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United States Court of Appeals
Tenth Circuit

October 22, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

BRUCE ADAMS, d/b/a Southwest Safaris,

Petitioner,

v.

FEDERAL AVIATION ADMINISTRATION; NATIONAL PARK SERVICE,

Respondents.

No. 25-9526
(Federal Aviation Administration)

ORDER AND JUDGMENT*

Before **McHUGH**, **BALDOCK**, and **ROSSMAN**, Circuit Judges.

Bruce Adams, doing business as Southwest Safaris and proceeding pro se,[1] petitions this court to review an order by the Federal Aviation Administration (FAA) and National Park Service (NPS, and collectively, the Agencies) issuing an Air Tour

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* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

[1] Because Mr. Adams proceeds pro se, we liberally construe his filings, but we do not act as his advocate. *See Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005).

Management Plan (ATMP) for Canyon de Chelly National Monument (the Monument) under 49 U.S.C. § 40128(b)(5). Exercising jurisdiction under 49 U.S.C. §§ 40128(b)(5) and 46110(a), we deny the petition for review.

I

A

The National Parks Air Tour Management Act of 2000 (NPATMA), 49 U.S.C. § 40128, allows the Agencies to regulate commercial air tour flights over national parks and tribal lands. It requires the Agencies to "establish an air tour management plan for any national park or tribal land . . . whenever a person applies for authority to conduct a commercial air tour operation over the park." *Id.* § 40128(b)(1)(A). "The objective" of every ATMP "shall be 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, visitor experiences, and tribal lands." *Id.* § 40128(b)(1)(B). To address "significant adverse impacts," an ATMP may prohibit air tour operations "in whole or in part." *Id.* § 40128(b)(1)(B) & (b)(3)(A). Or it may impose other measures, including limitations on routes, flight altitude, and flight times. *Id.* § 40128(b)(3)(B).

The Monument spans 84,000 acres in northeastern Arizona and lies within the Navajo Nation Reservation. It is home to extensive cultural resources—including archaeological sites, Tribal sacred sites, traditional cultural properties, and ancestral sites—that are of profound cultural and spiritual meaning to the Navajo people. *See* R. vol. 3 at 1448, 1452 (detailing the extensive cultural resources in the Monument).

After proposing 43 air tours annually over the Monument, the Agencies sought feedback from the Navajo Nation's President, Navajo departments and divisions, local Navajo government chapters,[2] and individual tribal members. The Agencies placed "an emphasis on communicating with Chapter House delegates," who "play an essential role in the shared stewardship of the Canyon de Chelly area." R. vol. 1 at 12. The feedback the Agencies received reflected the Navajo overwhelmingly opposed any air tours over the Monument. For example, all five chapters representing tribal members who live in and around the Monument passed resolutions stating, among other things, overflights "disturb residential areas, farmers and ranchers[;] impact the serenity, peaceful enjoyment, and visitor experience of the natural soundscape; and produce safety and privacy concerns." *Id.* Those resolutions also "expressed that overflights, including commercial air tours, are disruptive and limit Tribal members' ability to engage freely in religious and cultural activities in the Park." *Id.* at 35. After considering this feedback, the Agencies proposed a draft ATMP prohibiting air tours.

The Agencies also prepared an environmental assessment (EA) under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321-4370m-12. It evaluated two alternatives: a "No Action Alternative" that would allow the continuation of air tours, and a "Preferred Alternative" that would prohibit air tours

[2] A Navajo chapter is "a political and social unit of the Navajo Nation, with its boundaries and membership determined by the Tribe." *Hydro Res., Inc. v. EPA*, 608 F.3d 1131, 1137 (10th Cir. 2010).

over the Monument altogether. R. vol 1 at 14. The EA rejected the "No Action Alternative," concluding that it "unreasonably interferes with Tribal cultural connections to the sacred landscape of the [Monument]." R. vol. 1 at 16. The FAA conducted a review of the effects of an air-tour prohibition under the National Historic Preservation Act (NHPA). *See* 54 U.S.C. § 306108. It found the prohibition would not adversely affect historic properties.

In April 2024, the Agencies published notice for public comment of the draft ATMP, along with the draft EA. They also organized two public meetings. The Agencies reviewed and addressed 33 comments on the draft in a comment summary report, including comments from Mr. Adams on behalf of Southwest Safaris.

Eight months after publishing the draft ATMP for public comment, the Agencies issued a record of decision (ROD), final EA and finding of no significant impact, and final ATMP. The Agencies found, based on the information and input received, air tours cause significant adverse impacts to the Monument's cultural resources. *See* R. vol. 1 at 35 (noting feedback reflecting that "overflights, including commercial air tours, disturbed gatherings and traditional religious practices, at sacred sites, impacted viewsheds to sacred geological formations . . . and disrupt the tranquility of accessing the lands for reflection or cultural purposes"); *id.* at 36 ("The significant adverse impacts on the [Monument's] cultural resources relate to traditional cultural properties and the intrusion of commercial air tours upon the performance of ceremonies, rituals[,] prayer, and other traditional practices."). The Agencies also found the impacts to cultural resources could not be avoided by

re-routing the air tours because "sensitive locations are densely distributed throughout the [Monument]." *Id.* at 37. Nor would restricting air tours to certain times of day resolve the issue, because traditional activities and religious ceremonies occur continually throughout the Monument. *Id.* The final ATMP thus found "the prohibition of commercial air tours within the ATMP boundary is an acceptable and effective measure to mitigate or prevent significant adverse impacts on the [Monument's] cultural resources and Tribal lands." *Id.* at 38.

B

Bruce Adams operates Southwest Safaris, a single-pilot air carrier. He has led educational air tours across the American Southwest since 1974. After the enactment of NPATMA in 2000, four air tour operators were granted interim operating authority to fly 175 air tours annually over the Monument, with Southwest Safaris authorized to fly 147 of those. Since 2017, Southwest Safaris is the only operator to report flying air tours over the Monument and reported flying an average of 43 such tours between 2017 and 2019, and a high of 82 in 2023. Mr. Adams says his routes over the Monument are offset from the canyons so no one standing on the canyon floor can see the aircraft, that his air tours have no noise impacts, and that he never circles any part of the Monument.

Mr. Adams communicated with the Agencies extensively, submitting more than 70 pages of comments on the draft ATMP. He argued the ATMP should allow flights over the Monument and previous air tours over the Monument had caused no adverse impact on any individuals or cultural properties.

Mr. Adams filed a timely petition in this court for review of the final ATMP. Federal law allows "a person disclosing a substantial interest in an order issued by" the FAA to "apply for review of the order by filing a petition for review in . . . the court of appeals of the United States for the circuit in which the person resides or has its principal place of business." 49 U.S.C. § 46110(a); *see also id.* § 40128(b)(5) ("An [ATMP] developed under this subsection shall be subject to judicial review."). Because Southwest Safaris has its principal place of business in New Mexico, we have jurisdiction to review the petition. *See Adams v. FAA ("Adams I")*, 168 F.4th 1271, 1277 (10th Cir. 2026) (exercising jurisdiction over a similar petition filed by Mr. Adams concerning an ATMP issued for Bandolier National Monument).

II

We review Mr. Adams's challenge to the final ATMP under the Administrative Procedure Act (APA), which requires us to assess whether its adoption by the Agencies was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). We "may not supply a reasoned basis for the agency's action that the agency itself has not given." *Motor Vehicle Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (2005). Nor may we "accept appellate counsel's *post hoc* rationalizations for agency action." *Id.* at 50. We do not ask whether we agree with the agency decision, but only "whether the agency action was reasonable and reasonably explained." *Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168, 180 (2025). We "must uphold even a decision of less than ideal clarity if the agency's path may be

reasonably discerned." *Garland v. Ming Dai*, 593 U.S. 357, 369 (2021) (internal quotation marks omitted). A reasonably discernible path exists when the agency's explanation is "clear enough." *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016).

A

1

We recently held that "the Agencies must find 'significant adverse impacts' before prohibiting air tours under NPATMA" because "[t]he statutory text confirms [such] a finding . . . is required to justify restrictions on commercial air tours in an ATMP." *Adams I*, 168 F.4th at 1278 (quoting 49 U.S.C. § 40128(b)(1)(B)). In this case, the record supports the Agencies' finding that air tours cause significant adverse impacts to the Monument's cultural resources, as well as to the privacy interests of the Navajo people residing within the Monument. And on the record before us, the Agencies' decision to prohibit air tours over the Monument was both "reasonable and reasonably explained," *Seven Cnty. Infrastructure Coal.*, 605 U.S. at 180.

NPATMA directs agencies, in establishing an ATMP, to "solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies." 49 U.S.C. § 40128(b)(4)(D). Because the entirety of Canyon de Chelly National Monument lies within the boundaries of the Navajo

Nation and holds profound cultural and religious significance to the Navajo people,[3] the Agencies engaged with the Navajo Nation President's office and appropriate departments regarding an ATMP for the Monument. They also sought input from the five Navajo chapters situated in or near the Monument.

The Agencies received extensive feedback from the Navajo Nation objecting to tourist overflights of the Monument, reflecting concerns that the flights intrude on residents' privacy and the privacy of those performing cultural and religious practices and diminish the sacredness of the Monument for the Navajo. All five chapters passed resolutions urging a prohibition of air tours over the Monument. The record includes many comments solicited from Navajo tribal members, including the Chinle Chapter, supporting the chapter resolutions. The President of the Navajo Nation informed the Agencies by letter that he supported the chapters' opposition to "any air tours over these sacred lands." R. vol. 3 at 1423.

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[3] As the final ATMP explained:

> Tangible cultural resources within the [Monument] include archaeological sites, sacred sites, ancestral sites, cultural landscapes, and traditional cultural properties, all of which include the natural resources within them. Intangible cultural resources include the cultural connections that the Navajo people have to these lands, including carrying out traditional cultural practices and ceremonies within the [Monument]. These cultural resources are on Tribal trust lands and are sacred to the Navajo Nation.

R. vol. 3 at 1452.

The Agencies found that air tours over the Monument have significant adverse impacts to its cultural resources and to the privacy interests of the Navajo people, based on the feedback from the President of the Navajo Nation, the affected Navajo chapters, and individual residents. We conclude those findings were reasonable. Mr. Adams makes several arguments in support of his assertion that Southwest Safaris air tours cause no significant adverse impact, but none of his arguments are availing.

First, Mr. Adams seems to argue Southwest Safaris overflights are not air tours at all because he only transports passengers to nearby Chinle, Arizona or other parks like Grand Canyon National Park. But the Agencies reasonably concluded that Southwest Safaris is a Canyon de Chelly air tour operator under the relevant statutory factors, including that its own website represents itself as an air tour operator; its flights provide a narrative about areas within the Monument; and it self-reported having flown an average of 43 Canyon de Chelly tours from 2017 to 2019, and a high of 82 tours in 2023. *See* 49 U.S.C. § 40128(g)(4)(B) (listing permissible factors to consider in determining whether a flight is a commercial air tour operation for purposes of NPATMA).

Second, Mr. Adams argues that Southwest Safari flights impose only minimal noise and that, if they are not heard, they do not interrupt tribal members' cultural or religious practices. But noise is separate from other types of impacts recognized by NPATMA, including "intrusions on privacy on tribal lands," 49 U.S.C. § 40128(b)(3)(B). Such impacts can be significant "*regardless* of the intensity or

duration of . . . overhead air tours." *Adams I*, 168 F.4th at 1282. As the Agencies found:

> The significant adverse impacts on Tribal lands are primarily due to the invasion of the privacy of the Navajo people. The significant adverse impacts on the Park's cultural resources relate to traditional cultural properties and the intrusion of commercial air tours upon the performance of ceremonies, rituals[,] prayers, and other traditional practices. The invasion of privacy creates an aversion to perform ceremonies, rituals, prayers, and other traditional practices under observation.

R. vol. 1 at 36. Mr. Adams has not shown that these findings were arbitrary or capricious.

Third, Mr. Adams argues the FAA's finding of "no significant impact" under NEPA contradicts the Agencies' conclusion that air tours cause "significant adverse impacts" under NPATMA. We rejected this same argument in a similar petition Mr. Adams filed with respect to another ATMP issued for a different national monument. *See Adams I*, 168 F.4th at 1280 ("'[S]ignificant' under NPATMA has a different meaning than 'significantly' under NEPA."). There, we observed "[c]ommercial air tours . . . primarily interrupt [cultural and religious] practices by their physical presence and invasion of privacy which denigrates the sacred space that the Park protects." *Id.* (internal quotation marks omitted). So too here. There is no contradiction in concluding the air tours create adverse impacts to the Monument that are "significant" under NPATMA, even if the impacts are not "significant[]" under NEPA's different standard. *Id.*

Fourth, Mr. Adams argues the Agencies based their analysis on incorrect air tour routes and altitude. But the Agencies requested and reasonably relied on flight

pattern information that Southwest Safaris provided, and Mr. Adams does not contend that the original flight pattern information on which the Agencies relied contained any errors. Southwest Safaris also points out that it did advise the Agencies—two days before the issuance of the final ATMP—that it had modified its flight patterns. But if "tour operators could change their flight patterns at any time and require the agencies to redo their analyses," agency decision making would be "render[ed] . . . intractable." *Badger Helicopters Inc. v. FAA*, 154 F.3d 902, 914 (8th Cir. 2025) (internal quotation marks omitted); *see also Hillsdale Env't Loss Prevention, Inc. v. U.S. Army Corps of Eng'rs*, 702 F.3d 1156, 1169 (10th Cir. 2012) ("agencies must have some discretion to decide when to draw the line and move forward with decisionmaking" (internal quotation marks omitted)). In short, the Agencies did not abuse their discretion in relying on the flight patterns Southwest Safaris originally provided.

Fifth, Mr. Adams notes how many visitors enter the Monument on ground tours or by driving along the canyon rims, and he therefore characterizes Canyon de Chelly as more of a recreation area with no privacy interests to protect. The Agencies reasonably rejected his position. The Monument is entirely on Navajo Nation tribal trust lands and is occupied by more than 600 Navajo tribal members, whose privacy NPATMA specifically requires the Agencies to consider in establishing conditions for commercial air tour operations, *see* 49 U.S.C. § 40128(b)(3)(B).

Finally, Mr. Adams contends the Navajo Nation's opposition to air tours is insufficient proof of adverse impacts on the Monument. We discern no error in the Agencies' reliance on Navajo tribal input, especially in light of the statutory directive to "solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies," 49 U.S.C. § 40128(b)(4)(D).

2

We conclude the Agencies provided a reasoned explanation for why a prohibition on air tours was an acceptable and effective measure to mitigate or prevent those impacts. *See* 49 U.S.C. § 40128(b)(3)(F) (requiring an ATMP to "justify and document" the need for measures taken, including prohibition of air tours). The Agencies explained (1) air tours cannot simply be rerouted because the shape of the Monument is defined by its canyons and waterways, and sensitive locations are densely distributed throughout, and (2) traditional activities and ceremonies in the Monument are performed throughout the day, so time-of-day restrictions would be ineffective in avoiding the significant adverse impacts discussed above. Each justification was supported by evidence in the record, and we reject Mr. Adams's arguments to the contrary.

III

Mr. Adams also argues the final ATMP violates NEPA and the NHPA. We are not persuaded.

NEPA requires federal agencies to prepare a "detailed statement" assessing the environmental effects of all "major Federal actions significantly affecting the quality of the human environment." 42 U.S.C. 4332(2)(C). NHPA requires federal agencies to "take into account the effect" of a proposed federal or federally assisted "undertaking on any historic property." 54 U.S.C. § 306108. An "undertaking" means "a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including . . . those requiring a Federal permit, license, or approval." *Id.* § 300320(3). We review the Agencies' compliance with those laws under the Administrative Procedure Act, 5 U.S.C. § 702. *See Diné Citizens Against Ruining Our Env't v. Bernhardt*, 923 F.3d 831, 839 (10th Cir. 2019) ("Neither NEPA nor NHPA provide a private right of action, so we review the [relevant] decisions as final agency action[s] under the APA." (internal quotation marks omitted)).

Mr. Adams contends the Agencies applied NEPA and NHPA procedures before making a significant-adverse-impact finding under NPATMA, thus creating a conflict between the statutes. He also argues the Agencies failed to consider reasonable alternatives under NEPA, such as a "safety corridor" over Canyon de Chelly allowing certain overflights 1,000 feet above ground level. Opening Br. at 9. Finally, he disputes the FAA's finding under NHPA that the ATMP would have no adverse effects on historic properties. The Agencies respond they appropriately followed NEPA and NHPA in developing the final ATMP. We agree with the Agencies.

"Under NEPA, an agency's only obligation is to prepare an adequate report." *Seven Cnty. Infrastructure Coal.*, 605 U.S. at 180; *see also id.* at 173 (stating, "NEPA is a purely procedural statute" that "imposes no substantive environmental obligations or restrictions"). NHPA requires agencies to "take into account the effect of the undertaking on any historic property." 54 U.S.C. § 306108. But NPATMA requires the Agencies to "develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations." 49 U.S.C. § 40128(b)(1)(B). In developing the final ATMP, the Agencies prepared a detailed EA under NEPA, and under NHPA, they consulted the Navajo Nation's Tribal Historic Preservation Officer, 23 other tribes, Apache County, the Nation Parks Conservation Association, and Mr. Adams. We discern no error.

IV

Finally, Mr. Adams challenges NPATMA as unconstitutional under several theories. We address each in turn.

Mr. Adams first argues NPATMA violates his First Amendment rights because it "is targeted at specific kinds and content of speech, namely expression of scenic interpretation, with intent to limit its delivery." Opening Br. at 51. We reject this argument because "the First Amendment does not prevent restrictions directed at commerce or conduct from imposing incidental burdens on speech."[4] *Sorrell v. IMS*

[4] Mr. Adams submitted a letter under Fed. R. App. P. 28(j) notifying the court of *Chiles v. Salazar*, 146 S. Ct. 1010 (2026). *Chiles* involved a First Amendment challenge to Colorado's ban on "conversion therapy." It is not instructive to our resolution of Mr. Adams' challenge under NPATMA.

Health, Inc., 564 U.S. 552, 567 (2011). Under NPATMA, the fact that a flight contains a narrative is merely one factor to consider in determining whether it is a commercial air tour, *see* § 40128(g)(4)(B); the narrative itself is not the object of the regulation. *Cf. Flytenow, Inc. v. FAA*, 808 F.3d 882, 894–95 (D.C. Cir. 2015) (holding FAA did not violate the First Amendment by relying on online speech as evidence that pilots represented themselves as common carriers under FAA regulations). And "it has never been deemed an abridgment of freedom of speech . . . to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out by means of language." *Rumsfeld v. F. for Acad. & Inst. Rts., Inc.*, 547 U.S. 47, 62 (2006) (internal quotation marks omitted).

Next, Mr. Adams argues NPATMA violates his due process rights under the Fifth Amendment. We rejected this argument in a prior appeal brought by Mr. Adams, *Adams*, 168 F.4th at 1285 n.9, and we reject it here as well. As we observed, "due process is flexible and calls only for such procedural protections as the particular situation demands." *Id.* (internal quotation marks omitted). NPATMA requires agencies to hold at least one public meeting, publish the proposed ATMP for notice and comment, and make copies available to the public. § 40128(b)(4)(A)–(B). The Agencies complied with these requirements in this case, and we discern no due process problem.

Mr. Adams next argues NPATMA violates his right to equal protection under the Fifth Amendment,[5] because all commercial flights should have the same access to airspace, and the statute exempts flights over Lake Mead National Recreation Area en route to conduct air tours over Grand Canyon National Park. "Different types of equal protection claims call for different forms of review." *Brown v. Montoya*, 662 F.3d 1152, 1172 (10th Cir. 2011). A discrimination claim "on the basis of a suspect (e.g., race), quasi-suspect (e.g., gender), or a non-suspect classification calls for strict, intermediate, or rational basis scrutiny, respectively." *Id.* Here, Mr. Adams asserts that NPATMA discriminates based on non-suspect classifications: commercial-flight status, and parks. Accordingly, we evaluate his arguments on rational-basis review. This means Mr. Adams must "negative every conceivable basis which might support" NPATMA. *Heller v. Doe ex rel. Doe*, 509 U.S. 312, 320 (1993). He has not attempted to do so. *See Adams I*, 168 F.4th at 1285 (rejecting Mr. Adams's similar equal protection claim for failure to adequately brief the issue).

For his fourth constitutional challenge, Mr. Adams argues NPATMA violates the Port Preference Clause and the Commerce Clause. *See* U.S. Const., art. I, § 9, cl. 6 ("No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another[.]"); *id.*, art. I, § 8, cl. 3 ("Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several

[5] He also challenges NPATMA under the Fourteenth Amendment, but "the Fourteenth Amendment applies only to the states." *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954).

States, and with the Indian tribes."). Mr. Adams's argument is limited to only a few conclusory sentences, and he does not adequately explain how either clause is implicated by NPATMA. "Cursory discussion on appeal fails to preserve an argument." *Adams I*, 168 F.4th at 1285 n.8. We therefore reject this challenge. *See Harsco Corp. v. Renner*, 475 F.3d 1179, 1190 (10th Cir. 2007) ("[A] party waives those arguments that its opening brief inadequately addresses.").[6]

Mr. Adams's fifth constitutional argument is that NPATMA violates the Ex Post Facto Clause. But NPATMA does not impose criminal penalties, and "[t]he Ex Post Facto Clause . . . has been interpreted to pertain exclusively to penal statutes." *Kansas v. Hendricks*, 521 U.S. 346, 370 (1997).

Finally, Mr. Adams appears to argue that NPATMA unconstitutionally delegates legislative authority to the Agencies. The test for assessing such a claim is "whether Congress has set out an 'intelligible principle' to guide what it has given the agency to do." *FCC v. Consumers' Rsch.*, 606 U.S. 656, 673 (2025) (quoting *J.W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394, 409 (1928)). "[I]n examining a statute for the requisite intelligible principle," the Supreme Court has "generally assessed whether Congress has made clear both 'the general policy' that the agency must pursue and 'the boundaries of [its] delegated authority.'"

[6] In the same paragraph, Mr. Adams also contends that because NPATMA exempts Alaska from its requirements, it violates 54 U.S.C. § 100101((b)(1)(B), which he says mandates that all parks in the National Park System be treated equally. That section, however, says only that the areas in the National Park System express a "single national heritage"—not that they must all be treated equally. Indeed, that section acknowledges the obvious point that the parks are "distinct in character." *Id.*

Consumers' Rsch., 606 U.S. at 673 (quoting *Am. Power & Light Co. v. SEC*, 329 U.S. 90, 105 (1946)). NPATMA makes clear its general policy by stating its "objective" is to "prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands," 49 U.S.C. § 40128(b)(1)(B). And it sets the boundaries of the Agencies' delegated authority by specifying what they "shall" and "may" do in an ATMP. *See id.* § 40128)(b)(3). We therefore reject Mr. Adams's argument.

V

We deny the petition for review.

Entered for the Court

Veronica S. Rossman
Circuit Judge