

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus two copies of the following reports:

Mandatory:

(1) A final program and financial report no more than 90 days after the conclusion of the program;

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3d.3) above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Optional Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Branch for the Study of the U.S., ECA/A/E/USS, Room Number 252, ECA/A/E/USS 05-08-SA, U.S. Department of State, SA-44, 301 4th Street, SW., Washington, DC 20547, telephone number (202) 619-4562 and fax number (202) 619-6790, e-mail SchmidtRC@state.gov.

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/E/USS 05-08-SA.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau

staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: December 8, 2004.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2004-19058; FAA Order 5050.4B]

NEPA Implementing Instructions for Airport Actions

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability, and request for comments on Draft Order 5050.4B, NEPA implementing procedures for airport actions.

SUMMARY: The Federal Aviation Administration's Office of Airports (ARP) is proposing revisions to its National Environmental Policy Act (NEPA) implementing instructions for the airport development projects and other airport actions under its authority. ARP has prepared a draft order, FAA Order 5050.4B, NEPA Implementing Procedures for Airport Actions. The final version of that order would replace Order 5050.4A, Airports Environmental Handbook, dated October 8, 1985. The proposed order updates and adds to the instructions in the 1985 publication and is consistent with FAA Order 1050.1E, Environmental Impact: Policies and Procedures, discussed below.

The draft order follows the Council on Environmental Quality's (CEQ's) NEPA implementing regulations at 40 CFR Part 1500 *et seq.* It also follows DOT's Order 5610.C, Policies for Considering

Environmental Impacts, and FAA Order 1050.1E, Environmental Impact: Policies and Procedures. Information in this Notice's "Summary of Proposed Changes" section highlights the most substantial changes ARP is proposing for Order 5050.4B.

DATES: ARP publishes this order for public review and comment. ARP is providing a 60-day review period. Commenters must file their comments at the following address by February 16, 2005. FAA intends to issue a final version of Order 5050.4B by October 31, 2005.

ADDRESSES: Commenters must provide 3 copies of their comment letters. Commenters must mail their letters to the Federal Aviation Administration (FAA), Office of the Chief Counsel, Attn: Rules Docket (AGC-200), Docket No. FAA-2004-19058, 800 Independence Ave., SW., Room 915-G, Washington, DC 20591. People wishing to review comments may do so in Room 915-G at the above address, weekdays between 8:30 a.m. and 5 p.m., eastern time, except on Federal holidays.

Anyone seeking FAA's recognition of receipt of their comments must send a self-addressed, stamped postcard with their comments. On the postcard, print: "Comments to Docket No. FAA-2004-19058." FAA will date-stamp and return the postcard to the commenter.

FOR FURTHER INFORMATION CONTACT:

Please contact Mr. Ed Melisky, Environmental Specialist, Community and Environmental Needs Division (APP-600), Office of Airport Planning and Programming, FAA, 800 Independence Avenue, SW., Washington, DC, 20591; telephone (202) 267-5869.

SUPPLEMENTARY INFORMATION:

The National Environmental Policy Act (NEPA) and the regulations implementing it (40 CFR 1500-1508) provide Federal agencies with instructions on protecting the quality of the human and natural environment. The law and regulations require Federal agencies to carefully evaluate and take into account the environmental effects of their actions before the agencies make their decisions on proposed actions having the potential to disturb the environment. Section 102(B) of NEPA requires Federal agencies to develop procedures in consultation with the President's Council on Environmental Quality (CEQ) to carry out NEPA and CEQ's regulations for their specific activities.

Draft Order 5050.4B presents ARP's proposed revisions of the NEPA instructions in Order 5050.4A, dated October 8, 1985. Readers may *not* use

the draft to complete any NEPA process. They must continue to use FAA Order 5050.4A, which is now incorporated into FAA Order 1050.1E (paragraph 214. of Order 1050.1E). If conflicts between Orders 1050.1E and 5050.4A arise, instructions in 1050.1E supersede those in 5050.4A, except for instructions addressing internal FAA coordination and review of environmental documents. In those cases, continue to use instructions in FAA Order 5050.4A, paragraphs 63, 64, and 95.

On June 8, 2004, FAA's Office of Environment and Energy issued FAA's revised, agency-wide, NEPA policies and procedures. FAA published those new instructions in Order 1050.1E, which updated FAA instructions last changed in October 1986. Order 1050.1E provides NEPA implementing instructions for all FAA organizations.

ARP is publishing this Notice of Availability for Order 5050.4B to inform the public it is supplementing instructions in 1050.1E. Although FAA has issued agency-wide instructions, ARP has traditionally published Order 5050 to provide detailed instructions for airport actions. This ensures FAA's environmental reviewers and airport sponsors have NEPA instructions for airport actions that comply with Order 1050.1E. Readers wanting to know how other FAA organizations address NEPA requirements for non-airport projects should see FAA Order 1050.1E.

Request for Comments: ARP believes the public and other governmental agencies and organizations may be interested in the proposed changes draft order 5050.4B contains. By this Notice, ARP seeks comments on those changes. ARP requests that reviewers cite the chapter, page, and line number(s) corresponding to the text to which the comment applies. This will greatly facilitate ARP's review of comments and ensure it applies the comment to the correct text on each page. The following section summarizes the most substantial changes to FAA Order 5050.4A.

Summary of Proposed Changes: Draft order 5050.4B, NEPA Implementing Procedures for Airport Actions, presents proposed revisions to current Order 5050.4A, Airports Environmental Handbook.

The draft order provides information on many issues (see the Table of Contents), but the changes discussed here are the most important. Reviewers should note that the order is re-organized and includes new chapters, including one on Environmental Streamlining to address the requirements of the Century of Aviation Re-Authorization Act of 2003 ("Vision 100").

Change 1. Draft Order 5050.4B proposes deleting the summary of requirements and procedures under special purpose environmental laws, regulations, and executive orders found in Order 5050.4A, paragraphs 47.e.(1) thru (20) and 85.a. thru t. These paragraphs addressed various laws, regulations, and orders protecting environmental resources such as wetlands, Federally-listed endangered species, or historic properties. ARP proposes deleting the portions of these paragraphs that summarize requirements under other environmental review and consultation requirements from the Order 5050.4B to focus that Order on NEPA requirements. ARP is retaining from these paragraphs the impact intensity factors used to identify the appropriate level of NEPA review, as discussed below in Change 3. ARP will issue a separate document entitled, An Environmental Desk Reference for Airport Actions to ensure its staff and interested parties have information needed to integrate and comply with Federal environmental laws, regulations, and Executive Orders beyond NEPA's scope. ARP plans to provide the Desk Reference to its environmental staff and anyone interested in that information when it issues the final version of Order 5050.4B.

In proposing to focus Order 5050.4B on policies and procedures to implement NEPA, ARP is adhering to the approach being used by other Federal agencies. ARP's review of NEPA implementing instructions published in the **Federal Register** during 2004 shows none of the six Federal agencies publishing NEPA instructions included substantial information about other Federal environmental laws, regulations, or Executive Orders (e.g., Endangered Species Act, Section 106 of the National Historic Preservation Act, etc.). ARP also is making this change to address recommendations it received when FAA published Order 1050.1E for comment. Some commenters recommended that FAA delete Appendix A of Order 1050.1E so that 1050.1E would only provide implementing instructions for NEPA.

Finally, reviewers should note that ARP will continue to integrate compliance with applicable environmental laws, regulations, and Executive orders with the NEPA process as appropriate. ARP's proposal to remove the summary of requirements under environmental laws and regulations other than NEPA from Order 5050.4B is not intended to reflect any lack of commitment to meet these requirements.

Change 2. Draft Order 5050.4B provides definitions for important terms used during ARP's NEPA analysis for airport actions. Among other definitions, the draft order modifies definitions for the terms "approving FAA official" and "Federal actions." It also provides a proposed definition for the term "reasonably foreseeable." Paragraph 8.a. cites FAA Order 1100.154A, Delegation of Authority, dated June 1990, as it relates to the approving FAA official to note that various environmental decisions may occur at different levels. Paragraph 8.d. adds the authority to authorize airport sponsor requests to impose and use Passenger Facility Charges. Readers should note that paragraph 8.k. presents a proposed definition for the term, "reasonably foreseeable" to help ARP staff better understand future actions a cumulative impact analysis should include.

Change 3. Paragraph 3.c. informs the reader that ARP proposes to continue to use specific factors to determine the intensity of impacts airport development projects or airport actions may cause and the appropriate level of NEPA review, in addition to the significance thresholds in FAA Order 1050.1E., Appendix A. ARP proposes to continue to use these factors to supplement the thresholds in Order 1050.1E because they reflect ARP experience concerning resource-specific factors that should be considered for projects that involve large amounts of ground disturbance. ARP believes continued use of these supplemental factors will help ARP staff better determine impact severity and the NEPA document needed to properly address those impacts.

Change 4. Paragraph 5.d. informs the reader the draft document is available at <http://www.faa.gov/arp> for anyone wishing to review an electronic version.

Change 5. Paragraph 200.c. discusses how the final Order would relate to FAA Order 1050.1E. It notes Order 5050.4B supplements Order 1050.1E by focusing on detailed information for airport development projects and airport actions.

Change 6. Paragraph 200.d. informs the reader that Order 5050.4B focuses on procedures to implement NEPA. ARP will issue a Desk Reference for Airport Development Projects to provide ARP staff with the instructions they need to comply with other Federal requirements. Examples of those requirements include the Endangered Species Act, Section 106 of the National Historic Preservation Act, and various Executive Orders.

Change 7. Paragraph 302. discusses the importance of sponsors meeting with FAA environmental specialists and airport planners when developing proposed airport actions. This effort is intended to help streamline the NEPA process. It should help the sponsor develop plans very early in the project planning phase when the widest range of alternatives is available to avoid, if possible, potentially significant adverse effects on known, specially-protected environmental resources (wetlands, floodplains, or historic properties, etc.). If avoidance is not possible, this effort is intended to help the sponsor design proposed actions to minimize impacts on those resources during the preliminary design stage when the widest array of design options exists.

Change 8. Paragraph 306.b. discusses the need to consult with Native American and Alaska Natives according to FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures, dated January 28, 2004.

Change 9. Paragraph 403.b. states the responsible FAA official may categorically exclude only those actions on lists in FAA Orders 1050.1. The public commented on those exclusions during the review period for Order 1050.1E. Except for two categorical exclusions discussed in Changes 17 and 18, Order 5050.4B (Chapter 4, Tables 1 and 2) presents alphabetically-arranged annotations of the airport portions of the categorical exclusions published in Order 1050.1E for reference. ARP responsible FAA officials must cite FAA Order 1050.1E as the "authorization" for the categorical exclusion, not FAA Order 5050.4B.

To fulfill the commitment FAA made in the preamble for FAA Order 1050.1E, ARP has provided guidance to help define when passenger handling facilities are not substantially larger than an existing one. ARP proposes using the Noise Equivalent Model (NEM) and information from Section 2.1 of the FAA's Addendum to FAA's Air Quality and Procedures for Civilian Airports & Air Force Bases handbook as screening tools to help make this determination. If a proposed action would not trigger levels stated in the NEM or in Section 2.1, it is unlikely the terminal expansion would cause significant noise or air quality problems. Of course, the responsible FAA official must also examine other extraordinary circumstances to ensure the expansion does not significantly affect other environmental resources.

Change 10. Paragraph 403.c. explains the process that would occur if updates to the categorical exclusion lists are

needed. If ARP experience suggests that other airport actions may qualify as categorical exclusions, it will propose those actions to FAA's Office of Environment and Energy (AEE). AEE, which is responsible for FAA's agency-wide NEPA instructions, would complete the process needed to determine if changes to FAA's categorical exclusion lists are warranted. If AEE, after public review, determines changes to the categorical exclusion lists in FAA Order 1050.1E are warranted, it will revise that order to include the new actions.

Change 11. Paragraph 403.e. notes that some categorically excluded actions rarely involve extraordinary circumstances. Table 1 of this paragraph alphabetically lists those actions, provides an annotation for the action as it relates to airports, and the paragraph(s) from FAA Order 1050.E authorizing the actions as categorical exclusions.

Change 12. Paragraph 403.f. identifies categorical exclusions for other airport actions. Table 2 of this paragraph alphabetically lists those actions, provides an annotation for the action as it relates to airports, and the paragraph(s) from FAA Order 1050.E authorizing the actions as categorical exclusions.

Change 13. Readers should note that Chapter 4, Table 2, action 13 presents a modification of categorical exclusions in FAA Order 1050.1E, paragraphs 309g., 310f., 310n., and 310u. The modification addresses proposed projects involving low emission technology equipment, including the Voluntary Airport Low Emission Program. ARP believes the cited paragraphs from FAA Order 1050.1E supports this change because these projects normally benefit air quality by reducing air quality emissions. As a result, they would qualify for a categorical exclusion because they do not normally cause significant environmental effects under NEPA (see 40 CFR 1058.4).

Change 14. The last entry in Chapter 4, Table 2 presents a proposed modification of the categorical exclusion in FAA Order 1050.1E, paragraph 310k. The modification addresses a categorically excluded action affecting waters or wetlands *not* under Corps of Engineers jurisdiction ("non-jurisdictional waters"). ARP believes this categorical exclusion is warranted because it includes only those actions whose design would meet the same standards as those that would be authorized under the Corps of Engineers' National Permit Program (NWP), had the project location been

under the Corps' jurisdiction. By definition, projects qualifying for the NWP do not normally cause significant environmental impacts. Therefore, they meet CEQ's definition of a "categorically excluded action" (see 40 CFR 1508.4). ARP wishes to include this categorical exclusion to respond to numerous questions on how to address airport development projects and actions affecting non-jurisdictional waters for NEPA purposes.

Change 15. Paragraph 403.g. provides information on categorically excluding an airport development project or airport action involving a "special-purpose Federal environmental law." If the action meets both of the specific requirements in paragraphs 403.g.(1)(a) and (b), FAA may be able to categorically exclude those actions. A footnote to the paragraph lists those "special purpose environmental laws" to which this categorical exclusion may apply.

Change 16. For efficiency and user reference, paragraph 403.g. includes Table 3. The table alphabetically lists and annotates extraordinary circumstances that FAA Order 1050.1E, paragraph 304 presents. Note that ARP is proposing a footnote to this table defining the terms, "dividing" and "disruption" of communities. ARP presents this proposed definition to address numerous questions it receives on these somewhat ambiguous terms as they relate to coonities airport projects may affect.

Change 17. Paragraph 404. recommends that the responsible FAA official inform the airport sponsor via documentation (via memo, or e-mail) that FAA has categorically excluded an airport development project or airport action. ARP includes this instruction to facilitate greater awareness on the airport sponsor's part about how FAA has complied with the NEPA for their particular airport projects.

Change 18. Paragraph 405. expands the list of airport actions normally requiring an environmental assessment (EA). ARP proposes to revise the list in FAA Order 5050.4A, paragraph 22 to answer many questions about certain airport development projects and airport actions it has received since publishing Order 5050.4A in 1985.

Change 19. Paragraph 407. discusses some updated information on cumulative impacts and airport actions to highlight this important part of NEPA analysis. It discusses how to consider past, present, and reasonably foreseeable actions when establishing a scope of work for analyzing cumulative impacts.

Change 20. Paragraphs 408.a.(1) through (20) discuss various intensity factors ARP proposes to continue to use to supplement the significance thresholds in FAA Order 1050.1E, Appendix 1. ARP believes this guidance is helpful due to the amount of disturbance airport development often causes. ARP believes these factors are necessary to aid its staff in effectively determining whether an EA or an environmental impact statement (EIS) is the proper NEPA document for a proposed airport development project or an airport action.

Change 21. Paragraph 502, 503, and 504 provide detailed policies and procedures for the FAA's State Block Grant Program (SBGP). Paragraph 502 discusses the participants in the SBGP (paragraph 502.c.), and the responsibilities SBGP participants must fulfill for non-primary airports (paragraph 502.b.). These duties include include all environmental requirements FAA would normally fulfill for approval of funding under the AIP paragraph 503). FAA's issuance of state block grant funds normally qualifies for a categorical exclusion. (see FAA Order 1050.1E, paragraph 307.o). The paragraph notes FAA does not have funding and approval authority for projects funded under the SBGP, so awarding grants for actions through the SBGP to individual airports is not a "Federal action." For policy reasons, FAA contractually requires that SBGP states fulfill those environmental duties. This ensures that those states properly evaluate and take into account the potential environmental impacts resulting from specified airport development projects before deciding to fund those projects under the SBGP. Paragraphs 502.e. and 504 discuss those actions outside the SBGP for which FAA retains authority and, therefore, remains responsible for complying with NEPA and other applicable environmental laws. These paragraphs provide the detailed guidance promised in the preamble to FAA Order 1050.1E in response to comments concerning the state block grant program.

Change 22. Paragraph 505b.(3) limits conditional approvals for airport layout plans (ALPs) when a sponsor or its consultant is preparing an QEA or FAA is preparing an EIS for actions at an airport. FAA limits such approvals to avoid the appearance that FAA is taking an action prematurely before it completes its required NEPA process. This limitation does not prevent FAA from conducting or issuing air space determinations to airport sponsors.

Change 23. Paragraphs 505.e.(1) and (2) provide suggested language for

conditional and unconditional approval letters, respectively.

Change 24. Paragraph 508. discusses FAA's roles and responsibilities under NEPA when an airport sponsor wishes to participate in a joint-use program or program to convert a military airfield to civilian use program. Here, the sponsor may wish to share use of an airport with the military or convert an excess military base to a public-use airport. In these instances, FAA normally will be a cooperating agency for NEPA purposes.

Change 25. Paragraph 511. provides instructions to the responsible FAA official on complying with Executive Order 12114, Environmental Effects Abroad of Major Federal Actions. The official must meet the Executive Order's requirements if NEPA analysis shows an airport action would cause a significant impact in a foreign land.

Change 26. Paragraph 512. provides more information on complying with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The paragraph discusses the need for government-to-government meetings when a project may involve or affect Federally-recognized tribes, their trust resources, or other rights. The paragraph also notes FAA personnel must follow FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures when addressing issues with these tribes.

Change 27. Paragraph 513. clarifies that NEPA applies to FAA approval of wildlife hazard management plans under 14 CFR 139.337, when and to the extent that FAA has discretion about methods and procedures to minimize environmental effects, while still assuring aircraft safety. When FAA lacks such discretion, there is no Federal action and NEPA does not apply. ARP includes this information to address the numerous questions it has received on approvals for these plans, which are important to airport operations.

Change 28. Paragraphs 600. and 602. inform the responsible FAA official that documentation for categorically excluded actions is not needed for NEPA purposes. However, documentation is necessary to demonstrate compliance with "special purpose" environmental laws and to support the determination that such compliance demonstrates that there are no extraordinary circumstances warranting preparation of an EA.

Change 29. Paragraph 601.b. suggests that the airport sponsor seeking FAA action to support for an airport project provide certain information to assist the responsible FAA official in determining whether the action qualifies for

categorical exclusion. Accurate, complete information will improve the efficiency and effectiveness of the responsible FAA official's review of potential categorically excluded actions.

Change 30. Paragraph 603. restates the recommendation in paragraph 404. that the responsible FAA official inform the airport sponsor when FAA has determined a proposed action qualifies for a categorical exclusion.

Change 31. Paragraph 704. discusses a suggested format for an EA and for use of references. Using this format should enhance document content and ensure the necessary interdisciplinary analyses has occurred and is documented.

Change 32. Paragraph 705. discusses public review of an EA and the timing of an airport sponsor's submittal of the EA to FAA.

Change 33. Paragraph 706. contains guidance for preparing a written re-evaluation of and supplement to an EA to comply with FAA Order 1050.1E, paragraph 411.

Change 34. Paragraph 801. discusses the continued use of impact intensity factors for EAs as established in Order 5050.4A. (See discussions for Changes 1, 3, and 20 for more information.).

Change 35. Paragraph 803. provides instructions to the responsible FAA official for an EA when the approving FAA official selects a preferred alternative that differs from the airport sponsor's proposed action.

Change 36. Paragraphs 804.a.–c. discuss coordinating FONSI reviews within FAA. Paragraph 804.a. notes when the Regional Administrator must sign the FONSI. Paragraph 804.b. provides instructions for seeking legal sufficiency review for a proposed FONSI. Paragraph 804.c. notes that ARP's Community and Environmental Needs Division (APP-600) is available to review FONSI on request.

Change 37. Paragraph 806. provides information the responsible FAA official may consider when determining if a Record of Decision for a FONSI ("FONSI-ROD") is needed. A FONSI-ROD is a decision document and order subject to the exclusive review by U.S. Circuit Courts of Appeal.

Change 38. Paragraph 809. directs the responsible FAA official to include mitigation a FONSI contains in a grant assurance or unconditional letter of approval for the airport layout plan. The paragraph also recommends that the official to track the sponsor's compliance with the mitigation by using an Environmental Management System.

Change 39. Paragraphs 902. and 903. provide more detailed information on the scoping process than Order 5050.4A.

Change 40. Paragraph 905. provides information on the Notice of Intent to Prepare an EIS (NOI). The paragraph also discusses the NOI's content and its publication in the Federal Register relative to the start of Scoping. Paragraph 905.c., provides information on notifying the public if the responsible FAA official determines that an EIS is not needed after FAA issues an NOI. ARP provides this information to address many questions it has received on this topic. After anticipating significant impacts during the scoping process, ARP has occasionally found that an EIS was not needed because impact analyses showed a proposed airport development action would not cause significant impacts.

Change 41. Paragraph 906. provides expanded information on the responsible FAA official's duties during the scoping process. ARP includes this information to highlight the varied roles the official must fulfill during this stage of EIS preparation. Paragraph 906.b. states that the responsible FAA official must invite agencies having permitting or approval authorities to be cooperating agencies during EIS preparation. It may also help to improve the efficiency of the environmental review process. Paragraph 906.j. highlights the need for cooperating agencies to provide important information during scoping.

Change 42. Paragraph 908. states that FAA's may be a cooperating agency in special situations addressing airport actions, FAA normally fulfills this role for projects involving military base joint-use or re-use or conveyance of Federally-owned land for airport purposes.

Change 43. Paragraph 909. discusses using the scoping process in preparing an EA. Although this process is not mandatory for EA preparation, the Process may help the sponsor or its consultant prepare a thorough EA. sponsors may find scoping useful particularly for an action that may be highly controversial or assessing many environmental impacts (e.g., "special purpose laws").

Change 44. Paragraph 1003. clarifies FAA, airport sponsors, and environmental consultant roles during FAA's EIS preparation. It reflects policy and procedures FAA has adopted for EIS preparation in response to *Citizens against Burlington v. FAA*, 938 F2d 190 DC Cir. 1991. The paragraph notes that FAA decides EIS content, even through the airport sponsor may pay the environmental consultant costs for EIS preparation and a Third Party MOU. The Order provides a sample Disclosure statement (Appendix 2, Attachment A) environmental consultants must sign to

be part of EIS preparation. It also includes examples of Memoranda of Understanding defining the roles of FAA, airport sponsor and environmental consultant personnel during EIS preparation (Appendix 2, Attachments B and C).

Change 45. Paragraph 1004. provides more detailed guidance concerning limitations on sponsor activities during EIS preparation. ARP provides this to alert users of the Order about the requirements in 40 CFR 1506.1 (Limitations on actions during the NEPA process) and to address questions ARP has received on this topic.

Change 46. Paragraph 1005. provides instructions for adopting another Federal agency's EIS to streamline (i.e., improve efficiency) NEPA and reduce paperwork.

Change 47. Paragraph 1007. provides re-organized and updated information on EIS format and content to more closely track information in FAA Order 1050.1E. The paragraph also includes information from the best practices ARP has found important in preparing EISs. Paragraphs 1007.m and n. discuss how to use appendices and references to reduce the bulk in an EIS's main body. This effort promotes CEQ's intent to keep EISs to manageable sizes.

Change 48. Paragraph 1101. provides added guidance for distributing DEISs for public and inter-agency reviews. Various paragraphs give addresses for the headquarters' offices of the Federal department that review DEISs. They also provide the number of DEIS copies to send to those departments. Paragraph 1101.b.(4)(c) provides standard language certifying that FAA has issued DEISs to the public at the same time or before it filed the documents with the U.S. Environmental Protection Agency (EPA).

Change 49. Paragraph 1104. provides instructions for re-circulating DEISs. ARP provides this information to answer questions it has received on this topic.

Change 50. Paragraph 1202. notes that CEQ requires that the final EIS (FEIS) must identify the agency's preferred alternative, unless a law prohibits FAA from doing so. This is to clarify that FEISs must contain this information, if FAA has not selected its preferred alternative when it prepared the DEIS. FAA Order 5050.4A noted, but did not highlight, this requirement of 40 CFR 1502.14(e).

Change 51. Paragraph 1203.b.(2) requires the responsible FAA official to ensure the FEIS contains evidence that an airport sponsor has certified that the airport management board has voting representation from the communities

where a new airport location, a runway, or major runway extension is proposed. Alternatively, the paragraph also notes the sponsor must advise these communities that they may petition the Secretary of Transportation about a proposed project. FAA includes this change to meet the requirements of 49 U.S.C. 47106(c)(1)(A)(ii).

Change 52. Paragraph 1203.b.(3) directs the responsible FAA official to ensure the sponsor has made available and provided an existing metropolitan planning organization in the area where the project is located a copy of: a proposed ALP amendment depicting a proposed project at a medium or large hub airport and the master plan describing or depicting that project. ARP includes this assurance to meet the requirements of 49 U.S.C. 47106(c)(1)(A)(iii).

Change 53. Paragraph 1203.e. discusses the need for the FEIS to include evidence support necessary determination regarding impacts to jurisdictional and non-jurisdictional waters and wetlands. ARP includes information on non-jurisdictional wetlands to address many questions it has received about environmental review of impacts to these resources. Many people believe ARP need not address impacts or provide assurances for waters or wetlands not under U.S. Army Corps of Engineers jurisdiction. ARP notes analyses of impacts to all wetlands are needed to comply with NEPA and other laws and Executive Order 11990, Protection of Wetlands, and DOT Order 5660.1A, Preservation of the Nation's Wetlands.

Change 54. Paragraph 1203.g. discusses the need for the FEIS to include evidence to support determinations in any ROD for proposed actions that affect areas inside and outside the coastal zone area, if project impacts affect coastal zone resources. ARP includes this information to address Coastal Zone Management Act (CZM Act) amendments. Among other things, these requirements address impacts to coastal zone resources, even if a project occurs outside CZM boundaries.

Change 55. Paragraphs 1203.g.(1) and (2) discuss the evidence that must be included in the FEIS to support determinations in a ROD regarding Subparts D and C of 15 CFR, Part 930 (regulations implementing the CZM Act). Paragraph 1203.g.(1) provides consistency requirement information for a project FAA approves, such as a sponsor's request for FAA approval of an ALP change. Paragraph 1203.g.(2) provides consistency information for projects FAA itself undertakes, such as

installing a NAVAID in the coastal zone. ARP includes this information to highlight the different CZM Act requirements that may apply to an ARP action.

Change 56. Paragraph 1204.a. discusses the various approval levels ARP follows to meet FAA Order 1100.154A, Delegation of Authority, dated June 12, 1990. The Order delegates approval authority for certain airport projects from the FAA Administrator to the Associate Administrator for Airports (ARP-1). ARP-1 may further delegate that authority, per Order 1100.154A, as paragraph 1204.a. explains.

Change 57. Paragraphs 1205.d., e., and f. provide updated information on the number of copies of the FEIS the responsible FAA official must send to the U.S. EPA (EPA) regional office reviewing an ARP project and to EPA and the Department of the Interior headquarters.

Change 58. Paragraph 1206. discusses more detailed information concerning the process for referring EISs to CEQ under 40 CFR 1504. ARP includes this information to ensure personnel knew about this little used, but important CEQ NEPA regulation.

Change 59. Paragraph 1301.g. requires FAA to ensure the agency and the airport sponsor complete required mitigation. The paragraph suggests using an Environmental Management System (EMS) to track mitigation compliance. ARP includes EMS tracking to comply with EO 13148, Greening the Government Through Leadership in Environmental Management.

Change 60. Chapter 14 provides guidance on the longevity of EAs and EISs, supplementing those documents, written re-evaluations, and tiering. It also notes that FAA is applying the same standards it uses for EISs to EAs. The paragraph also notes that the responsible FAA official may use his or her best professional judgment when determining the need for a written re-evaluation. ARP provides that information to address questions about EA longevity and to comply with FAA Order 1050.1E, paragraphs 410 and 411. ARP agrees that accurate EAs and EISs are needed to ensure approving FAA officials have the best available information when making decisions on proposed airport development projects and airport actions.

Change 61. Paragraph 1404. provides instructions on applying NEPA to emergency situations. ARP includes this information to ensure order users are aware of this requirement.

Chapter 62. Chapter 15 provides information on streamlining the EIS

process for certain airport projects. This information addresses requirements of Century of Aviation Reauthorization Act also known as "Vision-100." Among other things, Vision-100 requires streamlining the environmental process for airport capacity projects at congested airports. These are airports that account for at least 1% of all delayed aircraft operations in the nation. Vision 100 also applies to airport safety and airport security projects throughout the nation, regardless of their delay status.

Change 63. Appendix 1 includes updated flowcharts on completing the NEPA processes for categorical exclusions, EAs, FONSI, EISs, and RODs.

Change 64. Appendix 2 includes information on the third-party contracting process FAA uses to select contractors to help the agency prepare EISs, as explained in Change 44. It also includes a sample Disclosure Statement and two types of Memoranda of Understanding describing the respective duties of FAA, the airport sponsor, and the FAA-selected consultant.

Change 65. Appendix 3 provides an example of a "short-form" EA. ARP provides this as one example of how to prepare an EA that meets CEQ's recommended length for an EA (i.e., maximum of 15 pages).

ARP encourages full public participation during this comment period. ARP will consider filed comments on the draft order as it prepares the final Order 5050.4B.

Dated: December 13, 2004.

Dennis E. Roberts,

Director, Office of Airports Planning and Programming.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 218X)]

Union Pacific Railroad Company— Abandonment Exemption—in Kootenai County, ID

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon a 5.25-mile line of railroad known as the Coeur'd Alene Industrial Lead from milepost 2.25 near Feeley Spur to milepost 7.50 near Gibbs, in Kootenai County, ID. The line traverses United States Postal Service Zip Code 83840.

UP has certified that: (1) No local traffic has moved over the line for at

least 2 years; (2) all overheard traffic which could travel over the line has been shifted to an adjacent line of The Burlington Northern and Santa Fe Railway Company; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 15, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 27, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 5, 2005, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Dr., Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1,200. See 49 CFR 1002.2(f)(25).