

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 93**

[Docket No. 28902; Notice No. 97-6]

RIN 2120-AG38

**Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend two of the Flight-free Zones within the Grand Canyon National Park by establishing two corridors. The first corridor through the Bright Angel Flight Free Zone would be an incentive corridor to be used only by the most noise efficient aircraft. The second corridor through the Torroweep/Shinumo Flight-free Zone would go through the National Canyon area and would create a viable air tour route through the central section of the Park while addressing concerns of the Native Americans. The proposed corridor would not affect the existing Tuckup Corridor currently used by general aviation. These proposals are made in response to comments received on related Grand Canyon rulemaking actions, National Park Service recommends the environmental merit of such routes conducted pursuant to the comments, and ongoing discussions with Native American tribal government units and their representatives.

**DATES:** Comments must be received on or before June 16, 1997.

**ADDRESSES:** Comments on this NPRM should be mailed, in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-200), Docket No. 28902, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: 9-nprm-cmts@faa.dot.gov. Comments must be marked Docket No. 28902. 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:** Mr. Dave Metzbowler, Air Carrier Operations Branch, AFS-220, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267-3724. For the draft Environmental Assessment contact

Mr. William J. Marx, Division Manager, ATA-300, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; Telephone: (202) 267-3075.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that may result from adopting the proposals in this notice are also invited. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in triplicate to the above specified address. All communications and a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments.

Before taking any final action on this proposal, the Administrator will consider all comments made on or before the closing date for comments, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should be marked "Comments to Docket No. 28902." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

**Availability of the NPRM**

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9677. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future FAA NPRM's should request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes application procedures.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339), the

Federal Register's electronic bulletin board service (telephone: 202-512-1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board Service (telephone: 800-FAA-ARAC). Internet users may reach the FAA's web page at <http://www.faa.gov> or the Federal Register's webpage at [http://www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs) for access to recently published rulemaking documents.

**History**

On December 31, 1996, the FAA published three concurrent actions, a Notice of Proposed Rulemaking (NPRM), a Notice of Availability of Proposed Commercial Air Tour Routes, and a final rule, in the **Federal Register** (61 FR 69301). These actions are part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the NPS in achieving the statutory mandate imposed by Public Law 100-91.

The NPRM, Notice No. 96-15, proposed to establish noise limitations for certain aircraft operating in the vicinity of GCNP. The comment period for the NPRM closed on March 31, 1997. Notice No. 96-15 had several purposes. The first was to provide incentives for the use of quieter aircraft within the GCNP. The second was to establish additional noise limitations to reduce further the impact of aircraft noise on the GCNP environment. The third would have lifted for the quietest aircraft the immediate temporary cap placed on the number of aircraft permitted to be used for commercial sightseeing operations in the GCNP.

The Notice of Availability of Proposed Commercial Air Tour Routes for the GCNP was published with a 30-day comment period that closed on January 30, 1997. The Notice requested comments on the proposed new or modified existing air tour routes, which complement the final rule affecting the Special Flight Rules in the Vicinity of GCNP.

The final rule amended 14 CFR part 93 of the Federal Aviation Regulations (Part 93) by adding a new subpart which codified and replaced SFAR No. 50-2; modified the dimensions of the GCNP SFRA; established and modified existing flight corridors; established reporting requirements for commercial sightseeing operations; established curfews for operations in the Zuni and Dragon corridors during certain time periods; and placed a temporary limit on the number of aircraft that can be used for commercial sightseeing operations in the GCNP SFRA. The final rule was originally scheduled to become effective May 1, 1997. However, for the

reasons stated below, the FAA published another final rule on February 26, 1997, 62 FR 8861, which changed the effective date to January 31, 1998, for those portions of the December 31, 1996, final rule which define the Grand Canyon SFRA (14 CFR Sec. 93.301), define the flight free zones and flight corridors (14 CFR Sec. 93.305), and establish minimum flight altitudes in the vicinity of the GCNP (14 CFR Sec. 93.307). The February 26, 1997, final rule also reinstated the corresponding sections of SFAR 50-2 until January 31, 1998.

In order to meet the May 1, 1997 effective date, the FAA would have had to transmit the data on the proposed routes to the National Ocean Service (NOS) by February 21, 1997. The NOS is the agency responsible for the production and printing of aeronautical charts. The NOS would then have produced by April 1, 1997, an aeronautical chart that would have been used by the air tour operators for training purposes.

However, during the comment period, the FAA received valuable information from commenters, as well as suggestions for alterations and refinements of the route structure from officials of the GCNP and NPS that could potentially produce noise reduction benefits and also address other related impacts. Both the FAA and the DOI believe that a number of the suggested changes would produce a significantly better rule for GCNP users, the aviation operators, and interested Native American tribes. The FAA had to decide between proceeding with the proposed routes to meet the May 1 final rule effective date, or developing a better and more comprehensive route structure in response to the comments and suggestions. The latter would require additional time for analysis and would not go into effect until after the busy summer tourist season.

For the reasons stated above, the FAA determined that permitting the final rule to become effective on May 1, 1997, would be contrary to the public interest and, therefore, decided not to send the originally proposed routes to NOS for charting at that time. Rather, the FAA decided to analyze the new ideas with the expectation of creating the best possible routes.

The FAA's training and checking experience indicates that qualifying air tour pilots on new routes during a peak tourist season when the air traffic is the densest is not the appropriate time for such a transition. At GCNP, the peak season extends approximately from May through October. To afford operators a more favorable opportunity for training

on the new routes, the FAA determined that the training should take place after the summer tourist season when the volume of air traffic is lower. Therefore, the FAA determined that January 31, 1998, would be an appropriate revised effective date of the new airspace and route structure. This additional time will permit the FAA to develop the best possible route structure, facilitate production and printing of aeronautical charts, and give the operators sufficient time to train their pilots adequately and safely on the new routes after the close of the busy summer season.

The FAA determined that 5 U.S.C. 553(b) provides sufficient justification to issue a final rule delaying the effective date of the relevant portions of the December 31, 1996 final rule without notice or an opportunity for comment. Therefore, the FAA changed the effective date of 14 CFR 93.301, 93.305, and 93.307 to January 31, 1998, and reinstated the corresponding sections of SFAR 50-2. While there was not sufficient time to allow prior notice or comment concerning the FAA decision to delay the May 1 effective date, the FAA invited comments concerning any other aspect of the notice, including the new implementation date of January 31, 1998. The comment period closed March 24, 1997. The temporary cap provisions, curfews, and reporting requirements were unaffected by these actions and will go into effect for Grand Canyon air tour operators on May 1, 1997.

#### **Public Comments on Proposed Routes and on Noise Limitations NPRM**

During the comment period on the Notice of Availability of Proposed Commercial Air Tour Routes for the GCNP, the FAA received valuable information from commenters, as well as suggestions for alterations and refinements of the route structure from officials of the GCNP and NPS that could potentially produce noise reduction benefits. Based on an analysis of these comments and suggestions the FAA issued a new proposed route structure concurrent with the issuance of this proposal. Several of the comments relate to the proposals in this NPRM.

#### *Public Comments on the Central Region*

Commenters state that, with the move of air tours south of the National Canyon as required by the expansion of the Toroweap/Shinumo Flight-free Zone, operators will not be able to sell an air tour in the central region of GCNP as passengers would not be able to see the Canyon or its other unique

topography. Commenters further believe that the loss of a viable air tour route in the National Canyon area would cause significant and irreparable harm to economic viability of air tour operators and other dependent businesses as well as the local economy. According to commenters, this will result in shifting of traffic to the routes south of the Sanup Flight-free Zone or to the routes around the Bright Angel Flight-free Zone. Commenters fear that the resulting compression and congestion of traffic in those areas will eventually lead to a mid-air collision.

Other comments address the proposed Blue One Alpha route through the proposed National Canyon Corridor as addressed in Notice 96-15, published December 31, 1996. These commenters believe that no air tour routes should be permitted through the Toroweap-Shinumo Flight-free Zone, even for less noisy (Category C) aircraft. The river corridor from National Canyon to Havasu Creek should receive maximum protection from air tour noise. The addition of the National Canyon to the Toroweap-Shinumo Flight-free Zone was critically necessary for the restoration of natural quiet. Furthermore, commenters allege that this route is non-essential since most of the Las Vegas-Tusayan flights are shuttles to the Canyon and not solely air tours.

Consultation with the Havasupai Tribe under section 106 of the National Historic Preservation Act also revealed potential impacts on sacred and cultural sites should the National Canyon Corridor be implemented as proposed in the December 31, 1996, NPRM.

*FAA Response:* The National Canyon Corridor, as proposed in this NPRM, provides a workable solution to several issues addressed by commenters and raised in consultation with Native American tribes.

The air tour routes in the central region of the park, as previously proposed on December 31, 1996, did not provide air tour operators using less noise efficient aircraft with a viable air tour route. The proposed incentive route for Category C aircraft would have resulted in a continued level of aircraft activity just north of Supai Village, which is the central location of the Havasupai Tribe. In addition, there would have been a number of flights over some of the sites sacred to the Havasupai Tribe. By altering the National Canyon Corridor, and by permitting all aircraft to use the corridor until December 31, 2001, after which time westbound traffic would only be permitted to traverse the corridor in Category C aircraft, and proposing an

incentive route on the eastern region of the GCNP, the FAA expects several benefits to accrue.

First, the Corridor, as proposed in this NPRM, feeds into an altered proposed route that is significantly shorter than that previously proposed. By eliminating the portion of the route north of Supai Village, it eliminates air tour flights around Supai Village, the current home of the Havasupai Tribe, and minimizes and/or avoids increased overflights of the vast majority of their traditional cultural properties, including sacred sites. It also minimizes socio-economic impacts to their economy which is based primarily on tourism which in turn is based on the isolated and natural character of the northern part of the reservation.

Second, this proposal produces positive net effects on the environment over the previous proposal. The redefined corridor traverses a much smaller segment of the Toroweap/Shinumo Flight-free Zone than does the corridor proposed in Notice No. 96-15. While the corridor proposed in this NPRM would be open to all aircraft until December 31, 2001, as opposed to only Category C aircraft as in the previous proposal, the overall effect of aircraft noise is lessened by routing air traffic over less frequently used, less noise-sensitive areas. The FAA believes that permitting only Category C aircraft to be used in westbound traffic of the National Canyon Corridor after December 31, 2001, would work toward further reduction of noise in the corridor.

Third, this proposal permits the establishment of a viable air tour route in the central region of the GCNP, which will be available to all aircraft. The operators have informed the FAA that the Blue One route, as depicted on December 31, 1996, is not a viable air tour, and that the proposed Blue One Alpha route was an example of a viable air tour route. In view of all of these concerns, the FAA is proposing a route that is similar in nature to the previously proposed Blue One Alpha but would permit all operators to operate on a viable route in the central region of the GCNP and provide relief to a number of areas that are considered sacred to the Havasupai Nation.

This proposal avoids the economic harm which otherwise could be expected to accrue to air tour operators should they be deprived of a viable air tour route through the central region of the GCNP.

Finally, the FAA believes that a viable air tour route over the central region of the park, open to all aircraft until December 31, 2001, would promote air

safety. The FAA believes that if there were not a viable air tour route in the central region of the GCNP, operators would divert their operations to the routes south of the Sanup Flight-free Zone resulting in compression of traffic. The corridor as proposed in this NPRM enhances air traffic safety by removing a factor that could lead to compression of traffic in the routes south of the Sanup Flight-free Zone. In the absence of the proposed corridor, and associated route, the potential for unsafe operating conditions could lead to mid-air collision due to the resulting compression of air traffic.

Although the FAA believes that there are many advantages to the National Canyon route as proposed, it also acknowledges that the actual users of the GCNP—air tour operators, Native Americans, and Park visitors—may suggest an alternate route that could be more viable than the exact route proposed. Therefore, based on comments received and on further consultation with Native Americans, the FAA advises commenters that the route, as proposed, may be altered in the final rule.

#### *Public Comments on the Eastern Region*

Some commenters state that the routes proposed in the December 31, 1996, notice of availability offer no reduction of aircraft sound in the eastern and most sensitive region of GCNP and that there should be route incentives for quiet airplanes.

The FAA has also conducted a preliminary review of the comments received on Notice 96-15. Most of the comments received on that NPRM will be addressed in a future final rule.

**FAA Response:** The expansion of the Bright Angel Flight-free Zone is a significant step towards achieving the substantial restoration of natural quiet in the eastern region of the GCNP by relocating the air tour aircraft to the north of an expanded Flight-free Zone. While this modification is beneficial for a major part of the eastern region, the expansion does create a concentration of aircraft in the northeastern end of the GCNP SFRA north of the Bright Angel Flight-free Zone.

The NPS reviewed this situation and recommended that a new incentive route should be available for the most noise efficient aircraft. This proposed corridor would pass through the Bright Angel Flight-free Zone along the northern boundary of the current Bright Angel Flight-free Zone as defined in SFAR 50-2. The proposed Bright Angel Corridor would 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 new 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 aircraft would provide a valuable and tangible incentive for the air tour operators to convert to quieter aircraft well before they are required to do so. The GCNP could thereby experience the benefit of an earlier reduction in the level of aircraft noise.

The FAA agrees with this analysis. For that reason, the FAA is proposing the creation of the Bright Angel Corridor available for use only by the most efficient aircraft.

#### **The Proposal**

The FAA proposes to create two corridors that pass through flight-free zones.

One corridor would be through the Bright Angel Flight-free Zone along the route that is currently depicted on the Grand Canyon VFR Aeronautical Chart as the Green One Alpha and Black One Alpha. The establishment of this corridor would mitigate any potential adverse effects by dispensing the noise from air tour aircraft through out the eastern sector of the park. This corridor, one mile in width, is being proposed for the most noise efficient aircraft only.

The second proposed corridor, which is two miles in width, would be through the Toroweap/Shinumo Flight-free Zone in that portion of that Flight-free Zone which covers the National Canyon area. This corridor is proposed to allow the route known currently as the Blue One on the Grand Canyon VFR Aeronautical Chart and as Blue One Alpha on the Proposed Air Tour Routes map to continue through that portion of the Toroweap/Shinumo Flight-free Zone that covers the National Canyon area. At the approximate point (estimated to be within 1 to 3 miles) where the current Blue One or proposed Blue One Alpha makes its first right turn in the National Canyon area the route would turn southeast from that point intercepting a route that goes directly to Tusayan.

The FAA proposes to place the corridor through the National Canyon area in a location that will provide the greatest amount of noise mitigation for Grand Canyon National Park and the Havasupai tribe, while addressing the economic concerns of the air tour industry. The official position of the Havasupai is that there should be no air tour routes over Havasupai tribal lands.

After a meeting between the tribe and the FAA on April 9, 1997, the Havasupai representatives agreed to present the FAA's suggestions to the Tribal Council and to discuss possible ways of dealing with the issue. The FAA is working with the Havasupai to minimize any potential adverse effects and will continue to work with the tribal and monitor the situation in the future. Therefore, the FAA is requesting comments on this specific proposal as well as alternative placements of a corridor in the National Canyon area.

Based on comments from the public and further consultation with Native Americans, the FAA may alter the routes to create the most viable route structure in the GCNP for all concerned. The FAA advises the public that comments on the proposed routes or any alternative routes should be sufficiently detailed and show definitive benefits so that they may be adopted in a final rule.

#### **Relationship of This NPRM to Other Actions**

As previously stated, the FAA published three actions on December 31, 1996, that related to the airspace management of the GCNP. One of those actions was a final rule that established a reporting requirement on the air tour operators, established operational curfews on certain air tour routes within the GCNP, and temporarily restricted the number of aircraft that could be operated on commercial air tour routes within the GCNP. These three provisions will become effective on May 1, 1997. The final rule, as amended on February 26, 1997, also enlarged the existing flight free zones in the GCNP. Those provisions will become effective on January 31, 1998.

A Notice of Availability of Routes was the second of the three actions published on December 31, 1996. The FAA issued a map that delineated proposed routes for air tour operations within the GCNP. Subsequent comments on the proposed routes from the air tour operators, environmental groups, and Native American tribal government units strongly supported alternative routes that could protect the sacred sites of the Native Americans, further reduce aircraft overflight noise, and continue to provide viable air tour routes for the operators. Based on those comments, concurrent with the issuance of this proposal, the FAA issued further refinements to the air tour routes previously proposed. The FAA will consider the comments already received along with the new comments submitted by the end of the current comment period. The FAA plans to

release a chart that depicts the air tour routes which can be used for training and familiarizing the operators well in advance of the January 31, 1998, effective date of the expansion of the flight free zones. The new routes would also become effective on January 31, 1998.

In addition to the two actions listed above, the FAA also published an NPRM on December 31, 1996, proposing a methodology and outlining the effects of classifying the air tour aircraft in noise efficiency categories. The categories are based on the concept that the most desirable aircraft to be used in the GCNP are those aircraft that can accommodate air tour passengers with the least amount of noise per seat. The comment period on the NPRM closed on March 31, 1997. The FAA will address the comments received on the NPRM issues in a subsequent rulemaking. However, comments pertaining to the National Canyon Corridor will be addressed in the final rule to this action.

The comments received on all the above mentioned actions, together with the information obtained through continuing discussions with the Native American tribes, form the basis of this action. Specifically, the comments concerning the need for quiet incentive routes and the location of the Blue One Alpha route that would feed into the National Canyon Corridor prompted the FAA to review the airspace structure within the GCNP and to propose the two new routes contained in this NPRM. Comments previously submitted in other actions that pertain to incentive routes and the National Canyon Corridor are addressed in this NPRM. Even though this action is related to other actions, it does not attempt to finalize any proposal made elsewhere. Therefore, the proposals in this NPRM should be viewed in conjunction with other actions and proposals, but should not be viewed as completing any other action.

#### **Environmental Review**

The FAA is reevaluating the Final Environmental Assessment dated December 24, 1996, for the Special Flight Rules in the Vicinity of the GCNP to determine whether the proposed changes in this NPRM and the second Notice of Availability of Proposed Routes are substantial so as to warrant preparation of additional environmental documents. This reevaluation is being done in accordance with the National Environmental Policy Act of 1969 and other applicable environmental requirements. Copies of the written reevaluation will be circulated to interested parties and placed in the

docket. For those unable to view the document in the docket, the written reevaluation can be obtained from Mr. William J. Marx, Division Manager, ATA-300, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, Telephone: (202) 267-3075. Comments concerning the environmental impacts of adopting this proposal or the written reevaluation should be submitted to the docket before the comment period closes. Before any final rule is issued, based on any comments and the written reevaluation, the FAA will determine whether any further environmental review is warranted.

#### *Economic Summary*

Any 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 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade.

In conducting these analyses, the FAA has determined that this proposed rulemaking, when viewed as a component of and in conjunction with other actions recently published by the FAA, is cost relieving to one-half of the small entities significantly impacted economically. The remaining operators affected by this proposed rulemaking, however, would be significantly impacted by this NPRM in that they would be required to absorb higher average annual variable operating costs imposed by the GCNP final rule (Dec. 31, 1996 at 61 FR 69302).

Because of the continued high public interest surrounding GCNP regulation, the FAA has determined that this NPRM does constitute a "significant regulatory action" based on the criteria outlined in E.O. 12866. This NPRM, in accordance with OMB directives, however, would not have a significant affect on international trade. A full regulatory evaluation of the proposal is in the docket.

#### *Costs*

The possible quantifiable economic effects for this NPRM are derived from the estimated costs germane to the two affected flight-free zones (FFZ's) as developed in the final rule 61 FR 69302, published December 31, 1996. These initial estimates were adjusted to take

into account the effects of a subsequent final rule (Feb. 26, '97 at 62 FR 8862), which delayed the effective date of the expansion of the FFZ's as stated in 14 CFR § 93.305 to January 31, 1998. With regard to the Bright Angel FFZ, the FAA estimated in final rule 61 FR 69302 that there would be no net operating losses, and hence, no added costs to the GCNP commercial sightseeing operators associated with the northward extension of this FFZ. The FAA assumed in that analysis, that this increase in average annual variable operating costs would be offset by an equal \$1.0 million average annual increase in ticket prices. The FAA therefore, concluded in final rule 61 FR 69302, that no net operating losses (operating revenue minus variable operating costs) would be borne by GCNP commercial sightseeing tour operators as a result of the extension of the Bright Angel FFZ. Thus, the full societal cost of a \$1.0 million average annual increase in commercial sightseeing prices would be borne by the consumer.

Only one fixed-wing operator, utilizing three 19-seat Vistaliners, which are Category C aircraft, would be able to conduct commercial sightseeing tours along the proposed flight corridor traversing the Bright Angel FFZ. This operator, however, accounted for approximately 4,900 tours, 88,300 passengers, and \$5.3 million in total operating revenues in 1995. This operator also accounted for approximately \$538,000 of the more than \$1.0 million in increased average annual variable operating costs and prices estimated in final rule 61 FR 69302. The FAA assumes the operator of Category C aircraft would continue to conduct commercial sightseeing tours along the Alpha routes as always, and this would eliminate over one-half of the variable operating cost and tour price increases previously estimated in final rule 61 FR 69302. The remaining increase in variable operating costs and tour prices estimated in final rule 61 FR 69302 (\$497,000) would continue, and would remain as an on-going cost of final 61 FR 69302. However, these costs would be transferred from a cost to the consumer (increased prices) to a cost to the operators of Category A and Category B aircraft (net operating revenue loss). This is because operators of Category A and Category B aircraft would be required to maintain their current tour prices in order to remain competitive with the Category C operator who would no longer need to raise his tour prices. Thus, the FAA estimates the cost savings of the proposed flight corridor through the

Bright Angel FFZ for Category C aircraft only, would be a reduction of \$538,000 in average annual variable operating costs for operators of these aircraft; operators of Category A and Category B aircraft would have to absorb the added variable operating cost of the longer route established for them in final rule 61 FR 69302.

With regard to the southward extension of the Toroweap/Shinumo FFZ concurrent with the elimination of commercial sightseeing access to the National Canyon portion of what is referred to as the "Blue 1, Blue Direct" commercial sightseeing tour, the FAA estimated a reduction in net operating revenues in final 61 FR 69302. This loss resulted from the expected lowering of commercial sightseeing tour prices due to the elimination of the most scenic aerial portion of the overall commercial sightseeing package offset to some degree, by lower variable operating costs due to the shortening of the tour route. The FAA estimated this loss to be in excess of \$2.5 million in reduced average annual net operating revenue and was derived by subtracting the estimated reduction of \$2.5 million in average annual variable operating costs from the estimated average annual revenue loss of \$5.0 million.

Incorporating adjustments to reflect a partial restoration of the National Canyon portion of the "Blue 1, Blue Direct" air tour, the FAA estimates that the proposed flight corridor through the Toroweap/Shinumo FFZ would lower the average annual net operating revenue loss as previously estimated in final rule 61 FR 69302 from \$2.5 million to just over \$1.7 million for the time period 1998–2008. This reduction in average annual net operating revenue losses of \$712,000 results from a comparable reduction in average annual revenue losses from a previously estimated \$5.0 million to \$2.5 million (\$2.5 million) which in turn is offset by a lowering of the reduced variable operating costs from a previously estimated \$2.5 million to \$758,000 (\$1.8 million). Thus, the FAA estimates the cost savings of the proposed flight corridor through the Toroweap/Shinumo FFZ for all aircraft would be a reduction of \$712,000 in average annual net operating revenue losses as previously estimated in final rule 61 FR 69302.

Adding commercial sightseeing flights per aircraft between Las Vegas and Tusayan along the proposed flight corridor through the Toroweap/Shinumo FFZ is not a viable option for these GCNP commercial sightseeing operators. As was future in final 61 FR 69302, the reduction in total

commercial sightseeing tour aircraft flying time does not provide sufficient savings in aggregate daily flying time to allow operators to expand their number of daily commercial sightseeing flights per aircraft.

The cost of the proposed rule would be any adverse impact of the two proposed flight corridors on the restoration of natural quiet in the canyon. The potential adverse impact cannot be quantified in this NPRM. The FAA solicits comments on ways to quantify the effects on the restoration of the natural quiet in this proposed rule. The more detailed those comments, the better able the FAA will be to assess those benefits in a final rule. The Bright Angel FFZ corridor would create an additional incentive for air tour operators to use Category C aircraft. The Toroweap/Shinumo FFZ corridor would permit the continued operation of an air tour in that area, tours which were seriously affected by final rule 61 FR 69302. Taken together, both of these proposed corridors would benefit the GCNP commercial sightseeing operators.

#### *Benefits*

The benefits associated with this NPRM include (1) A more rapid conversion to quieter aircraft in response to an inceptive route for operators of noise efficient Category C aircraft; (2) the shifting away of a commercial sightseeing tour route away from cultural and historic sites of the Havasupai Tribe that would enhance the sacredness and preservation of these sites; and (3) the restoration of an air tour route between Las Vegas and Grand Canyon Airport that reduces average annual net operating revenue losses. The particular groups that would benefit most from this rulemaking action are the Havasupai Tribe and some of the operators and consumers of GCNP commercial sightseeing tours, particularly those able to use or convert to quieter aircraft.

The establishment of the proposed corridor for noise efficient Category C aircraft through the Bright Angel FFZ along the "Alpha" routes would reduce increased aircraft noise created by the consolidation of aircraft overflight noise at the northern edge of the expanded FFZ as described in final rule 61 FR 69302. Furthermore, to the extent the consumer perceives the current shorter, more established commercial sightseeing tour through the proposed flight corridor as having a greater value, then demand for these tours conducted in the more noise efficient Category C aircraft would increase. Concurrently, demand for the longer sightseeing tours conducted in Category A and Category

B aircraft would decrease. As stated earlier, the operators of these aircraft have to absorb the remaining \$497,000 increase in average annual variable operating costs re-estimated in final rule 61 FR 69302. In addition, they might also face a decline in revenues as patronage shifts to air tours offered in Category C aircraft. In combination, these two potential outcomes of this proposed rulemaking could create a significant incentive for operators of Category A and Category B aircraft to convert to Category C aircraft sooner than was proposed in 61 FR 69334, leading to a more rapid mitigation of noise in GCNP.

Comments received on Notice No. 96-11 state that the use of noise efficient aircraft will, in the long run, provide the most benefit toward restoring natural quiet. There is an outstanding NPRM on the issue of noise limitations for certain aircraft operated in GCNP (Notice No. 96-15). Without prejudging Notice No. 96-15, but as an incentive to the operators to convert to more noise efficient aircraft as rapidly as possible, this proposed rule would allow operators using quieter Category C aircraft to continue using the Bright Angel Corridor for the Zuni-Dragon air tour on the east end of the Grand Canyon, and on the west end, would allow operators using quieter Category C aircraft to continue using the National Canyon air tour on return trips from the Grand Canyon to Las Vegas after the year 2001.

In consideration of Havasupai concerns regarding commercial sightseeing overflights of their ancestral lands, the FAA is proposing an abridged "Blue 1A" route in conjunction with the proposed Toroweap/Shinumo FFZ. The proposed abridged "Blue 1A" route effectively avoids 90 percent of Havasupai cultural and historic lands. The economic benefit of this facet of the NPRM to this Native American Tribe, however, is inherent and non-quantifiable, but nevertheless, very real.

#### *Economic Evaluation Summary*

The FAA has determined that the average annual cost savings of this NPRM from the years 1998-2008, would be about \$1.25 million. That portion of the average annual cost savings attributable to the proposed flight corridor through the Bright Angel FFZ is accounted for by a reduction of \$538,000 in the previously estimated increase in average annual variable operating costs. That portion of the total average annual cost savings attributable to the proposed flight corridor through the Toroweap/Shinumo FFZ is accounted for by a reduction of

\$712,000 in the previously estimated average annual loss in net operating revenue. Except for potential adverse noise effects, the FAA therefore concludes that this NPRM would be cost relieving.

#### *Initial Regulatory Flexibility Analysis*

By both law and executive order, Federal regulatory agencies are required to consider the impact of proposed regulations on small entities. Executive Order 12866 "Regulatory Planning and Review", dated September 30, 1993, states that:

Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of different sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the cost of cumulative regulations.

The 1980 "Regulatory Flexibility Act" (RFA) requires Federal agencies to prepare an initial regulatory flexibility analysis of any notice of proposed rulemaking that will have a significant economic impact on a substantial number of small entities. The definition of small entities and guidance material for making determinations required by the RFA are contained in the **Federal Register** [47 FR 32825, July 29, 1982]. Federal Aviation Administration (FAA) order 2100.14A outlines the agency's procedures and criteria for implementing the RFA.

With respect to this proposed rule, a "small entity" is a commercial sightseeing operator that owns or operates nine or fewer aircraft. A significant economic impact on a small entity is defined as an annualized net compliance cost to such a small commercial sightseeing operator. In the case of scheduled operators of aircraft for hire having less than 60 passenger seats, a "significant economic impact" or cost threshold, is defined as an annualized net compliance cost level that exceeds \$69,800; for unscheduled operators the threshold is \$4,900. A substantial number of small entities is defined as a number that is more than one-third of the small commercial sightseeing operators (but not less than eleven operators) subject to the proposed rule. The Federal Aviation Administration has determined that this proposal could have a significant economic impact on most of the small commercial sightseeing operators conducting flights within Grand Canyon National Park and therefore, has prepared this initial regulatory flexibility analysis.

The proposed rulemaking could affect a substantial number of the commercial sightseeing operators conducting tour flights in Grand Canyon National Park under 14 CFR part 135. The commercial sightseeing operators affected are those providing commercial sightseeing tours currently operating along the "Blue 1", "Black 1", and "Green 1" tour routes who would be permitted to conduct commercial sightseeing tours along the flight corridors proposed by this NPRM. FAA data indicate that in 1995, of the 31 identified GCNP commercial sightseeing operators, 25 conducted air tours along the affected routes, and of these, 20 were potentially affected small commercial sightseeing operators, each owning, but not necessarily operating 9 or fewer aircraft. These operators owned a total of 61 aircraft and the average fleet consisted of about 3 airplanes. The FAA therefore, estimates that 20 operators, which are also small entities, could be impacted by the proposed rule. This impact is as discussed in the preceding analysis of the full regulatory evaluation.

The Federal Aviation Administration, however, has determined that this proposal, when viewed as a component of and in conjunction with other actions (the FAA published three actions on December 31, 1996, and one action on February 26, 1997, that related to the airspace management of the GCNP) is cost relieving to one-half of these small entities. The remaining operators affected by this proposed rulemaking would be required to absorb higher average annual variable operating costs imposed by final rule 61 FR 69302.

#### *International Trade Impact Assessment*

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

#### **Federalism Implications**

The regulations herein would 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 12866, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13), there are no requirements for information collection associated with the proposed regulation.

**Conclusion**

For the reasons set forth above, the FAA has determined that this proposed rule is a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this proposal would have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposed rule is considered significant under DOT Regulatory Policies and Procedures.

**List of Subjects in 14 CFR Part 93**

Air traffic control, Airports, Navigation (Air), Reporting and recordkeeping requirements.

**The Proposed Amendment**

For the reasons set forth above, the Federal Aviation Administration proposes to amend 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, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

2. Section 93.305 is amended by adding a new sentence to the end of paragraph (b) and by adding a new sentence to the end of paragraph (c) to read as follows:

**§ 93.305 Flight-free zones and flight corridors.**

\* \* \* \* \*

(b) \* \* \* The Bright Angel Flight-free Zone does not include the following airspace designated as the Bright Angel Corridor: that airspace one-half nautical mile on either side of a line extending from Lat. 36°14'21.24" N., Long. 112°08'57.54" W. and Lat. 36°14'15.32" N., 111°55'07.32" W.

(c) \* \* \* The airspace designated as the "National Canyon Corridor": at or above 7,500 feet MSL within 2 nautical miles either side of a line extending east, southeast from Lat. 36°14'01", Long. 112°53'38" to Lat. 36°14'24", Long. 112°52'30" to Lat. 36°15'01", Long. 112°50'37" to Lat. 36°14'53", Long. 112°49'10" to Lat. 36°14'05", Long. 112°48'39" to Lat. 36°06'58", Long. 112°44'21".

3. Section 91.306 is added to read as follows:

**§ 93.306 Operation of GCNP Category C Aircraft in National Canyon Corridor and Bright Angel Corridor.**

No person may operate an aircraft westbound within the National Canyon Corridor after December 31, 2001, or in the Bright Angel Corridor within the Special Flight Rules Area unless the aircraft is a commercial sightseeing operation aircraft that meets the GCNP Category C aircraft standard, as defined in § 93.319.

4. Section 93.307 is amended by adding paragraphs (b)(3) and (b)(4) as follows:

**§ 93.307 Minimum flight altitudes.**

\* \* \* \* \*

(b) \* \* \*

(3) *National Canyon Corridor*. 7,500 feet MSL.

(4) *Bright Angel Corridor*. GCNP Category C helicopters, 9,500 feet MSL; GCNP Category C airplanes, 10,000 feet MSL.

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Dated: May 12, 1997.

**W. Michael Sacrey,**

*Acting Director, Flight Standards Service.*

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