CHAPTER 2. NEPA PLANNING AND INTEGRATION

200. INTRODUCTION.

200a. This chapter guides the responsible FAA official, approving official, and decisionmaker in the NEPA process by determining the following:

(1) Whether an action is advisory (not subject to NEPA procedures), categorically excluded, or whether it requires an EA or an EIS.

(2) Whether the FAA is the lead Federal agency for the NEPA process.

(3) Which FAA office is responsible for NEPA compliance, including preparing environmental analyses and documents, ensuring public involvement, and completing interagency and intergovernmental coordination and consultation.

200b. FAA's primary mission is to assure aviation safety, security, and efficiency. NEPA compliance and other environmental responsibilities are integral components of that mission. NEPA assures informed decisionmaking. NEPA provides a means for assuring that environmental concerns and interests of the public, Federal, State, or local agencies, and Tribes are appropriately considered as part of the decisionmaking process. NEPA also provides a means for efficiently complying with related statutes, orders, and regulations. Effective, efficient, and timely environmental analyses, public involvement, and interagency and intergovernmental coordination depend upon determining the appropriate level of review early in planning, budgeting, and scheduling.

200c. In accordance with NEPA, environmental issues shall be identified and considered early in an action’s planning process. Agencies shall use a systematic, interdisciplinary approach. As appropriate, agencies shall also involve local communities and coordinate with agencies and governmental organizations. Environmental permits and other forms of approval, concurrence, or consultation may be required, often from other agencies. Awareness of any applicable permit application and other review process requirements should be included in the planning process to ensure that necessary information is collected and provided to the permitting or reviewing agencies in a timely manner. This is especially true if applicable laws, regulations, or executive orders specify timeframes for these processes. Project proponents should prepare a list noting all obvious environmental resources the sponsor's proposed action and alternatives it proposes would affect, include specially protected resources. Proponents should complete these tasks at the earliest possible time during project planning to ensure full consideration of all environmental resources and facilitate FAA's NEPA process.

200d. The responsible FAA official can use the NEPA process most effectively as an umbrella or vehicle for giving appropriate consideration to specific environmental concerns by:

(1) Describing the agency's underlying purpose and need for taking action;

(2) Identifying reasonable alternatives to the proposed action (must include the no action alternative);

(3) Rigorously analyzing the reasonably foreseeable direct, indirect, and cumulative environmental impacts of the proposed action and alternatives

(4) Providing for public disclosure and comment and a mechanism for responding to public comments;

(5) Providing the basis for informed selection of the preferred alternative.

(6) Identifying and evaluating measures to mitigate adverse effects of the preferred alternative and ensuring that appropriate measures are implemented.

(7) Facilitating compliance with applicable environmental laws, regulations, and executive orders.

200e. Applicability of NEPA Procedures to FAA Actions.

(1) Advisory Actions. Some Federal actions are of an advisory nature. Actions of this type are not considered major Federal actions under NEPA, and categorical exclusions, EA's or EIS's are not required as a condition for taking the action. See paragraph 301 for further information on advisory action.

(2) Emergency Actions (other than those that fall under paragraph 307a). Section 1506.11 of Title 40 of the CFR allows CEQ to grant alternative arrangements for, but not eliminate, NEPA compliance where a national emergency, disaster, or similar great urgency makes it necessary to take actions with significant environmental impacts without observing other provisions of CEQ regulations. See paragraph 302 for further information on emergency actions.

(3) FAA Actions Subject to NEPA Review (categorical exclusions; environmental assessments; environmental impact statements). Unless otherwise excepted by CEQ regulations, all formal actions taken by FAA officials are subject to NEPA review unless statutory law applicable to the FAA's operations expressly prohibits or makes compliance impossible. Actions covered by NEPA review include grants, loans, contracts, leases, construction, research activities, rulemaking and regulatory actions, certifications, licensing, permits, plans submitted to the FAA which require FAA approval, and legislation proposed by the FAA.

(4) FAA Actions Not Subject to NEPA Review.

(a) judicial or administrative civil enforcement actions (i.e., Investigative and Enforcement Procedures under 14 CFR part 13, and other administrative actions pursuant to: 14 CFR part 14, Rules Implementing the Equal Access to Justice Act of 1980; 14 CFR part 15, Administrative Claims Under Federal Tort Claims Act; 14 CFR part 16, Rules of Practice for

Federally-assisted Airport Enforcement Proceedings; and 14 CFR part 17, Procedures for Protests and Contracts Disputes)

(b) administrative actions pursuant to the application of a categorical exclusion to, or development and approval of an EA, FONSI, EIS, or ROD for, any FAA action subject to NEPA review. Also, NEPA review (categorical exclusions; EA's or EIS's) is not required for the promulgation of this Order, or similar orders, issued by the Administrator or organizational elements as authorized by the Administrator, that provide supplemental instructions for agency compliance with NEPA procedures.

201. THE THREE MAJOR LEVELS OF NEPA REVIEW. The three major levels of NEPA review are categorical exclusions, environmental assessments (EA), and environmental impact statements (EIS).

201a. If an action is included in one of the categories of categorical exclusions (see paragraphs 307-312), and no extraordinary circumstances (see paragraph 304) apply to the proposed action, the FAA can take action without further environmental review. (See Appendix A for associated findings and determinations that may need to be made, and, in certain situations, in consultation with relevant oversight agencies, under special purpose statutes, regulations, and executive orders.)

201b. For proposed actions subject to NEPA that do not qualify for categorical exclusion, an EA or an EIS is required. The purpose of an EA is to determine whether a proposed action or its alternatives has the potential to significantly affect the environment. If the FAA has decided to prepare an EIS, it does not need to prepare an EA. If the EA on the proposed action indicates that the action will not result in significant impacts, the responsible FAA official prepares a FONSI. The FONSI documents the basis or bases for FAA's determination that the action lacks potentially significant environmental impacts. It does not represent the agency’s decision to implement the proposed action. A formal decision document after a FONSI, called a Record of Decision or FONSI/ROD, is optional because the agency’s decision to act may be evidenced by other documents such as rules, licenses, or approvals. If FAA decides a FONSI/ROD is needed, it should incorporate the FONSI, along with other required findings. The FONSI and other findings must be documented in the project file.

201c. When proposed actions incorporate mitigation measures to avoid, eliminate, or reduce anticipated harm, a FONSI may be prepared and must include appropriate mitigation measures (see paragraph 404g).

201d. If the EA indicates the proposed action's impacts would meet or exceed a significance threshold(s) for the affected resource(s), or that mitigation would not reduce the significant impact(s) below the applicable threshold(s), FAA must prepare an EIS. An EIS provides additional, detailed evaluations of the proposed action and its alternatives, including the No Action alternative. Where the FAA anticipates that significant effects would result, a decision can be made to prepare an EIS without first developing an EA. No sooner than 30 days after notice of the final EIS has been published by EPA in the *Federal Register*, the FAA may issue a

ROD. The ROD presents the agency's official decision on the proposed action and identifies any mitigation and monitoring measures.

201e. When an application or request is received that requires FAA approval or implementation, environmental analysis may be required. The responsible FAA official may require the applicant or other interested parties to provide sufficient environmental information or analysis to ensure the environmental analysis meets the requirements of this order. In such cases, the responsible FAA official will recommend deferring final action pending receipt of the necessary information or environmental studies from the applicant. Upon receipt of the additional information or environmental studies, the responsible FAA official will determine if the information is sufficient to proceed. FAA may request that the applicant prepare the EA.

202. INITIAL IDENTIFICATION OF ISSUES AND CONCERNS.

202a. The responsible FAA official should initially review whether the proposed action:

(1) Could significantly affect the quality of the human environment, for example, with respect to noise, land, air, water, wildlife, energy supply and natural resources, or cultural, historic or archeological resources;

(2) Would be located in wetlands, floodplains, coastal zones, prime or important farmlands, habitat of Federally listed endangered, threatened, or other protected species, wild and scenic river areas, areas protected under section 4(f) of the DOT Act, or in or adjacent to minority or low income populations; or

(3) Would be highly controversial on environmental grounds (40 CFR 1508.27(b)(4)).

202b. Based on the initial environmental review, the responsible FAA official shall identify issues and problems having potentially significant environmental impacts. Further, the responsible FAA official shall determine whether such issues and problems, as they pertain to the proposed action, have been previously addressed in a broad system, program, or regional assessment (see paragraphs 409 and 513).

203. RESPONSIBILITIES OF THE FAA AND APPLICANTS

203a. Where actions are directly undertaken by FAA, the FAA may prepare EA's and EIS's, or use contractors in accordance with paragraph 204a.

203b. Where the FAA must evaluate applications and has sufficient control to conditionally approve the license or project, applicants may prepare EA's, but not EIS's. If the applicant prepares an EA, then the FAA must advise and assist the applicant during its preparation. The FAA must independently evaluate and take responsibility for the assessment. This ensures that an applicant’s potential conflict of interest does not impair the objectivity of the document. The FAA may ask the applicant to correct any deficiencies and re-submit the assessment if the FAA is not satisfied. Based on the final review, the FAA decides whether to prepare an EIS or issue a

FONSI. Applicants may fund the preparation of EIS's through third-party contracting (see paragraph 204 and Appendix B). In such cases, the role of the applicant is limited to providing, as appropriate, planning information, environmental studies (including studies to obtain incomplete information that the FAA finds to be required under the standards of 40 CFR 1502.22), other FAA-requested information, and financing for the EIS consultants costs.

203c. For projects directly undertaken by Federal agencies and requiring an EIS, the EIS shall be prepared at the feasibility analysis (go - no go) stage, and may be supplemented at a later stage. For applications to the FAA requiring an EA or EIS, preparation of the EA or EIS shall begin no later than immediately after the FAA receives the application or proposal.

204. USE OF CONTRACTORS.

204a. Contracted consulting services may be used to prepare essential environmental documents or information. Contractors also may be used to prepare background or supplemental material and otherwise assist in preparing draft or final environmental documents for which the FAA takes responsibility. When contractors prepare EA's and EIS's for the FAA or an EA for a non-FAA party seeking FAA approval or funding, the contractor must comply with the provisions of this order.

204b. In some circumstances, consultant services may be needed by FAA to perform environmental assessments for direct Federal actions. Under FAA Acquisition Management System policy, procurements may not be awarded to contractors who have unacceptable actual or potential organizational conflicts of interest. Organizational conflicts of interest result when, because of activities or relationships with other persons a person is unable or potentially unable to render impartial assistance to the agency or the person’s objectivity in performing the contract work is or might be impaired, or the person has an unfair competitive advantage (as used herein, the term "person" includes any legal entity including a partnership, corporation, or association). For example, a contractor selected to prepare an environmental assessment would have a potential conflict of interest if also selected to conduct final design work when the final design work is part of the construction contract. "Final design work" means a bid-ready site-specific design package containing drawings, design data handbook and construction cost estimate. The FAA may select a contractor to prepare both an EA and preliminary design work provided the design work is conceptual in nature. "Preliminary design work" means design to local criteria based on a national facility design. When an actual or potential conflict of interest is identified by either the contractor or the agency official, the agency official must consult with AGC or Regional Counsel to determine whether there is a conflict and, if so, whether the conflict can be avoided or mitigated or waived at the FAA’s discretion. Such determinations are made on a case-by-case basis. FAA Acquisition Management System June 1997, Section 3.1.7.

204c. When an EIS is required, the lead Federal agency is required to select the contractor, who will assist the lead agency in preparing the EIS. (See 40 CFR 1506.5(c) and Appendix B, FAA Guidance on Third-Party Contracting). It is advisable to follow these procedures when preparing an EA, as the EA may result in a decision to prepare an EIS. Further, delays in

preparing an EIS might be avoided by selecting the contractor in accordance with this paragraph and Appendix B.

204d. When a contractor prepares an EIS, the FAA requires the contractor to execute a disclosure statement prepared by the lead agency, or when appropriate, by the cooperating agency (for its portion of the EIS, as delegated by the FAA pursuant to 40 CFR 1501.6(b)(3)), specifying that the contractor has no financial or other interest in the outcome of the action (see 40 CFR 1506.5(c)).

205. EFFECTIVE DATE. This order is effective immediately upon signature.

206. SPECIAL INSTRUCTIONS. The responsible FAA official should not take any action or make any irretrievable and irreversible commitments of resources which would have an adverse environmental impact or limit the choice of reasonable alternatives until any required EIS has been completed that meets the requirements of this order (see 40 CFR 1506.1).

206a. Requirements that apply to EIS's may also be used for the preparation of EA's.

206b. Land acquisition and facility construction.

(1) The transfer of title or other interests in real property, including land, is not a major Federal action significantly impacting the environment or an irretrievable commitment of resources under NEPA, unless the acquisition of land is inextricable to the proposed project or effectively limits the choice of reasonable alternatives. The acquisition of land is inextricable to the proposed project where the acquisition is part of one continuous project leading inevitably to the proposed Federal action.

(2) If the FAA action requires acquisition of property and the action is not categorically excluded under Chapter 3 of this order, no formal contact with the property owner for the purpose of acquiring these interests, including any offer, should be made prior to filing of an EIS or issuance of a FONSI, except for:

(a) Emergency situations;

(b) Obtaining rights-of-way for such purposes as preparation for site testing, obtaining data, property surveys, etc.; and

(c) Those cases where the NEPA review process indicates that the proposed site warrants further engineering study and requires an EIS. It assures the availability of the property pending and filing the EIS. In this event, the DEIS should state that the FAA has entered into an option and the reason for the option; that alternative sites are being considered through the EIS process; and that a decision to exercise the option will not be made until completion of the review and filing of the EIS.

(3) The responsible FAA official will review a proposed action by an applicant that has acquired land or constructed a facility for operation by FAA, but without prior approval by FAA, to determine whether the action was consistent with the policies of this order and has not limited full and objective consideration of alternatives.

206c. The responsible FAA official will give particular attention to its responsibilities under section 4(f) of the DOT Act to insure that a special effort is made to preserve the natural beauty of countryside, public parks, and recreation lands, wildlife and waterfowl refuges, wild and scenic rivers or study rivers, and historic sites. FAA will not approve actions requiring the use of properties under section 4(f) of the DOT Act unless there is no feasible and prudent alternative to the use and the program includes all possible planning to minimize harm from the use.

206d. The responsible FAA official also will give particular attention to actions involving properties included in or eligible for inclusion in the National Register of Historic Places and the provisions of Title VI of the Civil Rights Act of 1964 and the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970.

207. ROLE OF LEAD AND COOPERATING AGENCIES. Section 1501.5 of the CEQ regulations describes the role of the lead agency in preparing EIS's when more than one agency is involved in a proposed action. Section 1501.6 describes the relationship of the lead agency with cooperating agencies. Sections 1501.7 and 1501.8 describe the role of the lead agency in the scoping process and in setting time limits.

207a. Lead agencies may ask Federal agencies with special expertise or jurisdiction by law to be cooperating agencies.

207b. The definition of a cooperating agency in 40 CFR 1508.5 also includes any "State or local agency of similar qualifications [i.e., with jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal] or, when the effects are on a reservation, a Tribe, may by agreement with the lead agency become a cooperating agency." For further guidance, see CEQ Memorandum on Designation of 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: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act (January 30, 2002).

208. PUBLIC INVOLVEMENT

208a. NEPA and the CEQ regulations, in describing the public involvement process, require Federal agencies to: consider environmental information in their decision making process; obtain information from the public regarding environmental concerns surrounding an agency's proposed action; fully assess and disclose potential environmental impacts resulting from the proposed action and alternatives; and provide the public with this information and allow it to comment on these findings. Public involvement is also required when FAA revises its rules, or when it proposes substantial changes to its NEPA implementing instructions. FAA's

"Community Involvement Policy Statement" (dated April 17, 1995) affirms FAA's commitment to make complete, open and effective public participation an essential part of its actions, programs, and decisions.

208b. At the earliest appropriate stage of the action and early in the process of preparing NEPA documentation, the responsible FAA official, or when applicable, the project proponent, must provide pertinent information to the affected community and agencies and consider the affected communities' opinions(40 CFR 1501.2). The extent of early coordination will depend on the complexity, sensitivity, degree of Federal involvement, and anticipated environmental impacts of the proposed action. Comments received during early coordination on environmental impacts of proposed actions shall be considered, as appropriate, in determining whether an EA or EIS is required.

208c. Public input is important in defining the scope of FAA NEPA documents. Public involvement is required when the FAA prepares an EIS (40 CFR 1501.4(d)). Public involvement must be provided for, to the extent practicable, while an EA is being drafted (40 CFR 1501.4(b)). Although there is no standard approach to public scoping, it is important that FAA facilitate public participation in that process as well. Therefore, the FAA should tailor public scoping processes to match the complexity of the proposal.

208d. FAA must provide the public with an opportunity to review and comment on draft EIS's and must formally respond to those public comments in final EIS's (40 CFR 1506.6 and 1503.4). Although the FAA need not formally respond to public comments concerning EA's, EA's should reflect the FAA's consideration of public concerns. Further information about public involvement during the EA or EIS process is contained in chapters 4 and 5, respectively.

208e. NEPA also serves as "a framework" statute for completing the public notice and participation requirements specified in many other applicable environmental laws and regulations, e.g., section 106 of the National Historic Preservation Act, Executive Order 12898 and Order DOT 5610.2, addressing environmental justice. Responsible FAA officials and project proponents must involve, and are encouraged to work cooperatively with, other agencies during the NEPA process and meet the public involvement needs specified in all the environmental laws, regulations and executive orders applicable to a proposed FAA action.

208f. When another Federal agency disposing of land is the lead agency pursuant to NEPA, the FAA shall defer to the public involvement requirements of the agency having jurisdiction over those lands. For example, when FAA actions involve the transfer of military installations, FAA should work with DOD to satisfy DOD public involvement needs and incorporate NEPA with the requirements of the Base Closure and Realignment Acts.

208g. The FAA must prepare draft EIS's for rulemaking activities that could cause significant environmental impacts. As needed, the responsible FAA official should consult with the Office of Rulemaking (ARM) and the Office of the Chief Counsel (AGC) to coordinate public involvement in these instances.

209. PUBLIC HEARINGS, WORKSHOPS AND MEETINGS.

209a. Strategic planning is needed to successfully integrate public involvement and NEPA. Failure to complete public participation can delay the process and, therefore, the proposed action. In many instances, hearings, workshops, or meetings provide timely opportunities to discover potentially controversial issues. Some factors that are helpful in deciding if a hearing, workshop, or meeting is needed include:

(1) the proposed action's magnitude in terms of environmental impact, environmental controversy, cost and/or extent of the affected geographical area;

(2) the degree of interest that Federal, State, Tribal, or local authorities or the public exhibit;

(3) the complexity of issues; and

209b. A scoping meeting may be appropriate when the impacts of a particular action are confined to specific sites. See chapter 5, paragraph 505.

209c. If the FAA conducts a public hearing, meeting, or workshop for the purpose of obtaining public comment on a draft EIS or EA, the FAA should ensure that the draft EIS or EA is available for public review at least 30 days before the event occurs. Notice of a public hearing, meeting, or workshop should appear in local, general circulation newspapers. Notice of actions having national implications should be published in the *Federal Register* and mailed to national organizations having an interest in the matter. The notice should provide the:

(1) date, time, and place, and a time period during which written comments will be accepted;

(2) description of the proposed action;

(3) location and availability of the NEPA document; and

(4) name and phone number of the responsible FAA official for information purposes.

209d. FAA must, at the earliest stages of project planning, make every effort practicable to notify potentially affected minority populations and low-income populations of proposed actions. This may be done through the convening of public hearings, meetings, or workshops on NEPA documents. Direct contact shall be made with minority and low-income community groups, organizations and/or leaders in communities affected by the activity. Many public involvement techniques exist. As appropriate, provisions should be made to accommodate the needs of the elderly, handicapped, non-English speaking, minority and low-income populations. FAA's Community Involvement Manual" (FAA-EE-90-3, dated August 1990) and chapter 2 of DOT's "Public Involvement Techniques for Transportation Decisionmaking" provide additional guidance on hearings, meetings, and workshops. The inclusion of public comments and FAA

responses to those comments in EA's and EIS's is addressed in paragraph 208. When dealing with classified information, consult FAA Order 1600.2D, "Safeguarding Controls and Procedures for Classified National Security Information and Sensitive Unclassified Information (Aug. 29, 1997), specifically chapter 7.

210. PLAIN LANGUAGE AND GEOGRAPHIC INFORMATION. 40 CFR 1500.4(d), 1502.1, 1502.2(c), and 1502.8, Order DOT 5610.1C, paragraph 14, and the executive orders on environmental justice and intergovernmental consultation encourage the availability of information to the public in a manner that will facilitate public involvement in decisions affecting the human environment. The following executive orders also apply:

210a. Executive Order 12906, Coordinating Geographic Data Acquisition and Access: The National Spatial Data Infrastructure, April 11, 1994 (59 FR 17671, April 13, 1994), requires studies and geospatial data collected in the course of preparing an EA or EIS to conform to quality standards established through the intergovernmental coordinating mechanism provided for in the executive order, and chaired by the Federal Geographic Data Committee. For additional information, contact the Office of Environment and Energy.

210b. Executive Order 12866, Regulatory Planning Review, and the Presidential Memorandum on Plain Language in Government Writing, dated June 10, 1998 (63 FR 31885, June 10, 1998), requires all Federal agencies to use plain language in all proposed and final rulemaking documents published in the Federal Register and in government documents generally. FAA documents intended for public distribution must also comply with the DOT Information Quality Guidelines prepared pursuant to the OMB guidelines (P.L. 106-554) regarding the objectivity, utility, and integrity of the information disseminated. The public comment and participation process for a draft EIS satisfies the process for requesting correction of information. Any corrections deemed appropriate will be included in the Final EIS. A request for corrections to a Final EIS or for reconsideration of a request for corrections may be handled as though it were a request for a Supplemental EIS.

211. REDUCING PAPERWORK. The CEQ regulations (40 CFR 1500.4) encourage the reduction of paperwork while still demonstrating in the administrative record that the agency has met the requirements of NEPA and other applicable environmental laws, regulations, and executive orders.

211a. The responsible FAA official should integrate NEPA requirements and other applicable environmental reviews and consultation requirements (40 CFR 1500.4(k)).

211b. The responsible FAA official should refer to Appendixes A and C of this order for an overview of analyses required under other applicable environmental laws, regulations, and executive orders.

211c. CEQ regulations also encourage joint preparation of NEPA documents so that each agency may adopt appropriate documents prepared by another agency (40 CFR 1506.3).

211d. Relevant information may be incorporated by reference (including the use of hyperlinks to documents that are stored and maintained electronically) and the FAA is encouraged to do so if the effect will be to reduce bulk without hindering agency and public review. The information must be briefly described, properly cited, and reasonably available for inspection by potentially interested persons within the time allowed for comment. (See 40 CFR 1502.21).

212. REDUCING DELAY. CEQ regulations encourage the reduction of delay while allowing for public involvement and interagency and intergovernmental consultation.

212a. To reduce delay, the responsible FAA official should integrate NEPA requirements, and those of associated permitting and review processes, with the agency's planning and decisionmaking process for the project as early as possible.

212b. The responsible FAA official should, where appropriate, use tiering for EA's and EIS's (40 CFR 1502.20):

(1) A broad or programmatic impact statement may be used to consider similar actions.

(2) A phased approach may be used to focus on issues ripe for decision at each level of environmental review, while summarizing previously discussed issues and disclosing reasonably foreseeable actions.

212c. The responsible FAA official should refer to Appendixes A and C for an overview of requirements under other applicable environmental laws, regulations, and executive orders, identify the information and time required by the oversight agencies to complete their review and, where applicable, jointly prepare or adopt the FAA's EA or EIS to meet their own NEPA requirements (see 40 CFR 1500.5(g) and (h) and 1506.2)).

212d. The responsible FAA official should identify any need for additional studies or documentation.

213. INTERGOVERNMENTAL AND INTERAGENCY COORDINATION AND CONSULTATION.

213a. The responsible FAA official, or when appropriate, the project proponent, should consult affected local units of government, Federal and State agencies, and Tribes early in the NEPA process. Comments on the environmental impacts of the proposed action shall be considered, as appropriate, in determining whether the proposed action requires an EA/FONSI or EIS and in preparing the EA/FONSI or EIS. See specific requirements for coordination and consultation, which may apply under other environmental laws, regulations, and executive orders (see Appendix A). Environmental permits and other forms of approval, concurrence, or consultation may be required from other agencies. Pertinent permit application and other review processes should be included in the planning process to ensure that the necessary supporting information is collected and provided to the permitting or reviewing agencies in a timely manner,

especially if the applicable laws, regulations, or executive orders specify timeframes for these processes.

213b. The following executive orders also apply generally:

(1) State and local governments. In accordance with Executive Order 12372, Intergovernmental Review of Federal Programs, dated July 14, 1982 (as supplemented by Executive Order 13132, Federalism, dated August 4, 1999 (64 FR 43255, August 10, 1999)), and 49 CFR part 17, Intergovernmental Review of DOT Programs and Activities, the responsible FAA official shall provide the opportunity for State and local officials to review and comment on Federal actions for Federal assistance or actions affecting them. A few States have established a point of contact, often within the governor's office, to coordinate comments by State agencies. Otherwise, the responsible FAA official should contact appropriate State agencies directly. See also specific requirements for consultation with State and local governments in Appendix A, Analysis of Environmental Impact Categories.

(2) Tribes. In accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, November 6, 2000 (65 FR 67249, November 9, 2000), the Federal Government continues to work with Tribes on a government-to-government basis to address issues concerning Tribal self government, trust resources, and Tribal treaty and other rights. For regulations, legislative comments, or proposed legislation, and other policy statements or actions that have substantial direct effects on Federally Recognized Tribes, the appropriate FAA official should initiate consultation with the recognized leader of the Tribe and seek advice on how to proceed based on the Tribal culture and the Tribal organization as discussed in FAA Order 1210.20, "American Indian and Alaska Native Tribal Consultation Policy and Procedures" (January 28, 2004). (See also specific requirements for consultation with Tribes in Appendix A.) Sources of information for addresses to contact Tribes include, for example, State Historic Preservation Offices, the Bureau of Indian Affairs, FAA's Federal Historic Preservation Officer, and FAA's National or Regional Tribal Consultation Officials..

(3) Foreign governments. In accordance with Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, dated January 4, 1979 (44 FR 1957, January 9, 1979), specific treaties, and DOT Order 5610.1C, paragraph 16, the responsible FAA official should consult with the appropriate headquarters line of business office. The line of business will notify AEE and then consult with the Assistant Secretary for Transportation Policy (P-1), to initiate consultation with foreign governments for proposed actions outside the United States, its territories, and possessions that have the potential to significantly affect the global commons or the environment of other nations.

213c. The responsible FAA official should refer to relevant interagency memoranda of agreement and understanding. (See also Appendix A, Analysis of Environmental Impact Categories; Appendix C, Related Executive Orders, DOT & FAA Orders, and Memoranda/Guidance; and contact the Environment, Energy and Employee Safety Division (AEE-200) or the Office of Chief Counsel (AGC-600) for information on the status of this and other interagency memoranda).

213d. Various laws, regulations, executive orders, and departmental orders establish interagency coordinating mechanisms, e.g., related to invasive species, coral reefs, and children's environmental health risks. The responsible FAA official should review Appendix A, Analysis of Environmental Impact Categories, and contact the Environment, Energy and Employee Safety Division (AEE-200) or the Office of Chief Counsel (AGC-600) for more specific information.

213e. In accordance with 40 CFR 1503.1 and 1503.2, the FAA must be invited to comment, and the FAA must comment, on draft EIS's prepared by other Federal agencies if the FAA has jurisdiction by law or special expertise with respect to any environmental impact involved or is authorized to develop and enforce environmental standards (e.g., 14 CFR part 36). The responsible FAA official may, if appropriate, reply that the FAA has no comment. Further, if the FAA is acting as a cooperating agency, the responsible FAA official shall, if satisfied that FAA's views are adequately reflected in the environmental document, reply that the FAA has no comment. If the responsible FAA official or the Office of Environment and Energy prepares comments that request additional information, the request should be as timely and specific as possible, indicating what additional information the FAA needs to fulfill other applicable environmental reviews or consultation requirements. If the responsible FAA official or the Office of Environment and Energy objects or expresses a reservation about the proposed action based on potential environmental impacts, the FAA reply must specify what mitigation measures it considers necessary to allow the program office to grant or approve applicable permit, license, or related requirements or concurrences.

214. ROLES AND RESPONSIBILITIES. The Associate and Assistant Administrators of the various FAA organizations shall define the roles and responsibilities of their respective offices, services, regions, and centers for complying with this order. Responsibilities may be delegated in accordance with appropriate FAA orders, such as Order 1100.154A, Delegations of Authority.

214a. The Assistant Administrator for Region and Center Operations (ARC) is responsible for overseeing Regional Administrators and the Director of the Mike Monroney Aeronautical Center. They are responsible for coordinating cross-divisional and cross-regional environmental matters and for overseeing those regional environmental activities not otherwise straight-lined to headquarters. Additionally, the Director of the Mike Monroney Aeronautical Center is responsible for overseeing center environmental activities, including NEPA compliance.

214b. The Associate Administrator for Airports (ARP) is responsible for considering the environmental impacts of proposed FAA approvals of FAA-funded airport actions, airport layout plans (even if the proposal does not require FAA funding), and assuring compliance with NEPA requirements and other Federal and Departmental environmental laws, regulations, and orders. Airports personnel shall comply with the NEPA requirements in this order, supplemented by the most current version of FAA Order 5050.4A (or subsequent revisions to it). ARP's Office of Airport Planning and Programming, Community and Environmental Needs Division, APP-600, provides guidance to Regional and District Airports personnel concerning Federal, Departmental, and agency environmental policy regarding airport development actions.

214c. The Assistant Administrator for Aviation Policy, Planning, and Environment (AEP) is responsible for providing policy guidance to the agency on implementing a wide range of environmental laws and regulations. The Office of Environment and Energy (AEE) provides policy oversight on FAA environmental actions; issues regulations for aircraft noise and emissions under 14 CFR parts 34 and 36; provides assistance as necessary in developing guidelines and procedures for FAA program areas; serves as the designated FAA NEPA liaison in accordance with 40 CFR 1507.2 "to be responsible for overall review of agency NEPA compliance" and Federal Preservation Officer in accordance with section 110 of the National Historic Preservation Act; interprets policies established in this order; provides assistance with computerized environmental tools, such as the "Integrated Noise Modeling" (INM) for aircraft noise and the "Emissions Dispersion Modeling System" (EDMS) for air quality; and provides advice to and supplements NEPA training programs in cooperation with the Office of Learning and Development and other applicable organizational elements.

214d. The Office of the Chief Counsel (AGC) is responsible for providing legal advice on NEPA compliance and legal requirements. AGC reviews actions subject to section 4(f) of the DOT; counsels and assists headquarters staff and regional offices in accomplishing FAA environmental review, and advises on the legal sufficiency of environmental documents. Regional Counsel and Center Counsel are responsible for providing legal counsel, assistance, and review in the conduct of regional actions and environmental activities and in advising on the legal sufficiency of regional and center environmental documents.

214e. The Air Traffic Organization is responsible for evaluating the environmental impacts for all actions arising out of Air Traffic Organization responsibilities that require compliance with NEPA and all other Federal and Departmental environmental laws, regulations and orders. Air Traffic Organization personnel shall comply with the NEPA requirements of this order.

214f. The Associate Administrator for Commercial Space Transportation (AST) is responsible for assessing the environmental impacts of commercial launch activities. The FAA is authorized to regulate and license U.S. commercial launch and re-entry activities and as such, AST is responsible for ensuring that launch services provided by private enterprises are consistent with national security and foreign policy interests of the United States and do not jeopardize public safety and the safety of property. AST's authority extends to licensing of commercial launch vehicles (LV's) and is considered to be a major Federal action subject to NEPA requirements. Launch and re-entry licenses also identify the requirement for the proper oversight and control of launch activities. AST issues launch and re-entry specific and launch and re-entry site operators licenses.

214g. The Associate Administrator for Regulation and Certification (AVR) is responsible for considering the environmental impacts for all actions arising out of AVR initiatives that require NEPA compliance and other Federal and Departmental environmental laws, regulations, and orders. AVR personnel shall comply with requirements as delegated to the Flight Standards Service, Aircraft Certification Service, Regional Flight Standards Service Division Managers, and Aircraft Certification Directorate Managers.

214h. The Assistant Administrator for International Aviation (API) is responsible for considering the environmental impacts for all actions arising out of API initiatives that require NEPA compliance and other Federal and Departmental environmental laws, regulations, and orders. API personnel shall comply with requirements as delegated to the Office of International Aviation.

214i. The Assistant Administrator for Financial Services (ABA) is responsible for assuring that adequate funding is requested for NEPA activities in the budget outyears. ABA assures that services, regions, centers, and offices factor in NEPA activities in their budget submittals in the annual call for estimates. The Office of Budget (ABU) also uses this order as the basis for supporting the annual call for estimates related to additional costs required for environmental activities.

214j. The Assistant Administrator for Human Resource Management (AHR) is responsible for incorporating training requirements in the individual development plans for appropriate personnel. Within AHR, the Office of Learning and Development (AHT) assures that FAA training is updated to include instruction on NEPA for appropriate personnel, in cooperation with the Center for Management Development (AHM), the FAA Academy (AMA), at the Mike Monroney Aeronautical Center (AMC), the Office of Environment and Energy (AEE) within the Associate Administrator for Policy, Planning, and Environment (AEP), and the Environmental Law Branch of the Office of Chief Counsel (AGC), and training staff within the program offices.

214k. The Office of Civil Rights (ACR) is responsible for determining whether projects receiving Federal financial assistance from the FAA comply with the appropriate civil rights laws and regulations, and executive orders, including those requirements under the E.O. 12898 and the accompanying Presidential Memorandum concerning environmental justice and Order DOT 5610 on environmental justice in the context of Title VI of the Civil Rights Act of 1964, as amended.

214l. The Assistant Administrator for Security and Hazardous Materials (ASH) is responsible for considering the environmental impacts for all actions arising out of ASH initiatives that require NEPA compliance and other Federal and Departmental environmental laws, regulations, and orders.

215. ENVIRONMENTAL STEWARDSHIP AND STREAMLINING. Certain airport capacity projects, aviation safety projects, and aviation security projects may be subject to special designation and treatment in accordance with provisions of “Vision 100 -- Century of Aviation Reauthorization Act” as described in Appendix D of this order. Airport infrastructure projects may also be selected for review under Executive Order 13274, Environmental Stewardship and Transportation Infrastructure Project Reviews. It is the responsibility of the FAA office that has the primary responsibility for a proposed action and that is leading the environmental review to assure that applicable special review provisions are effectively applied.

216.-299. RESERVED.