

**REPORT TO CONGRESS
ON UNACCEPTABLE RISK
TO NATIONAL SECURITY FROM COMMERCIAL
ENERGY PROJECTS**

**Pursuant to Senate Report 112-173 accompanying the National Defense
Authorization Act for Fiscal Year 2013**



**THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR
ACQUISITION, TECHNOLOGY, AND LOGISTICS**

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THE POTENTIAL IMPACT OF ENERGY PROJECTS ON NATIONAL SECURITY

Standard Procedure

The Department of Defense (DoD) follows a four-step procedure to conduct its mission compatibility evaluation process. The procedure is managed by the DoD Siting Clearinghouse under the direct oversight of a Board of Directors (BOD). The BOD is comprised of representatives from key offices within the Office of the Secretary of Defense (OSD), the Joint Staff, and the Military Departments. The BOD is co-chaired by the Deputy Under Secretary of Defense for Installations and Environment, the Deputy Assistant Secretary of Defense for Readiness, and the Principal Deputy Director for Operational Test and Evaluation. The role and mission of the Clearinghouse is to facilitate, coordinate, and oversee mission compatibility evaluations of structures identified to the Federal Aviation Administration under title 49, U.S.C., section 44718, as well as to evaluate additional structures proposed to be located under military training routes or special use airspace or near test and training ranges, whether the project is on private, state, tribal, or Federal lands.

The four-step procedure is as follows:

- (1) Analytically Demonstrate Impact: Using computerized geospatial tools and additional analysis aids, the Department's experts in the mission compatibility evaluation process identify the impact proposed projects may have – such as a radar receiving and processing a reflection from a wind turbine that impacts the ability to achieve safe navigation or protection of the homeland. Additional mission compatibility considerations include: electromagnetic, acoustic, infrared, seismic, and physical interference; the ability to maintain a pristine environment for sensor baseline testing; and the safety of military personnel/operations.
- (2) Identify the Adverse Impact: The Department's Mitigation Oversight Committee (MOC) ensures the subject matter experts have correctly defined a demonstrable impact that causes degradation in one or more Mission Essential Tasks. Should the impact not inhibit the capability to meet mission performance standards, including conducting Research, Development, Test, and Evaluation; military training activities; or military operations, then the project is identified as causing “no objection” in accordance with the regulations implementing title 49, U.S.C., section 44718. Alternatively, should the project present an adverse impact to military operations and readiness, the MOC will establish a Mitigation Response Team (MRT), led by a Military Department and supporting OSD functional office with the appropriate oversight responsibilities to begin mitigation discussions with the developer.
- (3) Seek Feasible and Affordable Mitigation Options: If an Adverse Impact is identified, the MRT leads discussions with the developer to seek feasible and affordable mitigation options to be carried out by either the Department or the developer or both parties. The goal of the MRT is to eliminate or reduce the identified adverse impact on the DoD

mission. To reach this goal, the MRT consists of subject matter experts who are familiar with the affected military missions and emerging technologies, as well as ancillary matters such as the Defense acquisition process, applicable DoD budgets, legal issues, and legislative/intergovernmental affairs, as appropriate.

- (4) Objecting due to an Unacceptable Risk to the National Security of the United States: Should mitigation discussions with a developer be unsuccessful in resolving the adverse impact, the Military Department leading the MRT, in consultation with the appropriate OSD functional office, advises the MOC that the proposed project should be identified to the Deputy Secretary of Defense as posing an unacceptable risk to national security because it meets one or more of the criteria for unacceptable risk (listed below).

Should the MOC agree with the recommendations of the MRT, it makes a recommendation to the BOD. If, after deliberation, the BOD agrees with the MOC, it informs the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) of its findings and recommendations. USD(AT&L) then further considers the recommendation and findings and makes a recommendation to the Deputy Secretary of Defense. Should the Deputy Secretary of Defense determine there is an unacceptable risk to the national security of the United States, the Department informs the Secretary of Transportation of its objection to the proposed project and, within 30 days, informs the congressional defense committees of the determination.

Criteria for Unacceptable Risk

There are three independent criteria for unacceptable risk, any one of which would lead to a determination of unacceptable risk to national security. The criteria include that a proposed project would:

- (1) Endanger safety in air commerce, related to the activities of the Department;
- (2) Interfere with the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports, related to the activities of the Department;
- (3) Significantly impair or degrade the capability of the Department to conduct training, research, development, testing and evaluation, or operations or to maintain military readiness.