



August 1, 2025

Federal Aviation Administration
Docket Operations
1200 New Jersey Avenue SE
Washington, DC 20590

Re: Comments on FAA Order 1050.1G - NEPA Implementing Procedures
Docket No. FAA-2025-1571

Dear Administrator Bryan Bedford and NEPA Program Team,

On behalf of the Alliance for Tribal Clean Energy, we submit these comments regarding the Federal Aviation Administration's rescission of FAA Order 1050.1F and issuance of FAA Order 1050.1G under Docket No. FAA-2025-1571. These comments address the agency's stated rationale for these changes, the retention and expansion of categorical exclusions, emergency procedures, and broader regulatory updates, and urge explicit protections for Tribal sovereignty, sacred sites, and cultural landscapes.

Rationale

I. Sovereignty, Cultural Integrity, and Federal Trust Obligations

While we understand the FAA's intent to align NEPA procedures with Executive Order 14154¹ and the Fiscal Responsibility Act amendments to NEPA, moving core cultural and consultation protections into a streamlined internal order risks undermining the enforceability of the FAA's federal trust obligations.

FAA NEPA procedures must codify, not just reference, the government-to-government relationship with Tribal Nations as required by Executive Order 13175² and the FAA's statutory obligation to consult with Indian Tribal governments and consider their needs in all aviation actions.³

We strongly recommend:

- Early pre-NEPA cultural mapping with affected Tribes to identify sacred sites and cultural landscapes before alternatives are finalized or categorical exclusions applied.⁴
- Explicit recognition that Tribal consultation and cultural protection are not "delays" but mandatory elements of informed decision-making under NEPA's statutory requirement for environmental review of major federal actions.⁵
- Procedural text requiring sufficient time and resources for meaningful Tribal engagement.

¹ Executive Order 14154, *Unleashing American Energy*, 90 Fed. Reg. 19 (January 29, 2025).

² Exec. Order No. 13175, *Consultation and Coordination with Indian Tribal Governments*, 65 Fed. Reg. 67249 (November 6, 2000).

³ 49 U.S.C. § 47101(b)(2)

⁴ 36 CFR § 800.1(c)

⁵ 42 U.S.C. § 4332(2)(C)



FAA should recognize that incorporating Tribal engagement at the outset aligns with the Fiscal Responsibility Act's NEPA deadlines and Executive Order 14154's mandate to expedite permitting while reducing risks of later delays due to incomplete cultural analysis.

Categorical Exclusion

II. Safeguards for Cultural and Ancestral Sites

The FAA's expansion of CATEX use, including combining exclusions, heightens the risk of bypassing Tribal consultation and cultural review.

We urge FAA to:

- Prohibit CATEX use for any action with potential impacts to sacred sites, ancestral landscapes, or treaty-reserved resources, including those off-reservation and on private lands where federal action triggers NEPA.⁶
- Require written approval from Tribal government(s) before applying a CATEX in culturally sensitive areas.
- Establish Tribal-specific CATEXs to expedite Tribal-led aviation safety, infrastructure, or cultural preservation projects on Tribal lands, recognizing that it is the sovereign right of each Tribal Nation to decide what happens on its lands.
- Mandate extraordinary circumstances review for cultural and historic properties consistent with the Council on Environmental Quality's NEPA regulations on categorical exclusions.⁷
- FAA must ensure that any CATEX applied meets the "major Federal action" threshold⁸ and that a full extraordinary circumstances review, as required under the Council on Environmental Quality's NEPA regulations for categorical exclusions⁹ is triggered whenever Tribal cultural resources or sacred sites may be affected.

Emergency Procedures

III. Protecting Sacred Sites Under Urgent Actions

We acknowledge the FAA's need to address emergencies impacting aviation safety. However, emergency NEPA procedures must not waive or compress Tribal consultation, Section 106 (NHPA) review, or NAGPRA compliance.

FAA must ensure:

- Immediate notification and consultation with affected Tribal Nations in all emergency actions with potential cultural impacts.¹⁰
- Cultural surveys and sacred site protections are not suspended under emergency declarations.

⁶ 36 CFR § 800.16(y)

⁷ 40 CFR § 1501.4(b)

⁸ 42 U.S.C. § 4336e

⁹ 40 CFR 1501.4(b)

¹⁰ 36 CFR § 800.12



- Post-emergency reviews include Tribal input and mitigation for any impacts to cultural resources or burial grounds.¹¹

Broader Regulatory Updates

IV. Off-Reservation Landscapes, TEK, and Co-Management

FAA's NEPA procedures must explicitly include cultural landscapes and sacred sites beyond current reservation boundaries, recognizing that historic displacement and land loss created arbitrary borders. This requires mandating analysis of impacts on off-reservation and private lands when federal aviation actions affect Tribal cultural resources, codifying the role of Tribal traditional ecological knowledge (TEK)¹² and cultural expertise as best available information, and creating pathways for co-management agreements with Tribal Nations where FAA actions overlap ancestral and cultural landscapes. It should also incorporate the United States' obligations under the United Nations Declaration on the Rights of Indigenous Peoples¹³ to protect Indigenous cultural heritage and sacred sites.

FAA NEPA procedures must also ensure that the reasonable range of alternatives considered includes options that fully avoid or minimize impacts to sacred sites and Tribal cultural landscapes.¹⁴

V. Section 106 and NAGPRA - Non-Negotiable Protections Under Streamlined FAA NEPA

FAA Order 1050.1G must explicitly reaffirm that Section 106 consultation and NAGPRA obligations are mandatory and cannot be bypassed under streamlined, categorical, or emergency procedures. Early cultural review is critical to avoid inadvertent disturbance of sacred and burial sites.

Conclusion

FAA's NEPA regulations must balance efficiency and aviation safety with enforceable protections for Tribal sovereignty, sacred sites, and cultural survival. Streamlining cannot come at the expense of Tribal rights or the federal trust and treaty responsibilities that bind the United States to Tribal Nations. The federal government's obligations to Tribes are not discretionary, they are rooted in treaties, statutes, and the government-to-government relationship. Protecting sacred landscapes and cultural resources is integral to aviation planning and environmental stewardship, not a barrier to them.

We urge the FAA to adopt these recommendations, codify safeguards for Tribal engagement, and ensure that NEPA remains a cornerstone for protecting cultural and environmental integrity while advancing national transportation and safety goals. In doing so, the FAA will fulfill both its mission and its trust and treaty obligations, upholding the cultural continuity of the First Peoples of this land.

¹¹ 25 U.S.C. § 3002(d)

¹² U.S. Office of Science and Technology Policy, *Guidance for (United States) Federal Departments and Agencies on Indigenous Knowledge* (Nov. 30, 2022).

¹³ (Articles 11 and 12)

¹⁴ 42 U.S.C. § 4332(2)(C)(iii)



With respect and in service to Tribal Nations,

A handwritten signature in black ink that reads "Chéri A. Smith". The signature is fluid and cursive, with the first name being the most prominent.

Chéri A. Smith (*Mi'kmaq*)
President & CEO
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