

testing of the exact means of performing the action may not have occurred.

(b) Consideration throughout the National Environmental Policy Act (NEPA) process. Consider mitigation throughout the NEPA process. When an EIS or EIS Supplement is prepared, the ROD will state specific mitigation measures taken to reduce or avoid the selected action's adverse environmental effects. For EAs, the FNSI will state, when applicable, the appropriate mitigation measures that will be implemented. The proponent must ensure such mitigation measures become a project line item in the proposal budget. Mitigations that are committed to in an EA, but that are eventually not funded, must lead to reevaluation of the project and the significance of its impacts. In addition, the FNSI will state those practicable mitigation measures that have not been adopted. (40 CFR 1505.2(c)).

(c) Assistance from cooperating non-Army agencies. Proponents may request assistance with mitigation when appropriate. Whether it is appropriate to request assistance is determined by whether the requesting agency—

(1) Was a cooperating agency during preparation of an environmental document, or

(2) Has the technology, expertise, time, funds, or familiarity with project or local ecology necessary to implement the mitigation measure more effectively than the lead agency.

(d) Implementing the decision.

(1) The proponent agency or other appropriate cooperating agency will implement mitigation and other conditions established in the EA or EIS or during its review, and committed as part of the FNSI or the ROD.

(2) Legal documents implementing the action (contracts, permits, grants, and so forth) will specify mitigation measures to be performed. Penalties against the contractor for noncompliance may also be specified as appropriate. Specification of penalties should be fully coordinated with the appropriate legal advisor.

(3) A monitoring and enforcement program will be adopted and summarized in the ROD where applicable for any mitigation. (See appendix F for

guidelines on implementing such a program.) Whether adoption of a monitoring and enforcement program is applicable (40 CFR 1505.2(c)) and whether the specific adopted action is an important case (40 CFR 1505.3) may depend on such factors as the following:

(i) A change in environmental conditions or project activities assumed in the EIS (such that original predictions of the extent of adverse environmental impacts may be too limited).

(ii) Cases when the outcome of the mitigation measure is uncertain (for example, new technology).

(iii) Projects in which major environmental controversy remains associated with the selected alternative.

(iv) Cases when failure of a mitigation measure, or other unforeseen circumstances, could result in serious harm to Federal or State listed endangered or threatened species; important historic or archaeological sites that are either on, or meet eligibility requirements for nomination to the National Register of Historic Places; wilderness areas, wild and scenic rivers, or other public or private protected resources. Evaluation and determination of what constitutes serious harm in coordination with the appropriate Federal, State or local agency responsible for each particular program must be made.

(v) The proponent will respond to inquiries from the public or other agencies regarding the status of mitigation measures adopted.

## Subpart C—Required Records and Documents

### § 651.14 Introduction.

The following records and documents are required:

(a) *Record of Environmental Consideration (REC)*. The REC describes the proposed action and anticipated timeframe, identifies the proponent, and explains why further environmental analysis and documentation is not required. It is a signed statement to be submitted with project documentation. It is used when the proposed action is exempt from the requirements of NEPA, or has been adequately assessed in existing documents and determined not to be environmentally significant.

A REC is also used to document the use of those CX that require such records. (See Figure 3 for format.)

**Record of Environmental Consideration (REC)**

To: (Environmental Officer)  
 From: (Proponent)  
 Project title:  
 Brief description:  
 Anticipated date and/or duration of proposed action: (Month/year)  
 Reason for using record of environmental consideration (choose one):  
 a. Adequately covered in an (EA, EIS) entitled \_\_\_\_\_, dated \_\_\_\_\_.  
 The EA/EIS may be reviewed at \_\_\_\_\_, (location)  
 OR,  
 b. Is categorically excluded under the provisions of CX \_\_\_\_\_, AR 200-2, appendix A, (and no extraordinary circumstances exist as defined in paragraph 4-3), because \_\_\_\_\_

Date	Project Proponent
Date	Installation Environmental Coordinator

Variation from this format is acceptable provided basic information and approvals are included in any modified document.

**Figure 3. Format for record of environmental consideration (REC)**

(b) *Environmental assessment (EA)*. An EA is a document that—  
 (1) Briefly provides the decision-maker with sufficient evidence and analysis for determining whether a FNSI or an EIS should be prepared.  
 (2) Assures compliance with NEPA, if an EIS is not required and a CX is inappropriate.  
 (3) Facilitates preparation of a required EIS.  
 (4) Includes brief discussions of the need for the proposed action, alternatives to the proposed actions (NEPA, section 102(2)(e)) (see appendix C), proposed and alternative actions environmental impacts, and a listing of persons and agencies consulted. (See subpart E for requirements.)  
 (c) *Finding of no significant impact (FNSI)*. A FNSI is a document that briefly states why an action will not significantly affect the environment, thus voiding the requirement for an

EIS. The FNSI will include a summary of the conclusions of the EA and will note any environmental documents related to it. If the EA is attached, the FNSI need not repeat any of the EA’s discussion, but may incorporate it by reference. A FNSI is always signed by the decisionmaker. (See §651.24 for processing.)  
 (d) *Notice of intent (NOI)*. An NOI is a public notice that an EIS will be prepared and considered. The NOI will briefly—  
 (1) Describe the proposed and alternative actions.  
 (2) Describe the proposed scoping process, including whether, when, and where any public meetings will be held.  
 (3) State the name and address of the POC who can answer questions on the proposed action and its EIS. (See §§651.32(a), 651.34(a), and 651.37 for application.)

(e) *Environmental impact statement (EIS)*. An EIS is a detailed written statement required by NEPA for major Federal actions with significant environmental effects (42 U.S.C. 4321, section 102(2)(c)). (See appendix C.) (See subpart F for requirements.)

(f) *Life cycle environmental document (LCED)*. The LCED is intended to be a programmatic assessment that addresses the known and reasonably foreseeable environmental impacts of a proposed item/system during all phases of development, production, use, and ultimate disposal of the item/system. The LCED may be in the form of an EA or an EIS, and must be supplemental to address additional significant environmental impacts as conditions change. The LCED will be prepared by the DA proponent/developer (or program manager) and is most frequently used within the materiel research, development, and acquisition community.

(g) *Record of Decision (ROD)*. A public ROD is required under the provisions of 40 CFR 1505.2 after completion of an EIS. Nevertheless, the ROD is not considered to be an environmental document since the decision considers other factors in addition to environmental issues. (See § 651.32(i) for application.)

#### § 651.15 Optional documents.

The following additional documents may assist in the implementation of this regulation. These documents are optional, but their use is encouraged.

(a) *Environmental planning guide*. Prepared prior to or at the outset of a major program concept exploration. It is a concise (for example, 10-page) document intended for use by the program planners and designers. It provides guidelines and supporting rationale by which planners and designers could prevent, avoid, or minimize adverse environmental effects through environmentally sensitive design and planning. Through appropriate language in the scope of work, contractors can be encouraged or required to use such an environmental planning guide.

(b) *Environmental planning record*. This records the progress and process of environmental considerations throughout a given program's development. Ideally, it is a document that is written when the program commences.

There is no set form; it may be a journal with periodic entries, a file of memoranda, trip reports, and so forth. This document is a visible track record of how environmental factors have actually been considered and incorporated throughout the planning process. Through appropriate language in the scope of work, contractors can be encouraged or required to prepare an environmental planning record, or parts thereof.

(c) *Environmental monitoring report*. This report is prepared at one or more points after program or action execution. Its purpose is to determine the accuracy of impact predictions. It can serve as the basis for adjustments in mitigation programs and to adjust impact predictions in future projects.

### Subpart D—Categorical Exclusions (CX)

#### § 651.16 Introduction.

(a) The use of CX is intended to reduce paperwork and delay and eliminate unnecessary EA and EIS preparation. CX is defined in the Glossary.

(b) The following criteria will be used to determine those categories of actions that normally do not require either an EIS or EA:

(1) Minimal or no individual or cumulative effect on environmental quality.

(2) No environmentally controversial change to existing environmental conditions.

(3) Similarity to actions previously examined and found to meet the above criteria.

#### § 651.17 Determining when to use a CX.

In order to use the CX provision, the proponent must take the following actions:

(a) Determine whether the proposal is encompassed by one of the categories not normally requiring the preparation of an EA or EIS. (See appendix A.)

(b) Determine if there are any extraordinary circumstances that may result in the proposed action having an impact on the human environment that would require an EA or EIS. These circumstances include—