

§ 651.32

32 CFR Ch. V (7-1-01 Edition)

- (4) Purpose of and need for the action.
- (5) Alternatives considered, including proposed action.
- (6) Affected environmental (baseline conditions).
- (7) Environmental and socioeconomic consequences.
- (8) List of preparers.
- (9) Distribution list.
- (10) Index.
- (11) Appendixes (if any).
- (b) The content of each section is discussed in greater detail in appendix D.

§ 651.32 Steps in preparing and processing an EIS.

(a) *Notice of intent (NOI)*. (1) Prior to preparing an EIS (see Figure 4), a NOI will be published in the FR and in newspapers with appropriate or general circulation in the areas potentially affected by the proposed action. The Office of Legislative Liaison (OCLL) will be notified by the ARSTAF proponent

of pending EISs so that congressional coordination may be effected. After the NOI is published in the FR, copies of the notice may also be distributed to agencies, organizations, and individuals, as the responsible official deems appropriate.

(2) Forward the NOI and the proposed press release to the HQDA proponent for coordination prior to publication. The ARSTAF proponent will coordinate the NOI with HQDA (Army Environmental Office, OCLL, and OCPA). The DESOH is the only person authorized to release an NOI to the FR for publication. A cover letter similar to Figure 5 will accompany the NOI. An example NOI is at Figure 6. The NOI initiates the scoping process; therefore, provide adequate response time for those wishing to comment on the NOI or participate in the scoping process. Subpart G discusses public participation requirements and options.

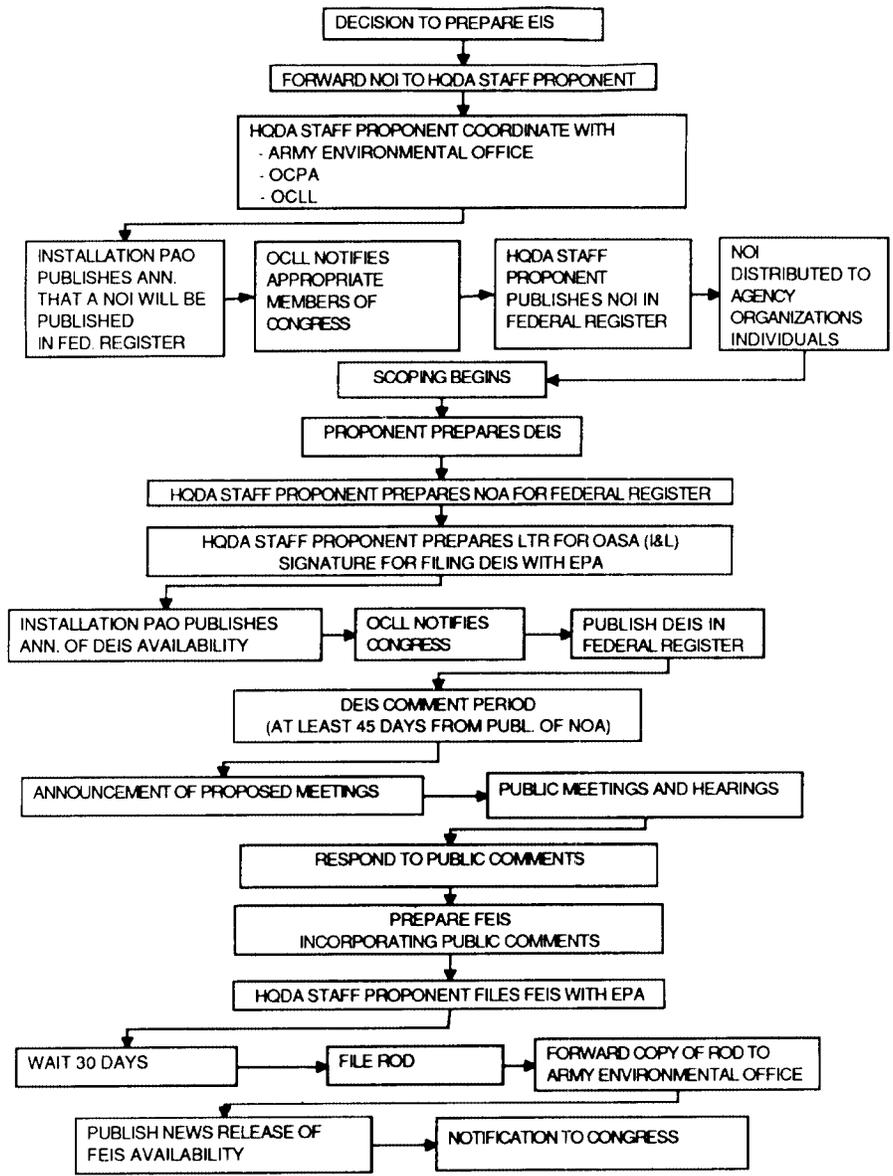


Figure 4. Steps in preparing and processing an Environmental Impact Statement (EIS)

Director
Office of the Federal Register
National Archives and Records Administration
Washington, DC 20408

Dear Sir:

§ 651.32

32 CFR Ch. V (7-1-01 Edition)

The attached Notice of Intent is submitted for publication in the Notice Section of the FEDERAL REGISTER.

Please publish this Notice of Intent in the earliest edition of the FEDERAL REGISTER possible. This notice is required for the Department of Army to perform its military mission and comply with the National Environmental Policy Act and the President's Council on Environmental Quality regulations.

Please bill this to charge code 3710-08-M.

Sincerely

Lewis D. Walker
*Deputy for Environment,
Safety and Occupational Health
OASA (I&L)*

1 encl. (3 copies)

cc: HQDA (SAIL-DESOH)
HQDA ()
HQDA (Staff Proponent)

3 Originals must be signed
The charge code 3710-08-M must appear in the letter.

Figure 5. Sample Notice of Intent (NOI) transmittal letter.

3710-08-M

Department of the Army
Notice of Intent (NOI)

To prepare a Draft Environmental Impact Statement (DEIS) for proposed barracks construction, at Ft. Jefferson, CA.

Agency: DOD, U.S. Army, Ft. Jefferson, California.

Summary: Proposed Action: A series of three barracks are proposed for construction at Ft. Jefferson, California in order to provide adequate housing for bachelor enlisted personnel assigned to the installation. These facilities are proposed to replace existing substandard facilities for personnel who currently live in expensive rental units within the community or in inadequate quarters on the installation. The inadequate quarters are deficient in seismic design and do not meet DOD standards for privacy, space, or security. The requirements for these projects are not the result of new or expanded missions. The location of the proposed barracks is between M and N Streets on Wisconsin Avenue.

Alternative

- a. No Action
- b. Rehabilitation of existing facilities
- c. Alternate site locations

Scoping Process: Comments received as a result of this notice will be used to assist the Army in identifying potential impacts to the quality of the environment. Individuals or organizations may participate in the scoping process by written comment or by attending a scoping meeting to be held on May 23, 1989, 8 PM, at the Norwood Avenue Elementary School, 123 Norwood Avenue. Written comments may be forwarded to: Commander, U.S. Army Engineer School, Attention: Director of Facilities Engineering, Fort Jefferson, California. Comments and suggestions should be received not later than 15 days following the public scoping meeting to be considered in the DEIS. Questions regarding this proposal may contact Ms. Jane McIntyre, (900) 555-9876.

Lewis D. Walker
*Deputy for Environment,
Safety and Occupational Health
OASA (I&L)*

Figure 6. Sample Notice of Intent (NOI)

Department of the Army, DoD

§ 651.32

(b) *Lead and cooperating agency determination.* As soon as possible after the decision is made to prepare an EIS, the proponent, if necessary, will contact appropriate Federal, State, and local agencies to identify lead or cooperating agency responsibilities concerning EIS preparation. At this point, a public affairs plan must be developed. In State ARNG actions that have any Federal funding, the National Guard Bureau (NGB) will be the lead agency for the purpose of Federal compliance with NEPA. The State may be either a joint lead or a cooperating agency, as determined by NGB.

(c) *Scoping.* If determined that Army is the lead agency, the proponent will begin the scoping process described in §651.36. Portions of the scoping process may take place prior to publication of the NOI.

(d) *Draft Environmental Impact Statement (DEIS) preparation and processing.*

(1) Preliminary DEIS (PDEIS). Based on information obtained and decisions made during the scoping process, the proponent will prepare the PDEIS. Forward 15 copies of the PDEIS to the HQDA proponent for circulation to OASA (I&L), Office of the Assistant Chief of Engineers (OACE), Office of the Judge Advocate General (OTJAG), Office of the Surgeon General (OTSG), Office of the Chief of Public Affairs (OCPA), and other interested offices for review and comment. The PDEIS is then returned to the preparer for revision as required and printing of the DEIS for filing.

(2) DEIS. The Army proponent will advise the DEIS preparer of the number of copies to be forwarded for final HQDA review (see paragraph (d)(1) of this section for distribution list) and those for filing with EPA. Distribution may include interested Congressional delegations and committees, governors, national environmental organizations, the DOD and Federal agency headquarters, and other selected entities. The Army proponent will prepare the FR NOA, the proposed news release, and the EPA filing letter for signature of the DESOH. When the DEIS has been formally approved by the DESOH, the HQDA proponent will notify the preparer to distribute the DEIS to the remainder of the distribu-

tion list. The DEIS must be distributed prior to, or simultaneous to, filing with EPA. The list includes Federal, State, regional, and local agencies, private citizens, and local organizations. The EPA will publish the NOA in the FR. The 45-day comment period begins on the date of the EPA notice in the FR.

(e) *Public review of DEIS.* (1) The length of the DEIS public comment period will normally be no less than 45 days from publication of the NOA in the FR. If the statement is unusually long, circulate a summary with an attached list of locations where review of the entire DEIS may take place (for example, local public libraries).

(2) However, EIS distribution must include the following:

(i) Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State, or local agency authorized to develop and enforce environmental standards.

(ii) The applicant, if any.

(iii) Any person, organization, or agency requesting the entire environmental impact statement.

(3) Hold public meetings or hearings on the DEIS in accordance with the criteria established in 40 CFR 1506.6 (c) and (d) or for any other reason the proponent deems appropriate. News releases should be prepared and issued to publicize the meetings or hearings.

(f) *Response to comments.* Incorporate responses to comments in the DEIS by modification of the text and/or written explanation. Where possible, group similar comments for a common response. The preparer or a higher authority may make individual response, if considered desirable.

(g) *Prepare Final Environmental Impact Statement (FEIS).* If the changes in the DEIS are exclusively factual corrections, prepare and circulate only an errata sheet containing DEIS comments, responses, and changes. Nevertheless, the entire document and new cover sheet will be filed with EPA (40 CFR

1503.4(c)). If broader modifications are necessary, the proponent will prepare a preliminary FEIS incorporating these modifications. Processing the FEIS is essentially the same as the process outlined for the DEIS transmittal. The FEIS distribution must include any person, organization, or agency that submitted substantive comments on the EIS. Also, distribution to commenting agencies and the public must occur prior to, or simultaneously with, filing the NOA for the EIS with EPA. There is no need to invite public comment during the 30 day post-filing waiting period. (40 CFR 1503.1(b).)

(h) *Decision.* Make no decision on a proposed action until 30 days after EPA has published the NOA of the FEIS in the FR, or 90 days after the NOA of the DEIS, whichever is later. EPA publishes NOAs weekly. Those NOAs ready for EPA by close of business Friday are published in the next Friday's issue of the FR.

(i) *Record of decision (ROD).* When a decision is made, the decisionmaker will prepare a ROD (40 CFR 1505.2 and 1505.3) which will become a part of the environmental documentation presented for the final decision. Forward a copy of the signed ROD to the Army Environmental Office. The ROD will—

- (1) State the decision.
- (2) Identify all alternatives considered by the Army in reaching its decision, specifying the preferred alternatives as well as the environmental alternatives, if they are not the same. The Army may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions.
- (3) Identify and discuss all such factors, including any essential considerations of national policy that were balanced by the Army in making its decision. Because economic and technical analyses are balanced with environmental analysis, the agency preferred alternative will not necessarily be the environmentally preferred alternative.
- (4) State how those considerations entered into the final decision.
- (5) State whether all practicable means to avoid or minimize environmental harm from the selected alternative have been adopted, and if not,

why they were not. A monitoring and enforcement program will be adopted and summarized for any mitigation. (See appendix F.)

(j) *Pre-decision referrals.* 40 CFR part 1504 specifies procedures to resolve Federal agency disagreements on the environmental effects of a proposed action. Pre-decision referrals apply to interagency disagreement on a proposed action's potential unsatisfactory effects.

(k) *Changes during preparation.* If there are substantial changes in the proposed action, or significant new information relevant to environmental concerns during the proposed action's planning process, the proponent will prepare revisions or a supplement to any environmental document or prepare new documentation as necessary.

(l) *Mitigation.* All measures planned to minimize or mitigate expected significant environmental impacts will be identified in the EIS. Implementation of the mitigation plan is the responsibility of the proponent (See appendix F.) The proponent will make available to the public, upon request, the status and results of mitigation measures associated with the proposed action.

(m) *Implementing the decision.* The Army may provide for monitoring to assure that its decisions are carried out and should do so in controversial cases or environmentally sensitive areas. (See appendix F.) Mitigation and other conditions established in the EIS or during its review, and comment as part of the decision, will be implemented by the lead agency or other appropriate consenting agency. The proponent will—

- (1) Include appropriate conditions in grants, permits, or other approvals.
- (2) Condition funding of actions on mitigation.
- (3) Upon request, inform cooperating or commenting agencies on the progress in carrying out adopted mitigation measures that they have proposed and that were adopted by the agency making the decision.
- (4) Upon request, make the results of relevant monitoring available to the public and Congress.

(n) *Supplemental EIS (SEIS).* SEISs (40 CFR 1502.9(c)) are processed in the

Department of the Army, DoD

§ 651.34

same way as draft and final EISs. Scoping is not required for an SEIS.

§ 651.33 Existing EISs.

A newly proposed action must be the subject of a separate EIS. The proponent may extract and revise the existing environmental documents in such a way as to bring them completely up to date, in light of the new proposals. Such a revised EIS will be prepared and processed entirely under the provisions of this regulation. If an EIS of another agency is adopted, it must be processed in accordance with 40 CFR 1506.3.

§ 651.34 Major Army command (MACOM) processing of an EIS.

In certain cases where the scope of the EIS is limited, the HQDA proponent may authorize a MACOM to process an EIS.

(a) *NOI*. When the NOI is forwarded to the HQDA proponent (§651.32(a)(2)), the proponent may determine that the MACOM should accomplish EIS processing. The HQDA proponent will consult with the Army Environmental Office, who will gain approval from DESOH. Proponent will return the NOI with any comments and a letter authorizing the MACOM to process the EIS in accordance with the guidance in this chapter. The MACOM is responsible for preparing the NOI, proposed news release, and a transmittal letter as described in Figure 5, and for forwarding that material to the Army Environmental Office. After a review to ensure acceptability of the document, the OASA (I&L) will forward the NOI to the FR.

(b) *PDEIS*. When the PDEIS is staffed at the unit Headquarters, copies will be provided for concurrent review to the following HQDA elements to ensure that HQDA interposes no objection: JALS-RL, OGC, OCPA, OCLL, DASG-PSP-E, the Army Environmental Office, and the HQDA proponent.

(c) *Filing the EIS*. The unclassified portions of the DEIS and FEIS will be filed with the EPA Federal Activities Office by forwarding five copies with a transmittal letter as described in Figure 7. An additional five copies will be sent to the applicable EPA regional office for its review of the proposed action. One copy will be forwarded to Office of the Secretary of Defense (OSD) (Figure 8). Distribution of HQDA EIS copies will follow that of the PDEIS list. (See paragraph (b) of this section.) Copies will be coordinated for Congressional delegations and committees with the HQDA (OCLL) to meet Congressional notification procedures. Remaining distribution is for interested governors, Federal agency headquarters, national environmental organizations, regional, State and local agencies and organizations, and interested private citizens. The proponent is responsible for developing the distribution list; advice is available from the Army Environmental Office. A NOA may be published in the FR by forwarding the notice, a proposed news release, and a transmittal letter by the same method used for the NOI (See paragraph (a) of this section.)

(d) *ROD*. At the time of decision, a ROD will be prepared. (40 CFR 1505.2 and 1505.3.) A copy of the ROD will be provided to the Army Environmental Office.

Director
Office of Federal Activities
U.S. Environmental Protection Agency
Room 2119, West Tower
Waterside Mall
Washington, DC 20460

Dear Sir:

Enclosed are five copies of the Draft Environmental Impact Statement (DEIS), Proposal to Construct Barracks at Fort Jefferson, California.

These copies are forwarded for filing in accordance with the Council on Environmental Quality regulations for implement the provisions of the National Environmental Policy Act (40 CFR part 1500-1508).