

Plans, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone 202-426-3220.

SUPPLEMENTARY INFORMATION: This amendment adopts final regulations implementing OMB Circular A-95, Revised, entitled "Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects" (A-95), which was published in the Federal Register on January 13, 1976, 41 FR 2052.

The Airport Development Aid Program and the Planning Grant Program (Catalogue of Federal Domestic Assistance program numbers 20.102 and 20.103) are the only Federally assisted programs administered by the FAA to which A-95 applies. For this reason, the agency's final regulations implementing A-95 are being published as a new Appendix E to Part 152, Airport Aid Program.

FAA interim procedures implementing A-95 were published, in a notice of FAA policy, in the Federal Register on November 17, 1977 (42 FR 59477). On the same date, the FAA published Special Federal Aviation Regulation No. 35 (42 FR 59476) which required each applicant for Federal assistance under the Airport Development Aid Program and the Planning Grant Program to comply with the applicable procedures in the notice of policy. Since this requirement is being added to Part 152 by this amendment, Special Federal Aviation Regulation No. 35 is being revoked.

New Appendix E contains only those parts of the FAA's procedures that impose requirements on an applicant for airport aid. Procedures that apply only to actions on the part of the FAA are not set out in Appendix E. Instead they have been embodied in FAA Orders 5100.36, *Airport Development Aid Program Handbook*, 5100.20A, *Program Control and Reporting Procedures Airport Grant in Aid Program*, and 5900.1B, *Planning Grant Program*. FAA Order 1200.21A, *Evaluation, Review, and Coordination of FAA Direct Development Programs and Projects*, is being prepared to cover the notification procedures that will be followed by the FAA for programs and projects involving direct Federal development.

Part II of the new Appendix E contains a list of exceptions to the notification and review procedures prescribed in Part I. The basic substance of these exceptions is the same as those issued with the FAA's interim procedures. However, they have been consolidated and rearranged so that they conform to the exceptions listed in Paragraph 23, Appendix 6, FAA Order

1050.1C, *Policies and Procedures for Considering Environmental Impacts*, and Appendix 1, FAA Order 1200.21A, *Evaluation, Review, and Coordination of FAA Direct Development Programs and Projects*.

Material that is strictly informational or advisory has not been placed in Appendix E. This includes material in sections 10, 11, and 12 of the interim procedures which deal with clearinghouse functions, the consultation and review process, and the subject matter of comments and recommendations.

Section 2(a)(4) of the interim procedures, which recommends that sponsors use the notification forms and instructions developed by many clearinghouses, is not mandatory, and, therefore, has not been included in the requirements of Appendix E. However, sponsors and planning agencies are urged to use these forms, when they are available, in order to expedite clearinghouse review.

In response to an invitation in the Notice of Policy, the FAA received five public comments on the interim procedures. Where appropriate, those comments have been considered in the development of the final procedures.

Adoption of the Amendment

Accordingly, Special Federal Aviation Regulations No. 35 (42 FR 59477; November 17, 1979) appearing in 14 CFR Part 152 is revoked and removed, effective July 8, 1981, and Part 152 of the Federal Aviation Regulations (14 CFR Part 152) is amended, effective July 8, 1981, as follows:

§ 152.111 [Amended]

1. By amending § 152.111(c)(4) by removing the words "Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A-95" and substituting therefor the words "Appendix E, Procedures Implementing Office of Management and Budget Circular A-95, to this part."

§ 152.113 [Amended]

2. By amending § 152.113(b)(1) by removing the words "Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A-95" and substituting therefor the words "Appendix E, Procedures Implementing Office of Management and Budget Circular A-95, to this part".

3. By adding a new Appendix E to read as follows:

14 CFR Part 152

[Docket No. 17337; Amdt. 152-13]

Airport Aid Program; Procedures Implementing OMB Circular A-95

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule and Revocation of Special Federal Aviation Regulation No. 35.

SUMMARY: These regulations set forth procedures designed to promote maximum coordination of the Airport Planning Grant Program and the Airport Development Aid Program with each other and with state, areawide, and local plans and programs. The Office of Management and Budget (OMB) requires Federal agencies to develop these procedures.

EFFECTIVE DATE: July 8, 1981.

FOR FURTHER INFORMATION CONTACT: Howard Murphy, Plans Requirements Branch, APO-120, Planning Analysis Division, Office of Aviation Policy and

APD

**Appendix E—Procedures Implementing
Office of Management and Budget Circular
A-85**

Part I—Procedures

Section 1. Applicability. Part I of this appendix sets forth procedures designed to promote maximum coordination of the Airport Development Aid Program and the Airport Planning Grant Program with each other and with State, areawide, and local plans and programs. Part II of this appendix specifies airport actions that do not require compliance with the notification and review procedures of Part I of this appendix.

Section 2. Notification procedures. Applicants for Federal assistance under the Airport Development Aid Program and the Planning Grant Program must comply with the following procedures:

(a) Except as provided in Part II of this appendix, each sponsor or planning agency which intends to apply for an airport development or airport planning grant under Part 152 must give notice, as provided in paragraph (b) of this section, to the appropriate clearinghouse of each state, region, and metropolitan area in which the project is to be located. In the case of applications for projects involving land use, water use, development, or construction in the National Capital Region (as defined in section 1(b) of the National Capital Planning Act of 1952, as amended; 40 U.S.C. 71), a copy of the notification must also be sent to the National Capital Planning Commission. In the case of airport planning or development that is statewide, and does not affect, or have specific applicability to, areawide or local planning and programs, the notification may be sent to the appropriate state clearinghouse only. The notice must comply with the following:

(1) The notice must be given as soon as feasible after project plans have been developed in sufficient detail to inform the clearinghouse of the proposed airport development project. To avoid delay in processing the grant, this must be at least 60 days before the sponsor files a Preapplication for Federal Assistance or, if a preapplication is not required, an Application for Federal Assistance, under Part 152.

(2) The notice must include a summary and description of the proposed project or planning containing, as appropriate and available, the following information:

(i) Identity of the sponsor or planning agency.

(ii) The location of the proposed airport development or the boundaries of the planning area.

(iii) A brief description of the proposed project or planning, including type, purpose, general size or scale, estimated cost, beneficiaries, or other characteristics which will enable the clearinghouse to identify agencies of state or local governments having plans, programs, or projects that might be affected by the proposed project or planning. A sponsor may submit an approved airport layout plan (if available) to provide part of this information. A planning agency may submit a copy of its Application for Federal

Assistance in lieu of the material required by this paragraph (a)(2)(iii).

(iv) A statement as to whether the sponsor has been advised by the FAA that it will be required to submit environmental impact information in connection with the proposed project.

(v) The estimated date the sponsor or planning agency expects to formally file a preapplication or application.

(b) The notice required by paragraph (a) of this section shall be given as follows:

(1) **Metropolitan Area.** For a project or planning in a metropolitan area, notification shall be given to both the state clearinghouse and the areawide clearinghouse. A current list of designated areawide planning agencies is maintained in the FAA Regional and Airport District Offices.

(2) **Nonmetropolitan Area.** For a project or planning in a nonmetropolitan area for which the governor of a state has designated a regional comprehensive planning agency, notification must be given to that agency, as the areawide clearinghouse, and to the state clearinghouse.

(3) **Other Locations.** For a project or planning located in an area other than an area described in paragraphs (b) (1) or (2) of this section, notification must be given both to the state clearinghouse and to each public agency planning the development of the area in which the project is located.

(c) If clearinghouse review has been completed before an application under Part 152 is completed, an information copy of the application must be submitted to each clearinghouse that requests one, when the application is submitted to the FAA.

(d) Each preapplication or, if a preapplication is not required, each application for an airport development or planning grant to which this appendix applies must be accompanied by the following:

(1) Except as provided in paragraph (d)(2) of this section, all comments and recommendations made by or through clearinghouses, including (as attachments to the comments of areawide clearinghouses) all comments at variance with the clearinghouse comments by other jurisdictions, agencies, or parties, with a statement that the comments have been considered before submission of the application.

(2) If no comments have been received from, or made by, a clearinghouse, a statement specifying that the procedures outlined in this section have been followed and that no comments or recommendations have been received.

(3) All comments from public agencies, charged with either developing and enforcing environmental standards, or enforcing or furthering the objectives of state and local civil rights laws, with a statement that the comments have been considered before submission of the application.

(4) When the proposed project involves the development of a metropolitan or regional airport system plan and the grant applicant is other than the planning agency designated as the areawide clearinghouse, a memorandum of agreement between the grant applicant and the areawide clearinghouse, covering the means by which their planning activities will be coordinated, including—

(i) The relationship between the sponsor's proposed planning and that of the areawide agency;

(ii) Each organizational and procedural arrangement for coordinating activities; and

(iii) Each arrangement for sharing planning resources and data.

(e) when an application for renewal or continuation of a grant under Part 152 is not submitted to, or acted upon by, the FAA within one year after completion of clearinghouse review, the applicant must follow the procedures in this appendix for re-review, if requested to do so by a clearinghouse.

Part II—Exceptions

Compliance with the notification and review procedures prescribed in Part I of this appendix is not required when application is made for an airport development or airport planning grant involving any of the following:

1. Runway, taxiway, apron, or loading ramp construction or repair work including extension, strengthening, reconstruction, resurfacing, marking, grooving, fillets, and jet blast facilities, except where such action will create environmental impacts off airport property. In this context, environmental impacts shall include (a) an increase of more than 10 percent in airport capacity or (b) the enabling a larger class of aircraft to use the airport. For purposes of this exception, the following classes of aircraft apply:

a. Heavy—Aircraft capable of takeoff weights of 300,000 pounds or more whether or not they are operating at this weight during a particular phase of flight.

b. Large—Aircraft of more than 12,500 pounds, maximum certificated takeoff weight, up to 300,000 pounds.

c. Small—Aircraft of 12,500 pounds or less, maximum certificated takeoff weight.

2. Installation or upgrading of on-airfield lighting systems, including beacons and electrical distribution systems.

3. Installation of miscellaneous on-airfield items including fences, segmented circles, wind measuring devices, or landing direction indicators.

4. Installation of visual guidance and weather equipment on airports, such as cloud height indicators, runway visual range equipment, centerfield wind indicators, hygrothermometers, visual approach slope indicators, and runway end identification lights.

5. Construction or expansion of passenger handling or parking facilities including pedestrian walkway facilities.

6. Construction or repair of entrance and service roadways within airport property and relocation of these types of roads, except where they connect to a public highway or street.

7. Grading or removal of obstructions on airport property and erosion control actions with no off-airport impacts.

8. Landscaping, generally, and landscaping or construction of physical barriers to diminish impact or airport blast and noise.

9. Acquisition of: (a) Noise suppression or measuring equipment, (b) security equipment required by rule or regulation for the safety or security of persons and property on the airport (14 CFR Part 107), (c) safety

equipment required by rule or regulation for certification of an airport (14 CFR Part 139), or (d) snow removal equipment.

10. Issuance of supplemental airport planning grants.

11. Airport related emergency actions.

12. Facility, structure, and grounds maintenance, including the upkeep and general maintenance of buildings, such as replacement of electrical wiring, painting, roofing, grounds maintenance, and road and parking lot resurfacing.

13. Electronic display equipment which is installed in existing facilities to update the operational capabilities of such systems as radar bright display equipment, plan view displays, direct access radar channels, and any future equipment of this type.

14. Installation of equipment within air traffic control towers and terminal approval control facilities.

15. Facility modernization to the degree that the program or project adds to the existing functional capability but does not change the use, scale, or intensity of use of the structure or facility, including new or additional equipment, or reallocation of existing space to house that equipment.

16. Construction of facilities or installation of equipment to be located on or within facilities confined within the perimeter of the airport or on federally owned or leased land (except those which require obstruction clearance off the airport or facilities site, or zoning to prevent electromagnetic interference). The construction and installation must be of small scale or size with negligible off-airport impact.

17. Installation, rehabilitation, modernization, relocation, or consolidation of utilities on airports to serve airport navigation, communication, and air traffic control facilities, where land use has previously been determined and which cause no off-airport impact.

18. Supplements to existing systems to provide additional communications and navigational capabilities, such as beacon supplements to air traffic control radar systems, tactical air navigation systems added to a very high frequency omnidirectional range, or additions of distance measuring equipment.

19. Purchase of existing facility land sites currently held by lease agreement.

20. Leases of buildings at the FAA Aeronautical Center and the FAA Technical Center.

21. Leases of space and installation of navigational facilities on airport property.

22. Disposal of real property consisting of not more than two acres, with improvements and associated restrictive easements surrounding the site.

23. Terminal development within the confines of existing structures.

24. Retirement of the principal of bonds or other indebtedness for terminal development.

25. Modifications to airport facilities to make them more accessible to the handicapped.

(Secs. 303, 307, 308, 312, and 313, Federal Aviation Act of 1958 (49 U.S.C. 1344, 1348, 1349, 1353, and 1354); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c));

Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 et seq.); sec. 1.47(f)(1), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(1)); OMB Circular A-95, Revised (41 FR 2052; January 13, 1976))

Note.—The final procedures implemented by this amendment are substantially the same as the interim procedures already being complied with by grant applicants and will not impose any major cost increase or any adverse economic effect. For this reason the FAA has determined that this document involves a regulation which is not a major rule under Executive Order 12291 and is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). As such, it is subject to review only by the Courts of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C., on April 30, 1981.

J. Lynn Helms,
Administrator.

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