

Airport Certification Program – 14 CFR 139 PROGRAM POLICY AND GUIDANCE POLICY 92

Ref: 139.337 Wildlife Hazard
Management

DATE 5/17/2006

SUBJECT: Applicability of National Environmental Policy Act to Federal Aviation Administration Mandated Wildlife Hazard Management Plans.

PURPOSE:

This policy establishes the procedures that ACSI should follow when approving FAA mandated Wildlife Hazard Management Plans.

BACKGROUND:

When the FAA requires the holder of an Airport Operating Certificate to prepare a Wildlife Hazard Management Plan (WHMP), the plan must be submitted to the FAA for approval prior to implementation [§139.337(e)].

Questions have been raised concerning the applicability of the National Environmental Policy Act (NEPA) to FAA approval of a FAA mandated WHMP, and the certificate holder's implementation of those plans. Section 209 of FAA Order 5050.4B, *National Environmental Policy Act, Implementing Instructions For Airport Actions*, (April 28, 2006) addresses the applicability of NEPA to a FAA mandated WHMP:

209. NEPA REQUIREMENTS AND WILDLIFE HAZARD

MANAGEMENT PLANS. Title 49 USC 44706 discusses FAA issuance of airport operating certificates to ensure safety in air transportation.

- a. Wildlife hazard management plans (WHMPs).** To implement section 44706, 14 CFR Part 139 prescribes rules governing the certification and operation of airports. Section 139.337 discusses the need to manage wildlife hazards on or near airports when aircraft collide with wildlife or birds or the size of wildlife or bird populations could cause collisions. When the FAA Administrator determines that an airport sponsor operating a certificated airport must prepare a WHMP to address these wildlife hazards. The sponsor must submit the WHMP to the Administrator for approval prior to implementation.
- b. NEPA requirements.** A grant to fund the preparation of a WHMP or the approval of that plan normally qualifies for a categorical exclusion under Order 1050.1E paragraph 308e. However, airport layout plan approvals and/or approvals of grants for Federal funding to carry out measures in an FAA approved WHMPs include items that may be:

1. Categorically excluded; or
2. Require preparation of an environmental assessment or an environmental impact statement.

PROCEDURES:

SAFETY INSPECTORS. The ACSI should review all FAA mandated WHMPs for compliance with §139.337(f). If a WHMP meets all requirements of §139.337(f), the plan should be approved and returned to the Certificate Holder for implementation. The FAA's approval of the WHMP is categorically excluded under FAA Order 1050.1E, §308e. No further NEPA review is required for this approval.

CERTIFICATE HOLDERS. The Certificate Holder's implementation of actions in an approved WHMP may require FAA approval of an Airport Layout Plan (ALP) change or Federal funding. Those actions may involve the FAA and/or other Federal agencies having jurisdiction over affected environmental resources. It is the Certificate Holder's responsibility to contact the appropriate FAA Airports Regional or Airports District office to find out the appropriate NEPA process associated with implementation of actions in the approved WHMP. If the actions are under FAA's authority, the regional or district office's Environmental Specialist will determine if FAA may categorically exclude the actions or require preparation of an Environmental Assessment or an Environmental Impact Statement. If the actions are not under FAA's purview, the Environmental Specialist will assist the Certificate Holder in contacting the appropriate Federal resource agency.

CERTIFICATION STATUS.

Certificate Holders should note that FAA's approval of a WHMP satisfies their requirements under Part 139. That compliance remains in effect until the Certificate Holder takes action to implement provisions in the plan and the FAA completes its NEPA process or the appropriate Federal resource agencies complete their actions. The Certificate Holder must then carry out the approved measures to remain in compliance with Part 139 certification requirements.

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