

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 91, 93, 121, and 135**

[Docket No. 28537; Notice No. 96-11]

RIN 2120-AF93

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice of proposed rulemaking proposes to amend part 93 of the Federal Aviation Regulations by adding a new subpart to codify and amend the provisions of Special Federal Aviation Regulation No. 50-2, Special Flight Rules in the Vicinity of Grand Canyon National Park. Specifically, the FAA is proposing to modify the dimensions of the Grand Canyon National Park Special Flight Rules Area (SFRA); establish new and modify existing flight-free zones; establish new and modify existing flight corridors; and establish reporting requirements for commercial sightseeing companies operating in the SFRA. In addition, to provide further protection for Park resources, this notice contains proposals for flight-free periods within the Park and/or an interim moratorium on additional commercial sightseeing air tours and tour operators. Both flight-free periods and a moratorium could be effected in various ways; in order to focus public comment, this notice contains a description of both fixed and variable flight-free periods and one possible moratorium. The FAA is proposing these changes to reduce the impact of aircraft noise on the park environment and to assist the National Park Service in achieving its statutory mandate imposed by Public Law 100-91 to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park.

**DATES:** Comments must be received on or before September 30, 1996.

**ADDRESSES:** Comments on this NPRM should be mailed, in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-200), Docket No. 28537, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: nprmcmts@mail.hq.faa.gov. Comments must be marked Docket No. 28537. Comments may be examined in the Rules Docket in Room 915G on

weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Neil Saunders, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that may result from adopting the proposals in this notice are also invited. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in triplicate to the above specified address. All communications and a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments.

Before taking any final action on this proposal, the Administrator will consider all comments made on or before the closing date for comments, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should be marked "Comments to Docket No. 28537." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

**Availability of the NPRM**

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9677.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future FAA NPRM's should request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes application procedures.

An electronic copy of this document may be downloaded using a modem and

suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339) or the Federal Register's electronic bulletin board service (telephone: 202-512-1661). Internet users may reach the FAA's web page at <http://www.faa.gov> or the Federal Register's web page at [http://www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs) for access to recently published rulemaking documents.

**History**

Beginning in the summer of 1986, the FAA initiated regulatory action to address increasing air traffic over Grand Canyon National Park (GCNP). On March 26, 1987, the FAA issued Special Federal Aviation Regulation (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.

In 1987, Congress enacted Public Law (Pub. L.) 100-91, commonly known as the National Parks Overflights Act (the Act). The Act stated, in part, that noise associated with aircraft overflights at GCNP was causing "a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users."

Section 3 of Pub. L. 100-91 required the Department of the Interior (DOI) to 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 park and protection of public health and safety from adverse effects associated with aircraft overflight; (2) with limited exceptions, prohibit the flight of aircraft below the rim of the canyon; and (3) designate flight-free zones except for purposes of administration and emergency operations.

In December 1987, the DOI transmitted its "Grand Canyon Aircraft Management Recommendation" to the FAA, which included both rulemaking and nonrulemaking actions. Pub. L. 100-91 required the FAA to prepare and issue a final plan for the management of air traffic above the Grand Canyon, implementing the recommendations of the DOI without change unless the FAA

determined that executing the recommendations would adversely affect aviation safety. After the FAA determined that some of the DOI recommendations would adversely affect aviation safety, the recommendations were modified to resolve those concerns.

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). SFAR No. 50-2 established a Special Flight Rules Area (SFRA) from the surface to 14,499 feet above mean sea level (msl) in the area of the Grand Canyon. The SFAR prohibited flight below a certain altitude in each of five sectors of this area, with certain exceptions. The SFAR established four flight-free zones from the surface to 14,499 feet msl above large areas of the park. The SFAR provided for special routes for commercial sightseeing operators, which are required to conduct operations under part 135, as authorized by special operations specifications. Finally, the SFAR contained certain terrain avoidance and communications requirements for flights in the area.

A second major provision of section 3 of Pub. L. 100-91 required the DOI to submit a report to Congress " \* \* \* discussing \* \* \* whether [SFAR No. 50-2] has succeeded in substantially restoring the natural quiet in the park; and \* \* \* such other matters, including possible revisions in the plan, as may be of interest." The report was to include comments by the FAA "regarding the effect of the plan's implementation on aircraft safety." The Act mandated a number of studies related to the effect of overflights on parks. The National Park Service (NPS) took longer than originally anticipated to complete the studies because many of the issues involved are on the cutting edge of technical and scientific capability. According to the NPS, measuring natural quiet is different from measuring levels of aircraft noise. On June 15, 1992, the FAA promulgated a final rule to extend the expiration date of SFAR No. 50-2 to June 15, 1995, while the NPS studies and analyses were being conducted (57 FR 26764).

On September 12, 1994, the DOI submitted its final report and recommendations to Congress. This report, entitled, Report on Effects of Aircraft Overflights on the National Park System, was published in July 1995. The report recommended numerous revisions to SFAR No. 50-2 that are described below.

On June 15, 1995, the FAA published a final rule that extended the provisions

of SFAR No. 50-2 to June 15, 1997 (60 FR 31608). This action allowed the FAA sufficient time to review thoroughly the NPS recommendations as to their impact on the safety of air traffic over GCNP, and to initiate and complete any appropriate rulemaking action.

#### Interagency Working Group

On December 22, 1993, Secretary of Transportation Federico Peña and Secretary of the Interior Bruce Babbitt formed an interagency working group (IWG) to explore ways to limit or reduce the impacts from overflights on national parks, including GCNP. Secretary Babbitt and Secretary Peña concur that increased flight operations at GCNP and other national parks have significantly diminished the national park experience for some park visitors, and that measures can and should be taken to preserve a quality park experience for visitors, while providing access to the airspace over national parks. The Secretaries see the formation of the working group and the mutual commitment to addressing the impacts of park overflights as the initial steps in a new spirit of cooperation between the two departments to promote an effective balance of missions. The FAA has been working closely with the NPS to identify and deal with the impacts of aviation on parks, and the two agencies will continue to identify and pursue the most effective solutions. This close cooperation is necessary because the FAA has sole authority for control of the nation's airspace to ensure aviation safety and efficiency, while the NPS is charged with managing the natural and cultural resources in the national park system and providing for public enjoyment of those resources in such a manner that they are unimpaired for the enjoyment of future generations.

The FAA's role in the IWG has been to promote, develop, and foster aviation safety, and to provide for the safe and efficient use of airspace, while recognizing the need to preserve, protect, and enhance the environment by minimizing the adverse effects of aviation on the environment. The NPS' role in the IWG has been to protect public land resources in national parks, preserve environmental values of those areas, including wilderness areas, and provide for public enjoyment of those areas.

In March 1994, the two agencies jointly issued an advance notice of proposed rulemaking (ANPRM) seeking public comment on policy recommendations addressing the effects of aircraft overflights on national parks, including GCNP (59 FR 12740; March 17, 1994). The recommendations

presented for comment included voluntary measures, altitude restrictions, flight-free periods, flight-free zones, allocation of noise equivalences, and incentives to encourage use of quiet aircraft technology.

The President, on April 22, 1996, issued a Memorandum for the Heads of Executive Departments and Agencies to address the significant impacts on visitor experience in national parks. Specifically, the President directed the Secretary of Transportation to issue proposed regulations for the Grand Canyon National Park placing appropriate limits on sightseeing aircraft to reduce the noise immediately and make further substantial progress toward restoration of natural quiet, as defined by the Secretary of the Interior, while maintaining aviation safety in accordance with the Overflight Act (Public Act 100-91). This proposed rule was issued in response to the President's direction.

In response to the ANPRM, the FAA received 30,726 comments, including duplicate form letters and several petitions with multiple signatures; the FAA received 24,510 submissions of one form letter with comments addressing the GCNP. Of the total number of comments, 1,975 were distinct letters. This NPRM will discuss only those comments that relate to GCNP. The remainder of the comments relating to the above noted recommendations may be addressed in a later rulemaking.

Of the 644 comments that specifically addressed GCNP, 337 commenters opposed, while 232 commenters supported, further regulation. Commenters included members of State and local governments; congresspersons; helicopter operators; Native Americans and other individuals; and aviation, environmental, and recreational organizations and associations.

Commenters opposing additional regulation argued that: (a) SFAR No. 50-2 is effective, decreasing the visitor complaint rate by 92 percent; (b) air tour operator-funded studies indicate that natural quiet has been restored and the NPS studies are substantially flawed and biased; (c) 84 percent of the park is already off limits to air tour operations; (d) air tours are an environmentally friendly way to see the park and provide a real service to the handicapped; (e) additional regulation could present safety implications or cause compression of traffic; (f) more regulations will have economic impacts; (g) noise budgets are too complex and will not work; (h) quieter aircraft are

expensive and incentives to invest in this technology are needed; (i) although there have been adverse impacts on the noise level in GCNP, those impacts have only occurred in limited corridors and only because of visitors' demand; (j) the growth of the commercial sightseeing industry at about 5.9 percent is about the same as other types of visitor tours; (k) air passengers do not use any NPS resources like trails or trash disposal; (l) to protect sound for sound's sake is in conflict with the FAA's interpretation of its mission to protect persons and property on the ground; and (m) air tour passengers are paying visitors and should be accorded the same considerations as ground visitors.

Commenters supporting additional regulation argued that: (a) Current measures are not effective and have not increased the safety of operations, but instead have compressed traffic; (b) the total number of flights must be restricted to pre-1975 levels to lessen noise disruption caused by unlimited flights and to protect passenger safety; (c) air tours over national parks use parks by consuming the natural quiet resources, imposing costs, and detracting from scenic values; (d) the NPS should decide the level of protection of park resources that is necessary for it to achieve its mission and mandates under existing laws and regulations; (e) results of the NPS study should be used to strengthen SFAR No. 50-2 that must include limits on the number of air tours to be effective; (f) to resolve noise problems at GCNP, more flight-free zones should be established, all flights should be perpendicular to hiking trails and the Colorado River, and flights should be prohibited during the oars-only season; (g) an aircraft noise budget should be created; and (h) incentives to minimize noise per passenger should be established.

Other commenters argued that: (a) Commercial jets should be routed away from the Grand Canyon; (b) the airspace around the canyon should be simplified for noncommercial visual flight rules (VFR) pilots who want to sightsee from the air; (c) park boundaries on the charts should be better defined; and (d) "natural quiet" should be redefined as a metric that involves perception, rather than percent time audible.

Since issuance of the joint ANPRM, the FAA and the NPS have continued to evaluate the impact of noise from aircraft overflying the Grand Canyon for the purpose of developing a comprehensive policy to minimize these impacts. (See Other Actions section.)

#### NPS Report to Congress

The NPS "Report on Effects of Aircraft Overflights on the National Park System," was based on more than 20 separate studies. These studies included acoustical measurements from GCNP sites, GCNP visitor surveys, noise dose-visitor response analyses, and noise modeling of commercial sightseeing aircraft overflying GCNP using FAA survey data.

The NPS defined natural quiet as the natural ambient sound conditions found in the park and "substantial restoration" to mean when 50 percent or more of the park achieved "natural quiet" (i.e., no aircraft audible) for 75 to 100 percent of the day.

The NPS evaluated whether SFAR No. 50-2 resulted in the substantial restoration of quiet and concluded, in part:

9-3. Flight-free zones can limit the areas where aircraft, especially tour aircraft, are audible high percentages of the time. But aircraft of all types may still be heard for some percent of the time at virtually all areas where sound data were collected, notably within a few miles of the edges of some of the flight-free zones. These results suggest that a substantial restoration of natural quiet has not been achieved for large segments of the Canyon.

9-4. The percent of time aircraft are audible correlates with how visitors feel about aircraft sound. Even when aircraft are audible for relatively low percentages of time, a percentage of the visitors can notice the aircraft and believe that the sound has interfered with their appreciation of natural quiet. Further, it is likely that visitors who hike away from auto accessible locations are more sensitive to intruding aircraft sounds than are visitors who do not. Hence, the NPS concludes that preservation of natural quiet is of significant value to visitors, especially for the backcountry, river corridor and Cross Canyon Corridor trail system use zones at GCNP.

9-5. The Air Access Coalition-sponsored data demonstrate that SFAR 50-2 has reduced aircraft sound levels significantly at some locations. However, these data do not address restoration of natural quiet, since no information is given about how much of the time aircraft can be heard, and reported non-aircraft sound levels are probably inaccurately high.

9-8. Except for park management and emergency-related overflights, large percentages of Grand Canyon visitors regard aircraft overflights within sight or hearing of visitors on the ground as somewhat of very inappropriate over National Park areas.

9-9. There is little support among the five categories of Grand Canyon visitors for a "do nothing" policy or a "reasonable growth" policy. Maintenance of the current level, or reduction/elimination are preferred policies.

9-10. A majority of visitors to the Grand Canyon would support several specific types of limitations on air tour overflights.

9-11. Computer modeling supports the conclusion that natural quiet has not been

substantially restored, that very few areas currently experience natural quiet, and that the areas of natural quiet will diminish considerably if no quiet aircraft are introduced and if tour operations are permitted to increase. The acoustic profiles tend to verify the computed results.

9-12. There has not been a substantial restoration of natural quiet in Grand Canyon, although the NPS acknowledges the value of the SFAR [50-2] and the improvement it has brought.

9-13. If no changes are made to the SFAR [50-2], progress to date in the restoration of natural quiet will be lost. Projections suggest that without further improvements, the loss of natural quiet will accelerate to an unacceptable level.

An NPS analysis, using 1989 FAA survey data of commercial sightseeing route activity, indicated that 43 percent of GCNP met the NPS criterion for substantially restoring natural quiet at that time. However, a subsequent NPS analysis using 1995 FAA survey data indicated that 31 percent of GCNP met the NPS criterion for substantially restoring natural quiet. The NPS concludes that the noise mitigation benefits of SFAR No. 50-2 are being significantly eroded. As noted in conclusion 9-13, if no further action is taken, the proportion of GCNP experiencing a substantial restoration of natural quiet would probably drop to less than 10 percent by the year 2010.

NPS studies maintain that the percent of time that aircraft are audible is a good predictor of visitor sensitivity to aircraft. This is especially true relative to backcountry and river users who are more sensitive to noise than other visitors. Specifically, the NPS noise dose-visitor response studies suggest that among those individuals who hike away from their cars, approximately 30-40 percent can be expected to report moderate to extreme interference with their appreciation of natural quiet when aircraft are audible as little as 10 percent of the time. NPS acoustic measurements from a variety of sites throughout the park showed that the sound of aircraft was measurable for some part of the time at virtually all areas where sound data was collected, even well within flight-free zones. NPS acoustic modeling also suggests that aircraft sound will carry 13-16 miles on the eastern end of the canyon and even farther on the western end, more than enough to fully penetrate to the center of every flight-free zone created by SFAR No. 50-2.

Based on the extent of aircraft noise exposure and low ambient sound levels found by NPS measurements, visitor response to those noise levels, and the predicted aircraft noise levels over the park, the NPS believes that airspace management must be used as one means

of noise abatement to create a maximum separation between noise sources and sensitive resources and visitor use sites. Consequently, the NPS concluded that flight-free zones must be as large as possible.

Based on these study conclusions, the NPS developed recommendation No. 10 in its report to Congress: "Improve SFAR 50-2 to Effect and Maintain the Substantial Restoration of Natural Quiet at Grand Canyon National Park." This recommendation incorporated the following general concepts: simplification of the commercial sightseeing route structure; expansion of flight-free zones; accommodation of the forecast growth in the air tour industry; phased-in use of quieter aircraft technology; temporal restrictions ("flight-free" time periods); use of the full range of methods and tools for problem solving; and institution of changes in approaches to park management, including the establishment of an acoustic monitoring program by the NPS in coordination with the FAA.

#### Flagstaff, Arizona, Public Meeting

On June 28, 1995, the FAA and the NPS jointly published a notice announcing a public meeting to provide the interested parties with an opportunity to comment on improving SFAR No. 50-2 (60 FR 33452). The meeting, held on August 30, 1995, yielded 62 speakers representing air tour operators, environmentalists, government, tourist boards, corporations, Native American tribes, and other individuals. An additional 349 public comments were subsequently received during the comment period that ended on September 8, 1995.

Eighty percent of the speakers and the majority of written comments support the operating procedures in SFAR No. 50-2 and the air tour industry operating in the Grand Canyon. Many commenters supporting aircraft overflights in GCNP were associated with the industry or were satisfied customers who had flown over the Grand Canyon. Their comments relate to: (a) the positive effects of SFAR No. 50-2; (b) access for the disabled or elderly; (c) jobs or support for small business; and (d) lessened impact of air tourism relative to on-ground use.

Many commenters opposing aircraft overflights in GCNP were affiliated with the river-running industry, environmental groups, and recreationists. They cite personal experiences that were marred by aircraft noise. Their comments relate to: (a) new regulations and greater restrictions on overflights to restore natural quiet to the

area, including limitations on the number of overflights each day; (b) a greater number of flight-free zones; and (c) higher minimum altitudes over the park.

#### Consultation With Native Americans

Three Indian reservations border GCNP, and several tribes have cultural ties to the Grand Canyon. The DOT and the DOI recognize that, before taking any final action, they have an obligation to consult with these tribes, on a government-to-government basis, concerning the possible effects of this proposed rule. Both the Department of Transportation and the Department of Interior have a responsibility to address tribal concerns including the effects of the proposed rule on the economic opportunities of the tribes as well as to assure that noise impacts are not simply transferred to tribal lands.

Opportunities have been provided for the tribes to make their views known to the DOT. The Hualapai tribe submitted comments to the ANPRM jointly issued by the DOT and DOI, one member of the Hualapai Tribe spoke at the Flagstaff public meeting, and the Hualapai Tribe submitted written comments in response to the public meeting. Also, informal discussions covering aircraft overflight matters, among other issues, have taken place between NPS personnel and tribal leaders locally. The DOT and the DOI have received correspondence identifying interests of the Hualapai Tribe, and the DOT and the FAA met with Hualapai leaders and heard first hand many of their specific concerns.

The DOT and the DOI are committed to full consultation with tribal governments and will consult directly with interested tribes concerning the potential impacts of the proposed rule during the comment period.

#### The Proposal

This proposal is based on the comments received in response to the ANPRM jointly issued by the FAA and the NPS, recommendation No. 10 in the NPS report to Congress, comments from the Flagstaff meeting, recommendations from the IWG, and the FAA's assessment of safety and noise issues. The proposal contains several elements.

First, the FAA is proposing to restrict the areas of Grand Canyon National Park in which commercial tour operations would be permitted. Accordingly, the FAA is proposing to: (a) modify the dimensions of the SFRA; (b) establish new and modify existing flight-free zones; (c) establish new and modify existing flight corridors; and (d) establish reporting requirements for

commercial sightseeing companies operating in the SFRA. The proposal would continue to prohibit aircraft from operating within 500 feet of any terrain or structure located between the north and south rims of the Grand Canyon, with certain exceptions. The proposal would continue to require that pilots monitor certain frequencies while operating in the SFRA.

Second, and in addition to the above, the FAA is proposing to establish flight-free periods (curfews) for commercial sightseeing operations; and/or to cap the number of commercial sightseeing aircraft, operations, or operators operating in the SFRA. Such a curfew or cap could be made effective either immediately or in two years' time. The preamble discussion below first describes the proposed new operating rules and flight-free zones in the SFRA, and then turns to an explanation of the additional curfew and/or moratorium limits under consideration.

The proposed rule makes significant progress toward the substantial restoration of natural quiet in GCNP. NPS modeling indicates that the proposal provides almost as much immediate natural quiet restoration as provided through the NPS report to Congress recommendation.

#### Special Flight Rules Area

Proposed § 93.301 describes the lateral and vertical dimensions of the SFRA. (See attached map.) All persons operating aircraft in this airspace must comply with the special rules contained within the new proposed subpart U. The proposal would modify the dimensions of the SFRA as follows:

(a) Extend the SFRA north-northeast of the confluence of the Little Colorado and Colorado Rivers to allow commercial sightseeing aircraft to remain within the SFRA while avoiding expanded flight-free zones.

(b) Extend the SFRA southward below the Bright Angel and Desert View Flight-free Zones to allow commercial sightseeing aircraft to remain within the SFRA while avoiding expanded flight-free zones.

(c) Extend the SFRA at the western edge to cover that portion of the Grand Wash Cliffs in the park that was inadvertently omitted from the 1987 NPS Grand Canyon Aircraft Management Recommendation and the original rule.

(d) Increase the altitude of the SFRA ceiling from 14,499 to 17,999 feet msl. The proposed altitude modification protects the park from the impact of commercial sightseeing aircraft overflying the flight-free zones and ensures effective FAA management of

the SFRA up to the 17,999-foot msl ceiling. It would have minimal impact on commercial sightseeing operators and no impact on other types of aviation. Additionally, it would not affect any minimum altitudes established in the SFRA.

The SFRA continues to exclude the GCNP airport Class D Airspace Area in recognition of the need for aircraft to descend to and climb out from the airport. Further, the SFRA boundary would still provide for unrestricted access to the airport on the Hualapai Reservation, located south of the canyon rim in the west canyon area. The minimum sector altitudes for North Canyon, Marble Canyon, Supai, Diamond Creek, and Pearce Ferry Sectors remain unchanged, with the exception of the minimum sector altitudes for transient and general aviation operations in Marble Canyon. The minimum sector altitudes for the North Canyon and Marble Canyon Sectors would increase from 5,000 and 6,000 feet msl, respectively, to 8,500 feet msl for transient and general aviation operations.

This proposal increases the lateral dimensions of the existing SFRA by approximately 2.8 percent.

#### *Flight-Free Zones and Flight Corridors*

Proposed § 93.305 describes the lateral and vertical dimensions of the flight-free zones. (See attached map.) Except in an emergency, or unless necessary for safety of flight, or unless authorized by the Flight Standards District Office (FSDO), no person may operate an aircraft in these flight-free zones.

The proposal would increase the size of the flight-free zones as part of the continuing effort to meet the stated objectives of the drafters of Pub. L. 100-91. As stated by Senator John McCain in the legislative history of Pub. L. 100-91.

The purpose of flight-free areas is to provide a location where visitors can experience the park essentially free from aircraft-sound intrusions. The boundaries of these flight-free zones are meant to be drawn to maximize protection to the backcountry users and other sensitive park resources. The extent of these areas should be adequate to ensure that sound from aircraft traveling adjacent to these zones is not detectable from most locations within the zones. It is within these zones that we expect to achieve the substantial restoration of the natural quiet. (Congressional Record—Senate, p. S10799, July 28, 1987)

This proposal creates two new flight-free zones: the Sanup Flight-free Zone in the southwest portion of the park and the Marble Canyon Flight-free Zone in the northeast portion of the park. The

park areas covered by the new Marble Canyon flight-free zones have been identified by the NPS as especially valued by river and backcountry users. In the western end of GCNP which, according to the NPS, is important to river users and commercial sightseeing, the southwest boundary of the Sanup Flight-free Zone would be configured to continue allowing commercial sightseeing flights to access both sides of the Colorado River from Pearce Canyon to near Separation Canyon. This is consistent with the NPS report to Congress. The proposed Sanup Flight-free Zone would affect the minimum en route altitude (MEA) on Victor Airway 235 between the Peach Springs VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) and Mormon Mesa VORTAC. Specifically, the proposed Sanup Flight-free Zone would require, if adopted, raising the MEA of the above indicated portion of Victor Airway 235 from 10,000 to 14,500 feet msl. The FAA will address this matter, if the proposed flight-free zone is adopted, in a separate rulemaking action.

In addition, the proposal merges the Toroweap/Thunder River and Shinumo Flight-free Zones and extends this zone to the park boundary. The current Desert View Flight-free Zone would be expanded to the north and east to the GCNP boundary. The current Bright Angel Flight-free Zone would be extended to the north to the GCNP boundary; it would also be expanded to the south to enclose a portion of the park that was inadvertently omitted from the original rule. The net result would be five, rather than four, flight-free zones; these new flight-free zones would cover 87, rather than 45, percent of the park area. The five new flight-free zones are: Marble Canyon, Desert View, Bright Angel, Toroweap/Shinumo, and Sanup. The upper limit of the flight-free zones remains unchanged at 14,499 feet msl.

This proposal is consistent with the NPS recommendation to provide a maximum separation between aircraft noise sources and sensitive resource areas and visitor use sites, especially since the Dragon Corridor, recommended for closure in NPS recommendation No. 10, remains open. By leaving the Dragon Corridor open, the proposal maintains certain viable commercial sightseeing routes over the canyon while providing greater noise mitigation in other parts of the park from larger flight-free zones. The legislative history of Pub. L. 100-91 indicates that it was not the intent of the legislation to ban aircraft from overflying the Grand Canyon.

Based on the NPS modeling using FAA-supplied information on 1995 commercial sightseeing operations, the proposal would increase to 38 percent the proportion of the park experiencing a substantial restoration of natural quiet at 1995 operational levels. This restoration includes a significant 14 percent of the area experiencing a total restoration of natural quiet. In total, the NPS believes that this proposal has major mitigation value for users of the Cross-Canyon Corridor Trail System, other parts of the park's trail system in the eastern half of the Canyon, and the river corridor.

Section 93.305 also describes the five flight corridors that allow access through the canyon area for general aviation and transient operations and routes for commercial sightseeing flights. (See attached map.) Flight corridors are areas established for pilot use in navigating the SFRA while avoiding flight-free zones. Prominent terrain features were chosen, where feasible, to assist pilots in navigating the corridors.

The historical context of flight corridors is in the 1987 NPS Grand Canyon Aircraft Management Recommendation. The NPS proposed establishing flight corridors to provide: (a) an opportunity to fly over Grand Canyon to view scenic vistas; (b) approximately 30- to 60-minute commercial sightseeing opportunities from GCNP Airport; and (c) avoidance of noise-sensitive locations within the park.

The proposal adds or modifies existing flight corridors, as follows:

(a) Two new flight corridors would be established in the proposed Marble Canyon Flight-free Zone to facilitate transient, general aviation, and commercial sightseeing traffic through the area: the Navajo Bridge Corridor in northern Marble Canyon and the North Canyon Corridor over central Marble Canyon.

(b) The Fossil Canyon Corridor would be closed as a result of the merger of the Toroweap-Thunder River and Shinumo Flight-free Zones. There is a low amount of traffic in this corridor, little of which is commercial sightseeing traffic. Closure makes an important contribution to the NPS statutory mandate to provide for the substantial restoration of natural quiet and experience in the GCNP.

(c) The Zuni Point Corridor would be extended into a Y-shape in the north to accommodate the extension of the flight-free zones. Commercial sightseeing aircraft would be allowed to operate in only one direction. This traffic pattern would limit noise

exposure along the Zuni Point Corridor, mitigating some of the impacts from overflights. It would provide aerial access to the eastern end of the canyon or a link to a longer aerial route around to Dragon Corridor.

(d) The Dragon Corridor remains open with traffic patterns unchanged, but the southern portion of the corridor would shift toward the west. This action should mitigate the aircraft noise in the Hermit Basin region. The change is consistent with the 1987 NPS recommendation and responds to comments made at the Flagstaff public meeting. These changes provide for noise mitigation while supporting a viable industry at the eastern end of the canyon.

Proposed corridors would remain 2 nautical miles wide for commercial sightseeing operations and 4 nautical miles wide for general aviation and transient operations. Tuckup Corridor would remain limited to general aviation and transient operations.

#### *Minimum Flight Altitudes*

Proposed § 93.307 describes different minimum altitudes in sectors and corridors for commercial sightseeing flights, and transient and general aviation operations to separate different types of operations to the maximum extent practical. Minimum altitudes for Zuni Point Corridor, Dragon Corridor, and Tuckup Corridor would not change. Minimum altitudes for Navajo Bridge Corridor and North Canyon Corridor would be 5,000 feet msl for commercial tour operations and 8,500 feet msl for general aviation and transient operations.

The Las Vegas FSDO would develop specific conditions and limitations, including the location of sightseeing routes for each commercial sightseeing operator in the SFRA. Those conditions and limitations would be included in each operator's operations specifications and would be enforced by the FAA. The provisions would detail routes, altitudes, communications and other procedures, pilot experience, and equipment requirements.

All pilots flying in the SFRA remain fully responsible for seeing and avoiding other aircraft. While the routes reserve different altitudes for different types of operations, they do not in any way assure separation of individual aircraft. Further, the routes do not relieve pilots of compliance with any other Federal Aviation Regulation. As in SFAR No. 50-2, all pilots could continue to deviate from course to maintain safety of flight in avoidance of other aircraft or unsafe weather conditions.

The SFRA boundaries, flight-free zones, flight corridors, minimum altitudes, commercial sightseeing routes, and radio frequencies would continue to be indicated on the revised Grand Canyon VFR aeronautical chart. The chart would be published to coincide with the effective date of the final rule.

#### *Proposals for Further Action (Curfews and Caps)*

The FAA and NPS believe additional action is necessary to protect the resources of Grand Canyon National Park from adverse effects of aviation noise. The agencies are proposing two additional means to achieve this objective—flight-free period (curfews) and a temporary moratorium on increasing the number of commercial sightseeing flights (caps). Moreover, we seek comment on whether caps should be employed beyond the temporary period for which it is proposed.

We recognize that each of these options has both advantages and disadvantages and the discussion below is intended to encourage public comment on how best to fashion the final rule. Moreover, these proposals should not be considered mutually exclusive; commenters are expressly invited to consider whether and how the FAA might adopt a rule different from the current proposal, combining parts or none of the two options.

#### *Flight-Free Periods (Curfews)*

Proposed § 93.316(a) would establish specific time periods during which commercial sightseeing operations over the GCNP would be prohibited. Curfews could be imposed in terms of fixed periods throughout the year, variable periods based on perceived noise impacts in specific areas, or a combination of conditions. The FAA is requesting specific comments on the general concept as well as the specific questions listed below, under "Questions About Curfews," to assist the FAA in determining whether a certain type of limitation on sightseeing overflights would be beneficial and, if so, whether the limitations should be imposed on an immediate basis or in the near future.

#### *General Curfew Provisions*

Flight-free periods would prohibit the operation of commercial sightseeing aircraft during specific hours of the day in flight corridors and routes in the GCNP. The flight-free periods would not apply to the "Blue Direct" route, but the Blue One tour route is covered which carries traffic flying between Las Vegas and GCNP airports but would apply to

the "Blue 1, Blue Direct" route for commercial sightseeing operations. If adopted, the flight-free period would apply to all commercial sightseeing operators. Flight-free period limitations would be incorporated into the operations specifications for commercial air tour companies and enforced by the FAA. Flight-free periods could be adopted in two different ways—fixed and variable.

#### *Fixed Flight-Free Periods (Fixed Curfews)*

Fixed flight-free periods would close commercial sightseeing operations in the GCNP during specific time periods the NPS has identified as particularly sensitive for park visitors. Fixed flight-free periods could be defined in terms of an absolute ban during specified times of the day; e.g., from 6 p.m. to 8 a.m. daily throughout the year. Such flight-free periods also could, for example, be based on season and time of day. For example, the FAA is proposing to establish the following fixed flight-free periods for commercial sightseeing operations:

- (a) Summer season (May 1–September 30)—6 p.m. to 8 a.m. daily; and
- (b) Winter season (October 1–April 30)—5 p.m. to 9 a.m. daily.

#### *Variable Flight-Free Period (Variable Curfews)*

Variable flight-free periods would be designed to provide a flexible regulatory response to potential changes in the noise impact of commercial sightseeing air tours. Information reported by commercial air tour companies (see Reporting Requirements), acoustic monitoring and modeling protocols, and other analyses jointly developed and approved by the FAA and the NPS would be used to determine whether there is a need to establish or modify a variable flight-free period. Either agency would be able to initiate recommendations to the IWG, and the IWG would serve as the forum for discussion of these recommendations. The FAA would disseminate the results of the above-mentioned analyses, and the criteria used to apply the variable flight-free restrictions, for public review and comment. It would then take action to invoke any restrictions necessary.

The variable restrictions could be expanded to the following absolute maximum time periods, provided such restrictions would not adversely affect aviation safety:

- (a) Dragon Corridor—2 p.m. to 10 a.m.; and
  - (b) All other routes—4 p.m. to 9 a.m.
- However, variable flight-free periods could be established to restrict

operations for lesser time periods depending on the supporting evaluation.

#### *Questions About Curfews*

The FAA is requesting specific comments on the nature of the proposals for flight-free periods. Should fixed flight-free periods be constant during the year or should they vary by season? Would a combination of fixed and variable flight-free periods be appropriate? There are a number of basic questions applicable to flight-free periods in general, whether fixed or variable. Should flight-free periods be applied to specific routes or areas or implemented park-wide? Would flight-free periods act to discourage or encourage the cooperation of the sightseeing operators to convert to quieter type aircraft or voluntarily act in a manner as to reduce the effect of overflight noise? What would be the economic consequences associated with the implementation of flight-free periods? How many operations would be curtailed by the reduced time periods during which commercial sightseeing operations could be conducted? What would be the effect of flight-free periods on the schedule of operations that remain after restrictions are imposed? What is the effect on an operator's schedule for those operations that are not curtailed? What would be the effect on revenue if flight-free periods are implemented? Is it likely that operators would use different aircraft for the commercial sightseeing operations; i.e., larger or smaller aircraft, if flight-free periods are imposed? Since creation of flight-free periods is only one of the two major alternatives under consideration in this notice, what would be the effect of employing flight-free periods in conjunction with and in addition to a "cap," i.e., a moratorium? Can flight-free periods be developed and applied with the current level of data and information available to the decision-makers? Should they be imposed immediately or only after commercial sightseeing operations data are collected for a minimum of 2 years following the effective date of the final rule and evaluated for impact on GCNP? Should flight-free periods be set for a specific length of time (one, two, three years, etc.), stay in existence until the final management plan is announced, or indefinitely? Should they expire 5 years after the effective date of the final rule, when the FAA and the NPS plan to implement a more comprehensive noise management plan for substantially restoring natural quiet to GCNP (see Other Actions)? Are flight-free periods necessary to and can their

implementation help to achieve the goal of substantial restoration of natural quiet in the GCNP? If so, would fixed or variable flight-free periods be most effective in substantially restoring natural quiet in the GCNP with the least impact on air tour operators and Park visitors?

#### *Temporary Moratorium on Increasing Commercial Sightseeing Operations*

A moratorium would place a cap on the number of commercial air tour operations, aircraft, and/or operators within the Grand Canyon SFRA. Such a cap could be imposed in a variety of ways, and commenters are specifically invited below to address these different possibilities. It is the opinion of FAA and the NPS, nonetheless, that public comment should be focused on the regulatory language of at least one cap option. That option, as developed by the NPS, is presented in proposed section 93.316(b). The FAA and the NPS believe that public comments will be facilitated by the public review of the cap proposed by 93.316(b). Therefore, the FAA is requesting specific comments on the proposed limitations as well as the questions listed to assist the FAA in determining what is the most appropriate type of limitation to adopt.

Section 93.316(b) would establish a temporary moratorium on increasing commercial sightseeing flights for 1997 and 1998. Under this proposal, each operator would be limited to the number of monthly operations equal to the monthly operations in the base year August 1, 1995 through July 31, 1996. Operators would establish their baseline monthly allocation by certifying to the number of operations conducted each month during the period from August 1, 1995, through July 31, 1996. One means that the FAA may use as evidence of the accuracy of the information filed by operators is to compare it to the payment made of fees by operators as required under the Budget Reconciliation Act of 1993 (P.L. 103-66). Operators also would file monthly reports, along with fees required by the Budget Reconciliation Act, certifying that they did not exceed their monthly allocation of the base year in the most current month. As a convenience, commercial tour operators could choose to submit the reports through the NPS, along with NPS' appropriate fee for use of the park, as required by the Budget Reconciliation Act of 1993 (P.L. 103-66), rather than submit them directly to the FAA. For operator choosing to file through the NPS, the NPS would forward the report to the FAA.

If an operator intended to reduce operations so that it did not use its monthly allocation or terminate operations altogether, it would so advise the FAA. New or existing operators could apply for the monthly allocation. In the event that there is more than one operator applying for the monthly allocation, a preference would be granted to the operator which will utilize the quietest commercially available new or retrofitted aircraft among the applicants. This preference is intended to serve as an incentive to employ quieter aircraft in the Park. No operator would have any property rights in its monthly allocation.

These restrictions would apply to all commercial sightseeing operators for the two-year period. By adopting a temporary moratorium on flights, the FAA is seeking to assure that the noise mitigation benefits of the proposal are not significantly eroded during this period. The FAA also seeks comments on whether the temporary moratorium should be extended until the adoption of the comprehensive Noise Management Plan. It also seeks comments on whether a cap should be a component of the Noise Management Plan itself.

Keeping in mind the goal of the proposed rulemaking, there are a variety of limitations or caps that could be placed on commercial air tour overflights, on either an interim or permanent basis, that might achieve the desired effect. The FAA is seeking comments on what type of cap would have the greatest effect on substantial restoration of natural quiet. While this proposal envisions one type of cap on an interim basis, there are other approaches, described below, on which we seek comment.

#### *Cap on Operations*

One form of cap would be to impose a limitation on the number of operations conducted by commercial air tour operators. An operational limitation could be applied to restrict the number of overflights on a hourly, daily, weekly, monthly, or seasonal basis. If the FAA adopts a cap on operations, it might be necessary to include a definition of an "operation" within the airspace over the GCNP, as, for example, a one-way or directional pass, a round-trip, or any penetration of airspace over the Park. Some operators might be differentially affected by the definition selected. The FAA requests comments on these factors from the perspective of both noise and economic impact.



### *Cap on Aircraft*

Similarly, limitations or caps could be placed on the number of commercial sightseeing aircraft, the type of aircraft used or both? Should the number of aircraft permitted to operate above GCNP be affected by the type of aircraft used; i.e., if an aircraft is using a more quiet technology, should the number of aircraft be increased? As in the case of caps on operations, should caps be implemented on a time or seasonal basis?

### *Cap on Air Tour Operators*

A third limitation or cap could be placed on the number of air tour operators permitted to operate within GCNP airspace. As with the caps on operations or aircraft, a cap on the number of operators could be utilized in a variety of ways. For instance, should the current operators be grandfathered? Should the current operators be permitted to operate indefinitely or should there be a time restriction with a requirement of renew ability to operate? Should caps be set at a level that would permit the introduction of new entrants into the GCNP market? The particular proposal set forth in this notice describes one method of allocating operating rights and accommodating new entrants. Are there other methods that would be fairer or more efficient?

### *General Questions About Caps*

In addition to the types of caps listed above, the FAA would appreciate comments proposing different limitations that would work to achieve the goal of substantially restoring natural quiet in the GCNP. No matter what form of cap is implemented, there are several basic questions applicable to caps in general and to each cap in particular. For instance, regardless of the type of cap imposed, should caps be implemented on an immediate basis to act as a freeze of current numbers, should it be implemented on a future basis, or should it be implemented using the numbers of a date that predates the publication of this NPRM? What should the duration of caps be? Should caps be set for a specific length of time (one, two, three years, etc.), stay in existence until the final management plan is announced, or indefinitely? Should caps or restrictions be based on the average number of operations or the maximum number? Should there be any operational exceptions, such as for the quietest commercially available aircraft, to the restrictions or caps? How will the size of aircraft operated under caps be affected by 14 CFR Part 119? Can caps

be developed and applied with the current level of data and information available to the decision-makers?

How should these caps be allocated or distributed? Should the current level of operations, aircraft, or operators be grandfathered? Should all operators, including those that presently do not operate above GCNP be able to participate in the allocation? Will new entrants into the commercial air tour market over GCNP be able to gain access or entry into the market? Should existing operators be required to decrease existing levels to create a pool available to be used only by the new entrants? If an allocation procedure is required, what type of process should be used, i.e., lotteries, auctions, administrative allocation, other mechanisms?

In addition to those operators eligible for the allocation of the subject caps (limitations on the number of operations, aircraft, or operators), should caps or the rights to operate above GCNP be transferable from one operator to another? Should commercial sightseeing operators be permitted to lease, trade, sell or buy the ability to operate over the Park? Should the operating ability be returned to the FAA, as would be required in the example set forth in proposed § 93.316(b), if an operator ceases operation? Has the FAA created a "right" or "privilege" subject to withdrawal when it would establish the limitation or cap system?

Concerning the applicability of caps, should a cap be applied to specific routes or areas or should it be implemented park-wide? Would any of the limitations or caps act to discourage or encourage the cooperation of the sightseeing operators to convert to quieter type aircraft or voluntarily act in a manner as to reduce the effect of overflight noise? If so, why, and in what way? What would be the economic consequences associated with the implementation of one or a combination of any of the types of caps? How many operations would be curtailed? What would be the impact of caps on the schedule of operations that remain? What is the impact on an operator's schedule for those operations that are not curtailed? What would be the impact on revenue if caps are implemented? Is it likely that operators would use different aircraft for the commercial operations, i.e., larger or smaller aircraft? Are caps necessary to and can the implementation of caps help to achieve the goal of substantial restoration of natural quiet? If so, which type of cap would do the most to restore substantially the natural quiet in the

Park with the least impact on tour operators and Park visitors?

The proposal described in § 93.316(b) would be predicated upon information reported by commercial air tour companies. Should other information, such as acoustic monitoring and modeling protocols, or other analyses be used separately or in combination with the information received from the operators? What standards and criteria should be used for the necessity for and the result of implementing caps? Similarly with the process cited for the implementation of the variable flight-free periods, the IWG would serve as the forum for discussion of recommendation coming from either the FAA or NPS as to the need for and type of cap that should be implemented. As a result of the comments received to this NPRM, the FAA may decide to promulgate a curfew, a cap, a combination of the two, or neither.

The questions outlined above are suggested to help focus public discussion. The public response to these questions will assist in the adoption of a rule limiting overflights by commercial sightseeing operators.

### *Potential Alternatives to Implementation of the Curfew and/or the Cap*

The FAA seeks specific comments on any alternatives to imposing either the proposed curfew or proposed cap that would address the problem of aircraft noise in GCNP in a different manner, such as by limiting the number of commercial sightseeing aircraft operating in the SFRA during certain hours of the day. Aircraft authorized to fly under the cap could fly between 8 a.m. and 6 p.m. during the summer season (May 1–September 30) and 9 a.m. and 5 p.m. during the winter season (October 1–April 30). Other aircraft, not subject to the cap, would be limited to operations between 10 a.m. and 2 p.m. year round. If the number of aircraft are limited, any replacement aircraft could be limited to those with a certificated noise level equal to or less than the aircraft being replaced.

If this alternative is selected, the cap would be applied only after commercial sightseeing operations data are collected for a minimum of 2 years following the effective date of the final rule and evaluated for impact on GCNP. This evaluation would be based on information reported by commercial sightseeing companies (see Reporting Requirements), acoustic monitoring and modeling protocols, and other analyses jointly approved by the FAA and the NPS. This temporary noise management mechanism would expire 5 years after



the effective date of the final rule, at which time the FAA and the NPS plan to implement a more comprehensive noise management plan. The duration of any aircraft authorization under the cap would similarly expire 5 years after the effective date of the final rule. By posing the above questions, the FAA solicits specific comments on the effectiveness and feasibility of implementing a temporary cap.

The FAA wishes to advise the public that a broad array of different regulatory approaches may be adopted as a result of this notice. No combination of options is foreclosed.

#### *Quieter Aircraft*

The NPS report to Congress suggested that quieter aircraft could be used in substantial restoration of natural quiet in GCNP. It identified the DHC-6-300 Vistaliner and Cessna 208 Caravan airplanes and the McDonnell Douglas "No Tail Rotor" helicopters as the quietest aircraft currently operating in the park. The NPS made this determination based on its evaluation of aircraft certification data derived from applicable noise certification standards in part 36 of Title 14 of the Code of Federal Regulations and from NPS flyover noise measurements taken in the park. In addition, the cap option described in this Notice contains a provision that would give a preference to operators of quieter aircraft in the event that unused allocation becomes available. Commenters are invited to address the criteria that should be used in selecting the quietest aircraft.

#### *Reporting Requirements*

Proposed §93.317 would establish commercial sightseeing flight reporting requirements. During the 5-year period following the effective date of the final rule, each certificate holder would be required to submit, in a form and manner acceptable to the Administrator, three operational reports yearly to the Las Vegas FSDO. Each report would cover a 4-month period ending April 30, August 31, or December 31, and would be required to be submitted no later than 30 days after the reporting period closes. Certificate holders would be required to provide the aircraft identification number (registration number), departure airport, departure date and time, and route(s) for each operation flown in the SFRA. Note that, as currently contemplated, these reports would be in addition to any reports required for the purpose of monitoring the use of an allocation under an interim moratorium. However, the FAA invites comments on how to combine

the reports or otherwise minimize the reporting burden on operators.

Changes in reporting requirements for commercial sightseeing aircraft operating in the SFRA are essential to: (a) Establish accurate information on GCNP overflights for noise and safety management purposes; (b) validate FAA and NPS noise models for use in mitigating studies; (c) determine with precision when and where noise mitigation is required; and (d) provide the basis for a more flexible and adaptable noise management system.

#### *Environmental Review*

The FAA is preparing an environmental assessment (EA) for this proposed action to assure conformance with the National Environmental Policy Act of 1969. The FAA has conducted an abbreviated scoping process and prepared a Draft EA. Copies of the Draft EA will be circulated to interested parties and placed in the docket, where it will be available for review. Comments are invited concerning the Draft EA and the environmental impacts that might result from adopting this rule for 45 days. Before the final rule is issued, the FAA will prepare a Final EA and determine whether a Finding of No Significant Impact may be issued or an environmental impact statement is required.

#### *Regulatory Evaluation Summary*

Proposed 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. A regulatory evaluation of the proposal is in the docket.

In conducting these analyses, the FAA has determined that this NPRM would be "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. In consideration of the proposed changes scheduled to take effect upon promulgation of a final rule, this proposed rulemaking would also have a significant impact on a substantial number of small entities. The FAA has therefore included an Initial Regulatory Flexibility Analysis in the Regulatory Evaluation which includes

consideration of three alternatives to the current proposed rulemaking. The FAA has concluded, however, that the current NPRM is preferable to the alternative considered and would assure the continued viability of the GCNP commercial sightseeing industry. Although the proposed changes contained in the NPRM would not constitute a barrier to international trade, a loss of foreign tour dollars could result.

#### *Introduction*

To assist the NPS effort to measure aircraft noise levels in GCNP, the Las Vegas FSDO conducted a field survey of all operators certified to provide commercial sightseeing tours within the GCNP SFRA. The Las Vegas FSDO SFAR No. 50-2 Air Tour Route Usage Report (field survey) detailed information for each operator with regard to the number of operations conducted along each commercial sightseeing tour route within the GCNP SFRA. This information was further broken down for each type of commercial sightseeing aircraft in the operator's fleet that operated along these routes during the most recent 3 years through early October 1995. With the exception of the "Blue Direct South" and certain "Brown" routes for fixed wing aircraft and the "Green 3" and "Green 3A" routes for helicopters, all routes identified in the Grand Canyon VFR Aeronautical Chart were identified by GCNP commercial operators as routes flown.

To determine the different kinds of commercial sightseeing tours as well as to estimate the total number of commercial sightseeing tours, commercial sightseeing passengers, and commercial sightseeing revenue for GCNP, the FAA, utilizing known passenger seating capacities of each type of aircraft used by GCNP commercial sightseeing operators, cross referenced the Las Vegas FSDO field survey detail with tour and cost information as provided in Grand Canyon commercial sightseeing brochures. The estimates derived from this cross referencing form the basis on which the FAA developed the preliminary cost estimates of this NPRM.

#### *Costs*

In 1995, commercial sightseeing tours of GCNP numbered approximately 70,000, were provided by 31 operators using 136 aircraft, carried 682,500 passengers, and generated \$115.9 million in revenue as measured in 1995 dollars. Proportionately, fixed-wing tours accounted for 72.4 percent of the commercial sightseeing tours, 85.6

percent of the commercial sightseeing passengers, and 89.2 percent of commercial sightseeing revenue in GCNP. Helicopter tours accounted for 27.6 percent of the commercial sightseeing tours, 14.4 percent of the commercial sightseeing passengers, and only 10.8 percent of commercial sightseeing revenue in GCNP.

Forty-four percent of all commercial sightseeing tours were fixed-wing tours conducted along the "Blue 1, Blue Direct" commercial sightseeing route. However, an overwhelming 80 percent of all commercial sightseeing revenue was generated by the various tours conducted along this tour route. Comparatively, fixed-wing and helicopter tours that featured or included the Dragon Corridor accounted for about 25 percent of all commercial sightseeing tours (about 50/50 for each aircraft type), but only accounted for about 10.7 percent of commercial sightseeing revenue. Estimates for the Zuni Point Flight Corridor are very nearly the same; 24.6 percent of all commercial sightseeing tours account for approximately 11.2 percent of all GCNP commercial sightseeing tour revenue.

#### *Changes to Operating Corridors, Flight-Free Zones, Etc.*

The proposed changes would effectively reconfigure GCNP flight-free zones and flight corridors and require certain current commercial sightseeing routes to be adjusted or possibly eliminated. The reconfiguration of flight-free zones and flight corridors would require some commercial sightseeing operators to redesign and repackage certain currently available commercial sightseeing tours, and in those cases where a VFR route would be eliminated, to create new commercial sightseeing offerings, if possible. Based on an analysis of the commercial sightseeing revenue generated in 1995 by different commercial sightseeing routes, the FAA has determined that these proposed modifications could result in costs associated with loss of revenue or increased commercial sightseeing prices due to the elimination or modification of commercial sightseeing tours.

The proposed extension of the GCNP SFRA would result in only those costs associated with revising and publishing a new Grand Canyon VFR Aeronautical Chart. Similarly, the proposal to increase the altitude of the SFRA ceiling from 14,499 to 17,999 feet msl would have minimal impact on GCNP commercial sightseeing operators; its cost would be included under the revision and publishing costs noted

above. The FAA considers these costs to be a part of normal, on-going administrative costs, not costs incurred as a result of this rulemaking action.

The reconfiguration of GCNP flight-free zones and flight corridors would impact several commercial sightseeing routes. The total commercial sightseeing revenue derived from those routes was just over \$10.7 million in 1995, or about 9.3 percent of the \$115.9 million total GCNP commercial sightseeing revenue generated in 1995. It is based on the estimated revenue generated by 18 operators conducting about 21,700 commercial sightseeing tours serving 122,700 passengers in 1995 on the affected commercial sightseeing routes.

The \$10.7 million estimate represents the maximum potential revenue impact of these two proposed changes on GCNP commercial sightseeing operators. Only under the unlikely worst case scenario in which GCNP commercial sightseeing operators directly impacted by the reconfiguration of the GCNP SFRA cease commercial sightseeing operations in the canyon altogether, would it represent the maximum potential revenue loss. The FAA estimates that the potential dollar cost of the proposed changes to the current configuration of the flight-free zones and the flight corridors is more likely to be about \$1.2 million in average annual revenue loss and added flight time cost for the 10-year period, 1997-2006.

The FAA believes this estimate more accurately reflects the true cost of the proposed modifications because several viable alternative tour configurations remain available to the GCNP commercial sightseeing industry. And GCNP commercial sightseeing operators would most likely adapt their commercial sightseeing tours to the proposed reconfigurations, and pass on the increased costs to commercial sightseeing passengers. However, commercial sightseeing operators' adaptation to the proposed changes could result in possible addition of nearly 3,800 commercial sightseeing flights annually through the Dragon Corridor as a result of restricting the Zuni Point Corridor to one-way traffic only. The FAA solicits specific comments on the ability of GCNP commercial sightseeing operators to change their commercial sightseeing routes to minimize the impact of the reconfiguration of GCNP flight-free zones and flight corridors. Comments should address the impact on specific commercial sightseeing tours and tour routes.

The proposed 5-year recordkeeping requirements would cost the commercial sightseeing operators

approximately \$366,000 (\$73,200, 5-year average annual cost) and the FAA approximately \$16,000 (\$3,200, 5-year average annual cost).

#### *Curfews and Caps*

The adoption of a curfew would reduce the time available in the day during which commercial sightseeing tours could be conducted. Either fixed flight-free periods or variable flight-free periods would require operators to conduct all commercial sightseeing tours inside a tighter time frame. Commercial sightseeing aircraft operate at virtually full capacity utilization during the peak summer season. There, operators would likely have to eliminate some portion of the number of commercial sightseeing tours currently offered during the summer season. To offset the potential revenue loss associated with a reduction in commercial sightseeing tours, commercial sightseeing operators could raise the price of their tours. While these monopolistic rents for commercial sightseeing operators would tend to offset revenue losses for tour operators, it would shift the cost burden to the consumers of commercial sightseeing tours. In either event, there would be an economic cost to society.

A cap or moratorium could result in a reduction of commercial sightseeing tours during the summer season and concomitant loss of revenue or increased commercial sightseeing prices. A cap would impose a "freeze" on commercial sightseeing activity; for example, in proposed § 93.316(b) this freeze would be applied on a monthly basis at the level existing during the corresponding month between August 1995 and July 1996. Caps, therefore, are essentially a containment of commercial sightseeing activity as all growth in commercial sightseeing operations would be suspended.

The impact of the fixed flight-free periods is most likely to be realized by GCNP operators only during the summer season, because commercial sightseeing aircraft are utilized at full operational capacity during the summer season. In the absence of a substantial commitment to additional aircraft with the concomitant increase in operating requirements, the only alternative available to GCNP commercial sightseeing operators during the summer season would be the elimination of commercial sightseeing tours which currently occur during the hours included in the flight-free period. The FAA assumes that during the winter season operational under-utilization of aircraft could allow GCNP operators to reschedule commercial

sightseeing tours currently operating during the proposed fixed flight-free period into non-flight-free times.

The FAA estimates that the amount of 1995 commercial sightseeing revenue that could be potentially lost during the summer season is approximately \$5.3 million. This potential loss of revenue is about 5.7 percent of the \$115.9 million total GCNP commercial sightseeing revenue generated in 1995. The estimated amount of average annual commercial sightseeing revenue for the 10-year period 1997–2006 that could be potentially affected during the summer season is about \$5.5 million. The breakdown by principal commercial sightseeing tour routes indicates potential average annual revenue losses of: (1) \$2.3 million for commercial sightseeing tours operating on the “Blue 1, Blue Direct” tour routes; (2) \$2.7 million for commercial sightseeing tours flying the Dragon Corridor; and (3) \$1.6 million for commercial sightseeing tours operating along all other tour routes.

The FAA estimates that approximately 5,160 additional commercial sightseeing tours would be rescheduled during the proposed winter season. The resulting air traffic compression during non-flight-free periods would result in increased aircraft activity and corresponding increased noise levels in GCNP during the time periods that commercial sightseeing aircraft are permitted to operate. The FAA seeks specific comments on the capability and flexibility of commercial sightseeing operators to rearrange GCNP tour schedules to minimize the impact of the flight-free period during the proposed winter season curfew.

Implementation of variable flight-free periods would be predicated on information reported by commercial sightseeing operators as specified under the reporting requirements of this proposed rulemaking, and the results from acoustic monitoring and modeling protocols and other analyses jointly developed and approved by the FAA and the NPS. A system of variable flight-free periods would subsume fixed flight-free periods, because the mechanism for imposing variable restrictions would be triggered only if noise data indicated that the initial curfew periods were no longer adequate to reducing noise adverse impacts.

Precise calculation of the actual costs of a cap or variable flight-free periods is not possible at this time. However, placing a cap may limit new entrants in the market and, as a result, could increase costs to users. Similarly, with fewer new entrants, there may be less competition in the quality, number of

trips, and other associated amenities. However, both of these adverse effects would be limited in the cap proposed in § 93.316(b) because of the limited duration (2 years). Similarly, making caps or the rights to operate above GCNP transferable could mitigate these adverse effects by allowing more efficient new entrants to replace operators with more costly operations. Absent the imposition of a cap, the number of air tour overflights could be expected to increase, given past market behavior, bringing with it increased adverse reactions associated with noise disturbance.

Freezing the number of overflights during the interim period would have beneficial effects and enhance some aspects of the recreational experience at Grand Canyon National Park. Further, if the number of overflights is allowed to grow during the time period, it may be markedly more difficult to implement a comprehensive aircraft management plan designed to mitigate noise impacts.

Existing operators likely will have committed additional capital to their operations. Demand may be sufficient to draw new entrants into the market. Other economic activity can be expected to occur in support of these increased investments. One would consider this growth in economic activity beneficial, but it also would adversely affect the experience of park visitors. The cost to park visitors' experience is a loss of benefits which is unaccounted for in national income accounting and may reflect an inefficient, over-investment of capital. The additional capital investment could exacerbate the problem of implementing any restrictions emanating from the management plan.

It is possible, however, to estimate the maximum potential revenue loss from reduced GCNP commercial sightseeing tours that could occur if the most restrictive operating time constraints designated for the variable flight-free periods in the proposal were imposed. This maximum potential revenue loss is estimated to average \$10.5 million annually for the 3 years that the variable flight-free periods could be in place. The distribution of the 3-year average annual commercial sightseeing revenue loss is as follows: \$4.1 million, “Blue 1, Blue Direct” tour routes; \$5.2 million, Dragon Corridor tours; and \$1.3 million, all other tour routes.

A number of factors come into play to keep actual lost revenues below the maximum estimates. For example, operators may choose to use larger aircraft, raise commercial sightseeing tour prices, reschedule flights, or divert some aircraft to other revenue

producing uses. In any event, reduced revenue is by no means a direct measure of cost to commercial sightseeing operators; even in the worst case of an aircraft sitting idle instead of flying commercial sightseeing tours, the operator avoids direct operating costs. Lost revenues, in terms of dollar value, could be viewed as an approximation of the cost to the consumer of the foregone opportunity to take a commercial sightseeing tour; lost revenues reflect what the consumer would have been willing to pay for GCNP commercial sightseeing tours before their elimination under the proposed constraints. Lost revenues are estimated for the summer season only because commercial sightseeing operators can reschedule around the variable flight-free periods during the winter season, thereby avoiding revenue losses.

The FAA also estimates that with the introduction of variable flight-free periods, approximately 8,100 additional commercial sightseeing tours would be conducted during the permitted operating times. This assumes that GCNP commercial sightseeing tour operators are indeed able to reschedule all commercial sightseeing tours affected by the variable flight-free periods during the winter season. This is an increase of nearly 3,000 commercial sightseeing tours (57 percent) being conducted during the permitted operating hours of the variable flight-free periods relative to the fixed flight-free periods.

With the introduction of the variable flight-free periods for the 3-year frame 1999–2001, the average annual cost would rise to about \$11.0 million. The potential revenue losses associated with imposing only variable flight-free periods would impact commercial sightseeing operators conducting tours in the Dragon Flight Corridor more than those operators conducting commercial sightseeing tours along any of the other routes. About 46 percent of the potential average annual revenue loss would be borne by the commercial sightseeing operators in the Dragon Corridor under the special variable flight-free periods in comparison with about 40 percent under the fixed flight-free periods.

With respect to the particular cap proposed in this notice, the FAA estimates the average annual potential cost impact is \$4.6 million during 1997 and 1998. The derivation of the following estimates is predicated on the assumption that all of the 3.3 percent compound annual rate of growth projected for GCNP commercial sightseeing activity would be held in abeyance for the years 1997 and 1998. The distribution of this 2-year average

annual commercial sightseeing revenue loss is as follows: \$3.2 million, "Blue 1, Blue Direct" tour routes; \$513,000, Dragon Corridor tours; and \$290,000, all other tour routes. The FAA further estimates that the average annual administrative and reporting costs to the FAA and the operators from the imposition of temporary caps on commercial sightseeing operations would be approximately \$640,000. The breakdown is as follows: (1) \$418,000 is attributed to the FAA to cover the cost of five full-time employees to receive, analyze, and enforce the cap operation limitations, and (2) \$219,600 is attributed as a reporting cost to the operators. The potential cost impact, therefore, is the valuation of the revenue foregone under the presence of caps plus the administrative and reporting requirement of the rule. The estimates, however, do not take into consideration that GCNP operators could adjust for the 2-year cap by adopting similar measures as noted for the variable flight-free periods, any of which would serve to offset revenue losses. The FAA is seeking specific comments on the effectiveness and feasibility of implementing such a temporary cap and the adaptability of GCNP commercial sightseeing operators.

The FAA is also considering combining both caps and curfews by capping operations in the GCNP in addition to imposing flight free periods. The FAA estimates the maximum potential average annual cost impact of combining fixed flight-free periods and caps is \$10.2 million for 1997 and 1998. This estimate includes the two-year average annual maximum potential cost of revenue loss due to caps and fixed flight-free periods at \$9.6 million. The distribution of this 2-year [average annual] commercial sightseeing revenue loss due to operational caps and fixed flight periods is as follows: \$5.2 million, "Blue 1, Blue Direct" tour routes; \$2.8 million Dragon Corridor tours; and \$1.6 million, all other tour routes. The remaining \$640,000 loss is attributable to the administrative cost to the FAA of administering and enforcing the rule and the amount attributable to the operator's reporting costs. The potential cost impact is the valuation of the revenue foregone under the addition of caps and fixed flight-free periods and the administrative and reporting costs. The estimates, however, do not take into consideration that GCNP operators could adjust for the 2-year cap by adopting similar measures as noted for the variable flight-free periods, any of which would serve to offset revenue losses. For the combined alternatives,

the FAA estimates that the average annual cost would be \$8.6 million for imposing caps for two years and flight-free periods for 10 years. The combined alternatives, however, would shift a disproportionate amount of the average annual revenue loss onto the operators of commercial sightseeing tours along the "Blue 1, Blue Direct" commercial sightseeing route. Just over 54 percent of the potential average annual revenue loss would be borne by these commercial sightseeing operators under the caps in comparison with about 38 percent under the variable flight-free periods. The FAA is seeking specific comments on the effectiveness and feasibility of implementing a combination of temporary cap with flight-free periods and the adaptability of GCNP commercial sightseeing operator.

The FAA also estimates that that the annual average costs of the different alternatives are as follows: (1) Fixed flight-free periods: \$6.6 million (2) Temporary two-year cap on operations: \$4.6 million (3) Combination of fixed flight-free periods and two-year caps: \$10.2 million (4) Variable flight-free periods: \$11 million.

To summarize, the FAA estimates that the annual cost of establishing and modifying the flight-free zones and corridors and adding the new reporting requirement is approximately \$1.3 million in potential operator revenue losses and added consumer costs. The breakdown by proposed change is as follows: (1) \$1.2 million is accounted for by the proposed establishment and modification of flight-free zones and corridors; and (2) about \$76,300 reflects the added costs to the operators and the FAA of new recordkeeping and reporting requirements.

The FAA also estimates that with the introduction of the variable flight-free periods for the 3-year time frame 1999–2001, the average annual cost would rise to about \$11.0 million for variable and fixed curfews. The potential revenue losses associated with the expanded variable flight-free periods, only, would impact commercial sightseeing operators conducting tours in the Dragon Flight Corridor more than those operators conducting commercial sightseeing tours along any other routes. About 46 percent of the potential average annual revenue loss would be borne by the commercial sightseeing operators in the Dragon Corridor under variable flight-free periods in comparison with about 40 percent under the fixed flight-free periods.

### *Benefits*

Pub L. 100–91 mandates the NPS to provide for the substantial restoration of natural quiet and experience in GCNP. The NPS defines "natural quiet" as the natural ambient sound conditions found in the park and defines "substantial restoration" to mean when 50 percent or more of the park has achieved "natural quiet" (i.e., no aircraft audible) for 75 to 100 percent of the day. The benefit of this action therefore, would be to contribute to the substantial restoration of natural quiet (e.g., reduce aircraft sound disturbance) in GCNP.

The NPS has concluded that the initial gains made by SFAR No. 50–2 are being steadily eroded by increasing air traffic. The NPS conclusion is based on a comparison of the commercial sightseeing route activity reported in a 1989 FAA survey with the commercial sightseeing route activity reported in a 1995 FAA survey. In 1989, the NPS estimated that 43 percent of GCNP met its criteria for substantially restoring natural quiet. In 1995, a similar analysis indicated that the restoration of natural quiet had been reduced to 31 percent. The NPS also forecasts that if no further action is taken, by the year 2010, less than 10 percent of the park area would experience a substantial restoration of natural quiet.

This proposal would reverse that trend. Based on the NPS' analytic model, and again using 1995 FAA survey data, the proposal would increase the proportion of the park experiencing a substantial restoration of natural quiet to 38 percent, including 14 percent of the park experiencing a total restoration of natural quiet. Therefore, in this proposal, the FAA has attempted to achieve what it believes to be the intent of Congress; that is, to strike a balance that would accommodate a viable commercial aerial sightseeing industry while achieving the substantial restoration of natural quiet in the Grand Canyon.

### *Conclusion*

The proposed rule would promote natural quiet in GCNP more effectively than the current SFAR No. 50–2. However, the estimated 10-year average annual loss of commercial sightseeing tour revenue and added consumer costs for all proposed changes except the introduction of flight-free periods or a moratorium (cap) is just over \$1.2 million. For fixed flight-free periods, the estimated 10-year average annual cost is approximately \$7.8 million. Variable flight-free periods and cap alternatives would each result in additional lost revenue from some reduction in GCNP

commercial sightseeing tours. The FAA has estimated that the maximum potential incremental revenue loss under the most restrictive conditions would be an average annual revenue loss of \$10.5 million for the variable flight-free periods and \$4.2 million for the caps alternative for the 1999–2001 time frame only. The actual amount, however, would depend on the as yet undetermined degree to which either the proposal or its possible alternative would be imposed. The FAA is soliciting specific comments regarding the potential economic impacts of the proposed variable flight-free periods and the alternative of caps, particularly as the impacts relate to specific commercial sightseeing tours and tour routes.

From a national perspective, the revenue loss would be much less than that estimated for Las Vegas and the local GCNP community and less than that estimated from the commercial sightseeing operators' perspective because commercial sightseeing operators, pilots, and many businesses that provide services to the GCNP commercial sightseeing industry could move to other areas of the United States. In a sense, the drop in revenues for Las Vegas and the local GCNP community would be offset by the gains other areas of the United States would enjoy as aircraft and personnel were shifted to provide aviation services to these other areas.

The gains that the other areas would experience would not necessarily offset all the expected losses experienced by Las Vegas and the GCNP community. Presumably, providing commercial sightseeing services for GCNP maximizes the revenue streams for the aircraft, personnel, and other resources used to support GCNP commercial sightseeing operations; otherwise, they would already be located elsewhere. It is assumed therefore, that aviation services provided in other areas of the country generate less revenue. The FAA, however, is not able to estimate this differential in revenue when commercial sightseeing aircraft, personnel, and other resources are moved to other areas. Therefore, the FAA is soliciting comments regarding the potential revenue impact of this proposed rule when considered from a national perspective.

Nevertheless, based on the best available information, this proposed rule would strike a balance accommodating a viable commercial sightseeing industry while achieving the substantial restoration of natural quiet in the Grand Canyon.

#### Initial Regulatory Flexibility Analysis

By both law and executive order, Federal regulatory agencies are required to consider the impact of proposed regulations on small entities. Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, states that:

Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of different sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

The 1980 "Regulatory Flexibility Act" (RFA) requires Federal agencies to prepare initial regulatory flexibility analysis of any notice of proposed rulemaking that would have a significant economic impact on a substantial number of small entities. The definition of small entities and guidance material for making determinations required by the RFA were published in the Federal Register on July 29, 1982 (47 FR 32825). FAA Order 2100.14A outlines the agency's procedures and criteria for implementing the RFA.

With respect to this proposed rule, a "small entity" is a commercial sightseeing operator who owns, but does not necessarily operate, nine or fewer airplanes. A significant economic impact on a small entity is defined as an annualized net compliance cost to such a small commercial sightseeing operator.

In the case of scheduled operators of aircraft for hire having less than 60 passenger seats, a "significant economic impact" or cost threshold is defined as annualized net compliance cost level that exceeds \$69,800; for unscheduled operators the threshold is \$4,900. A substantial number of small entities is defined as a number that is more than one-third of the small commercial sightseeing operators subject to the proposed rule.

The FAA has determined that this proposal could have a significant economic impact on all operators conducting commercial sightseeing flights within GCNP and therefore has prepared this initial regulatory flexibility analysis. The analysis, structured in accordance with section 603 of the RFA, requires the following:

1. Why FAA action is being considered.
2. Statement of the objectives and legal basis for the proposed rule.
3. Description of and estimated number of small entities effected.

4. Projected reporting, recordkeeping, and other compliance requirements of the proposed rule.

5. Any relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

1. Why FAA action is being considered. The proposal to modify the dimensions of GCNP SFRA stems from the need to reduce the impact of aircraft noise over the park and to assist the NPS in achieving its statutory mandate imposed by Pub. L. 100–91 to provide for the substantial restoration of natural quiet and experience of the park's environment.

2. Statement of the objectives and legal basis for the proposed rule. In 1987, Congress enacted Pub. L. 100–91, commonly known as the National Parks Overflights Act (the Act). The Act stated, in part, that noise associated with aircraft overflights at GCNP was causing a "significant adverse effect on the natural quiet and experience of the park and current aircraft operations at GCNP have raised serious concerns regarding public safety, including concerns regarding the safety of park users."

Pub. L. 100–91 required the DOI to 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 park and protection of public health and safety from adverse effects associated with aircraft overflights; (2) with limited exceptions, prohibit the flight of aircraft below the rim of the canyon; and (3) designate flight-free except for purposes of administration and emergency operations. In December 1987, the DOI transmitted its "Grand Canyon Aircraft Management recommendations" to the FAA. 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 airspace above the Grand Canyon (53 FR 20264, June 2, 1988). The SFAR, among other things, limited the areas for aircraft operations by establishing special flight routes for commercial operators. Since then, a substantial amount of public debate has taken place regarding the affect of aircraft noise on the Grand Canyon's environment. The debate and the objective of the proposal is more thoroughly discussed in the preamble of this proposed rulemaking.

3. Description and estimated number of small entities effected. The proposed rule would affect commercial

sightseeing operators conducting flights over the GCNP under part 135 of Title 14 of the Code of Federal Regulations. These commercial operators provide sightseeing tours of the Grand Canyon over the four flight zones established by SFAR No. 50-2. FAA data shows that in 1995, 26 small commercial sightseeing operators were potentially affected. Each operator owned, but did not necessarily operate 9 or fewer aircraft. These operators owned a total of 70 aircraft and the average fleet consisted of about 3 aircraft. The FAA estimates that, in 1997, 26 operators will be impacted by the proposed rule.

Therefore 84 percent (26/31=84%) of the affected operators are small entities.

4. Projected reporting, recordkeeping, and other compliance requirements of the proposed rule. The proposal would require affected small commercial sightseeing operators to maintain and report additional information to the Las Vegas FSDO. The information required by the proposal would be needed to establish accurate information on aircraft operations in GCNP. The information required would include aircraft identification number (registration number), departure airport, departure date and time, and route(s) flown. Affected operators would be required to submit this information every 4 months.

The FAA estimates that compliance with the proposed recordkeeping requirements would impose an additional 61 hours of labor per aircraft each year once the initial setup of a reporting system had been accomplished. The average annual cost per aircraft would be about \$515, but the average annual cost per affected operator would depend on an operator's fleet size. The one-time initial setup cost for each operator, regardless of fleet size would, be about \$340.

5. Any relevant federal rules which may duplicate, overlap or conflict with the proposed rule. There are no relevant Federal rules which would duplicate, overlap or conflict with the proposed rule.

#### *Cost of Compliance to Small Entities*

The annualized data derived from the October 1995 SFAR 50-2 Air Tour Route Usage Report indicates that for all of 1995, 31 operators (23 fixed-wing, 7 helicopter, and 1 mixed) utilizing 136 aircraft conducted just over 70,000 commercial sightseeing aircraft tours in GCNP. Of the 136 aircraft identified, 101 were fixed-wing aircraft, ranging from single-engine Piper and Cessna 3-seat models to Twin Otters with 19 passenger seats. Most of the 35 helicopters used for commercial

sightseeing tours in the canyon were various Bell models with capacities of four-, five-, and six-passenger seats.

Ten operators conducted commercial sightseeing tours using a single aircraft, six of which accounted for fewer than 100 commercial sightseeing tours each. Only five operators operated fleets of more than nine aircraft. Together, these five operators accounted for over one-third (approximately 26,600) of the total 70,000 plus commercial sightseeing tours estimated for 1995. One operator with nine aircraft accounted for just over 8,200 commercial sightseeing tours.

Increasing the number of flight-free areas could impact GA operations that cannot be conducted above 14,499 feet msl. This requirement would only impact individual GA pilots and not small business entities, small government entities, or small non-profit organizations. The provisions of the RFA do not apply to individual persons; thus, the FAA has not made a regulatory flexibility determination for this proposed requirement.

Excluding the proposed flight-free periods (fixed and variable) and cap, the most costly proposed changes—in terms of increased tour lengths, increased consumer prices, and increased traffic in the Dragon Corridor—would result from the restriction of one-way traffic in the Zuni Point Corridor. This proposed change, however, would only impact the five operators currently offering a two-way tour of the Zuni Point Corridor. The number of operators affected by this proposed requirement is less than one-third of all GCNP commercial sightseeing operators. Thus, a substantial number of small operators would not be impacted.

All commercial sightseeing operators would be subject to the recordkeeping requirement costs. The FAA estimates that the maximum annual cost of this requirement would be about \$540 per aircraft. If an operator has nine aircraft (the maximum allowable number of aircraft owned to be considered a small entity), that operator's annual cost would be about \$4,860, which is below the thresholds for significant cost for scheduled and unscheduled operators.

If a fixed flight-free period is imposed, the FAA estimates that the annual cost of this requirement would be about \$34,600 (\$23,800, discounted) in net operating revenue loss per aircraft on average. Clearly, any operator with nine or fewer aircraft would incur costs which exceed the threshold for significant costs for unscheduled (\$4,900) operators, and any operator with from three to nine aircraft (but not 2 or 1 aircraft) would exceed the

threshold for significant costs for scheduled (\$69,800) operators. Only 5 of the 31 operators conducting commercial sightseeing tours of GCNP own more than nine aircraft and would not be considered a small entity. Thus, this proposed requirement would have a significant economic impact on a substantial number of small entities.

Because variable flight-free periods or the caps discussed in this notice would likely be more costly than fixed flight-free periods, further analysis of the potential significant impact of these proposed requirements would be redundant. Combining the costs of the reporting requirements with the costs of a fixed flight-free period results in a per aircraft cost of approximately \$35,000. Accordingly, the FAA has determined that the proposed rule would have a significant economic impact on a substantial number of small entities.

#### *Alternatives Considered*

After Pub. L. 100-91 was enacted, the NPS and the FAA attempted through SFAR No. 50-2 to accomplish the substantial restoration of the natural quiet.

SFAR No. 50-2 is the first attempt by the FAA to regulate airspace for environmental and safety reasons to such an extent over a national park, and design and implementation of the SFAR was a major accomplishment. As a result of the SFAR:

Four flight-free zones cover 45 percent of the park and have a ceiling of 14,499 feet msl;

Four flight corridors help aircraft navigate the special use airspace while avoiding the flight-free zones;

Approximately 29 aerial tour routes created by the Las Vegas FSDO allow commercial tour aircraft access to 55 percent of SFRA not restricted by flight-free zones; and

At 14,500 feet msl, the entire park is accessible to overflights, including general, high altitude commercial, and military aircraft.

The DOI report to Congress found that, although aircraft sound has been significantly reduced for areas of the Grand Canyon and compliance with SFAR No. 50-2 has been excellent, natural quiet has not been substantially restored to the park. As a result, the NPS and the FAA have made extensive efforts to determine the best alternative action to respond to the Pub. L. 100-91. The following alternative, outlined in the NPS report, describes ways that aircraft noise can be made less obtrusive:

Separation of visitors and overflights. Defining certain areas of the park for tour overflights is likely to be the first

step. In so doing, natural quiet under and to the side of corridors will be degraded. The loss of natural quiet is the consequence of accommodating aircraft overflights. Mitigation opportunities in the land areas adjacent to flight areas or corridors will be park specific, and may take advantage of natural attenuation opportunities.

Exploiting natural attenuation. To the extent that altitudes can be minimized (without going below reasonable minimums), park terrain can sometimes be used to acoustically shield flight-free areas from aircraft noise. If hills or ridges are available, lowering aircraft altitudes may be a consideration. By lowering altitudes, areas directly beneath flight corridors that are already impacted will have impacts intensified, but if local terrain features are present, land areas where the protection of natural quiet is important may be increased. Breaking the line-of-sight between the visitor and aircraft can reduce maximum noise levels by an amount that would otherwise be gained only by a near doubling of the distance between aircraft and the visitor.

In flat or open areas where terrain shielding cannot effectively be used, distance (either in altitude or laterally) is a mitigation option. Very large distance changes may be necessary to achieve natural quiet, however. Depending on atmospheric and ground effect factors, 8–12 decibels of reduction can be expected for every doubling of distance between the visitor and aircraft at its closest point of approach. On the average, to obtain 10 decibels of reduction, an approximate doubling of the existing distance between aircraft and the nearest visitor would be necessary. Continuing with this assumption, to obtain 20 decibels of reduction, the approximate distance would have to quadruple, and to obtain 30 decibels of reduction, the distance would have to increase by a factor of about eight.

Encouraging noise reduction at the source. Another mitigation measure is encouraging and phasing in quieter aircraft, or retrofitting existing aircraft. Aircraft speed, power, and propeller pitch on fixed-wing aircraft, and flight regimes which eliminate blade slap for helicopters are also effective mitigation measures to be taken at the source of the noise. Relationships between these variables and aircraft noise levels will be aircraft specific, and may require additional study.

Reducing duration of noise intrusions. Limiting times of day may be another mitigation alternative, but this measure may result in a greater intensity of flying during other portions of the day. This

alternative may not be met with enthusiasm from air tour operators, however, since their investment in aircraft could remain unproductive for periods of time.

Encouraging use of greater payload aircraft. Tour aircraft which can accept greater numbers of passengers without substantial increases in noise level emissions may be an attractive step toward mitigation in some circumstances. With larger numbers of people per flight, and fewer flights, the percentage of time that natural quiet is compromised would be reduced.

Clearly, doing nothing or taking no action is not a feasible alternative. The NPS study has concluded that even with compliance with SFAR 50–2, adequate quiet has not been achieved, and will be further degraded in the future if action is not taken.

Another alternative would be to accept and adopt the NPS following recommendations contained in the DOI report to Congress.

Year 1 of the NPS recommendation expands existing flight-free zones from 45 to 82 percent of the park. Ceilings of the SFRA and flight-free zones are raised to 17,999 feet MSL. About half the current SFAR 50–2 tour routes and route segments are eliminated. The Dragon Flight Corridor is abolished, but two quiet aircraft routes (one for airplanes, one for helicopters) will exist in this area (the new Bright Angel Flight-Free Zone) for five years. The Fossil Canyon Flight Corridor has been realigned and two-way commercial tour traffic eliminated in all flight corridors. The minimum altitude for general aviation aircraft in the Tuckup Flight Corridor has been lowered from 10,500 feet MSL to 9,500 feet MSL.

Year 5 of the NPS recommendation limits the Fossil Canyon Flight Corridor to quiet commercial tour aircraft. Quiet aircraft routes within the new Bright Angel Flight-Free Zone are eliminated.

Year 10 of the NPS recommendation limits the Zuni Point Flight Corridor to quiet commercial tour aircraft.

Year 15 of the NPS recommendation limits the entire SFRA to quiet commercial tour aircraft.

The NPS believes that the above-mentioned alternative would essentially restore quiet to the park, but recognizes that it would have a significant impact on commercial sightseeing operators. For months, the IWG considered modifications to the initial NPS recommendations that would achieve the basic objective of restoring quiet to the park while at the same time preserve the viability of the commercial sightseeing industry serving GCNP. Both the FAA and the NPS recognize that commercial sightseeing operators provide a valuable public service by creating a unique way to all to view the Grand Canyon and provide an effective

means for elderly and handicapped individuals to enjoy the park.

The proposed rule makes progress toward meeting the commitment of the NPS and FAA in restoring natural quiet to Grand Canyon National Park.

Members of the IWG carefully worked out the proposal while keeping in mind (1) The views expressed at the Flagstaff public meeting, (2) the objective of the NPS and the FAA to substantially restore the natural quiet of GCNP, (3) the need to avoid expanding adverse noise impacts from commercial sightseeing flight operations for an interim period, and (4) the FAA objective to regulate the airspace over GCNP. Although this proposal will have a significant economic impact on a substantial number of commercial sightseeing operators, it will assure the continued viability of the industry.

#### International Trade Impact Assessment

The FAA has determined that the proposed rulemaking would not affect non-U.S. operators of foreign aircraft operating outside the United States or U.S. trade. It could however, have an impact on commercial sightseeing at GCNP, much of which is foreign.

The proposed changes would effectively reconfigure GCNP flight-free zones and flight corridors, reduce the time available for commercial sightseeing tours to be conducted, and, in some cases, prolong the time a commercial sightseeing passenger spends in an airplane not necessarily sightseeing. To the extent a commercial sightseeing tour of GCNP is perceived to be a devaluation in the current service offered, commercial sightseeing could be impacted concomitant with a potential loss of revenue.

The United States Air Tour Association estimates that 60 percent of all commercial sightseeing tourists in the United States are foreign. The Las Vegas FSDO, however, believes this estimate to be considerably higher at GCNP, perhaps as high as 90 percent. The FAA cannot put a dollar value on the portion of the potential loss in commercial sightseeing revenue associated with the loss of foreign tour dollars.

#### Federalism Implications

The regulations herein would not have substantial direct 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 12866, it is determined that this rule does not have sufficient federalism implications



to warrant the preparation of a Federalism Assessment.

#### Paperwork Reduction Act

Section 93.317 contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

Collection of Information: The information to be collected is needed to establish accurate information on aircraft operations in the GCNP. The information to be collected includes aircraft identification number (registration number), departure airport, departure date and time, and route(s) flown. All information must be submitted every 4 months. The annual reporting and recordkeeping burden for this information is estimated to average 30 minutes for each response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total annual reporting and recordkeeping burden for this collection is estimated to be 60 hours.

Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Room 1235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for Federal Aviation Administration. A copy of the comments should also be submitted to the FAA Rules Docket.

In addition to the reporting requirement delineated in section 93.317, the FAA is also proposing two additional reporting requirements in section 93.316(b). Section 93.316(b)(2) would require that operators file a report with the FAA Flight Standards District Office certifying that it was operating commercial sightseeing operations in the park during 1995 and 1996 and the number of operations it conducted each month during the period from August 1, 1995, through July 31, 1996. Additionally, section 93.316(b)(3) would require that each operator conducting commercial sightseeing operations in the park would file a monthly report certifying the number of commercial sightseeing operations conducted in that month and whether that number exceeded the operator's monthly operations allocation.

The additional paper burden associated with the requirements of section 93.316(b) (2) and (3) shall be

submitted to the Office of Management and Budget for review. Those wishing to comment on this additional reporting requirement should also send comments to the Office of Information and Regulatory Affairs, OMB, Room 1235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for Federal Aviation Administration. A copy of the comments should also be submitted to the FAA Rules Docket.

The FAA is requesting comments from the public to establish accurate information on GCNP overflights for noise and safety management purposes, validate FAA and NPS noise models for use in mitigation studies, determine with precision when and where noise mitigation is required, and provide the basis for a more flexible and adaptable noise management system.

OMB is required to make a decision concerning the collection of information contained in this NPRM between 30 and 60 days after publication in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the NPRM.

#### Conclusion

For the reasons set forth above, the FAA has determined that this proposed rule is a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this proposal could have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposed rule is considered significant under DOT Regulatory Policies and Procedures.

#### Other Actions

Since the formation of the IWG, the FAA and NPS have been working closely to identify and deal with the impacts of aviation on GCNP, and the two agencies will continue to identify and pursue effective solutions. In this spirit of cooperation, the agencies plan to take the following nonregulatory and regulatory actions to achieve the substantial restoration of natural quiet in GCNP.

#### *Park Air Operations*

GCNP has one of the most strictly regulated aviation programs within the NPS and the Department of Interior. The park limits use of its contracted aircraft to activities involving life or health-threatening emergencies, administration and/or protection of resources, and for individually approved special purpose

missions. Each flight request is reviewed to ensure that it is the most efficient, economical, and effective method of performing the required task consistent with NPS and GCNP goals. These goals include the protection of natural quiet and experience, as reinforced by the park's recently approved General Management Plan. At the earliest possible date, consistent with contracting requirements and budgetary constraints, GCNP would convert to the quietest aircraft available that would also meet mission requirements.

#### *Development of a Comprehensive Noise Management Plan*

NPS modeling has suggested that the conversion of the commercial sightseeing aircraft fleet operating in the SFRA to the best available (quiet) technology would allow for growth of commercial sightseeing operations while providing for substantial restoration of natural quiet mandated by Pub. L. 100-91. Accordingly, a comprehensive noise mitigation plan would be jointly developed to provide a long-term solution. It would address the best available technology, a monitoring program for noise and operations, provision of appropriate incentives for investing in quieter aircraft, appropriate treatment for commercial sightseeing operators that have already made such investments, and a more adaptive management system. The plan would be completed and implemented in time to replace the temporary noise management mechanism defined in section 93.316(a)(2). For the purpose of developing a flexible and adaptive approach to noise mitigation and management, the following actions would be taken:

(a) Development of aircraft operations and noise database. The two agencies would develop and analyze a database on the volume and frequency of operations in the SFRA, the time of day of operations, the routes used, the aircraft types used, and the amount of noise generated. The proposed reporting requirement would be used in developing this database. The two agencies would jointly investigate approaches to monitoring noise and operations in the SFRA and designate an acceptable protocol for use in connection with the development of the plan. Options may include installation of noise monitoring equipment, similar to that used at airports, at the entrances or exits for the flight corridors, and at other locations as deemed necessary.

(b) Validation and use of noise models. Information from the database

established in (a), along with field measurements and other analyses would be used to validate FAA and NPS noise impact modeling for the SFRA. The validated models would then be used to explore and develop noise mitigation measures.

(c) Development and implementation of noise management plan. Approaches for reducing aircraft noise that consider both the noise emission level of aircraft and the number of operations would be reviewed and evaluated for development of an aircraft noise management plan. The plan would be developed and proposed for implementation in time to replace the temporary noise management mechanism defined in § 93.316(a)(2). The plan would address a number of factors, including the utilization of quieter aircraft in the SFRA, appropriate incentives for investment in quieter aircraft, treatment of quieter aircraft that currently operate in the SFRA. Approaches that would be considered in developing the plan would include, but would not be limited to, noise budgets, a freeze on the existing fleet combined with restrictive single event levels based on aircraft noise certification criteria, further closure of corridors, and noise slots.

Before implementing any noise management plan, the FAA would seek public participation/comment.

#### List of Subjects

##### 14 CFR Part 91

Aircraft, Airmen, Air traffic control, Aviation safety, Noise control, Reporting and recordkeeping requirements.

##### 14 CFR Part 93

Air traffic control, Airports, Navigation (Air), Reporting and recordkeeping requirements.

##### 14 CFR Part 121

Aircraft, Airmen, Aviation safety, Charter flights, Safety, Transportation.

##### 14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety.

#### The Proposed Amendment

For the reasons set forth above, the Federal Aviation Administration proposes to amend 14 CFR parts 91, 93, 121, and 135 as follows:

### PART 91—GENERAL OPERATING AND FLIGHT RULES

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

#### SFAR NO. 50–2 [REMOVED]

2. In parts 91, 121, and 135, Special Federal Aviation Regulation No. 50–2, the text of which appears at the beginning of part 91, is removed.

### PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

3. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

4. In part 93, subpart U is added to read as follows:

#### Subpart U—Special Flight Rules in The Vicinity of Grand Canyon National Park, AZ

##### Sec.

- 93.301 Applicability.
- 93.303 Definitions.
- 93.305 Flight-free zones and flight corridors.
- 93.307 Minimum flight altitudes.
- 93.309 General operating procedures.
- 93.311 Minimum terrain clearance.
- 93.313 Communications.
- 93.315 Commercial sightseeing flight operations.
- 93.316 Limitations on commercial sightseeing operations.
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#### Subpart U—Special Flight Rules in the Vicinity of Grand Canyon National Park, AZ

##### § 93.301 Applicability.

This subpart prescribes special operating rules for all persons operating aircraft in the following airspace, designated as the Grand Canyon National Park Special Flight Rules Area: That airspace extending upward from the surface up to but not including 18,000 feet MSL within an area bounded by a line beginning at Lat. 35°55'25" N., Long. 112°04'36" W.; east to Lat. 35°55'38" N., Long. 111°42'12" W.; north to Lat. 36°16'47" N., Long. 111°42'17" W.; to Lat. 36°24'49" N., Long. 111°47'45" W.; to Lat. 36°52'23" N., Long. 111°33'10" W.; west-northwest to Lat. 36°53'37" N., Long. 111°38'29" W.; southwest to Lat. 36°35'02" N., Long. 111°53'28" W.; to Lat. 36°21'04" N., Long. 112°00'17" W.; west-northwest to Lat. 36°30'30" N., Long. 112°35'59" W.; southwest to Lat. 36°24'46" N., Long. 112°51'10" W.; thence west along the boundary of Grand Canyon National Park (GCNP) to Lat. 36°14'08" N., Long.

113°10'07" W.; west-southwest to Lat. 36°09'50" N., Long. 114°01'53" W.; southeast to Lat. 36°06'24" N., Long. 113°58'46" W.; thence south along the boundary of GCNP to Lat. 36°00'23" N., Long. 113°54'11" W.; northeast to Lat. 36°02'14" N., Long. 113°50'16" W.; to Lat. 36°02'16" N., Long. 113°48'08" W.; thence southeast along the boundary of GCNP (the historic high-water mark on the southwest shore of the Colorado River) to Lat. 35°58'09" N., Long. 113°45'04" W.; southwest to Lat. 35°54'48" N., Long. 113°50'24" W.; southeast to Lat. 35°41'30" N., Long. 113°35'50" W., thence clockwise via the 4.2-nautical mile radius of the Peach Springs VORTAC to Lat. 35°39'05" N., Long. 113°27'06" W.; northeast to Lat. 113°10'58" N., Long. 113°10'57" W.; north to Lat. 35°57'51" N., Long. 113°11'06" W., east to Lat. 35°57'47" N., Long. 112°14'32" W.; thence clockwise via the 4.3-nautical mile radius of the Grand Canyon National Park Airport airport reference point (Lat. 35°57'08" N., Long. 112°08'49" W.) to the point of origin.

##### § 93.303 Definitions.

For the purposes of this subpart: (a) *Flight Standards District Office* means the FAA Flight Standards District Office with jurisdiction for the geographical area containing the Grand Canyon.

(b) *Park* means Grand Canyon National Park.

(c) *Special Flight Rules Area* means the Grand Canyon National Park Special Flight Rules Area.

##### § 93.305 Flight-free zones and flight corridors.

Except in an emergency or if otherwise necessary for safety of flight, or unless otherwise authorized by the Flight Standards District Office for a purpose listed in § 93.309, no person may operate an aircraft below 14,500 feet MSL in the Special Flight Rules Area within the following flight-free zones:

(a) *Marble Canyon Flight-free Zone*. The Marble Canyon Flight-free Zone contains two corridors: the Navajo Bridge Corridor and the North Canyon Corridor. These two corridors separate the flight-free zone into three areas. These three areas are described as follows:

(1) *Marble Canyon Flight-free Zone (north portion)*. Within an area bounded by a line beginning at Lat. 36°49'51" N., Long. 111°37'20" W.; thence north along the boundary of Grand Canyon National Park (GCNP) to Lat. 36°49'53" N., Long. 111°37'23" W.; to the point of origin; but not including the airspace at and above

8,500 feet MSL within 1 nautical mile of the southern boundary of this area. The corridor to the south of this area is designated the "Navajo Bridge Corridor." This corridor is 2 nautical miles wide for commercial sightseeing flights and 4 nautical miles wide for transient and general aviation operations.

(2) *Marble Canyon Flight-free Zone (central portion)*. Within an area bounded by a line beginning at Lat. 36°35'55" N., Long. 111°45'25" W.; thence north along the GCNP boundary to Lat. 36°47'53" N., Long. 111°38'27" W.; to Lat. 36°48'01" N., Long. 111°38'49" W.; thence south along the GCNP boundary to Lat. 36°36'41" N., Long. 111°47'42" W.; to the point of origin; but not including the airspace at and above 8,500 feet MSL within 1 nautical mile of the northern and southern boundaries of this area. The corridor to the north is designated the "Navajo Bridge Corridor" and the corridor to the south is designated the "North Canyon Corridor." These corridors are 2 nautical miles wide for commercial sightseeing flights and 4 nautical miles wide for transient and general aviation operations.

(3) *Marble Canyon Flight-free Zone (southern portion)*. Within an area bounded by a line beginning at Lat. 36°16'26" N., Long. 111°49'21" W.; thence north along the GCNP boundary to Lat. 36°34'10" N., Long. 111°47'11" W.; to Lat. 36°34'38" N., Long. 111°48'34" W.; thence south along the GCNP boundary to Lat. 36°19'03" N., Long. 111°55'42" W.; to Lat. 36°14'24" N., Long. 111°52'07" W.; to the point of origin; but not including the airspace at and above 8,500 feet MSL within 1 nautical mile of the northern boundary of this area; and not including the airspace at and above 10,500 feet MSL within 1 nautical mile of the southern boundary of this area. The corridor to the north is designated the "North Canyon Corridor". The corridor to the southeast, between this flight-free zone and the Desert View Flight-free Zone, is designated the "Zuni Point Northeast Corridor." The corridor to the southwest, between the southern portion of the Marble Canyon Flight-free Zone and the Bright Angel Flight-free Zone, is designated the "Zuni Point Northwest Corridor." These corridors are 2 nautical miles wide for commercial sightseeing flights and 4 nautical miles wide for transient and general aviation operations.

(b) *Desert View Flight-free Zone*. Within an area bounded by a line beginning at Lat. 35°59'58" N., Long. 111°52'47" W.; thence east and north along the GCNP boundary to Lat.

36°14'05" N., Long. 111°48'34" W.; southwest to Lat. 36°12'06" N., Long. 111°51'14" W.; to the point of origin; but not including the airspace at and above 10,500 feet MSL within 1 nautical mile of the northern and western boundaries of the zone. The corridor to the north, between this flight-free zone and the Marble Canyon Flight-free Zone, is designated the "Zuni Point Northeast Corridor." The corridor to the west, between the Desert View and Bright Angel Flight-free Zones, is designated the "Zuni Point South Corridor." These corridors are 2 nautical miles wide for commercial sightseeing flights and 4 nautical miles wide for transient and general aviation operations.

(c) *Bright Angel Flight-free Zone*. Within an area bounded by a line beginning at Lat. 35°58'39" N., Long. 111°55'43" W.; north to Lat. 36°12'41" N., Long. 111°53'54" W.; northwest to Lat. 36°18'18" N., Long. 111°58'15" W.; thence west along the GCNP boundary to Lat. 36°20'11" N., Long. 112°06'25" W.; south-southwest to Lat. 36°09'31" N., Long. 112°11'15" W.; to Lat. 36°04'16" N., Long. 112°17'20" W.; thence southeast along the GCNP boundary to Lat. 36°01'16" N., Long. 112°11'39" W.; thence clockwise via the 4.3-nautical mile radius of the Grand Canyon National Park Airport reference point (Lat. 35°57'08" N., Long. 112°08'49" W.) to Lat. 35°59'30" N., Long. 112°04'41" W.; thence east along the GCNP boundary to the point of origin; but not including the airspace at and above 10,500 feet MSL within 1 nautical mile of the eastern boundary or the airspace at and above 10,500 feet MSL within 2 nautical miles of the northwestern boundary. The corridor to the east, between this flight-free zone and the Desert View Flight-free Zone, is designated the "Zuni Point South Corridor." The corridor to the northeast, between the Bright Angel and Marble Canyon Flight-free Zones, is designated the "Zuni Point Northwest Corridor." The corridor to the west, between the Bright Angel and Toroweap/Shinumo Flight-free Zones, is designated the "Dragon Corridor." These corridors are 2 nautical miles wide for commercial sightseeing flights and 4 nautical miles wide for transient and general aviation operations.

(d) *Toroweap/Shinumo Flight-free Zone*. Within an area bounded by a line beginning at Lat. 36°05'44" N., Long. 112°19'27" W.; north-northeast to Lat. 36°10'49" N., Long. 112°3'19" W.; to Lat. 36°02" N., Long. 112°08'47" W.; thence west along the GCNP boundary to Lat. 36°10'58" N., Long. 113°08'35" W.; south to Lat. 36°10'12" N., Long. 113°08'34" W.; thence northeast along

the park boundary (the historic high-water mark on the southeast shore of the Colorado River) to Lat. 36°12'05" N., Long. 113°04'27" W.; thence counter-clockwise via the 1.5-nautical mile radius of the Toroweap Overlook (Lat. 36°12'55" N., Long. 113°03'25" W.) to Lat. 36°13'31" N., Long. 113°02'21" W.; thence in an easterly direction along the park boundary to the point of origin; but not including the following airspace designated as the "Tuckup Corridor": at or above 10,500 feet MSL within 2 nautical miles either side of a line extending between Lat. 36°24'42" N., Long. 112°48'47" W. and Lat. 36°14'17" N., Long. 112°48'31" W.

(e) *Sanup Flight-free Zone*. Within an area bounded by a line beginning at Lat. 36°04'39" N., Long. 113°19'36" W.; west to Lat. 36°08'11" N., Long. 113°50'11" W.; west to Lat. 36°08'11" N., Long. 113°54'17" W.; southeast to Lat. 36°00'07" N., Long. 113°42'58" W.; southeast to Lat. 35°59'37" N., Long. 113°42'47" W.; to Lat. 35°59'20" N., Long. 113°42'60" W.; to Lat. 35°58'40" N., Long. 113°43'58" W.; southeast to Lat. 35°50'16" N., Long. 113°37'13" W.; thence along the park boundary (the historic high-water mark on the south and east shore of the Colorado River) to the point of origin.

#### § 93.307 Minimum flight altitudes.

Except in an emergency, or if otherwise necessary for safety of flight, or unless otherwise authorized by the Flight Standards District Office for a purpose listed in § 93.309, no person may operate an aircraft in the Special Flight Rules Area at an altitude lower than the following:

(a) *Minimum sector altitudes*. (1) *Commercial sightseeing flights*. (i) *North Canyon Sector*. Less Ferry to North Canyon: 5,000 feet MSL.

(ii) *Marble Canyon Sector*. North Canyon to Boundary Ridge: 6,000 feet MSL.

(iii) *Supai Sector*. Boundary Ridge to Supai Point: 7,500 feet MSL.

(iv) *Diamond Creed Sector*. Supai Point to Diamond Creek: 6,500 feet MSL.

(v) *Pearce Ferry Sector*. Diamond Creek to the Grand Wash Cliffs: 5000 feet MSL.

(2) *Transient and general aviation operations*. (i) *North Canyon Sector*. Lees Ferry to North Canyon: 8,500 feet MSL.

(ii) *Marble Canyon Sector*. North Canyon to Boundary Ridge: 8,500 feet MSL.

(iii) *Supai Sector*. Boundary Ridge to Supai Point: 10,000 feet MSL.

(iv) *Diamond Creek Sector*. Supai Point to Diamond Creed: 9,000 feet MSL.

(v) *Pearce Ferry Sector*. Diamond Creek to the Grand Wash Cliffs: 8,000 feet MSL.

(b) *Minimum corridor altitudes*. (1) Commercial sightseeing flights. (i)

*Navajo Bridge Corridor*, 5,000 feet MSL.

(ii) *North Canyon Corridor*. 5,000 feet MSL.

(iii) *Zuni Point Corridors*. 7,500 feet MSL.

(iv) *Dragon Corridor*. 7,500 feet MSL.

(2) *Transient and general aviation operations*. (i) *Navajo Bridge Corridor*. 8,500 feet MSL.

(ii) *North Canyon Corridor*. 8,500 feet MSL.

(iii) *Zuni Point Corridors*. 10,500 feet MSL.

(iv) *Dragon Corridor*. 10,500 feet MSL.

(v) *Tuckup Corridor*. 10,500 feet MSL.

### § 93.309 General operating procedures.

Except in an emergency, no person may operate an aircraft in the Special Flight Rules Area unless the operation is conducted in accordance with the following procedures

Note: The following procedures do not relieve the pilot from see-and-avoid responsibility or compliance with the minimum safe altitude requirements specified in 14 CFR 91.119.

(a) Unless necessary to maintain a safe distance from other aircraft or terrain remain clear of the flight-free zones described in § 93.305;

(b) Unless necessary to maintain a safe distance from other aircraft or terrain, proceed through the flight corridors described in § 93.305 at the following altitudes unless otherwise authorized in writing by the Flight Standards District Office:

(1) *Navajo Bridge and North Canyon Corridors*. (i) *Eastbound*. 9,500, 11,500, or 13,500 feet MSL.

(ii) *Westbound*. 8,500, 10,500, or 12,500 feet MSL.

(2) *Zuni Point Northeast, Zuni Point South, Dragon, and Tuckup Corridors*.

(i) *Northbound*. 11,500 or 13,500 feet MSL.

(ii) *Southbound*. 10,500 or 12,500 feet MSL.

(3) *Zuni Point Northwest Corridor*. (i) *Northbound*. 10,500 or 12,500 feet MSL.

(ii) *Southbound*. 11,500 or 13,500 feet MSL.

(c) For operation in the flight-free zones described in § 93.305, or flight below the altitudes listed in § 93.307, is authorized in writing by the Flight Standards District Office and is conducted in compliance with the conditions contained in that authorization. Normally authorization

will be granted for operation in the areas described in § 93.305 or below the altitudes listed in § 93.307 only for operations of aircraft necessary for law enforcement, firefighting, emergency medical treatment/evacuation of persons in the vicinity of the Park; for support of Park maintenance or activities; or for aerial access to and maintenance of other property located within the Special Flight Rules Area. Authorization may be issued on a continuing basis;

(d) Is conducted in accordance with a specific authorization to operate in that airspace incorporated in the operator's operations specifications and approved by the Flight Standards District Office in accordance with the provisions of this subpart;

(e) Is a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center;

(f) Is conducted within 3 nautical miles of Grand Canyon Bar Ten Airstrip, Pearce Ferry Airstrip, Cliff Dwellers Airstrip, or Marble Canyon Airstrip at an altitude less than 3,000 feet above airport elevation, for the purpose of landing at or taking off from that facility; or

(g) Is conducted under an instrument flight rules (IFR) clearance and the pilot is acting in accordance with ATC instructions. An IFR flight plan may not be filed on a route or at an altitude that would require operation in an area described in § 93.305.

### § 93.311 Minimum terrain clearance.

Except in an emergency, when necessary for takeoff or landing, or unless otherwise authorized by the Flight Standards District Office for a purpose listed in § 93.309(c), no person may operate an aircraft within 500 feet of any terrain or structure located between the north and south rims of the Grand Canyon.

### § 93.313 Communications.

Except when in contact with the Grand Canyon National Park Airport Traffic Control Tower during arrival or departure or on a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center, no person may operate an aircraft in the Special Flight Rules Area unless he monitors the appropriate frequency continuously while in that airspace.

### § 93.315 Commercial sightseeing flight operations.

(a) Non-stop sightseeing flights that begin and end at the same airport, are conducted within a 25-statute-mile radius of that airport, and operate in or through the Special Flight Rules Area

during any portion of the flight are governed by the provisions of part 119, SFAR 38-2 of parts 121 and 135 of this chapter, part 121, and part 135 of this chapter, as applicable.

(b) No person holding or required to hold an air carrier certificate or an operating certificate under SFAR No. 38-2 or part 119 of this chapter may operate an aircraft having a passenger-seat configuration of 30 or fewer seats, excluding each crewmember seat, and a payload capacity of 7,500 or less pounds, in the Special Flight Rules Area except as authorized by the applicable operations specifications.

### § 93.316 Limitations on Commercial Sightseeing Operations.

(a) (1) Unless otherwise authorized by the Flight Standards District Office, no person shall conduct commercial sightseeing operations during the following fixed flight-free periods:

(i) Summer season (May 1–September 30)—6 p.m. to 8 a.m. daily; and

(ii) Winter season (October 1–April 30)—5 p.m. to 9 a.m. daily; and

(2) The Administrator may restrict commercial sightseeing operations to the following variable flight-free periods (As discussed in the preamble, the criteria used to apply the variable flight-free restrictions would be disseminated for public review and comment):

(i) *Dragon Corridor*—2 p.m. to 10 a.m.; and

(ii) All other routes—4 p.m. to 9 a.m.; and/or

(b) (1) Except in an emergency, or if otherwise necessary for safety of flight, or unless otherwise authorized by the Flight Standards District Office for a purpose listed in 93.309, each operator is authorized to conduct only the same number of monthly operations in any month during 1997 and 1998 as were performed during the corresponding months in the baseline period from August 1, 1995 to July 31, 1996.

(2) In order to establish a baseline for monthly operations during the interim moratorium, each operator shall certify to the FAA Flight Standards District Office:

(i) that it was operating sightseeing tours in Grand Canyon National Park in 1995 and 1996, and

(ii) the number of operations it conducted each month during the period of August 1, 1995, through July 31, 1996 ("monthly allocation").

(3)(i) Each operator shall file a report within 10 days of the end of each month certifying

(A) the number of operations conducted within the Park during the previous month; and

(B) that the number of operations did not exceed the operator's monthly allocation.

(ii) This report shall be filed with the FAA Flight Standards District Office. As an alternative, the operator may include its report along with the fees submitted to the National Park Service in compliance with the Budget Reconciliation Act of 1993. The National Park Service will forward the report to the FAA Flight Standards District Office.

(4) If an operator desires to reduce or terminate commercial sightseeing operations in the Park, it shall surrender to the FAA Flight Standards District Office any portion of its monthly allocation that it does not intend to use. No monthly allocation may be transferred by gift, sale, or otherwise to any person.

(5) If the FAA and the NPS determine that there are unused monthly allocations under the baseline for monthly operations, the FAA may make available such monthly allocations to new or existing commercial sightseeing operators. In the event there is more than one operator applying for such monthly allocations, a preference will be granted to the operator which will

utilize the quietest commercially available new or retrofitted aircraft among all of the applicants.

(6) No operator shall have any property right in its monthly allocation. No operator shall have any right to compensation in the event such monthly allocation is surrendered.

**§ 93.317 Commercial sightseeing flight reporting requirements.**

Each certificate holder conducting commercial sightseeing flights within the Special Flight Rules Area shall submit in writing, within 30 days after April 30, August 31, and December 31, of each year, to the Flight Standards District Office the following information for each operation within the Special Flight Rules Area for the prior 4-month period:

- (a) Identification number (registration number) of each aircraft;
- (b) Departure airport;
- (c) Departure date and time; and
- (d) Route(s) flown.

**PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS**

5. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

**PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS**

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

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

Issued in Washington, DC on July 26, 1996.

Jeff Griffith,

*Program Director for Air Traffic Airspace Management.*

Note: This Appendix will not appear in the Code of Federal Regulations.

Appendix—Special Flight Rules in the Vicinity of Grand Canyon National Park

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