

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

[Docket No. FAA-1999-5926]

RIN 2120-AG74

Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Delay of effective date.

SUMMARY: On April 4, 2000, the FAA published two final rules for Grand Canyon National Park (GCNP). One rule limited the number of commercial air tour operations in the GCNP Special Flight Rules Area (SFRA); the other modified the airspace of the SFRA. The Commercial Air Tour Limitations final rule was effective on May 4, 2000. The airspace modifications were scheduled to become effective December 1, 2000. On November 20, 2000, the FAA published a final rule delaying the effective date of the Airspace Modification Final Rule until December 28, 2000, so that the FAA could investigate further new safety issues raised by the air tour operators. The FAA has completed its investigation and based on that investigation is delaying the Airspace Modification final rule pending resolution of some safety issues on the east end of the GCNP SFRA. In a companion document in this **Federal Register** the FAA also delays the implementation of the routes in GCNP.

DATES: The final rule Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones, was issued on March 28, 2000, and published in the **Federal Register** on April 4, 2000 (65 FR 17735). It was scheduled to become effective on December 1, 2000. The FAA delayed the effective date of the final rule until December 28, 2000 (65 FR 69846; November 20, 2000). The FAA is now delaying the final rule until April 1, 2001. This action does not affect the Commercial Air Tour Limitations final rule that became effective May 4, 2000.

ADDRESSES: You may view a copy of the final rules, Commercial Air Tour Limitations in the Grand Canyon National Park Special Flight Rules Area and Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones, through the Internet at: <http://dms.dot.gov>, by selecting docket

numbers FAA-99-5926 and FAA-99-5927. You may also review the public dockets on these regulations in person in the Docket Office between 9 and 5, Monday through Friday, except Federal holidays. The Docket Office is on the plaza level of the Nassif Building at the Department of Transportation, 400 7th St., SW., Room 401, Washington, DC, 20590.

As an alternative, you may search the **Federal Register's** Internet site at http://www.access.gpo.gov/su_docs for access to the final rules.

You may also request a paper copy of the final rules from the Office of Rulemaking, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC, 20591, or by calling (202) 267-9680.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**Background**

On April 4, 2000, the Federal Aviation Administration published two final rules, the Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones (Air Space Modification), and the Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area (Commercial Air Tour Limitation). See 65 FR 17736; 65 FR 17708; April 4, 2000. The FAA also simultaneously published a notice of availability of Commercial Routes for the Grand Canyon National Park (Routes Notice). See 65 FR 17698, April 4, 2000. The Commercial Air Tour Limitations final rule became effective on May 4, 2000. The Air Space Modification final rule and the routes set forth in the Routes Notice were scheduled to become effective December 1, 2000. The Final Supplemental Environmental Assessment for Special Flight Rules in the Vicinity of Grand Canyon National Park (SEA) was completed on February 22, 2000, and the Finding of No Significant Impact was issued on February 25, 2000.

On May 8, 2000, The United States Air Tour Association and seven air tour operators (hereinafter collectively referred to as the Air Tour Providers) filed a petition for review of the two final rules before the United States Court of Appeals for the District of Columbia Circuit. The FAA, The Department of Transportation, the Department of Interior, the National

Park Service and various federal officials were named as respondents in this action. On May 30, 2000, the Air Tour Providers filed a motion for stay pending review before the Court of Appeals. The federal respondents in this case filed a motion for summary denial on grounds that petitioners had not exhausted their administrative remedies. The Court granted the federal respondents summary denial on July 19, 2000. The Grand Canyon Trust, the National Parks and Conservation Association, the Sierra Club, the Wilderness Society, Friends of the Grand Canyon and Grand Canyon River Guides, Inc. (The Trust) filed a petition for review of the same rules on May 22, 2000. The Court, by motion of the federal respondents, consolidated that case with that of the Air Tour Providers. The Hualapai Indian Tribe of Arizona filed a motion to intervene in the Air Tour Providers petition for review on June 23, 2000. The Court granted that motion on July 19, 2000.

On July 31, 2000, the Air Tour Providers filed a motion for stay before the FAA. Both the Hualapai Indian Tribe and the Trust filed oppositions to the Air Tour Providers' stay motion. On October 11, 2000, (65 FR 60352) the FAA published a disposition of the stay request, denying the stay. On October 25, 2000, the Air Tour Providers filed a Motion for Stay and Emergency Relief Pending Review of an Agency Order with the Court of Appeals. The federal respondents filed their Opposition to Petitioner's Motion for Stay Pending Review and Notification of Administrative Stay of Route and Airspace Rules on November 2, 2000. The FAA issued an administrative stay of the routes and airspace until December 28, 2000, so that it could further investigate some new safety allegations raised by the Air Tour Providers during the course of litigation.

Agency Action

In the Air Tour Providers' motion filed October 25, 2000, the Air Tour Providers raised some specific safety allegations about the routes in the Dragon Corridor (Green Route 2 and 2R), the routes north of the Zuni Point Corridor (Green 1; Black 1) and east of the Desert View Flight Free Zone (Black 2 and Green 3). These safety issues were not previously understood by the FAA. The FAA has investigated the allegations and determined that additional measures need to be taken with regard to the east end of the GCNP SFRA to ensure the safest routes possible. Because of the interrelationship between the routes and the airspace in the GCNP SFRA, it is

necessary to stay the Airspace Modification final rule pending the resolution of the safety issues. The FAA is staying the Airspace Modification final rule until the east end route issues are resolved. In a parallel change, SFAR 50-2 is reinstated and extended until April 1, 2001; it is republished in this **Federal Register**. The FAA intends on having these issues resolved by or before April 1, 2001.

The FAA intends on implementing the entire route system by spring 2001, in time for summer tour season. In the event the FAA cannot resolve the east end routes in a timely manner, it will likely implement some or all of the west end routes (Blue Direct North, Blue Direct South, Green 4, Blue 2 and the Brown routes as shown on the April 4, 2000 map) by spring 2001. Elsewhere in the **Federal Register**, the FAA publishes a notice delaying the effective date of the routes published on April 4, 2000. Additionally, on December 13, 2000, the FAA published a notice of availability of routes so that interested parties may obtain a copy of a map depicting the proposed modifications to the routes.

Immediate Effective Date

The FAA finds that good cause exists under 5 U.S.C. 553(d) for this final rule to become final rule upon issuance. The FAA and NPS must implement new air tour routes, flight-free zones, and flight corridors at the same time in order to transition to a new operating environment in GCNP. The FAA has determined that because new safety concerns have been raised that need to be investigated further, it is paramount that this rule become effective immediately.

Economic Evaluation

In issuing the final rule for the Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zone, the FAA prepared a cost benefit analysis of the rule. A copy of the regulatory evaluation is located in docket Number 99-5926, Amendment No. 93-80. This delay of the effective date for the final rule will not affect that evaluation, although the delay in the implementation of the FFZs may be temporarily cost relieving for air tour operators.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended, the FAA completed a final regulatory flexibility analysis of the final rule. This extended delay of the effective date will not affect that supplemental analysis.

Federalism Implications

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

Unfunded Mandates Reform Act

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 extent 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. 1534(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, 2 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. The FAA has determined that this rule will not impose any unfunded mandates.

List of Subjects

14 CFR Part 91, 121, 135

Aircraft, Airmen, Aviation safety

14 CFR Part 93

Air traffic control, Airports, Navigation (Air)

Adoption of Amendments

Accordingly, the Federal Aviation Administration (FAA) amends 14 CFR parts 91, 93, 121, and 135 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

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

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

PART 121—[AMENDED]

1a. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.

PART 135—[AMENDED]

1b. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701-44702, 44705, 44709, 44711-44713, 44915-44717, 44722.

2. In Parts 91, 121, and 135, SFAR 50-2 is reinstated and republished, and section 9 is revised. The map that accompanied SFAR 50-2 is not reinstated, but a note regarding its availability is added. The republished, revised, and added text reads as follows:

Special Federal Aviation Regulations

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

Section 1. Applicability. This rule prescribes special operating rules for all persons operating aircraft in the following airspace, designated as the Grand Canyon National Park Special Flight Rules Area: That airspace extending upward from the surface up to but not including 14,500 feet MSL within an area bounded by a line beginning at lat. 36°09'30" N., long. 114°03'00" W.; northeast to lat. 36°14'00" N., long. 113°09'50" W.; thence northeast along the boundary of the Grand Canyon National Park to lat. 36°24'47" N., long. 112°52'00" W.; to lat. 36°30'30" N., long. 112°36'15" W. to lat. 36°21'30" N., long. 112°00'00" W. to lat. 36°35'30" N., long. 111°53'10" W., to lat. 36°53'00" N., long. 111°36'45" W. to lat. 36°53'00" N., long. 111°33'00" W.; to lat. 36°19'00" N., long. 111°50'50" W.; to lat. 36°17'00" N., long. 111°42'00" W.; to lat. 35°59'30" N., long. 111°42'00" W.; to lat. 35°57'30" N., long. 112°03'55" W.; thence counterclockwise via the 5 statute mile radius of the Grand Canyon Airport airport reference point (lat. 35°57'09" N., long. 112°08'47" W.) to lat. 35°57'30" N., long. 112°14'00" W.; to lat. 35°57'30" N., long. 113°11'00" W.; to lat. 35°42'30" N., long. 113°11'00" W.; to 35°38'30" N.; long. 113°27'30" W.; thence counterclockwise via

the 5 statute mile radius of the Peach Springs VORTAC to lat. 35°41'20" N., long. 113°36'00" W.; to lat. 35°55'25" N., long. 113°49'10" W.; to lat. 35°57'45" N., 113°45'20" W.; thence northwest along the park boundary to lat. 36°02'20" N., long. 113°50'15" W.; to 36°00'10" N., long. 113°53'45" W.; thence to the point of beginning.

Section 3. Aircraft operations: general. Except in an emergency, no person may operate an aircraft in the Special Flight Rules Area under VFR on or after September 22, 1988, or under IFR on or after April 6, 1989, unless the operation—(a) Is conducted in accordance with the following procedures:

Note: The following procedures do not relieve the pilot from see-and-avoid responsibility or compliance with FAR 91.119.

(1) Unless necessary to maintain a safe distance from other aircraft or terrain—

(i) Remain clear of the areas described in Section 4; and

(ii) Remain at or above the following altitudes in each sector of the canyon:

Eastern section from Lees Ferry to North Canyon and North Canyon to Boundary Ridge: as prescribed in Section 5.

Boundary Ridge to Supai Point (Yumtheska Point): 10,000 feet MSL.

Western section from Diamond Creek to the Grant Wash Cliffs: 8,000 feet MSL.

(2) Proceed through the four flight corridors describe in Section 4 at the following altitudes unless otherwise authorized in writing by the Flight Standards District Office:

Northbound

11,500 or
13,500 feet MSL

Southbound

>10,500 or
>12,500 feet MSL

(b) Is authorized in writing by the Flight Standards District Office and is conducted in compliance with the conditions contained in that authorization. Normally authorization will be granted for operation in the areas described in Section 4 or below the altitudes listed in Section 5 only for operations of aircraft necessary for law enforcement, firefighting, emergency medical treatment/evacuation of persons in the vicinity of the Park; for support of Park maintenance or activities; or for aerial access to and maintenance of other property located within the Special Flight Rules Area. Authorization may be issued on a continuing basis. (c)(1) Prior to November 1, 1988, is conducted in accordance with a specific authorization to operate in that airspace incorporated in the operator's part 135 operations specifications

in accordance with the provisions of SFAR 50–1, notwithstanding the provisions of Sections 4 and 5; and

(2) On or after November 1, 1988, is conducted in accordance with a specific authorization to operate in that airspace incorporated in the operator's operations specifications and approved by the Flight Standards District Office in accordance with the provisions of SFAR 50–2.

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

(e) Is conducted within 3 nautical miles of Whitmore Airstrip, Pearce Ferry Airstrip, North Rim Airstrip, Cliff Dwellers Airstrip, or Marble Canyon Airstrip at an altitudes less than 3,000 feet above airport elevation, for the purpose of landing at or taking off from that facility. Or

(f) Is conducted under an IFR clearance and the pilot is acting in accordance with ATC instructions. An IFR flight plan may not be filed on a route or at an altitude that would require operation in an area described in Section 4.

Section 4. Flight-free zones. Except in an emergency or if otherwise necessary for safety of flight, or unless otherwise authorized by the Flight Standards District Office for a purpose listed in Section 3(b), no person may operate an aircraft in the Special Flight Rules Area within the following areas:

(a) Desert View Flight-Free Zone. Within an area bounded by a line beginning at Lat. 35°59'30" N., Long. 111°46'20" W. to 35°59'30" N., Long. 111°52'45" W.; to Lat. 36°04'50" N., Long. 111°52'00" W.; to Lat. 36°06'00" N., Long. 111°46'20" W.; to the point of origin; but not including the airspace at and above 10,500 feet MSL within 1 mile of the western boundary of the zone. The area between the Desert View and Bright Angel Flight-Free Zones is designated the "Zuni Point Corridor."

(b) Bright Angel Flight-Free Zone. Within an area bounded by a line beginning at Lat. 35°59'30" N., Long. 111°55'30" W.; to Lat. 35°59'30" N., Long. 112°04'00" W.; thence counterclockwise via the 5 statute mile radius of the Grand Canyon Airport point (Lat. 35°57'09" N., Long. 112°08'47" W.) to Lat. 36°01'30" N., Long. 112°11'00" W.; to Lat. 36°06'15" N., Long. 112°12'50" W.; to Lat. 36°14'40" N., Long. 112°08'50" W.; to Lat. 36°14'40" N., Long. 111°57'30" W.; to Lat. 36°12'30" N., Long. 111°53'50" W.; to the point of origin; but not including the airspace at and above 10,500 feet MSL within 1 mile of the eastern boundary between the southern boundary and Lat. 36°04'50" N. or the airspace at and above 10,500 feet MSL within 2 miles of the northwest boundary. The area bounded by the Bright Angel and Shinumo

Flight-Free Zones is designated the "Dragon Corridor."

(c) Shinumo Flight-Free Zone. Within an area bounded by a line beginning at Lat. 36°04'00" N., Long. 112°16'40" W.; northwest along the park boundary to a point at Lat. 36°12'47" N., Long. 112°30'53" W.; to Lat. 36°21'15" N., Long. 112°20'20" W.; east along the park boundary to Lat. 36°21'15" N., Long. 112°13'55" W.; to Lat. 36°14'40" N., Long. 112°11'25" W.; to the point of origin. The area between the Thunder River/Toroweap and Shinumo Flight Free Zones is designated the "Fossil Canyon Corridor."

(d) Toroweap/Thunder River Flight-Free Zone. Within an area bounded by a line beginning at Lat. 36°22'45" N., Long. 112°20'35" W.; thence northwest along the boundary of the Grand Canyon National Park to Lat. 36°17'48" N., Long. 113°03'15" W.; to Lat. 36°15'00" N., Long. 113°07'10" W.; to Lat. 36°10'30" N., Long. 113°07'10" W.; thence east along the Colorado River to the confluence of Havasu Canyon (Lat. 36°18'40" N., Long. 112°45'45" W.) including that area within a 1.5 nautical mile radius of Toroweap Overlook (Lat. 36°12'45" N., Long. 113°03'30" W.); to the point of origin; but not including the following airspace designated as the "Tuckup Corridor": at or above 10,500 feet MSL within 2 nautical miles either side of a line extending between Lat. 36°24'47" N., Long. 112°48'50" W. and Lat. 36°17'10" N., Long. 112°48'50" W.; to the point of origin.

Section 5. Minimum flight altitudes. Except in an emergency or if otherwise necessary for safety of flight, or unless otherwise authorized by the Flight Standards District Office for a purpose listed in Section 3(b), no person may operate an aircraft in the Special Flight Rules Area at an altitude lower than the following:

(a) Eastern section from Lees Ferry to North Canyon: 5,000 feet MSL.

(b) Eastern section from North Canyon to Boundary Ridge: 6,000 feet MSL.

(c) Boundary Ridge to Supai (Yumtheska) Point: 7,500 feet MSL.

(d) Supai Point to Diamond Creek: 6,500 feet MSL.

(e) Western section from Diamond Creek to the Grand Wash Cliffs: 5,000 feet MSL.

Section 9. Termination date. Sections 1. Applicability, Section 4, Flight-free zones, and Section 5. Minimum flight altitudes, expire on 0901 UTC, April 1, 2001.

Note: An informational map of the special flight rules areas defined by SFAR 50–2 is available on the Office of Rulemaking's website at <http://www.faa.gov/avr/armhome.htm>. A paper copy is available from the Office of Rulemaking by calling Linda Williams at (202) 267–9685.

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

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

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

§§ 93.305, 93.307 [Delayed]

4. Sections 93.305 and 93.307 published on December 31, 1996 (61 FR 69330), corrected at 62 FR 2445 (January 16, 1997), and delayed at 65 FR 5397 (February 3, 2000) and made effective December 1, 2000 in a rule published on April 4, 2000 (65 FR 17736) and delayed until December 28, 2000 (65 FR 69846, November 20, 2000) are further delayed until April 1, 2001.

§§ 93.301, 93.305, 93.307, 93.309 [Delayed]

5. The amendments to Section 93.301, 93.305, 93.307 and 93.309 published on April 4, 2000 (65 FR 17736) and delayed until December 28, 2000 (65 FR 69846, November 20, 2000) are further delayed until April 1, 2001.

Issued in Washington DC, on December 28, 2000.

Jane F. Garvey,

Administrator.

[FR Doc. 00–33457 Filed 12–28–00; 4:08 pm]

BILLING CODE 4910–13–P