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U.S. Department
of Transportation

FEDERAL AVIATION
ADMINISTRATION
Office of Aviation Policy and Plans

Washington. D C 20591

FAA-99-5926-39

FAA-1999-5926

INITIAL REGULATORY EVALUATION, INITIAL REGULATORY FLEXIBILITY ANALYSIS AND INTERNATIONAL TRADE IMPACT ASSESSMENT

NOTICE OF PROPOSED RULEMAKING

MODIFICATION OF THE DIMENSIONS OF THE GRAND CANYON NATIONAL PARK SPECIAL FLIGHT RULES AREA AND FLIGHT FREE ZONES

OFFICE OF AVIATION POLICY AND PLANS
OPERATIONS REGULATORY ANALYSIS BRANCH, APO-310
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APRIL, 1999

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Executive Summary

The FAA is proposing to amend the Special Flight Rules Area (SFRA) of Grand Canyon National Park (GCNP) by extending the eastern boundary of the SFRA and the Desert View Flight-free Zone (FFZ) five (5) nautical miles to the east, and by introducing a flight corridor through the Bright Angel FFZ for noise efficient/quiet technology aircraft. The FAA is also proposing to modify the Sanup FFZ to provide for a viable air tour route over the northwestern section of the GCNP. Proposed modifications to the SFRA and Desert View eastern boundaries address concerns raised by Native Americans and their representatives; the proposed modification to the Bright Angel FFZ supports the Agency's joint efforts with the National Park Service (NPS) to substantially restore "natural quiet" within GCNP. This action is taken in response to comments received on related Grand Canyon rulemaking efforts.

Yodification of the eastern portion of the SFRA and the Desert View FFZ would serve to ban commercial air tour aircraft overflights of several Native American Traditional Cultural Properties identified in consultation with the affected tribes. Yodification of the Bright Angel FFZ to provide an incentive corridor along the northern boundary of the current Bright Angel FFZ as defined in SFAR 50-2 would serve as an inducement to current air tour operators to convert to quieter aircraft. Modification of the Sanup FFZ would serve to accommodate other FAA action {contained in the concurrent Notice of Route Availability. This action is related to and consistent with other rulemaking actions under consideration by the FAA concerning GCNP, and is consistent with the overall noise management plan for substantial restoration of natural quiet within GCNP as proffered by the FAA and the National Park Service.

The FAA has determined that the propo emaking with gard to the Bright Angel FFZ (incentive corridor) could result in average an al cost savings of approximately $371,000 over the next 10 years, 1999-2008. This represents the amount of increased variable operating costs identified b the FAA in 61 FR 69302 with regard to the expansion of the Bright Angel FF that could be avoided. This cost relief, however, may accrue to a sing operator of noise efficient/quiet technology aircraft conducting air tours the eastern region GCNP

The residual costs identified in f nal r le 61 FR 69302 for those operators who do not qualify to conduct ai ou s along the incentive route would remain, but only one fixed wing oper tor could potentially be precluded from passing these on in the form f h gher air tour prices. This operator would likely be required to absork he ncreases in average annual variable operating costs ($110,000). This represents a transfer of some of the regulatory cost burden determined in 61 FR 69302 for the Bright Angel FFZ expansion from the consumer of ou s to one operator of air tours.

With rega d he modifica ions proposed for the eastern borders of h GCNP SFRA and the Desert View FZ the FAA believes that this is likely to have only a de minimus cost impact on the small number of air tours conducted in that area of the Canyon N he proposed modification to the Sanup FFZ likely to have any cost impact because no commercial air tours are conducted over this region of the park.

The benefits associated with this NPRM are non quantifiable, but include he following: 1) a potential reduction in the impact of air tours over Traditional Cultural Properties as a result of the proposed modification f the eastern portion of the SFRA and the Desert View FFZ; 2) a reduct on n the number of aircraft flying over the northern rim of the Canyon along Saddl Mountain as a consequence of the proposed incentive corridor—some dispersal of noise from air tour aircraft over an area the NPS has pointed out is noise sensitive could result; and 3) the provision of an incentive for the air tour operators to convert to quieter aircraft. The particular groups that would benefit most from this rulemaking action are Native Americans and some of the operators and consumers of GCNP commercial air tours.

Because of the continued high public interest surrounding GCNP regulation and the potential implications within a limited locality, the FAA has determined that this NPRM does constitute a "significant regulatory action" based on the criteria outlined in Executive Order 12866. The FAA, however, does not find that this NPRM would have a significant economic impact of a substantial number of small entities and does not warrant further regulatory flexibility action. This NPRM, in accordance with OMB directives, would not have a significant affect on international trade.

1. Introduction

With this Notice of Proposed Rulemaking (NPRM), the FAA proposes to amend Title 14 Code of Federal Regulations part 93, Subpart U, Special Flight Rules in the Vicinity of Grand Canyon National Park, AZ. Specifically, this action proposes to 1) modify the eastern portion of the Special Flight Rules Area (SFRA) and the Desert View Flight-free Zone (FFZ) to address concerns raised by Native Americans and their representatives; 2) modify the Rright Angel FFZ to provide a corridor for noise efficient/quiet technology aircraft; and 3) modify the Sanup FFZ to provide for a viable air tour route over the northwestern section of the GCNP. The FAA is taking this action in response to comments received on related Grand Canyon rulemaking efforts.

Modification of the eastern portion of the SFRA would shift the eastern SFRA boundary five (5) nautical miles to the east. Modification of the Desert View FFZ would likewise shift its eastern boundary five (5) nautical miles to the east. Taken in combination, these two modifications would serve to ban commercial air tour aircraft overflights of several Native American Traditional Cultural Properties identified in consultation with the affected tribes. Modification of the Bright Angel FFZ would provide an incentive corridor along the northern boundary of the current Bright Angel E'FZ as defined in SFAR 50-2 that would be restricted to use by only noise efficient/quiet technology aircraft. In addition to the expected noise benefits, the proposed corridor would also serve as an inducement to current air tour operators to convert to quieter aircraft. Modification of the Sanup FFZ to provide for a viable air tour over this area of the park would accommodate other FAA action contained in the concurrent Notice of Route Availability.

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (RFA) requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget (OMB) directs agencies to assess the effect of regulatory changes on international trade.

Background

On December 31, 1996, the FAA published three concurrent actions in the Federal Register (61 FR 69301) as part of an overall strategy to reduce further the impact of aircraft noise on the Grand Canyon National Park (GCNP) environment and to assist the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law 100-91. The three actions are as follows:

--Final Rule (61 FR 69302) amended 14 CFR part 93 of the Federal Aviation Regulations by adding a new subpart U to codify the provisions of SFAR No. 50-2. These provisions originally were to become effective on May 1, 1997.[1]

--Notice of (61 FR 69334) proposed to establish noise limitations for certain aircraft operating in the vicinity of GCNP. The comment period closed on March 31, 1997.[2]

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[1] The Final Rule--"Special Flight Rules in the Vicinity of Grand Canyon National Park", 1) modified the. dimensions of GCNP SFRA; 2) established new and modified existing flight flight-free zones; 3) established new and modified existing flight corridors; 4) instituted a curfew (flight-free period) on the East end (Zuni and Dragon Corridors) of GCNP; 5) established reporting requirements for commercial air tour companies operating in the SFRA; and 6) imposed a temporary freeze on the number of aircraft that can be used for commercial air tour operations in the GCNP SFRA.

[2] The NPRM--"Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park", proposed to 1) provide incentives for the use of quieter aircraft within the GCNP; 2) establish additional noise limitations to reduce further the impact of aircraft noise on the park environment in GCNP; and 3) lift for the quietest aircraft the immediate temporary cap placed on the number of aircraft permitted to be used for commercial air tour operations in GCNP.

The proposed rulemaking distributed the current fleet of aircraft operating in GCNP into one of three categories based on each aircraft model's noise per passenger statistic or its "noise efficiency". Noise efficiencies ranged from Category A, "noisiest" to Category C, "quietest". The NPRM also introduced

--Notice of Availability (61 FR 69356) announced the availability of and requests for comment on unpublished proposed commercial air tour routes for GCNP. The 30-day comment period closed on January 31, 1997.[3]

On February 26, 1997, the FAA delayed the effective date of the expansion of the flight-free zones and minimum altitudes, as stated in 14 CFR §§ 93.301, 93.305, and 93.307, to January 31, 1998 (62 FR 8862). (The remaining sections of 61 FR 69302, however, were implemented on May 1, 1997.) With the goal to produce the best air tour routes possible, this delay served to permit continued discussions on, and possible changes to, proposed new routes and to permit further consultation with Native American Tribes. Subsequently, the FAA took action on December 17, 1997, to further delay the implementation of these three sections and further extend certain portions of SFAR 50-2 until January 31, 1999. (This date has been recently extended to January 31, 2000.) Thus, although the East-end curfew, reporting requirements and aircraft cap, became effective on May 1, 1997, commercial air tour operators have, to date, been permitted to continue to conduct air tours over GCNP in accordance with a non-amended SFAR 50-2 air space.

On May 15, 1997, the FAA published a Notice of Availability of Proposed Routes and a companion NPRM (Notice No. 97-6) that proposed two quiet technology

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the following operating limitations and phase-out schedules depending on aircraft noise efficiency category:

Category A: Use of all Category A aircraft would end on or before Dec. 31, 2000, and no Category A aircraft may be added to an operator's fleet above what is determined on that operators ops spec as of Dec. 31, 1996;

Category B: Use of all Category B aircraft would end on or before Dec. 31, 2008, but Category B aircraft may be substituted for Category A aircraft on a one-for-one basis prior to Jan. 1, 2001;

Category C: Only Category C aircraft will be permitted to operated in the GCNP SFRA after Dec. 31, 2008; there is no restriction on the number of Category C aircraft which may operate in the Canyon during the phase-out of Category A and Category B aircraft.

[3] The proposed commercial air tour routes establish new routes or modify existing air tour routes to accommodate airspace changes included in the final rule 61 FR 69302. These routes were designed in light of safety, noise mitigation, and economic considerations. The FAA received more than 100 comments from park users; industry associations; environmental groups; air tour operators; aircraft manufacturers; and Native American Tribes.

corridors over the GCNP. The first corridor, through the Bright Angel flight-free zone, was planned for quiet technology aircraft use only. The second corridor, through National Canyon, would be for quiet technology aircraft for westbound traffic after December 21, 2001. The FAA, in consultation with the Nationai Park Service (NPS), has determined not to proceed with the proposals set forth in Notice No. 97-6. The two agencies are considering alternatives to the National Canyon area for air tour routes. Consequently, on July 15, 1998, the FAA withdrew Notice 97-6 (63 FR 38232).

To evaluate the cost impact of the rulemaking actions described in final rule 61 FR 69302 and NPRM 61 FR 69334, the FAA relied on and supplemented the information provided in the SFAR No. 50-2 Air Tour Route Usage Report, a field survey conducted in 1995 by the Las Vegas Flight Standards District Office (FSDO). The field survey provided detail information for each operator with regard to the type of aircraft and the number of operations conducted along each commercial air tour route within the GCNP SFRA. Cross referencing the Las Vegas FSDO field survey information with aircraft passenger seating capacities, as well as other information on tours and tour charges, the FAA estimated the number of commercial air tour flights, passengers, and operating revenue for each type of tour conducted in GCNP, and incorporated it into the Regulatory Evaluation for 61 FR 69302.

Subsequent to the issuance of the Final Rule, the FAA obtained additional information suggesting that the number of commercial air tour aircraft conducting tours in GCNP identified in the 1995 Survey (and database) had not accounted for the full GCNP air tour fleet that likely operated in 1995. During May 1997, the FAA conducted a voluntary air tour operator survey and site visitation that detailed identification of the number and type of aircraft engaged in GCNP air tours during that time period. In July 1997, Agency personnel met on-site with each air tour operator to verify or correct the number of aircraft operating in GCNP between July 31, 1996 and December

31, 1996, and to further reconcile the May 1997 survey the information contained in the 1995 Survey. Based on information obtained during these two site visits, the FAA reevaluated the economic analysis contained in 61 FR 69302, and revised upward its original air tour activity and revenue and cost estimates. The revised estimates were published on October 31, 1997, in the Federal Register'as a "Notice of clarification; request for comments", (62 FR 58898).

The Grand Canyon is the most active commercial air tour location in the United States, with GCNP commercial air tour operators offering both fixed-wing aircraft and helicopter tours of the Grand Canyon. They also offer an extensive and varied range of tour packages for each type of aircraft. Below is a description of the primary tours germane to this proposed rulemaking

--Fixed-Wing Aircraft Tours:

- "Black 1, 1A": Originating at Grand Canyon airport, this non-stop tour follows the "Black 1" route North through the Zuni Point Corridor, turns West and South along "Black 1A" through the Dragon Corridor and terminates at Grand Canyon airport. Total tour time is about 50 minutes; tour cost is about $70-$75. A variation on this tour is to remain on the "Black 1" route which includes only the Zuni Point Corridor with tour time and cost reduced to about 35 minutes and $55 respectively.

&-Helicopter Tours:

- "Green 1, 1A & 2": Equivalent tour as "Black 1, 1A" fixed-wing aircraft tour; time and cost is approximately 50 minutes and $150-$160, respectively. A helicopter variation along the "Green 1" route similar to the "Black 1" fixed tour is also available with tour time and cost reduced to about 40 minutes and $120, respectively.

The Proposed Rule

With this NPRM, the FAA proposes to modify the GCNP SFRA and three FFZ's. The eastern boundaries of the SFRA and the Desert View FFZ will each be moved five (5) nautical miles to the east, respectively. The Bright Angel FFZ would be modified to provide an incentive corridor, one mile in width, for use by only the most noise efficient/quiet technology aircraft. The FAA also proposes to modify the Sanup FFZ to accommodate other FAA action contained in the current Notice of Route Availability and to provide a viable air tour route over the Sanup Plateau area of the Canyon.

The current design of the eastern portion of the SFRA and the Desert View FFZ allows entry and exit as well as travel over several Traditional Cultural Properties on the eastern side of the Grand Canyon National Park, causing concerns to several Native American tribes. These sites, were identified through consultation with affected tribes in accordance with the National Historic Preservation Act (NHPA) and the American Indian Religious Freedom Act. Specific locations of Traditional Cultural Properties are not identified in the documentation of this rulemaking in accordance with sec. 304 of the NHPA because of confidentiality. The impacts of air tours over these Traditional Cultural Properties would be reduced or avoided by the proposed modification of the eastern portion of the SFRA and the Desert View FFZ and adjusting the entry and exit points of the air tour routes accordingly through route redesign.

The proposed Bright Angel corridor would pass through the Bright Angel FEZ along the northern boundary (Black 1A route) of the current Bright Angel FFZ as defined in SFAR 50-Z. The proposed Bright Angel Corridor is expected to have a three-fold benefit. First, fewer aircraft would be flying over the northern rim of the canyon along Saddle Mountain, where the NPS has pointed out some noise sensitivity. Second, noise from the air tour aircraft would be dispersed between the northern boundary of the Bright Angel Flight-free Zone and the proposed corridor, thereby reducing the level of concentrated aircraft noise along any one route. Third, opening this corridor only to the most noise efficient/quiet technology aircraft would provide an incentive for the air tour operators to convert to quieter aircraft. Taken together, the Canyon potentially could experience a reduction in the level of aircraft noise.

These proposals are made in response to comments received on related Grand Canyon National Park rulemaking actions.

The Sanup FFZ would be altered to accommodate other FAA action contained in the concurrent Notice of Route Availability, thereby providing current commercial air tour traffic using the Blue 1, Blue Direct and Blue Direct South routes a viable air tour route.

2. Costs

The costs associated with the reconfiguration of the Desert View and Bright Angel Flight-free Zones as described 14 CFR §93.305, were accounted for in the December 31, 1996 final rule (61 FR 69302). This proposed rulemaking therefore, is concerned only with the costs associated with the currently proposed modifications to the reconfigurations.

As previously noted, 14 CFR S93.317 required each operator (effective May 1, 1997) to report to the FAA the following commercial air tour activity for each flight conducted in the Grand Canyon SFRA: 1) routes flown; 2) departure airport, date and time; and 3) aircraft registration number. Based on the operator reports, the FAA has developed a database for the time period May 1997 through April 1998, the first full year of operator reporting. The information developed in the database forms the basis, or baseline, for the following economic analysis.[4] Based on the information in this database, the FAA has determined'that the proposed rulemaking could provide cost relief to certain operators conducting commercial air tours in the eastern portion of the Grand Canyon.

[4] The economic evaluation contained in Notice No. 97-6 with regard to the Bright Angel Corridor for noise efficient aircraft was based on original data contained in 61 FR 69302; the Notice was withdrawn without revision.

Special Flight Rules Area and Desert View Flight-free Zone

The SFAR 50-2 Black 2 and Black 3 routes currently used are the only air tour routes that would be affected by the concomitant eastward shifts of the SFRA and the Desert View FEZ. The Black 2 route extends mostly over plateau, not the Canyon, and is utilized as an access route to the Black i tour route over the Canyon. The Black 2 route is not a prominent feature of any air tour. Information provided in the baseline indicates that only one'operator utilized the Black 2 route to conduct air tours of the Grand Canyon. During the 1997-1998 baseline period, this operator conducted about 540 air tours, most of which originated from the Phoenix/Scottsdale area.[5] These tours typically include significant other features not within the SFRA such as Sedona and the San Francisco Peaks en route to the Grand Canyon. Upon merging with the Black 1 route from the Black 2 route, these tours typically split west at Imperial Point to the Black 1A route along the North Rim and then through the Dragon Corridor to complete the "Black 1, 1A" tour. Sometimes tours transition to the Black 4 route, and possibly the Black 4X route, en route to Monument Valley or Page, AZ. Thus, the Black 2 serves primarily as a link to the Grand Canyon portion of a much broader tour offering for this operator.

Similarly, the Black 3 route is more of an access route within the SFRA to the more scenic Black 1 air tour route. Operators accessing the Grand Canyon via the Black 3 route, however, split south at Imperial Point and remain on the Black 1 route through the Zuni Point Corridor. During the baseline period, three operators, including the one noted above, conducted 577 air tours using the Black 3 route. The combined estimated gross operating revenue of these three operators for tours which used the Black 3 route was about $825,000; net operating revenue adjusted for variable operating costs was $496,000.

[5] About $640,000 in gross operating revenue was generated by these air tours; about $330,000 net operating revenue when adjusted for variable operating costs.

The FAA believes that a shift in the Black 2 route eastward resulting from the eastward shift in the SFRA and Desert View FFZ by 5 nautical miles would serve only to realign the access/approach to the Black 1 tour route. It would not alter the tour offerings of the individual operator discussed above, and any changes in the operator's variable operating costs resulting from adding 5 nautical miles to the overall air tour (about 2-3 minutes) are negligible. Similarly, the FAA believes there will be no impact on the three operators entering the SFRA on the Black 3 route to conduct air tours of the Canyon. The eastward extension of the SFRA and Desert View FFZ by 5 nautical miles would not necessarily add distance and time to the tours using the Black 3, but rather, it would tend to substitute distance and time in controlled airspace for distance and time in unrestricted airspace. Therefore, the FAA concludes that this part of the proposed rulemaking is de minimus and calls for comments.

Bright Angel Flight-frge Zone:

The FAA proposes to reinstate the Bright Angel corridor to be used by quiet technology aircraft. The FAA acknowledges that no standard exits for quiet technology aircraft; therefore, the following is both a historical and a hypothetical analysis. Readers must understand that until a standard for quiet technology aircraft is developed and adopted, this corridor would not be available for commercial operations. The FAA and NPS find that it is valuable to receive comments on the merits of this incentive corridor, even if there may be a time delay in its actual availability for operations.

According to the baseline information provided by Grand Canyon air tour operators, 10 operators (7 fixed-wing; 3 helicopter) conducted commercial air tours along the "Black 1, 1A" and the "Green 1, 1A, 2" tour routes. The 10 operators, all of whom potentially could be affected by the introduction of an incentive corridor, grossed approximately $9.3 million in operating revenues during the May 1997 through April 1998 time period. These revenues were generated by just over 12,400 commercial air tours (6,700 fixed-wing; 5,700 helicopter) carrying approximately 92,000 passengers in 60 aircraft.

In the December 1996 final rule, the FAA estimated that the modification to the Bright Angel FFZ would result in an approximate 20 percent increase in the duration of the "Black 1, 1A" and "Green 1, 1A & 2" commercial air tours. Combining information available from the more recent baseline data with the growth methodology employed in 61 FR 69302, the FAA projects that the 20 percent increase in tour duration would result in an average annual increase in variable operating costs of just over $1.0 million per year for the 1999-2008 time frame resulting in an equivalent reduction in net operating revenues. The increase in variable operating costs and the concomitant decrease in net operating revenues would be distributed nearly equally between fixed-wing (50.5 percent) and helicopter (49.5 percent) air tours.[6] These costs resulted from the 1996 final rule and are only mentioned here to illustrate the cost savings that would be available to operators who could utilize the proposed Bright Angel Corridor.

This NPRM proposes to re-open a flight corridor (incentive corridor) along the routes that are currently depicted on the Grand Canyon VFR Aeronautical Chart as the Green LA and Black 1A, or Alpha routes. This corridor would be available only to noise efficient/quiet technology aircraft. Currently, the

[6] In 61 FR 69302, the FAA assumed that this increase in average annual variable operating costs would be offset by an equivalent $1.0 million average annual increase in ticket prices. The FAA therefore, concluded in its cost estimates, that no net operating losses (operating revenue minus variable operating costs) would be borne by GCNP commercial air tour operators as a result of the extension of the Bright Angel FEZ. Rather, the full societal cost of a $1.0 million average annual increase in commercial air tour prices would be borne by the consumer.

FAA and the NPS have not defined a standard for what is a noise efficient/quiet technology aircraft. Consequently, the route will not be available for immediate use. However, for the purpose of this cost analysis, the FAA has assumed that one operator would be using aircraft that meet the above standard, and that this operator could use the corridor and thereby benefit from no increase in variable operating costs.

Of the total commercial air tour activity cited above along the Alpha routes, the fixed-wing operator assumed for the purpose of this cost estimate to be eligible to conduct commercial air tours along the proposed flight corridor traversing the Bright Angel FFZ accounted for approximately 3,150 tours, 47,800 passengers, and $3.5 million in total operating revenues from May 1997 through April 1998. This operator also accounted for approximately $371,000 of the more than $1.0 million in increased average annual variable operating costs derived from the revised estimated costs applicable to 61 FR 69302. Operators of non-qualifying fixed-wing aircraft accounted for another $150,500 of the increased average annual variable operating costs. Operators of non-qualifying helicopters accounted for the remaining $511,000.

In the December 1996 final rule 61 FR 69302, the FAA asserted that the increase in variable operating costs associated with the expansion of the Bright Angel FFZ could be passed on to the consumer as higher ticket prices so long as all operators were similarly confronted by higher variable operating costs. The FAA concluded therefore, that no net operating losses would be borne by either fixed-wing or helicopter operators of GC air tours. The full societal cost of the increase in variable operating costs would be reflected in higher commercial air tour prices and would be borne by the consumer.

In a subsequent publication, in May 1997, Notice 97-6 (63 FR 38232), the FAA proposed to introduce an incentive corridor through the Bright Angel FFZ that would be limited to noise efficient/quiet technology aircraft only; the FAA determined that the net affect of this proposal would be two-fold. First, assuming that operators of qualifying aircraft would opt to continue operating on the Alpha routes to avoid the increased variable operating costs associated with an expanded Bright Angel FFZ, the FAA determined that these operators would not be compelled to increase their air tour prices. In this instance, use of the incentive corridor would be cost relieving to eligible operators. Second, in order to remain price competitive with those operators conducting air tours on the Alpha routes, operators of less noise efficient/quiet technology aircraft would be precluded from raising their air tour prices in order to recover the increased variable operating costs confronting them. In this instance, the FAA projected that the net effect of this course of action would be a shift of the balance of costs determined in 61 FR 69302 from the consumers of air tours to the operators of less noise efficient/quiet, technology aircraft.

Recent evidence suggests that even if a lower cost tour through the Bright Angel FFZ remains available to the consumer, some operators (specifically, operators of helicopter tours) may be able to adjust their air tour prices to offset any increase in variable operating costs caused by the December 1996 final rule. Comparing the price of a fixed-wing air tour conducted along the "Black 1, 1A" route ($70-$75) with that of the helicopter air tour conducted along the "Green 1, 1A, 2" tour route ($150-$160) indicates that the price of the helicopter air tour is at least twice as much as the price of the fixed-wing air tour. This, in and of itself, is an atypical price structure for substitute goods. In comparing the 1995 database used in Notice 97-6 (63 FR 38232), with the results of the May 1997-Apr 1998 database, the FAA determined that there was a 10 percent increase in the "Green 1, 1A, 2" helicopter air tours concurrent with a 25 percent decline in the market for all similar East-end air tours. (The number of "Black 1, 1A" fixed-wing air tours dropped 41 percent over the same two year period between the two databases.) This suggests that the demand for East-end helicopter air tours is price inelastic, and the fixed-wing and helicopter air tours conducted on the East End are not close substitute goods. This evidence indicates that the operators of air tours conducted in non-qualifying aircraft would respond to the cost burden of higher variable operating costs differently. This is discussed further below in the "Initial Regulatory Flexibility Analysis" section

The FAA believes that the one operator assumed to be permitted to conduct air tours on the incentive route, would continue to conduct air tours along the Black 1A route as per his usual business practice, and thus would avoid the higher variable operating costs facing his competitors. The FAA, therefore, estimates that the value of the cost relief accruing to the single operator conducting air tours in noise efficient/quiet technology aircraft would be about $371,000 on average each year over the next ten years (1999-2008) as noted above, or the average annual increase in variable operating costs that would not be incurred. By holding constant the price of his "Black 1, 1A" air tour, this operator could become the price setter, and some of his fixed-wing competitors may be required to absorb the increased variable operating costs in order to remain price competitive. The FAA estimates that one of these operators may be forced to maintain current fares in the face of rising costs causing a cost transfer from consumers of air tours to the operator averaging about $110,000 per year over the 1999-2008 time period.

Because the helicopter operators face a relatively inelastic demand for their East-end air tours, they could continue to pass on the increase in variable operating costs resulting from the Bright Angel FFZ expansion in the form of higher air tour prices-about $511,000 per year on average. Other fixed-wing operators would likely also be able to maintain their fares as discussed in the, "Regulatory Flexibility Analysis" section below.

Sanup Flight-free Zone:

The Sanup FFZ would be altered to accommodate other FAA action contained in the concurrent Notice of Route Availability, thereby providing current commercial air tour traffic using the Blue 1, Blue Direct and Blue Direct South routes a viable air tour route. No estimated costs are associated with . this alternative.

cost Summary

The FAA estimates that any costs associated with the SFRA eastward expansion and concomitant expansion of the Desert View FFZ 5 nautical miles to the east would be **de minimus.** Also, the FAA determines that the proposed modification to the Sanup FFZ would result in no additional costs. However, the FAA estimates the cost impact of the proposed Bright Angel FFZ incentive corridor could result in a reduction of $371,000 in average annual variable operating costs and concomitant price increases previously estimated in 61 FR 69302. In addition, 'about 17 percent of the remaining $661,500 cost burden previously estimated in 61 FR 69302 would shift from air tour consumers to one air tour operator. Thus, on net, the FAA estimates that the cost impact of the three proposed modifications contained in this rulemaking could result in a reduction of $371,000 in average annual variable operating costs as well as a transfer from air tour consumers to one producer of air tours of about $110,000 per year.

3. Benefits

The benefits associated with this NPRM include the following: 1) the potential reduction in the impact of air tours over Traditional Cultural Properties as a result of the proposed modification of the eastern portion of the SFRA and the Desert View FFZ; 2) a reduction in the number of aircraft flying over the northern rim of the canyon along Saddle Mountain as a consequence of the proposed incentive corridor-some dispersal of noise from air tour aircraft over an area the NPS has pointed out is noise sensitive could result; and 3) the provision of an incentive for the air tour operators to convert to quieter aircraft. The particular groups that would benefit most from this rulemaking action are Native Americans and some of the operators and consumers of GCNP commercial air tours.

The establishment of the proposed corridor for noise efficient/quiet technology aircraft through the Bright Angel FFZ along the "Alpha" routes would mitigate some of the potential adverse effects created by the consolidation of aircraft overflight noise at the northern edge of the expanded flight-free zone as described in final rule 61 FR 69302. Furthermore, to the extent the consumer perceives the current shorter, more established commercial air tour through the proposed incentive corridor as having a greater value, then demand for these tours conducted in the more noise efficient/quiet technology aircraft would increase. Concurrently, demand for the longer commercial air tours that are conducted in less noise efficient/quiet technology aircraft could decrease. In combination, the two potential outcomes of this proposed rulemaking could create a significant incentive for operators of non-qualifying aircraft to convert to more noise efficient/quiet technology aircraft.

The expansion of the eastern boundary of the SFRA and the Desert View FFZ redress certain concerns of the Native Americans in that area while at the same time posing no perceived additional costs on operators.

Benefits associated with the proposed modification to the Sanup FFZ cannot be quantified without additional information regarding the air tour route alternative.

4. Benefit/Cost Comparison

The FAA has determined that the three proposed modifications could result in net cost savings for some commercial air tour operators while one operator could be forced to absorb cost increases associated with 61 FR 69302. However, there will be no net increase in societal costs, only redistribution between producers and consumers of Grand Canyon air tours. This rulemaking would result in a potential reduction of noise over Native American Traditional Cultural Properties and a potential reduction of noise over the sensitive northern rim of the Canyon along Saddle Mountain, and would provide an incentive for air tour operators to convert to quieter aircraft.

5. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rational for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

As discussed in previous sections, 10 operators (7 fixed-wing; 3 helicopter) conducted air tours during the base period of May 1997-Apr 1998 along routes that would be affected by the proposed incentive corridor modification to the Bright Angel FFZ. The FAA assumes that a single fixed-wing operator of aircraft that qualified for operating on the incentive route would no longer face the estimated increase in variable operating costs determined in final rule 61 FR 69302, and therefore, would not have to raise ticket prices to offset higher costs. The 3 helicopter operators, as noted previously, were able to maintain an air tour price twice that of the fixed-wing operators in a declining market for this type of East-end air tour, suggesting that the helicopter air tour is a unique product for which demand is relatively inelastic. The FAA therefore, has determined that the helicopter operators could continue to pass the increase in variable operating costs resulting from the expansion of the Bright Angel FFZ in final rule 61 FR 69302 on to the consumer as higher prices, and would not be impacted by the proposed rulemaking.

Of the six remaining fixed-wing operators conducting air tours in non-qualifying aircraft, two ceased operating as Grand Canyon air tour operators during the baseline period May 1997-Apr 1998. Therefore, this rulemaking would no longer be applicable to them. A third operator conducted 10 "Black 1, 1A" air tours during the baseline period, but this accounted for only one one-thousandth of his total Grand Canyon air tour business. The FAA has determined that this operator would not be affected by this rulemaking. Another operator, originating out of Phoenix, AZ, is the only remaining operator providing a Grand Canyon air tour service from the Phoenix market.

Furthermore, this operator includes the "Black 1, 1A" tour only as a part of a more comprehensive air tour, the price for which is 3 to 4 times the "Black 1, 1A" air tour as offered by the other operators. Therefore, this operator, because of his captured market and exclusive tour offering, would likely be able to pass on the increase in variable operating costs to his customers without consequence, and thus, would not be impacted by this NPRM, either.

The remaining operator conducted helicopter tours in the East-end of the Canyon in addition to the fixed-wing "Black 1, 1A" tour during the baseline period. The price of this operator's helicopter tours, however, are at the low end ($150) of the price range described in the "Background" section, and the portion of his total air tour business represented by his fixed-wing "Black 1, 1A" tour is only about 17 percent. If this operator were to redistribute the per passenger increase in variable operating costs for his fixed wing customers to his helicopter customers (cross-subsidy), it would add about $1.35 to the ticket price of his helicopter air tour, and this operator would still be a below market price for a helicopter air tour on the East-end.

The one remaining fixed-wing operator conducting "Black1, 1A" air tours in non-qualifying aircraft on the East-end of the Canyon, could be significantly affected by this rulemaking, in that the increased operating costs imposed by the 1996 final rule may no longer be able to be passed on the customers because of the one assumed operator who may be able to operate in the incentive corridor established by this proposal. This cost could be as much as $7 per passenger. However, the FAA does not consider one small operator to be a substantial number of small operators significantly impacted by this proposed rule. Also, all of the increased costs could be avoided by converting to noise efficient aircraft, which is the purpose of establishing the incentive corridor.

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 small entities. The FAA solicits comments from affected entities with respect to this finding and determination.

6. **International Trade Impact Assessment**

The FAA has determined that the proposed rulemaking would have no affect on non-U.S. operators of foreign aircraft operating outside the United States nor would it have an affect on U.S. trade or trade relations. However, because the proposed rulemaking has been determined to be cost beneficial to commercial air tour operators and a large proportion of GCNP commercial air tour passengers are foreign, it could have a positive affect on foreign tourism in the U.S. The FAA cannot put a dollar value on the potential gain in commercial air tour revenue associated with possible increases in foreign tour dollars.

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