

Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

This action is the same as the proposal except for a typographical error discovered (and corrected herein) in the coordinates for the Gillette-Campbell County Airport, WY. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at Gillette, WY. This amendment provides approximately 6 nautical miles of additional airspace to the north, in order to fully encompass a slightly revised Localizer/Distance Measuring Equipment (LOC/DME) SIAP at Gillette-Campbell County Airport. Additional controlled airspace is necessary to accommodate the procedure turn portion of this revised SIAP and to provide for Instrument Flight Rules (IFR) operations at the airport. The area would be depicted on aeronautical charts for pilot reference.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM WY E5 Gillette, WY [Revised]

Gillette-Campbell County Airport, WY
(Lat. 44°20'93" N, long. 105°32'36" W)
Gillette VOR/DME
(Lat. 44°20'52" N, long. 105°32'37" W)

That airspace extending upward from 700 feet above the surface within 6.1 miles east and 8.3 miles west of the Gillette VOR/DME 176° and 356° radials extending from 15.3 miles south to 16.1 miles north of the VOR/DME; that airspace extending upward from 1200 feet above the surface bounded by a line beginning at lat. 44°47'00" N, long. 106°22'32" W; to lat. 44°23'00" N, long. 106°22'32" W; to lat. 44°16'00" N, long. 105°58'02" W; to lat. 44°05'00" N, long. 106°00'02" W; to lat. 43°49'15" N, long. 106°09'32" W; to lat. 43°39'00" N, long. 106°00'02" W; to lat. 43°39'00" N, long. 105°09'02" W; to lat. 44°08'00" N, long. 105°09'02" W; to lat. 44°01'00" N, long. 104°51'02" W; to lat. 44°30'00" N, long. 104°41'02" W; to lat. 44°42'19" N, long. 105°33'58" W; to lat. 44°40'11" N, long. 105°40'16" W; thence to point of beginning.

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Issued in Seattle, Washington, on October 20, 1997.

Glenn A. Adams III,

*Assistant Manager, Air Traffic Division,
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 93, 121, and 135

[Docket No. 28537; Amendment Nos. 91-253, 93-73, 121-262]

Special Flight Rules in the Vicinity of Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of clarification; request for comments.

SUMMARY: This action sets forth the FAA's reevaluation of the economic and environmental impacts associated with the Special Flight Rules in the Vicinity of Grand Canyon National Park (GCNP) Final Rule, published on December 31, 1996. The Final Rule codifies the provisions of Special Federal Aviation Regulation (SFAR) No. 50-2; modifies the dimension of the GCNP Special Flight Rules Area; establishes new and modifies existing flight corridors and flight free zones; establishes reporting requirements and a curfew over certain areas for commercial sightseeing companies operating in the GCNP; and limits the number of aircraft that can be used for commercial sightseeing operations in the GCNP. After implementation of certain provisions of the Final Rule, the FAA discovered that it had significantly underestimated the number of commercial air tour aircraft operating in GCNP in 1995. The FAA has reevaluated the economic and environmental analyses completed for the Final Rule in light of this new information. The FAA has determined that the changes are not of such magnitude as to affect the Agency's position on the implementation of the Final Rule.

DATES: Comments must be received on or before December 30, 1997.

ADDRESSES: Comments on this notice should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-200), Docket No. 28537, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: nprmcmts@mail.hq.faa.gov. Comments must be marked Docket No. 28537. Comments may be examined in the Rules Docket in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Manager, Airspace and Air Traffic Law Branch, Regulations

Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Notice

Although this action is intended to clarify the Agency's position and evaluation of the new data, comments are invited on the new information presented and the corresponding reevaluation of the economic and environmental analysis. Once the comment period has closed, the FAA will review the comments and determine whether any changes to the Final Rule are warranted based on the submitted comments.

Background

On December 31, 1996, the FAA published a Final Rule amending part 93 of the Federal Aviation Regulations by adding a new subpart to codify the provisions of Special Federal Aviation Regulation (SFAR) No. 50-2, Special Flight Rules in the Vicinity of GCNP; modifying the dimension of the GCNP Special Flight Rules Area; establishing new and modifying existing flight corridors and flight free zones; establishing reporting requirements for commercial sightseeing companies operating in the Special Flight Rules Area; restricting flights in Zuni and Dragon Corridors during certain time periods (curfews); and limiting the number of aircraft that can be used for commercial sightseeing operations in the GCNP Special Flight Rules Area (cap) (69 FR 69302). The provisions contained in the Final Rule were to become effective on May 1, 1997.

Published concurrently with the Final Rule on December 31, 1996, was a Notice of Proposed Rulemaking (NPRM) on noise limitations for aircraft operations in the vicinity of GCNP (Quiet Technology NPRM) and a Notice of Availability of Proposed Routes. All three of the above referenced actions comprise an overall strategy to further reduce the impact of aircraft noise on the park environment and to assist the National Park Service (NPS) in achieving its statutory mandate, imposed by Pub. L. 100-91, to provide for the substantial restoration of natural quiet and visitor experience in GCNP.

On February 21, 1997, the FAA delayed the effective date for the expansion of the flight free zones, the air tour routes, and the other related airspace provisions of the Final Rule until January 31, 1998 (62 FR 8861; February 26, 1997). However, this action did not affect or delay implementation

of the curfew, aircraft cap, or the reporting requirements of the Final Rule, which became effective on May 1, 1997.

In analyzing the economic impact of the Final Rule, the FAA used data derived from the SFAR 50-2 Air Tour Usage Report (1995 Survey), a survey designed to assist the NPS in obtaining information to assess noise impacts of air tour overflights at GCNP. The 1995 Survey, completed by the FAA's Las Vegas Flight Standards District Office, requested that air tour operators report the number of operations conducted along GCNP air tour routes by type of aircraft used. The FAA believed that the information presented in the survey provided the best data available to determine the number and type of commercial air tour aircraft operating in the GCNP. This survey information assisted the Agency in completing the Regulatory Evaluation.

Specifically, the Regulatory Evaluation matched the number of aircraft determined from each operator's operations specifications contained in the FAA's Vital Information System (VIS) data base with the type of aircraft reported by the operators in the 1995 Survey to attribute the estimated cost of the proposed and Final Rule actions to each of the air tour operators conducting air tours in the Park. Utilizing data from the 1995 Survey, the FAA estimated that in 1995 the 31 GCNP commercial air tour sightseeing operators flew just over 70,000 commercial sightseeing air tours utilizing 136 aircraft. No comments were received throughout the rulemaking process that directly questioned the number of aircraft or the number of air tours. Since this number of aircraft had been derived from official information contained in the VIS as well as information reported by the air tour operators, the FAA was confident in those numbers.

In conducting the analysis for the Final Environmental Assessment (EA) for the Final Rule, the FAA used modeling input that was based on information prepared by the NPS in October 1995 to model noise impacts in the vicinity of the GCNP. The October 1995 modeling input was prepared using a combination of the 1995 Survey and air traffic counts prepared by air traffic controllers at the Grand Canyon National Park Airport traffic control tower. Each of these data sources provided slightly different perspective on operational levels. The tower count provides a complete record of air taxi and commuter operations to and from Grand Canyon National Park Airport. The tower count does not, however, specifically identify any of the

operations other than those that take off or land at Grand Canyon National Park Airport.

Subsequent to the issuance of the Final Rule, the FAA obtained additional information suggesting that the number of air tour aircraft conducting tours in the GCNP identified in the 1995 Survey 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.

As a result of this discovery, on July 9, 1997, the FAA filed a Motion for Voluntary Remand of the Record and Stay of the Litigation challenging the Final Rule. The purpose of the request was to permit the Agency to review the apparent discrepancy in the number of commercial sightseeing aircraft being operated in the GCNP under the December 31, 1996, Final Rule, and to determine if further regulatory action was necessary or appropriate in light of the information developed as a result of that review.

Although the FAA's motion was denied, the Agency continued its efforts to verify or correct the number of aircraft operating in the GCNP between July 31, 1996, and December 31, 1996. Agency personnel met on-site with each air tour operator in July 1997 to reconcile the May 1997 survey data with the information contained in the 1995 Survey. The FAA finished the collection of that data in July 1997.

The FAA has reevaluated the economic analysis computed for the Final Rule and has completed a Written Reevaluation of the Environmental Assessment for the Final Rule in light of the new information. A copy of this Written Reevaluation has been included in the docket.

Summary of Decision

As a result of this reevaluation, the FAA has determined that the increase in the number of aircraft and air tour operations requires additional analysis of the Final Rule. In promulgating the Final Rule, the FAA used the best available data and explicitly stated that the Final Rule was a single part of an overall strategy to address the effect of aircraft noise in GCNP. The Final Rule continues to be the first step in achieving the goal of the substantial restoration of natural quiet in GCNP. While the benefits of the Final Rule are less than originally predicted by the FAA, the rule continues to provide benefits in comparison to withdrawing portions of the rule or the rule in its

entirety. Moreover, the result of the FAA's analysis of the additional information does not affect the Federal government's commitment to further the above stated policy.

As discussed in the Analysis section below, there is a change in the economic and environmental analyses due to the additional aircraft. However, the changes are not of such magnitude as to affect the FAA's decision concerning the implementation of the Final Rule or the Federal government's overall policy to address the effects of air tour operations in GCNP.

Based on the new data, the Final Rule's total costs are now estimated at \$47 million (discounted), originally estimated at \$42 million, over the period 1997–2008, while total benefits are now estimated at \$144 million (discounted), originally estimated at \$172 million, over the same period.

The FAA believes that the goal of substantially restoring natural quiet in GCNP will be accomplished after implementation of the revised air tour routes and completion of the Quite Technology rulemaking. Therefore, the FAA does not find that these revised conclusions, as set forth below, warrant any change to the Final Rule as implemented. However, the FAA is seeking comments on the new information concerning the number of aircraft operation in GCNP in 1995 and the reevaluation of the economic and environmental analyses. The FAA will review comments on these matters and determine whether any changes to the Final Rule are warranted.

Nothing in this reevaluation has led the FAA to reconsider the provisions established in the Final Rule. However, following discussions with the NPS, the FAA and NPS have agreed to delay the final route selection until the fall of 1998 so that further review and discussions may be undertaken on the routes through the proposed National Canyon Corridor. Further, this comment period will provide all interested parties an opportunity to review this analysis and to assess the impact of the new information concerning the number of commercial air tour aircraft being operated in the GCNP, and to provide their views to the FAA.

Economic Analysis

Written Supplemental Reevaluation of the Regulatory Evaluation and Regulatory Flexibility Analysis

The FAA has partially revised its regulatory evaluation and regulatory flexibility analysis of the Final Rule, Special Flight Rules in the Vicinity of Grand Canyon National Park (61 FR

69302; Dec. 31, 1996). The Agency's decision to review and supplement both analyses stems from the development of more accurate data than those that formed the basis for the original analyses. Subsequent to issuance of the Final Rule, the FAA obtained additional information suggesting that the number of air tour aircraft conducting tours in the GCNP identified in the 1995 field survey had not accounted for the full GCNP air tour fleet that likely operated in 1995. During May 1997, the FAA therefore 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. To confirm the May survey aircraft count, reconcile the May survey results with the 1995 survey, and obtain more comprehensive data regarding numbers of air tours conducted in 1995, the FAA decided to conduct follow-up site visits with each GCNP air tour operator in July 1997.

During this process, the Agency discovered other data elements or assumptions that required revision; accordingly, several methodological changes have been made, however, the FAA has not reprinted the full regulatory evaluation and regulatory flexibility analysis. The original documents, as they appear in the docket, combined with this summary of revisions, constitute the complete economic analysis.

The results of the original analysis have changed somewhat on the basis of the new data. (See summary table below.) Total costs are now estimated at \$50 million, originally estimated at \$42 million (discounted), over the period 1997–2008, while total benefits are now estimated at \$144 million, originally estimated at \$172 million (discounted), over the same period. Although costs have increased and benefits have decreased, the FAA concludes that the rule is still cost-beneficial. The rationale for these changes is described below.

ESTIMATED BENEFITS AND COSTS OF FINAL RULE, ORIGINAL AND REVISED TOTALS OVER PERIOD 1997–2008

[In millions of 1995 dollars, discounted]

	Original	Revised
Total Benefits	\$172	\$144
Total Costs	42	47
Modify SFRA	0	0
Modify FFZs	19	11
Modify Corridors	10	2
Curfew	11	34
Reporting	0.4	0.4

ESTIMATED BENEFITS AND COSTS OF FINAL RULE, ORIGINAL AND REVISED TOTALS OVER PERIOD 1997–2008—Continued

[In millions of 1995 dollars, discounted]

	Original	Revised
Cap	3	0

Note: Totals may not sum accurately due to rounding.

Methodological Revisions

Based on information collected directly from air tour operators after publication of the Final Rule, the FAA has revised several aspects of its methodology. The following sections describe changes to data and assumptions.

Revisions to Baseline Data Elements

Several baseline data elements have been revised on the basis of a recent survey and follow-up interviews with tour operators. The reasons for each change and the impact on the analysis are described below.

Number of aircraft: The estimated total number of aircraft providing air tours of the Park in 1995 has increased from 136 to 260. The earlier number was derived from the 1995 Survey, a survey designed to assist the NPS in obtaining information on the noise impacts of air tour overflights of GCNP. The 1995 Survey, completed by the FAA's Las Vegas Flight Standards District Office, requested that air tour operators report the number of operations conducted along GCNP air tour routes by type of aircraft used. At the time of the original analysis, the FAA believed that the survey results, accurately accounted for all air tour aircraft operated by GCNP tour providers.

After issuing the Final Rule and prior to implementing the aircraft cap, however, the FAA acquired evidence that the total number of aircraft appearing on the operator's operations specifications and available to provide air tours in 1995 was substantially more than originally estimated. Accordingly, the FAA conducted extensive site visits with air tour operators and, based on the more complete information obtained, has determined that the actual number of aircraft was 260. The impact of this revision is most apparent with respect to the aircraft cap, the estimated costs of which has decreased substantially for the reasons discussed in the cost section below.

Number of air tours: The total estimated number of air tours provided in GCNP in 1995 has been revised upward from 70,076 to 102,794. The

original number was derived from operations reported on the 1995 Survey. Several months after issuance of the Final Rule, the FAA discovered that not all operations had been reported in the 1995 Survey. In particular, one large operator had provided the FAA with data for only one of two operating bases. In addition, the number of air tours reported by one operator in the 1995 survey was grossly understated. The increase in air tours is primarily responsible for an upward adjustment in the estimated cost of the curfew (see cost section below).

Price of air tours: The method of estimating the price of air tours has been refined from one average estimate of all operators for each air tour route to actual prices charged by individual operators based on 1995 tour brochures. In most cases, the updated prices are lower than the average estimated in the original analysis.

Aircraft load factor: The original analysis assumed a load factor of 95 percent for all operators. During recent field interviews, several operators provided actual load factors. Where provided, the FAA has incorporated them into the revised analysis. Where load factors were not explicitly provided, the FAA has assumed a load factor of 90 percent, based on an average of those actually provided to the Agency.

Number of routes analyzed: The original analysis incorporated data from 8 primary air tour routes. The revised analysis is more comprehensive, including data from 11 primary routes, based on data provided by operators. This revision allows for a more comprehensive, accurate accounting of the cost of the Final Rule.

Revisions to Calculated Data Elements

Based on revisions to baseline data, several data elements have been recalculated. The reasons for each change are described below.

Number of passengers: The total number of air tour passengers—a function of the number of air tours, the load factor, and the seating capacity per aircraft for each route—has been revised from 655,640 to 820,980. Due to the decrease in load factor, the number of passengers has not increased proportionally as much as the number of air tours.

Total operating revenue: Total operating revenue, defined as the price of each tour multiplied by the number of passengers on all tour routes, has been adjusted upward from \$113.1 million to \$120.6 million. The relatively small change in total operating revenue is due to the downward revision in tour

prices, the modest increase in passengers relative to the increase in air tours, and the upward revision in the number of air tours occurring mainly on one of the lower priced air tours.

Total variable operating costs: Although hourly variable operating costs are slightly lower than originally estimated, total variable operating costs are \$27.4 million rather than \$36.8 million, because the number of air tours is greater than originally estimated.

Net operating revenue: Net operating revenue, defined as total operating revenue less total variable operating costs, has decreased from \$85.7 million to \$83.7 million. The decrease results when the relatively larger increase in total variable operating costs (as a result of the increase in air tours) is subtracted from the less than proportionate increase in total operating revenue resulting from lower load factors.

Peak summer traffic as percent of total: Based on data available at the time, the FAA estimated that air tours during the peak summer season accounted for two-thirds of total annual air tours from each base of operation. Based on revised data from Tusayan operators, however, the FAA now estimates that air tours provided during the summer account for 75 percent of annual air tours out of Tusayan. Revised data from other operators confirm that summer air tours from other locations account for 67 percent of annual totals. This revision affects the estimate of curfew-related costs (see cost section below).

Revised Assumptions

Based on new information, the following basic assumption has also been revised.

Reporting requirements: The original analysis based the cost estimates associated with reporting requirements on the number of aircraft. The FAA now believes that the number of air tours is the more appropriate basis for estimating the cost of reporting requirements for operators and has made the appropriate changes in the analysis. The costs of the reporting requirements to the FAA have been revised upwards but remain a minor part of total costs. The FAA has found that analyzing and using the operators' reports requires more staff time than originally estimated.

Revised Cost Estimates

As described below, cost estimates for five of the six provisions of the Final Rule have been revised based on new data and assumptions. In total, the discounted costs of the Final Rule have been revised upward from \$42 million

to \$50 million over the period 1997–2008.

Modification of the Special Flight Rules Area (SFRA): There is no change in this estimate. As in the analysis of the Final Rule, the FAA believes that charting costs associated with a change in the Special Flight Rules Area over the flight-free zones will have no measurable impact on air tour operators.

Establish/Modify FFZs and Corridors: The FAA has revised its cost estimates for the changes in flight-free zones and flight corridors. For the reasons stated in the original analysis, the FAA continues to predict no costs for four of the alterations in the SFRA. Estimates for the remaining two have decreased, bringing the average annual costs of these provisions down from \$3.6 million to \$2.2 million over the period 1999–2008. The annual costs of the Toroweap FFZ extension and closure of the National Canyon Corridor have decreased from \$2.4 million to \$1.8 million, largely because prices and load factors were adjusted down by a greater proportion than air tours were increased. For the same reasons, the annual cost of creating a one-way traffic pattern in the Zuni Corridor decreased from \$1.2 million to \$0.4 million. The total costs of these provisions have decreased somewhat because the FAA has delayed their implementation until 1999; therefore, they were analyzed over the period 1999–2008 instead of the standard 1997–2008 used for other cost items in this analysis.

Curfew: The FAA now calculates that the curfew will be the highest cost provision of the rule. Based on the new data, the calculated average annual cost of the curfew has increased from \$1.4 million to \$4.4 million. The primary reason for this is the large upward revision in estimated air tours in the east end of the park, the only area where the curfew applies. The affected operators are unified in the view that prohibiting early morning and late afternoon air tours will reduce their business by about 20 percent. They strongly believe that they cannot accommodate this restriction by activating underutilized aircraft to increase the number of tours during authorizing times. They state that their arrangements with tour companies call for the air tour to be part of a larger tour package to take place at specific times of the day and that the time cannot be rearranged. The FAA accepts the operators' strong position on this issue and has recalculated costs based on the assumption that tours now being carried out during the curfew periods cannot be rescheduled.

It may be possible for these operators to reschedule the air tours affected by the curfew when the tour packages are renegotiated in the future. If this can be done, then the curfew's impact on operator revenue would be less in the future. However, since the FAA does not know the extent to which air tours affected by the curfew can be rescheduled in the future, the FAA has not adjusted downward the costs of the curfew to take into account any future rescheduling of air tours affected by the curfew.

Reporting Requirements: The estimated average annual cost of the reporting requirements has increased slightly to \$77,000 over the five years that the provision will be in effect (1997–2001). The revised costs are borne differently than those in the original estimate, however. The calculated annual cost to operators has been revised downward from \$73,000 to \$53,000, due to a change in the basis for the estimate from aircraft to air tours. The cost to the FAA has been revised upward from \$3,200 to \$24,000 because the Agency has found that additional staff time is necessary to analyze operators' reports.

Aircraft Cap: The calculated cost of the freeze on aircraft has been revised down from \$2.9 million for the first year to zero for all years. Based on an analysis of the higher aircraft count (260) and corresponding air tours (102,794), the FAA concludes that there is enough excess capacity in terms of aircraft numbers for air tours to increase by 3.3 percent annually for the next twelve years if the demand exists. In the aggregate, and for most individual operators, the number of air tours provided can continue to increase while the number of aircraft remains the same. While the cap could affect a few individual operators who fully utilize their aircraft, the FAA predicts that the cap will have no impact on aggregate growth and will impose no cost in the aggregate over the period of the analysis.

Revised Benefits Estimates

The original benefits analysis was based on an estimate of noise reduction that would be produced from the provisions of the Final Rule. The noise reduction estimate, as described in the Written Reevaluation of the Environmental Assessment of the Final Rule, has changed somewhat on the basis of the new aircraft numbers. Largely due to the reduced effectiveness of the aircraft cap, there will be a lesser reduction in aircraft noise than originally estimated. Accordingly, the estimate of economic benefits has been

reduced from \$172 million over 12 years to \$144 million (discounted).

Supplemental Regulatory Flexibility Analysis

All new data and assumptions, as described above, have been incorporated into the Regulatory Flexibility Analysis. The FAA certifies that the Final Rule will have a significant economic impact on a substantial number of small commercial tour operators conducting flights within GCNP.

The FAA determined that there would be a significant economic impact on small entities at the time it issued the Final Rule; for that reason, it prepared a Regulatory Flexibility Analysis. However, the certification statement accompanying the Final Rule incorrectly stated that there was no significant impact on a substantial number of small entities. The FAA is now clarifying that the certification was erroneous. The new data, however, requires additional analysis. The impact of each provision on small entities is described below.

Description and Estimated Number of Small Entities Affected: The Final Rule will affect commercial operators conducting air tours over GCNP under 14 CFR part 135. Revised FAA data show that there were 22 potentially affected tour operators with 9 or fewer aircraft in 1995. These operators owned a total of 75 aircraft, and the average fleet included about 3 aircraft. They conducted about 34,700 air tours, or about 34 percent of all air tours over the Canyon.

Cost of Compliance to Small Entities

Establish/Modify Flight-Free Zones and Corridors

Merge Toroweap/Shinumo Flight-Free Zones: The merging of the Toroweap-Thunder River and Shinumo Flight-free Zones and the resulting closure of the Fossil Canyon Corridor will eliminate tour routes Blue1A, Brown1A, and Green3A. Newly acquired information from the FAA's fieldwork in May and July of 1997 shows that this provision would have affected four small operators providing tours in 1995. Collectively, these four small operators generated total air tour operating revenues of approximately \$565,000 in 1995 by providing 1,150 air tours that carried 4,700 passengers. The FAA has also learned, however, that two of the four operators are no longer in the tour business. Jointly, these two small operators accounted for \$91,000 in air tour revenues in 1995, the loss of which the FAA continues to assume will be

absorbed by other operators. The FAA believes that the two remaining small operators using the Fossil Canyon Corridor can modify their current tour packages with minimal cost outlay because they already offer established air tours along other similar routes. Thus, the FAA maintains, as in the original analysis, that this modification of the flight-free zones and corridors will have no cost impact.

Extend Toroweap Flight-Free Zone Southward: The southward extension of the Toroweap-Thunder River Flight-free Zone and elimination of the National Canyon corridor will affect small operators who use the Blue 1 route. Based on the FAA's new data, small operators carried 41,600 passengers along the Blue 1 route and generated annual net operating revenues of \$154,800 in 1995. The FAA estimates that any operator carrying more than 1,300 passengers along the Blue 1 route would incur significant costs from this provision. Of the small operators affected, the FAA concludes that four operators (as opposed to zero in the original analysis) carry more than 1,300 passengers each year on Blue 1 air tours and, therefore, would be significantly affected by the extension.

Bright Angel Flight-Free Zone: There are 10 small operators with total revenues of approximately \$8.13 million who conducted air tours along the Black1/1A route (7 fixed wing aircraft operators) and the Green 1/1A/2 tour route (3 helicopter operators). The three small helicopter operators also conducted air tours in the Dragon Corridor along the Green 2 tour route, accounting for an additional \$1.45 million in total revenue. The total 1995 revenue potentially affected by this part of the rule, therefore, is estimated to be about \$9.6 million.

The FAA estimates that due to the extension of the Bright Angel Flight-free Zone and the dog-legging of the southern portion of the Dragon Corridor there will be modest cost increases as discussed in the regulatory evaluation. As in the original analysis, the FAA believes that these modest cost increases can be offset by increased ticket prices and, therefore, that no net operating losses will be incurred as a result of the northern extension of the Bright-Angel Flight-free Zone or the dog-legging of the Dragon Corridor.

Create One-Way Traffic Pattern in Zuni Point Corridor: Reconfiguring the Zuni Point Corridor and limiting it to one-way traffic will affect those air tours approaching Grand Canyon Airport in Tusayan from the north along the Black 1 tour route and all air tours that depend on the current two-way VFR

routes to offer a simple fly around type tour of the Zuni Point Corridor. While there are not small operators with tours approaching Grand Canyon Airport in Tusayan from the north, two small fixed wing operators and three small helicopter operators fly a tour loop of the Zuni Point Corridor.

The two small fixed wing aircraft operators flying a tour loop of the Zuni Point Corridor generated air tour revenue of approximately \$64,200 from this particular tour in 1995. The alternatives for these operators will be the Black 1/1A tour route or flying east over the Painted Desert. These tour route options are expected to increase the tour price by about \$10 per passenger, or about \$13,060 total annual added cost to the air tour consumers based on 1,306 passengers opting for this tour in 1995. The three small helicopter operators generated 1995 air tour revenue of \$370,500 flying 790 tours and 3,100 passengers over the Green 1 route. Options available to the helicopter operators include the Green 1/1A/2 tour route or the Painted Desert tour route. Each of these could increase the tour price by about \$35 per passenger or \$108,045 total annual added cost to the commercial air tour sightseeing consumers based on 3,100 passengers opting for this tour in 1995. For the customers of these small operators, therefore, the total potential increase in 1995 annual costs of this particular alteration in the GCNP Special Flight Rules Area will be about \$121,105 (\$13,060 + \$108,045) because of the elimination of less costly air tour sightseeing options.

In addition to the consumer costs above, operators will incur increases in variable operating costs that exceed the additional revenue. The ticket price increases do not fully cover the increase in variable operating costs to the tour operators adopting the new Zuni-Alpha-Dragon Corridors loop. The new operators of this type of tour are limited to raising tour prices to what is currently charged by established operators of this type of tour (the incremental \$10 and \$35 cited above). The difference between what these operators could receive in additional revenue through price increases (\$121,000) and the added operator costs imposed by this rule (estimated at \$199,400) in increased operating costs) will result in about \$78,400 that the small operators must absorb as losses. Thus, the total 1995 cost to small operators of making the Zuni Point Corridor one-way with the north expansion of the Bright Angel Flight-free Zone is \$121,100 in increased

consumer costs and \$78,400 in operator losses.

The \$78,400 in operator losses will be borne by two small fixed wing aircraft operators (\$10,536) and three small helicopter operators (\$67,787). Based on the number of air tours conducted, the cost impact for the two small fixed wing aircraft operators is \$34.10 per air tour (\$10,536/309 fixed wing air tours), and the cost impact for the three small helicopter operators is \$85.81 per air tour (\$67,787/790 helicopter air tours). One of the fixed wing operators conducted 240 air tours and the other conducted 69 air tours. The annual increase to these two fixed wing tour operators is \$8,184 and \$2,353, respectively. For helicopters, the operator conducting 521 helicopter air tours will incur an annual cost increase of \$44,707 and the operator conducting 256 air tours will incur an annual cost increase of \$22,053. The third helicopter operator with 12 air tours will incur an annual cost increase of \$1,030. Based on these numbers, the FAA concludes that one fixed wing and two helicopter operators will incur significant cost increases.

Sanup Flight-Free Zone: The creation of the Sanup Flight-free Zone in the southwest portion of GCNP restricts air traffic to one side of the Colorado River beyond Separation Canyon. This change will affect six small fixed wing operators offering tours on the Blue 2 VFR route and three small helicopter operators offering tours on the Green 4 VFR route. Combined, these nine small GCNP air tour operators accounted for approximately \$11.8 million total air tour revenue in 1995, flying nearly 11,000 air tours and approximately 53,900 passengers. Based on information provided to the FAA by air tour operators and pilots, more than 95 percent of fixed wing air tours conducted on the Blue 2 route turn back at either Horse Flat Canyon or Spencer Canyon; the former is located west of Separation Canyon and the latter is located on the south side of the Colorado River across from Separation Canyon. Air-ground helicopter tours conducted along the Green 4 route turn back at or just beyond Quartermaster Canyon. Air-only helicopter tours along the "Green 4" turn back at or before Spencer Canyon. With the exception of a limited number of fixed-wing training flights or air tours along the Blue 2 that are precluded from turning back because of weather, no flights extend beyond Separation Canyon as far as Diamond Creek. The FAA therefore concludes, as in the regulatory evaluation, that there will be no

measurable impact associated with the creation of the Sanup Flight-free Zone.

Desert View Flight-Free Zone: A limited number of air tours are currently conducted in the vicinity of the Desert View Flight-free Zone, and these take place along the Black 2 or Black 3 entry routes linking to the Black 1 and Black 1A routes. As in the regulatory evaluation, the FAA concludes that the expansion of the Desert View Flight-free Zone in and of itself will have no known cost impact on small GCNP commercial sightseeing operators or their tour passengers.

Curfew: The introduction of the new curfew (basic flight-free periods) for operators conducting air tours at the east end of GCNP will result in lost revenue for small operators conducting air tours in the Zuni Point and Dragon Corridors. In 1995, 16.7 percent of daily tours were offered during the flight-free periods and will no longer be able to operate during those periods. Based on the reduction in time available for air tour flights in the Zuni Point and Dragon Corridors, small entities are expected to lose about \$1.07 million annually. This impact will be spread among a maximum of ten operators who have recently conducted air tours on the east end of CGNP. Eight of these operators (as opposed to six in the original analysis) will incur annual costs exceeding \$5,000.

Reporting Requirements: 14 CFR Section 93.917 will establish operator reporting requirements. All certificate holders operating within the GCNP Special Flight Rules Area will incur costs from these reporting requirements during the five years that they will be in effect (1997 through 2001).

Based on information contained in the regulatory evaluation, it will cost each operation about \$340 (\$8.51/hour*40 hours) to establish and set up the reporting system. The one-time cost for 22 small operators is expected to be \$7,480. To update records regularly, the FAA estimates that the 22 small operators will incur costs of \$14,770 annually (34,711 air tours*3 min./air tour*\$8.51/hr). The average annual cost for each small operator is about \$670. The small operator conducting the fewest tours (36, based on revised 1995 baseline) will incur recordkeeping costs of about \$15 annually. The small operator conducting the greatest number of air tours (5,600) will incur recordkeeping costs of \$2,380.

Operators will also be required to provide the data to the Las Vegas FSDO three times in each of the years 1997 through 2001. The FAA assumes that this will take about one-half of an hour for each operator to compile the

information, 15 minutes for each operator to fill out the generic information on the report and an additional 15 minutes for the specific information needed in the report. The FAA estimates that this part of the recordkeeping requirement will cost operators \$562 annually, or about \$26 per operator.

The FAA estimates that the total annualized cost of this requirement to the 22 small operators will be about \$18,170. The FAA has determined that no (zero in the RFA for the Final Rule) operator will incur costs exceeding \$5,000 per year.

Aircraft Cap: The FAA stated in the regulatory evaluation that most operators can increase the number of air tours they provide without increasing the number of aircraft in their tour fleets. However, FAA estimates that the aircraft cap will immediately restrict the growth of one small fixed-wing operator operating out of Tusayan. The cap is also predicted to affect one small helicopter operator within four years and another small helicopter operator with six years. While the aircraft cap will have no immediate impact on aggregate growth in the number of air tours over the GCNP, the aircraft cap will impose a significant loss of future revenues (expected to exceed \$5,000 annually) on these three operators. (The original analysis assumed that the cap would be in effect for no more than one year and, as a result, no small operator would be significantly affected. The revised analysis assumed no particular end date and estimates impacts over the period 1997–2008.)

Description of Alternative Actions

As stated in the original analysis completed for the Final Rule, this rule is somewhat unique in that most of the economic impact of the rule falls upon small businesses. The two primary goals of the Final Rule continue to be: (1) substantially restore natural quiet, and (2) preserve the opportunity for the public to enjoy air tours at GCNP. Consequently, all alternatives considered during the formulation of the Final Rule to achieve these goals and in this reevaluation focus on alternatives related to small entities.

In view of the new information and the foregoing analysis, the FAA has identified the provisions of the Final Rule in which the analysis of the impacts on air tour operators differs from the original assessment. As a result of the new analysis, the number of air tour operators significantly affected has increased. The FAA evaluated new alternatives, as well as reevaluated a combination of alternatives suggested to

the Agency during its original analysis. These alternatives included suggestions from the NPS Report to Congress, Congressional and public meetings, and comments submitted during the comment period for the NPRM and the Draft EA. As more fully discussed below, the FAA has concluded that implementing any of the alternatives to the requirements of the Final Rule for small business entities would prevent the FAA from achieving its goals for the Final Rule. For that reason, the FAA determined that there were no feasible alternatives to the requirements listed in the Final Rule.

Alternatives to the Expansion the Flight-Free Zones

As was mentioned above, the expansion of the Flight-free Zones will affect certain small entity air tour operators in varying degrees. The Agency considered several different ways to minimize the impact on the small entities. One of those ways was to permit the small operators to navigate within or through the Flight-free Zones. Similar waivers to the Flight-free Zones based on time of day or area were also considered. However, the Agency determined that since the vast majority of the operators are small business entities, the relaxation of the Flight-free Zones for the operators would defeat the main purpose of the rule to restore substantially the natural quiet within the Park. As the NPS study mentioned above concluded that compliance with SFAR 50–2 had not achieved an adequate level of natural quiet in GCNP, the alternative of no action for the small entities cannot be justified. Therefore, operations within or through the Flight-free Zones by small business operators by a relaxation of the restrictions or a blanket approval cannot be considered in light of the goals of the Final Rule.

The FAA also considered corridors or routes through the Flight-free Zones for the small entities. Those issues dealing with the route structure and the corridors through the Flight-free Zones are considered in a separate rulemaking action and were not part of the analysis of the Final Rule.

Alternatives to the Curfew

The introduction of the curfew at the east end of GVNP is making significant first steps in achieving the goal of the substantial restoration of natural quiet in the GCNP. Once again, the FAA considered ways to minimize the impact on small business operators. And once again, the alternatives relaxing the restriction for small entities is not feasible as it would defeat the purpose of the Final Rule to substantially restore

the natural quiet in the Park. The FAA will consider the use of more quiet aircraft and the use of performance standards, as suggested by the Small Business Administration, in future rulemaking. For this Final Rule, however, the use of performance standards is outside the scope of what was proposed and envisioned by the current rulemaking.

Alternative to the Cap

The cap on the number of aircraft permitted to conduct air tours within GCNP has generally been determined not to affect adversely the industry as a whole. As mentioned above, however, the cap does have an impact on at least one small operator. The FAA has concluded that it will need to reevaluate the impact of the cap on the goal of substantially restoring the natural quiet and its impact on the small business entities in future rulemaking action. However, for the purpose of the reevaluation, the FAA reanalyzed its alternatives discussed in the Final Rule and determined that no alternative discussed or any new alternative would serve to minimize the impact on the small business entities and still promote the goals of the Final Rule.

Environmental

Pursuant to Federal Aviation Administration Order 1050.1D, a written reevaluation is appropriated to evaluate the continued validity of any environmental document when new information becomes available. The FAA has completed a Written Reevaluation of the findings in the Final EA and accompanying Finding of No Significant Impact (FONSI) issued December 31, 1996, to determine whether additional operations in Marble Canyon, growth in operations under the Proposed Action, and possible additional operations on the helicopter loop in Dragon Corridor that were indicated by the 1997 surveys or the minor adjustments to the proposed air tour routes are so substantial as to warrant preparation of additional environmental documents.

As discussed in detail in the Economic Analysis section of this Notice, after the Final EA was published on December 31, 1996, the FAA obtained additional information suggesting that the number of air tour aircraft conducting tours in the GCNP identified in the 1995 Survey had not accounted for the full GCNP air tour fleet that likely operated in 1995. Accordingly, the FAA conducted voluntary air tour operator surveys in May and July 1997.

The 1997 surveys suggest that 260 air tour aircraft operated in the GCNP in 1995, not 136 as premised in the Regulatory Evaluation of the Final Rule. This new information about the number of aircraft led FAA to change its assumptions about the effectiveness of the cap on aircraft to limit growth in operations, but did not otherwise affect the validity of the noise and air quality analyses in the Final EA, which depends on the number of flights, not aircraft. In preparing the Regulatory Evaluation, the FAA derived the 136 aircraft baseline by comparing data in the 1995 Survey with operations specifications. In contrast, the Final EA used modeling input that was prepared by the NPS in October 1995 to model noise impacts in the vicinity of the GCNP (October 1995 NPS modeling input).

The October 1995 NPS modeling input was prepared using a combination of the 1995 Survey and traffic counts prepared by air traffic controllers for Grand Canyon National Park Airport. The FAA selected the October 1995 modeling input to provide the best possible picture of flights in the vicinity of the GCNP because the GCNP does not provide the typical data sources used to predict aircraft noise exposure in an airport environment.

In reevaluating the Final EA, the FAA continued to base its analysis on the following data and modeling assumptions: (1) the use of operations in the October 1995 NPS modeling data, incorporating refinements from the May 1997 Written Reevaluation and the 1997 surveys; (2) the assumption that the curfew would somewhat reduce operations; and (3) the use of a 3.3 percent compound annual rate of growth. The 3.3 percent compound annual rate of growth was retained and used to analyze the Proposed Action because the 1997 surveys show that caps on numbers of aircraft would only immediately restrict the growth of a few air tour operators. The 1997 surveys indicate that many operators use their aircraft in revenue producing endeavors other than the GCNP air tours and that neither aircraft nor seating capacities are fully utilized. The baseline defined in the cap on number of aircraft in the Final Rule allows air tour operators to use aircraft that were only flown occasionally for CGNP tours in 1995. This means that most operators can increase their flights to meet demand without increasing their fleets. For these reasons, the cap does not appear likely to immediately reduce growth in the number of flights over the CCNP.

The FAA decided to revise its noise analysis to address potential increases

in operations over those modeled in the Final EA and the May 1997 Written Reevaluation. The increase operations are in the Marble Canyon area (along the Black4 and Black5 routes). The changes in operational levels modeled were: (1) the addition of 5 daily operations to the Black4 route and the addition of 6 daily operations to the Black5 route for the 1997 No Action; (2) the addition of 5 daily operations to Black4 and 6 daily operations to Black 5 for the 1997 Proposed Action with the curfew applied; and (3) the application of a 3.3 percent annual growth rate to the new 1997 annual No Action condition for analysis of the 2008 No Action condition.

The Written Reevaluation also included sensitivity analysis modeling as follows: (1) the addition of 29 daily operations to the Green 2 route along the Dragon Corridor through the Bright Angel Flight Free Zone (FFZ) for the 1997 Proposed Action; (2) the addition of 29 daily operations to the Green2 and the placement on the modern most loop of all Dragon corridor loop traffic for the 1997 Proposed Action; and (3) the assumption of an earlier turn around location at Separation Canyon for helicopter traffic on the Green4 route and fixed wing traffic on the Blue2 route for the return trip to Las Vegas (south of the Sanup Flight Free Zone) for the 1997 No Action and the 1997 Proposed Action.

As to proposed routes, in addition to the turn around at Separation Canyon, this Written Reevaluation evaluates minor adjustments in the National Canyon Corridor route. These adjustments are proposed to further mitigate Native American concerns. Otherwise, the routes considered are those evaluated in the May 1997 Written Reevaluation. The route changes evaluated in the May 1997 Reevaluation are comparable to the routes modeled in the Final EA.

The noise modeling analysis reveals that the increase in operations, and the minor air tour route adjustment will not significantly impact the human and natural environment in the vicinity of Grand Canyon National Park. More specifically, noise levels associated with the Final Rule are well below any established residential or other established threshold of significance in the Special Flight Rules Area. The new information on number of aircraft and air tour operations, and the minor air tour route adjustments does not alter the previous analysis that indicted the Proposed Action (Final Rule) in the Final EA reduces aircraft noise effects in the GCNP. The analyses in the Written Reevaluation supports the conclusion

that the Final Rule, even with the new information, does not lead to significant environmental impacts on historic, archaeological, and cultural resources, wild and scenic rivers, visual resources, endangered species, DOT Section 4(f) properties, environmental justice, and air quality. Nor will it result in other significant environmental impacts such as cumulative, social, or induced socio-economic impacts.

With respect to the achievement of progress toward the substantial restoration of natural quiet, the impact of increased air tour operations as analyzed in the Written Reevaluation, serves to reduce the percentage of the GCNP that will achieve substantial restoration of natural quiet for more than 25 percent of the time when compared to what was originally assumed in the Final EA. However, although the GCNP with the implementation of the Final Rule, will not reach the same percentage of substantial restoration of natural quiet as had been originally projected in the Final EA, progress will still be made toward the goal with the implementation of the Final Rule.

Accordingly, the conclusions of the December 31, 1996, Final EA FONSI are still substantially valid as indicated in the Written Reevaluation. No supplemental EA, or further environmental documentation is required based upon this new information.

Issued in Washington, DC, on October 27, 1997.

John S. Walker,

Program Director for Air Traffic Airspace Management.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 954

[Docket No. FR-3567-F-02]

RIN 2577-AB35

Indian HOME Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as final the interim rule for the Indian HOME Program at 24 CFR part 954, published on June 21, 1996.

EFFECTIVE DATE: December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Bruce Knott, Office of Native American