

## Documenting Categorical Exclusions

Anytime the FAA takes an action to support an airport development proposal, the action is subject to the regulatory requirements of the National Environmental Policy Act (NEPA) as well as many other resource protection laws and regulations. As an example, whenever Federal funds are granted to make improvements at an airport, the FAA must make an environmental determination before the grant can be issued and before any work associated the improvements may begin. This is also true for the Federal approval to impose and use Passenger Facility Charges. In fact, an environmental determination is required before any proposed improvement may take place at a Federally-obligated airport that requires the approval of a revision to the Airport Layout Plan (ALP), regardless of the funding source. This is because all of the actions described above are considered Federal actions under NEPA.

Certain Federal actions that Airport Development Offices (ADO) may take are exempt from the NEPA requirements involving in-depth review of potential impacts and public involvement and disclosure, provided no extraordinary circumstances are involved. These exemptions are called categorical exclusions (CE) and are discussed in paragraphs 307-312 of FAA Order 1050.1E, Environmental Impacts: Policies and Procedures. Paragraph 304 of that Order provides a discussion of what extraordinary circumstances should be considered when determining whether a CE is appropriate. Similarly, paragraphs 604 and 606 of 5050.4B, NEPA Implementing Instructions For Airport Actions, also provide discussion on this issue.

In the past, project proponents were able to write a letter to a Federal or state resource agency having expertise in a certain area and request that agency's opinion on whether a typical CE-type project would involve an extraordinary circumstance regarding that resource. The letter would usually request a response within 30 days. That agency often met the requested deadline, either providing an opinion that the proposed project would not involve the resource in question, requesting more information to be able to provide an opinion, or stating that the proposed project would involve the resource. This process worked well for many years, costing the project proponent little in funds or time. Recently however, agencies have cited lack of resources to be able to provide such a service. For timely responses, the project proponent may need to reimburse the agencies for the expense incurred to review and comment on the proposed action, or the proponent may wait an extended period of time as the agencies work through higher priority projects. Neither of these options is acceptable to a project proponent with limited time and money. Nevertheless, the requirement remains to provide timely information to the FAA so that an informed decision on the proposed project may be made.

This document includes suggestions on ways to gather needed information to support a CE determination. The suggestions are not listed in any order of preference, nor are they considered all-encompassing. Any of the suggestions may serve the purpose of gathering needed information for a timely environmental determination by the ADO environmental specialist. Also, there may be other avenues available to project proponents to obtain

environmental information regarding their proposed action. It is up to the project proponent to decide how they wish to gather the needed information.

The number of issues detailed in the extraordinary circumstances sections of the environmental orders may appear lengthy. Southwest Region's Airports Division has developed an internal process that will greatly reduce the number of issues to be investigated. As proposals come to an ADO's attention, they will be reviewed and cross-reference against available information, using many of the methods described below. Once ADO resources have been exhausted, the project proponent will be notified of the remaining issues left to be resolved. The key to getting a timely and cost effective environmental determination for a proposed project is early notification. The earlier an ADO is aware of a proposal, the quicker potential issues can be addressed and the project approved.

### **Suggestions For Gathering Information To Assist In Documenting Categorical Exclusions**

Many proposed projects are normally CE'd from detailed environmental review and public coordination requirements. Listings of CE-eligible projects may be found in Chapters 3 or 6 of FAA Orders 1050.1E and 5050.4B respectively. These chapters also include information on extraordinary circumstances that may cause a normally CE'd action to fall under the more rigorous environmental requirements discussed above. In brief, paragraph 304 of FAA Order 1050.1E states that extraordinary circumstances involve:

- cultural resources,
- Section 4(f) properties,
- natural, ecological, or scenic resources of Federal, Tribal, State, or local significance, resources protected by the Fish and Wildlife Coordination Act, wetlands, floodplains, coastal zones, prime and/or unique State or locally important farmlands, energy supply and natural resources, wild and scenic rivers, solid waste management,
- division or disruption of an established community or orderly, planned development, or inconsistent with adopted community plans or goals,
- increase in surface transportation congestion,
- noise
- air quality
- water quality, sole source aquifers, public water supply system, or State or Tribal water quality standards,
- high controversy on environmental grounds
- inconsistency with Federal, State, Tribal, or local law relating to the environment, or
- significant lighting impacts, land contaminated with hazardous materials, or likely to cause such contamination.

Below are suggestions a project proponent may consider when attempting to document whether or not an extraordinary circumstance applies to his/her project. If documentation can be provided that no extraordinary circumstances apply, then the proposed project may be CE'd from further environmental review. For more project specific guidance, please contact the environmental specialist responsible for review of projects in each ADO. These specialists are:

Peggy Wade, ASW- 630D, Arkansas/Oklahoma ADO, 817-222-5697,

[peggy.wade@faa.gov](mailto:peggy.wade@faa.gov),

Tim Tandy, ASW-640D, Louisiana/New Mexico ADO, 817-222-5644,

[tim.tandy@faa.gov](mailto:tim.tandy@faa.gov),

Paul Blackford, ASW-652B, Texas ADO, 817-222-5607,

[paul.blackford@faa.gov](mailto:paul.blackford@faa.gov).

If the ADO contact is unavailable, the following regional environmental specialists may also be contacted:

Dean McMath, ASW-613, Planning & Programming Branch, 817-222-5617,

[dean.mcmath@faa.gov](mailto:dean.mcmath@faa.gov), or

Lance Key, ASW-615, Planning & Programming Branch, 817-222-5681,

[lance.key@faa.gov](mailto:lance.key@faa.gov).

**Action/Master Plans.** FAA encourages action/master plans to include an environmental inventory or overview section. This section would identify any areas on the airport that have potential environmental concerns so the airport sponsor is informed of potential issues as development actions are proposed. Providing the FAA with excerpts or citations from the action/master plan may be all the information needed by the environmental specialist to make a CE determination. If an action/master plan does not include such information, the FAA encourages the next update to include this task. Be aware however, that information developed through an action/master plan is only considered current for 3 years and must either be reconfirmed at the end of that timeframe or updated to reflect any new environmental information.

The FAA also encourages action/master plans to look at future noise contours during document development. A future noise contour that contemplates the proposed project and its associated operations may be very helpful in documenting a CE.

**Past Environmental Documents.** Past environmental impact statements (EIS) and environmental assessments (EA) may have included broad overviews of the airport environs. This could provide information regarding the likelihood of an extraordinary circumstance applying to the proposed project. If the proposed project is located near or adjacent to the subject project of the EIS or EA, the area in question may have already been reviewed, saving time and money. Note however, that if the EIS or EA is more than 3 years old, some supporting evidence is needed that nothing has substantially changed since publication of the original document.

**Wildlife Hazard Assessments.** If an airport has a wildlife hazard assessment, the assessment may contain applicable information for evaluating potentially CE-eligible projects. Information on natural resources in the area of the airport may be taken from the assessment, helping determine whether extraordinary circumstances are likely.

**The Internet.** A great deal of information is available at little or no cost on the internet. Examples where information may be gained from internet sites include wetlands, floodplains, prime and unique farmlands, cultural resources, local planning and zoning documents, threatened and endangered species and their critical habitat, tribal lands (prehistoric and historic), etc.... Providing excerpts from electronic information, including links will be helpful in documenting CEs. If using internet information, it is important that the source be cited so the information can be validated.

**Internal Staff Resources.** Airports are often subordinate to overarching governmental bodies that may also govern parks, wildlife management, animal control, forestry, historic properties, water quality, air quality, etc.... These other organizations may have valuable expertise available at little or no cost to help a project proponent gather information on any extraordinary circumstances.

**Local Colleges/Universities.** Every college or university has departments where staff includes biologists, archaeologists, etc.... These professionals may be willing to work with the airport to determine potential impacts. Sometimes, the review of an airport project's impacts may be incorporated as part of a course's fieldwork at little or no cost to the project proponent.

**Consultants.** Consultants may be hired to perform work on a case-by-case basis, or placed on retainer to review proposals as they materialize.

**“Bundling” Projects.** While an individual project may ultimately qualify as a CE, “bundling” several and presenting them as an overall action may require an EA. A “bundled” EA should look at all known proposed projects at least 3 years out to gain efficiencies with cost and timeliness of approvals for future projects.

**Other Agencies.** These suggestions above are presented because many Federal agencies are no longer able to provide expert opinions in a timely and/or cost-free manner. Other experts however, may be found at the state and local levels in agencies that serve comparable functions. These agencies may be willing to provide the same service once offered by their resource-constrained Federal counterparts.