

# **Public Scoping Packet**

**Big Cypress National Preserve  
Air Tour Management Plan**

**Lead Agency: Federal Aviation Administration**

**Cooperating Agency: National Park Service**

**April 19, 2011**



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## Notice of Intent (NOI)

### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### Notice of Intent to Prepare an Environmental Assessment and Request for Public Scoping Comments for the Air Tour Management Plan Program at Big Cypress National Preserve

**AGENCY:** Federal Aviation Administration (FAA)

**ACTION:** Notice of Intent to Prepare an Environmental Assessment and to Request Public Scoping Comments

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**SUMMARY:** The FAA, with National Park Service (NPS) as a cooperating agency, has initiated development of an Air Tour Management Plan (ATMP) for Big Cypress National Preserve (Big Cypress), pursuant to the National Parks Air Tour Management Act of 2000 (Public Law 106-181) and its implementing regulations (14 CFR Part 136, Subpart B, *National Parks Air Tour Management*). The objective of the ATMP is to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations on the natural resources, cultural resources, and visitor experiences of a national park unit and any tribal lands within or abutting the park. It should be noted that the ATMP has no authorization over other non-air-tour operations such as military and general aviation operations. In compliance with the National Environmental Policy Act of 1969 (NEPA) and FAA Order 1050.1E, an Environmental Assessment (EA) is being prepared.

The FAA and NPS are now inviting the public, agencies, tribes, and other interested parties to provide comments, suggestions, and input on the scope of issues to be addressed in the environmental process.

**DATES:** By this notice, the FAA as lead agency is requesting comments on the scope of the EA for the ATMP at Big Cypress. Comments must be submitted by May 19, 2011.

**FOR MORE INFORMATION CONTACT:** Keith Lusk—Mailing address: P.O. Box 92007, Los Angeles, California 90009-2007. Telephone: (310) 725-3808. Street address: 15000 Aviation Boulevard, Lawndale, California 90261.

Written comments on the scope of the EA should be submitted electronically via the electronic public comment form on the NPS Planning, Environment and Public Comment System at: [http://parkplanning.nps.gov/BICY\\_ATMP](http://parkplanning.nps.gov/BICY_ATMP), or sent to the mailing address above.

**SUPPLEMENTARY INFORMATION:** A public scoping packet that describes the project in greater detail is available at:

- [http://www.faa.gov/about/office\\_org/headquarters\\_offices/arc/programs/air\\_tour\\_management\\_plan/park\\_specific\\_plans/big\\_cypress.cfm](http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/park_specific_plans/big_cypress.cfm)
- [http://parkplanning.nps.gov/BICY\\_ATMP](http://parkplanning.nps.gov/BICY_ATMP)

**Notice Regarding FOIA:** Individuals may request that their name and/or address be withheld from public disclosure. If you wish to do this, you must state this prominently at the beginning of your comment. Commenter's using the website can make such a request by checking the box "keep my contact information private." Such requests will be honored to the extent allowable by law, but you should be aware that pursuant to the Freedom of Information Act, your name and address may be disclosed. We will make all submissions from organizations, businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

Keith Lusk,  
Program Manager, Special Programs Staff, Western-Pacific Region

## Part 1: Introduction to the Project

### A. National Parks Air Tour Management Act of 2000

The FAA, in cooperation with the NPS has initiated development of an ATMP for Big Cypress National Preserve (Big Cypress), pursuant to the *National Parks Air Tour Management Act of 2000 (NPATMA)*. The *NPATMA* and its implementing regulations (Title 14, Code of Federal Regulations [CFR] Part 136) require the FAA and NPS to develop an ATMP for each unit of the national park system or tribal land that does not have a plan in effect at the time an operator applies for FAA authority to conduct commercial air tours. The objective of an ATMP is to develop acceptable and effective measures to mitigate or prevent significant adverse impacts, if any, of commercial air tour operations upon natural and cultural resources, visitor experiences, and tribal lands.

The *NPATMA* applies to any person who conducts a commercial air tour operation over a unit of the national park system, over tribal lands that are within or abutting a unit of the national park system, or over any area within ½ mile outside a unit of the national park system. A commercial air tour operation is defined as a flight conducted for compensation or hire in a powered aircraft where the purpose of the flight is sightseeing, during which the aircraft flies below a minimum altitude of 5,000 feet above ground level (AGL).

Several steps are required for the development and implementation of an ATMP. First, as required by NEPA, the FAA and NPS will prepare an environmental assessment (EA) for public review including various alternatives for the ATMP. If no significant environmental impacts are identified, the FAA in cooperation with the NPS will prepare a Finding of No Significant Impact (FONSI) and Record of Decision (ROD). The FONSI/ROD will identify a preferred alternative for the ATMP. The ATMP will identify the specific measures and conditions applying to air tour operations for Big Cypress. The ATMP may include the conditions for conducting commercial air tour operations and other administrative requirements, such as transferability or termination of Operating Authority, handling requests for increase in Operating Authority, and reporting requirements. The last step in the process is FAA rulemaking, to establish enforceable rules for implementing the ATMP.

At Big Cypress, one air tour operator has received interim operating authority (IOA) from the FAA (Table 1). In order to determine IOA, each existing operator was required by 14 CFR Part 136 to report the greater of (a) the number of commercial air tour operations conducted during the 12-month period preceding *NPATMA* or (b) the average number of commercial air tour operations conducted by the operator during the three-year period preceding *NPATMA*. Air tour operators can fly up to their IOA level annually. IOA terminates 180 days after an ATMP has been established for the park. The number of existing operations reported by each operator represents the IOA.

**Table 1. Air Tour Operators with Interim Operating Authority to Conduct Air Tours at Big Cypress National Preserve.**

Existing Operators with IOA	Flights Per Year under IOA
Wings – 10,000 Islands Aero Tours	1,260

### B. ATMP Development and the NEPA Process

The *NPATMA* and 14 CFR Part 136 specifically require that the environmental impacts of an ATMP be assessed under NEPA and its implementing regulations (40 CFR Parts 1500-1508). The assessment of commercial air tour operations on units of the national park system is different

in many respects from other aviation assessments. Air tour aircraft operations differ from the average national air transportation system operations, occurring in most cases seasonally, and only during daylight hours. Air tour aircraft are by nature flying low for sightseeing purposes, and in national parks are operating relatively close to the ground in low ambient noise environments. These factors require specialized noise assessment. The assessment of visual effects is more rigorous when aircraft are in closer visual range of ground visitors in national parks and there is more potential for intrusion on scenic views. Depending on the environment to be viewed, air tour aircraft may also fly at higher altitudes to get a more panoramic perspective. For all these reasons, this assessment of commercial air tour operations over park units is highly specialized and is not applicable to other types of environmental impact analysis.

The FAA and NPS have determined that an EA will be initiated for the Big Cypress ATMP. For the purposes of complying with NEPA regulations, the FAA is the lead agency, and the NPS is a cooperating agency. Under *NPATMA* both the FAA Administrator and NPS Director shall each sign the environmental decision document.

The FAA and NPS are now inviting the public, agencies, tribes, and other interested parties to provide comments, suggestions, and input regarding the Big Cypress ATMP. Generally speaking, the agencies would like to know about any concerns or ideas the public has regarding commercial air tour operations at Big Cypress and their management. A question to consider when providing input include: Are there any significant issues the agencies need to consider during the planning process, such as potential impacts on natural, cultural, and historic resources?

Instructions for submitting comments may be found in the Notice of Intent, provided at the beginning of this scoping packet.

After considering input from the public scoping process, the FAA in cooperation with the NPS will prepare an EA for public review and comment. If, after finalizing the EA, no significant impacts are found, a FONSI and a ROD will be prepared.

Additional information on the ATMP Program in general is available at:

[http://www.faa.gov/about/office\\_org/headquarters\\_offices/arc/programs/air\\_tour\\_management\\_plan/](http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/)

Interested parties may request information regarding the development of the ATMP for Big Cypress, as well as other parks' ATMPs, on this website.

\*\*\*\*\* End Part 1 \*\*\*\*\*

## **Part 2: Setting**

### ***A. Introduction***

This section describes the setting for the Big Cypress ATMP project. Descriptions of Big Cypress's natural and cultural resources, visitor experiences, and current commercial air tour activity are provided to assist the public and other interested parties in preparing meaningful comments. The most useful comments are those that address the scope of analysis, present significant issues, and suggest reasonable alternatives.

The *NPATMA* limits applicability of the ATMP to operations conducted within Big Cypress and the area within ½ mile of its boundary and within abutting tribal lands. Although the scope of authority is limited, the FAA recognizes its responsibility under applicable environmental laws to consider impacts on potentially affected resources located in the vicinity of Big Cypress but in excess of ½ mile outside the boundary of Big Cypress.

### ***B. Big Cypress National Preserve***

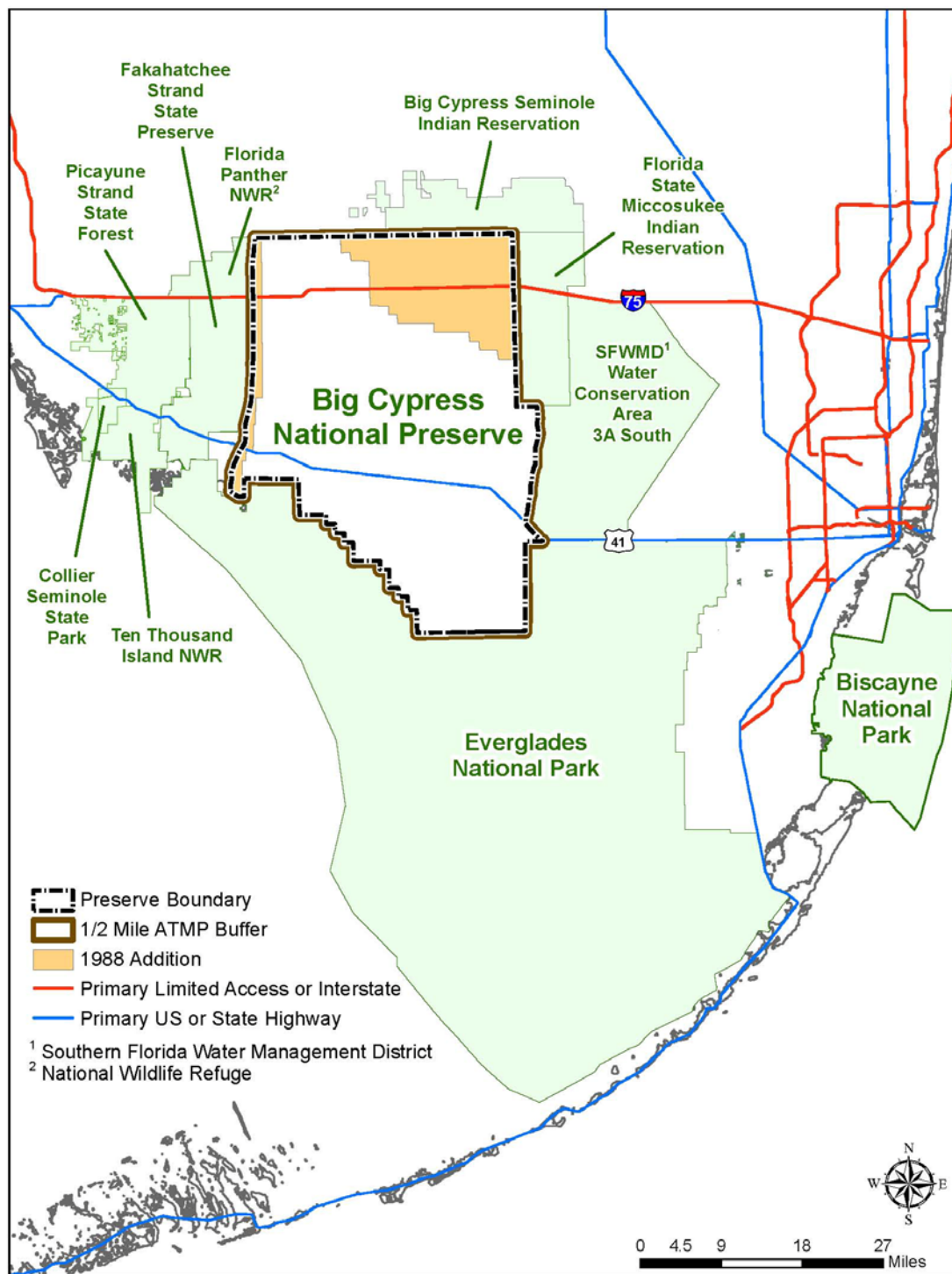
Big Cypress National Preserve is centrally located between Miami and Naples in the southwestern portion of Florida's peninsula. The boundaries of Big Cypress encompass over 720,000 acres of wetlands, and the freshwaters are essential to the health of the Everglades as well as vital to the rich estuaries of Florida's southwest coast. Additionally, Big Cypress serves as home for some Miccosukee Indians, and has, throughout time, also served as refuge or home for the Seminole Indians and early settlers. Big Cypress is adjacent to several other parcels of protected land, including, among others, Everglades National Park, Fakahatchee Strand Preserve State Park, and Florida Panther National Wildlife Refuge, as well as two Indian reservations (Big Cypress Seminole Indian Reservation, and Florida State Miccosukee Indian Reservation). Figure 1 presents a regional map of the area.

The original boundaries of Big Cypress contained 574,440 acres. In 1988, an additional 147,000 acres were added to Big Cypress by Public Law 100-301 (see Figure 1); this expansion consisted of two separate areas – the northeast addition (about 128,000 acres northeast of the original Big Cypress boundary) and the western addition (about 19,000 acres in a 1-mile strip of land adjacent to the original western boundary).

Annually Big Cypress averages 800,000 visitors. Visitors have access to view Big Cypress's delicate ecology through hiking, biking, paddling, or use of off-road vehicles (ORVs). The primary attractions of Big Cypress include its natural habitats, which consist of grassy prairies, hardwood hammocks, mangroves, pine forests, and coastal estuaries, all of which are home to a number of birds, mammals, and reptiles.

The purpose of Big Cypress National Preserve, as stated in its enabling legislation, is to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof.





**Figure 1. Big Cypress National Preserve, distinguishing between original Preserve area and 1988 “Addition” area (shown in tan), and showing ATMP ½-mile Buffer and adjacent areas.**



### Vegetation and Wildlife

Much of Big Cypress's lands are classified as wetlands, and the local hydrology determines the vegetative community in Big Cypress. While at one time, Big Cypress contained pristine cypress strands and old-growth pinelands, heavy logging over several decades had eliminated the vast majority of this vegetation by 1950. Today, these tree communities are still recovering, resulting in a vegetative landscape where old-growth pinelands occur alongside marshes, young cypress strands, cypress domes, mixed-hardwood swamps, mangrove forests, young pinelands and hardwood "hammocks" (small tree-islands), and widespread cypress prairies (natural grasslands dotted with stunted cypress trees).

Most of the wildlife species native to the south Florida region occur within the Big Cypress watershed. More than thirty animal species within Big Cypress receive some level of special protection or are recognized as rare species by the state of Florida or the Federal government; nine of these thirty species are listed as either Federally endangered or threatened. Of Big Cypress's wildlife, the following are of particular note:

- Red-cockaded woodpecker (*Picoides borealis*)
- Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*)
- Bald eagle (*Haliaeetus leucocephalus*)
- Florida panther (*Felis concolor coryi*)

Additionally, Big Cypress contains thirteen game species. Of these, the white-tailed deer (*Odocoileus virginianus*), wild turkey (*Meleagris gallopavo osceola*), and European feral hog (*Sus scrofa*) require special management considerations because of their importance to both recreational hunters and the endangered Florida panther.

### Cultural Resources: Archaeological and Historic Sites and Ethnographic Resources

The cultural resources of Big Cypress include archaeological, ethnographic, and historic resources. NPS manages these resources to preserve, protect, and interpret the resources and their settings.

#### *Archaeological*

Big Cypress has over 450 known archaeological sites, mostly representing the Glades Tradition and historic period, though some Archaic period sites and potentially one Paleo-Indian site also exist. Of these known archaeological sites, a small number have been identified by the NPS as in special need of protection.

#### *Historic*

Big Cypress has historically served as home to Native Americans, including the Miccosukee and Seminole tribes, as well as early settlers. The timber industry also operated in the area, and portions of Big Cypress were farmed. The first producing oil well in Florida was discovered in 1943 in what is now the northwest portion of Big Cypress, and wells are still producing oil today. There are nine sites listed on the National Register of Historic Places.

#### *Ethnographic Resources*

Ethnographic resources are defined as landscapes, sites, structures, objects or natural features that have significance due to the importance attached to them by a sociocultural group associated with the resource. The NPS traditionally define associated peoples as contemporary neighbors or ethnic or occupational groups that have been associated with a park unit for two or more generations (40 years) and whose interests in the park unit began prior to the park unit's establishment.

The Miccosukee and Seminole tribes have permanent rights to occupy and use land within Big Cypress, and home and business owners whose property meet certain criteria were permitted to keep their properties even though they were in Big Cypress. The Miccosukees and Seminoles have villages, agricultural plots, and ceremonial sites within Big Cypress and which they currently use.

#### Ground Based Visitor Experience

In recent years (2006-09), Big Cypress hosted over 800,000 annual visitors. In 2010 visitation was lower with 665,523 annual visitors. Visitation is generally highest December through April.

#### *Visitor Services/Facilities*

A variety of visitor services are provided within Big Cypress. The Oasis Visitor Center offers a 15 minute movie about Big Cypress as well as a wildlife exhibit and book sales. The Big Cypress Swamp Welcome Center and Loop Road Education Center also offer visitors additional information on Big Cypress. There are a variety of trails for hiking or ORV use, as well as roadside parks for picnicking along Tamiami Trail. Bicycles are permitted in the original Big Cypress boundary on the ORV trails and all roads. The Big Cypress Gallery, located along the Tamiami Trail, features the photography of Clyde Butcher.

Six primitive campgrounds are available to the public and are free of charge. Two additional developed campgrounds are available for a fee.

During the winter season Big Cypress offers scheduled ranger-led wet walks, presentations in the visitor center, and campfire programs at the campgrounds. In the summer season, environmental education programs are given to various summer schools and library groups in the Collier County area.

#### *Visitor Activities*

Visitor activities include driving tours, backcountry camping by hiking or off-road vehicle, ORV use, canoeing/kayaking, hunting and fishing, birding and wildlife viewing, and hiking.

### **C. Commercial Air Tour Activity and Air Tour Visitor Experience**

Visitors may gain an aerial perspective on Big Cypress's natural features and wildlife by taking an air tour flying out of Everglades Airpark to the west of Big Cypress.

In accordance with *NPATMA*, the annual air tour operations over and within a ½-mile outside the boundary of Big Cypress were capped at the number of existing operations reported in the operator's application, unless otherwise authorized by the FAA and NPS or until an ATMP is implemented. The FAA has granted IOA at Big Cypress to one commercial air tour operator; Wings – 10,000 Islands Aero Tours. This operator has been granted IOA for a total of 1,260 annual flights. Air tours are offered by the existing operator daily from November to May. There are currently five different routes taken by the tour, ranging from a 20 minute trip, to an hour long trip.

The generalized flight tracks for these existing flights are shown on Figure 2.

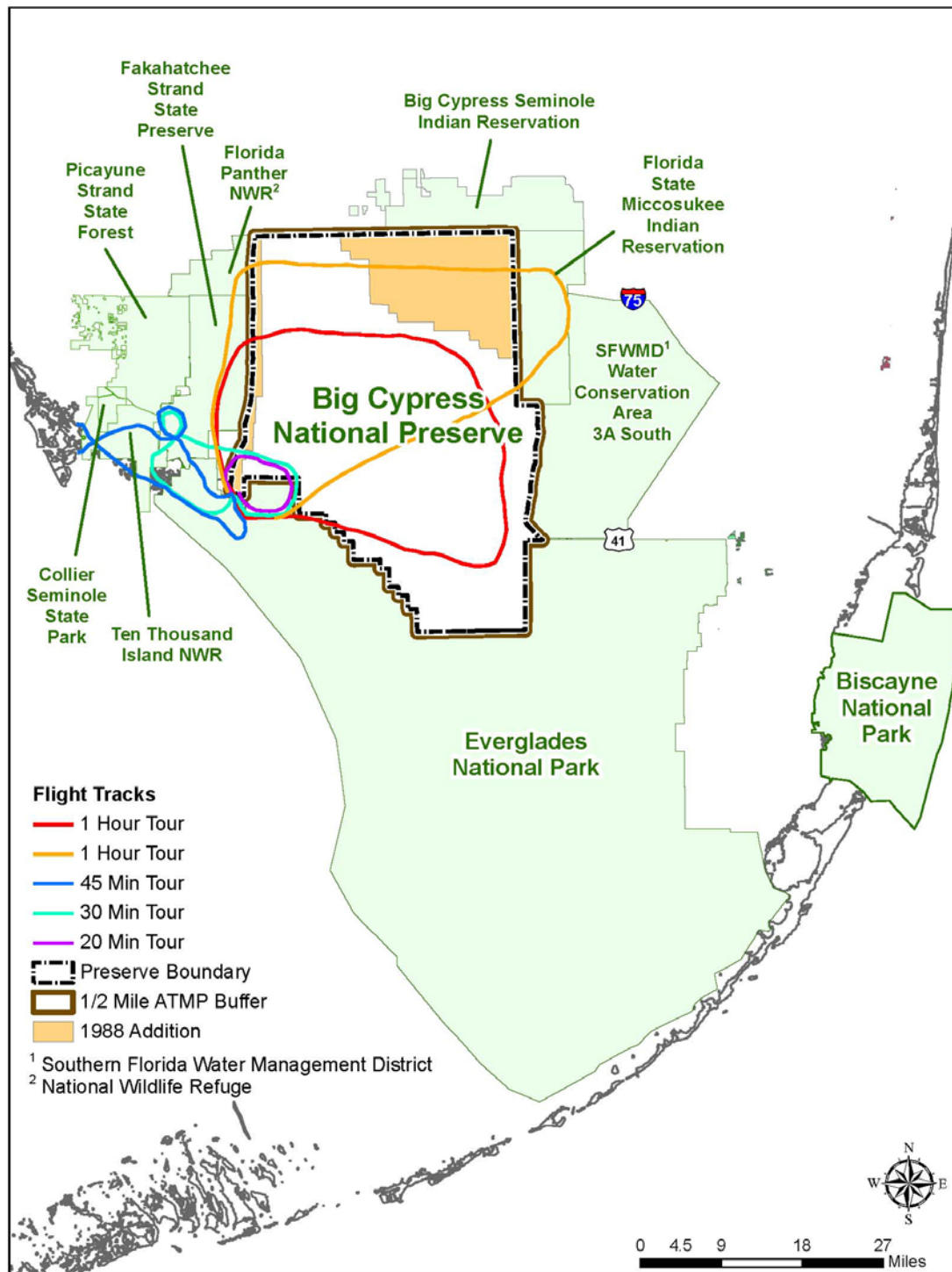


Figure 2. Generalized Flight Tracks for IOA-Allowed Commercial Air Tours in Big Cypress.

\*\*\*\*\* End Part 2 \*\*\*\*\*

## **Part 3: Federal Action and Alternatives**

### **A. Federal Action**

The proposed federal action is the establishment of an ATMP at Big Cypress in accordance with 14 CFR Part 136. The alternative selection will be based on adequate justification and will include any measures that are necessary to mitigate or prevent significant adverse impacts, if any, of commercial air tour operations, on natural and cultural resources and visitor experiences of Big Cypress and abutting tribal lands.

The ATMP will only apply to the airspace below 5,000 feet (ft) AGL over the area encompassed by Big Cypress and to the ½ mile buffer zone surrounding the Big Cypress boundary. The ATMP applies to all commercial air tour operations in this airspace (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the FAA requiring the pilot-in-command to take action to ensure the safe operation of the aircraft).

The purpose of this project is to comply with *NPATMA*, which directs the FAA and NPS to establish an ATMP for any national park or tribal lands for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The need to develop an ATMP at Big Cypress was triggered by statutory language in *NPATMA* that required the development of an ATMP for parks where commercial air tour operators applied for operating authority to conduct operations.

The environmental decision to be made is the selection of an ATMP alternative for Big Cypress. Once completed, the ATMP will be incorporated, either directly or by reference, into Title 14, CFR, Part 136, *National Park Air Tour Management*. Appropriate actions will be taken to implement the selected ATMP alternative, in compliance with the existing legislative, regulatory, and policy mandates of both the FAA and NPS.

*NPATMA* specifies that the ATMP be developed by means of a public process. This scoping process is one of the elements of that public process. A specific preferred alternative will be identified, following scoping and completion of a comprehensive environmental impact analysis.

### **B. Alternatives Development**

The alternatives are the “heart” of the NEPA process and must meet the *NPATMA* objective to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources and visitor experiences at Big Cypress.

The FAA and NPS have identified general reasonableness criteria that each ATMP alternative should: (1) be safe, (2) satisfy the Purpose and Need, (3) be technically and economically feasible, and (4) avoid repeating actions in other alternatives. As required by NEPA and Council on Environmental Quality (CEQ) regulations, the “No Action Alternative” must also be evaluated. FAA and the NPS have agreed that “no action” for purposes of developing an ATMP is defined as “no change” from current management direction or level of management intensity, as recommended in CEQ Guidance. Therefore, the No Action Alternative for Big Cypress will be an ATMP that codifies current and existing flight track conditions at the IOA level of annual operations. Figure 2 shows existing typical flight tracks and operating altitudes over and within ½ mile of Big Cypress’s boundary and abutting tribal lands. Commercial air tour operations over Big Cypress would be required to comply only with existing applicable FAA Regulations.

In addition to these criteria, the *NPATMA* and implementing regulations in 14 CFR Part 136 state that the ATMP for a park:

- May prohibit commercial air tour operations within ½ mile outside the boundary of a national park.

- May establish conditions for the conduct of commercial air tour operations, including, but not limited to, commercial air tour routes, maximum number of flights per unit of time, maximum and minimum altitudes, time of day restrictions, restrictions for particular events, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts.
- Shall apply to all commercial air tour operations within ½ mile outside the boundary of a national park.
- Shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at a park.
- Shall provide for the initial allocation of opportunities to conduct commercial air tour operations if the plan includes a limitation on the number of commercial air tour operations for any time period.
- Shall justify and document the need for measures taken pursuant to the items above.

At the conclusion of the scoping process, the FAA and NPS will develop alternatives to be carried forward for evaluation in the Draft EA. The public will have an opportunity to view the alternatives and their analysis when the Draft EA is distributed for public review and comment.

\*\*\*\*\* **End Part 3** \*\*\*\*\*

## **Part 4:       References**

Federal Aviation Administration (FAA), *Air Tour Management Program*  
([http://www.faa.gov/about/office\\_org/headquarters\\_offices/arc/programs/air\\_tour\\_management\\_plan](http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan))

National Park Service (NPS), *Big Cypress* (<http://www.nps.gov/bicy>)

NPS Public Use Statistics Office (<http://www.nature.nps.gov/stats/>)

NPS (1991), *General Management Plan*

NPS (2009), *Addition General Management Plan* (<http://www.nps.gov/bicy/parkmgmt/addition-lands-gmp.htm>)

\*\*\*\*\* End Part 4 \*\*\*\*\*

\*\*\*\*\* End of Document \*\*\*\*\*