to operators of supersonic jets.

In response to numerous requests to expand the scope of the exemptions, the FAA requested comments on a proposed policy in 2006, and subsequently published a new policy on October 9, 2007 (72 FR 57196).

The 2007 policy statement agreed to consider any request for exemption for passenger-carrying flights in non-standard category aircraft, especially former military turbine-engine-powered aircraft, on a case-by-case basis. For petitioners intending to operate experimental exhibition, surplus foreign or domestic aircraft, and/or turbojet or turbine-powered aircraft, it stated that the FAA would 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 before approving a LHFE exemption. Other criteria included passenger/crew egress, emergency egress systems such as ejection seats, documentation or statistical make and model operational history, historical significance of the particular aircraft, maintenance history, operational failure modes, and aging aircraft factors. The 2007 policy also observed that some of the aircraft in question are complex in nature, requiring special skills to operate safely, and that military equipment such as ejection seat systems can pose additional risk to aircraft occupants, ground personnel, and non-participating bystanders on the ground.

Also in the 2007 statement, the FAA cautioned that those requesting an exemption from a particular standard or set of standards must demonstrate that (1) there is an overriding public interest in providing a financial means for a non-profit organization to continue to preserve and operate these historic aircraft, and (2) adequate measures

(including all conditions and limitations stipulated in the exemption) will be taken to ensure safety. The FAA further stated that “operations authorized under these exemptions are specifically not air tour, sightseeing, or air carrier operations” and that the agency “in determining the public interest derived in any grant of exemption of this nature, will take into consideration the number of existing operational aircraft and petitioners available to provide the historic service to the public.”

Consistent with the 2007 policy statement, the FAA has accommodated several industry requests to allow operation of more modern-day military jet aircraft (e.g., the McDonnell Douglas F-4 Phantom and the McDonnell-Douglas A-4 Skyhawk) under the LHFE policy. To ensure safety, there are over 45 conditions and limitations the exemption holder must comply with in order to operate under the provisions of the exemption. The FAA has found, however, that operators have sometimes misinterpreted these conditions and limitations as permitting operations that the FAA did not contemplate or intend.

**FAA Policy**

The evolution of LHFE operations in the private sector, along with availability of newer and more capable former military aircraft, has raised public safety and public policy concerns that the FAA needs to assess. Accordingly, the FAA is placing a moratorium on the issuance of any new LHFE exemptions, including addition of new aircraft to current exemptions. Current LHFE exemption holders can continue to operate under their current exemption. If the exemption is due to expire during the moratorium, the FAA will accept and process petitions to extend current exemptions in accordance with the established regulatory exemption process. If a change is required (i.e. removal of an aircraft) the FAA will accept these changes in accordance with the regulatory processes. Additionally, during the moratorium, as petitioners request extensions to their LHFE exemption, the FAA will add the

following clarifying limitations to all LHFE exemptions to ensure consistent application of current LHFE policy: 1. Passengers are prohibited from manipulating the aircraft flight controls when the aircraft is operated under the LHFE exemption, and 2. No aerobatics may be performed in the aircraft while operating under the LHFE exemption. Finally, the FAA will begin its evaluation of the current LHFE exemption policies and practices, to include evaluation of safety to the paying members of the public who have an expectation of aircraft safety and who may not understand the inherent risks associated with such flight. The FAA expects to publish a new proposed LHFE policy for comment on or before September 30, 2012.

Issued in Washington, DC, on March 15, 2011.

**John W. McGraw,**

*Acting Director, Flight Standards Service.*

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 40**

[Docket No. RM10-15-000; Order No. 748]

**Mandatory Reliability Standards for Interconnection Reliability Operating Limits**

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** Under section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (Commission) approves three new Interconnection Reliability Operations and Coordination Reliability Standards and seven revised Reliability Standards related to Emergency Preparedness and Operations, Interconnection Reliability Operations and Coordination, and Transmission Operations. These

Reliability Standards were submitted to the Commission for approval by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards. The Reliability Standards were designed to prevent instability, uncontrolled separation, or cascading outages that adversely impact the reliability of the interconnection by ensuring that the reliability coordinator has the data necessary to assess its reliability coordinator area during the operations horizon and that it takes prompt action to prevent or mitigate instances of exceeding Interconnection Reliability.

*Operating Limits.* The Commission also approves the addition of two new terms to the NERC Glossary of Terms.

In addition, the Commission approves NERC’s proposed revisions to Reliability Standards EOP-001-1, IRO-002-2, IRO-004-2, IRO-005-3, TOP-003-1, TOP-005-2, and TOP-006-2, which remove requirements for the reliability coordinator to monitor and analyze system operating limits other than interconnection reliability operating limits.

**DATES:** *Effective Date:* This Rule will become effective May 23, 2011.

**FOR FURTHER INFORMATION CONTACT:** Darrell Piatt (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Telephone: (202) 502-6687.

A. Cory Lankford (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Telephone: (202) 502-6711.

William Edwards (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Telephone: (202) 502-6669.

**SUPPLEMENTARY INFORMATION:**

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