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February 5, 2004

Docket Management System
Room Plaza 401
400 Seventh Street SW
Washington, DC 20590-0001

RE: Docket No. FAA-1998-4521-1069

Dear Sirs,

The following are the comments of the Tennessee Department of Transportation, Division of Aeronautics to the Notice of Proposed Rulemaking (NPRM) on the above referenced docket.

Aviation safety is the number one priority of the Tennessee Department of Transportation, Division of Aeronautics. We support effective measures that will enhance aviation safety. However, we do not agree that this proposed regulatory change would contribute to better safety. The evidence presented in the NPRM fails to make the case that it would. Therefore we, in Tennessee, oppose this proposal.

1. The data in support of the rules change contained in the Notice of Proposed Rulemaking do not justify putting all commercial air tour operations under Part 135. The NPRM shows there were 75 accidents involving Part 91 air tour operators between 1993 and 2000 and 38 fatalities. Part 135 air tours resulted in 53 accidents with 72 fatalities in the same period. This does not prove that Part 135 operations are safer. Part 135 air tour operations resulted in almost twice as many deaths as their Part 91 counterparts. Furthermore, there are no data in the notice on the total numbers of air tour operations under either Part 91 or Part 135 that would allow the reader to put these numbers in proper perspective.
2. In another comparison, National Transportation Safety Board (NTSB) data show that there were 15,542 general aviation accidents in the 1993-2000 period, resulting in 2,977 fatalities. That means that Part 91 air tour

operations accounted for 0.0048% of the accidents and 0.013% of the fatalities. Again, however, since there is no information on the total number of commercial air tour operations under either Part 91 or Part 135, there is no way to determine the significance of these data.

3. The most important question to be answered is whether a Part 91 commercial air tour is more hazardous than other types of flying. Are air tour accident rates higher than those for general aviation as a whole? Would operating all such tours under Part 135 make them any safer?
4. If the risk associated with a Part 91 air tour operation is as great as the NPRM implies, it would be negligent of the FAA to make any exceptions to the proposed rules. However, such an exception is proposed for certain community and charity events. This suggests that the FAA itself is not totally convinced of the need for the change.
5. The FAA acknowledges in the NPRM that the proposed regulations could wipe nearly half of all air tour operators. This is a significant number and a significant impact to general aviation.
6. Not all parts of the proposal should be dismissed out of hand. For example, requiring flotation devices on extended over-water flights and mandatory briefings of passengers on their use, should be standard practice. Simply asking Part 91 tour operators to document their safety procedures and require that they be implemented does not seem to be too onerous a requirement. Why couldn't that be done within the existing regulatory framework rather than the proposed Subpart A of Part 136?

This proposal is a response to a perceived problem in the commercial air tour industry. However, the data fail to demonstrate that a significant problem exists or that the proposed remedy is going to make the situation better. Indeed, the data on fatalities suggest that it might make it worse. Any problems with air tours could be dealt with by tweaking the present regulations rather than enacting a sweeping change that could wipe out almost half the operators.

Sincerely,



Robert V. Woods
Director

RVW/cvs

CC: NASAO
Rick Pellicciotti dba Belle Aire Tours