



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
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NGB-ARE

13 November 2002

MEMORANDUM FOR THE ADJUTANTS GENERAL OF ALL STATES, PUERTO RICO, THE US VIRGIN ISLANDS, GUAM, AND THE COMMANDING GENERAL OF THE DISTRICT OF COLUMBIA

SUBJECT: (All States Log Number I02-0095) Guidance for Environmental Documentation

1. References:

- a. National Environmental Policy Act (NEPA) of 1969.
 - b. Army Regulation (AR) 200-1, Environmental Protection and Enhancement, 21 Feb 97.
 - c. Army National Guard Real Estate Manual for Federal Property, Jul 98.
 - d. DoD, The 1999 American Indian and Alaska Native Policy.
 - e. AR 200-2, Environmental Analysis of Army Actions, 29 Mar 02.
 - f. The NGB NEPA Handbook, Mar 02.
 - g. National Historic Preservation Act (NHPA, 16 U.S.C. 470a-w).
 - h. Advisory Council on Historic Preservation (ACHP) Regulations, subject: Protection of Historic Properties (36 CFR 800).
2. The AR 200-2 was revised 29 Mar 02. The NGB NEPA Handbook, which was revised in Mar 02, provides current guidance for NEPA policies and procedures detailed in the revised AR 200-2. The intent of this All States Memorandum is to clarify significant changes and procedures in the above documents and the process of evaluating proposed Federal actions.

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3. The proponent of a proposed action will consider NEPA requirements early in the decision-making process. The proponent is the unit, element, or organization that is responsible for initiating and/or carrying out the proposed action, requesting the implementation of the proposed action, receiving the greatest benefit, or having the most influence over the proposed action.

a. The responsibility of the proponent includes describing the proposed action, outlining the purpose and need, evaluating reasonable alternatives for accomplishing the action based on specific screening criteria, and creating a schedule for project implementation. **The proponent will provide resources for document preparation, related studies, public involvement, and any mitigation that may be required for implementation of the proposed action.** The proponent will identify resources early in the planning and programming process to ensure that the NEPA process will not be adversely affected.

b. The State's Environmental Program Manager (EPM), although not usually the proponent, will provide technical expertise for the preparation and staffing of the necessary environmental documentation.

4. The NEPA requires that Federal Agencies consider the environmental consequences of any proposed action and involve the public in the decision-making process.

a. The NEPA process may involve three types (or levels) of analysis depending on the potential for significant impact. They are an:

(1) Environmental Checklist—no significant impact.

(2) Environmental Assessment (EA)—potential significant impact.

(3) Environmental Impact Statement (EIS) —expected significant impact.

b. Typical ARNG actions that require environmental analysis include, but are not limited to:

(1) Construction.

(2) Unprecedented training events.

(3) Innovative Readiness Training (IRT).

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- (4) Community service projects.
- (5) Major equipment fielding or relocation.
- (6) Restationing.
- (7) Reorganization.
- (8) Real property and facility management (such as master plans).
- (9) Environmental programs such as:
 - (a) Integrated Natural Resources Management Plans (INRMPs).
 - (b) Integrated Cultural Resources Management Plans (ICRMPs).
 - (c) Integrated Pest Management Plans (IPMPs).

c. Proposals to conduct ARNG training activities on any non-ARNG controlled property (e.g., not licensed, leased, or fee simple ownership) must receive concurrence from NGB Installations Division (NGB-ARI) to ensure that all necessary real estate documentation is in place before training begins. These Federal training activities must be analyzed for environmental impacts in accordance with the NEPA.

d. After completion of the environmental analysis, a decision document may be signed. This decision document may be a:

- (1) Record of Environmental Consideration (REC) (enclosed).
- (2) Finding of No Significant Impact (FNSI).
- (3) Record of Decision (ROD).

5. Proponents should give special attention to the following areas because of changes in interpretation, emphasis, or regulatory requirements:

a. Categorical Exclusions (CXs). Categorical Exclusions are categories of actions with no individual or cumulative effect on the human or natural environment and for which neither an EA nor an EIS is required.

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There are 54 CXs listed in Appendix B of AR 200-2. The use of a CX is intended to reduce paperwork and eliminate delays in the initiation and completion of proposed actions that have no significant impact. The first step in determining whether a CX might be applicable for a proposed action is to review the screening criteria listed in AR 200-2. All screening criteria must be met for the proposed action to be categorically excluded. If any of the criteria are not satisfied, the action requires an EA or EIS to assess potential effects. A REC should cite the paragraph of the CX followed by the written description of the CX.

b. Finding of No Significant Impact (FNSI). Changes in AR 200-2 specify that a draft FNSI along with the final EA must be made available for public review before it can be approved. If no substantive comments are received, the FNSI will be signed, and the action can be implemented.

c. Environmentally Sensitive Resources. The screening criteria listed in AR 200-2 will not allow the use of a CX if the proposed action will adversely affect "environmentally sensitive" resources (e.g., wetlands, floodplains, prime farmland, etc.). This constraint does not apply if the impact has been resolved through another environmental process (e.g., Coastal Zone Management Act, NHPA, Clean Water Act, etc.) and a valid CX is applicable to the proposed action (see AR 200-2, §651.29(e)).

d. Innovative Readiness Training (IRT). The State ARNG accomplishes IRT projects to meet their military training requirements while providing support and services to non-DoD organizations. The IRT projects must be reviewed under NEPA and the documentation is submitted to NGB Operations Division (NGB-ARO). More information on this submittal process can be found in The NGB NEPA Handbook. Once the project is resourced by NGB-ARO, the State EPM will ensure that any required permits are obtained prior to project implementation. Section 3.8 of The NGB NEPA Handbook provides additional information on IRT NEPA requirements.

e. Department of Defense Memorandum, 27 Oct 99, Annotated Policy Document for the Department of Defense American Indian and Alaska Native Policy. This memorandum provides policy guidance for interaction with Federally recognized American Indian and Alaska Native tribes. Compliance with this memorandum is an important part of consultation and requires a State ARNG organization to conduct an internal analysis for each proposed action. More information regarding compliance with this memorandum can be found in the NGB NEPA Handbook.

f. Section 106, National Historic Preservation Act (NHPA). The NHPA, Section 106, requires that "Any agency with direct or indirect jurisdiction over a proposed Federal or Federally assisted undertaking shall...take into account the effect of the undertaking on

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any district, site, building, structure or object that is included in or eligible for the National Register of Historic Places [NRHP]." To comply with Section 106, consultation with State Historic Preservation Officers (SHPOs) is critical. The Section 106 consultation process must be completed prior to NGB approval of the expenditure of any Federal funds for a proposed project. If applicable, ensure that this consultation process is completed early in the NEPA timeline. More information on compliance with Section 106 of the NHPA can be found in the NGB NEPA Handbook.

g. Document Submittal. The NGB NEPA Handbook describes the requirements for submittal of draft and final draft documents in an editable electronic format for NGB review. The electronic documents provide an effective format for staffing and they will be retained on a NGB Internet web site. Their postings provide a resource for document preparation for similar ARNG actions in other States. The NGB-ARE-C electronic document library can be found at <http://ngb-66c05-gis03/xpedio>. With each State ARNG having accessibility to Geographic Information Systems (GIS), all possible maps and related documents should be provided in a compatible GIS format using ArcView or ArcInfo. In addition to requirements outlined in the NGB NEPA Handbook, NGB-ARE-C requires three paper copies of all draft and final draft documents submitted for review.

h. Administrative Record. The proponent shall create and maintain an administrative record for at least six years after the NEPA process is completed. The administrative record will be maintained at the installation's environmental office. It should not be submitted to NGB-ARE-C for review. A complete Administrative Record should be indexed per Appendix X of the NGB NEPA Handbook and should include project-related information within the possession of the proponent and/or lead agency (and any contractor). The record should identify any reference materials used in preparing the document but available only from outside sources. Communications of all types are typically included, along with any public outreach materials. Data sources that should be part of an Administrative Record include maps, drawings, studies, reports, documents, appraisals, special data compilations, modeling results, correspondence from subject matter experts, or other types of written information that were used during the environmental analysis and decision-making process. All references that are cited in the NEPA document should be traceable to the administrative record.

i. Public Review. Public review of NEPA documents must be accomplished in accordance with Sections 9.1.3 and 9.1.6 of the NGB NEPA Handbook. This can be accomplished in an electronic format as long as the facility where the document is available for review has the equipment necessary for public viewing of the electronic media. Other public access can be made through the appropriate State ARNG Internet

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web site. In addition to optional display on State ARNG Internet web sites, documents will be uploaded to the NGB NEPA Internet web site during public review periods. The web address is <http://www.arng.army.mil/nepa>. Ensure that all display ads include this web address.

j. Public Affairs (PA). The integration of a comprehensive PA plan into the NEPA process is extremely important. Planners must work closely with their Public Affairs Officer (PAO) to ensure that an adequate PA plan is developed. The earlier the public is involved in the planning process, the more likely the action will succeed. Public Affairs is the first step in the planning process when you are considering an action that will require NEPA analysis. It is imperative that the State EPM and State PAO coordinate early in the process to program necessary funds to support PA requirements for EAs and EISs.

k. Real Property Actions.

(1) General: It is Army policy to prepare an Environmental Baseline Survey (EBS) to determine the environmental conditions of properties being considered for acquisition, outgrants, and disposals. Reassignments within DA, easements, licenses, and permits do not require an EBS. However, an EBS may be performed if desired by the Army or where extraordinary circumstances exist. The EBS is used to identify the potential environmental contamination liabilities associated with the real property transaction. Information provided by the EBS will be integrated and documented by reference or actual text in the appropriate NEPA document prepared in accordance with AR 200-2. Therefore, it is necessary to prepare the EBS before the NEPA document proposing the real property action is prepared, so the decision maker can take into consideration the environmental condition of the property when deciding whether or not to implement the proposed action. (See AR 200-1, Subsection 15-6(b).)

(2) Real property acquisitions are environmental challenges for the ARNG. The ARNG continues to acquire and dispose of real property. Each real property action involving the use of Federal funds requires a NEPA analysis. Close coordination between NGB and the State ARNG (the action proponent) is essential to ensure the NEPA analysis is properly timed and sequenced in the acquisition/disposal process.

(3) For all proposed Federally funded property acquisitions or proposed construction with Federal funds or on Federally-supported land, State ARNG organizations must obtain NGB-ARI approval for the proposal. The State ARNG must also complete an Environmental Baseline Survey (EBS) in accordance with the

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requirements set forth in the NGB-ARE Environmental Baseline Study (EBS) Standard Operating Procedures, February 1999. The NEPA requires a comprehensive evaluation of existing environmental conditions at a location where a Federal action is proposed. The existence of soil or water contamination at a site proposed for an ARNG activity could have significant environmental consequences (e.g., disturbance or release of contamination during construction activities).

(4) In order to complete the decision process, and following completion of an EBS, if necessary, the ARNG Real Estate Manual (reference 2.d) states:

“If the ARNG use is consistent with existing land use that has been environmentally assessed, then a CX is likely available, if not, then an EA or EIS must be accomplished. In the latter case, NEPA documentation should commence upon the Installation Commander’s informal agreement to proceed with a Report of Availability.”

I. Host/Tenant Relationships. This section clarifies accomplishment of NEPA requirements in the circumstances when a Federal agency other than NGB proposes an action at an installation where the ARNG is host and when ARNG proposes an action at a site where it is a tenant of another government agency.

(1) Determine if a host tenant agreement exists at the installation. Follow the language of these agreements regarding NEPA roles and responsibilities.

(2) In the absence of a host tenant agreement, if the ARNG is a tenant and proposes an action on non-ARNG property, then the State ARNG organization, as the proponent of the action, and the host entity, as the property owner and environmental steward, should co-sign the FNSI. The NGB must participate in the review process.

(3) If a DoD service or a Federal government agency is a tenant on an ARNG Federal installation, and it proposes a federal action that requires NEPA analysis, it is required to accomplish the analysis with the State ARNG organization and NGB as reviewers and co-decision-makers. The resulting FNSI should receive concurrence from the State ARNG organization and it must be signed by both the tenant/proponent and the ARNG Chief, Environmental Programs.

(4) To clarify, if a host installation grants a real estate interest to the ARNG by issuing a license, then the host installation is the NEPA proponent. On the other hand, if an ARNG Federal installation, as the host, issues a license, then they are taking the Federal action and must complete the necessary NEPA analysis.”

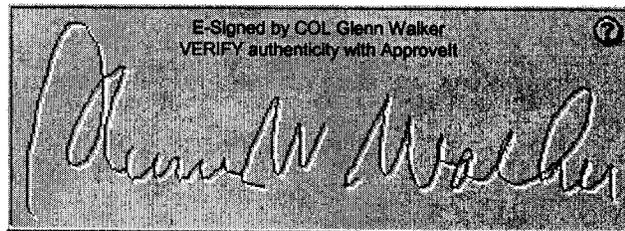
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6. This memorandum will expire 1 year from date of publication unless sooner rescinded or superseded.

7. Point of contact is LTC Gerald Walter, Chief, Environmental Programs Division, at DSN 327-7967 or 703-607-7967.

FOR THE CHIEF, NATIONAL GUARD BUREAU:

An e-signature block for COL Glenn Walker. It features a handwritten signature in cursive over a grey background. Above the signature, the text reads "E-Signed by COL Glenn Walker" and "VERIFY authenticity with ApproveIt". A small question mark icon is in the top right corner of the block.

Encl
As

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