

## CHAPTER 1. GENERAL REQUIREMENTS.

1. PURPOSE. This order establishes Federal Aviation Administration (FAA) policies and procedures for the preparation of Environmental Impact Statements (EISs) and Findings of No Significant Impact (FONSIs) and for preparing and processing environmental assessments of FAA actions. This order implements the National Environmental Policy Act of 1969 (NEPA), Order DOT 5610.1C, Procedures for Considering Environmental Impacts, and 27 other statutes, directives and orders. The complete list is given in paragraph 7 of this order.

2. DISTRIBUTION. This order is distributed to the director level in Washington with a branch level distribution in Aviation Standards, the Office of Airport Planning and Programming, the Air Traffic Service, Program Engineering and Maintenance Service, Systems Engineering Service, Logistics, and the Office of Environment and Energy; to the director level in the regions with a branch level distribution in the Airports, Air Traffic, Airway Facilities, Flight Standards, and Logistics Divisions; to the director level in the overseas area offices; a limited distribution to field offices and facilities.

3. CANCELLATION. Order 1050.1C, Policies and Procedures for Considering Environmental Impacts is canceled.

4. EXPLANATION OF CHANGES.

a. This order implements DOT Order 5610.1C, Change 1. In doing so, Order 1050.1C, paragraphs 377 and 378 are eliminated because concurrence of the Assistant Secretary for Policy and International Affairs (P-1) is no longer required. Paragraph 81 of this order states that for highly controversial final EISs, P-1 and the Office of the General Counsel (C-1) will be provided a copy of the summary section contained in the final EIS. P-1 and C-1 will also be given at least 2 weeks notice before approval of the final EIS.

b. Paragraph 27 of this order is based on DOT's regulations implementing E.O. 12372, "Intergovernmental Review of Federal Programs," which replaces paragraph 212 on A-95 Review in Order 1050.1C.

c. Paragraph 401, "Quarterly Lists of Environmental Information" is no longer needed since CEQ removed the requirement.

d. An overview of environmental actions is explained by a flow chart in Attachment 1.

e. This order has been reorganized to place all the specifics of the environmental analyses procedures for environmental documents in Attachment 2.

f. Service Appendices 1-7 have been updated. Also, the Office of Airport Planning and Programming has its own environmental handbook, Order 5050.4, which is consistent with Federal environmental procedures contained in this order. Appendix 6 refers Airports personnel to that order.

5. DEFINITIONS.

a. Council on Environmental Quality (CEQ) Terminology. CEQ terminology implementing the National Environmental Policy Act of 1969 (NEPA) was published in their regulation. CEQ sec. 1508.1 states "The terminology of this part shall be uniform throughout the Federal Government."

b. Federal Aviation Administration (FAA) Terms. Order 1000.15A, FAA Glossary, dated December 18, 1975, contains terms which recur most often in agency communications.

c. Environmental Assessment (EA). CEQ sec. 1508.9 states an "Environmental Assessment: (a) Means a concise public document for which a Federal agency is responsible that serves to: (1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a findings of no significant impact. (2) Aid an agency's compliance with the Act when no environmental impact statement is necessary. (3) Facilitate preparation of a statement when one is necessary. (b) Shall include brief discussions of the need for the proposal of alternatives as required by section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted."

d. Environmental Impact Statement. CEQ Section 1508.11 states "Environmental Impact Statement means a detailed written statement as required by Section 102(2)(C) of the Act."

e. Draft Environmental Impact Statement (DEIS) is the document that reflects FAA's initial evaluation of the environmental impact of a proposed action. The agency makes its own evaluation and assumes responsibility for the DEIS. It is distributed by FAA to the EPA and other appropriate Federal, State, and local agencies for comment and is made available to the public.

f. Final Environmental Impact Statement is the document that reflects FAA's final evaluation of the environmental impact of a proposed action. Reports cited as references in the statement need not be included in the documentation. This EIS shall accompany the proposed action through the Federal decisionmaking process.

g. Findings of No Significant Impact (FONSI) means "a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it. If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference" - CEQ sec. 1508.13.

h. Noise Sensitive Area. An area in which aircraft noise may interfere with the normal activities associated with use of the land. Noise sensitive areas may include residential neighborhoods, educational, health, and religious structures and sites and outdoor recreational, cultural, and historic sites. Whether noise interferes with a particular use depends upon the level of noise exposure received and the type of activities involved. A site which is unacceptable for outside use may be acceptable for use inside a structure, if adequate noise attenuation features are built into that structure. (Reference Attachment 2, Section 1 - Noise Analysis).

i. Record of Decision (ROD) is "a concise public record of decision." See CEQ sec. 1505.2 and 1506.1 for requirements.

\* j. Responsible Official is an FAA employee designated with overall responsibility to furnish guidance and participate in the preparation of environmental impact statements, to independently evaluate the statements prior to approval, and to take responsibility for the scope and content of the statements. This person may be authorized to evaluate and accept environmental assessments and may direct scoping activities for the FAA.

k. Sponsor is any public agency or private owner of a public use airport, as defined in the 1982 Airport Act, which applies to receive Federal financial assistance under the Act or anyone proposing an airport action for which Federal authorization is required. \*

l. Scoping is "An early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." - CEQ sec. 1501.7.

m. Tiering. CEQ sec. 1508.28 states "Tiering" refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basin wide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(1) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

(2) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

6. POLICY.

a. FAA will comply with both the procedures and the policies of the National Environmental Policy Act of 1969 (hereafter NEPA) and related orders, statutes, and regulations. This requires that the FAA decisionmaking process facilitate public understanding and scrutiny by including a consideration of: the effects of the proposed actions and the alternatives; the avoidance or minimization of adverse effects of proposed actions; the restoration and enhancement of resources and environmental quality of the nation. The FAA shall integrate these NEPA considerations as early in the agency planning processes as possible.

b. The environmental review process outlined in this order shall be the focal point to assure that NEPA considerations are taken into account. Environmental Impact Statements (EISs) and Findings of No Significant Impact (FONSIs) service to document compliance with these considerations and to reflect a thorough review of all relevant environmental factors, utilizing a systematic, interdisciplinary approach.

c. These policies are supplementary to other agency policies established under other statutes and directives.

7. REGULATORY ACTIONS. This order implements agency actions required by the statutes and directives (as amended) as follows:

a. NEPA (P.L. 91-190, 42 U.S.C. 4321) establishes a broad national policy to improve the relationship between humans and their environment, and sets out policies and goals to ensure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government.

b. The Clean Air Act as amended by P.L. 91-604 provides that the Administrator shall review and comment in writing on the air quality impacts of actions taken under his cognizance.

c. The Noise Control Act of 1972 (P.L. 92-574, 42 U.S.C. 4901) provides for Environmental Protection Agency (EPA) consultation on noise standards and also permits EPA to propose aviation noise regulations to the FAA.

\* d. The Airport and Airway Improvement Act of 1982 (Known as the 1982 Airport Act) P.L. 97-248, 49 U.S.C. 2201 et. seq.

\* e. Section 4(f) of the Department of Transportation Act of 1966 (recodified at 49 U.S.C. 303) states, "The Secretary may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance or land of an historic site ... only if (1) there is no prudent and feasible alternative to using that land, and (2) the program or project includes all possible planning to minimize harm to the park, recreational area, wildlife and waterfowl refuge, or historic site resulting from the use."

f. Section 106 of the National Historic Preservation Act of 1966 (P.L. 89-665 hereinafter, the Historic Preservation Act, 16 U.S.C. 470(f)) requires the head of any Federal agency having jurisdiction over a Federal or Federally-assisted undertaking to take into account, prior to approving the undertaking, its effect on any district, site, building, structure, or object that is included in or eligible for the National Register of Historic Places, and to give the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

g. The Archaeological and Historic Data Preservation Act of 1974 (P.L. 86-253, as amended by P.L. 93-291, 16 U.S.C. 469) is directed to the preservation of historic and archaeological data that would otherwise be lost as a result of Federal construction or other Federally licensed or funded activities.

h. The Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 as amended) and Interagency Cooperation Regulation (50 CFR Part 402) require that all Federal agencies shall, in consultation with the Secretaries of Interior and Commerce, carry out programs for the conservation of endangered or threatened species listed by the Department of the Interior and ensure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of the endangered species or result in the destruction or modification of the habitat of such species to an extent which is determined by the Secretary (of the Interior or Commerce) to be critical.

i. Section 2 of the Fish and Wildlife Coordination Act (P.L. 85-624, 16 U.S.C. §§ 661, 664 note, 1008 note) requires, with certain limited exceptions, that "whenever the waters of any stream or other body of water are proposed or authorized to be . . . impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever . . . by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency shall first consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the . . . control facility is to be constructed . . ." (Subsection (2)).

j. Section 404 of the Federal Water Pollution Control Act Amendments for 1972 (P.L. 92-500, 33 U.S.C. 1344), as amended by the Clean Water Act of 1977 (P.L. 95-217, 33 U.S.C. 1251) establishes a permit procedure for activities involving dredging and filling of navigable waters. The Secretary of the Army, acting through the Army Corps of Engineers, is responsible for issuing such permits.

k. The Coastal Zone Management Act of 1972 (P.L. 92-583, 16 U.S.C. §§ 1451-1464) states that "it is national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone . . ." (Section 303), and requires all Federal or Federally supported activities affecting the zone to be carried out in a

12/5/86

manner consistent with State coastal zone management programs (Section 307). Federal Consistency with Approved Coastal Management Programs (15 CFR Part 930) establishes procedures for determining consistency.

l. Coastal Barrier Resources Act of 1982 (P.L. 97-348, 16 U.S.C. 3501-3510) restricts future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers by establishing a Coastal Barrier Resources System consisting of undeveloped coastal barriers along the Atlantic and Gulf coasts.

m. Section 2 of the Water Bank Act (P.L. 91-559, 16 U.S.C. § 1301 note) declares that "... it is in the public interest to preserve, restore, and improve the wetlands of the Nation ..."

n. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-528, 42 U.S.C. 4601) requires consideration of the costs and impacts of residential dislocations in judging alternatives in the acquisition of real property.

\* o. Farmland Protection Policy Act (P.L. 97-98 and 7 CFR Part 658) establishes criteria for identifying and considering the effects of Federal programs on the conversion of farmland to nonagricultural uses and identifying technical assistance to agencies of Federal, state, and local governments that will be provided by the Department of Agriculture. \*

p. Section 201(a) of the Federal Land Policy and Management Act of 1976 (P.L. 94-579, 43 U.S.C. 1701 *et. seq.*) requires Federal agencies to consult the Bureau of Land Management to determine if land to be used for a Federal action is land which is being considered for inclusion in the National Wilderness System.

\* q. Resource Conservation and Recovery Act of 1976 (P.L. 94-580, 42 U.S.C. 6901 *et. seq.*), as amended by the Solid Waste Disposal Act of 1980 (P.L. 96-482); and the 1984 Hazardous and Solid Waste Amendments (P.L. 98-616) provide environmental requirements in handling solid and hazardous waste disposals. RCRA directed EPA to promulgate regulations to protect human health and the environment from improper management of both hazardous (Subtitle C) and nonhazardous wastes (Subtitle D). As specified by RCRA, "solid" wastes may be solid, liquid, or gaseous, or any variation of the physical state; however, not all solid wastes are hazardous wastes. Hazardous wastes are defined by the degree or ignitability, corrosivity, reactivity and/or toxicity. Also, RCRA was enacted to give EPA authority to regulate the generation, transport, and disposal of hazardous wastes, not simply their disposal. \*

r. 40 CFR Parts 1500-1508 (43 FR 55978, November 29, 1978) CEQ implementation of NEPA procedural provisions establishes uniform procedures, terminology, and standards for implementing the procedural requirements of NEPA's section 102(2).

\* s. 14 CFR Part 150 (49 FR 49260, December 18, 1984), Airport Noise Compatibility Planning, prescribes requirements for airport operators who \*

choose to submit noise exposure maps and to develop and submit airport noise compatibility planning programs to the FAA. This regulation implements portions of the Aviation Safety and Noise Abatement Act of 1979, as amended (49 U.S.C. 2101 et seq.). It supersedes the interim rule adopted on January 19, 1981 (46 FR 8316). The revisions reflect, in part, comments invited and received following promulgation of the interim rule.

\* t. 36 CFR Part 800 (39 FR 3365, January 25, 1974, and 51 FR 31115, September 2, 1986) Protection of Historic Properties, establishes procedures to ensure that historic properties are given proper consideration in the preparation of environmental assessments or impact statements, when carrying out FAA actions. \*

u. 7 CFR Part 657 (43 FR 4030, January 31, 1978), Prime and Unique Farmlands requires the responsible official to consult with the U.S. Department of Agriculture's Land Use Committee to determine whether land to be affected by agency action is prime and unique farmland.

v. Executive Order 11514, Protection and Enhancement of Environmental Quality, dated March 4, 1970, orders all Federal agencies to "initiate measures needed to direct their policies, plans, and programs so as to meet national environmental goals."

w. Executive Order 11593, Protection and Enhancement of the Cultural Environment, dated May 13, 1971, requires that Federal plans and programs contribute to the preservation and enhancement of sites, structures, and objects of historic, architectural, or archaeological significance.

x. Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, dated January 4, 1979, provides pertinent environmental considerations with respect to proposed actions outside the United States, its territories and possessions.

y. Executive Order 11988, Floodplain Management 43 FR 6030 and Order DOT 5650.2, April 23, 1979, Floodplain Management and Protection link the need to protect lives and property with the need to restore and preserve natural and beneficial floodplain values. Agencies are required to make a finding that there is no practicable alternative before taking action that would encroach on a floodplain.

z. Executive Order 11990, Protection of Wetlands and Order DOT 5660.1A, Preservation of the Nation's Wetlands, dated August 24, 1978, require action to minimize the destruction, loss or degradation of wetlands and to assure the protection, preservation, and enhancement of the Nation's wetlands to the fullest extent practicable during the planning, construction, and operation of transportation facilities and projects.

aa. Executive Order 12372, Intergovernmental Review of Federal Programs, dated July 14, 1982, and 49 CFR Part 17, Intergovernmental Review of DOT Programs and Activities require Federal agencies to provide the opportunity for state and local elected officials to review and

12/5/86

comment on Federal actions for Federal assistance or actions affecting them. FAA shall comply with DOT procedures implementing this E.O. contained in 49 CFR Part 17.

bb. President's 1979 Environmental Message Directive on Wild and Scenic Rivers, dated August 2, 1979, directs Federal agencies to take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory as having potential for designation under the Wild and Scenic Rivers Act (P.L. 90-542).

cc. Order DOT 5610.1C, Procedures for Considering Environmental Impacts, (44 FR 56420, October 1, 1979), and Order DOT 5610.1C, Change 1, (7/13/82), provide guidelines for considering environmental impacts of transportation actions.

dd. Order 1053.1, Policies and Procedures for Energy Planning and Conservation, provides for assessing energy demands.

8. APPLICABILITY. The requirements in this order apply to, but are not limited to, the following: all grants, loans, contracts, leases, construction, research activities, rulemaking and regulatory actions, certifications, licensing, permits, plans submitted to the agency by state or local agencies which require FAA approval, and legislation proposed by FAA. Exceptions to these requirements are listed in paragraph 31, Categorical Exclusions.

9. POLICY, PLAN, AND PROGRAM STATEMENTS (FORMERLY "CLASS ACTIONS"). A general policy, plan, or program may be covered by a single EIS or FONSI when the environmental impacts of all related actions, alternatives thereto, and measures to mitigate adverse environmental impacts, are substantially similar. (See CEQ sec. 1508.18).

10. FAA RESPONSIBILITIES.

a. Compliance with the policies and procedures of this order is the responsibility of the regional directors for all actions originating in the regions, heads of offices and services for all actions originating at headquarters, and center directors for all actions originating at centers.

b. Heads of offices and services are responsible for revising their appendices of this order, as appropriate; providing supplemental guidelines for implementing this order in their program areas, as appropriate; consulting with and advising responsible officials on matters within their operational areas, and evaluating and appraising the activities to implement the requirements of NEPA.

c. Regional directors are responsible for preparing and filing EIS's and FONSI's as necessary and assuring appropriate internal coordination of actions that cross program lines; assigning personnel and other resources to assess and document all relevant environmental factors, including assignment of an office or officer for coordinating all NEPA related activities.

d. The Office of Environment and Energy (hereinafter AEE) is responsible for overall review of FAA's environmental policies and procedures including NEPA compliance; developing and coordinating policies and procedures under this order; assisting services in developing guidance for their program areas; consulting with and advising responsible officials in their implementation of this order; developing training programs in cooperation with the Office of Personnel and Training and the Services, and evaluating and appraising the activities to implement the requirements of NEPA.

e. The Office of the Chief Counsel (hereinafter AGC) and regional and center counsels provide legal advice to all elements of FAA regarding the legal sufficiency of environmental documents.

f. Other responsibilities regarding specific program areas are set forth in Appendices 1-7 of this order.

- \* 11. NEPA POINT OF CONTACT. Regional Directors shall designate an office or officer as the NEPA point of contact. The point of contact will serve as a focal point, specifically to receive and disseminate within the region NEPA-related information from Washington headquarters or outside the agency. The NEPA point of contact is not intended to replace the responsible official for specific environmental documents or otherwise change existing lines of responsibility. The region will inform AEE-1 of the name, routing symbol, and telephone number of the NEPA point of contact. \*

12. INCORPORATION OF CEQ REGULATIONS. The uniform procedures, terminology, and standards adopted by the CEQ for implementation of the procedural provisions of NEPA (40 CFR Parts 1500-1508; 43 FR 230, November 29, 1978) are herewith incorporated by reference. This order furnishes additional material as explanatory guidance and as an aid to implement these regulations. (Hereinafter, references to the CEQ Regulations shall simply identify the paragraph; e.g., CEQ sec. 1508.1.)

13. CHANGES TO THIS DIRECTIVE. The Director of Environment and Energy (AEE-1) may issue changes to Chapters 1 through 10 of this order after coordinating the change with the concerned organization elements, and each office and service may issue changes to the appropriate appendix (i.e., Air Traffic for Appendix 3) after coordinating the change with the concerned organizational elements, including AEE and AGC, provided:

a. The change does not affect policy, delegation of authority, or assignment of responsibilities outside the office's or service's authority;

b. The Administrator has not specifically reserved authority to make the change; and

c. Substantial changes are not made without the concurrence of the Office of the Assistant Secretary for Policy and International Affairs

12/5/86

(hereinafter P-1) and the Office of the General Counsel (hereinafter C-1) and are published for comment in the Federal Register after consultation with CEQ.

14. - 15. RESERVED.