

AIR TOURS

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Federal Aviation Administration

The **National Parks Air Tour Management Act** of 2000 (the Act), was enacted on April 5, 2000. On October 25, 2002, the FAA published a final rule in Title 14, Code of Federal Regulations (14 CFR) part 136, National Parks Air Tour Management (67 FR 65662) to fulfill the mandate of the Act.

This final rule (part 136) completed the definition of **commercial air tour operation**" by establishing the altitude (5,000 feet above ground level) below which an operator flying over a national park for the purpose of sightseeing would be classified as a commercial air tour operator.

The rule also codified provisions of the Act. In accordance with 14 CFR 136.7(b), before commencing commercial air tour operations over a unit of the national park system, or tribal lands within or abutting a national park, a commercial air tour operator is required to apply to the Administrator for authority to conduct the operations over the park or tribal lands.

Title 14 CFR 136.11(a) states that upon application, the Administrator shall grant **interim operating authority (IOA)** to a commercial air tour operator for commercial air tour operations over a national park or tribal land for which the operator is an existing commercial air tour operator. Consistent with the Act, 14 CFR 136.11(b)(3) also states that IOAs granted under that section would be published in the Federal Register to provide notice and opportunity for comment.

The FAA realizes that part 91 operators may not regularly read the Federal register and that reiterating this information in trade magazines may be a more efficient way to reach existing commercial air tour operators. In order to improve the accuracy of the FAA's air tour IOA database, the FAA is making every effort to account for all commercial air tour operators.

Therefore, on January 27th 2005 the Federal Aviation Administration (FAA) published Federal Register Notice, (Volume 70, Number 17)] titled;

Notice of Opportunity To Self-Correct Annual Authorizations for Commercial Air Tour Operators Over National Parks and Tribal Lands Within or Abutting National Parks.

Based on information received from multiple sources and our own review, the FAA believes there may be some errors in the number of commercial air tours initially reported. Consequently, prior to issuing this required notice, the FAA wanted to provide an opportunity for air tour operators to review and correct, if necessary, the FAA's current IOA database.

There are several reasons why errors could have unintentionally occurred, such as: (1) Operators were not required to keep records of the number of commercial air tours conducted over national parks prior to the adoption of the Act; (2) there was a 2 & 1/2-year time lapse between the passage of the Act and the effective date of the rule; and (3) there appears to have been confusion over how to report information, especially for operators flying over more than one park. With regard to the third reason, a number of operators reported operations for more than one park by stating the number of total flights and then listing the parks separately. This alone may have led to over-reporting the number of commercial air tours over national parks.

Thus, the FAA has issued individual letters to each operator in the FAA's Air Tour database notifying them that they should confirm and correct if necessary, their allocation numbers for each park. If the operator notices that the number of allocations granted over a park as shown in their operations specifications is incorrect, they should notify the FAA by letter or e-mail of the correct amount. Self-correcting letters may be sent to Gene Kirkendall, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, or e-mailed to Gene.Kirkendall@faa.gov. There is no penalty for self-correcting. Any operator not receiving an

individual letter from the FAA is hereby noticed through publication that they should confirm their commercial air tour interim operating authority allocations. Operators also should notify the contact person in this notice if they did not receive an individual letter. Operators not submitting a change will be deemed to have confirmed the number originally reported to the FAA and issued as IOAs.

When confirming status and the number of flights issued for each operator, please keep in mind the following principles:

(1) Only operators that conducted operations at any time during the 12-month period prior to April 5, 2000 (the date of enactment of the Act), qualify as existing operators. Only operators reporting to us as existing operators should have received IOA. In situations where an operator has a question about its existing operator status, it should contact its local Flight Standards District Office (FSDO) and receive confirmation from the FSDO as to its status. The FAA has received several questions regarding corporations that qualified as existing air tour operators and then experienced a change in business management during the time lapse. Whether these operators qualify as existing operators will be decided on a case-by-case basis by the FAA.

(2) The number to be published in the Federal Register must reflect only the number of commercial air tour flights conducted by an operator over a particular park within either (1) the 12-month period prior to April 5, 2000; or (2) the average number of flights per 12-month period for the 3-year period prior to April 5, 2000, and for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period. The number should not include desired increases above the allowed historical number of new entrant requests. Operators should not have received increases or new entrant authority through this IOA grant. Such requests will be handled through a separate process by FAA and the National Park Service.

(3) Operators should receive an IOA that reflects the actual number of commercial air tours that were conducted during the relevant time period

set forth in the statute and the rule. Operators needing to self-correct should identify each park and the number of flights for each park, including whether the flight was part of a circuit, and if so, what parks were included in that circuit. For instance, operators flying over more than one park between takeoff and landing should identify those flights as circuit tours. Thus, if the operator flew over three parks during the same flight (takeoff to landing) in 100 flights, then the operator should specify this to the best of its ability. If the operator flew 100 flights with each flight going over one park of three different authorized parks, then the operator should so specify.

Operators are hereby notified that the FAA will prepare a final listing of all existing commercial air tour operators receiving IOAs and the number of flights per park and publish the revised list in the Federal Register for comment, as required by statute. If comments are received in response to that publication that provide substantive information that an operator does not qualify under the law as an existing operator or has erroneously reported the number of flights flown over a park, the FAA may investigate and take corrective action, if necessary, to bring the operator into compliance with the law.

As operators reexamine their records for confirmation in response to this letter, they are encouraged to keep supporting information in their files in case questions subsequently arise that merit investigation. Operators may voluntarily provide such supporting information at this time to FAA but are not required to do so. Any commercial air tour operators that have not contacted the FAA should do so immediately.

The IOA information provided to the FAA will be used solely to determine and confirm the appropriate allocation for IOAs and will not be used to determine noise impacts to national park resources.

FOR FURTHER INFORMATION CONTACT:
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