

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4163

To enable the Park Service to regulate, or prohibit, scenic commercial overflights at units of the National Park System.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1994

Mr. WILLIAMS (for himself, Mrs. MINK, Mr. DEFazio, Ms. SHEPHERD, Mr. UPTON, and Mr. STARK) introduced the following bill; which was referred jointly to the Committees on Natural Resources and Public Works and Transportation

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## A BILL

To enable the Park Service to regulate, or prohibit, scenic commercial overflights at units of the National Park System.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Park Scenic  
5 Overflight Concessions Act of 1994”.

6 **SEC. 2. PURPOSE AND FINDINGS.**

7 (a) PURPOSE.—The purpose of this Act is to require  
8 all commercial air tour operators to hold a concessions  
9 permit with the Park Unit, and to provide Park Service

1 authority to determine the appropriate level of commercial  
2 scenic tour overflight activity.

3 (b) FINDINGS.—The Congress finds that:

4 (1) The National Park Service administers Fed-  
5 eral parks, monuments, and reservations, to conserve  
6 the scenery; natural, cultural and historic values;  
7 wilderness values, including natural quiet; and wild-  
8 life resources while providing for the enjoyment of  
9 the same in such manner and by such means as will  
10 leave them unimpaired for the enjoyment of future  
11 generations. In recognition of these values, many  
12 park units are recognized as internationally signifi-  
13 cant International Biosphere Reserves and World  
14 Heritage Sites.

15 (2) In order to manage National Park System  
16 units to achieve the purposes for which they were es-  
17 tablished by Congress, there is a need for National  
18 Park Service authority to regulate commercial scenic  
19 overflight enterprises operating over units of the  
20 National Park system.

21 (3) It is the function of the Federal Aviation  
22 Administration to manage the safe and efficient use  
23 of the navigable airspace of the United States, as  
24 provided for in the Federal Aviation Act of 1958 (49  
25 U.S.C. App. 1391, et seq.); and to protect the envi-

1       ronment from adverse impacts in accord with sec-  
2       tions 307(c) and 611 of the foregoing Act and sec-  
3       tion 4(f) of the Department of Transportation Act  
4       (49 U.S.C. 1653(f)).

5               (4) The auditory and visual intrusion of aircraft  
6       flying at low altitudes can be incompatible with the  
7       preservation and management of natural or cultural  
8       resources, the natural quiet, scenery, and/or the  
9       public's enjoyment of the resources on lands man-  
10      aged by the public land management agencies, nota-  
11      bly such sensitive areas as parks, wildlife refuges,  
12      and wilderness areas.

13              (5) It is the joint responsibility of these agen-  
14      cies to resolve these incompatible situations or miti-  
15      gate them to the fullest extent possible in order to  
16      maintain these public lands for the purposes for  
17      which they were established while recognizing the  
18      public's and the Government's need to transit navi-  
19      gable airspace.

20              (6) In recognition of the values for which Na-  
21      tional Park Service lands are managed, the Federal  
22      Aviation Administration and the National Park  
23      Service shall act cooperatively to reduce the inci-  
24      dence of low-flying aircraft impacts from commercial  
25      scenic tour overflights by helicopters, fixed-wing air-

1 craft, blimps, and balloons over sensitive lands ad-  
2 ministered by the National Park Service and to  
3 make these overflights compatible with park preser-  
4 vation objectives.

5 **SEC. 3. COMMERCIAL AIR TOURS.**

6 The Act of October 9, 1965 (16 U.S.C. 20–20g) com-  
7 monly known as the National Park Service Concessions  
8 Policy Act is amended by adding the following new section  
9 at the end thereof:

10 **“SEC. 10. COMMERCIAL AIR TOURS OVER NPS UNITS.**

11 “(a) ISSUANCE OF PERMITS FOR COMMERCIAL AIR  
12 TOURS.—No person may fly an individual for compensa-  
13 tion over any unit of the National Park System for the  
14 purpose of viewing any portion of such unit unless such  
15 person has in effect a valid commercial air tour permit  
16 issued by the Secretary. The Secretary may issue or deny  
17 such permits upon application of any person. Such permits  
18 may be issued subject to such conditions and restrictions  
19 as the Secretary deems necessary to protect the resources  
20 of such unit and to protect and enhance visitor enjoyment.  
21 Issuance or denial of a permit shall be consistent with the  
22 legislation establishing such unit, the guidelines under  
23 subsection (b), any applicable provisions of any general  
24 management plan in effect for such unit, and the provi-  
25 sions of law generally applicable to units of the national

1 park system, including the Act of August 25, 1916 (39  
2 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August  
3 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467). Any person  
4 who flies an individual for compensation over any unit of  
5 the National Park System for the purpose of viewing any  
6 portion of such unit shall be treated as entering such unit  
7 and providing a service within such unit for purposes of  
8 this Act. This subsection shall take effect on the date one  
9 year after the enactment of the National Park Scenic  
10 Overflight Concessions Act of 1994 and shall apply to all  
11 flights described in this subsection made after such effec-  
12 tive date.

13       “(b) GUIDELINES AND PLANNING.—Not later than  
14 12 months after the enactment of this Act, the Secretary  
15 shall publish guidelines applicable to commercial air tour  
16 flights over national park system units providing for such  
17 flights where appropriate and restricting or prohibiting  
18 such flights where necessary in accordance with the provi-  
19 sions of law referred to in subsection (a). Each permit  
20 under subsection (a) for flights at any unit of the National  
21 Park System shall be based on such guidelines. Any such  
22 guidelines proposed by the Secretary shall be submitted  
23 to the Administrator of the Federal Aviation Administra-  
24 tion for review prior to adoption. Within 60 days after  
25 his receipt of such proposed guidelines, the Administrator

1 shall provide comments and recommendations to the Sec-  
2 retary regarding any effects such guidelines may have on  
3 aircraft safety. The Secretary shall incorporate the Ad-  
4 ministrator's recommendations regarding aircraft safety  
5 in the final guidelines.

6       “(c) GENERAL MANAGEMENT PLANS.—The Sec-  
7 retary may amend the general management plan for any  
8 national park system unit to establish air concessions re-  
9 quirements applicable to flights subject to the permit re-  
10 quirements of subsection (a). Such amendments shall be  
11 consistent with the provisions of law referred to in sub-  
12 section (a) and the guidelines published under subsection  
13 (b). The amendments shall—

14               “(1) document the degree to which commercial  
15 scenic overflights may affect the natural resources of  
16 the park unit concerned;

17               “(2) document the effects of such overflights on  
18 the park visitor's experience; and

19               “(3) propose measures necessary to protect  
20 park resources and the visitor's experience from the  
21 adverse effects of commercial scenic overflights.

22 Each permit issued under subsection (a) for flights over  
23 any national park system unit after the effective date of  
24 general management plan amendments adopted under this  
25 subsection shall be consistent with such amendments.

1       “(d) PENALTY.—Any person who knowingly or will-  
2 fully violates any requirement of this section or of any rule  
3 or regulation promulgated by the Secretary under this sec-  
4 tion shall be fined not more than \$5,000 or imprisoned  
5 for not more than 5 years or both.”.

6 **SEC. 4. FEDERAL AVIATION ADMINISTRATION**

7       (a) REPORTING AND TRAINING.—The Administrator  
8 of the Federal Aviation Administration (hereinafter in this  
9 section referred to as the “Administrator”), in cooperation  
10 with the Secretary of the Interior, shall—

11           (1) develop standardized reporting systems for  
12 the documentation of low flying aircraft incidents in  
13 air space over national park system units; and

14           (2) develop training programs and instructional  
15 materials for national park service personnel to en-  
16 able them to recognize and report instance of low  
17 flying aircraft incidents in air space over national  
18 park system units.

19       (b) AIRCRAFT NOISE.—The Administrator shall  
20 amend the regulations of the Federal Aviation Administra-  
21 tion to treat aircraft noise abatement at national park sys-  
22 tem units as in the public interest.

23       (c) REPORTS.—The Administrator and the Secretary  
24 of the Interior shall submit a joint report to the Congress  
25 within 3 years after the enactment of this Act containing

1 a description of the progress made under this Act and  
2 other authority of law in mitigating the adverse effects of  
3 commercial scenic overflights at national park system  
4 units.

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