

## CHAPTER 8. FINDING OF NO SIGNIFICANT IMPACT (FONSI)

**800. FAA'S ENVIRONMENTAL FINDING.** The responsible FAA official uses an FAA-approved environmental assessment (EA) to determine the severity of a proposed action's potential impacts and to aid in complying with NEPA when an EIS is not needed. The approving FAA official's issuance of a Finding of No Significant Impact (FONSI) or a FONSI/ROD, as discussed in paragraph 805 completes FAA's NEPA review process for a proposed action.

**a. Impact factors.** To determine the level of environmental consequences that a proposed action or its reasonable alternatives, if any, would cause, the responsible FAA official uses information in an FAA-approved EA. The official focuses on the EA's discussions on environmental consequence severity, context, and significance and how mitigation would reduce those factors. The responsible FAA official would recommend that the approving FAA official issue a FONSI when the EA indicates that the selected alternative would not cause any significant environmental consequences.

**b. Reconsidering impact significance.** Table 7-1 of this Order provides the thresholds and factors to consider when determining impact severity and context. If mitigation would not reduce impacts below applicable significance threshold(s), significant impacts may occur. However, before recommending that FAA prepare an EIS, the responsible FAA official should decide if further impact evaluation or consultation with agencies having jurisdiction by law or expertise for the affected resources would be helpful. This effort:

(1) May help reduce expected impacts below significance thresholds.

(2) May further show that impact context and severity do not indicate significant environmental effects would occur.

(3) Would be a final effort the airport sponsor, the responsible FAA official, and agencies make to decide if any design changes or mitigation not previously considered or discussed would lessen impact severity and intensity.

**c. Completing the analysis of impact significance.** If further evaluation as discussed in paragraph 800.b indicates the impacts of the proposed action are below the applicable significance threshold(s), the approving FAA official may issue a FONSI. However, the official must base that FONSI on a revised EA, if necessary. FAA would need a revised EA in this instance, if the results of the process discussed in paragraph 800.b yields information or mitigation the EA did not contain. If the sponsor, FAA, or the agencies do not develop design changes or mitigation to reduce the impacts below applicable thresholds, the responsible FAA official would recommend that FAA prepare an EIS.

**801. IF FAA'S PREFERRED ALTERNATIVE DIFFERS FROM THE SPONSOR'S PROPOSED ACTION.**

**a. General.** After reviewing a proposed FONSI and its EA, the approving FAA official may select an alternative that differs from the sponsor's proposed action, provided FAA's preferred alternative meets the action's purpose and need.

**b. Notify the airport sponsor.** The approving FAA official should notify the airport sponsor as soon as the approving FAA official identifies a preferred alternative differing from the sponsor's proposed action. Here, the airport sponsor and the responsible FAA official should try to reach consensus on the alternative FAA will select as its preferred alternative. Because the airport sponsor (not FAA) decides whether to carry out the preferred alternative for airport development, the sponsor may make one of the following choices:

- (1) Concur in and implement FAA's preferred alternative.
- (2) Reject FAA's preferred alternative.
- (3) Propose an alternative not previously presented.
- (4) Take no action to address the purpose and need.

**c. Further environmental processing.** If the approving FAA official plans to select a preferred alternative differing from the sponsor's proposed action, the responsible FAA official must further review the EA. This ensures the EA underlying the FONSI adequately addresses the applicable consultation and analytical requirements for resources FAA's preferred alternative would affect, if the EA does not already do so. Conversely, the approving FAA official may determine the preferred alternative has the potential to significantly affect a resource. In that case, the approving FAA official must notify the airport sponsor of that determination. If the sponsor is willing to proceed with the proposed project, the responsible FAA official will issue a Notice of Intent to prepare an EIS and continue the EIS process.

**802. FONSI CONTENT.** When the approving FAA official agrees with the responsible FAA official's recommendation to issue a FONSI, the approving FAA official will issue that finding.

**a. General.** To reduce a FONSI's bulk and to avoid repeating information the underlying EA contains, the responsible FAA official should prepare a FONSI containing the information noted in paragraphs 802.b – g. Here, the official must also attach the EA supporting the FONSI. The FONSI's text should provide enough detail to explain why the preferred alternative would not cause significant impacts and cite the specific pages in the attached EA

that supports statements the FONSI contains. If the responsible FAA official does not attach the EA to the FONSI, the FONSI must provide sufficient information to summarize expected impacts and to thoroughly support the Finding.

**b. Heading.** The heading of a FONSI with an attached EA should read:

**"DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
FINDING OF NO SIGNIFICANT IMPACT"**

**c. Identify the airport.** Provide the name and location of the airport where the action would occur.

**d. The Proposed Action and its reasonable alternatives.** Briefly describe the Purpose and Need, the Proposed Action, and the reasonable alternatives considered (if any) including the No Action Alternative.

**e. Assessment.** Because the EA prepared for the FONSI is attached, refer the reader to the EA's Environmental Consequences section. The FONSI should do the following:

(1) Summarize why the action would not significantly affect environmental resources.

(2) Refer the reader to particular pages in the attached EA providing the reasons for those findings.

(3) Highlight pages in the attachments to the EA that contain statements from State and local governments addressing the project's consistency or inconsistency with community planning. and

(4) Highlight pages in the attachments to the EA that contain Tribal statements, if an action would affect Tribal places of religious and cultural significance or Tribal interests.

**f. Mitigation measures.** The FONSI must list conceptual mitigation measures that are part of the preferred alternative. To reduce bulk, the FONSI should refer the reader to the pages of the EA that explain why that alternative would not cause significant environmental impacts. If the preferred alternative was modified or mitigation was added to the alternative after the sponsor sent the EA to FAA for review, the FONSI should discuss the changes or the added mitigation that would eliminate significant impacts. The approving FAA official must ensure that if the sponsor undertakes the project, the sponsor will complete the mitigation measures the FONSI contains. See paragraph 808 of this order for more on completing these measures.

**g. The approving FAA official's statement of environmental finding.** The FONSI must include the following statement. The approving FAA official must sign the appropriate line.

"I have carefully and thoroughly considered the facts contained in the attached EA. Based on that information, I find the proposed Federal action is consistent with existing national environmental policies and objectives of Section 101(a) of the National Environmental Policy Act of 1969 (NEPA) and other applicable environmental requirements. I also find the proposed Federal action [If FAA issues a mitigated FONSI,<sup>1</sup> include this statement: "with the required mitigation referenced above"] will not significantly affect the quality of the human environment or include any condition requiring any consultation pursuant to section 102(2)(C) of NEPA. As a result, FAA will not prepare an EIS for this action.

APPROVED: \_\_\_\_\_

Date: \_\_\_\_\_

DISAPPROVED: \_\_\_\_\_

Date: \_\_\_\_\_"

**803. COORDINATING A PROPOSED FONSI WITHIN FAA.** Other FAA organizations responsible for approving actions needed for the proposed airport development or airport action must review a proposed FONSI.

**a. Regional legal sufficiency review.**

**(1) Required review.** The responsible FAA official must request Regional Counsel review of FONSI (and their EAs) addressing airport actions:

(a) Opposed by a Federal, State, or local agency or a Tribe on environmental grounds or a substantial number of people affected by the project.

(b) Affecting resources protected under Section 106 of the National Historic Preservation Act. or

(c) Involving a determination of use of resources protected under Section 4(f) of the Department of Transportation Act (recodified at 49 USC 303).

**(2) Optional review.** The responsible FAA official may request Regional Counsel review of FONSI (and their EAs) for airport actions:

(a) Involving other special purpose laws. or

(b) Involving other circumstances.

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<sup>1</sup> A "mitigated" FONSI references or contains mitigation that would reduce otherwise significant environmental effects below applicable significance thresholds. When, FAA prepares a "mitigated FONSI" it will also issue Record of Decision (see paragraph 805).

Note: The Airports and Environmental Law Division (AGC-600) is available to assist Regional Counsel with these reviews.

**b. Approving FAA official's approval.** The approving FAA official, who is normally the regional Airports Office Division Manager, signs a FONSI for an action involving only the regional and/or district Airports Office(s).

**c. Regional Administrator's approval.** Some airport actions involve FAA organizations in addition to ARP. When this occurs, the Regional Administrator overseeing the regional office responsible for the EA must sign the FONSI (FAA Order 1100.154A, *Delegations of Authority*). However, before sending the FONSI to the Regional Administrator, the Airports Division Manager must ensure that managers of the other involved LOBs agree with the FONSI.

**(1) The responsible FAA official's duty.** The responsible FAA official should ensure that each FAA organization having a role in a proposed action has an opportunity to review the proposed FONSI (FAA Order 1050.1E, paragraph 406c). This will ensure coordination with the various organizations so each one knows the commitments it will have for a proposed action.

**(2) The approving FAA official's duty.** When the responsible FAA official completes this intra-agency review, the Airports Division Manager would recommend issuance of a FONSI to the Regional Administrator.

**d. APP-400 review.** ARP's Airport Planning and Environmental Division (APP-400) will review a proposed FONSI and its EA only when the responsible FAA official or the approving FAA official requests that review. However, APP-400 need not concur with the FONSI and its EA when this review occurs. To request APP-400's review, the responsible FAA official should send one copy of the EA and the FONSI to APP-400. APP-400 will not distribute the FONSI and EA to other FAA headquarters organizations. Normally, APP-400's review will not exceed 30 days. The responsible FAA official may proceed if APP-400 does not provide comments or information within the 30-day review time.

**804. EXTERNAL REVIEW OF A PROPOSED FONSI.** Public review of a proposed FONSI and its underlying EA often provides important information to the airport sponsor and FAA. Therefore, the reviews discussed below need to occur before the approving FAA official makes a final decision on a proposed action. The reviews may run concurrently with other Federal reviews.

**a. Required Federal agency review.** The responsible FAA official must make the proposed FONSI and its EA available to a Federal agency having jurisdiction by law or regulation over the action. The reviewing agency has 30 days to review the documents.<sup>2</sup> Contact the reviewing agencies to determine the number of copies of the FONSI and EA the agency requires to efficiently review the document. The responsible FAA official should ask agency representatives if they would accept electronic versions of the documents.

**b. Required public review.** The responsible FAA official must make the proposed FONSI and EA available for a 30-day public review period when any of the conditions in paragraph 804.b.(1) – (3) apply to an action. The responsible FAA official should encourage electronic distribution of the proposed FONSI and its related materials to reduce paper and accelerate document distribution.

(1) FAA will make the EA/FONSI available for public review for the reasons stated in paragraphs 805.(a)(1) - (2) of this Order (per FAA Order 1050.1E, paragraph 406e.(1)(a) and (b)).

(2) The airport sponsor provides an opportunity for a public hearing (see Chapter 4 of this Order), or an agency with jurisdiction over an action requests a hearing and supports that request with reasons the hearing would be helpful (40 CFR 1506.6(c)(2)).

(3) The proposed action would involve special purpose laws having public notice requirements separate from NEPA (per Order 1050.1E, paragraph 406e.(2)). Examples of these laws include, but are not limited to:

- (a) Executive Order 11988 section 2(a)(4) addressing floodplains.
- (b) Executive Order 1990 section 2(b) addressing wetlands.
- (c) The Endangered Species Act. and
- (d) Section 106 of the National Historic Preservation Act.

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<sup>2</sup>When FAA determines an action would use a resource for which a Department of the Interior (DOI) agency has jurisdiction or specialized expertise, DOT/FAA procedures provide the DOI agency 45 days to review the Section 4(f) Determination (this meets DOT Section 4(f) procedures). To the fullest extent possible, FAA integrates this DOI review with the NEPA review process so that it runs concurrently. Consult APP-400, Regional Counsel, or AGC-600 if the Determination is solely for a historic property outside DOI's jurisdiction or for which DOI has no specialized expertise.

**c. Optional public review.** The responsible FAA official may decide that public review of a proposed FONSI would be helpful in making determinations of impact severities for actions not addressed in paragraphs 804.b.(1) – (3). In such cases, the responsible FAA official should provide a 30-day review period.

**d. Notifying the public about the availability of a proposed FONSI.** The responsible FAA official should use the instructions in paragraph 807 of this Order to notify the public about the availability of a proposed FONSI.

### **805. THE APPROVED FONSI AND THE NEED FOR A RECORD OF DECISION.**

When a proposed airport action involves one of the situations in paragraph 805.a.(1) – (4), the approving FAA official must determine the need to document the appropriate conclusions, findings, and assurances in a Record of Decision (ROD) based on data in an EA/FONSI (FONSI/ROD). The approving FAA official must issue the FONSI/ROD immediately following or at the same time as the FONSI's approval.

**a. When to prepare a FONSI/ROD.** ARP recommends that an approving FAA official issue a ROD for a mitigated FONSI (a "FONSI/ROD") when any circumstance listed in paragraph 805.a(1)-(4) of this Order exists:

- (1) When an action is similar to one normally requiring an EIS.
- (2) For an action without precedent.
- (3) For actions redefined to include mitigation necessary to reduce potential significant impacts below applicable significance thresholds.
- (4) For actions that are highly controversial on environmental grounds (see paragraph 9.i). If in doubt, consult Regional Counsel or the Office of the Chief Counsel (AGC-600).

**b. FONSI/ROD contents.** Chapter 13 provides guidance on preparing a ROD for an EIS. However, the responsible FAA official may tailor that information for a FONSI/ROD, ensuring the FONSI/ROD addresses the circumstances relevant to the action. In addition, the FONSI/ROD must state it is a decision document and that it is an order subject to the exclusive judicial review under 49 USC 46110 by the:

- (1) U.S. Circuit Courts of Appeals for the District Columbia. or
- (2) U.S. Circuit Courts of Appeal for the circuit in which the person contesting the decision lives or has a principal place of business.

**c. FONSI/ROD availability.** Paragraph 1303 provides information about providing notice of the availability of a ROD. Although those instructions discuss RODs prepared for EISs, the responsible FAA official should use that information for FONSI/RODs.

**806. DISTRIBUTING AN APPROVED FONSI.** After the approving FAA official or Regional Administrator signs a FONSI, the responsible FAA official should distribute the approved FONSI and its underlying EA as described here.

**a.** The official should send one copy of the EA and FONSI to the airport sponsor and any reviewing agency or other organization or person who provided substantive comments on the proposed action.

**b.** The responsible FAA official need not distribute the EA and FONSI outside the responsible region's geographical area, but FAA must make them available to anyone requesting them (40 CFR 1506.6(b)(1)).

**807. NOTIFYING THE PUBLIC OF AN APPROVED FONSI'S AVAILABILITY.** The responsible FAA region must ensure the approved FONSI and the EA supporting it are available to the public. The regional FAA office responsible for the action announces that availability.

**a. Announcement content.** This announcement must state the location(s) where the public may review the FONSI and its EA. Normally, these locations are the FAA's regional or district Airports office responsible for the proposed action, the sponsor's office, and public locations in the project area such as libraries, city halls, or county complexes. When requested, the responsible FAA official or the airport sponsor should provide copies of the FONSI/EA to anyone seeking them. Officials should ask the person requesting the documents if he or she would accept the documents in electronic format. The official should provide the documents at no charge or at the cost to reproduce the document.

**b. Announcement methods.** The most effective method is for FAA and the airport sponsor to jointly notify the public of FONSI/EA availability, using media serving the project impact area. Text at 40 CFR 1506.6 (b) discusses the methods to announce FONSI availability. The sponsor may announce the FONSI's availability for FAA, but that announcement must mention FAA. Announcement methods include:

- (1) Publishing the FONSI in a local newspaper.
- (2) Publishing a notice about the FONSI's availability through local media. or
- (3) Placing the announcement and notice on internet sites.

**808. COMMITTING AN AIRPORT SPONSOR TO MITIGATION IN A FONSI.** The regional Airports Division must ensure airport sponsors complete the mitigation in FONSI if the sponsor undertakes a proposed action the FONSI addresses. To do so, the approving FAA official must include in the letter granting unconditional ALP approval for the proposed action the mitigation measures the FONSI contains and that are the basis for that Finding. Alternatively, if the action involves an AIP grant, the official may include the measures as special grant assurances.

**a. Environmental Management System.** Paragraph 9.e defines an Environmental Management System (EMS). The regional airports office responsible for the proposed action should track an airport sponsor's mitigation compliance via an EMS.

**b. Sponsor failure to carry out mitigation.** A sponsor's failure to carry out mitigation measures could annul FAA's FONSI. Also, failure to carry out mitigation identified as special conditions of the ALP approval letter or grant could cause the sponsor to be in noncompliance with its grant. This could also lead to FAA canceling the earlier project approval or funding (49 USC 47106(d)) until the sponsor or its consultant prepares a revised EA or FAA prepares an EIS.

**809. CHANGING A FONSI.** If events discussed in paragraphs 1401.c(1) – (3) or 1402.b(1) or (2) occur, and they could affect environmental resources, the approving FAA official may need to change an approved FONSI.

**a. EA adequacy.** Based on the changed scenario or information, the responsible FAA official must determine if the FONSI's underlying EA must be re-evaluated or supplemented.

**b. Contacting headquarters.** The approving FAA official should contact APP-400 and AGC-600 or Regional Counsel, if FAA is changing mitigation measures that were conditions of project approval (FAA Order 1050.1E, paragraphs 402, 410, and 411). This consultation is needed to discuss a process for re-evaluating or supplementing the EA prepared for the proposed action.

**c. When EA changes are needed.** If the responsible FAA official requires the airport sponsor to revise the approved EA, FAA organizations and resource agencies that reviewed the original FONSI and its EA must review the changed documents and the mitigation they contain. Here, the approving FAA official who approved the original EA and FONSI (or that person's successor) must approve the revised documents. The revised FONSI and the revised EA supporting it must be publicly available to anyone seeking those documents.

**810. - 899. RESERVED.**