

# EQA Comments on FAA Draft Order 1050.1F Environmental Impacts--Policies and Procedures



September 30, 2013

These comments are made in response to the Federal Register notice on the above cited draft order (Fed. Reg. page 49596, 8/14/2013). The Order defines and/or redefines the guidelines for EA, EIS, and Categorical Exclusions. **It is our contention that it weakens the requirements for public input about topics, projects, etc. that are of vital concern to the communities affected by Airport-related actions.** It serves to broaden the circumstances under which the FAA can avoid environmental review of operational changes, including flight paths, runway extensions, land acquisition and a whole host of other measures outlined under *Categorical Exclusions*.

The Eastern Queens Alliance, Inc., a federation of civic associations in Southeast Queens, is adamantly opposed to any weakening of the policies, procedures and guidelines that would require the FAA, LOB/SO's and those entities who must seek approval from the FAA to include stakeholders in the decision making process regarding, in particular, but not limited to, contracts, leases, construction, installation actions, procedural actions, permits, airport layout plans, regulatory actions etc. While the preamble states the purpose of this Order is to " 1) provide clear, concise, and up-to-date discussion of the FAA's requirements for implementing NEPA; and 2) clarify requirements in order to facilitate timely, effective and efficient environmental reviews of FAA actions including NextGen improvements" a **close read indicates that 1) it tends to obfuscate the requirements by constantly referring the reader to the Desk Reference and other documents containing critical related documentation that supports the rules and 2) it weakens or eliminates, in many cases, the need for public comment and public involvement by placing many items/actions/projects that may have significant environmental impact to the neighboring airport communities under "Categorical Exclusions" excluding them only if "Extraordinary Circumstances," a vague term at best, are declared.**

Our review of the *Draft Order proposed to serve as the FAA policy and procedures for compliance with National Environmental Policy Act (NEPA) and implementing regulations issued by the Council on Environmental Quality (CEQ)* reveals that the document applies to a broad array of actions such as leases, construction, installation actions, procedural actions, etc., i.e., runway extensions, runway

safety areas, airport layout plans, land acquisition, etc. These are some of the very topics that are very much of concern to the Eastern Queens Alliance, Inc. and the communities in Southeast Queens because they have, and in most cases, will have significant environmental effects, i.e. the proposed Runway Extension Project at JFK Airport and its significant impact on the human and natural environment. Yet this draft order would place that project under the category of Categorical Exclusion and only “**the responsible FAA official would determine**” whether the proposed action falls within the scope of a CATEX. The sole opinion and decision of this one person would determine if **extraordinary circumstances** are factors or circumstances in which a normally categorically excluded action may have a **significant environmental effect** that then requires further analysis in an EA or an EIS. We are furthermore concerned about what seems to be rather vague language in what determines the definition of **extraordinary circumstances**. **According to the Order, extraordinary circumstances exist when the proposed action poses:**

- b. (1) to (12) i.e., An **adverse effect** on cultural resources under National Historic Preservation Act; An impact on properties protected under Section 4(f), an impact on natural, ecological, or scenic resources of Federal, state, tribal, or local significance, etc. **and,**
- **May have a significant effect**

But who defines “an adverse effect” or a “significant effect” if there is no requirement for public input, involvement or engagement? The Order appears to leave that determination up to the “Responsible Administrator”. This results in important decisions being made by one person, who is making his/her determinations based on language that is vague or highly subject to interpretation. This is unacceptable to the Eastern Queens Alliance and its constituent communities.

In addition, the Order states that “preparation of an EA should involve the public to extent practicable”. We ask: What does that mean? It states that “Scoping is not required for an EA;” We ask: Why? It also states that Circulation of a draft EA is not required, but is optional at the discretion of a responsible FAA official. In addition, public meetings or hearings are not required for an EA. **This language serves to eliminate the need for public consideration and involvement, and gives the FAA license to make unilateral decisions without consulting those upon whom they will be making major impacts.** For example, according to the language in this document, the proposed 4L/22R Runway Extension at JFK airport would have been approved without any obligation to inform or listen to the public unless the “Responsible FAA Administrator” determined that this project falls into the category of “extraordinary circumstances.” In deed, we are deeply concerned about the statement on P 1-3 in this document that “the procedures in this Order apply to the fullest extent practicable to ongoing activities and environmental documents begun before the effect date.” Since no final decisions have yet been issued on this project, it appears that the intent of this Order may be to avoid the need to consider the public concern about this and other similar projects.

New York City airports are in extremely close proximity to densely populated areas. This results in significant impacts to the human and natural environment by sometimes what the FAA might consider to be seemingly minor changes at the two major airports. We believe that those who live in the New York City, particularly in the Borough of Queens with JFK International Airport and LaGuardia, will be significantly impacted by many of the items listed under “Categorical Exclusions.” Indeed, this Order seems to categorize the very actions that we are deeply concerned about under this CATEX. It is imperative that those who most assuredly will be impacted be involved in the decision-making process as important stakeholders regarding operational changes airports..

It is our position and recommendation that the following items of listed under categorical exclusions should require minimally an EA, some of them an EIS, and that scoping and public involvement be required on all.:

- Approval of an Airport Layout Plan
- Access road construction
- Acquisition of land and relocation
- Takeover of non-Federal facilities by the FAA
- Topping or trimming of trees to meet CFR part 77, "*Safe , Efficient Use, and preservation of the Navigable Airspace,*"
- *Approval for ...extending, strengthening or widening of a taxiway, apron, loading ramp or runway safety area; Reconstruction, resurfacing, extending, strengthening or widening of an existing runway...*
- *Purchase of an avigation easement to establish a runway protection zone ....provided it does not require extensive business or residential relocations.*
- *Actions regarding establishment of jet routes and Federal airways*
- *Establishment of new or revised air traffic control procedures conducted at less than or more than 3000 feet above ground level that "do not cause traffic to be routinely routed over noise sensitive areas... or significantly increase noise over noise sensitive areas..."*
- *Establishment or removal of a displaced threshold on an existing runway,*
- *Establishment of new procedures that routinely route aircraft over non-noise sensitive areas,*
- *Any navigation performance...that in determination of the Administrator, would result in measurable reductions in fuel consumption, CO2 emissions, noise on preflight basis...irrespective of the altitude of procedures.*

In summary, this order serves to evade community and general stakeholder input on major airport-related issues. The Eastern Queens Alliance maintains that the FAA Administrator should not be empowered to determine whether such critical issues as flight patterns, runway extensions, and airport layout plans fall under "Categorical Exclusions" or "extraordinary circumstances." At minimum, those items should require an EA that requires informing stakeholders and stakeholder input. In areas such as Queens, NY and other densely populated urban areas, on which operational and procedural changes at the large major airports are likely to seriously negatively impact the quality of life of massive numbers of residents, it is imperative that potential impacts be rigorously scrutinized by both the experts and the public during an open, transparent environmental review process, involving all stakeholders. Not to do so is irresponsible at best and a serious violation of the spirit, if not the letter, of the environmental review process set in place by NEPA. In Southeast Queens, it is also tends to be a violation of environmental justice policies and procedures.