

SUPPORTING STATEMENT

OMB-2120-0653

**Part 93, Subpart U -- Special Flight Rules in the Vicinity
of Grand Canyon National Park**

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Identify the DOT strategic goal that this collection supports.**

Under the authority of Title 49 USC Section 44701, 14 C.F.R. Parts 121 and 135 prescribe the terms, conditions, and limitations that are necessary to ensure safety in air transportation. Section 44702, empowers the Secretary of Transportation to issue air carrier operating certificates and to establish minimum safety standards for air carriers to whom such certificates are issued. Although this collection is contained in 14 C.F.R. Part 93, the entities affected are Part 121 and Part 135 certificated air carriers.

This information collection directly supports the Department of Transportation's strategic goals concerning safety and protection of the human and natural environment as affected by transportation.

In 1987 Congress enacted Public Law (Pub. L.) 100-91, commonly known as the National Parks Overflights Act. Public Law 100-91 stated, in part, that "noise associated with aircraft overflights at GCNP [Grand Canyon National Park] [was] causing a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users." Section 3 of Public Law 100-91 required the Department of Interior (DOI) to submit to the FAA recommendations to protect resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The law mandated that the recommendations provide for, in part, "substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight." This rule seeks to implement National Park Service recommendations to enable the agencies to fulfill the statutory goal. The FAA considered safety and environmental issues during development of this rulemaking package.

2. Indicate how, by whom, and for what purpose the information is to be used.

Each operator seeking to obtain or in possession of an air carrier operating certificate must comply with the requirements of 14 CFR Part 135 or part 121, as appropriate. Each of these operators conducting air tours in the Grand Canyon National Park must additionally comply with the collection requirements for that airspace. The FAA will use the information it collects and reviews to monitor compliance with the regulations and, if necessary, take enforcement action against violators of the regulations. The data collected also serves as the primary source of input into joint FAA/NPS modeling exercises to evaluate progress toward the “substantial restoration of the natural quiet and experience of the park”.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The FAA has encouraged the use of automation by the air carriers and specifically by Grand Canyon air tour operators in this project. Operations Specifications are now automated and issued by FAA. The FAA has issued Grand Canyon allocations via operations specifications. The air tour operators do not have to apply for them. Any reports due from the operators may be sent in hard copy but electronic transmission is encouraged and preferred.

In response to the Government Paperwork Elimination Act (GPEA), 100% of the information may be collected electronically.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in 2 above.

We know of no other agency collecting information from air tour operators at the Grand Canyon National Park prescribing the terms, conditions, and limitations of this collection. This 14 C.F.R. Part 93 information helps the FAA and the National Park Service determine the status of natural quiet and the human experience of the park. This information also protects the public health and safety from adverse effects associated with aircraft overflight. The information collected is only available from the air tour operators and not from any other source.

5. If the collection of information has a significant impact on a substantial number of small businesses or other small entities (item 5 of OMB Form 83-I), describe the methods used to minimize burden.

Those entities reporting already hold part 121 or part 135 air carrier certificates. Whether a small business or large business, these carriers are guided through the administrative requirements by the local district office assigned certificate responsibilities. The same FAA office, the Flight Standards District Office in Las Vegas, Nevada, guides all of the

Grand Canyon operators. The actual operations specifications are automated and the paragraphs issued by the FAA are only those appropriate to a specific carrier's operation. The smaller operators have burdens in proportion to the size of their operation. All of the air tour operators currently operating at the Grand Canyon meet the definition of small entity.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

This rule specifically addresses Public Law 100-91. The law to help restore natural quiet and visitor experience to the Grand Canyon National Park mandates the Federal Aviation Administration (FAA) and the National Park Service to take action. It is necessary for the FAA to develop and maintain a database of air tours conducted in the Grand Canyon in order to evaluate and take any necessary action concerning noise levels while also considering the welfare of the air tour industry, and most importantly, safety. The reporting explained below is conducted four times a year instead of three times a year at the request of the affected operators.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with 5 CFR 1320.5(d)(2)(i)-(viii).

This collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2)(i)-(viii).

8. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any) and on the data elements to be recorded, disclosed, or reported.

A Federal Register notice for public comment was published on November 4, 2008, vol. 73, #214, page 65714. No comments were received. A copy of the notice is attached.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There are no monetary considerations for this collection of information.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Operators have been given no assurance of confidentiality except reference allocations. The number of air tours that an operator may conduct is shown on operations specifications as allocations. The FAA did not report allocations for any individual operator in the rule. Instead, the FAA identified each operator to receive allocations. Certificate holders identified were sent a written notification by certified mail,

return receipt requested, from the FAA informing them of allocations applicable only to them. The allocations of another air tour operator are confidential. The air tour operators may share the information among each other but the FAA will not participate in that process.

11. Provide additional justification for any questions of a sensitive nature such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden for the collection of information.

Each air tour operator conducting commercial air tours at the Grand Canyon National Park (GCNP) has to comply with this collection. Each of these operators meets the requirements of part 119 and holds either a part 135 or a part 121 air carrier certificate with operations specifications allowing air tours at GCNP. Air carrier application, certification, and various ongoing burdens are covered in OMB-2120-0593 for part 119, OMB-2120-0039 for part 135, and OMB-2120-0008 for part 121. This document identifies additional requirements specifically for those air carriers operating commercial air tours at the GCNP. The FAA originally identified 24 operators conducting approximately 140,000 flights in the Grand Canyon Special Flight Rules Area (SFRA) during the May 1, 1997-Apr 30, 1998 base year, 90,260 of which were commercial air tours. In 2004, the last time this information was reported, 15 operators conducted approximately 98,000 flights in the SFRA of which 53,000 were commercial air tours. As of 2008, the most recent year for which the FAA has a full year's worth of reporting, 13 operators conducted approximately 104,000 flights in the SFRA of which 57,000 were commercial air tours.

Costs are based on the paper work burden being done by a Director of Operations or equivalent staffer earning approximately \$40.00 per hour exclusive of benefits.

Section 93.321 Allocations:

The term "allocation" means the authorization to conduct a commercial air tour in the Grand Canyon National Park Special Flight Rules Area. Each operator received one allocation for each air tour conducted during the base year of May 1, 1997 to April 30, 1998. The total number of allocations allowed is documented on the specific operator's operations specifications. Operations Specifications are automated documents completed by the FAA. There are temporary transfers and permanent transfers of allocations allowed in the rule. A temporary transfer would require FAA notification but no FAA approval. A temporary transfer typically involves covering a flight on behalf of another operator when bookings exceed available equipment, or when the rate of bookings, if continued, is forecast to exceed the operator's allocation total for the year. A permanent

transfer such as might result from mergers, acquisitions, or bankruptcies would require FAA notification and FAA approval. The FAA revises the Operations Specifications for the affected operator reference any permanent transfers. The FAA assumes any operator costs associated with temporary transfers to be incidental. It was not known how often operators would transfer allocations permanently in a year and the FAA estimated two (2). The average number of permanent allocations transferred has been reduced to 0.5 annually from the end of 2004 thru 2008, and this average will likely fall further as most of the consolidation has now occurred.

Permanent transfers:

0.5 operators x 24 hours each x \$40.00 = 12 hours and 480.00 per year

§ 93.323 Flight Plans:

Each of the affected commercial air tour operators must file a visual flight rules (VFR) flight plan each flight and list the purpose of the flight in the “remarks” section. There is no requirement for the operator to keep a copy of the flight plan or for the pilot to carry a copy of the flight plan during flight. Originally the FAA planned to develop a carbonized and serialized form to track air tour activity. The operator would have filled out a form for each flight and a copy would have been carried on-board the flight. The on-board copy would be to show any FAA inspector who happened to be doing a ramp inspection. The three copy form would be distributed: one copy with the pilot on-board the flight, one copy kept for 12 months at the operator’s business address, and one copy enclosed with the quarterly report (discussed below). The FAA found the development, filling and use of the three copy form to be too cumbersome, and therefore, adopted the filing and recording of the VFR flight plan as preferable for providing a redundant collection system to track air tour operations inside the SFRA.

The FAA had envisioned use of the flight plan to further track air tour operations in the GC SFRA because the flight plan is a short form already developed and familiar to all pilots/operators that is filed free of charge with a FAA Flight Service Station. The flight plan can also be “canned” so that it is on file and may be activated easily. Because a FAA Flight Service Station would share flight plan information with a FAA inspector, the inspector would initiate any flight plan research. From early 2000 thru 2003, the flight plans provide a redundant database of information for monitoring flight activity at GCNP.

During the 2000-2003 time frame, the FAA had assumed that all computations estimating the cost of this system would be based on all air tour operators using “canned” flight plans. The FAA had estimated that it would take the average air tour operator 2 days (16 hours) to prepare the “canned” flight plans. The flight plans were thusly developed and because the FAA did not change the routes, the “canned” flight plans remained unchanged. For the last OMB report, the FAA estimated one 16 - hour period to cover any changes to the fleet and the cost burden of § 93.323 was adjusted downward accordingly. The opening and closing of flight plans were considered to be part of the normal duties of a pilot, a dispatcher, or other person designated by the certificate holder.

Initial certification of each affected air tour operator as an air carrier was assumed to have been completed.

In 2004, the FAA began to close down its Flight Service Stations, one of the first of which was Reno, NV that serviced the GC operators situated in Las Vegas, NV. Thus, § 93.323 ceased to be relied on to provide additional GC commercial air tour information no further cost was to be estimated.

0 hours x \$40.00 = 0 hours and \$ 0.00 per year

§ 93.325 Quarterly Reporting:

Each of the affected air tour operators must report in writing (electronic transmission encouraged and preferred) to the FAA on a quarterly basis. This requirement adds the make and model of aircraft and further divides flights into segments based on departure airports. The previous requirement (§93.317) was only for sightseeing flights. Now the requirement is to include all flights in the Special Flight Rules Area to include transportation flights, repositioning flights, maintenance ferries, and training/proving flights. This report is a quarterly summary of the flight plans. The “quarterly” aspect of reporting is at the operator’s request. Section 93.317 required reporting “within 30 days after April 30, August 31, and December 31, of each year, for the prior 4 month period”. The operator’s told us that it is easier for them to report quarterly since that more closely matches how they do business and report to other government offices. So now they will report to FAA 4 times a year instead of 3 times a year.

2.0 hours per operator per year x 13 operators x \$40.00 = 26 hours and \$1040.00

SUMMARY OF BURDEN

<u>Section</u>	<u>Hours per Year</u>	<u>Cost Per Year</u>
93.321 Allocations	12	\$ 480
93.323 Flight Plans	0	\$ 0
93.325 Quarterly Reporting	<u>26</u>	<u>\$1,040</u>
<i>Totals</i>	<i>38</i>	<i>\$1,520</i>

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

There are no additional costs not already included in question 12.

14. Provide estimates of annualized cost to the Federal Government.

The employee relocated to the Las Vegas Flight Standards District Office has been transferred back to FAA headquarters. The employee occupying this position is responsible for the full range of duties associated with 14 CFR §93.317-§93.325. These include but are not limited to the on-going collecting and analysis of GC air tour operational data; continued data base development; creation of tabular information to address a variety of issues (many newly emerging); oversight and monitoring of the allocation system; and the providing of staff support and representation of the FAA at all Grand Canyon Working Group (stakeholders) meetings and interagency meetings with the National Park Service (NPS). These responsibilities account for about 80 percent of the analyst's time. The other 20 percent is devoted to addressing the requirements (data and data base development, operational, and otherwise) of 14 CFR Part 136, Subpart B-- National Park Air Tour Management. This also includes FAA staff support representation at semi-annual National Parks Overflights Advisory Group (NPOAG) and various park Air Tour Management Plan(s) meetings, when possible. The grade level is upper GS-14 (\$120,000).

80 percent of \$120,000 = \$96,000 annually.

At this time, other work demands in Las Vegas and in FAA Headquarters, Washington, D.C. are anticipated to be within the routine administrative, regulatory, and operational functions of the FAA.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

Industry consolidation has led to a further reduction in the number of air-tour operators conducting commercial air tours in Grand Canyon National Park. This, in turn, has led to a commensurate reduction in the number of reporting hours required each quarter. Furthermore, with a maturing industry, fewer permanent transfer requests are being filed resulting in an additional reduction in hours expended. Finally, with the phase out of the flight plans as a redundant reporting system, more reporting hours have been freed up for other operator use. Thus, the aggregate burden in annual hours has dropped from 94 hours in 2004 to 38 hours in 2008.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There is no publication plan.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We are not seeking such approval.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.

There are no exceptions to Item 19, OMB Form 83-1.

Attachments:

1. Supporting Statement
2. 60-Day Notice
3. 30-Day Notice
4. National Parks Overflights Act
5. 49 USC 44701
6. 14 CFR Part 121
7. 14 CFR Part 135