

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

[Docket No. 28537; Amendment Nos. 92–255, 93–75, 121–267, 135–71]

RIN 2120–AG54

**Special Flight Rules in the Vicinity of Grand Canyon National Park****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final Rule; request for comments.

**SUMMARY:** On February 26, 1997, the FAA delayed the implementation of certain provisions of the December 31, 1996 final rule, Special Flight Rules in the Vicinity of Grand Canyon National Park. That final rule codified the provisions of Special Federal Aviation Regulation (SFAR) No. 50–2, Special Flight Rules in the Vicinity of Grand Canyon National Park (GCNP); modified the dimensions of the GCNP Special Flight Rules Area (SFRA); established new and modified existing flight-free zones; established new and modified existing flight corridors; established reporting requirements for commercial sightseeing companies operating in the SFRA; prohibited commercial sightseeing operations in certain areas during certain time periods; and limited the number of aircraft that can be used for commercial sightseeing operations in the SFRA. Specifically, the February 1997 action delayed the effective date for the new and modified flight-free zones, SFRA modification, and corridors portion of the final rule and reinstated portions of and amended the expiration date of SFAR No. 50–2. However, that action did not affect or delay the implementation of the curfew, aircraft restrictions, reporting requirements or other portions of the rule. This action further delays the effective date for the flight-free zones, SFRA modification, and corridors portions of the December 31, 1996, final rule until January 31, 1999, and extends the expiration date of SFAR 50–2 until 0900 UTC January 31, 1999. This action is necessary to allow the FAA time to establish a route structure for the GCNP.

**DATES:** The effective date of January 31, 1998, for 14 CFR Sections 93.301, 93.305, and 93.307, is delayed until 0901 UTC January 31, 1999. Section 9 of SFAR No. 50–2 is amended effective January 16, 1998. Comments must be received on or before January 16, 1998.

**ADDRESSES:** Comments should be mailed, in triplicate to: Federal Aviation

Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28537, 800 Independence Ave., SW., Washington, DC 20591. Comments may be sent electronically to the Rules Docket by using the following Internet address 9-nprm-cmts@faa.dot.gov. Comments must be marked Docket No. 28537. Comments may be examined in the Rules Docket in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

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

**SUPPLEMENTARY INFORMATION:****Request for Comments on the Rule**

Although this action is a final rule, and was not preceded by notice and public procedure, comments are invited on the rule. This rule will become effective on the date specified in the **DATES** section. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule, and in determining whether additional rulemaking is required.

**Background**

On December 31, 1996, the FAA published three concurrent actions (a final rule, a Notice of Proposed Rulemaking, and a Notice of Availability of Proposed Commercial Air Tour Routes) in the **Federal Register** (62 FR 69301) as part of an overall strategy to reduce further the impact of aircraft noise on the GCNP environment and to assist the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law 100–91. The final rule amended part 93 of the Federal Aviation Regulations and added a new subpart to codify the provisions of SFAR No. 50–2, modified the dimensions of the GCNP SFRA; established new and modified existing flight-free zones; established new and modified existing flight corridors; and established reporting requirements for commercial sightseeing companies operating in the Special Flight Rules Area. In addition, to provide further protection for park resources, the final rule prohibited commercial sightseeing operations in the Zuni and Dragon corridors during certain time periods, and placed a temporary limit on the number of aircraft that can be used for

commercial sightseeing operations in the GCNP SFRA. These provisions originally were to become effective on May 1, 1997.

Also published was an NPRM, Notice No. 96–15, proposing to establish noise limitations for certain aircraft operating in the vicinity of GCNP. Finally, a Notice of Availability of Proposed Commercial Air Tour Routes for the GCNP was published. This Notice requested comment on the proposed new or modified existing air tour routes, which would complement the final rule affecting the Special Flight Rules in the Vicinity of GCNP.

On February 21, 1997, the FAA issued a final rule that delayed the implementation of certain sections of the final rule (62 FR 8862; February 26, 1997). Specifically, this action delayed the implementation date, until January 31, 1998, of those sections of the rule that address the SFRA, flight-free zones, and flight corridors, respectively sections 93.301, 93.305, and 93.307. In addition, certain portions of SFAR No. 50–2 were reinstated and the expiration date was extended. With the goal to produce the best air tour routes possible, implementation was delayed to allow the FAA and the Department of Interior (DOI) to consider comments and suggestions to improve the proposed route structure. This latter action did not affect or delay the implementation of the curfew, aircraft cap, or reporting requirements of the rule.

On May 15, 1997, the FAA published an NPRM, Notice No. 97–6, and a companion Notice of Availability of Proposed Routes that proposed two quiet technology corridors in GCNP. The first corridor, through the Bright Angel flight-free zone, would be used for quiet technology aircraft only. The second corridor, through National Canyon, would be for quiet technology aircraft for westbound traffic after December 21, 2001.

After certain provisions of the final rule become effective on May 1, the FAA discovered that it had significantly underestimated the number of commercial air tour aircraft operating over the GCNP in 1995. Based on this new information, the FAA reevaluated the economic and environmental analyses completed for the final rule. While the benefits of the final rule, as analyzed with the new information, are less than originally predicted by the FAA, the rule continues to provide benefits in comparison to withdrawing portions of the rule or the rule in its entirety. Since the final rule is one step towards the substantial restoration of natural quiet that will be augmented by further steps, the changes in the

analyses are not of such magnitude as to affect the Agency's position on the implementation of the final rule or the Federal government's overall policy to address the effects of air tour operations in GCNP. An explanation of the new information, along with the reevaluation of the economic and environmental analyses, was published as a Notice of Clarification on October 31, 1997 (62 FR 58898).

Also in the Notice of Clarification, the FAA announced that after discussions with the DOI and NPS, the Agencies jointly agreed to delay the final route selection for commercial air tour operations in the GCNP until the fall of 1998. This delay would permit valuable time for further review and discussions to take place with particular emphasis on the proposed National Canyon corridor.

#### Notice and Comment

Development of the air tour routes is a critical step in the completion of the airspace structure for GCNP and towards achieving NPS's goal of substantially restoring the natural quiet in GCNP. The air tour routes, flight-free zones and flight corridors must be implemented at the same time in order to complete the airspace structure and to provide for the transition to the new operating environment in GCNP. If the FAA were to implement, as scheduled, the airspace portions of the final rule, particularly the expansion of the flight-free zones, without the corresponding new routes, certain air tour routes currently in use would disappear on January 31, 1998. The loss of these air tour routes would force the commercial air tour traffic onto the remaining air tour routes, creating a potentially unsafe operating situation in GCNP. Since the agencies have determined to delay selection and finalization of the air tour routes, the FAA finds that the airspace portions of the final rule, which were to be effective on January 31, 1998, must also be further delayed. In order for the commercial air tour operators conducting operations in GCNP to be made aware of the delay of the implementation of the airspace portions of the final rule and to avoid any confusion that could result in an unsafe operating environment at GCNP, the FAA finds that there is sufficient justification under 5 U.S.C. 553(b) to issue this rule without notice and prior opportunity for comment.

The FAA maintains its past position that the training of pilots on new routes during a peak tourist season could be unsafe. Peak season at GCNP extends approximately from May through October. To eliminate the potential for

unsafe operations within the Park, the FAA has determined that the training should take place in the Park when the volume of air traffic traditionally decreases, i.e., after the summer tourist season. The FAA expects that the new route structure will be completed by the Fall of 1998. For the above reasons, the FAA is delaying implementation of sections 93.301, 93.305, and 93.307 of the December 31, 1996, final rule for a full season, until January 31, 1999, to give the operators sufficient time to train their pilots adequately and safely after the close of the busy summer season. Additionally, the FAA is amending the expiration date for those portions of SFAR No. 50-2 reinstated in the February 26, 1997, final rule until January 31, 1999.

While there is not sufficient time to allow prior notice and comment concerning the FAA decision to delay the January 31, 1998, effective date, comments are invited concerning any other aspect of this rule, including the new implementation date of January 31, 1999.

#### Economic Evaluation

In issuing the final rule for Special Flight Rules in the Vicinity of the GCNP, the FAA prepared a cost benefit analysis of the rule. A copy of the regulatory evaluation is located in docket No. 28537. That economic evaluation was later revised based on new information that showed that the number of aircraft being operated in the GCNP was greater than originally estimated. The reevaluation of the economic data, including alternatives considered, was published in the Notice of Clarification discussed earlier (62 FR 58898). In the notice, the FAA concluded that the rule is still cost beneficial. This extension of the effective date for the final rule will not affect that reevaluation, although the delay in the implementation of the extended FFZs will be cost relieving.

#### 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 analysis was also reevaluated and revised findings were published in the Notice of Clarification referenced above, as a Supplemental Regulatory Flexibility Analysis. This extended delay of the compliance date will not affect that supplemental analysis.

#### Federalism Implications

The amendment set forth herein will not have substantial direct effects on the States, or the relationship between the

national Government and the State, 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 does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Conclusion

The FAA has determined that this regulation imposes no additional burden on any person. Accordingly, it determines that this action: (1) is not a significant action under Executive Order 12866; and, (2) is not a significant action under Department of Transportation Regulatory Policy and Procedures (44 FR 11034). In addition, the FAA certifies that this action, delaying certain provisions of the final rule issued on December 31, 1996, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. However, when ultimately implemented, the final rule will have a significant impact on a substantial number of small entities as described in the Notice of Clarification.

#### List of Subjects

##### 14 CFR Part 91

Aircraft, Airmen, Air traffic control, Aviation safety, Noise control.

##### 14 CFR Part 93

Air traffic control, Airports, Navigation (Air).

##### 14 CFR Part 121

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

##### 14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety.

#### Adoption of Amendments

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

#### PARTS 91, 121 AND 135—[AMENDED]

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

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

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

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

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

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

4. In parts 91, 121, and 135, Special Federal Aviation Regulation No. 50–2, Section 9 is revised to read as follows:

**SFAR 50–2—Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ**

\* \* \* \* \*

Section 9, Termination date. Sections 1. Applicability, Section 4, Flight-free zones,

and Section 5. Minimum flight altitudes, expire on 0900 UTC, January 31, 1999.

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

5. 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.

The effective date of May 1, 1997, for new Sections 93.301, 93.305, and 93.307 published at 61 FR 69330 (December 31,

1996), corrected at 62 FR 2445 (January 16, 1997), and delayed at 62 FR 8862 (February 26, 1997) to be added to 14 CFR Part 93 is delayed until 0901 UTC, January 31, 1999.

Issued in Washington, DC, on December 11, 1997.

**Jane F. Garvey,**

*Administrator.*

[FR Doc. 97–32832 Filed 12–12–97; 11:16 am]

**BILLING CODE 4910–13–M**