

federal register

**Tuesday
February 4, 1992**

Part XI

**Department of
Transportation**

Federal Aviation Administration

**14 CFR Parts 91 and 135
Special Flight Rules In the Vicinity of
the Grand Canyon National Park,
Proposed Rule**

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

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

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

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking; extension of expiration date.

SUMMARY: This proposal would continue for an additional 3 years the effectiveness of the temporary procedures for the operation of all aircraft in the airspace above Grand Canyon National Park up to an altitude of 14,500 feet above mean sea level. The provisions of SFAR 50-2 originally established the flight restriction areas for a period of 4 years to allow the National Park Service (NPS) time to complete studies of the impact of aircraft overflights on the Grand Canyon and to forward its recommendations to the FAA. This proposal would continue the effectiveness of these procedures while NPS studies and analyses are being conducted.

DATES: Comments must be received on or before April 6, 1992.

ADDRESSES: Comments on the proposed rule should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 25149, 800 Independence Avenue SW., Washington, DC., 20591. Comments may be examined in Room 915G weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Melodie De Marr, Air Traffic Rules Branch, ATP-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to comment on this proposed rule by submitting such written data, views, or arguments as they may desire on any portion of the proposal. 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 Rules Docket address

specified above. All comments received, as well as a report summarizing any substantive public contacts with the Federal Aviation Administration (FAA) personnel on this rulemaking, will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments must submit with their comments a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25149." The postcard will be date/time stamped and returned to the commenter. All comments submitted will be available for examination in the Rules Docket both before and after the comment closing date.

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, APA-200, 800 Independence Avenue SW., Washington, DC, 20591; or by calling (202) 267-3484. Requests should be identified by the docket number or the special rule number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On June 5, 1987, the FAA issued SFAR 50-1 (52 FR 22734, June 15, 1987) which established flight regulations in the vicinity of the Grand Canyon National Park.

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

Section 3 of Public Law 100-91 required the Secretary of the Interior to submit to the FAA Administrator recommendations for action necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The recommendations were to provide for substantial restoration of the natural quiet and experience of the Grand Canyon. With limited exceptions, the recommendations were to prohibit the flight of aircraft below the rim of the Canyon and to designate zones that were flight free except for purposes of administration of underlying lands and emergency operations.

Public Law 100-91 further required the Administrator of the FAA to prepare

and issue a final plan for the management of air traffic above the Grand Canyon. The plan was to implement the recommendations of the Secretary without change unless the Administrator determined, after consultation with the Secretary and opportunity for notice and public hearing, that implementing the recommendations would adversely affect aviation safety. In that event, the FAA was required to revise the Department of the Interior (DOI) recommendations to resolve the safety concerns and issue regulations implementing the revised recommendations in the plan.

In December 1987, the Office of the Secretary of the Interior transmitted recommendations to the FAA for an aircraft management plan at the Grand Canyon. The recommendations submitted included both rulemaking and nonrulemaking actions.

On May 27, 1988, the FAA issued SFAR 50-2 (53 FR 20264, June 2, 1988) which revised the procedures for operation of aircraft in the airspace above the Grand Canyon. The rule implemented the preliminary recommendations of the Office of the Secretary of the Interior for an aircraft management plan at the Grand Canyon with some modifications that the FAA initiated in the interest of aviation safety.

Public Law 100-91 also required the DOI to conduct a study, with the technical assistance of the Secretary of Transportation, to determine the proper minimum altitude to be maintained by aircraft when flying over units of the National Park System. The research was to include an evaluation of the noise levels associated with overflights. Before submission to Congress, the DOI is to provide a draft report (containing the results of its studies) and recommendations for legislative and regulatory action to the FAA for review. The FAA is to notify the DOI of any adverse effects these recommendations would have on the safety of aircraft operations. The FAA is to consult with the DOI to resolve these issues. The final report must include a finding by the FAA that implementation of the DOI recommendations will not have adverse effects on the safety of aircraft operations, or, in the alternative, a statement of the reasons why the recommendations will have an adverse effect.

On a continuing basis, the FAA reviews the existing rules and regulations pertaining to flight in the National Airspace System which includes the airspace over national park

units. The rules currently provide for the safety of aircraft by specifying a minimum safe altitude for the operation of aircraft. The FAA will consider specific rule changes relating to aircraft overflights of national park system units, consistent with aviation safety, after completion of the NPS studies on the impact of aircraft overflights and the FAA's receipt of NPS recommendations.

This proposed action would continue the provisions of SFAR 50-2 for another 3 years to allow the NPS to complete studies to assess the adverse impact of aircraft overflights at Grand Canyon National Park and forward its recommendations to the FAA and to Congress. At that time, the FAA will determine the necessity for adjustment of flight restrictions over the Grand Canyon National Park.

Environmental Review

An environmental assessment of SFAR 50-2 and a Finding of No Significant Impact were placed in the rules docket. The environmental assessment concluded that, as a result of the SFAR, certain areas of the Grand Canyon would be subject to less aircraft noise than under existing regulations; and other areas, in particular the Hermits Rest area of the south canyon rim, would be subject to a slight increase in perceived aircraft noise. However, in consideration of the volume of traffic, the altitude of flight routes, and the noise characteristics of the aircraft typically used in canyon flights, the FAA has determined that no significant environmental impact would result from this proposed rule.

Regulatory Evaluation Summary

This action proposes to extend the provisions of SFAR 50-2 for 3 years. SFAR 50-2 was justified based on DOI's December 1987 benefit-cost analysis. Since that SFAR was published as a final rule in June 1988, the FAA has not obtained any information that is contrary to that analysis. In its original benefit-cost analysis, the DOI concluded the cost to air tour operators would be negligible and there would be significant benefits to park resources and visitors. Therefore, the DOI determined that the requirements of SFAR 50-2 would be cost-beneficial. For lack of information to the contrary, the FAA contends that the DOI's negligible cost impact conclusion is still valid. However, a recent review of Docket No. 25149 revealed that one operator stated that his company would incur an additional operating cost of \$150,000 as a result of the original SFAR 50-2 published in 1988. The FAA solicits further comments

on this proposed SFAR concerning additional operating costs imposed on affected operators.

Paperwork Reduction Act

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

International Trade Impact Statement

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

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that all small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires Government agencies to review rules which may have "a significant economic impact on a substantial number of small entities." The small entities potentially impacted by this proposed SFAR represent part 135 air tour operators with nine or less aircraft owned, but not necessarily operated. Based on FAA Order 2100.14A, the FAA's annualized threshold of significant economic impact for each of these small entities is estimated to be \$60,000 (in 1990 dollars.) As a result of adopting the DOI assessment of negligible cost of compliance to the small entities operating over the Grand Canyon, which was published in the cost-benefit analysis for SFAR 50-2 on June 2, 1988, the FAA concludes that this same proposal would not have a substantial economic impact on a substantial number of small entities.

Federalism Determination

The amendment proposed herein will not have substantial direct effects on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. The regulations set forth in this notice will be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, et seq.), which has been construed to preempt state law

regulating the same subject. Therefore, in accordance with Executive Order 12812, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this proposed amendment is not major under Executive Order 12291. In addition, the FAA certified that this proposed amendment, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposed amendment is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11024; February 26, 1979).

List of Subjects in 14 CFR Parts 91 and 135

Aircraft, Aviation safety, Air taxi and commercial operators, Grand Canyon.

The Proposed Special Federal Aviation Regulation

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

PARTS 91 AND 135—[AMENDED]

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

Authority: 49 U.S.C. 1301(?), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (81 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

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

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983).

3. Section 9 of Special Federal Aviation Regulation No. 50-2 is revised to read as follows:

Special Federal Aviation Regulation No. 50-2 Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ

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Section 9. Termination date. This Special Federal Aviation Regulation expires on June 15, 1995.

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Issued in Washington, DC on January 29,
1992.

L. Lane Speck,

*Director, Air Traffic Rules and Procedures
Service.*

[FR Doc. 92-2623 Filed 2-3-92; 8:45 am]

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