

Subpart U—Blasting and Use of Explosives

1. The authority citation for subpart U is revised to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 333); secs. 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), or 1-90 (55 FR 9033), as applicable; 29 CFR part 1911.

§ 1926.906 Initiation of explosive charges—electric blasting [Amended]

2. In § 1926.906, revise paragraph (q) to read as follows:

* * * * *

(q) Blasters, when testing circuits to charged holes, shall use only blasting galvanometers or other instruments that are specifically designed for this purpose.

* * * * *

[FR Doc. 96-18268 Filed 7-19-96; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010-AC02

Amendments to Gas Valuation Regulations for Federal Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule; notice of extension of public comment period.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that it is extending the public comment period on a Notice of reopening of public comment period, which was published in the Federal Register on May 21, 1996 (61 FR 25421). The proposed rule would amend the regulations governing the valuation for royalty purposes of natural gas produced from Federal leases. In response to requests for additional time, MMS will extend the comment period from July 22, 1996, to August 19, 1996.

DATES: Comments must be received by 4 p.m. Mountain daylight time on August 19, 1996.

ADDRESSES: Written comments should be sent to the Minerals Management Service, P.O. Box 25165, Mail Stop 3101, Denver, Colorado 80225-0165; courier address: Building 85, Denver Federal Center, Denver, Colorado 80225-0165, Attention: David S. Guzy.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Procedures Staff, telephone (303) 231-3432 or (FTS) 231-3432.

Dated: July 15, 1996.

James W. Shaw,

Associate Director for Royalty Management.

[FR Doc. 96-18473 Filed 7-18-96; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 651

Environmental Analysis of Army Actions

AGENCY: Department of the Army; Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise Army Regulation 200-2, which is the Army's implementing regulation for the National Environmental Policy Act of 1969 (NEPA). Major changes are an expanded list of categorical exclusions, clear separation of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and NEPA, and delegation of authority to approve environmental impact statements (EIS).

DATES: To be given full consideration, comments must be received no later than August 21, 1996.

ADDRESSES: Written comments should be sent to: Headquarters, Department of the Army, ATTN: DAIM-ED (Mr. Timothy Julius), 600 Army Pentagon, Washington, DC 20310-0600.

FOR FURTHER INFORMATION CONTACT: Timothy P. Julius, (703) 693-0543.

SUPPLEMENTARY INFORMATION: This proposed regulation establishes policies and responsibilities for assessing the effects of Army actions. It supplements Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508). The last major revision to this regulation was in December 1988. Since that time, initiatives such as the National Performance Review have tended to streamline the Federal Government through decentralization, reduction and simplification of regulations, and management of risk. This revision strives to meet the spirit of the National Performance Review, and Executive Order (EO) 12861, Elimination of One-Half of Executive Branch Internal Regulations, dated September 11, 1993. This proposed regulation incorporates

emerging issues such as Environmental Justice (EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994) and Community Right-to-Know (EO 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements, dated August 3, 1993). The list of categorical exclusions has been expanded to include a more comprehensive array of actions routinely performed by the Army which have minimal or no individual or cumulative effect on environmental quality. This is intended to better focus on actions that warrant the expenditure of time and resources for analysis and formal documentation. The authority to approve environmental impact statements has been delegated to Commanders of Major Commands (primarily for Installations), and Program Executive Officers and Commanders of Major Subordinate Commands with Milestone Decision Authority (for acquisition and development programs). The purpose of delegation of approval authority for EISs is to empower the officials who are responsible for accomplishing the work. This empowerment will compel the decision makers to take more complete ownership of their actions, and makes the NEPA process an integral, rational part of Army decision making processes. CERCLA and NEPA are clearly separated in recognition of the Department of Justice's opinion with regard to the application of NEPA to CERCLA cleanups, and to eliminate potential duplication of effort. Procedural Requirements: This regulation does not involve the collection of information and is therefore not subject to the provisions of the Paperwork Reduction Act. This rule contains no policies that have Federalism implications under EO 12612, Federalism, dated October 26, 1987. This proposed rule is not a major rule pursuant to EO 12291, Federal Regulation, dated February 17, 1981, therefore a Regulatory Flexibility Analysis is not required. This is not a significant regulatory action pursuant to EO 12866, Regulatory Planning and Review, dated September 30, 1993. This regulation meets the standards of Sec. 2(b)(2) of EO 12778, Civil Justice Reform, dated October 23, 1991.

List of Subjects in 32 CFR Part 651

Environmental impact statement, Environmental protection, Natural resources.

The Proposal

Accordingly, it is proposed to revise 32 CFR part 651 to read as follows:

PART 651—ENVIRONMENTAL EFFECTS OF ARMY ACTIONS (AR 200–2)

Sec.

Subpart A—Introduction

- 651.1 Applicability.
- 651.2 Purpose.
- 651.3 Definitions.
- 651.4 Responsibilities.
- 651.5 Policies.

Subpart B—National Environmental Policy Act of 1969 (NEPA) and the Decision Processes

- 651.6 Introduction.
- 651.7 Actions Requiring Evaluation.
- 651.8 Exemptions, Exceptions, and Emergency Procedures.
- 651.9 Integration with Army Planning.
- 651.10 Classified Actions.

Subpart C—Required Records and Documents

- 651.11 Environmental Assessment (EA).
- 651.12 Finding of No Significant Impact (FONSI).
- 651.13 Notice of Intent (NOI).
- 651.14 Environmental Impact Statement (EIS).
- 651.15 Record of Decision (ROD).
- 651.16 Notice of Availability (NOA).
- 651.17 Notice of Availability of Weekly Receipts of EISs (NWR).
- 651.18 Record of Environmental Consideration (REC).

Part D—Categorical Exclusions (CXs)

- 651.19 General.
- 651.20 Determining when to use a CX.
- 651.21 List of Categorical Exclusions (CXs).

Part E—Environmental Assessment (EAs)

- 651.22 Conditions and Actions Normally Requiring an EA.
- 651.23 EA Format.
- 651.24 Finding of No Significant Impact (FONSI).
- 651.25 Review and Approval of EAs and FONSI.
- 651.26 Public Involvement.
- 651.27 Mitigation and Implementation Plan.

Part F—Environmental Impact Statements (EISs)

- 651.28 Introduction.
- 651.29 Conditions Requiring an EIS.
- 651.30 Actions Normally Requiring an EIS.
- 651.31 EIS Format.
- 651.32 Approval Authority.
- 651.33 Notice of Intent (NOI).
- 651.34 Scoping.
- 651.35 Preparation and Processing of the Draft Environment Impact Statement (DEIS).
- 651.36 Public Review of the DEIS.
- 651.37 Preparation of the Final Environmental Impact Statement (FEIS).
- 651.38 Decision.

- 651.39 Supplemental EISs (SEISs).
 - 651.40 The Army as a Cooperating Agency.
- Authority: National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq. Council on Environmental Quality Regulations, 40 CFR part 1500–1508, 43 FR 55978–56007, November 29, 1978, as amended at 51 FR 15625, April 25, 1986, and Executive Orders 11988, 11990, 12114, 12856, 12898.

Subpart A—Introduction

§ 651.1 Applicability.

This regulation applies to pertinent functions of the Active Army and Army Reserve, to functions of the Army National Guard (ARNG) involving Federal funding, and to functions for which the Army is the DoD executive agent. It does not apply to Civil Works functions. This regulation applies to relevant actions within the United States, which is defined as all States, the District of Columbia, territories, and possessions of the United States; and all waters and airspace subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include the Virgin Islands, American Samoa, Wake Island, Midway Island, Guam, Palmyra Island, Johnston Atoll, Navassa Island, and Kingman Reef. This regulation also applies to actions in the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the Republic of the Marshall Islands.

§ 651.2 Purpose.

(a) Environmental Analysis of Army Actions is the Army's implementing regulation for the National Environmental Policy Act of 1969 (NEPA). This regulation sets forth the Army's policies and responsibilities for the early integration of environmental considerations into Army planning and decision making processes.

(b) This regulation establishes criteria to determine which Army actions normally require preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS), and lists Army actions that are categorically excluded from the requirements to prepare an EA or EIS.

(c) This regulation supplements the Code of Federal Regulations (40 CFR parts 1500–1508), and must be read in conjunction with it.

§ 651.3 Definitions.

(a) *Proponent*. The proponent is the Army office, DoD or non-DoD Federal agency, state or local agency, organization, or individual that proposes an action requiring Army approval.

(b) *Decision maker*. The decision maker is the Army official who has the

primary authority to approve NEPA documents, make decisions, and commit government resources to a course of action.

(c) *Program, Product, and Project Managers*. Managers of Acquisition Categories (ACAT) I, II, III, & IV programs as defined by Department of Defense Instruction (DoDI) 5000.2.

(d) *Major Decision Point*. Review points in the development of a project/program at which decisions are made whether to proceed. For the acquisition process, these would be the major milestones as defined in DoD Instruction 5000.2.

§ 651.4 Responsibilities.

(a) The Secretary of the Army (SA) has designated the Assistant Secretary of the Army (Installations, Logistics and Environment) (ASA(IL&E)) as the Army's responsible official for NEPA matters.

(b) The Assistant Secretary of the Army (Research, Development, and Acquisition) will:

(1) In conjunction with the Assistant Secretary of the Army (Installations, Logistics, and Environment), manage the environmental compliance of materiel systems.

(2) Develop and implement a process to prepare, review, approve, and catalog NEPA documents for the acquisition and development of Army materiel.

(c) The Deputy Chief of Staff for Operations and Plans (DCSOPS) will assign proponent responsibilities as required when multiple MACOM or Headquarters offices are involved in a proposal.

(d) The Assistant Chief of Staff for Installation Management (ACSIM) is responsible for coordinating and monitoring NEPA activities within the Army. The Environmental Programs Directorate is the Army Staff (ARSTAF) point of contact (POC) for environmental matters.

(e) The Director of Environmental Programs will—

(1) Assist Army agencies in completing environmental analysis and documentation.

(2) Review, as requested, environmental documents submitted by Army, other DoD components, and other Federal agencies.

(3) Monitor proposed Army policy and program documents that have environmental implications to determine compliance with NEPA requirements and to ensure integration of environmental considerations into the decision making process.

(4) Maintain liaison with the Office of the Secretary of Defense, Office of Management and Budget, Council on

Environmental Quality (CEQ), Environmental Protection Agency (EPA), and other Federal, state, and local agencies on environmental policies that may affect the Army. This liaison assists in identifying and evaluating applicable regulatory policies for proposed actions.

(f) The Assistant Secretary of the Army (Financial Management) will develop requirements for environmental budget exhibits and displays of data in support of annual authorization and appropriation requests.

(g) The General Counsel (GC) provides legal advice to the Secretary of the Army on all environmental matters, to include interpretation and compliance with NEPA and implementing regulations.

(h) The Judge Advocate General (TJAG) will provide legal advice and assistance in interpretation of NEPA and Federal implementing regulations, and other applicable statutes.

(i) The Surgeon General will review, as requested, the health and welfare aspects of proposals.

(j) The Chief of Public Affairs will:

(1) Provide guidance on issuing public announcements such as Findings of No Significant Impact (FONSI), Notices of Intent (NOI), scoping procedures, Notices of Availability (NOA), and other public involvement activities.

(2) Review and coordinate planned announcements on actions of national interest with appropriate ARSTAF elements and the Assistant Secretary of Defense for Public Affairs (OASD (PA)).

(3) Assist in the issuance of appropriate press releases to coincide with the publication of notices in the Federal Register.

(k) The Chief of Legislative Liaison will notify members of Congress of impending proposed actions of national concern or interest. The Chief will—

(1) Provide guidance on issuing congressional notifications on actions of national concern or interest.

(2) Review planned congressional notifications on actions of national concern or interest.

(3) Prior to and in concert with the issuance of press releases and publications in the Federal Register, assist in the issuance of congressional notifications on actions of national concern or interest.

(l) Commanders of Major Army Commands (MACOM), the Chief, National Guard Bureau, and the U.S. Army Reserve Commander will—

(1) Monitor proposed actions and programs within their commands to ensure compliance with this regulation.

(2) Task the appropriate proponent with funding and preparation of NEPA

documents and development of public involvement activities.

(3) Ensure that the proponent initiates the preparation of necessary environmental documentation and assesses the environmental consequences of proposed programs and projects early in the planning process.

(4) Assist in the review of environmental documents prepared by DoD and other Army or Federal agencies, as requested.

(5) Establish and maintain the capability (personnel and other resources) to comply with the requirements of this regulation.

(6) Maintain official record copies of all environmental documents for which they are the staff proponent.

(7) Provide coordination with HQDA for proposed actions of national interest.

(8) Approve environmental impact statements and associated documents (NOI, NOA, ROD) for actions under their purview.

(9) Office of the Chief of the National Guard Bureau is responsible for approving all Federal environmental documents prepared by all Army National Guard activities.

(m) Major Subordinate Commands, Installations (Base Operations (BASEOPS) Army Reserve Command (ARCOM), activity (facility), unit (non-BASEOPS Major U.S. Army Reserve Command (MUSARC) commanders and The Adjutants General (TAG) will:

(1) Monitor proposed actions and programs within their commands to ensure compliance with this regulation.

(2) Task the appropriate proponent with funding and preparation of NEPA documents and development of public involvement activities.

(3) Ensure that the proponent initiates the preparation of necessary environmental documentation and assesses the environmental consequences of proposed programs and projects early in the planning process.

(4) Assist in the review of environmental documents prepared by DoD and other Army or Federal agencies, as requested.

(5) Establish and maintain the capability (personnel and other resources) to comply with the requirements of this regulation.

(6) Maintain official record copies of all environmental documents for which they are the staff proponent.

(7) Provide coordination for proposed actions of national interest.

(8) Approve environmental documents for actions under their purview (does not include TAG).

(n) The Army Acquisition Executive (AAE) will:

(1) Administer acquisition programs to ensure compliance with all

applicable environmental laws, executive orders, and regulations.

(2) Ensure that life cycle environmental costs are an integral part of system life cycle cost estimates.

(o) Program Executive Officers (PEO) and direct-reporting PMs will:

(1) Supervise assigned programs, projects, and products to ensure that they comply with all applicable environmental laws, executive orders, and regulations.

(2) Ensure that environmental considerations are integrated into assigned systems planning process and systems engineering process.

(3) Approve environmental impact statements and associated documents (NOI, NOA, ROD) for actions under their purview.

(p) Program, Project, and Product Managers will:

(1) Manage compliance with all applicable environmental laws, executive orders, and regulations for assigned programs, projects, and products.

(2) Integrate environmental considerations into the systems planning process and systems engineering process.

(3) Apply policies and procedures set forth in this regulation to programs and actions within their organizations and staff responsibility.

(4) Initiate the preparation of environmental documentation and assess the environmental consequences of proposed programs and projects.

(5) Establish and maintain the capability (personnel and other resources) to comply with the requirements of this regulation.

(6) Prepare and maintain the official record copy of all environmental documents for which they are the proponent.

(q) Proponents at all levels will:

(1) Ensure that NEPA documents are prepared and staffed to the satisfaction of the decision maker.

(2) Ensure accuracy and adequacy of environmental impact analyses and documents regardless of the author.

(3) Adequately fund and implement the decision.

§ 651.5 Policies

(a) DA policy is to balance military mission activities, including materials and industrial processes, with the capabilities of the installations and surrounding communities. Decision makers will be cognizant of the impact of their decisions upon the environment, and will reduce undue and unnecessary adverse impacts to the extent feasible.

(b) 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.

(c) Environmental analyses and associated investigations are advanced project planning, and will be funded from other than military construction (MILCON) funds. Operations and Maintenance/Operation and Maintenance, ARNG (OMA/OMAR), Research, Development, Test, and Evaluation (RDTE) or other operating funds are the proper sources of funds for analysis and documentation. Alternative funds will be identified for environmental documentation, monitoring, and other required studies as part of the MILCON approval process.

(d) Costs of design and construction mitigation measures required as a direct result of MILCON projects will be paid from MILCON funds if included in the cost estimate and description of work on DD Form 1391.

(e) Ongoing Army activities require an environmental analysis when significant new circumstances warrant consideration of changing the activity. For example, the listing of a new species as endangered may indicate, per consultation under the Endangered Species Act, the modification of a training regime or major modification of an existing weapons system.

(f) Environmental analyses will reflect due consideration of non-statutory environmental issues implemented by Federal and DoD plans and standards. Potential issues will be discussed and critically evaluated during scoping and other public involvement processes. Some examples are the issues articulated in Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; and Executive Order 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements.

(g) Consideration of the environment for decisions involving activities outside the United States (see Applicability) will be accomplished pursuant to Executive Order No. 12114, host country final governing standards, and DoD Directives and Instructions.

Subpart B—The National Environmental Policy Act of 1969 (NEPA) and Decision Processes

§ 651.6 Introduction.

(a) NEPA establishes broad Federal policies and goals for the protection of the environment. Section 102(2) contains procedural requirements

directed toward the attainment of such goals.

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

(1) Planning and decision making reflect environmental values.

(2) Policies listed in paragraph 1-5 are implemented.

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

(4) Evaluation of environmental effects, values and issues is in sufficient detail for consideration concurrently with economic, technical, and mission-related analyses. When EISs are undertaken, the economic and social impacts will be included in the analysis of total environmental impacts. However, economic and social impacts alone (i.e., without accompanying natural or physical impacts) do not necessitate the preparation of an environmental document for an Army action.

§ 651.7 Actions requiring evaluation.

The general types of proposed actions to evaluate for environmental impact include:

(a) Management and operational concepts and programs, including such areas as logistics, research, development, test and evaluation, procurement, and real property and facility management.

(b) Projects, including facilities construction, research and development for weapons, vehicles, and other equipment or activities.

(c) Operations, including individual and unit training, flight operations, overall operation of installation, or facility test and evaluation programs.

(d) Licenses for operations or special material use, including Nuclear Regulatory Commission (NRC) license, an Army radiation authorization, or Federal Aviation Administration (FAA) Air Space request.

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

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

(g) Actions supported through Federal contracts, grants, subsidies, loans, or other forms of funding such as Government Owned-Contractor Operated (GOCO) industrial plants and construction of family housing via third party contracting (Section 801/802

Housing, Military Appropriations Act of 1984).

(h) Leases, easements, permits, licenses, certificates, or other entitlement for use.

(i) Environmental Remediation/Restoration projects not addressed in paragraph 2-3(b) below.

§ 651.8 Exemptions, exceptions, and emergency procedures.

(a) Exemption by Law. The law must apply to DoD and/or Army and must prohibit, exempt, or make impossible full compliance with the procedures of NEPA (40 CFR 1500.6).

(b) Environmental Remediation/Restoration projects implemented in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) shall not be assessed under NEPA.

(c) Emergencies.

(1) In the event of an emergency, the Army may be required to take immediate actions that have environmental impacts. These immediate actions are necessary to promote national defense or security, or to protect life or property. In such cases, the HQDA proponent will notify the Environmental Programs Directorate, which in turn will notify the Assistant Secretary of the Army for Installations, Logistics and Environment (ASA (I,L&E)), who will coordinate with the Deputy Under Secretary of Defense (Environmental Security) (DUSD(ES)) and CEQ regarding actions necessary to control the immediate effects of the emergency. In no event will the Army delay an emergency action necessary for national defense, security, or preservation of human life or property to comply with this regulation or the CEQ Regulations. Call-ups of the ARNG during state emergencies are state actions excluded from the requirements of this regulation.

(2) These notifications and consultations apply only to actions necessary to control immediate effects of the emergency; other actions remain subject to NEPA review (40 CFR 1506.11).

§ 651.9 Integration with Army Planning.

(a) Environmental considerations will be integrated into the Army's decision making processes to ensure that:

(1) The planning process identifies major decision points for principal programs and proposals that are likely to have an effect on the environment.

(2) Decision makers are informed of and consider the environmental consequences at the same time as other factors such as mission requirements and cost.

(3) Environmental documents accompany the proposal through the existing Army review and decision making processes. The Army will integrate NEPA requirements with other planning and environmental review procedures.

(4) The alternatives considered in the decision are within the range of alternatives analyzed in relevant environmental documents.

(b) Proponents are responsible for providing funds for NEPA documentation, and for implementation of decisions including mitigations (regardless of the level of NEPA analysis).

(c) The Army acquisition community will integrate environmental analyses into its decision making process and will further ensure that appropriate environmental life cycle costs become an integral part of total program cost estimates and budgets. PEOs, and Program, Product, and Project Managers will integrate the NEPA process along with other program planning at the earliest possible time to ensure that acquisition planning and decisions reflect environmental values and considerations. During the planning process, materiel acquisition proponents will, as early as possible, determine the type of environmental analyses that will be required throughout the life cycle of their assigned program and identify appropriate funding.

§ 651.10 Classified actions.

(a) For proposed actions and environmental documents involving classified information, AR 380-5 will be followed.

(b) Classification does not relieve a proponent of the requirement to assess and document the environmental effects of a proposed action.

(c) For cases where classified information can be reasonably separated from other information, and a meaningful environmental analysis produced, unclassified documents will be prepared and processed in accordance with this regulation. Classified portions will be kept separate and provided to reviewers and decision makers in accordance with AR 380-5.

(d) For cases where classified information is such an integral part of the analysis of a proposal that a meaningful unclassified environmental document cannot be produced, the proponent, in consultation with the appropriate security and environmental offices, will form a team to review classified environmental documents.

Subpart C—Army NEPA and NEPA-Related Documents

§ 651.11 Environmental Assessment (EA).

The EA provides the proponent, the public, and the decision maker with sufficient evidence and analysis for determining whether environmental impacts are significant. The EA ensures compliance with NEPA when an environmental impact statement (EIS) is not required and a categorical exclusion (CX) is inappropriate, and facilitates preparation of an EIS if required.

§ 651.12 Finding of No Significant Impact (FONSI).

The FONSI is a decision document that briefly states why an action will not significantly affect the environment, and that an EIS will not be prepared. The FONSI includes a summary of the EA and notes any related environmental documents. If the EA is attached, the FONSI need not repeat any of the EA discussion, but may incorporate it by reference.

§ 651.13 Notice of Intent (NOI).

The NOI is a notice published by the Army in the Federal Register to inform the public that an EIS will be prepared. An NOI may also be prepared for environmental assessments involving actions of national interest.

§ 651.14 Environmental Impact Statement (EIS).

The EIS is a public document designed to ensure that NEPA policies and goals are incorporated early into the programs and actions of Federal agencies. An EIS is intended to provide a full, open, and balanced discussion of significant environmental impacts. Along with other project documentation, the EIS provides a basis for informed decision making.

§ 651.15 Record of Decision (ROD).

The ROD is a concise public record of the decision and rationale following completion of an EIS.

§ 651.16 Notice of Availability (NOA).

The NOA is a notice published by the Army in the Federal Register to inform the public that an environmental document is available for review. An NOA may be published for draft and final EISs (including supplements), and will be published for RODs with national interest. An NOA will also be published for environmental assessments of national interest. This agency NOA should not be confused with EPA's notice of availability of weekly receipts of EISs (NWR).

§ 651.17 Notice of Availability of Weekly Receipts of EISs (NWR).

This notice is published by the EPA and officially begins the public review periods. The NWR is published each Friday, and lists the EISs that were filed the *previous* week.

§ 651.18 Record of Environmental Consideration (REC).

A REC briefly describes the proposed action, identifies the proponent and approving official(s), and records the analysis for the use of categorical exclusions (CX) that require such documentation. There is no required format of a REC as long as the information above is included.

Subpart D—Categorical Exclusions (CXs)

§ 651.19 General.

(a) Categorical exclusions are categories of actions with no significant individual or cumulative effect on the human environment, and for which neither an EA nor EIS is required. The use of a CX is intended to reduce paperwork and eliminate delays in the initiation and completion of proposed actions.

(b) Army installations and materiel developers are required to prepare many types of management plans that should be environmentally assessed (e.g., capital investment strategy, historic preservation, natural resources etc.). In cases where activities are adequately assessed as part of these normal planning processes, CXs should be needed only infrequently to cover unanticipated proposals.

§ 651.20 Determining when to use a CX.

(a) To use a CX, the proponent must:

- (1) Identify a CX (or multiple CXs) that encompasses the proposed action.

- (2) Ensure that the action has not been segmented to meet the definition of a CX. This means that the whole proposal must be considered (e.g., the operations of a construction project must be taken into account).

- (3) Apply the following screening criteria to determine if the action involves extraordinary circumstances which would preclude the use of a CX:
 - (i) Potential to adversely effect public health, safety or the environment.
 - (ii) Possible significant cumulative effects, direct or indirect.
 - (iii) Impose uncertain or unique risks.
 - (iv) Greater scope or size than is normal for this category of action.

- (v) Reportable releases of hazardous or toxic substances as specified by Section 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

(vi) Discharges of petroleum, oils, and lubricants (POLs) or radioactive substances.

(vii) Generation of noise which causes the existing C-weighted day-night levels (CDNL) 62 dB or A-weighted day-night levels (ADNL) 65 dB noise contours to expand within or into noise sensitive land use areas. Generation of noise which increases the CDNL or ADNL in noise sensitive land uses by more than 1.5 dB.

(viii) When air emissions exceed de minimis levels and a formal Clean Air Act conformity determination is required.

(ix) Potential to violate any Federal, state, or local environmental law, regulation, or ordinance.

(x) More than minor, or unresolved adverse effect on environmentally sensitive resources.

(b) Environmentally sensitive resources include:

(1) Federally listed candidate, threatened, or endangered species or their habitats;

(2) Properties listed on or eligible for the National Register of Historic Places;

(3) Areas having special designation or recognition such as prime or unique agricultural lands off Army property; coastal zones; designated wilderness or wilderness study areas; wild and scenic rivers; national landmarks; 100-year floodplains; wetlands; sole source aquifers which are potential sources of drinking water; refuges; parks; or other areas of high environmental sensitivity;

(4) Sacred sites (IAW American Indian Religious Freedom Act).

(c) The use of a CX does not relieve the proponent from compliance with other statutes, such as consultations under the Endangered Species Act or the National Historic Preservation Act. Such consultations may be required to determine the applicability of screening criteria.

§ 651.21 List of Categorical Exclusions (CXs).

(a) For convenience only, the CXs are listed under common types of activities (e.g., administration/operation, construction/demolition, and repair and maintenance). Certain CXs require a REC, which will be completed and signed by the proponent. Concurrence on the use of a CX by the installation environmental coordinator (EC) or other appropriate EC (e.g., MSC or MACOM) is required. The list of CXs is subject to continual review and modification. Requests for additions or changes to the CXs should be sent to the Environmental Programs Directorate. Subordinate Army headquarters may not modify the CX list through

supplements to this regulation. The proposed modifications to the list of CXs will be published in the Federal Register by HQDA to provide an opportunity for public comment.

(b) Administration/Operation Activities:

(1) Routine law and order activities performed by military/military police and physical plant protection and security personnel.

(2) Preparing, revising, or adopting regulations, instructions, directives, and plans that implement, without substantial change, regulations, instructions, directives.

(3) Routine operation of existing facilities and laboratories.

(4) Normal fiscal, administrative, recreation and welfare activities.

(5) Reductions in force and unit redesignations.

(6) Routine activities of personnel and equipment in facilities which are compatible with the existing uses.

(7) Deployment of military units on a temporary duty (TDY) or training basis where existing facilities are used for their intended purposes.

(8) Administrative personnel-related studies.

(9) Non-construction activities in support of other agencies/organizations involving community participation projects and law enforcement activities.

(10) Routine military ceremonies, funerals, and concerts. Special events such as State-funerals, to include flyovers.

(11) Routine administrative reorganizations and consolidations.

(12) Actions which fall under another Federal agency's list of categorical exclusions when the other Federal agency is the lead agency and the Army is the cooperating agency (REC required).

(c) Construction and Demolition:

(1) Construction of an addition to an existing structure or facility, and new construction which does not involve more than 5.0 cumulative acres of new surface disturbance. New construction does not include facilities for the transportation, distribution, use, storage, treatment, and disposal of solid waste, medical waste, and hazardous waste (REC required).

(2) Demolition and disposal of buildings, structures, or other improvements, or removal of part thereof for demolition and disposal in accordance with applicable regulations, including those regulations applying to removal of asbestos, polychlorinated biphenyls (PCBs), lead base paint, and other hazardous materials (REC required).

(3) Road and trail construction that involves no more than 5.0 acres of new surface disturbance.

(d) Cultural and Natural Resource Management Activities:

(1) Routine maintenance of timber stands, including tree removal and pruning.

(2) Timber harvest activities which remove 250,000 board feet or less of merchantable wood products or salvage as a negotiated timber sale (REC required).

(3) Land regeneration activities of native trees and vegetation, including site preparation (REC required).

(4) Routine maintenance of streams (in accordance with U.S. Army Corps of Engineers' permit authority under Section 404 of the Clean Water Act and applicable state and local permits), and erosion control and storm water control structures in accordance with management plans.

(5) Policy and control measures for pest control/removal in accordance with pest management plans (REC required).

(6) Hunting and fishing policies or regulations that are consistent with State and local regulations.

(7) Studies, data collection, and information gathering which does not involve major surface disturbance. Examples include topographic surveys, bird counts, wetland mapping, and other resources inventories.

(8) Routine maintenance of fish and wildlife habitat.

(9) Routine monitoring of fish and wildlife populations. Examples include radio collaring, gill netting and counts.

(10) Reintroduction of endemic or native species (other than endangered or threatened species) into historic habitat (REC Required).

(11) Maintenance of existing archaeological and historical avoidance markers, fencing, and signs.

(12) Archaeological surveys, inventories, and minor field excavations.

(e) Procurement and Contract Activities:

(1) Routine procurement of goods and services, including routine utility services and contracts for services and goods.

(2) Acquisition, installation, and operation of utility and communication systems, data processing cable and similar electronic equipment which use existing right-of-way, easement, distribution systems, and/or facilities (REC required).

(3) Conversion of commercial activities under the provisions of Army Regulation 5-20.

(4) Modification, product improvement, or configuration

engineering design change to materiel, structure or item that does not change the original impact of the materiel, structure or item on the environment (REC required).

(5) Procurement, testing, use, and/or conversion of a commercial product (e.g., forklift, generator, chain saw, etc.) which does not meet the definition of a weapon system (Part 15, DoDI 5000.2), and does not result in any unusual disposal problem.

(f) Real Estate Activities:

(1) Grants, acquisitions, and renewal of easements for the use of existing rights-of-way for use by vehicles; electrical, telephone, and other transmission and communication lines; transmitter and relay facilities; water, wastewater, stormwater, irrigation pipelines, pumping stations, and facilities; and for similar public utility and transportation uses (REC required).

(2) Grants, acquisitions, and renewal or termination of leases, licenses, agreements, and permits for use of real property for its intended uses. Examples include, but are not limited to the following: existing Army controlled property and Army leases of civilian property for its intended uses to include leases of classroom, office, or warehouse space leased by a unit for that purpose (REC required).

(3) Disposal of excess easement areas to the underlying fee owner (REC required).

(4) Transfer of real property to or from another military department, or other Federal agency if there is no intended or anticipated significant land use change (REC required).

(5) Transfer of installation utilities to a commercial or governmental utility.

(6) Acquisition and disposal of land not to exceed 40 acres; includes facilities on site (REC required).

(7) Timber harvest activities which remove 250,000 board feet or less of merchantable wood products or salvage as part of an otherwise categorically excluded real estate transaction or other activity (REC required).

(g) Repair and Maintenance Activities:

(1) Routine repair and maintenance of buildings, airfields, grounds, equipment, and other facilities. Examples include, but are not limited to: Removal and disposal of asbestos-containing material (e.g., roof material and floor tile) or lead based paint, and repair of roofs, doors, windows, or fixtures.

(2) Routine repairs and maintenance of roads, trails, and firebreaks. Examples include, but are not limited to: grading and clearing the roadside of brush with or without the use of herbicides; resurfacing a road to its original

conditions; pruning vegetation and cleaning culverts; and minor soil stabilization activities.

(h) Hazardous Materials/Hazardous Waste Management and Operations:

(1) Use of gauging devices, analytical instruments, and other devices containing sealed radiological sources; industrial radiography; use of radioactive material in medical and veterinary practices; possession of radioactive material incident to performing services such as installation, maintenance, leak tests and calibration; use of uranium as shielding material in containers or devices; and use of radioactive tracers (REC required).

(2) Emergency responses in accordance with emergency response plans (e.g., Spill Prevention Control and Countermeasure Plan (SPCC)/ Installation Spill Contingency Plan, and Chemical Accident and Incident Response Plan) as required by the regulatory agency responsible for release or discharge of oil or hazardous materials/substances; or emergency actions taken by Explosive Ordnance Demolition (EOD) detachment or Technical Escort Unit.

(3) Sampling, surveying, well drilling and installation, analytical testing, site preparation, and intrusive testing to determine if hazardous wastes, contaminants, or pollutants are present.

(4) Routine management to include transportation, distribution, use, storage, treatment, and disposal of solid waste, medical waste, hazardous waste and/or material that complies with EPA, Army, or other regulatory agency requirements. This CX is not applicable to new construction of such facilities.

(5) Routine management of solid waste, hazardous waste, and/or material recycled, reclaimed, reused, or recovered in accordance with EPA or other applicable regulatory agency requirements. This CX is not applicable to major new construction.

(6) Routine research, testing, and operations conducted at established laboratories, to include contractor-operated laboratories. This does not include laboratories constructed for Biosafety Level 3 or Biosafety Level 4.

(7) Conduct and maintenance requirements for silver recovery, alternative sterilization systems, and alternatives for regulated medical waste treatment methodology (REC required).

(8) Disposal of waste and facilities which require a state or Federal permit and specific disposal methods are dictated by the regulating agency (e.g., asbestos, PCBs, and underground storage tanks).

(9) Reutilization, marketing, distribution, donation, and resale of

items, equipment, or materiel; normal transfer of items to the Defense Logistics Agency. Items, equipment, or materiel that have been contaminated with hazardous materials will be adequately cleaned and will conform to the applicable regulatory agency's requirements.

(i) Training and Testing

(1) On-post simulated war games and other tactical and logistical exercises involving units of battalion size or smaller.

(2) Training entirely of an administrative or classroom nature.

(3) Intermittent on- and off-post training activities that involve no live fire or vehicles off established roads or trails. Uses include, but are not limited to: Land navigation, physical training, FAA approved aerial overflights, and small unit level training. (REC required for off-post activities).

(4) Testing of materiel, including off-the-shelf materiel, on DA controlled real estate where the tests are conducted in conjunction with the normal execution of the test and evaluation mission (REC required).

(j) Aircraft and Airfield Activities

(1) Infrequent, temporary (less than 30 days) increases in air operations up to 50 percent of the typical installation aircraft operation rate.

(2) Flying activities in compliance with Federal Aviation Regulations, that are dispersed over a wide area and do not frequently (more than once per day) pass near the same ground points.

(3) Installation of remote transmitter or receiver facilities on the installation, or addition of communication channels to existing facilities.

(4) Installation or upgrade of airfield equipment (e.g., runway visual range equipment, visual approach slope indicators).

(5) Participation in airshows.

Subpart E—Environmental Assessments (EAs)

§ 651.22 Conditions and Actions Normally Requiring an EA.

An EA is a document intended to help proponents and other decision makers determine the extent of environmental impacts of a proposed action, alternatives, and whether those impacts are significant. An EA will be prepared if a proposed action:

(a) Is not an emergency;

(b) Is not exempt or an exception;

(c) Does not qualify as a categorical exclusions (CX); and

(d) Does not qualify for environmental impact statement (EIS) criteria or actions.

§ 651.23 EA Format.

Environmental Assessments will include:

- (a) Review and approval page.
- (b) Purpose and need for the action.
- (c) Description of the proposed action.
- (d) The alternatives considered, including appropriate consideration of the no-action alternative.
- (e) Affected environment.
- (f) Environmental consequences of the proposed action and the alternatives. Discussion of impacts should provide sufficient analysis to reach a conclusion of "significance", and not be merely a quantification of facts.
- (g) Conclusions regarding the significance of impacts, and a recommendation whether to proceed with an EIS.
- (h) Listing of agencies and persons consulted.
- (i) References.

§ 651.24 Finding of No Significant Impact (FONSI).

(a) An EA results in either a FONSI or a Notice of Intent (NOI) to prepare an EIS. Initiation of a NOI to prepare an EIS should occur at any time in the decision process when it is determined that significant effects may occur as a result of the proposed action.

(b) The FONSI is a formal document that:

(1) Briefly states the decision and the reasons why the decision will not have a significant effect on the human environment.

(2) Summarizes mitigation commitments (costs and resources required to complete a mitigation measure).

(3) Explicitly states that an EIS will not be prepared.

(c) The FONSI will either contain a summary of the EA, or have the EA attached and incorporated by reference.

(d) The FONSI should reference other documents used to make the decision or finding of no significant impact.

§ 651.25 Review and Approval of EAs and FONSI.

(a) The proponent is responsible for preparing, staffing, processing (e.g., distributing for comment) and approving the EA with the concurrence of the decision maker.

(b) The proponent is responsible for preparing and staffing the FONSI. The decision maker or designee is responsible for approving and signing the FONSI.

§ 651.26 Public Involvement.

(a) Agencies, applicants, local governments, organizations, the general public, and other interested and affected

parties will be involved as appropriate in the development of a proposal and preparation of an EA. When considering the type and extent of public notice and involvement, some of the factors to be weighed are:

- (1) Magnitude of the proposed project/action.
- (2) Extent of anticipated public interest, based on experience with similar proposals.
- (3) Urgency of the proposal.
- (4) National security classification.
- (b) Public involvement should begin early in the proposal development stage, and during preparation of an EA. The direct involvement of agencies with jurisdiction or special expertise is an integral part of impact analysis, and provides information and conclusions for incorporation into EAs. Unclassified documents incorporated into the EA or FONSI by reference are public documents.

(c) Copies of public notices, "scoping" letters, EAs and FONSI, and other documents routinely sent to the public will be sent directly to appropriate Congressional state and district offices.

(d) All EAs will be made available for at least a 30-day public comment period prior to approval of the FONSI, except as provided in paragraph (e) of this section.

(e) The next higher level of authority may waive the 30-day comment period if all of the following conditions are met:

(1) Delay would jeopardize the Army's mission or an applicant's ability to implement a proposal; and

(2) The EA/FONSI have been sufficiently staffed within the Army and with agencies with special expertise or with authority over an aspect of the proposal; and

(3) The action does not involve wetlands, floodplains, or the circumstances and actions described in 40 CFR 1501.4(e)(2). Appropriate public notice of the availability of the completed EA and approved FONSI shall be made.

§ 651.27 Mitigation and Implementation Plan.

(a) Throughout the NEPA process, the proponent will consider mitigating measures to avoid or minimize environmental harm. Mitigation measures or programs will be clearly assessed in the EA and identified in the FONSI for the decision maker to approve. Mitigation committed to as part of the decision will be implemented by the proponent; for purposes of identifying funding requirements, mitigations should be ranked on a priority basis.

(b) An EA may have a no significant impact conclusion because of specific mitigation measures. Such key measures must be accomplished in the stated time frame to support the no significant impact conclusion, or the significance of the project impacts must be reevaluated.

Subpart F—Environmental Impact Statements (EISs)**§ 651.28 Introduction.**

An EIS is a public document designed to ensure that NEPA policies and goals are incorporated early into the programs and actions of Federal agencies. An EIS is intended to provide a full, open, and balanced discussion of significant environmental impacts that may result from a proposed action. Along with other project documentation, the EIS provides a basis for informed decision making.

§ 651.29 Conditions Requiring an EIS.

In determining if an EIS is appropriate, the proponent should consider whether the proposed action has the potential to:

(a) Significantly degrade environmental quality or public health or safety.

(b) Significantly adversely affect historic or archaeological resources, public parks and recreation areas, wildlife refuge or wilderness areas, wild and scenic rivers, or aquifers.

(c) Significantly adversely impacts properties listed or meeting the criteria for listing in the National Register of Historic Places, or the National Registry of Natural Landmarks.

(d) Significantly adversely impact prime and unique farmlands located off-post, wetlands, floodplains, coastal zones, or ecologically important areas or other areas of unique or critical environmental sensitivity.

(e) Result in significant or uncertain environmental effects, or unique or unknown environmental risks.

(f) Significantly adversely affect a species or habitat listed or proposed for listing on the Federal list of endangered or threatened species, and Federal candidate species.

(g) Either establish a precedent for future action or represent a decision in principle about a future consideration with significant environmental effects.

(h) Adversely interact with other actions with individually insignificant effects so that cumulatively significant environmental effects result.

(i) Involve the production, storage, transportation, use, treatment and disposal of hazardous or toxic materials to include medical wastes that may have significant environmental impact.

§ 651.30 Actions Normally Requiring an EIS.

(a) The following actions normally require preparation of an EIS:

- (1) Land acquisition greater than 640 acres.
- (2) Construction of major ranges, such as multipurpose range complexes (MPRCs).
- (3) Expansion/Development of a central impact area.
- (4) A Category I (major) weapons system acquisition program.
- (5) Permanent restationing of a Brigade or larger (TOE) unit during peacetime in the continental United States.
- (6) Training activities where approved land use plans or regulatory (e.g.; soil/land/water) plans or goals are exceeded.
- (7) Master Plans for established installations where major new developments or substantial changes in mission requirements are proposed.
- (8) Division or larger training activities conducted outside the boundaries of an existing military reservation.
- (9) Introduction or reintroduction of Federally listed endangered/threatened species, or exotic species.
- (10) Construction projects in a National Priorities List (NPL) site or other major cleanup site that are not related to an environmental restoration project.
- (11) Proposal similar to past project or action that contributed to or created a major cleanup action.
- (12) Construction or location of a facility within a 100-year floodplain where there is potential for significant release of hazardous substances.
- (13) Construction or upgrading of a laboratory to a Biosafety Level 4 (32 CFR part 627, App. G).
- (14) Proposed action would create or expand an existing Noise Zone III in a noise sensitive area.
- (15) Construction of facility to store, treat, or dispose of large quantities of chemical agents (e.g., mustard, sarin, tabun). Does not include riot agents.

(b) While these are individual actions, one must consider the full spectrum of actions that constitute a single proposed action. For example, construction of a multipurpose range must also consider the impacts of operations; land acquisition must consider the intended uses.

(c) Alternatives considered, including proposed action and no action alternative.

(d) Affected environment (baseline conditions that may be impacted).

(e) Environmental and socioeconomic consequences.

(f) List of preparers.

(g) Distribution list.

(h) Index.

(i) Appendixes (as appropriate).

§ 651.32 Approval Authority.

(a) The primary approval authority for EISs and related documents (NOI, NOA) is the MACOM Commander, Program Executive Officer, Major Subordinate Command Commander with Milestone Decision Authority for acquisition/development programs, or HQDA equivalent for Army-wide programs for which HQDA is the proponent.

(b) Approval authority may be delegated for actions that are limited in scope (e.g., affect only one installation) and are without apparent major controversy. This delegation extends to garrison commanders and Program or Systems Managers).

(c) When delegating authority, consideration should be given to the scope of the proposal, public/agency controversy and sensitivity, and the capacity to adequately and objectively administer the analysis.

§ 651.33 Notice of Intent (NOI).

(a) The NOI initiates the formal scoping process, and is prepared by the proponent.

(b) For proposed actions that are widely controversial, or of national concern or interest, the Office, Chief of Legislative Liaison (OCLL) shall be notified of the pending action so that appropriate congressional coordination may be effected.

(c) The Office, Chief of Public Affairs, will coordinate public announcements through its chain of command.

(d) The approved NOI shall be forwarded to the Army Federal Register Liaison Officer for publication in the Federal Register. Copies of the Notice may also be distributed to agencies, organizations, and individuals who have expressed interest. A copy of the approved NOI shall be forwarded to the Director of Environmental Programs, HQDA.

§ 651.34 Scoping.

This scoping process identifies the significant issues related to a proposed action. Issues which are not significant or which have been covered by prior environmental review are identified and eliminated from detailed study. Proper scoping also identifies reasonable

alternatives, essential participants, and information needed for analysis. Affected Federal, state, and local agencies, affected Indian Tribes, and other interested persons are included as part of the scoping process. Proper scoping reduces the chances of overlooking significant issues or reasonable alternatives, and increases public confidence in the decision making process.

§ 651.35 Preparation and Processing of the Draft Environment Impact Statement (DEIS).

(a) The proponent prepares draft environmental impact statements. Following appropriate staffing and revisions, the DEIS is approved for public release by the delegated authority.

(b) Following approval, the proponent will forward five copies of the DEIS to EPA for filing and notice in the Federal Register; publication of EPA's notice of availability of weekly receipts (NWR) commences the public comment period. The proponent will distribute the DEIS prior to, or simultaneous with, filing with EP(A) Distribution will include appropriate Federal, state, regional and local agencies; Native American tribes; and organizations and private citizens who have expressed interest in the proposed action.

(c) For proposed actions that are widely controversial, or of national concern or interest, the Office, Chief of Legislative Liaison (OCLL) shall be notified of the pending action so that appropriate congressional coordination may be effected.

(d) The Office, Chief of Public Affairs, will coordinate public announcements through its chain of command.

(e) The proponent may prepare a separate Notice of Availability (NOA) to be published in the Federal Register by the Army Federal Register Liaison Officer, and in newspapers of general circulation in the affected area(s). Publication should be on the same date as the EPA publication.

§ 651.36 Public Review of the DEIS.

(a) The DEIS public comment period will be no less than 45 days. If the statement is unusually long, a summary of the DEIS may be circulated, with an attached list of locations where the entire DEIS may be reviewed (for example, local public libraries).

(b) Distribution of the complete DEIS must include the following:

(1) Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, state, or local agency

§ 651.31 EIS Format.

The EIS must contain:

- (a) Cover sheet.
- (b) Summary.
- (c) Table of contents.
- (d) Purpose of and need for the action.

authorized to develop and enforce environmental standards.

(2) The applicant, if any.

(3) Any person, organization, or agency requesting the entire draft environmental impact statement.

(c) News releases or public notices should be prepared and issued to publicize any meetings or hearings that may be scheduled.

§ 651.37 Preparation of the Final Environmental Impact Statement (FEIS).

(a) Response to comments. The proponent shall consider and respond appropriately to public comments. Responses to comments on the DEIS will be incorporated by modification of the text and/or written explanation. Similar comments should be grouped for a common response.

(b) If the changes to the DEIS are exclusively clarifications or minor factual corrections, a document consisting of only the DEIS comments, responses to the comments, and errata sheets may be prepared and circulated. If such an abbreviated FEIS is anticipated, the DEIS should contain a statement advising reviewers to keep the document so they will have a complete set of "final" documents. The final EIS to be filed with EPA will consist of a complete document containing a new cover sheet, the errata sheets, comments and responses, and the text of the draft EIS. Coordination, approval, filing, and public notice of an abbreviated FEIS is the same as for a draft EIS.

(c) If extensive modifications are warranted, the proponent will prepare a new, complete FEIS. Preparation, coordination, approval, filing, and public notice of the FEIS is the same as the process outlined for the DEIS.

(d) The FEIS distribution must include any person, organization, or agency that submitted substantive comments on the DEIS. One copy of the FEIS will be forwarded to the U.S. Army Environmental Center.

(e) The FEIS will clearly identify the Army's preferred alternative unless prohibited by law.

§ 651.38 Decision.

(a) No final decision on a proposed action will be made until at least 30 days after EPA has published the NWR of the FEIS in the Federal Register, or at least 90 days after the NWR of the DEIS, whichever is later.

(b) The proponent will prepare a Record of Decision (ROD) for the decision maker(s) signature, which will—

(1) Clearly state the decision. Describe the decision in sufficient detail to address the significant issues and

ensure long-term monitoring and execution.

(2) Identify all alternatives considered by the Army in reaching its decision, specifying the environmentally preferred alternative(s). The Army will discuss preferences among alternatives based on relevant factors including environmental, economic, and technical considerations and agency statutory missions.

(3) Identify and discuss all such factors, including any essential considerations of national policy that were balanced by the Army in making its decision. Because economic and technical analyses are balanced with environmental analysis, the agency preferred alternative will not necessarily be the environmentally preferred alternative.

(4) State how those considerations entered into the final decision.

(5) State whether all practicable means to avoid or minimize environmental harm from the selected alternative have been adopted, and if not, why they were not. A monitoring and enforcement program will be adopted and summarized for any mitigation.

(c) Implementation of the decision may begin immediately after approval of the ROD.

(d) For RODs involving actions of national interest or concern, the proponent will prepare a Notice of Availability (NOA) to be published in the Federal Register by the Army Federal Register Liaison Officer. Processing and approval of the NOA is the same as for an NOI.

(e) RODs will be distributed to agencies with authority or oversight over aspects of the proposal, cooperating agencies, appropriate Congressional state and district offices, all parties that are directly affected, and others upon request.

(f) One copy of the ROD will be forwarded to the U.S. Army Environmental Center.

(g) Implementing the Decision. The Army will ensure that its decision is properly executed (d) Mitigation and other conditions assessed in EISs and accepted as part of the decision will be implemented by the proponent. The proponent will—

(1) Include appropriate conditions in grants, permits, or other approvals.

(2) Ensure mitigation measures are properly resourced and implemented.

(3) Upon request, inform cooperating or commenting agencies on the progress in carrying out adopted mitigation measures that they have proposed and that were adopted by the agency making the decision.

(4) Upon request, make the results of relevant monitoring available to the public and Congress.

§ 651.39 Supplemental EISs (SEISs).

(a) An SEIS is an addition to a draft and/or final EIS that has been filed; a supplement should not be considered a major revision to an EIS. If the changes to a proposed action, circumstances, or analysis are significant, a revised (new) EIS shall be prepared rather than a supplemental EIS. A process of publishing "supplements" can become confusing to reviewers, and should be done only when an analysis can be substantially improved without confusion.

(b) SEISs are prepared, approved, filed, and given notice in the same way as draft and final EISs.

(c) A Notice of Intent need not be published or amended, nor new scoping undertaken, for a supplemental draft EIS that is expected to be filed within one year from the date the original EIS being supplemented (draft or final) was filed with EPA, and the affected publics are not expected to change drastically (i.e., supplement does not involve actions that may impact heretofore unaffected publics).

§ 651.40 The Army as a Cooperating Agency.

(a) The Army may be a Cooperating Agency:

(1) To provide information or technical expertise to a Lead Agency.

(2) To approve portions of a proposed action.

(3) To ensure the Army has an opportunity to be involved in an action of another Federal agency which will affect the Army.

(b) Review and Approval of EISs and RODs

(1) Adequacy of an EIS is the responsibility primarily of the Lead Agency. However, as a Cooperating Agency with approval authority over portions of a proposal, the Army may adopt an EIS after a review concludes the EIS adequately satisfies the Army's comments and suggestions.

(2) If the Army is a major approval authority for the proposed action, the appropriate Army official may sign the Record of Decision prepared by the Lead Agency, or prepare a separate, more focused ROD. If the Army's approval authority is only a minor aspect of the overall proposal, such as issuing a temporary use permit, the Army need not sign the Lead Agency's ROD nor prepare a separate ROD.

(3) The magnitude of the Army's involvement in the proposal will determine the appropriate level and

scope of Army review of NEPA documents. If the Army is a major approval authority or may be severely impacted by the proposal or an alternative, the Army should undertake the same level of review as if it were the Lead Agency; if the involvement is limited, the review may be substantially less. The Lead Agency is responsible for overall supervision of the EIS, and the Army will attempt to meet all reasonable timeframes imposed by the Lead Agency.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96-17991 Filed 7-19-96; 8:45 am]

BILLING CODE 3710-08-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[LA-34-1-7300b, FRL-5531-5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Correction of Classification; Approval of the Maintenance Plan; Redesignation of Pointe Coupee Parish to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA is today approving a request from the State of Louisiana to remove Pointe Coupee Parish, Louisiana from the Baton Rouge serious ozone nonattainment area and reclassify Pointe Coupee Parish from serious to marginal. In addition, the EPA is proposing approval of a request from the State of Louisiana to redesignate Pointe Coupee to attainment for ozone. On December 20, 1995, the State of Louisiana submitted a maintenance plan and request to redesignate the Pointe Coupee Parish ozone nonattainment area to attainment. Under the Clean Air Act as amended in 1990 (the Act), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other Act redesignation requirements. In this action, the EPA is proposing approval of Louisiana's redesignation request and maintenance plan because it meets the maintenance plan and redesignation requirements set forth in the Act, and the EPA is proposing approval of the 1993 base year emissions inventory. The approved maintenance plan will become a

federally enforceable part of the State Implementation Plan for Louisiana. Please see the direct final notice of this action located elsewhere in today's Federal Register for a detailed description of the redesignation request and maintenance plan.

DATES: Comments on this proposed rule must be postmarked by August 21, 1996.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

Anyone wishing to review this petition at the Region 6 EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD-L), EPA Region 6, telephone (214) 665-7219.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: June 27, 1996.

Carol M. Browner,
Administrator.

[FR Doc. 96-18195 Filed 7-19-96; 8:45 am]

BILLING CODE 6560-50-M

40 CFR PART 300

[FRL-5539-8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the St. Augusta Landfill/Engen Dump from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) Region V announces its intent to delete the St. Augusta Landfill/Engen Dump Site from the National Priorities List (NPL) and requests public comment

on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and U.S. EPA, in consultation with the State of Minnesota, has determined that no further response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before August 21, 1996.

ADDRESSES: Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd. (SR-6J), Chicago, IL 60604.

Comprehensive information on the site is available at U.S. EPA's Region V office and at the local information repository located at: Minnesota Pollution Control Agency, 520 Lafayette RD., St. Paul, MN 55155-4194. Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H-7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-5821.

FOR FURTHER INFORMATION CONTACT: Gladys Beard (SR-6J), Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-7253 or Susan Pastor (P-19J), Office of Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-1325.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region V announces its intent to delete the St. Augusta/Engen Dump Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous