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GRAND CANYON AIR TOUR COUNCIL

DEPT. OF TRANSPORTATION
DOCKETS

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To: U.S. Department of Transportation Dockets
Docket No. FAA-99-5926-30
400 Seventh Street, S.W.
Washington, D.C. 20590

Subject: Federal Aviation Administration
Notice of Proposed Rulemaking (NPRM)

Modification of the Dimensions of the
Grand Canyon National Park (GCNP)
Special Flight Rules Area (SFRA) and
Flight Free Zone (FFZ)

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Date: September 3, 1999

Comments on the above NPRM are being submitted on behalf of the Grand Canyon Air Tour Council. This Council is an industry coalition of twenty-two Nevada and Arizona air tour operators and associated companies involved with the Grand Canyon air tour industry.

The GCATC comments for this NPRM will mainly deal with FAA's draft supplemental environmental assessment in a separate document (see last paragraph.) . However, we would be remiss if several questionable comments dealing with modifications of the GCNP's SFRA and FFZ were not submitted. The obvious overall response should be that except for limited corridors and routes presently in place, the entire Grand Canyon air space is essentially a "no fly zone." This begs the question why solicit comments on this proposal for changes to flight zones when the intent by FAA is to now extend the eastern boundary of the SFRA and the Desert View FFZ another five (5) nautical miles into non-GCNP airspace thereby increasing the GCNP no fly zone. The only reasonable comment is - we oppose. But the reason they have to ask the question is they don't care what the answer will be, its already been agreed to.

Again, as in the companion GCNP/NPRM, the FAA is quite charitable in their new routecost findings, or not so charitable, depending on whether you are the giver or the receiver. The problem is that FAA has never discussed the impact of increased operating costs with those air tour operators operating out of Page, Arizona, Utah and New Mexico, in terms of this five mile increase in the SFRA boundary and Desert View FFZ, to the east of the Grand Canyon Airport. The FAA is just as inaccurate with their findings relative to the unsupported (no database) arguments used to contend they have met the requirements of the Initial Regulatory Flexibility Analysis. In other words the FAA is telling these East End GCNP air tour operators – if you have any cost impact, just “pass the increase in variable operating costs resulting from the expansion of the Bright Angel FFZ in the Final Rule onto the consumer as higher prices.” Then there will be no cost impact! Also the FAA does subsequently acknowledge that increased operating costs may no longer be passed onto the customer by some non-qualifying helicopter operator (not using quiet aircraft – whenever quiet aircraft are available.) But not to worry – “FAA does not consider one or two small operators to be a substantial number of small operators significantly impacted by this proposed rule.” Therefore, the Regulatory Flexibility Act does not apply. In fact, the FAA’s finding in the NPRM’s Economic Summary is as follows:

“Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605 (b), the Federal Aviation Administration certifies that this rule would not have a significant economic impact on a substantial number of entities.”

The opposite point of view could be argued. If you have ten air tour operators (7 fixed wing and 3 helicopters) conducting tours in the area of the expanded SFRA and flight free zones that would be affected by this rulemaking, then the point could be made that the two small operators mentioned on the FAA/NPRM are 20% of the total ten operators, 35% of the seven fixed wing operators and 66% of the three helicopter operators – all substantial numbers of small entities.

Because the FAA failed to discuss this proposed rulemaking with those air tour operators who will feel the impact more so, than other GCNP air tour operators, I would suggest that those FAA rulemakers become familiar with the Regulatory Flexibility Act, P.L. 96-354 Section 2., (a) (8) Findings and Purposes, Quote:

“(8) the process by which Federal regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, small organizations, and small governmental jurisdictions to examine the impact of proposed and existing rules on such entities, and to review the continued need for existing rules.” (Underline lines added.)

Environmental Review

The NPRM reference to FAA’s preparation of a draft supplemental environmental assessment (EA) to insure conformance with the National Environmental Policy Act of 1969 and other applicable environmental laws is acknowledged. However, the GCATC

comments on this issue will be forwarded to Mr. William Marx, Manager, Environmental Programs Division, Office of air Traffic Airspace Management, FAA in accordance with the Federal Register of July 9, 1999, Notice of Availability of the Draft Supplemental Environmental Assessment, for the Proposed Actions Relating to the Grand Canyon National Park and Public Comment.

END OF COMMENTS