

**National Park Service
U.S. Department of the Interior**



***Cost-Benefit and Regulatory Flexibility Threshold Analyses:
Proposed Special Regulations for Designation of Airstrip at
Death Valley National Park***

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Introduction

This report presents the cost-benefit and regulatory flexibility analyses of the proposed regulatory action for Death Valley National Park to designate the Saline Valley Warm Springs Airfield, commonly known as the Chicken Strip, within the Saline Valley Warm Springs area as a location available for the operation of aircraft. Quantitative analyses were not conducted due to lack of available data, and because the additional cost of conducting quantitative analyses was not considered to be reasonably related to the expected increase in the quantity and/or quality of relevant information. Nevertheless, the National Park Service (NPS) believes that these analyses provide an adequate assessment of all relevant costs and benefits associated with the regulatory action.

The results of the cost-benefit analysis indicate the net benefits of the proposed regulation will be positive. Additionally, this proposed regulatory action will not have an annual economic effect of \$100 million, and will not adversely affect an economic sector, productivity, jobs, the environment, or other units of government. This proposed regulatory action will codify the continued use of an airstrip that has been in use since before the NPS began managing the Saline Valley Warm Springs area in 1994.

The results of the regulatory flexibility analysis indicate no adverse impacts for any sector of the economy or unit of government, including small entities. Given those findings, the proposed regulatory action will not impose a significant economic impact on a substantial number of small entities.

Cost-Benefit Analysis

Background

Saline Valley is a large desert valley located in the northwest portion of Death Valley National Park. The Saline Valley Warm Springs area is approximately 1,100 acres of backcountry surrounded by wilderness. The area has not been formally or systematically developed for use by the NPS but does have a number of user developed and maintained structures and facilities. Visitors enjoy backcountry camping and soaking tubs created by diverting water from natural source springs. Visitors use the Saline Valley Warm Springs area throughout the year but the cooler months, October to May, receive the highest use. Holidays are times of especially heavy use.

The Timbisha Shoshone Tribe, whose homelands encompass the entirety of the park, has a deep affinity for the Saline Valley Warm Springs area due to the existence of long-lived historical and ethnographic connections. The Timbisha Shoshone Homeland Act of 2000 (Homeland Act; Public Law 106-423) specified designated special use areas. Saline Valley is part of one of these special use areas.

There is a small, unimproved landing strip in Saline Valley, referred to as the Chicken Strip. The formal name of the airstrip is the Saline Valley Warm Springs Airfield. In past years, there were up to three landing strips for small planes in this area. The Suicide Strip and the Crosswinds Strip

have been decommissioned. Historically, the landing strips were used by miners and prospectors to access Saline Valley. The Chicken Strip is the only remaining active landing strip within the Saline Valley Warm Springs area. It is approximately 1,400 feet long and 35 feet wide. The strip has a tie-down area large enough to accommodate five small planes. Features of the airstrip include a windsock, painted rocks lining the strip, and two airplane tie-downs. Based on visitor registration logs at the Chicken Strip, approximately 440 people visited Saline Valley via airplane from 2008 to 2012, averaging 88 visitors per year.

Statement of Need for the Proposed Plan

Executive Order 12866 (58 FR 51735) directs Federal agencies to demonstrate the need for the regulations they promulgate. In general, regulations should be promulgated only when a “market failure” exists that cannot be resolved effectively through other means. Other justifications for promulgating regulations include improving governmental functions, removing distributional inequities, and promoting privacy and personal freedom (OMB 2003).

The proposed rule would designate the Chicken Strip airstrip as available for use by aircraft. This action would implement part of the preferred alternative identified in the 2018 Saline Valley Warm Springs Draft Management Plan / Environmental Impact Statement (DEIS). The airstrip has been in use since before the NPS began managing the Saline Valley Warm Springs area in 1994. NPS regulations at 36 CFR 2.17(a)(1) prohibit the operation or use of an aircraft on lands or waters other than at locations designated pursuant to a special regulation. This action would improve governmental functions by officially codifying the continued use of the airstrip.

Alternatives Considered in the Current Analysis

The DEIS assesses strategies for managing the future use of the Saline Valley Warm Springs area. The designation of Chicken Strip airstrip is one of many issues addressed in the DEIS. The proposed rule is associated with the designation of the Chicken Strip airstrip, not the overall management of the Saline Valley Warm Springs area. Therefore, this analysis only considers the DEIS issues associated with the designation of the Chicken Strip airstrip.

NPS Preferred Alternative

Alternative 5 (preferred alternative) would allow for continued recreational visitor use while protecting park resources and allowing for cooperative management between the park and the Timbisha Shoshone Tribe. Under alternative 5 the Chicken Strip airstrip would be designated as an airstrip and open for use.

Other Alternatives Considered

A no-action alternative (alternative 1) is required by the National Environmental Policy Act for the purposes of providing comparison to alternatives considered. Under the no-action alternative, the NPS would continue current management with no changes. Visitors with small aircraft would continue to be able to land at the Chicken Strip airstrip. However, this would be in violation of 36 CFR 2.17(a)(1) which prohibits the operation or use of an aircraft on NPS lands or waters other than at locations designated pursuant to a special regulation.

Alternative 2 (Regulatory Compliance Alternative) would retain much of the existing use of the area, but would bring the actions and conditions into compliance with current regulations. Alternative 3 (Community Engagement Alternative), would involve user groups in the cooperative management of the area to protect park resources, ensure compliance with applicable regulations, and provide visitors with the types of experiences they currently value. Under alternatives 2 and 3, the Chicken Strip airstrip would be designated as an airstrip and open for use.

Alternative 4 (Restoration Alternative) would restore the warm springs, as closely as possible, to natural conditions with minimal or no development. Under alternative 4, the Chicken Strip airstrip would be closed and removed.

Baseline Conditions

The costs and benefits of a regulatory action are measured with respect to its baseline conditions. Guidance from Office of Management and Budget (OMB) for a regulatory analysis suggests that the baseline should represent the agency's best assessment of the way the world would look absent the proposed action (OMB 2003). Therefore, all costs and benefits included in this analysis are incremental to the baseline conditions. That is, any future impacts that would occur without the proposed action, as well as any past impacts that have already occurred, are not included in this analysis.

For this regulatory action, the baseline conditions are described in alternative 1, the no-action alternative, in the DEIS. Under alternative 1, the Chicken Strip airstrip would remain open and in violation of 36 CFR 2.17(a)(1) which prohibits the operation or use of an aircraft on NPS lands or waters other than at locations designated pursuant to a special regulation. Based on visitor registration logs at the Chicken Strip, approximately 440 people visited Saline Valley via airplane from 2008 to 2012, averaging 88 visitors per year.

Costs and Benefits

This section describes the expected benefits and costs associated with the proposed regulation (alternative 5) and DEIS alternatives (2, 3, and 4) compared to the current baseline conditions. Quantitative analyses were not conducted due to lack of available data, and because the additional cost of conducting quantitative analyses was not considered to be reasonably related to the expected increase in the quantity and/or quality of relevant information. Nevertheless, NPS believes this approach provides an appropriate means to characterize the relevant benefits and costs associated with this proposed regulatory action.

The proposed regulation would designate the Chicken Strip airstrip as available for use by aircraft. This designation would allow for continued use of the airstrip (same as baseline conditions) and would eliminate visitor uncertainty of future airstrip use by addressing the violation of 36 CFR 2.17(a)(1) currently happening under baseline conditions. Compared to baseline conditions, the proposed regulation would generate benefits to Saline Valley visitors by eliminating the uncertainty that the airstrip could close in the future. Retaining use of the airstrip

would benefit visitor use and experience for those visitors who seek this type of recreation or those visitors who enjoy watching the aircraft fly into the warm springs area. For some visitors with injuries or disabilities and who have access to small planes, the Chicken Strip airstrip is the only way they can access the warm springs area because the drive is too long and harsh for them. Benefits associated with alternatives 2 and 3 would be identical to the proposed regulation as compared to baseline conditions.

The Chicken Strip surface is maintained by the community of recreational pilots who use it. The Recreational Aviation Foundation (RAF), an organization of private pilots, is active in the promotion of the continued use of the Chicken Strip. In 2017, the NPS renewed a memorandum of understanding with the RAF that allows the RAF to maintain the Chicken Strip at no cost to the NPS. Maintenance activities include leveling the surface, removing stones and debris, and packing the surface. Under the proposed regulation (and alternatives 2 and 3), changes in maintenance costs are not anticipated compared to baseline conditions.

Based on Chicken Strip visitor registration logs, an average of 88 visitors per year would experience a reduction in benefits by the airstrip closure under alternative 4 compared to baseline conditions. Current RAF activities and costs for maintaining Chicken Strip would no longer be necessary compared to baseline conditions.

The proposed regulation will not impose any additional fees, restrictions, or other management measures that would increase costs to other visitors, local businesses, or communities. Since this action will generate positive benefits to Chicken Strip users and no anticipated costs, the NPS concludes that the net benefits of the proposed regulation will be positive.

Uncertainty

The marginal increase in visitor benefits from eliminating uncertainty of future airstrip use is unknown. Therefore, the total benefits generated by this action cannot be estimated. Nevertheless, the NPS anticipates positive benefits will be generated by the proposed regulation. Any uncertainty involved in this analysis is associated only with the magnitude of those benefits. NPS is not aware of any other sources of uncertainty.

Conclusion

The results of this cost-benefit analysis indicate that positive net benefits will likely be generated by implementing the proposed regulatory action. Given that, NPS concludes that the benefits associated with the proposed regulatory action justify the associated costs. Further, this proposed regulatory action is not expected to have an annual economic effect of \$100 million, or to adversely affect an economic sector, productivity, jobs, the environment, or other units of government. This proposed regulatory action will improve governmental functions by officially codifying the continued use of the airstrip.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act, as amended, requires agencies to analyze impacts of regulatory actions on small entities (businesses, nonprofit organizations, and governments), and to consider alternatives that minimize such impacts while achieving regulatory objectives (Small Business Administration 2012). Agencies must first conduct a threshold analysis to determine whether regulatory actions are expected to have significant economic impact on a substantial number of small entities. If the threshold analysis indicates a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis must be produced and made available for public review and comment along with the proposed regulatory action. A final regulatory flexibility analysis that considers public comments must then be produced and made publicly available with the final regulatory action. Agencies must publish a certification of no significant impact on a substantial number of small entities if the threshold analysis does not indicate such impacts.

This threshold analysis relies on the cost-benefit analysis, which concludes that this proposed regulatory action will generate positive benefits and no costs to visitors, businesses, or local communities. In addition, this action will not impose restrictions on local businesses in the form of fees, training, record keeping, or other measures that would increase costs. Given these findings, this proposed regulatory action will not impose a significant economic impact on a substantial number of small entities.

References

- National Park Service. 2018. Saline Valley Warm Springs Draft Management Plan/Environmental Impact Assessment. National Park Service, U.S. Department of the Interior. May 2018.
- Office of Management and Budget. 2003. Circular A-4: guidance for developing regulatory analyses. September 17, 2003.
- Small Business Administration. 2012. "A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act." May 2012.