

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

Commercial Routes for the Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: On December 13, 2000, the FAA published a notice of availability and request for comments on modifications to commercial air tour routes in Grand Canyon National Park (GCNP) made final by the April 2000 rulemaking. These modifications were proposed in response to safety concerns expressed by some commercial air tour operators conducting operations in GCNP. The comment period on the modified routes closed on January 26, 2001. On January 4, 2001, the FAA further delayed the implementation of the route structure to evaluate new safety issues. Several new safety issues remain concerning the routes proposed on the east-end of the GCNP. The FAA has resolved the safety issues on the west-end and has determined that the air tour routes and airspace structure on the west-end may be implemented. The FAA is not implementing any new air tour routes on the east-end at this time. Consequently, the FAA is making available a map depicting final routes for GCNP on the west-end only. The FAA also publishes in this Federal Register a companion document modifying the airspace in GCNP to accommodate the modified route structure. The FAA makes available to the public through this notice a copy of the map showing routes that will go into effect on the west-end of GCNP on April 19, 2001, as well as the SFAR 50-2 route structure that will be retained on the east-end of GCNP.

DATES: The commercial air tour route structure depicted on the map made available by this notice is effective on April 19, 2001.

FOR FURTHER INFORMATION CONTACT: Howard Nesbitt, Flight Standards Service, (AFS-200), Federal Aviation Administration, Room 1205, Federal Office Building 10B, Seventh and Maryland Streets, SW, Washington, DC 20591; Telephone: (202) 493-4981.

SUPPLEMENTARY INFORMATION:

Availability of the proposed routes

The FAA is not publishing the commercial air tour routes in today's Federal Register because they are on very large and very detailed charts that would not publish well in the Federal Register. You may obtain a copy of the map depicting commercial air tour routes by contacting Denise Cashmere at (202) 267-3717, by faxing a request to (202) 267-5229, or by sending a request in writing to the Federal Aviation Administration, Air Transportation Division, AFS-200, 800 Independence Avenue, SW., Washington, DC 20591.

Background

On April 4, 2000, the Federal Aviation Administration 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; 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 became effective on May 4, 2000. The Airspace Modification final rule and the routes set forth in the Routes Notice were scheduled to become effective December 1, 2000.

During the course of litigation, the United States Air Tour Association and seven air tour operators raised new safety concerns with the air tour routes at GCNP. The FAA first delayed implementation of the routes until December 28, 2000 (November 20, 2000; 65FR69848) in order to evaluate and address these new safety concerns. The FAA then published a second notice of availability of a map depicting proposed changes to routes in the east-end of GCNP on December 13, 2000 (65FR78071), with a comment period that closed on January 26, 2001. Following these actions, the FAA conducted an evaluation of the planned routes in the east-end of GCNP and determined that modifications could be made to the routes to enhance safety. However, there were also several safety issues raised concerning the routes on the east-end. Subsequently, on January 4, 2001, the FAA delayed implementation of the routes until April 1, 2001 (66FR2001). It also stated that it may choose to implement the routes in the western portion of GCNP while resolving routes in the east-end.

Agency action

During the comment period for the second Notice of Availability of air tour routes, additional safety concerns were raised regarding the proposed revisions to the routes on the east-end of the Grand Canyon National Park (GCNP) Special Flight Rules Area (SFRA). Consequently, the FAA is implementing the modifications to the route structure of the GCNP SFRA in two phases.

The first phase will implement the routes and airspace on the west-end of the GCNP SFRA (defined as all areas within the SFRA west of the Dragon Corridor). On the east-end (defined as the Dragon corridor and all areas within the SFRA to the east), the first phase will implement the modification to the SFRA boundary as contained in the April 2000 final rule. Specifically, the SFRA boundary over the Navajo Nation lands is extended five miles to the east.

However, during this phase, the route structure on the east-end will remain almost exactly as that currently flown in the SFRA under Special Federal Aviation Regulation (SFAR) 50-2, with only slight modification to certain entry and exit points. To accomplish the dual goals of achieving substantial restoration of natural quiet in GCNP and maintaining a continued safe operating environment for commercial air tour operators, the FAA finds that this combination of commercial air tour routes is the most reasonable proposal for the Spring 2001 air tour season.

The second phase of the commercial air tour route structure in GCNP is intended to involve implementation of a potentially revised route and airspace structure on the east-end of the GCNP SFRA based upon the route structure adopted in the April 2000 final rule. Implementation of the second phase will be determined after the FAA has evaluated and addressed all outstanding safety concerns. Interested persons will be afforded the opportunity to comment on final revisions to the route structure in the east-end of GCNP. The FAA anticipates that these final modifications will be in place for the 2002 commercial air tour season.

The two-phase implementation process will allow the FAA to move toward the mandate for substantial restoration of natural quiet in GCNP with the implementation of the routes and airspace structure in the west-end of the GCNP. This will accomplish some goals of the April 2000 rulemaking in that it will eliminate the Blue 1 and Blue 1A routes. In addition, the phased approach will allow the FAA to adequately evaluate and address the remaining new safety concerns related to the routes in the east-end of GCNP while commercial air tour operators are able to train on the revised routes during the off-peak season. This process will temporarily maintain the SFAR 50-2 route structure at the east-end of the SFRA during the first phase. At the same time, the phased process will provide for the elimination of overflights of some

traditional cultural properties identified by Native American Tribes during the National Historic Preservation Act (NHPA) Section 106 consultation process.

Comments received on the December 2000 notice of availability of routes

Comments were received from the Sierra Club, Utah and Toiyabe (Nevada) Chapters; United States Department of Agriculture, Forest Service; Grand Canyon Airlines (GCA); Nancy Christopherson; Helicopter Association International (HAI); AirStar Helicopters; United States Air Tour Association (USATA); Dennis Brownridge, President, Friends of the Grand Canyon; and Jim McCarthy, Designated Editor representing Arizona Raft Adventures, Friends of the Grand Canyon, Grand Canyon Chapter of the Sierra Club, Grand Canyon River Guides, Grand Canyon Trust, Nature Sounds Society, National Parks Conservation Association, and the Wilderness Society (Environmental coalition). A majority of the comments were pertinent to the proposed routes for the east-end of the Grand Canyon, specifically Dragon Corridor, Zuni Corridor, Desert View, Marble Canyon and the proposed route over the Saddle Mountain Ridge. The FAA has elected to stay the April 2000 routes in the east-end until the new safety concerns can be resolved. Any comments pertaining to the east-end will be responded to in a future document.

Comment: The environmental coalition raised the issues of congressional intent and legal mandate. The commenter states that Pub. L. 100-91 calls for “appropriate action to protect the park and visitors,” and the NPS plan “shall provide for substantial restoration of natural quiet.” The commenter states further that nowhere did Congress direct the agencies to temper, delay, or compromise the mandate according to industry needs. It also states that “even with the weak NPS definition, the agencies will not come close to achieving the required restoration.”

FAA response: Federal agencies have discretion to address problems using a phased approach. The April 2000 Airspace rule and Notice of Availability for commercial air tour routes are steps in a process to achieve substantial restoration of natural quiet at GCNP in accordance with Pub. L. 100-91. The FAA and NPS have taken a reasoned and incremental approach to assess the steps in the process as they are taken, and adjusting as necessary with subsequent steps. Both agencies agreed to a logical, incremental process that first mandated operational caps, curfews and limitations to routes. To this end, the FAA was directed by Congress to implement the recommendations from the NPS unless they would adversely affect aviation safety. As the result of the ongoing litigation, the air tour operators have raised new aviation safety concerns that the FAA must appropriately evaluate and address. The delay in implementing the routes and airspace structure on the east-end of GCNP will allow the FAA time to adequately evaluate and address the new safety concerns. The delay will also provide the opportunity for the air tour operators to train on the potentially revised routes during the off-peak season. The timing of training is also an aviation safety consideration.

Comment: The environmental coalition states that the plain language definition of substantial restoration of natural quiet requires that the test be met every day, regardless of season.

FAA response: Public Law 100-91 and the definition of substantial restoration did not specify the time period of interest, other than “day”. The NPS definition of "substantial restoration of natural quiet" involves time, area and acoustic components. Because many park visitors typically spend limited time in particular sound environments during specific park visits, the amount of aircraft noise present during those specific time periods can have great implications for the visitor's opportunity to experience natural quiet in those particular times and

spaces. Based upon noise studies, the NPS has concluded that a visitor's opportunity to experience natural quiet during a visit, and the extent of noise impact depends upon a number of factors. These factors include: the number of flights; the sound levels of those aircraft as well as those of other sound sources in the natural environment; and the duration of audible aircraft sound experienced by a visitor. Effects of different time periods (i.e., annual average, shoulder season, summer season, peak day) were evaluated in the Final Supplemental Environmental Assessment, February 2000.

Comment: The environmental coalition, AirStar, and others commented that the charts provided with the proposals are helpful but have room for improvement. Significant geological and non-physical features should be shown.

FAA response: The FAA works with NOAA to print the reference charts. These charts are created to familiarize air tour operators with respect to the new routes and the FAA is convinced the charts provide sufficient detail for this purpose. The FAA and NPS will work together to better identify features, but not to the detriment of safe air navigation.

Comment: The environmental coalition and Friends of Grand Canyon state a strong endorsement for the proposed closing of Blue 1 and the Fossil Corridor.

FAA response: The agencies believe the closing of Blue 1 and Fossil Corridor will make significant strides in the incremental process of substantial restoration of natural quiet at GCNP.

Comment: The environmental coalition believes it is time to try a different approach – a meeting between the FAA, the NPS and the representatives of their organizations.

FAA response: The FAA and the NPS held a stakeholder meeting which was well intentioned, but provided no useful results due to an unwillingness of stakeholders to negotiate.

The FAA and NPS would be willing to try again in the future, if all parties are willing to participate in a process that would encourage useful negotiation.

Comment: The Sierra Club of Utah and the Toiyabe Chapter recommend a definition of “below the rim” as below the elevation of any canyon rim or feature within three miles horizontally of the route.

FAA response: As a general rule, flights do not operate below the rim. In certain isolated situations, aircraft being operated on certain fixed routes and at fixed altitudes may operate below the ground level of the rim temporarily. This occurs because of terrain fluctuations. Safety is not compromised by allowing these flights to operate below the rim for a short period of time. In Public Law 100-91, Congress granted the FAA, in consultation with the NPS, the authority to determine rim level because "delineation of the area needs to be made taking into account the varying rim levels of the canyon and the potential impact of this provision on flight activities and operations." S. Rep. 91 (100th Cong., 1st Sess. (1987)). The specific examples provided by this commenter relate to operations in the east-end of GCNP. These specific comments may be addressed during the east-end review.

Comment: Grand Canyon Airlines and USATA commented on the lack of a definition of quiet aircraft incentive routes.

FAA response: The quiet technology working group is currently working on a rulemaking to designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology. Once such a designation has been completed, publicly reviewed and issued, the FAA, in consultation with the NPS and the advisory group (see Section 805, Pub. L. 106-181), shall establish incentive routes for commercial air tour operators who employ quiet aircraft technology. In Public Law 106-181,

Congress mandated that the quiet technology incentive routes must be located in areas that will not negatively impact the substantial restoration of natural quiet, tribal lands, or safety.

Comment: GCA urges transponders on all air tour aircraft.

FAA response: Although this comment may have some merit, it is beyond the scope of this notice.

Comment: HAI, USATA and AirStar state that the FAA failed to provide sufficient information upon which to base meaningful comments, specifically detailed route narrative and arrival descriptions.

FAA response: The FAA provided a map of the GCNP airspace detailing the changes to the east-end that the FAA believed would rectify the problems identified by the air tour operators. This map shows the proposed route modifications together with the east-end route structure as finalized on April 4, 2000, elevations of certain topographic features, reporting points, and other topographic features (rivers, canyons, etc.). Flight Standards personnel reviewed the map and considered it adequate to evaluate the proposed route structure.

The route narratives and arrival/departure procedures are part of Las Vegas Flight Standards District Office (LAS FSDO) Order 1380.2A. This is consistent with standard route descriptions that have been promoted and distributed since 1987. The Procedures Manual provides landmark information, specific route descriptions, altitudes and reporting points for each route, in addition to operational and training procedures. These items typically are not subject to notice and comment because the FAA requires the flexibility to change such items in the interest of safety as required, without delay. Notice of changes to the Procedures Manual is provided by the LAS FSDO directly to authorized certificate holders.

Comment: HAI and USATA state that connecting proposed routes on the west-end to existing SFAR 50-2 routes on the east-end require separate evaluations of safety, environmental impact, economic impact, feasibility, and noise contribution.

FAA response: The FAA has 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 examines the potential environmental impacts associated with the phased implementation of the Airspace Rule and the Commercial Air Tour Route Modifications described in the FSEA. The FAA has determined that the data and analyses contained in the FSEA are still substantially valid and all pertinent conditions and requirements of the prior approval have or will be met in the current action. While the delayed implementation of the east-end route and airspace structure will lessen the percentage of the GCNP substantially restored to natural quiet, it is only a temporary delay. Given that the majority of the revised routes and airspace for GCNP will be implemented during state-one in the western two-thirds of the Park, the phased implementation process will result in a gain of substantial restoration of natural quiet for GCNP as described in the FSEA. Copies of the written reevaluation have been placed in the public docket and, have been circulated to interested parties.

The FAA disagrees that implementing the new west-end routes in the GCNP while maintaining the SFAR 50-2 route structure on the east-end requires a separate safety and feasibility study together with an economic impact analysis. The new west-end routes and the SFAR 50-2 east-end routes are separate and distinct from each other. The only area in which the two route structures begin to come together is at Grand Canyon National Airport (GCN) at Tusayan, Arizona. At this point, the new routes (Blue Direct North and Blue Direct South) meet

outside the controlled airspace at GCN at the same points as the current SFAR 50-2 route system. The safety issues on the new west-end routes have already been evaluated by the FAA during the rulemaking process, culminating with the Notice of Availability issued April 4, 2000.

The economic analysis completed for the final rule published April 4, 2000 evaluates the east-end and west-end operations separately since these are distinct markets. This analysis is still valid. The FAA is only delaying implementation of the east-end routes, it is not taking 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.

Comment: AirStar recommends that once an entire proposal is developed, the FAA must allow familiarization and evaluation flights for the operators to make valid comments.

FAA response: The FAA agrees that allowing operators to fly proposed routes would certainly provide the operators with first-hand operational experience with the proposed routes. However, to facilitate this, especially in the east-end of the GCNP, the FAA would have to shut down the airspace for a period of time since the SFAR 50-2 routes and the new route modifications would not be compatible. This would cause further economic hardship on the operators, especially the smaller operators.

Comment: AirStar and USATA state that the FAA is moving down an ill-advised road. SFAR 50-2 has provided a simple accident-free environment for greater than ten-years. AirStar states that they cannot understand why the FAA persists in exposing the flying public to additional risk. USATA states that any new routes be at least as safe as SFAR 50 -2.

FAA response: Public Law 100-91 requires the FAA to develop an air tour structure that is both safe and improves the substantial restoration of natural quiet in the GCNP. The route structure being implemented by this notice is consistent with this statute. The portion of the

route structure being delayed provides additional gains in substantial restoration of natural quiet but has unresolved new safety concerns, therefore it is being delayed until those concerns are resolved.

Comment: USATA states that the new Bush Administration should be given the opportunity to review all government actions of the previous administration.

FAA response: The new Administration has elected not to further delay the implementation of the rules published April 4, 2000. Under direction of the new Administration, this action was reviewed and it was determined that this action would not be further delayed.

Issued in Washington D.C. on

Director, Flight Standards Service