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**Civil Engineering**

**ENVIRONMENTAL COMPLIANCE TRACKING  
AND REPORTING**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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**SUMMARY OF REVISIONS**

This document is substantially revised and must be completely reviewed. This revision updates and replaces AFI 32-7047, *Compliance Tracking and Reporting*, 31 Mar 94, in its entirety. This revised AFI updates many of the roles and responsibilities, and clarifies the reporting requirements for enforcement actions (EA), host-nation enforcement actions (HNEA), and compliance agreements resulting from inspections of Air Force environmental programs by Federal, State and Local regulatory agencies.

**OVERVIEW**

This instruction implements AFD 32-70, *Environmental Quality* and the DoD Instruction 4715.6, *Environmental Compliance*. It identifies requirements for tracking, reporting, and managing EAs which include HNEAs, issued by federal, state, local and overseas host nation regulatory agencies. This instruction defines the role of applicable agencies within the Air Force as they pertain to environmental compliance and reporting. It also includes requirements for tracking agreements and orders, such as compliance agreements that the Air Force has entered into with other entities as well as those issued unilaterally by the regulating community such as enforcement orders. Unless otherwise noted, the procedures outlined in this instruction apply to all Air Force installations within the United States, its territories and possessions, and outside the US and its territories. It applies to major commands (MAJCOMs) and MAJCOM equivalent organizations that include Field Operating Agencies (FOA), Direct Reporting Units (DRU), Air National Guard (ANG), and Air Force Real Property Agency (AFRPA). Tenant organizations also must comply with this instruction. Ensure that all records resulting from the prescribed process within this AFI are maintained in accordance with AFMAN 37-139, *Records Disposition Schedule*. Recommendation for Change of Publication, through channels, to Headquarters, United States Air Force, Deputy Chief of Staff for Installations and Logistics, Environmental Division (HQ USAF/ILEV), 1260 Air Force Pentagon, Washington, D.C. 20330-1260. Any organization may supplement this instruction. Major Commands

(MAJCOM), FOA and DRU send one copy of each supplement to HQ USAF/ILEV; other commands send one copy of each supplement to the next higher headquarters.

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## Chapter 1

### INTRODUCTION

#### *Section 1A—How to Use This Instruction*

**1.1. Concept.** This instruction is intended to provide MAJCOMs, MAJCOM-equivalent organizations and installations a framework and schedule to track, report, and resolve noncompliance with environmental laws and standards. MAJCOMs may provide additional implementation guidance in the form of supplemental publications to this instruction. MAJCOM guidance supplements must identify the specific "individual(s)" who have implementation responsibility and include any "how to" guidance necessary for execution.

1.1.1. **Environmental Management System (EMS).** Consistent with Executive Order (E.O.) 13148, *Greening Government Through Leadership in Environmental Management*, April 21, 2000, Air Force installations will develop and implement an environmental management system to sustain, restore, and modernize natural infrastructure to support mission capability. The system will be compatible with and support the Air Force Environment, Safety, and Occupational Health Management System (ESOHMS). All Air Force installations and facilities will comply with the goals of E.O. 13148 and Air Force EMS interim guidance.

**1.2. Objectives.** To achieve and maintain compliance with applicable federal, state, local, Air Force and overseas host nation environmental laws and regulations. A key factor in attaining these objectives is acquiring and reporting accurate and reliable information on the status of Air Force compliance with such standards.

**1.3. Goals.** To identify and proactively address circumstances that may lead to new enforcement actions being issued. Place management emphasis on oversight and execution of proper practices, and encourage leadership to vigorously pursue closure of existing open enforcement actions (OEA) and host nation open enforcement actions (HNOEA). The goals shall be achieved by providing standardized and timely information to leaders and program managers so that they can assess the overall health of the Air Force environmental compliance program, demonstrate progress made toward Air Force compliance goals, and identify areas for improvement.

#### *Section 1B—Roles and Responsibilities*

#### **1.4. Responsibilities:**

##### **1.4.1. Headquarters US Air Force (HQ USAF):**

##### **1.4.1.1. The Deputy Assistant Secretary of the Air Force for Environment, Safety & Occupational Health (SAF/IEE):**

1.4.1.1.1. Promulgates and oversees policy for compliance tracking and reporting as part of an integrated environmental, safety and occupational health management system (ESOHMS).

1.4.1.1.2. Serves as the principal Air Force representative on all compliance-related issues with the Office of the Secretary of Defense (OSD) staff, Federal agencies, and the Congress.

1.4.1.1.3. Coordinates Air Force compliance tracking and reporting procedures with the other Services to explore common areas of interest and prevent duplication of effort.

**1.4.1.2. The Civil Engineer (HQ USAF/ILE) through the Environmental Management Division (ILEV):**

1.4.1.2.1. Formulates policy, advocates for resources, and oversees environmental tracking and reporting requirements throughout the Air Force as part of an integrated environmental management system (EMS).

1.4.1.2.2. Coordinates Air Force environmental tracking and reporting with other HQ USAF offices.

1.4.1.2.3. Serves as the Air Force focal point for coordinating environmental tracking and reporting policies with SAF/IEE.

1.4.1.2.4. Evaluates overall Air Force environmental performance and reports results to ADUSD(E), SAF/IEE, and MAJCOMs including MAJCOM equivalent organizations as defined in the overview.

1.4.1.2.5. Identifies and prioritizes resources in the Planning, Programming, and Budgeting Execution (PPBE) to implement environmental tracking and reporting procedures throughout the Air Force.

1.4.1.2.6. Designates lead MAJCOMs and FOAs for specific environmental tracking and reporting projects and studies.

1.4.1.2.7. Analyzes Air Force environmental performance, identifies trends, and provides guidance to correct negative trends.

**1.4.1.3. The Judge Advocate General (HQ USAF/JA) Through the Air Force Legal Services Agency, Environmental Law and Litigation Division (AFLSA/JACE):**

1.4.1.3.1. Gives legal advice that promotes consistency throughout the Air Force regarding compliance with environmental laws and resolving EAs, including HNEAs.

1.4.1.3.2. Provides legal advice on regional issues through the AFLSA/JACE Regional Counsel Office (RCO) that supports each Air Force Center for Environmental Excellence (AFCEE) Regional Environmental Office (REO).

1.4.1.3.3. Provides legal advice and service in possible litigation, administrative actions, fines and penalties resulting from enforcement actions.

1.4.1.3.4. Tracks and reports enforcement actions; coordinates information with HQ USAF/ILE

**1.4.1.4. The Surgeon General (HQ USAF/SG):**

1.4.1.4.1. Develops compliance tracking and reporting requirements for the Medical Service. Establishes Medical Service Environmental Programs, sets policy, provides manpower resources, promotes health and environmental risk management processes, and advocates for sampling, analysis, and monitoring requirements for SG executed environmental programs. AF/SG is the Air Force's office of primary responsibility for potable water quality, compliance with the Safe Drinking Water Act (SDWA), and publishing the Air Force's implementing policy.

1.4.1.4.2. Coordinates bioenvironmental engineering support for compliance tracking and reporting with HQ USAF/ILE, SAF/IEE, and the MAJCOMs.

1.4.1.4.3. Aligns the requirements of this AFI with AFIs issued by HQ USAF/SG.

1.4.2. **Major Commands:** The MAJCOM CE provides execution guidance and oversight for the implementation of compliance tracking and reporting programs at their installations. All references to MAJCOMs in this AFI include the Headquarters Air National Guard (HQ ANG), Air Force Reserve Command (AFRC), and Air Force Real Property Agency (AFRPA).

1.4.2.1. **Civil Engineer (CE):**

1.4.2.1.1. Assists installations in identifying and eliminating circumstances that may lead to the issuance of new enforcement actions.

1.4.2.1.2. Assists installations in closing OEAs in a timely manner.

1.4.2.1.3. Tracks all OEAs and HNOEAs until they are closed.

1.4.2.1.4. Assists installations in complying with all applicable federal, state, local, and host nation environmental standards.

1.4.2.1.5. Monitors compliance data posted on regulatory agency databases, tracking systems and websites, such as Environmental Protection Agency's (EPA) Online Tracking Information System (OTIS), and other regulatory databases and tracking systems containing Air Force compliance data, to include the U.S. EPA Significant Noncompliance (SNC) list.

1.4.2.1.6. Coordinates with the installation Civil Engineer, Environmental Division (CEV), or SG, MAJCOM JA and appropriate AFCEE Regional Environmental Office (REO) to determine whether a correspondence from a regulator meets the criteria of an EA.

1.4.2.1.7. Consults with the AFCEE REOs and/or MAJCOM JA to resolve unusual or complex EAs.

1.4.2.1.8. Coordinates with the MAJCOM JA and the installation environmental protection committee (EPC), to determine whether a HNEA meets the minimum criteria identified in the HNEA definition.

1.4.2.1.9. Notifies AF/ILEV and the appropriate AFCEE REO of a newly issued EA within one working day of receipt from the installation/facility. For HNEAs notify AF/ILEV and the appropriate AFCEE REO within one working day of completing the requirements found in section 2.3.1.2. of this AFI.

1.4.2.1.10. Assists installations with facilitating U.S. EPA's concurrence to remove the installation from the SNC list.

1.4.2.1.11. Submits updated management action plans (MAP) for any OEAs or HNOEAs by the 5<sup>th</sup> working day of each month in accordance with Section 2.3.5. OEAs shall be reported to the AFCEE REO responsible for the EPA region in which the installation is located. For the purpose of HNEAs, European installations' MAPs shall be reported to the Eastern REO and PACAF MAPs report to the Western REO.

1.4.2.1.12. Programs, budgets and allocates resources to execute this instruction.

1.4.2.1.13. Reports inspections by regulatory agencies, enforcement actions, and assessed fines and penalties, in accordance with sections 2.1. and 2.3.

1.4.2.1.14. Develops supporting directives to implement this instruction.

1.4.2.1.15. Notifies the AFCEE REO and installations if inconsistencies between AF and regulatory records are discovered and facilitates reconciliation.

**1.4.2.2. Surgeon General (SG):**

1.4.2.2.1. Implements tracking and reporting programs within their command to identify trends and events involving Medical Service responsibilities.

1.4.2.2.2. Assists installations in identifying and eliminating circumstances that may lead to the issuance of new enforcement actions.

1.4.2.2.3. Reports metric information to HQ AFMSA/SGPE according to AFD 48-1, *Aerospace Medical Program*.

1.4.2.2.4. Notifies MAJCOM CE of noncompliant situations based on SG sampling at base level.

**1.4.2.3. Judge Advocate (JA):**

1.4.2.3.1. Coordinates with the CE to confirm whether correspondence from a regulatory agency meets the criteria identified in the EA definition.

1.4.2.3.2. Notifies AFLSA/JACE of all EAs and HNEAs as soon as practical upon learning of such, and forwards all information it receives concerning EAs to AFLSA/JACE.

1.4.2.3.3. Assists the installation legal offices by providing policy, guidance, advice and representation on EAs and HNEAs.

1.4.2.3.4. Consults with AFLSA/JACE on appropriate legal resolution of an enforcement action to promote consistency throughout the Air Force and to ensure compliance with AFI 51-301, *Civil Litigation*.

1.4.2.3.5. Consults with AFLSA/JACE on appropriate approval level for installations to pay fines and penalties resulting from an enforcement action to promote consistency throughout the Air Force.

1.4.3. **Installations:** The installation commander is responsible for ensuring timely reporting and tracking of environmental compliance inspections, environmental EAs including HNEAs, assessed fines and penalties, and compliance agreements and orders entered into or agreed to as the result of non-compliance.

**1.4.3.1. Environmental Management Flight (CEV):**

1.4.3.1.1. Identifies and eliminates circumstances that may lead to new enforcement actions being issued.

1.4.3.1.2. Notifies the installation commander, SJA, SG, PA, MAJCOM CE, and the AFCEE REO of a potential or issued EA, HNEA or fine/penalty within one working day of contact or notice, to include informal contact, from a regulatory agency.

1.4.3.1.3. Coordinates with the installation SJA, MAJCOM CE and appropriate AFCEE REO to determine whether the correspondence from a regulator meets the criteria of an EA.

1.4.3.1.4. Provides a copy of all EAs or HNEAs, including potential and disputed EAs and any associated fine/penalty to the installation SJA and SG, MAJCOM CE, and the AFCEE REO within one working day of receipt.

1.4.3.1.5. Initiates prompt action to ensure timely closure of all EAs, to include facilitating U.S. EPA's concurrence to remove the installation from the SNC list.

1.4.3.1.6. Coordinates proposed MAPs with effected base agency and provides the MAJCOM CE with a MAP, as directed by the MAJCOM CE, by the last workday of each month for each OEA or HNOEA (see section 2.3.5 and [Attachment 2](#)).

1.4.3.1.7. Works in consultation with installation SJA, SG, MAJCOM CE, and AFCEE REO, as appropriate, in all areas concerning corrective actions, proposed and signed compliance agreements, settlement agreements, consent orders, proposed and signed supplemental environmental projects, agreed orders, enforcement orders, compliance orders, etc. Provide copies of all correspondence to the above offices within five working days of receipt/issuance.

1.4.3.1.8. Monitors compliance data posted on regulatory agency websites, such as EPA's OTIS and other regulatory databases and tracking systems containing Air Force compliance data to include the SNC list.

1.4.3.1.9. Initiates prompt action to correct inaccurate compliance data posted on regulatory agency websites, databases and tracking systems.

1.4.3.1.10. Reports environmental compliance status, identifies trends and reports results to MAJCOMs at least semi-annually.

1.4.3.1.11. Identifies root cause codes of all EAs received as part of MAPs submitted.

1.4.3.1.12. Provides copies of correspondence regarding the closure of an EA to installations' SJA, MAJCOM CE, and AFCEE REO within five working days. This includes correspondence from the installation to the regulatory agency and anything received from the regulatory agency.

#### 1.4.3.2. **Staff Judge Advocate (SJA):**

1.4.3.2.1. The SJA must report all actual or potential environmental litigation to AFLSA/JACE, the appropriate MAJCOM, and the appropriate Regional Counsel (per AFI 51-301, *Civil Litigation*, chapter 5).

1.4.3.2.2. Report the issuance of any EA correspondence or knowledge of a potential EA/HNEA within one working day of receipt to the installation environmental office and the MAJCOM JA.

1.4.3.2.3. Consults with the installation environmental office on an appropriate response to the EA and advises on all relevant enforcement issues.

#### 1.4.3.3. **Other Base Offices:**

1.4.3.3.1. Other base offices (e.g., safety, public affairs) will report the issuance of any EA correspondence received within one working day of receipt to the installation environmental office.

1.4.3.3.2. Bioenvironmental engineering assists in identifying and eliminating circumstances that may lead to the issuance of new enforcement actions, and determines imminent and substantial endangerment to human health or safety.

1.4.4. **Field Operating Agencies (FOAs):** FOAs provide technical and contracting support to achieve compliance tracking and reporting program objectives.

1.4.4.1. **Air Force Civil Engineer Support Agency (AFCESA):**

1.4.4.1.1. Provides MAJCOM and bases infrastructure and compliance related technical guidance, field assistance, and consultant and contractual support.

1.4.4.1.2. Provides guidance and information on performance work statements and service contract management.

1.4.4.1.3. Finds technical solutions to recurring infrastructure compliance problems and incorporates the appropriate requirements into Air Force operations and maintenance documents.

1.4.4.1.4. Analyzes deficiencies and develops corrective actions for civil engineering training and management.

1.4.4.1.5. Validates the scope and impact of EA root causes attributed to environmental training deficiencies, identifies owning organization (i.e. AFCESA, AFIT, other functional manager) and forwards a recommendation for corrective action for AF/ILEV.

1.4.4.2. **Air Force Center for Environmental Excellence (AFCEE) REOs:**

1.4.4.2.1. Represents the Air Force on a regional basis in dealing with federal, regional, state, and local environmental regulatory agencies. The Eastern REO covers EPA Regions 1-4; the Central REO covers EPA Regions 5-8; and the Western REO covers EPA Regions 9-10. The AFCEE REOs do not interact with host nation environmental regulatory agencies.

1.4.4.2.2. Coordinates with the MAJCOMs and AFLSA/JACE Regional Counsel to confirm whether an EA meets the criteria identified in the EA definition to ensure a consistent application across the Air Force.

1.4.4.2.3. Assists MAJCOMs and installations in initiating prompt actions to ensure timely closure of all EAs and, as requested, assists in obtaining formal closure of EAs from the regulator.

1.4.4.2.4. Identifies, reports and crossfeeds trends in Air Force environmental compliance performance, including EA root cause trend analysis, to Air Staff and MAJCOMs semi-annually.

1.4.4.2.5. Disseminates "lessons learned" environmental-related information to Air Staff, MAJCOMs, FOAs, DRUs, and installations semi-annually.

1.4.4.2.6. Monitors compliance data posted on regulatory agency databases, tracking systems and websites, (e.g. EPA's OTIS, SNC list and other regulatory databases and tracking systems containing Air Force compliance data) and assists the MAJCOMs and installations in facilitating U.S. EPA's concurrence to remove the installation from the SNC list.

1.4.4.2.7. Notifies MAJCOMs and installations of any inconsistencies discovered between Air Force and regulatory records and after consultation with the MAJCOM, reports the inconsistencies to AF/ILEV.

1.4.4.2.8. Meets with federal, regional, and state regulatory officials to discuss Air Force environmental status and other issues that may affect Air Force environmental programs.

1.4.4.2.9. Advises MAJCOMs, FOAs, DRUs, and installations of federal, regional and state regulatory proposals and other initiatives that may affect Air Force environmental programs.

1.4.4.2.10. Notifies AFLSA/JACE Regional Counsel upon receipt of an EA and any assessed fines and penalties.

1.4.4.2.11. Reviews and compiles all the monthly MAPs obtained from the MAJCOMs and submits an Enforcement Action Monthly Status Report to AF/ILEV Air Staff by the 10th working day of the each month.

1.4.4.2.12. Collects, compiles, and analyzes compliance data and other environmental information from the MAJCOMs utilizing the approved Air Force data tracking, management and reporting system; develops and presents the semi-annual Regional Environmental Office Status Briefing, and manages the required databases to generate reports.

## Chapter 2

### MANAGEMENT AND REPORTING REQUIREMENTS

**2.1. Tracking and Reporting Regulatory Inspections.** All installations, both in and outside U.S. and U.S. territories, shall track and report information such as, but not limited to, the number and type of inspections, regulatory agency conducting inspection, applicable law and date of inspection. This is required on a semi-annual basis, by ILEV for management purposes and will be reported as part of the ADUSD(E) reporting requirements.

**2.2. Tracking and Reporting Releases.** All installations and MAJCOMs will execute all release notification and reporting requirements according to applicable federal, state, local, and host nation laws and regulations (see AFI 10-2501, *Full Spectrum Threat Response Planning and Operations*, chapter 5). In addition, Air Force activities in foreign countries must achieve and maintain compliance with the DoD Final Governing Standards (FGS) where applicable, or the Overseas Environmental Baseline Guidance Document (OEBGD).

**2.2.1. Immediate Release Notification.** All installations must submit environmental release notification within the Air Force using the Air Force Operations Reporting System, Operational Event/Incident Reports (OPREP-3) according to AFI 10-206, *Operational Reporting*. Specific requirements for OPREP-3, HAZMAT Reporting requirements are found in AFI 10-2501. Installations must notify the appropriate MAJCOM offices and HQ USAF/ILEV/ILEX of any release that meets one or more of the following criteria:

- 2.2.1.1. Results in injury or loss of life,
- 2.2.1.2. Results in loss of aircraft or facility,
- 2.2.1.3. Causes interruption of flying operations,
- 2.2.1.4. Causes environmental contamination extending beyond installation boundaries,
- 2.2.1.5. Creates financial impact exceeding \$50,000,
- 2.2.1.6. May result in litigation, publicity, or media coverage, or
- 2.2.1.7. Other reasons, as specified by the local commander. (Installations closed under Base Realignment and Closure (BRAC) must also send the OPREP-3 to AFRPA.)

**2.2.2. Follow-up Release Reporting.** All installations must provide follow-up reports on incidents meeting any of the criteria listed in paragraph 2.2.1. to the MAJCOM by telephone, email, or OPREP-3 (see AFI 10-2501) as required by the situation. MAJCOMs must submit follow-up information to AF/ILEV to fulfill HQ USAF information requirements. BRAC installations must also submit follow-up reports to AFRPA.

**2.2.3. Environmental Notice to Airmen (ENOTAM).** All installations must issue an ENOTAM on incidents meeting any of the criteria listed in paragraph 2.2.1. An ENOTAM is sent to the MAJCOM CE, SG and JA and the AFCEE REO and should describe the incident, specify the root cause and identify recommended corrective actions. An ENOTAM is also required if a public notice is issued.

**2.3. Tracking and Reporting EA.** The management and reporting of EAs, HNEAs and any associated fines and penalties discussed within this section applies to all installations and MAJCOMs. Utilize the Air Force approved data management, reporting and tracking system to capture the required data.

**2.3.1. Enforcement Actions.** An EA is any formal written notification from a US or US territory federal, state, inter-state, district, county, or municipal regulatory agency indicating one or more violations of any applicable statutory or regulatory requirement. (See [Attachment 1](#) - Terms and Definitions for detailed definition). The intent of this AFI is to consider an EA as any “written” correspondence from a regulator that indicates non-compliance with a regulation or statute.

**2.3.1.1. Host Nation Enforcement Actions.** An HNEA is written notification from a host nation governmental authority (HNGA) of a violation of an applicable host nation regulation that is issued to an installation outside the US and US territories. The MAJCOM must develop a HNOEA validation process in coordination with the installation EPC, and other necessary organizations including the MAJCOM CE/SG/JA. This process must validate that the cited condition of a HNEA reflects either:

2.3.1.1.1. An imminent and substantial endangerment to human health or safety, as determined by installation SG.

2.3.1.1.2. Noncompliance with the applicable country-specific DoD FGS where applicable, or the OEBGD.

2.3.1.1.3. Noncompliance with US obligations under any applicable international agreements.

**2.3.2. Reporting EAs/HNEAs.** Installations are required to submit a copy of any issued EA/HNEA to the installation SJA, SG, and PA, and the MAJCOM CE within one working day of receipt (either by facsimile or scanned PDF email attachment). Reportable EAs includes EAs issued for a violation of any law or regulation. Following the initial immediate notification, installations must also prepare and submit to the MAJCOM CE a MAP (see [Attachment 3](#)) for the EA within 10 working days of receipt. The intent of this AFI is to consider an EA as any “written” correspondence from a regulator that indicates out-of-compliance with a regulation. If MAJCOMs/installations have questions on what is a “reportable” EA, they should contact their applicable AFCEE REO and their respective Regional Counsel’s office for resolution. If consensus cannot be reached contact ILEV for resolution.

**2.3.2.1. MAJCOM’ Initial Notification of Enforcement Activity.** MAJCOMs must notify the AFCEE REO within one working day of receipt of notification of an EA from an installation. For HNEAs notify the appropriate AFCEE REO within one working day of completing the requirements found in section [2.3.1.](#) of this AFI. The AFCEE REO will notify ILEV via email.

**2.3.3. Reporting Potential EAs.** Installations should inform the installation SJA, SG, and PA, the MAJCOM CE, and appropriate AFCEE REO of a regulatory agency’s intent to issue an EA.

**2.3.4. Disputed EAs.** A disputed EA is one in which the Air Force (the installation or MAJCOM) disagrees with the basis of the EA.

2.3.4.1. Installations are required to report all disputed EAs to the MAJCOM CE, JA, and AFCEE REO, within one working day of receipt/notification for appropriate determination.

2.3.4.2. Disputed EAs will not be reported outside the Air Force structure and will not be included in the OEA compliance metric until the dispute has been resolved.

2.3.4.3. MAPS are required for disputed EAs. Indicate on the MAP that the status of the EA is disputed. Include in the MAP why the EA was issued and the rationale for the dispute.

2.3.4.4. The MAJCOM CE, JA, SG and AFCEE REO, in consultation with the installation, will define the dispute and work to resolve the issue with the appropriate regulating authority. If consensus cannot be reached within 60 days contact ILEV for resolution.

### 2.3.5. Reporting

2.3.5.1. **Monthly Reporting.** Installations must provide the appropriate MAJCOM monthly updates to their MAPs on the last workday of each month after the initial MAP is submitted. MAJCOMs must provide monthly updates in the form of MAPs for all OEAs to AF/ILEV and the appropriate AFCEE REO by the fifth working day of each month. MAPs should detail all action items required for closure (See [Attachment 2](#)). One designated AFCEE REO will provide AF/ILEV with a service-wide (Environmental Compliance Program Summary) Enforcement Action Monthly Status Report by the 10<sup>th</sup> working day of each month. This consists of an overall status report with regional summaries attached.

2.3.5.2. **Semi-Annual Reporting.** MAJCOMs must report semi-annually, as part of the ADUSD(E) reporting requirements, the updated status on federal, state, and local compliance agreements, settlement agreements, consent or other orders pertaining to environmental compliance activities.

2.3.6. **Root Cause and Trend Analysis.** The installation CEV will assign a root cause category code for the EA/HNEA in the MAP. (See [Attachment 2](#)). The purpose of the codes is to identify the underlying cause for deficiencies or incidents and make it easier to identify and analyze trends and create solutions to prevent recurrence. AFCEE REOs make use of root cause analysis and identify trends in media areas or policy areas in preparing Enforcement Vulnerability Assessments for MAJCOMs.

**2.4. EA Status Classification.** The Air Force MAJCOMs, in consultation with the AFCEE REOs and the RCO will determine the status classification of the EAs. (Refer to appendix 1 for definitions.)

2.4.1. **Disputed EA.** A disputed EA is one in which the Air Force (the installation or MAJCOM) disagrees with the basis of the EA.

2.4.2. **Unresolved EA.** An EA received in the current or a prior period for which the installation and/or MAJCOM are in the process of completing the closure action(s) or negotiating a compliance agreement or order.

2.4.3. **Pending EA.** An EA with the deficiency(ies) corrected, but remains open, pending agreement or order by the regulator that it is closed.

2.4.4. **Closed EA.** See definition of a closed EA in [3.1](#). Report the closed EA in the monthly MAP report for one month only.

### 2.5. Compliance Agreement Reporting.

2.5.1. Compliance agreements/orders, or equivalent documents, are formal agreements between an installation and a regulatory agency for correcting noncompliance. Such agreements usually define the actions to complete and the schedule for completing them. The installation commander or his representative typically signs compliance agreements on behalf of the Air Force. See section 3.3.

2.5.2. Installations within the US and US territories must submit a summary report describing the milestones, schedule, and completion status of new final compliance agreements or orders to the MAJCOM and appropriate AFCEE REO within 5 working days of signing an agreement or order. MAJCOMs shall submit updates on all open Compliance Agreements or orders to the AFCEE REO semi-annually, within 5 working days after the end of the reporting period. Compliance agreement or order reporting does not apply to installations outside of the US and US territories. All compliance agreements or orders (e.g. EQ, MILCON, SRM, ERA, etc.) will be forwarded to the MAJCOM. The MAJCOM will coordinate with the AFCEE REO, the regional counsel and HQ USAF/ILE prior to final signature.

## Chapter 3

### ENFORCEMENT ACTION RESOLUTION

#### 3.1. Closing OEAs. An enforcement action is considered closed if any of these conditions exist:

- 3.1.1. Revocation or rescission of the action by the issuing regulator.
- 3.1.2. Receipt of written notice (to include email notification) by the regulator that the action is closed.
- 3.1.3. The regulatory agency who issued the EA does not respond within 60 days following written notice (sent via certified mail or other delivery confirmation receipt method):
  - 3.1.3.1. Informing the regulator that the installation is in full compliance concerning the matters cited in the EA. (NOTE: 60-day closeout letters may be sent after it is determined by the installation and the MAJCOM that all actions necessary to close the enforcement action have been taken but a formal response by the regulator has not been received.)
  - 3.1.3.2. Requesting written confirmation from the regulator that the EA is closed, and apprising the regulator that in the absence of confirmation, the base will deem the EA closed within 60 days of the regulatory agency's receipt of the letter. For further assistance if the regulator does not "send a response" closing the violation - contact the appropriate AFCEE REO who will work with the regulator to close the EA by a specified date. (NOTE: If the regulator responds within the 60-day window with additional requirements, the EA may need to stay open. If the regulator responds after 60 days with additional requirements to close the EA, the original EA is reopened).
- 3.1.4. Receipt of a signed agreement or order, e.g. compliance agreement, settlement agreement/order or similar document, closing or resolving the EA. (NOTE: MAJCOMs should pre-coordinate their "draft" Compliance Agreements with their applicable AFCEE REO and RCO). An EA may continue to be tracked internally by JA for purposes of monitoring complete execution of any such agreement.
- 3.1.5. Discovery and verification by the AFCEE REO and RCO that the EA is not open on regulatory agency records. The AFCEE REO notifies the MAJCOM and installation in writing if they learn the regulator has closed the EA.

#### 3.2. Closing HNOEAs. A HNOEA is closed when one of the following criteria are met:

- 3.2.1. Receipt of written notification from the HNGA stating that it is satisfied with the actions taken to resolve the cited violation(s).
- 3.2.2. The HNGA has rescinded the HNEA.
- 3.2.3. The HNGA does not respond within 60 days following written notice (sent via certified mail or other delivery confirmation receipt method):
  - 3.2.3.1. Informing the HNGA that the base is in full compliance concerning the matters cited in the HNEA.
  - 3.2.3.2. Requesting written confirmation from the HNGA that the EA is closed. (NOTE: Written notice (60-day closeout letter) is only sent after it is determined by the installation and their MAJCOM that the project has been fully developed to correct all violations associated with an OEA, and funding for the project(s) has been allocated in full).

3.2.3.3. Apprising the HNGA that in the absence of confirmation, the base will deem the EA closed within 60 days of the HNGA receipt of the letter. (NOTE: If the HNGA responds within the 60-day window with additional requirements, the EA may need to stay open. If the HNGA responds after 60 days with additional requirements to close the EA, the original EA is reopened).

### 3.3. Compliance Agreements/Orders.

3.3.1. **Philosophy.** Compliance agreements/orders or their equivalent are formal agreements between an installation and a regulatory agency that usually define the actions to complete and the schedule for completing them. Air Force installations within the US and US territories should enter into reasonable, fiscally sustainable, and lawful agreements, that demonstrate the mutual commitment of the Air Force and regulatory agencies to protect human health and the environment. To facilitate closing EAs, compliance agreements or orders need to establish mutually agreeable milestones for resolving issues of noncompliance, and clearly state that the EA is “considered closed with signature of all parties to the agreement”. Compliance agreements or orders should be negotiated by the installation SJA in consultation with the MAJCOM JA/CE and others (e.g., AF/ILEV, AFLSA/JACE, SG, and AFCEE REOs as appropriate.) The EA may continue to be tracked independently by JA until obligations required by the agreement or order are discharged, such as the payment of a fine or penalty, but are not reported as an open EA if properly executed settlement agreement or other closure document, as defined in [Attachment 1](#), have been provided. Compliance agreements or orders do not apply to installations outside of the US and US territories.

3.3.2. **General Review.** Compliance agreements/orders or their equivalent should be reviewed and negotiated by the installation CE and SJA in consultation with the MAJCOM, AFCEE REO, RCO and others (e.g. SG) as appropriate to ensure that they are not obligating the Air Force to do anything unreasonable or unnecessary to restore compliance.

3.3.3. **Consistency Review.** Installations and MAJCOMs must make certain that the terms of proposed compliance agreements/orders, or their equivalent are consistent with agreements or orders signed by other Air Force installations and do not establish an unfavorable precedent. Send initial and subsequent drafts of proposed compliance agreements or orders, along with copies of other relevant correspondence, to the appropriate AFCEE REO, RCOs, AFLSA/JACE and AF/ILEV for review.

3.3.4. **Schedules.** Installations within the US and US territories shall follow compliance agreements/orders or their equivalent milestones and schedules. Notify the MAJCOM CE, JA and AFCEE REO prior to the affected regulatory agency of any circumstances that might result in a missed milestone. Compliance agreements, orders and their associated schedules do not apply to installations outside of the US and US territories.

L. DEAN FOX, Lt General, USAF  
The Civil Engineer

**Attachment 1****GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

DoDI 4715.6, *Environmental Compliance*

AFMAN 10-206, *Operational Reporting*

AFI 10-2501, *Full Spectrum Threat Response (FSTR) Planning And Operations*

AFPD 32-70, *Environmental Quality*

AFI 32-7002, *Environmental Information Management System*

AFI 32-7045, *Environmental Compliance Assessment and Management Program*

AFI 51-301, *Civil Litigation*

EPA's Online Tracking Information System (OTIS) - <http://www.epa.gov/idea/otis>

U.S. EPA Significant Non-Compliance List - <http://www.epa.gov/idea/fedfac>

***Abbreviations and Acronyms***

**ACC**—Air Combat Command

**AETC**—Air Education Training Command

**ACD**—Actual Completion Date

**ADUSD(E)**—Assistant Deputy Under Secretary of Defense (Environment)

**AFCEE**—Air Force Center for Environmental Excellence

**AFCESA**—Air Force Civil Engineer Support Agency

**AFI**—Air Force Instruction

**AFLSA**—Air Force Legal Services Agency

**AFMSA**—Air Force Medical Support Agency

**AFPD**—Air Force Policy Directive

**AFRC**—Air Force Reserve Command

**AFRPA**—Air Force Real Property Agency

**AFSOC**—Air Force Special Operations Command

**AFSPC**—Air Force Space Command

**AMC**—Air Mobility Command

**ANG**—Air National Guard

**ANGRC**—Air National Guard Readiness Center

**BRAC**—Base Realignment and Closure

**CEV**—Civil Engineer, Environmental Division  
**CONUS**—Continental United States  
**EA**—Enforcement Action  
**ECD**—Estimated Completion Date  
**EPA**—Environmental Protection Agency  
**EPC**—Environmental Protection Committee  
**EQ**—Environmental Quality  
**EMS**—Environmental Management System  
**ENOTAM**—Environmental Notice to Airmen  
**ESOHMS**—Environmental, Safety & Occupational Health Management System  
**ETCD**—Estimated Task Completion Date  
**FFA**—Federal Facility Agreement  
**FFSRA**—Federal Facility Site Remediation Agreement  
**FGS**—Final Governing Standard  
**FOA**—Field Operating Agency  
**HNGA**—Host Nation Governmental Authority  
**HNEA**—Host Nation Enforcement Action  
**HNOEA**—Host Nation Open Enforcement Action  
**ILE**—The Civil Engineer  
**ILEV**—The Environmental Division of the Civil Engineer  
**ILEX**—The Readiness Division of the Civil Engineer  
**JA**—Jude Advocate  
**MAJCOM**—Major Command  
**MAP**—Management Action Plan  
**MILCON**—Military Construction  
**OCONUS**—Outside the Continental United States  
**OEA**—Open Enforcement Action  
**O&M**—Operations and Maintenance  
**OEBGD**—Overseas Environmental Baseline Guidance Document  
**OPREP-3**—Operational Status Reports  
**OTIS (U.S. EPA)**—Online Tracking Information System  
**OSD**—Office of the Secretary of Defense

**PACAF**—Pacific Air Forces

**PDF**—Portable Document Format

**POC**—Point of Contact

**PPBE**—Planning, Programming, and Budgeting Execution

**RCRA**—Resource Conservation and Recovery Act

**REO**—Regional Environmental Office

**RCO**—Regional Counsel Office

**SAF/IE**—Assistant Secretary of the Air Force (Installations, Environment & Logistics)

**SAF/IEE**—Deputy Assistant Secretary of the Air Force (Environment, Safety & Occupational Health)

**SG**—Surgeon General

**SJA**—Staff Judge Advocate

**SNC**—US EPA Significant Non-Compliance

**SRM**—Sustainment, Restoration, and Modernization

**US**—United States

**USAFA**—US Air Force Academy

**USAFE**—US Air Forces in Europe

### ***Terms***

**Closed Enforcement Action**—An enforcement action that is resolved by: 1) revocation of the action by the issuing regulator; 2) closure of the action following written notice by the regulator that the action is closed; 3) closure of the action after 60 days following written notice to the regulator of an installation's intent to close an enforcement action if the regulator does not provide a written response; 4) receipt of a signed compliance agreement or order; or 5) determination by the AFCEE REO that the EA is not open on regulatory agency records. For overseas installations the MAJCOM CE and JA must agree the EA is closed, provided that: a) the host-nation authority has indicated by letter that the planned action is a satisfactory resolution of the cited violations, b) funding for the project has been allocated in full, and c) there is a clear indication that the project will be completed in a reasonable amount of time (as determined by MAJCOM CE).

**Compliance Agreement**—A general term for a formal agreement between an installation and a regulatory agency for correcting noncompliance. Such agreements usually define the actions to complete and the schedule for completing them. The installation commander or his representative typically signs compliance agreements on behalf of the Air Force. (Also referred to as a compliance order.)

**Decision Date**—The date an installation or major command makes a decision to adopt a specific fix to correct an enforcement action violation.

**Disputed EA**—A disputed EA occurs when the Air Force (Installation or MAJCOM CE) do not agree with the basis of the EA. Disputed EAs are reported in the same manner as all other OEAs. MAPs are required, however indicate in the "EA status classification" section that it is a disputed EA. Include in the MAP why the EA was issued and the rationale for the dispute. Disputed EAs will not be reported outside

the Air Force structure and will not be included in the OEA compliance metric until the dispute has been resolved.

**Enforcement Action**—An EA is any formal written notification from a US or US territory federal, state, inter-state, district, county, or municipal regulatory agency indicating one or more violations of any environmental law or regulation (e.g., CAA, CWA, EPCRA, SDWA, RCRA, TSCA, UST to include any applicable state or local statutory or regulatory requirements). Enforcement actions do not include warning letters that do not cite a violation of a specific environmental law or regulation, informal notices of deficiencies, or notices of deficiencies to permit applications. Note: warning letters, or similarly titled formal written notifications from authorized regulators that do cite violations with environmental laws or regulations are considered enforcement actions. One written notice, regardless of the number of individual violations, findings, or citations listed in it, counts as one enforcement action. However, enforcement actions citing violations in more than one statutory requirement are counted as multiple enforcement actions, one under each of the applicable statutory requirement categories. Items found to be out of compliance during an internal or other DoD Component review, compliance review or audit, are not to be counted as an enforcement action.

**Estimated Compliance Date**—The date an installation or major command expects a regulator to acknowledge corrections for all findings of an enforcement action.

**Fix Date**—The date an installation or major command expects to notify a regulator that corrections were made for all findings of an enforcement action.

**Host Nation Enforcement Action**—Any written notice from a HNGA indicating one or more violations of host nation environmental requirements validated by the MAJCOM environmental office and judge advocate, reflecting noncompliance with DoD FGS or OEBGD, obligations under applicable international agreements, or posing a known imminent and substantial endangerment to human health, safety or the environment.

**Informal Notice**—Notification, possibly verbal, from a regulatory agency explaining a deficiency with respect to an environmental law or regulation not warranting issuance of a formal written EA in the judgment of the regulator.

**MAJCOM Equivalent**—organizations that include Field Operating Agency (FOA), Direct Reporting Units (DRU), Air National Guard (ANG), Air Force Reserve Command (AFRC), and Air Force Real Property Agency (AFRPA).

**Open Enforcement Action**—An enforcement action that has been issued, but is not yet closed by one of the resolutions described under the definition of closed enforcement action. An open enforcement action is further broken down into two subcategories: pending enforcement action and unresolved enforcement action. For overseas installations, an OEA is a written notice from a host-nation regulatory authority indicating one or more violations of host-nation environmental requirements that has been validated by the MAJCOM Environmental Protection Committee (EPC) Compliance Subcommittee.

**Pending Enforcement Action**—An enforcement action for which the deficiency (ies) has been corrected but remains open, pending agreement or order by the regulator that it is closed.

**Retracted Enforcement Action**—An enforcement action rescinded by the regulator.

**Unresolved Enforcement Action**—An enforcement action received in the current or a prior period and the action(s) to close it have not yet been completed or negotiating a compliance agreement or order is in process.

**Attachment 2**

**MANAGEMENT ACTION PLAN**

**(Date)**

Base/Plant:		MAJCOM:
Installation POC:		Phone:
Violation Date:	Law/Regulation:	Issuing Agency:
EA Status Classification ***		Root Cause Code: *
Closure Date:	Fix Date (last report):	Fix Date (current):
Fines/Penalties: (initial/actual)	ECD (last report):	ECD (current):

Violation Cited: *(describe the violation cited by the regulator)*

Reason for Violation: *(describe what caused the out of compliance situation)*

Mission Impact/Immediate Response:

Status: *(historical narrative of efforts undertaken to accomplish EA closure)*

**Closure Action Descriptions**

**ETCD\*\*\*    ACD**

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

\*EA Status Classification - refer to section 2.4 in the AFI (disputed, unresolved, pending and closed)

\*\*See the root cause codes listed in AFI 32-7047, ([Attachment 3](#))

\*\*\*ETCD - Estimated Task Completion Date for each major "closure action" listed

**Attachment 3****ROOT CAUSE CODES – ENFORCEMENT ACTIONS (EAS)****1. Oversight / Execution**

**1a Management – Oversight.** No procedure in place or procedures inadequate, accountability was not assigned, manpower mismanagement, needed funding or personnel not requested, lack of knowledge of requirements

- O1** – Procedures have not been developed
- O2** – Procedures have been developed but are inadequate
- O3** – Higher priority mission requirements took precedence
- O4** – Time delay due to complex acquisition process
- O5** – Inadequate manning
- O6** – Accountability not assigned
- O7** – Training not properly documented

**1b Personnel – Execution.** Personnel not conscientious, in-place procedures not followed, training obtained but not followed.

- E1** – Procedures have been developed but are not effectively implemented
- E2** – Procedures have been developed and implemented but are not being followed
- E3** – Personnel understood requirement, but simply forgot to act
- E4** – Known deficient item, facility, or equipment, not formally identified for Action funding (not acting on a known deficiency)
- E5** – Insufficient skills to execute procedures properly (individual has received the proper training, but is not proficient in skills)

**1c Resources.** Funding requests not approved, requested manpower authorizations not approved, requests for materials/supplies not met.

- R1** – Deficient item, or equipment properly identified, but not funded
- R2** – Deficient manpower properly identified, but not funded

**2. Infrastructure.** Structure, facility, or tank did not meet requirements.

- I1** – Inadequate facility design
- I2** – Equipment failure

**3. Training & Awareness.** Available training not obtained, training inadequate.

- T1** – Personnel not trained
- T2** – Personnel trained but course content inadequate
- T3** – Personnel trained but did not fully understand requirement

**4. External Factors.** Acts of God, unforeseen accident, weather related, animal activity, acts of vandalism.

**F1** – Unforeseen accident, severe weather, vandalism

**5. Contract Management.** Actions pertaining to contracts or contractor activities.

**C1** – Contract documents are inadequate (e.g., specifications, statements of work do not hold contractor accountable for noncompliance with environmental requirements)

**C2** – Contract documents are adequate but contractor does not fulfill requirements