

## Preparing Usable EISs and EAs

How usable is your latest EIS or EA? If properly prepared, an EIS or EA, plus its ROD or FONSI, commits you to certain do's and don'ts both for current and follow-on projects. In practice, however, too many EISs and EAs have been shelved and ignored because they just weren't useful either for current projects or for follow-on projects. A Problem EIS (based on an actual EIS recently issued by a major federal department): A costly programmatic EIS has turned out to be useless as a guide for follow-on projects that should be tiered to the EIS. In this problem EIS, the proposed action failed to include (or even mention) some current program activities, making follow-on tiering difficult. Reasonably foreseeable future actions were also not addressed except to say that additional NEPA analysis would be necessary. The analysis of impacts in this problem EIS was similarly narrow—so narrow that it failed to cover cumulative impacts adequately. The impacts it did disclose were uncertain because the EIS failed to analyze whether or not mitigation measures would be effective or how they would conceptually relate to the stated environmental consequences. A good EIS or EA should be a useful guide, both for current and follow-on projects. That is, a useful EIS or EA has, as a minimum, these strengths:

- Its proposed action, including associated mitigations, is realistic and implementable, and listed mitigations are an agency's legal commitments.
- Its alternatives cover reasonably foreseeable future actions.
- Its baseline information is valid and as inclusive as possible.
- Its discussion of impacts addresses the effectiveness of mitigations and properly discloses the impacts that would remain, assuming that mitigations are included in proposed activities.

*A realistic and implementable proposed action, including associated mitigations*

Realistic and implementable actions must include proposed mitigations. The public, the decisionmaker, and, if necessary, the judge should be given a full

package of activities, including any mitigations the agency is committing to. These activities should include both current activities and ones projected as reasonably foreseeable during the planning period (either during the next 10 years or for another specified time frame). Activities analyzed properly include mitigations, with the understanding that it is within the agency's discretion to commit to or to ignore a potential mitigation measure.

*Reasonably foreseeable future actions (alternatives)*

Useful alternatives should reflect reasonably foreseeable future actions, and agencies should be flexible as to what types of actions are reasonably foreseeable.

*Valid and inclusive baseline information*

Valid baseline information is often only available at a programmatic level. In particular, cumulative impacts usually occur across an entire installation or across an entire ecosystem, not within a limited project area. Thus, one benefit of a well-conceived programmatic EIS is to present a usable baseline profile of all resources so that cumulative impacts can be disclosed. Project-specific EISs or EAs can then keep their own baseline profiles correspondingly brief, with discussions of cumulative impacts linked back to the programmatic EIS.

*Impacts that remain after implementation of specific mitigation measures*

Listing mitigations at the end of an EIS is conceptually weak and, even worse, is legally questionable for two reasons. One reason is that the actual projected impacts are difficult to assess or judge if the impacts presented in Chapter 4: Environmental Consequences won't occur or are uncertain, based on a blanket statement in Chapter 5 that mitigations would eliminate or change the stated impacts. The second reason is that when an agency decisionmaker signs off on a ROD, the chosen alternative should include specific mitigations as a legal commitment and these mitigations should have been analyzed as a coherent package of actions in the EIS.