

measuring substantial restoration of natural quiet at Grand Canyon National Park “appears inconsistent with both the [National] Park Service’s definition of the term and the premise on which that definition was based.” 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.

Once the FAA obtains guidance from the NPS concerning the appropriate way to measure noise in the park and determines how to address non-air tour aircraft noise, the FAA and NPS will conduct the necessary environmental analysis and review process. FAA and NPS may initiate supplemental rulemaking to consider further modifications to the east-end routes and the west-end routes to achieve substantial restoration of natural quiet in the GCNP. The GCNP Noise Model Validation project has begun to yield data that suggests there may be a need to recalibrate the Integrated Noise Model (INM) for use in the GCNP. Recalibration of the INM would affect the determination of how much natural quiet has already been restored and the benefits of pursuing the alternative of quiet technology and may warrant public notice and an opportunity for review and comment.

Following a recent congressional hearing on Grand Canyon overflights, the FAA and NPS are also considering a dispute resolution process to assist in developing measures to fulfill the mandate under the National Park Overflights Act. Because this process is not complete, and, based on prior experience, we believe it could take several years to resolve all of the issues and complete the necessary environmental review and any additional rulemaking process, it is necessary to stay 14 CFR 93.305 (a) and (b) as they apply to the east end of GCNP until February 20, 2006. The FAA and the NPS will work to resolve the issues remanded by the court together with the issues surrounding the routes.

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 final rule to become a final rule upon issuance. The FAA notes that the stay 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 stay 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 pursuant to FAA Order 1050.1D,

Paragraph 92, 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 staying the provisions of 14 CFR 93.305 (a) and (b).

#### **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 staying 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 stays the provisions 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