DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–99–5927; Notice No. 99–12]

RIN 2120–AG73

Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA, DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to limit the number of commercial air tours that may be conducted in the Grand Canyon National Park Special Flight Rules Area (SFRA) and to revise the reporting requirements for commercial air tours in the SFRA. These proposed changes would allow the FAA and the National Park Service (NPS) to limit and further assess the impact of aircraft noise on the Grand Canyon National Park (GCNP). In addition, this action proposes non-substantive changes to 14 CFR part 93, subpart U to improve the organization and clarity of the rule. This document is one part of an overall strategy to control aircraft noise on the park environment and to assist the NPS in achieving the statutory mandate imposed by Public Law 100–91 to provide substantial restoration of natural quiet in the GCNP.

DATES: Comments must be received on or before September 7, 1999.

ADDRESSES: Comments on this NPRM should be mailed or delivered, in triplicate, to: U.S. Department of Transportation Dockets, Docket No., [ ], 400 Seventh Street SW., Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: *9–NPRM–CMTS@faa.gov*. Comments may be filed and examined in Room Plaza 401 between 10:00 a.m. and 5:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alberta Brown, AFS–200, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–8321.

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. Comments should identify the regulatory docket number and be submitted in triplicate to the above-specified address. 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. .'' The FAA will date, time stamp, and return the postcard.

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 NPRMs 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 access the FAA's Internet site at http://www.faa.gov or the **Federal Register**'s Internet site at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

Public Meetings

The FAA intends to hold two public meetings to provide interested members of the public an additional opportunity to comment on this proposal. The details pertaining to the public meetings will be announced in the notice section of the **Federal Register**. For more information, contact Mark Lawyer at (202) 493–4531 by telephone or *mark.lawyer@faa.gov* by email.

I. History

A. FAA's Actions

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 establishing a special flight rules area and other flight regulations in the vicinity of the GCNP (52 FR 9768). The purpose of the SFAR was to reduce the risk of midair collision and decrease the risk of terrain contact accidents below the rim level. These requirements were modified and extended by SFAR 50–1 (52 FR 22734; June 15, 1987).

In 1987 Congress enacted Public Law (Pub. L.) 100–91, commonly known as the National Parks Overflights Act. Public Law 100–91 stated, in part, that ''noise associated with aircraft overflights at Grand Canyon National Park [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 Public Law 100–91 required the Department of 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 provide for, in part, ''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,''

In December 1987, the DOI transmitted its ''Grand Canyon Aircraft Management Recommendation'' to the FAA, which included both rulemaking and non-rulemaking actions. Public Law 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 DOI without change unless the FAA determined that executing the recommendation would adversely affect aviation safety.

On May 27, 1988, the FAA issued SFAR No. 50–2, revising the procedures for aircraft operation in the airspace above the Grand Canyon (53 FR 20264; June 2, 1988). SFAR No. 50–2 did the following: (1) Extended the Special

Flight Rules Area (SFRA) from the surface to 14,499 feet above mean sea level (MSL) in the area of the Grand Canyon; (2) prohibited flight below a certain altitude in each of the five sectors of this area, with certain exceptions; (3) established four flight-free zones from the surface to 14,499 feet MSL; (4) provided for special routes for air tours; and (5) contained certain communications requirements for flights in the area.

A second major provision of section 3 of Public Law 100–91 required the DOI to submit a report to Congress discussing ''whether the plan 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.'' 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'' (Report to Congress), was published in July, 1995. The Report to Congress recommended numerous revisions to SFAR No. 50–2 in order to substantially restore natural quiet in the GCNP.

Recommendation No. 10, which is of particular interest to this rulemaking, states: ''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 the flight-free zones; accommodation of the forecasted growth in the air tour industry; proposing phase-in of noise efficient/quiet technology aircraft; 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.

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), pending implementation of the final rule adopting DOI's recommendations.

On December 31, 1996, the FAA issued the final rule (61 FR 69302) implementing many of the recommendations set forth in the DOI report including: flight-free zones and corridors; minimum flight altitudes; general operating procedures; curfews in the Dragon and Zuni Point corridors; reporting requirements; and a cap on the number of ''commercial sightseeing'' aircraft that could operate in the SFRA. The FAA subsequently issued a written interpretation stating that the aircraft cap applied to the number of aircraft operating in the SFRA at a given time.

This final rule was issued concurrently with a Notice of Proposed Rulemaking regarding Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park; a Notice of Availability of Proposed Commercial Air Tour Routes for Grand Canyon National Park and Request for Comments; and the Environmental Assessment. The final rule was originally scheduled to become effective May 1, 1997. On February 26, 1997, the FAA published a delay of the effective date to January 31, 1998 (62 FR 8861), for the establishment of an acoustic monitoring program by the NPS in coordination with the FAA.

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The FAA's final rule published in 1996 was challenged before the U.S. Court of Appeals for the District of Columbia Circuit by the following petitioners: Grand Canyon Air Tour Coalition; the Clark County Department of Aviation and the Las Vegas Convention and Visitors Authority; the Hualapai Indian Tribe; and seven environmental groups led by the Grand Canyon Trust. See Grand Canyon Air Tour Coalition v. FAA, 154 F.3d 455 (D.C. Cir., 1998). In general, the petitioners charged that the FAA mis-applied Public Law 100–91 in implementing the final rule and committed several procedural errors during the rulemaking process. The Court ruled in favor of the FAA and upheld the final rule.

B. Interagency Working Group

On December 22, 1993, the then 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 the GCNP. Secretary Babbitt and Secretary Peña concurred 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 the national parks. The FAA has been working closely with the NPS to identify and address the impacts of commercial air tours on the GCNP.

C. President's memorandum

The President, on April 22, 1996, issued a Memorandum for the Heads of Executive Departments and Agencies to address the impact of transportation in national parks. Specifically, the President directed the Secretary of Transportation to issue proposed regulations for the GCNP that would place appropriate limits on sightseeing aircraft to reduce the noise immediately, and to make further substantial progress towards restoration of natural quite, as defined by the Secretary of the Interior, while maintaining aviation safety in accordance with Public Law 100–91.

This memorandum also indicated that, with regard to overflights of the

GCNP, ''should any final rulemaking determine that issuance of a further management plan is necessary to substantially restore natural quite in the Grand Canyon National Park, [the Secretary of Transportation, in consultation with heads of relevant departments and agencies] will complete within 5 years a plan that addresses how the Federal Aviation Administration and the National Park Service'' will achieve the statutory goal not more than 12 years from the date of the directive (i.e., 2008).

II. Purpose of This NPRM

The government has analyzed the noise situation at the GCNP over the last two years and has decided that a greater effort must be made to reach the statutory goals of Public Law 100–91, especially in light of the President's Memorandum. Noise generated by aircraft conducting commercial air tours presents a specific type of problem because these aircraft generally are operated repeatedly at low altitudes over the same routes. Thus, the FAA issued its 1996 final rule and instituted the aircraft cap as a means to limit aircraft noise generated by air tours.

In the 1996 final rule, however, the FAA underestimated the number of aircraft operated in the SFRA by commercial air tour operators. This problem was identified in the Notice of Clarification issued October 31, 1997 (62 FR 58,898). In fact, the FAA concluded in this Notice that ''there is enough excess capacity in terms of aircraft numbers for air tours to increase by 3.3 percent annually for the next twelve years if the demand exists (62 FR 58902).'' The FAA went on to state that ''in the aggregate, and for most individual operators, the number of air tours provided can continue to increase while the number of aircraft remains the same.'' In light of this conclusion, the IWG recommended that the FAA and NPS develop a rule that will temporarily limit commercial air tours in the GCNP SFRA at the level reported by the air tour operators for the period May 1997–April 1998.

The agencies' goal through this rulemaking is to prevent an increase in aircraft noise by limiting the number of commercial air tours. Concurrently with this NPRM, the FAA also is issuing a Notice of Availability to Routes which indicates certain modifications to aircraft routes through the SFRA and an NPRM modifying airspace in the SFRA. Additionally, the FAA is issuing a draft supplemental Environmental Assessment which assesses the environmental impact of the route modifications, the proposed commercial air tours limitation and the airspace modifications. The FAA also continues to work on the rulemaking initiated on December 31, 1996 proposing quiet technology aircraft. All of these steps are aimed at controlling or reducing the impact of aircraft noise in the GCNP.

In addition to preventing the noise situation from worsening, controlling the overall number of commercial air tours in the GCNP SFRA will facilitate the analysis of noise conditions in the GCNP and aid in the design of the noise management plan. Once the commercial air tour limitation and the new routes are implemented, the FAA and NPS will be better able to consider future noise mitigation strategies.

The proposed rule is premised on the National Park Service's noise evaluation methodology for Grand Canyon National Park, which was published in the **Federal Register** on January 26, 1999 (64 FR 3969). The NPS is reviewing comments submitted in response to that notice. If, on completion of that review, the NPS determines not to adopt the methodology described in the notice (such as the two-zone system and accompanying noise thresholds), the FAA will reevaluate the proposal and Draft Supplemental Environmental Assessment in light of whatever final action is taken by the NPS.

The Proposal

A. Overview

This NPRM would temporarily limit commercial air tours in the GCNP Special Flight Rules Area (SFRA) at the level reported to the FAA by the operators for the year May 1, 1997–April 30, 1998 (the base year), pending implementation of the Comprehensive Noise Management Plan (see discussion in III.B. below). During the implementation of this commercial air tour limitation, the FAA and the NPS would collect further information regarding commercial SFRA operations and aircraft noise in the GCNP. The NPS and the FAA would use the information collected during this time to determine whether the ''substantial restoration of natural quiet'' has been achieved at the GCNP. In the event that the agencies determine that the statutory goal is not met through the various noise mitigation techniques adopted, the FAA and NPS would need to take further steps to achieve the substantial restoration of natural quiet. This could mean that the commercial air tour limitation would become permanent and/or that commercial air tours would be further limited. This commercial air tour limitation would replace the current aircraft cap set forth in § 93.316(b).

In addition to the limitation on commercial air tours, this rulemaking would add a requirement for certificate holders to file a visual flight rules (VFR) flight plan to provide the FAA with a mechanism for monitoring and enforcing the limitation. This rule also would modify the current reporting requirements to require certificate holders authorized to conduct commercial air tours in the GCNP SFRA to report air tour and other flights that enter the SFRA. This data would be used to assess the noise situation in the GCNP and further develop the Comprehensive Noise Management Plan.

The NPRM also would make a number of non-substantive changes to Part 93, subpart U. These changes consist of the following: renumbering paragraphs; moving subparagraphs into new sections; and amending section headings. These changes are intended to make the rule easier to read and understand and to reflect the changes proposed herein.

B. Comprehensive Noise Management Plan

The Comprehensive Noise Management Plan (CNMP) is the overall process that the government would use to control and monitor noise conditions in the GCNP to achieve the statutory goal of substantial restoration of natural quiet. This plan is part of NPS' overall effort to reduce noise levels from all sources within the park, as called for in the NPS' 1995 General Management Plan.

As part of the CNMP, the FAA and NPS are working together to develop a noise management program that addresses noise from commercial air tour overflights. To ensure development of a flexible and adaptive approach to noise mitigation and management, this plan will, at a minimum do the following: (1) Address development of a reliable aircraft operations and noise database; (2) validate and document the most effective uses for FAA and NPS noise models in GCNP; (3) explore how the conversion to noise efficient/quiet technology aircraft can most effectively contribute to the substantial restoration of natural quiet while allowing for growth in the industry; and (4) determine how to provide operators with incentives to purchase noise efficient/quiet technology aircraft. In developing this plan, the FAA and NPS are committed to an open process that will provide for full public involvement and consultation with the public and affected Native American tribes.

As discussed above, the effective date for a portion of the 1996 final rule was delayed. Additionally, the NPRM for Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park has not been finalized. A noise management plan also has not been fully implemented yet. Work to date has primarily focused on developing a database of commercial air tours and developing a plan to improve noise modeling at the GCNP.

C. Definitions

Three new definitions would be added to current § 93.303 and would be applicable to part 93, subpart U. Definitions would be added for the terms ''allocation'', ''commercial air tour'' and ''commercial SFRA operation.'' Additionally, the paragraph designations would be removed to simplify administration of this section.

1. Allocation

The term ''allocation'' would be defined as the authorization to conduct a commercial air tour in the Grand Canyon National Park (GCNP) Special Flight Rules Area (SFRA). Each certificate holder reporting base year (May 1, 1997—April 30, 1998) air tours to the FAA would receive one allocation for each commercial air tour reported.

2. Commercial Air Tour

The term ''commercial air tour'' would be defined as any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, the Administrator during an administrative review may consider a number of factors in determining whether the flight is actually a commercial air tour. Factors that the Administrator may consider include, but are not limited to—(1) Whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire; (2) whether a narrative was provided that referred to areas or points of interest on the surface; (3) the area of operation; (4) the frequency of flights; (5) the route of flight; (6) the inclusion of sightseeing flights as part of any travel arrangement package; or (7) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface. The Administrator may give more weight to some factors than others in making this determination. This definitional change would be consistent with other rulemakings that the FAA is working on.

The current rules at 14 CFR, part 93, subpart U use the term ''commercial sightseeing flight'' at §§ 93.305 (Flight-free zones and flight-free corridors); 93.307 (Minimum flight altitudes); 93.315 (Commercial sightseeing flight operations); 93.316 (Commercial sightseeing limitations); and 93.317 (Commercial sightseeing flight reporting requirements). This NPRM would replace the term ''commercial sightseeing flight'' with the term ''commercial air tour'' throughout part 93, subpart U.

The proposed definition would clarify which flights are considered commercial air tours. The current rules do not define the term ''commercial sightseeing flight''. Instead, the FAA has assumed that flights operated on the Blue, Black and Green routes that are reported to the FAA under § 93.317 are commercial air tour flights with the following exceptions: (1) flights using the Blue Direct and Blue Direct South routes generally are presumed to be flights to reposition aircraft or transportation flights to move passengers from point A to point B; and (2) flights using the Green 3 route are operated under an FAA Form 7711–1, Certificate of Waiver or Authorization (Form 7711) issued by the Las Vegas Flight Standards District Office in support of Supai Village and the Havasupai Tribe. The FAA also believes that most flights operated on the Brown routes are operated under a Form 7711, typically in support of the Canyon's river rafting operations. On occasion, a commercial air tour may transition to a Brown route as part of a more extensive tour. There are only two east/west routes proposed that would be used for all types of commercial SFRA operations. Hence, because it will be more difficult to identify air tours based on the route flown, the FAA intends to define the term ''commercial air tour''.

3. Commercial SFRA Operations

Public Law 100–91 recognizes that noise associated with ''aircraft overflights'' at the GCNP is causing ''a significant adverse effect on the natural quiet and experience of the park.'' In order to improve noise management in the GCNP, the agencies believe it is necessary to impose some requirements on all flights conducted in the SFRA by air tour operators, regardless of whether an air tour is actually conducted on that flight. Therefore, the FAA proposes to adopt a new term to apply to all commercial operations conducted by certificate holders authorized to conduct commercial air tours and occurring within the GCNP SFRA.

The term ''Commercial Special Flight Rules Area Operation'' (Commercial SFRA Operation) would be defined as any portion of a flight within the GCNP SFRA that is conducted by a certificate holder that has operations specifications authorizing air tours within the GCNP SFRA. This term is broader than the term ''commercial air tour'' as it includes air tours as well as transportation, repositioning, maintenance, and training/proving flights. The types of flights covered by this term would be defined in the ''Las Vegas Flights Standards District Office Grand Canyon National Park Special Flight Rules Area Procedures Manual'' (see discussion at III.F re: definitions). The term ''commercial SFRA operations'' does not include supply and administrative flights conducted under contract with the Native Americans, or other flights conducted under a Form 7711. The FAA proposes to create this new term so that it can better account for the types of operations occurring within the park other than commercial air tours.

Examples 1 and 2 (below) illustrate the types of commercial SFRA operations and how air tours are defined.

Example 1. A commercial air tour operator conducts a commercial air tour through the GCNP SFRA from point A to point B, drops off passengers for a ground tour at point B and returns to point A without passengers. A subsequent aircraft completes a second tour from point A to point B and unloads its passengers at point B. The aircraft then picks up the passengers from the first tour, and returns them through the GCNP SFRA from point B to point A, completing the round trip air tour for these passengers. The initial trip by the first aircraft from point A to point B is a commercial air tour. The return trip of the first aircraft, without passengers, from point B to point A is a repositioning trip. The first trip of the second aircraft is a commercial air tour. The return trip of the second aircraft is a transportation trip because it moves passengers from point B to point A. The two commercial air tours each use one allocation. The other flights do not use allocations.

Example 2. A commercial air tour operator conducts a flight within the GCNP SFRA solely for the purpose of performing a flight check on a new pilot. During the flight, the aircraft develops mechanical problems and makes a precautionary landing. A second aircraft is dispatched with a pilot and mechanic to perform any necessary repairs. The first flight is a training flight. The second flight is a

maintenance flight. The return flights for both aircraft are repositioning flights. No allocations are used.

D. Requirements Specific to Commercial SFRA Operations

Section 93.315 would be reorganized and revised to remove the capacity limitation on aircraft and to delete the reference to the outdated SFAR 38–2. The current language only applies to aircraft having a passenger-seat configuration of 30 or fewer seats. The FAA believes that removal of the capacity restriction is necessary because it is aware that some air tour operators are beginning to use larger capacity aircraft. The FAA wants to ensure that each air tour operator, regardless of the capacity of aircraft, is held to the same operational and safety standards. This section would continue to require commercial air tour operators to be certificated under 14 CFR part 119 to operate in accordance with either 14 CFR part 121 or part 135 and to hold appropriate GCNP SFRA operations specifications.

Section 93.317 of the NPRM would maintain the current curfew hours in the Dragon and Zuni Point corridors (current § 93.316(a)). This curfew would now apply to commercial SFRA operations. Currently, the curfew applies to ''commercial sightseeing operations,'' which is an undefined term. The FAA believes that amending this curfew to include commercial SFRA operations would improve management of aircraft noise in the Dragon and Zuni Point corridors. With the removal of this language from § 93.316 to proposed § 93.317, § 93.316 would be removed and reserved.

Section 93.325 would require certificate holders conducting commercial air tours in the GCNP SFRA to report their commercial SFRA operations to the FAA on a quarterly basis. As discussed below, this reporting requirement is similar to that in current section 93.317 and would enable the government to assess more accurately the noise level and airspace use in the GCNP and further the development of the Comprehensive Noise Management Plan.

E. Operations Limitation

This NPRM would limit all commercial air tours in the GCNP SFRA on a twelve month basis to the number of air tours reported in accordance with current § 93.317 for the year May 1, 1997—April 30, 1998. This time period is being used as the basis for determining the allocations because it is the first twelve months for which the FAA has air tour data that has been fully compiled and analyzed. Proposed § 93.319 would establish this commercial air tour limitation. The number of commercial air tours that a certificate holder could conduct would be shown on the certificate holder's operations specifications as allocations.

The FAA is proposing that these allocations would remain unchanged by the FAA for a twenty-four month period from the effective date of this rule. After that time, all certificate holders' allocations may be revised based on the following: (1) Data submitted under proposed § 93.325; (2) updated noise analysis; and/or (3) the status of the Comprehensive Noise Management Plan. Any change in the overall allocations to all certificate holders would be subject to notice and comment rulemaking.

The FAA and NPS realize that commercial air tour operators need consistency to justify equipment investment and make other business plans. In devising the proposed two-year term for the allocations, the FAA considered two other alternatives including revising the allocations annually or on an ad hoc time basis thereafter. The FAA rejected both of these alternatives because it was concerned that neither alternative would achieve the proper balance between providing the certificate holders with the latitude necessary to conduct business, and controlling noise in the GCNP. The FAA solicits comments on this matter.

1. Initial Allocation

Under this NPRM, each commercial air tour would be represented by an allocation. Thus, each certificate holder that reported commercial air tours to the FAA in accordance with current § 93.317 for the base year would receive one allocation for each air tour. The total number of commercial air tours that were reported by all of the operators to the FAA for that base year was 88,000. This number does not include flights in support of air tour operations such as transportation flights, training flights, maintenance flights, and repositioning flights or flights conducted under a Form 7711.

To prevent a worsening of noise conditions in the park during the peak season, the FAA, in consultation with the NPS, proposes to establish a peak season cap that prevents the movement of allocations from off-peak season into the peak season. Peak season allocations, however, would be permitted to be used during the off-peak season as noise during the off-peak season generally is substantially less than during the peak season. The FAA proposes that the peak season be defined as the period from May 1–September 30; the off-peak season would be the period October 1–April 30. This peak/off-peak season definition is consistent with the summer and winter season for curfew purposes. Peak/off-peak allocations would be determined from the information reported to the FAA for the base year. There were 52,500 commercial air tours reported for May through September in the base year.

This restriction helps to eliminate the potential that noise would become worse during the peak season months because operators could maximize their allocation use during the time. Additionally, the restriction reduces the potential of an airspace congestion problem caused by an operator using all of its allocations during the peak season and shutting down its business during the off-peak season. This was deemed advisable after the FAA utilized its Airport and Airspace Simulation Computer Model (SIMMOD), which demonstrated significant use of the routes during the peak season.

In developing the peak/off-peak season distributions, the FAA and NPS considered three alternatives: (1) the proposed 5 month peak season (May–September); (2) a three month (July–September) peak season; and (3) a uniform year with no peak/off-peak delineation. The base year data indicates that the July–September time period is the most active period. A shorter peak, however, may limit the ability of the operators to maximize the use of their allocations since they would not be able to use peak season air tour allocations during the off-peak season. Consequently, the FAA requests comment specifically on the definition of peak/off-peak season.

Under the proposed rule, allocations also would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA. Dragon and Zuni Point allocations again would be determined based on the number of air tours an operator conducted and reported in these corridors for the base year. Only operators who reported air tours in these corridors for the base year would receive allocations for these corridors. There were approximately 43,000 commercial air tours reported for the Dragon and Zuni Point corridors for the base year; approximately 29,500 of those tours were reported for the peak season.

The NPS and the FAA believe it is necessary to restrict allocations for the Dragon and Zuni Point corridors because the airspace is already

congested. The agencies believe that this restriction would help maintain the number of air tours in these corridors at a level that does not pose a congestion problem and that minimizes the likelihood that aircraft noise in this region of the park will increase.

The FAA believes the initial allocation phase would proceed in a manner similar to the example below:

Assuming the FAA adopts the 5-month proposed peak season. Throughout the base year, Operator A reported that half of its air tours each month were conducted in the Dragon and Zuni Point corridors. Operator B did not report any Dragon and Zuni Point air tours for the base year. The following information was reported to the FAA under current § 93.317 for theMay 1, 1997–April 30, 1998 time period:

EXAMPLE OF INITIAL ALLOCATIONS

	Operator A	Operator B
Reported operations		
Peak:		
May	75	50
June	150	100
Jul	300	250
Aug	300	200
Sep	200	100
Subtotal	1025	700
Off-Peak:		
Oct	75	25
Nov	25	.....
Dec	50	25
Jan	25	.....
Feb	.....	.....
Mar	.....	.....
Apr	50	25
Subtotal	225	75
Total	1250	775
Dragon/Zuni Point	625	None
Allocations		
Overall:		
Total	1250	775
Peak Season	1025	700
Dragon/Zuni Point:		
Total	625	None
Peak	513	None

2. Certificate Holders Receiving Allocations

The FAA is not reporting each certificate holder's individual allocation in this NPRM. Instead, this NPRM will identify those certificate holders who reported air tours to the FAA for the base year period and are scheduled to receive initial allocations to continue to conduct commercial air tours. These certificate holders are, in alphabetical order, as follows:

Air Bridge, Inc.; Air Grand Canyon, Inc.; Air Nevada Airlines, Inc.; Air Star Helicopters (includes Air Star Airlines); Aladdin Air Services, Inc.; AVI, Inc.; Aviation Ventures, Inc. (dba Vision Air); Bruce Adams (dba Southwest Safaris); Eagle Canyon Airlines; Grand Canyon Airlines; Heli USA Airways, Inc. (dba HeliUSA); Kenai Helicopters, Inc.; King Airlines, Inc.; Lake Meade Air, Inc; Las Vegas Airlines, Inc.; Las Vegas Helicopters, Inc.; Maverick Helicopters, Inc.; Papillon Airways, Inc. (includes Papillon Grand Canyon Helicopters); Scenic Airlines, Inc. (includes Las Vegas, Page and all other operations); Sundance Helicopters, Inc.; Temple Air Service, Inc.; Vista Airlines, Inc.; and Westwind Aviation, Inc.

Only certificate holders identified above are scheduled to receive an initial allocation under this rule.

Based on its additional research, the FAA believes that one certificate holder who reported air tours to the FAA during the base year period is no longer in business. Its allocation would be distributed among the remaining certificate holders, proportionate to the size of each certificate holder's allocation, unless the certificate holder listed below as not receiving allocations notifies the Manager, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Ave., S.W. Washington, D.C. 20591. This written notification must be received on or before the NPRM comment deadline and indicate that the certificate holder intends to conduct commercial air tours in the GCNP SFRA and is authorized to do so. Thus, the following certificate holder will NOT receive an allocation UNLESS it notifies the FAA before the close of the comment period:

** Flagstaff Safe Flyers, Inc.

Certificate holders identified as receiving allocations to conduct air tours in the SFRA will receive a written notification by certified mail, return receipt requested, informing them of the following: (1) Total number of air tours allocated in the SFRA; (2) Number of air tours allocated in the Dragon and Zuni Point corridors; and (3) Peak season allocation for both the total SFRA and Dragon and Zuni Point corridors. This notification will be sent out concurrently with publication of this NPRM.

The FAA also will attempt to notify the certificate holder identified above as not receiving allocations via certified

mail, return receipt requested, directed to the last known business address.

3. Requesting Modification of Initial Allocation

The FAA recognizes that the air tour business in the GCNP is constantly changing. In fact, the FAA is aware that since the time period reflected in the base year data, some businesses have been bought and sold. Additionally, the FAA is aware that some operators have expanded their business into Las Vegas or modified the focus of their business to include some flights in the Dragon and Zuni Point corridors. Thus, due to mergers/acquisitions, bankruptcies, or other reasons that affect operations, certificate holders may believe that data they submitted for the base year does not reflect their current business. The FAA is striving to be fair in assessing the allocations. Therefore, it is permitting any certificate holder who believes that the base year data does not reflect its current operations as of the date of this notice to submit a written request to the Manager, Air Transportation Division requesting reassessment and indicating why the base year data is not an accurate representation. Such a request must be supported by written documentable evidence (i.e., contracts, leases, or other legal documentation). The FAA anticipates that any modifications will only result in redistribution of allocations among certificate holders affected by the merger or acquisition, etc., or within a certificate holder's allocation distribution (e.g., transfer of business operations prior to this NPRM into the Dragon or Zuni Point sector).

Certificate holders requesting modification of the initial allocation must submit the information described above in writing to Manager, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Ave., SW Washington DC 20591. All requests for modification must be received on or before the comment deadline. Requests for modifications received after the comment deadline will not be considered. The Manager will review the information to determine whether the party has provided substantive, documentable evidence that the information relied on for the initial allocation is not an appropriate standard of measure. Any transfer of allocations due to prior mergers, acquisitions, etc. must be agreed to by all involved parties. The FAA will not consider increasing an initial allocation because of changes in consumer demand or the fact that the base year was not a busy year, operationally.

One example of how the above process would work is set forth below:

There are four certificate holders reporting commercial air tours in the GCNP SFRA, Operators A, B, C and D. In December, 1998 (post base-year) Operator A purchased all of Operators C's operations. Operator B reported no air tours in the Dragon and Zuni Point corridors for the base year but transferred 50% of its operations to the Dragon and Zuni Point corridors in November, 1998. Operator D has turned in its operations specifications.

Because all of these changes occurred post base year, they would not be reflected by the data used by the FAA to allocate air tours. Hence the certificate holders should do the following:

Operator A should submit a request to the Manager, Air Transportation Division to have its allocation re-assessed. It should provide copies of all documents relating to the purchase of Operator C's business operations and indicate how it believes the numbers should be reallocated. Operator A should also submit a statement from Operator C supporting the transfer. Operator B should submit a request to the Manager, Air Transportation Division requesting that its allocation be redistributed so that it receives an allocation for the Dragon and Zuni Point corridors. Operator B should submit any written evidence documenting its shifting of operations from one area of the GCNP to the Dragon and Zuni Point corridors. Operator C is no longer in business. Operator D's allocation would be retained by the FAA and be redistributed among all remaining operators.

F. Flight Plans

Proposed § 93.323 would require each certificate holder conducting a commercial SFRA operation to file an FAA visual flight rules (VFR) flight plan with an FAA Flight Service Station for each flight. Each flight segment (one take-off and one landing) would require a flight plan. Each certificate holder filing a VFR flight plan would be responsible for indicating in the ''remarks'' section of the flight plan the purpose of the flight. There would be at least five possible purposes: commercial air tour; transportation; repositioning; maintenance; and training/proving. The term ''commercial air tour'' would be as already defined in the proposed rule. The other five terms would be defined in the ''Las Vegas Flight Standards District Office Grand Canyon National Park Special Flight Rules Area Procedures Manual'' as follows:

1. Transportation—A flight transporting passengers for compensation or hire from point A to point B on a flight other than air tour.

2. Repositioning—A non-revenue flight for the purpose of repositioning the aircraft (e.g., a return flight without passengers after an air tour and that is conducted to reposition the aircraft for the next air tour).

3. Maintenance flight—A flight conducted under a special flight permit, or a support flight to transport necessary repair equipment or personnel to an aircraft that has a mechanical problem.

4. Training/proving—A flight taken for one of the following purposes: (1) Pilot training in the SFRA; (2) checking the pilot's qualifications to fly in the SFRA in accordance with FAA regulations; or (3) an aircraft proving flight conducted in accordance with section 121.163 or 135.145.

The information obtained from the flight plan would be used to ensure compliance with the commercial air tours limitation. Certificate holders may wish to develop ''canned'' flight plans that may be opened and closed quickly. Copies would not have to be maintained.

The FAA considered requiring certificate holders conducting commercial air tours to complete a form prior to each commercial air tour conducted in the GCNP SFRA. Under this proposal, a certificate holder identified as receiving an allocation would receive one form for each air tour reported for the base year. The forms would be serialized and carbonized. Prior to each commercial air tour, the certificate holder would complete the form with the required information, retain a copy of its files and keep a copy with the pilot. The information that would have been required would have been almost identical to the information required for the quarterly reporting at proposed § 93.325.

The FAA rejected the form alternative because it would impose burdensome reporting and recordkeeping requirements on the certificate holders. The FAA believes that the VFR flight plan requirement is less burdensome. At this time, the FAA believes that flight plan filing is a feasible approach.

G. Reporting

The reporting requirement currently contained in § 93.317 would be moved to proposed § 93.325 and expanded to cover certificate holders conducting transportation flights, repositioning flights, maintenance flights or training/proving flights in the GCNP SFRA. The information reported would be similar to that currently required by § 93.317.

Commercial SFRA operations can originate in one time zone and cross time zones so the FAA wants to ensure that the times reported are consistent. At this time, the FAA is proposing that time be shown in Universal Coordinated Time (UTC). The FAA seeks comment on whether UTC would be the appropriate time measurement or whether an alternative time zone (i.e., Mountain Standard Time) should be used.

The reporting required by proposed § 93.325 would be submitted to the Las Vegas Flight Standards District Office on a quarterly basis. Currently, certificate holders are required to report three times a year. A number of certificate holders, however, have commented to the FAA that quarterly filing would be preferred because the timing would be consistent with other government reporting requirements (IRS, Social Security, etc.). The information submitted on these quarterly reports would be used by the FAA and NPS to assess the noise situation in the GCNP and in development of the Comprehensive Noise Management Plan. Certificate holders would continue to submit the reports in written form. Electronic transmission (diskettes, email, etc.) is preferable and encouraged.

Certificate holders conducting flights in the SFRA under Form 7711 would not be required to report under § 93.325; however, the FAA is considering establishing such reporting as a condition of the waiver. This reporting would provide the agencies with a clearer picture of the types and numbers of flights operating in the SFRA. The FAA seeks comment on this matter.

H. Transfer and Termination of Allocations

Allocations to conduct commercial air tours in the GCNP SFRA would be an operating privilege granted to certificate holders who conducted and reported commercial air tours during the base year. As proposed, the allocations would be subject to reassessment after two years. Allocations to conduct commercial air tours in the GCNP SFRA would not be a property interest.

The FAA recognizes that air tour operators often utilize a variety of contracting/subcontracting methods to handle passenger loads during busy periods. Thus, the FAA proposes to allow an allocation to be transferred among certificate holders, subject to three restrictions. First, all certificate holders would be required to report any transfers to the Las Vegas Flight Standards District Office in writing. Permanent transfers (mergers/acquisitions, etc.) would require FAA approval through the modification of the operations specifications. Temporary transfers (seasonal leases, etc.) would be effective without FAA approval. The FAA would not modify the operations specifications for temporary arrangements. Second, all certificate holders would be subject to all other applicable requirements in the Federal Aviation Regulations. Third, allocation authorizing commercial air tours outside the Dragon and Zuni Point corridors would not be permitted to be transferred into the Dragon and Zuni Point corridors, however, could be used outside the Dragon and Zuni Point corridors. This restriction is necessary to ensure that flight within these corridors do not increase, thus, posing a potential safety and noise problem. A certificate holder may increase its peak season allocation outside the Dragon and Zuni Point corridors by transferring Dragon and Zuni Point allocations in the rest of the SFRA.

Examples of the interrelationship between the Dragon and Zuni Point restriction and the peak season restriction is as follows:

Example 1: Operator A has a total of 1250 GCNP SFRA allocations to operate in the SFRA, with 625 designated for the Dragon and Zuni Point corridors. The total peak season GCNP SFRA allocations for Operator A is 1025. The Dragon and Zuni Point peak season allocations are 513 (of the 1025 GCNP SFRA peak). The Operator may reallocate its Dragon and Zuni Point peak allocations in the peak season for the rest of the GCNP SFRA. It may also reallocate its Dragon and Zuni Point allocations to the off-peak season for use in the rest of the GCNP SFRA.

Example 2: Operator A has the same allocations as described in Example 1 above. Operator A, however, decides to lease for 1 year 100 peak season allocations for the Dragon and Zuni Point corridors to Operator B. Operator B has 50 peak season allocations designated on its operations specifications for these corridors. This is permitted since Operator A and Operator B both have current Dragon and Zuni Point allocations. Thus, Operator A's peak season allocations for these corridors decrease to 413 (513 − 100) for the length of the lease. Operator B's Dragon and Zuni Point Corridor peak season allocations increase to 150 (50+100) for the length of the lease.

Example 3: Operator A has the same allocations as described in Example 1 above. In year 1 Operator A experiences high consumer demand between January and April (off season) for the east/west routes (outside the Dragon and Zuni Point corridors). Therefore, Operator A decides to use 100 peak season allocations for the Dragon and Zuni Point corridors in the off-peak season to operate on the east/west routes outside these corridors. This reduces the amount of Dragon and Zuni Point allocations it can use during the peak season to 413 in year 1. In year 2, Operator A experiences a very slow off-peak season between the months of January and April and does not use all of its off-peak allocations. In the peak season, however, demand in the Dragon and Zuni Point corridors is high. Thus, Operator A can use all 513 of its peak season Dragon and Zuni Point allocations during this time.

Certificate holders who voluntarily cease conducting commercial air tours in the GCNP SFRA for any consecutive 180-day period would lose their allocations. This use or lose provision recognizes that the FAA is the sole controller of these allocations. If not used, the holder would lose its operating privilege and the FAA would then assert its control and decide whether to redistribute the allocations. The FAA considered proposing a time period shorter than 180 days, however, given the seasonal nature of the air tour business the FAA believes that a shorter time could be prejudicial against the certificate holders. The FAA believes that 180 days is a reasonable accommodation to the certificate holders and allows them the flexibility to manage their business. The FAA seeks comment on this matter.

The FAA also would retain the right to redistribute, reduce or revoke allocations based on the need to carry out its statutory mandate to regulate for efficiency of airspace or aviation safety. Additionally, the FAA could redistribute, reduce or revoke allocations if the certificate holder voluntarily surrendered the allocation or in the event of an involuntary cessation of business. (i.e., FAA shuts down an operator following an FAA enforcement action). This last factor likely would occur when the FAA enforced its regulations against a certificate holder to improve airspace efficiency or aviation safety.

I. Specific Matters for Comment

While the FAA seeks comment on all parts of the NPRM, there are a number of matters that it specifically would like commenters to address:

(1) Whether the FAA should use a 5 month peak season (May–Sept), a three month peak season (July–September), or no peak season for purposes of assigning allocations.

(2) Whether the time reported on the quarterly report should be expressed in Universal Coordinated Time (UCT), Mountain Standard Time, or another time measurement.

(3) Whether reporting should be imposed as a condition of a Form 7711 and, if so, whether the requirements of proposed § 93.325 would be appropriate for such operations.

(4) Whether 180 days is a proper measurement of time for the use or lose provision proposed in § 93.321.

(5) Whether the initial allocation reflects business operations as of the date of this notice.

(6) Whether the allocations should remain unchanged for any specific period of time.

Following a review of the comments and further consideration, the final rule may incorporate changes based on the above questions.

IV. Environmental Review

The FAA has prepared a draft environmental assessment (EA) for this proposed action to ensure conformance with the National Environmental Policy Act of 1969. Copies of the draft EA will be circulated to interested parties and a copy has been placed in the docket, where it will be available for review.

V. Regulatory Evaluation Summary

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. These analyses are summarized here in the preamble, and the full Regulatory Evaluation is in the docket.

Because of the continued high public interest surrounding GCNP regulations and the potential implications within a small locality, the FAA has determined that this Notice of Proposed Rulemaking (NPRM) would be ''a significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. The FAA also has determined that this NPRM would have a significant economic impact on a substantial number of small entities (commercial air tour operators conducting flights within Grand Canyon National Park), and warrants an initial regulatory flexibility analysis (IRFA).

In conducting these analyses, the FAA has also determined that this proposed rule: (1) would not constitute a barrier to international trade; and (2) would not contain any Federal intergovernmental or private sector mandate.

A. Benefits

The primary intended benefit of this proposed rule is its contribution toward achieving the public mandate imposed by Public Law 100–91 to substantially restore natural quiet in the GCNP. This is one of three actions currently being taken by the FAA to move toward that goal. One of the other two actions is issuance of a notice of proposed rulemaking to make certain modifications of the airspace designations in GCNP. The other action is notification of modifications to air tour routes in the park. In addition to a discussion of restoration of natural quiet, a quantified analysis is given in this benefits section of the increased value that less aircraft noise may provide to ground visitor in the park. The FAA has estimated potential benefits two ways in this analysis. First, restoration of natural quiet is discussed. Second, a quantified estimate is made of the increased value of trips to the park by ground visitors if this proposal were implemented.

The FAA's benefits analysis is limited to commercial air tour aircraft noise, because only commercial air tours would be affected by this proposed rule. It is recognized that other aircraft operate in the vicinity of the Grand Canyon, either above the SFRA or along designated corridors (general aviation (GA)) through the SFRA. This noise has not been measured on included in the noise models used to obtain the estimates contained in this analysis because the FAA believes the amount of noise produced by these aircraft is very small compared to that of commercial all tour aircraft. GA traffic accounts for about 3 percent of all aircraft traffic in the GCNP according to the Las Vegas FSDO. The FAA does not believe that this amount of noise would affect the accuracy of its estimates. The FAA welcomes comments on this matter.

1. Restoration of Natural Quiet

The policy decision of GCNP is that a substantial restoration requires that 50% or more of the park achieve ''natural quiet'' (i.e., no aircraft audible) for 75–100 percent of the day. That level of ''quiet'' (50 percent) does not exist today in the park, in spite of past actions to limit noise. Based on noise modeling, the FAA estimates that today only about 32 percent of the park area has had natural quiet restored. Furthermore, if no additional action is taken estimated future air tour growth will reduce even that number to about 25 percent in nine to ten years. On the other hand, noise modeling indicates that this proposal, together with the other two FAA actions, would increase the restoration of natural quiet to slightly more than 41 percent and maintain that level in the future. The FAA will monitor future operations in the park to determine the actual level of natural quiet that is restored. It necessary, further actions will be taken to ultimately achieve the goal of substantial restoration of natural quiet.

2. Increased Value of Ground Visit Analysis

The benefits of noise reduction attributable to this rulemaking can be broadly categorized as use and non-use benefits. Use benefits are the benefits perceived by individuals from the direct use of a resource such as hiking, rafting, or sightseeing. Non-see benefits are the benefits perceived by individuals from merely knowing that a resource exists, or is perserved, in a given state. The act benefits of this rulemaking have been estimated and are presented below. The non-use benefits attributable to this rulemaking have not been estimated.

The available visitation data for GCNP permits the categorization of visitors into backcountry users, river users, and other visitors. The activities included in the ''other visitors'' category primarily involves sightseeing, as well as other activities such as hiking or camping not related to background or river use. The number of visitor-days (defined as one visitor to a location for all or any part of one day) in 1997 for these visitor groups is presented below.

NUMBER OF VISITOR-DAYS—GRAND CANYON NATIONAL PARK, 1997

Visitor group	Visitor-days
Backcountry	99,137
River	182,481
Other	5,788,187
Total	6,069,805

Source: National Park Service.

While the FAA, based on its projections on air traffic growth at the airports around GCNP, assumes that the number of air tours would increase at an annual rate of 3.3 percent, the FAA nevertheless, assumes that the number of visitor-days at GCNP would remain constant at 1997 levels throughout the evaluation period of this rulemaking. This assumption is considered to

reasonable because of the actions the NPS is taking to control visitor growth.

Permits for backcountry and river use are limited to a maximum number that can be issued each year. Also, the NPS plans to prevent cars from entering GCNP. Rim visitors will be required to park outside GCNP and take a shuttle into the Park. This will greatly reduce or possibly eliminate any future growth in the number of rim visitors. Last, an assumption of constant visitation is a conservative approach that would not bias the indicated net benefits of the rulemaking upward and would also probably results in benefits being somewhat underestimated.

The GCNP visitor survey indicates that these different visitor groups are variously affected by aircraft noise (HBRS, Inc. and Harris, Miller, Miller, & Hanson, Inc. 1993). This survey asked respondents to classify the interference of aircraft noise with their appreciation of the natural quiet of GCNP as either ''not at all,'' ''slightly,'' ''moderately,'' very much,'' or ''extremely.'' The percent of visitors indicating these impacts is presented below by visitor group.

VISITORS AFFECTED BY AIRCRAFT NOISE—GRAND CANYON NATIONAL PARK

Impact	Percent of visitors by category		
	Backcountry (percent) [a]	River (percent) [b]	Other (percent)
Not At All	41.0	45.5	76.0
Slightly	15.0	16.5	11.0
Moderately	13.5	10.0	4.0
Very Much	14.5	12.5	4.0
Extremely	16.0	15.5	5.0

[a] Average for summer and fall users.
[b] Average for motor and oar users.
Source: HBRS, Inc. and Harris, Miller, Miller, & Hanson, Inc. 1993.

The economic studies selected for use in the benefits transfer, and their indicated visitor-day values, are listed below. These values are also known as ''consumer surplus.'' Consumer surplus is the maximum amount an individual would be willing to pay to use a resource, minus the actual costs of use. It is a measure of the net economic benefit gained by individuals from participating in recreational activity.

ESTIMATED VISITOR-DAY VALUES (CONSUMER SURPLUS)—GRAND CANYON NATIONAL PARK

Visitor group	Study	Activity	Visitor-day value (1998 $)
Backcountry	Bergstrom and Cordell 1991	Backpacking (national survey)	$37.13
River	Bureau of Reclamation 1995	River use in Grand Canyon NP	92.44
Other	Haspel and Johnson 1982	Visit to Bryce Canyon NP	48.72

All values indexed to 1998 using the Consumer Price Index for all urban consumers.

The visitor-day value for backcountry use, $37.13, was derived from a national study of outdoor recreation (Bergstrom and Cordell 1991). That study estimated an average of $25.88 per visitor-day in consumer surplus for backpacking (1987). That value indexed to 1998 is $37.13 per visitor-day.

The visitor-day value for river use, $92.44, was derived from the economic analysis contained in the Final Environmental Impact Statement for Glen Canyon Dam operations (Bureau of Reclamation 1995). Originally, the value per visitor-day for river use was $77.24 in 1991. That value indexed to 1998 is $92.44 per visitor-day.

The visitor-day value for all other visitor uses in GCNP, $48.72, was derived from an economic analysis of recreation at Bryce Canyon National Park. The visitor uses addressed by that analysis were considered to closely match those included in the ''other visitors'' category for GCNP, primarily sightseeing. That analysis estimated two consumer surplus values, $71.00 and $62.00 per vehicle in 1980, using alternative techniques. The average of those two values, $66.50 per vehicle, was used in the present analysis. An average of 2.7 visitors per vehicle per vehicle for Bryce Canyon National Park was then used to convert that average to a visitor-day value, $24.63 ($66.50 per vehicle divided by 2.7 visitors per vehicle). That value indexed to 1998 is $48.72 per visitor-day.

The FAA assumed that these visitor-day values represent the net economic benefits obtained from recreational uses in GCNP absent any impacts from commercial air tour aircraft noise. Therefore, these values potentially under-state recreational benefits to the extent that the were estimated in conditions where aircraft noise was present.

There is no known economic study that estimates the reduction in the value of recreational uses due to commercial air tour aircraft noise for areas similar to GCNP. The reductions shown in the chart below were assumed in the present analysis.

ASSUMED REDUCTIONS IN VISITOR-DAY VALUES—GRAND CANYON NATIONAL PARK

Impact	Reduction (percent)
Slightly	20
Moderately	40
Very Much	60
Extremely	80

These data and assumptions imply the following total loss in value from aircraft noise in 1998. The total loss in value of $34.5 million was calculated as the product of the number of visitor-days, the proportion of visitors affected by aircraft noise, the visitor-day value, and the assumed proportional reduction in the visitor-day value, for respective impact levels and visitor categories.

ESTIMATED TOTAL LOST VALUE (CONSUMER SURPLUS) FROM AIRCRAFT NOISE—GRAND CANYON NATIONAL PARK, 1997

[In $ thousands]

Impact	Visitor category			
	Backcountry	River	Other	Total
Slightly	$110	$557	$6,204	$6,871
Moderate	199	675	4,512	5,386
Very Much	320	1,265	6,768	8,353
Extremely	471	2,092	11,280	13,843
Total	1,100	4,589	28,764	34,453

The benefit of this rulemaking is the reduction of the total lost value associated with the resulting lower future levels of noise from commercial air tour aircraft. Through aircraft noise modeling, FAA has predicted the number of square miles within GCNP that would be affected by various levels of aircraft noise, both with and without the commercial air tour limitation and change in routes. These noise levels were quantified by a nonlinear measure. The average linearized noise measure, weighted by the number of affected square miles, is presented below.

PREDICTED FUTURE NOISE REDUCTIONS IN GRAND CANYON NATIONAL PARK DUE TO THE COMMERCIAL AIR TOUR LIMITATION AND NEW ROUTES

Year	Weighted average linearized noise measure		Noise reduction due to the limitation and change (percent)
	Limitation and route change	No action	
1998	1,219.23	1,496.04	18.50
2000	1,219.23	1,577.47	22.71
2003	1,219.23	1,713.06	28.83
2008	1,219.23	1,943.88	37.28

These percentage reductions in commercial air tour aircraft noise were applied to the total lost consumer surplus value from aircraft noise in 1998 ($34.45 million) to estimate the current use benefits for future years. Linear interpolation was used to estimate levels of noise reduction for years of the evaluation period not shown in the table above. This calculation assumes that benefits increase linearly with noise reduction (i.e., a constant marginal benefit from noise reduction). A three percent discount rate was then applied to calculate the present value of use benefits (discounted to the year 1999) over the ten-year evaluation period. A three percent discount rate is supported by the economics literature for natural resource valuation (e.g., Freeman 1993). Federal rulemakings also support a three percent discount rate for lost natural resource use valuation (61 FR 453; 61 FR 20584). The resulting use benefit estimates are presented below.

ESTIMATED USE BENEFITS AT 3%—COMMERCIAL AIR TOUR LIMITATION GRAND CANYON NATIONAL PARK

[In $ millions]

Year	Estimated benefits	Present value
2000	$7.82	$7.60
2001	8.53	8.04
2002	9.23	8.45
2003	9.93	8.82
2004	10.51	9.09
2005	11.10	9.29
2006	11.68	9.50
2007	12.26	9.68
2008	12.83	9.84
2009	13.43	9.90
Total	107.32	90.29

It is important to recognize significant uncertainties in this estimation. One area of uncertainty relates to the percentage reductions in visitor-day values that can be attributed to commercial air tour aircraft noise. It was assumed above that there is a 20 percent reduction for visitors affected ''slightly,'' a 40 percent reduction for visitors affected ''moderately,'' a 60 percent reduction for visitors affected ''very much,'' and an 80 percent reduction for visitors affected ''extremely.'' In recognition of the uncertainty surrounding this assumption, one-half of these percentage reductions were used to calculate an alternative benefit estimate. Additionally, in recognition of the discount rate recommended in OMB Circular A–94, alternative benefit estimates were calculated using a seven percent discount rate. These alternative benefit estimates are presented below.

ALTERNATIVE ESTIMATES OF USE BENEFITS

[In $ millions]

Visitor-Day Value Reduction Assumption				Discount rate	
Slightly	Moderately	Very much	Extremely	3%	7%
Total Present Value Over the 10-Year Evaluation Period					
20%	40%	60%	80%	$90.29	$72.98
10%	20%	30%	40%	45.14	36.49
Total Present Value Over the Five-Year Evaluation Period					
20%	40%	60%	80%	42.00	37.37
10%	20%	30%	40%	21.00	18.67
Total Present Value Over the Two-Year Evaluation Period					
20%	40%	60%	80%	15.63	14.76
10%	20%	30%	40%	7.82	7.38

The use benefits discussed above assume that the commercial air tour limitation and the change in routes would occur at about the same time. The rule being analyzed, however, only limits commercial air tours. Hence, benefit estimates were calculated using the same methodology described above, but only applying the predicted noise reduction due to the commercial air tour limitation. These alternative benefit estimates are presented below.

ALTERNATIVE ESTIMATES OF USE BENEFITS

[In $ millions]

Visitor-Day Value Reduction Assumption				Discount rate	
Slightly	Moderately	Very much	Extremely	3%	7%
Total Present Value Over the 10-Year Evaluation Period Commercial Air Tour Limitation Only					
20%	40%	60%	80%	$44.05	$34.61
10%	20%	30%	40%	22.03	17.31
Total Present Value Over the Five-Year Evaluation Period Commercial Air Tour Limitation Only					
20%	40%	60%	80%	15.68	13.78
10%	20%	30%	40%	7.84	6.89
Total Present Value Over the Two-Year Evaluation Period Commercial Air Tour Limitation Only					
20%	40%	60%	80%	4.22	3.97
10%	20%	30%	40%	2.11	1.98

In addition to these use benefits, this rulemaking may generate significant no-use benefits. The FAA does not have adequate data to estimate the non-use benefits of aircraft noise reduction at GCNP. However, there are other studies that suggest potentially significant non-use benefits that might be attributed to this rulemaking. One such study was done for the Bureau of Reclamation regarding the operation of the Glen Canyon Dam (Hagler Bailly Consulting 1995). A national survey was conducted for this study, indicating significant non-use benefits for changes in Glen Canyon Dam operations. While the magnitude of non-use benefits estimated in that study are not directly applicable to this rulemaking, potentially significant non-use benefits associated with aircraft noise reduction are suggested.

B. Costs of Compliance and Initial Regulatory Flexibility Determination and Analysis

The proposed rule would impact all business entities conducting commercial air tours over the GCNP. Data collected for the base year period (May 1997 to April 1998) shows that there were 25 such entities (24 operators, one of whom operated as a fixed wing operator as well as a helicopter operator) at that time. This time period will be considered the baseline for the analysis. All of the entities are ''small'' as defined by the Small Business Administration (SBA). Since every air tour operator doing business in the GCNP would be significantly impacted and they all satisfy the definition of a ''small business'', the FAA concludes that there would be a significant economic impact on a substantial number of small entities. Consequently, the FAA has conducted this analysis of compliance costs to include an initial regulatory flexibility analysis as required by the Regulatory Flexibility Act.

The total cost of this rulemaking would largely depend on how commercial air tour operators respond to the changes. After reviewing a number of operating alternatives the FAA has concluded that the cost of the proposed regulation (e.g., five-month peak season) would be a reduction in net operating revenue of $177.6 million or $114.6 million discounted over the next ten years. There may be some additional cost associated with implementing the proposed alternative (i.e., activating, filing, and closing a flight plan). This is not expected to be

a significant cost but the FAA is unable to measure fully the cost impact at this time and requests public comment. For other provisions of the proposed rule ((1) requesting modification and initial allocations and (2) transfer and termination of allocations), the ten-year cost to air tour operators would be $30,000 or $23,000, discounted. Finally, the FAA costs over the next ten years (including initial allocations) would be $1,445,900 or $1,016,900 discounted. In sum, the total cost of this proposed rulemaking over the next ten years would be $179.1 million or $115.6 million, discounted.

1. Revenue Impact of Compliance Model

The main economic impact resulting from limiting commercial air tours in the GCNP SFRA is the reduction in projected net operating revenue. This number can be calculated by subtracting the net operating revenue associated with the projected future number of operations under the operations limitation from the net operating revenue associated with the projected future number of operations without the operations limitation.

The number of commercial air tours conducted during the May 1997–April 1998 base year period was used for determining the base number of air tours in this analysis. This information, by operator and by route, was provided to the FAA in accordance with current section 93.317 of Title 14, Code of Federal Regulations (14 CFR). Under the proposed rule, each air tour operator that conducted and reported an air tour during that period under existing section 93.317 would receive one allocation for each air tour reported.

A certificate holder's total allocations would be divided up into peak and off-peak season. The FAA proposes that the peak season be defined as the period from May 1–September 30; and the off-peak season would be the period October 1–April 30. This peak/off-peak definition coincides with the summer and winter season for curfew purposes. Peak/off-peak allocations would be based on the information reported to the FAA for the same time period during the base year.

Under the proposed rule, allocations also would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA. Dragon and Zuni Point corridors allocations again would be based on the number of air tours an operator conducted and reported in those corridors during the base year period. Operators reporting no commercial air tours in these corridors during the base year period would receive no allocations for the Dragon and Zuni Point corridors.

The baseline number of passengers was estimated for each operator in this analysis in a four-step process using data provided from interviews and surveys of the affected air tour operators. First, the FAA determined how many aircraft and which aircraft, by route, were used in the base year time period. Second, the FAA identified the maximum number of passengers that each aircraft could legally carry. Next, the FAA determined the load factor for type of aircraft on each route by operator (in some cases, air tour operators were able to provide the FAA this estimate by time of year). After calculating the number of passengers for each route and for each type of aircraft, the FAA was able to sum this information and determine the baseline number of passengers. The FAA estimates the baseline number of passengers to be about 616,000.

The baseline gross operating revenue was calculated for each operator for each route in this analysis using data provided from published advertisements from air tour operators on the price of each type of air tour. The base period gross operating revenue by route was calculated by multiplying the estimated number of passengers that flew on a specific route for a specific operator by the published retail fare. No discounts are assumed.

Variable operating costs for GCNP air tour operators are defined as the costs for crews, fuel and oil, and maintenance per flight hour. The data by type of aircraft can be found on Table 4–20 of *Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs* published by the Federal Aviation Administration, FAA–APO–98–8, June 1998. Estimates of the time taken to fly a particular route were obtained from air tour pilots and individuals in the Las Vegas Flight Standards District Office (FSDO). To calculate the variable operating cost for a particular route and type of aircraft, the FAA multiplied the hourly variable operating costs by the time to fly the particular route. In a few instances, the travel time was unavailable—the FAA estimated the time using information from other air tours and the time it took to complete those tours.

Baseline net operating revenue for each aircraft by route is the difference between the gross operating revenue for each route by aircraft and the variable operating costs for each route by aircraft. An air tour operator's total net operating revenue is the sum of the net operating revenues from all of the routes used by that air tour operator.

The FAA forecast rate of compound annual growth in the GCNP is estimated at 3.3 percent per year. This growth rate was derived from a composite of tower operations of four Las Vegas vicinity airports and those of Tusayan as reported in the 1994 Tower Activity Forecast (TAF). It represents different rates of growth at the West and East ends of the GCNP. The FAA estimated the future number of monthly operations without the proposed rule using projections as described above for each route by aircraft type and by operator.

The model does not take into consideration that air tour operators could switch from smaller-sized aircraft to larger-sized aircraft. Consequently, in this analysis, the number of available seats is fixed throughout the entire time period. Holding the number of seats constant and assuming that more individuals would want to take air tours in the future implies that air tour operators should be able to raise air tour prices. The model does not consider a new equilibrium price given that supply becomes fixed while demand increases. Consequently, this model assumes a worst case analysis.

2. Cost of Various Alternatives to Operators

a. Peak Season Limitations

The costs of the three operating scenarios considered in this rulemaking are discussed below. Each of the operating scenarios considers an alternative delineation of the annual commercial air tours against which the proposed operations limitation would be applied. The three alternatives are as follows: (1) The proposed 5-month peak season (May 1–September 30) with a 7-month off-peak season (October 1–April 30); (2) a uniform year; e.g., no peak/off-peak seasonal delineation; and (3) a 3-month peak season (July 1–September 30) with a 9-month off-peak season (October 1–June 30).

(1) The Proposed Five-Month Peak Season (May 1 to September 30)

The proposed rule would limit all commercial air tours in the GCNP SFRA on a 12-month basis to the number of air tours reported in accordance with current section 93.317 of 14 CFR for the twelve-month period from May 1, 1997 to April 30, 1998. Proposed section 93.319 of 14 CFR would establish this commercial tour limitation. The number of commercial air tours that a certificate holder could conduct would be shown

on the certificate holder's operations specifications as an allocation.

A certificate holder's total allocations would be divided up into peak season and off-peak season. Under the proposed rule, the peak season would be defined as the period from May 1 to September 30; the off-peak season would be the period October 1 to April 30. This peak/off-peak definition would coincide with the summer and winter season curfew purposes. Peak/off-peak allocations would be based on the information reported to the FAA for the time period during the base year period. Off-peak allocations could not be used during peak season; however, peak season allocations could be used during off-peak. Under the proposed rule, allocations also would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA but not in the Dragon and Zuni Point corridors. Dragon and Zuni Point allocations again would be determined based on the number of commercial air tours an air tour operator reported in this region for the base year period. Operators reporting no commercial air tours in these corridors for the base year would receive no allocations for these corridors.

The FAA is proposing that these allocations would be valid for a two-year period. After that time, the certificate holder's allocations may be revised or removed based on the data submitted under proposed section 93.325; an updated noise analysis; and/or the status of the Comprehensive Noise Management Plan. In this analysis, the FAA assumed that this operation process would continue for ten years.

(2) A Uniform Year With No Peak/Off Peak Delineation

The first operating alternative to the proposed rule would limit all commercial air tours in the GCNP SFRA on a 12-month basis to the number of air tours reported in accordance with current section 93.317 for the year May 1, 1997 to April 30, 1998. As discussed under the proposed rule, the number of commercial air tours that a certificate holder could conduct would be shown on the certificate holder's operations specifications as an allocation. Air tour operators, under this alternative could compress all of their air tour allocations into the most active period should they desire. It is also assumed, as discussed under the proposed rule, that allocations would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA.

It is assumed that these allocations would also be valid for a two-year period. After that time, the certificate holder's allocations may be revised based on the data submitted under proposed § 93.325; an updated noise analysis; and/or the status of the Comprehensive Noise Management Plan.

The FAA is not currently able to estimate how this alternative would impact net revenue differently than the proposed rule's impact on net revenue. Nevertheless, the FAA is aware that this alternative would allow an operator to shift air tour operations from the off-peak, winter season to the peak, summer season. The incentive to do this would be particularly strong if prices are higher during the peak, summer season or if aircraft have more passengers per flight, than during off-peak, winter season.

If prices are higher or aircraft are flown with more passengers per flight during the peak, summer season, an operator could reduce the proposed regulation's impact on its net revenues by shifting operations from the off-peak, winter season to the peak, summer season. Unfortunately, if the air tour operators were allowed to shift operations from the winter to the summer, then aircraft noise would also be shifted from the winter (when aircraft noise is less of a problem) to the summer (when aircraft noise is more a problem).

(3) A Three-Month Peak Season (July 1 to September 30)

Another operating alternative to the proposed rule would also limit all commercial air tours in the GCNP SFRA on a 12-month basis. Commercial air tours conducted by certificate holders in the SFRA would not exceed the amount of air tours reported in accordance with current section 93.317 for the year May 1, 1997 to April 30, 1998. As discussed under the previous alternative, the number of air tours that a certificate holder could conduct would be shown on the certificate holder's operations specifications as an allocation.

Under this alternative, as with the other alternatives, a certificate holder's total allocations would also be divided up into peak season and off-peak season.

Allocations also would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA. Dragon and Zuni Point allocations again would be determined based on the number of air tours an operator reported in this region for the base year. Only operators who reported air tours in these corridors for the base year would receive allocations for these corridors.

It is assumed that these allocations would also be valid for a two-year period. After that time, the certificate holder's allocations may be revised based on the data submitted under proposed § 93.325; an updated noise analysis; and/or the status of the Comprehensive Noise Management Plan.

The FAA is not currently able to estimate how this three-month peak season alternative would impact net revenue in a different way than the proposed rule's impact on net revenue. Nevertheless, the FAA is aware that this alternative would allow an operator to shift commercial air tours from the off-peak winter season to May and June. The incentive to do this would be strong if prices are higher during May and June or if aircraft have more passengers per commercial air tour during May and June than during the off-peak, winter season. If prices are higher during May or June or if aircraft can be flown with more passengers per flight during these two months, then an operator could reduce the proposed regulation's impact on net revenue by shifting air tour allocations from the off-peak winter season to May and June. If commercial air tour operators were allowed to shift air tours from the winter to May and June, then aircraft noise would also be shifted from the winter (when there is less aircraft noise) to these two months.

b. Cost of Various Reporting Requirements Alternatives to Operators

The FAA considered two reporting requirement alternatives in the proposed rule. They are quarterly reporting and trimester reporting. The existing rule requires certificate holders to report three times annually. Since the existing rule already requires certificate holders to establish a system to implement the reporting requirement, there are assumed to be no start-up costs.

(1) Reporting on a Trimester Basis

It is assumed that the information for these reports is currently being updated throughout the entire timeframe. The total amount of time needed to update this information is a function of the number of aircraft maintained by each operator. The FAA assumes that it takes each operator about five minutes per aircraft per day regardless of the season to record the updated information into a master spreadsheet. The total cost of the existing rule in 1997 dollars for this task is $753.000 or $529,000 discounted over ten years at 7 percent. This is a

current requirement of the regulations (adopted in 1996) and these costs were previously accounted for in the regulatory evaluation prepared for the 1996 final rule.

The written information would have been provided to the Las Vegas FSDO three times per year. The FAA assumes that each operator would have to collate and verify the information that they had been collecting throughout the year. The time it takes to complete these two tasks would be two hours per operator regardless of the number of aircraft and assumes that the operators would have been recording the information throughout the year. The total cost to the industry of the existing rule is estimated at $34,000 for ten years or $24,000 discounted.

In sum, the FAA estimates that the cost associated with regular updating and trimester reporting for the existing rule is $787,000 or $552,000 discounted over ten years. The FAA is, however, proposing to replace the trimester reporting requirement with a quarterly reporting requirement.

(2) Reporting on a Quarterly Basis

As stated previously under the section on trimester reporting, it is assumed that updating is taking place throughout the entire timeframe. The total amount of time needed to update this information would be a function of the number of aircraft maintained by each operator. The FAA assumes that it would take each operator about five minutes per aircraft per day regardless of the season to record the updated information onto a master spreadsheet. The total cost in 1997 dollars absent the existing rule for this task would be $753,000 or $529,000 discounted over ten years at 7 percent.

Under this reporting requirement scenario, which is the proposed rule, the written information would have to be provided to the Las Vegas FSDO four times per year. The FAA assumes that each operator would have to collate and verify the information that they have been collecting throughout the year. The time it takes to complete these two tasks would be two hours per operator regardless of the number of aircraft and assumes that the operators would have been recording the information throughout the year. Given the wage rate of a Director of Operations at $22.50 per hour, the FAA estimates that this provision would cost each operator $180 per year ($22.50/hour × 2 hours × 4 times/year=$180 per operator; 200 hours/year to the industry, assuming the operator of the mixed fleet reports fixed-wing and helicopter tour business separately) absent the existing rule. The total cost to the industry is estimated at $45,000 for ten years or $31,600 discounted.

In sum, the FAA estimates that the cost associated with regular updating and quarterly reporting absent the existing rule would be $798,000 or $560,000, discounted over ten years.

The incremental cost of reporting three times annually versus four times annually is the difference in costs shown previously. The total incremental cost to industry of the proposed rule is estimated at $11,000 for ten years or $8,000 discounted. For the first year, the incremental costs are approximately $1,000. The two-year costs are estimated at $2,000. The five-year costs are estimated at $5,000 or $4,000 discounted.

Some commercial air tour operators stated that trimester reporting would be more burdensome than quarterly reporting because trimester reporting does not correspond with other business reporting requirements. However, because an additional fourth report would be required, quarterly reporting would be more costly.

c. Cost of Implementing the Rule

The FAA considered two means of monitoring the allocation usage—a form method and a flight plan method. The flight plan method is proposed in this rule. The following is a discussion of these two methods.

(1) Form Method

The form method would require certificate holders conducting commercial air tours in the Special Flight Rules Area (SFRA) to complete an SFRA Operation Form provided by the FAA prior to the beginning of each commercial SFRA operation. A commercial SFRA operation would consist of a point-to-point flight of the aircraft.

The FAA estimates that it would take about one minute for the certificate holder to complete each form because much of the information would have been pre-printed. Based on the previously noted operators' reports for the base year period, the FAA estimates that no more than approximately 88,000 commercial air tours would have to be reported annually. The FAA estimates that the total annual cost in 1997 dollars would be between $29,000 and $30,000 [$20.00/hour × 88,000 forms × 1 minute per form]/60 = $29,300/year; 1,467 hours per year to the industry) or about $27,400 discounted in the first year. The total cost would be $293,000 over ten years or $206,000, discounted. The two-year costs are estimated at $58,600 or $53,000 discounted. The five-year costs are estimated at $146,500 or $120,300 discounted.

(2) Flight Plan Method

Section 93.323 of the proposed rule would require each certificate holder of a commercial SFRA operation to file a visual flight rules (VFR) flight plan with an FAA flight Service Station for each flight. A flight consists of one take-off and one landing. The ''remarks'' section of the flight plan would be completed to indicate the purpose of the flight out of five designated purposes. These purposes would be: (1) commercial air tour; (2) transportation; (3) repositioning; (4) maintenance; and (5) training/proving. The information obtained from the flight plan would be used to ensure compliance with the commercial air tour limitation. Copies would not have to be maintained or carried on board by the certificate holder.

The extent to which an operator would be impacted by these costs would depend upon the volume of commercial air tour business in the GCNP and the number of aircraft and pilots providing air tour service. Additionally, the cost impact would be influenced by whether the operator conducts air tours daily on a regular frequency.

Relying on information from the Las Vegas flight Standards District Office (FSDO), the FAA has identified the following four principal areas where start up costs for the larger, more regularly scheduled operators would be incurred: (a) Creation of ''canned'' VFR flight plans (templates) to be filed with the Reno or Prescott Flight Service Station; (b) rewriting of existing General Operations Manuals to incorporate the new procedures; (c) set-up of a pilot training program; and (d) training of pilots. The FAA assumes each operator's Director of Operations (DO) would be responsible for the first three tasks and possibly the fourth, the instructing of the pilots in the new procedures.

The FAA estimates that the amount of time required of the DO to create and file a template with the Flight Service Stations (task 'a') is about 2 days. Task 'b' would require 2 days for part 121 operators and part 135 operators; and task 'c', the development of pilot instruction in VFR flight plan procedures would require 2 days. Finally, the FAA believes that the VFR flight plan procedures could be presented to the pilots currently conducting air tours in the Canyon through an operational bulletin. Presentation of the procedures to new hires would be part of an operator's on-going costs; the FAA assumes each

operator would incorporate this into the periodic review, modification, and update of plans as noted in the next section.

The FAA estimates that the total start-up costs to the Grand Canyon air tour operators for the VFR flight filing requirements would be about $22,320 or $20,850 discounted.

The VFR flight filing procedures requires the following sequence of activities: (1) Filing a flight plan; (2) activating the flight plan; and (3) closing the flight plan. The opening and closing of a flight plan would be the responsibility of the pilot-in-command and would be a part of normally assigned duties. This usually takes about one to five minutes.

The FAA is unable to accurately assess the variable or on-going costs of the VFR flight filing plan procedures at this time. Specifically, the FAA cannot precisely account for the costs incurred by opening and closing a flight plan, nor can the FAA accurately account for the costs each operator would typically incur in filing a flight plan. The FAA, therefore, requests public comment.

The FAA believes there would also be additional on-going requirements and costs imposed on the Las Vegas FSDO with proposed § 93.323. Coordinating and cross referencing the daily air tour activity recorded by the Flight Service Station with the operator reporting requirements, and monitoring the activity for potential enforcement action would add requirements to the Las Vegas FSDO's current mission that would task current staffing levels. Some of these activities (not enforcement) could be a part of the workload of a senior analyst/statistician assigned to manage the reporting requirements.

d. Cost of Other Provisions to Operators

Operators would incur costs associated with (1) requesting modification to initial allocations and (2) transfer of allocations. The FAA estimates that the cost of these provisions could be up to $20,000 or $14,000 discounted over ten years. The following is a discussion of the costs associated with these two provisions.

(1) Requesting Modification to Initial Allocations

The FAA recognizes that the air tour business in the GCNP is constantly changing. Due to mergers/acquisitions, bankruptcies, etc., certificate holders may believe that the data submitted for May 1997 to April 1998 does not reflect their current business operations. Therefore, the FAA would permit any certificate holder who believes that the base year data does not reflect its current business operation to submit a written request to the Manager, Air Transportation Division that its allocation be reassessed. The request should explain why the base year reported data does not properly reflect its current operations. The operator must provide supporting documentation.

The FAA estimates that as many as five operators may request modifications to their initial allocations. The FAA estimates that each operator would incur one-time costs of between $500 and $1,000 to complete and provide the required information to the FAA. Therefore the one-time cost to the industry would be between $2,500 and $5,000 or between $2,300 and $4,700, discounted. The FAA requests information from affected air tour operators on the validity of this estimate.

(2) Transfer of Allocations

Allocations to conduct air tours in the GCNP SFRA would be considered an operating privilege initially granted to certificate holders, who conducted commercial air tours during the base year and reported them to the FAA. As proposed, the allocation would be subject to reassessment no earlier than two years after the effective date of the rule. The FAA recognizes that air tour operators often utilize a variety of contracting/subcontracting methods to handle passenger loads during busy periods. Thus, the FAA proposes to allow allocations to be transferred among certificate holders, subject to several restrictions.

Under the proposed rule a certificate holder would be required to report any transfer of allocations to the Las Vegas FSDO in writing.

The FAA distinguishes between temporary and permanent transfers of allocations. In the former case, the FAA recognizes the current business practice of air tour operators to occasionally sell, exchange or otherwise transfer air tour bookings (usually to an overflow operator) to accommodate unexpected surges in demand.

Temporary transfers would not require FAA approval, nor would the FAA modify the involved operators' operations specifications. The FAA assumes any operator costs associated with temporary transfers to be part of the on-going business cost of conducting air tours of the Grand Canyon. The FAA also assumes any costs associated with notifying the Las Vegas FSDO of such temporary transfers would be de minimus. Similarly, FAA costs associated with the processing of these written notices concerning temporary transfers would be de minimus.

Permanent transfers of allocations resulting from mergers/acquisitions, bankruptcies, etc. would require FAA approval through the modification of the operations specifications in addition to the required reporting to the Las Vegas FSDO in writing. The FAA cannot predict how many such permanent transfers might occur or estimate associated costs. The FAA, however, is aware of two acquisitions that occurred during the base period and offers the following example of what costs might result if no more than two operators were to submit requests for permanent transfers of allocations to the FAA annually. The FAA requests operator comment regarding the likely costs of a permanent transfer.

If each operator would incur costs of between $500 and $1,000 (which includes two days effort per operator) to complete and provide the required information to the FAA, then the annual cost to the industry would be between $1,000 and $2,000 annually (about 32 hours annually) or between $900 and $1,900 discounted. The cost over 10 years would be between $10,000 and $20,000 or between $7,000 and $14,000, discounted. The two-year costs are estimated at between $2,000 and $4,000 or between $1,800 and $3,600 discounted. The five-year costs are estimated at between $5,000 and $10,000 or between $4,100 and $8,200, discounted.

3. Cost of Proposed Rule to the FAA

The FAA, as a result of this proposed rule, would incur costs in four ways. The FAA would incur costs associated with the initial allocation, recording and tracking, filing of flight plans, and transfer of allocations. Over the next ten years, FAA costs are expected to be $1,445,900 or $1,016,900, discounted. The following is a discussion of these cost components.

a. Initial allocation, and recording and tracking

The FAA would need to develop an allocation process and prepare the necessary information to send to each air tour operator. This one time administrative work would require analyst, clerk, legal and management resources. The FAA estimates that this would result in an agency cost of $3,700 in the first year only. The discounted cost is $3,500.

In addition, the FAA would incur recurring annual costs from the recording and tracking of the information provided by the operators. Again, this would require analyst, clerk,

management and legal resources. For the purpose of this cost assessment, the FAA assumes that one additional agency employee would be required at the GS–14 grade level. Based on FAA resources required to record and track data provided by operators since 1997, the agency estimates that the total cost for the FAA of these elements would be about $138,000 annually or $1,379,000 over ten years ($968,587, discounted).

b. Transfer of Allocations

The FAA estimates that on average it would spend about 80 hours managing each transfer of allocations or 160 hours annually assuming two permanent transfers. Based upon the salary of a GS–13 employee of $39.50/hour, the FAA estimates that cost would be about $6,300 annually, $63,200 over ten years or $44,400, discounted.

In sum, the FAA would incur costs associated with the initial allocation, tracking and monitoring, filing a flight plan, and transfer and termination of allocations. Over the next ten years, FAA costs are expected to be $1,445,900 or $1,016,900, discounted.

C. Summary of Benefits and Costs

Public Law 100–91 was adopted to substantially restore natural quiet and experience in Grand Canyon National Park. The primary intended benefit of this proposed rule is its contribution toward restoring natural quiet and experience in Grand Canyon National Park. The estimated 10-year use benefits (benefits derived from hiking, rafting, or sightseeing) as a result of this proposed rule and the other two accompanying proposed rules would be about $73 million, discounted at seven percent over ten years (about $35 million if this proposed rule is adopted alone). The FAA does not have adequate data to estimate the non-use benefits of aircraft noise reduction at GCNP, but believes this rulmaking may generate significant non-use benefits. Studies cited in the Regulatory Evaluation suggest potentially significant non-use benefits associated with aircraft noise reduction in GCNP as a result of this rulemaking.

The estimated 10-year cost of this proposed regulation would be $179.1 million or $115.6 million discounted. The majority of the costs of this proposed regulation, would be $177.6 million, ($114.6 million, discounted) in projected lost revenue (net of variable operating costs). The estimated 10-year cost of the other provisions to air tour operators which includes (1) reporting four times annually, (2) filing of flight plans, (3) transfer of allocations and (4) requesting modifications and initial allocations is $30,000, or $23,000 discounted. FAA costs include those associated with initial allocations, annual recording and tracking, and transfer of allocations. These FAA costs are estimated at $1,445,900 or $1,016,900, discounted.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities (small business and small not-for-profit government jurisdictions) are not unnecessarily and disproportionately burdened by Federal regulations. The RFA, which was amended March 1996, requires regulatory agencies to review rules to determine if they have ''a significant economic impact on a substantial number of small entities,'' FAA's interim regulatory flexibility policy and guidelines establish threshold costs and small entity size standards for complying with RFA requirements. This guidance defines small entities in terms of size thresholds, significant economic impact in terms of annualized cost thresholds, and substantial number as a number which is not less than eleven and which is more than one-third of the small entities subject to the proposed or final rule.

The Small Business Administration defines small entities to be those airlines with 1,500 or fewer employees for the air transportation industry. For this proposed rule, the small entity group is considered to be operators conducting commercial air tours in the GCNP and having 1,500 or fewer employees. The FAA has identified a total or 25 such entities (24 operators, one of whom operated as a fixed-wing operator as well as a helicopter operator) that meet this definition.

The FAA has estimated the annualized cost impact on each of these 25 small entities potentially impacted by the proposed rule. The proposed rule is expected to impose an estimated total cost of $177.6 million or $114.6 million, discounted over the next 10 years. The annualized cost over ten years is estimated at about $25.5 million for all of the affected entities. The FAA has determined that the proposal would have a significant impact on a substantial number of small entities, and has performed on initial regulatory flexibility analysis. All 25 small entities would incur an economically significant impact.

Under Section 603(b) of the RFA (as amended), each initial regulatory flexibility analysis is required to address these points: (1) reasons why the FAA is considering the proposed rule, (2) the objectives and legal basis for the proposed rule, (3) the kind and number of small entities to which the proposed rule would apply, (4) the reporting, and other compliance requirements of the proposed rule, and (5) all Federal rules that may duplicate, overlap, or conflict with the proposed rule.

1. Reasons Why the FAA Is Considering the Proposed Rule

Public Law 100–91 recognizes that noise associated with ''aircraft overflights'' at the GCNP is causing ''a significant adverse effect on the natural quiet and experience of the park.'' This legislation directed the FAA and NPS to work together to achieve substantial restoration of natural quiet in the GCNP. In order to stabilize noise levels in the SFRA while further noise analysis is conducted, the FAA and NPS believe it is necessary to impose a commercial air tour limitation.

2. The Objectives and Legal Basis for the Proposed Rule

The objective of the proposed rule is to limit commercial air tours in the GCNP SFRA. Commercial air tours conducted by certificate holders in the SFRA are not to exceed the amount of air tours reported in accordance with current section 93.317 for the period from May 1, 1997 through April 30, 1998.

The legal basis for the proposed rule is found in Public Law 100–91, commonly known as the National parks Overflights Act. Public Law 100–91 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 has raised serious concerns regarding public safety, including concerns regarding the safety of park users.'' Further congressional direction is discussed in the history section of the full regulatory evaluation.

3. The Kind and Number of Small Entities to Which the Proposed Rule Would Apply

The proposed rule applies to 24 potentially affected part 135 and 121 commercial air tour operators, each having 1500 or fewer employees. The FAA estimates that all 24 of these operators (25 entities) would be impacted by the proposal.

4. The Projected Reporting and Other Compliance Requirements of the Proposed Rule

Each of the 24 operators affected by this proposal would need to comply with certain reporting and

recordkeeping requirements. Certificate holders conducting commercial air tours in the GCNP SFRA would complete a flight plan for each flight. The FAA estimates this compliance effort would occur at the beginning of a flight and would impose an additional one to five minutes on the part of the certificate holder per operation for each of the 25 small entities during each year of compliance, for a total of 10,956 hours annually. This estimate is limited to compliance associated with commercial air tours.

Certificate holders conducting commercial air tours would need to report quarterly to the FAA certain information on the total operations conducted in the GCNP SFRA to the FAA. The FAA estimates that this compliance effort would take place four times per year (one additional time compared to the existing rule) and would impose an additional 50 hours of labor on the industry annually. This provision would cause an operator, regardless of the number of aircraft, to expend an additional two hours of labor annually (including record maintenance).

The initial assigned allocation could involve operator requests for modifications in some instances that the FAA estimates would impose about 80 hours total the first year on five operators. The FAA estimates that the paperwork burden to each of these operators would be about 16 hours (see earlier discussion).

Finally, the FAA expects that two operators would enter the industry and would leave the industry through mergers, acquisitions or bankruptcies. The FAA estimates that two operators would spend about 32 hours annually.

Excluding the provisions that impose a one-time burden (initial allocations would affect five operators the first year annually; 80 hours total), each certificate holder would have imposed an additional annual reporting burden on average of 581 hours of labor. This estimate, however, is highly dependent upon how many aircraft and how many operations the certificate holder flies per year. For a period of 10 years, a total of approximately 143,750 hours would be spent.

5. All Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

The FAA is unaware of any federal rules that either duplicate, overlap, or conflict with the proposed rule. The FAA welcomes comment on this.

6. Affordability Analysis

For the purpose of this Initial Regulatory Flexibility Analysis, an affordability analysis is an assessment of the ability of small entities to meet costs imposed by the proposed rule. There are two types of costs imposed by the rule—(1) out-of-pocket costs (actual expenditures) associated with certain documentation and (2) loss of potential future operating revenue above current levels associated with a freeze in the level of operations. This latter burden may be significant to financial viability for companies that depend on growth in operating revenue to provide cash needed to meet long-term obligations such as equipment purchase loans.

An operator's short-run financial strength is substantially influenced, among other things, by its working capital position and its ability to pay short-term liabilities. Unfortunately, data is not available on the amount of working capital that these operators have to finance changes in short term costs.

There is an alternative perspective to the assessment of affordability based on working capital of the proposed rule. The alternative perspective pertains to the size of the annualized costs of the proposed rule relative to annual revenues. The lower the relative importance of those costs, the greater the likelihood of implementing either offsetting cost saving efficiencies or raising fares to cover increased costs without substantially decreasing passengers.

This analysis assesses affordability by examining the annualized cost of compliance relative to an estimate of total Grand Crayon commercial air tour operating revenues for each of the 25 small entities. (Note: There are 24 operators covered by this rule, but one operator conducts helicopter operations under one business entity and airplane operations under another separate business entity.) The annualized change in net operating revenues corresponds to foregoing the anticipated three percent per year growth of undiscounted net operating revenues. This number is relatively constant across all air tour operators because the majority of the negative impact (lost revenues) imposed by this rulemaking is directly related to the number of air tours that are being conducted. For these operators, there may be some prospect of absorbing the cost of the proposed rule through fare increases (especially since the cost model does not account for increasing demand with a fixed supply).

It appears that given the current state of the industry, changes in net operating revenues may be offset by increased prices. The limit on air tours would restrict the future supply of Grand Canyon air tours while demand for air tours is expected to increase. No clear conclusion can be drawn with regard to the abilities for small entities to afford the reductions in net operating revenues that would be imposed by this NPRM because the FAA is not able at this time to estimate the amount of revenue increase obtained through price increases. The FAA requests small entities to provide better information supporting this assertion or any alternative.

7. Disproportionality Analysis

The FAA does not believe that reporting requirements imposed by the proposed rule would disadvantage any of the 25 small entities relative to large operators because there are no affected large operators.

The smallest operators are expected to incur some higher costs relative to their size than larger operators do. This is because while all operators have periodic reporting requirements, the smallest operators would not be able to spread their reporting costs across as many operations as the larger operators. Consequently, the periodic reporting requirements would be proportionately greater for the smallest operators compared to the other small operators. However, these reporting costs are a relatively small portion of the economic impact of this rulemaking. As a result this cost disadvantage to the small operators is not expected to be significant.

8. Competitiveness Analysis

All air tour operators currently operating in the GCNP are small entities. All these operators would be proportionately impacted by the commercial air tour limitation provision of this rulemaking (the limitation has the greatest impact of all provisions of this rulemaking). The small operators would not be put at a disadvantage relative to the larger operators as a result of this provision. There are some paperwork costs that impact each operator equall, regardless of size. In this case the larger operators could have an advantage over the smaller operators since the larger operators could spread these costs among more passengers. However, these particular paperwork costs are small and any relative advantage that the larger operators could have as a result of the paperwork cost would be insignificant.

This proposed rulemaking has one feature that impacts competitiveness. The operation limitation would protect established operators from competition from wholly new entrants. Under this proposed rule, a new entrant could conduct commercial air tours in the GCNP SFRA only if it were able to purchase allocations from another operator and satisfy all other requirements of the Federal Aviation Regulations. Thus, the potential maximum number of air tours conducted in the GCNP SFRA would not change.

The FAA solicits comments on this matter. Specifically, commenters are asked to provide information on the impact this proposed rule would have on the continued ability of small airlines to compete in the existing market. The FAA requests that supporting data on markets and cost be provided with the comments.

D. Summary of Costs of Compliance

The estimated 10-year cost of the proposed regulation, which divides the year into a five-month peak season and a seven-month off-peak season would be $177.6 million, ($114.6 million, discounted) in lost revenue (net of variable operating costs). The estimated 10-year cost of the non-operators alternatives which includes (1) Reporting four times annually, (2) filing of flight plans, (3) transfer of allocations and (4) requesting modifications to initial allocations is $30,000, or $23,000 discounted. In sum, the estimated 10-year cost to air tour operators as a result of this proposed rule would be $178.4 million or $115.2 million, discounted.

FAA costs include those associated with initial allocations, annual recording and tracking, transfer and terminations of allocations, and filing of flight plans. These FAA costs are estimated at $1,445,900 or $1,016,900, discounted. In sum, the FAA estimates that the 10-year cost of this proposed rule would be $179.1 million or $115.6 million discounted.

E. International Trade Impact Assessment

The FAA has determined that the rulemaking would not affect non-U.S. operators of foreign aircraft operating outside the United States nor affect U.S. trade. It could, however, have an impact on commercial air tours at the GCNP, much of which includes foreign tourists.

The United States Air Tour Association estimates that 60 percent of all commercial air passengers in the United States are foreign nationals. The Las Vegas FSDO and some operators, however, believe this estimate to be considerably higher at the Grand Canyon, perhaps as high as 90 percent. To the extent the proposed operational limitation rulemaking dampens foreign visitor demand for commercial air tours of the Grand Canyon, the commercial air tour industry could potentially experience an additional loss of revenue beyond what is expected as a result of the operations limitation.

The FAA is unable to determine the loss of commercial air tour revenue that might result from lowered foreign demand for commercial air tours at GCNP for reasons unrelated to this proposed rulemaking.

F. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extend permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1532(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local and tribal governments in the aggregate of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals.

This proposed rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

VI. Federalism Implications

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

VII. Paperwork Reduction Act

This proposal contains the following new information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)).

Proposed § 93.321 would require each operator that receives an allocation from another operator to report the transfer in writing to the Las Vegas Flight Standards District Office before the transferee may use the allocation. Temporary transfers would require FAA notification but no FAA approval. Permanent transfers (mergers, acquisitions, etc.) would require FAA notification and FAA approval. The FAA estimates that the cost of the paperwork burden associated with initial allocations would be $450 (a one-time cost during the first year only). The FAA estimates that there would be approximately two permanent transfers per year at a total cost per year of $720.

Proposed § 93.323 would require each of the affected commercial air tour operators to file a visual flight rules (VFR) flight plan for each flight and list the purpose of the flight in the ''remarks'' section. There would be no requirement for the operator to keep a copy of the flight plan nor for the pilot to carry a copy of the flight plan during flight. The flight plan could be ''canned'' so that it would be on file and could be activated easily. Computations assume that all air tour operators would use ''canned'' flight plans. Opening and closing flight plans would be part of the normal duties of a pilot, a dispatcher, or other person designated by the certificate holder. The FAA estimates that filing of flight plans with an FAA Flight Service Station and activation of these flight plans for each flight would require 368 hours per year at a cost of $8,280.

Proposed § 93.325 would require each operator to report to the FAA on a quarterly basis. This would increase the existing reporting requirement by one report per year. It would also add the make and model of aircraft and further divides flights into segments based on departure airports. The previous requirement (93.317) was only for sightseeing flights. The proposed rule would require all flights in the Special

flight Rules Area, which includes transportation flights, repositioning flights, maintenance ferries, and training/proving flights. The quarterly aspect of reporting is at the operators' request. Existing § 93.317 requires reporting three times per year. The operators expressed a preference for quarterly reporting as this more closely matches how they do business and report to other government entities. The FAA estimates that this additional burden will require 46 hours per year at a cost of $1,035 for all operators.

The total estimated annual cost of the paperwork burden for the proposed rule is $10,485.

The agency is soliciting comments to (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other techological collection techniques or other forms of information technology (for example, permitting electronic submission of responses). Individuals and organizations may submit comments on the information collection requirement by September 7, 1999, to the address listed in the **ADDRESSES** section of this document.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The public will be notified of the OMB control number when it is assigned.

List of Subjects

14 CFR Part 93

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

The Proposed Amendment

For the reasons set forth above, the Federal Aviation Administration proposes to amend part 93, chapter 1 of title 14, Code of Federal Regulations, as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. 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.

2. Section 93.303 is revised to read as follows:

§ 93.303 Definitions.

For the purposes of this subpart:

Allocation means authorization to conduct a commercial air tour in the Grand Canyon National Park (GCNP) Special Flight Rules Area (SFRA).

Commercial air tour means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour include, but are not limited to—

(1) Whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

(2) Whether a narrative was provided that referred to areas or points of interest on the surface;

(3) The area of operation;

(4) The frequency of flights;

(5) The route of flight;

(6) The inclusion of sightseeing flights as part of any travel arrangement package; or

(7) Whether the flight in question would or would not have been canceled based on poor visibility of the surface.

Commercial SFRA Operation means any portion of any flight within the GCNP SFRA that is conducted by a certificate holder that has operations specifications authorizing air tours within the GCNP SFRA. This term does not include operations conducted under an FAA Form 7711–1, Certificate of Waiver or Authorization. The types of flights covered by this definition are set forth in the ''Las Vegas Flight Standards District Office Grand Canyon National Park Special Flight Rules Area Procedures Manual'' available from the Las Vegas Flight Standards District Office.

Flight Standards District Office means the FAA Flight Standards District Office with jurisdiction for the geographical area containing the Grand Canyon.

Park means Grand Canyon National Park.

Special Flight Rules Area means the Grand Canyon National Park Special Flight Rules Area.

3. Section 93.305 is amended by revising the last sentence in paragraph (a) and in paragraph (b) to read as follows (Note: The instructions in this amendment refer to § 93.305 as it currently exists. But if adopted, these changes would be made in addition to the changes in Notice No. 99–11 published elsewhere in this issue):

§ 93.305 Flight-free zones and flight corridors.

* * * * *

(a) * * *

(a) * * * This corridor is 2 nautical miles wide for commercial air tour flights and 4 nautical miles wide for transient and general aviation operations.

(b) * * * This corridor is 2 nautical miles wide for commercial air tour flights and 4 nautical miles wide for transient and general aviation operations.

* * * * *

4. Section 93.307 is amended by revising the headings of paragraphs (a)(1) and (b)(1) to read as follows:

§ 93.307 Minimum flight altitudes.

* * * * *

(a) * * *

(1) *Commercial air tours*—

* * * * *

(b) * * *

(1) *Commercial air tours*—

* * * * *

5. Section 93.315 is revised to read as follows:

93.315 Requirements for Commercial Special Flight Rules Area operations.

Each person conducting commercial Special Flight Rules Area operations must be certificated in accordance with Part 119 for Part 135 or 121 operations and hold appropriate Grand Canyon National Park Special Flight Rules Area operations specifications.

§ 93.316 [Removed and reserved]

6. Section 93.316 is removed and reserved.

7. Section 93.317 is revised to read as follows:

§ 93.317 Commercial Special Flight Rules Area operation curfew.

Unless otherwise authorized by the Flight Standards District Office, no person may conduct a commercial Special Flight Rules Area operation in the Dragon and Zuni Point corridors during the following flight-free periods:

(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.

8. Section 93.319 is added to read as follows:

§ 93.319 Commercial air tour limitations.

(a) No certificate holder certificated in accordance with part 119 for part 121 or 135 operations may conduct more commercial air tours in any calendar

year than the number of allocations specified on the certificate holder's operations specifications.

(b) The Administrator determines the number of initial allocations for each certificate holder based on the total number of commercial air tours conducted by the certificate holder and reported to the FAA during the period beginning on May 1, 1997 and ending on April 30, 1998.

(c) Certificate holders who conducted commercial air tours during the base year and reported them to the FAA receive an initial allocation.

(d) Allocations are apportioned between peak season and off-season. Peak season allocations may be used in the off-season, but off-season allocations may not be used in the peak season. For the purposes of this section seasons are defined as follows:

(1) Peak-Season: May 1–September 30
(2) Off-Season: October 1–April 30

(e) A certificate holder must use one allocation for each flight that is a commercial air tour.

(f) Each certificate holder's operation specifications will identify the following information, as applicable:

(1) Total SFRA allocations;

(2) Dragon corridor and Zuni Point corridor allocations;

(3) Peak season allocations for the SFRA; and

(4) Peak season allocations for the Dragon and Zuni Point corridors.

9. Section 93.321 is added to read as follows:

§ 93.321 Transfer and termination of allocations.

(a) Allocations are not a property interest; they are an operating privilege subject to absolute FAA control.

(b) Allocations are subject to the following conditions:

(1) The Administrator will re-authorize and re-distribute allocations no earlier than two years from the effective date of this rule.

(2) Allocations that are held by the FAA at the time of reallocation may be distributed among remaining certificate holders, proportionate to the size of each certificate holder's allocation.

(3) The aggregate SFRA allocations will not exceed the number of operations reported to the FAA for the base year beginning on May 1, 1997 and ending on April 30, 1998.

(4) Allocations may be transferred among Part 135 or Part 121 certificate holders, subject to the following:

(i) Such transactions are subject to all other applicable requirements of this chapter.

(ii) Allocations authorizing commercial air tours outside the Dragon and Zuni Point corridors may not be transferred into the Dragon and Zuni Point corridors. Allocations authorizing commercial air tours within the Dragon and Zuni Point corridors may be transferred outside of the Dragon and Zuni Point corridors.

(iii) A certificate holder must notify in writing the Las Vegas Flight Standards District Office within 10 calendar days of a transfer of allocations. This notification must identify the parties involved, the type of transfer (permanent or temporary) and the number of allocations transferred. Permanent transfers are not effective until the Flight Standards District Office reissues the operations specifications reflecting the transfer. Temporary transfers are effective upon notification of the Flight Standards District Office.

(5) An allocation will revert to the FAA upon voluntary cessation of commercial air tours within the SFRA for any consecutive 180-day period.

(6) The FAA retains the right to re-distribute, reduce, or revoke allocations based on:

(i) efficiency of airspace;

(ii) voluntary surrender of allocations;

(iii) involuntary cessation of operations; and

(iv) aviation safety.

10. Section 93.323 is added to read as follows:

§ 93.323 Flight plans.

Each certificate holder conducting a commercial SFRA operation must file a visual flight rules (VFR) flight plan in accordance with § 91.153. The flight plan must be on file with a FAA Flight Service Station prior to each flight. Each VFR flight plan must identify the purpose of the flight in the ''remarks'' section according to one of the types set forth in the ''Las Vegas Flight Standards District Office Grand Canyon National Park Special Flight Rules Area Procedures Manual'' available from the Las Vegas Flight Standards District Office.

11. Section 93.325 is added to read as follows:

§ 93.325 Quarterly reporting.

(a) Each certificate holder must submit in writing, within 30 days of the end of each calendar quarter, the total number of commercial SFRA operations conducted for that quarter. Quarterly reports must be filed with the Las Vegas Flight Standards District Office.

(b) Each quarterly report must contain the following information:

(1) Make and model of aircraft;

(2) Identification number (registration number) for each aircraft;

(3) Departure airport for each segment flown;

(4) Departure date and actual Universal Coordinated Time, as applicable for each segment flown;

(5) Type of operation; and

(6) Route(s) flown.

Issued in Washington, DC, on July 1, 1999.

L. Nicholas Lacey,

Director, Office of Flight Standards.

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