



AC NO: 150/5100-7A

DATE: 25 Feb 72

ADVISORY CIRCULAR

DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

SUBJECT: REQUIREMENT FOR PUBLIC HEARINGS IN THE AIRPORT DEVELOPMENT AID PROGRAM

1. **PURPOSE.** This advisory circular provides guidance to sponsors of airport development projects under the Airport Development Aid Program (ADAP) on the necessity for and conduct of public hearings.
2. **CANCELLATION.** AC No. 150/5100-7, Requirement for Public Hearings in the Airport Development Aid Program, dated 4 January 1971 is cancelled.
3. **REFERENCES.**
 - a. Section 16(d), Airport and Airway Development Act of 1970 (P.L. 91-258).
 - b. Section 102(2)(C), National Environmental Policy Act of 1969 (P.L. 91-190).
 - c. Guidelines of the Council on Environmental Quality (36 FR 7724).
 - d. Part 152, Federal Aviation Regulations.
4. **SCOPE.** This advisory circular is limited to providing guidance on meeting the statutory requirement for affording an opportunity for a public hearing with respect to certain projects for airport development. Other requirements to qualify a project for consideration for Federal aid are dealt with in other publications.
5. **HOW TO GET THIS ADVISORY CIRCULAR.** Additional copies of this advisory circular may be obtained from the Department of Transportation, Distribution Unit, TAD-484.3, Washington, D.C. 20590.

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1. INTRODUCTION. A growing concern for sound and orderly economic and social development of the Nation and for protection and enhancement of the human and natural environments has caused a number of restraints and requirements to be imposed on programs and projects for airport development under the Airport and Airway Development Act of 1970 (P.L. 91-258). Among these is a requirement that the public be given an opportunity to express their views on proposed airport development which may have a significant impact on the community.
2. REQUIREMENT FOR HEARINGS. Section 16(d) of the Act provides--
 - a. No airport development project involving the location of an airport, an airport runway, or a runway extension may be approved by the Secretary unless the public agency sponsoring the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community.
 - b. When hearings are held under subparagraph a of this paragraph, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.
3. REQUIREMENT FOR ENVIRONMENTAL IMPACT STATEMENT.
 - a. National Environmental Policy Act of 1969. Section 102(2)(C) of this Act requires the preparation of a detailed environmental impact statement on major Federal actions significantly affecting the quality of the human environment. Section 201 of this Act establishes the Council on Environmental Quality (CEQ) and assigns to it responsibility for implementation of the Act.
 - b. Guidelines of the Council on Environmental Quality (CEQ). The CEQ guidelines require, among other things, that environmental impact statements be made available to the public a reasonable period of time prior to any relevant hearing on the proposed project.
4. WHEN HEARING REQUIREMENT IS APPLICABLE. The requirement for hearings applies only to an airport development project that involves:
 - a. Location of an airport. A project that involves the location of an airport may be--

- (1) The initial project to acquire land for the purpose of developing an airport thereon.
- (2) The initial project for overall site preparation.

b. An Airport Runway. A project that involves an airport runway may be--

- (1) A project for site preparation for a new runway.
- (2) A project that includes both site preparation and construction of a new runway.
- (3) A project to relocate or change the alignment of an existing runway.

c. A Runway Extension. A project that involves a runway extension may be--

- (1) A project to prepare the site for the extension of an existing runway.
- (2) A project that includes both site preparation and construction of the runway extension.
- (3) A project that would change the location of a runway extension, including extension beyond the site preparation area.

5. WHEN HEARING REQUIREMENT IS NOT APPLICABLE. The requirement for hearings does not apply in the following situations.

a. Other Than Airport Development Projects. The hearing requirement of section 16(d) of the Act applies only to airport development projects involving the development specified in that section. It does not apply to planning grants.

b. Second Stage Development. The hearing requirement does not apply to a project for paving, strengthening, resurfacing, or reconstructing a runway, the location of which has already been established physically on the airport. For example, where site preparation for a runway or runway extension has been accomplished, a subsequent project for paving the same runway or runway extension is not subject to the hearing requirement since the location of

the runway or runway extension has already been established by the site preparation work in the earlier project. The subsequent project for paving would not, therefore, involve the location of a runway or runway extension.

- c. Acquisition of Clear Zone Land. A project to acquire clear zone land for an existing runway does not involve the location of a runway, since its location has already been established.
- d. Acquisition of ALS Land. The acquisition of land needed for the installation of an approach light system for an existing runway is also not subject to the requirement since the location of the runway is not involved in the project.
- e. Acquisition of Land for a New Runway or Runway Extension. Although the acquisition of land for a new runway or runway extension on an existing airport in effect locates the new runway or runway extension, the hearing requirement is not applied to a project that includes such acquisition unless the project also includes construction of the runway or runway extension for which the land was or is to be acquired. Otherwise duplicative hearings would result--one on the project for acquisition of the land for the runway or runway extension and another for the project for construction of the same runway or runway extension. Since literal compliance with the Act requires that an opportunity for a hearing be afforded as to any project involving a new runway or runway extension, observance of the requirement is deferred to the construction project for that runway or runway extension.

6. HOW TO COMPLY. Section 16(d) of the Act requires the sponsor of an airport development project involving the development specified in that section to afford the public the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community. The sponsor may comply with the requirement in one of two ways at the sponsor's option.

- a. Affording an Opportunity for Hearing. This is a two-step procedure.
 - (1) Give notice to the public that the sponsor proposes to undertake specified airport development and advise the public that interested persons may request that a hearing be held for the purpose described in section 16(d) of the Act.

- (2) Hold the hearing if one is requested after giving adequate public notice of the time and place of the hearing.
- b. Holding the Hearing. This omits the first step of the two-step procedure described in subparagraph a of this paragraph, and proceeds directly to the hearing. This is done by giving notice to the public that a hearing will be held at a specified time and place for the purpose specified in section 16(d) of the Act at which interested persons may appear and be heard. If a hearing is held under either option, provision must be made for a transcript of the hearing for submission to the FAA when and if requested.

7. TIMING.

- a. The Act does not specify at which stage in project formulation the opportunity for a hearing shall be afforded or a hearing held. It is obvious, however, that it should be at a time when there is still flexibility to respond to the views of those who are or may be affected by the proposed development. For this reason, the sponsor should undertake to comply with the hearing requirement by one of the two ways described in paragraph 6 of this circular before submitting a request for aid for a project under the ADAP. The FAA will not act upon a request for aid until the sponsor has complied with the requirements of section 16(d) of the Act.
- b. Although the hearing requirements of section 16(d) apply only to airport development projects involving the specified airport development, it may be advisable (in the sponsor's discretion) to hold public hearings in earlier stages of project formulation. This is particularly true when the need for projects involving the location of an airport, an airport runway, or a runway extension is developed as a part of a master plan effort. If, for example, an airport master plan is presented to the public at a public hearing for the purpose of considering its potential impact, the public will have a better understanding of the nature and purpose of subsequent airport development projects undertaken to implement the plan.

8. AVAILABILITY OF ENVIRONMENTAL IMPACT STATEMENT PRIOR TO HEARING. As noted in paragraph 3b of this circular, the CEQ guidelines require that environmental impact statements be made available to the public a reasonable period of time prior to any relevant hearing on the

proposed project. To meet this requirement, the sponsor should prepare a preliminary environmental impact statement in accordance with FAA Order 5050.2, Interim Instructions for Processing Airport Development Actions Affecting the Environment, prior to affording an opportunity for a hearing or holding a hearing, as set forth in paragraph 6 of this circular. This will allow the sponsor to include in the public notices an advisory that the statement is available for public examination and study for a period of not less than 30 days prior to the time of a hearing, if one is held. The evidence presented at the hearing relating to the environmental impact of the airport location should be used in preparing the draft environmental impact statement which also must be submitted with the sponsor's request for aid.

9. NOTICE OF OPPORTUNITY FOR HEARING. This is the first of the two options described in paragraph 6 of this circular. The sponsor may satisfy the hearing requirement under this option by publishing a notice of opportunity for a public hearing and holding a hearing if any requests for such a hearing are received.

- a. Publishing Notice. The notice should be published in a newspaper having general circulation in the vicinity of the proposed airport development. The number of times the notice should be published may vary according to requirements of local law or sponsor discretion.
- b. Content of Notice.
 - (1) The following information should be included in the notice.
 - (a) Sponsor's intention to undertake a project for airport development at a specified location.
 - (b) A concise description of the proposed airport development and where and at what times more detailed information may be obtained.
 - (c) That interested persons and agencies are afforded an opportunity for a public hearing for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community.
 - (d) That interested persons may request such a public hearing by submitting a written request therefor to the sponsor at a specified address on or before a specified date. The

deadline for submitting requests should be not less than 15 days after the date of the last publication of the notice, if there is more than one.

- (e) That the sponsor has prepared a preliminary environmental statement on the impact of the proposed airport development and that the statement is available to the public for examination and study for a period of not less than 30 days following publication of the notice and prior to any hearing, should one be held.
- (2) A suggested form of such notice is attached to this circular as appendix 1.
- (3) If no request is received in response to the notice within the time specified for submission of such request, the sponsor certifies that fact and submits the certification with proofs of publication of the notice to the FAA. These accompany the request for aid throughout FAA approval processes.
- (4) If a timely request for a hearing is received in response to the notice, the sponsor should hold the hearing as soon as possible. Notice that the hearing will be held should be given as set forth in paragraph 10 of this circular.

10. NOTICE OF PUBLIC HEARING. When a public hearing is to be held, either in response to a request for the hearing or the sponsor's election to go directly into a hearing (see paragraph 6), the sponsor proceeds as follows:

- a. Publishing Notice. Publish a notice to the public that a public hearing will be held at a designated time and place for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community. The notice should be published in a newspaper having general circulation in the vicinity of the proposed airport development. The number of times the notice is to be published may vary according to requirements of local law or the sponsor's discretion.
- b. Content of Notice. In addition to stating the purpose of the hearing, the notice should contain the following information:
 - (1) That the sponsor proposes to undertake a project for airport development at a specified location.

- (2) A concise description of the proposed airport development and where and at what times more detailed information may be obtained.
- (3) The date, time, and place of the hearing.
 - (a) Where the hearing is to be held in response to a request for such hearing after publication of notice of opportunity, the date of the hearing should be not less than 15 days following publication of the notice.
 - (b) Where the hearing is to be held on the election to proceed directly to a hearing, the time should be not less than 30 days following publication of the notice.
- (4) That a preliminary environmental impact statement has been prepared by the sponsor and is available for examination and study at the office of the sponsor (or other designated place).
 - (a) Where the hearing is to be held in response to a request for such hearing, the environmental statement should continue to be made available for not less than 15 days prior to the date set for the hearing and the notice should so state.
 - (b) Where the hearing is to be held on the sponsor's election to proceed directly to a hearing, the environmental statement should be made available for not less than 30 days following the last publication of the notice (if published more than once) and prior to the date set for the hearing.
- (5) That interested persons may appear at such hearing and present their views on the economic, social, and environmental effects of the airport location and its consistency with such urban planning as the community has carried out and that their views may be expressed orally or in writing.

In addition to publishing the notice of hearing, the sponsor should mail copies of the notice to all persons or agencies who requested the hearing or who have requested notice of the hearing and to such Federal agencies, local public officials, advisory groups or agencies who, by nature of their function, interest, or responsibility, the sponsor knows or believes might be interested in or affected by the proposed project. A suggested form of the notice for public hearing is found in appendix 2.

11. CONDUCT OF PUBLIC HEARING.

- a. The public hearing is held at a place and time generally convenient for persons affected by the proposed project, particularly those who have requested the hearing.
- b. At the outset of the hearing, participants and attendees are informed that written statements and other exhibits in place of, or in addition to, oral statements at the hearing may be submitted. A final date for receipt of such statements or exhibits is specified.
- c. Free and open discussion and presentation of views germane to the purpose of the hearing are allowed. Proceedings are informal, and presentations should not be subject to cross-examination, unless otherwise required by local law.
- d. Proponents of the proposed project should present information and data supporting the project and show the efforts and planning proposed to minimize any adverse effects the project or the airport may have on the community, the alternatives considered, and the advantages and benefits expected from the airport development
- e. The FAA has no specific requirement as to who conducts the hearing; it may be the sponsor or some impartial person or organization. In many cases, local law may dictate how and by whom the hearing shall be held.

12. TRANSCRIPT OF THE HEARING.

- a. The sponsor provides for the making of a verbatim transcript of the oral proceedings at the hearings. The transcript shall incorporate written statements, exhibits, and other pertinent matter used or filed in connection with the hearing.
- b. A copy of the transcript of the hearing is sent to the Secretary upon request.
- c. The transcript of the hearing may be used by the FAA to determine compliance with the requirements of the Airport and Airway Development Act of 1970 for public hearings and to assist in making the determinations required by section 16(c) of the Act when a project is found to have adverse effect on the environment.

13. SUBJECT MATTER OF HEARINGS. The purpose of the hearing is to consider the social, economic, and environmental effects of the airport location and its consistency with local urban planning. "Social, economic, and environmental effects" mean the direct and indirect benefits or losses to the community as a result of the proposed development. These may include but are not limited to--

- a. Safe and efficient air transportation.
- b. Economic activity.
- c. Public health and safety.
- d. Property values.
- e. The human and natural environment.
 - (1) Displacement of persons and replacement housing.
 - (2) Noise, air, and water pollution.
 - (3) Neighborhood character and location.
 - (4) Aesthetics, parks, and recreation areas.
 - (5) Natural and historic landmarks.
 - (6) Conservation (erosion, sedimentation, wildlife, and general ecology of the area).

14. ELIGIBILITY OF HEARING COSTS. The costs of affording an opportunity for a hearing and/or conducting the hearing and making the transcript of the hearing are eligible for consideration as an allowable project cost.

15. FAA PARTICIPATION.

- a. The provisions of the Airport and Airway Development Act, section 4(f) of the Department of Transportation Act, and the National Environmental Policy Act require the Federal Aviation Administration (FAA) to consider and evaluate the effects the proposed project may have in many if not all of the areas that would be considered and discussed in the hearing. Therefore, to remain objective in its evaluation of such effects, the FAA will not present testimony or participate in the hearings except

to clarify or supply technical information such as utilization of airspace, basis for FAA recommended airport development in the NASP, and similar data not otherwise available to the public. FAA personnel may attend the hearings as observers to report on the validity of the hearings.

- b. The sponsor should utilize fully the expertise of its consultants and data such as surveys, statistics, projections, studies available from the FAA, and other sources to support the proposed airport development.
- 16. SPONSOR CONCLUSIONS ON HEARINGS. Whether or not the sponsor is requested to submit a transcript of the hearing, the sponsor submits a summary of the issues raised at the hearings, the sponsor's conclusions thereon, and reasons supporting the conclusions. The summary is submitted with the sponsor's request for aid, or as soon as possible after submitting the request. The FAA does not act upon a request for aid which is subject to the hearing requirement until the sponsor has:
 - a. Held a hearing, or
 - b. Afforded an opportunity for a hearing and has held the hearing if one has been requested, and
 - c. Submits the summary as above.

APPENDIX 1. SAMPLE NOTICE OF OPPORTUNITY FOR A PUBLIC HEARING

(*) Ourcity Airport Commission intends to submit to the Federal Aviation Administration a request for Federal funds to help it carry out the following development at Ourcity Municipal Airport, Ourcity, Ourstate:

Acquire 15 acres of land at northeast corner of existing airport for runway extension and clear zone; construct a 1500-foot extension to the north end of the existing northeast/southwest runway to result in an ultimate runway length of 6500 feet by 100 feet in width; construct a 1500-foot extension to the north end of the existing taxiway running parallel to the northeast/southwest runway; install medium intensity runway lighting along the sides of the northeast/southwest runway; install the landing aid, a visual approach slope indicator, at both ends of the northeast/southwest runway.

(*) Any person may request that an open public hearing be had for the purpose of considering the social, economic, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out for this area.

(*) For a request for public hearing to be honored, a signed, written request must be filed by mail or in person and received not later than 5:00 PM on 31 December 1972 (**) at the office of the Airport Manager, Main Terminal Building, Ourcity Municipal Airport. A document summarizing the impact which the proposed project is expected to have upon the environment has been prepared and is available to any person for review during normal working hours for at least 30 days following publication of this notice and prior to any hearing, if one is to be held.

(Signature)

Joe Hisname, Chairman
Ourcity Airport Commission
Ourcity, Ourstate

(*) These paragraphs may be changed as required for adaptation to local names, places, etc.

(**) This time should be no sooner than the close of business on the 15th calendar day after publication, counting the day after publication as the first.

APPENDIX 2. SAMPLE NOTICE FOR PUBLIC HEARING

NOTICE OF OPEN PUBLIC HEARING
CONCERNING PROPOSED AIRPORT DEVELOPMENT
at
Ourcity Municipal Airport
Ourcity, Ourstate

(*) On 29 February 1972 at 6:00 PM (**) there will be convened an open public hearing on the following proposed airport development:

Acquire 15 acres of land at northeast corner of existing airport for runway extension and clear zone; construct a 1500-foot extension to the north end of the existing northeast/southwest runway to result in an ultimate runway length of 6500 feet by 100 feet in width; construct a 1500-foot extension to the northern end of the existing taxiway running parallel to the northeast/southwest runway; install medium intensity runway lighting along the sides of the northeast/southwest runway; install the landing aid, a visual approach slope indicator, at both ends of the northeast/southwest runway.

(*) Place of Meeting. The hearing will be held in Room 43 (the regular City Council Chambers) of the Ourcity City Hall.

(*) Purpose of Hearing. To consider the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out for this area.

(*) Conduct of the Meeting. Representatives of Ourcity Airport Commission will at the outset present a summary of their views concerning the airport's and the proposed project's social, economic, and environmental impact, and their consistency with locally carried out urban planning.

Other persons present and desiring to do so will then be afforded the opportunity to present written or oral views (whether in favor of, in opposition to, or by way of proposed revision of, the proposed project).

All oral comments will be recorded.

(*) Availability of Environmental Statement. Ourcity Airport Commission personnel have prepared a document summarizing the environmental

25 Feb 72

impact which the airport and proposed project are expected to have. Any person desiring to review this statement may do so during normal working hours at the office of the Airport Manager, Main Terminal Building, Ourcity Municipal Airport.

(Signature)
Joe Hisname, Chairman
Ourcity Airport Commission
Ourcity, Ourstate

(*) These paragraphs may be changed to insert correct times, dates, names, and addresses, etc.

(**) If this notice is the first published which announces to the public the availability of an environmental statement on the proposed project, then the date asterisked should be no sooner than the 31st day following publication of this notice, counting the day after publication as the first.

If there has been previously published a notice announcing the availability to the public of an environmental statement on the proposed project, then the date asterisked should be no sooner than the 31st day following the publication of that notice, counting the day after publication of that notice as the first.

In no event shall the asterisked date be sooner than the 15th day following the date of publication of the instant notice, counting the day after publication of the instant notice as the first.