

CHAPTER 4. ENVIRONMENTAL ASSESSMENTS AND FINDINGS OF NO SIGNIFICANT IMPACT

400. INTRODUCTION. This chapter summarizes and supplements CEQ requirements for environmental assessments (EA) and findings of no significant impact (FONSI). According to 40 CFR 1508.9 and Order DOT 5610.1C (July 13, 1982), an environmental assessment (EA) is a concise document used to describe a proposed action's anticipated environmental impacts. In 1978, the CEQ revised its regulations to allow agencies to prepare EA's in accordance with section 102(2)(E) and 40 CFR 1501.2c and 1507.2(d), when the following conditions apply or at any time to aid in agency planning and decisionmaking.

400a. When to prepare an EA. An EA, at a minimum, must be prepared for a proposed action when the initial review of the proposed action indicates that:

- (1) It is not categorically excluded (see paragraphs 303 and 307-312);
- (2) It is normally categorically excluded but, in this instance, involves at least one extraordinary circumstance that may significantly impact the human environment (see paragraph 304 and the applicable section in Appendix A that deals with the specific resource); or
- (3) The action is not one known normally to require an EIS and is not categorically excluded.

400b. Actions not causing significant environmental effects. If, based on an EA, the responsible FAA official determines that the proposed action would not cause a significant environmental effect, the responsible FAA official shall prepare a FONSI for the signature of the approving official.

400c. Actions causing significant environmental effects. If, based on an EA, the responsible FAA official determines that the proposed action would cause a significant environmental effect, and mitigation would not reduce that effect below applicable significance thresholds, the responsible FAA official shall publish a notice of intent (NOI) to prepare an EIS in the *Federal Register* and begin the EIS process. Of course, if the responsible FAA official anticipates that significant effects may result, a decision can be made to prepare an EIS without first developing an EA.

401. ACTIONS NORMALLY REQUIRING AN ENVIRONMENTAL ASSESSMENT (EA). The following actions are examples of actions that normally require an EA. Some FAA projects involve actions by multiple FAA program offices. The overall significance of these actions, when viewed together, governs whether an EA or an EIS is required.

401a. Acquisition of land greater than three acres for, and the construction of, new office buildings and essentially similar FAA facilities.

401b. Issuance of aircraft type certificates for new, amended, or supplemental aircraft types for which environmental regulations have not been issued, or new, amended, or supplemental engine types for which regulations have not been issued, or where an environmental analysis has not been prepared in connection with regulatory action.

401c. Evaluation for new, amended, or supplemental commercial launch license applications where an environmental analysis has not been prepared.

401d. Establishment of aircraft/avionics maintenance bases to be operated by the FAA.

401e. Authorization to exceed Mach 1 flight under 14 CFR 91.817.

401f. Establishment of FAA housing, sanitation systems, fuel storage and distribution systems, and power source and distribution systems.

401g. Establishment or relocation of facilities such as Air Route Traffic Control Centers (ARTCC), Airport Traffic Control Towers (ATCT), and off airport Air Route Surveillance Radars (ARSR), Air Traffic Control Beacons (ATCB), and Next Generation Radar (NEXRAD).

401h. Establishment, relocation, or construction of facilities used for communications (except as provided under paragraph 309a) and navigation that are not on airport property.

401i. Establishment or relocation of instrument landing systems

401j. Establishment or relocation of approach light systems (ALS) that are not on airport property.

401k. Federal financial participation in, or unconditional airport layout plan approval of, the following categories of airport actions:

(1) Airport location.

(2) New runway.

(3) Major runway extension.

(4) Runway strengthening having the potential to increase off-airport noise impacts by DNL 1.5 dB or greater over noise sensitive land uses within the day-night level (DNL) 65 dB noise contour.

(5) Construction or relocation of entrance or service road connections to public roads which substantially reduce the Level of Service rating of such public roads below the acceptable level determined by the appropriate transportation agency (i.e., a highway agency).

(6) Land acquisition associated with any of the items in paragraph 401k(1) through 401k(5).

401l. Issuance of an operating certificate, issuance of an air carrier operating certificate, or approval of operations specifications or amendments that may significantly change the character of the operational environment of an airport, including, but not limited to:

(1) Approval of operations specifications authorizing an operator to use turbojet aircraft for scheduled passenger or cargo service into an airport when that airport has not previously been served by any scheduled turbojet aircraft.

(2) Approval of operations specifications authorizing an operator to use the Concorde for any scheduled or nonscheduled service into an airport, unless environmental documentation for such service has been prepared previously and circumstances have not changed.

(3) Issuance of an air carrier operating certificate or approval of operations specification when a commuter upgrades to turbojet aircraft.

401m. New instrument approach procedures, departure procedures, en route procedures, and modifications to currently approved instrument procedures which routinely route aircraft over noise sensitive areas at less than 3,000 feet above ground level (AGL).

401n. New or revised air traffic control procedures which routinely route air traffic over noise sensitive areas at less than 3,000 feet AGL.

401o. Regulations (and exemptions and waivers to regulations) that may affect the human environment.

401p. Special Use Airspace (unless otherwise explicitly categorically excluded under Chapter 3 of this Order). This airspace shall not be designated, established, or modified until:

(1) The notice (notice of proposed rulemaking (NPRM) or non-rule circular) contains a statement supplied by the requesting or using agency that they will serve as lead agency for purposes of compliance with NEPA, and in accordance with paragraph 207, Lead and Cooperating Agencies; (e.g., restricted airspace for military use in accordance with the Memorandum of Understanding (MOU) between the FAA and the Department of Defense (January 1998)).

(2) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on the environmental aspects can be addressed.

(3) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on any land use problems can be addressed (applicable only if Special Use Airspace extends to the surface).

(4) The rule, determination, or other publication of the airspace action contains a statement that the FAA has reviewed and adopted the EA prepared by the requesting agency in accordance with paragraph 404d.

(5) The provisions of p(1)-(4) of this paragraph are not applicable to special use airspace actions if minor adjustments are made such as raising the altitudes or if a change is made in the designation of the controlling or using agency.

402. TIME LIMITS FOR EA's. The time limits established for all FAA EA's are contained in this paragraph.

402a. A draft EA may be assumed valid for a period of three years. If the approving official has not issued an EA/FONSI within three years of receipt of the final draft EA, a written reevaluation of the draft (see paragraph 410) must be prepared by the responsible FAA official to determine whether the consideration of alternatives, impacts, existing environment, and mitigation measures set forth in the EA remain applicable, accurate, and valid. If there have been changes in these factors that would be significant in the consideration of the proposal, a supplement to the EA or a new EA must be prepared in accordance with the procedures of this chapter.

402b. For approved EA's, two sets of conditions have been established:

(1) If major steps toward implementation of the proposed action (such as the start of construction, substantial acquisition, or relocation activities) have not commenced within three years from the date of issuance of the FONSI, a written reevaluation (see paragraph 410) of the adequacy, accuracy, and validity of the EA will be prepared by the responsible FAA official. If there have been significant changes in the proposed action, the affected environment, anticipated impacts, or proposed mitigation measures, as appropriate, a new or supplemental EA will be prepared in accordance with the procedures of this chapter.

(2) If the proposed action is to be implemented in stages or requires successive Federal approvals, a written reevaluation (see paragraph 410) of the continued adequacy, accuracy, and validity of the EA will be made at each major approval point that occurs more than three years after issuance of the FONSI and a new or supplemental EA prepared, if necessary.

403. IMPACT CATEGORIES. Appendix A of this order identifies environmental impact categories that FAA examines for most of its actions. Appendix A provides references to current requirements; information about permits, certificates, or other forms of approval and review; an overview of specific responsibilities for gathering data, assessing impacts, consulting other agencies, and involving the public; and any established significant impact thresholds. The responsible FAA official should contact the reviewing or pertinent approving agencies for information regarding specific timeframes for applicable review or approval processes.

404. ENVIRONMENTAL ASSESSMENT PROCESS. When the responsible FAA official has determined that the proposed action cannot be categorically excluded the responsible FAA official will begin preparing an EA. An EA for an airport capacity project, an aviation safety project, or an aviation security project may qualify and be appropriate for environmental streamlining under provisions of "Vision 100 -- Century of Aviation Reauthorization Act" (see Appendix D), although these provisions are more likely to be applicable to an EIS. Figure 4-1, Environmental Assessment Process, presents the EA review process for a typical action. The responsible FAA official does not need to prepare an EA if FAA has decided to prepare an EIS.

404a. The responsible FAA official or applicant gathers data, coordinates or consults with other agencies, and analyzes potential impacts. The responsible FAA official or applicant contacts appropriate Federal, Tribal, State, and local officials to obtain information concerning potential environmental impacts and maintain appropriate contact with these parties for the remainder of the NEPA process. The responsible FAA official or sponsor should involve the public, to the extent practicable, in preparing EA's (see paragraph 208 regarding public involvement for further guidance). Scoping, as described in 40 CFR 1501.7, is not required for an EA, but is optional at the discretion of the responsible FAA official. When the FAA circulates an EA for comment, comments should be responded to, to the extent practicable.

404b. Program offices must prepare concise EA documents with a level of analysis sufficient to:

(1) Understand the purpose and need for the proposed action, identify reasonable alternatives, including a no action alternative, and assess the proposed action's potential environmental impacts.

(2) Determine if an EIS is needed because the proposed action's potential environmental impacts will be significant.

(3) Determine if a FONSI can be issued because the proposed action will have no significant impacts.

(4) Determine if the responsible FAA official should recommend to the approving FAA official issuance of a FONSI listing: (a) proponent-proposed mitigation to avoid the proposed action's significant impacts; or (b) mitigation the FAA requires to reduce those impacts below applicable significant thresholds.

(5) Provide a comprehensive approach for identifying and satisfying applicable environmental laws, regulations, and executive orders in an efficient manner (see Appendix A). Although the NEPA process does not preclude separate compliance with these other laws, regulations, and executive orders, the responsible FAA official should integrate NEPA requirements with other planning and environmental reviews, interagency and intergovernmental consultation, as well as public involvement requirements to reduce paperwork and delay, in accordance with 40 CFR 1500.4(k) and 1500.5(g).

- (6) Identify any permits, licenses, other approvals, or reviews that apply to the proposed action.
- (7) Identify agencies, including cooperating agencies, consulted.
- (8) Identify any public involvement activities (such as scoping or meetings).

Figure 4-1 Environmental Assessment Process for a Typical Action

Step 1	Responsible FAA official or applicant formulates proposed action and reasonable alternatives to achieve the project's purpose and need.
Step 2	Responsible FAA official or applicant collects background data.
Step 3	Responsible FAA official determines need for EA.
Step 4	Initiate optional scoping activities if appropriate and determine issues and alternatives to be addressed.
Step 5	Preparation of EA, including environmental analysis.
Step 6	Circulation and review of draft EA if the responsible FAA official determines the proposed action or other environmental impacts warrant these activities.
Step 7	Revise draft EA
Step 8	Circulate and review final EA
Step 9	Responsible FAA official determines significance of impacts
Step 9a	If impacts are NOT significant, responsible FAA official prepares and issues a FONSI, then proceeds to Step 10
Step 9b	If impacts ARE significant, responsible FAA official proceeds with an EIS (see chapter 5) rather than proceeding with Step 10.
Step 10	Responsible FAA official proceeds with action, and if applicable, mitigation and monitoring.

404c. The EA should present detailed analysis, commensurate with the level of impact of the proposed action and alternatives, to determine whether any impacts will be significant. If the proposed action and its alternatives will not cause impacts within specific categories of environmental impacts, a brief statement describing the factual basis for the conclusion that the action is not likely to cause environmental impacts within these impact categories is sufficient. If FAA has experience with an environmental management system (EMS) that includes monitoring of the implementation of actions similar to the proposed action and alternatives, the EMS may provide a factual basis for an assessment of the potential environmental impacts. The EA may also be tiered to cover broad or programmatic proposed actions, such as rulemaking, policy

decisions, and regional or national programs (see also paragraphs 409 and 513 regarding tiering and 40 CFR 1508.28).

404d. FAA may adopt, in whole or in part, draft or final EA's or the EA portion of another agency's EA/FONSI. When the FAA adopts an EA or the EA portion of another agency's EA/FONSI, the responsible FAA official must independently evaluate the information contained in the EA, take full responsibility for scope and content that addresses FAA actions, and issue its own FONSI. In the FONSI, the responsible FAA official may also summarize the adopted portion followed by a direct reference to the EA. If more than three years have elapsed since the FONSI was issued by another agency and the FAA has yet to issue its own FONSI, the responsible FAA official must prepare a written reevaluation of the other agency's EA in accordance with the procedures of paragraph 410. To ensure that the EA is both concise and clear about the bases for its conclusions, FAA may incorporate by reference other documents and analyses. An EA may incorporate by reference information or analysis that is reasonably available to the public, either in existing NEPA documents or in general background information, documents or studies prepared for other purposes.

404e. Internal review of the EA is conducted by potentially affected FAA program offices having an interest in the proposed action to assure that all FAA concerns have been addressed technically, and with AGC or Regional Counsel to assure that the EA is legally sufficient. For projects that originate in or are approved at FAA headquarters, the EA and FONSI should be coordinated with AGC for legal sufficiency. For projects that originate in and are approved by the regions, the EA and FONSI should be reviewed by regional counsel. The responsible FAA official should contact the program offices to determine appropriate levels of coordination. The responsible FAA official should consult with AEE (AEE-200) for general advice on compliance with NEPA and other applicable environmental laws, regulations, and executive orders, especially for actions of national importance or which are highly controversial.

404f. EA's should be coordinated with agencies outside of the FAA when an action involves resources protected by special purpose laws or administrative directives. Agencies with special expertise may also be consulted. Examples of these laws or directives include, but are not limited to actions involving: section 404 of the Clean Water Act; section 4(f) of the DOT Act; section 106 of the National Historic Preservation Act; Marine Mammal Protection Act, section 7 of the Endangered Species Act; section 307 of the Coastal Zone Management Act; and executive orders.

404g. Upon review of the completed EA, public comments, and applicable interagency and intergovernmental consultation (see paragraph 213), the responsible FAA official will determine whether any environmental impacts analyzed in the EA are significant. If the responsible FAA official determines that these impacts do not exceed applicable significance levels, or mitigation discussed in the EA and made an integral part of the project clearly will reduce identified impacts below significance levels, the responsible FAA official will prepare a FONSI. The approving official, who may also be the responsible FAA official, will then review and sign the FONSI. This FONSI can conclude that no significant impacts are expected. Alternatively the responsible FAA official may deem certain mitigations are necessary to prevent significant environmental

impacts, make the mitigation a condition of project approval, and then issue a FONSI. If the responsible FAA official determines that mitigation will not reduce significant environmental impacts below applicable significance thresholds, the responsible FAA official will publish a Notice of Intent (NOI) to prepare an EIS in the Federal Register to proceed.

404h. If the FAA, as a commenting or cooperating agency, does not accept an EA prepared by another agency, the responsible FAA official shall specify in his or her comments to that agency whether any additional information is needed or describe the mitigation measures the FAA considers necessary to grant or approve an applicable permit, license, or related requirements or concurrences. If the responsible FAA official comments on the action agency's predictive methodology, the responsible FAA official should describe the preferred alternative methodology and explain why the FAA prefers this methodology.

Figure 4-2. Environmental Assessment Content

PURPOSE	Assist agency planning and decision-making by summarizing environmental impacts to determine need for: <ul style="list-style-type: none"> • An EIS • Mitigation Measures
SCOPE	Addresses the proposed action's and reasonable alternatives' impacts on affected environmental resources.
CONTENT	Describes and identifies: <ul style="list-style-type: none"> • Purpose and need for the proposed action. • Proposed action. • Reasonable alternatives considered (including the no action alternative). • Affected environment (existing conditions). • Environmental consequences of the proposed action and alternatives. • Mitigation. • Agencies, organizations, and persons consulted.
PUBLIC PARTICIPATION	<ul style="list-style-type: none"> • Provide the opportunity to the extent practicable.

405. SAMPLE ENVIRONMENTAL ASSESSMENT FORMAT Figure 4-2, Environmental Assessment Content, presents an overview of the EA process, and the following text describes the contents and purpose of an EA. The CEQ regulations do not specify a required format for an EA (see 40 CFR 1508.9); however, following the sample format will facilitate preparation of an EA, or EIS if an EIS is needed, and integrate compliance with other environmental laws, regulations, and Executive Orders with NEPA review. The following sample format for an EA is optional for FAA program offices to use.

405a. Cover Page. This page, labeled “Environmental Assessment,” identifies the proposed action and its geographic location. When EA's are prepared by an applicant or contractor for an applicant, the following notification would be located at the bottom: “This Environmental Assessment becomes a Federal document when evaluated and signed and dated by the responsible FAA official.”

405b. Proposed Action. This discussion describes the proposed action with sufficient detail in terms that are understandable to individuals who are not familiar with aviation or commercial aerospace activities.

405c. Purpose and Need. This discussion identifies the problem facing the proponent (that is, the need for an action), the purpose of the action (that is, the proposed solution to the problem), and the proposed timeframe for implementing the action. The purpose and need for the proposed action must be clearly justified and stated in terms that are understandable to individuals who are not familiar with aviation or commercial aerospace activities. To provide context while keeping this section of the EA brief, FAA may incorporate any supporting data, inventories, assessments, analyses, or studies by reference.

405d. Alternatives (Including Proposed Action). The alternatives discussed in an EA will include those to be considered by the approving official. Section 102 (2)(E) requires only a brief discussion of alternatives that provides sufficient information for the decision maker to choose an option that meets the need for the proposal and demonstrates reasoned decision-making. There is no requirement for a specific number of alternatives or a specific range of alternatives to be included in an EA. An EA must consider the proposed action and a discussion of the consequences of taking no action, and may limit the range of alternatives to action and no action when there are no unresolved conflicts concerning alternative uses of available resources. Other reasonable alternatives are to be considered in preparing an EA to the degree commensurate with the nature of the proposed action and agency experience with the environmental issues involved. Generally, the greater the degree of impacts, the wider the range of alternatives that should be considered. For a proposal having greater impacts and a wider range of alternatives, the responsible official is encouraged to consider: (1) ways that the project purposes can be achieved with less harmful impacts on the environment; and (2) alternatives proposed by the public or another agency, provided that such alternatives are reasonable, feasible, and achieve the project's purpose. The extent of active participation in the NEPA process by the proponent of the alternative also bears on the extent to which a proffered alternative deserves consideration. Whether a proposed alternative is reasonable depends upon the extent to which it meets the purpose and need for the proposed action (see also paragraph 506e for more information on alternatives). The EA briefly presents the environmental impacts of the proposed action and the reasonable alternatives in comparative form to sharply define the issues and provide a clear basis for choice among options by the approving official. For alternatives considered but eliminated from further study, the EA will briefly explain why these were eliminated. The alternatives discussion of the EA includes:

- (1) A list of alternatives considered, including the proposed action and the no action alternatives. For each alternative, any connected or cumulative actions should also be considered.
- (2) A statement identifying the preferred alternative, if one has been identified.
- (3) A concise statement explaining why any initial alternatives considered have been eliminated from further study, e.g., they are not reasonable because they fail to meet the purpose and need for the proposed action.
- (4) A listing under each reasonable alternative of any other applicable laws, regulations, and executive orders and associated permits, licenses, approvals, and reviews.
- (5) Charts, graphs, and figures, if appropriate, to aid in understanding the alternatives, for example, to depict alternative runway configurations.

405e. Affected Environment. This section shall succinctly describe existing environmental conditions of the potentially affected geographic area(s). This discussion may highlight important background material, such as previous and reasonably foreseeable development and actions, whether Federal or non-Federal. It also may include such information as actions taken or proposed by the community or citizen groups pertinent to the proposal, or any other unique factors associated with the action. However, data and analyses should be pertinent to the impact and commensurate with its importance. FAA may incorporate by reference such background data as necessary to support the analysis. The discussion of the affected environment in the EA may include the following, if appropriate:

- (1) Location map, vicinity map, project layout plan, and photographs.
- (2) Existing and planned land uses and zoning, including: industrial and commercial growth characteristics in the affected vicinity; affected residential areas, schools, places of outdoor assemblies of persons, churches, and hospitals; public parks, wildlife and waterfowl refuges; Federally listed or proposed candidate, threatened, or endangered species or Federally designated or proposed critical habitat; wetlands; National and State Forests; floodplains; farmlands; coastal zones, coastal barriers, or coral reefs; recreation areas; wilderness areas, eligible, study or designated wild and scenic rivers, Native American cultural sites, and historic and archeological sites eligible for or listed on the National Register of Historic Places.
- (3) Political jurisdictions affected by the proposed action.
- (4) Population estimates and other relevant demographic information for the affected environment, including a census map where appropriate.
- (5) Past, present, and reasonably foreseeable future actions, whether Federal or non-Federal, including related or connected actions (40 CFR 1501.7(a), 1502.4(a), 1508.25(a)(1), and 1508.27(b)(7)), to show the cumulative effects (40 CFR 1508.7) of these actions on the affected

environment (see CEQ Guidance on Considering Cumulative Effects Under the National Environmental Policy Act (January 1997) and EPA Guidance on Consideration of Cumulative Impacts in EPA Review of NEPA Documents (May 1999)).

405f. Environmental Consequences.

(1) At a minimum, the EA must discuss the reasonably foreseeable environmental consequences of the proposed and no action alternatives in comparative form. The description of environmental impacts must respond to substantive issues and provide sufficient evidence and analysis for determining whether to prepare an EIS or a FONSI. 40 CFR 1508.9(a)(1). The environmental effects section must include that analysis which the agency determines is necessary to address the significance factors of 40 CFR 1508.27. The focus of this analysis is upon resources that would be directly, indirectly and cumulatively affected by the proposed action. To avoid excessive length, the effects section may incorporate by reference such background data as necessary to support its effects analysis. Environmental impacts of other alternatives that are being considered in detail should also be discussed in the EA. Any adverse environmental effects that cannot be avoided if the proposed action is implemented and mitigation, if applicable, must be discussed. This section should not duplicate discussions in the Alternatives section. Instead, the environmental consequences section shall, for each alternative, include considerations of the following effects (40 CFR 1508.8):

(a) Direct effects and their significance (40 CFR 1508.8(a));

(b) Indirect effects and their significance (40 CFR 1508.8(b));

(c) Cumulative effects and their significance (Cumulative effects may result from individually minor but collectively significant actions taking place over a period of time. 40 CFR 1508.7. In determining whether a proposed action will have a significant impact, the EA shall include considerations of whether the action is related to other actions with individually insignificant but cumulatively significant impacts. 40 CFR 1508.27(b)(7). This analysis shall include identification and consideration of the cumulative impacts of ongoing, proposed, and reasonably foreseeable future actions and may include information garnered from FAA NEPA processes and, where available, environmental management systems. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts. For further discussion, see CEQ “Considering Cumulative Effects Under the National Environmental Policy Act,” January 1997);

(d) Possible conflicts between the proposed action and the objectives of Federal, regional, State, local and Tribal land use plans, policies and controls for the area concerned (40 CFR 1502.16(c)); and

(e) Other unresolved conflicts (40 CFR 1501.2(c)).

(2) For those types of impacts that the proposed action and alternatives would have, directly or indirectly, the analysis required in the respective environmental impact categories

listed in Appendix A shall be discussed to the level of detail necessary to determine the significance of the impact.

(3) Appendix A, Analysis of Environmental Impact Categories, briefly describes the major laws, regulations, and executive orders in addition to NEPA that must be complied with for different impact areas before a proposed Federal action is approved. A proposed Federal action may fall within the purview of one or more of these requirements. The responsible FAA official must assure that proposed Federal actions comply with applicable requirements. To reduce paperwork and delay, and to assure that the necessary approvals and permits will be issued with or immediately following issuance of the EA and FONSI, the responsible FAA official should (1) identify the timeframes established for review by the oversight agency; (2) identify the information that the FAA will need to provide to the oversight agency to complete its review; and (3) integrate these into the EA process. An EA should include the information required to demonstrate compliance, as appropriate, with other applicable requirements.

405g. Mitigation. The EA may include reasonable mitigation measures. If mitigation is discussed, it shall be in sufficient detail to describe the benefits of the mitigation. Each impact category in Appendix A identifies conditions that normally indicate a threshold beyond which the impact is considered significant and an EIS is required for the action (see also paragraph 506h regarding mitigation). If the EA contains mitigation measures necessary to reduce potentially significant impacts below applicable significance thresholds, an EIS is not needed and the approving official may issue a FONSI provided that:

- (1) The agency took a “hard look” at the problem.
- (2) The agency identified the relevant areas of environmental concern.
- (3) The EA supports the agency’s determination that the potential impacts will be insignificant.
- (4) The agency has identified mitigation measures that will be sufficient to reduce potential impacts below applicable significance thresholds and has assured commitments to implement these measures.

Proposed changes in or deletion of a mitigation measure that was included as a condition of approval of the FONSI must be reviewed by the same FAA offices that reviewed the original FONSI and must be approved by the same approving official (see paragraph 407 for monitoring mitigation). If the changes in mitigation will result in significant impacts, the responsible FAA official must then initiate the EIS process by preparing an NOI to prepare an EIS.

405h. List of Preparers. When an EA is prepared by the FAA, the EA must include a list of the names and qualifications of personnel who prepared the EA. When EA's are prepared for the FAA, the EA must list the names and qualifications of the preparers of an EA. Contractors will be identified as having assisted in, or having prepared, the EA.

405i. List of Agencies and Persons Consulted. The EA must include a list of agencies and persons consulted.

405j. Appendixes. The EA may include the following appendixes, if applicable:

(1) Any documentation that supports statements and conclusions in the body of the EA, including methodologies and references used. Proper citations to reference materials should be provided.

(2) Evidence of coordination or required consultation with affected Federal, Tribal, State and local officials and copies or a summary of their comments or recommendations and the responses to such comments and recommendations.

(3) A summary of public involvement, including evidence of the opportunity for a public hearing, if required under applicable Federal laws (The Airport Act; 49 U.S.C. 47106c), regulations, and Executive Orders, and a summary of issues raised at any public hearing or public meeting as well as responses to substantive comments.

406. FINDING OF NO SIGNIFICANT IMPACT (FONSI).

406a. Purpose. The purpose of an EA is to document the FAA determination as to whether or not a proposed action has the potential for significant environmental impacts. If none of the potential impacts is likely to be significant, then the responsible FAA official shall prepare a finding of no significant impact (FONSI), which briefly presents, in writing, the reasons why an action, not otherwise categorically excluded, will not have a significant impact on the human environment, and the Approving Official may approve it. Issuance of a FONSI signifies that the FAA will not prepare an EIS and has completed the NEPA process for the proposed action. (The issuance of a FONSI does not mean that the agency has decided to act, only that it has found that the proposed action will not have a significant impact on the environment, see paragraph 408.) An overview of a FONSI is presented in Figure 4-3, Findings of No Significant Impact Overview.

406b. Scope of Documentation. The CEQ regulations do not specify a format for FONSI's, but FONSI's must contain the information discussed in 40 CFR 1508.13.

(1) The FONSI may be attached to an EA, or the EA and FONSI may be combined into a single document. If the EA is not attached or combined with FONSI, the FONSI must include a summary of the EA and note any other environmental documents related to it. If the EA is attached or included with the FONSI, the FONSI does not need to repeat any of the discussion in the EA but may incorporate it by reference. However, the FONSI shall briefly describe the proposed action, its purpose and need, the alternatives considered, including the no action alternative, and assess and document all relevant matters necessary to support the conclusion that the action is not a major Federal action significantly affecting the quality of the human environment. The degree of attention given to different environmental factors will vary

according to the nature, scale, and location of the proposed action, and thus, depending on the complexity and degree of impact of a proposed action, a FONSI may range in content from a simple conclusion, supported with pertinent facts, that the action is not a major action significantly affecting the quality of the human environment, to an analysis involving the format and content necessary for EIS's.

(2) The FONSI shall determine the proposed action's consistency or inconsistency with community planning, and shall document the basis for the determination.

(3) The FONSI shall present any measures that must be taken to mitigate adverse impacts on the environment and which are a condition of project approval (see paragraph 406e). The FONSI should also reflect coordination of proposed mitigation commitments with, and consent and commitment from, those with the authority to implement specific mitigation measures committed to in the FONSI.

(4) The FONSI shall reflect compliance with all applicable environmental laws and requirements, including interagency and intergovernmental coordination and consultation, public involvement, and documentation requirements (see paragraph 403 and Appendix A). Findings and determinations required under special purpose environmental laws, regulations, and executive orders, if not made in the EA, must be included in the FONSI, which may be combined with a decision document, sometimes called a Record of Decision or FONSI/ROD.

Figure 4-3. Finding of No Significant Impact Overview

PURPOSE	Documents Finding of No Significant Impact (FONSI) and supporting mitigation measures that will be taken.
SCOPE	Explains why an action will not have a significant effect on the human environment.
CONTENT	<p>A conclusion that an action will not have a significant effect on the environment. (See paragraph 406c(3).)</p> <p>Describes the proposed action, its purpose and need, and alternatives considered, including the no action alternative.</p> <p>Assesses information necessary to support findings and determinations.</p> <p>Describes applicable mitigation measures necessary to ensure that the preferred alternative will not significantly affect the environment and that are a condition of project approval.</p> <p>Describes changes that have been made in the proposed action to eliminate significant impacts.</p> <p>Includes statement of consistency or inconsistency with community planning from State and local governments, and Tribes, for impacts on a reservation.</p> <p>Attaches the EA or a summary of the EA for reference.</p>
PUBLIC PARTICIPATION	<p>Varies as appropriate (see 40 CFR 1501.4(e)(1) and 1506.6, and also CEQ's "40 Most Asked Questions," number 37).</p> <p>In certain cases (e.g., actions similar to those normally addressed in an EIS or where the nature of the proposed action is one without precedent), a 30-day public comment period is required before proceeding with action (see 40 CFR 1501.4(e)(2) and CEQ's "40 Most Asked Questions," number 38).</p> <p>Agencies also must allow a period of public review of the FONSI, for example, if the proposed action would be located in a floodplain or wetland (E.O. 11988, section 2(a)(4), and E.O. 11990, Sec. 2(b)).</p>

406c. Internal Review Process and Approval.

(1) FONSI's originating in the regions. The responsible FAA official will coordinate the review of the FONSI and underlying EA with affected program divisions and Regional Counsel. The responsible FAA official should contact affected program offices to obtain guidance on program office procedures for coordination. This internal review is to ensure that related foreseeable agency actions by other FAA elements are properly covered in the statement or finding and are coordinated with the appropriate action office so that commitments which are the responsibility of other divisions or offices will be carried out. Unless the proposed action is

opposed on environmental grounds by a Federal or state government, Tribe, or local agency, a Division Manager may request a waiver of the Regional Counsel's legal sufficiency review. Requests must be made to AGC-600. Upon such request, only AGC-600 may waive Regional Counsel's review of the EA and FONSI for legal sufficiency. After appropriate coordination with interested program offices and review by Regional Counsel, the Division Manager or designee may approve the FONSI.

(2) FONSI's originating in the Washington, D.C. headquarters. The responsible FAA official will coordinate the review of the FONSI and underlying EA with affected program divisions, AEE, and AGC. The responsible FAA official should contact affected program offices to obtain guidance on program office procedures for coordination. Upon request from a Program or Office Director, AEE may waive its review. Upon such request, AGC-600 may also waive its review of the EA and FONSI for legal sufficiency unless the proposed Federal action is opposed on environmental grounds by a Federal, state, or local agency or Tribe. After appropriate coordination and review by AGC for legal sufficiency, the approving official may approve the FONSI.

(3) All FONSI's shall include the following approval statement:

After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101 of the NEPA and other applicable environmental requirements and will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102(2)(C) of NEPA.

APPROVED: _____ DATE: _____

406d. Agency Distribution. A copy of the FONSI and EA shall be sent to reviewing agencies and organizations or individuals that made substantive comments or specifically requested copies. When a project involves a resource protected under a special purpose law or administrative directive (see paragraph 404f), the responsible FAA official should send a signed copy of the FONSI and the EA supporting it to the agency(ies) with whom FAA consulted to comply with the applicable law or directive and to any party requesting copies of those documents.

406e. Public Review in Special Circumstances. The responsible FAA official must determine whether any of the following circumstances apply, and if so, allow for the appropriate amount of public review.

(1) The CEQ regulations (40 CFR 1501.4(e)(2); see also CEQ's "40 Most Asked Questions," number 37b) provide that in certain limited circumstances the agency shall make the EA/FONSI available for public review for 30 days before the agency makes its final determination whether or not to prepare an EIS and before the action may begin. The 30-day

public review period may run concurrently with any other Federal review. These circumstances are:

(a) The proposed action is, or is closely similar to, one normally requiring the preparation of an EIS; or

(b) The nature of the proposed action is one without precedence.

(2) Certain special purpose environmental laws, regulations, or executive orders require public notice of specific findings or determinations apart from the FONSI made under NEPA. Examples include, but are not limited to, section 2(a)(4) of E.O. 11988, Floodplain Management, section 2(b) of E.O. 11990, Protection of Wetlands, section 7 of the Endangered Species Act, and section 106 of the National Historic Preservation Act.

406f. Internal Distribution. The FONSI and EA are filed in the office of the responsible FAA official. A copy of the FONSI and EA shall be sent to the affected program offices, if requested by those offices.

406g. Public Availability. The CEQ regulations state that Federal agencies shall make FONSI's available to interested or affected persons or agencies (see 40 CFR 1506.6). Methods of announcing the availability of a FONSI, such as publication in local newspaper or notice through local media, are described in 40 CFR 1506.6(b). The announcement will indicate locations at which the FONSI and its associated EA are available. Copies of FONSI's and associated EA's will be provided, on request, free of charge or at a fee commensurate with the cost of reproduction.

407. MONITORING MITIGATION. Mitigation and other conditions established in the EA and FONSI, or during their review, and included as a condition of the project approval or licensing shall be implemented by the lead agency or other appropriate consenting agency. The FAA shall take steps through grant agreements, licenses, contract specifications, operating specifications, directives, other project review or implementation procedures, or other appropriate mechanisms to monitor and enforce implementation of mitigation set forth in the approved EA/FONSI. Where available and applicable, an environmental management system may be used for tracking and monitoring mitigation commitments. Mitigation included as special conditions in the FONSI can be imposed as enforceable conditions of the final decision or of funding or grant agreements, contract specifications, preferential arrival and departure procedures, licenses, permits, directives, other project review or implementation procedures, or other appropriate follow-up actions to ensure that mitigation is implemented (see CEQ's "40 Most Asked Questions," number 39).

408. DECISION DOCUMENTS FOR FINDINGS OF NO SIGNIFICANT IMPACT.

408a. Immediately following the approval of a FONSI, except in the circumstances identified in paragraph 406e, the FAA decisionmaker may decide whether to take the proposed action. Mitigation measures that were made a condition of approval of the FONSI and the steps

taken to assure appropriate commitment and follow-up of mitigation measures shall be included in the FONSI and incorporated in the decision to implement the action. If the FAA decides to proceed with the proposed Federal action, then the decision may be included with the FONSI or in a separate decision document that accompanies the FONSI, called a FONSI/ROD. The FAA FONSI/ROD has the same general content and format as one that would be prepared following an EIS, including a paragraph that identifies the document as a decision/order that is, in most cases, subject to exclusive judicial review in the U.S. Circuit Courts of Appeals. This terminology assures consistent content in FAA ROD's and highlights the legal distinction between a finding of no significant impact and the agency decision to take action based upon the FONSI that forms the basis for judicial review. Preparation of a record of decision to proceed with an action for which a FONSI has been approved is optional. A record of decision is recommended in the circumstances described in paragraph 408b. If the responsible FAA official prepares a record of decision, it should include a description of the action, the location and timing of the action, the FONSI, any other required findings or determinations, and the signature, name, title, address, and telephone number of the approving FAA official.

408b. The responsible FAA official should prepare formal documentation of the decision to proceed (e.g., a record of decision (ROD) or FONSI/ROD) for:

(1) Actions which have been redefined to include mitigation measures necessary to reduce potentially significant impacts below applicable significant thresholds (see paragraph 405g).

(2) Actions that are highly controversial.

(3) Actions that are, or are closely similar to, those normally addressed in an EIS (see paragraph 406e).

(4) Actions that have no precedent (see paragraph 406e).

In cases of doubt, the responsible FAA official should consult the Office of the Chief Counsel (AGC-600) or Regional Counsel.

409. TIERING AND PROGRAMMATIC ENVIRONMENTAL ASSESSMENTS. The concept of tiering for EIS's may be used for preparing EA's. The responsible FAA official may tier off completed EA's and EIS's if the official finds that these are current and meet FAA requirements. Permitting and review agencies may have independent requirements for review of previously prepared documents (see paragraph 513).

410. WRITTEN RE-EVALUATION. (see paragraphs 402 and 404d)

410a. The preparation of a new FONSI is not necessary when it can be documented that the:

(1) Proposed action conforms to plans or projects for which a prior FONSI has been issued;

(2) Data and analyses contained in the previous EA and FONSI are still substantially valid; and

(3) Pertinent conditions and requirements (all) of the prior approval have, or will be, met in the current action.

410b. This evaluation, signed by the responsible FAA official, will either conclude the contents of previously prepared environmental documents remain valid or that significant changes require the preparation of a supplement or new EA.

410c. The written re-evaluation should be reviewed internally at the discretion of the responsible FAA official.

411. REVISED OR SUPPLEMENTAL ENVIRONMENTAL ASSESSMENTS OR FONSI's.

411a. The agency prepares supplements to an EA if the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Significant information is information that paints a dramatically different picture of impacts compared to the description of impacts in the EA. The agency also may prepare supplements when the purposes of NEPA will be furthered by doing so.

411b. The agency prepares, circulates, and issues as appropriate a supplement to a EA in accordance with the procedures of this chapter.

411c. The preparation of a new EA is not necessary if conditions in paragraph 410 are met. If a supplement changes a FONSI, a new FONSI must be issued.

412.-499. RESERVED.