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National Park System: Air Tour Management Issues

The statutory and regulatory framework for conducting air tours over units of the National Park System has been of ongoing interest to Congress. The National Parks Air Tour Management Act of 2000 (Air Tour Act; P.L. 106-181; 49 U.S.C. §40128) governs commercial air tours over most National Park System units as well as tribal lands within or abutting park units. The act requires the Federal Aviation Administration (FAA) and the National Park Service (NPS) to create air tour management plans (ATMPs) for sites at which operators apply to conduct commercial air tours, with some exceptions. Congress has conducted oversight and considered additional legislation on national park overflights and ATMPs. Some stakeholders seek to limit or prohibit commercial air tours over national park units owing to concerns about noise, resource protection, and safety; others advocate for additional opportunities and greater flexibility for air tour operators to support their livelihoods and contribute to local economies.

Legislative Background

Air tours over national park units have been regulated by a series of statutes. The National Parks Overflights Act of 1987 (P.L. 100-91) contained provisions for air tour management at several park units and required a broader NPS study of the effects of all park overflights. The study informed the 2000 Air Tour Act, which governs air tours over units of the National Park System outside Alaska, except Grand Canyon National Park. (Other laws and regulations address air tours at Grand Canyon National Park; see, for example, P.L. 112-141, §35001(a)(1).)

The Air Tour Act generally directs FAA and NPS to create ATMPs covering National Park System units, as well as tribal lands within or abutting park units, where operators seek to conduct air tours. Each plan could prohibit or limit air tours, such as by route and altitude restrictions. The purpose of a plan is to mitigate or prevent any harm commercial air tours may cause to natural and cultural resources, visitor experiences, and tribal lands. Development of an ATMP requires environmental review under the National Environmental Policy Act (NEPA; 42 U.S.C. §§4321-4370f). The Air Tour Act also established the National Parks Overflights Advisory Group (NPOAG)—including federal officials, aviation industry representatives, air tour operators, environmental groups, and tribes—to advise the agencies on park air tours.

Under the law and its implementing regulations, FAA received applications to conduct commercial air tours at more than 100 park units or adjacent tribal lands. FAA and NPS began developing ATMPs for about a dozen sites, but development proceeded more slowly than expected, and through 2021, no ATMPs were completed. Despite the

delays, many existing air tour operations continued to run under interim operating authorities provided by the act.

In 2012, Congress amended the Air Tour Act (P.L. 112-95, §501) to allow NPS and FAA, in lieu of an ATMP, to enter into “voluntary agreements” with individual air tour operators. Similar to ATMPs, voluntary agreements may address the conduct of air tours (e.g., routes, altitudes, timing restrictions) and provide incentives for quiet aircraft technology, among other conditions. After an opportunity for public review and consultation with any tribes whose lands may be flown over, a voluntary agreement may be implemented “without further administrative or environmental process” (P.L. 112-95, §501(c)). In 2015, 2016, and 2018, the agencies finalized voluntary agreements with some operators at Big Cypress National Preserve, Biscayne National Park, and Glen Canyon National Recreation Area.

P.L. 112-95 also exempted park units with 50 or fewer annual air tour flights from the requirement to establish an ATMP or voluntary agreement. As of February 2023, the FAA reported that 54 park units with air tours are exempted from requirements to establish an ATMP or voluntary agreement because they have 50 or fewer annual flights. The number of exempted parks may change from year to year based on changes by operators in the number of air tours flown. The NPS Director also can withdraw an exemption in order to protect park resources and values or visitor use and enjoyment.

Recent Developments

A 2020 court order (*In re Public Employees for Environmental Responsibility*, 957 F.3d 267 (D.C. Cir. 2020)) required FAA and NPS to bring 23 eligible parks into compliance with the Air Tour Act within specified time frames. Under the court order, the agencies completed 12 ATMPs and several voluntary agreements with operators in 2022 and 2023, as shown in **Table 1**, below. The agencies have released draft ATMPs for several additional units—Haleakala National Park, Hawai’i Volcanoes National Park, Bandelier National Monument, and Canyon de Chelly National Monument—and are negotiating voluntary agreements at Lake Mead National Recreation Area.

Issues and Legislation

The recent ATMPs and voluntary agreements vary in their continuity with air tour activities under the interim operating authorities. At some units, the number of flights allowed under the new plans matches the annual average of flights in 2017-2019 under the interim authorities. This is the case for Bryce Canyon National Park (515 tours authorized annually in the ATMP based on 2017-2019 averages), Arches National Park (309 tours), and Great

Smoky Mountains National Park (946 tours), among others. However, at some units, the draft or final ATMPs reduce the previous number of tours. For instance, the draft plan for Hawai'i Volcanoes National Park proposes to reduce air tours from a 2017-2019 annual average of 11,376 tours to 1,565 tours annually. The final ATMPs prohibit air tours entirely at Mt. Rushmore National Memorial (2017-2019 annual average 3,914 tours) and Badlands National Park (2017-2019 annual average 1,425 tours).

Air tour operators have opposed many of the new ATMPs. Operators assert that the plans were developed too quickly and with insufficient input from the NPOAG and the air tour industry generally. They contend that some plans have reduced flights unnecessarily, noting that even when the ATMP caps accord with 2017-2019 usage, often the caps under the earlier interim operating authorities were higher than the numbers of flights actually conducted in those years, so the ATMPs reduce the operators' flexibility to increase tours. Air tour operators contend that their tours should be encouraged for their ability to improve access to parks (e.g., for disabled individuals) and avoid some resource damages caused by ground-based tours. Operators and others assert beneficial contributions to local and state economies from air tour operations.

Some other stakeholders, including some residents of areas adjacent to national park units, support further reductions in

the number of park overflights and support the route, altitude, and day-and-time restrictions included in many ATMPs. They contend that air tour noise adversely affects visitors' experience of tranquility and natural sounds in parks, that noise and wind turbulence impact park wildlife, and that air tours have disrupted tribal practices in and around parks, among other effects. Some stakeholders express additional concerns about the contributions of aircraft to greenhouse gas emissions.

The different viewpoints are reflected in 118th Congress legislation. Some bills propose additional restrictions on park air tours. H.R. 2613 would amend the Air Tour Act to require that voluntary agreements address the "wellbeing" of communities that fall under park air tour flight routes. H.R. 1071 would prohibit all commercial air tours over national park units as well as certain other areas. Other proposals, by contrast, would reverse restrictions in the recent ATMPs and promote opportunities for park air tours. House-passed H.R. 4821 (FY2024 Interior appropriations) would prohibit use of funds to limit the number of air tours at national parks. House-passed H.R. 3935 (FAA reauthorization) would amend the Air Tour Act to require the agencies to consult with the NPOAG when preparing ATMPs. A proposed amendment to that bill, which was not adopted, would have prevented ATMPs from prohibiting air tours at a park and would have guaranteed continuance of existing operations.

Table 1. National Park Units with Completed ATMPs or Voluntary Agreements

Park Unit	Type of Plan or Agreement	Year Completed
Arches National Park (UT)	ATMP	2022
Badlands National Park (SD)	ATMP	2023
Big Cypress National Preserve (FL)	Voluntary Agreements	2015
Biscayne National Park (FL)	Voluntary Agreements	2016
Bryce Canyon National Park (UT)	ATMP	2022
Canyonlands National Park (UT)	ATMP	2022
Death Valley National Park (CA, NV)	ATMP	2022
Glacier National Park (MT)	ATMP	2022
Glen Canyon National Recreation Area (AZ, UT)	Voluntary Agreements	2023
Governors Island National Monument (NY)	Voluntary Agreements	2023
Great Smoky Mountains National Park (NC, TN)	ATMP	2022
Mount Rainier National Park (WA)	ATMP	2022
Mount Rushmore National Memorial (SD)	ATMP	2023
Natural Bridges National Monument (UT)	ATMP	2022
Olympic National Park (WA)	ATMP	2022
Rainbow Bridge National Monument (UT)	Voluntary Agreements	2023
San Francisco Bay Area parks (CA) ^a	ATMP	2023
Statue of Liberty National Monument (NY)	Voluntary Agreements	2023

Sources: FAA, "Air Tour Management Plan (ATMP)," at https://www.faa.gov/about/office_org/headquarters_offices/apl/aeel/air_tour_management_plan; NPS, "Air Tours," at <https://www.nps.gov/subjects/sound/airtours.htm>; and NPS, "Air Tour Management Program," at <https://www.nps.gov/subjects/sound/air-tours-program.htm>.

Notes: ATMP = Air Tour Management Plan. Parks may have voluntary agreements with multiple operators.

- a. The ATMP for the San Francisco Bay Area parks covers Golden Gate National Recreation Area, Muir Woods National Monument, San Francisco Maritime National Historical Park, and Point Reyes National Seashore.

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