



**U.S. Department of Transportation
Office of the Secretary
Record of Coordination and Approval**

Subject Report: "FAA Airspace Redesign: An Analysis of the New York/ New Jersey/ Philadelphia Project," GAO-08-786

Purpose: Attached for review and comment is a copy of the proposed departmental response to the subject GAO report.

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RELEASED FOR COORDINATION

Released By: <i>Martin Gertel</i>	Release Date: 10/15/08	Comments Due: 10/22/08			
Departmental Officers	Signature	Date	Concur	Concur w/ Comments	Non-Concur
Director of Public Affairs					
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Under Secretary for Policy					
FAA Administrator		10/20	✓		
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COMMENTS

**U.S. DEPARTMENT OF TRANSPORTATION
STATEMENT ON GOVERNMENT ACCOUNTABILITY OFFICE (GAO) REPORT**

“FAA Airspace Redesign: An Analysis of the New York/ New Jersey/ Philadelphia Project,” GAO-08-786, July 2008

U.S. DEPARTMENT OF TRANSPORTATION POSITION

The Airspace Redesign Project is a key element of the Federal Aviation Administration’s (FAA) efforts to improve the efficiency and reliability of air traffic operations in the New York area and across the country. It is also a major building block for many of FAA’s mid-term NextGen initiatives over the next ten years. In light of the importance of this project, the Department is pleased with the GAO report’s findings with regard to the FAA’s compliance with the National Environmental Policy Act (NEPA) and environmental justice directives in conducting the New York/ New Jersey/ Philadelphia Airspace Redesign Project. In particular, we are glad to note the GAO report’s detailed review and finding that FAA’s efforts complied with NEPA in five key respects: the statement of the project’s purpose and need, the evaluation of alternatives, consideration of the project’s environmental effects, public participation, and environmental justice matters. FAA recognizes that full public disclosure and participation are critical elements of an effective Federal environmental decision making process.

Throughout most of GAO’s review of this project, the FAA’s ability to respond in detail regarding certain issues has been limited because of pending litigation.¹ Nonetheless, the FAA is responding here to all of the GAO’s recommendations while being mindful of the ongoing litigation.

RECOMMENDATIONS AND RESPONSES

Recommendation: Develop and follow a detailed implementation plan for the New York/ New Jersey/ Philadelphia Airspace Redesign that includes a time and cost schedule, risk mitigation plan, transition planning, and monitoring and evaluation plan.

Response: Concur. FAA recognizes that sound and effective planning is critical to achieving the objectives of the airspace redesign project. FAA is closely adhering to the guidance contained in the *“Airspace Management Handbook,”* Version 2.2, December 2005, in planning and carrying out this project. The handbook requires all of the factors cited in the recommendation, except a cost schedule. Consistent with regulations and

¹ GAO initiated its review in June 2007. The Record of Decision (ROD) was signed on September 5, 2007. The first lawsuit challenging the ROD was filed on September 13, 2007. There are now twelve lawsuits challenging the FAA’s Airspace Redesign project. All are before the U. S. Court of Appeals for the District of Columbia Circuit and have been consolidated by the Court. The Petitioners’ joint opening brief, alleging violations of the National Environmental Policy Act (NEPA), Section 4(f) of the U.S. Department of Transportation Act and the Clean Air Act (CAA) was filed with the Court on August 29, 2008. FAA’s response is due December 12, 2008. The Court has yet to schedule oral argument and based on the current briefing schedule, the earliest argument can be expected is May 2009.

guidance implementing NEPA limiting the actions Federal agencies may take during an EIS, FAA prepared its EIS using preliminary design work and included a basic implementation plan outlining four stages of implementation in its ROD. Once the ROD was issued, FAA began developing a detailed implementation plan and has briefed Congress on the major milestones. To date, there are over 14,000 individual elements in the implementation plan including transition planning elements and FAA continues to refine and update the plan as necessary.

The FAA is committed to following this detailed implementation plan. Management will be apprised of progress through a number of mechanisms including formal monthly management briefings and weekly project team meetings. In addition, FAA will make information on the plan, and FAA's progress transparent to the public and Congress. The FAA has committed to offer congressional briefings during each stage of implementation and to continue to inform the public and aviation community about the status of project implementation. We will also make available on the project website, a schedule showing progress as the various stages of implementation are completed. We anticipate the first stage of implementation will be complete by the third quarter of fiscal year 2009 and intend to post information on stage 1 no later than June 2009. The project website can be accessed by going to <http://www.faa.gov> (link to NY/NJ/PA Airspace Redesign).

Recommendation: Follow a post implementation plan for the New York/ New Jersey/ Philadelphia Airspace Redesign that includes an adaptive management strategy for monitoring implementation of the redesign and communicating the results to key stakeholders.

Response: Concur in part. FAA generally agrees that a post-implementation plan with an adaptive management strategy for monitoring implementation and communicating results to stakeholders can be helpful. FAA constantly monitors airspace procedures to ensure safety and consistency with development plans and verifies that the procedures result in aircraft flying over the intended flight tracks at the intended altitudes. The FAA also committed, as part of its ROD, to use adaptive management techniques to monitor implementation of this project as it relates to DOT Section 4(f) resources for which quiet and serenity are recognized attributes and purposes. In addition, after the project has been fully implemented, the project website will periodically report the results of monitoring and the use of adaptive management for the DOT Section 4(f) resources.

Recommendation: In developing and implementing future airspace redesigns, conduct a benefit-cost analysis for the purpose of assessing the economic effect for airspace redesigns, including the status quo which would include an assessment of the key impacts associated with redesigning the airspace, including implementation costs, and as appropriate, the economic effect associated with noise.

Response: Concur in part. We generally agree that a benefit-cost analysis is a useful tool for some projects that relate to the National Airspace system. In general, OMB Executive order 12866 requires all Federal agencies to conduct benefit-cost analysis in

issuing regulations. In deciding whether to fund projects to preserve and enhance airport capacity, 49 USC § 47115(d) requires FAA to consider, among other things, the benefit and the cost of the project. In response to guidance from Congress citing the need for economic airport investment criteria and Executive Order 12893, Principles for Federal Infrastructure Investments, January 26, 1994, the FAA issued guidance on how to conduct benefit-cost analyses in selecting airport projects for discretionary grants.² FAA similarly conducts benefit-cost analyses in deciding whether to establish new air traffic control towers and navigational aids.

Beyond the circumstances described above, the FAA does not agree that a benefit-cost analysis should be required for airspace redesign projects. Many airspace redesign projects have no capital outlay and instead fulfill the FAA's statutory duty to control the use of the navigable airspace, and to regulate civil and military airspace operations in the National Airspace (NAS) "in the interest of safety and efficiency."³ In such cases, there are important qualitative considerations that make a monetary benefit-cost analysis inappropriate.⁴

Turning to the economic effects of noise, the FAA is developing analytical tools that would permit it to review aviation noise and emissions impacts on a comparative benefit-cost basis to assist in making judgments regarding tradeoffs between impacts. FAA does not propose to use this new capability, when developed, to consider noise impacts in purely economic terms. For these reasons, it would not be prudent or appropriate to require benefit-cost analyses to assess the economic effects of future airspace redesign projects.

Recommendation: In developing and implementing future airspace redesigns, conduct an uncertainty analysis of key assumptions and inputs - particularly on elements within aviation demand forecasts. The analysis should be used to assess the extent to which the estimated impacts for the airspace redesign alternatives would change using different values for key assumptions and inputs, and to provide information on the level of confidence in the project's estimated impacts and the relative ranking of the alternatives.

Response: Concur in part. The FAA believes that the decision on whether to conduct an uncertainty analysis should be made on a project-by-project basis, giving due consideration to whether such an analysis would provide additional meaningful information to the public and the decision-maker and the time and cost involved. In FAA's judgment there are well established procedures for considering uncertainty in key assumptions and inputs.⁵ It sets forth procedures to follow when evaluating reasonably foreseeable significant adverse impacts where there is incomplete or unavailable information bearing upon the choice between alternatives. Where the relative ranking of alternatives would not likely change as a result of an uncertainty analysis, as in this

² FAA Airport Benefit-Cost Analysis Guidance (1999), available at <http://www2.faa.gov/arp/pdf/faabca.pdf>.

³ 49 U.S.C. § 40101(d)(4).

⁴ See 40 CFR §1502.23.

⁵ See 40 CFR §1502.22 (procedures for evaluating incomplete or unavailable information).

project,⁶ such an analysis is not an appropriate use of resources. Varying the aviation demand forecast is likely to have little bearing on the selection of alternatives for large scale airspace design projects that are designed to address existing congestion and not reasonably expected to spur growth. Higher or lower forecasts can be expected to affect the timing of delay benefits but not the relative ranking of the alternatives in the long term.

The FAA has confidence in the aviation demand forecasts used to prepare its NEPA documents because FAA annually produces forecasts of aviation activity at both a nationwide and airport specific level⁷ and reviews their accuracy based on actual activity.⁸ The FAA is recognized to have considerable expertise in forecasting aviation activity. To ensure professional and scientific integrity in its NEPA documents, the FAA uses aviation demand forecasts that are reasonably consistent with the Terminal Area Forecasts (TAF). The TAF takes into account assumptions from a variety of sources. At the same time, the public must understand that any forecast is just that, and while a forecast represents an exercise of the FAA's expertise and best judgment, there can be no guarantees regarding the future.

⁶ See New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign Final EIS, Appendix B-2 (A Comparative Analysis of the NY/NJ/PHL Forecast and 2005 Actual Traffic).

⁷ FAA's airport specific forecasts are contained in the Terminal Area Forecasts, commonly referred to as the TAF.

⁸ The most recent annual review of the national forecasts indicated that average error for a five year period was 1.7 percent for passenger activity and 2.7 percent for aircraft activity.