part of an EDC for the real property if
the Secretary concerned makes a find-
ing that the personal property is nec-
essary for the effective implementation
of the redevelopment plan.

(g) Personal property may also be
conveyed separately to the LRA under
an EDC for personal property. This
type of EDC can be made if the Sec-
etary concerned determines that the
transfer is necessary for the effective
implementation of a redevelopment
plan with respect to the installation.
Such determination shall be based on
the LRA’s timely application for the
property, which should be submitted to
the Secretary upon completion of the
redevelopment plan. The application
must include the LRA’s agreement to
accept the personal property after a
reasonable period and will otherwise
comply with the requirements of §§174.9 and 174.10 of this part. The
transfer will be subject to reasonable
limitations and conditions on use.

(h) Personal property that is not
needed by a DoD Component or a ten-
ant Federal agency or conveyed to an
LRA (or a state or local jurisdiction in
lieu of an LRA), or conveyed as related
personal property together with the
real property, will be transferred to the
Defense Reutilization and Marketing
Office for disposal in accordance with
applicable regulations.

(i) Useful personal property not need-
ed by the Federal Government and not
qualifying for transfer to the LRA
under an EDC may be donated to the
community or LRA through the appro-
priate State Agency for Surplus Prop-
erty (SASP) under 41 CFR part 102–37
surplus program guidelines. Personal
property donated under this procedure
must meet the usage and control re-
quirements of the applicable SASP.

Subpart F—Maintenance and
Repair

§ 174.14 Maintenance and repair.

(a) Facilities and equipment located
on installations being closed are often
important to the eventual reuse of the
installation. This section provides
maintenance procedures to preserve
and protect those facilities and items
of equipment needed for reuse in an ec-
onomical manner that facilitates in-
stallation redevelopment.

(b) In order to ensure quick reuse,
the Secretary concerned, in consulta-
tion with the LRA, will establish ini-
tial levels of maintenance and repair
needed to aid redevelopment and to
protect the property for the time peri-
ods set forth in paragraph (c) of this
section. Where agreement between the
Secretary and the LRA cannot be
reached, the Secretary will determine
the required levels of maintenance and
repair and its duration. In no case will
these initial levels of maintenance:

(1) Exceed the standard of mainte-
nance and repair in effect on the date
of approval of closure or realignment;

(2) Be less than maintenance and re-
pair required to be consistent with
Federal Government standards for ex-
cess and surplus properties as provided
in the Federal Management Regula-
tions of the GSA, 41 CFR part 102;

(3) Be less than the minimum levels
required to support the use of such fa-
cilities or equipment for nonmilitary
purposes; or

(4) Require any property improve-
ments, including construction, alter-
ation, or demolition, except when the
demolition is required for health, safe-
ty, or environmental purposes, or is
economically justified in lieu of con-
tinued maintenance expenditures.

(c) Unless the Secretary concerned
determines that it is in the national se-
curity interest of the United States,
the levels of maintenance and repair
specified in paragraph (b) of this sec-
ction shall not be changed until the ear-
er of:

(1) One week after the Secretary con-
cerned receives the redevelopment
plan;

(2) The date notified by the LRA that
there will be no redevelopment plan;

(3) 24 months after the date of ap-
proval of the closure or realignment of
the installation; or

(4) 90 days before the date of the clo-
sure or realignment of the installation.

(d) The Secretary concerned may ex-
tend the time period for the initial lev-
els of maintenance and repair for prop-
erty still under the Secretary’s control
for an additional period, if the Sec-
retary determines that the LRA is ac-
tively implementing its redevelopment

Section 330 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102–484, as amended, provides for indemnification of transferees of closing Department of Defense properties under circumstances specified in that statute. The authority to implement this provision of law has been delegated by the Secretary of Defense to the General Counsel of the Department of Defense; therefore, this provision of law shall only be referred to or recited in any deed, sales agreement, bill of sale, lease, license, easement, right-of-way, or transfer document for real or personal property after obtaining the written concurrence of the Deputy General Counsel (Environment and Installations), Office of the General Counsel, Department of Defense.

§ 174.16 Real property containing explosive or chemical agent hazards.

The DoD Component controlling real property known to contain or suspected of containing explosive or chemical agent hazards from past DoD military munitions-related or chemical warfare-related activities shall, prior to transfer of the property out of Department of Defense control, obtain the DoD Explosives Safety Board's approval of measures planned to ensure protectiveness from such hazards, in accordance with DoD Directive 6055.9E, Explosives Safety Management and the DoD Explosives Safety Board.

§ 174.17 NEPA.

At installations subject to this part, NEPA analysis shall comply with the promulgated NEPA regulations of the Military Department exercising real property accountability for the installations, including any requirements relating to responsibility for funding the analysis. See 32 CFR parts 651 (for the Army), 775 (for the Navy), and 989 (for the Air Force). Nothing in this section shall be interpreted as releasing a Military Department from complying with its own NEPA regulation.

§ 174.18 Historic preservation.

(a) The transfer, lease, or sale of National Register-eligible historic property to a non-Federal entity at installations subject to this part may constitute an “adverse effect” under the regulations implementing the National Historic Preservation Act (36 CFR 800.5(a)(2)(vii)). One way of resolving this adverse effect is to restrict the use that may be made of the property subsequent to its transfer out of Federal ownership or control through the imposition of legally enforceable restrictions or conditions. The Secretary concerned may include such restrictions or conditions (typically a real property interest in the form of a restrictive covenant or preservation easement) in any deed or lease conveying an interest in historic property to a non-Federal entity. Before doing so, the Secretary should first consider whether the historic character of the property can be protected effectively through planning and zoning actions undertaken by units of State or local government; if so, working with such units of State or local government to protect the property through these means is preferable to encumbering the property with such a covenant or easement.

(b) Before including such a covenant or easement in a deed or lease, the Secretary concerned shall consider—

(1) Whether the jurisdiction that encompasses the property authorizes such a covenant or easement; and

(2) Whether the Secretary can give or assign to a third party the responsibility for monitoring and enforcing such a covenant or easement.