

**CHAPTER 14. SPECIAL INSTRUCTIONS ON  
RE-VALUATING, SUPPLEMENTING, AND TIERING NEPA DOCUMENTS,  
AND ADDRESSING EMERGENCIES**

**1400. GENERAL.** This chapter discusses NEPA document longevity, the need to re-evaluate those documents, and the need to supplement them. The chapter also provides information about when tiering is appropriate and the NEPA process for emergency situations. The responsible FAA official should inform the airport sponsor when addressing the issues this chapter discusses. The official does so to keep the sponsor informed about the status of NEPA documents supporting airport development projects that the sponsor has not begun.

**1401. TIME LIMITS FOR EAs AND EISs AND THE NEED FOR WRITTEN RE-EVALUATIONS.**

**a. General.** After FAA approves an environmental document but before major steps toward implementing the proposed action have begun (see paragraph 1401.c(1)), significant project design changes, environmental conditions in a project area, or legal requirements pertaining to a project may change. Therefore, the responsible FAA official has the discretion to determine if a written re-evaluation of a NEPA document is needed.<sup>1</sup>

(1) Re-evaluations ensure the draft or final EIS continues to provide accurate, applicable, and valid information for pending agency actions since environmental or legal conditions may change over time.

(2) Re-evaluations ensure approving FAA officials base their decisions regarding agency actions on EAs and EISs that accurately reflect existing environmental conditions and legal requirements.

(3) When determining the need for a re-evaluation, the responsible FAA official should use the information in paragraphs 1401.b and 1401.c.

**b. Draft EAs and draft EISs.** FAA considers draft EAs and draft EISs to remain valid for a 3-year period (FAA Order 1050.1E, paragraphs 402a and 514a).

(1) For EAs, that period begins when the responsible FAA official completes FAA's review of the draft EA. Draft EIS time begins on the date the approving FAA official signs the document's "Notice of Availability."

(2) If the final EA or EIS is not completed within 3 years from the applicable dates noted in paragraph 1401.b(1), the responsible FAA official must determine if a written re-evaluation is needed.

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<sup>1</sup> CEQ regulations include no specific requirement to apply time limits to, or prepare supplements for EAs, but it is FAA policy to apply the same requirements to EAs (Order 1050.1E, paragraph 402).

(3) If a re-evaluation is needed, the official will determine if the alternatives, the affected environment, environmental impacts, and mitigation in the document remain applicable, accurate, and valid. If the responsible FAA official determines substantial changes in these factors have occurred, the sponsor or FAA, will supplement the draft EA or DEIS, respectively, or prepare new document sections to address the changed conditions.

(4) The responsible FAA official must circulate the supplement or changed document sections as discussed in paragraph 1101 of this Order.

**c. Final EAs or final EISs.** FAA considers a final EA or final EIS valid for 3 years. For final EAs, the 3-year period begins when the responsible FAA official accepts the final EA as a Federal document. For FEISs, the start time is the date the approving FAA official signs the FEIS's "Notice of Availability." The responsible FAA official should consider the following facts signaling project start when determining if a final EA or final EIS requires re-evaluation. If the sponsor has begun the approved project within the time frame mentioned below the responsible FAA official need not re-evaluate the document.

**(1) Major steps toward implementation of the proposed action.** Major steps toward implementation of the proposed action include starting construction, substantial land acquisition, or moving people or businesses. If none of these actions occurs, the responsible FAA official must prepare a written re-evaluation to determine if the final EA or EIS remains accurate, adequate, and current. The responsible FAA official should focus on the affected environment, anticipated project impacts, and mitigation measures. If substantial change occurs involving these issues or other issues the responsible FAA official determines critical to the approving FAA official's decision, a supplement to the EA or EIS will be needed.

**(2) Substantial changes in the proposed action.** If substantial changes in an action occur, the responsible FAA official should determine if the changes are relevant to environmental concerns. That determination should focus on the affected environment and anticipated impacts due to the changes and how they would relate to the proposed action or proposed mitigation. The official must decide if the resultant environmental impacts present significant new circumstances or information relevant to those environmental concerns bearing on the proposed action or impacts. The official should use his or her professional judgment to determine if a written re-evaluation is needed.

**(3) Staged projects or projects requiring successive Federal approvals.** Some airport actions occur in stages or require successive Federal approvals. Here, the responsible FAA official must prepare a written re-evaluation if more than 3 years elapse between the date of a final EA or EIS and one of those stages. The re-evaluation should focus on the document's continued adequacy, accuracy, and validity. If needed, the responsible FAA official must prepare a

supplemental document for those parts of the final EA or EIS that no longer provide acceptable or accurate information.

**d. Format and circulation.** The responsible FAA official should develop a format to prepare a written re-evaluation. The re-evaluation should be reviewed internally. The responsible FAA official should place a copy of the re-evaluation in the project's administrative file. The responsible FAA official need not make the written re-evaluation available to the public. However, that document may be made available to the public at the discretion of the responsible FAA official.

#### **1402. SUPPLEMENTING A NEPA DOCUMENT.**

**a. General.** As discussed in paragraph 1401, the responsible FAA official must decide if an EA or EIS needs to be supplemented.

**b. Circumstances requiring a supplement.** Text at 40 CFR 1502.9(c) discusses the need for supplementing EISs. Based on that regulation, the following situations require FAA to supplement EAs and EISs.

(1) The airport sponsor or FAA makes substantial changes in the proposed action that could affect the action's environmental effects. or

(2) Significant new changes, circumstances or information relevant to the proposed action, its affected environment, or its environmental impacts becomes available.

**c. Content of a supplement.** The content of a supplement to a NEPA document varies with the degree of change that has occurred since the NEPA document was prepared. Typically, FAA will supplement only those document sections needing updating. To ensure a document remains current and accurate, the responsible FAA official may supplement a NEPA document in one of these ways:

(1) Prepare a separate document discussing the changed circumstances. When this occurs, identify the parts of the original document for which new data are presented. or

(2) Prepare new pages for the original document. Here, replace the specific pages of the original document or add new pages to it.

**d. Preparing a supplement.** The responsible FAA official preparing a supplement need not conduct scoping. But the official must ensure the supplement meets the same circulation and filing requirements used for the original environmental document.

(1) The approving FAA official who signed the original NEPA document (or his or her successor) should approve or disapprove the supplement, unless the supplement presents a new issue requiring higher-level approval.

(2) The approving FAA official must use the supplement in the decision making process.

(3) The approving FAA official must issue a new Finding of No Significant Impact (FONSI) or Record of Decision (ROD) when FAA supplements a final EA or EIS, respectively. The official may issue the ROD after the FEIS's required review period elapses (see paragraph 1303 of this Order). The new FONSI or ROD may incorporate the previous versions of those decision documents and should clearly discuss how it differs from the FAA's earlier decision document.

### **1403. TIERING.**

**a. General.** Text at 40 CFR 1508.28 defines tiering as covering a general program in a broader-focused EIS, then, preparing later EISs or EAs for specific, follow-on actions that are parts of that program. Tiered EISs or EAs move from a broad scope to narrow scope, or from "program analysis" to "project analysis." Incorporating information from the broader-focused EIS by reference into an EIS or EA addressing a specific action avoids repetitive discussions of similar issues common to various program elements at various locations. This allows the decision maker to focus on those actions that are ripe for decision (40 CFR 1500.4(i), 1502.4(d) and 1502.20). Tiered and programmatic EISs are prepared, circulated, and filed using the same procedures for DEISs and FEISs (see paragraphs 1101 and 1211 of this Order, respectively).

**b. An example of tiering.** An example of tiering would be selecting an airport site from various possible locations, then eventually building a new airport at one of those sites. Here, FAA would prepare a "first-tier EIS" to compare the different sites to disclose likely environmental impacts at the various sites to the decision maker and public. The impacts would be based on a generic airport designed to serve a certain number of passengers. A follow-on or "second-tier EIS" focuses on alternative layouts specific to the selected site and the likely environmental effects those layouts would have on that particular site and its surrounding area.

**1404. ADDRESSING EMERGENCY SITUATIONS.** A national emergency, disaster, or another event of great urgency may require ARP to take actions that normally require an EIS. In these situations, FAA must not delay those actions that are immediately necessary to secure lives and public safety, but FAA must complete the steps in paragraphs 1404.a – c. as soon as possible. When FAA officials receive information on an emergency involving an Airports Program EIS, the responsible FAA official must notify ARP's Airport Planning and Environmental Division (APP-

400). APP-400 will contact DOT's Office of the Assistant Secretary for Transportation Policy and CEQ.

**a. Alternative arrangements.** Text at 40 CFR 1506.11 permits CEQ to grant alternative arrangements for, but not eliminate, NEPA compliance. CEQ may reduce processing times, or if the emergency warrants, condense EIS preparation and processing. These "alternative arrangements" take the place of an Environmental Impact Statement and only apply to Federal actions with "significant environmental impacts." Lesser actions may be subject to FAA NEPA procedures.

**b. Developing alternative arrangements.** Factors to address when developing alternative arrangements include:

- (1) The nature and scope of the emergency.
- (2) Actions necessary to control the immediate impacts of the emergency.
- (3) Potential adverse effects of the proposed action.
- (4) Parts of the NEPA process that can be followed and provide value.
- (5) Duration of the emergency. and
- (6) Potential mitigation measures.

**c. CEQ notice.** Once the alternative arrangements are established, CEQ will provide DOT with written information describing those arrangements and the considerations used to develop them.

**1405. - 1499. RESERVED.**