

***APPENDIX F
RELEVANT STATUTES, REGULATIONS, AND
GUIDELINES***

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GENERAL

National Environmental Policy Act (NEPA) of 1969 (Public Law [PL] 91-190, 42 United States Code [USC] 4347, as amended). Requires federal agencies to take the environmental consequences of proposed actions into consideration in their decision-making process. The intent of NEPA is to protect, restore or enhance the environment through well informed federal decisions. The Council on Environmental Quality (CEQ) was established under NEPA to implement and oversee federal policy in this process.

40 Code of Federal Regulation (CFR) Parts 1500-1508 Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. Parts 1500 through 1508 of this title provide regulations applicable to and binding on all federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 USC 4321 et seq.) (NEPA or the Act) except where compliance would be inconsistent with other statutory requirements.

Air Force Instruction 32-7061, Environmental Impact Analysis Process (EIAP), as promulgated at 32 CFR Part 989. Air Force implementation of the procedural provisions of NEPA and CEQ regulations.

AFPD 32-70, Environmental Quality. Requires that the Air Force comply with applicable federal, state, and local environmental laws and regulations, including NEPA. Executive Order (EO) 11514, Protection and Enhancement of Environmental Quality, as amended by EO 11991, sets policy directing the federal government in providing leadership in protecting and enhancing the environment.

Intergovernmental Coordination Act and EO 12372, Intergovernmental Review of Federal Programs. Requires federal agencies to cooperate with and consider state and local views in implementing a federal proposal. AFI 32-7061 requires proponents to implement a process known as Interagency and Intergovernmental Coordination for Environmental Planning (IICEP), which is used for the purpose of agency coordination and implements scoping requirements.

Ensuring Quality of Information Disseminated to the Public by the Department of Defense. This memorandum, signed February 10, 2003 requires that all components of the Department of Defense adopt standards of data quality for information they disseminate.

AIRSPACE

Federal Aviation Act of 1958. Created the Federal Aviation Administration (FAA) and charges the FAA Administrator with ensuring the safety of aircraft and the efficient utilization of the National Airspace System, within the jurisdiction of the United States.

Federal Aviation Administration Regulation 14 CFR Part 71 (1975). Delineates the designation of federal airways, area low routes, controlled airspace, and navigational reporting points.

Federal Aviation Administration Regulation 14 CFR Part 73 (1975). Defines special use airspace and prescribes the requirements for the use of that airspace.

Federal Aviation Administration Regulation 14 CFR Part 91 (1990). Describes the rules governing the operation of aircraft within the United States.

FAA Order JO 7400.2. Includes policy, criteria, and procedures applicable to modification and establishment of Special Use Airspace, including Military Operations Areas.

FAA Order 7110.65. Prescribes air traffic control procedures and phraseology for use by personnel providing air traffic control services in the United States.

RANGE MANAGEMENT

AFI 13-212 Volume 1, 2 and 3 Range Planning and Operations. Ensures that Air Force ranges are planned, operated, and managed in a safe manner; that all required equipment and facilities are available to support range use, and that proper security for range assets is present.

NOISE ENVIRONMENT

Executive Order (EO) 12088 Federal Compliance with Pollution Control Standards (1978). Requires the head of each executive agency to be responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution, including noise pollution, with respect to federal facilities and activities under the control of the agency.

Federal Interagency Committee on Urban Noise (1980). Defines noise levels for various land uses and may result in areas that will not qualify for federal mortgage insurance. Additional sections allow for noise attenuation measures that are often required for HUD approval.

United States Environmental Protection Agency (USEPA) Report 550/9-74-004 Information of Levels of Environmental Noise Requisite to Protect Public Health and Welfare With an Adequate Margin of Safety (1974). This USEPA report summarizes the findings of numerous studies related to sleep disturbance, speech interference, and other potential noise impacts to human health and welfare and establishes guidelines based on these findings.

SAFETY

AFI 32-2001 The Fire Protection Operations and Fire Prevention Program (1 April 1999). Defines the requirements for Air Force installation fire protection programs, including equipment, response times, and training.

AFI 32-3001 Explosive Ordnance Disposal Program (1 October 1999). Regulates and provides procedures for explosives safety and handling. Defines criteria for quantity distances, clear zones, and facilities associated with ordnance.

AFI 91-202 The US Air Force Mishap Prevention Program (1 August 1998). Establishes mishap prevention program requirements, assigns responsibilities for program elements, and contains program management information.

AFI 91-301, Air Force Occupational and Environmental Safety, Fire Protection, and Health (AFOSH). Program implements AFD 91-3, Occupational Safety and Health by outlining the AFOSH Program. The purpose of the AFOSH Program is to minimize loss of Air Force resources and to protect Air Force people from occupational deaths, injuries, or illnesses by managing risks.

Air Force Manual 91-201, Safety: Explosives Safety Standards. Establishes safety standards, provides planning guidance, and defines safety requirements for explosives operations of any kind (including testing, disassembling, modifying, storing, transporting, and handling explosives or ammunition) at Air Force facilities.

Department of Defense Flight Information Publication. Indicates locations of potential hazards (e.g., bird aggregations, obstructions, and noise sensitive locations) under military airspace and defines horizontal and/or vertical avoidance measures. Updated monthly to present current conditions.

MATERIALS MANAGEMENT

Hazardous Materials Transportation Act (HTMA) of 1975 Title I Section 101. Establishes criteria for shippers and carriers that manage hazardous materials and includes training and qualifications of persons handling hazardous materials.

Resource Conservation and Recovery Act (RCRA) of 1976. Regulates the storage, transportation, treatment, and disposal of hazardous waste that could adversely affect the environment.

Occupational Safety and Health Administration (OSHA) Asbestos Standard (29CFR 1926.58) (1970). Lists federal requirements during construction activities for handling and removal of asbestos from equipment and building structures. The chemical hazard communication program (29CFR 1910.120) requires the identification, information, and training on chemical hazards to be available to employees using hazardous materials and instituted material safety data sheets (MSDS) which provide this information.

Solid Waste Disposal Act (SWDA) and Amendments of 1980. Amends RCRA with additional regulation of energy and materials conservation and the establishment of a National Advisory Council.

Hazardous and Solid Waste Amendments (HSWA) of 1984. Significantly expands the scope and requirements of RCRA and mandated underground storage tank (UST) regulations.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 and the Superfund Amendments and Reauthorization Act (SARA) of 1986. Provides liability and compensation for cleanup and emergency response from hazardous substances discharged into the environment and the cleanup of hazardous disposal sites.

AFI 32-7080 Pollution Prevention Program (12 May 1994).

AFI 32-7042 Hazardous Waste Management and Regulation (12 May 1994).

AFI 32-7005 Facility Environmental Protection Committee (25 February 1994).

AFI 32-7086 Hazardous Material Management (1 August 1997).

AFI 32-4002 Facility Hazardous Emergency Planning and Response (1 December 1997).

Military Munitions Rule, Title 40 CFR Part 266, Subpart M, "Military Munitions."

PHYSICAL RESOURCES

Federal Water Pollution Control Act of 1948. Establishes procedures and programs for the restoration and maintenance of the chemical, physical, and biological integrity of the nation's waters, thus protecting habitat conditions in aquatic and wetland ecosystems.

Clean Water Act of 1977 (33 USC 1251-1387). Requires a National Pollution Discharge Elimination System (NPDES) permit for all discharges into waters of the United States to reduce pollution that could affect any form of life. Section 404 of this act regulates development in streams and wetlands and requires a permit from the U.S. Army Corps of Engineers.

EO 19988 Floodplain Management (1977). Requires that governmental agencies, in carrying out their responsibilities, provide leadership and take action to restore and preserve the natural and beneficial values served by floodplains.

BIOLOGICAL RESOURCES

Lacey Act of 1900 (16 USC 3371-13378). Brings the unlawful taking of fish, wildlife, and plants under federal jurisdiction by prohibiting specimens taken illegally from being shipped across state boundaries.

Migratory Bird Treaty Act of 1918 (16 USC 701-715s). Establishes protection for migratory birds and their parts (including eggs, nests, and feathers) from hunting, capture, or sale.

Bald Eagle Protection Act of 1940 (16 USC 668-668c). Protects bald eagles and golden eagles by prohibiting the take, possession, or transportation of these species, dead or alive, and includes protection of their nests and eggs.

Fish and Wildlife Coordination Act of 1958 (16 USC 661-666c as amended). Provides for conservation and management of fish and wildlife by encouraging cooperation between the U.S. Fish and Wildlife Service and other federal, state, public, and private agencies.

Wilderness Act of 1964 (16 USC 1131). Directs the Secretary of the Interior to review every roadless area greater than or equal to 5,000 acres and every roadless island (regardless of size) within National Wildlife Refuge and National Park Systems and to recommend to the President the suitability of each such area or island for inclusion in the National Wilderness Preservation System. The act provides criteria for determining suitability and establishes restrictions on activities that can be undertaken on designated areas.

Endangered Species Act of 1973 (16 USC 1531-1544, as amended). Establishes measures for the conservation of plant and animal species listed, or proposed for listing, as threatened or endangered, including the protection of critical habitat necessary for their continued existence.

EO 11990 Protection of Wetlands (1977). Requires the governmental agencies, in carrying out their responsibilities, to provide leadership and take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. Factors to be considered include conservation and long-term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, and wildlife.

Fish and Wildlife Conservation Act of 1980 (16 USC 2901-2911 as amended). Promotes state programs, and authorizes funding for grants, aimed at developing and implementing comprehensive state non-game fish and wildlife management plans.

North American Wetlands Conservation Act (16 USC 4401-4412) (1989). Supports the management and preservation of waterfowl by funding the implementation of the North American Waterfowl Management Plan and the Tripartite Agreement on wetlands between Canada, the U.S., and Mexico.

CULTURAL RESOURCES

National Historic Preservation Act of 1966, as amended. Provides the principal authority used to protect historic properties, establishes the National Register of Historic Places (NRHP), and defines, in Section 106, the requirements for federal agencies to consider the effects of an action on properties listed on, or eligible for, the NRHP.

Archaeological Resources Protection Act (ARPA) of 1979 (16 USC section 470aa-47011). Ensures the protection and preservation of archaeological sites on federal or Native American lands and establishes a permitting system to allow legitimate scientific study of such resources.

Protection of Historic and Cultural Properties (36 CFR section 800) (2000). Provides an explicit set of procedures for federal agencies to meet their obligations under the National Historic Preservation Act including inventorying resources and consultation with State Historic Preservation Officers (SHPOs) and federally recognized tribes.

Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001-3013). Requires protection and repatriation of Native American burial items found on, or taken from, federal or tribal lands, and requires repatriation of burial items controlled by federal agencies or museums receiving federal funds.

AFI 32-7065 Cultural Resource Management (2004). Sets guidelines for protecting and managing cultural resources on lands managed by the Air Force.

American Indian Religious Freedom Act of 1978 (42 USC section 1996). States that it is the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.

EO 13007 Indian Sacred Sites (1996). Requires that, to the extent practicable, federal agencies accommodate access to, and ceremonial use of, sacred sites by Native American religious practitioners, and to avoid adversely affecting the physical integrity of sacred sites.

EO 13084 Consultation and Coordination with Indian Tribal Governments (1998). Requires that federal agencies have an effective process to permit elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

Department of Defense (DoD) American Indian and Alaska Native Policy (21 November 1999). This policy emphasizes the importance of respecting and consulting with tribal governments on a government-to-government basis and requires an assessment, through consultation, of proposed DoD actions that may have the potential to significantly affect protected tribal resources, tribal rights, and Indian lands before decisions are made by the services.

LAND USE

Department of Transportation Act of 1966 (49 USC 303), Section 4(f) (formerly 49 USC 1651 (b)(2) and 49 USC 1653f). Protection of certain public lands and all historic sites was originally mandated in Section 4(f) of the 1966 Department of Transportation Act. Public law 90-495 (amended in 1968) amended Section 4(f) to its most commonly known form. In 1983, PL 97-449 re-codified the Act from 49 USC 1651 to 49 USC 303. Congress has amended this Act three other times without substantive changes. It is referred to as Section 4(f) in the Federal Highway Administration Environmental Procedures (23 CFR 772). It declares a national policy to preserve, where possible, "the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites." It protects cultural resources that are on or eligible for the National Register of Historic Places.

Section 6(f) (3)-Land and Water Conservation Funds Act. Section 6(f)(3) of the 1964 Land and Water Conservation Funds (L&WCF) Act requires that all property acquired or developed with L&WCF assistance be maintained perpetually in public recreation use. Title 36, Chapter 1, Part 59 describes post-completion compliance responsibilities. These responsibilities apply to each 6(f) property regardless of the extent of program participation. The State is responsible for compliance and enforcement of these provisions and to ensure consistency with the contractual agreement with the National Park Service.

ENVIRONMENTAL JUSTICE

EO 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (1995). Requires federal agencies to identify and address disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and low-income populations. The essential purpose of EO 12898 is to ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

AF Guidance, Interim Guide for Environmental Justice Analysis with the Environmental Impact Analysis Process (November 1997). Provides guidance for implementation of EO 12898 in relevant Air Force environmental impact assessments.

EO 13045 Protection of Children from Environmental Health Risks and Safety Risks (1998). This Executive Order directs federal agencies to identify and assess environmental health and safety risks that may disproportionately affect children.