

May 2006

# NATIONAL PARKS AIR TOUR FEES

## Effective Verification and Enforcement Are Needed to Improve Compliance



G A O

Accountability \* Integrity \* Reliability



Highlights of [GAO-06-468](#), a report to congressional requesters

## Why GAO Did This Study

The Omnibus Budget Reconciliation Act of 1993 (the fees legislation) required the National Park Service to begin collecting fees from operators that conduct air tours over national park units that meet certain criteria. Currently, only Grand Canyon, Haleakala, and Hawaii Volcanoes National Parks meet the criteria to charge air tour fees. The Federal Aviation Administration (FAA), in cooperation with the Park Service, also regulates air tours over park units pursuant to the National Parks Overflights Act of 1987 and the National Parks Air Tour Management Act of 2000.

GAO was asked to (1) assess the Park Service's collection of air tour fees and (2) identify what factors, if any, hinder the collection of air tour fees. GAO is also providing information on the possible expansion of air tour fees to additional park units.

## What GAO Recommends

Congress should consider amending the fees legislation or the 2000 air tour act to reconcile their geographic applicability. In addition, GAO recommends that FAA (1) ensure the Park Service receives data on air tours at Grand Canyon and (2) report to Congress on the effects that fees are likely to have on operators.

The Departments of the Interior and Transportation generally agreed with our findings and recommendations, as revised.

[www.gao.gov/cgi-bin/getrpt?GAO-06-468](http://www.gao.gov/cgi-bin/getrpt?GAO-06-468).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robin M. Nazzaro at (202) 512-3841 or [nazzaror@gao.gov](mailto:nazzaror@gao.gov).

# NATIONAL PARKS AIR TOUR FEES

## Effective Verification and Enforcement Are Needed to Improve Compliance

### What GAO Found

Relying largely on voluntary compliance, the Park Service has collected some, but not all, fees from air tour operators at Grand Canyon, Haleakala, and Hawaii Volcanoes National Parks. After passage of the fees legislation, these three park units instituted air tour fees in 1994 by requesting operators to voluntarily report their air tours and pay appropriate fees monthly. Since then, the Park Service has collected about \$19 million at the three park units (in inflation-adjusted 2005 dollars). However, voluntary compliance with the air tour fee requirement has been inconsistent, and several operators are not paying the required fees. For example, GAO found that 13 of the 21 operators conducting air tours over Grand Canyon underpaid their air tour fees for calendar years 2000 through 2003 by more than \$1.5 million.

The Park Service's ability to collect air tour fees is hindered by several factors, as follows:

- *The Park Service cannot verify air tour activity over the three park units.* Air tour operators are not required to record and report to either the Park Service or FAA their number of air tours over park units, except for Grand Canyon. Operators at Grand Canyon are required to report their air tours only to FAA. Consequently, the Park Service relies on operators to voluntarily report their air tours and pay the required fees. A GAO January 2006 report recommended that FAA take steps to require operators to report to both agencies their air tours over park units under the 2000 air tour act, including Haleakala and Hawaii Volcanoes.
- *The Park Service cannot effectively enforce compliance due to the lack of air tour data.* The Park Service has limited ability to enforce compliance because it does not have jurisdiction over airspace and lacks sufficient air tour data. Conversely, FAA is not required to assist with collecting, or enforcing the collection of, air tour fees. As a result, both Park Service and FAA officials told GAO, the agencies have little or no ability to take enforcement action against noncompliant operators.
- *Different geographic applicability of two laws complicates efforts to collect air tour fees.* The fees legislation and the 2000 air tour act have different geographic applicability, which has complicated the Park Service's collection efforts.

Air tour fees are currently charged at only 3 of the 86 park units with air tours, based on the criteria established in the fees legislation. Expanding air tour fees to other park units could generate additional funding for the Park Service, but such an expansion would require a legislative change and should be balanced against potential impacts on air tour operators. Legislation could explicitly provide that the additional funding may be used to develop the air tour management plans required by the 2000 air tour act. Regarding the potential impacts on air tour operators, the 2000 air tour act directed FAA to prepare a report to Congress on this subject by October 2000. FAA has drafted the report but has not submitted it to Congress.

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**Abbreviations**

FAA      Federal Aviation Administration

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May 11, 2006

Congressional Requesters

Millions of visitors each year enjoy our national parks, monuments, historic sites, and other units of the national park system (national park units).<sup>1</sup> While most visitors experience the park units on land by walking, driving, or as part of a bus tour, some visitors view the park units through commercial, sightseeing air tours (air tours). The Department of the Interior's (Interior) National Park Service (Park Service) is responsible for managing the 390 national park units and for collecting applicable fees associated with their use. Collecting applicable admission and commercial tour use fees from individuals, private vehicles, and tour buses that enter the park units on land is generally a simple process. At those park units that charge fees, the Park Service typically collects the fees at entrance gates, and visitors can be denied entry if they do not pay the required fees. To verify that these visitors and tour buses have paid the fees, the Park Service periodically checks their receipts, and some park units compare visitation and vehicle statistics with the fees collected. In contrast, collecting commercial tour use fees for air tours (air tour fees) has posed some unique challenges for the Park Service.

As part of legislation giving the Park Service recreation fee authority, the Omnibus Budget Reconciliation Act of 1993 (the fees legislation) required the Park Service to begin collecting a commercial tour use fee for all aircraft conducting tours in the airspace over two park units—Grand Canyon and Haleakala National Parks (Grand Canyon, Haleakala)—after October 1, 1993.<sup>2</sup> The air tour fee requirement also applies to any other park unit that charges an admission fee and for which the Park Service determines the level of air tour activity over the park unit is equal to or greater than the level at Grand Canyon or Haleakala.<sup>3</sup> In December 1993, the Park Service determined that the level of air tour activity over Hawaii Volcanoes National Park (Hawaii Volcanoes) was equivalent to Haleakala

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<sup>1</sup>In this report, we use the phrase “national park units” or simply “park units” to refer to all units in the national park system, including national historic sites, memorials, monuments, parks, recreation areas, and other designations.

<sup>2</sup>Pub. L. No. 103-66, title X, § 10002(c), 107 Stat. 404 (1993).

<sup>3</sup>The Omnibus Budget Reconciliation Act of 1993 uses the term “admission fees” to refer to the fees charged at some park units’ entrances, which the Park Service also calls “entrance fees.”

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and that air tour fees would be charged for this park unit as well. The air tour fee per entry into the airspace of these three park units is \$25 per aircraft with a capacity of 25 or fewer passengers or \$50 per aircraft with a capacity of more than 25 passengers. The fees legislation also allows the Park Service to periodically make reasonable adjustments to the air tour fee. At the time of our review, all air tour aircraft at the three relevant park units carried fewer than 25 passengers, and since the Park Service has not made any adjustments since 1993 to air tour fees, only the \$25 fee has applied.

While the Park Service is charged with collecting air tour fees, it is the sole jurisdiction of the Department of Transportation's Federal Aviation Administration (FAA) to regulate or control the airspace over national park units. As part of its aviation responsibilities, FAA issues certificates to pilots who conduct air tours, monitors the safety and maintenance of air tour aircraft, issues applicable air carrier certificates, and takes necessary enforcement actions. The Park Service does not issue certificates or business permits to air tour operators.

Congress directed FAA, in cooperation with the Park Service, to regulate air tours over park units in legislation commonly referred to as the National Parks Overflights Act of 1987 (Grand Canyon Act)<sup>4</sup> and the National Parks Air Tour Management Act of 2000 (Air Tour Management Act).<sup>5</sup> The Grand Canyon Act, among other things, requires FAA to prepare and issue a plan to manage air traffic above Grand Canyon. FAA and the Park Service are jointly conducting the environmental work necessary to prepare such a plan, but in the meantime, FAA has issued special federal aviation regulations that, in part, require operators to record and report their air tours over Grand Canyon to FAA.<sup>6</sup> The Air Tour Management Act, among other things, requires FAA, in cooperation with the Park Service, to develop air tour management plans for national park units and abutting tribal lands

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<sup>4</sup>Pub. L. No. 100-91, 101 Stat. 676 (1987).

<sup>5</sup>Pub. L. No. 106-181, title VII, 114 Stat. 185 (2000). The Air Tour Management Act does not apply to (1) Grand Canyon National Park or tribal lands within or abutting that park unit; (2) any air tour operator while flying over or near Lake Mead National Recreation Area solely as a transportation route to conduct an air tour over Grand Canyon National Park; and (3) any land or waters in Alaska. The Air Tour Management Act also prohibits any air tours over Rocky Mountain National Park.

<sup>6</sup>Special Flight Rules in the Vicinity of Grand Canyon National Park (14 C.F.R. Part 93, Subpart U).

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where commercial air tour companies (air tour operators) apply for authority to conduct air tours.<sup>7</sup> As of April 2006, the agencies had not completed any air tour management plans, although plans are in development for Grand Canyon and six other national park units.<sup>8</sup> Under the regulations implementing the Grand Canyon Act, FAA has authorized 14 air tour operators to conduct a combined total of 91,250 air tours annually as of March 2006.<sup>9</sup> Similarly, under the Air Tour Management Act, FAA has authorized 77 air tour operators at 85 park units to conduct a combined total of 262,857 air tours annually. Of that amount, 14 operators are authorized to conduct a combined 28,441 air tours annually at Hawaii Volcanoes, and 10 operators are authorized for a combined 26,325 air tours annually at Haleakala.

Although legislation directs the agencies to work together in developing plans to manage air tours over national park units—and the agencies anticipate that local FAA district offices will have the lead role in monitoring and enforcing the plans—no law specifically assigns FAA the responsibility to carry out enforcement actions against air tour operators that do not pay their fees. Neither the Grand Canyon Act nor the Air Tour Management Act establish specific mechanisms for air tour fee collection and enforcement, except that the Air Tour Management Act required FAA to report to Congress by October 2000 on the effects that air tour fees are likely to have on the air tour industry, including (1) the viability of a tax credit for air tour operators and (2) the financial effects that any proposed offsets are likely to have on FAA.

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<sup>7</sup>A “commercial air tour operator” is any person who conducts a commercial air tour operation, including individuals, companies, and corporations.

<sup>8</sup>The Grand Canyon Act requires FAA to “... prepare and issue a final plan for the management of air traffic in the air space above the Grand Canyon.” While the air traffic management plan required by the Grand Canyon Act must meet different legislative requirements than the air tour management plans required by the Air Tour Management Act, to simplify the presentation of information in this report, we will refer to all the plans simply as “air tour management plans.”

<sup>9</sup>During calendar years 2000 to 2003, 21 operators had authority from FAA to conduct air tours over Grand Canyon, but as of March 2006, that number had dropped to 14. In addition to the 91,250 total annual air tours authorized over Grand Canyon, FAA was retaining 2,721 allocations (from operators that had gone out of business) for potential future distribution, as of March 2006.

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In January 2006, we reported on the status of the Air Tour Management Act's implementation.<sup>10</sup> We found, among other things, that FAA and the Park Service lack data to verify air tour activity over park units regulated by the Air Tour Management Act because FAA and existing laws and regulations do not require operators to record and report such information. Consequently, we recommended that FAA establish a procedure for operators to record and report to both agencies the number of air tours they conduct over national park units in order to improve enforcement of that act. The Department of Transportation agreed with our findings in that report and agreed to consider our recommendations as FAA moves forward with the air tour management program. As part of our review of the Air Tour Management Act, we were also asked to review operators' compliance with the payment of air tour fees. We chose to report separately on the fees issue because the fees legislation is distinct from the Air Tour Management Act, and air tour fees currently apply to only three park units.

In congressional oversight hearings in 2002 and 2004, Interior, a large air tour operator in Hawaii, and nonprofit conservation organizations raised concern that some air tour operators have not paid all fees owed to the national park units as required by the fees legislation.<sup>11</sup> In this context, you asked us to (1) assess the Park Service's collection of air tour fees and operators' compliance in paying fees and (2) identify what factors, if any, hinder the collection of air tour fees. We are also providing information on the possible expansion of air tour fees to additional park units.

In conducting our work, we analyzed Park Service and FAA policies, guidance, and other relevant documents, as well as applicable laws and regulations. In addition, we reviewed the Park Service's data on the collection of air tour fee payments at the three relevant park units and FAA's data on the number of air tours over Grand Canyon, which operators are required to record and report to FAA. We determined that both agencies' data were sufficiently reliable for the purposes of this report. We also interviewed Park Service officials at headquarters and at the three

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<sup>10</sup>GAO, *National Parks Air Tour Management Act: More Flexibility and Better Enforcement Needed*, GAO-06-263 (Washington, D.C.: Jan. 27, 2006).

<sup>11</sup>U.S. Senate, Committee on Commerce, Science, and Transportation, Hearing on National Park Overflights, October 3, 2002, S. Hrg. No. 107-1123, at 27, 34, and 36 (2002); and U.S. Senate, Committee on Energy and Natural Resources, Subcommittee on National Parks, Hearing on the National Parks Air Tour Management Act, July 22, 2004, S. Hrg. No. 108-731, at 21 and 25-27 (2004).



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park units that have established air tour fees, FAA officials at headquarters and at the two relevant district offices, and a sample of 18 operators of the 33 that had authority to conduct air tours at the three relevant park units. This sample included different sizes of air tour operators, as measured by the number of air tours they are authorized to conduct annually. A more detailed description of our scope and methodology is presented in appendix I. We performed our work from January 2005 through April 2006 in accordance with generally accepted government auditing standards.

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## Results in Brief

Relying largely on voluntary compliance, the Park Service has collected some, but not all, air tour fees from operators at Grand Canyon, Haleakala, and Hawaii Volcanoes. After passage of the fees legislation, these three park units instituted air tour fees in 1994 by requesting air tour operators to voluntarily report their air tours and pay the appropriate fees on a monthly basis. Since then, the Park Service has collected about \$19 million in air tour fees at the three park units (in inflation-adjusted 2005 dollars): at Grand Canyon, over \$16 million; at Haleakala, about \$970,000; and at Hawaii Volcanoes, about \$1.9 million. However, voluntary compliance with the air tour fee requirement has been inconsistent, and several operators are not paying the required fees. For example, we compared the data that air tour operators at Grand Canyon reported to FAA with the data they voluntarily supplied the Park Service and found that 13 of the 21 operators underpaid their air tour fees for calendar years 2000 through 2003 by more than \$1.5 million. Furthermore, at Hawaii Volcanoes, one operator, who owed more than \$360,000 as of January 2005, has publicly stated that it stopped paying fees because other operators were not paying. Over the past 12 years, the Park Service's efforts to collect unpaid fees have been uneven. For example, at Hawaii Volcanoes, Park Service officials sent letters to air tour operators in 1994, 1997, 2004, and 2005, encouraging the payment of fees, and the Park Service filed lawsuits against three operators at Grand Canyon. The lawsuits resulted in settlements in July 2000 in which the three operators agreed to make back payments totaling about \$800,000, but Park Service officials told us the operators have stopped making such payments, and the park unit has taken no further action.

The Park Service's ability to collect air tour fees is hindered by several factors, as follows:

- *The Park Service cannot verify air tour activity over the three park units.* Except for Grand Canyon, air tour operators are not required to record and report to either the Park Service or FAA their number of air

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tours over national park units. At Grand Canyon, operators are required to report their flights to FAA, and the Park Service has requested this information, but the relevant FAA district office has generally been unwilling to share the flight data because of concerns that FAA's involvement with fees could cause operators to underreport their air tour activity. Consequently, the Park Service relies on air tour operators to voluntarily and accurately report their air tours and pay the required fees. Without the ability to verify operators' air tour activity, the Park Service cannot ensure that operators are making all the required payments. As previously noted, our January 2006 report recommends that FAA establish a procedure for operators to record and report to both agencies the number of air tours they conduct over national park units regulated by the Air Tour Management Act, which includes Haleakala and Hawaii Volcanoes.

- *The Park Service cannot effectively enforce compliance due to the lack of air tour data.* The agency charged with collecting air tour fees—the Park Service—has limited ability to enforce compliance because it does not have jurisdiction over the airspace or air tour operators and lacks sufficient air tour data. Conversely, the agency with the authority over the airspace and air tour operators—FAA—is not required to assist with collecting, or enforcing the collection of, air tour fees. Neither the Grand Canyon Act nor the Air Tour Management Act requires air tour management plans to contain provisions specifically addressing fee compliance. Furthermore, neither act requires that operators' authority to conduct air tours over park units be conditioned on payment of air tour fees. While the Park Service could go to court seeking fees owed from noncompliant operators or refer outstanding fees to the Department of the Treasury for debt collection, the agency generally lacks the evidence necessary to prove that air tour operators have not paid all the fees owed. As a result, both Park Service and FAA officials told us the agencies have little or no ability to take enforcement action against noncompliant operators.
- *Different geographic applicability of two laws complicates efforts to collect air tour fees.* The fees legislation and the Air Tour Management Act and/or their respective implementing guidelines or regulations have different geographic applicability. Under the fees legislation, an air tour operator is required to pay a fee when a tour enters the airspace over the park unit, whereas the Air Tour Management Act defines air tours as flights over a national park unit or within a half-mile outside its boundary. The different geographic applicability of the two laws has

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complicated the Park Service's efforts to collect air tour fees by providing some air tour operators with a plausible explanation for why they are not paying fees. Under the existing system, air tour operators can assert that they fly only within a half-mile of a park unit boundary but do not cross it; therefore, their air tours are covered by the Air Tour Management Act but not by the fees legislation. To enable the Park Service to verify air tour activity under both laws and determine the appropriate level of fees owed under the fees legislation, air tour operators would have to record and report two sets of data: one for air tours that cross the park unit boundary for fee collection, and another for air tours that fly over or within a half-mile of a park unit boundary for the Air Tour Management Act. Alternatively, the fees legislation and the Air Tour Management Act would have to be reconciled to have consistent geographic applicability.

Air tour fees are currently charged at only 3 of the 86 park units with air tours, based on the criteria established in the fees legislation. Expanding air tour fees to other park units could generate additional funding for the Park Service, but such an expansion would require a legislative change. The legislation could explicitly provide that the additional funding may be used to develop the air tour management plans required by the Air Tour Management Act. In January 2006, we reported that the Park Service had not funded its share of the development costs for air tour management plans. However, any possible expansion of air tour fees should be balanced against potential impacts on air tour operators. FAA's report on potential impacts, which the Air Tour Management Act required by October 2000, was drafted in January 2001 but has not been submitted to Congress. Once FAA submits its report, Congress, the Park Service, and other stakeholders will have additional information to evaluate whether air tour fees should be expanded to other park units.

To enhance the collection of air tour fees, Congress should consider amending the fees legislation or the Air Tour Management Act to reconcile the geographic applicability of the two laws. Once these two acts are reconciled, reporting by air tour operators under the Air Tour Management Act could also be used to monitor and enforce air tour fee collections. In our January 2006 report, we recommended that FAA establish a procedure for operators to record and report to both agencies the number of air tours they conduct over national park units regulated by the Air Tour Management Act, which includes Haleakala and Hawaii Volcanoes but not Grand Canyon. In order to improve compliance and enforcement of air tour fees at Grand Canyon, we are recommending that FAA take steps to ensure

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that the Park Service receives the information it needs on air tours at Grand Canyon. We are also recommending that FAA submit to Congress the report required under the Air Tour Management Act on the effects that air tour fees are likely to have on air tour operators. In commenting on a draft of this report, Interior, representing the Park Service, agreed with our findings, conclusions and recommendations, particularly those that address the need for more accurate and reliable air tour data. The Department of Transportation, representing FAA, generally agreed with our findings, conclusions, and recommendations, as revised. FAA disagreed with a Matter for Congressional Consideration, which we have since removed from the report, to amend the Grand Canyon Act and the Air Tour Management Act to require compliance with air tour fee payments as a condition for operating authority to conduct air tours over national parks units. We agreed with FAA that much of the administrative burden for making operators' air tour operating authority conditioned on fee compliance could unduly fall on FAA. FAA also expressed concern that it would distract from FAA's primary focus of aviation safety. As a result, we have removed that matter from the report. We now emphasize in the report that the Park Service could take more aggressive enforcement actions once it has the necessary air tour flight data. See the "agency comments and our evaluation" section and appendix III for Interior's comment letter and our evaluation of these comments.

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## Background

The Park Service is responsible for conserving the scenery, the natural and historic objects, and the plants and wildlife in national park units, and for providing for the enjoyment of national park units in ways that leave them unimpaired for future generations. To accomplish its mission, the Park Service has a budget of about \$1.7 billion for fiscal year 2006. The Park Service also has authority to collect and retain recreation fees from visitors, including entrance fees, amenity fees, and special permit fees, to be used primarily at the site where the fee was collected.<sup>12</sup> In fiscal year 2005, the Park Service collected \$146.8 million in visitor use fees.

The Omnibus Budget Reconciliation Act of 1993 (the fees legislation) directed the Park Service to establish air tour fees by October 1, 1993.<sup>13</sup> In

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<sup>12</sup>Federal Lands Recreation Enhancement Act, Pub. L. No. 108-447, Div. J, title VIII, 118 Stat. 3377 (2004).

<sup>13</sup>Pub. L. No. 103-66, title X, § 10002(c), 107 Stat. 404 (1993).

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the House Budget Committee's report accompanying the fees legislation, the committee stated that tour operators generate their revenues by selling national park units as a destination and, therefore, a modest fee is a reasonable and justifiable means of addressing impacts they have on park unit resources and personnel.<sup>14</sup> Under the fees legislation, the Park Service considers an air tour to be a flight that consists of one or more persons traveling on an itinerary that has been packaged, priced, or sold for leisure or recreational purposes by an organization that realizes financial gain through the provision of the service. The Park Service specifically excludes flights that are conducted solely as transportation between two points. The Park Service also determined that air tours that enter and exit the airspace over any of the applicable park units more than once during a single flight have to pay only one fee for that air tour. The Park Service implemented the fee requirement to apply whenever an air tour crosses the boundary of a qualifying park unit below specified altitudes at each of the park units: 12,000 feet above mean sea level at Haleakala and 5,000 feet above ground level at Hawaii Volcanoes. At Grand Canyon, the special federal aviation regulations establish altitude levels that vary with flight patterns.

While the Park Service is the sole agency charged with collecting air tour fees, it has no authority to regulate or control the airspace over the park units; that is the sole jurisdiction of FAA. Congress directed FAA and the Park Service to work together to regulate air tours over park units in the National Parks Overflights Act of 1987 (Grand Canyon Act)<sup>15</sup> and the National Parks Air Tour Management Act of 2000 (Air Tour Management Act).<sup>16</sup> FAA's mission is to provide the safest, most efficient aerospace system in the world. FAA is pursuing its mission with an annual budget of more than \$13.8 billion in fiscal year 2006, of which about \$7.7 million is estimated to be spent on air tour management. FAA has tasked its Western-Pacific Regional Office with working with the Park Service to implement these two acts. The Park Service established the Soundscapes Program Center in 2000 (now the Natural Sounds Program) primarily to work with FAA's Western-Pacific Regional Office to develop air tour management plans under the two acts. The Natural Sounds Program's budget for fiscal year 2006 is about \$1.4 million, according to a program official.

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<sup>14</sup>H.R. Rep. No. 103-111, at 371 (1993).

<sup>15</sup>Pub. L. No. 100-91, 101 Stat. 676 (1987).

<sup>16</sup>Pub. L. No. 106-181, title VII, 114 Stat. 185 (2000).

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The Grand Canyon Act, which was enacted 6 years before the fees legislation, instructed FAA and the Park Service to prepare a management plan for air traffic over Grand Canyon. Due to the unusually high level of air tour activity over the canyon and some aircraft accidents in its vicinity—including a collision in June 1986 between an air tour airplane and a tour helicopter resulting in 25 deaths—the act directed the Park Service to submit recommendations to FAA concerning the actions necessary for the protection of resources and “... substantial restoration of the natural quiet and experience of the park [Grand Canyon] and protection of public health and safety from adverse effects associated with aircraft overflight.” The act authorized FAA to issue regulations to implement the plan and authorized the Park Service to enforce the plan’s requirements under that agency’s own rules and regulations. To date, the two agencies have not developed an air tour management plan for Grand Canyon and are currently engaged in an alternative dispute resolution process with other stakeholders to develop the plan. However, after receiving recommendations from the Secretary of the Interior, as the Grand Canyon Act required, FAA revised special federal aviation regulations in June 1988 to regulate air traffic over Grand Canyon.<sup>17</sup> These regulations, among other things, created flight-free zones, minimum flight altitudes, and specific flight paths for air tours; required air tour operators to report their air tours over Grand Canyon to FAA; and established procedures for setting a limit on the number of air tours allocated to operators over Grand Canyon. Subsequently, FAA issued a final rule in December 1996 to codify the special regulations and, in 2000, FAA set the allocations and issued special authority to the operators based on their level of air tour activity over Grand Canyon from May 1, 1997, to April 30, 1998.<sup>18</sup> Since then, some air tour operators have transferred or sold their air tour allocations with FAA’s knowledge. FAA has changed the total number of allocations only once, in accordance with a recommendation from Interior to raise the regulated airspace “ceiling” above Grand Canyon from 14,500 feet to 18,000 feet above sea level; in February 2005, FAA granted 3,711 air tour allocations to one operator that had previously been unregulated, which increased the total number of air tour allocations for Grand Canyon to 93,971.

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<sup>17</sup>53 *Fed. Reg.* 20264 (June 2, 1988).

<sup>18</sup>Special Flight Rules in the Vicinity of Grand Canyon National Park (14 C.F.R. Part 93, Subpart U).

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The Air Tour Management Act, which was enacted 7 years after the fees legislation, arose from noise and safety concerns, like the Grand Canyon Act, but applies to all park units, with the exceptions of (1) Grand Canyon or tribal lands within or abutting that park unit, (2) any air tour operator flying over or near Lake Mead National Recreation Area solely as a transportation route to conduct an air tour over Grand Canyon, and (3) any land or waters in Alaska. The Air Tour Management Act also prohibits any air tours over Rocky Mountain National Park. This act directed FAA, in cooperation with the Park Service, to develop air tour management plans for national park units and abutting tribal lands where air tour operators apply for authority to conduct air tours. The Air Tour Management Act defines a “commercial air tour operation” (air tour) as any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park unit, within one-half mile outside its boundary, or over an abutting tribal land. In the regulations implementing the Air Tour Management Act, FAA further defined air tours regulated under that act to include only flights below 5,000 feet above ground level.<sup>19</sup> To implement the Air Tour Management Act, FAA and the Park Service signed an interagency memorandum of understanding that established procedures the two agencies would follow in coordinating the development of air tour management plans, including a provision that FAA would fund 60 percent of the cost of developing the plans, and the Park Service would fund 40 percent. This agreement describes the qualifying costs as external contractor costs required to produce the plans. These qualifying costs exclude staff salaries, benefits, and travel for agency personnel; agency equipment and supplies; and any costs for in-house contractors hired by either agency.

In our January 2006 report on the Air Tour Management Act, we found, among other things, that the Park Service has not fulfilled its agreement with FAA to fund 40 percent of the cost of developing the air tour management plans. The Park Service had not requested or received any dedicated funding for the program until fiscal year 2006, when Congress provided \$500,000 toward air tour management. For fiscal year 2007, the Park Service has requested \$2.4 million for air tour management. Meanwhile, from fiscal years 2001 through 2005, FAA has funded 100 percent of the initial plans’ development through distinct budget appropriations totaling \$27 million. Although the Park Service has, like FAA, contributed staff time to work on the development of air tour

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<sup>19</sup>67 *Fed. Reg.* 65662 (Oct. 25, 2002).

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management plans, the cost of doing so does not count toward its 40 percent obligation, according to the agreement. Officials from both agencies told us that if the Park Service does not meet its obligation within the next 2 years, development of future air tour management plans may be hindered.

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## Largely through Voluntary Compliance, the Park Service Has Collected Some, but Not All, Air Tour Fees at Three Park Units

The Park Service, relying largely on voluntary compliance, has collected some, but not all, air tour fees from air tour operators at Grand Canyon, Haleakala, and Hawaii Volcanoes. The Park Service established air tour fees at Grand Canyon, Haleakala, and Hawaii Volcanoes in March 1994. In order to collect payments from air tour operators, Park Service officials sent notice letters to relevant operators that air tours over these three park units would be subject to the fees beginning in March 1994. However, officials at Haleakala reached an informal agreement with air tour operators to not pay fees from 1994 through 2001 if operators followed a specific flight path. The voluntary agreement established terms such as air tour routes and no-fly areas and was signed by a group of operators and Park Service officials at Haleakala; it kept air tours out of the park unit's boundary, except for one small corner of the park unit. However, when Haleakala acquired more land where the air tours were conducted, it negotiated a new voluntary agreement with operators, which included paying the \$25 air tour fee. Thus, Haleakala did not begin charging air tour fees until January 2002. Haleakala officials believe that operators have been mostly compliant with the air tour fee as a result of the voluntary agreement. Grand Canyon and Hawaii Volcanoes requested each air tour operator to voluntarily report monthly to the appropriate park unit the number of air tours conducted, as well as to send a payment covering all appropriate \$25 fees for that month. Under the fees legislation, only park units charging an admission fee—which could include per-person admission fees—may charge air tour fees. The Park Service has chosen to charge air tour fees only at park units that charge a per-vehicle admission fee.

Since the Park Service began collecting air tour fees 12 years ago, it has collected about \$19 million at the three park units:<sup>20</sup> more than \$16 million at Grand Canyon; about \$970,000 at Haleakala; and about \$1.9 million at Hawaii Volcanoes. In general, at least 80 percent of recreation fees,

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<sup>20</sup>These dollar values are in inflation-adjusted 2005 dollars; other dollar values in this report have not been adjusted.



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including air tour fees, collected at a specific park unit remain available for expenditure, without further appropriation, at that park unit.<sup>21</sup> The fees must be used for repair, maintenance, and facility enhancement directly related to visitor enjoyment and access; interpretive and visitor information; certain habitat restoration and law enforcement; direct costs associated with the recreation fee program; and other qualifying costs. For example, at Haleakala, these “80 percent funds” are being used to build new restrooms for visitors, complete deferred maintenance projects, rehabilitate exhibits, maintain trails, remove alien and invasive species, and construct a new entrance station. The balance (generally 20 percent) of recreation fees collected, including air tour fees, is available to the Park Service on an agency-wide basis for the same types of projects as the 80 percent funds.

However, voluntary compliance with the air tour fee requirement has been inconsistent across the three park units, and several operators are not paying the required fees. For example, we found that 13 of the 21 air tour operators that conducted air tours over Grand Canyon from May 2000 through December 2003, underpaid their air tour fees by more than \$1.5 million. Specifically, in comparing the data that air tour operators reported to FAA with the data they voluntarily supplied the Park Service, we found that 6 operators underreported their tours to the Park Service and underpaid their fees, while 7 operators reported no tours to the Park Service and paid no fees. Table 1 shows the data that air tour operators at Grand Canyon reported to FAA and the data the operators voluntarily supplied the Park Service for paying air tour fees over those 4 years. Similarly, at Hawaii Volcanoes, one operator, who owed more than \$360,000 as of January 2005,<sup>22</sup> has publicly stated that it stopped paying air tour fees in July 2003 because other operators were not paying—although this operator resumed paying fees in November 2005 and has consistently paid fees at Haleakala. One operator at Haleakala also told us it has not been paying air tour fees.

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<sup>21</sup>The Park Service may reduce the amount of fees retained by a park unit, but not below 60 percent, for a fiscal year if the Secretary of the Interior determines that the revenues collected exceed the reasonable needs of a particular park unit for which expenditures may be made that fiscal year.

<sup>22</sup>In March 2006, Interior’s Office of Inspector General reported, among other things, that Hawaii Volcanoes had not been able to collect millions of dollars’ worth of air tour fees due to insufficient air tour data. U.S. Department of the Interior, Office of Inspector General, *Hawaii Volcanoes National Park: Improved Operations Should Enhance Stewardship and Visitor Experience*, P-IN-NPS-0074-2004 (Washington, D.C.: March 2006).

**Table 1: Differences in Flight Information Air Tour Operators at Grand Canyon National Park Reported to FAA and to the Park Service, Calendar Years 2000-2003**

Calendar year	Air tours reported to the Park Service	Air tours reported to FAA	Number of air tours not reported to the Park Service	Fees owed from unreported air tours
2000 <sup>a</sup>	36,282	51,112	15,438	\$385,950
2001	30,739	48,915	18,632	465,800
2002	20,402	39,415	19,296	482,400
2003	35,902	43,728	7,827	195,675
<b>Total</b>	<b>123,325</b>	<b>183,170</b>	<b>61,193</b>	<b>\$1,529,825</b>

Sources: GAO analysis of FAA and Park Service information (not adjusted for inflation).

<sup>a</sup>Data for 2000 covers May through December 2000.

Since 1994, the Park Service’s efforts to collect unpaid fees have been uneven. All three of the park units that assess an air tour fee have sent letters to air tour operators encouraging the payment of fees at various times from 1994 through today. For example, officials at Hawaii Volcanoes sent letters in 1994, 1997, 2004, and 2005 to encourage air tour operators that they believe fly over that park unit to pay the fee. These letters also sought payment for past fees that were unpaid, or evidence from the operators that they did not fly over the park unit. In response, some air tour operators supplied the requested evidence and/or started paying fees for current air tours. At Grand Canyon, the Park Service filed lawsuits against three operators that had conducted air tours over that park unit but had not paid all appropriate fees. The lawsuits resulted in settlements in July 2000 in which each operator agreed to make back payments and continue to conduct air tours by paying \$50 per air tour—\$25 for the current tour and \$25 for a past tour—until the settlement amounts were paid, which totaled about \$800,000 from all three operators. However, Park Service officials stated that all three operators have stopped making back payments: two of the operators are still conducting air tours but report that they are unable to afford the payment, and the third operator is no longer in business over Grand Canyon. Although the officials say that the operators are required to continue making payments under these settlements, the Park Service has not pursued their compliance.

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## Collections of Air Tour Fees Are Hindered by Several Factors

The Park Service's ability to collect air tour fees is hindered by several factors: the agency cannot verify air tour activity over the three park units, it cannot effectively enforce compliance, and two key laws have different geographic applicability.

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## The Park Service Cannot Verify Air Tour Activity Over the Three Park Units

The Park Service is unable to verify the number of air tours that operators conduct over Grand Canyon, Haleakala, and Hawaii Volcanoes, thus limiting the agency's ability to ensure that operators are making all the required payments. Except for Grand Canyon, current laws and regulations do not require air tour operators to record and report their air tour activity over national park units to either the Park Service or FAA. At Grand Canyon, FAA regulations require air tour operators to report all their air tours to FAA under the special federal aviation regulations implementing the Grand Canyon Act, although in practice, the operators report all their flights (not just air tours) over Grand Canyon to FAA. Under these special regulations, air tour operators report quarterly to FAA, for each flight over Grand Canyon, the aircraft make, model, and identification number; the departure date, time, and airport; and the type of flight—such as a tour, pilot training, or the movement of aircraft among landing locations—and the route flown.

However, FAA does not collect these data for the purpose of verifying whether air tour operators are reporting to the Park Service all their air tours and paying the appropriate fees, and FAA has generally been unwilling to share these data with the Park Service. Officials in the FAA district office that is responsible for managing air tours over Grand Canyon explained that they are unwilling to share these data because they are concerned their involvement with fees could cause operators to underreport their air tour activity, which could reduce safety.

Consequently, the Park Service relies on air tour operators to voluntarily report all their air tours and pay the required fees. Without the ability to verify operators' air tour activity, the Park Service cannot ensure that operators are making all the required payments. In our January 2006 report, we recommended that FAA establish procedures for air tour operators to record and report their air tours conducted under the Air Tour Management Act to both FAA and the Park Service. The Department of Transportation agreed with our findings in that report and agreed to consider our recommendations as FAA moves forward with the air tour management program.

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## The Park Service Cannot Effectively Enforce Compliance Due to the Lack of Air Tour Data

The Park Service—the agency charged with collecting air tour fees—has limited ability to enforce compliance because it does not have jurisdiction over airspace and lacks sufficient air tour data. Conversely, FAA—the agency with authority over airspace and air tour operators—is not required to assist with collecting, or enforcing the collection of, air tour fees. Neither the Grand Canyon Act nor the Air Tour Management Act requires that air tour management plans establish specific mechanisms for air tour fee collection and enforcement. Furthermore, neither act requires fee compliance as a condition for operators’ authority to conduct air tours over park units. As a result, both Park Service and FAA officials told us the agencies currently have little or no ability to take enforcement action against noncompliant operators.

Although the Park Service could potentially pursue compliance in court,<sup>23</sup> as occurred at Grand Canyon, or through debt collection by the Department of the Treasury,<sup>24</sup> neither of these options are feasible at the other two park units without evidence that an air tour operator flew over a park unit and did not pay all the fees owed. The lawsuits over air tour fees at Grand Canyon were successful for the Park Service because FAA, in those instances, supplied a sufficient amount of data showing that operators had conducted air tours over the park unit and should have paid a commensurate amount of fees. Alternatively, the Park Service could refer outstanding air tour fees owed to the Department of the Treasury for debt collection. In this case, the Department of the Treasury would attempt to collect whatever amount is owed by noncompliant operators. The Park Service would be in a better position to take these more aggressive collection actions, which would likely result in increased collections, if the agency had the necessary evidence to prove an operator had conducted air tours and not paid the required fees.

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<sup>23</sup>According to an official in Interior’s Office of the Solicitor, the Park Service has general enforcement authority to take action against air tour operators that do not pay their required air tour fees. The possible fines and prison sentences associated with such an enforcement action are found in 18 U.S.C. §§ 3571 and 3581, respectively. For example, a class A misdemeanor can result in a maximum sentence of 1 year imprisonment and a fine of up to \$100,000 for individuals or \$200,000 for organizations; a class B misdemeanor can result in a maximum sentence of 6 months imprisonment and a fine of up to \$5,000 for individuals or \$10,000 for organizations.

<sup>24</sup>If a nontax debt owed to a federal agency has been delinquent for a period of 180 days, the agency must generally transfer the debt or claim to the Department of the Treasury, which must take appropriate action to collect the debt or claim.

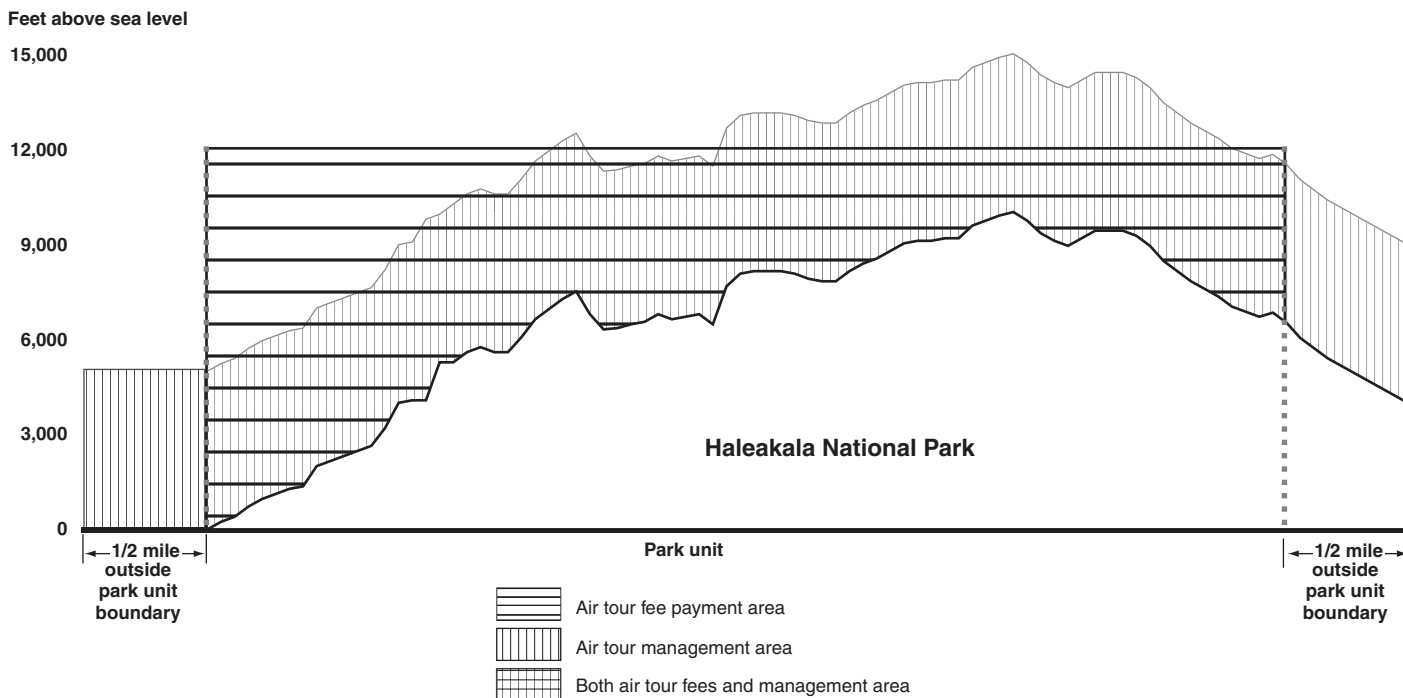
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## Different Geographic Applicability of Two Laws Complicates Efforts to Collect Air Tour Fees

The fees legislation and the Air Tour Management Act and/or their respective implementing guidelines and regulations have different geographic applicability, which complicates the Park Service's efforts to collect air tour fees. Under the fees legislation, an air tour operator is required to pay a fee when a tour enters the airspace over a park unit, whereas the Air Tour Management Act defines air tours as flights over a national park unit or within a half-mile outside its boundary. Furthermore, the applicable flight altitudes used by the Park Service to determine the air tours that are subject to the fees legislation differ from the flight altitudes established by FAA to determine the air tours that are subject to the Air Tour Management Act. For example, at Haleakala, payment of the air tour fee is triggered when air tours cross the park unit's boundary and fly below an altitude of 12,000 feet mean sea level. However, air tours are regulated under the Air Tour Management Act at this park unit when they fly over or within a half-mile of its boundary and below 5,000 feet above ground level. Figure 1 shows the difference in the geographic scope of the acts as they apply to Haleakala.

**Figure 1: Geographic Applicability of the Fees Legislation and the Air Tour Management Act at Haleakala National Park**



Source: GAO analysis of Park Service information.

The different geographic applicability of the two laws has complicated the Park Service’s efforts to collect air tour fees by providing some air tour operators with a plausible explanation for why they are not paying fees. Under the existing system, air tour operators can assert that they only fly within a half-mile of a park unit boundary but do not cross it; therefore, their air tours are covered by the Air Tour Management Act but not by the fees legislation. For example, two air tour operators told Park Service officials in November 2004 that they did not cross Hawaii Volcanoes’ boundary during their air tours of the park unit and, therefore, did not owe any fees, despite the Park Service’s perception that they crossed the boundary. To enable the Park Service to verify air tour activity under both laws and determine the appropriate level of fees owed under the fees legislation, air tour operators would have to track and report two sets of data: one for air tours that cross the park unit boundary for fee collection, and another for air tours that fly within a half-mile of a park unit boundary for the Air Tour Management Act. As an alternative, the fees legislation and

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the Air Tour Management Act would have to be reconciled to have consistent geographic applicability.

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## Expanding Air Tour Fees to Additional Park Units Should Be Balanced against Potential Impacts on Air Tour Operators

As of March 2006, air tour operators had authority from FAA to conduct air tours over 86 park units,<sup>25</sup> yet only 3 of those park units charge air tour fees. In specifying that additional park units could assess such fees only if their level of air tour activity matched that of Grand Canyon or Haleakala, the fees legislation set a high threshold. As a result, only one additional park unit, Hawaii Volcanoes, has qualified to charge fees in the past 12 years. According to FAA data, operators had authority to conduct a combined total of 91,250 air tours annually over Grand Canyon; 28,441 over Hawaii Volcanoes; and 26,325 over Haleakala. However, several other park units have relatively high levels of authorized air tour activity, although not as high as any of those three park units (see appendix II).<sup>26</sup> For example, operators have authority to conduct a combined total of 14,074 air tours annually over Glen Canyon National Recreation Area. This park unit charges an admission fee, which is the fees legislation's other requirement for a park unit to assess air tour fees. Park Service officials told us they would like to charge air tour fees at additional park units that charge admission fees (see table 2), but the fees legislation would have to be changed to lower the air tour activity threshold.

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<sup>25</sup>In addition, under the Air Tour Management Act, "new entrant" operators that do not already have authority to conduct air tours over park units may apply for such authority, and existing operators may apply for such authority at additional park units, in the future.

<sup>26</sup>As of November 2005, operators conducting air tours over Statue of Liberty National Monument and Governors Island National Monument also had authority to conduct a combined 35,837 and 29,432 air tours annually, respectively—a higher level of activity than Haleakala National Park. However, Statue of Liberty and Governors Island National Monuments do not charge admission fees, which makes those park units ineligible under the fees legislation for charging air tour fees. In addition, air tour operators had authority to conduct a combined 68,814 air tours annually over Lake Mead National Recreation Area, but FAA believes that the total number of air tours conducted annually over Lake Mead may be as low as 12,880. FAA believes most of the authorized "air tours" are actually transportation-only flights en route to Grand Canyon National Park. The Park Service charges fees for those tours over Grand Canyon.

**Table 2: Park Units with Authorized Air Tours, Grouped by Types of Admission Fees**

	Number of park units	Total number of authorized air tours per year	Percentage of authorized air tours per year
Park units with air tours that charge air tour fees	3	146,016	49.0%
Park units with air tours that charge both per-person and per-vehicle admission fees	34	46,048 <sup>a</sup>	15.4
Park units with air tours that charge only a per-person admission fee	21	3,990	1.3
Park units with air tours that do not charge any type of admission fee	28	102,119	34.3
<b>Total</b>	<b>86</b>	<b>298,173<sup>a</sup></b>	<b>100.0%</b>

Sources: GAO analysis of FAA and Park Service data.

Note: There are no park units with air tours that charge only a per-vehicle, and not a per-person, admission fee.

<sup>a</sup>We are excluding 55,934 of the 68,814 authorized air tours over Lake Mead National Recreation Area because FAA believes most of the authorized “air tours” are actually transportation-only flights en route to Grand Canyon, not air tours over Lake Mead. Operators nonetheless applied for the authority to conduct tours over Lake Mead because of their uncertainty in how the Air Tour Management Act would be implemented. We are therefore including the remaining 12,880 authorized air tours over Lake Mead because FAA believes the total number of air tours conducted annually over Lake Mead by 3 operators may be as low as 12,880. However, FAA acknowledged it may discover more air tours are being conducted over Lake Mead as the agencies develop the air tour management plan for that park unit.

Expanding air tour fees to other park units could generate additional funding for the Park Service, but such an expansion would require a legislative change and should be balanced against any potential impacts on air tour operators. The legislation could explicitly provide for the use of additional funding to develop air tour management plans, which officials from both agencies told us may otherwise be hindered due to insufficient Park Service funding. In January 2006, we reported that the Park Service had not funded its share of the development costs for air tour management plans required by the Air Tour Management Act.

With respect to the effects that air tour fees are likely to have on operators, FAA drafted a report in January 2001, which is still pending review at the Department of Transportation. The FAA draft report said that, due to the nature of the industry, air tour fees have been and will continue to be shifted to consumers in the form of higher tour prices in most cases. While the draft report said FAA had no specific information regarding passenger price sensitivity for air tours, it said estimates suggest that if ticket prices were raised by 1 percent, a reduction of 2 percent to 4 percent in tickets



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sold would be expected. The draft FAA report also said that if air tour fees were not charged at any park units other than Grand Canyon, there would be an estimated 2.0 million or 2.1 million air tours over the next 10 years, assuming a 3 percent or 5 percent growth rate, respectively. If fees were to be established at all park units, the draft report continued, that estimate would drop to 1.8 million or 1.9 million at the same growth rates. To offset the impact of such fees on operators, the draft FAA report stated, air tour fees could potentially be used as a credit against aviation excise taxes. However, the draft report said such a credit would present serious concerns because FAA relies on these taxes for its expenditures. Consequently, any shortfall would need to be made up by spending reductions, increased payments by other aviation system users, or the general taxpayer. The draft FAA report also said the Park Service could use air tour fees to help finance the development of air tour management plans and, subsequently, for monitoring air tour activities—but that these applications should not be linked to a reduction in aviation taxes. Once FAA submits its report, Congress, the Park Service, and other stakeholders will have additional information to evaluate whether air tour fees should be expanded to additional park units.

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## Conclusions

The current process for the Park Service's collection of air tour fees has three significant limitations: (1) fee payments are based on operators' voluntary compliance, (2) there is no verification that the correct fees have been paid, and (3) there is little or no ability to take enforcement actions against operators that do not pay their fees because the Park Service lacks the necessary air tour data. While each one of these factors in isolation may not cause an insurmountable problem, combined they have led to the ineffective collection of air tour fees. Voluntary compliance could be effective if it were combined with (1) reliable data to verify that operators are complying with the fee requirement and (2) appropriate enforcement actions against operators that do not pay. However, the current process for collecting air tour fees has emboldened some operators not to pay the required fees. As a result, those air tour operators that are paying their fees are put at a competitive disadvantage against those operators that are not paying the required fees.

The different geographic applicability of the fees legislation and the Air Tour Management Act has complicated collection efforts and created an additional disincentive for operators to accurately report their air tours and pay the appropriate fees. If the geographic applicability of the acts were consistent, operators could record and report one set of data to the Park

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Service for verification and collection of fees and for air tour management plans.

In our January 2006 report, we recommended that FAA take steps to require that operators record and report their air tours under the Air Tour Management Act to FAA and the Park Service. The implementation of this recommendation, combined with making the geographic applicability of the acts consistent, would provide the Park Service with the necessary data to verify that the proper fees are being paid at Haleakala and Hawaii Volcanoes—and any future park unit that develops an air tour management plan, if air tour fees are expanded to additional park units. However, a gap exists in the reporting requirement for Grand Canyon because the special federal aviation regulations implementing the Grand Canyon Act required the data be reported to FAA but not the Park Service.

Finally, by stipulating that additional park units could charge air tour fees only if they charge admission fees and if their level of activity meets that of Grand Canyon or Haleakala, the fees legislation sets the bar very high: in the past 12 years, only one additional park unit has qualified. Lowering the threshold for air tour activity would allow the Park Service to expand air tour fees to additional park units and use the proceeds as appropriate under the recreation fee program. The Air Tour Management Act required FAA to report to Congress by October 2000 on the effects that air tour fees are likely to have on air tour operators. Although FAA drafted this report in January 2001, FAA officials told us the Department of Transportation has not approved it for submission to Congress. Releasing that report would enable Congress, the Park Service, and the air tour community to understand the impacts of air tour fees on operators' businesses and help stakeholders to determine whether such fees should be expanded to additional park units.

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## Matter for Congressional Consideration

To enhance the collection of air tour fees, Congress should consider amending the fees legislation or the Air Tour Management Act to reconcile the geographic applicability of the two laws.

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## Recommendations for Executive Action

In order to improve compliance with air tour fee payments and to help understand the impacts of such fees on air tour operators' businesses, we

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recommend that the Secretary of Transportation direct the Administrator of FAA to take the following two actions:

- Establish a procedure for air tour operators at Grand Canyon National Park to report their air tour information simultaneously to the Park Service and FAA, or ensure that the air tour information is forwarded to the Park Service once it is reported to FAA by air tour operators.
- Report to Congress on the effects that air tour fees are likely to have on air tour operators as required by the Air Tour Management Act.

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## Agency Comments and Our Evaluation

We provided the Departments of the Interior and Transportation with a draft of this report for review and comment. Interior agreed with our findings, conclusions, and recommendations, particularly those that address the need for more accurate and reliable air tour data. Interior, representing the Park Service, also said it supports lowering the threshold for the level of air tour activity in order to expand collection of air tour fees to additional park units. Interior provided written comments that are included in appendix III, along with our specific response. The Department of Transportation, representing FAA, offered substantive and technical comments and, after our revisions discussed below, generally agreed with our findings, conclusions, and recommendations.

Our draft report contained a Matter for Congressional Consideration that stated Congress should consider amending the Grand Canyon Act and the Air Tour Management Act to require compliance with air tour fee payments as a condition for operating authority to conduct air tours over national park units. In providing oral comments on the draft report, FAA's Regional Administrator for the Western-Pacific Region disagreed with this matter. The Regional Administrator stated that fee collection, and enforcement of fee collection, is the responsibility of the Park Service. FAA was also concerned that since the Park Service currently lacks an administrative process to provide air tour operators with legal due process before potentially revoking their operating authority, that this administrative burden would likely fall on FAA and distract from FAA's primary focus of aviation safety. We believe that the collection and enforcement of air tour fees should be largely the responsibility of the Park Service. However, in those cases where FAA exclusively receives data that the Park Service needs to perform this function, FAA should share the data with the Park Service, as we have recommended. We also agreed with FAA that there was a risk that much of the administrative burden for making operators' air tour

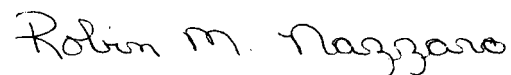
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operating authority conditioned on fee compliance could unduly fall on FAA. As a result, we have removed that matter from the report. We now emphasize in the report that the Park Service could take more aggressive enforcement actions once it has the necessary air tour flight data.

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We are sending copies of this report to the Secretaries of Transportation and the Interior, and other interested parties. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-3841 or [nazzaror@gao.gov](mailto:nazzaror@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IV.



Robin M. Nazzaro  
Director, Natural Resources  
and Environment

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*List of Requesters*

The Honorable Daniel Inouye  
Co-Chairman  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Jeff Bingaman  
Ranking Minority Member  
Committee on Energy and Natural Resources  
United States Senate

The Honorable Daniel K. Akaka  
Ranking Minority Member, Subcommittee on National Parks  
Committee on Energy and Natural Resources  
United States Senate

The Honorable Lamar Alexander  
United States Senate

The Honorable John McCain  
United States Senate

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# Scope and Methodology

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We identified and analyzed applicable laws, regulations, National Park Service (Park Service) policies, guidance, procedures, and other relevant documents to assess the Park Service's collection of air tour fees and operators' compliance in paying fees. In addition, we visited the three relevant park units—Grand Canyon, Haleakala, and Hawaii Volcanoes National Parks—and reviewed the Park Service's data on the collection of air tour fee payments at these three park units. We then adjusted these figures to express them in inflation-adjusted 2005 dollars. We also reviewed the Federal Aviation Administration's (FAA) data on the number of air tours reported by operators at Grand Canyon National Park. We determined that both agencies' data were sufficiently reliable for the purposes of this report. We also interviewed Park Service and Department of the Interior (Interior) officials at headquarters, Park Service officials at the three park units that have established air tour fees, and FAA officials at headquarters and at the two relevant district offices.

In addition, we interviewed a probability sample of 18 operators of the 33 that had authority from FAA to conduct air tours at the time of our visits in 2005 over the three relevant park units. The sample was selected in such a way as to serve the purposes of both this report and our January 2006 report on the National Parks Air Tour Management Act of 2000 (Air Tour Management Act).<sup>1</sup> To choose the air tour operators to interview, we stratified the operators at each park unit into three groups based on the number of annual air tours FAA authorized at each park unit: small (3,000 or fewer air tours), medium (between 3,001 and 10,000 air tours), and large (more than 10,000 air tours). The 18 air tour operators we interviewed were: Air Grand Canyon, Inc.; Aris, Inc.; Aviation Ventures, Inc.; Big Island Air, Inc.; Call Air, Inc.; Grand Canyon Airlines, Inc.; Helicopter Consultants of Maui, Inc.; K&S Helicopters, Inc.; King Airelines, Inc.; Manuiwa Airways, Inc.; Maverick Helicopters, Inc.; Mokulele Flight Service, Inc.; Rainbow Pacific Helicopters, Ltd.; Safari Aviation, Inc.; Scenic Airlines, Inc.; Schuman Aviation, Co. Ltd.; Sunshine Helicopters, Inc.; and Vista Helicopter Services, Inc.

For Grand Canyon National Park (Grand Canyon), 11 of the 17 operators that had authority to conduct air tours in July 2005 also had authority to conduct air tours over nearby Lake Mead National Recreation Area (Lake

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<sup>1</sup>GAO, *National Parks Air Tour Management Act: More Flexibility and Better Enforcement Needed*, GAO-06-263 (Washington, D.C.: Jan. 27, 2006).

Mead).<sup>2</sup> For purposes of this report and our January 2006 report, we needed to focus on those operators that had authority to conduct air tours at both park units, so we randomly selected operators from those 11 operators. Specifically, we interviewed 3 of the 6 small, 3 of the 3 medium, and 1 of the 2 large operators that had authority to conduct air tours over both Grand Canyon and Lake Mead.

For Haleakala and Hawaii Volcanoes National Parks (Haleakala, Hawaii Volcanoes), 8 operators had authority to conduct tours over both park units, and 8 other operators had authority to conduct tours over either Haleakala or Hawaii Volcanoes, but not both. Ten of these 16 operators were small, 5 were medium, and 1 was large. We interviewed the 1 large operator, 3 of the 5 medium operators (selected randomly), and 7 of the 10 small operators (selected as follows). For purposes of our January 2006 report, we needed the perspective of operators that had authority to conduct air tours over all 6 national park units in Hawaii, so we first selected all operators (3 small operators) that met that criterion. This meant we interviewed those 3 small operators, plus we randomly selected 4 of the remaining 7 small operators that had authority at either Haleakala or Hawaii Volcanoes, but not both. Table 3 details the selection of our sample of operators.

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<sup>2</sup>Three of the 17 operators that had authority to conduct air tours over Grand Canyon (but did not have authority for Lake Mead) at the time of our visit in July 2005 have subsequently gone out of business and have therefore lost their authority to conduct air tours, according to FAA.

**Table 3: Air Tour Operators We Interviewed, and the Total Number of Operators, at the Three Park Units That Charge Air Tour Fees**

National park unit	Size of air tour operators			Total
	Small	Medium	Large	
<b>Grand Canyon National Park</b>				
Number we interviewed	3	3	1	7
Total number with authority to conduct air tours	6	3	2	11 <sup>a</sup>
<b>Haleakala National Park (only)</b>				
Number we interviewed	0	1	0	1
Total number with authority to conduct air tours	1	1	0	2
<b>Hawaii Volcanoes National Park (only)</b>				
Number we interviewed	4	1	0	5
Total number with authority to conduct air tours	4	2	0	6
<b>Both Haleakala and Hawaii Volcanoes</b>				
Number we interviewed	3	1	1	5
Total number with authority to conduct air tours	5	2	1	8

Source: GAO.

<sup>a</sup>As noted above, 17 operators had authority to conduct air tours over Grand Canyon at the time of our visit in July 2005, but for the purposes of our January 2006 report, we selected from the 11 operators that also had authority to conduct air tours over nearby Lake Mead.

We assessed budget data describing the Park Service’s requests for annual appropriations and FAA’s funding dedicated to developing air tour management plans. This budget information covered fiscal years 2001 through 2006 and were obtained from budget appropriation reports, the agencies’ budget requests, and budget summaries provided by FAA and a contractor. We determined that these data were sufficiently reliable for the purposes of this report.

To identify what factors hinder the collection of air tour fees, and to provide information on the possible expansion of air tour fees to additional park units, we considered the results of our January 2006 report, particularly the sections on the lack of data on air tour activity over park units and the Park Service’s not funding its share of the cost of developing air tour management plans. We also interviewed Park Service, Interior, and FAA officials and reviewed FAA’s January 2001 draft report to Congress on the likely effects that air tour fees will have on air tour operators. In addition, we reviewed Park Service data on the park units that charge admission fees. We also assessed data reflecting the number of annual air tours authorized by FAA for operators over various national park units



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under the Air Tour Management Act and the National Parks Overflights Act of 1987. We interviewed agency officials regarding a series of data reliability questions addressing areas such as data entry, data access, quality control procedures, and data accuracy and completeness. We asked follow-up questions whenever necessary. We determined that these data were sufficiently reliable for the purposes of this report.

We performed our work from January 2005 through April 2006 in accordance with generally accepted government auditing standards.

# Number of Authorized Air Tours over National Park Units and Admission Fee Information

Name of park unit	Total number of air tours authorized per year <sup>a</sup>	Park unit charges a per-person admission fee <sup>b</sup>	Park unit charges a per-vehicle admission fee <sup>b</sup>
Grand Canyon National Park	91,250	✓	✓
Lake Mead National Recreation Area (includes part of Parashant National Monument)	68,814 <sup>c</sup>	✓	✓
Statue of Liberty National Monument (includes Ellis Island National Monument)	35,837		
Governors Island National Monument	29,432		
Hawaii Volcanoes National Park	28,441	✓	✓
Haleakala National Park	26,325	✓	✓
Glen Canyon National Recreation Area	14,074	✓	✓
Rainbow Bridge National Monument	10,175		
Cape Hatteras National Seashore	8,170		
Mount Rushmore National Memorial	5,608		
Acadia National Park	4,585	✓	✓
Badlands National Park	4,117	✓	✓
Bryce Canyon National Park	3,488	✓	✓
Golden Gate National Recreation Area (includes Alcatraz Island, Muir Woods National Monument, Presidio of San Francisco, and Fort Point National Historic Site) <sup>d</sup>	2,900	✓	
Point Reyes National Seashore	2,900		
San Francisco Maritime National Historical Park	2,900		
Kalaupapa National Historical Park	2,250		
Great Smoky Mountains National Park	1,920		
Glacier National Park	1,793	✓	✓
Big Cypress National Preserve	1,260		
Canyonlands National Park	1,039	✓	✓
Zion National Park	742	✓	✓
Arches National Park	675	✓	✓
Everglades National Park	674	✓	✓
North Cascades National Park (includes Lake Chelan National Recreation Area)	437		
Capitol Reef National Park	334	✓	✓
Navajo National Monument	277		
Timpanogos Cave National Monument	254		
Biscayne National Park	200		
Natural Bridges National Monument	195	✓	✓

**Appendix II  
Number of Authorized Air Tours over  
National Park Units and Admission Fee  
Information**

*(Continued From Previous Page)*

<b>Name of park unit</b>	<b>Total number of air tours authorized per year<sup>a</sup></b>	<b>Park unit charges a per-person admission fee<sup>b</sup></b>	<b>Park unit charges a per-vehicle admission fee<sup>b</sup></b>
Montezuma Castle National Monument	185	✓	
Canyon de Chelly National Monument	177		
Mount Rainier National Park	173	✓	✓
Yellowstone National Park	148	✓	✓
Chaco Culture National Historical Park	147	✓	✓
Colonial National Historical Park	147	✓	
Olympic National Park	139	✓	✓
Bandelier National Monument	126	✓	✓
Yosemite National Park	115	✓	✓
Dry Tortugas National Park	100	✓	
Sunset Crater Volcano National Monument	98	✓	
Hovenweep National Monument	92	✓	✓
Lassen Volcanic National Park	89	✓	✓
Aztec Ruins National Monument	83	✓	
Cedar Breaks National Monument	79	✓	
Grand Teton National Park	74	✓	✓
Death Valley National Park	67	✓	✓
Mesa Verde National Park	63	✓	✓
Yucca House National Monument	63		
Tuzigoot National Monument	62	✓	
Petrified Forest National Park	60	✓	✓
Voyageurs National Park	60		
Wupatki National Monument	60	✓	
Colorado National Monument	57	✓	✓
Walnut Canyon National Monument	49	✓	
Petroglyph National Monument	45		
El Malpais National Monument	43		
El Morro National Monument	43	✓	
Fort Union National Monument	32	✓	
Pecos National Historical Park	32	✓	
Hubbell Trading Post National Historic Site	27		
Gila Cliff Dwellings National Monument	26	✓	
Pipe Spring National Monument	26	✓	
Devils Tower National Monument	22	✓	✓
Saguaro National Park	20	✓	✓
San Juan Island National Historical Park	20		

**Appendix II  
Number of Authorized Air Tours over  
National Park Units and Admission Fee  
Information**

(Continued From Previous Page)

Name of park unit	Total number of air tours authorized per year <sup>a</sup>	Park unit charges a per-person admission fee <sup>b</sup>	Park unit charges a per-vehicle admission fee <sup>b</sup>
Carlsbad Caverns National Park	18	✓	
Guadalupe Mountains National Park	18	✓	
Salinas Pueblo Missions National Monument	17		
Great Sand Dunes National Park and Preserve	16	✓	
Mojave National Preserve	15		
Capulin Volcano National Monument	13	✓	✓
Lake Roosevelt National Recreation Area	12		
Golden Spike National Historic Site	11	✓	✓
Sequoia & Kings Canyon National Park	10	✓	✓
Dinosaur National Monument	9	✓	✓
Black Canyon of the Gunnison National Park	7	✓	✓
Casa Grande Ruins National Monument	6	✓	
Big Bend National Park	5	✓	✓
Coronado National Memorial	5		
Fort Bowie National Historic Site	5		
Fort Davis National Historic Site	5	✓	
Hohokam Pima National Monument	5		
Organ Pipe Cactus National Monument	5	✓	✓
Rio Grande Wild & Scenic River	5		
Tumacacori National Historical Park	5	✓	

Sources: FAA and the Park Service.

<sup>a</sup>With the exception of Grand Canyon National Park, this information reflects interim operating authority that FAA has granted under the Air Tour Management Act as of November 2005. For Grand Canyon, FAA determined the number of authorized air tours under the Grand Canyon Act based on operators' air tour activity from May 1, 1997, to April 30, 1998, and made one adjustment in 2005 with an increase of 3,711 air tour allocations due to a change in the regulations. Collectively, air tour operators have authority from FAA to conduct air tours over 86 of the nation's 390 national park units.


<sup>b</sup>The Omnibus Budget Reconciliation Act of 1993 uses the term "admission fees" to refer to the fees charged at some park units' entrances, which the Park Service also calls "entrance fees."

<sup>c</sup>At the time of our review, FAA officials believed that the total number of air tours conducted annually over Lake Mead National Recreation Area may be as low as 12,880. FAA officials believe most of the authorized "air tours" are actually transportation-only flights en route to Grand Canyon National Park. Transportation-only flights are exempt from the Air Tour Management Act, but operators nonetheless applied for operating authority over Lake Mead because of their uncertainty in how that act would be implemented.


<sup>d</sup>Of the Golden Gate National Recreation Area's subunits listed, Muir Woods National Monument charges a per-person admission fee but no per-vehicle admission fee; all the other subunits do not charge any admission fees.

# Comments from the Department of the Interior

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of the Interior  
OFFICE OF THE SECRETARY  
Washington, DC 20240



APR 20 2006

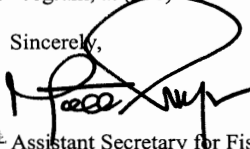
Robin M. Nazzaro  
Director, Natural Resources and Environment  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Ms. Nazzaro:

The Department of the Interior has reviewed the U.S. Government Accountability Office's (GAO) draft report, "National Parks Air Tour Fees: Effective Verification and Enforcement Mechanisms are Needed to Improve Compliance," GAO-06-468. We are pleased that GAO incorporated the majority of our suggestions and appreciate the clarification they added to further discuss the role of managing air tour fees and the recommendation to strengthen the National Park Service's guidance for setting tour fees.

Specific comments are listed in the enclosure. If you have any further questions, please contact Karen Trevino, NPS Natural Sounds Program, at (970) 225-3563.

Sincerely,



**Actin** Assistant Secretary for Fish and Wildlife and Parks

Enclosure

See comment 1.

Enclosure

**U.S. Government Accountability Office Draft Report  
National Parks Air Tour Fees: Effective Verification and Enforcement Mechanism  
are Needed to Improve Compliance  
GAO-06-468**

The National Park Service (NPS) supports lowering the threshold for the level of air tour activity in order to expand collection of air tour fees to additional park units. In addition, it may be necessary to review the requirement that air tour fees may only be collected at parks that charge admission fees. Revenue generated from air tour fee collection could be used to help mitigate the impacts from air tours by offsetting the cost of air tour management plans. As the report notes, the current fee legislation sets the bar very high for when the air tour fee requirement applies (e.g., over the level of 26,325 flights at Haleakala) and only when that park unit charges an admission fee. The rationale for the implementation of air tour fees was based on the recognition that commercial air tours impact park unit resources and personnel; therefore, a modest fee was a reasonable and justifiable means of addressing those impacts (Draft report, page 10). However, the level at which significant impacts occur to park resources is likely much lower than the threshold set by the fee legislation. Moreover, the level at which an impact would be considered adverse is as much a function of the specific resources of any particular unit as it is the number of air tours (i.e., sensitive ecological or cultural areas would be impacted from a lower number of flights than other areas). For example, preliminary aircraft noise modeling results for the draft Mount Rushmore and Badlands Air Tour Management Plan Environmental Assessments suggest that the threshold is already occurring at flight levels authorized by Interim Operating Authority (5,608 and 4,117 flights respectively). It should be noted that admission fees are charged at Badlands but not at Mount Rushmore.

NPS agrees with the findings, conclusions and recommendations made by the Government Accountability Office (GAO) in this report, particularly those that address the need for more accurate and reliable reporting. Given the interrelationship with other overflight issues, it is necessary to reiterate some of the comments made on GAO's January 2006 report on the National Parks Air Tour Management Act. The lack of enforcement mechanisms and inability to verify the number of overflights for Haleakala and Hawaii Volcanoes National Parks has had a notable impact on our efforts to prepare supportable Air Tour Management Plans for both parks due to the uncertainty about the actual level of air tour activity occurring. The size of the discrepancy between the amount of flights air tour operators requested in their applications for Interim Operating Authority under the National Parks Air Tour Management Act, the amount the operators say they are currently flying, and the amount of flights based on fees paid to the parks is too large to be accounted for by the different geographic applicability of the two laws.

GAO stated in its previous report that some operators had deliberately inflated estimates in their application. Several operators admit they are not paying the required fees.

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**Appendix III**  
**Comments from the Department of the**  
**Interior**

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Without reliable air tour data, the NPS cannot determine whether operators are complying with their operating authority or paying the fees that they owe the parks. Lack of information gives operators who are not paying their fees an unfair competitive advantage over those that do. Moreover, there is the potential for adverse impacts to park visitors and natural and cultural resources without accountability.

The NPS concurs with the GAO's recommendation and urges the FAA to develop, in a timely manner, a process that will allow for verification of air tour overflights and other information necessary to implement the National Parks Air Tour Management Act. As previously noted in the comments on the report on the National Parks Air Tour Management Act, an accurate accounting of air tour overflights is crucial in determining the impacts of the flights as part of the NEPA process. Without accurate data, the air tour management plans will be vulnerable. In addition, accurate reporting will allow the NPS and the FAA to pursue the illegal non-payment of fees by operators in a more rigorous manner.

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**Appendix III**  
**Comments from the Department of the**  
**Interior**

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The following are GAO's comments on the Department of the Interior's letter dated April 20, 2006.

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**GAO Comments**

1. Our draft report did not contain any recommendations to the National Park Service.



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# GAO Contact and Staff Acknowledgments

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## GAO Contact

Robin M. Nazzaro, (202) 512-3841, [nazzaror@gao.gov](mailto:nazzaror@gao.gov)

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## Staff Acknowledgments

In addition to the individual named above, Jeffery D. Malcolm, Assistant Director; Josey Ballenger; Alisha Chugh; Wyatt R. Hundrup; Richard Johnson; Alison O'Neill; Judy Pagano; Anne Rhodes-Kline; and Carol Herrnstadt Shulman made key contributions to this report. Also contributing to the report were Roy Judy, Steve Martin, and Jena Sinkfield.

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