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INFORMATION
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Executive Order 11988

Floodplain Management, 3 CFR, 1977 Comp., p. 117

Executive Order 11990

Protection of Wetlands, 3 CFR, 1977 Comp., p. 121.

Executive Order 12114

Environmental Effects Abroad of Major Federal Actions, 3 CFR, 1979 comp., p. 356.

Executive Order 12778

Civil Justice Reform, 3 CFR, 1991 Comp., p. 359.

Executive Order 12856

Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements, 3 CFR, 1993 Comp., p. 616.

Executive Order 12861

Elimination of One-Half of Executive Branch Internal Regulations, 3 CFR, 1993 Comp., p. 630.

Executive Order 12866

Regulatory Planning and Review, 3 CFR, 1993 Comp., p. 638.

Executive Order 12898

Federal Actions to Address Environmental Justice in Minority and Low-Income Populations, 3 CFR, 1994 Comp., p. 859.

Executive Order 13007

Indian Sacred Sites, 3 CFR, 1996 Comp., p. 196.

Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks, 3 CFR, 1997 Comp., p. 198.

Executive Order 13061

Federal Support of Community Efforts Along American Heritage Rivers, 3 CFR, 1997 Comp., p. 221.

Executive Order 13083

Federalism, 3 CFR, 1998 Comp., p. 146.
Public Laws: American Indian Religious Freedom Act.
42 U.S.C. 1996.

Clean Air Act

As amended (42 U.S.C. 7401, *et seq.*).

Clean Water Act of 1977

Public Law 95–217, 91 Stat. 1566 and Public Law 96–148, Sec. 1(a)–(c), 93 Stat. 1088.
Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

As amended (CERCLA, Superfund) (42 U.S.C. 9601 *et seq.*) Endangered Species Act of 1973.
Public Law 93–205, 87 Stat. 884.

Fish and Wildlife Coordination Act

Public Law 85–624, Sec. 2, 72 Stat. 563 and Public Law 89–72, Sec. 6(b), 79 Stat. 216.

National Environmental Policy Act of 1969

Public Law 91–190, 83 Stat. 852.

National Historic Preservation Act

Public Law 89–665, 80 Stat. 915.

Native American Graves Protection and Repatriation Act

Public Law 101–601, 104 Stat. 3048.

Pollution Prevention Act of 1990

Public Law 101–508, Title VI, Subtitle G, 104 Stat. 13880–321.

Resource Conservation and Recovery Act of 1976

Public Law 94–580, 90 Stat. 2795.

Sikes Act

Public Law 86–797, 74 Stat. 1052.
NOTE. The following CFRs may be found in your legal office or law library. Copies may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20401.

36 CFR Part 800

Advisory Council on Historic Preservation.

40 CFR Parts 1500–1508

Council on Environmental Quality.

Section III—Prescribed Forms

This section contains no entries.

Section IV—Referenced Forms

DA Form 2028

Recommended Changes to Publications and Blank Forms.

DD Form 1391

Military Construction Project Data.

APPENDIX B TO PART 651—CATEGORICAL EXCLUSIONS

Section I—Screening Criteria

Before any CXs can be used, Screening Criteria as referenced in §651.29 must be met.

Section II—List of CXs

(a) For convenience only, the CXs are grouped under common types of activities

(for example, 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 is required from the appropriate environmental officer (EO), and that signature is required on the REC. The list of CXs is subject to continual review and modification. Requests for additions or changes to the CXs (along with justification) should be sent, through channels, to the ASA (I&E). Subordinate Army headquarters may not modify the CX list through supplements to this part. Proposed modifications to the list of CXs will be published in the FR by HQDA, to provide 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, and civilian natural resources and environmental law officers.

(2) Emergency or disaster assistance provided to federal, state, or local entities (REC required).

(3) Preparation of regulations, procedures, manuals, and other guidance documents that implement, without substantive change, the applicable HQDA or other federal agency regulations, procedures, manuals, and other guidance documents that have been environmentally evaluated (subject to previous NEPA review).

(4) Proposed activities and operations to be conducted in an existing non-historic structure which are within the scope and compatibility of the present functional use of the building, will not result in a substantial increase in waste discharged to the environment, will not result in substantially different waste discharges from current or previous activities, and emissions will remain within established permit limits, if any (REC required).

(5) Normal personnel, fiscal, and administrative activities involving military and civilian personnel (recruiting, processing, paying, and records keeping).

(6) Routinely conducted recreation and welfare activities not involving off-road recreational vehicles.

(7) Deployment of military units on a temporary duty (TDY) or training basis where existing facilities are used for their intended purposes consistent with the scope and size of existing mission.

(8) Preparation of administrative or personnel-related studies, reports, or investigations.

(9) Approval of asbestos or lead-based paint management plans drafted in accordance with applicable laws and regulations (REC required).

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

(11) Ceremonies, funerals, and concerts. This includes events such as state funerals, to include flyovers.

(12) Reductions and realignments of civilian and/or military personnel that: fall below the thresholds for reportable actions as prescribed by statute (10 U.S.C. 2687) and do not involve related activities such as construction, renovation, or demolition activities that would otherwise require an EA or an EIS to implement (REC required). This includes reorganizations and reassignments with no changes in force structure, unit redesignations, and routine administrative reorganizations and consolidations (REC required).

(13) Actions affecting Army property that fall under another federal agency's list of categorical exclusions when the other federal agency is the lead agency (decision maker), or joint actions on another federal agency's property that fall under that agency's list of categorical exclusions (REC required).

(14) Relocation of personnel into existing federally-owned (or state-owned in the case of ARNG) or commercially-leased space, which does not involve a substantial change in the supporting infrastructure (for example, an increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase is an example of substantial change) (REC required).

(c) Construction and demolition:

(1) Construction of an addition to an existing structure or new construction on a previously undisturbed site if the area to be disturbed has no more than 5.0 cumulative acres of new surface disturbance. This does not include construction of facilities for the transportation, distribution, use, storage, treatment, and disposal of solid waste, medical waste, and hazardous waste (REC required).

(2) Demolition of non-historic buildings, structures, or other improvements and disposal of debris therefrom, or removal of a part thereof for disposal, in accordance with applicable regulations, including those regulations applying to removal of asbestos, polychlorinated biphenyls (PCBs), lead-based paint, and other special hazard items (REC required).

(3) Road or trail construction and repair on existing rights-of-ways or on previously disturbed areas.

(d) Cultural and natural resource management activities:

(1) Land regeneration activities using only native trees and vegetation, including site preparation. This does not include forestry operations (REC required).

(2) Routine maintenance of streams and ditches or other rainwater conveyance structures (in accordance with USACE permit authority under Section 404 of the Clean Water Act and applicable state and local permits), and erosion control and stormwater control structures (REC required).

(3) Implementation of hunting and fishing policies or regulations that are consistent with state and local regulations.

(4) Studies, data collection, monitoring and information gathering that do not involve major surface disturbance. Examples include topographic surveys, bird counts, wetland mapping, and other resources inventories (REC required).

(5) Maintenance of archaeological, historical, and endangered/threatened species avoidance markers, fencing, and signs.

(e) Procurement and contract activities:

(1) Routine procurement of goods and services (complying with applicable procedures for sustainable or ''green'' procurement) to support operations and infrastructure, including routine utility services and contracts.

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

(3) Conversion of commercial activities under the provisions of AR 5–20. This includes only those actions that do not change the actions or the missions of the organization or alter the existing land-use patterns.

(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 commercially available product (for example, forklift, generator, chain saw, etc.) which does not meet the definition of a weapon system (Title 10, U.S.C., Section 2403. ''Major weapon systems: Contractor guarantees''), and does not result in any unusual disposal requirements.

(6) Acquisition or contracting for spares and spare parts, consistent with the approved Technical Data Package (TDP).

(7) Modification and adaptation of commercially available items and products for military application (for example, sportsman's products and wear such as holsters, shotguns, sidearms, protective shields, etc.), as long as modifications do not alter the normal impact to the environment (REC required).

(8) Adaptation of non-lethal munitions and restraints from law enforcement suppliers and industry (such as rubber bullets, stun grenades, smoke bombs, etc.) for military police and crowd control activities where there is no change from the original product design and there are no unusual disposal requirements. The development and use by the military of non-lethal munitions and restraints which are similar to those used by local police forces and in which there are no unusual disposal requirements (REC required).

(f) Real estate activities:

(1) Grants or acquisitions of leases, licenses, easements, and permits for use of real property or facilities in which there is no significant change in land or facility use. Examples include, but are not limited to, Army controlled property and Army leases of civilian property to include leases of training, administrative, general use, special purpose, or warehouse space (REC required).

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

(3) Transfer of real property administrative control within the Army, to another military department, or to other federal agency, including the return of public domain lands to the Department of Interior, and reporting of property as excess and surplus to the GSA for disposal (REC required).

(4) Transfer of active installation utilities to a commercial or governmental utility provider, except for those systems on property that has been declared excess and proposed for disposal (REC required).

(5) Acquisition of real property (including facilities) where the land use will not change substantially or where the land acquired will not exceed 40 acres and the use will be similar to current or ongoing Army activities on adjacent land (REC required).

(6) Disposal of real property (including facilities) by the Army where the reasonably foreseeable use will not change significantly (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 (for example, roof material and floor tile) or lead-based paint in accordance with applicable regulations; removal of dead, diseased, or damaged trees; and repair of roofs, doors, windows, or fixtures (REC required for removal and disposal of asbestos-containing material and lead-based paint or work on historic structures).

(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, removal of dead, diseased, or damaged trees and cleaning culverts; and minor soil stabilization activities.

(3) Routine repair and maintenance of equipment and vehicles (for example, autos,

tractors, lawn equipment, military vehicles, etc.) which is substantially the same as that routinely performed by private sector owners and operators of similar equipment and vehicles. This does not include depot maintenance of unique military equipment.

(h) Hazardous materials/hazardous waste management and operations:

(1) Use of gauging devices, analytical instruments, and other devices containing sealed radiological sources; use of 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 radioactive tracers (REC required).

(2) Immediate responses in accordance with emergency response plans (for example, Spill Prevention Control and Countermeasure Plan (SPCCP)/Installation Spill Contingency Plan (ISCP), and Chemical Accident and Incident Response Plan) 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, pollutants, or special hazards (for example, asbestos, PCBs, lead-based paint, or unexploded ordnance) are present (REC required).

(4) Routine management, to include transportation, distribution, use, storage, treatment, and disposal of solid waste, medical waste, radiological and special hazards (for example, asbestos, PCBs, lead-based paint, or unexploded ordnance), and/or hazardous waste that complies with EPA, Army, or other regulatory agency requirements. This CX is not applicable to new construction of facilities for such management purposes.

(5) Research, testing, and operations conducted at existing enclosed facilities consistent with previously established safety levels and in compliance with applicable federal, state, and local standards. For facilities without existing NEPA analysis, including contractor-operated facilities, if the operation will substantially increase the extent of potential environmental impacts or is controversial, an EA (and possibly an EIS) is required.

(6) 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 or wastes will be adequately cleaned and will conform to the applicable regulatory agency's requirements.

(i) Training and testing:

(1) Simulated war games (classroom setting) and on-post tactical and logistical exercises involving units of battalion size or smaller, and where tracked vehicles will not be used (REC required to demonstrate coordination with installation range control and environmental office).

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

(3) Intermittent on-post training activities (or off-post training covered by an ARNG land use agreement) that involve no live fire or vehicles off established roads or trails. Uses include, but are not limited to, land navigation, physical training, Federal Aviation Administration (FAA) approved aerial overflights, and small unit level training.

(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 (REC required).

(2) Flying activities in compliance with Federal Aviation Administration Regulations and in accordance with normal flight patterns and elevations for that facility, where the flight patterns/elevations have been addressed in an installation master plan or other planning document that has been subject to NEPA public review.

(3) Installation, repair, or upgrade of airfield equipment (for example, runway visual range equipment, visual approach slope indicators).

(4) Army participation in established air shows sponsored or conducted by non-Army entities on other than Army property.

APPENDIX C TO PART 651—MITIGATION AND MONITORING

(a) The CEQ regulations (40 CFR parts 1500–1508) recognize the following five means of mitigating an environmental impact. These five approaches to mitigation are presented in order of desirability.

(1) Avoiding the impact altogether by not taking a certain action or parts of an action. This method avoids environmental impact by eliminating certain activities in certain areas. As an example, the Army's Integrated Training Area Management (ITAM) program accounts for training requirements and activities while considering natural and cultural resource conditions on ranges and training land. This program allows informed management decisions associated with the use of these lands, and has mitigated potential impacts by limiting activities to areas that are compatible with Army training needs. Sensitive habitats and other resources are thus protected, while the mission requirements are still met.

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation. Limiting the degree or magnitude of the action can reduce the extent of