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Civil Engineering

**ENVIRONMENTAL OPEN ENFORCEMENT
ACTION TRACKING AND REPORTING**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements DoD Instruction 4715.5, *Management of Environmental Compliance at Overseas Installations*; AFD 32-70, *Environmental Quality*; and AFI 32-7006, *Environmental Programs in Foreign Countries*. This instruction establishes requirements for managing environmental open enforcement actions (OEA). Maintain and dispose of records created as a result of prescribed processes in accordance with Air Force Manual 37-139, *Records Disposition Schedule*. This instruction is applicable to all United States Air Forces in Europe (USAFE) installations.

SUMMARY OF REVISIONS

This document is substantially revised and must be completely reviewed.

This revision more clearly indicates that the term “open enforcement action” refers only to violations of environmental standards that have been *validated* by the HQ USAFE Environmental Protection Committee (EPC) Compliance Subcommittee. This revision places the responsibility for opening *and* closing enforcement actions with this committee. Although installations are responsible for the correction of environmental violations at their base, and they oversee day-to-day progress toward the closure of environmental violations, installations will not make the determination to close an OEA. This revision expands the definition of a closed enforcement action, specifies closeout procedures, clarifies initial reporting procedures, establishes new reply deadlines for both HQ USAFE/CEV and installations, and makes other minor clarifications. Finally, this revision now prescribes the use of USAFE Form 58, *Potential Open Enforcement Action Written Report*, and USAFE Form 59, *Open Enforcement Action Management Plan*, when reporting possible OEAs and management action plans to HQ USAFE/CEV.

Chapter 1

BACKGROUND AND RESPONSIBILITIES

1.1. Background . This instruction establishes requirements for USAFE installations to comply with the tracking and reporting requirements of AFPD 32-70, *Environmental Quality*. The primary goal of this instruction is to identify the responsible parties and describe procedures necessary to validate, correct and close open enforcement actions.

1.2. Responsibilities:

1.2.1. The HQ USAFE EPC Compliance Subcommittee will review environmental violations submitted by USAFE installations, validate or invalidate these violations as open enforcement actions (OEA), and make the final determination regarding OEA closure.

1.2.2. The HQ USAFE Environmental Division (HQ USAFE/CEV) will chair the EPC Compliance Subcommittee, direct the development of OEA policy, allocate resources, and oversee installation progress toward the closure of OEAs.

1.2.3. Installations shall comply with this instruction, country-specific DoD Final Governing Standards (FGS), the Overseas Environmental Baseline Guidance Document (for countries where there are no FGS) and other program execution policies. Installations are directly responsible for the resolution of environmental violations and the oversight of corrective actions on a day-to-day basis.

1.2.3.1. Installations shall work aggressively to properly validate, track and close OEAs as soon as possible. HQ USAFE/CEV's goal is to have no OEAs.

Chapter 2

OPEN ENFORCEMENT ACTION DESCRIPTION

2.1. Open Enforcement Action (OEA). 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 HQ USAFE Environmental Protection Committee (EPC) Compliance Subcommittee. The cited condition must reflect at least one of the following criteria:

2.1.1. Noncompliance with applicable country-specific DoD Final Governing Standards (FGS) or, for countries where no FGS exist, the Overseas Environmental Baseline Guidance Document (OEBGD).

2.1.2. Noncompliance with US obligations under any applicable international agreement.

2.1.3. Noncompliance with a host nation environmental requirement not addressed in the FGS or OEBGD that has been evaluated by the HQ USAFE EPC Compliance Subcommittee and determined to be valid.

2.2. Cleanup OEA. An OEA related to contamination caused by past operations. Cleanup OEAs are also tracked under the USAFE Cleanup Program.

2.3. Closed Enforcement Action. An OEA that has been closed by the HQ USAFE EPC Compliance Subcommittee is a closed enforcement action. Closure of an OEA by the Compliance Subcommittee does not necessarily indicate that the host nation authority has officially closed a violation; this often does not occur until all corrective actions are completed and inspected by the host nation authority. Before the HQ USAFE EPC Compliance Subcommittee may close an OEA, one of the following events must occur:

2.3.1. The host nation authority rescinds the violation.

2.3.2. The host nation authority indicates by letter that the corrective action or planned corrective action is a satisfactory resolution of the cited violation.

2.3.2.1. If a host nation authority agrees that planned corrective actions will resolve the cited violation, then the HQ USAFE EPC Compliance Subcommittee may close the OEA, provided that: (1) funding for the project has been allocated in full, and 2) there is a clear indication that the project will be completed in a reasonable amount of time (as determined by HQ USAFE/CEV).

2.3.3. The host nation authority does not respond to the installation within 60 days of receiving written notification that the violation has been corrected. Written notification to the host nation authority will be provided in both English and the host nation language.

2.4. Enforcement Action. An enforcement action is a written notice from a host nation regulatory authority reporting one or more violations of local, regional, or federal host nation environmental requirements.

2.5. Estimated Closure Date. The date the installation expects the OEA to be eligible for closure by the HQ USAFE EPC Compliance Subcommittee. This date may differ from the estimated fix date.

2.6. Estimated Fix Date. The date the installation expects all violations associated with an OEA to be corrected.

2.7. Installation . An installation is any main operating base (MOB), geographically separated unit (GSU), or site on USAFE's real property records (e.g., communications site).

2.8. Potential Enforcement Action. A verbal or written notice from a host nation regulatory governmental authority indicating one or more violations of host nation environmental requirements that has the potential to be validated as an open enforcement action by the HQ USAFE EPC Compliance Subcommittee.

Chapter 3

POLICY AND PROCEDURES

3.1. Potential OEA Reporting Procedures:

3.1.1. The Installation Environmental Protection Committee (EPC) Chairperson will notify HQ USAFE/CEV, within one workday after receiving written notice from host nation regulatory authority, that activity on the installation or by installation organizations violate host nation environmental standards. Initial notifications may be made by telephone to HQ USAFE/CEV (DSN 480-6382); however, USAFE Form 58, **Potential Open Enforcement Action Written Report**, must be submitted to HQ USAFE/CEV within two duty days after the potential OEA is received. USAFE Form 58 may be submitted in person to HQ USAFE/CEV, by fax (DSN 480-9231), or by electronic mail (<mailto:USAFE.CEV@ramstein.af.mil>).

3.1.1.1. If a visit or inspection by a host nation authority generates, or is likely to generate, a notice of a serious violation, create significant media attention, or have significant off-base impacts (e.g., adversely impact good relations with local communities), the EPC Chairperson shall concurrently notify USAFE/CV, NAF/CC, HQ USAFE/PAM and (through HQ USAFE/CE) the Environmental Executive Agent.

3.1.2. Installations will send copies and complete English translations of all host nation and related correspondence associated with potential enforcement actions to HQ USAFE/CEV, Unit 3050 Box 10, APO AE 09094, within 15 days of receipt. This includes all follow-up correspondence sent or received between the time a violation is reported and the time a violation is closed (e.g., notification of planned or executed corrective actions, the installation's response to the host nation authority when a potential OEA is not validated, or the host nation response to notification of corrective action).

3.2. OEA Validation Procedures:

3.2.1. Within 15 days of receipt of USAFE Form 58 and applicable host nation correspondence, the HQ USAFE EPC Compliance Subcommittee will evaluate the enforcement action to determine if it meets the definition of an OEA.

3.2.2. HQ USAFE/CEV will send written notification to the installation civil engineer indicating the results of the subcommittee review within 15 days of making a decision.

3.2.3. If the violation is validated as an OEA, the installation will follow the reporting procedures outlined in paragraph **3.3.2**.

3.2.4. If the violation is not validated as an OEA, the installation EPC Chairperson, in coordination with the host nation installation commander, if any, must provide written notification of planned corrective actions to the host nation authority. The installation should coordinate responses to the host nation authority through its staff judge advocate and public affairs office.

3.2.5. Installations will forward information copies of all correspondence (including English translations) between the base and host nation authorities to HQ USAFE/CEV, whether validated as an OEA or not.

3.3. OEA Reporting Procedures:

3.3.1. In addition to the information submitted in USAFE Form 58, the installation civil engineer shall submit USAFE Form 59, **Open Enforcement Action Management Action Plan**, to HQ USAFE/CEV within 30 days of being notified that a violation has been validated as an OEA.

3.3.2. **Recurring OEA Reporting Procedures.** In addition to submitting USAFE Form 58 and the initial USAFE Form 59, installations are responsible for the following additional reporting requirements.

3.3.2.1. Installation environmental flight personnel shall update and send USAFE Form 59 to USAFE/CEV by the third working day of each month until the OEA is closed. USAFE/CEV will forward these updated management action plans to the Regional Environmental Office by the 5th working day of each month.

3.3.2.2. Installations shall report OEA information through the quarterly Environmental Standards of Excellence data call required by USAFE/CEV.

3.3.2.3. Installations shall update the OEA portions of the Air Force Internet Data Call System (located at <http://www.afcee.brooks.af.mil/da/dusd/starthere.asp>) on a quarterly or semi-annual basis, as required by HQ USAF/ILEV.

3.3.2.4. OEAs related to contamination caused by past operations, will also be tracked under the USAFE Cleanup Program and given the status of "Cleanup OEA." Projects to correct violations associated with these OEAs will be supported if sites are confirmed by HQ USAFE EPC Cleanup Subcommittee to meet DoD overseas cleanup policy requirements.

3.4. Closeout Procedures:

3.4.1. Within 15 working days after completing all measures to close an OEA, the installation civil engineer will send written notification to the applicable host nation authority stating that all actions to correct the violation have been completed. A copy of this notification must also be sent to HQ USAFE/CEV.

3.4.2. Alternatively, if a project has been developed to correct all violations associated with an OEA and funding for the project has been allocated in full, the installation environmental coordinator, in coordination with the installation EPC Chairperson, will send written notification to the applicable host nation authority with a complete description of the planned activities. This notification shall be sent to the host nation within fifteen working days after funding is allocated, and a copy must be sent to HQ USAFE/CEV.

3.4.3. If the host nation authority does not respond to the notification within 60 days, the installation EPC Chairperson must send HQ USAFE/CEV a written statement indicating the status of the violation and the lack of host nation response.

3.4.4. The installation civil engineer must forward copies of all correspondence from the host nation authority either rescinding the violation, or approving proposed or completed actions to correct the violation, to HQ USAFE/CEV within 15 days of receipt.

3.5. Final OEA Closure Determination:

3.5.1. Upon receipt of all relevant correspondence and documentation, the HQ USAFE EPC Compliance Subcommittee will evaluate the status of the OEA and determine closure eligibility based on the

definition of a Closed Enforcement Action (paragraph 2.3.). HQ USAFE/CEV will notify either the installation EPC Chairperson or installation civil engineer of the final closure decision in writing.

3.5.2. If an OEA is closed prior to completing all corrective actions (paragraph 3.4.2.), the installation must continue to track the violation until the host nation authority has closed it. The installation civil engineer shall send written notification and correspondence regarding the closed enforcement action to HQ USAFE/CEV when the host nation authority closes the action.

3.5.3. If the Compliance Subcommittee determines that the OEA cannot be closed, tracking will continue until all issues have been resolved and the Compliance Subcommittee closes the OEA.

3.6. Forms Prescribed:

USAFE Form 58, **Potential Open Enforcement Action Written Report**

USAFE Form 59, **Open Enforcement Action Management Action Plan**

JON D. VERLINDE, Colonel, USAF
The USAFE Civil Engineer

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

DoD Instruction 4715.5, *Management of Environmental Compliance at Overseas Installations*

DoD Instruction 4715.8, *Environmental Remediation for DoD Activities Overseas*

DoD Directive 6050.16, *DoD Policy for Establishing and Implementing Environmental Standards at Overseas Installations*

AFPD 32-70, *Environmental Quality*

AFI 32-7006, *Environmental Program in Foreign Countries*

Abbreviations and Acronyms

AFI—Air Force Instruction

AFPD—Air Force Policy Directive

EPC—Environmental Protection Committee

FGS—Final Governing Standards

O&M—Operations and Maintenance

OEA—Open Enforcement Action

OEBGD—Overseas Environmental Baseline Guidance Document

USAFE—United States Air Forces in Europe

USAFEI—USAFE Instruction