



ORDER
5050.4B

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

**NATIONAL ENVIRONMENTAL POLICY ACT
(NEPA) IMPLEMENTING INSTRUCTIONS
FOR AIRPORT ACTIONS**

Effective Date: April 28, 2006

Initiated by: APP-1



**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

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SUBJ: National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions.

The Federal Aviation Administration's Office of Airports (ARP) is responsible for identifying major Federal actions involving the Nation's public-use airports. After determining that an airport sponsor is proposing a major Federal action, ARP is responsible for analyzing the environmental effects of that action and its alternatives. ARP issues Order 5050.4B to provide instruction on evaluating those environmental effects.

Order 5050.4B supplements FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures." That Order provides all FAA organizations with policies and procedures for complying with NEPA and the implementing regulations the Council on Environmental Quality has issued (40 CFR Parts 1500-1508).

Order 5050.4B substantially updates and revises Order 5050.4A, "Airports Environmental Handbook." ARP's issuance of Order 5050.4B cancels Order 5050.4A, which has served ARP well for over 20 years.

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Director of Airport Planning and Programming
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INTRODUCTION

FAA is the Federal agency responsible for providing the nation with a safe, efficient, civil aviation system. FAA's Office of Airports (ARP) is the FAA organization responsible for FAA decisions on major Federal actions at public-use airports.

ARP's mission. The mission of FAA's Airports organization is to provide leadership in planning and developing a safe, efficient national airport system to satisfy the needs of the aviation interests of the United States. In carrying out this mission, ARP will consider economics, environmental compatibility, and local proprietary rights, and safeguard the public investment.¹

Purpose of this Order. This Order provides information to ARP personnel and others interested in fulfilling National Environmental Policy Act (NEPA) requirements for airport actions under FAA's authority. This Order is part of FAA's effort to ensure its personnel have clear instructions to address potential environmental effects resulting from major airport actions. In preparing Order 5050.4B, ARP has made it consistent with Order 1050.1E.²

Information on Federal environmental laws other than NEPA appears in another document entitled, *An Environmental Desk Reference for Airport Actions*. ARP will publish notices in the *Federal Register* announcing the *Desk Reference's* availability.

Updating this Order. As needed, ARP will publish in the *Federal Register* a notice of proposed changes to this Order for public review and comment. ARP will do so after coordinating those changes with the Office of the Secretary of Transportation, FAA's Office of the Chief Counsel, and FAA's Office of Environment and Energy to ensure Departmental and agency concurrence.

The proposed changes will appear on the ARP web page. The *Federal Register* notice mentioned previously will provide the internet address where interested parties may find those changes. Interested parties without internet access may request a free CD-ROM version or a paper copy of the proposed text. ARP will issue updates to the *Desk Reference* mentioned above on a special ARP web page.

Updating the *Desk Reference*. ARP will also issue notices when it updates the *Desk Reference* to reflect changes in environmental laws, regulations, or executive orders other

¹ http://www.faa.gov/about/office_org/headquarters_offices/arp/.

² *Environmental Policies and Procedures* at www.faa.gov/regulations_policies/orders_notices/media/ALL1050-1E.pdf.

than NEPA. ARP will also notify airport associations of updates and request their cooperation in distributing new information.

The need to consider an action's environmental impacts. In passing NEPA, Congress recognized the importance of restoring and preserving environmental quality and declared:

“the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, is to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” (42 U.S.C. Section 4331).

Through NEPA, Congress requires Federal agencies to consider the environmental effects of proposed actions and their reasonable alternatives.

Considering environmental impacts is the agency's responsibility. FAA begins its consideration of environmental issues early in its decision making process. Eventually, when selecting a preferred alternative, the approving FAA official often finds that FAA's mission has unavoidable environmental impacts.

The NEPA document. To select a preferred alternative under NEPA, the approving FAA official considers the environmental effects a proposed action and its reasonable alternatives would cause in meeting a defined purpose and need. During that process, the official also considers the safety, economic, technical, and engineering factors of those alternatives.

To consider the environmental effects of the no action alternative, the proposed action and its reasonable alternatives, ARP prepares or reviews environmental documents describing environmental effects proposed airport actions would cause. The Environmental Assessments (EA) ARP personnel review or the Environmental Impact Statements (EIS) they prepare provide interdisciplinary analyses showing that FAA officials have taken “ a hard look” at the environmental impacts a proposed action and its reasonable alternatives would cause.

The documents also allow FAA to provide interested agencies and the public the opportunity to review the scientific and technical information ARP personnel consider. This information focuses on environmental impacts and the conceptual measures that would mitigate those effects. Finally, EAs and EISs provide agencies and the public with information so they can comment on those impacts and FAA's analyses of them.

When an EA is prepared, FAA may issue a Finding of No Significant Impact to present its determination that an action would not significantly affect environmental resources. Conversely, its review of an EA may show that an EIS is needed because the actions

would significantly affect those resources. After completing an EIS, FAA prepares a Record of Decision to explain the decisionmaker's rationale for selecting FAA's preferred alternative. Regardless of the document prepared, the NEPA process leads to a final FAA decision to approve or not approve a proposed airport action.

CHAPTER 1. ORDER OBJECTIVES AND DEFINITIONS

1. THE NATIONAL ENVIRONMENTAL POLICY ACT. The National Environmental Policy Act of 1969 (NEPA) is one of the Federal laws passed to protect the nation's environment. As 40 CFR 1500.1(a) notes:

“The National Environmental Policy Act (NEPA) is our basic national charter for protecting the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains ‘action-forcing’ provisions to make sure that federal agencies act according to the letter and spirit of the Act.”

2. NEPA'S OBJECTIVES. NEPA requires each Federal agency to disclose to the interested public a clear, accurate description of potential environmental impacts that proposed Federal actions and reasonable alternatives to those actions would cause. Through NEPA, Congress directed Federal agencies to integrate environmental factors in their planning and decision making processes. This provides the public with a fair, open opportunity to review and comment on those alternatives and impacts and other important environmental matters related to a proposed Federal action. In approving the Federal actions necessary to support an airport development proposal, the approving FAA official must consider environmental effects as fully and as fairly as it does technical, economic, and other non-environmental considerations.

3. COUNCIL ON ENVIRONMENTAL QUALITY REGULATIONS. NEPA created the President’s Council on Environmental Quality (CEQ). CEQ’s responsibilities include developing national policies to foster and promote improving environmental quality and oversight of the Federal government's NEPA activities. CEQ has issued regulations at 40 CFR, Part 1500 *et. seq.* providing directions on how to comply with NEPA. This Order uses CEQ terms in 1500 *et. seq.* when possible and cites the applicable CEQ regulation as, "40 CFR 1508," "40 CFR 1508.9," etc.

4. FAA’S ENVIRONMENTAL OBJECTIVES. Provisions in 49 USC section 40101 describe FAA’s multiple missions. In proposing actions to carry out its mission to maintain safety and efficiency in air commerce and to consider the requirements of national defense and commercial and general aviation, FAA must comply with NEPA. To do this, FAA must consider ways to enhance environmental quality and avoid or minimize adverse environmental impacts resulting from proposed FAA actions and their reasonable alternatives.

5. THE PURPOSE OF THIS ORDER. FAA’s Office of Airports (ARP) has prepared this Order to ensure ARP personnel and others interested or involved in ARP actions are able to prepare accurate, timely, and high quality environmental documents that comply with NEPA.

a. Instructions to FAA personnel. This Order directs ARP personnel to carefully consider and weigh the environmental impacts of Federal actions and their reasonable alternatives. The evaluation used to do so must employ an interdisciplinary approach and occur in a timely, efficient, and comprehensive manner. This Order directs FAA personnel to involve other Federal agencies, State and local agencies, agencies and officials having expertise on environmental resources and the affected or interested public in this process. When appropriate, FAA should also involve Tribal officials having jurisdiction by law.

b. Relationship of this Order to FAA Order 1050.1E. Users of this Order must interpret it in a manner that is consistent with FAA Order 1050.1E, *Environmental Impacts: Policies and Procedures*. Order 1050.1E describes FAA's agency-wide environmental policy and how FAA will comply with NEPA. Order 5050.4B supplements FAA Order 1050.1E by providing NEPA instructions prepared especially for proposed Federal actions to support airport development projects. Therefore, Order 5050.4B:

(1) Cross-references the paragraphs in Order 1050.1E identifying actions associated with airport projects that normally qualify for categorical exclusions and provides a table listing those actions for convenience.

(2) Incorporates the extraordinary circumstances described in Order 1050.1E that ARP must consider when determining if proposed FAA actions qualify as categorical exclusions.

(3) Applies the impact thresholds in Order 1050.1E, Appendix A, to determine if a proposed FAA action and its reasonable alternatives would cause significant environmental impacts. This Order also provides factors specific to resources to help the responsible FAA official determine impact significance.

(4) Defines the term, "special purpose laws" and provides information about their relation to the NEPA process.

(5) Explains how to include resource agencies and the public in the environmental process for major Federal actions involving airport projects.

(6) Provides information to ARP personnel and other interested parties about airport-related:

(a) Categorical exclusions.

(b) Environmental assessments (EAs) and Findings of No Significant Impact (FONSIs) and Records of Decision for FONSIs.

(c) Environmental impact statements (EISs) and EIS Records of Decision (RODs).

6. OTHER ORDER USERS. Airport sponsors, their environmental consultants, and other interested parties should use this Order for airport actions under FAA's purview and those under the purviews of state aviation agencies participating in FAA's State Block Grant Program. Instructions in this Order should help those parties complete the environmental review process efficiently and facilitate FAA decisions on proposed airport actions. The Order provides information:

(a) To airport sponsors on proposed projects that may be categorically excluded.

(b) To airport sponsors, their environmental consultants, and other interested parties about preparing EAs for proposed airport projects and how FAA will determine if the EAs are acceptable and if FONSI's are appropriate for those projects.

(c) About the process ARP must complete for airport projects having impacts that require FAA (ARP) to prepare EISs and issue Records of Decision.

7. DISTRIBUTION. ARP provides this Order to personnel in these locations:

a. Headquarters. Division and Branch levels in the Offices of Airport Planning and Programming; Airport Standards; the Chief Counsel; and Environment and Energy:

b. Regions.

(1) Airports Division offices and their associated levels.

(2) Airports District Offices (ADO) and Airports field offices.

(3) Regional Counsels.

c. Aeronautical Center, Airports and Logistics Branch.

d. Other interested parties. Other interested parties may get a copy of this from ARP's internet site (http://www.faa.gov/airports_airtraffic/airports/).

(1) **Interested parties without internet access.** Interested parties may request a computer disk containing this Order by writing to:

Federal Aviation Administration
Office of Airport Planning and Programming
Airport Planning and Environment Division (APP-400)

April 2006

ORDER 5050.4B

800 Independence Avenue, S.W.
Washington, D.C. 20591

(2) Interested parties without computers. Interested parties may obtain a photocopy of the Order, for a fee, by contacting FAA Rules Docket at:

Federal Aviation Administration
Office of the Chief Counsel
ATTN: Rules Docket (AGC-200)
Docket No. FAA/2004/19058
800 Independence Avenue, S.W.
Washington, D.C. 20591

8. CANCELLATION. This Order cancels FAA Order 5050.4A, *Airport Environmental Handbook* dated October 8, 1985.

9. DEFINITIONS: To address terms specific to the airport program, this Order supplements some of the definitions in FAA Order 1050.1E as noted here.

a. Advisory actions. Some Federal actions are advisory and are not considered Federal actions under NEPA. Categorical exclusions, environmental assessments, or environmental impact statements are not required for these actions. If ARP personnel know or anticipate that an advisory action includes a subsequent Federal action, they must note that Federal action in the advisory action. Examples of airport-related advisory actions include:

(1) Determinations under 14 CFR, Part 77, *Objects Affecting Navigable Airspace*.

(2) Determinations under 14 CFR, Part 157, *Notice of Construction, Alteration, Activation, and Deactivation of Airports, and Marking and Lighting Recommendations*.

b. Airport Improvement Program. Chapter 471 of Title 49 USC establishes the general requirements and conditions for federally financing the Airport Improvement Program (AIP) that ARP administers on FAA's behalf. AIP funding is used to develop a nationwide public-use airport system to meet the country's current and projected civil aviation needs. The airports comprising that system make up the National Plan of Integrated Airport Systems (NPIAS). The AIP also provides funding for noise compatibility programs (NCPs) and implementing FAA-reviewed and approved recommendations comprising an NCP. FAA Order 5100.38, *Airport Improvement Program Handbook*, provides details on administering the AIP.

c. Approving FAA official. For purposes of this Order, this is the FAA official having the authority to decide on one or more of the actions listed in paragraph 9.g or other activities connected to those actions. FAA Order 1100.154A, *Delegation of Authority*, provides more information on this official's duties.

d. Cooperating agency. This is a Federal agency or Tribe having special expertise regarding environmental resources or having jurisdiction by law over a resource or activity associated with a Federal action. At a lead agency's request, a cooperating agency helps the lead agency prepare an environmental document. Occasionally, FAA may act as a cooperating agency. In those cases, FAA reviewers should focus on the technical and aeronautical issues associated with civil aviation and the environmental impacts resulting from aviation-related actions under FAA's jurisdiction.¹ The following web address provides CEQ information on Tribes and their cooperating agency activities.

<http://ceq.eh.doe.gov/nepa/tribes.htm>

e. Environmental Management System (EMS). This is a set of processes and practices designed to provide an organization with information about environmental impacts of its operations. An EMS monitors and reports on an organization's environmental practices and tracks measures used to mitigate environmental impacts due to organizational actions. For example, an EMS may provide valuable information about airport facility designs and mitigation measures that have helped prevent or minimize significant environmental impacts. An EMS may be used to track the status of environmental activities and to highlight those activities that may require change.

f. Expertise agency. A Federal, State, local, or Tribal government agency with specialized skill or technical knowledge on a particular environmental resource. Examples include, but are not limited to, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, a State Department of Environmental Quality, a Tribal Historic Preservation Officer, or a similar entity. Many times, expertise agencies serve as cooperating agencies during the NEPA process.

g. Federal action. For ARP, a Federal action may include one or more of the following:

(1) Conditional, unconditional, or mixed approval² of Federal funding for airport planning and development projects, including separate funding of plans and specifications for those projects.

¹ CEQ Memorandum entitled *Designating Non-Federal Agencies to be Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act* (July 28, 1999) and the CEQ Memorandum for heads of Federal Agencies entitled, *Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act* (January 30, 2002) are useful references.

² See paragraph 202.c of this Order for information on these approvals.

(2) Conditional, unconditional, or mixed approval a location for a new, public use airport.

(3) Conditional, unconditional, or mixed approval of a first-time or changed airport layout plan (ALP).

(4) Authorizing an airport sponsor to impose and use Passenger Facility Charges (PFC).

(5) Conditional, unconditional, or mixed approval of an airport sponsor's request under 49 USC, section 47125, to use or transfer Federally-owned land to carry out an action under 49 USC Chapter 471, Subchapter I, at a public-use airport or to support the airport's operations.

(6) Conditional, unconditional, or mixed approval an airport sponsor's request to release airport land from a Federally-obligated, public-use airport when the land would be used for non-aeronautical purposes.

(7) Conditional, unconditional, or mixed approval of the use of a facility as public-use airport when the facility becomes available under the Surplus Property Act.

(8) Approving noise compatibility programs under 14 CFR, Part 150.

(9) Approving an airport sponsor to restrict the use of Stage 3 aircraft at public-use airports under 14 CFR Part 161.

(10) Issuing a Part 139 certification. and

(11) Conditional, unconditional, or mixed approval of funding for measures in an FAA-approved Wildlife Hazard Management Plan or approving ALP changes to accommodate those measures.

h. Federal environmental approval. This is the approving FAA official's determination that FAA's Finding of No Significant Impact (FONSI) or final EIS (FEIS) satisfies the applicable environmental statutes and regulations. Note that these environmental approvals do not constitute FAA decisions or approvals of Federal actions. For projects addressed in EISs, the FAA approving official will not issue a decision concerning the proposed Federal actions (Record of Decision) until 30 days have passed from the date EPA announces the availability of the FEIS in the *Federal Register*.

i. Highly controversial action. This is when the effects of a proposed Federal action on the quality of the human environment are likely to be highly controversial on environmental grounds. The term "controversial" means that a substantial dispute exists

concerning the size, nature, or effect of a proposed Federal action. Effects are considered highly controversial when reasonable disagreement exists over a project's risks of causing environmental harm. Opposition on environmental grounds by a Federal, State, or local government agency or by a Tribe or by a substantial number of people the action would affect should be considered in determining whether reasonable disagreement regarding a proposed action's environmental effects exists. If in doubt about a proposed action's controversy, consult ARP's Airports Planning and Environmental Division (APP-400), Regional Counsel, or Office of the Chief Counsel (AGC-600) for assistance.

j. Joint lead agency. This is a Federal, State, local, or Tribal governmental agency that may work with at least one Federal agency to prepare an EIS. To reduce duplicating NEPA, State, or local requirements, 40 CFR 1506.2 promotes joint lead agency arrangements when possible, unless an agency is prohibited from doing so. Joint lead agency planning, environmental research, public hearings, and environmental analyses should occur with the intent of preparing one environmental document that will satisfy the NEPA requirements for each Federal agency involved in a proposed action.

k. Lead agency. See FAA Order 1050.1E, paragraph 207. For most airport actions, FAA will be the lead agency.

l. Major runway extension. A major runway extension involves at least one of the conditions mentioned in paragraphs 9.l(1) or (2) of this Order. ARP notes that removing a displaced threshold is not a runway extension.

(1) The action causes a significant adverse environmental impact to any affected environmental resource (e.g., wetland, floodplain, historic property, etc.). This, includes but is not limited to causing noise sensitive areas in the DNL 65 dB contour to experience at least a DNL 1.5 dB noise increase when compared to the no action alternative for the same time frame.³ Note that this threshold includes exposing noise sensitive land uses in the DNL 63.5 dB to DNL 65 dB noise levels or greater.

(2) Removing a relocated threshold, if an ALP indicates the removal results in a permanent, new threshold.

m. "NEPA-like" State or agency. According to 40 CFR, Part 1506.2(c), this is a State or agency that is subject to state or local requirements comparable to NEPA

³ Under 49 U.S.C, section 47501 – 47510 (formerly, the Aviation Safety and Noise Abatement Act of 1979), FAA must use one system for measuring aircraft noise. FAA (and other Federal agencies) chose DNL due to its reliable relationship between projected noise exposures and how surveyed communities and people react to noise. In 1992, the Federal Interagency Committee on Noise (FICON) evaluated and re-affirmed the DNL metric as the principal means for describing long-term noise exposures for civilian and military aircraft operations. FICON noted that DNL is the government's primary cumulative noise exposure descriptor because it accounts for all noise events (including aircraft noise) over a period of time. FICON noted that DNL also provides information on intensity and duration of that noise.

requirements for environmental impact statements. These entities, unless specifically barred by other law, shall, to the fullest extent possible, jointly prepare EISs and are considered joint lead agencies with FAA. As joint leads, these states or agencies may share the responsibilities with FAA for scoping or preparing EISs, and selecting contractors to prepare EISs or perform studies. In all cases, FAA remains responsible for taking the lead in scoping, providing guidance in preparing an EIS, participating in EIS preparation, independently evaluating EISs, and approving them. Information on “NEPA-like” states is available at:

<http://ceq/eh.doe.gov/nepa/states.html>

n. Noise sensitive area. This is an area where noise interferes with the area’s typical activities or its uses. Normally, noise sensitive areas include residential, educational, health, and religious structures and sites, and parks, recreational areas (including areas having wilderness characteristics), wildlife refuges, and cultural and historical sites. For example, in the context of noise from airplanes and helicopters, noise sensitive areas include such areas within the Day Night Level (DNL) 65 noise contour (in California, use the Community Noise Equivalent Level (CNEL) instead of the DNL metric). Individual, isolated, residential structures may be considered compatible within the 65 DNL noise contour where the primary use of land is agricultural and adequate noise attenuation is provided. Also, transient residential use such as motels should be considered compatible within the 65 DNL noise contour where adequate noise attenuation is provided. A site that is unacceptable for outside use may be compatible for use inside of a structure, provided adequate noise attenuation features are built into that structure. (See table 1 on land use in FAA Order 1050.1E, Appendix A, section 4; Order 1050.1E, Appendix A, section 14, Noise; and 14 CFR Part 150, Airport Noise Planning, Land Use Compatibility). FAA recognizes that there are settings where the 65 DNL standard may not apply. In these areas, the responsible FAA official will determine the appropriate noise assessment criteria based on specific uses in that area. (See also Order 1050.1E, Appendix A, section 6.2i for further guidance.) In the context of facilities and equipment, such as emergency generators but not including aircraft, noise sensitive areas may include such sites in the immediate vicinity of operations, pursuant to the Noise Control Act of 1972, (See State and local ordinances, which may be used as guidelines for evaluating noise impacts from operation of such facilities and equipment).

o. Passenger Facility Charge Program. Congress established the Passenger Facility Charge Program (PFC) in the 1990 Aviation Safety and Capacity Expansion Act (49 USC 40117). FAA manages the PFC under authority delegated to it by the Secretary of Transportation. The Program authorizes a public agency to impose a passenger facility charge on each enplaned passenger at a commercial service airport that public agency controls. PFC proceeds are used to finance eligible, FAA approved airport-related projects. PFC proceeds may be used for actions that:

(1) Preserve or enhance safety, security, or capacity of the national airport system.

(2) Reduce noise from an airport that is part of that system. or

(3) Provide opportunities for increased competition between or among air carriers.

p. Project involving an airport location. This is an action involving an airport sponsor’s proposal to build a new public-use airport, to buy land, or enter into a long-term lease (e.g., at least 20 years) for that purpose. This does not include changing the ownership of an existing airport.

q. Reasonably foreseeable action. An action on or off-airport that a proponent would likely complete and that has been developed with enough specificity to provide meaningful information to a decisionmaker and the interested public. Use the following table to help determine if an action is reasonably foreseeable.⁴

Off-airport action.	On-airport action.
The proponent has committed to completing the proposed action. As a result, the action is or will be the subject of a NEPA document, or a Federal, State, local, or Tribal government permit application or approval and would occur within the same time frames as those evaluated for the proposed airport action.	The action is included on an unconditionally approved ALP and the proponent has: 1) committed to complete the proposed action depicted on the unconditionally approved ALP; and/or 2) developed preliminary design plans for an action in an Airport Capital Improvement Plan and those plans are available for review by interested parties.
Would affect all, some, or one of the environmental resources that the proposed action would affect.	Would affect all, some, or one of the environmental resources that the proposed action would affect.
Would occur within the same time frames as the time frames analyzed for the proposed airport action.	Would occur within the same time frames as the time frames analyzed for the proposed airport action.

r. Responsible FAA official. This is the FAA employee responsible for the activities described in 9.g. (1) - (11). In doing so, the employee:

(1) Advises an airport sponsor on how to integrate environmental considerations into the airport planning process early in the planning stage.

(2) Reviews proposed airport actions to determine if a categorical exclusion applies or an EA or an EIS is needed.

⁴ Paragraph 905.c(1) and (2) provide definitions of “connected actions” and “similar actions,” respectively.

(3) Provides guidance to an airport sponsor during EA preparation and independently evaluates and takes responsibility for the scope and content of the sponsor's EA.

(4) Analyzing expected environmental impacts and determining if they meet or exceed applicable significant adverse impact thresholds used to determine impact intensity.

(5) Recommends issuance of a FONSI to approving FAA officials and prepares FONSIs when the approving FAA official concurs with that recommendation.

(6) Evaluates contractors and selects the contractor who will help FAA prepare an EIS. The official also obtains a disclosure statement from the contractor who will assist FAA prepare the EIS.

(7) Conducts scoping activities for FAA EISs.

(8) Provides guidance to the EIS contractor and participates in EIS preparation.

(9) Assures proper coordination and consultation occurs with Federal, State, Tribal, and local agencies and the public.

(10) Evaluates EISs and takes responsibility for their scopes and contents.

(11) Prepares Records of Decision (RODs).

s. Significant impact threshold. The impact level or “threshold” that the responsible FAA official uses to determine if the environmental effects of a proposed action or its reasonable alternatives would cause significant environmental effects. If FAA has established a threshold for a resource, the responsible FAA must use that threshold to determine impact severity and context.

Note: For convenience, Table 7-1 of Chapter 7 of this Order provides the verbatim text of significant impacts in FAA Order 1050.1E, Appendix A, for many environmental resources. The Table also presents information about those thresholds to help analyze airport-related environmental impacts.

t. Special purpose laws. These are Federal laws, regulations, executive orders, or departmental orders that are outside NEPA. FAA must often address special purpose law requirements in completing its environmental analyses of major Federal actions involving airports. For example, before deciding if an action qualifies as a categorical exclusion, the responsible FAA official must examine extraordinary circumstances, which are often based on these laws, regulations, or orders. FAA Order 1050.1E,

Appendix A, provides more information on these items and how to address their requirements for all FAA organizations. *An Environmental Desk Reference for Airport Actions* provides similar information, but focuses on how to analyze that information for major Federal actions involving airports. Table 1-1 lists the laws, regulations, and orders comprising the term, “special purpose laws” used in this Order.

u. Sponsor. 49 USC 47102 (19) notes this is:

(1) A public agency that submits an application to the Secretary of Transportation for financial assistance under 49 USC Subpart B, Chapter 471, Subchapter I, Airport Development. or

(2) A private owner of a public-use airport who submits an application for financial aid for the airport to the Secretary of Transportation under 49 USC Subpart B, Chapter 471, Subchapter I.

v. Written re-evaluation. FAA Order 1050.1E, paragraph 515, defines this term. In summary, this is a document the responsible FAA official prepares to document the validity of a previously prepared EA or EIS. Conversely, the re-evaluation may conclude that substantial changes to the project or new information pertaining to affected environmental resources require preparation of a new EA or EIS or that a supplement to an earlier-prepared EA or EIS is needed. In preparing this re-evaluation, the responsible FAA official will determine that:

(1) There are no significant new circumstances or information relevant to environmental concerns that have a bearing on the proposed action or its impacts.

(2) The EA or EIS continues to accurately describe the proposed action and that there are no substantial changes in the proposed action that have relevant environmental concerns.

(3) The EA or EIS contains data and analyses that remain substantially valid.

(4) The EA or EIS continues to support a conclusion that the current action will meet or has met the relevant conditions and requirements of FAA’s approval.

10. - 199. RESERVED.

Table 1-1. A list of statutes, regulations, and executive orders included in defining the term, “special purpose laws.”

Statute or Executive Order	Implementing Regulation or Guidance	Notes
Statutes		
49 USC. Subchapter I, section 303.c.		Formerly, Section 4(f) of the Dept. of Transportation Act.
49 USC Subpart B, Chapter 471, section 47106.(c).		Environmental Requirements for new airports, new runways, or major runway extensions.
American Indian Religious Freedom Act	43 CFR, Parts 7.32, 7.7	
Anadromous Fish Conservation Act	50 CFR, Part 401	
Archeological and Historic Preservation Act	36 CFR, Part 68	
Archeological Resources Protection Act	25 CFR, Part 262 36 CFR, Part 79 43 CFR, Parts 3, 7	
Clean Air Act	40 CFR, Part 93	See Subpart B
Coastal Barrier Resources Act		
Coastal Zone Management Act	15 CFR, Part 930	See Subparts C and D
Comprehensive Environmental Response, Conservation, and Liability Act	40 CFR, Part 307	See Subpart J for more information on various topics addressed for this law.
Endangered Species Act, Section 7	50 CFR, Parts 17, 402	Part 17 lists species.
Farmland Protection Policy Act	7 CFR, Part 657, 658	
Land and Water Conservation Act, section 6(f)	36 CFR, Part 59	
Magnuson-Stevens Act	50 CFR, Part 600	See Subpart J for Essential Fish Habitats and Subpart K for Coordination and Consultation.
Marine Mammal Protection Act	50 CFR, Part 18, 216	
Migratory Bird Treaty Act	50 CFR, Part 21	
National Historic Preservation Act	36 CFR, Parts 800 <i>et. seq.</i>	
National American Graves Repatriation Act	43 CFR, Part 10 25 CFR, Part 262.8	When airports occur on Indian reservation land or Federal lands.
Resource Conservation and Recovery Act	40 CFR, Part 256	See Subpart E.
Safe Drinking Water Act	40 CFR, Part 141	
Uniform Relocation and Real Property Acquisition Policy Act	49 CFR, Part 49 FAA Order 5100.38B	
Wild and Scenic Rivers Act	36 CFR, Part 297	

Executive Orders	Implementing Regulation or Guidance	Notes
11593, <i>Protection and Enhancement of the Cultural Environment</i>		
11593, <i>Protection and Enhancement of the Cultural Environment</i>		
11990, <i>Protection of Wetlands</i>	DOT Order, 5660.1A	
11998, <i>Floodplain Management</i>	DOT Order 5650.2	
12372, <i>Intergovernmental Review of Federal Programs</i>		
12898, <i>Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</i>	DOT Order 5610.2	
13007, <i>Indian Sacred Sites</i>		
13045, <i>Protection of Children from Environmental Health Risks and Safety Risks</i>		
13089, <i>Coral Reef Protection</i>		
13112, <i>Invasive Species</i>		
13158, <i>Marine Protection Areas</i>		Includes Great Lakes
13175, <i>Consultation and Coordination With Indian Tribal Governments</i>	FAA Order 1210.20	
13186, <i>Responsibilities of Federal Agencies to Protect Migratory Birds</i>		
13274, <i>Environmental Stewardship and Transportation Infrastructure Projects</i>		

CHAPTER 2. SPECIAL NEPA REQUIREMENTS AND RESPONSIBILITIES FOR AIRPORT ACTIONS

200. GENERAL INFORMATION.

a. FAA implementing procedures for NEPA. NEPA places responsibilities on each Federal agency to comply with specific requirements as the agency carries out its mission. While CEQ has oversight responsibility for overall Federal NEPA compliance, FAA is responsible for applying NEPA to its particular programs and actions.

(1) FAA's decision making process for airport projects must consider the environmental, social, economic, and technical factors of a proposed action and those reasonable alternatives that meet the purpose and need. To do this, CEQ regulations allow FAA to adopt its own implementing procedures to supplement the regulations at 40 CFR, Part 1500 *et. seq.* FAA has done this in Order 1050.1E.

(2) Order 5050.4B supplements FAA Order 1050.1E. It provides detailed guidance on how FAA integrates NEPA into the planning and decision making processes for major Federal actions related to airports (see paragraph 9.g(1) – (11) of this Order). Order 5050.4B presents this information to ensure Office of Airports (ARP) personnel carefully consider and weigh environmental values and resources and other factors in a timely manner when evaluating proposed Federal actions at airports. These procedures are intended to guide ARP and other involved FAA organizations prepare and review environmental documents for airport actions. This ensures that FAA decisionmakers base their decisions on accurate and timely environmental information.

b. Levels of NEPA processing for Federal actions at airports. The Office of Airports (ARP) analyzes Federal airport actions that could potentially cause environmental impacts. To fulfill the terms of CEQ's NEPA regulations, ARP may: categorically exclude the action; require the airport sponsor to prepare an environmental assessment (EA) under FAA oversight; or prepare an environmental impact statement (EIS). Chapters 6, 7, and 9, respectively, of this Order discuss these NEPA reviews in detail.

201. AIRPORT SPONSOR RESPONSIBILITIES.

a. General. Airport sponsors, not FAA, own and operate public-use airports in the United States and its territories. As a result, airport sponsors are responsible for deciding when and where airport development is needed and for building and operating airport facilities. Airport sponsors may seek FAA approvals for changes to their Airport Layout Plans (ALP) or for Federal funds under the Airport Improvement Program (AIP) to build airport facilities. Sponsors may also seek approvals of ALP changes to accommodate airport projects funded by Passenger Facility Charges or other local funds.

b. Environmental responsibilities. Airport sponsors may request ARP ALP approval for the actions noted in paragraph 9.g. However, before ARP decides whether

to approve these actions, it must comply with NEPA and other applicable special purpose laws. As an applicant for Federal approval, an airport sponsor should take on some or all the following responsibilities.

(1) In consultation with ARP planners and environmental specialists, consider known environmental factors in early master planning efforts for proposed airport development projects (paragraph 504 of this Order). Doing so would help the sponsor:

(a) Identify obvious, specially-protected environmental resources such as Federally-listed endangered species, historic properties, wetlands, and parkland during the development's conceptual phase when the greatest range of alternatives exists.

(b) Consider practicable, possible, or prudent alternatives to avoid specially-protected resources. or

(c) Consider conceptual mitigation in project design to reduce unavoidable environmental effects if no practicable, possible, or prudent alternative exists.

(2) Provide environmental information to its consultant or to ARP.

(3) Prepare EAs or hire qualified environmental contractors to prepare those documents.

(4) Provide opportunities for public participation, and a public hearing, if one is appropriate.

(5) Consult with ARP personnel, and as needed, coordinate with Federal, State, and local agencies, Federally-recognized Tribes, and the affected community as described in this Order.

(6) Join ARP in a Memorandum of Understanding to pay the contractor ARP selects to help it prepare the EIS for a proposed action.

202. AIRPORT LAYOUT PLAN (ALP).

a. General. An ALP identifies all existing and future runways, runway extensions, terminal buildings and other airfield facilities, and the descriptions of the development needed to support them. The ALP is for planning purposes only. It does not commit the airport sponsor to building any depicted airport facilities. Also, ARP's approval of an ALP does not commit ARP to contribute Federal financial support to the facilities the ALP depicts.

b. NEPA compliance for ALP approvals. As paragraph 9.g.(3) notes, FAA's conditional, unconditional, or mixed approval of an ALP is a Federal action subject to NEPA and other environmental laws.

c. FAA's ALP approval choices. The approving FAA official may issue a “conditionally” or “unconditionally” approve an ALP as discussed below. Also, that official may environmentally and unconditionally approve more immediate range development shown on an ALP, while deferring environmental action on later stages of proposed development depicted on the same ALP but not yet ripe for decision. This situation leads to the official a “mixed” ALP approval as discussed in paragraph 202.c(3).

(1) Conditional ALP approval. This approval signals that:

(a) The proposed ALP depicts features that are safe and efficient for airport operations and airport use.

(b) ARP has not yet completed its review of the environmental impacts the features depicted on the ALP would cause. ARP has not done so because the features are not yet needed and are not ripe for decision (see “tiering” paragraph 1403 of this Order for more information). or

(c) The approving FAA official has *not* authorized the airport sponsor or project proponent to begin building the facilities shown on the conditionally approved ALP. The sponsor or proponent may start building those facilities *only after* the ARP completes its environmental analysis of those facilities and the approving FAA official issues an unconditional approval of the ALP depicting those facilities.

Note: A conditional ALP approval normally qualifies as a categorical exclusion under the Administrative/General exclusions, FAA Order 1050.1E, paragraph 307.p. (also see Chapter 6, Table 6-1, of this Order). Because there is no reasonable expectation that the approval would cause environmental effects, it rarely involves extraordinary circumstances (FAA Order 1050.1E, paragraph 303d).

(2) Unconditional ALP approval. This approval signals that:

(a) The proposed ALP depicts features that are safe and efficient for airport operations and airport use and that the features are ripe for Federal decision.

(b) ARP has completed the environmental review process this Order requires for the near-term and immediate-term development that is ripe for decision. and

(c) The approving FAA official *has* authorized the airport sponsor or project proponent to begin building the facilities or equipment depicted on the unconditionally approved ALP.

(3) “Mixed” ALP approval. ARP would issue this approval when it unconditionally and conditionally approves the same ALP. ARP would likely issue this approval for ALPs resulting from master plans showing various airport development over a long period of time. In these cases, ARP would environmentally analyze and unconditionally approve the near-term and immediate-term development shown on an ALP that is ripe for decision. However, ARP would defer its environmental review of

the long-term development that is not yet ripe for decision. When issuing a “mixed ALP approval:”

(a) The approving FAA official would unconditionally approve that portion of an ALP depicting the proposed near-term and immediate-term development the sponsor proposes. But to do so, ARP must have completed its environmental review and make applicable assurances (e.g., those addressing Section 4(f), relocation, wetlands, floodplains, and coastal zone management programs) for those actions ripe for decision. If ARP has evaluated the environmental effects for all of the development on the ALP, the official would unconditionally approve the entire ALP. ARP urges sponsors or proponents to begin all of the unconditionally approved development within 3 years of the date ARP completes its environmental review for that development. If they do not, ARP would need to complete a written re-evaluation of or a supplement to the NEPA document ARP completed earlier when it unconditionally approved the ALP. (See paragraphs 1401 and 1402 of this Order for more information).

(b) The approving FAA official would conditionally approve that portion of the ALP depicting the long-term development that is not yet ripe for decision. Later, when the airport sponsor or proponent chooses to build this development, it must *first* obtain the official’s unconditional ALP approval for that development. To do so, ARP would have to complete the proper NEPA document, issue the proper assurances, and the official would have to unconditionally approve the ALP segments depicting the development that is now ripe for decision.

(4) Limitations on ALP approvals. The approving FAA official may not conditionally approve an ALP depicting a new airport, a new runway, or a major runway extension if any of those projects and their associated actions are the subjects of an EA or EIS that is being prepared. In these instances, the approving FAA official may unconditionally approve an ALP depicting those facilities and their connected actions, but only if FAA has issued a FONSI or ROD that is based on an EA or EIS that addresses those airport actions.¹ These limitation do not preclude ARP from taking any of the following actions:

(a) Approving ALPs depicting and approving Airport Improvement Program (AIP) or Passenger Facility Charge (PFC) funding for projects having independent utility from those the ongoing NEPA document is addressing. For purposes of this Order, a project has independent utility when the project has logical starting and end points and would have a useful purpose without relying on other transportation improvements.

(b) Issuing airspace determinations that focus on the effect of proposed major airport development projects on the safe, efficient use of the airport’s navigable airspace. or

¹ Memo from Manager, Community and Environmental Needs Division, dated November 17, 2003, addressing Airport Layout Plan Approvals.

(c) Issuing written findings that ALPs depict features that are safe and efficient for airport operations and airport use.

d. FAA's ALP approval letters. These letters reflect FAA's decision on the proposed project's effect on airport utility as well as safe and efficient use of the airport and navigable airspace. They also reflect the status of FAA environmental reviews for facilities the ALP depicts.

(1) A conditional ALP approval. When the approving FAA official conditionally approves an ALP, the approval letter must specifically identify those items on the associated ALP that FAA has *not* environmentally analyzed. In addition, the ALP should be dated. Either the dated plans or an approval letter accompanying it should clearly indicate that the approving FAA official has *conditionally* approved the ALP and that the ALP is *still* subject to environmental review. The approval letter should include text similar to this:

"My signature on the enclosed ALP does not necessarily reflect the FAA's official views or policy, authorize construction of the development, nor constitute FAA's commitment to take part in the recommended development.

The actions listed below are subject to Federal environmental laws, statutes, and regulations. FAA first must make an environmental finding on these actions *before* the airport sponsor may begin them. To satisfy these responsibilities, FAA must complete the environmental process described in the most current version of FAA Order 5050.4.

(ARP suggests listing here those actions requiring FAA's written environmental approval).

"This approval does not cancel notice and review requirements that 14 CFR Parts 77 and 157 impose because they address all proposed structures shown on the ALP."

(2) An unconditional ALP approval. When the approving FAA official unconditionally approves an ALP, the letter must specifically state that fact. ARP suggests listing the facilities the official is unconditionally approving. A way to do so is to stamp the words, "UNCONDITIONALLY APPROVED" on the ALP and enter the date of that approval. Suggested language for the unconditional approval letter is:

"The Federal Aviation Administration (FAA) has completed its environmental review of the enclosed Airport Layout Plan (ALP) and has unconditionally approved the facilities listed below. Note the approval does not necessarily reflect FAA's official views or policy. Also note my signature does not constitute the FAA's commitment to take part in the recommended development.

This approval does not cancel notice and review requirements that 14 CFR Parts 77 and 157 impose because they address all proposed structures shown on the ALP."

(ARP suggests listing here those projects FAA is unconditionally approving).

(3) A "mixed" ALP approval. When the approving FAA official issues a "mixed" ALP approval, the letter must specify those projects that the decisionmaker has unconditionally and conditionally approved. Suggested language for a "mixed" ALP approval is:

"Due to the various timing of projects depicted on this ALP, I am issuing unconditional and conditional ALP approvals as described below. FAA has completed its environmental reviews of those projects that I have unconditionally approved. For FAA purposes, the sponsor may undertake only those projects that have received that approval. All other projects depicted on the ALP have not yet been environmentally reviewed. Therefore, I have conditionally approved them. For FAA purposes, the sponsor is not authorized to construct those projects until FAA unconditionally approves them.

Neither approval cancels notice and review requirements that 14 CFR Parts 77 and 157 impose because they address all proposed structures shown on the ALP."

(ARP suggests listing here those actions for which FAA has completed its environmental review (unconditionally approved) and those for which it has not (conditionally approved)).

203. AIRPORT LOCATION APPROVAL. An approving FAA official may approve an airport sponsor's request for first-time Federal aid for a public use airport listed in the NPIAS (see paragraph 9.b of this Order) at a location where no airport exists. However, the approving FAA official cannot do so until the responsible FAA official completes the proper environmental review. If an airport sponsor selects an airport location during the early stage of a master plan study, the environmental document prepared for the request for Federal aid must have the information necessary for FAA to analyze the proposed action and its reasonable alternatives. This information enables the approving FAA official to make an informed decision about funding for the site, the action's expected environmental impacts, and any required mitigation.

204. LAND ACQUISITION.

a. General. Airport sponsors may have the authority to buy or condemn land bordering their existing airports or to build a new airport at a new location without prior FAA approval. Title 40 CFR 1506.1(a) and (b) note that, until a Federal agency issues its Record of Decision, neither the agency or the applicant, respectively, may take action concerning any proposal that would have adverse environmental impact or limit the choice of reasonable alternatives.

b. FAA responsibilities. When ARP is notified or becomes aware of the possibility that an airport sponsor is about to buy land before ARP completes its NEPA process, the approving FAA official must advise the sponsor that:

(1) Actions that are inconsistent with the environmental policies of this Order could prejudice or preclude a favorable ARP decision on proposed changes in airport

layout or development that would use the land the sponsor bought or condemned or on sponsor requests for reimbursement for the property. and

and will notify FAA of its decision within four months after receiving FAA's request. FAA may not make conveyance requests for lands within national parks, national wildlife refuges, or other areas. FAA will not do so because these conveyances do not apply to land (or airspace) the Federal Government controls in a national park, national monument, national recreation area or similar area under the jurisdiction of the National Park Service. In addition, the conveyances do not apply to refuges under the jurisdiction of the U.S. Fish and Wildlife Service or a national forest or Indian reservation (see 49 USC 47125 (b)(1) – (3)).

a. FAA instructions on transferring Federally-owned lands. FAA Order 5170.1, *Transfer of Federal Lands, Section 23, of the Airport and Airway Development Act of 1970* (or later revisions), presents FAA's procedures for these land transfers. The Order states:

"Where there is other Government land adjoining the land being requested for an airport, an easement interest should be requested as necessary to protect the airport. This involves enough control to clear and protect the aerial approaches to the airport, to maintain freedom from electronic interference, or smoke-producing activities, and the right to overfly any land or any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public airport."

b. Airport sponsor documentation. The airport sponsor's conveyance request to FAA must include an EA, unless the proposed use of the conveyed land is either unchanged or the use is a categorical exclusion (see FAA Order 1050.1E, paragraph 307.c or Chapter 6, Tables 6-1 and 6-2 of this Order).

c. FAA's role. The responsible FAA official must consult with the Federal agency controlling the land. This assures that the environmental documentation for the proposed airport's use of the conveyed land meets the controlling agency's needs as well as FAA's. When the actions of the FAA and the agency controlling the land are connected, both agencies should cooperate to prepare a single NEPA document. If an EA or an EIS is needed, FAA may either act as joint lead agency with the controlling agency or as a cooperating agency with jurisdiction by law. FAA may request more information from the airport sponsor to complete its environmental impact analysis.

(1) The approving FAA official may include environmental mitigation measures as covenants in the deed or patent transferring the land. The AIP Grant Agreement for a proposed action may also include those covenants.

(2) To address the requirements of FAA Order 5170.1, *Transfer of Federal Lands*, the responsible FAA official must evaluate the need to buy more tracts necessary to ensure adjoining areas have airport compatible land uses.

207. RELEASES OF AIRPORT LAND.

a. General. An airport sponsor incurs specific obligations to use land for airport purposes when it accepts:

- (1) AIP financing to buy land for airport development.
- (2) AIP financing for any AIP-eligible airport development. or
- (3) A conveyance of Federal surplus property.

If an airport sponsor no longer needs airport land for aeronautical purposes, the sponsor may request that FAA release the land for sale or long-term lease for non-aeronautical uses.

b. Long-term leases. For purposes of this Order, airport land includes long-term leases for airport properties. In addition, FAA Order 5100-38C², paragraph 711.c.(2) defines title to airport land to include a long-term lease provided, among other things, the lease has a minimum duration of 20 years from the date of the AIP grant. Therefore, before an airport sponsor may convert land dedicated to airport use (i.e. aeronautical activities and airline services) to non-aeronautical, revenue producing use (e.g., concessions, providing public shelter, ground transportation, food, or personal service businesses) under a long-term lease, the sponsor must obtain ARP approval. ARP must also release the sponsor from its federal grant assurance obligations addressing the uses of the land.

c. ARP's approval. When an airport sponsor seeks ARP approval to sell, lease or release airport land, the approving FAA official must decide if ARP will approve the airport sponsor's request and if ARP will release the airport sponsor from AIP grant obligations pertaining to the uses of that land. As part of this decision, the responsible FAA official must complete the following steps.

(1) Land use restrictions and covenants. The responsible FAA official must concur that the airport has kept adequate restrictions and covenants necessary for safe, efficient airport operations and noise compatibility purposes. The conveyance agreement and documents must contain adequate terms stating the purchaser/lessee (grantee) will adhere to all applicable laws for the use or development of the released land (e.g., environmental requirements, obtaining all necessary permits, etc.).

(2) Enforcement. The responsible FAA official must consider the extent of the Federal government's ability to enforce required restrictions and covenants after the airport land is released.

²*Airport Improvement Program Handbook*, June 28, 2005.

(3) Title covenants. The responsible FAA official must review title covenants currently protecting aviation and determine ARP's ability to enforce these covenants after it allows the airport sponsor to release the land.

(4) Potential uses of the land. The responsible FAA official must analyze the environmental effects of the proposed release. To do so, the official evaluates the intended, reasonably foreseeable uses of the land. Therefore, the airport sponsor must advise the responsible FAA official of and provide information on the known plans for use of that land when the sponsor submits its request to FAA for release of the airport land. If none exists, the sponsor should provide zoning information for the land to show potential uses of the released land. This helps the official determine the likely, reasonably foreseeable land uses and make reasonable assumptions about the land uses local authorities would allow on the released land. This zoning information provides the best available information for FAA's evaluation of potential environmental impacts that would occur if FAA approves the land release.

(5) Environmental analysis. The responsible FAA official should review the submitted information and any necessary supplemental information needed to properly evaluate environmental effects of the subsequent use of the land the sponsor wishes to release. The official should then determine the proper NEPA process for the release.

(a) Categorical exclusion. Normally, FAA would categorically exclude land release requests (FAA Order 1050.1E, paragraph 307.b. and Chapter 6, Tables 6-1 or 6-2 of this Order). However, after reviewing the reasonably foreseeable uses of the property and extraordinary circumstance (see Chapter 6 and Table 6-3) on a case-by-case basis, the responsible FAA official may decide that an EA, at a minimum, is needed. For example, a proposed release of airport land for use as an industrial complex or a shopping mall may require air quality data and analyses associated with those land uses.

(b) Contents of an EA or EIS. In preparing EAs or EISs for these actions, the airport sponsor or the responsible FAA official, as appropriate, must coordinate with the Federal, state, and local agencies or Tribes having jurisdiction or special expertise regarding the environmental resources the release would affect.

1. The EA or EIS must show the airport sponsor or FAA has coordinated with the proper resource agency(ies) or tribes. Proof may be copies of agency and tribal comments and the airport sponsor's replies to those comments.

2. The EA and FONSI or EIS and ROD may include necessary mitigation measures. If the intended purpose of the released land meets needed mitigation measures, and an earlier approved environmental document addressed the measures, the responsible FAA official may use information from that document. The responsible FAA official may also use written re-evaluations of the document if appropriate (see Chapter 14 of this Order). Beyond environmental conditions, ARP should also include measures to protect the right of flight over the released land, if the approving FAA official decides these measures are needed. Such measures may include

the right to cause aircraft noise over the released land. They may also ban actions or erecting obstacles on the released land that could interfere with safe, efficient aircraft movement.

3. When FAA is not the lead agency for the release of airport land, it must be a cooperating agency or a joint-lead agency. When FAA is a cooperating agency, the approving FAA official may adopt the lead agency's environmental document, under 40 CFR 1506.3. To adopt the document, the responsible FAA official must independently review the document and determine its adequacy for FAA's purposes.

208. AIRPORT ACTIONS SIGNIFICANTLY AFFECTING A FOREIGN COUNTRY. When a proposed action is under the jurisdiction of the United States, NEPA requires analysis and disclosure of transboundary impacts.³ FAA must comply with Executive Order 12114, *Environmental Effects Abroad of Major Federal Actions*, dated January 4, 1979, when a major Federal action may cause significant environmental effects on a foreign country.

a. General. The Executive Order requires each Federal agency to set up internal procedures to address major Federal actions significantly affecting the environment outside the geographical borders of the United States, its territories, and possessions. The Executive Order applies when the affected nation does not join in or have any involvement in the action. The Executive Order:

(1) Heightens the approving FAA official's awareness of and interest in a foreign country's environmental concerns.

(2) Ensures the approving FAA official considers a proposed action's significant environmental effects on a foreign country during FAA's decision making process. and

(3) Promotes environmental cooperation between the United States and the affected country.

b. Responsible FAA official duties. The Executive Order and FAA Order 1050.1E, paragraph 521, provide more information on this issue. Paragraph 16 of the Executive Order requires the responsible FAA official to coordinate initial correspondence addressing environmental studies or documentation with the Department of State (DOS). For airport actions, ARP's Airports Planning and Environmental Division (APP-400) will conduct the coordination with the U.S. Department of Transportation's Office of Transportation Policy and Development (P-100), per Order 1050.1E, paragraph 521f. After DOS makes initial contact with the affected country, the responsible FAA official may directly forward to the affected country's civil aviation authority all requests for more information needed to prepare the EIS. As a courtesy,

³Council on Environmental Quality *Guidance on NEPA Analyses for Transboundary Impacts*, July 1, 1997, memo.

APP-400 will provide copies of public hearing notices (if one is held) and copies of a draft and final EIS to that authority and the affected country's embassy in Washington, D.C.

c. Addressing substantial differences. The responsible FAA official should refer any substantial differences between the foreign country and FAA on the proposed action's significant environmental impacts to APP-400. In resolving these differences, APP-400 will consult the FAA Assistant Administrator for International Aviation (API) and, if necessary, the U.S. Department of Transportation.

d. Actions not causing a significant impacts. When the responsible FAA official determines the proposed airport development action or other airport action would not cause significant impacts abroad, the official must prepare a memorandum to API. The document must provide the underlying reasons for that determination. The responsible FAA should send the memorandum to APP-400, which will ensure API receives it.

209. NEPA REQUIREMENTS AND WILDLIFE HAZARD MANAGEMENT PLANS. Title 49 USC 44706 discusses FAA issuance of airport operating certificates to ensure safety in air transportation.

a. Wildlife hazard management plans (WHMPs). To implement section 44706, 14 CFR Part 139 prescribes rules governing the certification and operation of airports. Section 139.337 discusses the need to manage wildlife hazards on or near airports when aircraft collide with wildlife or birds or the size of wildlife or bird populations could cause collisions. When the FAA Administrator determines that an airport sponsor operating a certificated airport must prepare a WHMP to address these wildlife hazards, the sponsor must submit the WHMP to the Administrator for approval prior to implementation.

b. NEPA requirements. A grant to fund the preparation of a WHMP or the approval of that plan normally qualifies for categorical exclusion under Order 1050.1E paragraph 308e. However, airport layout plan approvals and/or approvals of grants for Federal funding to carry out measures in an FAA approved WHMPs include items that may be:

(1) Categorically excluded. or

(2) Require preparation of an environmental assessment or an environmental impact statement.

210. THE STATE BLOCK GRANT PROGRAM.

a. General. In its May 1992 Report to Congress on the State Block Grant Program (SBGP), FAA noted the AIP process was considerably more complex than it was in prior years. The Report noted the complexity was due to ARP's increasing

environmental and sponsor compliance requirements, which had substantially increased AIP-related workload. The Report noted, "...[t]he greater state role [under the SBGP] supplements limited FAA resources available to manage these expanding responsibilities."⁴ The enabling statute limits the SBGP to non-primary airports. These are commercial service airports where less than 10,000 people board a commercial aircraft each year (49 USC 47102 (11)).

b. SBGP purpose. Title 49 USC 47128, authorizes FAA's current SBGP. FAA regulations at 14 CFR Part 156 discuss how ARP carries out the SBGP. Since the SBGP is now a permanent part of the AIP, paragraphs 1090–1099 of FAA Order 5100.38C, *Airport Improvement Program Handbook*, provide guidance for administering a block grant made under 49 USC 47128(b)(1).

c. SBGP selection criteria. Before selecting a state for participation in the program, 49 USC 47128(b)(4), requires the Secretary of Transportation to find, "...that the State has agreed to comply with United States Government standards for administering the block grant." The Secretary must also find, "...the State has an organization capable of effectively administering a block grant made under this section" (49 USC. 47128(b)(1)). To ensure SBGP participants meet contractually required Federal safety and other requirements, FAA (ARP) oversees each State's implementation of the SBGP.

d. SBGP agency responsibilities. Airport actions under the AIP that would normally be under ARP's scope (see paragraphs 210.d.(1) – (6)) become State actions under the SBGP. Therefore, states participating in the SBGP are responsible for the following airport actions at their non-primary airports:

- (1) Determining the eligibility and timing of airport actions.
- (2) Approving SBGP funds to finance airport actions.
- (3) Approving ALPs and changes to them.
- (4) Approving real property maps attached to ALPs.
- (5) Reviewing safety or phasing plans. and
- (6) Inspecting the airports for compliance with SBGP grant assurance obligations.

e. SBGP participating states. The SBGP initially included Illinois, Missouri, and North Carolina. Later, Congress authorized FAA to increase the number of participating states to 10 by 2001 and made the SBGP a permanent program (49 USC 47128). By 2001, Michigan, New Jersey, Pennsylvania, Tennessee, Texas, and

⁴ *Report to Congress: State Block Grant Program*. FAA. May 1992, p. 43.

Wisconsin had become SBGP participants. Since then, New Jersey has withdrawn from the SBGP.

211. THE SBGP AND NEPA. FAA's approval of block grants to participating states normally qualifies as a categorical exclusion (FAA Order 1050.1E, paragraph 307.o; Chapter 6, Table 6-1 of this Order). After distributing the SBGP grants, ARP has no control, responsibility, or discretion for the use of SBGP funds for airport specific projects under the SBGP. In fact, those airport-specific responsibilities ARP would normally fulfill under the AIP become State responsibilities under the SBGP. Therefore, NEPA and other environmental statutes applicable to "Federal actions" do not apply to airport actions under the SBGP, since there is not major Federal action.

212. STATE BLOCK GRANT AGENCY ENVIRONMENTAL RESPONSIBILITIES. Because FAA does not retain funding for or approval of SBGP actions, actions under the SBGP technically do not qualify as "Federal actions." Nevertheless, FAA, in consultation with CEQ, determined it to be good environmental policy and stewardship to require SBGP states that are not subject to state laws comparable to NEPA to consider the environmental consequences that SBGP actions would cause. As a result, each SBGP has contractually committed to consider the environmental effects of their actions as noted below.

a. Meet the requirements of this Order. This Order describes the duties ARP personnel must fulfill to comply with NEPA. It also mentions special purpose laws outside NEPA that protect specific environmental resources. Therefore, this Order provides SBGP personnel with information they must use to evaluate the environmental effects of SBGP actions in a comprehensive, interdisciplinary manner.

b. "NEPA-like" states or agencies participating in the SBGP. States or agencies having environmental laws similar to NEPA, within the meaning of CEQ 1506.2(c) ("NEPA like" states)⁵ have contractually agreed to follow their NEPA-like state laws. The contracts also require these States to meet the requirements of special purpose laws outside NEPA because those special purpose laws would have applied to these airport actions had FAA remained responsible for them. Paragraph 9.t and Table 1-1 of this Order and Order 1050.1E, Appendix A provide information on the special purpose laws.

c. "Non-NEPA-like" states or agencies participating in the SBGP. States or agencies not having environmental laws similar to NEPA ("non-NEPA-like") have contractually agreed to meet the requirements of NEPA in this Order. They must also meet the requirements of special purpose laws outside NEPA that would have applied to the actions, had FAA been responsible for those actions. Paragraph 9.t and Table 1-1 of this Order and Order 1050.1E, Appendix A provide information on the special purpose laws.

⁵ North Carolina and Wisconsin are NEPA-like states. See <http://ceq.eh.doe.gov/nepa/states.html> for more information on NEPA-like states.

d. Substitute text for SBGP actions. When reading the instructions in this Order, SBGP personnel should substitute the words, “SBGP agency personnel” for the words, “responsible FAA official” or “approving FAA official” as needed. In addition, SBGP agency personnel should modify standard text that refers to FAA, FAA personnel, or Federal requirements (e.g., paragraphs 707.f, Figures 7-1 and 8-1, 802.g, 1007.a(1), 1007.a(4)) by substituting appropriate wording. The wording should clearly inform the reader that the State, not FAA, is taking an action or making a finding or decision regarding a particular airport action under the SBGP.

e. Tribal consultation and SBGP actions. When SBGP airport actions have connected actions that remain under FAA’s scope (paragraph 213), regional or district Airports office personnel will assist the FAA organization responsible for conducting the government-to-government consultation paragraph 303 of this Order discusses. This will ensure efficient consultation among the SBGP agency, the responsible FAA organization, and the Tribe. For airport projects having no FAA involvement, the SBGP agency is responsible for consulting with the Federally-recognized Tribe; however, regional or district Airports office personnel are available to support the SBGP agency, if needed. Although the Executive Order and the FAA order cited in paragraph 303 apply solely to Federal agencies, the information in paragraph 303 is useful for SBGP purposes. When consulting with Tribes for any reason, ARP recommends that SBGP agencies follow the instructions in paragraph 303 to ensure Tribal consultation occurs in a respectful manner.

f. SBGP actions involving Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, and Archeological and Historic Preservation Act of 1974 and SBGP actions. When SBGP airport actions have connected actions that remain under FAA’s scope (paragraph 213), the FAA organization is responsible for the connected action is responsible for conducting any necessary consultation and fulfilling requirements under these laws. Regional or district Airports office personnel are available to assist the responsible FAA organization as needed. For airport projects having no FAA involvement, the SBGP agency is responsible for complying with these laws as part of meeting their SBGP contractual commitments.

213. FAA OVERSIGHT OF THE SBGP AND ACTIONS CONNECTED TO SBGP ACTIONS. Although Congress authorized FAA to enter into contracts with states to administer the SBGP for certain non-primary airports, FAA remains responsible for the activities listed below and for overseeing the portion of the SBGP for which the participating state is responsible. This oversight is needed to ensure the participant is honoring its commitment to the contractual agreements it made when it became a SBGP participant (see paragraph 212). In addition, various FAA organizations retain oversight and NEPA responsibilities for the actions listed below because the actions are not authorized under the SBGP and are outside its scope.

a. SBGP airport actions for which the SBGP agency requests AIP discretionary funds to supplement SBGP funding for a specific airport project at a specific location and ARP provides those funds.

- b. Airport noise compatibility planning, including approval of airport noise compatibility programs under 14 CFR Part 150. (See FAA Order 5100.38C, paragraph 1096.c.).
- c. Airport land releases, including approval of such releases.
- d. Issuing Part 139 certifications.
- e. Installing or moving FAA-owned navigational equipment.
- f. Establishing or revising air traffic and flight procedures. and
- g. Completing airspace reviews for ALP approval under 14 CFR Part 157 and FAA Order 7400.2E, *Procedures for Handling Airspace Matters*.

Note: The regional or district Airports office overseeing the geographic area where the airport is located is responsible for the connected actions in paragraphs 213. a - d. The regional Air Traffic Organization office is responsible for the connected actions in paragraphs 213.e – g.

214. ENVIRONMENTAL DOCUMENT PREPARATION FOR SBGP

ACTIONS. Paragraph 213 lists those actions that may be connected to airport actions that are funded under the SBGP. Because those connected actions are outside the SBGP they remain under the purview of an FAA organization. Consequently, the SBGP agency should work cooperatively with the responsible FAA organization when preparing the necessary environmental document.

a. An EA addressing actions solely under SBGP agency purview. The SBGP agency is solely responsible for preparing the EA. The agency should follow the instructions in paragraph 212 as appropriate.

b. An EA for actions involving an SBGP agency and an FAA organization. Non-ARP organizations remain responsible for actions listed in paragraphs 213.d - f that are connected to an SBGP project. When actions outside the SBGP are connected to an SBGP action, the SBGP agency (or its consultant) will prepare the EA. The responsible FAA organization must independently review and take responsibility for the portions of the EA addressing the connected actions under that organization's authority. The responsible FAA organization will advise the EA preparers of revisions needed to ensure the EA addresses the organization's concerns and environmental needs.

(1) The SBGP agency would prepare the portions of the EA that address the airport actions listed in paragraph 210.d(1) – (6).

(2) Regional or district Airports officer personnel are responsible for the document or portions of it addressing impacts of actions listed in paragraph 213.a – d that are connected to the SBGP action.

(3) Non-ARP organizations are responsible for the document or portions of it addressing impacts of actions listed in paragraphs 213.e– g that are connected to the SBGP.

(4) If a Finding of No Significant Impact (FONSI) is appropriate, the SBGP agency prepares the portion of the FONSI addressing the airport actions specifically under the SBGP. Conversely, the responsible FAA organization prepares the portion of the FONSI for the non-SBGP actions. Then, the SBGP agency and FAA co-approve the FONSI. Here, the FAA organization retains responsibilities and approvals only for the portions of the proposed action not under the SBGP.

c. SBGP actions causing significant impacts. An SBGP action causing significant effects requires an EIS-like document or an EIS.

(1) If an EIS-like document is required because there is no connected Federal action, the SBGP agency should complete the following steps:

(a) If the action would occur in a “NEPA-like state,” the SBGP agency follows instructions in paragraph 212.b.

(b) If the action would occur in a state not having “NEPA-like laws,” the SBGP agency follows the instructions in paragraph 212.c.

(c) As needed, the SBGP may request help from the appropriate regional or district Airports office. Although those offices are not responsible for preparing the document, they have experience that may aid the SBGP agency in preparing the document. Airports office involvement may also help ensure efficient information exchanges and proper consultation among the SBGP, agencies, and interested parties occurs.

(2) If an EIS is required because there is a connected Federal action that remains under an FAA organization’s purview, the SBGP agency follows the instructions in paragraphs 214.c (1) (a) or (b), as appropriate. In addition:

(a) The FAA organization responsible for the connected action will be a joint-lead agency with the SBGP agency to ensure the document also meets the requirements of Order 1050.1E or Order 5050.4B, as appropriate.

(b) If no regional or district Airports office is involved in the SBGP action, the SBGP and/or the FAA organization should note that these Airports offices are available to assist in the NEPA process. Although they are not responsible for preparing the document, these offices have substantial experience in preparing EISs for airport actions. Their experience may also help ensure efficient information exchanges and proper consultation among the SBGP, the FAA organization, agencies, and interested parties occurs.

5050.4B

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215. - 299. RESERVED.

CHAPTER 3. AGENCY AND TRIBAL COORDINATION

300. IMPORTANCE OF COORDINATION. Coordination with resource agencies and, as appropriate, Tribal representatives is not only necessary, but is essential in completing the NEPA process in a timely and effective manner. This coordination facilitates FAA's evaluation of action-related environmental impacts by:

- a. Providing important information to an airport sponsor and FAA about site-specific concerns and issues.
- b. Identifying potential adverse impacts to environmentally sensitive resources, alternatives to avoid or reduce impact severity, and measures to conceptually mitigate those impacts.
- c. Helping to lessen the likelihood of delays due to agency or Tribal opposition to the proposed Federal action.
- d. Avoiding delays by resolving conflicts between FAA and agencies or Tribes concerning alternative uses of available resources.
- e. Reducing duplicate efforts.
- f. Reducing the need to extensively revise an EA or EIS to address their concerns. and
- g. Improving the likelihood that a single environmental document would adequately meet lead and cooperating agency requirements.

301. EARLY COORDINATION IN THE ENVIRONMENTAL REVIEW PROCESS. Under 40 CFR 1501.4, Federal agencies must:

"...involve environmental agencies, applicants, and the public, to the extent practicable, in preparing [environmental] assessments."

Therefore, when conducting the NEPA process, FAA and the airport sponsor, as appropriate, should begin early coordination with the proper Federal, State, Tribal, and local agencies, including surrounding municipalities, to determine each agency's environmental concerns. This effort helps to eliminate duplication and helps to ensure NEPA documents address major issues concerning those interested parties.

302. STATE AND LOCAL REVIEW PROCESSES. Including State and local resource agencies and municipalities in the environmental process is critical to successfully meeting NEPA's public involvement requirements and making the NEPA process more efficient. This effort helps address issues conflicting with local planning processes (40 CFR 1506.2). In addition, these agencies are often valuable sources of information about environmental resources and concerns in the project area.

a. Procedures for State and local reviews of airport actions. Airport sponsors should note that each state might have specific processes for reviewing Federal actions.

(1) Airport sponsors and the responsible FAA official should use the review process established in the state where the project would occur. State and local agencies, municipalities, and zoning authorities have knowledge about statewide and area-wide comprehensive plans. Airport sponsors, and ARP planners and environmental specialists should consider these plans when designing proposed, Federally funded airport projects. This helps ensure the proposed actions will meet the goals of those plans, since compatibility with local plans is a crucial factor in ARP's decision process.

(2) As encouraged by the Office of Management and Budget, some states have established a "single point of contact" to coordinate State or local reviews. Where this "contact" exists, sponsors should ask the contact to notify agencies having responsibilities for or expertise on potentially affected resources. If the sponsor or regional or district office ARP staffs know certain agencies or members of the public are interested in the action, they should provide this information to the contact to hasten information distribution.

b. Timing consultation. When an airport project is being proposed, the responsible FAA official and the airport sponsor, as appropriate, should begin consultation as soon as possible. Normally, this would be when the sponsor's early planning information is sufficient to describe the proposed action and a preliminary scope of the action's expected environmental impacts. When a schedule for the NEPA process has been established at the airport sponsor's request, ARP recommends the approaches noted below to help the responsible FAA official complete the NEPA process according to the schedule. At a minimum, a sponsor seeking AIP financing or ALP approval for a proposed airport action should begin consulting with FAA, the agencies, or the single point of contact. If consultation with a Federally-recognized Tribe is needed, the responsible FAA official must conduct that consultation as described in paragraph 303.

(1) **When requesting discretionary funding for an action that is normally a categorical exclusion.** Sponsors should provide the responsible FAA with information about a proposed action and its associated impacts (extraordinary circumstances by April 30th of the fiscal year (FY) *preceding* the FY in which the sponsor is requesting discretionary funding. This should provide the official with enough time to determine if a proposed airport action maybe categorically excluded.

(2) **When requesting discretionary funding for an action normally requiring an EA.** Sponsors develop a schedule that provides them enough time to submit a final, FAA-accepted EA by April 30th of the FY *preceding* the FY in which the sponsor is requesting discretionary AIP funding.

(3) **When requesting approval of an ALP change but not discretionary or entitlement funding.** Sponsors should consult with the responsible FAA official to determine the time needed for the official to complete the appropriate NEPA process, while trying to accommodate the sponsor's schedule.

303. GOVERNMENT-TO-GOVERNMENT RELATIONS WITH NATIVE AMERICAN TRIBAL GOVERNMENTS. Executive Order 13175, *Consultation and Coordination With Indian Tribal Governments*, dated November 6, 2000, provides instructions to *Federal* agencies about relations with Federally-recognized Native Americans (i.e., Alaska Natives and American Indians). The Executive Order requires FAA, to the extent practicable and allowable by law, to consult Tribal governments before taking actions that could significantly or uniquely affect them. In addition, FAA must assure FAA policies, programs, and activities properly address a Tribe's concerns regarding its rights or potential impacts on tribal trust resources.

a. Conducting these consultations. The responsible FAA official must conduct open and candid consultation in a manner respecting Tribal sovereignty. FAA Order 1210.20, *American Indian and Alaska Native Tribal Consultation Policy and Procedures*, dated January 28, 2004, provides specific guidance for FAA personnel on how to conduct those government-to-government consultations for FAA activities.

(1) The responsible FAA official should begin the consultation as soon as FAA knows enough about the proposed action to present a list of potential environmental issues to the Federally-recognized Tribe. This ensures FAA knows of Tribal concerns early in project development when the greatest range of alternatives exists. It also allows the Tribe to present its concerns and information in a timely manner to ensure FAA fully considers issues of tribal importance.

(2) When FAA engages in consultations, the responsible FAA official must provide a current record of this and all other consultation conducted with Federally-recognized Tribes to comply with FAA Order 1210.20, section 8b. The responsible FAA official should provide the record to Regional Tribal Consultation Official for the region where the action would occur. The Tribal Consultation Official will include that information in FAA's Tribal Consultation Reporting database.

b. Assistance. The following sources provide more information on conducting required consultation.

(1) Department of Transportation's Office of the Assistant Secretary for Aviation and Intergovernmental Affairs (X-1).

(2) Environmental Protection Agency's Office of Environmental Justice, American Indian Environmental Office.

(3) FAA's Federal Historic Preservation Officer or Regional Tribal Consultation Officials.

304. USING INFORMATION FROM THE AGENCY AND TRIBAL REVIEW PROCESSES. The airport sponsor or FAA, as appropriate, should consider comments and recommendations they receive through the State, local, and Tribal review processes. Final copies of EAs or EISs must contain those comments or recommendations and the sponsor's or

FAA's responses to them. Paragraph 707.d of this Order discusses how to resolve issues an EA addresses. Paragraph 1201 addresses how to respond to comments on DEISs. That information is also useful for EAs.

305. – 399. RESERVED.

CHAPTER 4. PUBLIC PARTICIPATION

400. PUBLIC PARTICIPATION. Like many infrastructure projects, most airport development triggers public interest, especially in those areas that would sustain development-related environmental impacts. It is through this public participation that Federal agencies disclose information about the proposed action, reasonable alternatives, and expected environmental effects. This participation also provides the Federal decision maker with information about issues most important to the public that the proposed action and its reasonable alternative(s) would affect.

401. FAA'S COMMUNITY INVOLVEMENT POLICY. FAA has a community involvement policy (FAA-EE-90-03, August 1990). That policy recognizes community involvement as an essential part of FAA programs and decisions. ARP, like each FAA office, must incorporate open, effective community involvement to achieve the following goals and tasks.

- a. Provide active, early, and continuous public involvement and reasonable public access to information that accurately describes a proposed project and its environmental effects.
- b. Ask for and consider public input on plans, proposals, alternatives, impacts, and mitigation.
- c. Use public involvement techniques designed to meet the needs of different interest groups and individuals.
- d. Promote an active public role to lessen potentially adverse community reaction to agency actions needed for safe, efficient aviation.

402. PUBLIC PARTICIPATION UNDER THE AIRPORT IMPROVEMENT PROGRAM (AIP). An airport sponsor submitting an application for AIP funding to build one of the airport projects listed in paragraphs 402.a – c must afford the public with an opportunity for a hearing under 49 USC 47106(c)(1)(A)(i). The sponsor must certify to the Secretary of Transportation that it has provided the public an opportunity for a public hearing to consider the economic, social and environmental effects of its actions (see paragraph 404.b). The responsible FAA official should ensure an environmental document prepared for the actions listed below discusses the airport sponsor's steps to comply with section 47106(c)(1)(A)(i).

- a. A new airport.
- b. A new runway. or
- c. A major runway extension.

To streamline the public involvement activities, ARP uses its NEPA public involvement process as “framework” to comply with this requirement.

(2) A concise description of the proposed action.

(3) A concise statement that the hearing's purpose is to address the proposed actions, potential economic, social, and environmental and the project's consistency with the goals and objectives of each affected area's land use or planning strategy.

(4) The locations and times where the draft environmental assessment (EA) or draft environmental impact statement (DEIS) will be available for public review to allow the public to prepare for the public hearing. The draft documents must be available for review at least 30 days before the hearing occurs.

(a) **Environmental assessment (EA).** When an airport sponsor is preparing an (EA), the sponsor should file a draft EA with FAA for review before a public hearing occurs. After changing the EA to reflect FAA's concerns, the sponsor must make the draft available for public review before the public hearing occurs. This ensures that the EA the public will review accurately reflects FAA policy and concerns.

(b) **Environmental impact statement.** The responsible FAA official should ensure the DEIS FAA prepares for an action meets the requirements of this order and other applicable Federal environmental requirements. This ensures the EIS accurately reflects FAA policy and concerns. and

(5) A statement that anyone interested in the project has up to 15 days from the date the Notice of Opportunity for a Public Hearing is issued to request a hearing.

b. Hearing opportunity to meet NEPA or special purpose law public involvement requirements. The responsible FAA official or airport sponsor should follow the procedures in paragraph 404.a if a public hearing or meeting will be held to meet public involvement requirements. If the sponsor or the responsible FAA official provides an offer for public hearing for an action but no one requests a hearing the sponsor or FAA official should follow the instructions in paragraph 405.

405. WHEN THERE IS NO REQUEST FOR A HEARING. Sometimes, the airport sponsor or the responsible FAA official provides an opportunity for public hearing, but no one requests a hearing.

a. When the sponsor offers the meeting to comply with 49 USC 47106(c)(1)(A)(i). The sponsor must certify to the responsible FAA official in its grant application that it published a "Notice of Opportunity for a Public Hearing." The responsible FAA official should place the certification in the project's Administrative Record.

b. When the FAA or airport sponsor offered the opportunity for a public hearing to meet NEPA or special purpose law requirement. The responsible FAA

official should include in the Administrative Record a copy of the hearing notice and the reasons the hearing was not held.

406. RESPONSIBILITIES WHEN A PUBLIC HEARING WILL OCCUR.

a. Benefits of public hearings. During a public hearing or meeting, agencies, the public, or Tribes having an interest in a proposed Federal action gather information about a proposed action and other issues related to the action. For example, a hearing or meeting provides those parties with a forum to discuss preliminary information concerning an action's potential economic, social, and environmental effects. Hearings or meetings also provide occasions to consult with a Metropolitan Planning Organization and discuss an action's reasonable consistency with the affected community's completed or proposed planning objectives.

b. Notice of Public Hearing. When, a public hearing is deemed appropriate, the deciding party should publish a "Notice of Public Hearing." This notice informs the public that a hearing will occur. This notice must appear in the same newspaper(s) that published the "Notice of Opportunity for a Public Hearing" and must appear at least 30 days before the date the hearing will occur. The "Notice of Public Hearing" must include all of the following:

(1) The information discussed in paragraphs 404.a(1) – (4).

(2) The hearing's date, time, and location. If, for some reason, the Notice of Public Hearing does not contain this information, the sponsor or FAA must publish this scheduling information at least 15 days before the date the hearing will occur.

(3) Based on information in the draft EA or EIS available for public review (see paragraph 404.a(4), a list of potentially affected environmental resources.

(4) A statement that interested parties should send written comments to the sponsor or FAA within the 10-day period following the date the hearing occurs or by the end of the NEPA document comment period, whichever is later.

c. Hearing transcripts and comments. Decision makers need accurate information about major public concerns made during public hearings. Public hearing transcripts are ways to provide that information. Therefore, the airport sponsor must place a copy of the hearing transcript in the project record. The airport sponsor must provide FAA a copy of the transcript when asked to do so. If FAA conducts a public hearing, FAA will provide the sponsor a copy of the meeting transcript. The responsible FAA official should file the transcript in the project's Administrative Record.

d. Summarize issues. An appendix accompanying the final version of an EA or EIS should include a detailed summary of issues raised during the public hearing and responses to those issues. Neither document needs to contain a hearing transcript.

407. - 499. RESERVED.

CHAPTER 5. AIRPORT PLANNING AND NEPA

500. AIRPORT ACTIONS SUBJECT TO NEPA.

a. General. Paragraphs 9.g(1) – (11) of this Order lists those airport activities that are Federal actions. Before making a decision on these actions, the Office of Airports (ARP) must complete the NEPA process. This process is an independent, Federal decision making process requiring public disclosure of critical planning and environmental information regarding the proposed action and its reasonable alternatives. The approving FAA official uses this information and considers public concerns when making decisions about a proposed airport action.

b. NEPA document choices. The responsible FAA official must clearly identify potential environmental impacts the proposed action and its alternatives may cause. Based on the proposed airport project and its environmental effects, the responsible FAA official decides if the Federal action qualifies as a categorical exclusion or if an environmental assessment (EA) or an environmental impact statement (EIS) is required.¹

501. PROJECT PLANNING AND NEPA. To achieve NEPA's intent, 40 CFR 1501.2 states:

"Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head-off potential conflicts."

a. Environmental factors and planning. Conflicts noted in the regulation could range from community concerns about aircraft noise to an action that poses a legal barrier to ARP approval, such as a Jeopardy Opinion for a Federally-listed endangered species. Since airport planners are responsible for planning projects at their airports, it is critical that they note the requirements of 40 CFR 1501.2. Doing so promotes intensive, scrutiny of reasonable alternatives meeting airport needs while avoiding or reducing potential environmental impacts and conflicts those alternatives could cause (see paragraph 504.d).

b. Early FAA contact is critical. ARP experience shows that delays in the NEPA process may occur when airport planning is not properly conducted. Therefore, during early project planning, it is critical that the airport sponsor critically analyze a project's goal, the data supporting that goal, reasonable ways to achieve the goal, and the environmental issues surrounding the alternatives considered to achieve that goal.

(1) Chapter 5 (Environmental Considerations) of FAA's Advisory Circular (AC) 150/5070-6, *Airport Master Plans*, urges sponsors to work with FAA airport planners and environmental specialists early in project planning. Environmental specialists have knowledge

¹ Chapters 6, 7, and 9 of this Order, respectively, discuss these NEPA documents in detail.

about environmental impacts associated with airport projects and the environmental concerns resource agencies, Tribes, and the public normally present about those projects.

(2) This early contact is intended to identify potential major environmental impacts and concerns early in planning, especially when an airport sponsor proposes a complex or controversial airport action. This step often reduces the probability that airport planning efforts or the subsequent environmental analyses and NEPA document will require time-consuming changes to address planning or environmental issues or concerns not clearly identified early in airport planning.

c. Interdisciplinary approach. To complete this interdisciplinary effort, planners, engineers, and environmental specialists should review maps, aerial photographs, existing permit application records, or other environmental documents containing information on the airport's locale. ARP's Best Practices website² and the AC provide more details on coordinating early airport planning and the environmental process. This early, interdisciplinary approach discussed above should make airport planning and NEPA processes more efficient because it:

(1) Promotes the coordinated consideration of reasonable alternatives under FAA's or the sponsor's authority when the widest range of alternatives exists.

(2) Promotes awareness of environmentally sensitive resources and the special analyses or coordination needed to resolve adverse effects on those resources.

(3) Provides planners and designers with opportunities to change facility plans or develop alternatives that reduce the need for later costly, complex, or delay-inducing changes in project design necessary to protect environmentally sensitive resources. and

(4) Helps ARP and the airport sponsor identify planning and financial issues.

Note: Although this chapter discusses the critical relationship of a master plan and the NEPA process, it is not a substitute for FAA AC, 150/5070-6. The AC provides greater detail on airport planning principles.

502. WHY PLANNING INFORMATION IS IMPORTANT TO THE NEPA PROCESS. Airport planning information is the backbone of a proposed airport action. As noted earlier, it is critical to complete the NEPA process efficiently and effectively. ARP airport planners are responsible for reviewing the sponsor's proposed actions and alternatives for consistency with FAA's airport planning and design standards. Those planners approve only projects meeting those standards, unless they determine the projects warrant modifications to those standards. The Purpose and Need is developed during the NEPA process after considering FAA's statutory mission and the sponsor's goals and objectives. Among other uses, planning information helps the sponsor or ARP during the NEPA process to:

²http://www.faa.gov/airports_airtraffic/airports/environmental/eis_best_practices/

- a. Define the airport sponsor's proposed project.
- b. Describe the purpose and need and identify reasonable alternatives to address the purpose and need.
- c. Provide analyses of potential environmental impacts the proposed project and its reasonable alternatives could cause. and
- d. Develop the full scope of reasonably foreseeable airport development that is critical to the Federal action's cumulative impact analysis.

503. AIRPORT PLANNING INFORMATION CRITICAL TO THE NEPA PROCESS.

a. Important airport planning data. Because they influence impact analyses, some of the most important planning data for NEPA purposes include:

- (1) An inventory of existing conditions and facilities.
- (2) An airport layout plan (ALP) showing proposed development.
- (3) Planned project linkages versus independent utility.
- (4) Aircraft operation and enplanement (boarding passengers) forecasts.³
- (5) The design aircraft and fleet mix to accommodate those forecasts.
- (6) The airport's existing capacity to accommodate those forecasts.
- (7) Facility requirements needed to accommodate those forecasts.
- (8) Timing and phasing of the projected necessary airport development.
- (9) Runway utilization and flight tracks. and
- (10) An airspace analysis.

b. The need for current, technical information. Current, technically acceptable planning information is critical to airport planning and accurate, efficient environmental analyses and document preparation. Failure to provide this information causes the problems listed in paragraph 503.(b)(1) – (3). Airport sponsors, ARP, and consultants must ensure that planning information is technically valid, based on accepted assumptions and methods, and current

³ Refer to paragraph 504.b for acceptable deviation limits between a sponsor's forecasts and FAA's Terminal Area Forecasts.

operational and/or passenger forecasts. This helps the sponsor and ARP determine that proposed facilities, their costs, and their potential environmental effects are warranted, and that they are based on accurate airport operation or enplanement forecasts. Paragraph 504.b discusses this further.

(1) If data are not current or technically acceptable, the proposed project and reasonable alternatives or the analyses related to them will need to be modified.

(2) Updating these data so they accurately reflect an airport's needs often requires repeating earlier, costly environmental analyses that were based on outdated or technically insufficient information.

(3) This duplication and the lost time it requires delay FAA's decision making process, the airport sponsor's schedule, and the airport's ability to efficiently meet air projected transportation needs.

c. Noise. Noise from airport projects is often the public's primary concern. Therefore, a master plan addressing proposed airport development should consider whether the proposed project would increase noise impacts over noise sensitive land uses around the airport (see paragraph 9.n of this Order). If so, then the master plan should highlight these potential impacts.⁴ (See paragraph 706.g(3) for information about incorporating Part 150 noise mitigation in a proposed action).

d. Evaluate and adjust planning as needed. Proposed Federal actions should be evaluated and adjusted continually as planners and environmental specialists collect more information during the planning process. This will promote the accuracy, efficiency, and effectiveness of the subsequent NEPA process.

504. KEY MASTER PLAN STEPS THAT AID THE NEPA PROCESS. An airport sponsor developing a master plan that accurately reflects needed airport improvements should focus on the following steps.

a. Meet with ARP regional or district office personnel. Early in a project's planning phase, the airport sponsor and its planners should meet with the appropriate ARP regional or district office's planners and environmental specialists. As noted in paragraph 501, this early coordination allows ARP staff to view the initial, conceptual plan and highlight potential environmental issues airport planners need to consider. Information exchanged among the sponsor, planning consultants, and environmental specialists fosters effective, efficient airport planning. It also promotes completing the subsequent NEPA process in a timely, efficient manner.

⁴ Noise exposure maps and noise compatibility plans prepared under 14 CFR Part 150 provide valuable information about an airport's present and future noise levels and land uses exposed to those levels in the airport vicinity.

b. Develop good aviation forecasts. The sponsor's airport planners should establish valid aviation forecasts and the forecasts' resulting airfield demands to aid in efficient environmental analyses. As noted in paragraph 503, accurate, current aviation forecasts are the "backbones" to efficient, accurate environmental analyses. Forecasts that are too high or too low will jeopardize the NEPA and decision making processes by affecting environmental and funding decisions. Planners should prepare aviation forecasts that use FAA-accepted methods supported by available data, and that are consistent with FAA's Terminal Area Forecast (TAF). Forecasts should be within 10 percent of the TAF for the 5-year analytical period and within 15 percent for the 10-year analytical period.⁵ Forecasts not meeting these criteria require consultation with planners at regional or district Airports offices and perhaps, forecast specialists at FAA headquarters. This consultation is necessary to determine if another forecast is needed for airport planning and NEPA purposes.

c. Conduct a facility inventory. Planners should conduct a facility inventory and determine if existing facilities can meet forecast airside and/or landside demands. If they cannot, the airport sponsor may need to enhance or expand present facilities or build new ones. Reviewing ALPs and forecast activity data is an efficient way to complete this inventory.

d. Develop alternatives. Reasonable alternatives are feasible ways to achieve a project's purpose (FAA Order 1050.1E, paragraph 506e). As noted below, the range of reasonable alternatives during an airport sponsor's master planning process is different than the range of alternatives needed for the NEPA process.

(1) During the airport master planning process. Airport sponsors and their planners consider various ways of solving an airport's problems before FAA begins its formal NEPA process. According to Chapter 5 of AC 150/5070-6B, the sponsor, its planners, and FAA airport planners, during project master planning, should consider safe, efficient alternatives within the airport sponsor's or FAA's jurisdiction. When developing these alternatives, FAA environmental specialists should advise the sponsor and the planners about obvious, sensitive environmental resources in the airport vicinity. This step highlights the need for the sponsor and planners to consider alternative project layouts or designs that could eliminate or reduce environmental impacts when the widest range of layout or design options exists.

(2) During the NEPA purposes. When developing reasonable alternatives for NEPA purposes, the scope of alternatives must include the alternatives noted above and those reasonable alternatives *outside* the airport sponsor's and FAA's jurisdiction (40 CFR 1502.14(c)). Consequently, these alternatives, "...include those [alternatives] that are practical or feasible ways from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant."⁶

⁵December 23, 2004, memorandum from the Director, Airport Planning and Programming, entitled *Revision to Guidance on Review and Approval of Aviation Forecasts*.

⁶CEQ's *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, Question 2a.

e. Identity a proposed action. Sometimes a sponsor selects a reasonable alternative as the “proposed action” early in project planning. Early identification of the proposed action depends on the problem the sponsor is trying to solve and the problem’s complexity. If the airport has inadequate apron space or an emergency vehicle building is needed, the sponsor may have little difficulty identifying the proposed action. Conversely, if the airport lacks sufficient runway capacity or a new airport is necessary, the range of reasonable alternatives may be varied and complex. Here, the sponsor may not be able to identify a proposed action during the planning process.

505. ARP RESPONSIBILITIES. Close coordination among the airport sponsor, its planning consultant, and FAA encourages thoughtful, responsible airport planning. ARP airport planners, engineers, and environmental specialists should work closely with the sponsor’s airport planners early in project planning. This effort will help planners prepare well-developed airport projects that consider environmental factors in project planning. Such projects enhance ARP’s ability to later meet substantive Federal environmental requirements applicable to a proposed action and its reasonable alternatives.

506. FAA’S ENVIRONMENTAL REVIEW PROCESS. The responsible FAA official should determine the environmental review the proposed action requires. The official should do so after working with the airport sponsor’s planners to use the interdisciplinary approach discussed in this chapter.

a. Categorical exclusion. The responsible FAA official may categorically exclude an airport action when the official finds:

(1) The proposed action is listed in FAA Order 1050.1E, paragraphs 307 through 312 (or Chapter 6, Tables 6-1 and 6-2 of this Order), and

(2) Extraordinary circumstances in paragraph 304 of that order (or Chapter 6, Table 6-3 of this Order) do not require an EA or EIS.

b. Environmental assessment (EA). The responsible FAA official should inform the airport sponsor to prepare an EA when:

(1) The official determines that extraordinary circumstances applicable to a normally categorically excluded action suggest an EA is needed. or

(2) The action is not listed in Chapter 6, Tables 6-1 or 6-2 and, therefore, normally requires an EA at a minimum.

c. Environmental impact statement (EIS). The responsible FAA official should begin preparing an EIS when:

(1) The proposed action normally requires an EIS (see paragraph 903).

(2) An EA indicates that the approving FAA official cannot issue a Finding of No Significant Impact (FONSI) because the proposed action is likely to cause significant environmental effects that cannot be mitigated below significance thresholds. or

(3) ARP experience shows an action addressed in an EA would cause significant environmental impacts.

507. – 599. RESERVED.

CHAPTER 6. CATEGORICAL EXCLUSIONS

600. CATEGORICAL EXCLUSIONS. To reduce unnecessary paperwork, Council on Environmental Quality regulations at 40 CFR 1500.4(p) allow for the exemption of certain categories of actions from NEPA's EIS requirements. Specifically, 40 CFR 1508.4 defines categorical exclusions as:

“...categories of actions that normally do not individually or cumulatively have significant adverse effects on the human environment and which have been found [by the federal agency] to have no such effect.”

In developing categorically excluded actions, each Federal agency must consider:

“... extraordinary circumstances in which a normally categorically excluded action may have a significant environmental effect.” (See paragraph 606 of this chapter)

601. CATEGORICAL EXCLUSIONS FOR AIRPORT ACTIONS. Under FAA Order 1050.1E, paragraph 303c, the Office of Airports (ARP), like other FAA organizations, may categorically exclude actions listed in paragraphs 307 through 312 of that Order.

a. Similar actions. Some of these categorical exclusions are limited to specific actions, while others are defined to include not only specific, but also, similar actions. Examples of the latter exclusions include essentially similar facilities and equipment (see Order 1050.1E, paragraphs 309a, 309c, 309d, and 310g); essentially similar development (see Order 1050.1E, paragraph 310f); and similar systems (see Order 1050.1E, paragraph 310v). Here, the responsible FAA official should place in the project file a brief explanation of why the proposed action is similar to the specific action listed.

b. Tables 6-1 and 6-2. For convenience, Tables 6-1 and 6-2 at the end of this chapter provide alphabetical, annotated listings of the airport-specific portions of the categorically excluded actions in Order 1050.1E paragraphs 307 through 312.

c. Categorical exclusions satisfy NEPA. In categorically excluding an action, ARP meets its NEPA responsibilities. This allows the appropriate FAA official to determine if FAA should approve or fund that action without requiring an EA or preparing an EIS.

602. TYPES OF CATEGORICAL EXCLUSIONS. FAA has categorically excluded two types of actions.

a. Actions unlikely to involve extraordinary circumstances. Order 1050.1E, paragraph 303d, notes that certain categorically excluded actions are not reasonably expected to change land use or cause environmental impacts. These actions normally involve administrative and planning-related actions. This chapter lists airport actions in this grouping (see paragraph 604 and Table 6-1 of this Order).

b. Actions that may involve extraordinary circumstances. In contrast, actions discussed in paragraph 605 and listed in Table 6-2 of this chapter are categorical exclusions for actions that may cause environmental impacts involving extraordinary circumstances. Paragraph 304 of Order 1050.1E notes that an action involving one or more circumstance listed in Order 1050.1E, (Table 6-3 of this Order) does not necessarily require an EA or EIS. However, one may be needed as the responsible FAA official examines extraordinary circumstances associated with the proposed action. See paragraphs 606.a and b of this Order for more information.

c. Categorical exclusion citation. The correct citations for the categorically excluded, airport-related actions in Tables 6.1 and 6.2 are the paragraphs from FAA Order 1050.1E noted in the rightmost columns of those Tables. Do not cite Order 5050.4B as the authorization. For example, the reference for categorically excluding the issuance of an airport planning grant is Order 1050.1E, paragraph 307o. The reference is not Order 5050.4B, Table 6-1.

603. SPONSOR-PROVIDED INFORMATION TO SUPPORT A CATEGORICAL EXCLUSION. Sponsor-provided information greatly enhances the responsible FAA official's review of a proposed action.

a. Plan accordingly. Normally, airport sponsors know well in advance when they must take an action to meet an airport need. Therefore, as soon as the airport sponsor has defined its proposed action, ARP encourages airport sponsors to begin collecting information and completing the consultation (if the applicable special purpose law allows) or analysis that a categorical exclusion may need. ARP makes this recommendation to ensure the airport sponsor allocates enough time in the project's schedule to allow ARP to meet its responsibilities under NEPA and any applicable special purpose law(s).

b. Information the sponsor should provide to FAA. ARP urges airport sponsors (or its consultant) to review Table 6-3. This helps the sponsor determine if there is environmental information it can provide the responsible FAA official to facilitate the official's timely review of a proposed categorical exclusion involving an extraordinary circumstance. A sponsor not providing the needed information could delay the responsible FAA official's review of the action. That delay may occur because the responsible FAA official will have to collect and analyze the information the sponsor would have otherwise provided.

(1) An airport sponsor (or its consultant) should review the requirements of any special purpose law(s) that applies to a proposed action that may be categorically excluded. This review helps the sponsor determine if it or FAA must consult with a resource agency to meet special purpose law requirements and the extent of public involvement.

(2) That review also helps the airport sponsor determine the analyses and documentation needed for a proposed action or if FAA has a role in meeting those special

purpose law requirements. For example, eligibility determinations and effects determinations are solely FAA's responsibilities under Section 106 of the National Historic Preservation Act. Therefore, a sponsor's early notification to FAA that the agency must fulfill a special purpose law enhances the responsible FAA official's ability to comply with the law in a timely manner and meet the sponsor's schedule.

c. Airport actions in Table 6-1. The sponsor should briefly describe its proposed action. Cite the paragraph in the right-hand column of Table 6-1 listing the action as an FAA categorical exclusion. This helps the sponsor verify it is proposing an action FAA normally categorically excludes.

d. Airport actions in Table 6-2. Actions listed in Table 6-2 require the airport sponsor to review information on extraordinary circumstances (see paragraph 606 of this Order). If an extraordinary circumstance applies, ARP urges the airport sponsor or consultant to contact FAA to discuss the applicable extraordinary circumstance(s) and the information the responsible FAA official may need to address the circumstance(s).

604. CATEGORICAL EXCLUSIONS UNLIKELY TO INVOLVE EXTRAORDINARY CIRCUMSTANCES. After determining that an action may qualify for a categorical exclusion, the next step for the responsible FAA official is to determine whether the categorical exclusion is likely to involve extraordinary circumstances, using Table 6-1 and 6-2. Table 6.1 lists categorical exclusions for actions that FAA's experience shows are unlikely to involve extraordinary circumstances. If the action is in Table 6.1, normally no further environmental review is required and the official will categorically exclude the action.

605. CATEGORICAL EXCLUSIONS THAT MAY INVOLVE EXTRAORDINARY CIRCUMSTANCES. The responsible FAA official must determine if a normally categorically excluded action listed in Table 6-2 involves an extraordinary circumstance.

a. An action not involving an extraordinary circumstance. When the responsible FAA official determines an action listed in Table 6-2 does not involve any extraordinary circumstance, the official may categorically exclude the action.

b. An action involving an extraordinary circumstance. When the responsible FAA official determines an extraordinary circumstance possibly exists, the official must:

(1) Comply with any applicable special purpose laws and determine if the impacts associated with the possible extraordinary circumstance warrant a categorical exclusion, or

(2) Decide if an EA or EIS is needed to determine if the action involving an extraordinary circumstance that would cause a significant adverse environmental impact.

606. EXTRAORDINARY CIRCUMSTANCES. Extraordinary circumstances are those situations where an action that is normally categorically excluded may cause significant adverse environmental impacts. The process discussed below integrates into the NEPA process ARP's consideration of applicable special purpose law requirements or other environmental factors. This integration should provide the responsible FAA official with information needed to determine if ARP may categorically exclude a proposed action involving extraordinary circumstances. ARP believes the steps discussed below provide the flexibility necessary to act timely and responsibly on categorically excluded actions.

a. Extraordinary circumstances. *Before* categorically excluding actions listed in Tables 6-1 or 6-2, the responsible FAA official must review Table 6-3. Table 6-3 presents an alphabetized, annotated list of the circumstances described in FAA Order 1050.1E, paragraph 304. The asterisk in the Table means the circumstance is based on a special purpose law (paragraph 9.t of this Order). If a circumstance involves a special purpose law, the airport sponsor or responsible FAA official, as appropriate, should follow the process discussed below and in paragraph 606.b.

(1) The responsible FAA official should independently review the information the airport sponsor provides to determine if the information is sufficient to analyze the categorical exclusion and any applicable extraordinary circumstance(s). Lacking that information, the official should request that the sponsor provide the information needed to verify the action may be categorically excluded. If the sponsor does not do so, the official must collect that information.

(2) When the responsible FAA official has information sufficient to evaluate the extraordinary circumstance(s) related to the proposed action, the official may:

- (a) Categorically exclude the action.
- (b) Request that the sponsor prepare an EA. or
- (c) Recommend that FAA begin preparing an EIS.

b. Special purpose laws. To streamline FAA's NEPA review and compliance with special purpose laws, the responsible FAA official (the airport sponsor or its consultant, if appropriate), should follow the instructions in paragraphs 606.b.(1) – (4) of this Order. FAA may categorically exclude an action for NEPA purposes, but *only* if it meets all requirements in paragraphs 606.b.(1) - (4) and the responsible FAA official determines the severity of environmental impacts does not warrant an EA or EIS.

(1) **Compliance requirements.** Except when the responsible FAA official determines that an EA or EIS is needed to properly analyze extraordinary circumstances under a special purpose law, the applicable special purpose law, not NEPA, determines the type of analysis, the extent of resource agency consultation, public involvement, and documentation needed to support a categorical exclusion.

(2) Resource agency input. FAA (or the sponsor, if determined appropriate under the applicable special purpose law) should obtain input from the resource agency as the special purpose law requires and place that information in the project file. A fax, e-mail, memorandum, letter, or other proof of communication providing a record of the consulted agency's input or opinion is sufficient. The responsible FAA official or the sponsor (or its consultant), if appropriate, must allow the resource agency the time specified in the applicable special purpose law to provide agency input. Therefore, the sponsor should include the required time in its project schedule.

(3) Mitigation. As appropriate or needed, the responsible FAA official or the sponsor and resource agency should discuss mitigation. These parties should ensure the mitigation is related to the proposed airport action, that it is reasonable, and that it complies with FAA's mission. The responsible FAA official must ensure the measures required to mitigate impacts are enforced under the:

- (a) Applicable special purpose law or its implementing regulations.
- (b) FAA's unconditional ALP approval letter. or
- (c) Special assurances in FAA's grant for the action, if applicable.

(4) When a resource agency does not respond. Special purpose laws applicable to proposed actions may require input from or require that comment opportunities be afforded to resource agencies or agencies with special expertise. When that input is needed or the applicable law provides an opportunity for those agencies to review a proposed action, the responsible FAA official is encouraged to proactively seek that input. Doing so should lessen the possibility of delaying an action because an agency fails to act in a timely manner. If a resource agency does not respond or provide information within the time the applicable special purpose law specifies, the responsible FAA official may complete the environmental review of the proposed action. However, the official should consider contacting the expertise agency. Also, if the airports sponsor sought, but did not receive agency input, the sponsor should immediately alert the responsible FAA official. Those steps help FAA determine why the resource agency did not respond within the special purpose law's designated time. Those steps also provide opportunities to receive resource agency input and complete the project review, even though the designated time for that input has expired. The responsible FAA official should place a record of this effort in the project file.

(a) If the responsible FAA official's effort does not provide resource agency input, the responsible FAA official should immediately elevate the action to the approving FAA official for a decision. The responsible FAA official should provide the approving FAA official with documentation to show that FAA and/or the airport sponsor has complied with the applicable law.

(b) Based on the documentation, the approving FAA official has the discretion to:

1. Further seek agency input.
2. Categorically exclude the action. or
3. Require an EA or EIS.

(5) Required good faith efforts. In completing paragraphs 606b.(1) – (4), FAA (or the airport sponsor, as appropriate) must verify it has made a good faith effort to comply with NEPA and the applicable special purpose law(s).

607. FAA DOCUMENTATION.

a. CEQ regulations. CEQ's NEPA implementing regulations do not require documentation for categorically excluded actions. FAA Order 1050.1E, paragraph 305, reflects this, but it also notes that unique situations may occur, prompting the responsible FAA official to document a categorical exclusion.

b. Required information to streamline the review of categorical exclusions involving special purpose laws. To streamline the NEPA process while complying with special purpose laws, ARP requires the responsible FAA official to provide some documentation in a project file for a categorical exclusion involving special purpose laws.

(1) There is no prescribed format or amount of documentation to support the categorical exclusion, if the applicable special purpose law does not specify it. An airport sponsor (or consultant) should ask the responsible FAA official about how the official wishes to receive information involving those laws.

(2) If the applicable special purpose law requires certain documentation, the project file must include it. For example, the project file for a categorical exclusion that involves National Register-listed or eligible historic properties, must include information 36 CFR Part 800 requires for the type of effects that may occur. In other cases, the documentation may range from a specific analysis to a telephone memo, letter, a memorandum, or other personal communication. In all cases, the documentation must prove that FAA or the sponsor, as appropriate, has met the applicable special purpose law's requirements.

c. Optional documentation. ARP recognizes that the categorical exclusions in Table 6-1 rarely involve extraordinary circumstances, while those in Table 6-2 may do so. Even if the categorical exclusion does not require documentation to address any special purpose laws, the responsible FAA official may choose to include information in the project file for reference or legal challenges that may occur.

Note: ARP leaves the decision to include contractual requirements for SBGP participants to use forms to document categorical exclusions to the discretion of the Airports Division managers in the respective regions having SBGP participants.

608. NOTIFYING THE AIRPORT SPONSOR ABOUT A CATEGORICAL EXCLUSION. Via a dated e-mail or letter, the responsible FAA official must notify the airport sponsor that FAA has or has not categorically excluded a proposed action. This ensures the airport sponsor knows that FAA has met the requirements of NEPA and that FAA has addressed all associated extraordinary circumstances applicable to a proposed action. The responsible FAA official must place proof of this notice in the project file. If FAA cannot categorically exclude an action, the responsible FAA official should explain why. This information may help the sponsor design future actions that FAA may categorically exclude.

609. - 699. RESERVED.

Table 6-1. Airport-specific Categorical Exclusions Unlikely to Involve Extraordinary Circumstances.

AIRPORT ACTION	ANNOTATED DESCRIPTION “Approving AIP funding for or a request to ...”	CITE FROM FAA ORDER 1050.1E
Grants for airport planning or State Block Grants.	issue a planning grant that does not commit FAA to a project. Issuing grants to a state block grant program is included here.	307o.
Bond retirement for terminal development.	retire an airport sponsor’s principal bond for terminal development.	307t.
Conditional Airport Layout Plan (ALP) approval.	conditionally approve an ALP.	307p.
Grants to prepare environmental documents.	issue a grant to prepare an EA or EIS.	307o.
Grants to prepare Noise exposure maps (NEMs) and noise compatibility programs (NCPs).	issue a grant to prepare NEMs or NCPs.	307n.
Approval of Passenger Facility Charge (PFC).	allow an airport sponsor to solely impose or to impose and use a PFC for planning studies. Note: FAA Order 5500.1, <i>Passenger Facility Charge</i> provides more information.	307h.

Table 6-1 (continued). Airport-specific Categorical Exclusions Unlikely to Involve Extraordinary Circumstances.

AIRPORT ACTION	ANNOTATED DESCRIPTION OF THE ACTION	CITE FROM FAA ORDER 1050.1E
	“Approving AIP funding for or a request to ...”	
Issuing policy and planning documents.	issue these documents. Examples include the NPIAS, advisory information on the AIP.	307g.
Preliminary AIP eligibility actions.	tentatively or conditional actions taken to establish sponsor AIP eligibility.	307i.
Safety equipment for airport certification.	authorize the purchase of safety equipment such as snow removal equipment or other equipment necessary for airport certification.	309h.
Security equipment purchase.	buy equipment for airport security purposes, per 14 CFR Part 107. Note: This does not include fence installation because that action involves land disturbance that may involve an extraordinary circumstance. See Table 6-22, Security.	309h.

Table 6-2. Airport-specific Categorically Excluded Actions that may Involve Extraordinary Circumstances.

AIRPORT ACTION	ANNOTATED DESCRIPTION OF THE ACTION “Approving AIP funding for or a request to approve or change an ALP to...”	CITE FROM FAA ORDER 1050.1E
Airfield barriers.	build or extend aircraft operating area fencing, or jet blast facilities.	310e
Airfield improvements, aircraft parking areas.	build, repair, or extend an existing airport’s aprons, loading ramps, taxiway, or taxi lane provided they have only on-airport impacts.	310e.
Airfield improvements, roads.	build, maintain, move, or repair roads, if the action does not permanently reduce the Level of Service to unacceptable levels. ¹	310a.
Airfield improvements, runways.	extend, fillet, groove, mark, rebuild, resurface, or strengthen existing runways or runway surface areas. ²	310e.
Airfield improvements, storage areas.	build or expand airport fire and rescue buildings, equipment storage buildings or T-hangars.	310f.
Airfield lighting.	install or upgrade airfield lighting (e.g., beacons, runway indicator lights, runway end identification lights, visual approach aids, etc.).	309b.

¹ Contact the local transportation agency for help in determining unacceptable Levels of Service.

² Substantial expansion: To screen noise for possible significant impacts, use the Area Equivalent Method (AEM). If this noise-screening tool indicates the proposed action’s DNL or CNEL 65 dB contour is at least 17% greater in area when compared to the area of the future no action DNL or CNEL 65 dB contour, or if the AEM cannot be used, an EA may be necessary. To screen for air quality effects, use information in section 2, p. AD-6 of the September 2004 addendum to FAA’s *Air Quality Procedures for Civilian Airports and Air Force Bases* handbook. Results may indicate an EA is needed.

Table 6-2 (continued). Airport-specific Categorically Excluded Actions That May Involve Extraordinary Circumstances.

AIRPORT ACTION	ANNOTATED DESCRIPTION OF THE ACTION	CITE FROM FAA ORDER 1050.1E
	“Approving AIP funding for or a request to approve or change an ALP to...”	
Cargo building.	construct or expand a cargo building at an existing commercial service airport that does not substantially expand the building. ²	310h.
Conveying Federally-owned airport land.	approve conveyance of Federal-owned land, including surplus property, provided intended use is categorically excluded.	307c.
Deicing/anti-icing facility.	build or operate this facility, provided it meets all water quality permit requirements and does not attract wildlife hazardous to aviation. Note: See FAA AC 150/5200-33A, <i>Hazardous Wildlife on or Near Airports</i> .	310d.
Fill activity.	fill deposits into previously excavated non-aquatic areas. Note: Fill cannot be contaminated, must be compatible with surrounding substrate, and must be contoured to match natural features.	310k.
General landscaping.	conduct landscape maintenance and vegetative and erosion control measures. Note: Actions cannot spread invasive species or attract wildlife hazardous to aviation.	310p.
Heliport at an existing airport.	a heliport that would not significantly increase noise over noise sensitive areas.	310t.
Low emission technology equipment, including the Voluntary Airport Low Emission Program	to buy this equipment and operate it within airport boundaries. This includes building, upgrading, refueling or recharging stations for low emission vehicles.	309g, 310f, 310n, 310u.
Miscellaneous items.	install or upgrade on-airport measuring devices, segmented circles, and landing aids.	309e.
Non-radar facilities.	install or upgrade non-radar equipment.	309c.
Noise barriers.	install vegetation, berms, or sound walls to reduce noise, provided they do not attract wildlife hazardous to aviation.	310q.

Table 6-2 (continued). Airport-specific Categorically Excluded Actions That May Involve Extraordinary Circumstances.

AIRPORT ACTION	ANNOTATED DESCRIPTION OF THE ACTION	CITE FROM FAA ORDER 1050.1E
Noise compatibility programs.	carry out FAA-approved noise compatibility programs or to amend airport layout plans depicting measures to be implemented.	307d.
Non-U.S. waters, including wetlands in which categorically excluded actions are proposed.	take an action that is normally categorically excluded and that unavoidably affects these aquatic resources, provided the project design would have met standards defined in a Corps of Engineers General Permit ³ that would have applied if the project involved jurisdictional waters. Often, poor or neglect of maintenance of airport drainage ditches results in conveyances that have hydrologic regimes and soil characteristics supporting wetland vegetation. Note: The instructions here do not pertain to those ditches having the following characteristics: <ul style="list-style-type: none"> - ditch must not drain a jurisdictional wetland; - the spoil from the ditch cannot contain toxic pollutants; and - the discharge of the spoil removed from the ditch cannot visibility alter the circulation or flow in waters of the U.S (see 33 CFR Part 328 for more detail on these waters). 	310k.
On-airport obstruction treatment.	grade land or remove obstructions to air navigation, including tree topping or trimming activities for Part 77 requirements. Note: These actions may occur on or affect only airport property or FAA-owned or leased property.	310l. and 310z.

³ General Permits included on a nationwide, regional, or State basis for particular categories of activities. (see Volume 61 *Federal Register*, No. 241, p. 65874).

Table 6-2 (continued). Airport-specific Categorically Excluded Actions That May Involve Extraordinary Circumstances.

AIRPORT ACTION	ANNOTATED DESCRIPTION OF THE ACTION	CITE FROM FAA ORDER 1050.1E
	“Approving AIP funding for or a request to approve or change an ALP to...”	
Ownership change by purchase or transfer.	acquire or transfer ownership or operation of an existing airport. Note: Here, the transfer of ownership is limited to right of ownership, right of possession and/or operating responsibility.	307m.
Parking areas.	build small aircraft parking ramps, vehicular parking areas, and garages. ²	310f. and 310h.
Passenger handling building.	construct or expand a terminal passenger handling building at an existing commercial service airport that does not substantially expand the building. ²	310h.
Radar installation.	install, repair, replace, move or upgrade radar equipment.	309d.
Releasing airport land.	release of an airport sponsor from Federal obligations the sponsor incurred when it accepted an AIP grant or Federal surplus property for airport purposes. Note: This includes FAA’s consent to long-term (>20 years) leases allowing airport land use for non-aeronautical purposes.	307b.
Relocation.	move people and businesses to carry out a categorically excluded action.	310b.
Repair and maintenance.	repair and maintain existing roads, rights-of-way, trails, grounds, parking areas and utilities, including snow removal.	310w.
Replacement structures.	replace or rebuild terminals or other airport facilities of similar size and purpose. Must be on the same site as the existing facility.	310v. and 310w.
Restrictions, aircraft access.	restrict Stage 3 aircraft operations under for 14 CFR, Part 161. Note: The action cannot cause a significant noise impact at the airport seeking the restriction nor at other airports serving the restricted aircraft.	307u.

Table 6-2 (continued). Airport-specific Categorically Excluded Actions That May Involve Extraordinary Circumstances.

AIRPORT ACTION	ANNOTATED DESCRIPTION OF THE ACTION	CITE FROM FAA ORDER 1050.1E
	“Approving AIP funding for or a request to approve or change an ALP to...”	
Runway threshold.	remove a displaced runway threshold	311l.
Security.	build or maintain fencing.	310f
Transfer land by long-term lease or acquisition.	transfer ownership or operation of an existing airport by acquisition or long-term lease. Here, the transfer is limited to ownership, right of possession and/or operating responsibility.	307m.
U.S. Waters, including wetlands, in which categorically excluded actions are proposed.	take an action that is normally categorically excluded and that unavoidably affects U.S. waters, including wetlands when avoidance of the waters or wetlands is not practical and the action qualifies for a Corps of Engineers General Permit (i.e., nationwide or regional permits). Fill material must be compatible with the site’s natural features.	310k.
Utility line construction, temporary.	approve temporary removal or extension of utility lines to serve temporary construction.	310j.
Wildlife Hazard Management Plan implementation.	implement measures listed Table 6-2 that are included in an FAA-approved WHMP.	308.e

Table 6-3. An Annotated Summary of Extraordinary Circumstances.

(Note: The asterisk (*) signifies there is a special purpose law outside of NEPA that addresses this extraordinary circumstance. See paragraph 9.t for more information on special purpose laws. Smaller font provides information and agencies that may need to be consulted to comply with a particular special purpose law).

EXTRAORDINARY CIRCUMSTANCE	ANNOTATED DESCRIPTION	CITE FROM FAA ORDER 1050.1E
* Air quality.	An action that would violate applicable Federal, State, Tribal, or local air quality standards under the Clean Air Act of 1990, as amended. Note: Contact a State or Tribal air quality agency, as appropriate.	304g.
*Coastal zone areas.	Federal actions in or affecting coastal resources must meet requirements of Coastal Zone Management Act programs. Note: Contact the State agency having authority for these programs.	304c.
Community disruption.	An action dividing ⁴ or disrupting ⁵ an established community or planned development, or that is inconsistent with plans or goals of a community where the project would occur. Note: Contact local land use authorities.	304d.
Cumulative impacts.	An action likely to cumulatively cause significant impacts.	304k.
* Endangered species.	An action that may affect listed or candidate species under the Endangered Species Act, including designated or proposed critical habitats. Note: Contact: the U.S. Fish and Wildlife Service or the National Marine Fisheries Service. For state species, contact state agency.	304c.

Table 6-3 (continued). An Annotated Summary of Extraordinary Circumstances.

⁴“Dividing” would occur if a proposed action causes or requires purchasing homes and relocating their occupants on one side of a street, while the portion of the established or planned community on the other side of the street remains. An example is a neighborhood remnant that would lack the “neighborhood spirit” or “cohesiveness discussed below in “disruption.”

⁵“Disruption” would occur if a proposed action would change an existing or planned community so drastically that the community would no longer meet planning criteria used to establish the community. Disruption would also occur if the action would drastically reduce community cohesiveness. Cohesiveness is a trait found most often in long-established communities. It is often ethnically, culturally, or racially-based. An example of community cohesiveness is often found where residents feel comfortable due to the community’s unique amenities. A project disrupts this cohesiveness when it requires relocating many residents of these neighborhoods, or it causes loss of community facilities.

EXTRAORDINARY CIRCUMSTANCE	ANNOTATED DESCRIPTION	CITE FROM FAA ORDER 1050.1E
* Farmlands conversion.	An action that would convert important farmland protected by the Farmland Protection Act. Note: Contact the Natural Resources Conservation Service or state agricultural agency.	304c.
* Floodplains.	An impact on natural, ecological, or scenic floodplain resources of Federal, State, Tribal, or local significance caused by an action in the 100-year floodplain. Note: Contact local U.S. Army Corps of Engineers or Federal Emergency Management Agency offices for information on determining actions in the 100-year floodplain.	304c.
* Hazardous materials.	An action involving or causing contamination of areas, based on Phase I or II Environmental Due Diligence Audits. Note: Contact EPA's regional Office of Solid Waste and Emergency Response.	304k.
Highly controversial action.	See paragraph 9.i for more information on controversy.	304i.
* Historic or cultural property.	An action causing an adverse effect on historic or cultural property protected by Section 106 of the National Historic Preservation Act. Note: Consult FAA and the State or Tribal Historic Preservation Officer, as appropriate.	304a.
Inconsistency with applicable laws.	An action that is likely to be inconsistent with any applicable Federal, State, local, or Tribal law relating to the proposed action's environmental aspects.	304j.
Noise.	Noise impact on noise-sensitive areas. See paragraph 9.n for information on noise sensitive areas.	304.f.

Table 6-3 (continued). An Annotated Summary of Extraordinary Circumstances.

EXTRAORDINARY CIRCUMSTANCE	ANNOTATED DESCRIPTION	CITE FROM FAA ORDER 1050.1E
* Section 4(f)	An action having an impact on properties protected by DOT Act, Section 4(f) such as publicly-owned land in a park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance or a historic site of national, state, or local significance. Note: Contact agency or entity with jurisdiction over the property.	304b.
Traffic congestion.	An action causing transportation congestion due to unacceptable Levels of Service. Note: Contact the transportation or highway agency having jurisdiction over the project-affected roadways.	304e.
* U.S. waters, including jurisdictional wetlands.	An action affecting these waters or wetlands that does not qualify for a U.S. Army Corps of Engineers General Permit under Section 404 of the Clean Water Act. Note: Consult the Corps of Engineers for information on project designs or actions that would qualify for an Individual Permit. Contact the appropriate U.S. Fish and Wildlife Service office and/or state agency responsible for protecting the resources the project would affect.	304c.
Water quality.	An impact on water quality, a sole source aquifer, a public water supply system or State or Tribal water quality or water standards established under the Clean Water Act or the Safe Drinking Water Act. Note: Contact the State agency responsible for enforcing State water quality standards.	304h.
*Wild and Scenic Rivers.	An action affecting a river segment that is listed in the Wild and Scenic River System, the National Rivers Inventory, or a river that is eligible for the Inventory. Note: Contact U.S. Forest Service, National Park Service, Fish and Wildlife Service offices or Bureau of Land Management district offices.	304c.

TABLE 7-1. SIGNIFICANCE THRESHOLDS		
RESOURCE CATEGORY	ORDER 1050.1E THRESHOLD	FACTORS TO CONSIDER FOR AIRPORT ACTIONS
Air quality.	When a project or action exceeds one or more of the National Ambient Air Quality Standards (NAAQS).	<p>For NEPA purposes: The responsible FAA official must determine if air quality impacts of a reasonable alternative would exceed a National Ambient Air Quality Standard for the time periods analyzed.</p> <p>For General Conformity requirements under the Clean Air Act, as amended. Analyze only the proposed or preferred alternative.</p>
Coastal Barriers.	None established.	<p>FAA Order 1050.1E, Appendix A, Section 3 does not provide a threshold for these resources. After consulting with the jurisdictional U.S. Fish and Wildlife Service or Federal Emergency Management Agency office, the responsible FAA official should determine if the proposed action would cause either of the following conditions.</p> <ul style="list-style-type: none"> • An unacceptable risks to human safety or property. • Adverse effects to the barrier’s environmental resources that could not be satisfactorily mitigated.
Coastal Zone.	None established.	<p>FAA Order 1050.1E, Appendix A, Section 3, does not provide a threshold for these resources. Because of the number of airports in coastal areas or that could affect coastal resources, ARP suggests the responsible FAA official consider the following factors, while addressing effects on coastal zone resources.</p> <ul style="list-style-type: none"> • Did the CZM agency object to the sponsor’s consistency certification? • If yes, has the sponsor changed the project so it is consistent with the applicable coastal zone management plan(s)? • If not, has the sponsor successfully appealed the CZM agency’s consistency objection to the NOAA Assistant Administrator? • If the airport action includes facilities FAA will install, did the

		<p>responsible FAA organization provide proof that it will install the necessary aviation facilities in a manner consistent with the approved coastal zone management plan to the maximum extent practicable?</p> <ul style="list-style-type: none"> • Did the CZM agency agree or disagree with FAA’s finding? • If not, has FAA changed the proposed installation to meet CZM plan?
Compatible land use.	See significance threshold for noise.	<p>The responsible FAA official determine if any alternative would have land use consequences such as:</p> <ul style="list-style-type: none"> • community disruption; • business relocations; • induced socioeconomic impacts; • wetland, or floodplain impacts; or • critical habitat alterations. <p>Use the information from the factors addressing these specific issues to determine the severity of compatible land use effects.</p>
Construction impacts.	See significance threshold for the resource(s) construction would affect.	Use the information for each applicable resource.
Section 4(f).	When the action’s physical use would be more than minimal or its constructive use substantially impairs the 4(f) property. In either case, mitigation is not enough to sustain the resource’s designated use.	<p>Determine if the proposed action or a reasonable alternative would eliminate or severely degrade the intended use of the Section 4(f) resource. That is would the proposed action or alternative physically or constructively use (i.e., substantially impair the use) that resource?</p> <p>The responsible FAA official should determine if mitigation is satisfactory to the agency having jurisdiction over the protected resource. If mitigation is unsatisfactory, more detailed, impact analysis is likely needed.</p>

Farmlands.	When the total combined score on Form AD-1006 ranges between 200 and 260. Impact severity increases as the total score approaches 260.	
Fish, Wildlife and Plants.	<p>For Federally-listed species: When the U.S. Fish and Wildlife Service or the National Marine Fisheries Service determines a proposed action would likely jeopardize a species' continued existence or destroy or adversely affect a species' critical habitat.</p> <p>For non-listed species: Consider scientific literature on and information from agencies having expertise addressing on the affected species. Consider information on: project effects on population dynamics; sustainability; reproduction rates; natural and artificial mortality (aircraft strikes); and the minimum population size needed to maintain the affected population.</p>	<p>The responsible FAA official should consider the following factors in consultation with organizations having jurisdiction or special expertise concerning the protection and/or management of the affected species. The official should complete the added analysis for each reasonable alternative that would cause long-term (i.e., greater than 1 year) habitat impacts.</p> <ul style="list-style-type: none"> • Consult with the appropriate agency(ies) to determine if an area sufficient to sustain species commonly found in the affected area would remain if the alternative were implemented. • Determine if the alternative would affect habitat supporting floral or faunal species not commonly occurring in the project area. If yes, In consultation with the appropriate agency(ies), determine if the alternative would affect a small tract of sensitive habitat needed for the survival or well-being of flora or fauna. Consider the locations of other nesting and breeding areas relative to the project's affected area and if resource agency(ies) indicate those areas could sustain the disturbed species.
Floodplains.	When notable adverse impacts on natural and beneficial floodplain values would occur.	<p>The a responsible FAA official must decide if a "significant floodplain encroachment" would occur. To do so, the official must decide if the action's or reasonable alternative's floodplain encroachment would cause any of the following:</p> <ul style="list-style-type: none"> • A considerable probability of loss of human life; • Future, extensive damage that would interrupt airport service or use of the proposed runway or other proposed airport facility. • A notable, adverse effect on the affected floodplain's natural and beneficial values. <p>It is critical to note that an alternative causing a significant</p>

		<p>encroachment does not necessarily trigger a significant impact for NEPA purposes. That level of impact would occur only when an action would cause notable adverse impacts on the affected floodplain's natural and beneficial values.</p> <p>In those instances when no significant effect under NEPA would occur, the responsible FAA official must ensure the environmental document discloses action-induced effects on human life, NAVAIDS, and transportation facilities. In this case, the official should ensure the document clearly states those effects do not trigger a significant impact under NEPA.</p>
Hazardous materials.	<p>When an action involves a property on or eligible for the National Priority List (NPL). Uncontaminated properties within a NPL site's boundary do not always trigger this significant threshold.</p>	
Historical, architectural, archaeological, and cultural.	<p>When an action adversely affects a protected property and the responsible FAA official determines that information from the State and/or Tribal Historic Preservation Officer addressing alternatives to avoid adverse effects and mitigation warrants further study.</p>	
Light emissions and visual effects.	<p>For light emissions: When an action's light emissions create annoyance to interfere with normal activities.</p> <p>For visual effects: When consultation with Federal, State, or local agencies, tribes, or the public shows these effects contrast with existing environments and the agencies state the effect is objectionable.</p>	
Natural resources and energy supply.	<p>When an action's construction, operation, or maintenance would cause demands that would exceed available or future (project year) natural resource or energy supplies.</p>	

<p style="text-align: center;">Noise.</p>	<p>For most areas: When an action, compared to the no action alternative for the same timeframe, would cause noise sensitive areas located at or above DNL 65 dB to experience a noise increase of at least DNL 1.5 dB. An increase from DNL 63.5 dB to DNL 65 dB is a significant impact.</p> <p>For national parks, national wildlife refuges and historic sites, including traditional cultural properties: FAA must give special consideration to these areas. The DNL 65 dB threshold may not adequately address noise effects on visitors to these areas. Consult the jurisdictional agency for more information to determine a significant noise impact.</p>	<p>ARP reminds the responsible FAA official that disclosing impacts having a DNL 3.0-dBA increase over noise-sensitive areas located between the DNL 60 and 65-dBA contours is for information purposes only. For NEPA purposes, those 3-dBA impacts do <u>not</u> cause significant adverse noise impacts below the DNL 65 dBA contour, except as noted in the 2nd column regarding national parks, etc.</p>
<p style="text-align: center;">Socioeconomic Environmental Justice, and Children’s Health and Safety Risks.</p>	<p>For Socioeconomic issues: When an action would cause:</p> <ul style="list-style-type: none"> • extensive relocation, but sufficient replacement housing is unavailable; • extensive relocation of community businesses that would cause severe economic hardship for affected communities; • disruption of local traffic patterns that substantially reduce the Levels of Service of roads serving the airport and its surrounding communities; • a substantial loss in community tax base. <p>For Environmental justice issues: When an action would cause disproportionately high and adverse human health or environmental effects on minority and low-income populations, a significant impact may occur.</p> <p>For Children’s Health & Safety Risks: An action causing disproportionate health and safety risks to children, may indicate a significant impact.</p>	

<p align="center">Solid waste.</p>	<p>None established.</p>	<p>ARP suggests that the responsible FAA official also determine if a reasonable alternative would cause one of the following conditions:</p> <ul style="list-style-type: none"> • Airport-generated solid waste would exceed available landfill or incineration capacities or require extraordinary effort to meet applicable solid waste permit conditions or regulations. • Local, State or Federal agencies determine that substantial, unresolved waste disposal issues exist and may require more analysis.
<p align="center">Water Quality.</p>	<p>When an action would not meet water quality standards. Potential difficulty in obtaining a permit or authorization may indicate a significant impact.</p>	<p>The responsible FAA official also consider if a proposed action or a reasonable alternative would threaten a public drinking water supply, sole source aquifer, or waters of national significance (e.g., Wild and Scenic Rivers, national refuges, etc.).</p>
<p align="center">Wetlands, jurisdictional or non-jurisdictional.</p>	<p>When an action would:</p> <ul style="list-style-type: none"> • Adversely affect a wetland’s function to a protect the quality or quantity of a municipal water supply, including sole source aquifers and a potable water aquifer. • Substantially alter the hydrology needed to sustain the affected wetland’s values and functions or those of a wetland to which it is connected. • Substantially reduce the affected wetlands’s ability to retain floodwaters or storm runoff, thereby threatening public health, safety or welfare. The last term includes cultural, recreational, and scientific public resources or property. • Adversely affect the maintenance of natural systems supporting wildlife and fish habitat or economically-important timber, food, or fiber 	

	<p>resources of the affected or surrounding wetlands.</p> <ul style="list-style-type: none"> • Promote development that causes any of the above impacts. • Be inconsistent with applicable State wetland strategies. 	
Wild and scenic rivers.	None established.	

CHAPTER 7. THE ENVIRONMENTAL ASSESSMENT

700. THE ENVIRONMENTAL ASSESSMENT (EA). CEQ states that an EA is a “concise document” that takes a “hard look” at expected environmental effects of a proposed action. Depending on project scope and complexity, the EA should be no more than 15 pages.¹ To achieve this page limit:

a. The EA should summarize the most important facts and conclusions surrounding the proposed action and its reasonable alternatives, if any.

b. The EA should incorporate by reference the correspondence, relevant data, inventories, assessments, appendices, or other technical documents supporting those facts and conclusions. All appendices and references must be available to anyone wishing to review them, unless another law prohibits disclosure of certain information or contains confidentiality provisions.

c. The EA should cross-reference pages of the supporting documents noted in paragraph 700.b. This enables readers to review the basis for the facts or conclusions the EA contains.

701. PURPOSE OF THE EA. FAA may prepare an EA on any action at any time to assist agency planning and decision making (40 CFR 1501.3(b)). The responsible FAA official uses the EA to meet the requirements of this Order and NEPA as the basis for recommending the issuance of a Finding of No Significant Impact (FONSI) or the preparation of an environmental impact statement (EIS). If the approving FAA official determines that an EIS is needed, the responsible FAA official may use the EA prepared for the proposed action as a source of information during FAA's preparation of an EIS for that action.

702. AIRPORT ACTIONS NORMALLY REQUIRING AN EA. The responsible FAA official must ensure an airport sponsor or the sponsor's qualified consultant or the agency prepares an EA for the airport actions listed below. Conversely, if a responsible FAA official reviews a proposed action and finds it is likely to cause significant impacts, the EA may be omitted and FAA may begin the EIS process.

a. **A normally categorically excluded action involving extraordinary circumstances.** This is an action that is normally categorically excluded, but that the responsible FAA official deems appropriate for an EA due to an extraordinary circumstance. Here, the official would require an EA to more thoroughly analyze and understand the severity of the proposed action's environmental impacts relative to applicable extraordinary circumstance(s).

¹ Question # 36a of CEQ's *Forty Most Asked Question Concerning CEQ's National Environmental Policy Act Regulations*.

b. Helicopter facilities or operations. An EA is needed to approve helicopter facilities or operations at an existing airport when helicopters using the facilities or operating at the airport would cause noise over noise sensitive areas within DNL 65 dB contours. The EA would be used to determine if those helicopters would cause a DNL 1.5 dB increase over noise sensitive areas within that contour. In addition, an EA would likely be needed for helicopter operations causing noise over national parks, wildlife refuges, or other areas where a quiet setting is a recognized quality of those land uses and the DNL 65 dB standard may not apply.

Note: Contact the responsible FAA official for settings, such as national parks, wildlife refuges, or other areas where a quiet setting is a recognized feature where the DNL 65 dB standard may not apply.

c. Land acquisition. An EA is needed to acquire land for any airport action discussed in the subparagraphs of paragraph 702 if the acquisition is highly controversial because:

(1) The supply of comparable, decent, safe, and sanitary housing is not sufficient to accommodate displaced residents. or

(2) Project-induced major business disruptions (e.g., interference with or eliminating access to businesses) in the affected area occur.

d. New airport serving general aviation. An EA is needed to unconditionally approve an initial Airport Layout Plan (ALP) or initial airport location for a new airport that would serve only general aviation, regardless of the airport's location. This paragraph includes Requests for AIP funds or approvals for a PFC to finance such a project.

e. New airport location. FAA requires an EA to unconditionally approve an ALP depicting an airport that would serve commercial service aircraft or general aviation and commercial service aircraft when that airport would not be located in a Metropolitan Statistical Area. This paragraph includes requests for AIP funds or approvals for a PFC to finance such a project.

f. New runway. FAA requires an EA to unconditionally approve an ALP depicting a proposed runway at an existing airport that is not located in a Metropolitan Statistical Area or a request to use AIP funds or a PFC to finance that project.

g. Major runway strengthening or major a runway extension. FAA requires an EA to unconditionally approve an ALP depicting a project to strengthen or extend a runway that would involve one of the extraordinary circumstances listed in Table 6-3 of

this Order. This paragraph includes requests for AIP funds or approvals for a PFC to finance such a project.

h. Prime and unique farmland. FAA requires an EA for an airport project that would convert land protected under the Farmland Protection Act to non-agricultural use, when the total score on the USDA's Farmland Conversion Impact Rating Form (Form AD-1006) exceeds 200 points.

i. Waters or wetlands. The decision to prepare an EA does not depend on the Corps of Engineers' jurisdiction over these resources (i.e. "a navigable water of the United States."). Rather, that decision depends on the context and intensity of the impact to these resources or if the project's design meets potential design eligibility criteria for a Corps of Engineers General Permit. Therefore, FAA requires an EA if an airport project involves dredging or filling of any waterway or wetland and:

(1) The airport sponsor must apply for an individual permit under Section 404 of the Clean Water Act to dredge or fill navigable waters.

(2) The project is not normally categorically excluded (see Tables 6-1 and 6-2 of this Order). or

(3) The project is normally categorically excluded (see Tables 6-1 and 6-2), but in this instance, would not meet the design criteria of any Corps of Engineers General Permit.²

Note: FAA realizes an action involving dredging or filling of non-jurisdictional waters or wetlands would not require any permit under the CWA. However, to ensure actions occurring in non-jurisdictional waters or wetlands do not cause significant environmental effects, FAA will use the General Permit design criteria as guidance. Projects not meeting those design criteria may cause significant impacts; therefore, they require preparation of an EA.

j. Other circumstances. The responsible FAA official should consider the need for an EA in circumstances not addressed in paragraphs 703.a – i, particularly when controversy exists because the proposed action involves a special purpose law.

703. EA PREPARATION. Normally, the airport sponsor selects a qualified environmental consultant to prepare an EA for an airport action. But when the airport sponsor and/or FAA have substantial concern that the action could cause significant impacts that could not be mitigated below applicable significance thresholds, FAA should select the EA consultant. Here, FAA's consultant selection could save time if the EA shows an action would cause significant environmental impacts. This is because

² General Permits are issued on a nationwide, regional, or State basis for categories of activities the Corps of Engineers has determined do not normally cause significant impacts (See Vol. 61 FR, No. 241, p. 65874).

FAA must select the consultant (i.e., contractor) who will assist FAA in preparing the EIS (40 CFR 1506.5(c)) if the EA indicates the action would cause significant impacts. See paragraph 707.

Note: Paragraph 1003.a provides useful information on selecting contractors.

704. EA PREPARATION COORDINATION. Text at 40 CFR 1501.4(b) states:

“The [Federal] agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by [section] 1508.9(a)(1) [environmental assessment].”

a. Public input. EA preparers should coordinate with resource agencies, industry groups, and the affected community as practicable and necessary to ensure the EA addresses those issues of greatest public concern. Therefore, the responsible FAA official may wish to use information in paragraph 403 of this Order to decide if public review or coordination is needed during EA preparation. Although the information in paragraph 403 pertains to the need for public hearings, the responsible official may use that information and his or her discretion to decide if there are issues of major concern to the public that would benefit from public review of draft EAs. If Tribal consultation is needed, the airport sponsor must contact the responsible FAA official to comply with FAA Order 1210.20, *American Indian and Alaska Native Tribal Consultation Policy and Procedures*, dated January 28, 2004.

b. Adopting another Federal agency’s EA. Order 1050.1E, paragraph 404d allows FAA to adopt another Federal agency’s EA. Paragraph 1005 of this Order has information for adopting another Federal agency’s EIS. FAA applies that information to EAs as well.

705. SCOPING ENVIRONMENTAL ASSESSMENTS. Although scoping is not required for EAs, scoping could enhance EA preparation and content. This is especially so when the proposed action is highly controversial or involves special purpose laws or other environmental concerns. Unlike scoping for an EIS, the airport sponsor or its consultant, not FAA, conduct EA scoping.

a. Conducting EA scoping. EA scoping may be a part of the agency coordination discussed in paragraph 704. FAA does not publish a Notice of Intent (NOI) (see paragraph 907) before EA scoping begins. Instead, the airport sponsor should use the local media or mail to notify the public that it is planning to conduct scoping for an EA. Although paragraphs 905 and 906 discuss EIS scoping, they provide helpful information for scoping EAs as well. If an airport sponsor requests scoping support, the responsible FAA official should aid the sponsor as needed.

b. EA scoping package. The Office of Airport (ARP) recommends that the airport sponsor provide information to scoping participants before EA scoping occurs. This helps interested parties participate productively. Information in paragraphs Chapter 9 is helpful in preparing for EA scoping.

706. EA FORMAT AND CONTENT. The following sample format may aid in preparing an EA. The suggested format also helps to integrate the NEPA process with special purpose laws outside NEPA's scope.

a. The EA cover sheet. The EA's cover must contain the words "Environmental Assessment." The cover should identify the proposed action and its geographic location. It must also contain the statement in paragraph 707.f of this Order. The cover must identify the EA's preparer. This may be the airport sponsor, a qualified environmental consultant,³ or the responsible FAA official.

b. Purpose and Need. The airport sponsor, not FAA, proposes development at an airport. Consequently, the sponsor is the applicant seeking FAA approval: to change the sponsor's airport layout plan; for Airport Improvement Program funding; or to use AIP funding or passenger facility charges to build the project. The responsible FAA official and ARP airport planners should ensure the purpose and need is rational and supported by current, available data. If these criteria are not met, the responsible FAA official and ARP airport planners should consult the airport sponsor to resolve any identified problems. Upon completing that process, the responsible FAA official is assured that the proposed action and the reasonable alternatives, if any, the NEPA document discusses can achieve the purpose and need and meet applicable airport design and planning standards or qualify for waivers to those standards.

Note: Advisory Circular 150/5070-6, *Airport Master Planning*, and Chapter 5 of this Order provide more information on master planning and its link to the NEPA process.

(1) The purpose and need should be defined considering the statutory objectives of the proposed Federal actions as well as the sponsor's goals and objectives.

(2) The Purpose and Need statement should be one or two short paragraphs.⁴ If specific background information is needed to support this concise Purpose and Need statement, the statement should refer the reader to the appropriate pages of an appendix or reference to the EA for more information. The Purpose and Need statement should be plainly-written so people unfamiliar with aviation can understand it. The statement

³When sub-consultants work with a prime consultant to prepare an EA, the EA cover sheet should name the prime consultant for brevity. The List of Preparers should identify each person who has prepared a section of the EA or a substantial background paper used in preparing the EA and that person's respective employer.

⁴"Memorandum on *Guidance for developing Purpose and Need Statements*, from the Manager, Community and Environmental Needs Division, dated November 4, 2003.

should summarize the benefits of FAA's decision, including a proposed time for carrying out the action.

(3) The Purpose and Need statement should be based on current aviation forecast data presented in an appendix to the EA. In developing an action's Purpose and Need statement, the airport sponsor's airport planners should coordinate with FAA and the responsible FAA. This coordination is necessary because the sponsor's forecasts must be reasonably consistent with FAA's Terminal Area Forecast (TAF). FAA uses the following guidelines to determine the acceptability of a sponsor's forecasts.

(a) A 5-year forecast should be within 10% of the TAF.

(b) A 10-year forecast should be within 15% of the TAF.⁵

(c) Forecasts not meeting these limits must be reconciled before FAA uses those data for environmental analyses. The responsible FAA official should ensure FAA and the sponsor's airport planners resolve the differences between those forecasts before completing the Purpose and Need.

c. The Proposed Action. This section should concisely describe the solution the airport sponsor wishes to implement to solve the problem(s) it is facing. It should also describe how the project, including the sponsor's proposed conceptual mitigation, fits into the airport layout plan (ALP) or the ALP amendment for which the airport sponsor seeks FAA's approval. This EA section should be written so an individual unfamiliar with aviation may understand the airport sponsor's proposal.

Note: See information on "connected actions" and "similar actions" in paragraph 905.c, as needed.

d. Alternatives. This section is based on the Purpose and Need statement. It is "the heart of the environmental document"(40 CFR 1502.14). This section compares the no action, the proposed action, and reasonable alternatives (if any), and each reasonable alternative's expected environmental effects. Tables or matrices summarizing the following information are good ways to present this comparison. Such comparisons sharply define the issues and provide the approving FAA official with a clear basis for choosing among these alternatives

(1) Why an alternative is or is not considered in detail.

(2) The statutory or regulatory requirements applicable to each alternative.

⁵ December 23, 2004, memorandum from the Director, Airport Planning and Programming, entitled *Revision to Guidance on Review and Approval of Aviation Forecasts*.

(3) Each action's expected environmental impacts.

(4) Conceptual measures needed to mitigate those impacts.

(5) If there are no unresolved conflicts concerning alternative uses of available resources, the range of alternatives may be limited to the no action and proposed action alternatives (FAA Order 1050.1E, paragraph 405d.).

(a) Unresolved conflicts may exist between the project proponent and those wishing to use affected environmental resources for non-airport purposes. Typically, an unresolved conflict exists when an airport development project concerns involves one or more special purpose law (see paragraph 9.t). Each reasonable alternative description should contain only that information needed to explain it to someone unfamiliar with airport planning or operations and documentation to support it. An example of an unresolved conflict would be when an airport sponsor proposes locating a runway in a wetland, while a project opponent states the same wetland is valuable for flood retention.

(b) In addition to the unresolved conflicts noted in paragraph 706.d.(5)(a), an EA's range of reasonable alternatives may expand after considering:

1. The proposed action's complexity.
2. The variety of expected environmental impacts. or
3. Agency experience in dealing with the action's expected environmental issues.

(c) As the nation's Federal agency responsible for airport actions, FAA can help the airport sponsor develop reasonable alternatives. ARP suggests that airport sponsors or their consultants discuss alternatives with the responsible FAA official in the regional or district Airports office.

(6) After assessing items noted in paragraphs 706.d(5)(a) and (b), EA preparers should develop the reasonable alternatives comprising this EA section. The preparers should note that reasonable alternatives for NEPA purposes include ways to achieve the stated purpose and need that are within the sponsor's or FAA's purview, and those alternatives outside FAA's jurisdiction (Order 1050.1E, paragraph 506.e). After considering the alternative's technical, economic, and environmental factors, the EA evaluates the reasonable alternatives "in detail," in addition to the no action and proposed action. That is, the EA provides the analyses of potential environmental consequences for each alternative.

(7) When an alternative is considered but judged “not reasonable,” the EA should concisely explain why the sponsor or FAA eliminated that alternative from further consideration. The EA does contain a discussion of a rejected alternative’s environmental consequences.

e. Affected Environment. This section succinctly describes *only* those environmental resources the proposed action and its reasonable alternatives, if any, are likely to affect (FAA Order 1050.1E, paragraph 405e). The amount of information on a potentially affected resource is based on the extent of the expected impact and is commensurate with the impact’s importance. For resources not affected, the following statement is sufficient:

“The no action, proposed action, and reasonable alternatives would not affect:
[list the resources.]”

(1) To complete the EA’s cumulative analysis, the Affected Environment section should include critical background information of past, present, and reasonably foreseeable future actions.

Note: An action need not have Federal involvement to be included in a NEPA document’s cumulative analysis.

(2) Include location map(s), vicinity map(s), an ALP, and photographs to help readers understand the affected area’s characteristics.

(3) Provide information on existing and planned land uses and zoning for:

(a) The affected area’s industrial and commercial activities and their growth characteristics.

(b) Residential areas, schools, places of worship or outdoor assembly areas used by churches or hospitals.

(c) Publicly-owned and used parks, recreational areas, wildlife and waterfowl refuges.

(d) Information on National and State forests, wilderness areas and eligible and designated wild and scenic rivers.

(e) Federally-listed threatened, or endangered species or their critical habitats or candidate species. Information on state-listed species is also important.

(f) Wetlands, floodplains, coastal zones, or coastal barriers.

(g) Historic, archeological, or cultural resources on or eligible for inclusion on the National Register of Historic Places (NRHP). These include Native American cultural sites meeting NRHP eligibility criteria.

(4) Political jurisdiction(s) the proposed action or its reasonable alternatives would affect. and

(5) When appropriate demographic information and population estimates for the affected area, including a Bureau of Census map.

f. Environmental Consequences. The EA must provide concise analyses *only* for the potential environmental impacts that the no action, proposed action and its reasonable alternatives, if any, may cause. The EA must show that FAA took the required "hard look" at these impacts to support an FAA decision to prepare a FONSI or an EIS.

(1) Impact descriptions. This information must discuss the environmental consequences of the no action, proposed action, and, if any, each reasonable alternative. Based on those consequences, the approving FAA official will determine if a FONSI is appropriate or if FAA must prepare an EIS. Impact descriptions must provide clear, concise information justifying the level of impact severity for each affected resource.

(2) Special purpose laws. The EA should integrate impact determinations for special purpose laws if the no action, proposed action, or reasonable alternatives would affect any resources those laws protect. Integrating NEPA and non-NEPA requirements helps the responsible FAA official determine impact significance for NEPA purposes. It is also a good way to streamline other environmental reviews for airport actions. To promote EA review and reduce EA bulk, follow these steps:

(a) The EA should discuss any special purpose law applicable to the proposed action or any reasonable alternative. ARP encourages using hyperlinks to web-based documentation when possible.

(b) To facilitate EA review and reduce EA bulk, the EA should cross-reference specific pages in the EA's appendices or readily-available references that address special purpose law requirements. The pages noted should contain:

1. The analysis needed to meet the requirements of applicable special purpose laws and list any permits, licenses, or approvals the law requires.

2. Information supporting impact determinations. and

3. Proof of agency consultation needed to meet the applicable special purpose law.

(3) Determining environmental consequences. To determine context, intensity, and significance of potential environmental consequences, the responsible FAA official must use information the EA contains. FAA Order 1050.1E, Appendix A, provides FAA's significance thresholds for many resources FAA actions often affect. For convenience Table 7-1 (at the end of this chapter) lists the thresholds. The Table also provides intensity factors and other information for many thresholds to help the responsible FAA official determine the significance of airport-related impacts. The responsible FAA official uses each applicable threshold (where FAA has established one), intensity factors, other relevant information and consultation with resource agencies to determine if the proposed action or a reasonable alternative would cause a significant impact. The EA's Environmental Consequences section must disclose this information.

g. Mitigation. This information is critical in determining the impact level the no action, proposed action, or the reasonable alternatives, if any, would cause. This EA section describes the conceptual measures the sponsor, proposes to mitigate the identified environmental impacts. Conceptual measures are preliminary, qualitative explanations of each mitigation measure the sponsor develops in consultation with the responsible FAA official and expertise or jurisdictional agencies. These explanations should describe each measure's benefits (Order 1050.1E, paragraph 405g) by noting how the measure would avoid or reduce the adverse environmental effects.

(1) EA format. The EA's Mitigation section may be a stand-alone section or it may be combined with the Environmental Consequences section. Combining the sections may help the reader better understand the relationship of anticipated environmental consequences and the measures the airport sponsor would fulfill to mitigate those consequences. If preparers combine the sections, the section of the document should be "Environmental Consequences and Mitigation." In either format, the mitigation discussion should state clearly why the mitigation would reduce impacts of the proposed action or reasonable alternatives below applicable significance thresholds.

(2) Proof of consultation. The EA should include proof that consultation with the appropriate resource agency(ies) on the proposed mitigation has occurred. Cross-reference summaries of this coordination to pages in the EA's appendices to reduce the EA's bulk.

(3) Incorporating Part 150 noise mitigation in a proposed action. A Noise Compatibility Plan under 14 CFR Part 150 may only be used to identify measures to mitigate noise if the airport sponsor completes that study *concurrently* with the EA (or EIS). In this instance, the airport sponsor would identify noise mitigation measures at the

same time that FAA makes its decision concerning the proposed action, not before FAA makes that decision. The sponsor must identify its proposed and meaningful noise mitigation during the NEPA process. In addition, mitigation measures identified in a FONSI (or Record of Decision) may be funded using the Airport Improvement Program's discretionary account under 49 USC 47117(e). Therefore, there is no need for airport sponsors to use Part 150 studies to gain access to discretionary funding for noise mitigation measures.

(4) Using an Environmental Management System (EMS). Paragraph 9.e of this Order defines an EMS. EMS information addressing the effectiveness of mitigation used in other FAA actions is helpful in determining impact significance for the alternatives analyzed in detail. The responsible FAA official, airport sponsor, and consulted agencies may use information from an airport sponsor's EMS or another EMS for similar airport actions to determine if mitigation the EA contains would likely prevent significant impacts.

h. Cumulative impact analysis. An EA may need to analyze impacts on resources due to the proposed action and impacts on the same resources due to past, present, and reasonably foreseeable actions (see Order 1050.1E, paragraphs 405f.(1)(c) and 500c). This "cumulative impact analysis" may be needed to determine if any significant impacts would occur when the proposed action's effects are added to those other actions. For more details, see paragraph 1007.i of this Order.

i. Agencies and people consulted. In an EA appendix, list the agencies and people consulted to develop the EA or the information supporting it.

707. FAA'S ROLE WHEN A SPONSOR OR ITS CONSULTANT PREPARES AN EA. For NEPA purposes, FAA must independently evaluate the EA and take responsibility for its scope and content (40 CFR 1506.5(b)).

a. Aid the airport sponsor or its consultant. The airport sponsor, or its consultant normally prepares the EA. However, when the sponsor requests, the responsible FAA official and FAA airport planners should provide assistance (40 CFR 1506.5(a)). This often assistance may include:

(1) Helping the sponsor define airport design and planning standards needed for a proposed action.

(2) Helping the sponsor develop a Purpose and Need.

(3) Helping the sponsor develop the reasonable alternatives that meet airport planning standards and the Purpose and Need.

(4) Outlining impact concerns based on the proposed action and the identified reasonable alternatives, if any. and

(5) Advising document preparers on consultation, coordination, or other information the EA should contain.

b. Review the EA. The responsible FAA official must independently evaluate the EA to:

(1) Determine the EA's accuracy.

(2) Take full responsibility for the scope and content that addresses FAA actions.

(3) Determine if the EA meets the requirements of NEPA, applicable special purpose laws, and this Order, including responses to public comments. If over 3 years have elapsed since the other federal agency issued its FONSI, but ARP has not yet issued its FONSI, the responsible FAA official must prepare a written re-evaluation of the other agency's EA per paragraph 1401 of this Order.

(4) Help ensure the necessary agency review and consultation has occurred and that the EA adequately addresses their comments and concerns.

Note: Responses to comments on draft EAs need not be as detailed or as comprehensive as those prepared for EIS, but they must adequately respond to the comment.

(5) Ensure the EA identifies EA preparers. and

(6) Ensure the EA is suitable for a public hearing, if one will occur.

c. Request correction of deficiencies. If the responsible FAA official determines the EA is inadequate or does not provide the information noted in paragraph 707.a(1) – (5) or other information needed for an informed decision, the official must request that the airport sponsor correct the identified deficiencies. The airport sponsor is responsible for submitting a revised EA addressing the official's comments to FAA for review. EA preparers should carefully respond to these comments to ensure they address the official's specific comments. This minimizes the extent of needed revisions. These steps are needed to support the cover page statement noted in paragraph 707.f of this Order.

d. Resolving outstanding issues. Sometimes, the airport sponsor does not accept certain recommendations Federal, State, local or Tribal agencies provide. In other instances, the sponsor may not resolve an issue before submitting an EA to FAA for

review. Here, the responsible FAA official may help develop an agreeable solution to resolve outstanding issues. If that effort does not produce a solution, then the airport sponsor must provide written rationale for rejecting the recommendations or solutions. The responsible FAA official must forward that explanation to the following people:

(1) The "single point of contact" (see paragraph 302.a.(2)) or, if a contact doesn't exist, the agency providing the comment or recommendation.

(2) DOT's Assistant Secretary for Administration.

(3) If necessary, a tribal representative.

A minimum of 15 days must elapse between the time responsible FAA official sends the sponsor's explanation to these parties and the date FAA takes final action on a proposal. If the responsible FAA official is unable to resolve outstanding issues, it should immediately alert APP-400 of this situation, summarize the issue(s) causing the controversy and provide that summary to APP-400. This will enable APP-400 to understand the issues and assist the responsible FAA official as needed complete the EA.

e. Regional Counsel review of EAs.

(1) **Required review.** The responsible FAA official must request Regional Counsel review of EAs for airport actions:

(a) Opposed by a Federal, State, or local agency or a Tribe on environmental grounds or opposed by a substantial number of people the project affects.

(b) Affecting resources protected under Section 106 of the National Historic Preservation Act. or

(c) Involving a determination of use of resources protected under Section 4(f) of the Department of Transportation Act (recodified at 49 USC section 303c).

(2) **Optional review.** The responsible FAA official may request Regional Counsel review of EAs for airport actions:

(a) Involving other special purpose laws not discussed in paragraph 707.e.(1)(a) - (c). or

(b) Involving other circumstances that may benefit from Counsel review.

f. Required EA adequacy statement. The responsible FAA official must independently evaluate and determine the adequacy of the EA. The official also must

take responsibility for the document’s scope and content (40 CFR 1506.5). When the official accepts the EA, the bottom of the EA cover must contain this signed statement:

"This environmental assessment becomes a Federal document when evaluated, signed, and dated by the Responsible FAA Official.

Responsible FAA Official Date"

g. Recommend a finding. Based on the accepted EA, the responsible FAA official will recommend to the approving FAA official issuance of a FONSI or that FAA prepare an EIS. To support either recommendation, the responsible FAA official should either attach the accepted EA to a draft copy of a recommended FONSI or attach a written explanation stating why an EIS is needed.

708. DISTRIBUTING DRAFT EAs.

a. When a public hearing will occur under 49 USC 47106(c)(A)(i). When the sponsor will conduct a public hearing for a new airport, a new runway or a major runway extension per 49 USC 47106(c)(A)(i) (paragraph 402 of this Order), the official must provide the draft EA to the public for review so the public may prepare for the hearing. However, before providing the EA, the airport sponsor must file a draft EA with FAA for review to ensure the EA accurately presents FAA policy and concerns. After the sponsor revises the draft EA to address FAA’s comments, the sponsor must issue the revised EA at least 30 days before the hearing occurs.

b. NEPA and special purpose laws. If an airport action warrants public review under NEPA or a special purpose law (paragraph 403 of this Order), the responsible FAA official should consider issuing the draft EA for a 30-day public review period. ARP strongly urges responsible FAA officials to provide this 30-day review period for actions involving properties protected under Section 106 of the National Historic Preservation Act, Section 4(f), or floodplain or wetland resources. Doing so fulfills public involvement requirements for these sensitive properties or resources.

c. Distributing the draft EA. The responsible FAA official should follow the instructions in paragraph 804 of this Order as a guide when distributing draft EAs.

709. FILING THE FINAL EA WITH FAA. If a public hearing is held, it must occur before the sponsor files the final EA with FAA. Before filing a final EA whose draft was circulated for public review, the sponsor should ensure the final EA addresses substantive public concerns noted during the public hearing or other public review processes. After revising the EA so it addresses those concerns, the airport sponsor should send the EA to FAA. The airport sponsor should do so during the project

formulation step that AIP funding requires as noted in paragraph 302.b, or not later than the time the airport sponsor does the following, as appropriate:

- a. Sends a letter to FAA describing the proposed action and seeking AIP funding for the action.
- b. Requests unconditional FAA approval of a new or revised ALP.
- c. Requests FAA approval for any action normally requiring an EA (paragraph 702 of this Order). or
- d. Requests FAA approval of conveyance of government lands for airport purposes under 49 USC 47125.

710. PROCESSING THE FINAL EA. The responsible and approving FAA officials have roles in this step.

a. **The responsible FAA official.** This official ensures:

- (1) The revised EA addresses important environmental issues agencies or the public raised during the public hearing or public review processes.
- (2) The EA meets the requirements of this Order. and
- (3) Accepts the airport sponsor's EA and signs the statement noted in paragraph 707.f.

b. **The approving FAA official.** Based on the responsible FAA official's recommendation, the approving FAA official may:

- (1) Issue a FONSI for the proposed action. or
- (2) Require FAA to prepare an EIS.

711. PUBLIC DISTRIBUTION OF A FINAL EA. Because an EA normally provides the analyses to support a Finding of No Significant Impact, use paragraphs 708, 804, 806, and 807 of this Order as needed for information on distributing EAs for public information.

712. EA TIME LIMITS AND THE NEED TO RE-EVALUATE OR SUPPLEMENT AN EA. The responsible FAA official must comply with the time limit requirements noted in Chapter 14 of this Order to comply with FAA Order 1050.1E, paragraph 411.

713. RE-EVALUATING OR SUPPLEMENTING AN EA. Substantial new information or a change in the project may require the responsible FAA official to write a reevaluation of an EA or supplement one. Paragraph 1401 of this Order provides information on re-evaluating or supplementing NEPA documents.

714. – 799. RESERVED.

TABLE 7-1. SIGNIFICANCE THRESHOLDS		
RESOURCE CATEGORY	ORDER 1050.1E THRESHOLD	FACTORS TO CONSIDER FOR AIRPORT ACTIONS
Air quality.	When a project or action exceeds one or more of the National Ambient Air Quality Standards (NAAQS).	<p>For NEPA purposes: The responsible FAA official must determine if air quality impacts of a reasonable alternative would exceed a National Ambient Air Quality Standard for the time periods analyzed.</p> <p>For General Conformity requirements under the Clean Air Act, as amended. Analyze only the proposed or preferred alternative.</p>
Coastal Barriers.	None established.	<p>FAA Order 1050.1E, Appendix A, Section 3 does not provide a threshold for these resources. After consulting with the jurisdictional U.S. Fish and Wildlife Service or Federal Emergency Management Agency office, the responsible FAA official should determine if the proposed action would cause either of the following conditions.</p> <ul style="list-style-type: none"> • An unacceptable risks to human safety or property. • Adverse effects to the barrier’s environmental resources that could not be satisfactorily mitigated.
Coastal Zone.	None established.	<p>FAA Order 1050.1E, Appendix A, Section 3, does not provide a threshold for these resources. Because of the number of airports in coastal areas or that could affect coastal resources, ARP suggests the responsible FAA official consider the following factors, while addressing effects on coastal zone resources.</p> <ul style="list-style-type: none"> • Did the CZM agency object to the sponsor’s consistency certification? • If yes, has the sponsor changed the project so it is consistent with the applicable coastal zone management plan(s)? • If not, has the sponsor successfully appealed the CZM agency’s consistency objection to the NOAA Assistant Administrator? • If the airport action includes facilities FAA will install, did the

Table 7.1-1

		<p>responsible FAA organization provide proof that it will install the necessary aviation facilities in a manner consistent with the approved coastal zone management plan to the maximum extent practicable?</p> <ul style="list-style-type: none"> • Did the CZM agency agree or disagree with FAA’s finding? • If not, has FAA changed the proposed installation to meet CZM plan?
Compatible land use.	See significance threshold for noise.	<p>The responsible FAA official determine if any alternative would have land use consequences such as:</p> <ul style="list-style-type: none"> • community disruption; • business relocations; • induced socioeconomic impacts; • wetland, or floodplain impacts; or • critical habitat alterations. <p>Use the information from the factors addressing these specific issues to determine the severity of compatible land use effects.</p>
Construction impacts.	See significance threshold for the resource(s) construction would affect.	Use the information for each applicable resource.
Section 4(f).	When the action’s physical use would be more than minimal or its constructive use substantially impairs the 4(f) property. In either case, mitigation is not enough to sustain the resource’s designated use.	Determine if the proposed action or a reasonable alternative would eliminate or severely degrade the intended use of the Section 4(f) resource. That is would the proposed action or alternative physically or constructively use (i.e., substantially impair the use) that resource? The responsible FAA official should determine if mitigation is satisfactory to the agency having jurisdiction over the protected resource. If mitigation is unsatisfactory, more detailed, impact analysis is likely needed.

Table 7.1-2

Farmlands.	When the total combined score on Form AD-1006 ranges between 200 and 260. Impact severity increases as the total score approaches 260.	
Fish, Wildlife and Plants.	<p>For Federally-listed species: When the U.S. Fish and Wildlife Service or the National Marine Fisheries Service determines a proposed action would likely jeopardize a species' continued existence or destroy or adversely affect a species' critical habitat.</p> <p>For non-listed species: Consider scientific literature on and information from agencies having expertise addressing on the affected species. Consider information on: project effects on population dynamics; sustainability; reproduction rates; natural and artificial mortality (aircraft strikes); and the minimum population size needed to maintain the affected population.</p>	<p>The responsible FAA official should consider the following factors in consultation with organizations having jurisdiction or special expertise concerning the protection and/or management of the affected species. The official should complete the added analysis for each reasonable alternative that would cause long-term (i.e., greater than 1 year) habitat impacts.</p> <ul style="list-style-type: none"> • Consult with the appropriate agency(ies) to determine if an area sufficient to sustain species commonly found in the affected area would remain if the alternative were implemented. • Determine if the alternative would affect habitat supporting floral or faunal species not commonly occurring in the project area. If yes, In consultation with the appropriate agency(ies), determine if the alternative would affect a small tract of sensitive habitat needed for the survival or well-being of flora or fauna. Consider the locations of other nesting and breeding areas relative to the project's affected area and if resource agency(ies) indicate those areas could sustain the disturbed species.
Floodplains.	When notable adverse impacts on natural and beneficial floodplain values would occur.	<p>The a responsible FAA official must decide if a "significant floodplain encroachment" would occur. To do so, the official must decide if the action's or reasonable alternative's floodplain encroachment would cause any of the following:</p> <ul style="list-style-type: none"> • A considerable probability of loss of human life; • Future, extensive damage that would interrupt airport service or use of the proposed runway or other proposed airport facility. • A notable, adverse effect on the affected floodplain's natural and beneficial values. <p>It is critical to note that an alternative causing a significant</p>

Table 7.1-3

		<p>encroachment does not necessarily trigger a significant impact for NEPA purposes. That level of impact would occur only when an action would cause notable adverse impacts on the affected floodplain's natural and beneficial values.</p> <p>In those instances when no significant effect under NEPA would occur, the responsible FAA official must ensure the environmental document discloses action-induced effects on human life, NAVAIDS, and transportation facilities. In this case, the official should ensure the document clearly states those effects do not trigger a significant impact under NEPA.</p>
Hazardous materials.	<p>When an action involves a property on or eligible for the National Priority List (NPL). Uncontaminated properties within a NPL site's boundary do not always trigger this significant threshold.</p>	
Historical, architectural, archaeological, and cultural.	<p>When an action adversely affects a protected property and the responsible FAA official determines that information from the State and/or Tribal Historic Preservation Officer addressing alternatives to avoid adverse effects and mitigation warrants further study.</p>	
Light emissions and visual effects.	<p>For light emissions: When an action's light emissions create annoyance to interfere with normal activities.</p> <p>For visual effects: When consultation with Federal, State, or local agencies, tribes, or the public shows these effects contrast with existing environments and the agencies state the effect is objectionable.</p>	
Natural resources and energy supply.	<p>When an action's construction, operation, or maintenance would cause demands that would exceed available or future (project year) natural resource or energy supplies.</p>	

Table 7.1-4

<p style="text-align: center;">Noise.</p>	<p>For most areas: When an action, compared to the no action alternative for the same timeframe, would cause noise sensitive areas located at or above DNL 65 dB to experience a noise increase of at least DNL 1.5 dB. An increase from DNL 63.5 dB to DNL 65 dB is a significant impact.</p> <p>For national parks, national wildlife refuges and historic sites, including traditional cultural properties: FAA must give special consideration to these areas. The DNL 65 dB threshold may not adequately address noise effects on visitors to these areas. Consult the jurisdictional agency for more information to determine a significant noise impact.</p>	<p>ARP reminds the responsible FAA official that disclosing impacts having a DNL 3.0-dBA increase over noise-sensitive areas located between the DNL 60 and 65-dBA contours is for information purposes only. For NEPA purposes, those 3-dBA impacts do <u>not</u> cause significant adverse noise impacts below the DNL 65 dBA contour, except as noted in the 2nd column regarding national parks, etc.</p>
<p style="text-align: center;">Socioeconomic Environmental Justice, and Children’s Health and Safety Risks.</p>	<p>For Socioeconomic issues: When an action would cause:</p> <ul style="list-style-type: none"> • extensive relocation, but sufficient replacement housing is unavailable; • extensive relocation of community businesses that would cause severe economic hardship for affected communities; • disruption of local traffic patterns that substantially reduce the Levels of Service of roads serving the airport and its surrounding communities; • a substantial loss in community tax base. <p>For Environmental justice issues: When an action would cause disproportionately high and adverse human health or environmental effects on minority and low-income populations, a significant impact may occur.</p> <p>For Children’s Health & Safety Risks: An action causing disproportionate health and safety risks to children, may indicate a significant impact.</p>	

Table 7.1-5

<p>Solid waste.</p>	<p>None established.</p>	<p>ARP suggests that the responsible FAA official also determine if a reasonable alternative would cause one of the following conditions:</p> <ul style="list-style-type: none"> • Airport-generated solid waste would exceed available landfill or incineration capacities or require extraordinary effort to meet applicable solid waste permit conditions or regulations. • Local, State or Federal agencies determine that substantial, unresolved waste disposal issues exist and may require more analysis.
<p>Water Quality.</p>	<p>When an action would not meet water quality standards. Potential difficulty in obtaining a permit or authorization may indicate a significant impact.</p>	<p>The responsible FAA official also consider if a proposed action or a reasonable alternative would threaten a public drinking water supply, sole source aquifer, or waters of national significance (e.g., Wild and Scenic Rivers, national refuges, etc.).</p>
<p>Wetlands, jurisdictional or non-jurisdictional.</p>	<p>When an action would:</p> <ul style="list-style-type: none"> • Adversely affect a wetland’s function to a protect the quality or quantity of a municipal water supply, including sole source aquifers and a potable water aquifer. • Substantially alter the hydrology needed to sustain the affected wetland’s values and functions or those of a wetland to which it is connected. • Substantially reduce the affected wetlands’s ability to retain floodwaters or storm runoff, thereby threatening public health, safety or welfare. The last term includes cultural, recreational, and scientific public resources or property. • Adversely affect the maintenance of natural systems supporting wildlife and fish habitat or economically-important timber, food, or fiber 	

Table 7.1-6

	<p>resources of the affected or surrounding wetlands.</p> <ul style="list-style-type: none"> • Promote development that causes any of the above impacts. • Be inconsistent with applicable State wetland strategies. 	
Wild and scenic rivers.	None established.	

Table 7.1-7

CHAPTER 8. FINDING OF NO SIGNIFICANT IMPACT (FONSI)

800. FAA'S ENVIRONMENTAL FINDING. The responsible FAA official uses an FAA-approved environmental assessment (EA) to determine the severity of a proposed action's potential impacts and to aid in complying with NEPA when an EIS is not needed. The approving FAA official's issuance of a Finding of No Significant Impact (FONSI) or a FONSI/ROD, as discussed in paragraph 805 completes FAA's NEPA review process for a proposed action.

a. Impact factors. To determine the level of environmental consequences that a proposed action or its reasonable alternatives, if any, would cause, the responsible FAA official uses information in an FAA-approved EA. The official focuses on the EA's discussions on environmental consequence severity, context, and significance and how mitigation would reduce those factors. The responsible FAA official would recommend that the approving FAA official issue a FONSI when the EA indicates that the selected alternative would not cause any significant environmental consequences.

b. Reconsidering impact significance. Table 7-1 of this Order provides the thresholds and factors to consider when determining impact severity and context. If mitigation would not reduce impacts below applicable significance threshold(s), significant impacts may occur. However, before recommending that FAA prepare an EIS, the responsible FAA official should decide if further impact evaluation or consultation with agencies having jurisdiction by law or expertise for the affected resources would be helpful. This effort:

(1) May help reduce expected impacts below significance thresholds.

(2) May further show that impact context and severity do not indicate significant environmental effects would occur.

(3) Would be a final effort the airport sponsor, the responsible FAA official, and agencies make to decide if any design changes or mitigation not previously considered or discussed would lessen impact severity and intensity.

c. Completing the analysis of impact significance. If further evaluation as discussed in paragraph 800.b indicates the impacts of the proposed action are below the applicable significance threshold(s), the approving FAA official may issue a FONSI. However, the official must base that FONSI on a revised EA, if necessary. FAA would need a revised EA in this instance, if the results of the process discussed in paragraph 800.b yields information or mitigation the EA did not contain. If the sponsor, FAA, or the agencies do not develop design changes or mitigation to reduce the impacts below applicable thresholds, the responsible FAA official would recommend that FAA prepare an EIS.

801. IF FAA'S PREFERRED ALTERNATIVE DIFFERS FROM THE SPONSOR'S PROPOSED ACTION.

a. General. After reviewing a proposed FONSI and its EA, the approving FAA official may select an alternative that differs from the sponsor's proposed action, provided FAA's preferred alternative meets the action's purpose and need.

b. Notify the airport sponsor. The approving FAA official should notify the airport sponsor as soon as the approving FAA official identifies a preferred alternative differing from the sponsor's proposed action. Here, the airport sponsor and the responsible FAA official should try to reach consensus on the alternative FAA will select as its preferred alternative. Because the airport sponsor (not FAA) decides whether to carry out the preferred alternative for airport development, the sponsor may make one of the following choices:

- (1) Concur in and implement FAA's preferred alternative.
- (2) Reject FAA's preferred alternative.
- (3) Propose an alternative not previously presented.
- (4) Take no action to address the purpose and need.

c. Further environmental processing. If the approving FAA official plans to select a preferred alternative differing from the sponsor's proposed action, the responsible FAA official must further review the EA. This ensures the EA underlying the FONSI adequately addresses the applicable consultation and analytical requirements for resources FAA's preferred alternative would affect, if the EA does not already do so. Conversely, the approving FAA official may determine the preferred alternative has the potential to significantly affect a resource. In that case, the approving FAA official must notify the airport sponsor of that determination. If the sponsor is willing to proceed with the proposed project, the responsible FAA official will issue a Notice of Intent to prepare an EIS and continue the EIS process.

802. FONSI CONTENT. When the approving FAA official agrees with the responsible FAA official's recommendation to issue a FONSI, the approving FAA official will issue that finding.

a. General. To reduce a FONSI's bulk and to avoid repeating information the underlying EA contains, the responsible FAA official should prepare a FONSI containing the information noted in paragraphs 802.b – g. Here, the official must also attach the EA supporting the FONSI. The FONSI's text should provide enough detail to explain why the preferred alternative would not cause significant impacts and cite the specific pages in the attached EA

that supports statements the FONSI contains. If the responsible FAA official does not attach the EA to the FONSI, the FONSI must provide sufficient information to summarize expected impacts and to thoroughly support the Finding.

b. Heading. The heading of a FONSI with an attached EA should read:

**"DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT"**

c. Identify the airport. Provide the name and location of the airport where the action would occur.

d. The Proposed Action and its reasonable alternatives. Briefly describe the Purpose and Need, the Proposed Action, and the reasonable alternatives considered (if any) including the No Action Alternative.

e. Assessment. Because the EA prepared for the FONSI is attached, refer the reader to the EA's Environmental Consequences section. The FONSI should do the following:

(1) Summarize why the action would not significantly affect environmental resources.

(2) Refer the reader to particular pages in the attached EA providing the reasons for those findings.

(3) Highlight pages in the attachments to the EA that contain statements from State and local governments addressing the project's consistency or inconsistency with community planning. and

(4) Highlight pages in the attachments to the EA that contain Tribal statements, if an action would affect Tribal places of religious and cultural significance or Tribal interests.

f. Mitigation measures. The FONSI must list conceptual mitigation measures that are part of the preferred alternative. To reduce bulk, the FONSI should refer the reader to the pages of the EA that explain why that alternative would not cause significant environmental impacts. If the preferred alternative was modified or mitigation was added to the alternative after the sponsor sent the EA to FAA for review, the FONSI should discuss the changes or the added mitigation that would eliminate significant impacts. The approving FAA official must ensure that if the sponsor undertakes the project, the sponsor will complete the mitigation measures the FONSI contains. See paragraph 808 of this order for more on completing these measures.

g. The approving FAA official's statement of environmental finding. The FONSI must include the following statement. The approving FAA official must sign the appropriate line.

"I have carefully and thoroughly considered the facts contained in the attached EA. Based on that information, I find the proposed Federal action is consistent with existing national environmental policies and objectives of Section 101(a) of the National Environmental Policy Act of 1969 (NEPA) and other applicable environmental requirements. I also find the proposed Federal action [If FAA issues a mitigated FONSI,¹ include this statement: "with the required mitigation referenced above"] will not significantly affect the quality of the human environment or include any condition requiring any consultation pursuant to section 102(2)(C) of NEPA. As a result, FAA will not prepare an EIS for this action.

APPROVED: _____

Date: _____

DISAPPROVED: _____

Date: _____"

803. COORDINATING A PROPOSED FONSI WITHIN FAA. Other FAA organizations responsible for approving actions needed for the proposed airport development or airport action must review a proposed FONSI.

a. Regional legal sufficiency review.

(1) Required review. The responsible FAA official must request Regional Counsel review of FONSI (and their EAs) addressing airport actions:

(a) Opposed by a Federal, State, or local agency or a Tribe on environmental grounds or a substantial number of people affected by the project.

(b) Affecting resources protected under Section 106 of the National Historic Preservation Act. or

(c) Involving a determination of use of resources protected under Section 4(f) of the Department of Transportation Act (recodified at 49 USC 303).

(2) Optional review. The responsible FAA official may request Regional Counsel review of FONSI (and their EAs) for airport actions:

(a) Involving other special purpose laws. or

(b) Involving other circumstances.

¹ A "mitigated" FONSI references or contains mitigation that would reduce otherwise significant environmental effects below applicable significance thresholds. When, FAA prepares a "mitigated FONSI" it will also issue Record of Decision (see paragraph 805).

Note: The Airports and Environmental Law Division (AGC-600) is available to assist Regional Counsel with these reviews.

b. Approving FAA official's approval. The approving FAA official, who is normally the regional Airports Office Division Manager, signs a FONSI for an action involving only the regional and/or district Airports Office(s).

c. Regional Administrator's approval. Some airport actions involve FAA organizations in addition to ARP. When this occurs, the Regional Administrator overseeing the regional office responsible for the EA must sign the FONSI (FAA Order 1100.154A, *Delegations of Authority*). However, before sending the FONSI to the Regional Administrator, the Airports Division Manager must ensure that managers of the other involved LOBs agree with the FONSI.

(1) The responsible FAA official's duty. The responsible FAA official should ensure that each FAA organization having a role in a proposed action has an opportunity to review the proposed FONSI (FAA Order 1050.1E, paragraph 406c). This will ensure coordination with the various organizations so each one knows the commitments it will have for a proposed action.

(2) The approving FAA official's duty. When the responsible FAA official completes this intra-agency review, the Airports Division Manager would recommend issuance of a FONSI to the Regional Administrator.

d. APP-400 review. ARP's Airport Planning and Environmental Division (APP-400) will review a proposed FONSI and its EA only when the responsible FAA official or the approving FAA official requests that review. However, APP-400 need not concur with the FONSI and its EA when this review occurs. To request APP-400's review, the responsible FAA official should send one copy of the EA and the FONSI to APP-400. APP-400 will not distribute the FONSI and EA to other FAA headquarters organizations. Normally, APP-400's review will not exceed 30 days. The responsible FAA official may proceed if APP-400 does not provide comments or information within the 30-day review time.

804. EXTERNAL REVIEW OF A PROPOSED FONSI. Public review of a proposed FONSI and its underlying EA often provides important information to the airport sponsor and FAA. Therefore, the reviews discussed below need to occur before the approving FAA official makes a final decision on a proposed action. The reviews may run concurrently with other Federal reviews.

a. Required Federal agency review. The responsible FAA official must make the proposed FONSI and its EA available to a Federal agency having jurisdiction by law or regulation over the action. The reviewing agency has 30 days to review the documents.² Contact the reviewing agencies to determine the number of copies of the FONSI and EA the agency requires to efficiently review the document. The responsible FAA official should ask agency representatives if they would accept electronic versions of the documents.

b. Required public review. The responsible FAA official must make the proposed FONSI and EA available for a 30-day public review period when any of the conditions in paragraph 804.b.(1) – (3) apply to an action. The responsible FAA official should encourage electronic distribution of the proposed FONSI and its related materials to reduce paper and accelerate document distribution.

(1) FAA will make the EA/FONSI available for public review for the reasons stated in paragraphs 805.(a)(1) - (2) of this Order (per FAA Order 1050.1E, paragraph 406e.(1)(a) and (b)).

(2) The airport sponsor provides an opportunity for a public hearing (see Chapter 4 of this Order), or an agency with jurisdiction over an action requests a hearing and supports that request with reasons the hearing would be helpful (40 CFR 1506.6(c)(2)).

(3) The proposed action would involve special purpose laws having public notice requirements separate from NEPA (per Order 1050.1E, paragraph 406e.(2)). Examples of these laws include, but are not limited to:

- (a) Executive Order 11988 section 2(a)(4) addressing floodplains.
- (b) Executive Order 1990 section 2(b) addressing wetlands.
- (c) The Endangered Species Act. and
- (d) Section 106 of the National Historic Preservation Act.

²When FAA determines an action would use a resource for which a Department of the Interior (DOI) agency has jurisdiction or specialized expertise, DOT/FAA procedures provide the DOI agency 45 days to review the Section 4(f) Determination (this meets DOT Section 4(f) procedures). To the fullest extent possible, FAA integrates this DOI review with the NEPA review process so that it runs concurrently. Consult APP-400, Regional Counsel, or AGC-600 if the Determination is solely for a historic property outside DOI's jurisdiction or for which DOI has no specialized expertise.

c. Optional public review. The responsible FAA official may decide that public review of a proposed FONSI would be helpful in making determinations of impact severities for actions not addressed in paragraphs 804.b.(1) – (3). In such cases, the responsible FAA official should provide a 30-day review period.

d. Notifying the public about the availability of a proposed FONSI. The responsible FAA official should use the instructions in paragraph 807 of this Order to notify the public about the availability of a proposed FONSI.

805. THE APPROVED FONSI AND THE NEED FOR A RECORD OF DECISION.

When a proposed airport action involves one of the situations in paragraph 805.a.(1) – (4), the approving FAA official must determine the need to document the appropriate conclusions, findings, and assurances in a Record of Decision (ROD) based on data in an EA/FONSI (FONSI/ROD). The approving FAA official must issue the FONSI/ROD immediately following or at the same time as the FONSI's approval.

a. When to prepare a FONSI/ROD. ARP recommends that an approving FAA official issue a ROD for a mitigated FONSI (a "FONSI/ROD") when any circumstance listed in paragraph 805.a(1)-(4) of this Order exists:

- (1) When an action is similar to one normally requiring an EIS.
- (2) For an action without precedent.
- (3) For actions redefined to include mitigation necessary to reduce potential significant impacts below applicable significance thresholds.
- (4) For actions that are highly controversial on environmental grounds (see paragraph 9.i). If in doubt, consult Regional Counsel or the Office of the Chief Counsel (AGC-600).

b. FONSI/ROD contents. Chapter 13 provides guidance on preparing a ROD for an EIS. However, the responsible FAA official may tailor that information for a FONSI/ROD, ensuring the FONSI/ROD addresses the circumstances relevant to the action. In addition, the FONSI/ROD must state it is a decision document and that it is an order subject to the exclusive judicial review under 49 USC 46110 by the:

- (1) U.S. Circuit Courts of Appeals for the District Columbia. or
- (2) U.S. Circuit Courts of Appeal for the circuit in which the person contesting the decision lives or has a principal place of business.

c. FONSI/ROD availability. Paragraph 1303 provides information about providing notice of the availability of a ROD. Although those instructions discuss RODs prepared for EISs, the responsible FAA official should use that information for FONSI/RODs.

806. DISTRIBUTING AN APPROVED FONSI. After the approving FAA official or Regional Administrator signs a FONSI, the responsible FAA official should distribute the approved FONSI and its underlying EA as described here.

a. The official should send one copy of the EA and FONSI to the airport sponsor and any reviewing agency or other organization or person who provided substantive comments on the proposed action.

b. The responsible FAA official need not distribute the EA and FONSI outside the responsible region's geographical area, but FAA must make them available to anyone requesting them (40 CFR 1506.6(b)(1)).

807. NOTIFYING THE PUBLIC OF AN APPROVED FONSI'S AVAILABILITY. The responsible FAA region must ensure the approved FONSI and the EA supporting it are available to the public. The regional FAA office responsible for the action announces that availability.

a. Announcement content. This announcement must state the location(s) where the public may review the FONSI and its EA. Normally, these locations are the FAA's regional or district Airports office responsible for the proposed action, the sponsor's office, and public locations in the project area such as libraries, city halls, or county complexes. When requested, the responsible FAA official or the airport sponsor should provide copies of the FONSI/EA to anyone seeking them. Officials should ask the person requesting the documents if he or she would accept the documents in electronic format. The official should provide the documents at no charge or at the cost to reproduce the document.

b. Announcement methods. The most effective method is for FAA and the airport sponsor to jointly notify the public of FONSI/EA availability, using media serving the project impact area. Text at 40 CFR 1506.6 (b) discusses the methods to announce FONSI availability. The sponsor may announce the FONSI's availability for FAA, but that announcement must mention FAA. Announcement methods include:

- (1) Publishing the FONSI in a local newspaper.
- (2) Publishing a notice about the FONSI's availability through local media. or
- (3) Placing the announcement and notice on internet sites.

808. COMMITTING AN AIRPORT SPONSOR TO MITIGATION IN A FONSI. The regional Airports Division must ensure airport sponsors complete the mitigation in FONSI if the sponsor undertakes a proposed action the FONSI addresses. To do so, the approving FAA official must include in the letter granting unconditional ALP approval for the proposed action the mitigation measures the FONSI contains and that are the basis for that Finding. Alternatively, if the action involves an AIP grant, the official may include the measures as special grant assurances.

a. Environmental Management System. Paragraph 9.e defines an Environmental Management System (EMS). The regional airports office responsible for the proposed action should track an airport sponsor's mitigation compliance via an EMS.

b. Sponsor failure to carry out mitigation. A sponsor's failure to carry out mitigation measures could annul FAA's FONSI. Also, failure to carry out mitigation identified as special conditions of the ALP approval letter or grant could cause the sponsor to be in noncompliance with its grant. This could also lead to FAA canceling the earlier project approval or funding (49 USC 47106(d)) until the sponsor or its consultant prepares a revised EA or FAA prepares an EIS.

809. CHANGING A FONSI. If events discussed in paragraphs 1401.c(1) – (3) or 1402.b(1) or (2) occur, and they could affect environmental resources, the approving FAA official may need to change an approved FONSI.

a. EA adequacy. Based on the changed scenario or information, the responsible FAA official must determine if the FONSI's underlying EA must be re-evaluated or supplemented.

b. Contacting headquarters. The approving FAA official should contact APP-400 and AGC-600 or Regional Counsel, if FAA is changing mitigation measures that were conditions of project approval (FAA Order 1050.1E, paragraphs 402, 410, and 411). This consultation is needed to discuss a process for re-evaluating or supplementing the EA prepared for the proposed action.

c. When EA changes are needed. If the responsible FAA official requires the airport sponsor to revise the approved EA, FAA organizations and resource agencies that reviewed the original FONSI and its EA must review the changed documents and the mitigation they contain. Here, the approving FAA official who approved the original EA and FONSI (or that person's successor) must approve the revised documents. The revised FONSI and the revised EA supporting it must be publicly available to anyone seeking those documents.

810. - 899. RESERVED.

CHAPTER 9. THE ENVIRONMENTAL IMPACT STATEMENT (EIS), SCOPING, AND COOPERATING AGENCIES

900. EIS PURPOSE. Text at 40 CFR 1502.1 states an EIS's primary purpose is to be an "action-forcing tool" to ensure Federal government programs and actions meet NEPA's goals and policies. The EIS allows the agency to take a "hard look" at the environmental impacts the no action, the proposed action, and its reasonable alternatives would cause.

901 . EIS CONTENT. An EIS describes and discusses the significant environmental impacts the no action, proposed action, and its reasonable alternatives would cause. To do this, the responsible FAA official must use an interdisciplinary approach integrating natural and social sciences and environmental design arts (40 CFR 1502.6). An EIS must be a concise, comprehensive document (40 CFR 1502.8). It should be plainly written to allow people unfamiliar with an action and its reasonable alternatives to understand the environmental issues concerning the public, alternative ways to achieve the purpose and need, and the environmental impacts associated with those alternatives.

902. FAA'S LEAD AGENCY RESPONSIBILITIES. FAA is the lead Federal agency for most proposed airport actions. In general, FAA officials are responsible for preparing EISs addressing those actions.

a. EIS content. These officials must ensure the EISs properly analyze and disclose potential significant individual and cumulative environmental impacts proposed airport actions and their reasonable alternatives would cause. They also ensure EISs clearly present the information needed for the public to understand the proposed action, its reasonable alternatives, and the potential environmental effects the action and its reasonable alternatives would cause.

b. EIS schedule. Further, at the airports sponsor's request, the responsible FAA officials should consult with interested parties and FAA organizations involved in the proposed action, to develop realistic EIS preparation schedules.

(1) These schedules are based on an action's complexities and the complexities of the necessary environmental analyses. But, even when thoughtfully developed, events beyond FAA's control can occur that would alter the proposed schedules. Therefore, airport sponsors and other interested parties should acknowledge that such events do occur, and that FAA officials need the flexibility to respond to those events. As needed, responsible FAA officials should exercise discretion to address unforeseen events by lengthening or shortening schedules as appropriate.

(2) Chapter 5 of this Order discusses the linkage between airport planning and the NEPA. It discusses how sponsors who responsibly plan their project improve FAA's ability to meet project schedules.

Note: Other paragraphs in this chapter discuss FAA EIS responsibilities in detail.

903. AIRPORT ACTIONS NORMALLY REQUIRING AN EISs. FAA normally prepares EISs for the following airport actions.

a. An environmental assessment signaling a significant impact. The responsible FAA official prepares an EIS after reviewing an EA that indicates that proposed mitigation would not reduce the action's environmental impacts below significant impact thresholds.

b. EISs without EAs. If a responsible FAA official reviews a proposed airport action and finds it is likely to cause significant impacts, the official may start the EIS process. This approach saves time because FAA begins the EIS instead of the sponsor preparing an EA. FAA experience shows the following airport actions normally require an EIS.

(1) A new commercial service airport in a Metropolitan Statistical Area (MSA).¹ Unconditionally approving or Federally funding the first Airport Layout Plan or airport location for a new commercial service in an MSA. or

(2) A new runway in an MSA. Unconditionally approving or Federally funding a new runway to accommodate air carrier aircraft at a commercial service airport located in an MSA.

c. Exceptions to paragraph 903.b. Although paragraph 903.b lists those airport actions normally requiring EISs, FAA need not prepare EISs for these actions in all cases. FAA need not prepare an EIS when the responsible FAA official and approving FAA official determine that a sponsor-prepared EA adequately supports a finding that these proposed actions would not cause significant environmental impacts. Also, FAA may stop its EIS preparation when further analyses indicate the action would not cause significant environmental effects (40 CFR 1501.7(c)).

904. STARTING THE EIS. For airport actions, FAA is normally the lead agency. Therefore, FAA is responsible for preparing EISs for those projects or actions (40 CFR 1508.16).

a. Early application of NEPA. As discussed in detail in Chapter 5, FAA should consult with airport sponsors to ensure the sponsors begin environmental studies at an early stage in the planning process so environmental factors can be considered (40 CFR §1501.2, of CEQ's *Forty Most Asked Question Concerning CEQ's National Environmental Policy Act Regulations*, Question # 8). When FAA expects to require the airport sponsor to file environmental data for possible use in preparing the EIS, FAA will aid the sponsor by outlining the types of information required (40 CFR 1506.5).

¹ A metropolitan statistical area is a core area containing a substantial population nucleus and those adjacent communities having a high degree of economic and social integration with that core (Census Bureau).

b. EIS timing. When a proposed airport action warrants an EIS, the responsible FAA official should begin preparing the EIS as soon as possible after the airport sponsor presents its proposal to FAA (40 CFR 1502.5).

(1) When a proposal exists. In determining whether a proposal exists, FAA will consider whether the sponsor provided sufficient planning data or information to meaningfully evaluate alternatives and their potential environmental effects (40 CFR 1508.23). During the past decade, ARP has found that a lack of well-conceived and well-developed airport planning information or failure to resolve planning issues have caused substantial delays in the NEPA process. Many times these delays were not NEPA-related, but were due to a lack of good planning data. This lack of data severely hampered FAA's ability to meaningfully evaluate project impacts and prepare the EIS.

Note: Chapter 5 discusses the need to integrate NEPA and airport planning.

(2) Good planning data. As discussed in Chapter 5, good planning data are essential to begin and properly scope an EIS because they allow FAA to:

(a) Define a purpose and need.

(b) Preliminarily identify obvious sensitive environmental resources in the area surrounding the airport.

(c) Preliminarily identify environmental impacts to those resources due to carrying out the proposal and its alternatives. and

(d) Prepare a preliminary list of permits or other authorizations that may be needed to carry out the proposal or its alternatives.

c. EIS topics. Each EIS must provide a full, fair discussion of significant environmental issues a proposed action and its reasonable alternatives would cause. It must also address issues of interest to affected parties (40 CFR 1502.1). This ensures decisionmakers and the public know about reasonable alternatives that would avoid or minimize those impacts or enhance environmental quality.

d. EIS schedule. If the airport sponsor requests a schedule for completing the EIS, then the responsible FAA official should set time limits that are appropriate to the proposed action, considering complexity and analytical requirements, the purposes of NEPA, and other important national policies (40 CFR 1501.8). Review paragraphs 902.b(1) and (2) for more information.

905. SCOPING. Scoping is very useful in completing the duties this chapter discusses; therefore, it is a critical part of the EIS process. Agency officials use this open

process to determine the array of important issues an agency's EIS will address (40 CFR 1501.7).² In summary, scoping:

- a. Helps to identify potentially significant environmental impacts related to a proposed action and its reasonable alternatives.
- b. Specifies the roles, duties, and information FAA expects the cooperating agency to provide throughout the environmental review process. and
- c. Helps to set the bounds for cumulative effects analysis (see paragraph 1004.i of this Order) because information exchanged during scoping often highlights past, present, and reasonably foreseeable actions in the project area. It also helps to identify connected actions and similar actions the EIS may need to address.

(1) Connected actions. These are actions that are closely related to the proposed action and should be discussed in the same EIS. These actions:

- (a) May automatically trigger other actions requiring EAs or EIS.
- (b) Cannot or will not occur unless other actions occur at the same time or earlier. and
- (c) Are independent parts of a large action but depend on the larger action for justification.

(2) Similar actions. These are actions, that when viewed with other reasonably foreseeable actions, have similarities that provide the basis for evaluating their total environmental consequences. Normally, these actions have common timing or geography.

- d. Builds confidence, trust, and a solid working relationship among interested parties.
- e. Helps to educate interested parties and reduce conflicts or misunderstandings that may occur among them. and
- f. Helps to ensure FAA's NEPA effort will focus on and address environmental concerns of most importance to agency and public.

906. WAYS TO ENHANCE SUCCESSFUL SCOPING. Effective scoping ensures an EIS addresses key issues concerning the public, governmental agencies, and Tribes. Scoping is not just one meeting or one information gathering effort. Scoping is a continuous process that begins soon after FAA publishes its "Notice of Intent to prepare an EIS" in the *Federal Register* (see paragraph 907.b). Scoping encourages resource

² CEQ's April 30, 1981, *Memorandum on Scoping Guidance*.

agencies and the interested public to present their ideas, alternatives, and concerns before EIS preparation begins. Early identification of issues and potential impacts is critical to efficient, effective EIS preparation. This effort focuses EIS preparers on the significant issues the EIS will analyze (40 CFR 1501.7(a)(2)). As the lead Federal agency for most airport actions, FAA is responsible for completing the scoping process.

a. Scoping goals. To enhance EIS preparation and content:

(1) Clarify legal responsibilities. This helps ensure the EIS identifies all necessary permits, licenses, approvals, or authorizations and information needed to obtain them.

(2) Clarify areas of special expertise. This helps ensure the EIS addresses each expertise agency's concerns, consultation requirements, and data needs.

(3) Invite other agencies with jurisdiction by law or having special expertise to participate in scoping and the EIS process as cooperating agencies. Before beginning EIS preparation, the agency official should decide which agencies would be cooperating agencies. The official should make this decision based on each agency's jurisdiction by law or special expertise regarding affected environmental resources. This cooperating agency effort enhances information exchanges, document preparation, and eventual agency decision making, especially for resources of particular concern to other agencies or that involve special purpose laws.

(4) Provide proposed procedures for overseeing EIS progress. This includes describing coordination efforts designed to avoid unnecessary delays, duplication, and misunderstanding among parties. Lead agency oversight includes assigning responsibilities for preparing EIS sections to cooperating agencies.

(5) Give cooperating agencies opportunities to review their roles. Each lead agency expects each cooperating agency to fulfill important roles during EIS preparation. Therefore, before beginning this preparation, the lead agency should define each cooperating agency's respective responsibilities. Completing a Memorandum of Understanding (MOU) often helps to do so. The MOU is a good way to ensure the lead and cooperating agencies:

(a) Thoroughly understand and agree on their duties and responsibilities for EIS input and reviewing the EIS.

(b) Ensure the agencies focus on issues of concern to them.

(c) Understand the need for timely, complete, and clearly written input.

(d) Understand how the agencies will resolve issues that may arise and the timelines to do so.

(6) Give the public opportunities to provide input and concerns. This ensures the agency responsible for preparing the EIS is aware of the major issues concerning the public about the proposed action.

b. Scoping techniques. Scoping should be a continuous, candid, and focused process. The participants should exchange ideas openly. They should present recommendations to change designs and reduce environmental impacts and to thoroughly address any controversial actions. Focus scoping on the following issues as needed:

- (1) The sponsor's proposals to solve the problems it is facing.
- (2) Reasonable alternatives that could help the sponsor solve its problems.
- (3) Design constraints considered when developing those alternatives.
- (4) Potential impacts to human and natural environments.
- (5) Possible measures to limit or mitigate those impacts.

c. Preparing for scoping. When preparing for scoping, a comprehensive, clearly written package helps all scoping participants understand the project and subsequent NEPA process. The package should include information about the project, the EIS process, the lead agency's role in that process, and the decision making process that agency will complete for the proposed action. This allows interested parties to provide informed contributions during the scoping process' open discussions. The scoping package should:

- (1) Briefly describe the scoping's purpose and procedures.
- (2) Briefly describe the proposed action.
- (3) Provide a preliminary list of alternatives and impacts.
- (4) Make available any maps, drawings, or references that may aid the public in understanding the proposed action. and
- (5) Clearly state that the lead agency has not made a final decision on the EIS's content.

d. Using an existing EA for information. When developing scoping information, the lead agency may use an available EA as a reference. However, if an EA is more than 3 years old, ensure the EA's information remains valid (see paragraph 1401 of this Order).

(1) As appropriate, the agency official may discuss the reasonable alternatives the EA contains. If the lead agency plans to delete one of those alternatives, the

responsible FAA official should consult the airport sponsor before doing so. When deleting an alternative, the official should note that fact during scoping and briefly explain why the alternative is no longer reasonable. Officials should note that they may increase the range of alternatives the EIS would address to ensure the EIS presents an array of reasonable alternatives that suits the action's complexity and meets NEPA requirements.

(2) The agency official should review the EA's Environmental Consequences section. This review helps the official set up a starting point for EIS scoping on possible project impacts. This review should compare the impacts the previous EA contains to the significant impact thresholds (Table 7-1 of this Order) for each resource the proposed action and its reasonable alternatives would affect. For those resources not significantly affected, the agency official may use that information to support reasons the EIS need not discuss those effects in detail.

(3) The EA often provides information about an approved action and the past, present, and reasonably foreseeable actions considered in the EA's cumulative analysis section. That information is helpful in EIS scoping potential cumulative impacts.

e. When no EA is available. When an EA is not available, the lead agency's scoping package should:

(1) Describe the proposed action and reasonable alternatives.

(2) Summarize possible environmental impacts that the proposed action and the reasonable alternatives could cause.

(3) Contain maps or drawings depicting the proposed action and its alternatives. and

(4) Contain any other reference material that would improve a layperson's understanding of the proposed action and its reasonable alternatives.

907. SCOPING AND THE TIMING OF THE NOTICE OF INTENT (NOI) TO PREPARE AN EIS.

a. NOI timing. To comply with 40 CFR 1501.7, the responsible FAA official must prepare and publish the NOI in the *Federal Register* as soon as practicable after the FAA decides to prepare an EIS.

b. Scoping's timing. *Before* conducting scoping, 40 CFR 1501.7 requires the lead agency to publish a "Notice of Intent to Prepare an EIS" (NOI) in the *Federal Register*. Therefore, the responsible FAA official should start scoping as soon as possible after FAA publishes the NOI.

908. THE NOTICE OF INTENT (NOI). The NOI is the lead agency's notice telling the public the agency will prepare an EIS (40 CFR 1508.22).

a. NOI contents. The NOI must:

(1) Briefly describe the proposed action, the name of the project proponent, why the proponent wants to undertake the project, when and where the proposed action would occur, and the alternatives under consideration.

(2) Briefly describe an agency's proposed scoping process, including information about a scoping meeting (date, place, time), if the agency will hold one or more scoping meetings.

(3) Provide the name and telephone number of the responsible FAA official who will answer questions about the proposed action and the EIS. and

(4) If an EA was prepared, state whether that document is available and where the public may review it.

b. Publishing the NOI. As paragraph 907.a of this Order notes, FAA must publish the NOI in the *Federal Register* soon after deciding to prepare an EIS. In filing a NOI with the Office of the Federal Register, the responsible FAA official must follow the procedures the Office of the Chief Counsel's Regulations Division (AGC-200) has established. The official may use local media as other ways of alerting the affected area about the pending EIS.

909. WITHDRAWING AN NOI. Sometimes, after issuing an NOI, FAA's analyses suggest the proposed action and its reasonable alternatives would not cause significant impacts. In other cases, FAA may begin preparing an EIS because it is unsure that mitigation would effectively reduce expected adverse impacts below significance thresholds, but later finds that mitigation would eliminate the anticipated significant impacts. In either case, FAA may change its earlier decision to prepare an EIS (40 CFR 1501.7(c)).

a. Publish notice in the *Federal Register*. When this occurs, the responsible FAA official should publish a notice in the *Federal Register* and local media telling the public it is withdrawing its intent to prepare an EIS. The notice should tell the public that the sponsor, its consultant, or the consultant FAA selected to prepare the EIS will prepare an EA for the project. The notice should also clearly explain why FAA is not preparing an EIS.

b. Start an EA. After completing these steps or while doing so, the responsible FAA official should follow the EA process discussed in Chapter 7 of this Order. The responsible FAA official may later decide that circumstances warrant public review of a proposed FONSI pursuant to paragraph 804 of this Order.

910. RESPONSIBLE FAA OFFICIAL SCOPING DUTIES. To fulfill FAA's lead agency role and enhance scoping as discussed in paragraph 906, the responsible FAA official should do the following.

a. Determine interested parties. The official should contact ARP personnel and FAA organizations that will have a part in the proposed airport action. The official should also contact other Federal, State, and local agencies or Tribes having an interest or role in the proposed action. Contacting local officials about existing and future land uses and other projects in the airport vicinity is also very helpful. Many of these parties often suggest possible alternatives and identify potential environmental impacts, important issues, and conceptual mitigation. It is wise to include parties opposing the action and try to reach a consensus on issues the EIS will address. This last step may help improve the efficiency of EIS preparation because it ensures the EIS addresses views of affected parties.

b. Identify other requirements. The responsible FAA official working with Federal, State, local, or Tribal governments can identify environmental review or consultation requirements beyond NEPA. This step helps FAA to efficiently prepare the EIS. It also helps Federal agencies that are involved in the action prepare concurrent analyses or studies necessary to process other authorizations such as Clean Water Act Section 404 permits. This cooperation increases the number of legal requirements the EIS will address and allows approvals or authorizations to occur within similar timeframes. It also helps to reduce repeating efforts, data, and documentation.

c. Identify cooperating agencies. As the lead agency for most airport actions, FAA is ultimately responsible for an EIS's scope and content. However, the responsible FAA official should invite certain agencies or Tribes to be cooperating agencies. These parties normally have jurisdiction by law over the action's environmental issues or impacts. They typically include Federal, State, or local governmental agencies or Tribes having permitting, approval, or veto authority over some aspect of the proposed action.³ The responsible FAA official may also invite agencies having special expertise to serve as cooperating agencies.

(1) Cooperating agencies aid FAA's EIS preparation and review by focusing on impacts to resources under their jurisdictions or for which they have expertise. Their input is critical, especially for the resources that special-purpose laws and regulations protect. The primary intent of this effort is to ensure EIS completeness, thereby allowing a cooperating agency to use FAA's EIS to meet the cooperating agency's environmental review needs.

(2) Cooperating agency input helps the responsible FAA official identify past, present, and reasonably foreseeable actions. The responsible FAA official should seek help from these agencies to identify public environmental documents that other agencies

³ CEQ memorandum entitled, *Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act*, dated January 30, 2002, provides more information. <http://ceq.eh.doe.gov/nepa/regs/cooperating/cooperatingagenciesmemorandum.html>

have completed, are preparing, or will prepare. This step helps to more thoroughly define the EIS's scope of cumulative impacts.

d. Focus EIS content. Although FAA is ultimately responsible for EIS scope and content, earlier paragraphs stress the need to candidly discuss potential impacts with jurisdictional or expertise agencies. This effort is helpful to the responsible FAA official because it highlights the information and methods needed to scientifically and comprehensively analyze the action's impacts in proportion to their significance (40 CFR 1502.2(b)). This step also helps the responsible FAA official focus the EIS on those resources the proposed action and its reasonable alternatives would significantly affect.

e. Identify impacts that are not significant. The responsible FAA official should lead discussions to determine if scoping participants have concerns about FAA's preliminary analyses or methodologies. Based on preliminary analyses, the responsible FAA official should identify those resources FAA believes the proposed action is unlikely to significantly affect. For those resource impacts, the official should state that the EIS would provide only the information needed to show why the impacts are not significant. In fact, the information should be similar to that found in an EA to keep the EIS to a manageable size while allowing readers to focus on significant impacts.⁴

f. Explain the timing of FAA's Record of Decision. This explanation helps the public understand the decision process FAA completes for most airport actions that are subjects of EISs. The official should explain that FAA's completion of a final EIS does not mean the approving FAA official will immediately make a decision on the proposed action. Before doing so, FAA must prepare its Record of Decision (ROD) for the proposed action. During this "wait period," the responsible FAA official may review and consider any substantive comments that FAA received on the final EIS. The official must ensure the comments and FAA responses to are included in the ROD.

g. Determine other scoping needs. This helps determine if the following steps are needed to effectively complete the EIS process.

(1) Conduct other scoping opportunities to determine other substantive issues, or to integrate the environmental review with other FAA planning or administrative requirements.

(2) Setting time limits for providing input or completing reviews.

(3) Adopting procedures to combine EIS preparation processes. and

(4) Setting page limits.

⁴ As an alternative, the responsible FAA official may wish to suggest referring readers to other documents that discuss the insignificant impacts and that FAA will include those references for the EIS.

h. How FAA will address comments an agency fails or refuses to provide during scoping. No agency or Tribe should deliberately withhold known critical information during scoping. Doing so with the intent to later delay or stop an action is unacceptable. A cooperating agency has a duty to raise issues or participate in scoping and EIS preparation if they can reasonably do so. Generally, if a cooperating agency fails to cooperate, the lead agency may not find the cooperating agency's comments persuasive at a later stage.⁵ If this occurs, the responsible FAA official should document FAA efforts to coordinate with non-responsive agencies.

911. THE AIRPORT SPONSOR'S ROLE DURING SCOPING. The airport sponsor, not FAA, proposes airport development and decides if it will build and operate that development. Therefore, the airport sponsor plays a critical scoping role because it has knowledge about the airport's operations and its relationship with the surrounding affected community.

a. Review effects of various proposals on airport operations. The sponsor, other parties, and FAA's Air Traffic Office work together to safely and efficiently operate an airport.

(1) The airport sponsor should evaluate information discussed during scoping to help the responsible FAA official or FAA airport planners determine how impacts noted during scoping could potentially affect airport operations. Sponsor input will be important later when FAA develops the range of reasonable alternatives the EIS will analyze in detail.

(2) Sponsor awareness of and concurrence with potential mitigation concepts within its authority is crucial. These factors promote the sponsor's acceptance of the measures needed to reduce the action's environmental impacts and help make the environmental review and decision making processes more efficient.

b. Act as liaison. Often, the sponsor is the principal link between FAA and the affected communities. Therefore, the sponsor can fulfill important liaison roles during scoping.

(1) **Inform the public.** The airport sponsor is often the best entity to explain efforts that have occurred in the airport area to make the airport compatible with surrounding land uses. Providing that information and explaining its concerns about substantive issues allows the airport sponsor to tell the public it is aware of public concerns and is willing to address them.

(2) **Exchange information.** Information exchanges among the sponsor, interested parties, and FAA allow the public to fill important roles in the project review process. This effort may help the sponsor more clearly explain its rationale for doing or

⁵ See *Forty Most Asked Question Concerning CEQ's National Environmental Policy Act Regulations*, Question 14.d.

not undertaking certain duties at its airport. Exchanging information allows people to feel they are participants, not spectators. As a result, they often have a sense of being part of the sponsor's effort to develop an airport action. Studies of past EIS Best Practices show such efforts often promote public acceptance of a proposed action, even if the action is unpopular. This acceptance occurs because the public is better able to understand what the airport sponsor and FAA need to do to operate the airport safely and efficiently.

912. FAA'S ROLES AS A COOPERATING AGENCY. FAA will be the lead agency for most airport actions. However, FAA may be a cooperating agency in special situations, such as reuse of a military base as a civilian airport or conveyance of Federally-owned land for an airport action. When this occurs, the responsible FAA official should review information in paragraphs 910.c(1) and (2) regarding a cooperating agency's roles during scoping.

913. – 999. RESERVED.

CHAPTER 10. THE ENVIRONMENTAL IMPACT STATEMENT

1000. GENERAL. This chapter presents the content requirements for an environmental impact statement (EIS).

1001. EIS PURPOSE. Regulations at 40 CFR 1502.1 state that an EIS's primary purpose is to be an "action-forcing tool" to ensure Federal government programs and actions meet NEPA's goals and policies.

a. Through an interdisciplinary approach, integrating natural and social sciences and the environmental design arts (40 CFR 1502.6), an EIS allows agency decision makers to take a "hard look" at environmental impacts of major Federal actions under the agency's purview. These actions focus on the reasonable alternatives, which are developed during scoping that could solve operational, capacity, safety or security problems that airport sponsors encounter. EISs describe individual and cumulative significant environmental impacts those alternatives could cause and conceptual measures to mitigate their impacts.

b. An EIS is a vehicle for providing the interested public and agencies with details about a proposed Federal action's purpose and need.

c. An EIS must be a concise, plainly written document (40 CFR 1502.8). This enables those not taking part in EIS preparation to understand issues facing an airport sponsor and the environmental effects of the various reasonable alternative ways to address those issues.

d. The approving FAA official must identify the agency's preferred alternative in FAA's final EIS (see paragraph 1007.e.(7)).

e. The final EIS (FEIS) presents public comments on the draft EIS's (DEIS) content and FAA's responses to those comments.

1002. WHEN TO PREPARE AN EIS. The responsible FAA official should recommend an EIS after determining the severities of impacts discussed in an airport sponsor's EA. The official could recommend an EIS without an EA, after reviewing an airport sponsor's project proposal, or determining the proposed action normally requires an EIS (see paragraph 903). Quick decisions to prepare an EIS are critical. Such decisions help ensure the EIS is available to the approving FAA official when the official receives other important decisionmaking material about a proposed action.

1003. EIS PREPARATION. To meet 40 CFR 1506.5(c), FAA (as the lead agency) remains responsible for selecting an EIS contractor, leading scoping, providing guidance, participating in EIS preparation, and completing the NEPA process.

a. Contractor selection and oversight. As the lead agency for most airport actions, FAA is ultimately responsible for preparing an EIS addressing those actions and ensuring the validity of an EIS's scope and content. However 40 CFR 1506.5(c) allows Federal agencies to select contractors to help the agencies prepare EISs. Knowing that ARP retains final decision authority regarding the contractor it will select to help preparing the EIS per 40 CFR 1506.5(c), personnel should note the following:

(1) Airport sponsors can assemble a "short list" of contractors they believe are qualified to prepare an EIS.

(2) The responsible FAA official may select a contractor from that "short list," but the official is not obligated to limit his or her selection to that list.¹

(3) Airport sponsors normally pay the contractor's costs during EIS preparation, but ARP later reimburses the sponsor for most of those expenses.

(4) Although sponsors initially finance the contractor's costs in preparing the EIS, FAA retains the authority and responsibility for overseeing and controlling the contractor's EIS-related work.

b. "NEPA-like" state or agency. See paragraph 9.m of this Order for information on how these arrangements affect EIS preparation. FAA urges these agencies or states to sign a Memorandum of Understanding (MOU) as discussed in paragraph 1003.c. The MOU will clearly define the environmental responsibilities FAA and the agency or state will complete as they work as joint lead agencies to analyze an action's environmental effects.

c. Memorandum of Understanding (MOU). This document is a contract that explains clearly the ground rules and arrangements that FAA (or the NEPA-like agency or state) and the airport sponsor agree to meet during the time FAA is preparing an EIS for an airport project. The MOU:

(1) Explains the relationship among FAA, a NEPA-like agency or state, if applicable, the airport sponsor, and the EIS contractor FAA selects to help it prepare the EIS.

(2) Specifies the duties and relationships among FAA, a NEPA-like agency or state, if applicable, the airport sponsor, and the EIS contractor during EIS preparation.

(3) Specifies that FAA selects the EIS contractor and only it directs the contractor's activities during EIS preparation (see footnote 1).

(4) Clarifies that the sponsor funds the contractor's work.

¹ FAA and NEPA-like agencies or states may jointly select an EIS contractor (40 CFR 1506.5(c)).

- (5) Requires the selected contractor to prepare a Plan of Study.
- (6) Contains terms for stopping or ending the MOU.

d. Disclosure statement. Before starting EIS preparation, the EIS contractor and the subcontractors working with it must verify to FAA that they have no financial interest in the outcome of the action the EIS will address. Consultants working on the EIS may not bid on any future actions the EIS addresses until the approving FAA official issues a Record of Decision based on that EIS. This prohibition does not prevent the airport sponsor from selecting the EIS contractor for later phases of the action. However, that selection must occur after free and open competition and there can be no implied or suggested guarantee that the sponsor would favorably consider the EIS contractor.

e. Payment for consultant work. To meet the sponsor's ordinary contract management practices and expenses, the sponsor must responsibly administer the EIS consultant's contract. To help the sponsor do so, the responsible FAA official should tell the sponsor when the contractor provides work FAA finds technically acceptable for the EIS. Normally, this will enable the sponsor to authorize payment to the contractor for that work. As an alternative and at the sponsor's request, the responsible FAA official may provide satisfactory contractor work to the sponsor before FAA publishes the work in a draft or final EIS. However, the sponsor should note that when FAA does so, the public might request that material under the Freedom of Information Act.

1004. LIMITATIONS ON ACTIONS DURING THE NEPA PROCESS. Based on regulations at 40 CFR 1506.1, there are limitations on the actions that FAA and the airport sponsor may take while FAA is preparing an EIS.

a. Actions having adverse effects or that limit alternatives. ARP and an airport sponsor may not take any action concerning a proposal that would cause adverse environmental effects or limit the range of reasonable alternatives the approving FAA official would consider while an EIS is being prepared. If the official learns that an airport sponsor is planning to take such an action within FAA's jurisdiction during EIS preparation, the approving FAA official will notify the sponsor that FAA will take appropriate action to ensure the objectives and procedures of NEPA are achieved (40 CFR 1506.1(b)).

b. ALP approvals and land purchases. See paragraphs 202.c(4) and 204 for limits on ALP approvals and land acquisitions, respectively, during EIS preparation.

c. Plans and designs for the NEPA process. Plans or designs for the proposed action and its reasonable alternatives must be developed to a level needed to properly analyze their environmental consequences. Normally, this analysis requires no more than 25 percent of an alternative's overall project design ("25% design level"). If FAA becomes aware that a sponsor is proceeding to final design level while an EIS is being prepared, the approving FAA official must do the following, unless the conditions in paragraph 1004.d apply:

(1) Notify the sponsor such actions may raise issues of compliance with 40 CFR 1506.1 and are taken at its own risk.

(2) Tell the sponsor that such action could undermine public confidence in the NEPA process, lead to a perception that ARP is pre-judging the proposed project's merits before it completes the NEPA process, and that this perception significantly increases the likelihood of adverse comments, opposition, and risk of legal challenge. Further, such actions are likely to require additional effort to complete the EIS process and could substantially delay ARP's decision.

(3) Tell the sponsor that ARP will not fund actions that would bring into question its credibility or the public's perception of ARP's objectivity and impartiality during the NEPA process. and

(4) Tell the sponsor that ARP does not and will not make any commitment for any project regardless of its level of design, except to proceed with the proper NEPA process, provided the proposed project remains viable, reasonable, and feasible.

d. Plans and designs needed for permits or assistance beyond NEPA. An airport sponsor may need to develop plans or designs beyond the "25% design level" noted in paragraph 1004.c. that may be needed to support an application for Federal, State, or local permits or assistance (40 CFR 1506.1(d)). In those cases, sponsors should consult with ARP and the permitting agencies to determine the level of plan or design needed to meet permitting or assistance requirements. This helps to streamline the NEPA process by integrating other environmental review requirements and NEPA. It also helps to reduce paperwork (40 CFR 1500.4(k)) and eliminate duplicating State and local procedures (40 CFR 1500.4(n)).

1005. ADOPTING ANOTHER FEDERAL AGENCY'S EIS. Text at 40 CFR 1506.3 allows ARP to adopt some or all of another Federal agency's draft or final EIS provided the EIS is acceptable under NEPA. When ARP adopts another agency's document, the responsible FAA official should complete these following steps.

a. Ensure the EIS meets FAA needs. The responsible FAA official must complete these following steps before adopting another Federal agency's EIS per Order 1050.1E, paragraph 404.d:

(1) Independently review the material and take full responsibility for the scope and content of information addressing FAA actions.

(2) Determine if the material adequately addresses airport development needs and the requirements of this Order.

(3) Request the lead agency responsible for the EIS to make the changes necessary to address ARP's concerns.

(4) If more than 3 years have elapsed since the other agency issued its FONSI and ARP has not yet issued its own FONSI, prepare a written re-evaluation of the other agency's EA. Follow the instructions in paragraph 1401 for re-evaluating NEPA documents.

(5) Prepare a supplement to the EIS if the lead agency will not revise the EIS to address FAA concerns. That supplement should contain only the information FAA determines necessary to comply with this Order or other information addressing safe, efficient airport operations.

b. Notify EPA. When FAA plans to adopt an EIS, the responsible FAA official must prepare a written notice and send it to EPA. The notice tells the public that FAA is adopting another Federal agency's EIS. EPA will publish a notice that FAA is adopting the EIS in the *Federal Register*.

c. Re-circulating an adopted EIS. This step varies with FAA's role and the document's content.

(1) When FAA is a cooperating agency. Here, FAA must independently review the document.

(a) If the responsible FAA official determines the EIS adequately addresses FAA's comments and concerns, it may adopt the EIS without re-circulating it.

(b) FAA may also adopt only a portion of a lead agency's EIS and reject that part of the document with which FAA disagrees. Here, the responsible FAA official must explain why FAA adopted only a portion of the EIS (40 CFR 1506.3(a)). If FAA needs to supplement the EIS because it does not address FAA concerns, FAA must circulate the supplement as a draft for public review and comment. When this occurs, FAA should circulate the adopted EIS portions with that supplement to ensure the reader understands the supplement's relationship to the adopted EIS and the EIS's content.

(2) When FAA adopts an EIS, but FAA is not a cooperating agency. This rarely occurs because an adopting agency normally acts as a cooperating agency. But if the situation arises, the responsible FAA official must do one of the following:

(a) If the proposed action FAA is considering is essentially the same as the lead agency's, the responsible FAA official may re-circulate the EIS as a final version and inform the public FAA is doing so.

(b) If the proposed action FAA is considering is not essentially the same as that of the lead agency, the responsible FAA official must circulate the EIS as a draft and follow the draft EIS review and processing procedures noted in Chapter 11.

d. When to file an adopted EIS with EPA. When FAA is a cooperating agency, the responsible FAA official need not file the adopted EIS with EPA for circulation. When FAA is not a cooperating agency, the responsible FAA official must file 5 copies of the adopted draft or final EIS with EPA (see paragraphs 1101 and 1211, respectively).²

Note: FAA may adopt information the airport sponsor or other parties provide for use in preparing an EIS. However, before doing so, the responsible FAA official must independently review that information and take responsibility for its scope and content.

1006. EIS CONTENT. An EIS focuses on significant environmental impacts. To do this, the responsible FAA official must use an interdisciplinary approach integrating natural and social sciences and the environmental design arts (40 CFR 1502.6). The EIS must be a concise, plainly written, comprehensive document (40 CFR 1502.8). This enables those not taking part in EIS preparation to understand the issues and intelligently analyze the no action alternative, the proposed action, reasonable alternatives, and the potential environmental impacts of those actions and alternatives.

1007. EIS FORMAT. When preparing an EIS, the responsible FAA official must follow the format described below (40 CFR 1502.10). This encourages good analyses and a clear presentation of the no action, the proposed action, and the reasonable alternatives FAA is considering. This format also provides the approving FAA official and interested parties with information they need to fully understand the proposed action, the reasonable alternatives, and their expected environmental impacts.

a. Cover sheet. Except for information in paragraph 1007.a(6), a cover sheet must include the information listed in 40 CFR 1502.11.

(1) At the top of the sheet, place these words:

**"DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
(DRAFT, FINAL, or SUPPLEMENTAL) ENVIRONMENTAL IMPACT STATEMENT"**

(2) Identify the lead agency and cooperating agency(ies), if any.

(3) Provide the title of the proposed action with the city(ies), state(s) and county(ies) where the action would occur.

(4) For a DEIS, add text similar to this:

"The FAA presents this environmental impact statement for review pursuant to the following public law requirements."

² Send 1 paper copy of the EIS and its appendices and 4 CD copies of those materials.

Note: Examples of those requirements include Section 102(2)(C) of the National Environmental Policy Act of 1969, the special purpose laws that apply to the proposed action , such as Section 4(f) of the DOT Act.

(5) Provide the name, mailing address, e-mail address, and telephone number of the responsible FAA official who can give further information about the proposed action.

(6) Regarding comment submittal, ARP bases its EIS comment submittal due date on the date EPA plans to publish the EIS's "Notice of Availability" in the *Federal Register*. Because EPA sometimes experiences problems publishing that Notice, we recommend not inserting the final comment due date on the EIS's title page. Instead, the responsible FAA official should place the date in the FAA cover letter sending the EIS to a recipient.

b. Summary. The Summary must stress the major conclusions, areas of controversy, if any, and issues the approving FAA official must decide (for example, the preferred alternative). The summary should not exceed 15 pages. For airport actions, the summary should highlight the following items:

- (1) The sponsor's proposed action.
- (2) Those parts of the EIS presenting the rationale for the proposed action.
- (3) Major environmental concerns and how the EIS addresses them.
- (4) Highly controversial issues (see paragraph 9.i. of this Order, if needed).

(5) Proposed conceptual mitigation measures. Specify those measures FAA expects to make conditions of approval, such as grant assurances. Include any monitoring requirements.

(6) Reasons FAA addressed certain items in detail, while it dismissed others from analyses.

(7) Any scoping process that occurred, including the time and place of a scoping meeting. Provide the following information:

- (a) Major areas of concern.
- (b) Items identified for detailed analyses.
- (c) Reasonable alternatives considered and a summary of why those alternatives are reasonable.
- (d) The process used to resolve issues. and

(e) The responsibilities assigned to scoping participants.

(8) The sponsor's proposed action preferred alternative and FAA's preferred alternative in the FEIS (paragraph 1007.e(7)). ARP encourages the responsible FAA official to identify the environmentally preferred alternative in the FEIS (CEQ's *Forty Most Asked Question Concerning CEQ's National Environmental Policy Act Regulations*, Question 6b).

Note: The FEIS must identify FAA's preferred alternative unless another law prevents FAA from doing so (40 CFR 1504.(e)). If FAA knows its preferred alternative when it prepares the DEIS, the DEIS must identify FAA's preferred alternative.

(9) The approving FAA official's reason for identifying the preferred alternative, unless another law prevents FAA from expressing that alternative (40 CFR 1502.14(e)).

(10) Information on the status of compliance or expected compliance with applicable permits, approvals, or license requirements. Include any known problems the airport sponsor may have in getting those authorizations.

(11) The FEIS summary must contain the following approval language:

“After careful and thorough consideration of the facts contained herein, and following consideration of the views of those Federal agencies having jurisdiction by law or special expertise on environmental impacts described, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101(a) of the National Environmental Policy Act of 1969.”

c. Table of Contents. Text at 40 CFR 1502.10(c) requires a Table of Contents to help readers find major topics in the EIS. This should list the chapters, figures, maps, tables, and exhibits in the EIS. Include lists of appendices, acronyms, and references.

d. Purpose and Need. See paragraph 706.b of this Order for a general discussion on this topic. In addition, review the following information as appropriate.

(1) The purpose and need for streamlined airport actions under 49 U.S.C. Subpart III, section 47171(j). For projects addressing airport capacity enhancement projects at the nation's congested airports.³ Federal reviewing agencies must give substantial deference to the purpose and need the DOT Secretary defines. However, this section requires the Secretary to request and consider comments on project purpose and need from interested people and governmental entities. This deference also applies to

³ 49 USC 47175.(2) defines a congested airport as, “...an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most year for which data is available and an airport listed in table 1 of the Federal Aviation Administration's *Airport Capacity Benchmark Report 2001*.” Contact ARP's Airport Planning and Environmental Division for more information if needed

aviation safety projects and aviation security projects (See 49 U.S.C. 47171(j)). Chapter 15 of this Order provides more information on streamlining.

(2) Sponsor prepared EAs. If the sponsor prepared an EA, FAA may use the EA's Need for the Proposed Action section for the EIS, but only if the responsible FAA official determines the EA fully explains why FAA is considering the proposed action.

e. Alternatives, including the No Action alternative. See paragraph 706.d of this Order for a general discussion of alternatives. In addition, for EIS preparation, review the following instructions and see paragraph 706.b(3) for aviation forecast standards applicable to alternatives.

(1) Alternatives for streamlined airport projects under 49 U.S.C. Subpart III, section 47171(k). For projects addressing airport capacity enhancement projects at the nation's congested airports (see footnote 3). Federal agencies must consider only the alternatives the DOT Secretary has determined reasonable. However, this section requires the Secretary to request and consider comments on project purpose and need from interested people and governmental entities. This deference also applies to aviation safety projects and aviation security projects (49 USC 47171(k)).

(2) Alternatives for airport projects not subject to streamlined review under 49 U.S.C. Subpart III, section 47171(k). This section should present the no action alternative, the proposed action, and the range of alternatives that are reasonable solutions to the problem(s) the sponsor wants to resolve and fulfill FAA's mission. Text at 40 CFR 1502.14(c) requires agencies to examine alternatives outside FAA's jurisdiction, if they are reasonable solutions to the sponsor's problem(s). This may include alternatives the public, an agency, or a Tribe proposed during scoping, provided the alternatives meet the purpose and need.

(3) If an EA precedes an EIS. If an EA precedes an EIS, the scoping process for the EIS must include the alternatives the EA discussed. The responsible FAA official must ensure the EIS identifies those alternatives FAA will no longer consider and the reasons for their dismissal.

(4) Actions involving new airports, new runways, or major runway extensions. 49 USC 47106.(c)(1)(B) states the Secretary of Transportation may approve a project grant application for a project involving a new airport, a new runway, or a major runway extension having significant adverse effects. However, the Secretary may do so only after finding that no possible and prudent alternative that meets the Purpose and Need exists and making a finding that all possible planning to minimize harm has been taken. The terms "possible" ("feasible") and "prudent" have separate meanings as noted here.

(a) The term “possible” (“feasible”) refers to sound engineering principles. A construction alternative may be possible if, as a matter of sound engineering principles, it can be built.

- (b) The term, “prudent” refers to rationale judgment. See paragraph 1007.e(5)(a) for more information. Although the term is defined relative to Section 4(f), the definition is very useful for these three major airport development projects.

(5) Airport actions resulting in use of Section 4(f)-protected resources.

FAA EISs will address these actions when a proposed airport project would significantly affect Section 4(f)-protected resources. The responsible FAA official must ensure the EIS prepared for these actions evaluates the existence of prudent and feasible alternatives that avoid using Section 4(f) protected resources.

(a) The EIS must contain information showing FAA has considered all feasible and prudent alternatives meeting the project’s purpose and need that avoid using the 4(f) resource. If none exists, FAA will include all possible planning to minimize harm to the protected resources. The term, “prudent” refers to rationale judgment.⁴ A project may be possible, but not prudent when one considers its safety, policy, environmental, social, or economic consequences. Use the following factors to decide if an alternative is prudent:

1. Does it meet the project’s purpose and need?
2. Does it cause extraordinary safety or operational problems?
3. Are there unique problems or truly unusual factors present with the alternative?
4. Does it cause unacceptable and severe adverse social, economic, or other environmental impacts?
5. Does it cause extraordinary community disruption?
6. Does it cause added construction, maintenance, or operational costs of an extraordinary magnitude? or
7. Does it result in an accumulation of factors that collectively, rather than individually, have adverse impacts that present unique problems or reach extraordinary magnitudes?

⁴ See, *Section 4(f) Policy Paper*, dated March 1, 2005. Review the paper’s “Section 4(f) Evaluation” section focusing on Examples of Alternative Selection Process. http://environment.fhwa.dot.gov/projdev/4f_policy.asp#alternatives.

(b) To meet Section 4(f) needs, an EIS must explain why a rejected alternative presents unique problems or explain the cost to carry out the action or its resultant community disruption is extraordinary. Although this requirement is similar to that in paragraph 1007.e (4), notice Section 4(f) applies to any airport action using 4(f)-protected land. Paragraph 1007.e(4) applies to analysis of alternatives for a new airport, a new runway, or a major runway extension that has significant adverse effects on natural resources.

(6) Airport actions involving floodplains, wetlands, or conflicts with other laws. The EIS should list the Federal, State, Tribal, or local laws, regulations, or permits that apply to each reasonable alternative the EIS analyzes in detail. Conflicts with those laws focus on the reasonableness of each alternative, so a conflict may prevent a sponsor from carrying out an alternative. For example, Executive Orders protecting floodplains and wetlands and Clean Water Act section 404 requirements for wetlands of the United States require FAA to determine that no practicable alternatives exist before FAA can approve an action encroaching on a floodplain or affecting wetlands (jurisdictional or non-jurisdictional).

(7) The FAA's preferred alternative. This alternative may be the environmentally preferred alternative, but it need not be. The approving FAA official selects the preferred alternative after reviewing each alternative's ability to fulfill the agency's mission while considering their economic and environmental impacts, and technical factors. The FEIS must identify FAA's preferred alternative, unless another law prohibits expressing it (40 CFR 1502.14(e)).

Note: The DEIS must identify FAA's preferred alternative, if FAA knows it when it is preparing the DEIS.

f. Affected Environment. See paragraph 706.e for a general discussion of the affected environment. For EIS preparation, review the following information.

(1) This section's primary role is to describe the existing environmental conditions that the proposed action and its reasonable alternatives would affect. Text at 40 CFR 1502.15 requires the EIS to describe succinctly the environmental resource characteristics the proposed project and the reasonable alternatives would affect. It should not describe the impacts the no action, proposed action, or the reasonable alternatives would cause.

(2) Focus on resources the no action, the proposed action, and the reasonable alternatives would significantly affect. The description for each affected resource should be proportional to the extent of potential impact on that resource. That is, the EIS should provide less detail for those resources that would not be significantly affected. Usually, if the sponsor prepared an EA for the proposed action, that document's Affected Environment section would normally be sufficient for those affected resources.

(3) If the sponsor prepared an EA, the responsible FAA official should examine the EA's Affected Environment section. This review is needed to determine the

extent of additional information the EIS will require to more fully describe the significant impacts the no action, the proposed action, and the reasonable alternatives would cause. To do so, consider the following items.

(a) An airport layout plan and map depicting the project location and the surrounding airport vicinity.

(b) Descriptions of the environmentally sensitive resources, existing and planned land uses, and zoning the proposal and alternatives under consideration would affect. As needed, describe those resources that special purpose laws protect (e.g., wildlife refuges, recreational areas, wetlands, etc.). Depending on the resources affected, the geographical area described may vary.

(c) If an EA is being used as a reference, include future actions in the Affected Environment section the EA does not address.

(d) When preparing the EIS's Affected Environment section, preparers should review material other agencies, organizations, or private parties have prepared. This information is helpful in addressing cumulative impacts. Data sources may include environmental documents or permit applications of other Federal, State, or local agencies. These documents are valuable because they address past, present, or reasonably foreseeable developments in the proposed project's affected area that are not part of the proposed action. Project examples include highway projects, housing developments, or relocation needs related to those non-FAA actions. Examine the impacts those projects cause and determine if they affect the same resources the proposed alternatives would affect. Select the documents that point to impacts on the same resources. Incorporate by reference the readily available documents used to prepare this section.

Note: The references must be available to the public during the EIS review period.

g. Environmental Consequences. See paragraph 706.f for a general discussion of this section, then, to prepare an EIS, review the following information.

(1) The section should discuss the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity. To do so, examine trade-offs between short-term environmental gains at the expense of long-term losses or long-term gains at the expense of short-term losses as needed. Include the extent to which the proposal forecloses or broadens future options.

(2) This section should describe impacts of the no action, proposed action, and each reasonable alternative on affected resources and the consequences of those impacts. Alphabetically arranged impact discussions are *not* required. Often, doing so may not be the best way to present that information in a cohesive, understandable manner.

(3) EIS preparers should determine the information necessary to explain clearly impacts and consequences (40 CFR 1500.4 and 1502.2)). To reduce bulk and improve its understanding, EIS text should summarize impacts and their consequences. Discussions should provide accurate cross-references to the specific appendices and page numbers that provide the basis for determining the severity of impacts and their consequences. This section should not repeat information in the Alternatives section. Instead, it should be the source of information used to prepare the Alternatives section's summary table. It should outline each reasonable alternative's environmental impacts.

(4) Use concise discussions of impacts and consequences that are not significant. Provide only the information needed to show why they are not significant. In most cases, if the sponsor prepared an EA for the proposed action, information in that document's Environment Consequences section would normally be sufficient for those resources.

(5) Discuss the status of consultation the applicable special purpose laws require (see Chapter 1, Table 1-1 of this Order).

(6) Discuss possible conflicts between the proposed action and the objectives of Federal, State, regional, or local land use plans, policies, or controls in the affected area. Consider Tribal or Native Hawaiian plans, policies, and controls when the action would affect a reservation, tribal trust, or other resources important to those peoples.

(7) Discuss the irreversible and irretrievable commitments of natural resources and energy requirements each reasonable alternative would require. Analyze any project-caused depletion of materials in short supply or substantial, irreversible changes to the natural or cultural environment the reasonable alternatives would cause.

(8) Discuss any National Register-eligible or listed historic and cultural resources the proposed action or reasonable alternatives would affect or destroy and the potential for reusing or conserving these resources. For Section 4(f) purposes, note any historic resources of State or local significance.

(9) Ensure the EIS clearly states where information is lacking or uncertain when evaluating reasonably foreseeable significant adverse effects (40 CFR 1502.22). See paragraph 1007.o for more information on this.

(10) Incorporate by reference or appendix any cost-benefit analysis that is relevant to the choice among environmentally different alternatives, to meet 40 CFR 1502.23 (see 1007.n).

h. Mitigation. Describe conceptual mitigation measures that are not parts of the proposed action. Consultation with the sponsor, FAA organizations, Tribes, or resource agencies is helpful when developing this mitigation. Reviewing Environmental Management Systems (EMS) provides information about effective ways to mitigate

significant environmental impacts due to airport actions. Examples of mitigation concepts include:

- (1) Design or construction measures avoiding or reducing impacts.
- (2) Management actions to reduce operational impacts.
- (3) Reuse, restoration, preservation, or compensation measures.

Note: EIS preparers may make this section a separate EIS chapter, or they may combine it with each section of the Environmental Consequences section discussing each affected environmental resource. In addition, preparers should summarize mitigation in a matrix placed in the EIS Alternatives section (see Figure 7-1, pg. 4, Table 1).

i. Cumulative impact. CEQ 1508.25 defines three types of actions one should consider when determining the scope of a NEPA process. One of the types involves cumulative actions (the others are connected actions and similar actions) CEQ 1508.7 states that a cumulative impact is the environmental effect resulting from the incremental effects of the proposed action when added to the effects of past, other present, and reasonably foreseeable future actions, regardless of the entity (i.e., Federal or non-Federal) or person that would carry out those actions. In some cases, individually minor but collectively significant actions occurring over a defined period of time can cause cumulative impacts.

(1) When an airport action affects certain resources, the effects of that action can be limited to the extent that a FONSI or a categorical exclusion would appear to be appropriate. However, when analysts cumulatively consider the project's impacts with those of past, present and reasonably foreseeable actions on or off-airport (paragraph 9.q), those impacts may exceed one or more significant impact thresholds. Therefore, EA and EIS preparers must consider the impacts the airport project and the complex of past, present, and reasonably foreseeable projects affecting the same resources. Here are some examples of this principle.

(a) Buying land and a reasonably foreseeable runway extension (i.e., a cumulative action).

(b) Runway extension and moving an access road to accommodate the extension (i.e., a connected action).

(c) Apron work needed to move a terminal, which in turn, requires moving housing (i.e., a connected action).

Note: Here, terminal area relocation is the principal action justifying the project, but the effects due to disrupting the community or other impacts due to highway or housing relocation must be part of the total proposal.

(d) An initial runway extension and a second phase extension that is part of a firm development program or reasonably foreseeable (i.e., a similar action).

(2) When considering any past, present, or reasonably foreseeable actions the airport vicinity that affect the same resources the airport action would affect, analysts must determine if those actions and the airport action would cause significant cumulative impacts. For example, building a new highway and expanding an airport may, when considered together (cumulatively), cause significant air quality impacts. This is because extensive earthmoving activities these projects cause can increase dust due to land disturbance or substantial equipment exhaust emissions.

j. List of preparers. An EIS must provide information on those who prepared it. If possible, the list should not exceed 2 pages (40 CFR 1502.17). That information should include:

(1) The name(s) of FAA personnel responsible for: overseeing and guiding the EIS's development, scope and content, and independently reviewing the EIS for accuracy and compliance with CEQ regulations.

(2) Those responsible for preparing various EIS sections. Specify the document section(s) for which each person is responsible. This includes authors of background papers used in any analysis.

(3) Each preparer's qualifications (i.e., professional discipline, area of expertise, and years of experience).

k. List of EIS recipients. Providing information to interested parties is critical to meeting NEPA's public involvement requirement. Therefore, an EIS must contain a list of agencies, organizations, and people to whom FAA sent the EIS for review (Order 1050.1E, paragraph 506j). According to 40 CFR 1502.19, the recipients normally include:

(1) Any Federal agency having jurisdiction by law or special expertise on environmental impacts resulting from the no action, proposed action, or reasonable alternatives. The mailing list should include State, Tribal, or local agencies authorized to develop or enforce environmental standards.

(2) The applicant (i.e. the airport sponsor).

(3) Any person, organization, or agency asking for the entire EIS.

Note: Responsible FAA officials may use CDs or websites to distribute EISs as well as hard copies. ARP encourages electronic distributions to recipients. This reduces costs, delivery time, and environmental concerns (energy, material, transportation, etc.) that accompany hard copy distributions.

l. Index. Text at 40 CFR 1502.10(j) requires an EIS index. This allows the reader to easily find pages containing key terms and specific data, topics, or other important information the EIS presents.

m. Comments. See paragraph 1201.

n. Appendices incorporated by reference in an EIS. The EIS must include the studies, memoranda, and technical information prepared in connection with an EIS that are reasonably necessary to support the analyses and conclusions in an EIS (40 CFR 1502.18). Circulation and review are important parts of NEPA's attempt to ensure informed decisionmaking. Appendices improve reader understanding of the analyses and make the document easier to review. Since information in an appendix is extremely relevant to the EIS and FAA's decision process, the responsible FAA official must circulate the material with the EIS or make the appendices available to the public(40 CFR 1502.18(d)). ARP encourages distribution of appendices with the EIS using compact disk (CD) format. Incorporating material by reference that was not prepared in conjunction with an EIS reduces EIS bulk. Such material should be made reasonably available to the public for inspection during the comment period (40 CFR 1502.2). Use appendices or references to:

(1) Describe various models such as the Integrated Noise Model or the Emissions Dispersion Modeling System and provide the models' input data.

(2) Provide the detailed descriptions of analytical results and project impacts. This reduces EIS bulk as 40 CFR 1500.4 requires, while allowing the EIS to summarize or highlight the most important information the appendices or references contain. This effort requires accurate cross-referencing to specific portions of the respective appendix or reference material supporting the EIS text.

(3) Show proof of consultation and to present documentation, memorandums of agreement, or other information needed to meet special purpose laws.

o. Incomplete or unavailable information. When evaluating significant effects, ensure the EIS clearly states where information is lacking or uncertain (40 CFR 1502.22). If certain information is essential to FAA's reasoned choice among reasonable alternatives and the cost to get it is not excessive, the agency should obtain it. If the information is essential, but cost to get it is excessive or the means to get it are unknown (i.e., beyond the state-of-the art), the agency must weigh the need for the action against the risk of possible adverse effect, if the action continues with this uncertainty.

1008. - 1099. RESERVED.

CHAPTER 11. PROCESSING THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)

1100. INTERNAL AGENCY REVIEW OF A PRELIMINARY DRAFT EIS.

Before completing the draft EIS (DEIS), FAA normally prepares a preliminary draft EIS (PDEIS) for internal review. This provides FAA organizations having responsibilities for actions related to the proposed airport action or other interests in that action the opportunity to review a DEIS before FAA issues it for public review. During this internal review, FAA organizations must determine if the PDEIS contains the analyses needed for those organizations to make their findings and if the document adequately covers the their respective actions and concerns. Coordination is also necessary to ensure that other FAA organizations having responsibilities related to the proposed action fulfill those responsibilities if FAA approves the proposed action.

a. PDEISs for streamlined airport projects. Chapter 15 of this Order discusses the streamlining requirements Congress mandated in *Vision 100 - Century of Aviation Reauthorization Act* (Vision 100). That Act focused on airport capacity, safety, and security projects. A part of that legislation (49 USC 47171.(b)) discusses streamlining aviation projects at congested airports.¹ When preparing a PDEIS for a congested airport, the responsible FAA official must internally distribute the PDEIS to the FAA organizations represented on the FAA “EIS Team” assembled for that project. Normally, these “Teams” include legal and technical personnel from various FAA organizations at the district, regional, and headquarters levels.

b. PDEISs for airport projects that are not streamlined. Airport actions not requiring streamlining may be coordinated and reviewed internally using a different process than discussed in 1100.a. The responsible FAA official must ensure the intra-agency, PDEIS review involves regional and district office personnel from the various FAA organizations having an interest in the proposed action. The responsible FAA official may use discretion when determining if the Airport Planning and Environmental Division (APP-400) or other headquarters organizations should review a PDEIS.

1101. DISTRIBUTING THE DEIS FOR AGENCY AND PUBLIC REVIEW.

The responsible FAA official must provide Federal, State, tribal, and local agencies with jurisdiction by law or special expertise and the public the opportunity to comment on a DEIS (40 CFR 1503.1).

a. When to seek comments on a DEIS. Text at 40 CFR 1503.4 requires FAA to consider substantive comments on a DEIS and respond to them in the final

¹ According to Vision 100, section 47175(2), a congested airport accounts for 1% of all delayed aircraft operations in the U.S. using the FAA’s the 2001 *Airport Capacity Benchmark Report*. Contact ARP’s Airport Planning and Environmental Division, if needed. Chapter 15 of this order provides more information on streamlining.

EIS (FEIS). As a result, the responsible FAA official must specifically request comments during the DEIS review period (40 CFR 1503.1(a)) from the following parties.

(1) Any Federal agency having jurisdiction by law or special expertise for an environmental impact the proposed action or its reasonable alternatives would affect, or that is authorized to develop and enforce environmental standards.

(2) Appropriate State and local agencies authorized to develop and enforce environmental standards or agencies requesting receipt of a DEIS. These agencies could include state transportation departments or municipalities having an interest in an action or significant impacts that would occur within their jurisdictions.

(3) Indian tribes and native organizations when effects may be on a reservation or affect tribal trust resources.

(4) The airport sponsor proposing the project.

(5) The public, including non-governmental organizations, having an interest in the proposed action.

b. Where to coordinate and deliver a DEIS. FAA must distribute the DEIS to the affected public and those agencies having an interest in the proposed action. Those agencies may include Metropolitan Planning Organizations or state transportation departments. To save money and resources, the responsible FAA official should consider delivering the document electronically (web sites and CDs) to those willing to review the DEIS in those formats.

(1) **Availability to agencies.** The responsible FAA official must coordinate the DEIS with the regional offices of the Federal, State, tribal, and local agencies having jurisdiction by law or expertise for affected resources. When the official requests comments on the DEIS from any agency of the Departments of Commerce, Energy, or Interior, the official must follow the following procedures. Before sending documents, the official should check with the appropriate agency to determine if it will accept the EIS and its appendices in electronic format.

(a) **The Department of Commerce (DOC).** Send 1 copy to DOC headquarters and 1 copy to the Ecology and Conservation Division in the National Oceanic and Atmospheric Administration.

(b) **The Department of Energy (DOE).** For actions having major energy-related effects, coordinate with DOE's Office of NEPA Policy and Assistance, EH-42, 1000 Independence Ave., S.W. Washington, D.C. 20585. Provide one copy of the DEIS for review.

(c) **The Department of the Interior (DOI).** Refer to paragraphs 1. through 3. below to determine the number of DEIS copies FAA must file with the DOI for comment. The responsible FAA official should send copies to the Director, Office of Environmental Policy and Compliance (OPEC), 1849 C Street, S.W., Washington, D.C. 20240. The Director will deliver the document to the proper regional office.

1. For projects in Alaska, provide 16 copies.
2. For projects in the eastern United States, including Arkansas, Iowa, Louisiana, Minnesota, and Missouri, provide 12 copies.
3. For projects in the western United States, that is, areas west of the western boundaries of AR, IA, LA, MN, and MO, provide 18 copies.

(d) **The Environmental Protection Agency (EPA).** When filing the DEIS with EPA, the responsible FAA official must certify to EPA that FAA has provided the DEIS to the public and all interested agencies. Simultaneous distribution to all parties ensures everyone interested in the action has the same amount of time to review the document. The responsible FAA official should use the following standard language in its certification to EPA and press releases announcing the DEIS's availability for comment and public hearing(s) for the proposed project:

“FAA encourages all interested parties to provide comments concerning the scope and content of the Draft EIS. Comments should be as specific as possible and address the analysis of potential environmental impacts and the adequacy for the proposed action or merits of its alternatives and the mitigation being considered. Reviewers should organize their participation so that it is meaningful and makes the agency aware of the viewers' interests and concerns using quotations and other specific references to the text of the Draft EIS and related documents. Matters that could have been raised with specificity during the comment period on the Draft EIS may not be considered if they are raised for the first time later in the decision process. This commenting procedure is intended to ensure that substantive comments and concerns are made available to the FAA in a timely manner so that the FAA has an opportunity to address them.”

(1) **Regional office(s).** The responsible FAA official must coordinate the DEIS with the proper EPA regional office and request comments on the document. Provide 1 copy of the DEIS to the regional EPA office.

(2) **Headquarters offices.** The responsible FAA official must file 5 copies of the DEIS and its appendices with EPA's HQ Office. In doing so, the official must file 1 paper copy of the documents, while the 4 remaining copies may be in electronic format (i.e., compact disk). Every Friday, EPA publishes a “Notice of Availability” (NOA) for each DEIS filed by Friday of the *previous* week. Publishing this NOA starts the DEIS public review and comment period. Once started, the approving FAA official may not make a decision on the proposed action, until 90 days after the date of the NOA of the DEIS (40 CFR 1506.10). As indicated below,

notice that the address for filing DEIS's varies with the method used to deliver the DEIS to EPA's HQ.

i. DEISs filed with EPA via the U.S. Postal Service. The FAA official should file the DEIS at:

EPA Office of Federal Activities, EIS Filing Section, Ariel Rios Building (South Oval Lobby), Mail Code 2252-A, 1200 Pennsylvania Ave., N.W., Room 7220, Washington, D.C., 20460.

ii. DEISs filed with EPA via commercial shipping company or hand delivery. The FAA official should file the DEIS at:

EPA Office of Federal Activities, EIS Filing Section, Ariel Rios Building (South Oval Lobby), 1200 Pennsylvania Ave., N.W., Room 7220, Washington, D.C., 20004.

(2) Public availability. When providing copies of the EIS and its appendices to the public, ask requestors if they will accept an electronic copy of the documents. As an alternative, provide the web site where those documents are available for public review.

(3) Notice of Public Availability (NOA). Title 40 CFR 1506.6(b) requires Federal agencies to notify the public of the availability of environmental documents. This is to inform people and agencies interested in the project or affected by it.

(a) Text at 40 CFR 1506.6(b) states that when actions cause effects primarily of local concern, the agency may publish the notice in local newspapers having general circulation or notifying the public through some other local media.

(b) When publishing the notice in local newspapers, the responsible FAA official should send a press release discussing the DEIS's public availability to local media serving the project area. The official should request that newspaper(s) publish the notice of the DEIS's availability on the same date EPA expects to publish its notice in the *Federal Register*.

(c) The notice should identify the FAA employee who will answer the public's questions about the DEIS's status or other information about the action. Normally, this is the responsible FAA official. FAA must provide a copy of either the *Federal Register* NOA or media notice to anyone requesting it.

(4) DEIS distribution for FAA review. The responsible FAA official must send 3 copies of the DEIS, to the Airports Planning and Environmental Division, APP-400. APP-400 will deliver the DEIS to the Office of the Chief Counsel and, if necessary, other reviewing offices.

1102. TIME LIMITS FOR REVIEWING THE DEIS. The Responsible FAA Official must provide the agencies and the interested public a minimum of 45 days to review the DEIS (40 CFR 1506.10(c)).

a. Resource agency and public review. Text at 40 CFR 1506.10(a), requires agencies to begin the DEIS review period on the date EPA publishes the "Notice of Availability" in the *Federal Register*. If a commenter does not reply within the review period, the responsible FAA official may assume the entity has no comments. Normally, FAA will grant a 15-day extension when a commenting agency requests more time to review a DEIS.

b. Altering the DEIS review period. DEIS review periods may change as noted here.

(1) Extending the DEIS review period. FAA may extend the 45-day DEIS review period (40 CFR 1506.10(d)). To do so, the responsible FAA official must inform EPA of this extension so EPA may place a notice of the extension in the *Federal Register*. In addition, EPA may extend the initial 45-day review period, if it determines another Federal agency has compelling reason of national policy concerns (40 CFR 1506.10(d)). However, in this case, EPA may do so only after consulting with FAA. Failure to file timely comments is not a sufficient reason to extend the comment period (40 CFR 1506.10(d)).

(2) Reducing the DEIS review period. EPA may reduce the 45-day DEIS review period, if FAA provides compelling reasons of national policy to do so. APP-400 will coordinate these reduced times with DOT before contacting EPA.

c. Washington headquarters review. APP-400 will provide The Office of the Chief Counsel's Airports and Environmental Law Division (AGC-600) with a 30-day period to review the DEIS. APP-400 will also send a copy of the DEIS to FAA's Office of Environment and Energy for information purposes.

(1) Headquarters review period begins on the date APP-400 requests comments from AGC-600. AGC-600 will review the document and provide its comments to APP-400. APP-400 will consolidate its comments with those of AGC-600.

(2) APP-400 may discuss some of the comments with the responsible FAA official before sending those comments to the responsible FAA official. This is to ensure there that headquarters reviewers misunderstands about the comments or information in the DEIS do not occur.

(3) APP-400 will send the comments to the responsible FAA official in memo format within the DEIS's 45-day review period (or an extended period, if one exists). APP-400's delegation memo for approval of the final EIS to the responsible

FAA official signals the region has adequately addressed headquarters' comments on the DEIS.

1103. DEIS COMMENTS. Usually, entities reviewing the DEIS will provide comments directly to the FAA regional or district Airports office responsible for preparing the document. Text at 40 CFR 1503.3 requires commenters to be as specific as possible when expressing their concerns on the DEIS's adequacy. Commenting agencies should focus on the merits of the alternatives discussed in the DEIS and their environmental impacts.

a. Comments received from agencies. If the responsible FAA official decides a commenting agency has not followed the intent of 40 CFR 1503.3,² the official should consult that agency to resolve the issue. The extent of an agency's comments should be equal to the agency's involvement during the scoping process. If during the comment period, an agency restates problems resolved during scoping, the responsible FAA official should find out why resolutions developed during scoping remain problematic at the DEIS stage. The official should try to resolve those problems before FAA completes the final EIS.

b. Comments received from EPA. When EPA reviews a DEIS, it uses a DEIS rating system. EPA bases each DEIS rating on its findings regarding the proposed action's environmental impact severities and the DEIS's adequacy in addressing them.

1104. RE-CIRCULATING THE DEIS. According to 40 CFR 1502.9.(a), a DEIS must fulfill and satisfy, to the fullest extent possible, the requirements established for FEISs. FAA must prepare and re-circulate a new draft of the portion(s) of a DEIS judged "inadequate as to preclude meaningful analysis" (40 CFR 1502.9(a)). After revising the DEIS to provide the needed information, the responsible FAA official must re-circulate the complete, updated DEIS as discussed in paragraphs 1101 and 1102 of this Order.

1105. - 1199. RESERVED.

² Comments on EISs or a proposed action must be as specific as possible. They may address either the EIS's adequacy or the merits of the EIS's alternatives (see 40 CFR 1503.3(a)).

CHAPTER 12. PROCESSING THE FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)

1200. THE FEIS AND COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS). The final EIS (FEIS) must contain FAA responses to all substantive comments on the draft EIS (DEIS) to comply with 40 CFR 1503.4(a).

a. The responsible FAA official must consult the airport sponsor, if in response to a comment, FAA is considering asking the sponsor to commit to change the proposed airport, its operations, or proposed mitigation measures.

b. The responsible FAA official must ensure all substantive comments are attached to the FEIS, whether or not the comment is considered to merit an individual response. The FEIS may summarize similar comments when the number of comments on the DEIS is voluminous.

c. Where FAA has established a schedule for completing an EIS, the responsible FAA official must advise the airport sponsor when the nature or volume of comments on the DEIS are likely to require an adjustment to the schedule.

1201. COMMENT RESPONSE OPTIONS. The responsible FAA official must respond to comments on the DEIS by using one or more of the options noted in paragraphs 1201.a – f (40 CFR 1503.4(a)). The official should consult the airport sponsor as noted in paragraph 1200.a, or if an issue is raised for the first time during the DEIS review period.

a. Modify the alternatives the DEIS discusses, including the proposed action.

b. Develop and evaluate any alternative FAA has not seriously considered.

c. Supplement, improve, or modify the analyses.

d. Make factual corrections.

e. Explain why certain comments do not warrant a response, citing the sources, authorities, or reasons supporting FAA's position. If suitable, point out those circumstances that would trigger agency reappraisal of the comment or further response. The responsible FAA official should explain how the comment is being interpreted to establish the foundation for the response.

f. The responsible FAA official may use an errata sheet if document changes in response to comments are minor and address only the information noted in paragraphs 1201.d and e (40 CFR 1503.4(c)). The official should attach the errata sheet to the statement instead of re-writing the draft statement. In this case, the

responsible FAA official must circulate only the comments, comment responses, and any changes to the FEIS.

1202. FAA'S PREFERRED ALTERNATIVE. The responsible FAA official must ensure the FEIS identifies FAA's preferred alternative (paragraph 1007.e.(7)), unless a law forbids FAA from doing so (40 CFR 1502.14(e)). If the approving FAA official intends to identify a preferred alternative differing from the sponsor's proposed action, the official should notify the sponsor as early as possible. The approving FAA official should then follow the steps in paragraph 801 of this Order. That paragraph addresses a comparable situation for a proposed FONSI and its EA.

Note: FAA must identify the preferred alternative in the DEIS, if the agency has already selected one, unless a law forbids that disclosure.

1203. FEISs PREPARED FOR AIP-ELIGIBLE AIRPORT DEVELOPMENT PROJECTS. An FEIS addressing airport development actions for which the sponsor will seek Federal financial aid under the Airport Improvement Program (AIP) must also contain the information listed below. That information provides evidence to satisfy agency determinations and sponsor certifications under 49 USC 47106 and 47107. The approving FAA official will include the determinations and sponsor certifications in the Record of Decision (ROD) (Chapter 13 provide information on RODs).

a. Airport development projects. The FEIS addressing a project for which an airport sponsor intends to seek AIP funding, must contain the following evidence:

(1) The proposed action is reasonably consistent with existing plans of public agencies responsible for development in the area (49 USC 47106.(a)(1)).

(2) The Secretary is satisfied the interests of communities in or near the project location have been given fair consideration (49 USC 47106.(b)(2)).

(3) To the extent reasonable, the airport sponsor has taken or will take actions to restrict land uses in the airport vicinity, including the adoption of zoning laws, to ensure the uses are compatible with airport operations (49 USC 47107.(a)(10)).

b. Airport development involving a new airport, a new runway, or a major runway extension. An FEIS addressing a new airport, new runway, or major runway extension for which an airport sponsor intends to seek AIP funding should also provide the following information:

(1) A certification from the airport sponsor that it has provided an opportunity for a public hearing. The hearing is offered to consider economic, social, and environmental effects of the location and the location's consistency with the

objectives of any planning that the community (i.e., jurisdictional authority) has carried out (49 USC 47106.(c)(1)(A)(i)).

(2) A certification from the airport sponsor that the airport management board has voting representation from the communities in which the project would be located or that the sponsor has advised communities they have the right to petition the Secretary of Transportation about a proposed project (49 USC 47106.(c)(1)(A)(ii)).

(3) From a sponsor of a large or medium hub airport who proposes a new airport, a new runway, or a major runway extension, a certification verifying that, on request from the metropolitan planning organization (MPO) in the area where the project is located (if an MPO exists), the sponsor has made the following information available to the MPO (49 USC 47106.(c)(1)(A)(iii)):

(a) A copy of the proposed ALP amendment depicting the proposed action. and

(b) A copy of any airport master plan describing or depicting the action.

(4) When the proposed action would cause significant adverse effects on natural resources, including fish and wildlife, natural, scenic, and recreational assets, including water and air quality, and other factors affecting the environment, a finding that no possible and prudent alternative to the project exists and that every reasonable step has been taken to minimize adverse effects (see 49 USC 47106.(c)(1)(B)). (Paragraphs 1007.e(4)(a) and (b) of this Order discuss possible and prudent alternatives).

1204. ACTIONS INVOLVING THE USE OF RESOURCES PROTECTED UNDER SECTION 4(f). FEISs prepared for airport actions that would use resources protected under Section 4(f) must contain evidence to support both of these conclusions for the ROD:

a. There is no prudent and feasible alternative to using the protected resource. In deciding if there is a prudent alternative, the responsible FAA official should note that there are times where important, non-4(f) impacts must be considered when determining the most prudent alternative.¹ In these situations, the official should exercise caution if the alternative that avoids use of a Section 4(f)-protected resource or that would minimize effects to that resource differs from the alternative that is necessary to avoid or minimize impacts to resources protected under other special purpose laws (see footnote 1). Here, the responsible official should carefully evaluate both alternatives. If needed, consult ARP's Airport Planning and Environmental Division (APP-400), Regional Counsel, or the Chief Counsel's Airports and

¹ See, *Section 4(f) Policy Paper*, dated March 1, 2005. Review the paper's "Section 4(f) Evaluation" section focusing on Examples of Alternative Selection Process.
http://environment.flhwa.dot.gov/projdev/4f_policy.asp#examples.

Environmental Law Division (AGC-600). The approving FAA official should also alert the sponsor to the situation.

b. The project includes all possible planning to minimize harm to the protected resource resulted from the use.

1205. ACTIONS DISPLACING PEOPLE AND BUSINESSES REQUIRING THEIR RELOCATIONS. FEISs prepared for these actions must contain the following assurances for inclusion in the ROD:

a. Fair and reasonable relocation payments and aid will be available under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

b. For housing relocation, comparable, decent, safe, and sanitary housing² is available for occupancy on the open market or will be built, if necessary, before affected people are displaced.

1206. ACTIONS INVOLVING CONSTRUCTION DIRECTLY OR INDIRECTLY AFFECTING WETLANDS. An FEIS addressing actions affecting jurisdictional or non-jurisdictional wetlands must contain evidence to make the following findings (Executive Order 11990, *Wetlands*) in the ROD:

a. There is no practicable alternative to FAA's preferred alternative. and

b. The preferred alternative includes all practicable measures to minimize resultant unavoidable harm to wetlands.

1207. ACTIONS SIGNIFICANTLY ENCROACHING ON A FLOODPLAIN. FEISs prepared for a proposed action that encroaches on a base floodplain (i.e., the area the 100-year flood engulfs) must contain evidence to make the following findings (Executive Order 11988, *Floodplains*) in the ROD:

a. There is no practicable alternative to the FAA's preferred alternative. and

b. The preferred alternative conforms to applicable state and/or local floodplain protection standards.

1208. ACTIONS IN OR AFFECTING COASTAL ZONE AREAS. FEISs prepared for an airport action in or affecting the coastal zone of a state having an approved coastal zone management plan (CZMP) must contain information from the state agency responsible for the CZMP. As explained below, that information varies, depending on the activity proposed.

² See 49 Code of Federal Regulation, Part 24.2.

a. FAA approvals for sponsor-proposed airport actions. FAA must ensure the requirements of 15 CFR, Subpart D, *Consistency for Activities Requiring a Federal License or Permit*, are completed for approvals addressing airport actions when the CZMP specifically lists those activities. For unlisted activities, compliance with Subpart D is also necessary when the responsible State agency specifically advises the sponsor or FAA that approval for an action would affect coastal zone resources and that it intends to review the approval. This is because funding and airport layout plan activities requiring “Federal license or permit” as defined in 15 CFR Part 930.51. Here, the FEIS must contain the following information:

(1) The following sponsor certification to comply with 15 CFR 930.57(b):

“The proposed activity complies with the enforceable policies of (name of State) approved management program and will be conducted in a manner consistent with such program.”

(2) A notice from the State agency responsible for the State’s approved CZMP that the State concurs with or objects to the sponsor’s consistency certification. See 15 CFR 930.63(a) for the timing of the State’s response. Assume State agency concurrence if that agency does not issue a concurrence or objection within 6 months following the start of the CZM agency’s review (15 CFR 63(a)).

NOTE: If the responsible State agency determines the proposed action is not consistent with the approved CZMP, the approving FAA official cannot approve the action. In that case, FAA approval may occur if the Secretary of Commerce grants the sponsor’s appeal of a State’s non-concurrence. In granting the appeal, the Secretary of Commerce would find the proposed action is consistent with the purposes of the Coastal Zone Management Act or the action is necessary for national security.

b. FAA actions. Some airport actions require FAA to install navigational equipment, develop flight procedures, or take other actions to promote safe, efficient airport operation. Because FAA itself will undertake these actions, they are “Federal activities” under 15 CFR, Subpart C, *Consistency for Federal Activities*. That is, they are “functions performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities” (15 CFR 930.31(a)). Therefore, FEISs prepared for airport actions that include FAA activities must contain the following information, unless the requirements of an existing law applicable to FAA’s operations prohibit compliance with Subpart C (see 15 CFR 930.32).

(1) An FAA determination stating that FAA will undertake the proposed action in a manner consistent to the maximum extent practicable with the State’s approved CZMP. FAA must also include a detailed description of the FAA’s activity, the facilities it needs, and coastal zone effects. Added information is needed as noted in 15 CFR 930.39(a).

(2) The State agency’s agreement or disagreement with FAA’s consistency determination. Review 15 CFR 930.41 for the timing of the State’s response.

1209. ACTIONS INVOLVING A DISPROPORTIONATELY HIGH AND ADVERSE IMPACT TO MINORITY OR LOW-INCOME POPULATIONS.

FEISs prepared for a proposed action that will result in a disproportionately high and adverse impact on a minority or low-income population must contain evidence to make the following findings (DOT Order 5610.2, *Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations*):

a. For actions that will have a disproportionately high and adverse effect on either a minority population or a low-income population, a finding that further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effect are not practicable. In determining whether a mitigation measure or an alternative is “practicable,” the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.

b. For actions that will have a disproportionately high and adverse effect on a population protected by Title VI of the Civil Rights Act of 1964, a finding that:

(1) A substantial need for the action exists, based on the overall public interest. and

(2) Alternatives that would have less adverse effects on protected populations (and that still satisfy the need identified in paragraph 1209.a), either:

(a) Would have other adverse social, economic, environmental or human health impacts that are more severe. or

(b) Would involve increased costs of extraordinary magnitude.

1210. APPROVING THE FEIS. The Secretary of Transportation has delegated FEIS approval authority to the FAA Administrator. The Secretary’s concurrence is required only if the Secretary requests an opportunity to review and concur in the FEIS, or if FAA requests the Secretary’s review and concurrence.

a. Airports Program approval authority. Under FAA Order 1150.154A, *Delegation of Authority*, dated June 12, 1990, the FAA Administrator has delegated authority to approve FEIS's to the Associate Administrator for Airports (ARP-1). ARP-1 has authority to approve FEISs addressing the actions listed in paragraph (1) – (3) below. ARP-1 may delegate that authority to the region on a case-by-case basis. If APP-400 determines the FEIS is acceptable, APP-400 will inform ARP-1. ARP-1 will decide if it will delegate FEIS approval authority for those actions to the regional Airports Division Manager. APP-400 on ARP-1’s behalf will send a memo delegating that authority to the Manager if the FEIS is sufficient. Otherwise, ARP-1 will retain that authority.

(1) A new airport in a metropolitan area, unless specifically directed otherwise. For purposes of this Order, a metropolitan area is a metropolitan statistical area (MSA).³

(2) A new runway or major runway extension at a commercial service airport located in an MSA.

(3) Any action a Federal, State, or local government agency, or Tribe opposes on environmental grounds.

b. Approval declaration. To approve an FEIS, the responsible FAA official must ensure the FEIS summary contains the language presented in paragraph 1007.b.(11) of this Order.

c. Signature block. The responsible FAA official must ensure a signature block for the approving FAA official appears immediately below the approval declaration noted above.

1211. ANNOUNCING AND DISTRIBUTING APPROVED FEISs.

a. FEIS distribution. The regional or district Airports office responsible for preparing the FEIS is responsible for distributing that document as discussed below. Distribution to parties should occur simultaneously. The responsible FAA official must notify APP-400 the responsible FAA region has distributed the FEIS. If the comments received on the FEIS require FAA to prepare minor revisions to the FEIS, the responsible FAA official may choose to circulate only the changed portions of the FEIS using procedures in 40 CFR 1503.4(c).

b. Comments on an FEIS. An agency may request comments on an FEIS (40 CFR 1503.1(b)) before issuing its decision.

c. Extending the 30-day “wait period” between FEIS release and the agency’s decision. FAA may extend the 30-day “wait period” between EPA’s publication of the FEIS’s “Notice of Availability” in the *Federal Register* and the final agency decision an extra 30 days (40 CFR 1506.10(d)). The responsible FAA official must inform EPA of this extension so EPA may place a notice of the extension in the *Federal Register*. After consulting with FAA, EPA may also extend the initial 30-day review period, “upon a showing by any other Federal agency of compelling reasons of national policy” (40 CFR 1506.10(d)). Failing to file timely comments is not sufficient reason to extend the comment period (40 CFR 1506.10(d)).

³ A metropolitan statistical area is a core area containing a substantial population nucleus and those adjacent communities having a high degree of economic and social integration with that core (U. S. Census Bureau).

d. Distribution to commenting parties. Except as noted in paragraphs 1211.e and 1205.f, the responsible FAA official must send one copy of the FEIS to the agencies, organizations, and individuals who provided substantive comments on the DEIS. If the number of commenters makes the distribution impractical, the responsible FAA official should consider delivering the document in electronic format.

e. Distribution to regional EPA offices. The responsible FAA official must send 1 copy of the FEIS to the proper EPA regional office, if EPA rated the DEIS "Lack of Objections" (LO-1). Otherwise, the official must file 5 copies of the document with the regional EPA office. If EPA has comments on the FEIS, the responsible FAA official must make a reasonable effort to resolve conflicting issues. The responsible FAA official must refer unresolved issues to APP-400.

f. Distribution to EPA headquarters. To comply with 40 CFR 1506.9, the responsible FAA official must file 5 copies of the approved FEIS with EPA's headquarters office at the address given in paragraph 1101.b.(4)(b)(1) or (2) of this Order. Upon receipt, EPA will publish a "Notice of Availability" in the *Federal Register*.

g. Distribution to the DOI. The responsible FAA official must file the correct number of copies of the FEIS with DOI's headquarters office at the address given in paragraph 1101.b.(1)(c). DOI headquarters will deliver the FEIS to the correct DOI office. Refer to items (1) – (3) here to determine the number of FEIS copies the FAA should file at DOI headquarters when an action occurs in a particular state:

(1) Alaska: 8 copies.

(2) Eastern United States, including Arkansas, Iowa, Louisiana, Minnesota, and Missouri: 6 copies.

(3) Western United States (areas west of the western boundaries of AR, IA, LA, MN, and MO): 9 copies.

h. Distribution to FAA headquarters. The responsible FAA official must file 1 copy of the FEIS with APP-400 for information and future reference. This filing is not necessary when the Associate Administrator for Airports (ARP-1) approves the FEIS.

i. Public notice and availability. Besides the interested parties mentioned above, the responsible FAA official must ensure copies of the approved FEIS are available to the public at publicly accessible locations. The official should use the local media to announce the FEIS is available. To do so, the responsible FAA official should use a process similar to that used for notifying the public of the DEIS's availability (paragraph 1101.b.(3)).

1212. FEIS REFERRALS TO CEQ.

a. General. CEQ NEPA regulations at 40 CFR Part 1504 provide procedures for Federal agency EIS referrals to CEQ. The CEQ referral process permits federal agencies to bring to CEQ interagency disagreements concerning proposed major federal actions that might cause “unsatisfactory environmental effects.”

(1) Who may refer? Under CEQ regulations, any Federal department or agency may refer a proposed major Federal action to CEQ. The EPA Administrator has broader authority, under section 309 of the Clean Air Act, to refer to CEQ any proposed legislation, action, or regulation that he or she deems unsatisfactory when considering public health or welfare or environmental quality.

(2) Time limit for filing referrals. An agency will refer an FEIS not later than 25 days after the lead agency makes the FEIS available to the public, commenting agencies, and EPA (40 CFR 1504.3(b)). If FAA has issued an extension of that initial review period, CEQ will accept a referral after the 25th day (40 CFR 1504.3(b)).

(3) Notifying the lead agency about the referral. A Federal agency that intends to refer a proposal to CEQ must notify the lead agency of its intentions at the earliest possible time. If the issues are not resolved between the agencies after publication of the FEIS, and the referring agency wishes to refer the proposal to CEQ, that agency must send a letter and a statement to CEQ and the lead agency. That statement must contain the referring agency’s request that the lead agency take no action regarding the project until CEQ acts on the referral.

b. Addressing a referral notice. When the regional Airports office receives a notice of intended referral for an Airports Program EIS, the responsible FAA official must send a copy of the referral notice to APP-400. APP-400 will contact DOT’s Office of the Assistant Secretary for Transportation Policy about the referral. FAA has 25 days to respond to the referring agency's letter and statement.

c. Resolving referrals. If FAA and the referring agency resolve the issue, FAA’s ROD must contain a letter from the referring agency. The letter will state the agency and FAA have resolved the disputed issue. FAA's response to CEQ requires concurrence from the Office of the Assistant Secretary for Transportation Policy.

1213. - 1299. RESERVED.

CHAPTER 13. THE RECORD OF DECISION

1300. DECISION ON THE FEDERAL ACTION. The approving FAA official must wait a minimum of 30 days after EPA publishes an FEIS's "Notice of Availability" in the *Federal Register* before making a decision on a proposed action (40 CFR 1506.10(b)(2)).¹ After that period passes, the approving FAA official may sign a Record of Decision (ROD), which becomes a part of the agency's administrative record for the action.

1301. ROD CONTENT. The responsible FAA official uses an FEIS as the primary reference and basis to prepare a ROD for the approving FAA official's signature. The ROD provides the public with the approving FAA official's rationale for approving or not approving a proposed action. It also references the environmental documents prepared for or used to support the proposed action as well as the FEIS. A ROD should contain the following information.

a. A brief description of the airport sponsor's proposed action. This should clearly describe what the airport sponsor is proposing and why the proposal is necessary. This section should also include the action's location and information on when the action would occur.

b. A summary of the necessary Federal actions. This section summarizes the actions FAA and other Federal agencies (if necessary) must complete before the airport sponsor may begin the proposed action. Examples include grant issuances, permit issuances, other authorizations, or specific mitigation measure requirements.

c. A summary of the alternatives considered. The ROD briefly describes the various reasonable alternatives the FEIS analyzed in detail. It should focus on these alternatives because they are the choices the approving FAA official considers when deciding how to address the purpose and need.

(1) The environmentally preferred alternative. The ROD must identify the environmentally preferred alternative (40 CFR 1505.2(b)). In identifying environmentally preferred alternative, the approving official chooses the alternative that, with mitigation, would:

(a) Promote the national environmental policy NEPA describes.

¹ Also, see Question 10.a of *Forty Most Asked Questions Concerning National Environmental Policy Act Requirements* (Vol. 46 FR No. 55, p. 18026, 3/23/1981.)

(b) Cause the least damage to the natural, biological, and physical environments. and

(c) Best protects, preserves, or improves historic and cultural resources.

(2) Proposed action. The ROD must identify the airport sponsor's proposed action.

(3) The preferred alternative. Identify FAA's preferred alternative (paragraph 1007.e.(7)). The Airports Program's statutory mission is to provide leadership in planning and developing a safe, efficient national airport system to satisfy the needs of the aviation interests of the United States. In accomplishing this mission, ARP will consider economics, environmental compatibility, and local proprietary rights, and safeguard the public investment.² ARP gives this mission appropriate weight in any final decisions regarding a proposed action.

(a) In some cases, FAA's preferred alternative might differ from the environmentally preferred alternative or the sponsor's proposed action. When that occurs, the ROD should clearly present the approving FAA official's reasons for selecting the preferred alternative (40 CFR 1505.2(b)).

(b) If the approving FAA official selects an alternative differing from the sponsor's proposed action, the official should immediately contact the airport sponsor to discuss this decision.

(c) In the rare instances when the approving FAA official selects a reasonable alternative that is not the preferred alternative the FEIS identifies, the responsible FAA official must complete the following steps. Before selecting the preferred alternative in this case, the decision maker must coordinate a draft ROD for concurrence with the same FAA and DOT organizations (if any) that reviewed the FEIS. Those offices may do one of the following:

(1) Concur without comment.

(2) Concur on the condition the ROD contain specific mitigation measures.

(3) Request preparation and circulation of a supplement to the FEIS. or

² http://www.faa.gov/about/office_org/headquarters_offices/arp/.

(4) Not concur with the approving FAA official's choice. When this occurs, the approving FAA official cannot approve the Federal action over this non-concurrence.

(d) If the FEIS indicates FAA did not comply with the requirements of the special purpose law (see paragraph 9.t) applicable to the selected alternative, the responsible FAA official must complete the evaluation and consultation the applicable law requires. Usually, this requires supplementing the FEIS. When FAA supplements a FEIS, the responsible FAA official must ensure the supplement undergoes the same review process used for the FEIS.

d. A summary of information needed to address resources protected under special purpose laws or airport legislation. Summarize the information the FEIS contains to address affected resources that special purpose laws or airport legislation protect. Refer to paragraphs 1203 to 1209 of this Order for the environmental determinations and certifications the ROD must contain to comply with 49 USC 47106.(c). This information helps ensure the approving FAA official will include special conditions in unconditional ALP approval letters or grant assurances necessary to protect environmental resources certain approved airport actions would affect.

e. A summary of mitigation measures in the approved FEIS. The ROD must summarize all environmental impacts the FEIS discusses and the mitigation measures under the respective regulatory jurisdictions of various agencies that have reviewed the proposed action. The ROD must also state if FAA has adopted all practicable means to avoid or minimize the preferred alternative's environmental harm and, if not, why (40 CFR 1505.2(c)).

f. Changes to mitigation in the approved FEIS. If FAA changes or deletes any mitigation the approved FEIS contains, the responsible FAA official must review those changes. The responsible FAA official must present the changes to the approving FAA official for consideration. When the approving FAA official changes or deletes mitigation measures, the ROD must clearly explain the official's reasons for doing so. This ensures the administrative record describes why the approving FAA official decided the changes were necessary, and who is responsible for carrying out the new or modified mitigation.

g. Completing required mitigation. FAA must ensure the mitigation requirements in a ROD are monitored and completed. The EMS is also an excellent way to track the sponsor's compliance with required mitigation and promote Executive Order 13148, *Greening the Government Through Leadership in Environmental Management*. To ensure the airport sponsor knows it is responsible for carrying out most mitigation, the approving FAA official should include special conditions in legal documents authorizing an airport development project or airport action. Those documents may be grants, unconditional ALP approvals, property conveyances, deeds, releases, other approvals, or contract plans and specifications.

When preparing special environmental assurances for these documents, the approving FAA official must:

- (1) Include actions or commitments critical to FAA's decision that the airport sponsor must implement.
- (2) Include substantial measures to mitigate adverse impacts.
- (3) Include actions the sponsor must take to identify mitigating measures or to encourage others to take those measures.
- (4) Decide if an airport sponsor, to the extent reasonable, has included or will include actions to promote land uses in or next to the airport that are compatible with normal airport operations.
- (5) Not include in grant agreements standard items that project plans and specifications incorporate.
- (6) Ensure grant assurances do not reduce aviation safety.

h. Other information. Provide a line for the approving FAA official's signature. Include that official's title, address, and telephone number.

1302. ROD SIGNATORY.

a. General. Normally, a proposed airport action involves more than one FAA program office. Therefore, the Regional Administrator will sign the ROD. When the Office of Airports is the only FAA program office responsible for a proposed airport action, the Airports Division manager would sign the ROD (see Paragraph 7.s of FAA Order 1100.154A, *Delegation of Authority*).

b. Regional Airports Division Manager duties. The regional Airports Division Manager responsible for an airport action determines if a ROD requires a Regional Administrator's signature. This manager is responsible for ensuring the appropriate coordination with other affected FAA program offices has occurred before presenting the ROD to the Regional Administrator for signature.

(1) Normally, the responsible FAA official will request that the respective FAA division manager or a manager of an FAA organization involved in the action (other than the Airports Division) and the Regional Counsel initial a grid copy of the ROD, but this may vary by region. The process is needed to ensure that those respective FAA division managers agree with the decision and that Regional Counsel has completed its legal review of the ROD.

(2) The Airport Division Manager must obtain these concurrences and initial the grid before the Regional Administrator signs the ROD.

1303. ISSUING THE ROD. The approving FAA official cannot issue the ROD until a minimum of 30 days have elapsed from the date EPA publishes the FEIS's "Notice of Availability" in the *Federal Register* (40 CFR 1506.10(b)(2)). The official may issue the ROD any time after that "wait period" ends.

a. Reducing the 30-day "wait period." EPA may reduce the 30-day "wait period," if FAA shows compelling reasons of national policy to do so (40 CFR 1506.10(d)).

b. Extending the 30-day "wait period." EPA may extend the 30-day "wait period," if a Federal agency provides compelling reasons of national policy supporting that extension. However, EPA may do so only after consulting with FAA. EPA may not extend the "wait period" more than addition 30 days, if FAA does not agree with a longer extension (40 CFR 1506.10(d)).

1304. ROD PUBLIC AVAILABILITY. CEQ regulations do not require Federal agencies to publish RODs, unless a ROD addresses issues of national concern. But to keep the public informed about Federal decisions having environmental impacts, CEQ urges agencies to publish a notice of a ROD's availability in the *Federal Register*. ARP agrees with CEQ's suggestion because it is a way to inform the public about ARP decisions on major airport actions having significant environmental impacts. Therefore, the responsible FAA official should publish a notice of ROD availability in the *Federal Register* within 30 days of ROD approval.

1305. - 1399. RESERVED.

**CHAPTER 14. SPECIAL INSTRUCTIONS ON
RE-VALUATING, SUPPLEMENTING, AND TIERING NEPA DOCUMENTS,
AND ADDRESSING EMERGENCIES**

1400. GENERAL. This chapter discusses NEPA document longevity, the need to re-evaluate those documents, and the need to supplement them. The chapter also provides information about when tiering is appropriate and the NEPA process for emergency situations. The responsible FAA official should inform the airport sponsor when addressing the issues this chapter discusses. The official does so to keep the sponsor informed about the status of NEPA documents supporting airport development projects that the sponsor has not begun.

1401. TIME LIMITS FOR EAs AND EISs AND THE NEED FOR WRITTEN RE-EVALUATIONS.

a. General. After FAA approves an environmental document but before major steps toward implementing the proposed action have begun (see paragraph 1401.c(1)), significant project design changes, environmental conditions in a project area, or legal requirements pertaining to a project may change. Therefore, the responsible FAA official has the discretion to determine if a written re-evaluation of a NEPA document is needed.¹

(1) Re-evaluations ensure the draft or final EIS continues to provide accurate, applicable, and valid information for pending agency actions since environmental or legal conditions may change over time.

(2) Re-evaluations ensure approving FAA officials base their decisions regarding agency actions on EAs and EISs that accurately reflect existing environmental conditions and legal requirements.

(3) When determining the need for a re-evaluation, the responsible FAA official should use the information in paragraphs 1401.b and 1401.c.

b. Draft EAs and draft EISs. FAA considers draft EAs and draft EISs to remain valid for a 3-year period (FAA Order 1050.1E, paragraphs 402a and 514a).

(1) For EAs, that period begins when the responsible FAA official completes FAA's review of the draft EA. Draft EIS time begins on the date the approving FAA official signs the document's "Notice of Availability."

(2) If the final EA or EIS is not completed within 3 years from the applicable dates noted in paragraph 1401.b(1), the responsible FAA official must determine if a written re-evaluation is needed.

¹ CEQ regulations include no specific requirement to apply time limits to, or prepare supplements for EAs, but it is FAA policy to apply the same requirements to EAs (Order 1050.1E, paragraph 402).

(3) If a re-evaluation is needed, the official will determine if the alternatives, the affected environment, environmental impacts, and mitigation in the document remain applicable, accurate, and valid. If the responsible FAA official determines substantial changes in these factors have occurred, the sponsor or FAA, will supplement the draft EA or DEIS, respectively, or prepare new document sections to address the changed conditions.

(4) The responsible FAA official must circulate the supplement or changed document sections as discussed in paragraph 1101 of this Order.

c. Final EAs or final EISs. FAA considers a final EA or final EIS valid for 3 years. For final EAs, the 3-year period begins when the responsible FAA official accepts the final EA as a Federal document. For FEISs, the start time is the date the approving FAA official signs the FEIS's "Notice of Availability." The responsible FAA official should consider the following facts signaling project start when determining if a final EA or final EIS requires re-evaluation. If the sponsor has begun the approved project within the time frame mentioned below the responsible FAA official need not re-evaluate the document.

(1) Major steps toward implementation of the proposed action. Major steps toward implementation of the proposed action include starting construction, substantial land acquisition, or moving people or businesses. If none of these actions occurs, the responsible FAA official must prepare a written re-evaluation to determine if the final EA or EIS remains accurate, adequate, and current. The responsible FAA official should focus on the affected environment, anticipated project impacts, and mitigation measures. If substantial change occurs involving these issues or other issues the responsible FAA official determines critical to the approving FAA official's decision, a supplement to the EA or EIS will be needed.

(2) Substantial changes in the proposed action. If substantial changes in an action occur, the responsible FAA official should determine if the changes are relevant to environmental concerns. That determination should focus on the affected environment and anticipated impacts due to the changes and how they would relate to the proposed action or proposed mitigation. The official must decide if the resultant environmental impacts present significant new circumstances or information relevant to those environmental concerns bearing on the proposed action or impacts. The official should use his or her professional judgment to determine if a written re-evaluation is needed.

(3) Staged projects or projects requiring successive Federal approvals. Some airport actions occur in stages or require successive Federal approvals. Here, the responsible FAA official must prepare a written re-evaluation if more than 3 years elapse between the date of a final EA or EIS and one of those stages. The re-evaluation should focus on the document's continued adequacy, accuracy, and validity. If needed, the responsible FAA official must prepare a

supplemental document for those parts of the final EA or EIS that no longer provide acceptable or accurate information.

d. Format and circulation. The responsible FAA official should develop a format to prepare a written re-evaluation. The re-evaluation should be reviewed internally. The responsible FAA official should place a copy of the re-evaluation in the project's administrative file. The responsible FAA official need not make the written re-evaluation available to the public. However, that document may be made available to the public at the discretion of the responsible FAA official.

1402. SUPPLEMENTING A NEPA DOCUMENT.

a. General. As discussed in paragraph 1401, the responsible FAA official must decide if an EA or EIS needs to be supplemented.

b. Circumstances requiring a supplement. Text at 40 CFR 1502.9(c) discusses the need for supplementing EISs. Based on that regulation, the following situations require FAA to supplement EAs and EISs.

(1) The airport sponsor or FAA makes substantial changes in the proposed action that could affect the action's environmental effects. or

(2) Significant new changes, circumstances or information relevant to the proposed action, its affected environment, or its environmental impacts becomes available.

c. Content of a supplement. The content of a supplement to a NEPA document varies with the degree of change that has occurred since the NEPA document was prepared. Typically, FAA will supplement only those document sections needing updating. To ensure a document remains current and accurate, the responsible FAA official may supplement a NEPA document in one of these ways:

(1) Prepare a separate document discussing the changed circumstances. When this occurs, identify the parts of the original document for which new data are presented. or

(2) Prepare new pages for the original document. Here, replace the specific pages of the original document or add new pages to it.

d. Preparing a supplement. The responsible FAA official preparing a supplement need not conduct scoping. But the official must ensure the supplement meets the same circulation and filing requirements used for the original environmental document.

(1) The approving FAA official who signed the original NEPA document (or his or her successor) should approve or disapprove the supplement, unless the supplement presents a new issue requiring higher-level approval.

(2) The approving FAA official must use the supplement in the decision making process.

(3) The approving FAA official must issue a new Finding of No Significant Impact (FONSI) or Record of Decision (ROD) when FAA supplements a final EA or EIS, respectively. The official may issue the ROD after the FEIS's required review period elapses (see paragraph 1303 of this Order). The new FONSI or ROD may incorporate the previous versions of those decision documents and should clearly discuss how it differs from the FAA's earlier decision document.

1403. TIERING.

a. General. Text at 40 CFR 1508.28 defines tiering as covering a general program in a broader-focused EIS, then, preparing later EISs or EAs for specific, follow-on actions that are parts of that program. Tiered EISs or EAs move from a broad scope to narrow scope, or from "program analysis" to "project analysis." Incorporating information from the broader-focused EIS by reference into an EIS or EA addressing a specific action avoids repetitive discussions of similar issues common to various program elements at various locations. This allows the decision maker to focus on those actions that are ripe for decision (40 CFR 1500.4(i), 1502.4(d) and 1502.20). Tiered and programmatic EISs are prepared, circulated, and filed using the same procedures for DEISs and FEISs (see paragraphs 1101 and 1211 of this Order, respectively).

b. An example of tiering. An example of tiering would be selecting an airport site from various possible locations, then eventually building a new airport at one of those sites. Here, FAA would prepare a "first-tier EIS" to compare the different sites to disclose likely environmental impacts at the various sites to the decision maker and public. The impacts would be based on a generic airport designed to serve a certain number of passengers. A follow-on or "second-tier EIS" focuses on alternative layouts specific to the selected site and the likely environmental effects those layouts would have on that particular site and its surrounding area.

1404. ADDRESSING EMERGENCY SITUATIONS. A national emergency, disaster, or another event of great urgency may require ARP to take actions that normally require an EIS. In these situations, FAA must not delay those actions that are immediately necessary to secure lives and public safety, but FAA must complete the steps in paragraphs 1404.a – c. as soon as possible. When FAA officials receive information on an emergency involving an Airports Program EIS, the responsible FAA official must notify ARP's Airport Planning and Environmental Division (APP-

400). APP-400 will contact DOT's Office of the Assistant Secretary for Transportation Policy and CEQ.

a. Alternative arrangements. Text at 40 CFR 1506.11 permits CEQ to grant alternative arrangements for, but not eliminate, NEPA compliance. CEQ may reduce processing times, or if the emergency warrants, condense EIS preparation and processing. These "alternative arrangements" take the place of an Environmental Impact Statement and only apply to Federal actions with "significant environmental impacts." Lesser actions may be subject to FAA NEPA procedures.

b. Developing alternative arrangements. Factors to address when developing alternative arrangements include:

- (1) The nature and scope of the emergency.
- (2) Actions necessary to control the immediate impacts of the emergency.
- (3) Potential adverse effects of the proposed action.
- (4) Parts of the NEPA process that can be followed and provide value.
- (5) Duration of the emergency. and
- (6) Potential mitigation measures.

c. CEQ notice. Once the alternative arrangements are established, CEQ will provide DOT with written information describing those arrangements and the considerations used to develop them.

1405. - 1499. RESERVED.

**CHAPTER 15. ENVIRONMENTAL STEWARDSHIP
AND STREAMLINING FOR AIRPORT DEVELOPMENT PROJECTS**

1500. GENERAL.

a. Vision 100. *Vision 100 -- Century of Aviation Reauthorization Act* (Public Law 108-176, Vision 100) was signed into law on December 12, 2003. Besides many environmental provisions within Vision 100, Title III specifically addresses environmental stewardship and streamlining for airport capacity projects at congested airports, aviation safety projects, and aviation security projects.

b. Streamlining. Title III of Vision 100 is the *Aviation Streamlining Approval Process Act of 2003*. In Title III, Congress found that FAA, airport authorities, communities, and other Federal, State, and local government agencies needed to work together to protect the environment, while sustaining the economic vitality continued aviation growth would provide to the Nation. To do this, the above parties must work cooperatively to develop a plan to enhance aviation, set and achieve milestones and deadlines to address a plan's resultant environmental effects, and work to protect the environment.

c. Directions to the Secretary of Transportation. Title III directs the Secretary of Transportation (Secretary) to develop and carry out an expedited and coordinated environmental review process for airport capacity projects at congested airports, aviation safety projects, and aviation security projects. This chapter focuses on environmental streamlining for airport-specific projects.

1501. STREAMLINING POLICY. FAA's Office of Airports (ARP) will adhere to the high standards of environmental review described in Order 1050.1E and this Order for projects subject to environmental streamlining under Vision 100. ARP will comply with all environmental requirements, maintain the environmental process' integrity, and respect the environmental responsibilities of other agencies. ARP will use the environmental streamlining process to:

- a. Give priority review to certain projects.
- b. Promote public review and comment.
- c. Manage timelines during the review process.
- d. Improve and expedite interagency coordination.
- e. Reduce undue delays. and
- f. Stress quality and accountability.

1502. RELATIONSHIP OF THIS ORDER TO OTHER REQUIREMENTS. The specific terms in Vision 100 addressing how the Secretary will carry out this mandate are consistent with DOT/FAA responsibilities under NEPA as described in this Order. This Order supplements Order 1050.1E and focuses ARP personnel on Vision 100 compliance specifically for airport projects. Executive Order 13274, *Environmental Stewardship and Transportation Infrastructure Project Reviews*, and FAA administrative streamlining practices supplement Title III of Vision 100.

1503. PROJECTS SUBJECT TO STREAMLINING IN VISION 100. Title III of Vision 100 addresses streamlining the environmental process for three categories of aviation projects.

a. Airport capacity project at a congested airport. An airport capacity project is a project involving the construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with such projects. Airport capacity projects may include other airport development projects if the Secretary determines they promote reductions in air traffic congestion and delays. Under Vision 100, a congested airport is an airport that accounted for at least 1 percent of all delayed aircraft operations in the Nation, and is an airport listed in Table 1 of FAA's *Airport Capacity Benchmark Report 2001*. Delayed aircraft operations by airport are based on the most recent year for which data are available (from the FAA's OPSNET).

b. Aviation safety project. This is an aviation project chiefly purposed to reduce the risk of injury to people or damage to aircraft and property. The FAA Administrator makes the determinations for these projects. These projects are either needed to respond to a National Transportation Safety Board recommendation as determined by the FAA Administrator, or they are necessary for airport sponsor compliance with 14 CFR Part 139 (airport certification).

c. Aviation security project. This is a security project at an airport required by the Department of Homeland Security.

Note: Unlike airport capacity projects, streamlined aviation safety and aviation security projects may occur at any airport, not just congested airports as defined in paragraph 1503.a.

1504. PROJECT DESIGNATION. This section focuses on how projects are designated as streamlined projects.

a. An airport capacity project at a congested airport. Title III more clearly describes airport capacity projects at congested airports than it defines aviation safety or security projects. That Title clearly states its provisions will apply to an airport capacity project at a congested airport, even if the Secretary does not designate the project as a high priority transportation infrastructure project under Executive Order 13274. Title III further requires a coordinated and expedited environmental review process for airport capacity projects at congested airports.

(1) Runway construction or expansion projects. The FAA's Associate Administrator for Airports (ARP-1) is responsible for designating runway construction and extension projects, consistent with the definition in Title III of Vision 100.

(2) Other projects. ARP-1 is responsible for recommending to the Secretary (or the Secretary's designee) other airport development projects for environmental streamlining; however, the projects' primary purposes must be to reduce air traffic congestion and delays. In this process, the Regional Airports Division Manager submits a project through APP-400. The submittal must contain the Manager's reasons why the project would reduce congestion and delays. Alternatively, the Manager may cite how such a project would benefit from streamlining the environmental review or analysis the project must undergo to complete environmentally related permitting, licensing or other approval requirements.

b. Aviation safety or security project. The FAA Administrator has the discretion to designate an aviation safety or security project. The Administrator may not delegate this authority. Once the Administrator makes this project designation, the project must undergo the coordinated and expedited environmental review process Title III of Vision 100 requires. The Administrator's designation is subject to all the following guidelines:

(1) Project importance or urgency.

(2) The potential for undertaking the environmental review under NEPA's existing emergency procedures. Consult 40 CFR 1506.11 and paragraph 1404 for more information on this.

(3) The need for Federal or State agency cooperation and concurrent reviews of project-related information.

(4) The potential for undue delay, if the project were not designated for priority review.

(5) The views of the Department of Homeland Security for aviation security projects.

c. ARP and AEE responsibilities for safety and security projects. In some cases, ARP may be the lead FAA office for an aviation safety or security project under Vision 100. In these instances, ARP's Airport Planning and Environmental Division (APP-400) will review the regional recommendation to place these projects under Vision 100. If APP-400 concurs with the Regional recommendation, ARP-1 will send the recommendation and rationale to the Office of Environment and Energy (AEE), the FAA office responsible for uniformly interpreting and applying the subject guidelines for aviation safety and security projects. AEE will review the recommended designation and provide advice on project designation to the Administrator.

1505. THE COORDINATED AND EXPEDITED ENVIRONMENTAL REVIEW PROCESS. For each airport development project that has been designated for the coordinated and expedited environmental review process under Title III of Vision 100, the provisions below apply.

a. Identify Federal and State jurisdictional agencies. As soon as practicable, the responsible FAA official will identify all Federal and State agencies that:

(1) May have jurisdiction over environmentally related matters the project may affect.

(2) May be required by law to conduct an environmentally related review or analysis of the project.

(3) Must decide whether to issue an environmentally related permit, license, or approval for the project.

b. Federal and State agency participation. The responsible FAA official will contact, either individually or together in a facilitated group meeting, those Federal and State agencies that meet the criteria outlined above. The proposed project and the provisions of Title III of Vision 100 should be discussed.

(1) It is important that each identified Federal and State agency understand its role and responsibility under the Act. They should be given the opportunity to join in setting up procedures enabling the agency to take part in the coordinated review process. These procedures must ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals in a timely and environmentally responsible manner.

(2) State agency participation is at the discretion of the Governor of the State where the project would be located. Consistent with State law, a Governor may choose to participate in the coordinated review process and require all identified State agencies to be part of the streamlining process. While State participation under Title III of Vision 100 is strictly voluntary, experience has shown that State participation in a coordinated environmental review process is critical, and FAA should strongly pursue that participation. Direct contact with the Governor's Office may be necessary. To do so, it may be helpful to secure the airport sponsor's support and assistance.

c. Coordinated and expedited review process. Title III of Vision 100 directs the Secretary to develop and carry out a coordinated, expedited environmental review process for designated projects. This review process must provide for better coordination among the Federal, State, regional, and local agencies concerned with preparing EISs or EAs. The process must provide for all project environmental reviews, analyses, opinions, permits, licenses, and approvals that are the responsibilities of a participating Federal or State agency or the airport sponsor. The agencies must accomplish these duties concurrently, to the maximum extent practicable, and complete the necessary activities within the time period established. Other Title III provisions to support and improve a

coordinated and expedited environmental review process are described below. ARP may supplement the process with best practice measures consistent with environmental laws, regulations, and policies.

d. High priority for environmental reviews. Under Title III of Vision 100 each Federal agency is directed to give the highest possible priority to projects designated for coordinated review under the Act. They must conduct their review, analysis, opinion, permit, license, or approval functions efficiently. Participating State agencies are expected to perform similarly.

e. Memorandum of Understanding. The coordinated environmental review process discussed throughout this chapter may be detailed or explained in a Memorandum of Understanding (MOU). Although the use of an MOU is discretionary, ARP experience:

(1) Suggests that an MOU is a very effective way to coordinate and document agency roles, responsibilities, deadlines, and other administrative and processes when a small number of agencies is involved in the streamlining process.

(2) Shows that FAA and other participating Federal and State agencies normally sign an MOU. However, given the roles airport sponsors fulfill for most airport development actions, ARP encourages airport sponsors to be MOU signatories as well.

f. Streamlining Agreement. Like an MOU, a Streamlining Agreement (SA) is another excellent way to coordinate the review processes needed for environmental streamlining. Like the MOU, this SA is discretionary, rather than required.

(a) An SA is a useful when a large number of Federal and State agencies will participate in the streamlining process.

(b) ARP and other participating Federal and State agencies and, if applicable, the airport sponsor should be participants in developing the agreement. They should also be signatories to the SA. Due to the large number of entities involved, experience has shown that the use of a professional facilitator is extremely useful in reaching consensus on what is an acceptable and effective agreement.

(c) At a minimum, the SA should include:

(1) An Overview.

(2) Annotated goals.

(3) Consensus points for Purpose and Need, Range of Reasonable Alternatives, Efforts to Minimize Impacts, Mitigation Requirements, and Stewardship Opportunities.

(4) A dispute resolution process.

(5) Milestone dates.

(6) Short, clear explanations of each signatory's roles and responsibilities of including those the airport sponsor will fulfill. and

(7) Signatory pages.

If needed, the responsible FAA official may contact APP-400 for help in developing an SA or MOU for environmental streamlining projects.

g. Interagency EIS teams. For streamlined projects, ARP may, but is not required to, use an interagency EIS team to coordinate and expedite the environmental review process and to help prepare the EIS. If using an EIS team, the responsible FAA official must invite Federal and State agencies and Tribes having jurisdiction by law to participate on the team as cooperating agencies. Agencies with special expertise may be invited to participate on the team as cooperating agencies too. To promote timely, efficient environmental reviews, the team members may use a MOU to agree on the following items:

(1) Agency or Tribal points of contact.

(2) Protocols for communicating among agencies.

(3) Setting up deadlines for necessary actions by each individual agency.

These actions include:

(a) Completing reviews of environmental analyses.

(b) Conducting required consultation and coordination.

(c) Issuing environmental opinions, licenses, permits, and approvals.

The responsible FAA may contact APP-400 for help in developing an MOU.

h. Lead agency responsibilities. Title III of Vision 100 identifies FAA as the lead agency for airport projects deemed appropriate for a coordinated and expedited environmental review process. Title III specifies that FAA is responsible for defining an EIS's scope and content, consistent with CEQ regulations. Title III further states that any other Federal or State agency taking part in the coordinated environmental review process must give substantial deference, to the extent consistent with applicable law and policy, to FAA's aviation expertise. FAA is responsible for assuring the integrity of aviation data used for environmental analyses and agency decision making.

i. Purpose and Need. Federal or State agencies participating in a coordinated environmental review often are required to analyze a project's purpose and need.

(1) Under Title III of Vision 100, all agencies in a streamlined review process are bound by the project purpose and need the Secretary defines, notwithstanding any other provision of law.

(2) Title III requires the Secretary to request and consider comments on project purpose and need from interested people and governmental entities according to the NEPA process. The Secretary may do so through normal, NEPA-related public and agency review procedures.

(3) This provision of law does not change ARP's responsibilities described in this Order for determining a project's purpose and need. ARP will cooperatively review proposed project Purpose and Need statements with other participating agencies having jurisdiction and decision making roles for the proposed airport action. In doing so, ARP will attempt to accommodate other agency needs, consistent with CEQ regulations and guidance, FAA program responsibility and FAA's substantive aviation expertise.

j. Alternatives. Similar to the project purpose and need provision discussed in paragraph 1505.i(1) – (3), Title III of Vision 100 authorizes the Secretary to determine the reasonable alternatives for a designated, streamlined, aviation project.

(1) Any Federal or State agency participating in the coordinated environmental review process must consider only those alternatives the Secretary determines reasonable.

(2) The remainder of the guidance in paragraphs 1505.i(2) and (3) applies to the alternatives analysis for streamlined projects. The provisions include requesting and considering comments, using normal NEPA procedures, complying with this Order's instructions, and consulting and cooperating with other agencies.

k. Reporting and correcting a failure to meet a project milestone. In preparing an SA or MOU for an airport action, ARP will work with the potential signatories to set a reasonable milestone schedule. The schedule will list the dates the participants must complete environmental reviews or analyses, prepare opinions, or issue permits, licenses, or approvals.

(1) If an agency, including FAA, or an airport sponsor participating in a streamlined project fails to meet a milestone date, ARP must report that incident to the Secretary. Title III of Vision 100 requires the Secretary to notify Congress within 30 days of determining a missed deadline. FAA must send the report to the Senate Committee on Commerce, Science, and Transportation, the House Committee on Transportation and Infrastructure and CEQ. FAA must also send a copy to the agency or sponsor involved regarding the failure to meet the milestone.

(2) Title III of Vision 100 directs the party failing to meet the milestone to prepare a report explaining why it did not achieve the milestone and how it plans to complete the required assignment. The party must file that report with the Secretary, the Senate Committee on Commerce, Science, and Transportation, the House Committee on Transportation and Infrastructure, and CEQ. The filing must occur within 30 days after the party receives notice that it missed the milestone.

(3) To ensure a timely submission of a report to the Secretary, the FAA official responsible for the project must prepare and submit a missed project milestone report to APP-400 within 10 days of the missed milestone date. The report must identify the agency at fault, the established deadline that was missed, and any circumstances or facts relative to why the deadline was missed. As a matter of practice, ARP will make every effort to help streamlining participants meet milestones or to correct those missed deadlines as quickly as possible.

1506. OTHER VISION 100 PROVISIONS. Vision 100 included other administrative provisions that may assist in promoting environmental streamlining.

a. Airport funding for FAA staff and consultants. In some cases, streamlined airport projects may require more personnel and/or other resources to complete timely reviews, processing, or other environmental activities. Through reimbursable agreements, the FAA Administrator may accept funds from an airport sponsor to hire more staff or to obtain the services of environmental consultants needed to expedite environmental activities associated with an airport development project. Besides its own money, an airport sponsor may use Airport Improvement Program (AIP) funds to finance such agreements. Contact APP-400 for reimbursable agreement guidance.

b. Air traffic procedures for airport capacity projects at congested airports. Sometimes, an airport capacity project at a congested airport involves a new runway or runways or reconfiguring existing runways. During the environmental planning process for these projects, FAA may consider changing flight procedures to avoid or minimize significant noise impacts those projects may cause. If the Administrator determines that noise mitigation flight procedures are consistent with the safe and efficient use of the navigable airspace, the Administrator may commit to include the procedures in any Record of Decision (ROD) approving the project. The Administrator may do so at the airport sponsor's request in a manner consistent with applicable Federal law. The responsible FAA official must work closely with FAA's Air Traffic Organization, the FAA office responsible for developing and approving noise mitigation flight procedures.

c. Flexible noise mitigation funding for airport capacity projects or other airport development projects. Vision 100 contains provisions enabling ARP to quickly issue AIP funding for noise mitigation contained in a Record of Decision. These provisions allow ARP to use AIP noise set-aside money to fund that mitigation without ARP approval under 14 CFR Part 150 (Noise Compatibility Program). Contact ARP's Programming Office (APP-500) for AIP funding guidance or more information.

d. Voluntary air quality initiatives. Vision 100 provides funding and air quality emission credit incentives for commercial service airports in air quality nonattainment and maintenance areas. These credits encourage airport sponsors to voluntarily reduce emissions from ground equipment servicing aircraft. Emission credits granted to airports under this program may be used for current or future general conformity determinations under the Clean Air Act. As a result, these provisions can reduce delays in meeting air quality requirements during environmental reviews that could otherwise delay FAA's decision on an airport congestion project. ARP has issued very detailed guidance in cooperation with EPA. Contact APP-400 for program technical guidance and APP-500 for funding guidance.

1507. – 1599. RESERVED.

APPENDIX 1.

Flow charts depicting steps for completing:

Categorical exclusions.

Environmental assessments.

Findings of No Significant IMPACT.

Environmental Impact Statements. and

Records of Decision.

**CHART 1.
CATEGORICAL
EXCLUSIONS.
CHAPTER 6**

STEP 1: SPONSOR DESCRIBES PROPOSED ACTION AND WHY IT IS NEEDED

STEP 2: SPONSOR REVIEWS CATEX LISTS IN TABLES 6-1 AND 6-2 TO DETERMINE IF THE PROPOSED ACTION IS ON EITHER LIST. *IS ACTION ON EITHER LIST?*

GO TO CHART 2, STEP 1B.

STEP 3: IF THE ACTION IS LISTED AS A CATEGORICAL EXCLUSION, THE SPONSOR REVIEWS EXTRAORDINARY CIRCUMSTANCES IN TABLE 6-3 TO DETERMINE IF THE ACTION INVOLVES EXTRAORDINARY CIRCUMSTANCES.

STEP 4: SPONSOR PROVIDES INFORMATION REGARDING EXTRAORDINARY CIRCUMSTANCES TO THE RESPONSIBLE FAA OFFICIAL. .

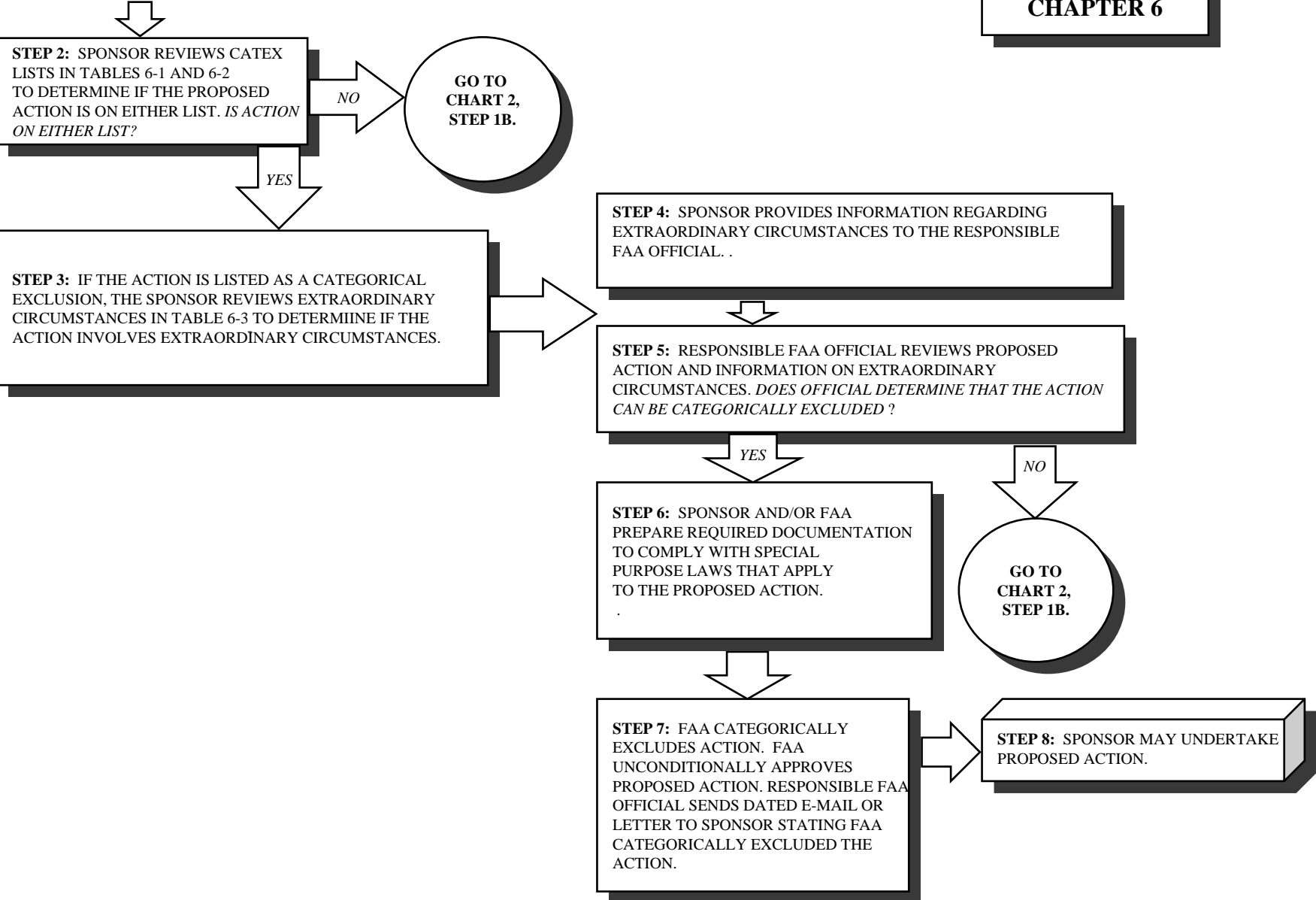
STEP 5: RESPONSIBLE FAA OFFICIAL REVIEWS PROPOSED ACTION AND INFORMATION ON EXTRAORDINARY CIRCUMSTANCES. *DOES OFFICIAL DETERMINE THAT THE ACTION CAN BE CATEGORICALLY EXCLUDED ?*

STEP 6: SPONSOR AND/OR FAA PREPARE REQUIRED DOCUMENTATION TO COMPLY WITH SPECIAL PURPOSE LAWS THAT APPLY TO THE PROPOSED ACTION. .

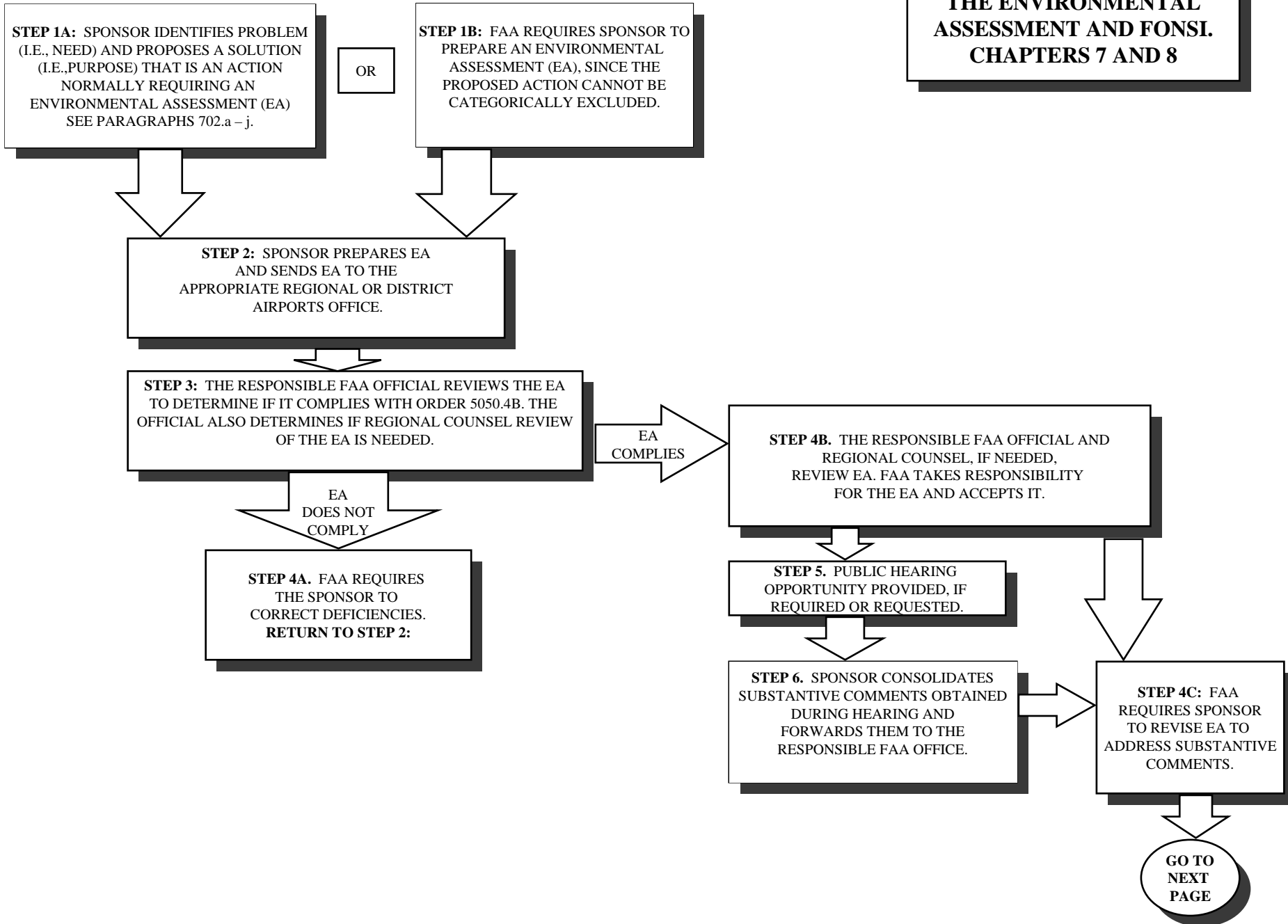
GO TO CHART 2, STEP 1B.

STEP 7: FAA CATEGORICALLY EXCLUDES ACTION. FAA UNCONDITIONALLY APPROVES PROPOSED ACTION. RESPONSIBLE FAA OFFICIAL SENDS DATED E-MAIL OR LETTER TO SPONSOR STATING FAA CATEGORICALLY EXCLUDED THE ACTION.

STEP 8: SPONSOR MAY UNDERTAKE PROPOSED ACTION.



**CHART 2.
THE ENVIRONMENTAL
ASSESSMENT AND FONSI.
CHAPTERS 7 AND 8**



**CHART 2.
CONTINUED**

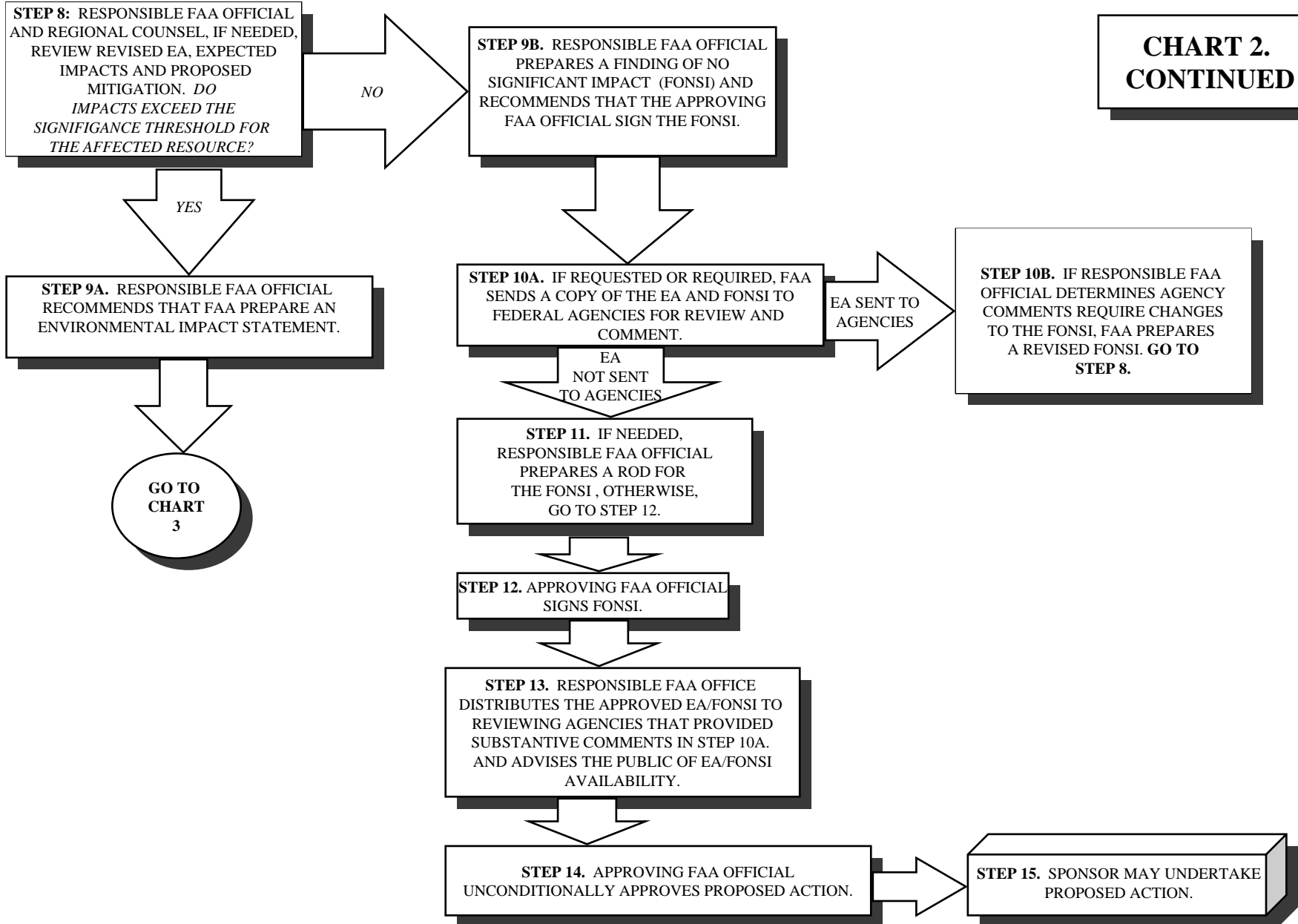
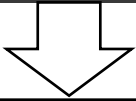


CHART 3. THE ENVIRONMENTAL IMPACT STATEMENT AND RECORD OF DECISION. CHAPTERS 9-13

STEP 1: RESPONSIBLE FAA OFFICIAL DETERMINES AN EIS IS NEEDED BECAUSE AN EA INDICATED SIGNIFICANT IMPACT WOULD OCCUR (SEE **CHART 2, STEP 9A**), OR THE PROPOSED ACTION NORMALLY REQUIRES AN EIS. SEE PARAGRAPHS 902.a – c.



STEP 2: RESPONSIBLE FAA OFFICE PUBLISHES “NOTICE OF INTENT TO PREPARE AN EIS” IN THE *FEDERAL REGISTER*.



STEP 3: RESPONSIBLE FAA OFFICIAL DEVELOPS SCOPING TOPICS, CONDUCTS SCOPING, AND IF NEEDED, ASSIGNS RESPONSIBILITY FOR EIS INPUT TO VARIOUS COOPERATING AGENCIES.



STEP 4: FAA SELECTS A CONTRACTOR TO HELP FAA PREPARE THE EIS. THE CONTRACTOR MUST SIGN A DISCLOSURE STATEMENT.



STEP 5: RESPONSIBLE FAA OFFICIAL COMPLETES DRAFT EIS (DEIS) AND DISTRIBUTES IT FOR PUBLIC REVIEW. OFFICIAL SENDS DEIS COPIES TO APP-400. REVIEWS LAST AT **LEAST 45 DAYS**.

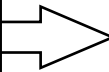


STEP 6A: FAA CERTIFIES TO EPA THAT FAA HAS DISTRIBUTED THE DEIS FOR PUBLIC REVIEW AND COMMENT. EPA PUBLISHES “NOTICE OF AVAILABILITY OF DEIS” IN *FEDERAL REGISTER*.

STEP 6B: APP-400 CIRCULATES DEIS WITHIN FAA.



STEP 7. PUBLIC HEARING OPPORTUNITY PROVIDED IF REQUIRED. IF REQUESTED, HEARING HELD AT LEAST 30 DAYS AFTER SPONSOR PUBLISHES MEETING SCHEDULE IN LOCAL MEDIA.



GO TO NEXT PAGE

**CHART 3.
CONTINUED**

STEP 8: APP-400 FORWARDS COMMENTS FROM FAA HQ TO RESPONSIBLE FAA OFFICIAL

STEP 9: FAA PREPARES FINAL EIS (FEIS) BY: REVIEWING COMMENTS ON THE DEIS AND PUBLIC HEARING; REVISING EIS AS NEEDED; AND PREPARING RESPONSES TO PUBLIC COMMENTS ON THE DEIS.

STEP 10: RESPONSIBLE FAA OFFICE SENDS FEIS TO APP-400 FOR REVIEW.

STEP 11: APP-400 REVIEWS FEIS. APP-400 RECOMMENDS THAT ARP-1 APPROVE FEIS OR INFORMS ARP-1 THAT EIS APPROVAL IS ALREADY DELEGATED TO THE REGION RESPONSIBLE FOR THE PROPOSED ACTION.

STEP 12: EITHER ARP-1 OR THE APPROVING FAA OFFICIAL APPROVES FEIS. RESPONSIBLE FAA OFFICIAL DISTRIBUTES FEIS.

STEP 13: EPA PUBLISHES "NOTICE OF AVAILABILITY OF THE FEIS" IN *FEDERAL REGISTER*. 30-DAY "WAIT PERIOD" BEGINS.

STEP 14: DURING 30-DAY PERIOD, FAA PREPARES RECORD OF DECISION (ROD). REGIONAL FAA APPROVING OFFICIAL OR ARP-1 WILL SIGN ROD, DEPENDING UPON DELEGATION DECISION IN STEP 11.

STEP 15: REGIONAL APPROVING FAA OFFICIAL OR ARP-1 UNCONDITIONALLY APPROVES ACTION, DEPENDING ON DELEGATION DECISION.

STEP 16: SPONSOR TAKES ACTION.

