



Rhey\_Solomon@ceq.e  
op.gov

09/24/02 05:47 AM

To: Davidchevalier@fs.fed.us  
cc:

Subject: Re: request for extension of public comment period/NEPA Task  
Force

Dave -- I'm sending comments that I get directly to you rather than the e-mail address for submission of comments. I don't want to clutter the e-mail address with duplicates if you already have these. I hope I don't get many of these, and will continue to send on to you personally unless I hear otherwise from you  
-- Rhey

----- Forwarded by Rhey Solomon/CEQ/EOP on 09/24/2002 07:49  
AM

(Embedded  
image moved lynne.pickard@faa.gov  
to file: 09/23/2002 07:12:32 PM  
pic32326.pcx)

Record Type: Record

To: Rhey Solomon/CEQ/EOP@EOP

cc: tom.holloway@faa.gov, kenneth.jones@faa.gov

Subject: Re: request for extension of public comment period/NEPA Task Force

P.S. Just to be clear. I meant to thank you for the extension until today, Sept. 23. We understand no further extension can be granted. Sorry for the ambiguity.

----- Forwarded by Lynne Pickard/AWA/FAA on 09/23/02 07:10 PM -----

Lynne Pickard

To:  
Rhey\_Solomon@ceq.eop.gov, ceq\_nepa@fs.fed.us  
09/23/02 07:07 PM  
cc:  
Horst\_Greczmiel@ceq.eop.gov, Matthew McMillen/AWA/FAA@FAA, Tom  
Holloway/AWA/FAA@FAA, Paul  
Dykeman/AWA/FAA@FAA, Carl Burlison/AWA/FAA@FAA, Kenneth  
Jones/AWA/FAA@FAA, (bcc: Lynne  
Pickard/AWA/FAA)  
Subject: Re: request for  
extension of public comment period/NEPA Task Force

Attached are FAA's responses to the NEPA Task Force's specific questions in the July 9 Federal Register notice. We appreciate the opportunity to participate in this review and thank you for the extension of time to provide comments. As we have verbally discussed with Horst and other CEQ

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staff, we have several broad issues and concerns in addition to the areas of specific questions. We will forward these to you this week in a letter from Carl Burleson, Director of the Office of Environment and Energy.

We will also forward copies of the best practices we have compiled, as well as two reports: the May 2001 report to Congress on the Environmental Review of Airport Improvement Projects (referenced in several of our detailed responses) and a March 2002 joint review by FAA and the National Association of State Aviation Officials on Federal and State Coordination of Environmental Reviews for Airport Improvement Projects. Both reports highlight problem areas and identify initiatives/practices for improvements. All documents are also available on FAA's web site.

Lynne Pickard  
Senior Advisor for Environmental Policy

(See attached file: NEPA TaskForce det.com..doc)

----- Forwarded by Lynne Pickard/AWA/FAA on 09/23/02 06:49 PM -----

Tom Holloway

Pickard/AWA/FAA@FAA

09/23/02 04:22 PM

To: Lynne

cc:

Subject: Re: request for

extension of public comment period/NEPA Task Force

Lynne,  
Here's the email address.  
Thanks.  
Tom

----- Forwarded by Tom Holloway/AWA/FAA on 09/23/02 04:16 PM -----

Rhey\_Solomon@ceq.  
eop.gov

Jones/AWA/FAA@FAA

To: Kenneth

cc:

Horst\_Greczmiel@ceq.eop.gov, ceq\_nepa@fs.fed.us, Matthew McMillen/AWA/FAA@FAA,  
09/23/02 09:34 AM Tom Holloway/AWA/FAA@FAA, Paul

Dykeman/AWA/FAA@FAA

Subject: Re: request for

extension of public comment period/NEPA Task Force

Ken -- I would like to say that we can extend the comment period, but the tight time-frame we are on will not allow us to do that. As you know, we already extended the comment period an additional 30 days and believe we cannot finish our work in a timely fashion if we extend the period any further.

However, understand that the date of Sept 23 is not a hard date--meaning that comments received after that date will not be discarded and ignored. This is not a rulemaking effort, so comments can be considered after the end of the comment period. Recognize that if you are late with your comments, we cannot guarantee that they will be addressed with the same consideration of other

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comments.

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Record Type: Record

To: Rhey Solomon/CEQ/EOP@EOP, Horst Greczmiel/CEQ/EOP@EOP,  
ceq\_nepa@fs.fed.us

cc: matthew.mcmillen@faa.gov

Subject: request for extension of public comment period/NEPA Task Force

Gentlemen:

The Federal Aviation Administration requests a 30-day extension in the period for public comment on the proposed nature and scope of the NEPA Task Force activities-- as identified in Federal Register notice 67 FR 45510; July 9, 2002 (as amended by 67 FR 53931; August 20, 2002). The FAA wishes to provide comments but requires the additional time to complete the formulation and review of our comments. If you have any questions regarding this request, please contact Tom Holloway at 202-267-8114. Please include the following email addresses in the distribution of your response:

tom.holloway@faa.gov and paul.dykeman@faa.gov

Thank you;

Kenneth Jones  
FAA/Office of Environment & Energy  
202-267-3568

(See attached file: pic25776.pcx)



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FAA Responses to the Specific Questions  
in the Federal Register Notice

A. Technology, Information Management, and Information Security:

1. *Where do you find data and background studies to either prepare NEPA analyses or to provide input or to review and prepare comments on NEPA analyses?*

Our NEPA practitioners use a variety of general and site-specific data sources, including other planning and environmental documents that contain statistical data pertinent to the area of concern. There are aviation-specific databases. We also use the internet. Some people maintain a list of book-marked internet sites that they can refer to often for information. Examples include: Web sites specific to an environmental project; environmental group web sites; federal, state, and local government agency web sites; and community databases. Also, data are available in computer databases (e.g., EPA's STORET water quality database, GIS, Census data) and listings or other information specific to a particular resource (e.g., coastal barrier system maps, floodplain maps, endangered/threatened species lists, National Register of Historic Places, etc.). The FAA Eastern Region, in collaboration with other Federal agencies, has taken the initiative to establish a database of environmental information for airports in that Region.

2. *What are the barriers or challenges faced in using information technologies in the NEPA process? What factors should be considered in assessing and validating the quality of the information?*

Specific software is often needed to access particular database information, including geographic, demographic, and land use data. However, periodically the software and data may not be compatible with other database applications without technical training or support. Also, the data are not always up-to-date. Since NEPA is an interdisciplinary process, it would be beneficial to have data sources compatible with each other. Other barriers include: NEPA information may not be in the language(s) of the affected population(s); websites may not be in formats accessible to people with disabilities; users may not have access to a computer and/or web sites, or may lack the knowledge to use those technologies; websites may be secured with limited web site access; and court-mandated web site closures can prevent users from accessing information (e.g., the recent court decision to temporarily shut down DOI's website).

Factors that should be considered in assessing and validating the quality of the data include: the source of the information and how often it is updated and validated; whether the data are based on research; and whether the information represents the agency's official position.

In addition to these technical challenges, it is often difficult to manage public expectations of the NEPA process. One challenge is the increasing demand for more information and analyses because we have the technical ability to produce it. This gets

into issues of where to draw analytical boundaries to avoid extensive multiple analyses over wide geographic areas. More information and analyses add to the size of environmental documents without necessarily adding commensurate value in terms of identifying significant effects.

Another challenge is the degree to which we should provide quantitative data and how that data should be quantified and described when the relationship between the data and potential effects on the human environment is not clear. Examples include toxic components of fuel combustion and low frequency aircraft noise. Further guidance on applying 40 CFR 1502.22, Incomplete or unavailable information, could be helpful in this regard.

*3. Do you maintain databases and other sources of environmental information for environmental analyses? Are these information sources standing or project specific?*

The FAA provides both analytical tools and databases to interested parties. General NEPA information is provided and maintained on the FAA Environmental Network web site. Noise and air quality models are provided on the Office of Environment & Energy's web site. Databases on historical air traffic counts, and forecasts of aviation activity are maintained on the web site maintained by the Office of Policy & Plans. Other sources of environmental information are usually specific to a given project or an airport. The type of data generally include geographic, demographic, and land use types of information. Also, as noted in Question 1 above, the FAA Eastern Region, in collaboration with other Federal agencies, has taken the initiative to establish a database of environmental information for airports in that Region.

*4. What information management and retrieval tools do you use to access, query, and manipulate data when preparing analyses or reviewing analyses? What are the key functions and characteristics of these systems?*

The FAA does not have a centralized system for information management or retrieval tools tailored specifically to NEPA work. Our NEPA practitioners frequently use the internet to look for base maps to download. However, it is sometimes difficult to find good base maps that can be easily manipulated. For example, the U. S. Geological Survey (USGS) maps should be easier to access and manipulate electronically. It would be helpful if federal employees could type in a street address and get the latitude and longitudes of certain locations free of charge. This is something that is needed on a regular basis to address noise complaints. Also, the FAA uses the search capabilities on various web sites that agencies, universities, libraries, and other entities maintain.

There appears to be a lot of information out there, but it is scattered and not always compatible. It would be beneficial to have a web site that provides agency links that contain and organize resource information for all of the environmental impact categories (soils, wetlands, National Parks, Historic Districts, scenic rivers, etc.) into an easily accessible electronic database.

5. *What are your preferred methods of conveying or receiving information about proposed actions and NEPA analyses and for receiving NEPA documents (e.g., paper, CD-ROM, web-site, public meeting, radio, television)?*

The preferred methods of conveying or receiving information involve extensive use of web sites (secured and unsecured), CD-ROMs, public workshops, public meetings and newspaper notices. FAA uses external E-mail systems and web sites to obtain comments or information from interested parties regarding proposed projects. The FAA intra-net sites allow communication with regional and district offices to convey deliberative, preliminary environmental analyses that are not yet ready for public disclosure. Electronic methods offer easy access to information and reduce paper clutter at workstations. Web sites are preferred because they frequently contain the most up-to-date information and tend to be updated on a regular basis. Electronic methods simplify collection, storage, and re-use of the data. However, paper is still the standard method of documentation and is likely to remain so as long as the public, libraries and other repositories, EPA, and federal courts request paper copies of NEPA documents.

It is essential to be able to convey and receive NEPA analyses and documents via secured web sites. During document preparation and review, we've been increasing our use of secured web sites. These sites allow access only to agency or contractor personnel responsible for preparing and reviewing EISs. EIS preparation is a dynamic process. Secured web sites allow EIS preparers to communicate quickly, readily keep abreast of recent changes to a document, and make further revisions. This is a very effective way to prepare, review, and revise documents.

6. *What information management technologies have been particularly effective in communicating with stakeholders about environmental issues and incorporating environmental values into agency planning and decisionmaking (e.g., web sites to gather public input or inform the public about a proposed action or technological tools to manage public comments)? What objections or concerns have been raised concerning the use of tools (e.g., concerns about broad public access)?*

Web sites and E-mail have proven to be effective communication tools. Web sites that cater to the public and contain not only environmental documents, but also items such as meeting minutes and project status reports, and that allow for an ongoing public/agency dialog, are even more effective. Such tools are supplemented by radio and newspaper communications to reach the maximum number of people. With all of these tools available and used, there still appears to be no good substitute for a certain amount of face-to-face meeting and discussion.

Typically, the FAA is prepared to accept both paper and electronic comments. Electronic comments can be E-mailed (to the address identified in the NOI or NOA). Comments submitted electronically are preferred because they can be easily incorporated into the Comment/Response sections of Final NEPA documents.

Copies of FAA's NEPA documents are always available via paper copy (and sent to those persons, agencies, and organizations on the distribution list). In some instances, the documents are available electronically on websites or via CD-ROM. As more people become web-active or have access to computers, the FAA anticipates relying more heavily on the digital document-method of distribution. However, at present, the FAA does not have a centralized system for public access to, or public interaction with, FAA's NEPA documentation. The FAA has yet to develop digital document standards and ensure that all NEPA documents and public access to FAA NEPA actions are section 508 compliant (of the Rehabilitation Act of 1973, as amended). Section 508 compliance issues will delay and complicate FAA efforts to make new and historic NEPA documents, NEPA analytical techniques, and FAA databases available via web sites, and complicate the development of computerized public inquiry and commenting processes.

An obvious practical problem is whether non-paper NEPA documentation will reach the intended public audience. The problem may be exacerbated if the public affected by the proposed project includes populations to which environmental justice considerations apply and Native Americans. We would not want inadvertently to miss our intended audience of reviewers or to have a flawed process where we would have to re-open review periods with paper documents.

7. *What factors should be considered in balancing public involvement and information security?*

The public at large should have equal access to information unless it is confidential, proprietary, privileged, predecisional, deliberative, or must be restricted due to reasons of national security. The FAA believes that 40 CFR parts 1500-1508 provides satisfactory opportunity for public involvement.

**B. Federal and Inter-governmental Collaboration:**

1. *What are the characteristics of an effective joint-lead or cooperating agency relationship/process?*

Two of the characteristics of effective joint-lead and cooperating agency relationships/processes are early involvement in the process and clear communication throughout the process. Early formal and informal input from cooperating agencies can help the lead agency assure that an EIS addresses each agency's respective concerns and needs for analyses. Early identification of key issues to resolve facilitates timely EIS review.

Our DOT/FAA report to Congress in May 2001 on the Environmental Review of Airport Improvement Projects listed the following factors that facilitate good interagency coordination:

- Establishment of good interagency relationships and cooperative staff-level interfaces
- Assignments of priority and staff to critical EISs

- Effective engagement of agencies early and continuously in an EIS
- Extensive informal coordination to supplement formal coordination processes
- Interagency environmental workshops
- Resource agency awareness and acceptance of aviation factors driving project
- FAA inclusion in an EIS of analyses needed by other agencies, including analyses for permits
- Agreement during EIS scoping on alternatives and analyses
- Rapid and meaningful response by FAA to other agencies' concerns
- Interagency commitment to an EIS's preparation and schedule

Mechanisms that integrate federal processes can be helpful. For example, the FAA and Department of Defense have entered into a memorandum of understanding for preparation of environmental documents to support the FAA's designation of special use airspace. Another example: the U.S. Army Corps of Engineers, National Marine Fisheries Service, FHWA, US EPA, and the US Fish and Wildlife Service have developed an agreement and established joint guidance for applying the Section 404 Clean Water Act permit process to Federal-Aid Highway projects. FAA uses both formal and informal interagency agreements to foster cooperative NEPA reviews.

Commitment by the lead agency to coordinate timetables and meetings that take into account other agencies' resources, priorities, and prior commitments is also vital. Maintaining updated timeframes for the NEPA review process that have been developed in cooperation with other agencies before they are announced to the applicant and public, helps the review process to move more efficiently and enables agencies to work more productively and cooperatively.

Another characteristic of an effective relationship/process is mutual understanding of and respect for the differing missions of the various agencies and a commitment to ensure that the NEPA documentation meets overall Federal needs and requirements.

*2. What barriers or challenges preclude or hinder the ability to enter into effective collaborative agreements that establish joint-lead or cooperating agency status?*

Conflicts among federal agency goals/missions are probably the major barriers to effective collaborative agreements. Another critical barrier is often a lack of adequate funds/resources to participate in the EIS review process according to the schedule desired by the applicant or the lead federal agency.

Our May 2001 report to Congress also identified common causes of poor interagency coordination and cooperation:

- Competing priorities, limited personnel and resources for timely participation
- Lack of understanding of aviation factors and extent of FAA and airport proprietor controls, resulting in disagreements on aviation need and requests for additional alternatives and infeasible mitigation in an EIS
- Disagreement on standards and methods of impact analyses
- Disagreement on the adequacy of proposed environmental mitigation

- Continuous requests for new information and analyses as an EIS progresses
- Changes in personnel during an EIS
- Lack of participation in scoping at the beginning of an EIS
- Identification of major problems and disputes late in the EIS process
- Regional interpretation of requirements that differ from the national level
- Delay in commenting within prescribed EIS commenting timeframes
- View of mission as adversarial to airport expansion

Public perception can also play a role. An agency can be very sensitive about the public's perception of its role as a cooperating agency. The concern tends to be that the public will perceive that the relationship tarnishes the agency's ability to objectively review the project's environmental effects and to protect environmental interests within its purview.

3. *What specific areas should be emphasized during training to facilitate joint-lead and cooperating agency status?*

Systems thinking should be emphasized, as well as knowledge of the roles and responsibilities of federal and non-federal agencies based on jurisdiction by law and special expertise. Best practices, such as establishing and clarifying the responsibilities of each agency early in the process, should also be emphasized.

Training should also emphasize the respective roles of lead and cooperating agencies. The lead agency is ultimately responsible for EIS content and approval. CEQ guidance on the extent to which disputed information and analyses between lead and cooperating agencies should be addressed in an EIS, and how that should be done, could be helpful.

Additional guidance from CEQ would be useful to FAA and DoD in order to clarify the extent to which Federal agencies that adopt a final EIS under 40 CFR 1506.3 are responsible for ensuring the EIS is adequate to support the decisions being made by the lead agency. Where the FAA is adopting a Final EIS prepared by the Department of Defense, it is not clear whether FAA may limit its review to whether the EIS is adequate under NEPA and other applicable environmental laws to support the proposed FAA action to designate special use airspace for military training activities, or whether FAA should also consider the adequacy of the EIS to support the ground-based facilities being approved by DoD.

C. Programmatic Analysis and Tiering:

CEQ informal guidance and reports concerning best practices to streamline the environmental review process, illustrating how these concepts may be applied effectively by agencies other than land use management agencies, would be useful.

D. Adaptive Management/Monitoring and Evaluation Plans:

1. *What factors are considered when deciding to use an adaptive management approach?*

The FAA considers: the monetary costs to develop and maintain a management/monitoring system, the additional workload this approach would place on agency personnel, the methods and procedures that should be used to accurately assess a mitigation measure's success or failure, and the availability of standardized ways to report mitigation performance so the information is accessible and useable.

2. *How can environmental impact analyses be structured to consider adaptive management?*

We assume that an EIS analysis would discuss the uncertainty of either a projected impact or of the efficacy of a proposed mitigation measure. The EIS should assure that the analysis of the impact or the proposed mitigation is based on the best available information and interdisciplinary professional judgment. It should provide federal agency (and, as applicable, applicant) commitments relative to monitoring and mitigation. Measures different from those in the environmental document may be needed when mitigation plans are based on limited data or information and do not meet expected success levels.

3. *What aspects of adaptive management may or may not require subsequent NEPA analyses?*

An EIS and Record of Decision should be able to cover a possible range of monitoring and mitigation outcomes so that they would not need to be revisited, should alternative methods be needed. If the best laid plans fail and unanticipated significant impacts result, subsequent NEPA analyses may be required if the federal agency has continuing NEPA responsibilities with respect to the project, or if another federal agency has permitting responsibility.

E. Categorical exclusions:

1. *What information, data studies, etc., should be required as the basis for establishing a categorical exclusion?*

It would be helpful to know whether federal agencies should continue to include in their guidance categorical exclusions for actions that are ministerial and non-discretionary in nature. This class of categorical exclusion would not appear to require any supporting information, data studies, etc. other than that explaining the nature of the action. See, 40 CFR 1508.18(a).

Generally, the volume of information, data studies, etc., needed to develop and substantiate a categorical exclusion (CATEX) will vary with the nature of the action. Some types of actions may require little justification since the CATEXed action is very clearly benign in nature or essentially the same as another action for which a categorical exclusion is well-established; others will require extensive supporting analysis, such as evaluation of the history of NEPA analyses (environmental assessments/FONSI's) and why the action does not result in significant impacts. Quantitative data on levels of impact is needed to support some CATEXs.

*2. What points of comparison could an agency use when reviewing another agency's use of a similar categorical exclusion in order to establish a new categorical exclusion?*

Using an existing CATEX of another agency as a basis for developing a new CATEX can be very helpful to an agency. This is especially true when the mission of an agency expands into an area that includes types of actions where another agency has prior experience. The key issue is knowledge and experience. Once the government has established a knowledge and experience base for a category of actions, that information should be accessible to any other interested parties, including other government agencies. However, when establishing a new CATEX based on another agency's CATEX, the agencies should carefully compare the terminology in the original and proposed CATEX's to ensure that definitions are consistent between the agencies; otherwise, adopting another agency's terminology may alter the applicability and scope of a CATEX when included in another agency's procedures. Agencies should also examine the administrative record for the CATEX to make sure that the action and the context in which it will be occurring are substantially the same, such that in the new circumstances it will normally not have the potential for a significant impact (see, 40 CFR 1506.3(b), no need to recirculate EIS prior to adoption if actions covered are substantially the same). In reviewing CATEXs issued by others, Federal agencies should also make sure that the CATEX has been upheld where challenged in court.

*3. Are improvements needed in the process that agencies use to establish a new categorical exclusion?*

The process is reasonably well established under 40 CFR parts 1500-1508, as well in supplemental procedures established by the agencies. CEQ guidance in the form of broad principles that can be generally applied could be useful, although agencies should have reasonable flexibility on the specific level and nature of any quantitative technical analysis and the content of the administrative record supporting a CATEX.

One suggested improvement is for CEQ to revisit the presumption that an agency action must specifically be included in its list of CATEXs in approved agency guidance in order to be eligible for a CATEX. It is not unusual for FAA to be presented with a new action that is similar to (and even more benign than) items on FAA's CATEX list, but the item is not precisely listed. An EA is onerous for such actions, and so are frequent revisions to FAA's NEPA guidance to update the CATEX list.