

that may have environmental consequences will be obeyed. However, compliance does not relieve the responsible official from preparing environmental impact analyses and processing necessary environmental documents. NEPA compliance is required unless existing law, applicable to a specific action or activity, prohibits, exempts, or makes compliance impossible.

(e) When appropriate, environmental documentation to consider operations security principles and procedures described in AR 530-1 will be reviewed and documented on the cover sheet or signature page.

§ 651.6 Procedures.

(a) The Assistant Chief of Engineers retains a copy of each draft and final EIS (Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS)) prepared by the Army. The EIS will be retained until the proposed action and any mitigation program is complete or the information therein is no longer valid. The EIS is then deposited in the National Archives and Records Administration.

(b) DA agencies are encouraged to draw upon the special expertise that is available within the medical department, including the U.S. Army Environmental Hygiene Agency (AEHA), to identify and evaluate environmental health impacts.

(c) Military Construction Army/Military Construction ARNG (MCA/MCAR) funds may not be used for preparation of environmental documents. Operations and Maintenance/Operation and Maintenance, ARNG (OMA/OMAR) or other operating funds are the proper sources of funds for environmental document preparation.

(d) The proponent for federally funded ARNG actions is the National Guard Bureau (NGB) division in whose area of responsibility the action rests. For instance, National Guard Bureau-Installations Division (NGB-ARI) would be the proponent for proposed training activities. The NGB division proponent performs the actions described in this section with the States or territories affected by the proposed action.

(e) In specific cases, such as the construction of a water treatment facility

or a flood control plan, the engineer could be the proponent. The engineer and/or his environmental management staff should advise proponents as to the format and technical data that must be considered in the environmental document. The engineer's environmental management staff is, however, responsible for reviewing each environmental document for compliance with NEPA and appropriate Army and/or ARNG regulations. No matter who prepares the environmental document, the proponent remains responsible for its content and conclusions.

(f) The decisionmaking process often subjects proposal decisions to review and/or approval by higher level authorities including HQDA proponent (defined in the Glossary); therefore, the review and approval of the environmental document follows the same channel of review and approval as that of the proposed action. This does not apply to federally funded ARNG actions since the NGB division, which is the proponent for such actions, is also the HQDA proponent.

Subpart B—National Environmental Policy Act (NEPA) and the Decision Process

§ 651.7 Introduction.

(a) NEPA establishes policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. (See appendix C for a copy of NEPA.) The CEQ issued regulations to implement the procedural provisions of NEPA and they are provided in appendix E. Implementing procedures to CEQ regulations are contained in DOD Directive 6050.1 (applicable in the continental United States (CONUS)) and DOD Directive 6050.7 (applicable outside the continental United States (OCONUS)).

(b) The NEPA process includes the systematic examination of possible and probable environmental consequences of implementing a proposed action. To be effective, integration of the NEPA process with other Army project planning will occur at the earliest possible time to ensure—

(1) Planning and decisionmaking reflect environmental values.

(2) Policies and goals of § 651.4 are implemented.

(3) Delays and potential conflicts later in the process are minimized.

(c) To achieve these actions, all Army decisionmaking that may have an impact on the human environment will use a systematic, interdisciplinary approach that ensures the integrated use of the natural and social sciences, planning, and the environmental design arts. (Pub. L. 91-190; sec. 102(2)(A)). This approach allows timely identification of environmental effects and values in sufficient detail for evaluation concurrently with economic, technical, and mission-related analyses at the earliest possible step in the decision process. When EAs or EISs are undertaken, the economic and social impacts will be included in the analysis of total environmental impacts. However, these secondary impacts, unaccompanied by physical environmental impacts, should not determine whether or not to prepare an environmental document.

(d) NEPA also requires the proponent of an action or project to identify and describe all reasonable alternatives to the proposed action or project. To assist in identifying reasonable alternatives, the proponent must consult appropriate Federal, State, and local agencies, and the general public.

(e) These procedures will assist the decisionmaker in selecting a preferred course of action. They provide the relevant background information and subsequent analyses of the proposal's positive and negative environmental effects. The decisionmaker's written environmental evaluation is either a CX with a record of consideration (REC), an EA with a FNSI, or an EIS with a ROD. (See subpart C.)

§ 651.8 Action requiring evaluation.

(a) The types of projects or actions to evaluate for environmental impact include—

(1) Policies, regulations, and procedures (for example, Army regulations and circulars).

(2) New management and operational concepts and programs in areas such as logistics, research, development, test

and evaluation, procurement, and personnel assignment.

(3) Projects (for example, facilities construction, research and development for weapons, vehicles, and other equipment).

(4) Activities (for example, individual and unit training, flight operations, overall operation of installation, or facility test and evaluation programs).

(5) Requests for a Nuclear Regulatory Commission license (new, renewal, or amendment) or an Army radiation authorization.

(6) Materiel development, acquisition, and/or transition.

(7) Research and development in areas such as genetic engineering, laser testing, and electromagnetic pulse generation.

(8) Installation restoration projects undertaken pursuant to section 104 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA). The National Oil and Hazardous Substances Contingency Plan (40 CFR part 300), implements the requirements of CERCLA/SARA, and describes a formal process, the feasibility study (FS).

(i) The FS provides substantive and procedural standards to ensure full consideration of environmental issues and alternatives, and an opportunity for the public to participate in evaluating environmental factors and alternatives before a final decision is made.

(ii) In most cases, when a FS is prepared in accordance with 40 CFR part 300, a second NEPA document is not required. As a matter of policy, the organization preparing the FS will ensure the document also complies with 40 CFR parts 1500 through 1508. The cover of the FS document and the subsequent ROD will contain the legend "This document is intended to comply with the National Environmental Policy Act of 1969." All public notices announcing the availability of the FS will also note this intent. Installation Restoration Program actions in which an FS is not prepared in accordance with 40 CFR part 300 will require appropriate environmental documentation.