

National Parks Overflight Advisory Group (NPOAG)
Draft Meeting Summary
October 18 and 19, 2017
Federal Aviation Administration (FAA) Western-Pacific Region
15000 Aviation Boulevard,
Lawndale, CA 90261

Action Items

1. National Park Service (NPS) and FAA: Sign Federal Register notice that contains the 2017 Exempt Park List (parks with 50 or fewer reported tours), and share this Federal Register notice with NPOAG
2. NPS: Share the letters to FAA describing the removal of Mt. Rainier, Death Valley and Canyon de Chelly from the Exempt Parks List with NPOAG.
3. FAA: Follow up efforts to engage with remaining air tour operator currently not participating in voluntary air tour management agreement (agreement) at Glen Canyon
4. NPOAG: Respond to agencies if interested in joining subgroup working on improving operator reporting timeliness
5. FAA: Provide map of Flight Standards Offices (FSOs) to NPOAG and information about how to report noncompliant flights to the FSDO.
6. NPS: Add a component to National Parks Air Tour Management Act (NPATMA) handbook that defines 'park resources' that may be potentially impacted
7. FAA and NPS: Meet together regarding enforcement and compliance issues

Appendix List

Appendix 1: Attendees List

Appendix 2: Reporting Information for Commercial Air Tour Operations over National Park Units, 2016 Annual Report

Appendix 3: Exempt Park List Federal Register Notice

Appendix 4: Reported Commercial Air Tours 2013-2016 and IOA

Appendix 5: Dick Hingson statement to the minutes on park prioritization

Appendix 6: PEER Law Suit

Appendix 7: Public written comments

Day 1

Welcome and Introductions

Dennis Roberts, FAA Regional Administrator, welcomed attendees to the Western Pacific Regional Office. Administrator Roberts joined FAA 14 years ago, and has served in his current role since February 2017. Previously, he served as Regional Administrator in Atlanta and Seattle.

Ray Sauvajot, NPS Associate Director for Natural Resource Stewardship and Science, also welcomed attendees. NPS engages in air tour management in order to maintain park values while allowing members of the public to access parks.

NPOAG members and other attendees introduced themselves (see Appendix 1: Attendees).

Introduction to NPOAG

Keith Lusk, FAA, gave an overview of NPOAG. The National Parks Air Tour Management Act (NPATMA) was passed on 2000, with amendments in 2012. NPATMA required NPOAG to be assembled as a balanced advisory group comprising representatives from general aviation, commercial air tour operators, tribes and environmental interests. FAA and NPS are ex officio members of NPOAG. The chairmanship rotates annually between FAA and NPS. In 2017, NPS is the chair. NPOAG advises agencies on implementation of NPATMA, quiet technology issues, measures that are taken to accommodate the interests of visitors to parks, and anything requested by agencies. Terms of NPOAG members are three years. Open seats are advertised in the Federal Register. The next seat that will become open is Leigh Kuwanwisiwma's seat (a tribal seat), which ends in April 2018. NPOAG meets at least once a year. The meetings can be remote or in-person. Meeting minutes are approved by agencies and NPOAG before being made public.

Agency Priorities

Ray Sauvajot, NPS, noted that the mission of NPS is to preserve and protect the resources of the national parks in a way that allows for continued enjoyment by the public in perpetuity, as outlined in the Organic Act of 1916. The Natural Resources Science and Stewardship Directorate provides leadership and oversight across NPS to advance that mission. NRSS develops and implements air tour policy through the Natural Sounds and Night Skies Division. NSNSD's staff provides support for parks on air tour and sound issues and support for park relationships with operators and FAA. NSNSD administers the air tour programs in NPATMA collaboratively with FAA. NSNSD advances and develops collaborative air tour management solutions with FAA, operators, and other stakeholders. A specific priority is to develop agreements.

Within the Department of Interior (DOI), NPS reports to Secretary Zinke. There is not yet an appointed director of NPS. NPS's work remains statutorily and legislatively established and air tour priorities have not changed with the change in presidential administrations. The current administration is very focused on relationships with local communities and stakeholders, and interested in understanding access to public lands and national parks, and the experiences that the public has when visiting national parks.

Dennis Roberts, FAA, noted that as the Western Pacific Regional Administrator, he is responsible for California, Arizona, Nevada, Hawai'i, and Pacific territories. Each Regional Administrator is assigned specific areas of emphasis, one the Western Pacific Regional leads is FAA's management of air tours nationwide. Within FAA, several lines of business have been consolidated into headquarters. Western Pacific Region works as a horizontal integrator to make sure the various FAA lines of business are talking to each other and to stakeholders.

FAA seeks to collaborate with all stakeholders and to make sure that all voices are heard. FAA frequently makes use of roundtables, local organizations sponsored by a local airport or agency. For example, the

Hawai'i Department of Transportation (HDOT) will sponsor a roundtable on helicopter air tours on the Big Island in Hawai'i.

FAA is currently operating under an authorization that is good through April 2018, and a continuing resolution that extends their budget until early December 2017. FAA's Administrator has a five-year term; FAA will get a new Administrator the first week of January 2018.

FAA focuses on safety, and is proud that the US has the safest air transportation system in the world. People may get frustrated with FAA's methodical approach, but the agency strives to keep safety and unintended consequences in the forefront of their priorities.

FAA's four primary strategic initiatives are:

- risk-based decision making, evaluating risks vs rewards for regulatory action
- moving to satellite technology for the navigational system, away from the ground-based system
- global leadership, recognizing that aviation has no borders
- building the workforce of the future, through recruitment, new skillsets, new management, and leadership styles

Air Tour Reporting and Interim Operating Authority (IOA)

Brent Lignell, NPS, noted that when NPATMA was established, it allowed for air operators who were already conducting air tours to be granted IOA by FAA. IOA authorizes operators to conduct tours before an air tour management plan or agreement is put in place. NPATMA was amended in 2012 to require operators with IOA to submit reports detailing their air tour operations to FAA and NPS. This requirement was due to recognition of a lack of information about air tour activity over national parks. The Government Accountability Office (GAO) recommended the air tour reporting requirement in order to ascertain what was actually taking place over parks and give the agencies the information needed to make decisions.

Brent Lignell reviewed the data for 2016 (see Appendix 2: Reporting Information for Commercial Air Tour Operations over National Park Units, 2016 Annual Report). The data are based on reports that the operators submit to FAA and NPS. NPS compiles and releases the data to the public. The reports include the 81 parks where operators have IOA or authority through agreements. All commercial air tour flights should be reported.

- 9 park units account for 93% of all tours nationwide.
- 19 parks had more than 50 tours.
- 61 NPS units had 50 or fewer reported tours, which makes these units eligible for an exemption from a requirement to prepare an air tour management plan or agreement. If a park has 50 or fewer reported flights, NPS and the regional office lets that park know they can decide if they want to become or stay exempt. If the park feels that their management issues require an agreement or air tour management plan, the park, regional office, and NSNSD will work together on a park-specific rationale based on factors like impacts to soundscapes, wilderness, cultural resources, and visitor use. The rationale for withdrawing the park from the exempt park list is not a published document but it can be made available. To date, Mt. Rainier and Death Valley are the parks that have been withdrawn from exemption (i.e., they require air tour management despite

having than 50 or fewer flights). Martin Begaye, Navajo Nation, noted that Canyon De Chelly National Monument does not have more than 50 flights, but people live there and complain about the noise and disruption to livestock from flights that go over. Visitors also notice the flights from the overlooks. Karen Trevino, NPS, responded that NPS and FAA would shortly sign a Federal Register notice indicating that NPS has withdrawn Canyon de Chelly from the exempt list.

- 27 parks had between 1 and 50 tours.
- 34 parks had 0 reported tours.
- The current system-wide IOA is 195,699. This number reflects the revocation of interim operating authority from 25 air tour operators in 2016 who had expired certificates or were no longer in business.

Keith Lusk added that the list of parks with air tours is based on where operators applied for IOA after NPATMA was passed. The list does not include Grand Canyon (covered by separate legislation), Alaska parks (exempt from NPATMA), Rocky Mountain National Park (prohibits air tours), or parks with no IOA. Parks could be added back to this list if a new entrant applied for flights and was granted those flights by the agencies.

Alan Stephen, Papillion and Grand Canyon Airlines, reminded the NPOAG members that flights over Lake Mead for transportation purposes are not counted as air tour flights. Some operators meet the legal definition of transportation, but some operators are noncompliant and fly air tours without IOA. IOA reports are only as good as the operators reporting. Keith Lusk, FAA, noted that operators are welcome to notify FAA of any noncompliant operators. Keith can help operators connect with Flight Standards District Offices and the Principal Operations Inspector, who can look into the situation and do educational outreach.

NPOAG members discussed the chart showing IOA relative to reported flights (Appendix 3: Reported Commercial Air Tours 2013-2016 and IOA). In all parks, there is more IOA than actual flights flown. Keith Lusk reminded NPOAG that IOA was granted as a not-to-exceed amount based on what operators provided to FAA on pre-2000 flights.

NPOAG members recommended the following to the agencies:

- Continue research to determine what an acceptable level of flights is at the park level, independently of the agreement or ATMP.
- Release air tour data on a quarterly basis, or possibly develop a select list of parks where the data are published earlier. Third quarter data often represents the peak of air tours at many parks and would be the most important quarter of data to publish early.

Air Tour Management Agreements

Glen Canyon/Rainbow Bridge Agreement

Superintendent Billy Shott, Glen Canyon/Rainbow Bridge (GLCA/RABR), spoke to NPOAG by phone. Superintendent Shott reviewed his lessons learned from the Air Tour Management Agreement at GLCA:

- The park staff relied on technical support from NSNSD staff. In addition to the impact of their expertise, the involvement of NSNSD staff gave the agreement process continuity despite park staff turnover.
- Dynamics between operators makes a difference to the success of the negotiations and it helps to understand what those dynamics are. The park needed to develop an understanding of the diverse backgrounds and different views of all the operators through individual conversations. These conversations were an opportunity to talk about the specific interests of each operator and operators could ask their own questions of the park staff. Through these conversations, it became apparent that the decision makers for a particular business were not always in the negotiation room.
- A facilitator was essential due to the number of participants. The facilitator not only ran meetings, but was the point person for follow-up between parties after meetings.
- Tribal consultation was key. The agreement has changed how the park consults with tribes. The most important resource consideration for Rainbow Bridge was the cultural impact. The agreement was an opportunity to define the park's position based on tribes' interests, which included considerations for ceremonies held at Rainbow Bridge. This led to closures around sunrise and sunset, as well as a time for the bridge to 'rest' during the winter months (i.e., no air tours during winter months). The ability to let tribal priorities set NPS priorities has strengthened relationship with the tribes. NPS asked the tribes for a formal answer on what was acceptable spiritually. NPS committed that if the agreement was not acceptable, NPS would go back and negotiate or withdraw RABR from the agreement and go back to GLCA only.
- The agreement process was also an opportunity for tribes to learn more about operators, and see that operators want to protect the region as well. The parties found more common ground than they were initially aware of.
- Prepare a briefing for elected officials, with a process timeline, early in the process.
- Superintendent Shott recommended that going forward, parties to a agreement should be willing to change course, get together collaboratively and look for different options, and be honest about when it is necessary to seek another venue to resolve differences.
- A benefit for the park was a lower number of allocations of tours, particularly at Rainbow Bridge. The park and operators are working together to find other attractions for air tours.
- A benefit for operators is that they can now transfer allocations among themselves on an annual basis. Alan Stephen added that other elements of the lake experience were enhanced, such as straight and level flight paths.

Martin Begaye added that Rainbow Bridge moves on its own, as the tribe has known and the vibration study showed. Operators who do not sign on are a concern to the tribes in the area. The Navajo are concerned about reservation overflights, specifically the enforcement of violations and emergency response. The park and the Navajo Nation may require another meeting to address those concerns. Martin may also recommend that the president of the Navajo Nation meet with operators in the Page area.

Alan Stephen noted that potential clients still have the opportunity to go with the non-signing operator, and that customers will typically choose the least expensive operator, which limits the ability of operators to integrate any potential agreement fees into ticket costs. He added that the operators appreciated how well NPS communicated with them. He hopes that with time the agencies can figure out what to do with

the operator who is not reporting and not participating in the agreement. FAA noted that the POI and NPS has been corresponding with this operator.

Mark Francis appreciated Superintendent Shott's steady hand throughout the process. He did not expect success in the beginning but was pleased with the outcome. Personal relationships between operators and park staff do not translate into a working relationship until the superintendent prioritizes the agreement.

Air Tour Management Agreement Procedures

The GLCA/RABR draft agreement will be made available for public review, likely in 2017, via the NPS-PEPC website. Carla Mattix, Solicitor, DOI, added that the public could request judicial review of the agreement under the Administrative Procedure Act, which would test if the agreement was an arbitrary and capricious agency action.

The agencies acknowledged that they have struggled with the disincentive of participation in a voluntary process. Any party who feels they have a better alternative will not come to the table. NPOAG discussed a spectrum of agency responses, which might start with personal engagement from FAA and peers through Helicopter Association International.

Update on Air Tour Management at Hawai'i Parks

Keith Lusk reminded NPOAG that the agencies started ATMPs at Haleakala (HALE) and Hawai'i Volcanoes (HAVO) in 2004, and worked on them for six to seven years. These ATMPs did not get to the NEPA draft document stage. Around 2011, new NPATMA amendment provisions were in the works, so the agencies directed their efforts to initiating air tour management agreements at other parks and put HALE and HAVO ATMPs on hold. In late 2016 and early 2017, the Hawai'i congressional staff met with the agencies about air tour activity between Hilo and HAVO. FAA and NPS had a high level meeting December 2016 and decided to hold a listening tour in Hawai'i about affected residential areas between the airport and the park. In late March 2017, NPS and FAA met with congressional staff, state legislators, and community members. They held separate meetings with operators at the Hilo airport to consider their issues and constraints. Since then, they have held at least two calls with senatorial staff and FAA has met in person with the Hawai'i Department of Transportation (HDOT). Helicopter Association International (HAI) is working to establish a Hawai'i chapter of HAI as a point of contact for the operators. The next step is going to be a community roundtable, ideally chaired by HDOT.

Dennis Roberts added that FAA has had successful locally-driven roundtables in other locales and the key is to get all the stakeholders at the table. FAA and NPS would be technical advisors to the roundtable. Ray Sauvajot noted that community issues and park issues are separate, but related; NPS sees itself as a roundtable stakeholder as well as a federal agency advisor.

In October 2017, FAA was sued by Hawai'i Island Coalition Malama Pono (HICOP) and Public Employees for Environmental Responsibility (PEER), due to the lack of ATMPs or agreements at seven parks including HALE and HAVO. HDOT is re-examining their community discussions due to the lawsuit. Outreach to elected officials will still take place, but the roundtable is likely on hold until the suit is resolved. FAA is still looking to partner with NPS on agreements at HALE and HAVO.

NPOAG Input

NPOAG members gave the agencies input on many aspects of NPATMA. Themes of this input include:

- If ATMPs are off the table for the foreseeable future, NPATMA as it currently stands does not have a mechanism to require participation in an agreement and for compliance. However, operators that do participate in the agreement process feel it allows for more engagement than ATMPs.
- Industry peer pressure helps with compliance and engagement in the agreement process.
- New York City air tours have been unilaterally limited by the mayor of New York. Air tours in NYC predominately run along the waters. All air tours in NYC come from the Wall Street heliport. The mayor cut total flights in half, and ended Sunday flights. No noise studies were done. Operators shifted employees and equipment to emergency management and charter flights. Prices raised to make up for some of the change. One operator of the four current operators might close. Air tours comprised 30% of the helicopter flights; no studies were done on the impact of air tour noise versus non-air tour helicopter noise.
- HAI Hawai'i chapter: In conversation with FAA, it seemed there needed to be a representative group for Hawai'i helicopter operators. Once HAI establishes the chapter, locals staff it, elect leadership, and take over ownership. The chapter would serve as one point of contact for all stakeholders, press, FAA, etc. Eligible members include everyone involved in the helicopter industry, inclusive of news, police, fire, utilities, and military. HAI understands that the average person on the ground doesn't distinguish between the different kinds of helicopter missions. HAI can track large community events and pass them on to members as something to avoid. HAI has template bylaws that call for five officers that move through the chairs. This involves more people in the leadership. Committees are developed. HAI is involved as a mentor organization.
- Park Prioritization: Limited resources at the agencies drives a need for prioritization. Upkeep activities take a lot of resources in addition to new agreements. As the agencies wrap up GLCA/RABR, they are moving to engage at HAVO and possibly Mount Rushmore. Michael Fineman, FAA counsel, stated that the PEER/HICOP lawsuit should not significantly affect FAA's interest in moving ahead with agreements. Public engagement can drive the prioritization of a new agreement.
 - The parks in the lawsuit might serve as a short list of priority parks. NPOAG members recommended that NPS check in with the superintendents at the parks mentioned in the lawsuit and see what their air tour concerns are.
 - Bryce Canyon and Lake Mead were suggested as priorities. Lake Mead is complicated because of the transportation exemption.
 - Other criteria for prioritization might be to do the parks with the most flights, the parks with most complaints about air tour noise, the parks with most likely success, parks with one or two operators, and the parks with the biggest difference between IOA and actual flights.
 - Dick Hingson added a statement to the minutes on park prioritization.
- Martin Begaye stated that the Navajo Nation has been trying to regulate air tours that enter into the reservation, namely tours to Monument Valley, Canyon de Chelly, Chaco Culture National Historic Park, and Hubbell Trading Post. How does the Navajo Nation work with NPS and FAA to control these air tours? Keith Lusk responded that the agencies could do an ATMP or agreement for those park units. Under an ATMP, the tribe would be a cooperating agency on the NEPA document. Under an agreement, there is an opportunity for tribal consultation. Tribal law requires tour operators to get a permit from the Navajo Nation if they land.

Public Comment

The public comment period consisted of time limited two-minute periods where non-NPOAG member in attendance could state their comments. The same opportunity was offered on Day 2. Commenters were also offered the opportunity to submit written comments. Appendix XXX has the submitted written comments. Below are quotes of the public comments made during the two-minute periods on Day 1.

George Abrahams: “National Parks predate all motorized forms of transportation. The original purpose of the parks was to preserve their natural state for generations. And what we have seen is the commercialization and industrialization of the national parks. I am stunned by the excessive number of tour operations. It computes to one every half hour in the 9 parks. There is no way that the natural setting can be preserved with that level of activity. Air tours are a business operation that is being subsidized by the federal government. This is an unfair advantage and violates the original reason for the national parks. I believe that all air tour operations should be prohibited. Even private vehicular traffic has spoiled the parks and it’s sad to see hundreds of tourists pouring out of their bumper to bumper traffic to mob some poor moose that had the misfortune to wander near the paved roads. The level of all motorized vehicles needs to be reduced to truly save our parks for future generations.”

David Bettencourt, Safari Aviation: “This lawsuit by PEER is the last of a series of legal problems. In 1988, the state of Hawai’i adopted its own tour regulations. The operators went to the regional counsel and tried to get him to stop the state of Hawai’i from doing it but he didn’t take any action whatsoever. They wanted to regulate routes and altitudes. We had to file suit. I represented the Hawai’i Helicopter Operators Association. We won in local federal court against the state of Hawaii and there’s still portions of that law that are in effect. The state of Hawaii then, our congressional delegation had the FAA adopt a draft rule that would restrict altitudes based on environmental considerations. Fortunately for the FAA there were two fatal accidents that took place that summer, ’94, and they were able to promulgate SFAR 71 on an emergency basis. SFAR 71 survived court challenge; I was not counsel for that. They brought in mainland counsel to challenge SFAR 71, it lost in the 9th circuit. It was a one state regulation and the FAA promised the court that they would adopt a nationwide regulation for air tours. They still have not done that because we still have Part 136 Appendix A. Safari appealed a second SFAR 71 renewal, again lost at the 9th Circuit based on the promise the FAA made to the court that they would adopt a national rule. Subsequent to that, HHA fell apart partly because of Papillion’s bankruptcy, they were a major contributor.”

Calvin Dorn, Paradise Helicopters: “I’ve been a small operator starting with one helicopter. Initial IOA offerings, I did it myself and that’s the numbers we still have today. A very changing environment and industry. Over the course of time, Hawaii Island poses an additional problem because the attraction is lava, not necessarily the park. It’s beautiful, I like going there myself and the lava moves outside the park and then the lava moves back inside the park. How does that affect IOA, and how do you deal with that as a company employing people to service the tourist industry? It’s kind of a dynamic problem and will take a lot of compromise. That’s why I think I like the idea of the voluntary agreements. Compromise is how we’re all going to get along in society as populations grow, as we impact one another. I think it’s the right way to go, compromising, working together. But compromise takes two sides. I think the roundtable idea is how we’re going to be able to solve some of these things. Over the years, the industry has changed. We have quieter helicopters. There’s less helicopters, there’s less operators. But we still have complaints; they come and go in cycles. Right now we have HICOP which appears to be under a hundred people that

are complaining, and a lot of different people that aren't complaining. How do we reach the point where people are just going to keep complaining? That's what we have in society; we have people who complain about everything. The compromise will be important."

Following the public comment period an NPOAG member asked if it was possible to give members of the public additional time as not all the time allocated in the agenda was used. Karen Trevino from NPS indicated that this was not possible as it would not subscribe to the protocols laid out in the advance agenda and at the start of the meeting. Facilitator Betsy Daniels explained that a 2-minute allocation of time was standard for NPOAG meetings and providing additional time would be unfair to those that had crafted their remarks to fit into the 2 minute per speaker allocation. However, Betsy also explained that the full remarks could be appended to the meeting notes if speakers had been unable to complete what they had prepared for the comment period.

Martin Begaye thanked the public for their remarks. The rights of the native Hawaiians and native people should be kept in mind by NPOAG and agencies. He wondered if native Hawaiians should be represented on NPOAG by the present tribal representatives or another representative. NPS heeded this recommendation and noted that the park superintendents in Hawai'i meet regularly with native Hawaiian elders there.

Day 2

NPOAG Input to Air Tour Management Handbooks

Adam Beeco, NPS, reviewed the NPATMA Handbook that is being developed by the Volpe Center. This handbook was requested by NPOAG. Feedback from NPOAG included:

- NPOAG members stated that they would rather get a large complete handbook than discrete pieces.
- A potential chapter might identify potentially impacted Park resources to define what is being protected.
- Include the Organic Act and other authorities.
- Add how NPS and FAA make a determination about the effects of air tours on park resources and how that affects an agreement.
- If this is to be useful for new NPOAG members, would be helpful to note where things haven't worked. For example, IOA modification has been pursued but hasn't worked out and no ATMP has been completed. NPOAG members should be aware of this past history.
- NPATMA mentions Tribal lands. Could the handbook describe how the tribes are involved in this process, and how the agencies address flights over tribal lands?

Rachel Aronson, Triangle Associates, reviewed the draft Air Tour Management Agreement Handbook. This handbook was requested by NPOAG. Feedback from NPOAG included:

- The lack of enforcement mechanisms in agreements is a concern for NPOAG. Karen Trevino, NPS, responded that the statute clearly says we can have compliance and enforcement in the agreements. NPS and FAA recommended an agency session internally on recommendations for compliance and enforcement.
- The role of Op Specs, particularly the BO57, in enforcing the agreement should be clarified.

- Some NPOAG members feel that agreements are about keeping air tours flying, which may not be appropriate in all places.
- The GLCA/RABR agreement is an example of an agreement that requires an annual meeting to review the previous year, and an addressing of visitor complaints.
- The agreement should be a living document in that it is regularly updated to include new information.

Agency Updates

Update to Noise Analysis and Mapping Tool

Amanda Rapoza, the Volpe Center, demonstrated a new Aviation Noise Analysis and Mapping tool. This tool can allow a park to analyze and map noise impacts across a park or in specific zones, such as wilderness or backcountry zones. The tool allows parks to model different scenarios for a day's worth of activity. From the reporting data, a park could determine how many days of certain levels of activity actually occur. It was used for the GLCA/RABR agreement. For example, the tool can show differences in noise impacts at actual locations from the number of flights, flights on different routes, busy or typical days, and see if those results align with park management objectives. This gives a park informed options in agreement negotiations. The tool could also be used for other park planning efforts. This tool is the same tool used in the Wilderness Tier analyze published in the Journal of Forestry.

Grand Canyon Quiet Technology (QT) 2016 Results

The Moving Ahead for Progress in the 21st Century Act (MAP-21, P.L 112-141) required that the Federal Aviation Administration (FAA) and the National Park Service (NPS) provide incentives for commercial air tour operators conducting air tours over Grand Canyon National Park (Grand Canyon). MAP-21 also included a provision that the cumulative impact of providing incentives, such as increasing flight allocations for QT aircraft, must not increase noise at Grand Canyon per Section 804(c) of the NPATMA (P.L. 106-181). The noise ceiling was established at the date of enactment, which was determined to be an aggregate noise exposure for the entire park (LEQ₁₂) of 58.1 decibels (dB). The incentive for converting to QT is that flights during the 1st quarter of the year that utilize QT do not count against an operator's allocations. Between 2012 and 2016, the park has seen a 7.7% increase in flights. The aggregate noise exposure is at 57.8 decibels (LEQ₁₂) presently. In 2016, FAA and NPS agreed that that number was too close to the ceiling to support extending the incentive into another quarter. Overall, since 2012, there has been a cumulative increase of more than 16,000 flights due to the QT incentive.

The NPATMA also provides that QT incentives must not diminish achievement of substantial restoration of natural quiet (SRNQ) that was called for in the Overflights Act of 1987 (Public Law 100-91) and subsequently modified by MAP-21. Substantial restoration of the natural quiet and experience of the park shall be considered to be achieved in the park if, for at least 75% of each day, 50% of the park is free of sound produced by commercial air tour operations that have an allocation to conduct commercial air tours in the park. Based on the MAP-21 amendment, SRNQ has been achieved.

The methodology for calculating SRNQ involves using the peak day. Therefore, analysis of the air tour data requires a day by day breakdown to identify the peak day. There are multiple ways to define the peak day. In 2016, the threshold of 50% of the park achieving 25% time audible had not been exceeded. This is

partially due to the concentration of flights at the Dragon-Zuni corridor. Adding additional flights there does not affect SRNQ. New routes would affect SRNQ. QT incentives supersede SRNQ language, and the QT incentive baseline is guiding agency actions at this time.

Schomer Soundscape Pleasantness Survey

Kurt Fristrup, Branch Chief for Science and Technology, NSNSD, presented on Paul Schomer's study, which was designed to explore ratings of soundscape pleasantness, obtain a sequence of ratings during long hikes, with no emphasis on aircraft or noise. Maps were given to hikers to identify locations along the trail where they experienced sounds. They then rated the pleasantness or unpleasantness of sound. The study analyzed which variables are important to pleasantness ratings. The act of hearing aircraft has a greater effect than the actual noise level. NPS has not done any similar study with residents who live near parks.

Public Comment

The public comment period consisted of time limited two-minute periods where non-NPOAG members in attendance could state their comments. The same opportunity was offered on Day 1 (above). Commenters were also offered the opportunity to submit written comments. Appendix 7 has the submitted written comments. Below are quotes of the public comments made during the two-minute periods on Day 2.

George Abrahams: "The NPS should establish an IMAX theater alternative to air tours over national parks and tribal lands. Creating an IMAX movie of a virtual air tour would eliminate the rationale for having air tours. An IMAX movie could last longer than an air tour because it would not be subject to fuel limitations and could include scenes that could only be viewed in person from going on several different air tours. It would be a much better use of time because it would eliminate dead-heading from the airport to the park and the return trip. It could include sights that are closer to the locations and using flight techniques and not subject to flight restrictions when passengers are on board. It would only have to be done once and afterwards park visitors would be free of disturbances from the constant din of air tours. Tribes that offer this alternative should be given a legislative opt-out allowing them to prohibit all air tours over their tribal lands."

David Bettencourt, Safari: "Haleakala and Hawai'i Volcanoes would not even exist in your jurisdiction but for the illegal overthrow of the Hawai'ian government. Public law 103-150, the Apology Bill, is the apology the United States made to native Hawai'ians for overthrowing their government in 1893. These parks would not exist but for that, and that bill lays out the background of how you acquired this park. I did a little research late last night and apparently most national parks were also acquired by racist wars of aggression just like Hawai'i was, but I'm only speaking to Haleakala and Volcanoes. That bill, signed by president Clinton, lays out in detail the effects of the overthrow, and what I see here is an ethnocentric approval of that bill and the ethnic cleansing of Hawaii so that a hiker in a remote area of the park is judged to be more valuable than the native Hawaiian interests in maintaining their sovereignty over their own land. This is a complicated issue. We've made progress. Getting the apology bill passed was a major undertaking. And the FAA by singling out Hawaii in SFAR 71 and by singling it out again in Part 136 Appendix A has continued to treat Hawaiians as second class citizens. The FAA has caused this on their own. They've balkanized the rule of the United States so that each senator or congressman can approach the FAA and ask for special rules. We'll give you special rules for New York, we'll give you special rules for Hilo. The Native Hawaiians have been complaining about airport noise on the land that they own,

they're exposed to noise on a daily basis. The same people that complain about the helicopters impact Native Hawaiians.”

Closing Remarks

Tamara Swann, FAA, thanked NPOAG and the public and thanked Vicki Ward for her leadership in getting the meeting together. FAA will be the 2018 NPOAG lead. They will find a location that doesn't have as many security requirements. FAA thanked Triangle for facilitation and overall meeting management. FAA heard the concerns about enforcement, and will take that under advisement. FAA looks forward to the GLCA signing and continued progress on agreements.

Ray Sauvajot, NPS, seconded the thanks and thanked FAA for hosting. The two agencies will continue to host and have ongoing conversations on these issues.

Appendix 1: Attendees List

NPOAG and Agency Personal	
Mark Francis	NPOAG Member
Alan Stephen	NPOAG Member
Melissa Rudinger (phone)	NPOAG Member
Les Blomberg	NPOAG Member
Matthew Zuccaro	NPOAG Member
John Eastman	NPOAG Member
Dick Hingson	NPOAG Member
Rob Smith	NPOAG Member
Martin Begaye	NPOAG Member
Keith Lusk	FAA
Dennis Roberts	FAA
Michael Fineman	FAA
Monica Buenrostro	FAA
Raquel Girm	FAA
Tamara Swann	FAA
Vicki Ward	NPS
Adam Beeco	NPS
Karen Trevino	NPS
Ray Sauvajot	NPS
Carla Mattix (phone)	NPS
Ashley Pipkin	NPS
Bill Kaage	NPS
Members of Public	
George Abrahms	citizen, active in LA Helicopter noise initiative
Brent Armenta	Maverick Helicopters
Ruthie Barko	Air Methods / Blue Hawaiian
John Becker	Papillon
David Bettencourt	Safari Aviation
Brian Brusa	Maverick Helicopters
Calvin Dorn	Paradise Copters
Eric Lincoln	Blue Hawaiian / Hawaii Helicopters
Kent Nerhus	K2 Unmanned Systems
Eric Parashar	Pilots and Drones
John Ramsey	Redtail
Denny Schneider	President of LAX Roundtable

Appendix 2: Reporting Information for Commercial Air Tour Operations over National Park Units, 2016
Annual Report



Reporting Information for Commercial Air Tour Operations over National Park Units

2016 Annual Report

About this Version

This July 2017 version of the *2016 Annual Report* marks the first public release of the air tour reporting summary data for 2016 commercial tours. Care has been taken to ensure accuracy of the data. However, data are subject to change pending receipt of any additional reports or to make corrections if errors are found. If a subsequent version of the annual report is released, any changes from the previous edition will be noted.

July 26, 2017

U.S. Department of Transportation
Federal Aviation Administration
Western-Pacific Region
Los Angeles, California

U.S. Department of the Interior
National Park Service
Natural Resource Stewardship and Science
Fort Collins, Colorado

Contents

Figures.....	i
Tables.....	i
Executive Summary.....	ii
1. Background.....	1
2. Introduction.....	1
3. Reporting Requirements.....	3
4. Reporting Data for 2016.....	4
5. Exempt Parks List.....	13
Appendix A. Air Tour Reporting Template.....	16
Appendix B. Map of 2016 Air Tour Activity.....	17
Appendix C. NPS Regions.....	18

Figures

Figure 1. Percentage of Reported Commercial Air Tours at High-Activity Parks.....	10
Figure 2. Percentage of Reported Commercial Air Tours by Region.....	11
Figure 3. Reported Commercial Air Tours 2013-2016 by Quarter.....	12
Figure 4. Reported Commercial Air Tours 2013-2016 per Year.....	12

Tables

Table 1. Reported Commercial Air Tours in 2016 ^a (Highest to Lowest Reported Tours).....	4
Table 2. Reported Commercial Air Tours in 2016 ^a (Alphabetical by Park).....	7
Table 3. Reported Commercial Air Tours at High-Activity Parks.....	9
Table 4. Reported Commercial Air Tours by Region.....	10
Table 5. Reported Commercial Air Tours 2013-2016.....	11
Table 6. Number of Operators per Park Conducting Tours in 2016.....	13
Table 7. Exempt Parks List Based on 2015 Air Tour Data.....	13

Executive Summary

Beginning in 2013, commercial air tour operators who conduct tours over national parks have been required to report their air tour activity to the Federal Aviation Administration (FAA) and the National Park Service (NPS). This *2016 Annual Report* is a summary of the data received for calendar year 2016 air tour activity.

There are 81 NPS units where air tours operators have interim operating authority (IOA) to conduct commercial air tours. The system-wide IOA is 195,699 annual tours by all operators, collectively. Based on the 2016 reports submitted by air tour operators:

- 64,235 commercial air tours were flown in 2016 (excluding tours over Grand Canyon, Alaska, and Lake Mead tours determined to be “for transportation only”).
- There were 46 NPS units where at least one air tour was reported to have occurred.
 - 19 parks with more than 50 tours.
 - 27 parks with between 1 and 50 tours.
 - 34 parks with zero reported tours.
- 9 NPS units accounted for 93% of the total annual tours (59,722).
- The remaining 37 NPS units combined accounted for 4,513 annual tours.
- 61 NPS units had 50 or fewer reported tours, which make these units eligible for an exemption from a requirement to prepare an air tour management plan or agreement. NPS and FAA will publish the official exempt list in a notice in the Federal Register.

1. Background

The Federal Aviation Administration (FAA) *Modernization and Reform Act of 2012* amended the *National Parks Air Tour Management Act (NPATMA) of 2000* to include a provision that requires commercial air tour operators conducting air tours over national park units to report their activity to the FAA and the National Park Service (NPS).

FAA and NPS developed the new reporting requirements including the data that would be required to be submitted as well as the frequency of reports and the mechanism by which operators would report. These new reporting requirements went into effect beginning in calendar year 2013.

This *2016 Annual Report* provides a summary of the reporting data that the agencies received from calendar year 2016 reports submitted by commercial air tour operators. This information includes data from air tour operators who submitted quarterly reports, as well as data from operators who submitted annual reports for exempt parks; i.e., those parks with 50 or fewer tours the previous year.

With the submission of the 2016 reports, the agencies continue to compile data about the extent of commercial air tour operations over national park units. This information will assist the agencies in implementing other requirements of NPATMA, including prioritizing efforts to develop voluntary air tour management agreements at national park units where appropriate.

2. Introduction

The *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21)* was signed into public law (P.L. 106-181, codified at 49 U.S.C. 40128) on April 5, 2000. Title VIII of this law, called the *National Parks Air Tour Management Act of 2000 (NPATMA)* regulates commercial air tour operations over units of the national park system. NPATMA requires the FAA and NPS to develop air tour management plans (ATMPs) for units of the national park system where an operator has requested authority to provide commercial air tours. The objective stated in NPATMA for ATMPs is to develop acceptable and effective measures to mitigate or prevent significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

Section 49 U.S.C §40128(c) had a grandfathering provision that applied to existing operators (those operators who had operated over a national park unit prior to enactment of NPATMA). It allowed the FAA to grant interim operating authority (IOA) to existing operators who applied for operating authority. The intent was to allow the operators to continue to conduct operations until such time as an ATMP was developed for the park. Essentially IOA was an annual limit on the

number of flights an operator could conduct over a national park. The provision allowed FAA to provide an operator with an annual authorization for the greater of –

- (i) the number of flights used by the operator to provide the commercial air tour operations over a national park within the 12-month period prior to the date of the enactment of this section; or
- (ii) the average number of flights per 12-month period used by the operator to provide such operations within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period.

NPATMA also required that the IOA granted under NPATMA to be published in the Federal Register for notice and the opportunity for comment. On June 23, 2005 (see 70 FR 36456-36463) the FAA published a *Notice of Interim Operating Authority Granted to Commercial Air Tour Operators Over National Parks and Tribal Lands Within or Abutting National Parks*. The list provided the IOA granted to each operator for each national park unit / abutting tribal lands. On October 7, 2005 (see 70 FR 58778-58784) the FAA published a supplemental notice. The supplemental notice republished the IOA alphabetically by park rather than operator.

The current system-wide IOA is 195,699 annual tours by all operators, collectively. This IOA reflects the revocation of interim operating authority from 25 air tour operators in 2016 who had expired certificates or were no longer in business. The total number of annual flights revoked was 37,757 system-wide.

The *FAA Modernization and Reform Act of 2012* amended various provisions of NPATMA. Two of them related to reporting. One provision required air tour operators to begin reporting information to FAA and NPS on their operations. Section 49 U.S.C §40128(d):

- (d) Commercial Air Tour Operator Reports.—
 - (1) Report.— Each commercial air tour operator conducting a commercial air tour operation over a national park under interim operating authority granted under subsection (c) or in accordance with an air tour management plan or voluntary agreement under subsection (b) shall submit to the Administrator and the Director a report regarding the number of commercial air tour operations over each national park that are conducted by the operator and such other information as the Administrator and Director may request in order to facilitate administering the provisions of this section.
 - (2) Report submission.— Not later than 90 days after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator and the Director shall jointly issue an initial request for reports under this subsection. The reports shall be

submitted to the Administrator and the Director with a frequency and in a format prescribed by the Administrator and the Director.

Section 49 U.S.C §40128(a)(5):

EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—

(A) **IN GENERAL.**—Notwithstanding paragraph (1), a national park that has 50 or fewer commercial air tour operations over the park each year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

(B) **WITHDRAWAL OF EXEMPTION.**—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

(C) **LIST OF PARKS.**—

(i) **IN GENERAL.**—The Director and Administrator shall jointly publish a list each year of national parks that are covered by the exemption provided under this paragraph.

(ii) **NOTIFICATION OF WITHDRAWAL OF EXEMPTION.**—

The Director shall inform the Administrator, in writing, of each determination to withdraw an exemption under subparagraph (B).

(D) **ANNUAL REPORT.**—A commercial air tour operator conducting commercial air tour operations over a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director a report each year that includes the number of commercial air tour operations the operator conducted during the preceding 1-year period over such park.

3. Reporting Requirements

Section 49 U.S.C §40128(d) requires that each commercial air tour operator, whether they operate under an ATMP, an agreement, or IOA, submit a report to both the FAA and NPS on the number of commercial air tour operations over each park they operate at and “such other information” as the agencies request. This section also indicates that the reports shall be submitted “with a frequency and in a format” prescribed by the agencies.

The OMB control number for this data collection effort is 2120-0750. In December 2012, OMB approved these data collection activities for a 3 year period expiring December 31, 2015. In 2015, OMB approved an FAA request to extend the data collection through December 31, 2018.

In January of 2013, the FAA and NPS distributed a guidance memo to air tour operators that provided information on the new reporting requirements, the data that were being requested, and how they were to submit the data and the frequency with which they were to submit reports. The FAA and NPS also provided a reporting template in the form of an *Excel* spreadsheet, where operators could input their data. With the OMB data collection extension through 2018, the reporting template was revised to reduce and modify some of the required data fields. A copy of the reporting template is provided in Appendix A of this report.

In July of 2015, FAA updated the template for operating specifications (OpSpecs) issued to commercial air tour operators who conduct tours over national park units (FAA Notice, N 8900.312, 7/27/15). Specifically, OpSpec B057, National Park Air Tour Management Operations under 14 CFR 136, was amended to include the reporting requirement and instructions for reporting air tour data on a quarterly basis for all operators conducting air tours over national parks, except for exempt parks. For exempt parks, operators are required to report only on an annual basis.

4. Reporting Data for 2016

This section provides information on data collected from the 2016 calendar year reporting. This includes all data submitted by air tour operators through quarterly or annual (for exempt parks) reports. Table 1 lists all NPS units where there is authorization to conduct commercial tours, with park units sorted by the number of tours – most to least. Table 2 provides the same information sorted alphabetically by park. Of the 81 parks in the tables, there were a total of 46 national park units where at least one air tour is reported to have occurred. Overall, 64,235 air tours were reported over these units in 2016. Appendix B shows a map representing the geographic distribution of parks for which operators reported tours in 2016.

Table 1. Reported Commercial Air Tours in 2016 ^a (Highest to Lowest Reported Tours)

National Park Service Unit	Region ^b	State	Reported Commercial Air Tours ^c				
			Jan-Mar	Apr Jun	Jul-Sep	Oct Dec	Total ^d
National Parks of New York Harbor Management Unit (NPNH)	NER	NY,NJ	4,225	5,469	5,059	3,885	18,638
Hawai'i Volcanoes National Park (HAVO)	PWR	HI	3,998	3,418	4,235	3,838	15,489
Lake Mead National Recreation Area (LAKE)	PWR	AZ,NV	2,092	936	2,135	2,367	7,530
Haleakalā National Park (HALE)	PWR	HI	1,264	840	1,242	1,243	4,589
Mount Rushmore National Memorial (MORU)	MWR	SD	-	871	3,017	123	4,011
Glen Canyon National Recreation Area (GLCA)	IMR	AZ,UT	221	1,380	1,396	823	3,820
Golden Gate National Recreation Area (GOGA)	PWR	CA	396	434	910	510	2,250

National Park Service Unit	Region ^b	State	Reported Commercial Air Tours ^c				
			Jan-Mar	Apr Jun	Jul-Sep	Oct Dec	Total ^d
Rainbow Bridge National Monument (RABR)	IMR	UT	100	850	821	294	2,065
Badlands National Park (BADL)	MWR	SD	-	461	869	-	1,330
Muir Woods National Monument (MUWO)	PWR	CA	168	200	435	198	1,001
Great Smoky Mountains National Park (GRSM)	SER	TN,NC	128	176	270	236	810
Glacier National Park (GLAC)	IMR	MT	-	110	648	9	767
Bryce Canyon National Park (BRCA)	IMR	UT	16	170	183	88	457
Canyonlands National Park (CANY)	IMR	UT	30	117	158	50	355
Arches National Park (ARCH)	IMR	UT	11	76	133	54	274
Bandelier National Monument (BAND)	IMR	NM	24	25	28	28	105
Natural Bridges National Monument (NABR)	IMR	UT	9	26	35	16	86
Point Reyes National Seashore (PORE)	PWR	CA	9	29	24	21	83
Chaco Culture National Historical Park (CHCU)	IMR	NM	11	15	16	16	58
Everglades National Park (EVER)	SER	FL	38	1	-	11	50
Big Cypress National Preserve (BICY)	SER	FL	34	1	-	10	45
Canyon de Chelly National Monument (CACH)	IMR	AZ	7	10	15	12	44
Aztec Ruins National Monument (AZRU)	IMR	NM	7	11	11	10	39
Mesa Verde National Park (MEVE)	IMR	CO	6	10	11	10	37
Big Bend National Park (BIBE)	IMR	TX	-	-	-	-	37
Olympic National Park (OLYM)	PWR	WA	5	7	18	5	35
Navajo National Monument (NAVA)	IMR	AZ	4	7	8	9	28
Biscayne National Park (BISC)	SER	FL	-	-	3	25	28
Acadia National Park (ACAD)	NER	ME	5	6	11	5	27
Hovenweep National Monument (HOVE)	IMR	UT	5	6	8	7	26
Pecos National Historical Park (PECO)	IMR	NM	-	-	-	-	17
Fort Union National Monument (FOUN)	IMR	NM	-	-	-	-	16
El Malpais National Monument (ELMA)	IMR	NM	-	-	-	-	14
Zion National Park (ZION)	IMR	UT	1	2	6	3	12
Capulin Volcano National Monument (CAVO)	IMR	NM	-	-	-	-	9
Petrified Forest National Park (PEFO)	IMR	AZ	-	2	2	-	8
Hubbell Trading Post National Historic Site (HUTR)	IMR	AZ	-	2	2	1	8
El Morro National Monument (ELMO)	IMR	NM	-	-	-	-	7
Sunset Crater Volcano National Monument (SUCR)	IMR	AZ	1	2	3	1	7
Colorado National Monument (COLM)	IMR	CO	-	1	2	3	6
Black Canyon Of The Gunnison National Park (BLCA)	IMR	CO	-	-	-	-	6
Yellowstone National Park (YELL)	IMR	ID,MT, WY	-	3	-	1	4
Wupatki National Monument (WUPA)	IMR	AZ	-	1	1	-	3
Yosemite National Park (YOSE)	PWR	CA	-	1	-	1	2
Carlsbad Caverns National Park (CAVE)	IMR	NM	-	-	-	-	1
Casa Grande Ruins National Monument (CAGR)	IMR	AZ	-	-	-	-	1
Cape Hatteras National Seashore (CAHA)	SER	NC	-	-	-	-	-
Capitol Reef National Park (CARE)	IMR	UT	-	-	-	-	-
Cedar Breaks National Monument (CEBR)	IMR	UT	-	-	-	-	-
Coronado National Memorial (CORO)	IMR	AZ	-	-	-	-	-
Death Valley National Park (DEVA)	PWR	CA	-	-	-	-	-

National Park Service Unit	Region ^b	State	Reported Commercial Air Tours ^c				
			Jan-Mar	Apr Jun	Jul-Sep	Oct Dec	Total ^d
Devils Tower National Monument (DETO)	IMR	WY	-	-	-	-	-
Dinosaur National Monument (DINO)	IMR	CO,UT	-	-	-	-	-
Dry Tortugas National Park (DRTO)	SER	FL	-	-	-	-	-
Fort Bowie National Historic Site (FOBO)	IMR	AZ	-	-	-	-	-
Fort Davis National Historic Site (FODA)	IMR	TX	-	-	-	-	-
Gila Cliff Dwellings National Monument (GICL)	IMR	NM	-	-	-	-	-
Golden Spike National Historic Site (GOSP)	IMR	UT	-	-	-	-	-
Grand Teton National Park (GRTE)	IMR	WY	-	-	-	-	-
Great Sand Dunes National Park and Preserve (GRSA)	IMR	CO	-	-	-	-	-
Guadalupe Mountains National Park (GUMO)	IMR	TX	-	-	-	-	-
Hohokam Pima National Monument (PIMA)	IMR	AZ	-	-	-	-	-
Mojave National Preserve (MOJA)	PWR	CA	-	-	-	-	-
Montezuma Castle National Monument (MOCA)	IMR	AZ	-	-	-	-	-
Mount Rainier National Park (MORA)	PWR	WA	-	-	-	-	-
North Cascades National Park (NOCA)	PWR	WA	-	-	-	-	-
Organ Pipe Cactus National Monument (ORPI)	IMR	AZ	-	-	-	-	-
Petroglyph National Monument (PETR)	IMR	NM	-	-	-	-	-
Pipe Spring National Monument (PISP)	IMR	AZ	-	-	-	-	-
Rio Grande Wild and Scenic River (RIGR)	IMR	TX	-	-	-	-	-
Saguaro National Park (SAGU)	IMR	AZ	-	-	-	-	-
Salinas Pueblo Missions National Monument (SAPU)	IMR	NM	-	-	-	-	-
San Francisco Maritime National Historical Park (SAFR)	PWR	CA	-	-	-	-	e
San Juan Island National Historical Park (SAJH)	PWR	WA	-	-	-	-	-
Sequoia and Kings Canyon National Parks (SEKI)	PWR	CA	-	-	-	-	-
Timpanogos Cave National Monument (TICA)	IMR	UT	-	-	-	-	-
Tumacacori National Historical Park (TUMA)	IMR	AZ	-	-	-	-	-
Tuzigoot National Monument (TUZI)	IMR	AZ	-	-	-	-	-
Voyageurs National Park (VOYA)	MWR	MN	-	-	-	-	-
Walnut Canyon National Monument (WACA)	IMR	AZ	-	-	-	-	-
Yucca House National Monument (YUHO)	IMR	CO	-	-	-	-	-
Total ^d			12,815	15,676	21,715	13,913	64,235

a. Data are subject to change pending receipt of additional reports.

b. IMR = Intermountain Region, MWR = Midwest Region, NER = Northeast Region, PWR = Pacific West Region, SER = Southeast Region.

c. This table lists parks where commercial air tours are authorized; a dash (-) indicates no reported tours.

d. Totals may exceed sum of quarterly totals due to exempt parks where only the annual total is required.

e. SAFR flights likely occurring in conjunction with GOGA. NPS and FAA working to clarify operator reporting requirements.

Table 2. Reported Commercial Air Tours in 2016 ^a (Alphabetical by Park)

National Park Service Unit	Region ^b	State	Reported Commercial Air Tours ^c				
			Jan-Mar	Apr Jun	Jul-Sep	Oct Dec	Total ^d
Acadia National Park (ACAD)	NER	ME	5	6	11	5	27
Arches National Park (ARCH)	IMR	UT	11	76	133	54	274
Aztec Ruins National Monument (AZRU)	IMR	NM	7	11	11	10	39
Badlands National Park (BADL)	MWR	SD	-	461	869	-	1,330
Bandelier National Monument (BAND)	IMR	NM	24	25	28	28	105
Big Bend National Park (BIBE)	IMR	TX	-	-	-	-	37
Big Cypress National Preserve (BICY)	SER	FL	34	1	-	10	45
Biscayne National Park (BISC)	SER	FL	-	-	3	25	28
Black Canyon Of The Gunnison National Park (BLCA)	IMR	CO	-	-	-	-	6
Bryce Canyon National Park (BRCA)	IMR	UT	16	170	183	88	457
Canyon de Chelly National Monument (CACH)	IMR	AZ	7	10	15	12	44
Canyonlands National Park (CANY)	IMR	UT	30	117	158	50	355
Cape Hatteras National Seashore (CAHA)	SER	NC	-	-	-	-	-
Capitol Reef National Park (CARE)	IMR	UT	-	-	-	-	-
Capulin Volcano National Monument (CAVO)	IMR	NM	-	-	-	-	9
Carlsbad Caverns National Park (CAVE)	IMR	NM	-	-	-	-	1
Casa Grande Ruins National Monument (CAGR)	IMR	AZ	-	-	-	-	1
Cedar Breaks National Monument (CEBR)	IMR	UT	-	-	-	-	-
Chaco Culture National Historical Park (CHCU)	IMR	NM	11	15	16	16	58
Colorado National Monument (COLM)	IMR	CO	-	1	2	3	6
Coronado National Memorial (CORO)	IMR	AZ	-	-	-	-	-
Death Valley National Park (DEVA)	PWR	CA	-	-	-	-	-
Devils Tower National Monument (DETO)	IMR	WY	-	-	-	-	-
Dinosaur National Monument (DINO)	IMR	CO,UT	-	-	-	-	-
Dry Tortugas National Park (DRTO)	SER	FL	-	-	-	-	-
El Malpais National Monument (ELMA)	IMR	NM	-	-	-	-	14
El Morro National Monument (ELMO)	IMR	NM	-	-	-	-	7
Everglades National Park (EVER)	SER	FL	38	1	-	11	50
Fort Bowie National Historic Site (FOBO)	IMR	AZ	-	-	-	-	-
Fort Davis National Historic Site (FODA)	IMR	TX	-	-	-	-	-
Fort Union National Monument (FOUN)	IMR	NM	-	-	-	-	16
Gila Cliff Dwellings National Monument (GICL)	IMR	NM	-	-	-	-	-
Glacier National Park (GLAC)	IMR	MT	-	110	648	9	767
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Grand Teton National Park (GRTE)	IMR	WY	-	-	-	-	-
Great Sand Dunes National Park and Preserve (GRSA)	IMR	CO	-	-	-	-	-
Great Smoky Mountains National Park (GRSM)	SER	TN,NC	128	176	270	236	810
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Hohokam Pima National Monument (PIMA)	IMR	AZ	-	-	-	-	-
Hovenweep National Monument (HOVE)	IMR	UT	5	6	8	7	26

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			Jan-Mar	Apr Jun	Jul-Sep	Oct Dec	Total ^d
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Lake Mead National Recreation Area (LAKE)	PWR	AZ,NV	2,092	936	2,135	2,367	7,530
Mesa Verde National Park (MEVE)	IMR	CO	6	10	11	10	37
Mojave National Preserve (MOJA)	PWR	CA	-	-	-	-	-
Montezuma Castle National Monument (MOCA)	IMR	AZ	-	-	-	-	-
Mount Rainier National Park (MORA)	PWR	WA	-	-	-	-	-
Mount Rushmore National Memorial (MORU)	MWR	SD	-	871	3,017	123	4,011
Muir Woods National Monument (MUWO)	PWR	CA	168	200	435	198	1,001
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Navajo National Monument (NAVA)	IMR	AZ	4	7	8	9	28
North Cascades National Park (NOCA)	PWR	WA	-	-	-	-	-
Olympic National Park (OLYM)	PWR	WA	5	7	18	5	35
Organ Pipe Cactus National Monument (ORPI)	IMR	AZ	-	-	-	-	-
Pecos National Historical Park (PECO)	IMR	NM	-	-	-	-	17
Petrified Forest National Park (PEFO)	IMR	AZ	-	2	2	-	8
Petroglyph National Monument (PETR)	IMR	NM	-	-	-	-	-
Pipe Spring National Monument (PISP)	IMR	AZ	-	-	-	-	-
Point Reyes National Seashore (PORE)	PWR	CA	9	29	24	21	83
Rainbow Bridge National Monument (RABR)	IMR	UT	100	850	821	294	2,065
Rio Grande Wild and Scenic River (RIGR)	IMR	TX	-	-	-	-	-
Saguaro National Park (SAGU)	IMR	AZ	-	-	-	-	-
Salinas Pueblo Missions National Monument (SAPU)	IMR	NM	-	-	-	-	-
San Francisco Maritime National Historical Park (SAFR)	PWR	CA	-	-	-	-	e
San Juan Island National Historical Park (SAJH)	PWR	WA	-	-	-	-	-
Sequoia and Kings Canyon National Parks (SEKI)	PWR	CA	-	-	-	-	-
Sunset Crater Volcano National Monument (SUCR)	IMR	AZ	1	2	3	1	7
Timpanogos Cave National Monument (TICA)	IMR	UT	-	-	-	-	-
Tumacacori National Historical Park (TUMA)	IMR	AZ	-	-	-	-	-
Tuzigoot National Monument (TUZI)	IMR	AZ	-	-	-	-	-
Voyageurs National Park (VOYA)	MWR	MN	-	-	-	-	-
Walnut Canyon National Monument (WACA)	IMR	AZ	-	-	-	-	-
Wupatki National Monument (WUPA)	IMR	AZ	-	1	1	-	3
Yellowstone National Park (YELL)	IMR	ID,MT, WY	-	3	-	1	4
Yosemite National Park (YOSE)	PWR	CA	-	1	-	1	2
Yucca House National Monument (YUHO)	IMR	CO	-	-	-	-	-
Zion National Park (ZION)	IMR	UT	1	2	6	3	12
Total ^d			12,815	15,676	21,715	13,913	64,235

a. Data are subject to change pending receipt of additional reports.

b. IMR = Intermountain Region, MWR = Midwest Region, NER = Northeast Region, PWR = Pacific West Region, SER = Southeast Region.

c. This table lists parks where commercial air tours are authorized; a dash (-) indicates no reported tours.

d. Totals may exceed sum of quarterly totals due to exempt parks where only the annual total is required.

e. SAFR flights likely occurring in conjunction with GOGA. NPS and FAA working to clarify operator reporting requirements.

Table 3 and Figure 1 display the air tour activity at the high-activity parks. The bulk of air tour operations were concentrated at nine parks where approximately 93% of the air tour operations reported nationwide occurred. All nine of these park units had over 1,000 reported annual operations, with two of them over 10,000 operations. The largest units, in order of activity, were the National Parks of New York Harbor (which includes Statue of Liberty National Monument and Governor’s Island, and other park units), Hawai’i Volcanoes National Park, Lake Mead National Recreation Area, Haleakalā National Park, Mount Rushmore National Memorial, Glen Canyon National Recreation Area, Golden Gate National Recreation Area, Rainbow Bridge National Monument, and Badlands National Park. Of the remaining 72 parks, 37 combined for just 4,258 annual operations and there were 34 parks with 0 reported tours.

Table 3. Reported Commercial Air Tours at High-Activity Parks

National Park Service Unit	Tours	Percent of Total	No. of Operators^a
National Parks of New York Harbor Management Unit (NPNH)	18,638	29%	2
Hawai’i Volcanoes National Park (HAVO)	15,489	24%	6
Lake Mead National Recreation Area (LAKE)	7,530	12%	5
Haleakalā National Park (HALE)	4,589	7%	5
Mount Rushmore National Memorial (MORU)	4,011	6%	3
Glen Canyon National Recreation Area (GLCA)	3,820	6%	5
Golden Gate National Recreation Area (GOGA)	2,250	4%	2
Rainbow Bridge National Monument (RABR)	2,065	3%	4
Badlands National Park (BADL)	1,330	2%	2
All Others	4,513	7%	
Total	64,235		

a. Who have reported at least one tour.

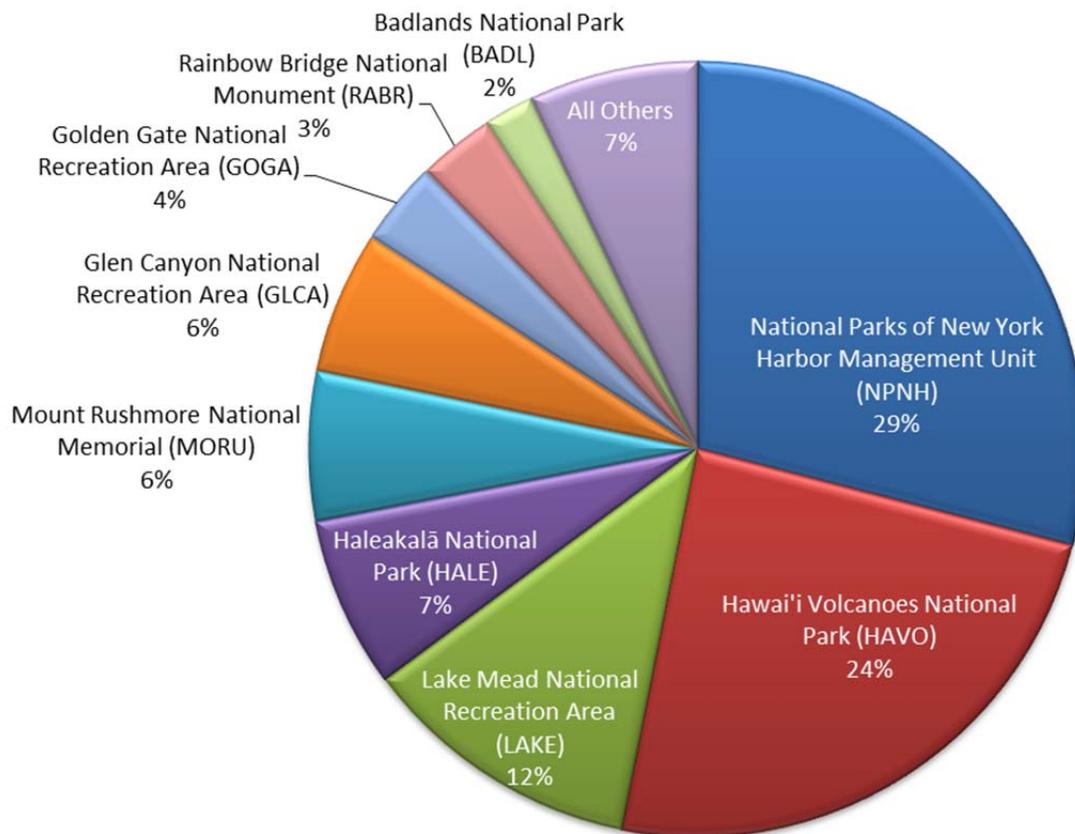


Figure 1. Percentage of Reported Commercial Air Tours at High-Activity Parks

Table 4 and Figure 2 display the level of air tour activity by NPS region, including percentage of total, and number of parks in each region for which at least one air tour was reported. While the Northeast Region and the Pacific West Region represent the greatest level of air tour activity, these operations were concentrated over only a few parks. In contrast, there is less activity in the Intermountain Region, but there are significantly more parks over which air tours occur. Appendix C provides a map of NPS regions.

Table 4. Reported Commercial Air Tours by Region

Region	Tours	Percent of Total	No. of Parks ^a
Pacific West Region (PWR)	30,979	48%	8
Northeast Region (NER)	18,665	29%	2
Intermountain Region (IMR)	8,317	13%	30
Midwest Region (MWR)	5,341	8%	2
Southeast Region (SER)	933	1%	4
Total	64,235		46

a. Where at least one tour has been reported

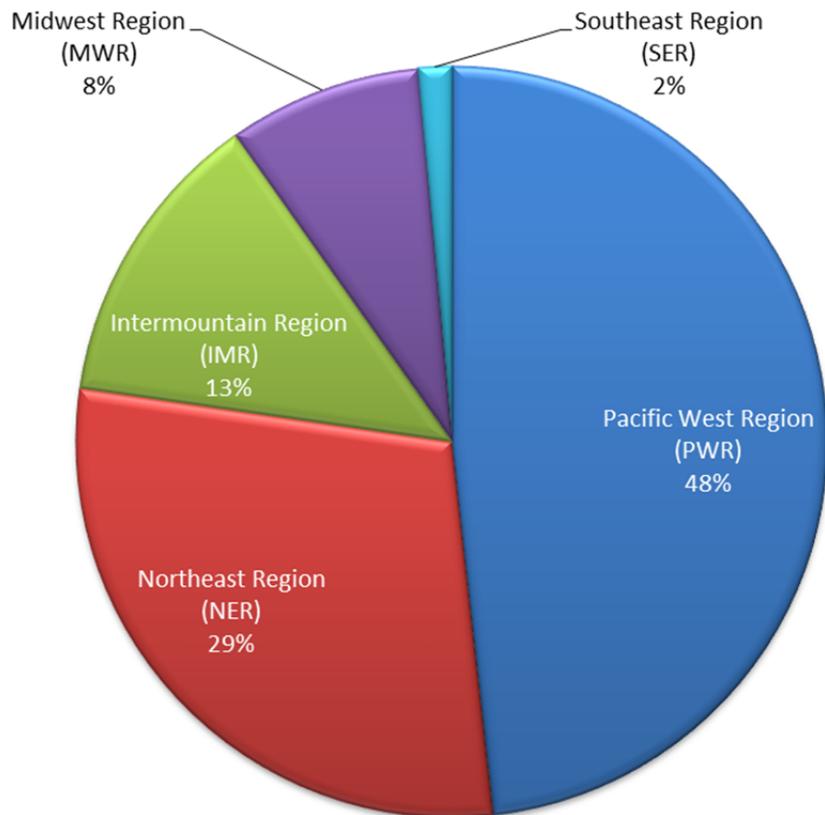


Figure 2. Percentage of Reported Commercial Air Tours by Region

Table 5 and Figure 3 display air tour activity by quarter for 2013-2016. Most parks experience seasonal fluctuations in operations associated with weather and customer demand. Figure 4 displays the annual total number of tours for 2013-2016. The declining trend in tours over the past few years is primarily due to a reduction in activity at the National Parks of New York Harbor, where an agreement between New York City and air tour concessionaires bans air tours on Sundays and mandates a phased reduction of air tours to 50% of 2015 levels by 2017.

Table 5. Reported Commercial Air Tours 2013-2016

Year	Tours by Quarter				Total ^a
	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	
2013	14,755	22,748	24,200	18,718	80,558
2014	13,548	25,402	30,176	20,450	89,752
2015	13,664	23,441	23,077	14,913	75,300
2016	12,815	15,676	21,715	13,913	64,235

a. Annual totals exceed sum of quarterly totals due to exempt parks where only the annual total is required.

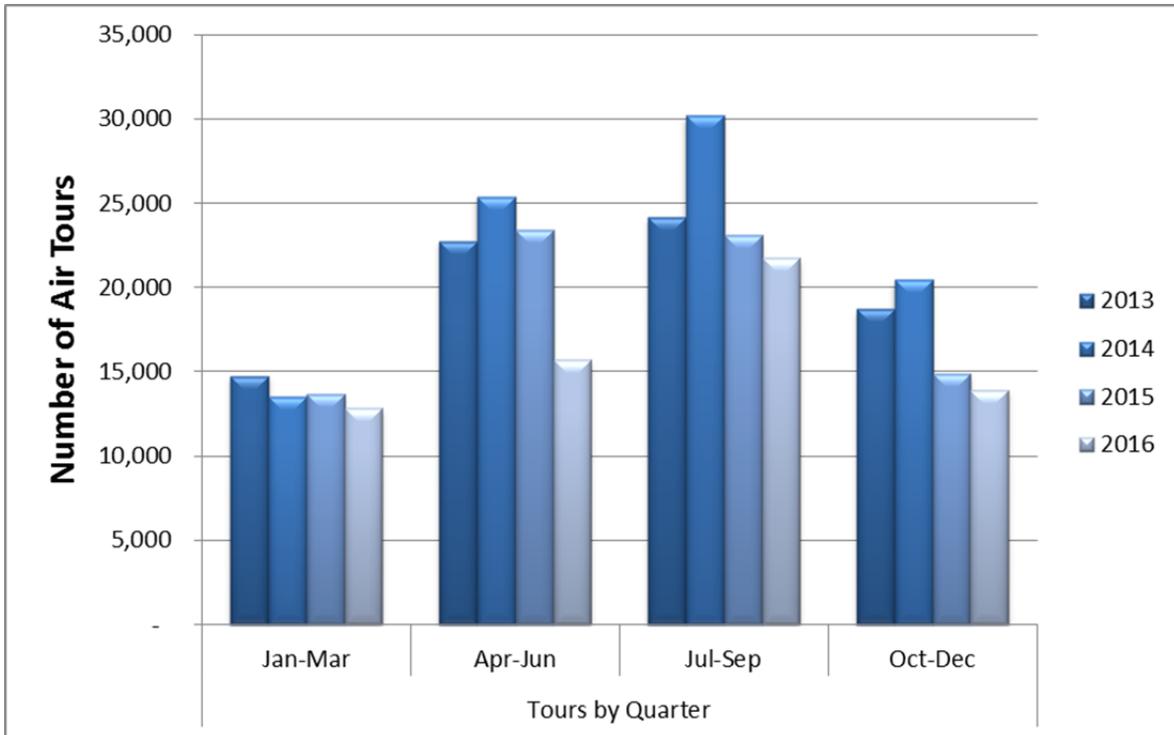


Figure 3. Reported Commercial Air Tours 2013-2016 by Quarter

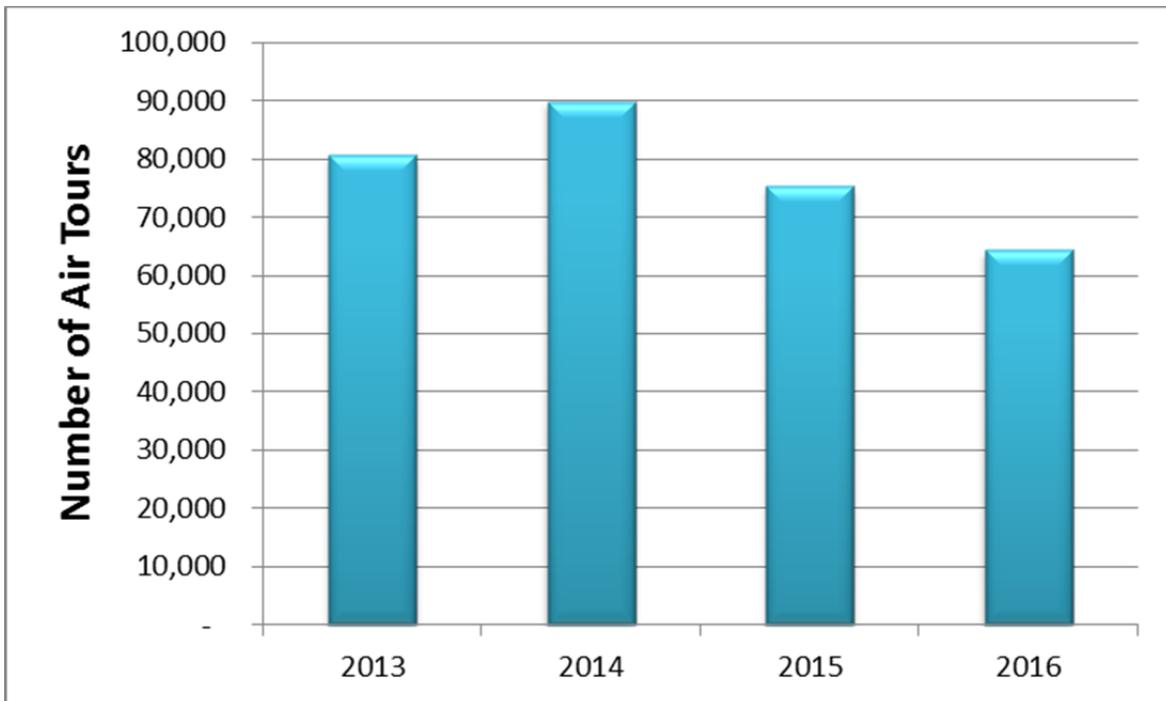


Figure 4. Reported Commercial Air Tours 2013-2016 per Year

Table 6 displays the number of operators conducting tours at the parks. As shown, there was a large spread in the number of air tour operators who give tours at any given park unit, with the number of operators reporting at least one tour at a park unit ranging from one to six. Most units (31) have only one operator conducting tours. Ten units have 2-4 operators, four units have five operators, and one unit (Hawai'i Volcanoes) has six operators who conducted tours.

Table 6. Number of Operators per Park Conducting Tours in 2016

No. Oprs.	No. Parks	% of Parks
1	31	67%
2	7	15%
3	1	2%
4	2	4%
5	4	9%
6	1	2%

5. Exempt Parks List

As previously noted, the NPATMA amendment provision, Section 49 U49 U.S.C §40128(a)(5), exempted national parks with 50 or fewer flights each year from the requirement to establish an ATMP or agreement. The provision required that the agencies publish an annual list of the parks that are covered by this exemption. The new provision required commercial air tour operators who conduct tours over exempt parks to provide the agencies with a report each year on the number of operations they conducted during the preceding year.

Congress anticipated that there might be instances where even 50 or fewer annual air tours could affect the protection of park resources, values or the visitor experience. Therefore, if the NPS determines that an ATMP or agreement is necessary to protect park resources and values or park visitor use and enjoyment, they can withdraw the exemption.

Table 7 lists the exempt parks based on 2015 reporting data as published in the Federal Register (81 FR 75183, Oct. 28, 2016). In 2016, there were 61 parks with 50 or fewer reported annual operations, which is the cutoff limit for an exempt park. As of the publication of this *2016 Annual Report*, FAA and NPS are in the process of finalizing the exempt list based on 2016 data and plan to publish this list in a forthcoming Federal Register notice.

Table 7. Exempt Parks List Based on 2015 Air Tour Data

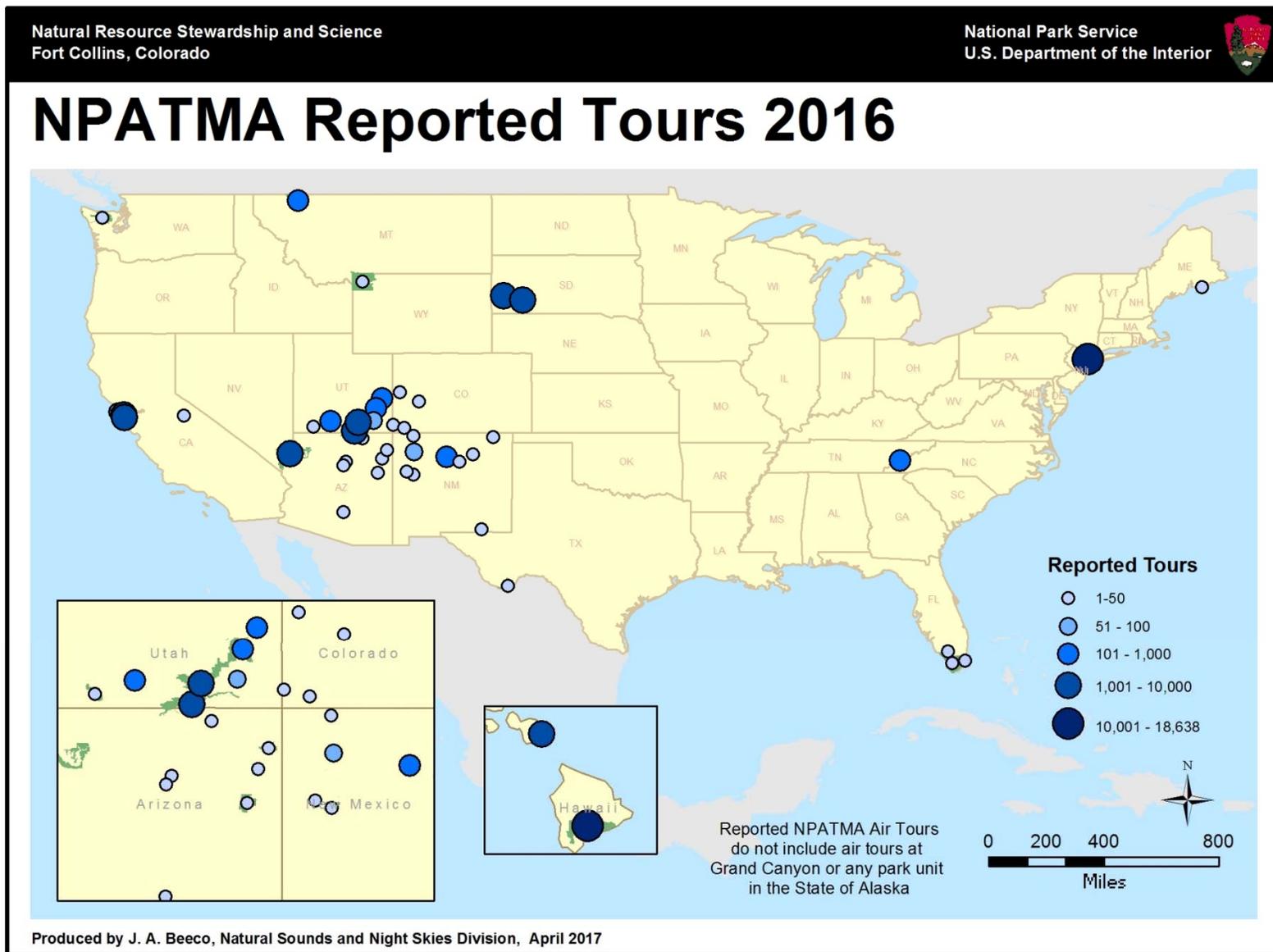
NPS Unit	
1.	Acadia National Park (ACAD)
2.	Big Bend National Park (BIBE)
3.	Black Canyon Of The Gunnison National Park (BLCA)
4.	Cape Hatteras National Seashore (CAHA)

5.	Capitol Reef National Park (CARE)
6.	Capulin Volcano National Monument (CAVO)
7.	Carlsbad Caverns National Park (CAVE)
8.	Casa Grande Ruins National Monument (CAGR)
9.	Cedar Breaks National Monument (CEBR)
10.	Colorado National Monument (COLM)
11.	Coronado National Memorial (CORO)
12.	Devils Tower National Monument (DETO)
13.	Dinosaur National Monument (DINO)
14.	Dry Tortugas National Park (DRTO)
15.	El Malpais National Monument (ELMA)
16.	El Morro National Monument (ELMO)
17.	Fort Bowie National Historic Site (FOBO)
18.	Fort Davis National Historic Site (FODA)
19.	Fort Union National Monument (FOUN)
20.	Gila Cliff Dwellings National Monument (GICL)
21.	Golden Spike National Historic Site (GOSP)
22.	Grand Teton National Park (GRTE)
23.	Great Sand Dunes National Park and Preserve (GRSA)
24.	Guadalupe Mountains National Park (GUMO)
25.	Hohokam Pima National Monument (PIMA)
26.	Hovenweep National Monument (HOVE)
27.	Hubbell Trading Post National Historic Site (HUTR)
28.	Kings Canyon National Park (SEKI) ^a
29.	Mojave National Preserve (MOJA)
30.	Montezuma Castle National Monument (MOCA)
31.	Navajo National Monument (NAVA)
32.	North Cascades National Park (NOCA)
33.	Olympic National Park (OLYM)
34.	Organ Pipe Cactus National Monument (ORPI)
35.	Pecos National Historical Park (PECO)
36.	Petrified Forest National Park (PEFO)
37.	Petroglyph National Monument (PETR)
38.	Pipe Spring National Monument (PISP)
39.	Rio Grande Wild and Scenic River (RIGR)
40.	Saguaro National Park (SAGU)
41.	Salinas Pueblo Missions National Monument (SAPU)
42.	San Juan Island National Historical Park (SAJH)
43.	Sequoia National Park (SEKI) ^a
44.	Sunset Crater Volcano National Monument (SUCR)

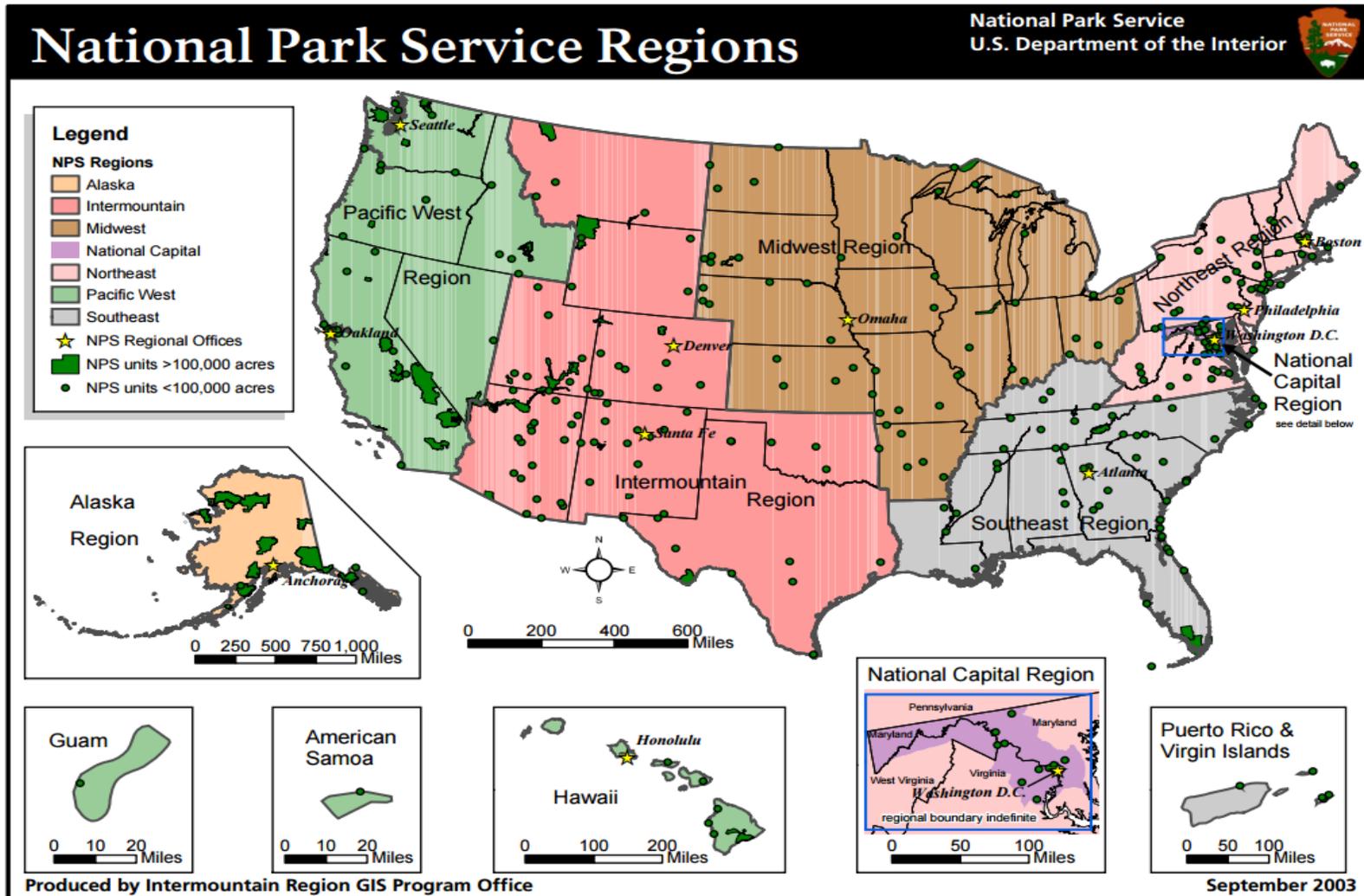
45. Timpanogos Cave National Monument (TICA)
46. Tumacacori National Historical Park (TUMA)
47. Tuzigoot National Monument (TUZI)
48. Voyageurs National Park (VOYA)
49. Walnut Canyon National Monument (WACA)
50. Wupatki National Monument (WUPA)
51. Yellowstone National Park (YELL)
52. Yosemite National Park (YOSE)
53. Yucca House National Monument (YUHO)
54. Zion National Park (ZION)

a. Sequoia and Kings Canyon National Parks are listed separately to maintain consistency with the first exempt list published in the Federal Register in Dec. 2012.

Appendix B. Map of 2016 Air Tour Activity



Appendix C. NPS Regions



Appendix 3: Exempt Park List Federal Register Notice

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

DEPARTMENT OF INTERIOR

National Park Service

List of Units of the National Park System Exempt from the Provisions of the National Parks

Air Tour Management Act

AGENCIES: Federal Aviation Administration, Transportation; National Park Service, Interior.

ACTION: List of Exempt Parks.

SUMMARY: The National Parks Air Tour Management Act (NPATMA) requires the Federal Aviation Administration (FAA) and National Park Service (NPS) to develop an air tour management plan for units of the national park system where an operator has applied for authority to conduct commercial air tours. The FAA Modernization and Reform Act of 2012 amended various provisions of NPATMA. One provision exempted national park units with 50 or fewer annual flights from the requirement to prepare an air tour management plan or voluntary agreement and requires FAA and NPS to jointly publish a list of exempt parks. By Federal Register notice (See 77 FR 75254, December 19, 2012), FAA and NPS published an initial list of exempt parks in 2012 and another list in 2014 (See 79 FR 14569-14570, March 14, 2014). This notice provides the annual updated list of parks that are exempt for calendar years 2014 and 2015.

FOR FURTHER INFORMATION CONTACT: Keith Lusk—Mailing address: Federal Aviation Administration, P.O. Box 92007, Los Angeles, California 90009-2007. Telephone: (310) 725-3808. Email address: Keith.Lusk@faa.gov. Vicki Ward—Mailing address: Natural Sounds and Night Skies Division, National Park Service, 1201 Oakridge Drive, Suite 100-31, Fort Collins, CO 80525. Telephone: (970) 267-2117. Email address: Vicki_Ward@nps.gov.

SUPPLEMENTARY INFORMATION:

I. Authority

1. NPATMA (Pub. L. 106-181, codified at 49 U.S.C. § 40128) requires the FAA and NPS to develop an air tour management plan for units of the national park system where an operator has requested authority to provide commercial air tours. The FAA Modernization and Reform Act of 2012 (2012 Act) amended various provisions of NPATMA.

2. This Federal Register Notice addresses the following 2012 Act amendment provisions (which are codified at 49 U.S.C. § 40128(a)(5)):

- a. Exempt national park units that have 50 or fewer commercial air tour operations each year from the requirement to prepare an air tour management plan or voluntary agreement.
- b. Authorize NPS to withdraw the exemption if the Director determines that an air tour management plan or voluntary agreement is necessary to protect resources and values or visitor use and enjoyment.
- c. Require FAA and NPS to publish a list each year of national parks covered by the exemption.

II. List of Exempt Parks 2014

1. This list is based on the number of commercial air tour operations reported to the FAA and NPS by air tour operators conducting air tours under interim operating authority at national park units in calendar year 2014 for which the total operations was 50 or fewer. Parks on the exempt list are those that have at least one operator who has been granted operating authority to conduct commercial air tours over that park. Exempt parks are as follows:

Acadia National Park, ME

Big Bend National Park, TX

Black Canyon of the Gunnison National Park, CO

Capitol Reef National Park, UT

Capulin Volcano National Monument, NM

Carlsbad Caverns National Park, NM

Casa Grande Ruins National Monument, AZ

Cedar Breaks National Monument, UT

Colonial National Historical Park, VA

Colorado National Monument, CO

Coronado National Memorial, AZ

Devils Tower National Monument, WY

Dinosaur National Monument, UT/CO

Dry Tortugas National Park, FL

El Malpais National Monument, NM

El Morro National Monument, NM

Fort Bowie National Historic Site, AZ

Fort Davis National Historic Site, TX
Fort Union National Monument, NM
Gila Cliff Dwellings National Monument, NM
Golden Spike National Historic Site, UT
Grand Teton National Park, WY
Great Sand Dunes National Park and Preserve, CO
Guadalupe Mountains National Park, NM
Hohokam Pima National Monument, AZ
Hovenweep National Monument, CO/UT
Hubbell Trading Post National Historic Site, AZ
Kings Canyon National Park, CA
Lake Chelan National Recreation Area, WA
Lassen Volcanic National Park, CA
Mesa Verde National Park, CO
Mojave National Preserve, CA
Montezuma Castle National Monument, AZ
Navajo National Monument, AZ
North Cascades National Park, WA
Olympic National Park, WA
Organ Pipe Cactus National Monument, AZ
Pecos National Historical Park, NM
Petrified Forest National Park, AZ
Petroglyph National Monument, NM

Pipe Spring National Monument, AZ
Rio Grande Wild and Scenic River, TX
Saguaro National Park, AZ
Salinas Pueblo Missions National Monument, NM
San Juan Island National Historical Park, WA
Sequoia National Park, CA
Sunset Crater Volcano National Monument, AZ
Timpanogos Cave National Monument, UT
Tumacacori National Historic Park, AZ
Tuzigoot National Monument, AZ
Voyageurs National Park, MN
Walnut Canyon National Monument, AZ
Wupatki National Monument, AZ
Yellowstone National Park, ID/MT/WY
Yosemite National Park, CA
Yucca House National Monument, CO
Zion National Park, UT

2. NPS is authorized to withdraw a park from the exempt list if NPS determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment. Under this statutory authority, the NPS Director informed the FAA Administrator in writing on September 15, 2015, that NPS withdrew the exemption for Death Valley National Park and Mount Rainier National Park. These two parks have been removed from the 2014 exempt list.

III. List of Exempt Parks 2015

1. This list is based on the number of commercial air tour operations reported to the FAA and NPS by air tour operators conducting air tours under interim operating authority at national park units in calendar year 2015 for which the total operations was 50 or fewer. Parks on the exempt list are those that have at least one operator who has been granted operating authority to conduct commercial air tours over that park. Exempt parks are as follows:

Acadia National Park, ME

Big Bend National Park, TX

Black Canyon of the Gunnison National Park, CO

Cape Hatteras National Seashore, NC

Capitol Reef National Park, UT

Capulin Volcano National Monument, NM

Carlsbad Caverns National Park, NM

Casa Grande Ruins National Monument, AZ

Cedar Breaks National Monument, UT

Colorado National Monument, CO

Coronado National Memorial, AZ

Devils Tower National Monument, WY

Dinosaur National Monument, UT/CO

Dry Tortugas National Park, FL

El Malpais National Monument, NM

El Morro National Monument, NM

Fort Bowie National Historic Site, AZ

Fort Davis National Historic Site, TX
Fort Union National Monument, NM
Gila Cliff Dwellings National Monument, NM
Golden Spike National Historic Site, UT
Grand Teton National Park, WY
Great Sand Dunes National Park and Preserve, CO
Guadalupe Mountains National Park, NM
Hohokam Pima National Monument, AZ
Hovenweep National Monument, CO/UT
Hubbell Trading Post National Historic Site, AZ
Kings Canyon National Park, CA
Mojave National Preserve, CA
Montezuma Castle National Monument, AZ
Navajo National Monument, AZ
North Cascades National Park, WA
Olympic National Park, WA
Organ Pipe Cactus National Monument, AZ
Pecos National Historical Park, NM
Petrified Forest National Park, AZ
Petroglyph National Monument, NM
Pipe Spring National Monument, AZ
Rio Grande Wild and Scenic River, TX
Saguaro National Park, AZ

Salinas Pueblo Missions National Monument, NM

San Juan Island National Historical Park, WA

Sequoia National Park, CA

Sunset Crater Volcano National Monument, AZ

Timpanogos Cave National Monument, UT

Tumacacori National Historic Park, AZ

Tuzigoot National Monument, AZ

Voyageurs National Park, MN

Walnut Canyon National Monument, AZ

Wupatki National Monument, AZ

Yellowstone National Park, ID/MT/WY

Yosemite National Park, CA

Yucca House National Monument, CO

Zion National Park, UT

2. Mesa Verde National Park, CO, is on the 2014 exempt list but not on the 2015 exempt list because the combined number of commercial air tours reported by all air tour operators was 50 tours or fewer in 2014, but exceeded 50 tours in 2015.

3. Cape Hatteras National Seashore, NC, is not on the 2014 exempt list but is on the 2015 exempt list because the combined number of commercial air tours reported by all air tour operators exceeded 50 tours in 2014, but was 50 tours or fewer in 2015.

4. Colonial National Historical Park, VA, Lake Chelan National Recreation Area, WA, and Lassen Volcanic National Park, CA are on the 2014 exempt list but not on the 2015 exempt list because there is no longer any operator(s) who has applied for operating authority to conduct

commercial air tours over those parks. At all the other parks on the 2015 list, there is at least one operator who has applied for operating authority to conduct tours over that park.

IV. List of Exempt Parks for Future Years

The FAA and NPS will publish a list of exempt parks annually. The list could change from year to year since parks may be added to or removed from the exempt list based on the previous year's number of annual operations. In order to continue to be exempt, a park must have 50 or fewer annual commercial air tour operations in any given calendar year. The list could also change if NPS withdraws an exempted park. NPS is authorized to withdraw a park from the exempt list if NPS determines that an air tour management plan or a voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment. Pursuant to the 2012 Act, the NPS shall inform the FAA in writing of each determination to withdraw an exemption. At parks that lose exempt status, operators will return to interim operating authority requirements until an air tour management plan or a voluntary agreement has been established.

Issued in Hawthorne, CA on August 11, 2016.

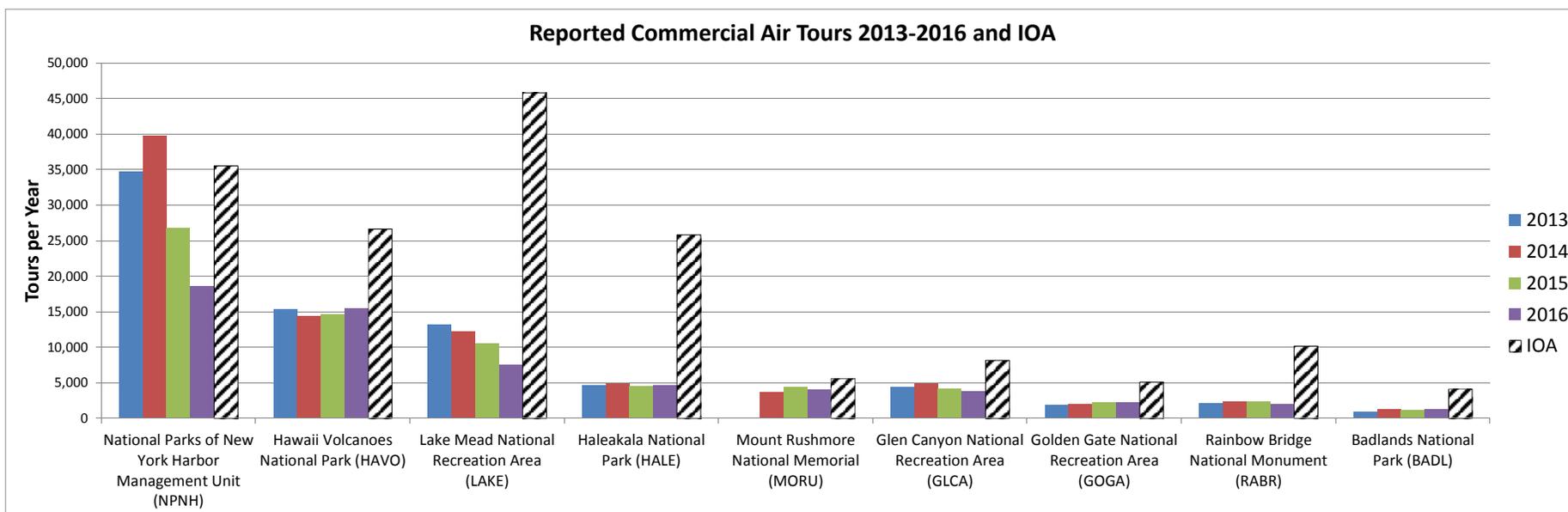


Glen A. Martin
Regional Administrator, Western-Pacific Region
Federal Aviation Administration

Issued in Washington, DC on August 17, 2016.

Raymond M. Sauvajot
Associate Director, Natural Resource Stewardship and Science
National Park Service

Appendix 4: Reported Commercial Air Tours 2013-2016 and IOA



Sources:

Reporting Information for Commercial Air Tour Operations over National Park Units, 2013 ANNUAL REPORT (September 2, 2016)

Reporting Information for Commercial Air Tour Operations over National Park Units, 2014 ANNUAL REPORT (March 30, 2017)

Reporting Information for Commercial Air Tour Operations over National Park Units, 2015 ANNUAL REPORT (March 29, 2017)

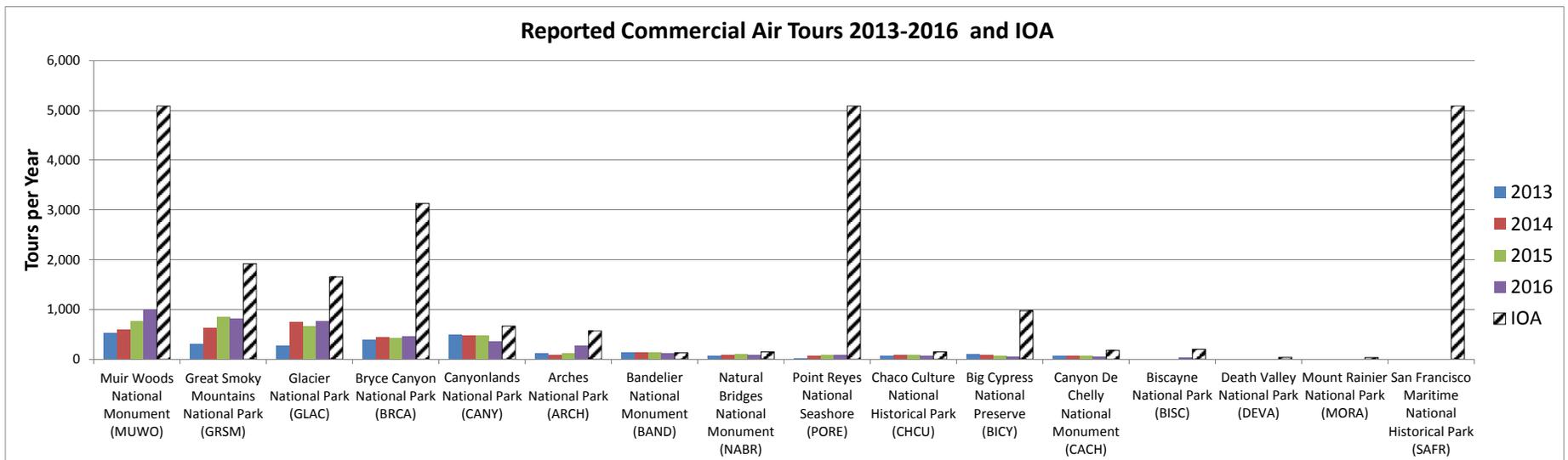
Reporting Information for Commercial Air Tour Operations over National Park Units, 2016 ANNUAL REPORT (July 26, 2017)

Supplement to Notice of Interim Operating Authority Granted to Commercial Air Tour Operators Over National Parks and Tribal Lands Within or Abutting National Parks, Federal Register, Oct. 7, 2005 (70 FR 58778), DOT/FAA

Notes:

1) Interim operating authority (IOA) for parks is based on Oct. 7, 2005 Federal Register notice (70 FR 58778) and individual operator IOA per FAA records.

2) See tables in annual reports for any notes on specific parks.



Sources:

Reporting Information for Commercial Air Tour Operations over National Park Units, 2013 ANNUAL REPORT (September 2, 2016)

Reporting Information for Commercial Air Tour Operations over National Park Units, 2014 ANNUAL REPORT (March 30, 2017)

Reporting Information for Commercial Air Tour Operations over National Park Units, 2015 ANNUAL REPORT (March 29, 2017)

Reporting Information for Commercial Air Tour Operations over National Park Units, 2016 ANNUAL REPORT (July 26, 2017)

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Notes:

1) Interim operating authority (IOA) for parks is based on Oct. 7, 2005 Federal Register notice (70 FR 58778) and individual operator IOA per FAA records.

2) See tables in annual reports for any notes on specific parks.

Appendix 5: Dick Hingson statement to the minutes on park prioritization

NPOAG Meeting of Nov. 4-5, 2009:

Public Observer Comments, from Dick Hingson, of SIERRA CLUB: National Parks and Monuments Committee, orally presented both days, and then submitted in writing, Nov. 7th, as requested from NPOAG members.

I. Prioritization of Parks for ATMP's

NPOAG's meeting agenda affords a revised prioritization of Parks for ATMP's, now nearly ten years after enactment of NPATMA. For guidance, we ought then review initial testimony, in the May 20, 1986 Congressional hearing¹ when adverse aircraft noise over *national parks* became subject of H.R. 4330 (99th Congress.)

* Which parks did the environmental organizations originally prioritize, specifically, for more regulation of air tours?

The Grand Canyon air tour situation was by then an obvious, longstanding crisis/priority², of concern to various speakers. But there were additional national park units by 1986, with unacceptable noise and visitor experience impacts from air tours, specifically.

The House committee report contains (at pp. 160-161) focused park identifications of these from the Sierra Club's *Dr. Edgar Wayburn*.³ He was followed on a separate panel by *Destry Jarvis* (at pp. 195-206) -- speaking as vice-president for conservation policy of the National Parks Conservation organization (NPCA).

These being two of the environmentalist organizations represented at this NPOAG meeting today, it is worth recalling now the views of Dr. Wayburn and Mr. Jarvis, from 1986. These two speakers independently volunteered (speaking on separate witness panels), the names of prioritized parks in need of special respite or relief from air tours, as far back as then. The short lists on which *both* sets of remarks focused were

¹ Hearing of May 20, 1986, before the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs, House of Representatives (99th Congress, 2nd session), titled "Construction of Dams and Aircraft Overflights in National Park Units", re H.R. 4330 (Overflights) and H.R. 4089 (on Dams), U.S. Government Printing Office, Washington,: 1987, Serial No. 99-59

² The notorious twin tour-helicopter crash at Grand Canyon, with twenty-five aboard, occurred only four weeks after the hearing, on June 18, 1986.

³ Dr. Wayburn is Honorary President of the Sierra Club, winner of the 1999 Presidential Medal of Freedom award, for his conservation achievements, and is still living at the age of 103.

- **Bryce Canyon**
- **Zion**
- **Glacier**
- Hawaiian parks: **Haleakala** and **Hawaii Volcanoes**
- Mt. Rushmore (from Mr. Jarvis only)

Not so prioritized was Mt. Rainier, or the New York City NPS units discussed by the NPOAG earlier today (Statue of Liberty⁴, or Governor's Island.)

Quoting Dr. Wayburn (at 161):

"Members of the club have also experienced rising noise impact in many other⁵ units of the National Parks System, specifically Glacier, Bryce Canyon, Zion, and Haleakala. It appears that the problem has grown beyond the ability of the Park Service to control and then FAA for its part has done nothing to help."

The urgency of retaining or recapturing the prioritization of such originally specified parks lies in the following considerations:

- These expert environmental representatives first identified them to Congress, and so in a real sense they became "first in line." Their problems, or basis for prioritization, have only increased since then.
- The high-altitude parks, like Bryce and Glacier, furthermore, have a highly seasonal aircraft vs. ground visitor impact at popular times of year (summer), with the conflict between such visitor use groups.
- ✱ Thus, a key indicator for purposes of Park ATMP prioritization would also be number of flight allocations likely impacting per day, per acre, at peak day(s), or at peak hour (s). The Sierra Club does not find it satisfactory to simply average out the allocated flights or noise at the more seasonal use parks over the 365-day year, when developing prioritization.

In summary, Bryce Canyon, Zion, and Glacier particularly deserve to be re-inserted into any current or new ATMP prioritization, remaining long publicized/known legacy parks of relatively small acreage confronted with large numbers of seasonal aircraft. The public has expected since 1986 (!) that they would receive immediate attention, and indeed their substantial wilderness consideration only adds to this.

⁴ The Statue of Liberty, along with the previously referenced NPS units, appeared on one of NPS' 1994 priority park protection lists for Overflights, in its Report to Congress.

⁵ Other than Grand Canyon.

II. IOA's and the "Improve Protection" Legal Requirement

FAA Order 8900.1, Change 22, dated 05/01/08, (referred to at the meeting) contains a paragraph "B." within its Section 11-402 on Requirements and Limitations, reciting--with two key bullets--the foundational NPATMA legal language concerning IOA:

- Will promote protection of national park resources, visitor experiences, and tribal lands;
- Will allow for modifications based on experience if the modifications improve protection of national park resources and values of tribal land.

The Sierra Club believes that these Requirements and Limitations bullets legally apply to IOA, as well as to ATMP's. The two above-cited bullets should therefore be particularly applied, *now*, to Bryce, Glacier, the Hawaii (2) parks, or other duly prioritized parks, where their ATMP has either not begun, or not reached a completed DEIS stage. Achievable, beneficial effects from said "IOA improvement" law-based bullets should no longer be denied or indefinitely postponed for priority parks.

Note added after conclusion of Meeting

We strongly disagree with the FAA's apparent posture⁶ (submitted informally since), that mere issuance of IOA, in itself, so sufficiently protects park units from adverse air tour impacts as to *not* trigger this interim improvement requirement, comprehensively. There is sufficient quantitative data as well as qualitative information at particular priority park units such as Bryce Canyon, as to proceed now with (further) *improvement of IOA*—long needed and warranted—while priority parks still wait for their ATMP's. This would be certainly a much better use of an unused million dollars for the law's purpose, than simply returning it to the Treasury, as was indicated imminent from the meeting.

Any guidance to the Aviation Safety Inspectors would include guidance for promoting protection—in consultation with the NPS—through IOA modifications at prioritized Parks, as proposed in both of the above bullets, and not limited to "quiet technology" adoption and use. Specifically utilized would be other known tools such as (1) increased respite periods/seasons from air tour noise; (2) re-distribution of air tour noise through route modifications and enlarged flight-free zones; (3) altitude restrictions; (4) allocation sub-caps for certain seasons or days of week experiencing high conflict with peak ground visitor use.

⁶ Personal e-mail communication of Nov. 6, 2009, from Dennis Pratte of FAA to Dick Hingson, in response to query about "air tour policy" as reflected in FAA Order 8900.1, Change 22.

Appendix 6: PEER Lawsuit

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PUBLIC EMPLOYEES FOR)
ENVIRONMENTAL RESPONSIBILITY)
962 Wayne Ave., Suite 610)
Silver Spring, MD 20910)

and)

HAWAII ISLAND COALITION)
MALAMA PONO)
PO BOX 6002)
Kurtistown, Hawaii 96760)

Plaintiffs,)

v.)

FEDERAL AVIATION ADMINISTRATION)
800 Independence Ave., S.W.)
Washington, D.C. 20591)

Defendant,)

Civil Action No.

COMPLAINT

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Plaintiffs bring this action for injunctive and declaratory relief to require the Defendant, the Federal Aviation Administration (“FAA”), to develop an Air Tour Management Plan (“ATMP”) or voluntary agreements as directed by statute for Hawaii Volcanoes National Park, Haleakalā National Park, Lake Mead National Recreation Area, Muir Woods National Monument, Glacier National Park, Great Smoky Mountains National Park, and Bryce Canyon National Park (hereinafter “parks impaired by overflights” (“PIO”)) within two years. Plaintiffs also seek an injunction of any further air tour operations over the PIOs where ATMPs or

voluntary agreements are not in place 24 months after the Court's order, and an award of Plaintiffs' reasonable costs and expenses of this litigation, including attorneys' fees.

2. Plaintiffs include a public interest organization dedicated to reducing the impact of noise from helicopters on the State of Hawaii; and a public interest organization whose mission is to advocate for public employees, including those who are employed at a PIO, and whose members regularly use PIOs but find that the overflights disrupt their enjoyment of the parks.

3. Plaintiffs claim that the FAA's failure to develop ATMPs or to enter voluntary agreements for the PIOs violates the Administrative Procedure Act of 1946, as amended, ("APA"), 5 U.S.C. § 551, *et seq.*; and the National Park Air Tour Management Act of 2000, as amended, ("NPATMA"), 49 U.S.C. § 40128.

4. Plaintiffs further claim that Defendant is in violation of the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321, *et seq.*, in failing to prepare an environmental impact statement ("EIS") or other environmental documents required by NEPA before repeated grants of interim authority for air tour operators in the PIOs without ever developing an ATMP or entering voluntary agreements pursuant to the NPATMA.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. § 2201.

6. This Court has the authority to award costs, expenses and attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

7. Venue is properly vested in this court under 28 U.S.C. § 1391(e) because the Defendant resides in this district, one Plaintiff is incorporated in this district, and because a substantial part of the acts and omissions giving rise to this claim occurred in this district.

8. The United States has waived sovereign immunity with respect to the claims raised herein under 5 U.S.C. § 702.

PARTIES AND STANDING

9. Plaintiff Public Employees for Environmental Responsibility (“PEER”) is a nonprofit organization incorporated in the District of Columbia and headquartered in Silver Spring, MD. It is a national alliance of local, state and federal resource professionals. PEER’s articles of incorporation declare its mission to include educating the public and speaking out, as well as defending those who speak out, about environmental ethics and compliance with environmental laws. PEER works nationwide with government scientists, land managers, environmental law enforcement agents, field specialists, and other resource professionals committed to responsible management of America’s public resources, including national parks and other public lands. PEER members include individuals who hike or bird-watch in the PIOs, and whose enjoyment of these parks is diminished by the presence of overflights that are unregulated by any ATMP or voluntary agreement.

10. PEER members include individuals who recreate, study wildlife and soundscapes, or operate businesses in the PIOs, and whose enjoyment of these parks, whose vocations and enterprises are diminished by excessive overflights that are unregulated in frequency, route, or timing by an ATMP or voluntary agreement. All of these members complain of noise and disruption from excessive overflights, including:

- (a) A recorder of soundscapes in Haleakalā National Park whose work product, which includes assisting national parks with soundscape studies and identifying wildlife species, has been interrupted by over 4,500 annual overflights which mask the natural ambience and negatively affect the behavior of wildlife, thus making soundscape recording and wildlife identification significantly more difficult to obtain;
- (b) A retired ecologist who now leads tours and birding expeditions through the Lake Mead National Recreation Area, as well as camps and hikes in the area himself—who has found that the aircraft diminish the natural quiet he enjoys, reduce the quality of his tours, and make it harder to listen for birds;
- (c) A tour company operator and an environmental educator in Muir Woods National Monument who have experienced disturbances, every few minutes, from over 1,000 annual overflights. The tour operator’s business is negatively affected by diminishing customer experience when customers are forced to cover their ears constantly. The environmental educator, who lives near the National Monument, experiences decreased quiet enjoyment of her own property by having to keep all windows closed to maintain concentration.
- (d) In Glacier National Park, a nearby resident’s weekly all day hikes have been ruined by the constant noise of over 750 annual overflights. These overflights are also heard from his property from 7 a.m. to 7 p.m. PEER members also include three former public employees at Glacier National Park – a former backcountry ranger and wildlife biologist, a former backcountry ranger and water systems operator, and a former state and national park management employee – whose professional experiences with nature in Glacier National Park have been altered by the overflights.

- (e) In Great Smoky Mountains National Park, the owner of a tour guide company whose work and personal life have been disrupted by over 800 annual overflights which interrupt silent walks and destroy a key purpose of the guided tours - positive experiences with nature - by causing employees and customers to want to duck every fifteen minutes from the constant buzzing overhead; and
- (f) A former Bryce Canyon National Park employee whose photographs have been ruined by the high altitude airplane contrails of over 450 annual overflights entering his landscape photography and who has also been deprived of the subtle natural sounds of wildlife, ultimately displacing his hiking locations;

11. Plaintiff Hawaii Island Coalition Malama Pono (“HICoP”) is an advocacy nonprofit coalition of homeowners whose houses are impacted by air tours headed towards Hawaii Volcanoes National Park. Their homes lie in the path between Hawaii Volcanoes National Park and the airfields from which the helicopters conduct air tours. As a result this group of over three hundred homeowners have suffered the adverse consequences of frequent and unregulated air tours. In some cases, as many as 80 flights a day roar over their homes. They have suffered the near-constant noise from the helicopters, and have had their skies marred by the unattractive metal monsters. Contacts in the group have additionally suffered medical, economic, and social consequences. Residents have had trouble sleeping and are afflicted by stress, anxiety, and high blood pressure. Home prices have declined, and the noise from the helicopters has negatively impacted their ability to generate rental income. Furthermore, the noise has caused distress in their pets, which could cause additional veterinary bills. As a further impact of the air tours, homeowners in HICoP have found fewer occasions to entertain guests and feel their privacy has been impinged upon by the presence of airborne tourists over their

homes. If the FAA were to develop an ATMP, it would probably reduce the number of air flights, or reroute some of them over unpopulated areas. Both actions would significantly mitigate the adverse consequences suffered by HICoP.

12. Defendant FAA is an administration of the Department of Transportation. 49 U.S.C. § 106. Among other mandates, the Administrator of the FAA must “develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace.” 49 U.S.C. § 40103(b)(1). Congress has assigned responsibility for managing commercial air tours over national park lands to the FAA. *See* 49 U.S.C. § 40128.

FACTS

13. NPATMA was passed 17 years ago in the year 2000. The Act mandated that there would be no commercial air tours over national parks or within one half mile of a national park (defined to include any unit of the National Park System), unless the air tour was authorized by this statute. 49 U.S.C. §§ 40128(a)(1); 40121(g)(4)(a); 40128(g)(5).

14. In order to conduct commercial air tour operations, an operator must apply to the FAA for operating authority. 49 U.S.C. §§ 40128(a)(2)(A). NPATMA directs that the Administrator of the FAA, in cooperation with the Director of the National Park Service, “shall establish an air tour management plan for any national park or tribal land for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park.” 49 U.S.C. §§ 40128(b)(1)(A). FAA is required to develop and implement an ATMP before granting operating authority. 49 U.S.C. §§ 40128(a)(2)(D). FAA is to “make every effort” to act on applications for operating authority not later than 24 months after the application is received. 49 U.S.C. §§ 40128(a)(2)(E). Since an ATMP is required to grant

operating authority, this means that an ATMP must be developed within 24 months of any air tour operator application.

15. All of the PIOs had existing air tour operators at the time NPATMA was enacted in 2000, which were then required by NPTMA to apply for operating authority, thus triggering the requirement for an ATMP within 24 months. However, no ATMPs have ever been established in those parks or any others.

16. NPATMA was amended in 2012. FAA Modernization Reform Act of 2012, Pub. L. No. 112-95, 126 Stat. 11. The amendments contained two exceptions to the previous requirement that all park units with tour operators have ATMPs. The first is that a national park unit, if it has few enough flights (no more than 50 per year), could be exempted from NPATMA's requirements. 49 U.S.C. § 40128(a)(5)(A). The FAA is required to promulgate an annual list of exempt parks. 49 U.S.C. § 40128(a)(5)(C)(i). In 2015, based on the latest available list, 54 units of the national park system were exempt. 81 Fed. Reg. 75,183 (Oct. 28, 2016). For those park units, the FAA is not required to develop an ATMP.

17. The only years for which data on air tour numbers exists are 2013, 2014, 2015, and 2016, because the number of flights over a park only became relevant when the exemption for parks with fewer than 50 flights went into effect. In 2013, there were more than 50 flights per year at all of the PIOs. NATIONAL PARK SERVICE, REPORTING INFORMATION FOR COMMERCIAL AIR TOUR OPERATIONS OVER NATIONAL PARK UNITS: 2013 ANNUAL REPORT (2016). In 2014, there were more than 50 flights per year at all of the PIOs. NATIONAL PARK SERVICE, REPORTING INFORMATION FOR COMMERCIAL AIR TOUR OPERATIONS OVER NATIONAL PARK UNITS: 2014 ANNUAL REPORT (2015). In 2015, there were more than 50 flights per year at all of the PIOs, including 14,645 commercial air tours conducted over Hawaii Volcanoes

National Park. NATIONAL PARK SERVICE, REPORTING INFORMATION FOR COMMERCIAL AIR TOUR OPERATIONS OVER NATIONAL PARK UNITS: 2015 ANNUAL REPORT (2017). In 2016, there were more than 50 flights per year at all of the PIOs. NATIONAL PARK SERVICE, REPORTING INFORMATION FOR COMMERCIAL AIR TOUR OPERATIONS OVER NATIONAL PARK UNITS: 2016 ANNUAL REPORT (2017). The number of air tours conducted over Hawaii Volcanoes National Park increased to 15,489. *Id.*

18. Given that the PIOs exceeded that cap in 2013, 2014, 2015, and 2016, it is very likely that flight numbers have remained above 50 in 2017.

19. The second exception to the requirement for ATMPs in the 2012 amendments is an alternative to ATMPs whereby the Administrator of the FAA and the Director on the National Park System may enter into voluntary agreements with all operators over the park as described at 49 U.S.C. § 40128(b)(7).

20. Thus, currently, if the number of flights over a park exceeds 50 per year, NPATMA requires that the FAA develop an ATMP for the park as described at 49 U.S.C. § 40128(b)(1)(B), or enter into a voluntary agreement with all operators over the park as described at 49 U.S.C. § 40128(b)(7).

21. The NPATMA also provides for the grant of interim operating authority to operators on an annual basis pending development of an ATMP and terminating 180 days after the establishment of an ATMP. 49 U.S.C. § 40128.

22. NPATMA provides that the “objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.” 49 U.S.C. § 40128(b)(1)(B).

23. To accomplish that goal, the FAA is allowed to ban, in whole or in part, air tour flights over the park, and “may establish conditions for the conduct of commercial air tour operations over a national park, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts[.]” 49 U.S.C. § 40128(b)(3)(A), (B).

24. Voluntary agreements as an alternative to ATMPs “shall address the management issues necessary to protect the resources of such park and visitor use of such park” and may include provisions similar to those for ATMPs. 49 U.S.C. § 40128(b)(7)(B). They are also subject to required public review and consultation with affected Indian Tribes. 49 U.S.C. § 40128(b)(7)(C).

25. Plaintiffs suffer from noise and visual impacts of park overflights during their various activities in the parks. If there were fewer aircraft and less noise, the hikers, birdwatchers, tour operators, soundscape recorders, environmental educators, and nearby residents who belong to PEER would be able to enjoy the parks and their properties more. Moreover, the Hawaiian homeowners in HICoP would have less disruption to the quiet enjoyment of their properties. If the FAA were to develop an ATMP for each PIO, or voluntary agreements with all of the operators, then the FAA would have to consider and mitigate the impacts on Plaintiffs. Even minor changes to altitudes, routes, number of flights per hour, and time-of-day restrictions would significantly mitigate the harm to Plaintiffs from the status quo.

26. However, by the FAA’s own account, in the 17 years since the passage of the NPATMA, it has not developed a single ATMP. Nor has it focused its efforts on the voluntary agreement alternative, for there are currently only two operative voluntary agreements that cover

Big Cypress National Preserve and Biscayne National Park. As of 2015, there were 24 parks with more than 50 flights per year. NATIONAL PARK SERVICE, REPORTING INFORMATION FOR COMMERCIAL AIR TOUR OPERATIONS OVER NATIONAL PARK UNITS: 2015 ANNUAL REPORT (2017). In addition, the NPS withdrew the exemption for Death Valley National Park and Mount Rainier from the list for 2014 and 2015. 81 Fed. Reg. 75,183 (Oct. 28, 2016). Thus, as of 2015, 26 park units were subject to the ATMP requirement or voluntary agreement alternative.

27. In lieu of following the statutory scheme requiring the development of ATMPs or voluntary agreements, the FAA has repeatedly granted annual interim operating authority to commercial air tour operators, far beyond the 24 months the statute allows for developing ATMPs and making decisions on the operating authority applications. 49 U.S.C. § 40128(c)(2)(A).

28. In the case of the PIOs that are the subject of this complaint, there have been overflight operators since before the enactment of NPATMA, and the operators in those parks have been operating based on interim authority since the law was enacted in 2000. The interim authority for each of these operators has been renewed annually for the past 17 years without ever developing an ATMP or entering a voluntary agreement. In some cases, new operators in the PIOs have been granted interim operating authority. All such operators have been operating based on interim authority and without ATMPs or voluntary agreements for at least eight years.

29. As a result, members of PEER and HICoP have been injured in the following ways, among others: loss of aesthetic enjoyment, decline in property value, damage to businesses and professional pursuits, reduced hiking enjoyment, loss of sleep, and increased stress.

30. The FAA has deliberately ignored a statutory mandate to pursue an alternative policy that it prefers. In order to end the agency's obstructionism, the FAA must be compelled

to either develop ATMPs for the PIOs or enter into voluntary agreements with all of the commercial air tour operators for those park units.

STATUTORY BACKGROUND

A. National Park Air Tour Management Act

31. The National Park Air Tour Management Act, 49 U.S.C. § 40128, was passed by Congress in response to the problems of uncontrolled low-flying aircraft conducting extended tours over national park lands. Those problems included noise pollution, wildlife disruption, and injury to visitor experiences.

32. NPATMA originally required an ATMP for every park where there were overflights, but the FAA Modernization Reform Act of 2012 introduced exemptions for parks with fewer than 50 flights per year and the alternative of voluntary agreements between operators and the FAA. FAA Modernization Reform Act of 2012, Pub. L. No. 112-95, 126 Stat. 11.

33. NPATMA requires the establishment of an ATMP by the Administrator of the FAA in cooperation with the Director of the National Park Service “for any national park or tribal land where such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park.” 49 U.S.C. § 40128(b)(1)(A).

34. Before beginning a commercial air tour operation, the air tour operator is required to apply for authority to conduct the operations over the park. 49 U.S.C. § 40128(a)(2)(A).

35. The Administrator of the FAA “shall make every effort to act on any application under this paragraph and issue a decision on the application not later than 24 months after it is received or amended.” 49 U.S.C. § 40128(a)(2)(E).

36. Upon application for authority to conduct operations from an existing commercial air tour operator, defined as an air tour operator that has conducted commercial air tour

operations within the last 12 months over the park, 49 U.S.C. § 40128(g)(2), the FAA must grant interim operating authority to the applicant. 49 U.S.C. § 40128(c)(1). Interim operating authority provides for the greater of either the number of flights flown within the 12 month period preceding the enactment of the statute or the average number of flights per 12 month period within the preceding 36 month period. 49 U.S.C. § 40128(c)(2)(A)(i),(ii).

37. The FAA may, in cooperation with the Director of the National Park Service, grant interim operating authority to a new entrant air operator provided the Director of the National Park Service agrees. 49 U.S.C. § 40128(c)(3)(A)(iii).

38. Interim operating authority expires 180 days after the establishment of an ATMP for a park unit. 49 U.S.C. § 40128(c)(2)(E).

B. Administrative Procedure Act

39. The Administrative Procedure Act (“APA”) makes final agency action subject to judicial review, 5 U.S.C. § 704, and authorizes courts reviewing agency action to hold unlawful and set aside final agency action, findings and conclusions that are arbitrary and capricious, an abuse of discretion or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

40. The APA allows a court to compel agency action unlawfully withheld or unreasonably delayed. 5 U.S.C. § 706(1).

C. National Environmental Policy Act

41. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, *et seq.*, is the “basic national charter for protection of the environment.” 40 C.F.R. 1500.1. Its purposes are to “help public officials make decisions that are based on understanding of environmental consequences, and to take actions that protect, restore, and enhance the environment,” *id.* at § 1500.1(c), and to “insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.” *Id.* at § 1500.1(b).

42. To accomplish these purposes, NEPA provides that a Federal agency must prepare an environmental impact statement (“EIS”) for “proposals for...major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C); *see also* 40 C.F.R. § 1502.3. The Council on Environmental Quality regulations list a number of factors that an agency must consider in deciding whether to prepare an EIS. 40 C.F.R. § 1508.27. The agency must prepare the EIS or otherwise comply with NEPA *before* going forward with an action. Moreover, actions subject to NEPA “include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.” 40 C.F.R. § 1508.18.

43. The NEPA process requires the acting agency to first determine whether the action is one that normally requires an EIS. 40 C.F.R. § 1501.4(a)(1). An agency action does not normally require an EIS if it falls within a categorical exclusion. *Id.* § 1501.4(a)(2). “Categorical exclusion” is defined as “a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations.” 40 C.F.R. § 1508.4. If an agency determines that the action is not the kind that normally requires an EIS and does not invoke a categorical exclusion, the agency is required to prepare an environmental assessment (“EA”) to determine whether an EIS is necessary. *Id.* §§ 1501.3, 1501.4(b), 1508.9. If the agency concludes, based on the EA, that an EIS is not required, it must prepare a finding of no significant impact (“FONSI”) which explains the agency’s reasons for its decision. *Id.* §§ 1501.4(e), 1508.13.

CLAIMS FOR RELIEF

Count I – Violation of the Administrative Procedure Act

44. Plaintiffs re-allege and incorporate by reference each and every allegation in the preceding paragraphs.

45. The APA allows a plaintiff to sue to compel agency action unlawfully withheld or unreasonably delayed. 5 U.S.C. § 706(1).

46. The failure to develop ATMPs for the PIOs or voluntary agreements in accordance with 49 U.S.C. § 40128(b) is agency action unlawfully withheld in violation of 5 U.S.C. § 706(1).

47. The failure to develop ATMPs for the PIOs or voluntary agreements in accordance with 49 U.S.C. § 40128(b) is agency action unreasonably delayed in violation of 5 U.S.C. § 706(1).

Count II – Violation of the National Park Air Tour Management Act

48. Plaintiffs re-allege and incorporate by reference each and every allegation in the preceding paragraphs.

49. The PIOs are subject to NPATMA and not exempted based on less than 50 flights per year.

50. The commercial air tour operators in the PIOs have been operating based on interim authority, without the establishment of an ATMP or a voluntary agreement, for at least eight years, and in most cases, for the entire 17 years since the enactment of NPATMA.

51. The grant of interim operating authority is based upon an application for authority to conduct commercial air tour operations.

52. FAA is required to develop and implement an ATMP before granting operating authority. 49 U.S.C. §§ 40128(a)(2)(D).

53. The NPATMA states that the Administrator of the FAA “shall make every effort to act on any application under this paragraph and issue a decision on the application not later than 24 months after it is received or amended.” 49 U.S.C. § 40128(a)(2)(E).

54. Therefore, upon the initial grant of interim operating authority to the applying operators, the FAA had 24 months to develop an ATMP or enter a voluntary agreement with each operator.

55. The FAA has been annually reauthorizing the interim operating authority of the operators in those parks well in excess of the 24 months the FAA had to develop an ATMP or enter a voluntary agreement, which would remove the need for interim operating authority.

56. The FAA has failed to develop an ATMP for each PIO or a voluntary agreement with each operator in each PIO within 24 months of application for operating authority, as NPATMA requires.

57. Defendant’s failure to develop the mandatory ATMPs or voluntary agreements in the PIOs is in violation of the NPATMA. Its actions should be set aside and found unlawful.

Count III – Violation of the National Environmental Policy Act

58. Plaintiffs re-allege and incorporate by reference each and every allegation in the preceding paragraphs.

59. The National Environmental Policy Act requires that agencies “include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on -- (i) the environmental impact of the proposed action, (ii) any adverse

environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.” 42 U.S.C. § 4332(C).

60. The NPTMA requires NEPA compliance by means of an EIS or EA for ATMPs. 49 U.S.C. § 40128(b)(2).

61. The FAA's repeated grants of interim authority for air tours without the development of ATMPs or voluntary agreements is likewise a “major Federal action “ that has impacts on the environment and is subject to NEPA.

62. The FAA's failure to act to develop ATMPs or voluntary agreements, as required by law, is also subject to NEPA. Actions subject to NEPA “include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.” 40 C.F.R. § 1508.18.

63. The FAA's failure to act is reviewable under the APA, because discretion to ignore the statutory mandate cannot be committed to the FAA.

64. Commercial air tour operations conducted over parklands result in noise that can cause adverse effects on human environmental quality and wildlife and deleterious health effects. Even though one flight may be insignificant, there are hundreds or thousands of flights over the 7 PIOs, which could have serious cumulative impacts. Moreover, the presence of air tours could potentially harm a species listed under the Endangered Species Act, 15 U.S.C. § 1531, *et seq.*

65. The FAA has not prepared an EIS or EA concerning its grants of interim authorities or its failure to prepare ATMPs or voluntary agreements for the PIOs. Nor has FAA properly claimed a categorical exclusion from NEPA. The FAA is therefore in violation of NEPA.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request the court to order the following relief:

A. Declare that Defendant has violated the APA, 5 U.S.C. § 706(1), providing that agency actions must not be unreasonably delayed or unlawfully withheld, by failing to develop any ATMPs or voluntary agreements for the PIOs, which are required by law.

B. Declare that Defendant has violated the NPATMA, 49 U.S.C. § 40128, by failing to develop any ATMPs or voluntary agreements for the PIOs, as NPATMA requires the FAA to do within 24 months of an air tour operator's application for operating authority.

C. Declare that Defendant has violated NEPA by failing to prepare an environmental impact statement and by failing to conduct any environmental analysis of the effect of its multiple and repeated grants of interim authority and of its inaction in developing ATMPs or voluntary agreements.

D. Order Defendant to develop an ATMP for each PIO or voluntary agreements with each operator in each PIO, as soon as possible and no later than 24 months from the Court's order.

E. Enjoin any further air tour operations over the PIOs where ATMPs or voluntary agreements are not in place 24 months after the Court's order.

F. Award Plaintiffs their reasonable litigation expenses, including attorneys' fees, court costs and other expenses pursuant to the Equal Access to Justice Act, 29 U.S.C. § 2412, *et seq.*

G. Grant such additional relief as the Court deems just and proper.

Dated: October 5, 2017

Respectfully submitted,

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Appendix 7: Public written comments

Public Comment from George Bettencourt

Aloha: Attached please find two documents. One is a portion of an article co-authored by Cindy Orlando regarding what are purported media flights over HVNP. The article was produced by the FAA in response to a FOIA request submitted on behalf of Safari Aviation. Her incorrect assessment claiming essentially a complete lack of FAA control over what she terms media flights casts serious doubt as to her competence and management policies at HVNP. The second attachment consists of two screen shots of my repeated attempts to conduct research of what purports to be NPS research and conclusions as presented by the NPS or their contractors at NPOAG meetings. As we have previously been subjected to Hawai'i only rules (SFAR 71 and Part 136), we must remain vigilant to all further secret and unjustified FAA/NPS conduct or decision-making by immigrants to Hawai'i that affect our economic interests.

It was disturbing to discover at the NPOAG meetings that they had been preceded by an unannounced and secret "pre-meeting" involving the NPOAG members, the agencies, and other unknown participants, the day before what purported to be the "official" meeting. Those of us from Hawai'i are accustomed to being treated as "children of a lesser God", as described more fully in Public Law 103-150, and as recently reinforced by no less than Attorney General Sessions' recent reference to our Article III United States District Judge Watson as a "so-called judge on an island in the middle of the Pacific." We must assume that similar discriminatory treatment was the subject of the of the NPOAG secret pre-meeting with the agencies, as all NPAOG members had copies of the litigation seeking judicial rulings on Hawaiian interests in a distant venue to guarantee that no there was no risk that it might be decided by a "so-called judge on an island in the middle of the Pacific."

As to the meeting itself, you will recall there was minimal time allotted (30 minutes on 18 October and 15 minutes on 19 October) for public comments at the NPOAG meeting, which you as "facilitator" ("a person or thing that makes an action or process easy or easier") chose to arbitrarily further reduce to 6 minutes and 4 minutes, thereby preventing even the semblance of public comment "to address NPOAG and the agencies"

After reviewing you firm's web site, and the restrictions on access to relevant information required or caused by the NPS, it appears that your company obstructed rather than facilitated even minimal public comment despite available time. After reviewing the self-serving claims and assertions contained within the triangleassociate.com site, this conduct appears arbitrary, capricious and disingenuous, and certainly not intended to assist in providing information to the individual members who, unlike Cindy Orlando or the NPS, may still desire to perform their duties specifically involving HVNP without prejudgment or bias.

Safari contends that all members of the public, including those who have now been encouraged by Ms. Orlando to file litigation against the FAA/DOT, should have an unrestricted portal or channel to provide input to the individual NPOAG members, from any external spin control. To assist this process yourself and the agencies must provide the public with unrestricted access to all purported data submitted, orally or in other formats, free from any further "facilitation."

Please act immediately to remove NPS and/or facilitator restrictions on our access to information, and to provide details of how we may provide information and documents to the individual NPOAG members free from ant further purported "facilitation.

David Bettencourt, legal counsel for Safari Aviation.

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Last Updated: 6/6/2017

EXPERIENCE YOUR AMERICA™

Media flight poses danger to scientists on the ground

Because the eruption started late on March 5, there was time overnight for word to spread about the new volcanic activity and, as the sun rose on the eruption's second day (March 6, 2011), a small fleet of helicopters bearing members of the media converged on the Kamoamoia fissure eruption. The fissure erupted through a thick blanket of tephra (cinders) produced during lava fountaining in the early 1980s. HVO had sent a small crew on foot to monitor the eruption during the first night, so when the helicopters converged on the eruption area, HVO scientists were already on the ground.

As in other US areas, the Federal Aviation Administration (FAA) regulates aircraft flight paths in Hawai'i that are used by a mixture of commercial airliners, air tour operators, media, USGS, and other agencies. Air tours are restricted to pre-approved paths at minimum altitudes of 500 to 1500 ft above ground level (agl). **Media flights, used by independent videographers and photographers, as well as news media, have no such restrictions and are allowed to fly at any altitude as long as they do not land and do not endanger people on the ground.** The exception is when a temporary flight restriction (TFR) is in effect. **In that instance, approval for access must be granted by the land manager.**

On the morning of March 6, 2011, one particular media flight with an independent videographer onboard was flying low and just upwind of the erupting fissure. With the videographer focused on shooting footage of the spectacular sight and the pilot focused on steering clear of the eruption, neither noticed the two HVO scientists who were standing in a field of cinder observing the lava fountaining. **The helicopter was flying so low that the rotor wash (downward airflow from the spinning helicopter rotor blades) blew cinder into the scientists' eyes, thereby endangering their safety on the ground.**

The incident was reported to FAA, including video footage (provided by the videographer) in which the two scientists can be clearly seen. According to the report, the pilot was not looking for people on the ground and **inadvertently flew low over the scientists while trying to position the videographer for dramatic footage.** Along with reporting the incident, HVNP officially requested a TFR to keep all aircraft, other than those used by HVO and HVNP to perform their official duties, out of an area within a 5.6-km (3.5-mi) radius of the vent and 1,220 m (4,000 ft) agl. FAA immediately

instituted this restriction and there were no additional such incidents during the Kamoamo eruption. On March 7, the TFR was reduced to a 2.4 km (1.5 mi) radius and 460 m (1,500 ft) agl.

References

Jim Kauahikaua, U_S_ _G_e_o_l_o_g_i_c_a_l_ _S_u_r_v_e_y_,
_H_a_w_a_i'_i_a_n_ _V_o_l_c_a_n_o_ _O_b_s_e_r_v_a_t_o_r_y_,
_H_I_ _9_6_7_1_8_ _

Cindy Orlando, N_a_t_i_o_n_a_l_ _P_a_r_k_ _S_e_r_v_i_c_e_,
_H_a_w_a_i'_i_ _V_o_l_c_a_n_o_e_s_ _N_a_t_i_o_n_a_l_
_P_a_r_k_, _H_I_ _9_6_7_1_8_ _

Public Comment from George Abrahams:

Comment to NPOAG

October 19, 2017

IMAX Alternative to Air Tours

The NPS should establish an IMAX theater alternative to air tours over national parks and tribal lands. Creating an IMAX movie of a virtual air tour would eliminate the rationale for having air tours. An IMAX movie could last longer than an air tour because it would not be subject to fuel limitations and could include scenes that could only be viewed in person from going on several different air tours. It would be a much better use of time because it would eliminate dead-heading from the airport to the park and the return trip. It could include sights that are closer to the locations and using flight techniques and not subject to flight restrictions when passengers are on board. It would only have to be done once and afterwards park visitors would be free of disturbances from the constant din of air tours. Tribes that offer this alternative should be given a legislative opt-out allowing them to prohibit all air tours over their tribal lands.

George Abrahams

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Thank you for the opportunity to submit a comment during the National Parks Overflight Advisory Group meeting.

I am writing on behalf of Friends for a Quiet! Glacier – a Coalition of 31 not for profit organizations in support of restoring and preserving the natural soundscape in Glacier and other National Parks. These organizations represent millions of members who are relying on the FAA.

We believe that Glacier National Park should be among the top priorities for consideration of NPOAG for these reasons:

- Glacier was identified in the first Congressional hearings on National Park overflights in 1987 as a priority (National Parks Overflight Act PL 100-91 passed), has been on the NPS priority list for resolution of this issue since 1994 (in NPS Report to Congress, <http://www.nonoise.org/library/npreport/intro.htm>)
- In a 1996 memorandum to DOT, DOT/FAA were directed to advance Glacier (by reference) as one of the established NPS priorities [Federal Register Volume 61, Number 81 (Thursday, April 25, 1996)] [Pages 18229-18230].
- From the Federal Register Online via the Government Publishing Office [www.gpo.gov] [FR Doc No: 96-10369]. In 2002, Glacier remained among the first ATMPs planned to be completed by 2004– 14 years ago.
- The Interim Operating Authority permits were intended to be temporary, until an ATMP was in place. According to the Federal Register they are based on self-reported unverified submissions. The number of operator claimed overflights in Glacier in 2005 is nearly double what was actually flown in 2016.
- Section 49 U.S.C §40128(d) requires that each commercial air tour operator, whether they operate under an ATMP, a voluntary agreement, or IOA, submit a report to both the FAA and NPS on the number of commercial air tour operations over each park they operate at and “such other information” as the agencies request (since 2013). In the 4 years of data to date, 98% of the commercial overflights in Glacier National Park took place in 2nd & 3rd Qtr AND the majority of those flights took place in 3 months, not 6, amplifying negative impact at peak visitation (when 94% of visitors are present, pe [<https://www.nps.gov/subjects/sound/airtours.htm>]). Because of the unique nature of the season in Glacier, this number has far greater consequences and adverse impacts than the "quantity" of annual flights reveal. The number of commercial overflights has increased more than 150% in the first three years of required reporting and is at the expense of the Glacier National Park natural sound resource visitors seek and wildlife requires.
- Glacier NP has had a GMP in place since 1999 and began an ATMP in 2003 for the explicit purpose of phasing out commercial overflights-which had already become an inappropriate use with significant adverse impact for visitor and wildlife. The Reported Commercial Air Tours Report does not separate the National Park Units by "kind" (*Wilderness Parks, National Park; Recreation Area, or Monument*). Glacier N is defacto Wilderness (to be managed as Wilderness.

- NPATMA has become unacceptably undermined and unreasonably delayed for more than a decade. The NPS Organic Act; and corresponding DOT Act Sec. 4(f); The National Parks Overflight Act of 1987 Public Law 100-91 SECTION 1 and (Appendix D) and the Park Protection Act, all give NPS regulatory authority to protect natural quiet in national parks. NPS Director's Order 41 on Wilderness Stewardship asserts air tours are inconsistent with preservation of wilderness character.

To that end, we have tried to carry the message to the public and to this Advisory Board and the agency heads, that there are three things at work in Glacier National Park:

- 1) The disproportionate number of people causing noise/pollution/disturbance adversely impacting the experience for the large number (majority) of visitors. Accessibility - everyone who visits the Park has access to the view and the experience on Going-to-the-Sun Road by car, shuttle, or bus. And because of the commercial air tours, everybody who visits Glacier National Park has to endure the noise of the helicopters servicing very few.
- 2) Glacier is 95% defacto Wilderness. Director's order #41 states that defacto Wilderness be managed as Wilderness. The Director's Order, dated May 13, 2013, defines the number one NPS role and responsibility as "Visitor and Resource Protection".
- 3) This is a noise and visual pollution issue, not an aviation issue.

Over the years NPOAG has provided guidance that can be applied directly to Glacier National Park.

1. There are clear statements in 2005 from NPOAG meeting minutes that Glacier was well on its way to being among the first Parks to complete an ATMP.
2. In NPOAG Meeting of November 2009, where Glacier is mentioned multiple times as in need of ATMP, it is reiterated that it is among the first identified to Congress- "first in line."
3. NPOAG minutes from the 2011 meeting clearly state prioritizing the parks was an issue that needed to be addressed. Those recommendations were:
 1. *Push through "signature" parks that have had the most work invested to date*
 2. *Be disciplined and focus scarce resources: look for groupings or categories of parks that have similar attributes such as sites of military battlefields (Little Big Horn), cultural sites, national recreation areas; or sites that have similar sound attributes (for example Arches/Canyonlands). Develop ATMPs that can set a precedent for addressing attributes in these categories. Suggested categories include:*
 - *Quiet – Natural experience*
 - *National recreation areas (such as Golden Gate)*
 - *Cultural – for example Military Parks*
 - *Tribal – for example Mesa Verde*
 3. *Consider that there has to be a resource protection benefit to opting out of developing an ATMP if exemptions are allowed.*
 4. *Refrain from starting and then stopping the development of an ATMP. Finish the ones that you have started.*
 5. *Consider the number of parks on the list and consider taking some off the list to accomplish more in a short period of time.*
 6. *Consider historical context for public and congressional interest (Bryce, Glacier, Zion).*
 7. *Consider if the Park is "ready" (General Management Plan (GMP) completed, staffing capacity and monitoring capacity). (Note: Glacier has been "ready" since 2003 when substantial preparation had already been accomplished).*
 8. *Consider if there is GMP update getting underway at the park and if the ATMP process can be*

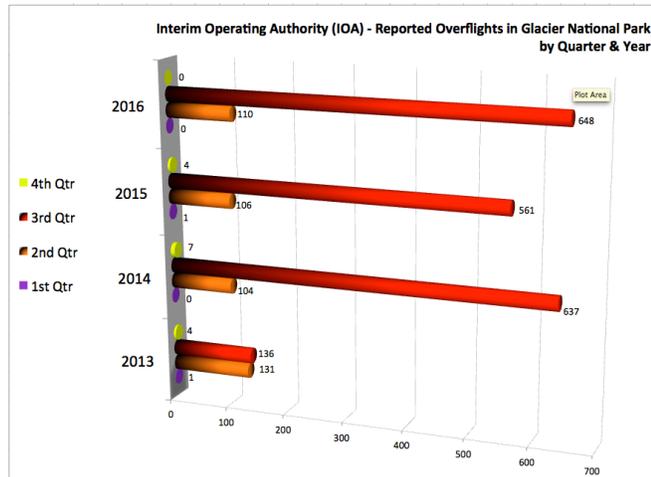
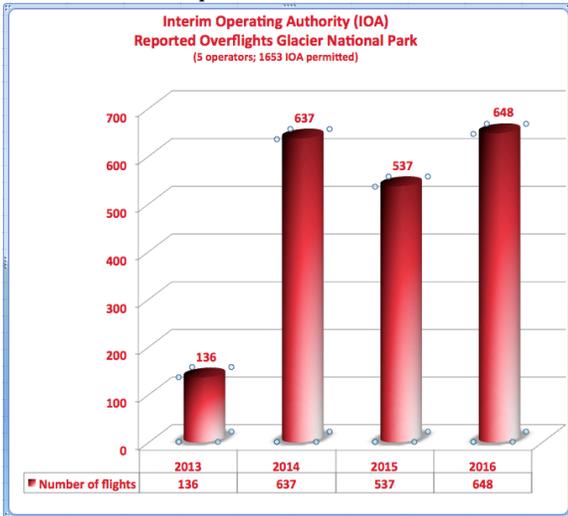
expedited by using public process for both. (Note: Considerable work and expense was undertaken to develop an ATMP by FAA in Glacier in 2003-4, and Glacier National Park had completed and stands by their commitment in their 1999 General Management Plan supported by EIS, Record of Decision, multiple public meetings and public comment periods.)

- There is new importance given to **impairment** in context of the broader, cautionary scope/range of *unacceptable*. (2006 Management Policies). Including, wilderness character disturbance/incompatibility (see DO 41 on Wilderness Stewardship, revised in 2013).
- Further, there is new research published from FAA/NPS that helicopter noise is significantly *more* adverse to visitor enjoyment than the same dose of fixed wing noise. See recent EIS for Glen Canyon NRA on ORV Management, Figure 40 on page 326 of the new Glen Canyon NRA's ORV Management FEIS.
- **NPATMA grants National Parks the authority to advise the FAA on resource protection and give the NPS the authority to amend the IOA, including to the point of a ban, on the merit of resource protection and adverse impact to visitors and wildlife.** If this is not so, what is the purpose of the FAA/NPS Memorandum of Understanding except to have wasted taxpayer dollars for seventeen years?
- Glacier is also one of only a handful of National Parks abutting Tribal Lands, making the sensitivity and importance of an ATMP more compelling and urgent.

To use the NPOAG 2011 recommendations:

- Glacier should be **pushed through as a "signature" park having had some of the most work invested to date**
- **Glacier possesses a wilderness park attribute and is 95% de facto wilderness, representing parks with Quiet – Natural experience**
- Glacier started the process of an ATMP 14 years ago. **Finish the ones that you have started.**
- **Glacier is iconic in its historical context for public and congressional interest**
- **Glacier has had a General Management Plan in place since 1999-- and is and has been prepared to complete an ATMP since that time, to prohibit all commercial sightseeing flights, and to develop a scenic air tour management plan with the FAA and the public that would include a phase-out of commercial operators (existing as of 1997).** A Sound Study in 1994, Environmental Impact Study and Record of Decision supported determination. In addition, GLAC Baseline Ambient Sound Levels 2004 Measurement Report has since been conducted. Every part of this demonstrates the recommended consideration of - **if the Park is "ready" (General Management Plan (GMP) completed, staffing capacity and monitoring capacity).**

We prepared the graphs below from the Overflights Annual Report. These graphic representations reveal how overflights are concentrated during the peak visitor season and the most active time for wildlife. Glacier National Park administration believed the scenic overflights were disruptive and adversely impacting the Park in 1999, when there were no requirements to track or control or record any scenic trips over the Park.



NOTE: The majority of scenic flights take place in July and August in Glacier National Park. 2015 had forest fires, dampening scenic overflights for 3-4 weeks.

2012 NO ATMP/FAA amendment to law allowing pursuit of Voluntary Agreements (VA) instead of ATMP (no ATMPs were ever completed, though the first ones were to be in place by 2002) No Operator overflight reporting to FAA; no overflight reporting to Glacier National Park (GNP)

Section 49 U.S.C §40128(d) requires that each commercial air tour operator, whether they operate under an ATMP, a voluntary agreement, or IOA, submit a report to both the FAA and NPS on the number of commercial air tour operations over each park they operate at and "such other information" as the agencies request (2013). In the 3 years of data to date, 98% of the commercial overflights in GNP took place in 2nd & 3rd Qtr AND the majority of those flights took place in 3 summer months spanning those 2 quarters, amplifying negative impact at peak visitation (when 94% of visitors are present, per 2016 records). Because of the unique nature of the season in Glacier, this number has far greater consequences and adverse impacts than the "quantity" of annual flights reveal. The number of commercial overflights has increased more than 150% in the three years of required reporting. This pattern of a small number of operators will continue, in flagrant disregard of the natural soundscape sensitivity of this National Park for the sole purpose of personal profit at the expense of Glacier National Park natural sound resource visitors seek and wildlife requires.

TOTAL Reported GNP Overflights	Reported GNP Overflights 2nd & 3rd Qtr combined	Percent Increase from 2013 Total	Percent Increase 2nd & 3rd Qtr compared to 2013	(NOTE: (2013-15 IOA CAP = 1793; as of May 2016 new CAP = 1653; 140 unused flights from Operators out of business removed May'16)	
2013	272	267		NO ATMP --1st year required overflight reporting to FAA/NPS NSNS -no detail to GNP	
2014	748	741	175%	177%	NO ATMP --2nd year required overflight reporting to FAA/NPS NSNS -no detail to GNP
2015	672*	667	147%	145%	NO ATMP --3rd year required overflight reporting to FAA/NPS NSNS -no detail to GNP *NOTE: these overflights are over a period of 2 months, reduced due to fires in 3rd Qtr; had operators not been grounded for a month, flights would have likely more than doubled as they did the year before based on the quantity flown in July. Without quantity by month, the status of escalating negative impact and impairment is obscured.
2016	0	110	648	0	NO ATMP --4th year required overflight reporting to FAA/NPS NSNS
2017					NO ATMP --5th year required overflight reporting to FAA/NPS NSNS -no detail to GNP

2017 We are requesting the 2016 overflight detail because of the factors outlined in this table. Glacier NP has had a GMP in place since 1999 and requested an ATMP in 2004 for the explicit purpose of phasing out overflights. The Reported Commercial Air Tours Report does not separate the National Park Unit by "kind" (Wilderness, National Park; Recreation Area, or Monument). Glacier NP is the 5th highest National Park on the Report and as defacto Wilderness (to be managed as Wilderness), far more affected by the noise pollution of scenic overflights, than the 6 Monuments and Recreation Areas that come before it on the list based solely on quantity of flights. Further, the time frame in which these flights are made in GNP is greatly condensed in fewer months than the annual seasons reported by those Monuments and Recreation Areas. NPATMA has become unacceptably undermined, with agency inaction and unreasonably delayed. We refer to foundational laws, such as the NPS Organic Act, and corresponding DOT Act Sec. 4(f). The National Parks Overflight Act of 1987 Public Law 100-91 SECTION 1 and (Appendix D) and the Park Protection Act, giving NPS regulatory authority to protect natural quiet in national parks. NPS Director's Order 41 on Wilderness Stewardship asserts air tours are inconsistent with preservation of wilderness character.

We understand that NPOAG has been given the task of compromising disparate agencies with no common goal. But given the special circumstances in Glacier National Park –an international peace park with an administrative commitment for Quiet, that has been supported within the NPS and the public with a General Management Plan in place for 18 years –we implore FAA and NPS NSNS to finalize the protection of quiet in honor of the ‘peace and quiet’ people seek when visiting a National Park like Glacier—as Congress intended, for today and for future generations.

Two of the five commercial operators that share the IOA for Glacier did not operate this summer for personal reasons, and have shuttered their tour sites outside the Park. (They are also the operators with the largest share of IOA.)

These operators likely helped with many Park projects, search and rescues and firefighting – all public service efforts we appreciate. Outside of those uses, the Quiet in the Park in 2017 was astounding.

There is an opportunity to permanently extinguish the IOA for Glacier, as their General Management Plan proposed more than a decade ago, supported by EIS and ROD. That is the ATMP agreement for which Quiet! Glacier is advocating.

We await information on the Noise Analysis Model (similar to Haleakala study) that is underway for Glacier, and wish to know when we can expect access to that Report.

We look to the new NPOAG board for recommendations to the agencies to follow through with what was started for Glacier more than a decade ago.

Many thanks for the opportunity to comment.

Sincerely,

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On behalf of Quiet! Glacier [Coalition](#)

WEBSITE: [Friends for a Quiet! Glacier Coalition](#)

PETITION: [Change.org Quiet! Glacier petition](#)

ACOUSTICAL SOCIETY OF AMERICA
ALLIANCE FOR THE WILD ROCKIES
AMERICAN PACKRAFTING ASSOCIATION
CENTER FOR BIOLOGICAL DIVERSITY
CONSERVATION CONGRESS
EARTHWISE PRODUCTIONS
FLATHEAD AUDUBON SOCIETY
FRIENDS OF THE WILD SWAN
GLACIER TWO MEDICINE ALLIANCE
GREA OLD BROADS FOR WILDERNESS
GRINNELL FAMILY ASSOCIATION OF AMERICA
HEADWATERS MONTANA
LATINO OUTDOORS
LEAGUE OF WOMEN VOTERS OF ESTES PARK
LEAGUE OF WOMEN VOTERS OF MONTANA
MONTANA ECOSYSTEMS DEFENSE COUNCIL
MONTANA WILDERNESS ASSOCIATION
NATURE SOUNDS SOCIETY
NATIONAL PARK CONSERVATION ASSOCIATION
NORTH FORK PRESERVATION ASSOCIATION
ONE SQUARE INCH OF SILENCE FOUNDATION
RESTORE THE NORTH WOODS
SIERRA CLUB
S.P.E.C.I.E.S.
SWAN VIEW COALITION
WILD MOUNTAIN ECHOES
WILD SANCTUARY
WILDEARTH GUARDIANS
WILDERNESS WATCH
WILDWEST INSTITUTE
YELLOWSTONE SAFARI COMPANY



Going-to-the-Sun Road and St. Mary Lake

FAA & NPS Overflight Priority Rank by Quantity compared to Priority Rank by National Park Unit Category (Management Category Category Priorities are in this order: Wilderness, National Park, National Monument, National Recreation Area)

(using the top 16 Parks in the data from Annual Report 2015 <https://www.nps.gov/subjects/sound/airtours.htm>)

In this graph, the rank is order, with 12 = highest priority; 1 = lowest priority)

