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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA-2001-8690]

RIN 2120-A171

Delayed Implementation of the Airspace Modification Final Rule for the Grand Canyon National Park Special Flight Rule Area and Flight Free Zones

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action stays the effective date for the implementation of the Airspace Modification final rule for the east end of the Grand Canyon National Park (GCNP) until February 20, 2011. In a case decided in August 2002, the U.S. Court of Appeals for the District of Columbia Circuit returned the GCNP rules to the FAA for further consideration of ways to ensure the substantial restoration of natural quiet. After several attempts in resolving the routes issue in the east end, in February 2003, the FAA stayed the east end routes and airspace changes until February 20, 2006. Because of an ongoing mediation action, which involves consideration of the routes in the east end of the GCNP, the FAA finds it necessary to extend the date for the effectiveness of the Airspace Modification rule for the east end until February 20, 2011.

DATES: The effective date of sections (a) and (b) of 14 CFR 93.305, stayed until February 20, 2006 (68 FR 9496, February 27, 2003), is further stayed until February 20, 2011. This rule was originally published at 61 FR 69330 on December 31, 1996, and amended April 4, 2000.

ADDRESSES: You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);

(2) Visiting the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies; or

(3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

Gene Kirkendall, Flight Standards Service (AFS-200), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; Telephone: (202) 267-7701.

SUPPLEMENTARY INFORMATION:

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at <http://www.faa.gov/avr/arm/sbrefa.cfm>.

Background

On April 4, 2000, the FAA published two final rules, the Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones (Airspace Modification), and the Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area (Commercial Air Tour Limitation). See 65 FR 17736 and 65 FR 17708; April 4, 2000. The FAA also published concurrently a notice of availability of Commercial Routes for the Grand Canyon National Park (Routes Notice). See 65 FR 17698, April 4, 2000. The Commercial Air Tour Limitations final rule was implemented, effective May 4, 2000. The Airspace Modification final rule and the routes set forth in the Notice of Availability were scheduled to

become effective December 1, 2000. The Final Supplemental Environmental Assessment for Special Flight Rules in the Vicinity of Grand Canyon National Park (SEA) was completed on February 22, 2000, and the Finding of No Significant Impact was issued on February 25, 2000.

Following the publication of the final rules, the United States Air Tour Association (USATA) and seven air tour operators petitioned the United States Court of Appeals for the District of Columbia Circuit to review the rules. See *USATA v. FAA* (Docket No. 00-1201, May 8, 2000). During the course of this litigation, the USATA raised new safety concerns regarding the new routes in the east end of the GCNP SFRA. To propose a route that would meet the goal of noise reduction while providing a safe air tour route, the FAA first delayed implementation of the routes until December 28, 2000 (November 20, 2000; 65 FR 69848). Subsequently, the FAA delayed the implementation of the routes until April 1, 2001. (66 FR 2001, January 4, 2001).

Finally, the FAA decided to implement the modifications to the route structure of the GCNP SFRA in two phases. First, on April 19, 2001, the FAA implemented the routes and airspace in the west-end (defined as all areas of the SFRA west of the Dragon corridor) of the GCNP SFRA. Also, on April 19, 2001, the SFRA boundary in the eastern part of the GCNP SFRA over the Navajo Nation lands was extended 5 miles to the east. Second, the route structure on the east-end (Dragon Corridor and all airspace east of that Corridor) in the GCNP SFRA was stayed until December 1, 2001, to enable the FAA and NPS to determine what changes should be made in the east end of GCNP. In December 2001, the east end route structure was again stayed until February 20, 2003 (66 FR 63293, December 5, 2001), and in February 2003 the route structure was again stayed until February 20, 2006. Thus, the routes now flown remain almost exactly as that shown under Special Federal Aviation Regulation (SFAR) 50-2, with only slight modification to certain entry and exit points.

On August 20, 2002, the U.S. Court of Appeals for the District of Columbia Circuit concluded that the FAA's use of an "average annual day" in lieu of "any given day," in measuring substantial restoration of natural quiet at GCNP "appears inconsistent with both the [National] Park Service's definition of the term and the premise on which that definition was based." See *USATA v. FAA*, 298 F.3d 997, August 16, 2002 (DC Circuit, 2002). The court also

determined that the FAA's explanation for excluding non-tour aircraft in its noise modeling was inadequate and that the FAA had not provided sufficient evidence to conclude that noise from non-tour aircraft did not impact the calculations of substantial restoration of natural quiet achieved in GCNP. The court remanded the matter to the FAA for further proceedings consistent with its opinion.

The FAA and NPS now have established a dispute resolution process with the U.S. Institute for Environmental Conflict Resolution and are involving stakeholders of the GCNP to develop measures to fulfill the National Park Overflights Act. This process is not complete, and we believe it could take some time to resolve all of the issues and complete the necessary environmental review and an additional rulemaking process. Thus it is necessary to again extend the effective date of the April 2000 final rule airspace modifications as they apply to the east end of the GCNP. That date now is extended until February 20, 2011.

The FAA notes that the changes to the routes and airspace in the west-end of GCNP finalized in the April 2000 rule have been in effect since April 19, 2001. Those changes were implemented to further the goal of substantial restoration of natural quiet in GCNP.

Immediate Effective Date

The FAA finds that good cause exists under 5 U.S.C. 553(d) for this rule to become final upon issuance. The FAA notes that the delay only affects the east end of the GCNP SFRA. Changes to the west end have been in effect since April 19, 2001.

Environmental Review

In March 2001, the FAA completed a written reevaluation (WR) of the February 22, 2000 Final Supplemental Environmental Assessment (FSEA) for Special Flight Rules in the Vicinity of Grand Canyon National Park (GCNP). The WR examined the potential environmental impacts associated with a phased implementation of the Airspace rule and the Commercial Air Tour Route Modifications described in the February 2000 FSEA. This phased approach involved implementation of the agency's "preferred" alternative for airspace and air tour route structures as described in the February 2000 FSEA for the GCNP SFRA west of Dragon Corridor. Since no changes to the western portion of the GCNP SFRA as described in the FSEA occurred, the impact evaluation for the "preferred" alternative contained in the FSEA remained valid for the stage-one

airspace and routes implementation at the west-end of the GCNP SFRA. The WR also analyzed the planned implementation of the stage-one airspace, routes, and route modifications on the east-end and determined that they were not significant changes from the plans analyzed under the "no action" alternative in the February 2000 FSEA. Therefore, the FAA determined that the proposed route revisions to the SFAR 50-2 route structure conformed to the "no action" alternative analyzed in the FSEA. The FAA determined that the data and analyses contained in the February 2000 FSEA were still substantially valid and all pertinent conditions and requirements of the prior approval have or would be met in the April 2001 action.

While the delayed implementation of the east-end route and airspace structure lessens the percentage of the GCNP substantially restored to natural quiet, it is only a temporary delay. In addition, given that the majority of the revised routes and airspace for GCNP were implemented during phase one, the phased implementation process resulted in a gain of substantial restoration of natural quiet for GCNP as described in the February 2000 FSEA.

Therefore, for the above reasons and under to FAA Order 1050.1E, Paragraph 515, the FAA determined that the contents of the Final Supplemental Environmental Assessment and its conclusions issued on February 22, 2000 were still valid. Additionally, the FAA found that the previous Section 106 Determination of No Adverse Effect to Traditional Cultural Properties identified by Native Americans issued for the FSEA was also still valid. Copies of the written reevaluation were placed in the public docket for the April 2001 rulemaking, were circulated to interested parties, and were available for inspection at the same time and location as the April 2001 final rule. The findings of the March 2001 WR remain valid for this final rule extending the April 2001 Airspace Rule.

Economic Analysis

The economic analysis completed for the final rule published April 4, 2000 evaluates the east-end and the west-end operations separately since these are distinct markets. This action does not affect the April 19, 2001 implementation of the west-end airspace structure, and the economic analysis from the April 4, 2000 final rule remains valid. At this time the FAA is delaying further the implementation of the east-end routes. The FAA does not consider that this rulemaking effort

imposes any costs on the public since it merely extends the stay of effective date for the east end of GCNP. Commercial air tour operators will continue to use established air tour routes. Benefits from reduced aircraft noise in the east-end of GCNP, however, will be delayed. This rulemaking is not a final action. If the agency takes a final action that is different than that published on April 4, 2000, then it may be necessary to complete a revised economic evaluation.

Initial Regulatory Flexibility Determination and Assessment

The Regulatory Flexibility Act (RFA) 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, organization, and government jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA 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 as described in the RFA. 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 RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule will have only a de minimus cost impact on the certificate holders. Thus, under to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this final rule will not have a significant impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act (TAA) of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not

considered unnecessary obstacles. The TAA also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States. The FAA has assessed the potential effect of this final rule under the above Act and policy, and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Federalism Implications

This amendment will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this amendment would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

The Unfunded Mandate Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. Such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$120.7 million in lieu of \$100 million.

This final rule does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (air).

Adoption of Amendments

■ Accordingly, the Federal Aviation Administration (FAA) amends 14 CFR part 93 as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

■ 2. Paragraphs (a) and (b) of section 93.305, published on December 31, 1996 (61 FR 69330), then delayed on April 4, 2000 (65 FR 17736), and most recently stayed until February 20, 2006 (68 FR 9496, February 27, 2003), are further stayed until February 20, 2011.

Issued in Washington, DC on February 17, 2006.

Marion C. Blakey,

Administrator.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742 and 746

[Docket No. 051230351–5351–01]

RIN 0694–AD68

Clarification to the Export Administration Regulations; General Order to Implement the Syria Accountability and Lebanese Sovereignty Act

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security publishes this final rule to amend the Export Administration Regulations (EAR) by adding two cross-references to the General Order Implementing the Syria Accountability and Lebanese Sovereignty Act (Syria General Order). This amendment clarifies that provisions of the Syria General Order set forth special controls on exports and reexports to Syria and supersede other provisions in the EAR specific to Syria.

DATES: This rule is effective February 24, 2006.

ADDRESSES: Send comments regarding the Paperwork Reduction Act burden estimates or any other aspect of the collection of information affected by this rule to David Rostker, OMB Desk Officer, by e-mail at david_rostker@omb.eop.gov or by fax to 202–395–7285; with a copy to the

Regulatory Policy Division, Bureau of Industry and Security at one of the addresses below. Send comments concerning any other aspect of this rule via e-mail to rp2@bis.doc.gov, via fax to 202–482–3355 or to the Bureau of Industry and Security, Office of Exporter Services, Regulatory Policy Division, Room H2017, U.S. Department of Commerce, Washington, DC 20230. Please refer to RIN 0694–AD68 in all comments.

FOR FURTHER INFORMATION CONTACT:

Sheila Quartermann, Bureau of Industry and Security, Office of Exporter Services, Regulatory Policy Division, by phone at 202–482–2440 or by fax 202–482–3355.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2004 the Bureau of Industry and Security issued General Order Implementing Syria Accountability and Lebanese Sovereignty Act of 2003 (Syria General Order) consistent with Executive Order 13338 of May 11, 2004. Pursuant to the Syria General Order, exports and reexports of all items subject to the Export Administration Regulations (EAR) (15 CFR 730 *et seq.*), except food and medicine classified as EAR99 and "deemed export" and "deemed reexport" of EAR99 technology or source code, require a license to Syria (medicine is defined in Part 772 of the EAR). All license applications for exports or reexports to Syria are subject to a general policy of denial, other than particular transactions described in the General Order.

The Syria General Order is set forth in Supplement No. 1 to Part 736 of the EAR as General Order No. 2. In response to a suggestion by exporters, this final rule clarifies that the Syria General Order sets forth special controls on exports and reexports to Syria and supersedes other provisions in the EAR specific to Syria by adding two cross references to the Syria General Order in parts 742 and 746 of the EAR. Specifically, this final rule adds a new paragraph (e) to section 742.9 "Anti-terrorism: Syria", and adds new section 746.9, "Syria," to part 746—Embargoes and Other Special Controls.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 2, 2005, 70 FR 45273 (August 5, 2005), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.