



Aircraft Overflights Quarterly Focus - Winter 2004

Air Tour Allocations for the Hualapai Native American Indian Tribe within Grand Canyon National Park Special Flight Rules Area (SFAR) 50-2

Commercial Air Tour Allocations for the Hualapai Nation within SFAR 50-2, Grand Canyon National Park, are excepted by the Federal Aviation Administration (FAA) with the publishing of the **Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area, Final Rule April 4, 2000 (Federal Register Notice Vol. 65, No.65)** (Note: for a full reading of this notice please go to Public section of this web page).

The term "commercial SFRA operations" does not include supply and administrative flights conducted under contract with the Native Americans (Tribes) pursuant to an FAA Form 7711-1, **Certificates of Waiver or Authorization**, or any other flights conducted under FAA Form 7711-1. (See "Definitions," 14 CFR Part 93, § 93.303, and § 93.319 (f) and (g))

Brief History of the Process

In March, 1987 FAA issued special Federal Aviation Regulation (SFAR) No. 50 which established a special flight rules area and other flight regulations in the vicinity of Grand Canyon NP (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.

Later in 1987 Congress enacted Public Law 100-91, commonly referred to as the National Parks Overflights Act. This Act stated, in part, that *"noise associated with aircraft overflights at Grand Canyon NP [was] causing a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at Grand Canyon NP have raised serious concerns regarding public safety, including concerns regarding the safety of park users."*

In 1994, the Department of Interior (DOI) submitted a final report and recommendations to Congress entitled "Report of Effects of Aircraft Overflights on the National Park System." This report recommended numerous revisions to SFAR No. 50-2 in order to substantially restore natural quiet to Grand Canyon NP. One of the recommendations, No.10, incorporated several 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;
- phase-in of noise efficient/quiet technology aircraft;
- temporal restrictions ("flight-free" time periods (later to be called "curfews"));
- 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 National Park Service (NPS) in coordination with the FAA.

In December 1996, 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-Zuni Point corridors
- reporting requirements, and
- a cap on the number of "commercial sightseeing" aircraft that could operate in the SFRA.

This final rule (61 FR 69302) was issued concurrently with a Notice of Proposed Rule making (NRPM) regarding *Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon NP*; a *Notice of Availability of Proposed Commercial Air Tour Routes for Grand Canyon National Park and Request for Comments*; and an *Environmental Assessment*.

Exception of Commercial Air Tour Allocations for the Hualapai Indian Tribe (Note: from FAA Federal Register Notice 65, No. 65, April 4, 2000)

During the comment period for the NEPA Environmental Assessment (EA) process accompanying the final rule, the Grand Canyon Resort Corporation (GCRC), representing the economic interests of the Hualapai Nation, submitted comments illustrating how any freeze on the number of operations [commercial air tour] would "cost the Hualapai Nation millions of dollars in lost revenue." The GCRC would stand to lose "approximately \$3.5 million dollars" over a two year period, and the action was viewed by the GCRC as "tantamount to shutting down a sovereign tribal nation."

FAA and NPS recognized that as Federal agencies they owe a general trust responsibility to Native American Tribes or Nations, which includes the Hualapai Nation. Of particular concern is the economic development or self-sufficiency of the American Indian Nation or Tribe. Based on the FAA assessment of the economic impact to the Hualapai tribe from adoption of the proposed final rule, it was determined that "this rulemaking would significantly adversely impact the Hualapai Tribe's economic development and self-sufficiency, thereby triggering the FAA and NPS trust responsibilities."

Although the GCRC flight numbers were not identical to FAA numbers generated from operator's reported data (FAA Form 7711-1), the FAA wrote that "**the FAA and NPS are excepting flights from the commercial air tour allocations requirement when those flights meet the following conditions:**

1. **transit the SFRA along the Blue 2 or Green 4 air tour route**
2. **operate under a written contract with the Hualapai Tribe, and**
3. **have an operations specification authorizing such flights."**

The specific "*conditions for these operations are as follows:*"

[Note- from §H (7), pg. 17715-17719 of the April 2000 Federal Register; and 14 CFR Part 93, § 93.319 (f) and (g)]

1. *The certificate holder conducts its operations in conformance with the routes and airspace authorizations as specified in its GCNP SFRA operations specifications;*
2. *The certificate holder must have executed a written contract with the Hualapai Indian Nation which grants the certificate holder a trespass permit and specifies the maximum number of flights to be permitted to land at Grand Canyon West airport and at other sites located in the vicinity of that airport and operates in compliance with that contract; and*
3. *The certificate holder must have a valid operations specification that authorizes the certificate holder to conduct the operations specified in the contract with the Hualapai Indian Nation and specifically approves the number of operations that may transit the Grand Canyon NP Special Flight Rules Area under this exception."*

The April 2000 Federal Register showed that the number of air tour flights reported by GCRC for 1998 were 14,919. GCRC also projected that by 2001 a total of 32,869 flights would be conducted annually.