

FINAL AIR TOUR MANAGEMENT PLAN DEATH VALLEY NATIONAL PARK

SUMMARY

This Air Tour Management Plan (ATMP) provides the terms and conditions for commercial air tours conducted over Death Valley National Park (Park) pursuant to the National Parks Air Tour Management Act (Act) of 2000.

1.0 INTRODUCTION

The Act requires that commercial air tour operators conducting or intending to conduct commercial air tours over a unit of the National Park System apply to the Federal Aviation Administration (FAA) for authority before engaging in that activity. The Act further requires that the FAA in cooperation with the National Park Service (NPS) establish an ATMP for each National Park System unit for which one or more applications has been submitted, unless that unit is exempt from this requirement.¹ On September 15, 2015, NPS notified FAA that an air tour management plan was necessary to protect Park resources and values and withdrew the exemption for the Park.

The objective of this ATMP is to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours on natural and cultural resources, visitor experiences and tribal lands.

2.0 APPLICABILITY

This ATMP applies to all commercial air tours over the Park and commercial air tours within ½ mile outside the boundary of the Park, including any tribal lands within that area, as depicted in Figure 1 below. A commercial air tour subject to this 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 the Park 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).

¹ The Act provides an exemption to the ATMP requirement for parks with 50 or fewer commercial air tour operations each year unless the exemption is withdrawn by the Director of the NPS. *See* 49 U.S.C. § 40128(a)(5). As an alternative to an ATMP, the agencies also have the option to execute voluntary agreements with all operators operating at any of the parks.

See 14 CFR § 136.33(d).

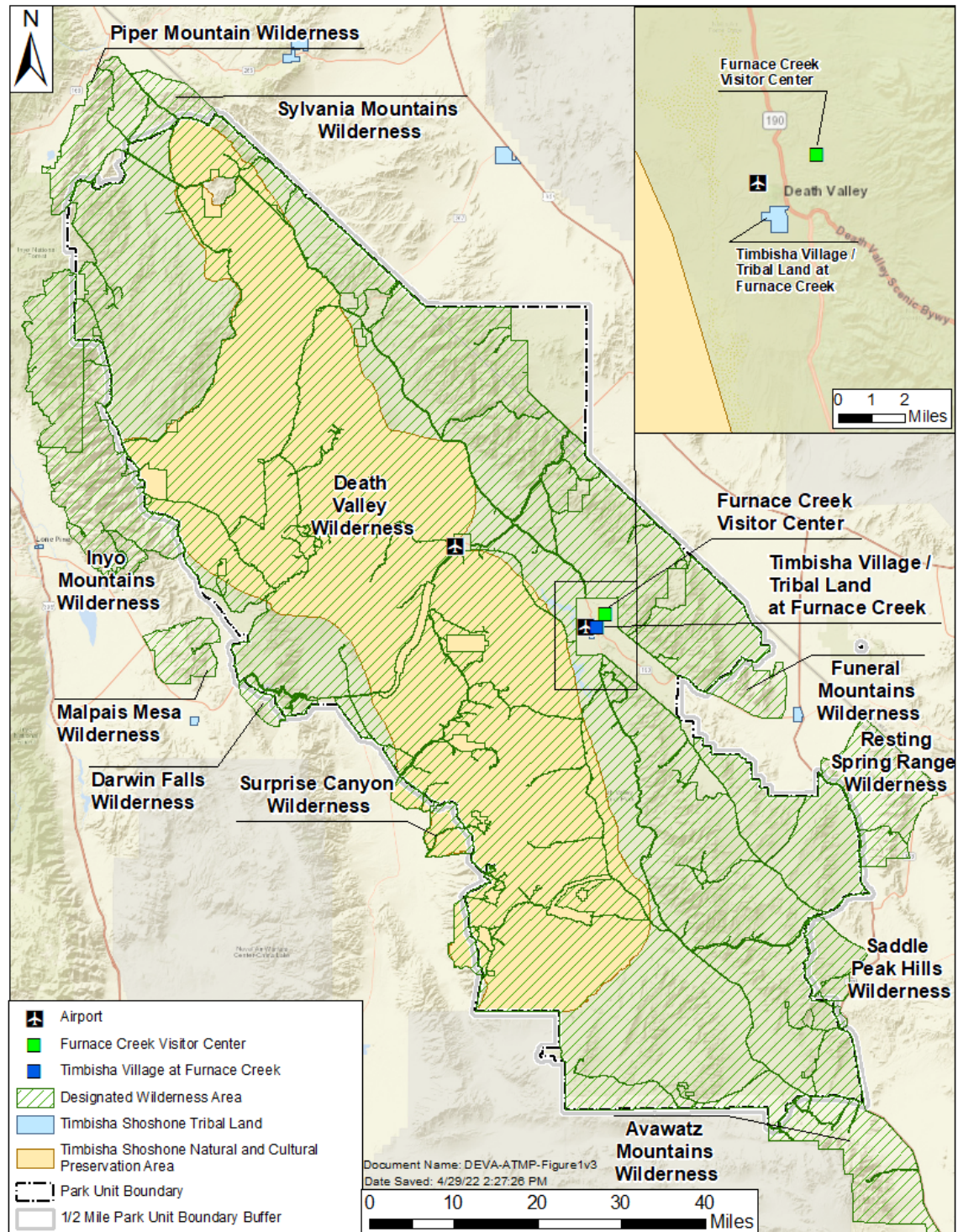


Figure 1. Map of area subject to the ATMP for Death Valley National Park

2.1 Park Overview

Death Valley National Park is the largest U.S. National Park outside of Alaska. The Park comprises 3,422,024 acres, 93% of which is protected as officially designated wilderness. Wilderness areas within the Park include low valley floors crusted with barren salt flats, rugged mountains rising as much as 11,000 feet, deep and winding canyons, rolling sand dunes, and spring-fed oases. These climactic and topographic extremes collectively result in exceptional biodiversity and a wide range of resilient desert ecosystems, many of which serve as habitat for federally threatened and endangered species. Numerous cultural resources are present within the Park, including archaeological sites, ethnographic resources, historic structures, and museum collections.

The Timbisha Shoshone Tribe has tribal lands inside the Park (the Timbisha Village at Furnace Creek) and a management interest in the Timbisha Shoshone Natural and Cultural Preservation Area within the Park. The Timbisha Shoshone Homeland Act (P.L. 106-423) specifies the “Timbisha Shoshone Natural and Cultural Preservation Area” as an area to be managed with special considerations for the Timbisha Shoshone Tribe. Several other tribes also attach religious or cultural significance to areas within the Park.

Visitor points of interest include campgrounds, visitor centers, and hiking trails. Visitor attractions include Zabriskie Point, Telescope Peak, Dantes View, Furnace Creek, Badwater, the Racetrack, Scotty’s Castle, Stovepipe Wells Village, and Saline Valley Warm Springs. Visitor use is generally most concentrated along major roadways within the Park.

The Park is located below the R-2508 Airspace Complex. The military conducts numerous operations in this airspace above the Park.

The Park’s purposes include preserving the unrivaled scenic, geologic, and natural resources of these unique natural landscapes, while perpetuating significant and diverse ecosystems of the California desert in their natural condition, and ensuring the maximum protection of wilderness values provided by law. The following Park management objectives relate to the development of this ATMP:

- The Park’s acoustic environment (i.e., sounds within the Park) supports an outstanding visitor experience and opportunities to hear and enjoy natural sounds and quiet.
- Acoustic resources of the Park are maintained in an appropriate wilderness/backcountry condition and wilderness qualities are preserved including solitude or primitive and unconfined recreation, remoteness from sights and sounds, naturalness, undeveloped condition, and other features of value.
- Park staff are able to conduct, and visitors are able to experience, interpretive programming with minimal interference due to noise.
- Natural sounds are protected to conserve healthy and robust wildlife populations. Natural biological and ecological processes should dominate the sounds within the Park.

- Cultural and historic resources, as well as visitor experience of those resources, are protected from unacceptable impacts from inappropriate or excessive types and levels of noise.

3.0 CONDITIONS FOR THE MANAGEMENT OF COMMERCIAL AIR TOUR OPERATIONS

3.1 Commercial Air Tours Authorized

Under this ATMP, two commercial air tours are authorized per year. Appendix A identifies the operators authorized to conduct commercial air tours and annual flight allocations.

3.2 Commercial Air Tour Routes and Altitudes

Commercial air tours authorized under this ATMP shall be conducted on the routes and altitudes in Figure 2 below for each operator.² Altitude expressed in units above ground level (AGL) is a measurement of the distance between the ground surface and the aircraft. Helicopter air tours will fly no lower than 2,000 feet (ft.), while fixed-wing aircraft will fly no lower than 2,500 ft. AGL over the Park or within ½ mile of its boundary. Except in an emergency or to avoid unsafe conditions, or unless otherwise authorized for a specified purpose, operators may not deviate from these routes and altitudes.

² Appendix B contains an enlarged Figure 2.

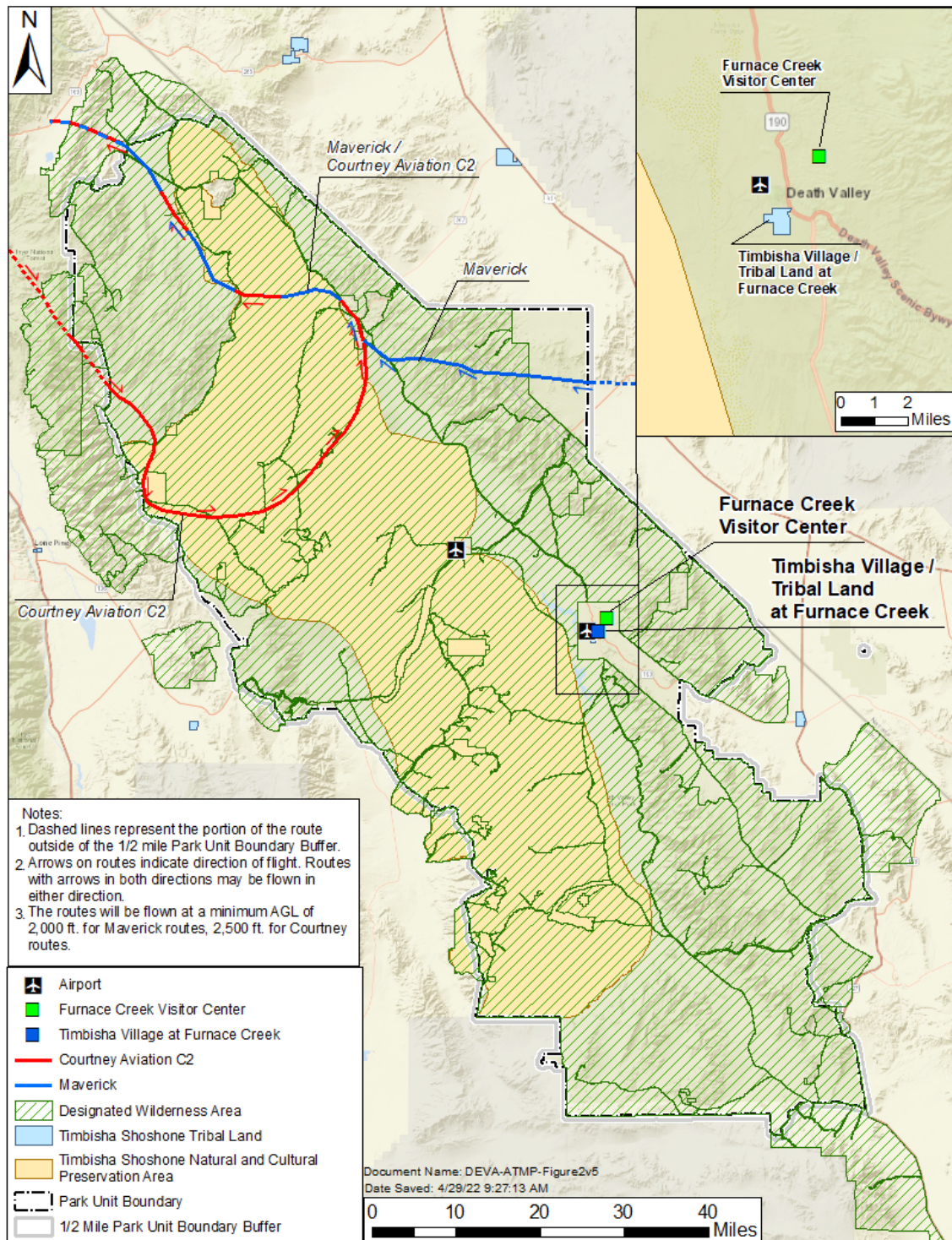


Figure 2. Commercial air tour routes over Death Valley National Park

3.3 Aircraft Type

The aircraft types authorized to be used for commercial air tours are identified in Appendix A. Any new or replacement aircraft must not exceed the noise level produced by the aircraft being replaced. In addition to any other applicable notification

requirements, operators will notify the FAA and the NPS in writing of any prospective new or replacement aircraft and obtain concurrence before initiating air tours with the new or replacement aircraft.

3.4 Day/Time

Except as provided in Section 3.8 “Quiet Technology Incentives,” commercial air tours may operate two hours after sunrise until two hours before sunset, as defined by National Oceanic and Atmospheric Administration (NOAA).³ Air tours may operate any day of the year, except under circumstances provided in Section 3.5 “Restrictions for Particular Events.”

3.5 Restrictions for Particular Events

The NPS can establish temporary no-fly periods that apply to commercial air tours for special events or planned Park management. Absent exigent circumstances or emergency operations, the NPS will provide a minimum of one week notice to the operators in writing in advance of the no-fly period. Events may include tribal ceremonies or other similar events.

3.6 Required Reporting

Operators will submit to the FAA and the NPS semi-annual reports regarding the number of commercial air tours over the Park or within ½ mile of its boundary that are conducted by the operators. These reports will also include the flight monitoring data required under Section 4.1 of this ATMP and such other information as the FAA and the NPS may request. Reports are due to both the FAA and the NPS no later than 30 days after the close of each reporting period. Reporting periods are January 1 through June 30 and July 1 through December 31. Operators shall adhere to the requirements of any reporting template provided by the agencies.

3.7 Additional Requirements

3.7A Operator Training and Education: Park staff will provide interpretive and education materials at the request of the operators. Any materials provided by the Park will include information that operators can use to further their own understanding of Park priorities and management objectives as well as enhance the interpretive narrative for air tour clients and increase understanding of parks by air tour clients.

3.7B Meeting: At the request of either of the agencies, the Park staff, the local FAA Flight Standards District Office (FSDO), and all operators will meet to discuss the implementation of this ATMP and any amendments or other changes to the ATMP.

³ Sunrise and sunset data is available from the NOAA Solar Calculator, <https://www.esrl.noaa.gov/gmd/grad/solcalc/>

3.7C In-Flight Communication: For situational awareness when conducting tours of the Park, the operators will utilize frequency 122.9 and report when they enter and depart a route. The pilot should identify their company, aircraft, and route to make any other aircraft in the vicinity aware of their position.

3.7D Hovering: Aircraft hovering in place is prohibited.

3.7E Non-transferability of Allocations: Annual operations under this ATMP are non-transferable. An allocation of annual operations may be assumed by a successor purchaser that acquires an entity holding allocations under this ATMP in its entirety. In such case, the prospective purchaser shall notify the FAA and NPS of its intention to purchase the operator at the earliest possible opportunity to avoid any potential interruption in the authority to conduct commercial air tours under this ATMP. This notification must include a certification that the prospective purchaser has read and will comply with the terms and conditions in the ATMP. The FAA will consult with NPS before issuing new or modified operations specifications (OpSpecs) or taking other formal steps to memorialize the change in ownership.

3.8 Quiet Technology Incentives

This ATMP incentivizes the use of quiet technology aircraft by commercial air tour operators. Operators that have converted to quiet technology aircraft, or are considering converting to quiet technology aircraft, may request to be allowed to conduct air tours beginning at sunrise or ending at sunset on all days that flights are authorized. Because aviation technology continues to evolve and advance and the FAA updates its noise certification standards periodically, the aircraft eligible for this incentive will be analyzed on a case-by-case basis at the time of the operator's request to be considered for this incentive. The NPS will periodically monitor Park conditions and coordinate with the FAA to assess the effectiveness of this incentive. If implementation of this incentive results in unanticipated effects on Park resources or visitor experience, further agency action may be required to ensure the protection of Park resources and visitor experience.

4.0 COMPLIANCE

On the effective date of this ATMP, all commercial air tours over the Park or within ½ mile of the Park boundary must comply with the terms of this ATMP in all respects, except as provided in Section 4.1 below. The NPS and the FAA are both responsible for the monitoring and oversight of the ATMP. If the NPS identifies instances of non-compliance, the NPS will report such findings to the FAA's FSDO with geographic oversight of the Park. The public may also report allegations of non-compliance with this ATMP to the FSDO. The FSDO will investigate and respond to all written reports consistent with applicable FAA guidance.

Investigative determination of non-compliance may result in partial or total loss of authorization to conduct commercial air tours authorized by this ATMP. Any violation of OpSpecs shall be treated in accordance with FAA Order 2150.3, *FAA Compliance and Enforcement Program*.

4.1 Aircraft Monitoring Technology

Operators are required to equip all aircraft used for air tours with flight monitoring technology, use flight monitoring technology during all air tours under this ATMP, and to report flight monitoring data as an attachment to the operator's semi-annual reports. The required flight monitoring data shall be provided in a file format approved by the agencies, such as a .csv or .xlsx format. Data must include the following information for each row of data (i.e., each ping):

- Unique flight identifier
- Latitude
- Longitude
- Geometric altitude
- Tail number
- Date
- Time stamp
- Operator and Doing Business As (DBA), if different
- Aircraft type
- Aircraft model

The ping rate should be set to a maximum of 15 seconds. Operators already using aircraft equipped with flight monitoring technology shall ensure it meets the performance standards listed above or acquire and install acceptable flight monitoring technology within 180 days of the effective date of this ATMP. For aircraft not already equipped with flight monitoring technology, within 180 days of the effective date of this ATMP, operators shall equip those aircraft with suitable flight monitoring technology.

5.0 JUSTIFICATION FOR MEASURES TAKEN

The provisions and conditions in this ATMP are designed to protect Park resources, visitor experience, and tribal lands from the effects of commercial air tours, and to support NPS management objectives for the Park.

Under the Act, the FAA was required to grant Interim Operating Authority (IOA) for commercial air tours over the Park or within ½ mile of the Park's boundary. IOA does not provide any operating conditions (e.g., routes, altitudes, time of day, etc.) for air tours other than an annual limit.

The total number of air tours authorized under this ATMP is consistent with the existing air tours reported over the Park. The annual flight limits in this ATMP are intended to protect visitor experience (including interpretive programs), cultural resources, tribal use, sensitive species, and wilderness areas throughout the Park by limiting the number of potential disturbances caused by commercial air tours.

The condition that helicopter air tours may fly no lower than 2,000 ft. AGL, while fixed-wing aircraft may fly no lower than 2,500 ft. AGL under this ATMP, and the designated routes, are intended to protect the acoustic environment and visitor experience of the Park, Timbisha Shoshone tribal lands, tribal use of the Park, and to provide more

protection for wildlife, including nesting birds. These conditions will protect visitor experience and wilderness character by reducing the amount of air tour noise visitors on the ground are exposed to. Given the minimum required altitudes identified above, the required routes and altitudes for commercial air tour operators are also safety measures necessary to de-conflict the airspace. The designated routes do not fly within 30 miles of the Timbisha Village at Furnace Creek which is protective of tribal use of that area. The designated routes and annual flight limits also minimize the impacts of air tours on the Timbisha Shoshone Natural and Cultural Preservation Area.

Sunrise and sunset are important times of the day for wildlife and visitor use and experience. Biologically important behaviors for many species occur during this time, such as foraging and communication. Wildlife viewing by Park visitors on the ground is often done during this time of day as well. The day/time restrictions have been included in this ATMP to protect these Park resources. Restrictions for particular events are intended to prevent noise interruptions of Park events or tribal practices.

If operators request training materials, it could provide opportunities to enhance the interpretive narrative for air tour clients and increase understanding of the Park by air tours companies and their clients. Meetings will facilitate effective implementation of the ATMP because they will be used to review and discuss implementation of this ATMP between Park staff, local FAA FSDO, and all operators. Meetings will thus serve to ensure that air tour operators remain informed regarding the terms and conditions of this ATMP, including any adaptive management measures or amendments, and are made aware of new or reoccurring concerns regarding Park resources.

The condition that commercial air tours may not hover in place is intended to minimize disturbances to noise sensitive wildlife, visitor experience, and traditional activities.

The requirements to equip aircraft with flight monitoring technology, use flight monitoring technology during all air tours under this ATMP, and to report flight monitoring data as an attachment to the operator's semi-annual reports are necessary to enable the agencies to appropriately monitor operations and ensure compliance with this ATMP.

6.0 NEW ENTRANTS

For the purposes of this ATMP, a "new entrant" is a commercial air tour operator that has not been granted any operations under this ATMP or that no longer holds operations under this ATMP at the time of the application. New entrants must apply for and be granted operating authority before conducting commercial air tours over the lands and waters covered by this ATMP.

The FAA and the NPS will publish additional information for interested parties about the form and required content of a new entrant application. The FAA and the NPS will jointly consider new entrant applications and determine whether to approve such applications. Review of applications submitted prior to the effective date of this ATMP will commence within six months of the effective date. Applications submitted after that

time will be considered no less frequently than every three years from the effective date of this ATMP.

If any new entrant is granted operating authority under this ATMP, the FAA will issue OpSpecs (and, if necessary, will revise OpSpecs to operators whose allocation of operating authority change due to accommodation of a new entrant) within 90 days of the publication of an amended ATMP or of the effective date of ATMP changes implemented through the adaptive management process.

7.0 COMPETITIVE BIDDING

When appropriate, the FAA and the NPS will conduct a competitive bidding process pursuant to the criteria set forth in 49 U.S.C. § 40128(a)(2)(B) and other criteria developed by the agencies. Competitive bidding may be appropriate to address: a new entrant application; a request by an existing operator for additional operating authority; consideration by the agencies of Park-specific resources, impacts, or safety concerns; or for other reasons.

The agencies will request information necessary for them to undertake the competitive bidding process from operators. Operators who do not provide information in a timely manner may be disqualified from further consideration in the competitive bidding process.

Competitive bidding may necessitate an amendment to this ATMP, additional environmental review, and/or the issuance of new or revised OpSpecs. If updated OpSpecs are required, they will be issued within 90 days.

8.0 ADAPTIVE MANAGEMENT

Adaptive management allows for minor modifications to this ATMP without a formal ATMP amendment if the impacts of such changes are within the impacts already analyzed by the agencies under the National Environmental Policy Act, the National Historic Preservation Act, and the Endangered Species Act. Adjustments to the number of commercial air tours allocated to individual operators as a result of the competitive bidding process and minor changes to routes, altitudes, or other operating parameters are examples of adaptive management measures that may not require a formal ATMP Amendment. Such modifications may be made if: 1) the NPS determines that they are necessary to avoid adverse impacts to Park resources, values, or visitor experiences; 2) the FAA determines the need for such changes due to safety concerns; or 3) the agencies determine that appropriate, minor changes to this ATMP are necessary to address new information (including information received through tribal input and/or consultation) or changed circumstances.

9.0 AMENDMENT

This ATMP may be amended at any time: if the NPS, by notification to the FAA and the operator(s), determines that the ATMP is not adequately protecting Park resources and/or

visitor enjoyment; if the FAA, by notification to the NPS and the operator(s), determines that the ATMP is adversely affecting aviation safety and/or the national aviation system; or, if the agencies determine that appropriate changes to this ATMP are necessary to address new information or changed circumstances that cannot be addressed through adaptive management.

The FAA and the NPS will jointly consider requests to amend this ATMP from interested parties. Requests must be made in writing and submitted to both the FAA and the NPS. Requests must also include justification that includes information regarding how the requested amendment: is consistent with the objectives of this ATMP with respect to protecting Park resources, tribal lands, or visitor use and enjoyment; and would not adversely affect aviation safety or the national aviation system. The FAA and the NPS will publish additional information for interested parties about the form and manner for submitting a request.

Increases to the total number of air tours authorized per year under this ATMP resulting from accommodation of a new entrant application or a request by an existing operator will require an amendment to this ATMP and additional environmental review.

Notice of all amendments to this ATMP will be published in the Federal Register for notice and comment.

10.0 CONFORMANCE OF OPERATIONS SPECIFICATIONS

New OpSpecs that incorporate the operating parameters set forth in this ATMP will be issued within 90 days of the date of signature on this ATMP.

11.0 EFFECTIVE DATE

This ATMP is effective on the date new OpSpecs incorporating its operating parameters are issued.

| | | | |
|---|---------------|--|---------------|
| _____ Mike L. Reynolds Superintendent Death Valley National Park National Park Service | _____ Date | _____ Tamara A. Swann Regional Administrator (Acting) Western-Pacific Region Federal Aviation Administration | _____ Date |
| _____ Frank W. Lands Regional Director Interior Regions 8, 9, 10 & 12 National Park Service | _____ Date | _____ Kevin Welsh Executive Director Office of Environment & Energy Federal Aviation Administration | _____ Date |
| _____ Raymond M. Sauvajot Associate Director Natural Resource Stewardship and Science Directorate National Park Service | _____ Date | | |

APPENDIX A

1.0 COMMERCIAL AIR TOUR ALLOCATIONS

Table 1 provides allocations of the operations authorized per year along with authorized aircraft type by operator. IOA previously issued for the Park and Timbisha Shoshone tribal lands terminates on the effective date of this ATMP.

Table 1. Air Tour Operations and Aircraft Type by Operator

| Air Tour Operator | Annual Operations | Daily Operations | Aircraft Type |
|--|-------------------|------------------|--------------------|
| Courtney Aviation, Inc. (Courtney Aviation, Yosemite Flight Tours) | 1 | 1 | GA-690-A, GA-690-D |
| Maverick Helicopters, Inc. | 1 | 1 | AS350, EC-130 |

2.0 DAY/TIME RESTRICTIONS

Table 2 lists the time-of-day and day-of-week operating parameters.

Table 2. Air Tour Time-of-Day and Day-of-Week Restrictions by Operator

| Air Tour Operator | Time-of-Day | Day-of-Week |
|--|---|---|
| Courtney Aviation, Inc. (Courtney Aviation, Yosemite Flight Tours) | Two hours after sunrise until two hours before sunset | The NPS can establish temporary no-fly periods that apply to air tours for special events or planned Park management. |
| Maverick Helicopters, Inc. | Two hours after sunrise until two hours before sunset | The NPS can establish temporary no-fly periods that apply to air tours for special events or planned Park management. |

APPENDIX B

Enlarged Figures 1 and 2

