

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 91 and 135**

[Docket No. 25149, Special Federal Aviation Regulation (SFAR) No. 50-2]

RIN 2120-AF60

**Special Flight Rules in the Vicinity of the Grand Canyon National Park**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This action continues, for an additional 2 years, the effectiveness of SFAR No. 50-2, which contains procedures governing the operation of aircraft in the airspace above Grand Canyon National Park. SFAR No. 50-2, which originally established the flight regulations for a period of 4 years, had previously been extended to allow the National Park Service (NPS) time to complete studies concerning aircraft overflight impacts on the Grand Canyon, and to forward its recommendations to the FAA. The NPS study, completed in September 1994, recommended alternatives, such as use of quiet aircraft, additional flight-free zones, altitude restrictions, operating specifications, noise budgets, and time limits. This rule allows the FAA sufficient time to review thoroughly the NPS recommendations as to their impact on the safety of air traffic over the Grand Canyon National Park, and to initiate and complete any appropriate rulemaking action.

**DATES:** *Effective date.* June 15, 1995.  
*Expiration date.* SFAR 50-2 expires June 15, 1997.

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**SUPPLEMENTARY INFORMATION:****Background**

On March 26, 1987, the FAA issued SFAR No. 50 (subsequently amended on June 15, 1987; 52 FR 22734) establishing flight regulations in the vicinity of the Grand Canyon. The purpose of the SFAR was to reduce the risk of midair collision, reduce the risk of terrain contact accidents below the rim level, and reduce the impact of aircraft noise on the park environment.

On August 18, 1987, Congress enacted legislation that required a study of aircraft noise impacts at a number of national parks and imposed flight restrictions at three parks: Grand Canyon National Park in Arizona, Yosemite National Park in California, and Haleakala National Park in Hawaii (Pub. L. 100-91).

Section 3 of Pub. L. 100-91 required that the Department of the Interior (DOI) submit to the FAA recommendations to protect resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The law mandated that the recommendations (1) provide for substantial restoration of the natural quiet and experience of the Grand Canyon; (2) with limited exceptions, prohibit the flight of aircraft below the rim of the Canyon; and (3) designate zones that were flight free except for purposes of administration of underlying lands and emergency operations.

Further, Pub. L. 100-91 required the FAA to prepare and issue a final plan for the management of air traffic above the Grand Canyon. It also required that the plan establish a means to implement the recommendations of the DOI without change unless the FAA determined that executing the recommendations would adversely affect aviation safety. In that event, the FAA was required to revise the DOI recommendations to resolve the safety concerns and to issue regulations implementing the revised recommendations in the plan.

In December 1987, the DOI transmitted to the FAA preliminary recommendations for an aircraft management plan at the Grand Canyon. The recommendations included both rulemaking and nonrulemaking actions.

On May 27, 1988, the FAA issued SFAR No. 50-2 revising the procedures for operation of aircraft in the airspace above the Grand Canyon (53 FR 20264, June 2, 1988). The rule implemented DOI's preliminary recommendations for an airspace management plan with some modifications that the FAA initiated in the interest of aviation safety.

Pub. L. 100-91 also required the DOI to conduct a study, with DOT technical assistance, to determine the proper minimum altitude to be maintained by aircraft when flying over units of the National Park System. The research was to include an evaluation of the noise levels associated with overflights. It required that, before submission to Congress, the DOI provide a draft report (containing the results of its studies) and recommendations for legislative and regulatory action to the FAA for review. The FAA is to notify the DOI of

any adverse effects these recommendations may have on the safety of aircraft operations. Additionally, section 3 of Pub. L. 100-91, required the DOI to submit a Report to Congress regarding the success of the Grand Canyon airspace management plan, and any necessary revisions, within 2 years of the effective date of the plan. The FAA was to report whether any of these recommendations would have an adverse effect on safety. On June 15, 1992, because of a delay in the completion of the DOI study, the FAA promulgated a final rule to extend the expiration date to SFAR No. 50-2 to June 15, 1995 (57FR 26766).

On September 12, 1994, the DOI submitted its final report and recommendations to Congress. The report recommends numerous revisions to the current flight restrictions contained in SFAR 50-2. In addition, the report recommends the use of quiet aircraft, additional flight-free zones, altitude restrictions, operating specifications, noise budgets, and time limits for flight in the vicinity of the Grand Canyon.

Upon completing a review of the NPS congressional report, the FAA may amend SFAR 50-2 through the rulemaking process. On April 12, 1995, the FAA published a notice of proposed rulemaking (NPRM) that proposed to extend the provisions of SFAR No. 50-2 for 2 years from the June 15, 1995, expiration date (60 FR 18700). This action extends the effectiveness of the rule, allowing the FAA sufficient time to determine if there is a need to adjust SFAR No. 50-2 in accordance with the NPS recommendations and to make any necessary changes.

**Discussion of Comments**

The FAA received nine comments in support of, and one comment in opposition to, this action. Commenters included the Aircraft Owners and Pilots Association (AOPA); the Las Vegas Department of Aviation; the National Transportation Safety Board (NTSB); the U.S. Department of Interior, Bureau of Indian Affairs (BIA); environmental associations and air tour operators.

AOPA supports extension of the rule; however, it states that the rule is "inherently discriminatory" to many general aviation (GA) aircraft due to their operating characteristics. AOPA contends that this rule restricts many GA overflights to a narrow corridor and strongly opposes any similar overflight restrictions at any other national parks.

The Las Vegas Department of Aviation supports extension of the rule in order to allow the FAA sufficient time to study the NPS report. However, the

commenter is concerned with several recommendations in the report and encourages the Department of Transportation to carefully consider the evidence, believing that there can be a balance among the air tour industry, the NPS, the FAA, and environmental groups.

The NTSB supports extending the SFAR for 2 years. However the NTSB believes that a permanent nationwide policy for air tour operators should be implemented.

The BIA states that, if the FAA extends the SFAR, it should consult with various Indian tribes residing within or having ties to the Grand Canyon area during the 2-year extension period concerning potential impact to their reservation environment.

Several commenters support extension of the current rule; however, they request an adjustment to the tour route known as the Dragon Corridor. The commenters believe that adjustment to this corridor would lessen the noise impact on visitors to the heavily used Hermit's Rest overlook and trail.

One commenter "strongly opposes" the SFAR in its present form, given the NPS report. The commenter recommends prohibiting an increase in the number of Grand Canyon tour flights from 1988 levels and requiring tour operators to provide the FAA with sufficient information to monitor the number of tour operations.

The FAA has determined that comments requesting amendments to the current rule are beyond the scope of the NPRM. The NPRM did not recommend any changes to the current SFAR; it merely proposed extending the rule in its existing form. The FAA is currently reviewing and analyzing the NPS report and recommendations as to the impact on the safety of air traffic at the Grand Canyon. The FAA has determined that any substantive change at this point will be inappropriate. Upon completing the review and analysis of the NPS report, the FAA may amend SFAR No. 50-2 through the rulemaking process.

### The Rule

This rule amends the expiration date of the current SFAR 50-2 from June 15, 1995, to June 15, 1997. The airspace restrictions and operating procedures for the airspace over the Grand Canyon are not altered by this action. In consideration of the need to avoid confusion on the part of pilots operating in the vicinity of the Grand Canyon, the FAA finds good cause, pursuant to 5 U.S.C. § 553(d), for making this action effective in less than 30 days to promote the safe and efficient operation of

aircraft in the airspace above the Grand Canyon.

### Environmental Review

As discussed above, Pub. L. 100-91 required the DOI to submit a report to Congress with 2 years of implementation regarding the success of the final airspace management plan for the Grand Canyon, including possible revisions. Now that this report has been forwarded to both Congress and the FAA, the FAA is required to comment on whether any of these revisions would have an adverse effect on aircraft safety.

Pub. L. 100-91 essentially reflects a decision by Congress that a final airspace management plan, currently set forth in SFAR No. 50-2, should continue permanently with any appropriate modifications developed as a result of the follow-on study. The statute and its legislative history show that Congress considered the environmental and economic concerns inherent in regulating the navigable airspace over the Grand Canyon. Since Congress, and not the FAA, determined to make permanent an airspace management plan as delineated in SFAR No. 50-2, this extension of SFAR No. 50-2 does not require compliance with the National Environmental Policy Act of 1969 (NEPA).

Assuming, for the sake of argument, that the FAA has discretion to terminate SFAR No. 50-2, this action to extend its effectiveness for 2 more years is categorically excluded from the requirements of the NEPA. (See FAA Order 1050.1D, Par. 31(a)(4), "Policies and Procedures for Considering Environmental Impacts.") A documented categorical exclusion has been placed in the docket.

Alternatively, the analysis in the 1988 Environmental Assessment (EA) and the Finding of No Significant Impact remain valid and support a determination that this extension is not likely to significantly impact the environment. The extension will not cause significant environmental impacts because it will not change the volume of traffic, the altitude of flight routes, or the noise characteristics of the aircraft typically used in canyon flights between now and 1997.

This extension will enable the FAA to consider recommendations that the DOI forwarded in September 1994 to enhance the effectiveness of the SFAR. Based upon its studies, the DOI has concluded that the SFAR has significantly reduced noise impacts in areas of the Grand Canyon. However, the DOI believes the benefits may be lost unless additional restrictions are adopted.

### Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is not a "significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This rule will not have a significant impact on a substantial number of small entities and will not constitute a barrier to international trade.

SFAR No. 50-2 was justified based on the DOI's December 1987 benefit-cost analysis. This analysis stated that 40 to 45 operators conducted air tours over the Grand Canyon with an estimated revenue of \$30 to \$50 million per year. The number of operations over the Grand Canyon was growing, with operations at Grand Canyon National Park Airport increasing 300 percent from 1974 to 1980.

The establishment of large flight-free zones was expected to roughly double the time for Tusayan-based operators to reach the canyon rim. The DOI analysis assumed that these operators could adjust for the increased travel time by increasing the overall tour length and passing on any additional costs to the consumer. While the percent of tour time spent over the canyon would decrease, small price increases or slightly decreased flight time over the canyon was not expected to result in a decreased ridership. In addition, even though Tusayan-based companies would incur costs to modify advertising literature and tour narrations due to route change requirements, the DOI analysis assumed that these costs would likely be part of the normal operating program. The benefits to the park resources (natural quiet, wildlife, archeological features, etc.) and the more than 3,315,000 visitors (about 3 million front-country users and over 90 percent of the 350,000 back-country, below rim users each year) would accrue primarily from the increased quiet resulting from noise reduction. Thus, DOI concluded that this NPRM would be cost-beneficial because cost to air tour operators would be minimal and

the benefits to park resources and visitors would be significant.

For the purpose of this rule, the FAA updated the DOI's December 1987 data as follows: (1) There are still 40 to 45 air tour operators; (2) the estimated revenue generated by the industry is now over \$100 million each year; and (3) the number of ground visitors has increased to almost 5 million. The FAA believes that extending the current SFAR No. 50-2 will not alter current industry practices in the Grand Canyon special flight rules area and will not affect growth in air traffic. Additionally, the rule will not cause significant economic impact because it will not change the volume of traffic, the altitude of flight routes, or the noise characteristics of the aircraft typically used in canyon flights between now and 1997. Therefore, the FAA has determined that the extension will not result in additional costs to the air tour operators.

Since the rule was first promulgated in 1987, the number of ground visitors increased by 50 percent. During this period, the estimated number of air tour operators remained unchanged, while the estimated revenue generated by the air tour industry has doubled. Therefore, the FAA has determined that any costs incurred by the air tour operators are not overly burdensome.

**Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a rule will have "a significant economic impact on a substantial number of small entities." FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. Small entities are independently owned and operated small businesses and small, not-for-profit organizations. A substantial number of small entities is defined as a number that is 11 or more and which is more than one-third of the small entities subject to this direct final rule. The FAA determined that this rule will not result

in a significant economic impact on a substantial number of small entities.

**International Trade Impact Analysis**

This action is expected to have neither an adverse impact on the trade opportunities for U.S. firms doing business abroad nor on foreign firms doing business in the United States. This assessment is based on the fact that part 135 air tour operators potentially impacted by this rule do not compete with similar operators abroad. That is, their competitive environment is confined to the Grand Canyon National Park.

**Federalism Implications**

This action will not have substantial effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this action will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**International Civil Aviation Organization and Joint Aviation Regulations**

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization Standards and Recommended Practices (SARP) to the maximum extent practicable. For this action, the FAA has reviewed the SARP of Annex 10. The FAA has determined that this amendment will not present any differences.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), there are no requirements for information collection associated with this rule.

**Conclusion**

For the reasons set forth above, the FAA has determined that this rule is not a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this action will not have a significant economic impact,

positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is not considered significant under DOT Regulatory Policies and Procedures.

**List of Subjects in 14 CFR Parts 91 and 135**

Aircraft, Air taxis, Air traffic control, Aviation safety.

**The Amendment**

For the reasons set forth above, the Federal Aviation Administration is amending SFAR No. 50-2 (14 CFR parts 91 and 135) as follows:

**PART 91—[AMENDED]**

1. The authority citation for part 91 continues to read as follows:

**Authority:** 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180), 42 U.S.C. 4321 et seq., E.O. 11514, 35 FR 4247, 3 CFR, 1966-1970 Comp., p. 902; 49 U.S.C. 106(g).

**PART 135—[AMENDED]**

2. The authority citation for part 135 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 1153, 40101, 40105, 44113, 44701-44705, 44707-44717, 44722, and 45303.

3. In parts 91 and 135, Special Federal Aviation Regulation No. 50-2, the text of which appears at the beginning of part 91, is amended by revising section 9 to read as follows:

**SFAR No. 50-2—Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ**

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Sec. 9. *Termination date.* This Special Federal Aviation Regulation expires on June 15, 1997.

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Issued in Washington, D.C. on June 9, 1995.

**David R. Hinson,**  
*Administrator.*

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