



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Consultation Documents for Public Comment under Section 106 of the National Historic Preservation Act

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of availability of consultation documents for public comment under section 106 of the National Historic Preservation Act.

SUMMARY: The FAA, in cooperation with the National Park Service (NPS) (together the agencies), has initiated development of an Air Tour Management Plan (ATMP) for Canyon de Chelly National Monument (the Park) pursuant to the National Parks Air Tour Management Act (NPATMA) of 2000 and its implementing regulations. The agencies determined that the development of an ATMP constitutes a Federal undertaking subject to compliance the National Historic Preservation Act of 1966, as amended (NHPA). The agencies have initiated the section 106 process with the Navajo Nation Tribal Historic Preservation Officer, Tribes, and other consulting parties. This notice announces the opportunity for the public to comment on the results of the FAA's efforts to identify historic properties, evaluate the properties' significance, and assess the undertaking's effects on them. The agencies are seeking public input on the FAA's efforts to date in identifying consulting parties, determining the area of potential effects, identifying historic properties, and assessing the effects of the undertaking on historic properties within the area of potential effects. The agencies are providing the description of the undertaking, the consulting party list, the delineation of the proposed Area of Potential Effects (APE), the results of the agencies' efforts to identify historic properties within the APE, the evaluation of their significance, and the agencies' approach to assessing the undertaking's effects upon the identified historic properties. Supporting documentation can be found at the following link: <https://parkplanning.nps.gov/CACHATMP>.

DATES: Any member of the public is encouraged to provide views on this project to the agencies. The agencies will accept and consider comments related to section 106. Comments must be received on or before December 1, 2023, by 11:59 MDT. Comments will be received on the PEPC website. The Park's website link is <https://parkplanning.nps.gov/CACHATMP>.

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

ADDRESSES: The public is encouraged to provide written comments regarding the section 106 documents provided in the PEPC website throughout the comment period.

Contact: Any request for reasonable accommodation related to providing comments on the Section 106 documents should be sent to the person listed on the Park's PEPC website. The U.S. Department of Transportation and U.S. Department of the Interior are committed to providing equal access to the meetings for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sandra Fox, (202) 267-0928,

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SUPPLEMENTARY INFORMATION: Description of the Undertaking The undertaking for purposes of section 106 is implementing an ATMP for the Park. Consistent with the NPATMA, the proposed ATMP would regulate commercial air tours over the Park or within ½ mile outside the boundary of the Park, including over tribal lands within or abutting the Park. A commercial air tour subject to the ATMP is any flight conducted for compensation or hire in a powered

aircraft where a purpose of the flight is sightseeing over the Park, or within ½ mile of its boundary, during which the aircraft flies:

- (1) Below 5,000 feet above ground level (except solely for the purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the FAA requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or
- (2) Less than one mile laterally from any geographic feature within the Park (unless more than ½ mile outside the Park boundary).

Overflights that do not meet the definition above of a commercial air tour are not subject to the NPATMA and are thus outside the scope of the ATMP.

The agencies have documented the existing conditions for commercial air tour operations over the Park. Although there are four air tour operators with IOA (Interim Operating Authority), only one commercial air tour operator currently conducts tours over the Park. The operator currently flies one route west to east over the southern portion of the park, two routes running east to west and back through the center of the Park, and two routes entering and exiting through the north portion of the Park and passing along the center of the Park east to west and back. Until the ATMP is in place the operators could change routes to fly over other areas of the Park without notice to the agencies. Existing routes are depicted in Attachment A in the supporting documentation. The agencies consider the existing operations for commercial air tours to be an average of 2017-2019 annual air tours flown, which is 43 air tours. Based on 2017-2019 data, there was only one instance in which flights exceeded 1 per day (2 flights on 3/19/19). A three-year average is used because it reflects the most accurate and reliable air tour conditions, and accounts for variations across multiple years. Under existing conditions, commercial air tours over the Park are conducted using fixed wing aircraft: Cessna 182 and Cessna T207A. Reported

minimum altitudes range from 800 to 1,000 feet (ft.) above ground level (AGL)¹ depending on the route. The proposed undertaking would prohibit commercial air tour operations within the ATMP planning area. A summary of the undertaking elements is shown in the table below:

Summary of ATMP Elements

General Description and Objectives	Prohibits air tours within the ATMP planning area to maximize achievement of Park management objectives. Air tours could continue to fly outside the ATMP planning area (i.e., at or above 5,000 feet AGL or more than ½-mile outside of the Park’s boundary).
Annual/Daily Number of Flights	None in ATMP planning area.
Routes	None in ATMP planning area.
Minimum Altitudes	Flights over the Park at or above 5,000 feet AGL could occur as they are outside the ATMP planning area. Flights more than ½-mile outside the Park boundary could similarly still occur as they are also outside the ATMP planning area.
Time of Day	N/A
Day of Week	N/A
Seasonal	N/A
Quiet Technology (QT) Incentives	N/A
Annual Meeting, Operator Training and Education	N/A
Restrictions for Particular Events	N/A
Adaptive Management	N/A
Initial Allocation, Aircraft Type, Competitive Bidding, and New Entrants	N/A
Monitoring and Enforcement	Monitoring would occur to ensure operators are complying with the terms and conditions of the ATMP.
Interim Operating Authority ²	Terminates 180 days from the establishment date of the ATMP.

Delineation of the Proposed APE and Historic Property Identification In establishing the proposed APE, the FAA sought to include areas where any historic property present could be

¹ Altitude expressed in units above ground level is a measurement of the distance between the ground surface and the aircraft, whereas altitude expressed in median sea level (MSL) refers to the altitude of aircraft above sea level, regardless of the terrain below it. Aircraft flying at a constant MSL altitude would simultaneously fly at varying AGL altitudes, and vice versa, assuming uneven terrain is present below the aircraft.

² Commercial air tours over the Park are currently conducted under interim operating authority (IOA) that NPATMA required the FAA to grant air tour operators. Interim operating authority does not provide any operating parameters (routes, altitudes, etc.) for commercial air tours other than an annual limit. Under NPATMA, IOA for a park terminates by operation of law 180 days after an ATMP is established for that park.

affected by noise from or sight of commercial air tours that may take place under the undertaking, including those over the Park or adjacent tribal lands or those that are reasonably foreseeable. The FAA proposed an APE comprising the Park plus ½ mile outside the boundary of the Park. A map of the APE can be found on the Planning, Environment and Public Comment System (PEPC) website linked below.

To identify historic properties within the APE, the FAA coordinated with Park staff to identify known historic properties located within the APE. The FAA also coordinated with the Navajo Nation Heritage and Historic Preservation Department to collect data for previously identified properties that may be listed in or are eligible for listing in the National Register of Historic Places (National Register). The agencies performed an in-person records search at the Navajo Nation Heritage and Historic Preservation Department on September 13, 2023, which focused on identifying known Traditional Cultural Properties (TCPs) within the APE. The agencies have also consulted with other consulting parties, including Tribes that have an interest in the area, to identify any historic properties not previously identified in the APE or additional information on historic properties previously documented in the APE. A summary of the identified historic properties and whether they are listed or eligible to be listed on the National Register can be found on the PEPC website linked below.

Assessment of Effects In assessing the effect of the undertaking on historic properties within the APE, the FAA will take into consideration that the undertaking does not include land acquisition, construction, or ground disturbance and will not result in physical effects to historic properties. The agencies will assess the effects of the undertaking on a historic property to determine if it alters the characteristics that qualify the property for eligibility for listing or inclusion in the National Register. Effects are considered adverse if they diminish the integrity of a property's elements that contribute to its significance. The agencies will focus the assessment of effects on the potential for adverse effects from the introduction of audible or visual elements that could

diminish the integrity of the property's significant historic features. The FAA is also considering whether air tours could affect the use of TCPs associated with cultural practices, customs, or beliefs that continue to be held or practiced today.

The agencies request that you provide any comments you may have regarding the undertaking, the historic property identification efforts, your views regarding the significant characteristics of listed or eligible properties, and any information you might have that would help identify additional properties for which setting or feeling is a characteristic of significance. Your feedback on the potential of the undertaking to cause adverse effects to the historic properties is also welcomed.

This notice affords the public an opportunity to participate in section 106 activities for the development of an ATMP at Canyon de Chelly National Monument, including reviewing and providing comments on the section 106 process to date. The FAA and NPS encourage public participation and provide information on how to submit comments or feedback below.

Supporting documentation can be found at the following link:

<https://parkplanning.nps.gov/CACHATMP>.

The FAA and NPS are issuing this notice pursuant to section 800.2(d) of 36 CFR part 800, Protection of Historic Properties, and section 106 of 54 USC Subtitle III, National Historic Preservation Act. The section 106 implementing regulations at 36 CFR part 800 require FAA, as the lead Federal agency, to identify any properties within the project area that are listed in or eligible for listing in the National Register; to assess the effects the undertaking may have on historic properties; and to seek ways to avoid, minimize, or mitigate any adverse effects.

The FAA and the NPS are inviting comments from the public, Federal and State agencies, Tribes, and other interested parties on the section 106 process for Canyon de Chelly National Monument.

The FAA and the NPS have determined that the ATMP constitutes a Federal undertaking subject to compliance with section 106 of the NHPA and its implementing regulations at 36 CFR part 800. The FAA and the NPS have consulted with the Tribal Historic Preservation Officer, federally recognized Tribes, and other interested parties to identify historic properties and assess the potential effects of the ATMP on them.

The proposed APE for this undertaking (36 CFR 800.4(a)(1)) as defined at 36 CFR 800.16(d) is the geographic area or areas within which the undertaking may directly or indirectly cause alterations in the character or use of any historic properties, if any such properties exist. FAA and NPS approval of the ATMP does not require land acquisition, construction, or ground disturbance, and the FAA anticipates no physical effects to historic properties. The FAA is therefore focusing its assessment on the potential introduction of visual or audible elements that could diminish the integrity of any identified significant historic properties.

The historic property identification effort has focused on identifying properties for which setting and feeling are characteristics contributing to a property's National Register eligibility, as they are the type of historic property most sensitive to the effects of aircraft overflight. These may include isolated properties where a cultural landscape is part of the property's significance, rural historic districts, outdoor spaces designed for meditation or contemplation, and certain TCPs.

The agencies have taken into consideration the views and input of consulting parties, past planning, research and studies, magnitude and nature of the undertaking, degree of Federal involvement, nature and extent of potential effects on historic properties, and the likely nature of historic properties within the APE in accordance with 36 CFR 800.4(b)(1). The historic property identification effort has focused on properties for which setting and feeling are characteristics contributing to the property's National Register eligibility.

In assessing the effects of the undertaking on historic properties in the APE, the FAA will consider the number and altitude of commercial air tours over historic properties to further assess

the potential for visual effects and any incremental change in noise levels that may result in alteration of the characteristics of historic properties qualifying them for the National Register.

The comment period is open to the public. The FAA and the NPS request that comments be as specific as possible. All written comments become part of the official record. Written comments regarding the section 106 consultation documents can be submitted via PEPC or sent to the mailing addresses provided on the Park's PEPC site. Comments will not be accepted by fax, email, or any other way than those specified above.

Issued in Washington, DC, on October 30, 2023.

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