

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 93****Docket No. FAA-2001-8690****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:** Final rule.

SUMMARY: On April 4, 2000, the FAA published two final rules regarding commercial air tour operations over Grand Canyon National Park (GCNP). The first rule, Commercial Air Tour Limitation in Grand Canyon National Park Special Flight Rules Area, limited the number of commercial air tour operations that may be flown in the GCNP Special Flight Rules Area (SFRA) on an annual basis. This rule became effective on May 4, 2000. The second rule, Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones, modified the airspace in the SFRA to accommodate a new route system for commercial air tour operations and to expand the amount of overall airspace protected by flight free zones. This rule initially was scheduled to become effective December 1, 2000. After several delays, the new routes and airspace were adopted for the west end of the GCNP SFRA on April 19, 2001. The routes and airspace on the east end of the GCNP SFRA have been delayed several times since the adoption of the final rule. In December 2001, the FAA delayed the east end routes and airspace until February 20, 2003. This rule stays 14 CFR 93.305 (a) and (b) of the Airspace Modification Final Rule for the east end of the GCNP until February 20, 2006.

DATES: Effective February 20, 2003, 14 CFR 93.305 (a) and (b) are stayed until February 20, 2006. This rule was originally published at 61 FR 69330 on December 31, 1996, and amended April 4, 2000 (65 FR 17736).

ADDRESSES: You may view a copy of this final rule, 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>. You may also review the public dockets on this regulation in person in the Docket Office between 9 a.m. and 5 p.m., 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 this final rule.

You may also request a paper copy of this final rule 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: Kent Stephens, Flight Standards Service, (AFS-200) Federal Aviation Administration, Seventh and Maryland Streets, SW., Washington, DC 20591; Telephone: (202) 267-7493.

SUPPLEMENTARY INFORMATION:**Small Business Regulatory Enforcement Fairness Act**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBRFA on the Internet at our site, <http://www.gov/avr/arm/sbreffa.htm>. For more information on SBREFA, e-mail us 9-AWA-SBREFA@faa.gov.

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 (Airspace 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 published concurrently 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 was implemented, effective May 4, 2000. The Airspace Modification final rule and the routes set forth in the Notice of Availability 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.

Following the publication of the final rules, the United States Air Tour Association and seven air tour operators petitioned the United States Court of Appeals for the District of Columbia to review the rules. See *USATA v. FAA, et al.* (Docket No. 00-1201). During the course of this litigation, the USATA raised new safety concerns regarding the new routes in the east end of the GCNP SFRA. As a result, the FAA first delayed implementation of the routes until December 28, 2000 (November 20, 2000; 65 FR 69848) so that it could evaluate the new issues. During this evaluation, the FAA determined that modifications could be made to the routes to enhance safety. On December 13, 2000, the FAA published a second Notice of Availability seeking comment on proposed changes to routes in the east-end of the GCNP SFRA (65 FR 78071). Subsequently, the FAA delayed the implementation of the routes until April 1, 2001. (66 FR 2001, January 4, 2001).

During the comment period for the second Notice of Availability, additional safety concerns were raised regarding the proposed revisions to the east end routes. Consequently, the FAA decided to implement the modifications to the route structure of the GCNP SFRA in two phases. First, on April 19, 2001, the FAA implemented the routes and airspace in the west-end (defined as all areas of the SFRA west of the Dragon corridor) of the GCNP SFRA that originally were published on April 4, 2000. Also, on April 19, 2001, the SFRA boundary in the eastern part of the GCNP SFRA over the Navajo Nation lands was extended five miles to the east. Second, the route structure on the east-end (Dragon Corridor and all airspace east of that Corridor) in the GCNP SFRA was stayed until December 1, 2001, to enable the FAA and NPS to determine what changes should be made in the east end of GCNP. In December 2001, the east end route structure was again stayed until February 20, 2003. (66 FR 63293, December 5, 2001). Accordingly, the routes now flown remain almost exactly as that shown under Special Federal Aviation Regulation (SFAR) 50-2, with only slight modification to certain entry and exit points.

In a case decided on August 16, 2002, (*U.S. Air Tour Association, et al. v. Federal Aviation Administration*, 298 F.3d 997), the U.S. Court of Appeals for the District of Columbia concluded that the FAA's use of an "average annual day" in lieu of "any given day," in