

Department of the Air Force, DoD

§ 989.19

§ 989.16 Environmental impact statement.

(a) Certain classes of environmental impacts normally require preparation of an EIS (40 CFR 1501.4). These include, but are not limited to:

(1) Potential for significant degradation of the environment.

(2) Potential for significant threat or hazard to public health or safety.

(3) Substantial environmental controversy concerning the significance or nature of the environmental impact of a proposed action.

(b) Certain other actions normally, but not always, require an EIS. These include, but are not limited to:

(1) Public land withdrawals of over 5,000 acres (Engle Act, 43 U.S.C. 155 through 158).

(2) Establishment of new air-to-ground weapons ranges.

(3) Site selection of new airfields.

(4) Site selection of major installations.

(5) Development of major new weapons systems (at decision points that involve demonstration, validation, production, deployment, and area or site selection for deployment).

(6) Establishing or expanding supersonic training areas over land below 30,000 feet MSL (mean sea level).

(7) Disposal and reuse of closing installations.

§ 989.17 Notice of intent.

The EPF must furnish, through the MAJCOM, to HQ USAF/ILEB the NOI (40 CFR 1508.22) describing the proposed action for congressional notification and publication in the FEDERAL REGISTER. The EPF, through the host base public affairs office, will also provide the approved NOI to newspapers and other media in the area potentially affected by the proposed action. The EPF must provide copies of the notice to the SPOC and must also distribute it to requesting agencies, organizations, and individuals. Along with the draft NOI, the EPF must also forward the completed DOPAA, through the MAJCOM, to HQ USAF for information.

[64 FR 38129, July 15, 1999; 66 FR 16868, Mar. 28, 2001]

§ 989.18 Scoping.

(a) After publication of the NOI for an EIS, the EPF must initiate the public scoping process (40 CFR 1501.7) to determine the scope of issues to be addressed and to help identify significant environmental issues to be analyzed in depth. Methods of scoping range from soliciting written comments to conducting public scoping meetings (see 40 CFR 1501.7 and 1506.6(e)). The scoping process is an iterative, pro-active process of communicating with individual citizens, neighborhood, community, and local leaders, public interest groups, congressional delegations, state, Tribal, and local governments, and federal agencies. The scoping process must start prior to official public scoping meetings and continue through to preparation of the draft EIS. The purpose of this process is to de-emphasize insignificant issues and focus the scope of the environmental analysis on significant issues (40 CFR 1500.4(g)). Additionally, scoping allows early and more meaningful participation by the public. The result of scoping is that the proponent and EPF determine the range of actions, alternatives, and impacts to be considered in the EIS (40 CFR 1508.25). The EPF must send scripts for scoping meetings to USAF/ILEV (or ANGR/C/CEV) no later than 30 days before the first scoping meeting. Scoping meeting plans are similar in content to public hearing plans (see Appendix C). Public scoping meetings should generally be held at locations not on the installation.

(b) Where it is anticipated the proposed action and its alternatives will have disproportionately high and adverse human health or environmental effects on minority populations or low-income populations, special efforts shall be made to reach these populations. This might include special informational meetings or notices in minority and low-income areas concerning the regular scoping process.

[64 FR 38129, July 15, 1999; 66 FR 16868, Mar. 28, 2001; 66 FR 26793, May 15, 2001]

§ 989.19 Draft EIS.

(a) *Preliminary draft.* The EPF supports the proponent in preparation of a preliminary draft EIS (PDEIS) (40 CFR

1502.9) based on the scope of issues decided on during the scoping process. The format of the EIS must be in accordance with the format recommended in the CEQ regulations (40 CFR 1502.10 and 1502.11). The CEQ regulations indicate that EISs normally contain fewer than 150 pages (300 pages for proposals of unusual complexity). The EPF provides a sufficient number of copies of the PDEIS to HQ USAF/ILEB for HQ USAF ESOHC security and policy review in each member's area of responsibility and to AFCEE/EC for technical review.

(b) *Review of draft EIS.* After the HQ USAF ESOHC review, the EPF assists the appropriate Air Force organization in making any necessary revisions to the PDEIS and forwards it to HQ USAF/ILEB as a draft EIS to ensure completion of all security and policy reviews and to certify releasability. Once the draft EIS is approved, HQ USAF/ILEB notifies the EPF to print sufficient copies of the draft EIS for distribution to congressional delegations and interested agencies at least 7 calendar days prior to publication of the Notice of Availability (NOA) in the FEDERAL REGISTER. After congressional distribution, the EPF sends the draft EIS to all others on the distribution list. HQ USAF/ILEB then files the document with the U.S. Environmental Protection Agency (USEPA) and provides a copy to the Deputy Under Secretary of Defense for Environmental Security.

(c) *Public review of draft EIS (40 CFR 1502.19 and 1506.6):* (1) The public comment period for the draft EIS is at least 45 days starting from the publication date of the NOA of the draft EIS in the FEDERAL REGISTER. USEPA publishes in the FEDERAL REGISTER NOAs of EISs filed during the preceding week. This public comment period may be extended by the EPF. If the draft EIS is unusually long, the EPF may distribute a summary to the public with an attached list of locations (such as public libraries) where the entire draft EIS may be reviewed. The EPF must distribute the full draft EIS to certain entities, for example, agencies with jurisdiction by law or agencies with special expertise in evaluating the environmental impacts, and anyone

else requesting the entire draft EIS (40 CFR 1502.19 and 1506.6).

(2) The EPF sponsors public hearings on the draft EIS according to the procedures in Appendix C to this part. Hearings take place no sooner than 15 days after the FEDERAL REGISTER publication of the NOA and at least 15 days before the end of the comment period. Scheduling hearings toward the end of the comment period is encouraged to allow the public to obtain and more thoroughly review the draft EIS. The EPF must provide hearing scripts to HQ USAF/ILEB (or ANGR/CEV) no later than 30 days prior to the first public hearing. Public hearings should generally be held at off-base locations. Submit requests to deviate from procedures in Appendix C to this part to HQ USAF/ILEB for SAF/MIQ approval.

(3) Where analyses indicate that a proposed action will potentially have disproportionately high and adverse human health or environmental effects on minority populations or low-income populations, the EPF should make special efforts to ensure that these potentially impacted populations are brought into the review process.

(d) *Response to comments (40 CFR 1503.4).* The EPF must incorporate in the Final EIS its responses to comments on the Draft EIS by modifying the text and referring in the appendix to where the comment is addressed or providing a written explanation in the comments section, or both. The EPF may group comments of a similar nature together to allow a common response and may also respond to individuals separately.

(e) *Seeking additional comments.* The EPF may, at any time during the EIS process, seek additional public comments, such as when there has been a significant change in circumstances, development of significant new information of a relevant nature, or where there is substantial environmental controversy concerning the proposed action. Significant new information leading to public controversy regarding the scope after the scoping process is such a changed circumstance. An additional public comment period may also be necessary after the publication of the draft EIS due to public controversy or changes made as the result of previous

public comments. Such periods when additional public comments are sought shall last for at least 30 days.

[64 FR 38129, July 15, 1999; 66 FR 16868, Mar. 28, 2001]

§ 989.20 Final EIS.

(a) If changes in the draft EIS are minor or limited to factual corrections and responses to comments, the proponent and EPF may, with the prior approval of HQ USAF/ILEB and SAF/MIQ, prepare a document containing only comments on the Draft EIS, Air Force responses, and errata sheets of changes staffed to the HQ USAF ESOHC for coordination. However, the EPF must submit the Draft EIS and all of the above documents, with a new cover sheet indicating that it is a final EIS (40 CFR 1503.4(c)), to HQ USAF/ILEB for filing with the EPA (40 CFR 1506.9). If more extensive modifications are required, the EPF must prepare a preliminary final EIS incorporating these modifications for coordination within the Air Force. Regardless of which procedure is followed, the final EIS must be processed in the same way as the draft EIS, including receipt of copies of the EIS by SAF/LLP, except that the public need not be invited to comment during the 30-day post-filing waiting period. The Final EIS should be furnished to every person, organization, or agency that made substantive comments on the Draft EIS or requested a copy. Although the EPF is not required to respond to public comments received during this period, comments received must be considered in determining final decisions such as identifying the preferred alternative, appropriate mitigations, or if a supplemental analysis is required.

(b) The EPF processes all necessary supplements to EISs (40 CFR 1502.9) in the same way as the original Draft and Final EIS, except that a new scoping process is not required.

(c) If major steps to advance the proposal have not occurred within 5 years from the date of the Final EIS approval, reevaluation of the documentation should be accomplished to ensure its continued validity.

[64 FR 38129, July 15, 1999; 66 FR 16868, Mar. 28, 2001]

§ 989.21 Record of decision (ROD).

(a) The proponent and the EPF prepare a draft ROD, formally staff it through the MAJCOM EPC, to HQ USAF/ILEB for verification of adequacy, and forwards it to either SAF/MIQ or SAF/AQR, as the case may be, for approval and designation of the signator. A ROD (40 CFR 1505.2) is a concise public document stating what an agency's decision is on a specific action. The ROD may be integrated into any other document required to implement the agency's decision. A decision on a course of action may not be made until the later of the following dates:

(1) 90 days after publication of the DEIS; or

(2) 30 days after publication of the NOA of the Final EIS in the FEDERAL REGISTER.

(b) The Air Force must announce the ROD to the affected public as specified in § 989.24, except for classified portions. The ROD should be concise and should explain the conclusion, the reason for the selection, and the alternatives considered. The ROD must identify the course of action, whether it is the proposed action or an alternative, that is considered environmentally preferable regardless of whether it is the alternative selected for implementation. The ROD should summarize all the major factors the agency weighed in making its decision, including essential considerations of national policy.

(c) The ROD must state whether the selected alternative employs all practicable means to avoid, minimize, or mitigate environmental impacts and, if not, explain why.

[64 FR 38129, July 15, 1999; 66 FR 16868, Mar. 28, 2001]

§ 989.22 Mitigation.

(a) When preparing EIAP documents, indicate clearly whether mitigation measures (40 CFR 1508.20) must be implemented for the alternative selected. If using Best Management Practices (BMPs), identify the specific BMPs being used and include those BMPs in the mitigation plan. Discuss mitigation measures in terms of "will" and