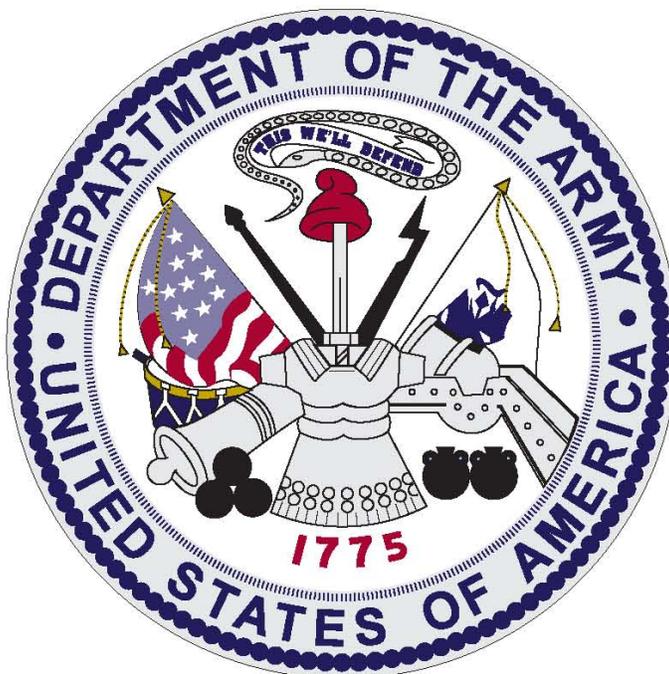

Base Realignment and Closure Guidelines for Compliance with the National Environmental Policy Act



April 2006

Guidance on Preparing Environmental
Documentation for Army Base Realignment
and Closure Actions in Compliance with
the National Environmental Policy Act of 1969 (NEPA)

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1.0 Introduction and Overview

1.1 Introduction to Base Realignment and Closure and the National Environmental Policy Act

In keeping with evolving global security requirements, the United States continues to develop a defense force structure to meet national military strategy objectives. The Congress, in response to changing conditions, passed two defense realignment laws mandating closure, consolidation, and realignment of unspecified defense installations. Identification of specific installations is made by the component services, subject to their own mission requirements and the specific attributes of the installations under consideration. These two laws were the Defense Authorization Amendments and Base Closure and Realignment Act of 1988, Public Law 100-526, known as Base Realignment and Closure (BRAC) I, and the Defense Base Closure and Realignment Act of 1990, Public Law 101-510, which authorized actions known as BRAC 1991, BRAC 1993, and BRAC 1995. Title XXX of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) amended the 1990 BRAC law by authorizing another round of realignments and closures in 2005. As amended, the 1990 BRAC law specifies procedures for identifying the affected installations and bases and prescribes schedules for implementing the closure and realignment actions.

The National Environmental Policy Act of 1969 (NEPA) requires the analysis and documentation of potential environmental effects associated with all major federal decisions. NEPA ensures that environmental factors are considered equally with the technological and economic components of a decision, and that the public is fully informed and appropriately involved in the environmental impacts analysis process. The BRAC laws specifically excluded from the NEPA process the need to consider alternative installations. However, all subsequent decisions related to BRAC actions fall fully within the NEPA requirements. These decisions include the timing of actions, disposal and reuse of property, and all other activities associated with carrying out the BRAC mandate. Although compliance with many other environmental laws is also part of this process, NEPA provides a valuable framework for both integrating environmental compliance requirements and providing necessary information to the decisionmaker, other agencies, and the public.

1.2 Purpose of the Guidelines

These guidelines are intended to (1) provide comprehensive information in a simple, understandable, and manageable format suitable for use at all levels throughout the Army, (2) standardize and streamline the process for BRAC NEPA analyses, and (3) outline the roles and responsibilities at each participating level. Preparers of Army BRAC NEPA documents should closely follow the guidance and procedures presented in the manual. Major deviation will require the approval of Headquarters, Department of the Army.

This is the third edition of a BRAC NEPA Guidelines. It is based on (1) the need to provide a current compilation of all Army BRAC NEPA policy and guidance; (2) comments received during “lessons learned” sessions following earlier BRAC rounds; (3) the success of the August 1991 first edition, which demonstrated the need to provide updates and keep guidance current; (4) review of an October 1993 draft revision of the first edition; and (5) review of the September 1995 BRAC NEPA manual. Since publication of the preceding manuals, new issues have arisen and procedures have been streamlined, necessitating a more comprehensive revision. This version is being produced as a “living” document, compiled in a looseleaf format, to facilitate further updating as new guidance becomes necessary to address additional or changing issues.

These guidelines are not a reinvention of current NEPA guidance; rather, it is a program-specific guide for the Army on implementing current laws, regulations, and policies related to BRAC 2005 and NEPA.

1.3 What the Guidelines Cover

The guidelines provide comprehensive guidance addressing all stages of the BRAC NEPA process. It is divided into six sections.

1. **Introduction and Overview.** Provides background information on the BRAC NEPA process.
2. **Roles and Responsibilities.** Describes the various levels and nature of internal Army and Department of Defense (DoD) involvement in the BRAC NEPA process.
3. **Planning and Initiating a BRAC NEPA Project.** Describes the initial stages of the BRAC NEPA process and provides directions to characterize, frame, and focus BRAC NEPA activities.
4. **NEPA Document Format and Content.** Provides BRAC-focused information and guidance on the format required by Title 32 Code of Federal Regulations (CFR) Part 651 (Environmental Analysis of Army Actions) and the Council on Environmental Quality (CEQ) regulations.
5. **Current Topics for Special Attention.** Focuses on pertinent issues and activities associated with BRAC and NEPA.
6. **Document Processing: Review and Approval.** Describes the reviews and approvals that are part of the Army's BRAC NEPA process, from initial planning to decisionmaking and the initiation of the action.

1.4 Relationship of These Guidelines to Other Army BRAC and NEPA Guidance

These guidelines are designed to incorporate the latest Army and other pertinent environmental regulations and guidance into the NEPA analysis of realignment or disposal of excess property. The major statutes, Executive Orders, and regulations pertaining to BRAC activities are listed in Appendix A.

1.5 The National Environmental Policy Act

NEPA is a federal statute that requires the identification and analysis of potential environmental impacts of certain proposed federal actions and alternatives before those actions are initiated. The law also contains specific requirements for informing and involving the public. The text of the law is presented in Appendix B.

1.5.1 The Law

The passage of NEPA legislated a structured approach to environmental impact analysis in the planning of federal agency programs and projects. NEPA's stated purpose is "to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the

ecological systems and resources important to the Nation; and to establish a Council on Environmental Quality.”

NEPA requires that all federal agencies “include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment” a detailed statement on impacts, irreversible effects, alternatives to the action, long-term environmental impacts, and irretrievable commitments of resources. NEPA is a “full disclosure” law with provisions for public access to, and full public participation in, the federal decisionmaking process.

1.5.2 The NEPA Process

The process for implementing the law is set forth in the CEQ’s *Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act* at 40 CFR Parts 1500–1508. The CEQ’s regulations are provided in Appendix C.

The Army BRAC NEPA process is designed to develop high-quality decisions that are formed from a clear understanding of environmental consequences and to take actions that protect, restore, and enhance the environment. It is a fundamental management support mechanism involving

- *Pre-decision analysis.* A forecast tool that informs the decisionmaker and also affords the public the opportunity to provide information relevant to the decision.
- *Post-decision management.* A requirement to measure actual performance against desired goals and objectives.

The process is accomplished by the following actions:

- Integrating other environmental requirements
- Involving the public
- Identifying associated effects
- Operating on the principle of “full disclosure”
- Analyzing relevant technical information
- Documenting analyses, their results, and decisions resulting from them
- Summarizing technical information for the public and the decisionmaker
- Identifying a preferred course of action
- Designing and implementing mitigation and monitoring

1.5.3 Integration of Other Environmental Regulations

The NEPA process does not replace the procedural or substantive requirements of other environmental statutes and regulations. Rather, it addresses them in one place so the decisionmaker has a concise and comprehensive view of the major environmental issues and understands the interrelationships and potential conflicts between them. NEPA is the “umbrella” that facilitates coordination by integrating processes that might otherwise proceed independently (Figure 1-1). Specific standards and protection requirements are defined by the laws and regulations listed in Appendix A.

National Environmental Policy Act (NEPA)

NEPA is a comprehensive process that provides for the unification and integration of environmental compliance requirements associated with federal actions.

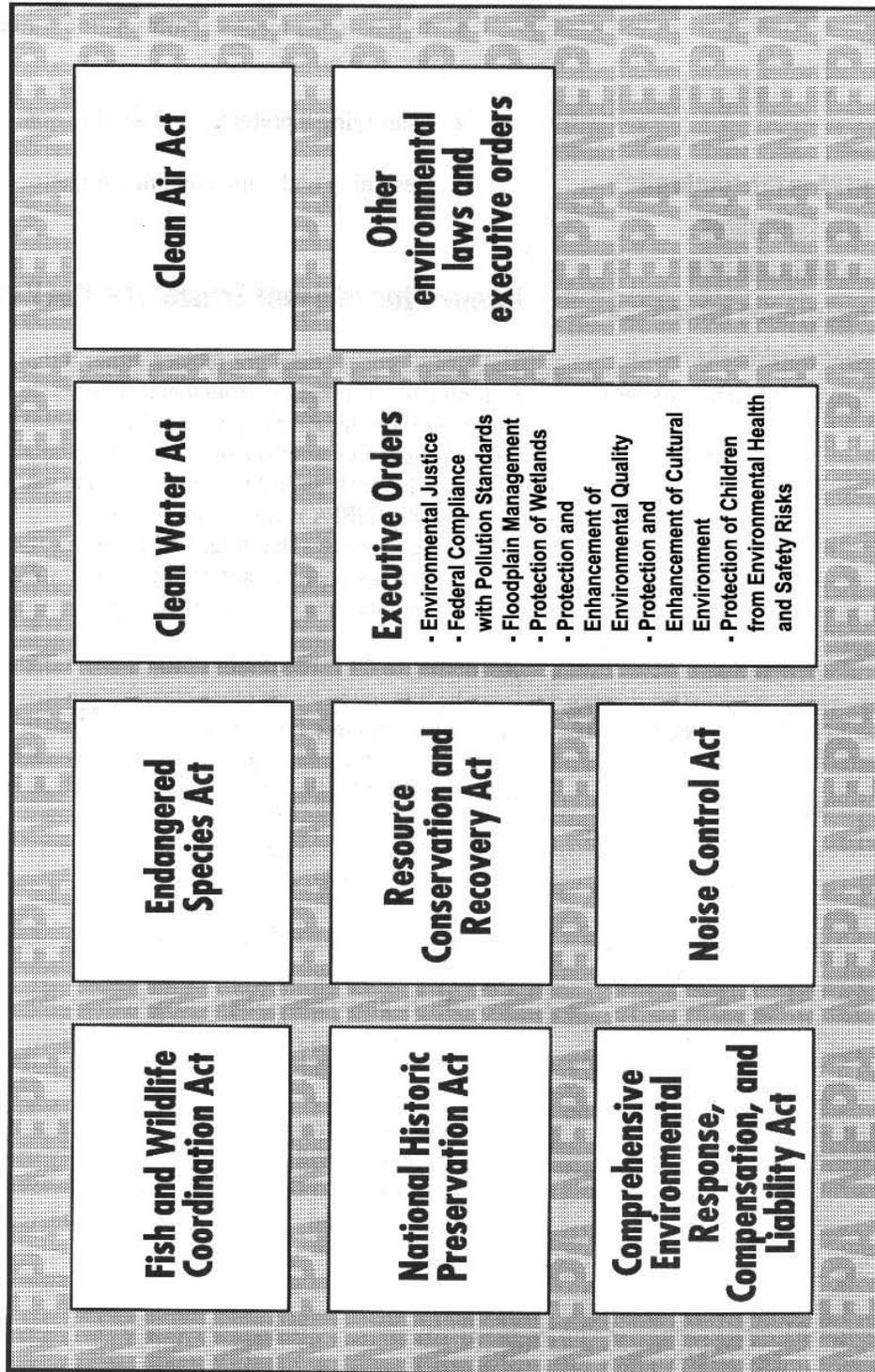


Figure 1-1. Integrating Other Environmental Regulatory Requirements into the NEPA Process

According to the CEQ regulations (40 CFR 1500.2(c)), NEPA's requirements must be integrated "with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively." The purposes of integrating the NEPA process into early BRAC planning are

- To ensure appropriate consideration of regulatory requirements during the NEPA process
- To eliminate delay and duplication of effort
- To emphasize cooperative consultation among agencies before and during preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS)

Applying an integrated NEPA process early in BRAC planning and decisionmaking will result in (1) the timely completion of all required environmental analyses, (2) more meaningful documents as a result of coordinated and focused efforts of all interested parties, and (3) better decisions.

1.5.4 Implementing Regulations and Guidance

From 1973 to 1978, the CEQ had guidelines in effect for the preparation of environmental impact analyses. Executive Order 11991 directed the CEQ to establish regulations for these studies. In 1978, the CEQ solicited extensive public and agency input and developed the *Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act*. The Council's goals were to reduce paperwork, reduce delays, and produce better decisions based on better analysis. The regulations emphasized that agencies should clearly and concisely present only the most pertinent background information, emphasizing an analysis of real alternatives and issues.

NEPA and the CEQ regulations require federal agencies to develop internal implementing procedures to ensure that environmental factors are considered in decisionmaking by using a systematic, interdisciplinary analytical approach. Several CEQ memoranda, including *Forty Most Asked Questions* (1981) and *Scoping Guidance* (1981), have clarified various aspects of the CEQ regulations. These memoranda are presented in Appendix D and Appendix E, respectively. DoD Instruction 4715.0, *Environmental Planning and Analysis*, provides NEPA guidance for the military services and other DoD components. The Army's implementing regulation for NEPA, *Environmental Analysis of Army Actions* published at 32 CFR Part 651, is presented in Appendix F.

The Army's NEPA regulation provides controlling guidance in that it

- Sets forth policies, responsibilities, and procedures for integrating environmental considerations into Army planning and decisionmaking
- Describes the Army's process for preparing an EA or an EIS
- Establishes criteria and procedures for determining Army actions that may be "categorically excluded" from requirements to prepare either an EA or an EIS

1.6 NEPA in Base Realignment, Disposal, and Reuse

The concept of realignment and consolidation of DoD installations is not new. In the early 1960s, Secretary of Defense Robert S. McNamara closed many bases to reduce military overhead and created the DoD Office of Economic Adjustment (OEA) to ease the economic effects of closures on communities and to facilitate the reuse of former bases. In the 1960s and 1970s, accusations were made that the executive branch was using base closures to punish uncooperative legislators,

prompting Congress to require that DoD notify Congress if an installation became a closure candidate and to apply NEPA to base closure recommendations. For several years these stipulations, combined with congressional reluctance to close military bases, effectively prevented DoD from closing any major military installations that were no longer needed to support national security. A brief history of base closure and the BRAC enactments is provided in Appendix G.

As the U.S. Supreme Court has often noted, NEPA does not dictate a course of action but simply ensures that decisionmakers and the public are provided with relevant information about (1) the environmental effects of a proposed action and (2) the environmental effects of reasonable alternatives to the proposed action. As a vehicle for public comment and litigation, however, NEPA has been used by some to delay indefinitely the realignment and closure of certain bases. In drafting the Base Closure and Realignment Acts, the administration and Congress agreed that it was imperative to limit the reach of NEPA as it applied to the decision to close and realign. The intent was to streamline the process, reduce the time and resources spent preparing certain analyses, and decrease the threat of time-consuming litigation.

In establishing the new base closure and realignment procedures in the 1990 Defense Base Closure and Realignment Act (Public Law 101-510), the Congress waived certain procedural elements of NEPA. This served to streamline the environmental impact analysis process associated with closure and realignment actions. Specifically, Public Law 101-510 waived the procedures of NEPA as it would have applied to the actions of DoD and the Defense Base Closure and Realignment (BRAC) Commission in recommending bases for closure and realignment, and to the actions of the President in approving or disapproving the Commission's recommendations. NEPA does apply, however, to DoD's actions in disposing of property and relocating functions to receiving bases.

NEPA provisions do not apply to:

- Closing actions
- The need to close the installation
- The need to realign the installation
- The need to transfer the function
- Alternative closing installations
- Alternative realigning installations
- Alternative receiving installations (for Commission-designated actions)

These "streamlining" provisions of BRAC do not relieve defense agencies of their responsibilities to incorporate environmental considerations into all subsequent realignment and disposal decisionmaking. Army policies implementing BRAC make it clear that NEPA provisions do apply to:

- Realignment-related actions at receiving installations
- Realignment-related actions at installations that will lose functions but not close
- Disposal of closed property—reuse must also be considered as a secondary action to disposal

Sections 1.6.1 and 1.6.2 describe the need to apply NEPA to facility realignments and to disposal and reuse. They also provide reference to other sections of the manual containing policy and procedures for analyzing these actions.

1.6.1 Realignment

Installations might gain new units or organizations because of realignment of mission activities from other facilities. Because Public Law 101-510 does not require NEPA analyses at closing installations from which functions would be realigned, relocation analyses are prepared only for receiving installations and for installations that will remain open, but will lose functions. A thorough description of the environmental baseline of receiving installations is probably the most important part of the NEPA process for realignments. This baseline can facilitate the development of alternatives by establishing environmental “carrying capacities” at receiving installations and by identifying sensitive natural or historic areas. With this information, the Army can intelligently relocate functions and, equally important, identify areas that will need to be avoided or protected through mitigation measures.

Potential environmental issues for receiving installations include the following:

- Effects on historic properties
- Modification of critical endangered species habitat due to operations or construction of facilities
- Wetland impacts due to construction activities or increased training
- Traffic and associated air and noise effects
- Higher levels of noise due to increased training or new missions
- Severe soil erosion or habitat destruction due to increased intensity or use of training ranges
- Violation of permits (effluent or emission limitations) by an infrastructure facility, such as a wastewater treatment plant, incinerator, or power plant
- Socioeconomic impacts on the community, including environmental justice issues

1.6.2 Disposal and Reuse

Installations designated for closure are subject to NEPA analysis for both disposal and subsequent reuse of the facility. Disposal of closed facilities is a major action planned by the Army as a result of BRAC. NEPA fosters environmentally sound Army decisionmaking associated with meeting that primary action requirement and with subsequent secondary action decisions on facility reuse by the new owners.

Potential issues associated with disposal and reuse includes:

- Deterioration of installation infrastructure, buildings, and grounds during the period from closure to disposal
- Consideration of historic properties during and after disposal
- Consideration of Endangered Species Act requirements during and after disposal
- Protection of wetlands and other valuable or unique environmental or cultural resources during and after disposal

- Installation restoration activities
- Timely disposal of DoD property to the community
- Effects on the real estate market
- Traffic and air quality effects associated with potential reuse
- Fiscal effects of reuse on adjacent communities

1.6.2.1 Disposal

NEPA analysis for the primary Army action of disposal of property addresses the transfer of real property to other federal, state, or local agencies, or to public or private entities. The BRAC process of property disposal, further described in Section 3, Planning and Initiating a BRAC NEPA Project, and in Section 5, Current Topics for Special Attention, involves predisposal activities, disposal, and subsequent reuse development. Predisposal activities can include contaminated site cleanup, interim uses for the property, and the establishment of caretaker status.

In keeping with desires for accelerating community revitalization and DoD guidance on streamlining BRAC disposal NEPA analysis, the Army's goal is to complete NEPA analysis within 24 months.

1.6.2.2 General Disposal Process for BRAC 2005

Disposal of BRAC 2005 property includes an extensive screening process for potential new owners. The screening process, performed at the DoD, federal, state, local, and private levels, offers available property to interested parties on a prioritized basis.

To speed the economic recovery of communities affected by closures and realignments, it is DoD's policy to identify DoD components and other federal entities interested in real property at closing and realigning bases as quickly as possible. The Army is responsible for identifying such entities with respect to closing and realigning Army installations and for keeping the Local Redevelopment Authority (LRA), described in Section 2, Roles and Responsibilities, fully informed of them.

1.6.2.3 Identifying Other DoD Component and Federal Agency Property Needs

The Army is required by law (Section 2904 of Title XXIX of Public Law 103-160) to identify other DoD and federal agency property needs at closing and realigning installations no later than 6 months after the date of approval of closure or realignment.

Notice of potential availability. Upon the President's submission of the recommended list of base closures and realignments to Congress, in accordance with the Defense Base Closure and Realignment Act of 1990 (Part A of Title XXIX of Public Law 101-510), the Army will issue a notice of potential availability (including a list of property and buildings at closing or realigning installations that will potentially become available) to the other DoD components and other federal agencies. This notice should be made available to the public, upon request. Potential recipients of the list could include the LRA (if recognized), elected officials, local developers, and businesses. Federal agencies are encouraged to review this list with respect to their prospective property requirements and to evaluate whether they might have a requirement for the listed properties. Any interest received should be forwarded to the LRA, if one exists.

Proponents should consider LRA input in making determinations on the retention of property (e.g., the size of cantonment areas), if provided. Generally, determinations on the retention of property and the size of cantonment areas should be made prior to the date of approval of the closure. The date of approval is the date on which the decision to close or realign a base becomes final and assumes the force of law. The date of approval occurs when the recommendations of the Defense BRAC Commission have been forwarded to Congress by the President and the allotted time for congressional action ends. The Assistant Deputy Under Secretary of Defense (ESOH) must approve the proposed cantonment areas, unless such retention is specifically authorized by the Defense BRAC Commission.

Withdrawn public domain lands. Withdrawn public domain lands are those lands that have been transferred from the Department of the Interior to the Army (withdrawn from the public domain) for military use. Public domain lands suitable for return to the public domain are not real property governed by the Federal Property and Administrative Services Act of 1949, as amended; nor are they governed by the property management and disposal provisions of the Defense Base Closure and Realignment Act of 1990 or the Defense Authorization Amendments and Base Closure and Realignment Act of 1988. Public domain lands are under the jurisdiction of the Secretary of the Interior and administered by the Bureau of Land Management (BLM) unless the Secretary of the Interior has withdrawn the lands and reserved them for another federal agency's use.

Upon the President's submission of the recommended list of base closures and realignments to Congress, the Army will provide the BLM a notice of potential availability (including a list of property and buildings at closing or realigning installations that will potentially become available) as well as information about which, if any, public domain lands will be affected by an installation's closing. The BLM will review the notice of potential availability to determine whether the installation contains withdrawn public domain lands. Before the date of approval of the closure, the BLM will review its land records to identify any withdrawn public domain lands at the closing installation. Any record discrepancies between the BLM and the Army should be resolved during this time period. The BLM will notify the Army of the final agreed-upon withdrawn public domain lands. Upon agreement on the withdrawn lands, the BLM will begin determining whether the lands are suitable for the Department of the Interior's programs.

The Army will transmit a notice of intent to relinquish (43 CFR 2372.1) to the BLM as soon as the property is identified as excess to DoD needs. The BLM will complete its suitability determination within 30 days of receiving the notice of intent to relinquish.

If BLM determines that the land is suitable for return to the public domain, it will notify the Army that the Secretary of the Interior will accept the Army's relinquishment. If the land is not found to be suitable for return to the public domain, the land will be disposed of in accordance with the authorities in the BRAC statutes.

Reversionary rights. Property for Army installations was sometimes obtained from state and local governments at a reduced price or at no cost. In such cases, the deed or other instrument conveying the property to the military might contain reversionary rights or reverter clauses that provide for return of the property to its former owner once the military need has ended. Therefore, the Army should review the provisions of its title(s) to the property to identify any preexisting claims. If such claims or rights exist, the availability of the property for other uses might be limited, and the property will generally not be available for disposal as surplus property. The mere fact that property had been donated to the military does not *per se* establish a reversionary right on the part of the donor.

Notice of Availability. Within 1 week of the date of approval of the closure, the Army must issue a notice of availability that identifies and describes the buildings and property at the installation that will be available for transfer. Withdrawn public domain lands that the Secretary of the Interior has determined suitable for return to the public domain will not be included in this notice.

The Army will make its surplus determination within 100 days of the notice of availability and will inform the LRA of the determination. The Army will provide information describing the surplus real property to the Department of Housing and Urban Development (HUD) and the LRA. The Army will publish that description of surplus real property in the *Federal Register* and in a local newspaper of general circulation. The notice will include information about the LRA, including name, address, and point of contact.

The LRA should begin working on a local redevelopment plan for the surplus property. The LRA should address assistance to homeless people, pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103-421), in the local redevelopment plan.

After the local redevelopment plan is received by the Army and HUD, surplus property will be offered to public agencies in accordance with 41 CFR 101-47.303-2. The public agencies will be informed that there is a local redevelopment plan for the installation and that requests for public use should be consistent with that plan.

1.6.2.4 Identifying Sensitive Land

In the realignment and disposal of DoD real property, the responsibility to protect sensitive resources (e.g., sensitive ecosystems, floodplains, wetlands) is mandated by several statutes. Acknowledging this fact, the 1991 Defense Appropriations Act mandated a “Legacy Resource Management Program” to identify and manage significant biological, geophysical, and cultural resources on DoD land. The accompanying Senate report gave priority to identifying such lands for closing or realigning bases. BRAC NEPA analyses should identify valuable land areas and make recommendations that sensitive natural and cultural resources be protected after the installation is closed. The document should also address the sale of appropriate protected properties to other responsible federal, state, or private organizations.

1.6.2.5 Reuse

Facility reuse by new owners is a secondary action by others resulting from the Army’s primary action of disposal. The development of reuse alternatives is coordinated with federal, state, and local agencies and includes extensive community involvement. The local community is responsible for establishing an LRA, which is expected to produce a plan for reuse of the property. It has historically been very difficult to predict the exact type, distribution, and intensity of reuse activities that will occur on property available for disposal. Factors that affect these issues include local land use planning and zoning decisions, numerous market and economic forces, legal requirements, and the actions of individual developers. In some cases, the final use of the land might not be known until a private owner actually obtains the property and obtains local zoning approval. (See Section 3.6.4, Community Reuse Plan, Section 3.8.4, Intensity-based Probable Reuse Scenarios, and Section 5.1.2, Local Redevelopment Authority, and Section 5.11.3, Reuse Development Plan.)

Although timely development and approval of the community’s reuse plan and ultimate decisions on reuse of installation property are beyond the direct control of the Army, close coordination between the local community’s regulatory agencies and the Army can provide sufficient

information on probable reuse scenarios to perform a NEPA analysis adequately, even in the absence of a final reuse plan.

1.7 Complying with NEPA in BRAC

NEPA requires the Army to make a definitive statement about (1) the potential environmental impact of a proposed Army BRAC action, (2) adverse effects that cannot be avoided, and (3) alternatives to the proposed action. The analysis must fully disclose the environmental effects of the action and demonstrate that the decisionmaker has taken an interdisciplinary “hard look” at the environmental consequences of implementing the action. The provision of a quality analysis is essential to making quality decisions. Good analysis must build on regulatory compliance, legal sufficiency, appropriate mitigation, mitigation monitoring, public concerns, and senior-level NEPA guidance—all identified and built into the analysis from the start.

The environmental analysis of a proposed Army BRAC action must parallel other decision support processes to help commanders and principal staff officers make sound decisions. It cannot be an “after-the-fact” justification for implementation of decisions already made. Such justification is transparently obvious, leads to regulatory agency and public mistrust, and will be rejected by the Army leadership. The analysis must clearly and concisely inform the leadership of all the environmental consequences of the proposed action.

BRAC actions are different from other major actions because the major decision to close or realign the installation has already been made. Therefore, it is in the area of disposal and the implementation of realignment actions that alternatives must be most carefully selected and analyzed before Army decisions are made.

The Army’s BRAC NEPA process normally includes several considerations (notices, meetings, and documents). These are usually encountered in the order shown in the following sections.

1.7.1 NEPA Analysis Plan of Action

One of the earliest measures in the BRAC NEPA process involves the preparation of NEPA analysis plans of action (NAPAs). Each NAPA aids in the determination of the level of NEPA documentation, supporting studies, schedules, and budget to implement BRAC 2005 actions. Where necessary, cultural resources plans of action (CRPAs) and natural resources plans of action (NRPAs) are also prepared.

The purpose of each NAPA is to ensure that proposed actions, alternatives, and timelines are consistent with Army direction and policy and that Army participants are consistent in applying the process from the beginning. Supported by questionnaires designed to elicit information bearing on potential environmental effects, NAPAs are prepared by the Army Lead Organization (See Section 2.3.2.2) with the assistance of the U.S. Army Corps of Engineers (USACE) NEPA Support Team for gaining installations and for disposal actions. The Assistant Chief of Staff for Installation Management (ACSIM), Base Realignment and Closure Division (DAIM-BD) reviews and approves each plan prior to initiation of NEPA analysis.

Each NAPA consists of 12 principal elements, as follows:

- *Installation.* The full name of the installation and state in which it is located.
- *Type of action.* Notation of whether the installation is a gaining, discretionary location, enclave, disposal action, or combination (i.e., disposal with establishment of an enclave).

- *Description of action.* Recitation of the BRAC Commission’s recommendation (e.g., realignment, discretionary realignment, enclave, or closure action).
- *Alternatives to be covered in the analysis.* In addition to the no action alternative, this element will identify potential alternatives appropriate to the type of action (e.g., Commission-directed realignment, discretionary realignment to installation not specified by the Commission, or Commission-directed closure and/or establishment of an enclave).
- *Level of NEPA proposed.* Recommendation for preparation of an EIS, EA, or Record of Environmental Consideration (REC) for use of a categorical exclusion.
- *Rationale for level of NEPA documentation.* Justification for choice of level of document.
- *Proposed/required NEPA completion date.* Explanation of how the date is derived, including a proposed schedule for completion of NEPA documentation.
- *Owning/responsible Lead Organization.* Identification of the cognizant Lead Organization.
- *Attachments.* Plans of action for cultural resources and natural resources, as required, are referenced here and attached.
- *Cost estimate for funding.* Attach copy of environmental program requirements (Army Environmental Database—Restoration) funding estimate.
- *Request authority to complete NEPA document without HQDA/Secretariat staffing/approval.* Where delegation of document preparation is requested, provide and attach justification.
- *Installation/Lead Organization NEPA point of contact.* Provide the name, phone number, e-mail address, and physical location of the point of contact.

1.7.2 Notice of Intent

The notice of intent (NOI) is the official public notification that a NEPA analysis is planned for a proposed action. The NOI is published in the *Federal Register* to advise the public and other entities of the Army’s intent. An NOI describes the proposed action and possible alternatives, if known at the time. It outlines the Army’s proposed public scoping and public involvement process, as applicable, and gives the name, address, and telephone number of the Army’s point of contact. DAIM-BD will issue an NOI for each EIS for the BRAC 2005 program.

1.7.3 Categorical Exclusion/Record of Environmental Consideration

A categorical exclusion (CX) is an action that does not individually or cumulatively have a significant effect on the human environment and does not normally require an EA or EIS. Every federal agency has a list of such actions that do not require formal analysis or assessment. A record of environmental consideration (REC) is a written record that an action has been evaluated and falls under the CX criteria as described in 32 CFR Part 651 (*Environmental Analysis of Army Actions*) or that the action has been analyzed in a separate NEPA document. Appendix B of 32 CFR Part 651 contains the Army’s list of categorically excluded actions. 32 CFR 651.28–651.31 govern the use of CXs. It is anticipated that some BRAC actions, including some discretionary location moves (see Section 3), may qualify for a CX. The Army’s list of CXs will be reviewed for potential applicability. Actions may not be “segmented” to use a CX for one or more parts (segments) of a larger (connected) action. As a matter of policy, all uses of CXs for BRAC actions will be accompanied by a REC.

1.7.4 Scoping Process

Scoping is the process of identifying the issues and resources to be considered in the NEPA analysis. Good scoping is essential to a good analysis. Scoping begins by involving the public to identify the issues to be addressed. Public notice includes an announcement of the location(s) and time(s) of scoping meeting(s) and the solicitation of comments to identify issues of special interest to other agencies and the public that should be addressed in the analysis. Public scoping meetings are not required for EAs and will be held only when specific circumstances are identified by the NEPA proponent in the NAPA process to warrant one.

Scoping for an EIS involves meetings with members of the public, other federal agencies, state and local governments, tribal governments, and special interest groups to discuss pertinent issues and topics in the EIS. Scoping also assists in collecting baseline data to be discussed in the affected environment section of the EIS. A scoping meeting may result in changes, additions, or deletions to the scope, alternatives, and emphasis of the EIS. Further information on implementing the scoping process in BRAC is presented in Section 3.

1.7.5 Environmental Assessment

The CEQ regulations (40 CFR 1508.9) describe an EA as a concise public document that succinctly provides sufficient evidence and analysis to determine the need for an EIS. Its purpose is to assist the decisionmaker in identifying the environmental effects of a proposed action and alternatives in determining whether any of the impacts are significant and thus warrant the preparation of an EIS.

An EA should not be initiated when significant impacts are obvious or can be presumed. The CEQ regulations (40 CFR 1501.3) allow an agency to initiate the EIS process without preparing an EA.

The EA typically provides the appropriate level of environmental analysis for a BRAC action. EAs are also often used to assess the environmental effects of interim leases of real property during the predisposal phase of a closure action (see Section 5). The required format for a BRAC EA, which is similar to that for an EIS, is described in Section 4. External coordination in the preparation of an EA is not explicitly required by 32 CFR Part 651 although, in some cases, coordination with regulators and the public might be well advised. An offer of outside coordination should usually be accepted. Coordination of the proposed action under the Endangered Species Act and the National Historic Preservation Act is required as a component of the EA.

1.7.6 Finding of No Significant Impact

If an EA concludes that impacts are insignificant, a draft finding of no significant impact (FNSI) is prepared to document this conclusion and explain that an EIS will not be prepared. A draft FNSI, along with the final EA, is made available to the public for 30 days, during which time agencies and the public may submit comments on either. If an EA concludes that an EIS is warranted, an NOI is issued to begin the EIS process. Draft FNSIs prepared as a result of BRAC EAs are announced to the public through publication of a notice of availability (NOA) in a local newspaper. At the end of the 30-day comment period, and subject to review of any comments received, proponents may execute a final FNSI. The proposed action may then begin.

The 30-day public review period for a draft FNSI may be reduced as provided in 32 CFR 651.14(b)(2)(iii). In cases where the 30-day comment period jeopardizes the project and the full

comment period would provide no public benefit, the period may be shortened with appropriate approval by a higher decision authority. In no circumstances should the public comment period for an EA/draft FNSI be less than 15 days.

1.7.7 Notice of Availability for a Draft FNSI

An NOA is a formal public notification that an agency document is being made available to other agencies and the public. It is intended to inform the public of the completion of the EA and availability of the EA and draft FNSI and to initiate a 30-day review period prior to final action on the FNSI.

1.7.8 Environmental Impact Statement

The EIS is the centerpiece of the NEPA process. It is the “detailed statement” called for in the act itself (Public Law 91-190, Section 102(2)(c)). An EIS analyzes the biophysical and socioeconomic effects of the proposed action and alternatives. It provides the baseline (affected environment) against which effects are evaluated and identifies potential consequences and required mitigation. The EIS is an important planning and decisionmaking tool (40 CFR 1505.1) that directly involves the public in the process (40 CFR 1506.6). Public comments should be accepted throughout the process; formal opportunities (including public meetings) are required in the process during scoping and review of the draft EIS (DEIS).

The potential for significant environmental impact associated with a proposed action is the basis for performing an EIS. An EIS analyzes and discloses the known or suspected context, duration, and intensity of all impacts on the environment, direct and indirect, that would result from implementing the proposed action and alternatives. It also presents mitigation measures (and their environmental effects) that could be undertaken to lessen impacts. The general steps in preparing and processing an EIS are shown in Figure 4 of 32 CFR Part 651 (see Appendix F). Section 4, below, describes in detail the format and content of an EIS. BRAC-specific features for processing an EIS are discussed in Section 6.

1.7.8.1 Preparation

Once preparation of an EIS is formally announced through publication of the NOI in the *Federal Register*, document preparation usually begins with the development of a work management plan for the EIS and arrangements for the scoping process, including public meetings. A work management plan addresses the formulation of the description of the proposed action, alternatives to the action, and a schedule for EIS completion. The plan also identifies project team members and their responsibilities. Detailed project planning depends on a number of factors, including the following:

- Mechanisms selected to accomplish the analysis (in-house versus contract)
- Timeframes dictated by the proposed action, the NEPA process, or data/model analysis requirements
- Priorities placed on specific actions
- Budgetary constraints and requirements
- Roles, responsibilities, and availability of the analysis/documentation team members

NEPA planning and execution must be done carefully and thoroughly to facilitate meaningful analysis and avoid later challenges and delays.

1.7.8.2 Draft EIS

After the scoping meeting(s), potential impacts of the proposed action and alternatives are analyzed, and a preliminary draft EIS (PDEIS) is prepared. Section 4, below, discusses document format and content in detail. The preliminary draft is circulated for internal Army review. After any necessary changes are made to the preliminary draft, a DEIS is prepared and filed with EPA, and the Army publishes a notice of availability (NOA; see below) in the *Federal Register* and in newspapers in the vicinity of the proposed action. A 45-day comment period begins on the date EPA announces the availability of the draft EIS in the *Federal Register*.

1.7.8.3 Notice of Availability for an EIS

An NOA is a formal public notification that a DEIS, a final EIS (FEIS), a draft Supplemental EIS, or a final Supplemental EIS is being made available to other agencies and the public for review and comment. The Army publishes NOAs in the *Federal Register* and in newspapers in the vicinity of the proposed action. The Army's NOAs are distinct from announcements made by EPA in the *Federal Register*. Time periods specified in the CEQ regulations for processing EIS documentation are measured only by EPA's announcements.

1.7.8.4 Public Meeting or Hearing

During the 45-day comment period, but after at least 15 days following publication of the NOA, a public meeting or hearing is typically held to provide an opportunity for the public, organizations, and regulatory agencies to present comments and information.

1.7.8.5 Final EIS

The proponent of an EIS must consider and respond to all comments on the DEIS. Comments might be provided orally at a public meeting on the DEIS, or they might be written submittals from agencies or interested organizations or individuals. A preliminary final EIS (PFEIS) is prepared after comments have been received, reviewed, and addressed. This document is reviewed by the same elements that internally reviewed the PDEIS. Once the PFEIS is approved, the final EIS is prepared, filed with EPA, and made available to the public through NOA publication in the *Federal Register*. A final decision on the proposed action may be made after a 30-day waiting period, and it is documented in a Record of Decision (ROD).

Without delays, the total estimated time for EIS preparation is about 18 months; 2 years is often the case with the average EIS. More complex or controversial EISs can take several years to complete. In keeping with the Presidential mandate to accelerate the BRAC process, BRAC NEPA documentation and compliance requirements are to be completed no later than 12 months from the receipt of an officially adopted reuse plan.

1.7.8.6 Supplemental Environmental Impact Statement

A supplemental EIS (SEIS) contains additional analysis and documentation on a proposed action and alternatives. It is prepared when conditions become substantially altered from the action initially proposed or when changes in alternatives or baseline conditions occur after preparation of the DEIS or FEIS. If conditions warrant a supplemental document, these documents are processed in the same way as an original EA or EIS. No new scoping is required for a supplemental EIS filed within one year of the filing of the original ROD.

1.7.8.7 Record of Decision

A ROD is a public document that states the decision, the alternatives and factors considered, the preferred alternative, and any mitigation measures in the associated EIS. The NOA of the ROD is published in the *Federal Register*. It summarizes the major issues and considerations, documents the decision, and identifies necessary steps (mitigations) to lessen the impacts on the environment. Mitigation actions, upon being adopted by the Army, become formal requirements once they have been stated in a ROD. Further information on the contents of the ROD are provided in CEQ regulations at 40 CFR 1505.2.

1.7.8.8 30-Day Waiting Period following the FEIS

40 CFR 1506.10 requires that no decision on a proposed action be made or recorded in a ROD until after the later of the following: (1) 90 days from publication of the notice for a DEIS or (2) 30 days from publication of an FEIS.

1.8 Other NEPA Concepts Encountered in BRAC

1.8.1 Programmatic Documentation

Programmatic NEPA documents are prepared on an area-wide or subject/topic basis or for broad federal actions that include a number of phases of individual actions. With broad federal actions, the lead agency may evaluate the proposal based on common geographic locations or similarities of impacts or by stages of development (40 CFR 1502.4). Programmatic documents often require additional supplemental or subsequent site-specific NEPA documents (EAs or EISs). Follow-on documents concentrate on site- or phase-specific issues and may efficiently incorporate information from the programmatic NEPA document by reference.

Programmatic documentation is not commonly used for BRAC actions. The Army might sometimes choose, however, to prepare a programmatic analysis on certain realignments or for common reuse scenarios for closing installations.

1.8.2 Tiering

Tiering refers to the process of preparing multiple levels of environmental review, typically addressing general matters in a large-scale EIS (e.g., national program or policy statements) with subsequent smaller-scale EISs or EAs addressing the details (e.g., regional program statements). The smaller-scale EIS often incorporates the general discussions included in the large-scale EIS by reference and concentrates on the issues specific to the site. Tiering is appropriate when the sequence of statements is

- From a larger program (or plan or policy) EIS to a program (or plan or policy) statement (or analysis) that is of lesser scope or site-specific
- From an EIS on a specific action at an early stage (such as concept plan or site selection) to a supplemental (or subsequent) statement (or analysis) at a later stage (such as site-specific designs)

Tiering in such cases is appropriate when it helps the Army to focus on relevant issues for which decisions need to be made rather than on those for which decisions have already been made or are too far in the future to be clearly defined.

1.8.3 Segmenting and Sequencing

CEQ regulations (40 CFR 1508.25(a)) state that an agency should analyze “connected actions” and “cumulative actions” in one document. An agency should also analyze “similar actions” in one document when that is the best way to adequately assess the combined impacts of the similar actions or reasonable alternatives.

Connected actions are those that automatically trigger other actions that may require environmental analysis, cannot proceed unless other actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for justification. Cumulative actions are those that, when viewed with other proposed actions, have cumulatively significant impacts and, therefore, should be discussed in the same NEPA document. Similar actions are those that, when viewed with other reasonably foreseeable or proposed actions, have similarities that provide a basis for evaluating their environmental impacts together, such as common timing or geography (see 40 CFR 1508.25(a)).

The CEQ regulations are directed at avoiding improper segmentation, wherein the significance of the environmental impacts of an action as a whole would not be evident if the action were to be broken into component parts and the impact of those parts analyzed separately. Although the CEQ regulations do not specifically direct consideration of connected actions, cumulative actions, and similar actions in defining the scope of an EA or EIS, the impacts from such actions should be considered together in a single NEPA document.

An example of segmenting in the BRAC process would be to separately analyze (or categorically exclude) the environmental effects of disposal and reuse of individual buildings or parcels of land when the intent of the overall action is to dispose of the installation.

Situations often develop during base realignment, closure, and disposal that require interim actions such as leasing, transfer of property to another federal agency, or other actions of a similar nature. Certain interim actions are a form of “sequencing” and are permissible.

Actions that meet the following conditions are considered “sequencing” rather than “segmentation:”

- The interim action does not foreclose future uses.
- The interim action does not produce an irreversible or irretrievable commitment of resources.
- The interim action is consistent with the reasonable alternatives being considered as part of the broader NEPA analysis.
- The interim action itself is covered by another NEPA analysis.
- The broader NEPA analysis evaluates the cumulative impacts of the action.

An example of sequencing in connection with BRAC is the leasing of buildings or parcels for a use similar to past uses. These interim leases may not include major alterations to the parcels or buildings or changes in activities associated with their use that would constitute a new set of impacts. Proposed interim actions must also be reviewed and the appropriate level of NEPA analysis and documentation (REC, EA/FNSI, or EIS/ROD) applied.

Interim uses that may constitute “segmentation” include the leasing or transfer of parcels for new uses (different from historical use) and uses that could cause an irreversible or irretrievable commitment of resources or foreclosure of future options.

1.8.4 Mitigation

Mitigation measures are actions required for the specific purpose of reducing the significant environmental impacts of implementing a proposed or alternative action.

Only those mitigation measures that can be reasonably accomplished will be identified in environmental documentation (EA/FNSI, or EIS/ROD). Several mitigation approaches are listed below:

- *Avoidance.* Avoids impacts altogether by not performing certain activities or by restricting where they may be performed.
- *Limitation of action.* Limits the degree or magnitude of an activity and thereby limits its impacts.
- *Restoration.* Restores or enhances existing environmental conditions. The effectiveness of and required commitment to such measures should be closely scrutinized.
- *Protection and maintenance.* Changes the design of the action to include engineered systems (e.g., erosion control devices, air pollution scrubbers, or oil/water separators) or management actions that preclude the emission of pollutants. This technique is often a long-term, continuing procedure that can be expensive to implement and maintain. As with restoration, this technique, without commitment, might not be completely effective.
- *Replacement/compensation.* Attempts to replace or otherwise compensate for resources destroyed by the action. Replacement can be an expensive and controversial mitigation technique.

Mitigation measures or programs must be clearly identified in a NEPA document for the decisionmaker to understand and approve. Such measures become Army commitments that must be met within a reasonable and specified time frame. All measures planned to minimize or mitigate expected significant environmental impacts must be identified in the EIS and the ROD. Responsibility for implementation will be determined based on coordination and consultation between the proponent of the NEPA analysis and the affected installation. The status and results of mitigation measures associated with the proposed action will be made available to members of the public upon request.

An EA may specify mitigation measures that, if implemented, would prevent significant impacts that would otherwise require an EIS. In such cases, the measures must be clearly described in the FNSI.

Mitigation measures presented in a FNSI or ROD are binding. These measures must be funded, and efforts to ensure their successful completion or implementation should be treated as compliance requirements. In appropriate cases, the proponent must monitor mitigation measures for completion and effectiveness.

1.8.5 Cumulative Effects Analysis

NEPA requires analysis of the cumulative environmental effects of the proposed action and other actions at the installation and in the region, recognizing that impacts on traffic congestion, air

quality, noise, socioeconomic conditions, utility system capacities, and other resource areas are often manifested only at that level. Other actions could include, for instance, previously approved Army Modular Force or Integrated Global Presence Basing Strategy (IGPBS) decisions. Cumulative effects analysis is discussed in detail in Section 5.9.

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2.0 Roles and Responsibilities

2.1 Overview

Development of BRAC NEPA analyses requires participation from each level of the Army, from the installation to the Army Staff and Secretariat. All participants, having distinct functions and responsibilities in the document preparation and review process, must function as a team to provide timely information, concurrence, or approval as required by their area of responsibility. This section describes the roles and responsibilities of the major Army participants.

2.2 Proponents

Two levels of proponents exercise responsibility for BRAC NEPA documentation.

- *Program proponent.* The Assistant Chief of Staff for Installation Management (ACSIM), Base Realignment and Closure Division (DAIM-BD) serves as the Headquarters, Department of the Army (HQDA) program proponent.
- *Project proponent.* For realignment actions in general, the Lead Organization serves as the individual project proponent. The Army National Guard or major commands (MACOMs) having special installation responsibility (e.g., U.S. Army Reserve Command and U.S. Army Medical Command) may be designated as a Lead Organization and serve as the proponent for the NEPA documentation. For joint service realignment actions, DAIM-BD will determine Lead Organizations to serve as proponents on a case-by-case basis. For disposal actions, DAIM-BD serves as the individual project proponent.

2.3 Participants

Numerous participants contribute to the BRAC NEPA process. Principal actors include staff functions at affected installations, IMA, MACOMs, and the Army Staff and Secretariat. Other participants include entities such as the NEPA Support Team and Army Environmental Center. The following sections identify the participants and discuss their contribution to the BRAC NEPA effort.

2.3.1 Installations

Installation participation is central to the NEPA process. Because of their experience and proximity, the Garrison Commander and his or her staff are the officials who are most aware of the critical local environmental issues and public concerns.

2.3.1.1 Garrison Commander

The Garrison Commander has been, and will remain, the official primarily responsible for execution of the environmental stewardship function. The Garrison Commander is responsible for compliance with all applicable environmental laws and regulations, including those involving public participation. The comparison of the Garrison Commander's function to the preventive maintenance process is appropriate. Just as all parts of a vehicle must be in good working order for the vehicle to move forward, all parts of the installation staff must be kept informed and involved if the BRAC program is to move forward. Each BRAC site, however, will have a slightly different group of responsible persons. Whether the installation is gaining, closing, or realigning, the Garrison Commander should establish procedures to ensure that each part is aware of what the others are doing throughout the long and extremely complex series of BRAC-related

actions. While the proponents for NEPA analysis and documentation will be entities other than the installation, it is ultimately the efforts of the Garrison Commander and his or her staff that keep the entire BRAC program synchronized.

The Garrison Commander supports the NEPA proponent during preparation of the BRAC NEPA documentation by supervising his or her staff in their role of furnishing data; keeping the public informed; performing liaison with the Local Redevelopment Authorities (LRAs), as appropriate; and supporting special environmental studies required for the NEPA process. The basic source of data for a NEPA document is existing data contained at the installation. The Garrison Commander, if requested by the NEPA proponent, chairs the scoping meeting and public hearing or meeting. The Garrison Commander's staff also participates in the review of the NEPA documents.

2.3.1.2 Public Affairs Officer

The installation Public Affairs Officer (PAO) should be included in every staffing action related to BRAC activities. The PAO should determine what information is needed as he or she communicates on the installation's behalf. The PAO is responsible for ensuring that the release of information to the public is coordinated with other staff elements beforehand. The PAO should also serve as a knowledgeable clearinghouse for requests from the public about the installation and BRAC-related activities. Unless PAOs are kept in the information network, this task will be difficult to accomplish, and more time might be spent putting rumors to rest than accomplishing the mission.

To ensure full participation of, and coordination with, the public during the BRAC process, the Army has established the following basic principles for installations designated to *gain* missions or functions:

- The Army is committed to mitigating the hardships inherent in any realignment on its soldiers and civilian employees, their families, and the surrounding communities.
- The Army will follow the BRAC law and the letter and intent of the President's report transmitting the BRAC Commission's recommendations to Congress.
- The Army will be open and forthcoming about implementation planning and execution.
- The Army will support and be responsible to the Installation Commander and the surrounding communities.
- The Army will be environmentally active and responsive.

To ensure full participation of, and coordination with, the public during the BRAC process, the Army has established the following basic principles for installations designated to *close* or *realign* (lose troops or functions):

- The Army is committed to mitigating the hardships inherent in any base closure or realignment on its soldiers and civilian employees, their families, and the surrounding communities.
- The Army will follow the BRAC law and the letter and intent of the President's report transmitting the BRAC Commission's recommendations to Congress.
- The Army will be open and forthcoming about implementation planning and execution.

- The Army will support and be responsive to the Garrison Commander and the surrounding communities.
- The Army will ensure a timely transfer of facility assets.
- The Army will seek innovative ways to allow reuse pending completion of environmental restoration.
- The Army will provide civilian employee assistance through such programs as the DoD Priority Placement Program.

2.3.1.3 Base Transition Coordinator

The Base Transition Coordinator (BTC) is appointed by the Army to be an on-site representative at closing or realigning installations to assist the community in the installation redevelopment program. The BTC works with the LRA and the installation to develop reuse options and to identify appropriate levels of cleanup. The BTC monitors the BRAC process and facilitates the interaction of all participants. The BTC assists the community with organizing the LRA and with securing study funds from the Office of Economic Adjustment (OEA).

2.3.1.4 BRAC Environmental Coordinator

The BRAC Environmental Coordinator (BEC) is designated by the Lead Organization responsible for the installation. The BEC facilitates planning and execution of environmental cleanup programs with the installation environmental staff and regulatory agencies and participates in community involvement activities.

2.3.1.5 Local Redevelopment Authority

The LRA is any authority or instrumentality established by state or local government and recognized by the Secretary of Defense, through the OEA, as the entity responsible for developing the redevelopment plan with respect to an installation or for implementing such a plan. Further information about LRAs is provided in 32 CFR Part 175 (*Revitalizing Base Closure Communities—Base Closure Community Assistance*).

The local community's role is to provide for the reuse of excess Army property that becomes available as the result of BRAC actions. Consequently, community leaders should participate early in the closure and disposal process and maintain close coordination with the Installation Commander and BRAC office as well as the DoD OEA and elected officials at both the state and national levels. As appropriate, an LRA may be a cooperating agency in the preparation of a NEPA document.

The community is responsible for establishing an LRA to act as the legal entity for participation by the community in reuse actions. The LRA is responsible for developing and obtaining community approval of a reuse plan for Army property to be disposed of. This plan must be provided to the Army in a timely manner for coverage in the NEPA analysis. The LRA needs timely access to Army environmental baseline data to conduct its reuse planning.

2.3.2 Headquarters, Department of the Army

2.3.2.1 Base Realignment and Closure Division

The Department of the Army, ACSIM, DAIM-BD is responsible at the program level for management and oversight of Army BRAC actions. DAIM-BD coordinates with the Secretariat and the Army staff to provide guidance, policy, and action decisions to the field. DAIM-BD assembles all pertinent data submitted from the field as required to support decisionmaking and submits the package to the Secretariat for decision. The Secretariat's decision is transmitted to the field for execution and is monitored by DAIM-BD to ensure implementation. As appropriate, NEPA-related documents (EAs; EISs; and decision action papers, such as NAPAs or RODs) are submitted through DAIM-BD to obtain Secretariat approval.

DAIM-BD is responsible for approval of BRAC NAPAs and the provision of funds for completing required NEPA studies. DAIM-BD is also responsible for approval and submission of Release Packages (consisting of Information for Members of Congress (IMC), Memorandum for Correspondents (MFC), and Questions and Answers (Q&A)) and RODs after Army Staff coordination to the Deputy Assistant Secretary of the Army for Environment, Safety, and Occupational Health (DASA-ESOH) for approval or authority to release, as appropriate.

DAIM-BD coordinates the following documents and information with the Army Staff and Secretariat: NAPAs, NOIs, EAs and EISs, NOAs for draft and final EISs, RODs, and Release Packages.

DAIM-BD forwards matters requiring approval by the DASA-ESOH through the ACSIM. Upon approval and signature by DASA-ESOH, DAIM-BD prepares a memorandum forwarding the approval of the NEPA package to the appropriate NEPA document proponent.

DAIM-BD serves as the project proponent for BRAC Commission recommendations for disposal actions. In this role, and working with the USACE NEPA Support Team (NST), DAIM-BD carries out the NAPA for each installation. As the proponent, DAIM-BD is responsible for ensuring the timely preparation, review, and approval of all BRAC NEPA documentation for each installation recommended for disposal. In doing so, DAIM-BD is guided by the contents of this manual.

2.3.2.2 Lead Organizations

Lead Organizations (LOs) include the ACSIM, Installation Management Agency (IMA); the Army National Guard; and MACOMs having special installation responsibility (e.g., U.S. Army Reserve Command and U.S. Army Medical Command). LOs serve as the proponent for BRAC Commission recommendations for realignment actions. Working with the USACE NST, the LO carries out or oversees the NAPA for each realignment action or gaining installation. The LO is responsible for ensuring the timely preparation, review, and approval of all BRAC NEPA documentation for each installation recommended for realignment. In doing so, the LO is guided by the contents of these guidelines.

2.3.2.3 NEPA Support Team

DAIM-BD has designated the USACE NST to centrally manage and contract for the preparation of all NEPA documents and to validate documents for consistency and compliance with applicable laws, regulations, policy, and guidance before review and decision by the Secretariat, HQDA, or other proponents. This assignment responds to DoD guidance for timely NEPA analyses for base realignment and closure decisions, and it improves Army BRAC NEPA documentation development and processing in general.

The NST is responsible for determining whether Army BRAC NEPA documents comply technically and procedurally with NEPA, comply with current DoD and Army policy and guidance, and meet the Army's expectations. This oversight role pertains to all BRAC NEPA actions involving realignments, disposal/reuse (lease, transfer, or deed conveyances), and discretionary move actions. The NST assists DAIM-BD and the LO throughout the NEPA process with interpretation and guidance on policy, as well as the development of procedures and strategies, so that documents are consistent and require the least amount of modification possible after Army Staff and Secretariat review. In addition, the NST will support proponents in their Section 106 actions under the National Historic Preservation Act and their Section 7 consultations under the Endangered Species Act. These responsibilities are not expected to add time to Army Staff and Secretariat review because the NST works closely with the NEPA document proponents and Corps of Engineers Districts throughout the process to help them accomplish their missions.

General duties of the NST. The following are the general duties the NST is to perform:

- Determine whether BRAC NEPA documents comply technically and procedurally with NEPA, current policy and guidance, and Army Staff and Secretariat expectations
- Serve as the Army BRAC NEPA overseer, problem solver, and information consultant throughout the NEPA process
- Help DAIM-BD and the LO meet BRAC NEPA requirements in a timely manner, identify significant accomplishments and issues, raise warning flags, and recommend solutions
- Facilitate all levels of Army participation and team building in the BRAC NEPA process
- Monitor and facilitate implementation of changing laws, regulations, policy, and guidance
- Enhance the Army's BRAC NEPA institutional knowledge
- Provide oversight and advice for specific environmental issues, such as cultural resources, socioeconomic impacts, hazardous materials, air quality, water quality, and infrastructure

NST assistance to DAIM-BD and Army Lead Organization participants. The DAIM-BD, LO, or any other Army BRAC NEPA participants may request assistance from the NST as a unit or from designated subject matter experts. NST personnel are available throughout the process to provide assistance with:

- Understanding the NEPA level-of-analysis strategy (CX, REC, EA, or EIS)
- Developing a scope of work, timelines, and cost estimates
- Preparing the NAPA for submittal to the LO

- Developing a public involvement plan
- Executing a comprehensive scoping process
- Supporting NEPA project kickoff meetings
- Advising preparers on current Army policy and guidance
- Monitoring preparation of draft and final NEPA documents
- Participating in in-process reviews (IPRs)
- Conducting public hearings, meetings, and workshops
- Finalizing NEPA documents
- Facilitating the review process

NST NEPA document certification. Prior to forwarding final documents to the Army Secretariat, Staff, or proponents, the Executive Agent of the NST will certify each document's compliance with all appropriate requirements. The certification signed by the Executive Agent will substantively reflect that "The attached document conforms to Council on Environmental Quality regulations and Army implementing regulations, policy, and guidance for BRAC realignment and disposal actions, that the document is technically adequate, and that the document meets the purposes for which it has been prepared."

2.3.3 Army Staff and Secretariat

The DASA-ESOH establishes Army BRAC environmental policy and coordinates and resolves environmental issues at the national level.

For each BRAC action, the proponent designates reviewers prior to preparation of the final document. (See Section 6.2.3.) Selection of Army Staff and Secretariat elements to conduct reviews of EAs and EISs varies on the basis of the complexity of the proposed action and issues applicable to an installation. The following elements of the Army Staff and Secretariat review BRAC NEPA documents for their specific interests:

- *Office of General Counsel (OGC).* Review for legal sufficiency.
- *Deputy of Chief of Staff for Logistics (DLO-POD).* Review for the impacts of the action on Army logistics and maintenance actions.
- *Assistant Secretary of the Army (Manpower and Reserve Affairs) (SAMP-CP) and Deputy of Chief of Staff for Personnel (DAPE-MBB-P, DAPE-HR-S).* Review for the impacts of the action on Army personnel actions.
- *Office of Congressional Legislative Liaison (OCLL).* Focal point between the Army and the congressional staff with responsibility for notification of and coordination with Congress on such actions as public notices.
- *Secretary of the Army Public Affairs Office (SAPA).* Representation of the Army in public affairs and coordination with public officials.
- *Office of the Surgeon General (DASG-RMZ).* Review for the action for health impacts.
- *Deputy Assistant Secretary of the Army for Installations and Housing (DASA-IH).* Overall responsibility for Army installations.

- *Deputy Assistant Secretary of the Army for Environment, Safety, and Occupational Health (DASA-ESOH)*. Responsibility for all environmental issues affecting Army installations.
- *Office of the Judge Advocate General, Environmental Law Division (DAJA-EL)*. Review for final legal sufficiency for the Army.
- *Deputy Chief of Staff for Operations and Plans, Stationing (DAMO-FDO)*. Validation of planned actions for the gaining installations and enclaves.
- *Resource Analysis/Integration (DAMO-ZR)*. Review of the priority of the BRAC action in relation to other Army initiatives.
- *Assistant Chief of Staff for Installation Management, Directorate of Environmental Programs (DAIM-ED)*. Review for environmental compliance.
- *Assistant Chief of Staff for Installation Management, Facilities and Housing Directorate, Plans Division (DAIM-FDP)*. Validation of implementation plans.
- *Headquarters, U.S. Army Corps of Engineers (HQ USACE)*. Technical environmental assistance and support for real estate disposal (CEMP-MB, CERE-C).
- *National Guard Bureau (NGB-ARO-TS)*. Review for BRAC actions affecting Army National Guard organizations.
- *Office, Chief of Army Reserve (DAAR-EN)*. Review for BRAC actions affecting U.S. Army Reserve organizations.
- *Office of Economic Adjustment (OEA)*. Review of the proposed reuse alternatives for disposal and reuse NEPA documents.
- *Assistant Secretary of the Army (Financial Management) (SAFM-BUC)*. Review of fiscal concerns that might pertain to proposed alternatives.
- *Army Environmental Center (SFIM-AEC-BC)*. Review of the environmental investigations, remediation, and proposed mitigation actions. SFIM-AEC-EC reviews impacts on cultural and historic properties on the installation. AEC also supports NST efforts for issues related to conservation, natural resources, protected species, air, water, and NEPA. SFIM-AEC-TSP provides support for NEPA considerations on ranges.

2.3.4 U.S. Army Corps of Engineers

In addition to performing design, construction, and cleanup at hazardous waste sites on BRAC properties, the USACE helps prepare NEPA analyses and documentation and helps conduct special environmental or cultural resource studies, either in-house or by contract. It is not anticipated that USACE Districts, with the exception of the NST, will be contracting for or preparing BRAC NEPA documentation.

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3.0 Planning and Initiating a BRAC NEPA Project

Lead Organizations (LOs), as the Army's designated proponents for BRAC actions, are responsible for determining the scope of the NEPA analysis; defining the proposed action; and identifying alternatives that should be considered, what resources the proposed action and alternatives might affect, and the appropriate level of the analysis and documentation (CX, EA, EIS).

The proponent, through use of the NAPA process, should have the planning for the NEPA analysis close to completion by the time the President forwards the BRAC list to Congress. It is not prudent, however, to formally initiate NEPA process work on the analysis and documentation until the BRAC Commission's recommendations become law because the Commission's recommendations could be rejected by the President or Congress. The DoD's policy in support of community revitalization after base closure is to complete the NEPA documentation no later than 12 months from the receipt of an officially adopted reuse plan. The Army's goal is to complete the entire NEPA process in 24 months after the Commission's recommendations become law.

3.1 Selecting the Appropriate Level of Analysis and Documentation

The level of analysis to be used for a realignment or disposal action primarily depends on the anticipated significance of the environmental effects associated with the action. The levels of analysis that may be employed range from CXs to environmental impact statements (EISs).

The BRAC NEPA process begins with the identification and description of the proposed action and alternatives (realignment or disposal) by the LO serving as the proponent. An objective evaluation is essential to ensure that the level of analysis for the proposed action (e.g., CX, EA, EIS) is appropriate, and that the necessary commitments of time and resources for accomplishing the analysis are identified and agreed upon in the beginning. BRAC activities have a series of unique milestones that are directly related to closure, realignment, or disposal of installation property. The evaluation must also consider these requirements and pertinent milestones.

3.2 Timelines and Schedules

Timelines established for BRAC activities are mandated by statute and by DoD guidance on accelerating NEPA analysis for timely disposal decisions. Section 2904 of Public Law 101-510, Defense Base Closure and Realignment Act of 1990, the law governing current BRAC actions, establishes the following milestones for execution:

- Initiate closures and realignments no later than 2 years after the President transmits the recommendations to the Congress.
- Complete closures no later than 6 years after the President transmits the recommendations to the Congress.

Defense budgetary requirements also dictate expedited execution. DoD guidance for community revitalization (see, generally, 32 CFR Parts 174, 175, and 176) is designed to transfer excess property to local communities to create jobs and income as quickly as possible. These conditions necessitate that development of an analysis of alternatives and presentation of the results for informed decisionmaking be accomplished expeditiously and on tight and usually firm schedules. It is essential that NEPA requirements be completed and incorporated into the Army's overall plan for meeting BRAC mandates. The Army has developed the following policy for timelines and schedules for completing the BRAC NEPA compliance documents for BRAC 2005.

3.2.1 Realignment Schedules

The need to initiate realignment within 2 years after the President approves the list carries with it, in most cases, the need to construct or renovate facilities to receive the realigning mission. To meet BRAC 2005 milestones, NEPA schedules will be developed to support the Army's construction plans. The NEPA document proponent, in conjunction with DAIM-BD, will develop specific timelines to meet project milestones. Additional specific guidance is forthcoming.

3.2.2 Disposal Schedules

In only a few cases does the BRAC Commission's language mandate disposal. Rather, the BRAC statute implies disposal by specifying procedures and establishing an account to receive sales revenue. The statute is silent on disposal schedules as well. Disposal of excess property in earlier BRAC rounds, BRAC I and BRAC 1991, was scheduled at the discretion of the services, considering the workloads and budgets at the time. Disposal actions for BRAC 1993 and BRAC 1995 were controlled by DoD guidance for community revitalization. DoD requires that the NEPA document be completed no later than 12 months after the LRA officially adopts a reuse plan (see *DoD Base Reuse Implementation Manual* and 32 CFR Parts 174 and 175).

In some cases, an LRA might not exist or the LRA might be delayed in preparing its plan; consequently, an adopted community reuse plan would not be available. To accommodate the 12-month requirement and take into consideration the absence of or delayed preparation of a reuse plan, the Army established internal milestones for completing disposal and reuse NEPA analysis and accelerating disposal. The Army's goal requires that DAIM-BD ensure that the disposal/reuse NEPA document is completed no later than 12 months from the time the LRA adopts an official reuse plan. The NEPA process usually parallels the reuse plan development and incorporates the LRA proposal in the draft stage. The Army's goal is to complete the NEPA analysis process as soon as possible after congressional approval of the BRAC Commission's recommendations, even if the reuse plan is still in development. Once the plan is officially adopted, the Army will evaluate the effectiveness of the NEPA analysis. If the analysis is found to be inadequate, additional NEPA documentation that evaluates actions not originally considered will be prepared. DAIM-BD will develop specific timelines to meet the milestones needed to achieve this goal.

3.2.3 Environmental Assessment Schedules

The conditions and timelines mentioned above relating to NEPA analysis and documentation specifically apply to EISs for realignment and disposal actions. The conditions should be applied in the preparation of EAs as well. The emphasis should be on preparing the EA as quickly and effectively as practicable with a goal of completion within 6 to 12 months. EAs for disposal actions may take slightly longer if the Army waits for general reuse concept input from the LRA.

3.3 Identifying the Purpose of and Need for a BRAC Action

The identification of the purpose of, and need for, an agency action is a basic requirement of the CEQ and Army NEPA regulations. It is the first opportunity in the NEPA process for informing readers why the Army is proposing to undertake an action and what objectives the action is intended to satisfy. Section 4 provides further information on the requirement as it pertains to BRAC actions, and it contains standard purpose and need statements for BRAC realignment and disposal actions that have been approved by the Department of the Army.

3.4 Defining the Proposed Action

The second step in the process is to clearly define the proposed action. The description of the proposed action is the foundation for the entire environmental analysis. It should be carefully and concisely written. A poorly defined proposed action leads to an inadequate impact identification and analysis. It is important that all activities associated with the BRAC action be sufficiently identified and described. All participants should be provided with the most accurate information possible early in the process. If the action is defined too narrowly, the result could be constant modifications to the analysis and the document. If the action is defined too broadly, the specifics of the action might be misunderstood, or the analysis might not indicate real impacts. Either case is a disservice to reviewers and the decisionmaker, and is an invitation to legal challenge. Army policy requires HQDA approval of the description of the proposed action for all BRAC NEPA documents through the NAPA approval process. Proposed actions for BRAC environmental analyses should be framed broadly enough to allow for possible changes, while maintaining openness and candor with other agencies and the public, and giving accurate and objective information about the nature of the action.

The description of the proposed action should answer the following questions:

- *Who* is proposing to undertake the BRAC action, and *which* agencies have authority over it and responsibility for it?
- *What* is the Army decision to be made, and *what* is involved in the proposed action?
- *When* would the proposed action occur, and *what* would its duration be?
- *Where* would the action occur?
- *How* would the action take place, and *how many* components would it contain?

The description of the proposed action should also include the following:

- Connected actions (whether the action is dependent on, or part of, another action or actions)
- Similar actions (whether incoming mission activities during realignment are the same as existing mission activities or other recent or pending actions)
- Frequency of activities associated with the proposed action

The description of the proposed action in the EA or EIS should be straightforward and concise, but sufficiently detailed to form the basis for the analysis that will follow. Base closures and realignments, and the processes and procedures for the analysis of their environmental effects, are outlined in public law, and the words of the law should be included in describing the proposed action. The documentation that resulted in the creation of BRAC public law and the BRAC Commission's findings should be reviewed to provide the reader with insight into and definition of those actions that are "directed," or required to implement the Commission's recommendations and thus, are exempt from certain NEPA analysis requirements.

3.5 Types of Proposed Actions

BRAC closure actions are mandated by statute and imply the subsequent disposal of the closed property. Related actions apply to the long-term reuse of the property by others and include both Army actions (e.g., easements and restrictions on certain reuses) and actions associated with reuse likely to be taken by other agencies or private interests. Directed BRAC realignments are the

result of a legislative process that Congress has imposed on DoD's normal management process. Proposals for realignment actions involve activities to implement realignments at gaining installations and, in some cases, certain activities at installations that lose missions or mission functions but remain open.

3.5.1 Directed Realignments

Realignment actions implementing recommendations of the Commission include (1) reduction or realignment of missions or mission elements at an installation through downsizing, (2) realignment of missions or mission elements from closing installations, (3) realignment of missions or mission elements from one operating installation to another, and (4) any combination of these. Receiving installations must conduct a NEPA analysis on the incoming BRAC-related activities. Depending on the incoming activity and its compatibility with the existing conditions on the installation, NEPA documentation can include the development of a REC, an EA, or an EIS, as appropriate. The proposed action for such activities should follow the guidance provided above and should provide sufficient details of proposed implementation activities to facilitate the analysis.

The description of the proposed action for a directed realignment should include the following information at a minimum:

- Incoming mission activities
- Number of personnel (military and civilian)
- Equipment associated with the mission (e.g., vehicles, weapons)
- Construction requirements
- Training requirements
- Land use requirements

The proposed action for realignments should be defined knowing that personnel figures and facility requirements will likely change as time progresses. The description should, therefore, address the proposed action in terms of ranges and approximations that represent the most likely figures, and it should include a statement to describe the level of certainty. For example, rather than specify "the realignment of D Company, 108th Engineer Battalion, with 168 soldiers and associated equipment," the proposed action should be described more broadly: "realignment of D Company, 108th Engineer Battalion, with approximately 170 soldiers and associated equipment. Note, however, that actual unit strength might be affected by other ongoing force modernization and restructuring initiatives."

3.5.2 Discretionary-Location Moves

Realignment actions other than those specifically identified by the Commission are considered discretionary-location moves. A NEPA analysis must be conducted for actions of this type (e.g., loss or gain of a unit or organization). The installation staff, in coordination with the realignment proponent, will determine what level of analysis and documentation will be prepared. Appropriate documentation must be completed before implementing these actions. Unless the proposed discretionary-location move may be categorically excluded under the provisions of Army Regulation 5-10 and 32 CFR Part 651, Appendix B, Sections II(b)(12) or II(b)(14), a full NEPA analysis (EA or EIS), including consideration of alternative realignments and implementation scenarios, must be completed before the move. In the event that a discretionary move unit is going to an installation that is a receiving installation for directed realignments, the

discretionary move should be considered part of the proposed action for the receiving installation's BRAC NEPA document.

3.5.3 Enclaves

Enclaves are portions of a closing installation (e.g., land, buildings) designated in the recommendations of the BRAC Commission for retention. Establishment of the enclave "footprint" and the movement into the enclave by those activities designated by the BRAC Commission are exempt from NEPA in the same manner as Commission recommendations for closures or realignments. Proposed construction, changes in activities within the enclave, or discretionary moves into the enclave are not exempt from NEPA analysis. The entity proposing the construction or new activity within an enclave is the proponent for that action.

3.5.4 Disposal and Reuse

Descriptions of the proposed action at installations directed to close under BRAC should address both (1) the primary Army action of disposal and (2) the activities associated with the disposal process and subsequent reuse of installation land and infrastructure by others. This is the point in the NEPA document where DAIM-BD lays out for reviewers, the decisionmaker, and the public as clearly as possible (considering the extent of factual reuse information available) what it proposes to do to implement disposal and to address the probable reuse of the property. The community's reuse planning efforts will be closely monitored by DAIM-BD and, to the extent that the reuse plan has been developed, will be the generic basis for the secondary reuse aspects of the proposed action (see Section 4.15).

Disposal. Disposal-related topics normally addressed in answering the five proposed action questions (who, what, when, where, and how) might include the following:

- Roles of DAIM-BD and others
- Nature of the disposal process
- How disposal will occur
- Disposal schedule
- Predisposal activities (e.g., cleanup, interim uses)
- Activities realigning
- Retained parcels (enclaves)
- Restrictions potentially affecting future use
- Disposal screening
- Disposal of legacy resources
- Finding of Suitability to Transfer (FOST) and Finding of Suitability to Lease (FOSL)

Reuse. The following are among the activities and processes associated with reuse that should be considered for inclusion in the description of the proposed action:

- Army reuse analysis process, including development of alternatives
- Community reuse planning process

- Community reuse plan (in generic terms, but with specific information to the extent known)
- Reuse screening
- Reuse schedule

3.6 Scoping Process

Scoping is an early and open process for (1) actively bringing the public into the decisionmaking process, (2) determining the scope of issues to be addressed, and (3) identifying the major issues related to a proposed action (40 CFR 1501.7). CEQ regulations and 32 CFR Part 651 require the use of this process for an EIS. A proponent normally employs a lesser scale of scoping in preparing an EA. Appendix E of this manual contains scoping guidance developed by CEQ.

3.6.1 Scoping in Environmental Impact Statements

Scoping is necessary in providing the focus of the EIS analysis in the early stages. NEPA requires the incorporation of public viewpoints and recommendations into the decisionmaking process. The public scoping process solicits public and agency participation in identifying issues to be addressed in the EIS.

Scoping sessions are held to help proponents and preparers involved in BRAC actions identify the following:

- Public concerns
- Community reuse plan
- Significant issues
- Range of actions (e.g., connected, cumulative, and/or similar)
- Range of alternatives (e.g., no action, reasonable alternative actions, and possible mitigation measures)
- Range of impacts (e.g., direct, indirect, and/or cumulative impacts)
- Permit and consultation requirements
- Appropriate levels (and sequence) of environmental reviews

In accordance with 32 CFR Part 651, the preparation of an EIS normally involves the proponent's conducting a scoping meeting to provide the public an opportunity to learn about and comment on the proposed action and the NEPA analysis. Scoping meetings are an important means of receiving feedback from the public. They can assist in refining the issues and alternatives being considered. To ensure its involvement, the public must be made aware of an action and must realize that the Army needs its input during planning. Notices may not be in fine print or contain highly technical language; they must communicate with the public in lay terms to ensure understanding and encourage participation. Persons representing the Army installation should not attempt to justify actions or directly answer speculative questions about the actions during the scoping meeting. The purpose of the meeting is to provide an opportunity for the public to present issues and concerns that might need to be addressed in the NEPA analysis.

In addition, effective scoping can help to identify or clarify

- Community concerns
- Regulatory or natural resource agency concerns
- Environmental justice issues
- Time frames for the analysis
- Geographic extent of the analysis
- Existing data
- Information related to impact significance
- Possible mitigation strategies
- Other opportunities for public involvement in the process

An example list of participants that should be involved in the scoping process follows:

- Appropriate Army personnel
- Federal, state, and local regulatory and natural resource agencies
- Local redevelopment authority
- Interested private and nongovernmental organizations
- Experts on local and regional history and environment
- Local and regional media publications (e.g., newspapers, magazines)
- Local and regional governments
- Local and regional environmental organizations

3.6.2 Scoping in Environmental Assessments

Scoping for an EA typically includes internal scoping and scoping with regulators. Army and CEQ regulations do not require a formal public scoping meeting for an EA. In an exceptional case, such a meeting might prove valuable, especially for a proposed action that could become controversial or have potentially significant impacts. In some cases, a scoping meeting may be held with regulatory and natural resources agencies for BRAC EAs.

3.6.3 Cooperating Agencies

The LO, as the proponent of an EA or EIS, represents the Army as the “lead agency.” Other agencies may ask, or be asked by the Army, to be “cooperating agencies.” Normally, only a federal agency that has jurisdiction by law would function as a cooperating agency. For example, the U.S. Fish and Wildlife Service might be invited to be a cooperating agency, if federally listed threatened or endangered species might be affected by a proposed action. The Federal Aviation Administration might be invited if there is an airfield on the installation. The proponent, with HQDA approval, should request the participation of each cooperating agency early in the NEPA process and should use the proposals and analyses of those agencies to the maximum extent possible, consistent with its responsibility as a lead agency. The lead agency should meet with cooperating agencies at their request.

At the request of the lead agency, the cooperating agency should participate in the scoping process. It should assume the responsibility for developing and preparing information related to its area of expertise and should make staff available to enhance the lead agency's interdisciplinary capability. The lead agency must maintain a working dialogue with the cooperating agency throughout the analysis and development of the document and strongly consider the comments of the cooperating agency. However, the lead agency is ultimately responsible for decisions related to the entire analysis and documentation.

3.6.4 Community Reuse Plan

The local community's reuse plan, to the extent that it is available and timely, will be identified and evaluated in the NEPA analysis as the basis for defining the proposed action in BRAC disposal actions and for evaluating reuse alternatives (unless the local plan conflicts with statutory or regulatory requirements). In the absence of an approved local reuse plan, the analysis will use the best available information, including draft reuse plans, to describe the probable reuse options. The analysis of impacts should be as thorough and specific as possible. Where specific information is not available, the analysis should reflect a range of effects on the affected environment so as to encompass details that might evolve later as reuse planning is completed. Depending on the nature of the reuse plan developed, it is conceivable that additional NEPA analysis (or related environmental documentation) might need to be prepared. The community reuse plan is discussed further in Section 5.

3.7 Determining Alternatives in Realignment Actions

Because consideration of alternative receiving installations is one of the requirements legislatively waived for BRAC, the development of realignment alternatives focuses on activities associated with proposed implementation at an installation that will gain missions or mission elements as a result of the BRAC decisions.

Implementation alternatives that might be appropriate for analysis at a receiving installation include

- *Housing.* Construction, leasing, or use of temporary/relocatable structures.
- *Training.* Rotation of scheduling, leased land, land acquisition, increased use of simulation technology equipment.
- *Maintenance and maintenance facilities.* On post, commercial, other military facilities.

Other realignment implementation-related considerations include

- Scheduling of arriving missions/units
- Obtaining permits for new, changed, or increased activities
- Use or disposition of vacated structures and facilities at losing installations remaining open
- Requirements for new or modified Standard Operating Procedures

3.8 Determining Alternatives in Disposal and Reuse Actions

Disposal actions involve consideration of four alternatives: accelerated disposal, traditional disposal, caretaker, and no action. For reuse actions, the Army considers two approaches in its development of alternatives. As a basis for analysis, one approach uses the range of alternatives

developed by the LRA and included in its approved reuse plan (when available). The other approach, which is followed by the Army in the absence of a final community reuse plan, is more generic. Following consideration of the alternatives related to disposal, five “generic” but representative levels of probable reuse intensity (low, low/medium, medium, medium/high, and high) are considered using the best information available. Both approaches identify and analyze the environmental effects of activities associated with a range of reasonable reuse alternatives to provide the decisionmaker with a meaningful analysis encompassing the most likely (or probable) reuse scenarios.

3.8.1 Accelerated Disposal Alternative

Under this alternative, the Army will take advantage of various property transfer and disposal methods that allow the reuse of the property to occur before environmental remedial action has been taken. One of these methods is to lease the property to a non-Army entity. For this, a finding of suitability to lease is prepared (see Section 5.10.4). Another method is to transfer the property to another federal agency and arrange for that other federal agency to be responsible for all environmental response.

Another possibility is to defer the requirement to complete environmental cleanup and allow an early transfer of the property. Such deferral requires concurrence of environmental authorities and the governor of the affected state. The property must be suitable for the new owner’s intended use, and that use must be consistent with protection of human health and the environment (see Section 5.10.5). Another method is to transfer the property to a new owner who agrees to perform all environmental remediation, waste management, and environmental compliance activities that are required for the property under Federal and state requirements. (BRAC law §2905(e)).

3.8.2 Traditional Disposal Alternative

Under the BRAC law, the Army is required to close all military installations recommended for closure by the BRAC Commission. The Army is also given broad authority to transfer the property to other government agencies or to dispose of it to non-government organizations. Under this alternative, the Army will transfer or dispose of property once environmental remediation and other environmental clearance is complete for individual parcels of the installation. The Army is required under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to identify speedily uncontaminated property. Uncontaminated property is defined as property on which no hazardous substances and no petroleum products or their derivatives were known to have been released or disposed of (see Section 5.11). Such property will be available for transfer or disposal fairly quickly. For property on which hazardous substances were stored for 1 year or more, known to have been released, or disposed of, other provisions apply. The Army must be able to certify that all required environmental action necessary to protect human health or the environment has been taken before the transfer or disposal. Transfer of property is allowed if a long-term environmental remedy is shown to be operating properly and successfully. Some environmental remedial actions may take a long time to be selected, approved, and implemented. Because of this, there may be a prolonged period under this alternative during which parcels are not available for transfer or disposal.

3.8.3 Caretaker Status Alternative

Under the caretaker status alternative, the Army will secure the property after the military mission has ended, to insure public safety and the security of remaining government property and

environmental remediation actions. Under the BRAC law, the Army must initiate closure of installations within 2 years after the President submits the BRAC report to Congress. Because of environmental remediation and other requirements, there will almost inevitably be a period of time between the end of the major military presence and the transfer of the property to new owners. It is during this period that the Army must maintain the property in caretaker status. This condition should not be a permanent one because Army policy is to dispose of the closed installation. Experience has shown, however, that the period of caretaker status could be lengthy for some parcels on any given installation.

3.8.4 No Action Alternative

The no action alternative would be to continue the missions at BRAC-affected installations as they were being performed in November, 2005. Because the law mandates closure and realignment of installations, the no action alternative is not possible. Nevertheless, it serves as a baseline alternative against which other alternatives can be measured.

3.8.5 Intensity-based Probable Reuse Scenarios

NEPA analysis of disposal and reuse must be prepared and approved at a relatively early point in the overall property disposal process to allow various disposal and reuse actions to proceed in a timely manner. If the local community fails to reach consensus on, or does not submit, an approved final reuse plan by the time DAIM-BD needs to initiate the NEPA analysis to support future disposition and reuse decisions for the property (decisions normally made at least by the time of installation closure), DAIM-BD must prepare the analysis using reasonable assumptions as to the likely reuse scenarios and their reasonable alternatives.

In response to this need, the Army has identified five scenarios (reuse alternatives) for relative reuse development intensity that could reasonably be expected to occur on property under consideration for disposal: low-, low/medium-, medium-, medium/high-, and high-intensity reuse. Present and future specific reuse plans might evolve and change; however, the reuse intensity scenarios can identify the range of potential activities and the environmental effects that could occur under all (or most) foreseeable alternatives. Information derived from this analysis is provided for consideration by future decisionmakers and the public as required by NEPA.

Reuse alternatives should consist of a range of generic reuses and associated activities based on the “most likely” or “probable” intensity level of land use, given the best available information relative to local ordinances and land use plans and trends. A detailed guide for developing and analyzing intensity-based probable reuse scenarios is presented in Section 4.15.

Identification of probable reuse scenarios (alternatives) may include such factors as

- Existing use of facilities
- Local zoning
- Encumbrances
- Highest and best use studies
- Real estate screening process results
- Proposals from public benefit transfer applicants and others
- Known specific, reasonable proposals or plans for the reuse of parcels

- Prior experience in reuse actions at similar installations or parcels

The community's final reuse development plan, when available, is evaluated and incorporated into the EA or EIS. DAIM-BD should closely monitor community reuse planning and use preliminary planning results as appropriate. The Army's analysis of potential environmental consequences can have an important and environmentally beneficial influence on the community reuse plan that is ultimately adopted. Relevant extracts of final (or draft) community reuse plans should be included as an appendix to the EA or EIS.

3.9 Identifying Issues for Analysis

Environmental issues in NEPA analysis have six components: activities, effects, receptors of the effects, criteria or standards against which the effects are measured, an area affected, and a time element. Analysis of each issue addresses the potential impact (relative to the criteria or standards) that an activity might have on a receptor within a defined area during a specific period of time.

Issues are used in environmental analysis for formulating alternatives, developing mitigation, and tracking effects. Issues for analysis should be identified and clearly defined. They can be identified by various methods including discussion, debate, and dispute resolution. The scoping process, described earlier, provides an effective forum for issue identification.

Issues can be characterized by their extent of geographic distribution, the duration that the issues are likely to be of interest, and the level of interest (e.g., potential amount of conflict). Issues should then be grouped into similar categories (e.g., common resource, common geography, linked to the same action, or linked to cause-effect relationships). The issues should be defined in detail. A statement of the issue should be written without bias and objectively show conflicts between the proposal and some known or likely consequences should be written. Units of measure used to describe issues need to be identified. Units of measure should be quantitative, measurable, predictable, and linked to cause-effect relationships.

Agreements on issues and alternatives can be reached through coordination of information on the basis of past experiences, consultation with environmental staff, and review of existing materials. Methodologies can be applied to the existing environmental conditions at the facility to simulate future conditions under each alternative. Significance is determined by comparing the foreseeable impact with established criteria or standards. Issue resolution is often achieved through mitigation measures where significant impacts are foreseen.

3.10 Evaluating Impact Potential

Environmental impact analysis and documentation in accordance with NEPA involves a determination of whether a proposed action is a "major federal action significantly affecting the quality of the human environment" (Public Law 91-190, Section 102(2)(c)). Making this determination requires an understanding of the various terms that make up the phrase. The CEQ regulations are the basis for the following explanations of these terms.

Major federal action. A major federal action is any action with effects that might be major and are potentially subject to federal control and responsibility. The term "major" reinforces, but does not have a meaning independent of, "significantly." Actions can include circumstances where responsible officials fail to act. That failure is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as an agency action (40 CFR 1508.18). More than one agency might make decisions about aspects of a major action.

Significantly. This term requires consideration of both context and intensity. The significance must be analyzed in several contexts, such as society as a whole (human, national), the affected region, the affected interests, and the locality. Intensity refers to the severity of impact. Several factors that should be considered in evaluating intensity are listed at 40 CFR 1508.27. The installation and its environs are the appropriate frame of reference for BRAC-related environmental and socioeconomic analysis, including the cumulative effects of other ongoing or reasonably foreseeable actions (regardless of whether those actions are BRAC or other federal or non-federal actions).

Affecting. The term “affecting” means that an action or activity “will” or “may” have an effect on a receptor (40 CFR 1508.3).

Human environment. This term includes all aspects of the natural and physical environment and the relationship of people to that environment (socioeconomics). Potential socioeconomic impacts by themselves do not necessitate preparation of an EIS (40 CFR 1508.14).

3.11 Significance

Impacts are determined through an analysis of the effects of the proposed action, alternatives, and mitigation and the “significance,” magnitude, and extent of the environmental consequences (effects) of implementing the action. Significance of impact is determined through a systematic evaluation of the effects of the action, alternatives, and mitigation measures on each individual environmental component (e.g., ecosystems, water resources, air quality) and the associated direct and indirect impacts, as well as cumulative effects. The following is a list of factors that should be considered when evaluating significance:

Irreversible and irretrievable commitments of resources. The proposed action might cause environmental damage that cannot be reversed or mitigated. Such damage is more likely to be considered significant than a similar impact that is temporary or even long-term, yet reversible. Indirect and cumulative impacts can also lead to irreversible and irretrievable commitments of resources.

Indirect impacts. Often, indirect impacts are not obvious during a quick analysis of an action and might be overlooked. Many indirect impacts affect social and cultural values of the local communities and region. These effects include alterations of lifestyle and quality of life that might be triggered by the proposed action. Public input is a good source of information about the indirect effects of a proposed action that could be significant or controversial (see Section 3.6, Scoping Process).

Cumulative impacts. Individual minor actions, if taken collectively, could have a significant impact. Incremental development or changes might also have significant impacts if considered cumulatively. Cumulative effects must be assessed. (See Section 5 for a discussion of cumulative effects.)

Relevant legal requirements. The legal requirements that should be considered in determining significance might appear in local, state, or federal statutes, regulations, or court decisions. Actions likely to result in violation of regulatory standards are usually considered to have significant impacts. (For a list of statutes and regulations associated with BRAC activities, see Appendix A.)

Other considerations. Specific unique characteristics of the action might influence the determination of significance. The level of significance might need to be determined by using the

advice and judgment of environmental professionals (such as installation environmental coordinators, environmental, natural, or cultural resource agency staff, contractor staff), as well as by using established guidelines that are generally accepted by experts in a given discipline.

Applicable court decisions. Findings in court cases involving NEPA can often provide guidance in understanding the types of effects likely to be considered significant. A single court case, however, might not be an up-to-date, definitive statement of the law; appropriate legal staff should be consulted.

3.12 Administrative Record

The administrative record for an EIS or an EA is the entirety of the information and data relied on to prepare the document. The record includes all data, information, and analyses generated or obtained from other sources and used to support documentation and analyses. It is essentially the agency's file related to the action, and it can become the backup data used in court proceedings to validate the evaluation process and agency decisionmaking.

The EIS or EA preparer should organize the data and information composing the record as an accessible file, indexed by topic, to the extent practicable. A complete administrative record should include information in the possession of the agency (and any contractor) and all information in other locations listed in the reference section of the EIS or EA. Communications of all types (e.g., memoranda, internal notes, telephone conversation records, letters, and minutes of meetings) are typical. Data sources that should be part of the administrative record include maps (e.g., wetlands, endangered species ranges, habitat, surface water, geology, topography, and land use); drawings (e.g., as-built roadways, and drainage, water, sewerage, and electrical systems); studies; reports; documents; opinions; appraisals; special data compilations; correspondence from subject area experts; legal opinions; and other types of written information that were relied on during the environmental analysis process.

Guidance on compilation of an administrative record, published in the *United States Attorneys' Bulletin* in February 2000, is included in Appendix H.

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4.0 NEPA Document Format and Content

4.1 Introduction

Based on CEQ guidance at 40 CFR 1502.10, the Army's NEPA regulations (32 CFR Part 651) prescribe the permissible variants that proponents may use for the format and content of their EAs and EISs. The CEQ guidance leaves room for agency interpretation, however, that has sometimes resulted in varied presentation formats that contributed some confusion and delays in preparing earlier BRAC NEPA documents. Participants in the process have reported that a well-structured, standardized format greatly facilitates the process, especially during review. The Army has established the format described in this section as the one to be used for all Army BRAC NEPA documents. The format is an interpretation, not a reinvention, of how the Army and CEQ regulations are to be implemented. It includes a slight enhancement of the regulations in that it uses separate sections for describing the proposed action and the alternatives rather than combining the two. This separation allows for a more focused and detailed description of the proposed action, thereby improving the document's usefulness to preparers and reviewers of the NEPA analysis. Earlier documents, especially those for actions prior to the BRAC 1995 round, often did not provide sufficient focus and detail.

The list of considerations presented in this section offers only guidelines; it is not intended to be all-inclusive. It is the preparer's responsibility to independently identify, analyze, and document all the issues and effects relative to a proposed action and alternatives. However, the preparer must organize and format the NEPA document as specified in this section.

This section focuses on EA and EIS format and content. In some instances, proponents may achieve compliance with NEPA through use of a Record of Environmental Consideration (REC). A REC is a signed statement submitted with project documentation that briefly documents that an Army action has received environmental review. RECs are prepared for CXs that require them, and for actions covered by existing or previous NEPA documentation. A REC briefly describes the proposed action and timeframe, identifies the proponent and approving official(s), and clearly shows how an action qualifies for a CX or is already covered in an existing EA or EIS. When used to support a CX, the REC must address the use of screening criteria to ensure that no extraordinary circumstances or situations exist. A REC has no prescribed format, as long as the preceding information is included. Further information on the use of a REC and sample format are provided at 32 CFR 651.19.

4.2 Document Characteristics

Preparers of BRAC NEPA documents will meet the following standards and objectives:

- *Recycled paper.* Army policy states that all EAs and EISs must be prepared on recycled paper. The recycled paper symbol should be presented on the inside of the document cover. Plastic covers will not be used.
- *Document length.* Army policy (32 CFR Part 651) provides that an EA is a document that should be from 1 to 25 pages in length. Text of a final EIS should not exceed 150 pages, although proposals of unusual scope or complexity might require up to 300 pages.
- *Document focus.* Each major section of the NEPA document should be well focused: Purpose, Need, and Scope; Proposed Action; Alternatives; and Environmental Conditions and Consequences. In some cases, preparers inadvertently mix discussions of these subject areas, unnecessarily increasing the length of the document and obscuring the line

of thought for the analysis. Each section should be “pure” in its presentation of the subject matter. For example, the section describing the proposed action should not include a discussion of alternatives, and the section on alternatives should not contain analyses of environmental effects. Information concerning the affected environment should be included in the document only if required to support the analyses of identified issues. All other data are extraneous to the document. The description of the affected environment should not become a “dumping ground” for data just because they are available. Tutorials on climate, geology, environmental setting, and inapplicable regulatory standards are typical of the extraneous material often included inappropriately.

- *Readability.* EAs and EISs should be written as clearly and concisely as possible. Because the intended audience is often not technically versed in all subject areas, the documents should be written in plain language (CEQ Regulations 1502.8; see Appendix C) and should include appropriate graphics that support the text and are easily interpreted by the public. Whenever possible, preparers should employ editors to review or edit the document so that it is written in “one voice” and understandable by a person of average intelligence and reading ability.

BRAC NEPA documents will adhere to the following format conventions:

- The lines of text of all draft and final versions of documents will be single-spaced.
- Section 1 of an EA or EIS (Purpose, Need, and Scope) will begin at the top of a right-hand page. Subsequent sections, through Section 5 (Conclusions), may flow continuously.
- All draft documents circulated for internal Army review will contain page numbers and line numbers in the left margin. Documents released outside the Army will not contain line numbers.

4.3 Reference Documentation

Numerous additional analyses are conducted, and a considerable amount of documentation is compiled before or parallel to the BRAC NEPA analyses (e.g., endangered species surveys, historic property inventories, air emissions inventories). These studies are often used as reference material for characterizing the baseline for the BRAC action and can identify areas of special interest or concern. Several of these topics are discussed in Section 5. Two examples of reference documents, found during the BRAC 1995 round to be especially relevant to the NEPA process, are described in Sections 4.3.1 and 4.3.2, below.

4.3.1 Installation Restoration Program (IRP) Documentation

The Army’s Installation Restoration Program (IRP) was implemented to identify and characterize contamination at installations. It was established to ensure that environmental contaminants, either migrating in the groundwater or present in the soils, are treated, contained, eliminated, or managed to protect human health and the environment and to comply with the standards that require such protection.

The Army’s cleanup goal for BRAC is to accomplish land disposal actions with no restrictions on the property’s future use. The Army will also consider, case-by-case, whether potential non-Army future land uses are compatible with existing land use. Where appropriate, these properties may be disposed of to other governmental agencies with restrictions placed on their future use. Such disposal may not take place where unacceptable human health risk is involved, and this decision would be made only after the environmental conditions and risks have been assessed.

The following are steps in the Army's IRP:

- *Preliminary Assessments/Site Inspections.* This stage involves the examination of existing facility documentation for evidence of any handling, treatment, storage, or disposal of hazardous materials or wastes. Interviews and visual inspections are conducted to supplement or verify documentation.
- *Remedial Investigation/Feasibility Study (RI/FS).* The RI/FS involves documenting the past practices of handling, treating, storing, or disposing of hazardous materials or wastes on the installation. Samples of soil, surface water, and groundwater are taken and analyzed to confirm or discount any contamination. If contamination is confirmed, alternatives for remediation of the contamination are analyzed in the FS.
- *Record of Decision (ROD).* The ROD is a formal document that identifies which specific alternative, among those analyzed in the FS, is the methodology chosen to remediate the site.
- *Remedial Design/Remedial Action.* The final stage of the IRP develops the necessary designs and implements the remediation identified in the selected alternative.

4.3.2 Reuse Development Plan

Completion of a comprehensive reuse development plan is the primary focus of the LRA. The LRA is unique to BRAC disposal actions. The reuse plan should include a range of feasible reuse options. The reuse options developed in the plan are incorporated into the alternatives considered in the NEPA analysis and documentation. This incorporation satisfies the requirement in the BRAC law that the reuse plan be considered part of the proposed Federal action for BRAC NEPA analysis. The plan should identify, at a minimum, the following:

- Parcels recommended for transfer to other federal agencies and their intended uses
- Parcels recommended for transfer or conveyance for homeless assistance, public benefit purposes, or other qualifying public-purpose programs and their intended uses
- Parcels recommended for conveyance by negotiated sale at estimated fair market value to the LRA or local developers (with or without recoupment) and their intended uses

If the LRA intends to request an economic development conveyance, the reuse plan should discuss how it will enhance the prospects for economic development and job creation. (For more information on economic development conveyances, see Section 5.)

4.4 Document Components

4.4.1 Document Cover

The document cover should contain the name of the project, the month and year of the document version, and the Army logo. It is helpful to use different colors for the covers of different versions of the EA or EIS. The cover should be of a heavier paper stock than the text pages.

4.4.2 Signature/Cover Sheet

For an EA, the signature page will be the first interior page. It will include the title of the proposed action, spaces for signatures, and an abstract of the document. EAs will be signed as prescribed in Section 6.3. The abstract, which will not exceed one paragraph, will provide a brief statement of the proposed action, the alternatives considered in detail in the document, and a

summary of expected environmental and socioeconomic consequences.

For an EIS, the signature page will be the first interior page, and it will contain the title of the proposed action and spaces for signatures. It will be executed as prescribed in Section 6.3.

For an EIS, a separate cover sheet will be prepared in accordance with Appendix E to 32 CFR Part 651. Not exceeding one page, the cover sheet will include (1) the title of the proposed action, with a designation of the document as draft, final, or supplemental; (2) identification of the lead agency and any cooperating agencies; (3) identification of the affected jurisdiction(s); (4) the name, address, and telephone number of the person at the lead agency who can supply further information concerning the proposed action; (5) the date by which comments must be received; and (6) an abstract. The abstract will consist of a single paragraph that describes only the proposed action, alternatives evaluated in detail in the document, and the principal consequences of the proposed action and alternatives.

4.4.3 Executive Summary

The executive summary should stress the major conclusions of the environmental analysis and identify unresolved or controversial issues. The executive summary must outline any mitigation (to which the Army is legally and financially committed) and should list all federal permits necessary to initiate the action. It should also include a table of environmental laws applicable to the proposal and the status of compliance with those laws. New information should not be mentioned in the executive summary; only data and key findings covered in the EA or EIS should be summarized. The executive summary should be succinct (no more than 10 pages for an EA and 15 pages for an EIS). Executive summaries typically consist of the following sections:

- *Introduction.*
- *Background/Setting.*
- *Proposed Action.* A description of the proposed action with information about the action or the property that is important to the environmental analysis being performed.
- *Disposal Process (if applicable).* A brief description of the disposal process, and results of the real estate screening process.
- *Alternatives (e.g., Realignment, Disposal/Reuse Alternatives Overview).* A description and comparison of the relevant impacts of the alternatives analyzed in the EA or EIS. The preferred alternative, if any, should be identified.
- *Environmental Consequences.* A summary of the key findings of the environmental analysis presented in the EA or EIS, including any controversial issues. The main impacts of each alternative should be stated (e.g., impacts on socioeconomics, transportation, infrastructure).
- *Mitigation Responsibility and Permit Requirements.* A brief description of mitigation, including responsible parties, recommended in the EA or EIS. Permit requirements for the preferred alternative should also be described.

4.4.4 Table of Contents

The table of contents for both an EA and an EIS should consist of the title of each document section (cover sheet through acronym list), along with its corresponding page number. Pages of the executive summary should be numbered as “ES-1” through “ES-X.” Pages of the table of contents (sections, list of tables, list of figures, and list of appendices) should be numbered in lowercase Roman numerals. The contents section should also include:

- *List of Tables.* The list of tables should include the titles of all tables shown in the document and their corresponding page numbers.
- *List of Figures.* Similar to the list of tables, the list of figures should consist of the captions of all figures included in the document and their corresponding page numbers.
- *List of Appendices.* The list of appendices should include the titles of all appendices in the document, as well as the appendix section in which they are located (A, B, C, etc.).

Sample tables of contents for a proposed realignment and a proposed disposal and reuse are included in Appendix I.

4.5 Order and Content of Sections in Document Body

The sections that follow serve as an annotated outline for an EA or EIS and also describe, in general and by example (where appropriate), the content of each document section for either a realignment action or a disposal/reuse action. Preparers should consult the appropriate sections of this manual for detailed guidance on completing the various sections and subsections of the EA or EIS.

The body of a NEPA document, discussed in the following subsections, consists of

- Section 1: Purpose, Need, and Scope
- Section 2: Description of the Proposed Action
- Section 3: Alternatives
- Section 4: Environmental Conditions and Consequences
- Section 5: Conclusions (for EAs only)

The contents of the first three sections are generally known as the “DOPAA” (description of the proposed action and alternatives). A representative, sample DOPAA is provided in Appendix J.

4.5.1 Document Body, Section 1.0: Purpose, Need, and Scope

This section should state the purpose of the proposed action and explain why it is needed. It should go beyond stating that the need is to implement the Defense Base Closure and Realignment Act or to comply with NEPA. This section should also state clearly that by law, the Army does not need to reconsider the decision of the BRAC Commission to close or realign an installation or to transfer a function to another installation.

Purpose and Need. The purpose statement should indicate that the action is being proposed to implement recommendations of the BRAC Commission. The need defines what requirement is being fulfilled by the proposed action (e.g., *for realignments*, to facilitate continuation of essential mission functions; *for disposal*, to transfer closing installations to new owners). The following example is approved language to be included as part of the “Purpose and Need” section of all

Army BRAC NEPA disposal/reuse documents. The addition of relevant, site-specific detail is appropriate.

Example:

“Recommendations of the Defense Base Closure and Realignment Commission made in conformance with the provisions of the Base Closure and Realignment Act of 1990, Public Law, 101-510, as amended, require the closing of Fort _____ and realignment of essential missions to other installations. The deactivated installation property is excess to Army military need and will be disposed of according to applicable laws, regulations, and national policy. Pursuant to the National Environmental Policy Act of 1969 (NEPA) and its implementing regulations, the Army has prepared this environmental assessment [or environmental impact statement] to address the environmental and socioeconomic impacts of disposing of the property and reasonable, foreseeable reuse alternatives.”

Scope. This section should state the geographic area (e.g., county or state) that will be affected by the proposed action and the scope of the environmental analysis (e.g., realignment or disposal and reuse). This is also the section that describes the BRAC-modified NEPA process.

Example:

“The Defense Base Closure and Realignment Act of 1990 specifies that the National Environmental Policy Act (NEPA) does not apply to actions of the President, the Commission, or the Department of Defense, except “(i) during the process of property disposal, and (ii) during the process of relocating functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated (Sec. 2905(c)(2)(A), Public Law 101-510, as amended).

“The Defense Base Closure and Realignment Act of 1990 further specifies that in applying the provisions of NEPA to the process, the Secretary of Defense and the secretaries of the military departments concerned do not have to consider “(i) the need for closing or realigning the military installation which has been recommended for closure or realignment by the Commission, (ii) the need for transferring functions to any military installation which has been selected as the receiving installation, or (iii) military installations alternative to those recommended or selected (Sec. 2905(c)(2)(B), Public Law 101-510, as amended).

“The Commission’s deliberation and decision, as well as the need for closing or realigning a military installation, are exempt from NEPA. Accordingly, this EA [or EIS] does not address the need for closure or realignment. NEPA does, however, apply to disposal of excess property as a direct Army action, and to reuse of such property as a secondary effect of disposal; therefore, those actions are addressed in this document.”

Public Involvement. A major component of NEPA is involvement of the public in the federal decisionmaking process. NEPA is the vehicle by which the public is informed, involved, and given opportunity to participate. This section of the document is designed (1) to inform the public of opportunities to participate and (2) to document Army actions taken to involve the public. This section should be framed to be proactive in informing the public and definitive in describing opportunities to participate. For information to be included in this portion of the NEPA document, see the discussion on environmental justice in Section 5.

Discussion of public involvement must be tailored to the circumstances of each NEPA project. Information that may be included extends, as appropriate, to the public involvement process in general; notice of intent; scoping process; workshops (if held); issuance of the draft document for public review (for an EIS); public hearing (for an EIS); issuance of a final document (EA or EIS); length of applicable review periods for submission of public and agency comments; and, for installations listed on the National Priorities List, a brief comparison of the public involvement opportunities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and under NEPA.

Impact analysis performed. The main point of this subsection is to document the fact that an interdisciplinary team has taken a “hard look” at the proposed action and alternatives. This section also documents tiering and any programmatic or supplemental NEPA documents relied on in conducting the analysis. Subject to tailoring for specific circumstances, the following wording may be used.

Example:

“This Environmental Impact Statement (EIS) identifies, documents, and evaluates the effects of disposal and reuse of the Fort _____ property under a variety of scenarios. The processes associated with disposal and reuse are shown in Figure (____). The existing conditions at Fort _____ as of [year] are described in Section 4.0, Environment Conditions and Consequences, which, with information presented in the no action alternative, constitutes the baseline for the analysis of the effects of disposal and reuse. Conditions in [year] reflect the operating status of the facility prior to the BRAC Commission’s decision.

“An interdisciplinary team of ecologists, planners, economists, engineers, archeologists, historians, scientists, and military technicians analyzed the proposed action against existing conditions and identified the relevant beneficial and adverse effects associated with the action. The effects are described in Section 4.0, immediately following presentation of each resource area and condition relevant to the proposed action.

“The effects of the proposed action on socioeconomics were assessed using the Economic Impact Forecast System (EIFS) developed by the U.S. Army Construction Engineering Research Laboratory (CERL). This model allows all base closure and realignment actions to be evaluated in the same way.”

4.5.2 Document Body, Section 2.0: Description of the Proposed Action

Introduction. The proposed action is to implement the Commission’s recommendation as mandated by the BRAC legislation, Public Law 101-510. The introduction to this section should quote the Commission’s recommendations, giving mandated timelines to initiate and accomplish the proposed action. The Commission’s recommendation should not be paraphrased or interpreted; it should be quoted. For disposal NEPA documents, the Community Reuse Plan, to the extent that it has been developed, should be briefly described here and included as an appendix.

Proposal Implementation. This section must be framed carefully to describe how the Army plans to implement the proposed action. Information in this section drives the identification of relevant issues and conditions to be evaluated, thus generating the impacts that must be identified and evaluated. The information presented here must be accurate, concise, comprehensive, and sufficiently detailed to permit a complete NEPA analysis. Omission of planned associated

actions will lead to omission of the evaluation of relevant impacts, producing a legally insufficient document. Note carefully: alternatives should be described in Section 3.0 of the NEPA document, not in this section.

- *Realignment Actions.* This section should include details on such matters as location; mission; personnel/mission realignment; facilities/areas to be declared excess; and other relevant information, such as number of personnel and vehicles to be relocated between installations, number or extent of buildings to be remodeled or demolished, and planned construction.
- *Disposal and Reuse Actions.* This section should include details on such matters as areas (and acreage) of real property available for reuse; areas to be retained by the Army (enclaves); designation of property condition or description of restrictions placed on property (e.g., light industrial, heavy industrial use); cultural or historic resources/buildings located on the facility; BRAC-mandated date of disposal; and if applicable, any results of the real estate screening process.

Pre-Disposal Actions (if applicable). In this section, describe the primary action as disposal of real property. Then, discuss actions that would occur prior to the disposal process.

- *Caretaker of Property Until Disposal.* Identify the level of maintenance and other relevant management actions to be provided for facilities in the event this alternative is selected for implementation.
- *Cleanup of Contaminated Sites.* Discuss the property to be declared excess.
- *Interim Uses (if applicable).* Identify any planned interim uses (federal or private sector leasing or licensing of real property) and any limitations on them.

Real Estate Disposal Process (if applicable). This subsection should note the possibility that the Army might dispose of property as a package or in parcels. The section should then summarize the disposal process, including specific information on anticipated real estate disposal methods and procedures. Section 5 provides information on real estate requirements, reports, and findings associated with disposal of real property. Preparers may consult with supporting USACE district real estate offices for specific information.

4.5.3 Document Body, Section 3.0: Alternatives

This section describes reasonable alternatives to the proposed action, including the alternative of no action. If there is a preferred alternative, it should be presented and described as early in the documentation process as possible. Usually this section indicates that the preferred action is the proposed action, as described in Section 2.0. Any planned mitigation measures should also be described.

Introduction. An introductory paragraph may summarize the proposed action and indicate the “roadmap” for the materials presented in the section.

Realignment Alternatives (for proposed realignment-related activities). The description of alternatives for realignment activities includes a discussion of the necessity for new construction on the property, alternative sites for new construction or the location of an incoming mission, and alternative sites with existing facilities available for use.

Disposal Alternatives (for proposed disposal/reuse). When closure is mandated by the BRAC Commission’s recommendations, property becomes excess and, therefore, available for disposal.

There is no alternative to disposal without further legislative direction.

In cases of disposal and reuse, disposal of all property may occur as a complete “package” or in parcels (depending, typically, on the status of cleanup actions, as required).

Reuse Alternatives (for proposed disposal/reuse). Reuse alternatives are developed to reflect the most likely scenarios of reuse in terms of intensity. This section must describe the appropriate and applicable land use intensity categories and how they relate to the property at hand. The section also describes the local reuse plan, subject to the extent of its development. Where known, proposals for changes in land use; changes in infrastructure; and construction, demolition, or renovation of facilities should be identified.

No Action Alternative. The no action alternative reflects continuation of the operational status of the installation as it was at the time of the Commission’s decision. For disposal and reuse, the Army includes “caretaker” in the no action alternative (see Section 3.8.3).

Alternatives Not to Be Addressed in Detail. If an alternative is identified but dismissed from detailed analysis as unreasonable (e.g., operationally infeasible, too expensive), the document must explain why, rather than assuming that the reason is obvious.

4.5.4 Document Body, Section 4.0: Environmental Conditions and Consequences

The environmental conditions and consequences section of an EA and EIS contains a description of the current environmental conditions of the area that would be affected should the proposed action (or an alternative) be implemented. It also includes analysis of potential effects arising from implementation of the proposed action or alternatives. Descriptions of environmental conditions represent the “as is” or “before the action” conditions at the installation. The environmental consequences portion of the presentation forms the scientific and analytic basis for the comparison of alternatives. Proponents should present the analysis performed and compare and contrast the environmental effects of each alternative. Direct, indirect, and cumulative effects of the proposed action should be addressed, as well as the anticipated effects of mitigation. (See also the discussion of cumulative impacts in Section 5 of this manual.)

Only those environmental resource areas and conditions that would be affected by the proposed action or alternatives should be included in the description. The introduction to the environmental conditions and consequences section should also briefly explain why certain resource areas not to be included were excluded (likely, that they would not be affected by the proposed action or alternatives).

The content of the Environment Conditions and Consequences section is generally the same for EAs and EISs. Discussions and analyses in an EIS, however, might be more detailed to fully describe the nature of significant impacts. Assistance and guidance for various media and resource areas (Appendix K), representing the combined wisdom and experience of technical experts in the Army and the NEPA Support Team, is available to those preparing BRAC NEPA analyses for the Army.

Specific guidance is provided for analysis of the effects of realignment actions in Section 4.14 and for analysis of the effects of disposal and reuse actions in Section 4.15, below.

Introduction. The purpose of the introduction is to orient the reader to the organization of the material and to identify the procedures or methods used in the analysis. The introduction should

explain that the “baseline” is defined as the level of operations and environmental conditions at the time of the BRAC Commission’s decision. The baseline facilitates subsequent identification of changes in conditions that would result from realignment, disposal and reuse, or enclave creation. It permits identification of the likely consequences of implementation, including any adverse effects for which mitigation would be appropriate. Also, where environmental resources or conditions are not included in the presentation, an explanation for their omission should be included in the introductory section.

The standard format to be used for BRAC NEPA documents consists of presentation of existing environmental conditions, followed immediately thereafter by evaluation of potential effects of no action, realignment, disposal and reuse (including analysis of appropriate reuse scenario intensities), and enclave creation. This format is especially reader-friendly because for each resource area and condition, it lets the reader connect baseline conditions to impacts without having to jump back and forth between two different sections (as occurs in many NEPA documents).

The resource areas and conditions typically encountered in BRAC NEPA analyses are identified below. For each, there are suggestions of what information should be included in describing the baseline to ensure appropriate analysis. Not all BRAC NEPA documents will include all the following topics. Proponents must ensure evaluation of only those resource areas and conditions that have a bearing under the proposed action so that the Army can achieve its objective of having focused analyses.

Land Use. The installation setting and land use conditions should be described in terms of the following elements:

- Geographic setting and location
- Climate (describe only briefly unless details are needed later as a specific factor in analyzing environmental consequences)
- Land and airspace use within the site and in its surrounding region (see also the discussion of cumulative effects in Section 5.9)

The installation should be described in terms of the type, architecture and arrangement of buildings, landscapes, recreation sites, training areas, and other relevant topics.

Air Quality. Ambient air quality in the project area should be described, as well as all existing air emission sources, air pollution monitoring and controls, and other features or factors that would be integral to the action. The National Ambient Air Quality Standards (NAAQS) attainment status of the affected area(s) should be included in this section. The basis of the air conformity determination to support the analyses that will be presented in the discussion of environmental consequences should also be provided. (See also discussion in Section 5.4 and Appendix L.) Suggested records to review containing necessary information include

- State and local air pollution control regulations
- Agency air pollution control regulations
- Emissions inventories
- Air pollution source permits
- Plans and procedures applicable to air pollution control

- Emission monitoring results
- Notification of violations to regulatory authorities
- Instrument calibration and maintenance records
- Reports or complaints concerning air quality
- State and/or federal regulatory inspections

Noise. This section should describe the following, as relevant:

- Land use compatibility (noise contours, Environmental Noise Management Plan)
- Existing noise sources remaining
- Stationary sources (e.g., airfield operations, ordnance demolition, firing ranges, maintenance facilities, and construction)
- Mobile sources (e.g., vehicular traffic, large- and small-caliber weapons firing, and aircraft)

Water Resources. This section should describe surface water and groundwater hydrology and quality. For the latter, all point and nonpoint sources of pollution should be discussed. Presentation of data in tabular form, when appropriate, is very useful.

Geology. Information in this section should describe, as appropriate

- Geologic structure
- Soils
- Topography
- Mining activity

Infrastructure. The following elements should be included in the discussion of infrastructure:

- Potable water supply (treatment design capacity, quantities available)
- Wastewater treatment (plant design capacity, excess capacities available)
- Solid waste disposal (landfill capacities)
- Roadways and traffic (internal and external to the installation)
- Landfills (capacity, types of wastes received, years of operation at the time of BRAC action)
- Railways
- Incinerators
- Runways
- Energy (electric power, natural gas, fuel oil, coal, or steam)

Training Areas. This section should discuss the relative amounts of land and water resources used for training purposes, locations of training areas, types of training activities, and training area restrictions.

Hazardous and Toxic Materials. Using information obtained through CERCLA and Community Environmental Response Facilitation Act (CERFA) processes, describe any contaminated buildings or sites and the BRAC Cleanup Plan (BCP) process in terms of

- Storage and handling (areas)
- Disposal
- Contaminated sites
- Asbestos, radon, lead-based paint, and polychlorinated biphenyls (PCBs)
- Ranges and munitions and explosives of concern (MEC)
- Underground and aboveground storage tanks
- Spills

Permits and Regulatory Authorizations. This section should include the authorizations against which the proposed action must be evaluated or authorizations that must be obtained to execute the proposed action. This should not be a list of all permits obtained or needed by the installation.

Biological Resources and Ecosystems. This section should include a description of the plant and animal species, including those federally or state-listed threatened and endangered, located on and in the vicinity of the installation site. Habitat use (e.g., nesting or overwintering) by animal species should also be discussed. Both aquatic and terrestrial ecosystem types (e.g., river, forest, wetland, field) should be described, as well as the total size (in acres for terrestrial systems) of each type. Any ongoing wildlife management projects at the time of closure or realignment should be discussed.

When listing plant and animal species, both the common name and the scientific name should be given. The first time a plant or animal species is mentioned in the text of the EA or EIS, the common name should be used, followed by the genus and species in parenthesis. Each time the same species is mentioned thereafter, the common name should be used. For example, the first mention of a species (e.g., aspen) should read “aspen (*Populus tremuloides*)” and any later mention of the species should read “aspen (*P. tremuloides*).” If another species from the same genus is mentioned later, the genus name may be abbreviated—for example, “aspen (*Populus tremuloides*)” and “cottonwood (*P. deltoids*).”

Cultural resources. This section should include a brief discussion of the area’s prehistory (when relevant to the proposed action) and a summary of the status of the cultural resources inventory for the BRAC project area. A more detailed summary concerning the minimal cultural resources information that must be included can be found in Section 5.6 and Appendix M of this manual. Information on historic and archeological resources, the status of Section 106 coordination (under the National Historic Preservation Act), and any programmatic agreements should be provided.

Sociological Environment. To address the sociological concerns of an installation, the following elements should be discussed:

- Demographics
- Housing, to include programs for the homeless and other aid programs
- Public services (law, fire protection, medical)
- Environmental justice pursuant to Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994). (For information to be included in this portion of the NEPA document, see discussion on environmental justice in Section 5.8.)
- Protection of children pursuant to Executive Order 13045, *Protection of Children from Environmental Health Risks and Safety Risks*, 21 April 1997

The region of influence should be defined, and the rationale for determining the region should be briefly discussed. See also applicable portions of Section 5 of this manual.

Economic Development. This section should include information on the following:

- Regional economic activity
- Installation contribution, local expenditures
- Military force structure, salaries and expenditures, property values

To fully characterize the analysis, be sure any elements required as input for the Economic Impact Forecast System (EIFS) analysis are considered. At the proponent's option, EIFS model outputs may be compiled in a separate report and filed in the administrative record prepared for the NEPA document. A summary of the results may then be presented in the analysis portion of the economic development section. See also Appendix N.

Quality of Life. This topic pertains to the amenities available to military personnel, their dependents, and civilian employees of an installation. It is applicable to realignment and some enclave-creation actions but is not often applicable to disposal and reuse. When applicable to an action, the section should include a description of the following:

- Barracks and single officer quarters
- Family housing
- Schools for DoD dependents
- Family support services
- Medical facilities
- Shops and services
- Recreation

4.5.5 Document Body, Section 5.0: Conclusions

This section is included only in an EA. It should provide clear, supportable statements summarizing the negligible, minor, or insignificant nature of expected effects, and it should identify the environmentally preferred alternative. Relevant conclusions to be presented in this

section include (1) a statement that none of the predicted effects of the proposed action would result in significant impacts (assuming such to be the outcome of the analyses) and (2) a statement of whether the results of the analyses warrant issuance of a FNSI or preparation of an NOI for an EIS. Any mitigation actions necessary to enable a FNSI must be clearly identified.

4.6 List of Preparers

The format for listing the preparers is provided in 32 CFR Part 651, Appendix E, at paragraph (b)(8). Preparers include those persons who were primarily responsible for preparing the document through conducting research, collecting data, and writing. Preparers include those who prepared significant background or support papers or basic components of the document. When applicable, this section will include the disclosure statement of a contractor specifying that it does not have a financial or other interest in the outcome of the project.

4.7 Distribution List

This section should include a list of all people who are to receive copies of the document (EA or EIS). Copies of the final EA or EIS should be supplied to all parties who have provided information or comments or have specifically requested a copy. The names of these parties should be included on the distribution list. As a general practice, the recipients should be listed on a hierarchy: Members of Congress (U.S. Senators, U.S. Congressmen), state governors, state representatives (senators, etc.), federal agencies, state agencies, regional agencies, municipal governments, organizations, individuals, and libraries.

4.8 Index

An index is usually not provided in an EA. An index may be provided in an EIS to show the section and page number of topics and frequently used terms. Experience has shown that an index is usually not required because any of the limited number of topics may just as easily be located by use of the table of contents.

4.9 References

The references section should provide bibliographical information for sources cited in the text of the EA or EIS. References may include (and provide citations to) sources on the World Wide Web.

4.10 Persons Consulted

Persons and agencies that were contacted for information for the document should be listed in this section regardless of whether a response was received.

4.11 Appendices

Appendices typically attached to an EA and EIS include the following:

- Notice of Intent
- Final coordination or consultation letters to and from other agencies (e.g., the U.S. Fish and Wildlife Service)
- Final programmatic memorandum of agreement on compliance documentation regarding historic and cultural resources
- Economic Impact Forecast System (EIFS) model description and modeling results

- Technical data
- Pertinent excerpts from the most recent version of the community reuse plan (applies only to disposal/reuse EA or EIS)

4.12 Acronym List

A list of the acronyms used throughout the EA or EIS should be provided. For the reader's convenience, it may be included at the back of the document.

4.13 Document Review Checklist

Appendix O of this manual is a checklist that can be used for quality assurance/quality control (QA/QC) before submission of draft and final document(s) for circulation for internal review or release for public review. The appendix provides the document preparer with a basic list of the information required for BRAC NEPA documents.

4.14 Specific Guidance for Evaluation of Realignment Actions

BRAC realignments involve the transfer or relocation of a mission or portions of a mission from one installation to another. Realignment-related activities are analyzed in a step-by-step process through which alternative implementation measures are identified and evaluated. The following steps are used in the evaluation process.

Step 1: Define the proposed action to be evaluated. The proposed Army action is implementation of the realignment of mission(s) or portions of mission(s) to another installation. The document should focus on providing information to the Army decisionmaker regarding the impacts of various implementation alternatives. Realignment activities include the transfer of the mission, equipment, testing and training activities (if applicable), and personnel and their families, as well as related facility construction or modification.

Step 2: Identify implementation alternatives. The preparer should identify all reasonable realignment implementation alternatives that satisfy the purpose of and need for the proposed action and a no action alternative.

Step 3: Analyze impacts of the proposed action and alternatives. After the proposed action is defined and the alternatives are identified, the preparer evaluates their environmental and socioeconomic effects on the baseline conditions at the site. Analyses of proposed and alternative sites for construction (if necessary) are also conducted. Proposed mitigation measures and consideration of their likely effects, both beneficial and adverse, are included.

Step 4: Evaluate cumulative effects. The cumulative effects associated with each alternative, including the no action alternative, should be identified and described. See the discussion on cumulative effects analysis in Section 5.9.

4.15 Specific Guidance for Disposal and Reuse Actions

The Army has established a unique process for performing NEPA analysis and documentation of potential impacts associated with Army property disposal and reuse. The process is designed to comply with NEPA and related laws, protect and enhance the affected environment, and respond to local communities' needs and wishes in keeping with Army objectives for assisting in rapid economic revitalization.

The Army's approach is to identify the primary and secondary actions associated with BRAC; to describe the known or probable reuse alternatives in generic terms based on their reuse "intensity level," but with as much specificity as practicable; and to evaluate the direct, indirect, and cumulative effects of both disposal and reuse.

The primary action evaluated is *disposal of the excess property* made available by the legislatively mandated closure. This is an action for which the Army has responsibility, and both the authority and ability, to control. The secondary action is *reuse development of the property* after ownership is transferred, an action taken by others as a result of the Army's decision to dispose of the property.

An important reason for developing an intensity basis for evaluating reuse alternatives stems from experience with earlier BRAC actions. Reuse options frequently evolve as the community considers new goals and opportunities. If development of the NEPA document were to wait for the final design of the reuse plan, completion of the document could be excessively delayed. By describing, with specific detail where available, all reasonable and foreseeable reuse alternatives in terms of developmental intensity, the document allows for the eventual reuse alternative selected by the LRA to be considered. Therefore, Army decisionmakers always have before them the full range of alternatives needed to make timely decisions on disposal.

Step 1: Define proposed actions to be evaluated. The primary Army action is real estate disposal. The NEPA document should focus analysis on providing information to the Army decisionmaker regarding the impacts of various disposal alternatives. The document should also describe related and ongoing processes leading to disposal. These typically include

- NEPA documentation and the integrating "umbrella" process
- Environmental restoration and compliance
- Cultural resource surveys and programmatic agreement(s)
- Real estate screening process
- Other installation-specific surveys and investigations required to support the disposal decision (e.g., surveys for threatened and endangered species)
- Caretaker operations (as an alternative that may be implemented between closure and disposal)

The Army's determination of surplus, which underlies real property disposal, specifies acreages and facilities subject to the disposal process. At an installation, information in the determination of surplus translates into the disposal "footprint." This footprint, which constitutes the project site that is the subject of the NEPA document, must be described accurately and fully. Use of graphics to portray the disposal footprint materially aids understanding of the proposed action.

Clear identification of the acreage or facilities, their location, and related information (e.g., expected time frames for disposal) are to be articulated in Section 2 of the EA or EIS. Also, Section 2 will identify encumbrances that might exist at the time of disposal.

A secondary action by other (non-Army) entities is property reuse. See Steps 5 and 6.

Step 2: Identify encumbrances and other considerations affecting reuse. The Army's methodology to ensure environmentally sustainable redevelopment of BRAC disposal property identifies natural and man-made resources and conditions that must be used wisely or protected

after ownership is transferred out of federal control. The Army develops this information from the environmental baseline information early in the NEPA process and provides it to the LRA with the recommendation that the reuse plan consider protecting these resources. The LRA can then develop a reuse plan that satisfies community redevelopment goals and objectives while achieving a high environmental standard.

Encumbrances are legal constraints imposed to protect environmental values, to meet requirements of federal law, to implement results from Army negotiations with regulatory agencies, or to address specific Army needs. Encumbrances can also arise as a result of past Army management of real property. For example, the presence of special hazardous materials such as asbestos-containing material, lead-based paint, radon, PCBs, and radiological material might require specific handling or management strategies. In most cases, these conditions will not materially and adversely affect redevelopment. Some other types of conditions may be identified to an LRA as potentially limiting redevelopment but not classified as legal encumbrances because they are not within the ability of the Army to control or modify.

Five major categories of encumbrances are typically involved in BRAC actions:

- *Easements and rights-of-way.* Real estate might be burdened with utility system, other infrastructure-related, roadway, or access easements and rights-of-way.
- *Use restrictions.* Activities on property might be limited by existing conditions or in recognition of adjacent land uses. For example, use of a former landfill site would preclude ground disturbance of a clay cap but could permit passive uses such as recreation. The presence of munitions and explosives of concern would preclude many uses of a parcel because of the potential safety hazards. In other cases, restrictive covenants could impose or maintain buffer zones between incompatible uses. Use restrictions might also require that transferees of property take certain actions (e.g., remediate asbestos-containing materials or lead-based paint prior to use of buildings for residential purposes) or refrain from certain actions (e.g., prohibit use of on-site groundwater pending completion of cleanup activities).
- *Habitat and wetlands protection.* The presence of federally listed threatened or endangered species of wildlife, plants, or wetlands might constrain unlimited use of property.
- *Historic building or archeological site protection.* Negotiated terms of transfer or conveyance might result in requirements for new owners to maintain the status quo of historic buildings or archeological sites or might impose a requirement for consultation with the State Historic Preservation Office before any actions affecting such resources take place.
- *Water rights.* Protective covenants might be required to protect existing well fields or aquifers.

The preparer should identify all encumbrances (restrictions, limitations) and other considerations (existing natural features and infrastructure) that might affect or limit potential reuse options. These encumbrances are identified by examining the baseline information on the entire project site. Encumbrances are presented in detail in Section 3 of the EA or EIS and identified as circumstances that will accompany property at the time of accelerated or traditional disposal.

Step 3: Determine disposal alternatives. Disposal alternatives include the consideration of whether to dispose of the property on an accelerated or traditional basis. The following alternatives (see Section 3.8) are available for consideration in a disposal action:

- Accelerated disposal
- Traditional disposal
- Caretaker status
- No action

Step 4: Analyze the environmental effects of the disposal alternatives. With respect to the Army's primary action of disposal, analysis must account for all adverse and beneficial effects on relevant resource areas and conditions within the project site. Results of the analyses should be presented immediately following the baseline presentation of each resource area and condition.

Step 5: Identify feasible reuse scenario intensities. The Army treats the community's reuse plan as a primary factor in developing reuse alternatives. This incorporation satisfies the requirement in the BRAC law that the reuse plan be considered part of the proposed Federal action for BRAC NEPA analysis. CEQ regulations require evaluation of reasonably foreseeable actions, without limitations on the party conducting them, and evaluation of consequent environmental impacts. Reuse of the property is therefore evaluated as an action secondary in time, following the Army's primary action of disposal. Because of the speculative and changeable nature of reuse planning, however, specific reuse activities typically cannot be precisely identified at the time the EA or EIS is prepared. Accordingly, the Army considers the LRA's reuse plan as the primary factor in defining the reuse scenarios to be considered.

Reuse planning for the excess property consists of establishing reuse objectives, planning for compatible land uses that support environmentally sustainable reuse and the community's needs, and marketing among potential public and private sector entities to generate interest in use of the property. The reuse planning process is dynamic and often dependent on market and general economic conditions beyond the control of the reuse planning authority.

Recognizing the dynamics attending reuse planning, the Army uses intensity-based probable reuse scenarios to identify the range of reasonable reuse alternatives required by NEPA and by DoD implementing directives. That is, instead of predicting exactly what will occur at a site, the Army establishes ranges or levels of activity that might occur. These levels of activity, referred to as reuse intensities, provide a flexible framework capable of reflecting the different kinds of reuse that could occur at a location and their likely environmental effects. Reuse intensity levels also take into account the effects that encumbrances exert on reuse.

The Army's analytical process recognizes five intensity-based levels of redevelopment for the evaluation of potential environmental and socioeconomic effects: low-intensity reuse (LIR), medium-low-intensity reuse (MLIR), medium-intensity reuse (MIR), medium-high-intensity reuse (MHIR), and high-intensity reuse (HIR). The five levels of reuse intensity can be viewed as a continuum. At the low end, the LIR represents a minimal level of activity, such as might be found in undeveloped lands or in uses not requiring substantial building or infrastructure improvements (e.g., parks, recreation areas, or golf courses). At the other end of the continuum, the HIR represents the greatest intensity of use, such as might be found in highly developed urban areas. At any given installation, analysis of all five levels of intensity might not be appropriate because of historical usage, physical limitations, or other reasons.

Indicators of levels of intensity can be quantified by counting the number of people at a location (employees or residents), the potential number of vehicle trips generated as a result of the nature of the activity, or the number of dwelling units. Other indicators of the intensity of use are the rates of resource consumption (electricity, natural gas, water) and the amount of building floor space per acre (identified as the floor-area ratio, or FAR, expressed as the number of square feet per acre).

The Army has selected four representative, illustrative use intensity parameters to evaluate reuse actions in BRAC. These are residential density, employee density (general space), employee density (warehouse space), and floor area ratio. These use intensity parameters aid evaluation of environmental effects at various levels of redevelopment.

- *Residential density.* Identifies the number of dwelling units per acre; indicates the number of people who might reside in an area.
- *Employee density (general).* Indicates the number of square feet available per employee in all types of facilities at an installation except warehouses or storage structures.
- *Employee density (warehouse).* Indicates the number of square feet available per employee engaged in warehouse or storage activities at an installation. Only built, fully enclosed and covered storage space is calculated; sheds or open storage areas are excluded. In describing Army uses of facilities, estimates of the number of employees engaged in warehouse or storage operations are used to determine the portion of the installation workforce applicable to warehouse employee density.
- *Floor-area ratio.* Reflects how much building development occurs at a site or across an area. For example, a 3-story building having a 7,500-square-foot footprint on a 4-acre site would represent an FAR of 0.13 (22,500 square feet of floor space over 4 acres [174,240 square feet]).

The Army's use intensity parameters (shown in Table 4-1) may be considered together in evaluating the intensity of reuse of a site so as to provide a full context. Use of any single parameter in isolation, on the other hand, might unduly emphasize certain aspects of a site or preclude broader consideration.

Table 4-1
Land Use Intensity Parameters

Intensity Level	Residential Intensity¹	Square Feet per Employee (General Space)	Square Feet per Employee (Warehouse Space)	Floor-Area Ratio
Low	< 2	> 800	> 15,000	< 0.05
Medium-low	2–6	601–800	8,001–15,000	0.05–0.10
Medium	6–12	401–600	4,000–8,000	0.10–0.30
Medium-high	12–20	200–400	1,000–4,000	0.30–0.70
High	> 20	< 200	< 1,000	> 0.70

¹ Dwelling units per acre.

The use intensity parameters in Table 4-1 enable identification of baseline land use intensities (what a project site has historically supported) and potential future land use intensities.

The NEPA document should look at the range of reasonable, foreseeable reuse alternatives that,

to the extent practicable, reflect the community's preferred reuse and are developed in conjunction with the LRA planning process, zoning commissions, and real estate experts knowledgeable of the local market. Intensity-based reuse alternatives encompass a range of generic reuses based on the "most likely" or "probable" intensity levels of land use. They should be defined based on the best available information relative to local ordinances and land use plans and trends and, to the extent available, the LRA's plan. The Army's reuse intensity levels should track with the community plan as closely as practicable to conform to DoD guidance calling for the community plan to provide a basis for the reuse alternatives and with BRAC law.

To analyze the potential effects associated with reuse, the proponent should consider the nature of the project site (types of facilities, size, location, and the like) and select representative reuse intensities consistent with the characteristics of the site and the LRA's plans. In most cases, two or three reuse intensities will capture the likely nature and extent of redevelopment that will occur at an installation. The intensity of scenarios to be evaluated should be presented, with supporting rationale, in Section 3.0 of the EA or EIS.

Because reuse is a "secondary action" to the Army's "primary action" of disposal and involves decisions ultimately made by others, the Army does not identify a preferred reuse alternative.

Step 6: Analyze the environmental effects of reuse. The proponent must analyze and document the impacts of each reuse alternative on baseline resources and conditions described in the Environmental Conditions and Consequences section. The analysis must take into account any limitations imposed by encumbrances (if any) described in Section 2 of the document. Depending on the intensity level under analysis, the nature of the proposed redevelopment, and the particulars of each project site, direct and indirect impacts on resources and conditions might be found with respect to land use, air quality, water resources, and other resources.

Proponents should also understand that Army use of real property differs from public and private sector use in several significant respects. Army land use planning and facilities siting proceed on an area basis; in the public sector, property is typically divided into parcels within areas that are zoned for particular uses. The first requirement for Army use of property is accomplishment of mission; in the public sector, numerous considerations come into play in determining the highest and best use of property. In analyzing potential effects on resources, the proponent might be required to give great weight to factors that are not usually encountered in land use and resource evaluations within the Army. These include such matters as zoning and land use compatibility among a variety of uses, population mobility, housing needs, and community needs. Rates of resource consumption and the ability to provide for resource protection also need to be considered. Depending on the reuse intensity of a given location or area, there will be a variety of effects on traffic, air quality, generation and disposal of wastes, water quality, biological resources, cultural resources, and social and economic conditions.

The analyses of the effects of reuse intensities on particular resources and conditions should appear immediately following the analyses of disposal in Section 4 of each EA and EIS.

Step 7: Evaluate cumulative effects. In this section, the analyst identifies and describes the cumulative effects associated with the disposal alternatives, caretaker status, no action, and each reuse alternative. This analysis must consider the impacts associated with the ultimate disposal and reuse of all excess property on resource attributes that can be evaluated only at the cumulative level. Typical cumulative impact categories are

- Adjacent community land use and zoning
- Socioeconomic and demographic conditions
- Regional community facilities and housing
- Utility system capacities
- Regional solid waste disposal/wastewater treatment systems
- Surface water and groundwater supply and quality
- Roadway systems and traffic congestion
- Air quality
- Noise
- Public health and safety

Further guidance on assessment of cumulative effects is provided in Section 5.9.

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5.0 Current Topics for Special Attention

This section presents information on current “hot topics” associated with the BRAC and NEPA processes. Preparers and reviewers of BRAC NEPA analyses should be aware of the special attention given these topics and should closely follow the Army’s policies and guidance for addressing them.

5.1 President’s Five-Part Plan

In 1993, an initiative known as the President’s Five-Part Plan was designed to revitalize the economies of communities adversely affected by base closures and realignments. The plan gave top priority to early reuse of surplus and excess property and established the following:

1. Job-centered property disposal that put local economic redevelopment first
2. Fast-track environmental cleanup that removed needless delays while protecting human health and the environment
3. Transition coordinators at major bases slated for closure
4. Easy access to transition and redevelopment help for workers and communities
5. Larger economic development planning grants to base closure communities

Congress endorsed the President’s Five-Part Plan by enacting Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, popularly known as the Pryor Amendment in recognition of its principal legislative sponsor. DoD regulations carrying out the Pryor Amendment’s provisions and procedures are found at 32 CFR Parts 174 and 175. The Pryor Amendment and its implementing regulations modified the property disposal process set forth in the 1988 and 1990 BRAC laws in several significant respects, some of which are summarized below.

DoD has promulgated regulations (32 CFR Parts 174 and 175) and policies consistent with the objectives of the President’s Five-Part Plan and the Pryor Amendment. The following subsections highlight specific matters for accelerating closure and cleanup to lease or transfer real property to the community.

5.1.1 Real Property Screening

Pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, which amended the Defense Base Closure and Realignment Act of 1990, property that is surplus to the federal government’s needs is to be screened by means of an LRA’s solicitation for notices of interest from state and local governments, representatives of homeless persons, and other interested parties. An LRA’s outreach efforts to potential users or recipients of the property include working with the Department of Housing and Urban Development (HUD) and other federal agencies that sponsor public benefit transfers under the Federal Property and Administrative Services Act. Incorporating the notices of interest submitted to it, the LRA then prepares a redevelopment plan identifying the overall reuse strategy for the installation.

5.1.2 Local Redevelopment Plan

An LRA should have broad-based membership, including representatives from those jurisdictions with zoning authority over the property. The LRA must be a state or local government or an

instrumentality of a state or local government. The Secretary of Defense officially recognizes an LRA for planning and/or implementation through the Office of Economic Adjustment. The primary focus of the LRA is to develop a comprehensive local redevelopment (reuse) plan for the entire installation. The LRA begins a local reuse plan when the Army identifies surplus property in the *Federal Register* within 6 months after the base is named as a closing base. The plan must include identification of homeless assistance requirements and accommodate those needs. The LRA must then send the plan to HUD and DoD for review. The plan should incorporate DoD and federal requests for leases, as well as any public benefit uses, such as a public park, recreation, education, transportation, public health, economic development conveyances, or private sector uses envisioned for the installation.

5.1.3 Economic Development Conveyances

An LRA is the only entity eligible to receive property under an economic development conveyance (EDC). An EDC is a process for transferring real estate to an LRA to help spur local economic development and job creation. An EDC may require initial payment or only partial payment at time of transfer; may be negotiated at, or below, the estimated fair market value of the property; and allows for negotiated terms and conditions of payment (consideration) to the Army. Section 2821 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65) amended the 1988 and 1990 BRAC laws to enable an LRA to obtain an EDC at no cost. However, Section 3006 of the National Defense Authorization Act for Fiscal Year 2002 amended the provision again to provide that an EDC "... may be without consideration."

An EDC is not intended to supplant other federal property disposal authorities, and it may not be used if the proposed reuse can be accomplished through another authority. An LRA should use an EDC to obtain large parcels of the installation rather than individual buildings.

The LRA must apply to acquire property through an EDC, addressing certain criteria in its application in order to receive a favorable review. Information on submission of EDC applications is contained in 32 CFR Part 175 (*Revitalizing Base Closure Communities—Base Closure Community Assistance*) and in the *DoD Base Reuse Implementation Manual*.

Typically, an EDC application is submitted to the U.S. Army Engineer District handling the disposal of a closing base. The District simultaneously reviews and contracts for an evaluation of the application and forwards it through channels to HQDA, USACE, and DAIM-BD, where the EDC is reviewed for overall effect on the disposal of the entire installation being closed, then forwarded with recommendations to the Army Staff and Army Secretariat. After approval by the Army Secretariat, the USACE handles implementation of the EDC.

The Army has the discretion to enter into one of three types of agreements:

1. *Consideration within the estimated range of present fair market value, as determined by the Secretary.* The Army may be flexible about the terms and conditions of payment and can provide financing on the property. The payment may be in cash or in-kind, and it may be paid at the time of transfer or in the future.
2. *Consideration below the estimated range of fair market value, where proper justification is provided.* If the Secretary finds that a discount is necessary, the amount of consideration can be below the estimated range of fair market value. The terms and conditions of payment will be negotiated between the Army and the LRA. Proper justification for a discount will be based on the findings in the business and development plan contained in the EDC application.

3. *Consideration at no cost, where proper justification is provided and the LRA agrees to legislatively specified terms.*

In rural areas, defined as those outside defined Standard Metropolitan Statistical Areas, an EDC approved by the Secretary may be made without consideration when the installation's closure will have a substantial adverse impact on the economy of the communities in the vicinity of the installation and on their prospects for economic recovery. The Secretary determines whether these two conditions are met, using all the information considered in the application for an EDC.

5.1.4 Leasing of Real Property

Leasing of real property early in the reuse process is an effective way to quickly attract new jobs to replace those lost by base closure. Because the Army cannot convey contaminated property until cleanup measures are in place and proven effective, leasing is often the only means to allow suitable economic reuse to occur immediately on substantial portions of closing bases. The Secretary of the Army is authorized by 10 U.S.C. 2667 to lease real and personal property for less than the fair market value if the public interest will be served as a result of the lease and if the fair market value of the lease is unobtainable or not compatible with such a public benefit.

The three options for leasing—interim leases, leases in furtherance of conveyance, and master leases—are discussed below.

Interim lease. Generally, an interim lease is a short-term lease that makes no commitment to the lessee for future use or conveyance of title to the property upon its disposal. An interim lease is usually entered into before final disposal decisions are made by the Secretary of the Army.

Before the requirements of NEPA have been met, the term of an interim lease may last for up to 5 years, including options to renew. At the completion of the NEPA process, the lease could convert into a long-term lease or deed transfer. Separate NEPA analyses (as well as air pollution, wetland, floodplain, historic structure, and other natural and cultural resource determinations and consultations) might be required prior to a decision to lease.

An interim lease must be preceded by an Environmental Condition of Property (ECP) report and a Finding of Suitability to Lease (FOSL). Interim leases typically end at the time that final reuse and disposal decisions are implemented. Interim leases may be for consideration at or below the estimated fair market rental value for the leasehold. Capital improvements may be made by the lessee except where, in the judgment of the Army, they will trigger a requirement for an EIS under NEPA.

Lease in furtherance of conveyance. A lease in furtherance of conveyance may be entered into after the Army (1) has complied with NEPA and (2) has issued a final disposal decision for the property that provides immediate possession of the property to the entity identified in the disposal decision as the recipient of the property. Such a lease may be long-term and may be for all or for a portion of the property identified for conveyance to the lessee in the disposal decision.

A lease in furtherance of conveyance must be preceded by an ECP and a FOSL. A lease in furtherance of conveyance will terminate when a deed transfer can be accomplished.

Master lease. A master lease may be an interim lease or a lease in furtherance of conveyance. It is a lease that serves as the principal lease instrument for the entire base or for major portions of it. Individual parcels and properties may be sublet under the terms of a master lease. The master

lease and each subsequent sublease must comply with appropriate ECP, FOSL, NEPA, and other applicable natural and cultural resource determinations and consultation requirements.

5.1.5 Personal Property

Personal property on closing bases is often very useful to the redevelopment of the real property. Personal property includes all property except land and fixed-in-place buildings, naval vessels, and records of the federal government. An inventory must be completed soon after the base is approved for closure, and consultation with local officials must be initiated. The consultation might include a walk-through of the facilities to familiarize local officials with potentially available property. The community can then identify in its reuse plan the personal property it wishes to acquire. The Army may opt to keep much of the personal property at the base during the preparation of the redevelopment plan.

5.1.6 Maintenance, Utilities, and Services

To ensure quick reuse of an installation, minimum levels of maintenance, utilities, and services will be provided in accordance with 32 CFR Part 175 and the *DoD Base Reuse Implementation Manual*. The Installation Commander, in concert with the LRA, will develop a plan specifying the levels of maintenance, utilities, and services to be provided for a specified duration. This plan will be forwarded to DAIM-BD for approval. These levels will not exceed those in effect on the date of closure or realignment approval or will not be less than the minimum required to be consistent with federal government standards for excess and surplus properties in accordance with 41 CFR 101-47.402 and 41 CFR 101-47.4913. Support will continue for no longer than 1 year after operational closure of the base, or 180 days after the NEPA analysis and decisionmaking for the relevant property have been approved by the Secretary of the Army unless reuse has already been achieved. Extension of these periods must be approved by the Secretary of the Army.

5.2 BRAC Fast Track Cleanup

Consistent with achieving rapid community reuse, DoD implements various initiatives to achieve cleanup on a “fast track” basis. These initiatives, described in the subsections below, apply to all Army installations slated for closure where property is available for transfer to the community pursuant to the Base Closure and Realignment Act of 1988 (Public Law 100-526; BRAC '88) or the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; BRAC 1991, 1993, 1995, and 2005). Additional related real estate requirements, reports, and findings are described in Section 5.10. The policy’s scope includes environmental cleanup programs and activities that support the lease or transfer of real property at affected installations under applicable statutes, regulations, and authorities, including the following:

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Resource Conservation and Recovery Act (RCRA)
- National Environmental Policy Act (NEPA)
- Executive Order 12580, *Superfund Implementation*
- Community Environmental Response Facilitation Act (CERFA)
- National Contingency Plan (NCP)
- Defense Environmental Restoration Program (DERP)

It is the Army's policy to expeditiously conduct environmental cleanup actions and programs to protect human health and the environment, and to facilitate the reuse and redevelopment of closed bases as quickly as possible.

5.2.1 BRAC Cleanup Teams

As a fast track cleanup initiative, the policy to establish cleanup teams applies to all Army installations slated for closure or realignment where property is available for transfer to the community. The BRAC Cleanup Teams (BCT) are to be composed of one representative of the DoD component; one representative of the state; and, where appropriate, one representative of the U.S. Environmental Protection Agency (EPA). The BCT Army representative, who works for the Army, is known as the BRAC Environmental Coordinator (BEC). The BEC has the responsibility and implementation authority for environmental cleanup programs related to the transfer of an installation's real property. A BCT must conduct a "bottom-up" review of the environmental cleanup program and related activities of its assigned base. The review includes an evaluation of existing environmental programs, such as the Installation Restoration Program, closure-related compliance programs, and asbestos abatement programs, to identify opportunities for accelerating cleanup and expediting conveyance of the property.

5.2.2 Restoration Advisory Board

The policy of improved public involvement in accelerated base cleanup includes the local community in the installation cleanup program by making information available, providing opportunities for comment, and establishing and seeking active public participation on a Restoration Advisory Board (RAB).

A RAB is established at every closing and realigning base where property will be available for transfer to the community. The RAB works in partnership with the BCT on cleanup issues and related matters. The RAB is composed of an Army representative, EPA and state representatives, and members of the local community. The RAB is jointly chaired with the BEC. The responsibilities of the RAB are to conduct oversight of public outreach activities, to act as a vehicle for disseminating information, and to develop and implement community relations plans. The RAB conducts regular meetings that are open to the public and maintains mailing lists of stakeholders who wish to receive information on the cleanup program of a particular base. On January 28, 2005, pursuant to 10 U.S.C. 2705(d)(2)(A), the DoD published a proposed rule by which the operations and activities of RABs would be governed, in the *Federal Register* (Volume 70, No. 18, p. 4061).

5.2.3 Technical Review Committee

A Technical Review Committee (TRC) is an interagency technical review body (usually three or four representatives) made up of installation representatives, Army environmental program managers, regulatory agencies (e.g., EPA and state), and local government and community representatives. A TRC is an interagency technical review body established under 10 U.S.C. 2705c, *Department of Defense Environmental Restoration Program*, and Executive Order 12580 to provide interested parties (federal, state, and local) with a forum to discuss and provide input into site restoration activities. The TRC monitors installation environmental restoration progress and direction, and provides technical comments. In cases where a TRC or other similar group already exists under the Defense Environmental Restoration Program, the TRC will be expanded or modified to become the RAB, rather than creating a separate committee.

5.2.4 Accelerating NEPA Analysis

To expedite community reuse, DoD issued guidance to accelerate NEPA analysis by requiring that any EIS on disposal and reuse must be produced within 12 months of receipt of a community's final reuse plan. This guidance requires expedited, early production of a high-quality environmental analysis that will be useful in the community's ongoing planning efforts. A single NEPA analysis is to be prepared to support decisions regarding both disposal and reuse of the installation.

Close coordination between proponents and preparers of the NEPA analysis and the local community can provide better alternatives for the NEPA analysis. It can also provide information on potential impacts on the community for its decisionmaking.

For EISs, gathering environmental documentation and conducting background analysis for likely reuse scenarios should begin early. Advance EIS information gathering may begin even before publication of the NOI in the *Federal Register*. Information gathering for wetland determinations, threatened or endangered species concerns, and cultural or historic resource concerns should begin at this early stage to facilitate integration into the NEPA analysis, and it should be used to support other related environmental studies and the preparation of cleanup-related documents. Data collection will continue in cooperation with community officials, as well as the EPA and other formal cooperating agencies, after the NOI is published. Information gathered and analyses prepared, which may include in appropriate cases a preliminary draft of the EIS, will be provided to the community to aid in the development of its reuse plan. The Army has adopted procedures, discussed in Sections 3 and 4, for analyzing probable reuse scenarios in the absence of an approved community reuse redevelopment plan.

5.3 CERCLA/RCRA-NEPA Interface in BRAC

CERCLA regulates the cleanup of releases or threats of releases of hazardous substances, pollutants, or contaminants. RCRA regulates the management of hazardous waste, including storage, handling, transportation, treatment, and disposal. In general, RCRA provides regulation of current hazardous waste generators, transporters, and treatment, storage, or disposal facilities, whereas CERCLA provides regulation of the cleanup of past or abandoned hazardous substance release sites.

5.3.1 Installation Restoration Program

The Army's Installation Restoration Program (IRP) includes analyses under CERCLA and the Superfund Amendments and Reauthorization Act (SARA). CERCLA and NEPA processes are similar in many elements of analysis, but they have different approaches to those analyses.

Under CERCLA, if EPA determines through preliminary investigations that some type of response action is required at a site, a removal or remedial action may take place. A removal action is a short-term action intended to stabilize an area that poses an immediate threat to human health or the environment. A remedial action is a long-term action that stops or substantially reduces releases or potential releases of hazardous substances considered serious but not immediately threatening.

Under SARA, EPA is required to identify hazardous waste sites at federal facilities. EPA is directed to establish a list of the most dangerous hazardous waste sites requiring priority for remedial action, called the National Priorities List (NPL). If a federal facility is on the NPL, the agency with jurisdiction over the site is responsible for conducting a Remedial

Investigation/Feasibility Study (RI/FS) within 6 months. The RI fully characterizes the extent of the problems at the site, and the FS develops, screens, analyzes, and selects an appropriate remedial alternative. These processes normally occur simultaneously and are performed in consultation with EPA.

The RI/FS process is similar to the NEPA process. RI/FS activities involve scoping, community relations, comparative analysis of remedial action alternatives, public comment review periods, final selection of a remedial action, and preparation of a Record of Decision.

There are also some differences between the CERCLA process (RI/FS) and the NEPA process (EIS). For example, analysis under CERCLA divides the restoration process into “operable units,” whereas NEPA addresses the site as one complete entity. There are also differences in the timing of the studies, analysis of specific alternatives, scope of analysis, and extent of public involvement.

5.3.2 Analysis and Documentation

The BRAC NEPA process requires specific information regarding hazardous substances and waste. Ongoing RCRA program requirements and CERCLA investigation and response efforts must be summarized.

Affected environment. RCRA requirements for ceasing operations at a closing installation and for conducting realignment activities should be included in the Affected Environment discussions of the BRAC NEPA document. This section of the document should also include a discussion of the ECP process and ongoing environmental restoration activities at the installation. It should include baseline information on both current and past hazardous waste sites and describe the status of completed, ongoing, or planned environmental restoration studies. (See the discussion of ECPs in Section 5.11, Community Environmental Response Facilitation Act.)

Both realignment and disposal/reuse documents should present the following types of information related to this section:

- A description of the current status of the installation’s hazardous material storage and handling, including types and locations of materials used.
- A description of the hazardous waste disposal process, including the RCRA permit status.
- A description of identified contaminated sites and the status of their remediation.
- A description of the current status of the installation’s programs for asbestos, radon, PCBs, lead-based paint, pesticides, refrigerants, and medical and biohazardous wastes. This section should discuss whether areas proposed for disposal or construction have been surveyed for these contaminants.
- A description of the current status of the aboveground and underground storage tank program. Tanks removed and scheduled for removal should be identified. A discussion of ongoing or planned remediation of contaminants from storage tanks should be included.

Information may be presented in chart or table form when appropriate.

Environmental consequences. The NEPA analysis and documentation required for CERCLA/RCRA activities associated with realignment actions and disposal actions will differ slightly. NEPA analyses prepared for realignments will evaluate the potential environmental

impacts resulting from the realignment mission (e.g., construction/demolition projects needed, permit requirements). In the case of a disposal action, the nature, magnitude, and extent of environmental contamination and the level of cleanup will directly affect the identification of prudent land uses for the released property. This, in turn, will affect the ultimate plan for the reuse of the installation. For such a disposal, the NEPA analysis will address contamination and the level of cleanup in evaluating alternative reuse scenarios.

In either case, the Environmental Conditions and Consequences section should discuss all impacts that could reasonably be expected to occur as a result of implementing the proposed action or any of the alternatives. The following information should be provided as a minimum:

- Analysis of the proposed action's impact on the installation's hazardous materials storage and handling.
- Discussion of the proposed action's impacts on the installation's hazardous waste disposal process and any impacts on the RCRA permit status.
- Discussion of the impacts of identified contaminated sites on the proposed action. Identification, for realignment documents, of any contaminated sites within proposed construction areas and plans for remediation. Description, for disposal/reuse documents, of actions that must be completed before disposal of the property.
- Discussion of any impacts associated with the installation's programs for asbestos, radon, PCBs, lead-based paint, pesticides, refrigerants, and medical and biohazardous wastes. This section should discuss what steps must be taken to prepare any sites for realignment or disposal.
- Identification of any aboveground or underground storage tanks that will be affected by the proposed action, emphasizing storage tanks that must be removed and impacts associated with storage tank remediation.

5.4 Air Quality Analysis

The Clean Air Act Amendments of 1990 (CAAA-90) provide a comprehensive national program with the goal of reducing the levels of pollutants in the ambient air. The DoD strategy for air quality compliance includes prevention, control, and abatement of air pollution from stationary and mobile sources. The CAAA-90 provide the framework for most of the air quality regulations and guidelines with which Army installations must comply. The CAAA-90 are implemented by detailed federal, state, and local regulations.

5.4.1 Required Air Quality Analysis

In planning projects and activities, installations must consider the impacts on air quality. Two independent legal requirements govern consideration of air quality impacts: (1) the NEPA and (2) the general conformity provision of Clean Air Act section 176(c), including EPA's means of implementation, the General Conformity Rule. Depending on the action and the installation's conformity attainment status, an installation might have to complete a separate conformity document in addition to the NEPA documentation. Applicability of the two requirements must be considered separately. Exemption from one requirement does not automatically exempt the action from the other requirement, nor does fulfillment of one of the requirements constitute fulfillment of the other requirement. Although installations should integrate compliance to save time and resources, the two requirements are very different, necessitating separate analyses and documentation.

5.4.2 The General Conformity Requirement

Applicability. The General Conformity Rule requires federal agencies to make written conformity determinations for federal actions in or affecting National Ambient Air Quality Standards (NAAQS) nonattainment areas or maintenance areas (nonattainment areas that have been redesignated as attainment areas based on NAAQS compliance). The requirements of the General Conformity Rule generally do not apply to actions in or affecting NAAQS attainment areas.

A written conformity determination is not required for actions that are specifically exempted by the EPA General Conformity Rule. For example, the disposal of BRAC properties is generally exempt from the rule. On the other hand, however, reuse of closing installations by others would not normally be covered by exemptions. Because these proposed reuses are part of the proposed federal action for purposes of NEPA assessment, conformity information about them is necessary for the Army's closure NEPA document. In addition, actions where the total direct and indirect emissions of criteria pollutants will be *de minimis*, as defined in the rule, are exempt. Several other applicability exemptions are also provided in the text of the rule. Current Army guidance should be consulted to determine proper analysis, documentation, and signature authority requirements for exempt actions, including those actions that result in emissions below *de minimis* levels. Other actions, however, such as the realignment of missions and units to other installations, are not exempt.

If a conformity determination is required, it must be based on a detailed air quality analysis. A determination is required for only the action that the federal agency approves and not for all alternatives. The General Conformity Rule and current Army guidance should be consulted to determine procedural requirements and proper signature authority for conformity determinations.

Section 176(c) conformity requirements in attainment areas. Although the procedural requirements of the General Conformity Rule are not applicable to actions in or affecting NAAQS attainment areas, conformity with the State Implementation Plan (SIP) or Federal Implementation Plan (FIP) in these areas must still be ensured. EPA intends to promulgate a conformity rule in the near future for NAAQS attainment areas. Until EPA issues such a rule, installations must ensure conformity with SIPs and FIPs through NEPA analysis and documentation.

Guidance. Specific guidance detailing conformity requirements and Army policy regarding documentation is contained in Appendix L.

Army guidance requires that installations prepare a Record of Non-Applicability (RONA) for potentially significant federal actions that do not require a written conformity determination because they fall under the transportation conformity rule, they are specifically exempted under EPA's General Conformity Rule, or the total emissions are *de minimis*. The RONA documents the decision not to prepare a written conformity determination for an action, and it is signed by the installation's environmental coordinator. Because the General Conformity Rule is inapplicable in attainment areas, a RONA need not be prepared for a BRAC action occurring in an attainment area.

If a conformity determination is prepared, the installation must forward a draft to the Army Environmental Center (AEC) for review and comment before offering the document for public comment. Final conformity determinations are signed by the Deputy Assistant Secretary of the Army for Environment, Safety, and Occupational Health (DASA-ESOH).

5.4.3 NEPA Requirements

NEPA requires broad consideration of the direct, indirect, and cumulative effects of an action on the environment as a whole, including air quality. This requirement must be fulfilled regardless of the applicability of the General Conformity Rule. Relative to the proposed action and alternatives, the air quality analysis under NEPA should include an investigation of the affected environment, environmental consequences, significance criteria, and mitigation. These matters are discussed below.

Affected Environment. This section should include a description of air quality conditions present at the installation. The description should include the attainment status of the installation for all criteria pollutants and the air quality control district in which the installation resides. Air pollution sources that have permits should be identified. In addition, any available information relative to the general air quality of the area should be included (e.g., ambient monitoring results).

Environmental Consequences. This section should discuss all changes to local air quality that could reasonably be expected to occur as a result of implementing a proposed alternative. The following are examples of possible environmental consequences:

- Changes in the type or amount of air emissions due to changes in the operation of current air pollution sources or the addition of sources
- Changes in air emissions due to construction activities (vehicular emissions and fugitive dust)
- Changes in local/regional ambient air quality due to changes in emissions
- Potential exposure to asbestos during building demolition or renovation (if asbestos has not been removed prior to demolition or renovation)
- Changes in public opinion (favorable or adverse) due to projected changes in air quality (especially for incinerator projects)
- Impact on compliance status due to construction or modification of air emission sources.
- Effects on the timely attainment or maintenance of the NAAQS or any air quality standard or milestone contained in the SIP or FIP

Significance Criteria. The environmental consequences described above should be compared with all applicable federal, state, and local regulations. These regulations provide an indication of the significance of various air quality parameters. The following are examples of significance criteria:

- Source-specific emission limits
- Permitting and licensing requirement
- NAAQS
- State or local ambient air quality standards
- SIPs and FIPs
- Exposure of sensitive populations to pollutants
- Any other applicable regulations or standards

Mitigation. Mitigation strategies should be explored if significant negative air quality impacts are foreseen. Possible mitigation techniques include the following:

- During construction activities, application of dust suppressant or use of operational controls to prevent excess fugitive emissions
- Acquisition of emission offsets
- Use of air pollution control equipment
- Transportation control programs

5.4.4 Integration of Conformity and NEPA

Both NEPA and the General Conformity Rule provide for public participation in development and review of air pollution impact documentation. With appropriate planning, the NEPA proponent can structure the public participation elements of both processes to allow for simultaneous review and comment on the relevant documents. Although integration in this manner will not be appropriate in all circumstances, the NEPA documentation should summarize the findings and conclusions contained in the conformity determination document prepared for the action. Two other potential areas for integration of the two processes are the selection of emission reduction measures and the analysis of impacts and effects.

5.4.5 Separation of NEPA and Conformity

As discussed above, the different legal requirements of NEPA and the General Conformity Rule dictate that the NEPA proponent conduct separate processes that result in separate documents. The analysis necessary to satisfy the General Conformity Rule requirements differs from traditional NEPA analysis in several ways. For example, a written conformity determination is required only for the preferred alternative, not for all alternatives, under NEPA, and it is limited to the criteria pollutant for which the area is in nonattainment. In addition, even when the proponent believes that a proposed action could be categorically excluded under NEPA, conformity review may still be required. The affected agency must maintain separate, thorough administrative records for each process to substantiate the separate administrative decisions and conclusions. Although the General Conformity Rule requires a determination only for the preferred alternative, such a determination should be done for all applicable reuse scenarios in a BRAC closure NEPA document. In a realignment NEPA document, the conformity analysis should be performed for all realignment scenarios subject to full consideration, when not otherwise subject to an exemption.

5.5 Ecological Resources

Although ecological resources are specifically mentioned in connection with BRAC only in terms of “identification of sensitive land” (see Section 1), the concepts of ecosystems and ecological resources are central to NEPA. Section 102(2)(H) of NEPA requires that analyses conducted must consider “ecosystems” and “ecological effects.”

The potential for ecological impacts must be considered in both EAs and EISs conducted for BRAC actions. Topics for special attention include the protection of sensitive environments such as wetlands, threatened and endangered species, and biological diversity.

5.5.1 Wetlands

Wetlands are of critical importance to the protection and maintenance of living resources, including a significant number of threatened and endangered species. Wetlands provide essential breeding, spawning, nesting, and wintering habitats for a major portion of the Nation's fish and wildlife species. Wetlands also protect the quality of surface waters by impeding the erosive forces of moving water and trapping waterborne sediment and associated pollutants, protecting regional water supplies by assisting the purification of surface water and groundwater resources, maintaining base flow to surface waters through the gradual release of stored flood waters and groundwater, and providing a natural means of flood control and storm damage protection through the absorption and storage of water during high-runoff periods.

Executive Order 11990 *Protection of Wetlands* requires that federal agencies minimize the destruction, loss, or degradation of wetlands and that action be initiated to enhance their natural value. It is the Army's policy to avoid adverse impacts on existing aquatic resources and to offset those adverse impacts which are unavoidable. The Army will also strive to achieve a goal of no net loss of values and functions to existing wetlands, and permit no overall net loss of wetlands on Army-controlled lands, including lands being transferred to others through BRAC. This responsibility must be incorporated into the consideration of encumbrances placed on an installation or on separable parcels considered for disposal in conjunction with BRAC.

5.5.2 Threatened and Endangered Species

Endangered Species Act. In fulfilling its conservation responsibilities under the Endangered Species Act (ESA), the Army works closely and cooperatively with the other federal agencies charged with enforcement of the act—the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries, also known as the National Marine Fisheries Service). In planning projects and activities, including BRAC actions, installations must engage in informal consultation with the USFWS or NOAA Fisheries at the earliest opportunity to ensure that BRAC actions that might affect listed species or critical habitat are consistent with the requirements of the ESA. If there is any question whether an Army BRAC action might affect a listed species or critical habitat, the Army Lead Organization should informally consult with USFWS or NOAA Fisheries to determine the need for formal consultation. Working closely and cooperatively with the USFWS and NOAA Fisheries through informal consultation to develop mutually satisfactory courses of action in connection with realignment and closure is essential.

Protection of threatened and endangered species. Section 7(a)(2) of the ESA requires the Army to ensure that any Army action authorized, funded, or carried out is not likely to “jeopardize” the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. “Jeopardize” means to engage in an action that would be expected, directly or indirectly, to reduce appreciably the likelihood of the survival and recovery of a listed species by reducing its reproduction, numbers, or distribution. Regardless of any opinion, action, or inaction by the USFWS or NOAA Fisheries, the Army Lead Organization is ultimately responsible for ensuring that its actions do not jeopardize listed species or result in the destruction or adverse modification of critical habitat.

Section 7(a) of the ESA requires *formal* consultation with the USFWS or NOAA Fisheries whenever the Army anticipates taking any action (including BRAC activities) or is engaging in ongoing action, such as caretaker activities at a closed installation, that might affect (beneficially or adversely) a listed species or critical habitat. Formal consultation, however, is not required if the Army Lead Organization determines, with the written concurrence of the USFWS or NOAA

Fisheries, that the action is not likely to adversely affect any listed species or critical habitat. Entering into informal consultation with the USFWS or NOAA Fisheries early is key to resolving potential problems and establishing the foundation to address issues in a proactive, positive manner; it is the preferred method of consultation. The Army Lead Organization must also confer with the USFWS or NOAA Fisheries when an action is likely to jeopardize any species proposed for listing as threatened or endangered or to result in the destruction or adverse modification of proposed critical habitat under the ESA. Informal consultation with the USFWS or NOAA Fisheries is always appropriate to clarify the Army Lead Organization's ESA responsibilities in connection with BRAC.

Consultation and conference procedures and the requirement to prepare Endangered Species Management Plans and Guidelines are discussed in Army Regulation 200-3. NEPA applies to actions taken in managing listed and proposed species and critical habitats. Consultation under section 7 of the ESA does not replace compliance with NEPA requirements. Consultation, conference, and biological assessment procedures under section 7 of the ESA should be integrated with NEPA procedures to the maximum extent feasible. Simultaneous compliance with NEPA and ESA procedures minimizes duplication of effort and avoids delay. Army Lead Organizations may combine ESA and NEPA documentation (such as the biological assessment and the environmental assessment) to reduce paperwork as long as the requirements of both statutes are met. Generally, the Army Lead Organization should determine the effect of a proposed action on listed species or critical habitat in accordance with ESA section 7 *before* completing NEPA documentation. Avoiding consultation with the USFWS or NOAA Fisheries to accelerate the NEPA process is not an acceptable Army practice.

5.5.3 Biological Diversity

It is an Army goal to systematically conserve biological diversity on Army lands and to encourage continuation of such conservation activities in connection with the closure and reuse of Army facilities. Natural ecosystems can best be maintained by protecting the biological diversity of naturally occurring organisms, the ecological processes that they perform, and the physical environment with which they interact.

Wherever practicable, the Army will cooperate with future landowners in support of the following objectives:

- Maintenance of viable populations of the Nation's native plants and animals throughout their geographic range
- Maintenance of natural genetic variability within and among populations of native species
- Maintenance of functioning representative examples of the full spectrum of ecosystems, biological communities, habitats, and their ecological processes
- Implementation of management solutions that integrate human activities with the conservation of biological diversity
- Increased scientific understanding of biological diversity and conservation
- Public awareness and understanding of biological diversity
- Encouragement of private sector development and application of innovative approaches to the conservation of biological diversity

5.6 Treatment of Cultural Resources in BRAC NEPA Analyses

NEPA requires consideration of “important historic, cultural, and natural aspects of our national heritage ...” but provides no specific definition of these “aspects.” Based on statutory requirements, cultural resources for NEPA analyses should be considered to include buildings, sites, structures, districts, and objects eligible for or included in the National Register of Historic Places; cultural items as defined in the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990; Native American, Native Alaskan, or Native Hawaiian sacred sites for which access is protected under the American Indian Religious Freedom Act (AIRFA) of 1978; archeological resources as defined by the Archeological Resources Protection Act of 1979; and archeological artifact collections and associated records as defined by 36 CFR Part 79.

5.6.1 Laws and Regulations

As noted above, NEPA is an appropriate authority for considering a project’s effects on all types of cultural resources. A number of laws define and set requirements for the identification and treatment of cultural resources. As part of the NEPA analysis, the requirements of the following laws must be considered when determining the effects of a project on cultural resources:

- *National Historic Preservation Act of 1966, as amended.* The National Historic Preservation Act (NHPA) requires identification and stewardship of properties included in or eligible for inclusion in the National Register of Historic Places. It requires the Army to give priority to the use of such properties for mission and other purposes. NHPA requires the Army to consider the effects of any action on such properties. The NHPA and regulations implementing 36 CFR Part 800 also provide the means for determining the effect a particular undertaking or action might have on historic resources. The Section 106 consultation process is the means by which a federal agency may make decisions on the treatment and protection of historic properties. This typically includes the State Historic Preservation Officer (SHPO), appropriate Federally-recognized Indian tribes, and the Advisory Council on Historic Preservation (ACHP). The three major sections of NHPA that affect the BRAC process are Section 106 (the consultation process), Section 110 (preservation planning and federal agency responsibilities), and Section 111 (leases, transfer of property, and management contracts).
- *American Indian Religious Freedom Act.* AIRFA establishes a U.S. policy to “protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise traditional religions . . . including but not limited to access to sites.” Compliance with AIRFA implies the need to consult with Native Americans, Native Alaskans, and Native Hawaiians about traditional religious and cultural sites on Army lands and on possible ways to protect and provide access to such sites.
- *Native American Graves Protection and Repatriation Act.* NAGPRA establishes that Native Americans (Indian tribes, Native Hawaiians, and Native Alaskans) own the remains of their ancestors, certain goods associated with ancestral graves, and some artifacts that have significance to their entire society, called “cultural patrimony.” This law imposes consultation requirements on the Army in connection with BRAC projects. The requirements include consultation with Native American groups about any excavation of remains these groups own under the law (for example, in advance of construction related to realignment). In the event such items are discovered during construction, work in the vicinity must halt for at least 30 days while further consultation occurs.

5.6.2 Process

The NEPA umbrella covers historic, archeological, and sacred sites; historic records, artifacts, and relics; and properties of significance to Indian tribes, Native Hawaiian, and Native Alaskan organizations. NEPA is designed to ensure that federal agencies consider the value of these and other resources before they receive significant adverse impacts, and that the agencies seek ways to avoid or reduce such impacts. However, actions taken to comply with NEPA do not necessarily meet all the compliance requirements of the NHPA, which is a separate law with very specific, but similar, compliance requirements. There are many ways to minimize effort by coordinating the compliance with each law. Regardless of the NEPA actions taken, compliance with the NHPA must be addressed before the BRAC action can be completed. Starting cultural resource actions as soon as possible after the BRAC announcement allows NHPA actions to be completed without jeopardizing adherence to the BRAC NEPA timeline.

Compliance with the NHPA Section 106 process (as well as NEPA evaluation) is accomplished by first identifying and determining the National Register eligibility of historic properties within the area that would be affected by the proposed undertaking. Effects of the undertaking on historic properties are to be evaluated using the criteria at 36 CFR 800.5(a). The direct and indirect effects of federal undertakings are adverse if they result in loss, alteration, or destruction of properties on or determined eligible for listing on the National Register. Disposal (removing of the property from Federal ownership) is an adverse effect. When an undertaking would have an adverse effect on eligible or listed historic properties, the Army must consult with the ACHP, the appropriate SHPO, and, in many cases, the appropriate Federally-recognized Indian tribes, and other consulting and interested parties to determine what actions it will take regarding these properties. The results of these consultations must be taken into consideration as part of the evaluation process for the BRAC NEPA document.

When considering whether a project will have an adverse impact on traditional cultural properties, efforts must be made to identify and consult with appropriate Federally-recognized Indian tribes or Native Hawaiian groups that have historical ties to the project area. For BRAC projects, it is recommended that consultations for traditional cultural properties be handled at the same time as the NHPA consultation. This is being done for several reasons. Many of the cultural resources identified during the historic properties inventory required by the NHPA are of specific interest to Federally-recognized Indian tribes and Native Hawaiian groups. NAGPRA established Native American ownership of human remains and items of cultural patrimony, and it requires consultation with these groups to establish appropriate disposition of such items.

The area of potential effect (APE) for cultural resource evaluations is the geographic area that includes all credible effects of an undertaking, both direct and indirect. The APE for an installation would include not only the land within the base boundary, but also areas outside the base boundary that might be indirectly affected by the closure action. A common-sense approach needs to be taken to identify the APE. The indirect effects must be readily identifiable and actually caused by the undertaking. The definition of APE under the NHPA is not otherwise applied under NEPA, so care must be taken when using this term.

It is necessary to integrate cultural resource considerations into BRAC NEPA analysis. If at all possible, these studies should be completed and the results included in the NEPA document. In those instances where it is not possible to complete all necessary historic resource studies within the timeframe scheduled for NEPA document preparation, a Memorandum of Agreement (MOA) or Programmatic Agreement (PA) should be prepared by the Army with the appropriate SHPO and the ACHP. The PA can be used to set up a procedure for completing the consultation process

after completion of the NEPA document but before finalization of the mandated BRAC action.

There are, therefore, two options for integrating the NHPA into the NEPA process: (1) complete the cultural resource inventory and assessment work, determination of mitigation measures, and coordination of decisions before completing the final NEPA document or (2) complete the required process later, as specified in a formal agreement among the consulting parties and explained in the NEPA document.

5.6.3 Options for Integration of Cultural Resource Requirements into the NEPA Document

Option 1: Completion of Requirements Prior to Final NEPA Analysis. Under option 1, the EA or EIS must contain the following:

- Summary of information from a completed cultural resource inventory.
- Summary of information from a completed assessment of the significance of cultural resources.
- Documentation of consultation with the SHPO, Federally-recognized Indian tribes or Native Hawaiian groups, other consulting and interested parties (as appropriate), and the ACHP.
- Determination of effect under NHPA and determination of impact significance under NEPA.
- A list of identified concerns related to cultural resources, including tribal consultation issues.
- Documentation on any decision regarding mitigation of adverse effects and comment by the ACHP. (If the Army makes a commitment to mitigation, the agreement document (MOA) should be attached to the EA or EIS to provide documentation of consultation and agreement between the interested parties.)
- The specific mitigation measures taken to reduce or avoid the adverse effects of the selected action on cultural resources.

Option 2: Delayed Completion of Requirements. Under option 2, the EA or EIS must contain the following:

- A clear statement that the Army will treat historic properties in accordance with a PA or MOA.
- A copy of the PA or MOA attached as part of the environmental document.
- A definition of the APE on cultural resources.
- A summary of existing information about the location, identification, and evaluation of cultural resources within the APE.
- An evaluation of the existing data and identification of information gaps with respect to the ability of the data to meet compliance requirements for the BRAC action.
- A list of references and personnel consulted to make the determination of study needs.

- Documentation of initial coordination with the SHPO and Federally-recognized Indian tribes or Native Hawaiian groups, other consulting and interested parties (as appropriate), and the ACHP.
- Discussion of possible determination of effect under Section 106 and determination of impact significance under NEPA.
- A list of identified concerns related to cultural resources, including tribal consultation issues.
- Delineation of mitigation measures contained in the above-referenced PA or MOA.
- A statement in the Record of Decision (ROD) or Finding of No Significant Impact (FNSI) that specific mitigation measures will be taken to reduce or avoid the BRAC action's adverse effects on cultural resources and that these measures will be carried out following stipulations in the PA referenced above.
- A commitment, in the FNSI or ROD, to a specific time frame or date for full compliance with the PA or MOA.

Appendix M contains an outline of the types and general level of information that should be included in the cultural resource section of the Environmental Conditions and Consequences section of the BRAC NEPA documents. Presentation of data in the NEPA documents should generally follow the sequence noted in Section 4, above.

Under option 2, requirements to complete cultural resource inventory actions and consultations will continue after the completion of the NEPA document. Care should be taken to determine that all actions required by a PA or MOA have been completed prior to conducting any activities that might affect cultural resources (e.g., disposal of real estate or remediation actions).

5.7 Native American Issues

For the BRAC NEPA program, in most cases, Native American issues as defined by NAGPRA and AIRFA are handled as part of the cultural resource consultation process (see Section 5.6). This is done for several reasons among which is that many of the cultural resources identified during the historic properties inventory required by the NHPA are of specific interest to Native American and Hawaiian groups. In addition, NAGPRA established Native American ownership of human remains and items of cultural patrimony and requires consultation with Native American groups to establish appropriate disposition of these items.

(Note the requirement that consultation with Federally-recognized American Indian tribes must be government-to-government (see Presidential Memorandum of 1994; Federal Register, Volume 59, No. 85, May 4, 1994)

5.8 Environmental Justice

The central idea behind environmental justice is that no segment of the population should bear a disproportionate share of adverse human health or environmental effects. In some cases, low-income and minority communities are disproportionately affected by negative environmental effects, receiving few of the benefits while absorbing much of the societal cost.

5.8.1 Executive Order 12898

To address environmental justice concerns, the President issued Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*,

in February 1994, requiring each federal agency to “make the achievement of environmental justice part of its mission by identifying and addressing disproportionately high and adverse human health and environmental effects on minority and low-income populations.” The Executive Order and a contemporaneous Presidential Memorandum direct federal agencies to identify and analyze the potential socioeconomic impacts of proposed actions in accordance with health and environmental laws. Public involvement and data collection efforts are also addressed by the Executive Order to ensure that such efforts specifically consider the potential for impacts from environmental hazards on minority and low-income communities. The Executive Order further mandated the creation of the Federal Interagency Working Group on Environmental Justice, whose responsibilities include (1) developing a strategy for federal agencies to use in the implementation of environmental justice requirements and (2) monitoring federal agencies in that implementation to ensure that activities and policies are undertaken in a consistent and appropriate manner.

Environmental justice issues must be considered and addressed in the BRAC NEPA process during the identification and analysis of the potential environmental and socioeconomic impacts of proposed BRAC actions. It is important to be sensitive to considerations of environmental justice throughout preparation of an EA or EIS. It is especially appropriate for this issue to be included in public scoping because during this early step in the NEPA process, minority and low-income populations can be identified, their participation facilitated, and their concerns determined.

5.8.2 Evaluation Process

Public involvement in the NEPA process meets two requirements of the Executive Order: (1) it aids in identifying minority and low-income groups, and (2) it provides the means for these groups to participate in the decisionmaking process. When describing actions taken to involve the public (e.g., scoping meetings, workshops, public meetings, media advertisements) in Section 1, Purpose, Need, and Scope, of a NEPA document, a sentence that describes actions taken to address environmental justice issues should be included; for example, “Persons and organizations known or thought to have a potential interest, including minority, low-income, disadvantaged, and Native American groups, were identified, informed, and given the opportunity to participate in the decisionmaking process.”

Such a statement can document efforts made during the public involvement phase, especially the scoping process, to reach minority and low-income groups.

Affected environment. Environmental justice conditions should be addressed in the affected environment section of the NEPA document. An appropriate statement could be:

Example:

“On February 11, 1994, President Clinton issued Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. The purpose of the order is to avoid the disproportionate placement of adverse environmental, economic, social, or health impacts from federal actions and policies on minority and low-income populations. The first step in the process is to identify minority and low-income populations that might be affected by implementation of the proposed action or alternatives. It is a critical step in addressing environmental justice. Demographic information on ethnicity, race, and economic status is provided in this section as the baseline against which potential impacts can be identified and analyzed.”

Environmental and socioeconomic consequences. In the Environmental Conditions and Consequences section of the NEPA document, impacts of the proposed action and alternatives on minority and/or low-income populations in the region of influence should be analyzed and documented. (See the subsection on sociological conditions in Section 4.5.4 of this manual.)

5.9 Cumulative Effects Analysis

Cumulative effects are defined as the “impacts on the environment that result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions” (40 CFR 1508.7). In January 1997, CEQ published *Considering Cumulative Effects under the National Environmental Policy Act*. This section of the manual focuses on some of the important issues and themes concerning developments in cumulative effects analysis. The BRAC analyst can benefit from the following considerations: scoping and the determination of spatial and temporal boundaries; determining the baseline data and affected environment; and performing cumulative effects analysis using recognized methods, techniques, and tools.

CEQ regulations on the scoping process (40 CFR 1508.25) make it clear that one function of scoping is to discover potential cumulative actions and effects (see Appendix E). Connected and similar actions should be analyzed and recorded in the same document. The scoping process is one very important way to identify other previous, current, or planned actions on the installation and in the geographic area. Moreover, scoping for cumulative effects must include consideration of other federal and non-federal actions that take place within the spatial and temporal boundaries identified.

Effects of human perturbations on the environment accumulate when the frequency of individual perturbations is so high that the ecosystem has not fully rebounded before another stressor is introduced. Spatial and temporal crowding of these perturbations creates cumulative effects. Preparers must obtain data on the status of significant natural, recreational, cultural, and economic resources with an understanding of not only how the proposed action might affect those resources directly or indirectly but also what more remote systemic perturbations the proposed action might create.

Cumulative effects analysis poses many challenges to the preparers of NEPA analyses. By its very nature, the environment contains a complex set of interdependent relationships that are infinite in scope. Historically, NEPA analysis and documentation have been deficient in the substantive treatment of cumulative effects. New guidance from CEQ and the information in the following paragraphs should provide better guidance for Army NEPA practitioners involved in the BRAC process.

5.9.1 Scoping for Cumulative Effects

Scoping not only provides information to the decisionmakers but also helps to build public confidence. Both of these factors are critical to the defensibility of NEPA analysis generally and cumulative effects analysis specifically. In addition to using their own expertise, practitioners should seek input from others during the scoping process to determine the spatial and temporal scope of direct, indirect, and cumulative effects. Preparers can begin to identify cumulative effects issues by pursuing answers to the following general questions:

- Is the proposed action one of several similar past, present, or future actions in the same geographic area?

- In what way do other agencies or activities in the region have environmental effects similar to those of the proposed action?
- Will the proposed action, in combination with other planned activities, affect any natural resources, cultural resources, social or economic units, or ecosystems or contribute pollutants of regional, national, or global public concern?
- Have any recent NEPA analyses or ongoing NEPA analyses (of similar actions in the Nation, or any other actions in the region) identified important adverse or beneficial cumulative effect issues?
- Have impacts been historically significant or controversial, such that the importance of a resource is defined by past loss, past gain, and investments to restore resources to adequate levels or conditions?

In addition, the preparers should consider whether the proposed action might affect any of the following resources or issues, which typically should be assessed in a cumulative manner:

- Public health and safety beyond the site area
- Air quality parameters of regional significance
- Water quality in a regionally important water body
- Wastes that are candidates for disposal in regional, state, or federal disposal or storage facilities
- Wetlands
- Migratory populations or habitats of fish and wildlife
- Historic, cultural, or archeological resources
- Federally and state-listed threatened and endangered species, or federally designated critical habitat

Methods of conducting the determination of the temporal and spatial scope of the affected environment and impact analysis should begin to emerge during consideration of the questions and issues above.

Of the three general temporal frames of reference (past, present, and reasonably foreseeable future), determining what actions are reasonably foreseeable in the future tends to prove most difficult. One way to overcome the uncertainty related to future actions is to focus attention on the resources and actions discussed in public planning documents; for example, by surveying state, regional, and local comprehensive plans related to urban and regional growth management and public works. These plans include regional resource management plans, ecosystem management plans, and land management planning documents. Preparers should heavily solicit public input to help scope for past, present, and reasonably foreseeable future impacts.

Geographic scope is determined by the types of issues and resources of concern and by the areal extent of the proposed action. Table 5-1 contains a sample listing of possible geographic area boundaries and the affected resources to which they relate.

A goal of the scoping process should be to obtain a list of cumulative effects issues to be assessed, a time frame and geographic boundary assigned for each resource, and a list of other actions, if possible, that contribute to each cumulative effects issue.

5.9.2 Description of the Affected Environment

Scoping for cumulative effects, as with direct and indirect effects, provides a context and preliminary database from which the preparer can complete an appropriate description of the affected environment. The description of the affected environment in a NEPA document should

Table 5-1
Sample Geographic Scope

Affected Resource	Geographic Area Boundary
Air quality	Metropolitan area, air shed, global atmosphere
Water quality	Stream, river basin, estuary, or parts thereof
Vegetative resources	Watershed, forest type, ecosystem
Resident wildlife	Habitat, ecosystem
Migratory wildlife	Breeding grounds, migration route, wintering areas, or total range
Fishery resources	Stream, river basin, estuary; spawning areas and migration route
Cultural resources	Historic properties or districts; historic or prehistoric cultural areas
Land use	Community, county, region, or state
Coastal zone	Region of state
Recreation	River, lake, geographic area, or land management unit
Socioeconomics	Community, metropolitan area, county, or state

- Characterize the resources identified during scoping, including a summary of data relating the status and relative importance of significant natural, recreational, cultural, or economic resources.
- Integrate the above factors into an overall characterization or baseline depiction of the affected area, and discuss this in relation to data and other information that characterize past, present, or reasonably foreseeable future environmental, cultural, or economic stress factors and environmental and social trends.

In addition to baseline data, information on known cumulative effects in the project area should be included to provide a basis for subsequent analysis of the cumulative effects contributed by the proposed action and alternatives.

5.9.3 Performing Cumulative Effects Analysis

The analysis of cumulative effects should be viewed as an extension of the analysis performed to determine the significance of direct and indirect project-specific impacts. In performing cumulative effects analysis, the following steps should be taken:

- Identify the environmentally important resources to be included in the analysis of the proposed action, reasonable alternatives to the proposed action, and the no action alternative.
- Identify the important cause-and-effect relationships between the alternatives and the environmentally important resources.
- Identify the spatial and temporal boundaries of each alternative scenario.

- Identify the relevant past, present, and reasonably foreseeable future actions in the region that could cumulatively affect each scenario.
- Determine the magnitude and significance of the cumulative effects.
- Determine the magnitude and significance of cumulative effects with mitigation and enhancement; develop a strategy to eliminate, avoid, or reduce cumulative impacts.

The following are some of the methods, techniques, and tools (in broad, general categories) that can be employed to analyze cumulative effects:

- Information-gathering techniques such as surveys, interviews, and public meetings
- Checklists
- Network and system diagrams
- Trend analysis
- Map overlay techniques
- Tables
- Matrices
- Mathematical modeling and simulation
- Carrying capacity analysis
- Ecosystem analysis
- Synoptic landscape approach
- Economic impact models
- Social impact assessment
- Geographic information systems
- Remote sensing

These tools are familiar to preparers of NEPA analyses. Their use to address cumulative effects requires some adjustment to account for the availability of data, the geographic scale of the analysis, and other uncertainties unique to the BRAC NEPA process.

5.10 Real Estate Requirements, Reports, and Findings

Real estate work requirements are interwoven throughout all portions of the base closure process. These requirements are normally applicable to BRAC leasing and disposal activities. Closure and disposal are two completely separate actions. Therefore, when concluding an EIS, the ROD should clearly identify whether a decision to dispose of the real estate has been made. Leasing is often an interim activity associated with disposal. It is usually implemented where portions of the installation are available for immediate reuse but have encumbrances (e.g., contamination) temporarily precluding complete transfer.

Real estate requirements associated with revitalization of base closure communities, introduced earlier in Section 5, are described below.

5.10.1 Authorities

The General Services Administration has delegated authority to the Secretary of Defense to dispose of base closure real property in accordance with applicable laws and regulations. The USACE, through its district offices, serves as the real estate agent for both the acquisition of necessary leased space and the disposal of the closed installation. Neither Public Law 100-526 nor Public Law 101-510 *requires* the Army to dispose of real property, but it is in the Army's best interest to do so promptly. When property is declared surplus, it is the Federal Property and Administrative Services Act and implementing regulations that trigger disposal action.

5.10.2 Real Estate Screening Process

The BRAC real estate screening process is described in Section 1.6.2.

5.10.3 Report of Availability

Consistent with AR 405-80 (*Management of Title and Granting Use of Real Property*) a Report of Availability (ROA) is prepared by the Installation Commander when a piece of real estate is no longer needed and can be made available either concurrently with the Army or exclusively for use by other military departments, federal agencies, or private organizations. The following information should be included in the ROA:

- Elements that relate to legal, policy, and military considerations that might affect the outgrant, including essential items.
- All supporting justification required when submitting reports to the Department of the Army or DoD.
- Statement that the real estate is safe for nonmilitary purposes. (If this statement cannot be made, explain the degree and type of contamination of land or buildings with explosives or toxic material and the reason that an outgrant should be approved despite the contamination.)
- Description of real estate, including acreage, character of land, and number, type, and condition of improvements.
- Map depicting area and the relationship of improvements to the installation boundary.
- If land is being made available for a public road, a statement indicating whether limited access is proposed, and the type of legislative jurisdiction held by the United States over the land involved. If exclusive or partial legislative jurisdiction is held by the United States, the statement will indicate whether there is any objection to retrocession. If retrocession is desired, the Installation Commander should send a written request through the chain of command to the appropriate USACE district for retrocession action (Army Regulation 405-20).
- If only building space is involved, the total usable square feet, the type of construction, and whether it is feasible and necessary for the prospective user to obtain utilities from the DA on a reimbursable basis. If only a portion of the building is available, a floor plan should also be included.
- Statement of the reasons that the land cannot be declared excess and cannot be disposed of in accordance with Army Regulation 405-90.
- EA or EIS describing all potential impacts of the proposed action. This analysis must fully comply with the provisions of NEPA and CEQ and Army regulations. Specifically

this information will detail, as appropriate, impacts on the ecosystems (ecological effects) in addition to other requirements of NEPA and other environmental statutes, regulations, and executive orders. This requirement can be satisfied by incorporation into the BRAC NEPA analysis.

- Statement as to whether the affected property meets the criteria of the National Register of Historic Places.
- Flood hazard evaluation if the lands are on a floodplain.
- Details on any proposed destruction, relocation, and replacement of Army facilities.
- Remarks and recommendations as to whether the proposed use might prove embarrassing for the Army.
- Recommendations as to any limitations to be imposed on the use. Specific emphasis will be given to any use restrictions required to comply with the spirit of the following:
 - Executive Order 11990, Protection of Wetlands
 - Executive Order 11988, Floodplain Management
 - Endangered Species Act
 - Wilderness Act of 1964
 - Wild and Scenic Rivers Act
 - Coastal Barrier Resources Act of 1982
 - National Historic Preservation Act
- Date of availability and period of time the property may be made available for use without interference with current or foreseeable Army requirements.
- Estimates of cost, fair market value, and rental.
- In rare instances, approval of the use of Army property for vehicle speed contests.
- Statement of whether the proposed action will jeopardize any threatened or endangered species or their habitat.
- Statement of whether the action is or will be consistent with an approved State Coastal Zone Management Plan.
- Justification for granting a Waiver of Competition, if appropriate.
- Any information or conditions of significance to the availability not listed above.

The Garrison Commander should recommend that real estate is available for non-Army use as far in advance as possible to reduce the time between the availability of the property and the date of use by the grantee. The Garrison Commander will submit the recommendation to HQDA for approval. If approved, the matter will be submitted to the appropriate USACE district for action.

5.10.4 Finding of Suitability to Lease

The DoD's policy on Findings of Suitability to Lease (FOSLs) was established to provide guidance on identifying and documenting parcels of real property that have been made available through the BRAC process and are environmentally suitable for outgrant. The policy meets the following objectives:

- Ensure protection of human health and the environment.
- Develop a DoD-wide process to assess, determine, and document the environmental suitability of properties (parcels) for outgrant.
- Ensure that outgrants of properties do not interfere with environmental restoration schedules and activities being conducted under the provisions of law or regulatory agreements.
- Ensure compliance with all applicable environmental requirements and establish the basis for the DoD components to make notifications to lessees regarding hazardous substances (including asbestos and any substance regulated under CERCLA, RCRA, or state law) and petroleum products (including their derivatives, such as aviation fuel and motor oil) potentially on the property.
- Provide adequate public and regulatory participation.

To determine whether a piece of real property is suitable for leasing by others, an Environmental Condition of Property report (the ECP process is described in Section 5.11.1) is prepared to assess the environmental condition of the property.

After completion and review of the ECP and any appropriate local community reuse plans available, and if it is determined that the property is suitable for lease, the Army will prepare and sign a FOSSL. The finding of suitability is based on the following information:

- Hazardous substance notice is not given because no hazardous substances or petroleum products were stored for 1 year or more, or are known to have been released, treated, or disposed of on the parcel.
- Hazardous substance notice is given identifying the types and quantity of hazardous substances or petroleum products, and the time at which storage for 1 year or more, release, treatment, or disposal took place, but the property is currently not contaminated with hazardous substances or petroleum.
- The property contains some level of contamination, and hazardous substance notice will be given. However, the property can be used pursuant to the proposed lease, with specific use restrictions in the proposed lease, with acceptable risk to the environment or human health and without interference with the environmental restoration process.

5.10.5 Finding of Suitability to Transfer or for Early Transfer

Similar to a FOSSL, a Finding of Suitability to Transfer (FOST) is prepared once a determination has been made that a property is environmentally suitable for transfer. Amendments to CERCLA in 1996 provided authority for the deferral, under certain conditions, of the CERCLA section 120(h)(3) covenant that all remedial action has been taken. In such cases, the Army prepares a Finding of Suitability for Early Transfer (FOSET).

5.11 Community Environmental Response Facilitation Act

The Community Environmental Response Facilitation Act (CERFA; Public Law 102-425) amended section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9620(h)) for identifying and documenting all uncontaminated real property, or parcels of it, at installations undergoing closure disposal and reuse. Uncontaminated property is defined as any real property on which no hazardous substances and no petroleum products or their derivatives (including aviation fuel and motor oil)

were stored for 1 year or more, or known to have been released or disposed of on the property. The assessment and determination of uncontaminated property are conducted by the Army command responsible for the property. The assessment and determination should be based on an ECP report.

5.11.1 Environmental Condition of Property Report

As described in DoD and Army guidance on the implementation of CERFA, an ECP report will be prepared for each installation or portion thereof being transferred or leased. The ECP report, based on all existing environmental information related to storage, release, treatment, or disposal of hazardous substances or petroleum products on the property, is intended to determine or discover the presence or likely presence, or a release or threatened release, of any CERCLA or non-CERCLA hazard including asbestos, lead-based paint, radon, and petroleum products. In certain cases, additional data (including sampling and analysis) might be needed in the ECP report to support the determination. A previously conducted ECP may be updated as necessary and used for making a CERFA determination, where appropriate. An ECP report can also support other environmental real estate requirements (e.g., preparation of a FOSL or a FOST).

The ECP process is a systematic process that identifies the scope of investigative effort required and that evaluates and documents the potential for environmental contamination and liability in three distinct stages:

- Programmatic Environmental Review
- Phase I—Assessment
- Environmental Condition of Property Report
- Phase II—Confirmation Sampling

The ECP process begins by conducting a Programmatic Environmental Review (PER). This is a data gap analysis used to determine the extent and quality of available environmental information for a site. The PER indicates what additional data are needed to perform the ECP Phase I and is used to aid in the preparation of a work statement for conducting the Phase I assessment.

The primary purpose of the Phase I ECP is to evaluate the potential for contamination of real property. Phase I consists of a series of investigative reports and surveys that incorporates interviews, a site visit, records review, regulatory review, and geologic and hydrogeologic reviews. This information is analyzed and a report is generated that evaluates the potential for contamination at the site and documents current and past site uses and activities. The ECP Report is drafted following the Phase I assessment and is used to provide background information for the CERFA requirements for disposal of BRAC properties. A separate CERFA Letter Report is submitted to satisfy the CERFA requirement. The Phase I ECP process fully satisfies DoD requirements for an environmental baseline survey. The ECP process integrates the following elements in a Phase I assessment:

- Archive Search Report (MEC Evaluations/Munitions Response Investigations)
- Radiological Survey Report
- Environmental Baseline Survey
- Environmental Investigation Report(s)
- LBP and ACM Surveys

- Installation Infrastructure Knowledge
- Hazardous and Toxic Waste (HTW) Evaluations
- Natural and Cultural Resource Reviews

Each of the above elements used in the Phase I assessment and ECP Report are developed in accordance with appropriate guidance provided by the agencies conducting the work. All guidance requirements are reviewed by DAIM-BD to insure that both the obtained data and reported format is consistent with the ECP process. If after the completion of the Phase I ECP, there remains uncertainty related to potential for environmental contamination on the installation, a Phase II ECP, which typically includes intrusive sampling, may be used to verify or refute specific environmental concerns identified during Phase I.

An important purpose of the ECP is to provide the “baseline” environmental condition of a property and serve as a source document if subsequent contamination occurs and questions about responsibility arise. Whenever BRAC property is to be transferred outside of the federal government, the information contained in the ECP will be used to prepare finding of suitability to transfer, lease, or early transfer of property.

5.11.2 Procedures and Responsibilities

Regulatory agencies are notified at the initiation of the ECP. The process of developing the ECP is designed to ensure that regulators are provided adequate opportunity to express their views. Regulators are provided with workable draft documents as they become available. Comments received during the development of ECP documentation are to be reviewed and incorporated as appropriate. Any unresolved regulatory comments are included as attachments to the ECP.

Once the ECP has been completed, the Army will review it and determine which parcels of property are eligible for identification under CERCLA section 120(h)(4). Once the Army makes this determination, the ECP report and determination are provided to the EPA Administrator and state and local government officials and made available to the public. In submitting the ECP report, the Army requests concurrence in its determination from the appropriate regulatory official. In the case of real property that is part of a facility on the NPL, the appropriate concurring regulatory official is the EPA Administrator or designated representative. In the case of real property that is not part of a facility on the NPL, the appropriate regulatory official will be the governor or other designated state official. In the case of a concurrence that is required from a state, concurrence is deemed to be obtained if, within 90 days after receiving a request for concurrence, the state has not acted (by either concurring or declining to concur) on the request for concurrence. The Army will submit its determination under CERCLA section 120(h)(4) with a request for concurrence from the appropriate regulatory official at the earliest possible time, but no later than 18 months after the BRAC 2005 recommendations become final.

When preparing to make identifications under CERCLA section 120(h)(4), parcels of property may be placed in one of several categories:

- *CERFA parcel*. Real property that has no history of hazardous substance storage for 1 year or more, release, or disposal. This property is eligible for identification under CERCLA section 120(h)(4) if regulatory concurrence is obtained within the 18-month period.

- *CERFA parcel with qualifier.* A parcel that contains non-CERCLA hazards such as asbestos, unexploded ordnance, lead-based paint, radionuclides, or inactive equipment containing PCBs.
- *CERFA disqualified parcel.* Real property where there is evidence that one-time hazardous substances or petroleum products or their derivatives were stored for 1 year or more, released, or disposed of on the property, or evidence that the parcel is threatened by release or disposal.
- *CERFA excluded parcel.* An area that either is to be retained by the DoD or was previously transferred to another federal agency or to a party outside the federal government.

Parcels identified under CERCLA section 120(h)(4) and their respective acreage should be identified in the alternatives section of the BRAC NEPA document (see Sections 3 and 4 of this manual). Although the CERCLA section 120(h)(4) process is designed to rapidly identify uncontaminated property for transfer, environmental restoration of contaminated sites might be occurring, or might occur, at numerous other sites throughout the installation as part of the Defense Environmental Restoration Program. Individual projects are developed and funded according to various regulatory requirements. The overall objective is to provide, as soon as possible, environmentally safe parcels that can be readily disposed of and made available for reuse.

5.11.3 Redevelopment Plan

The redevelopment plan is a comprehensive local community facility reuse plan that describes the range of feasible reuse options for the closing base. According to DoD guidance on accelerating NEPA analysis for base disposal and reuse, the DoD Office of Economic Adjustment (OEA) and the Army should make every effort to aid and encourage the LRA and the community to arrive at a final and approved reuse plan at an early stage. A community's reuse plan is considered "final" when it is officially adopted by the governing body of the state or the local governmental organization with the primary role as the base's reuse planning group. Army policy is that the community's reuse plan, if available, will be the basis for the alternatives addressed in the Army's EIS or other NEPA analysis unless the plan conflicts with statutory or regulatory requirements. If the community fails to submit an approved final reuse plan by the time the Army needs to initiate the NEPA analysis, the Army will prepare the NEPA analysis using reasonable assumptions as to the likely reuse scenarios and their reasonable alternatives.

5.12 Related Real Estate Transactions

Sections 2811 and 2812 of the National Defense Authorization Act for Fiscal Year 2003 expand the military services' capabilities to protect the interests of installations. These two provisions respond to concerns of military leaders, voiced to Congress, regarding issues involving encroachment, other constraints on military use of real property, and natural resource conservation. In appropriate circumstances, the Army may use either of these provisions in BRAC actions involving realignment, disposal and reuse, or enclave creation.

5.12.1 Agreements to Limit Encroachments and Other Constraints

Section 2811 of the National Defense Authorization Act for Fiscal Year 2003 (codified at 10 U.S.C. 2684a) enables the military services to enter into agreements to limit encroachment and other constraints on military training, testing, and operations. The provision enables the Army to enter into an agreement with an eligible entity to address the use or development of real property in the vicinity of a military installation for purposes of (1) limiting any development or use of the

property that would be incompatible with the mission of the installation or (2) preserving habitat in a manner that could eliminate or relieve current or foreseen environmental restrictions adversely affecting installation activities. Eligible entities include a state, a political subdivision of a state, and a private entity that has as its stated principal organization purpose or goal the conservation, restoration, or preservation of land and natural resources. An agreement under Section 2811 may provide for the acquisition by the entity of all right, title, and interest in and to any real property, or any lesser interest in the property, as well as the sharing by the United States and the entity of the acquisition costs.

5.12.2 Conveyance of Surplus Real Property for Natural Resource Conservation

Section 2812 of the National Defense Authorization Act for fiscal year 2003 (codified at 10 U.S.C. 2694a) enables military services to convey surplus real property for natural resource protection. The provision enables the Army to convey to an eligible entity any surplus real property that (1) is under the administrative control of the Army, (2) is suitable and desirable for conservation purposes, (3) has been made available for public benefit transfer for a sufficient period of time to potential claimants, and (4) is not subject to a pending request for transfer to another federal agency or for conveyance to any other qualified recipient for public benefit transfer under real property disposal processes. Eligible entities include a state, a political subdivision of a state, and a nonprofit organization that exists for the primary purpose of conservation of natural resources on real property. The deed of conveyance of any surplus real property will require the property to be used and maintained for the conservation of natural resources in perpetuity; property not so used or maintained will, at the option of the Army, revert to the United States.

5.12.3 Comparison of Provisions

Section 2811 provides authority to *acquire* real property. Suitable tracts would be those that could serve as a buffer between an installation and non-military land uses. Use of section 2811 might arise in a realignment action or where an enclave is established in conjunction with reconfiguring an installation (reducing it in size) or changing land use classifications over large portions of an installation.

Section 2812 provides authority to *dispose* of real property. Use of section 2812 would most likely occur at closing installations having substantial tracts that LRAs deem to be without redevelopment potential. The Army may not resort to use of section 2812, however, until all other avenues for disposal have been reasonably exhausted.

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6.0 Document Processing: Review and Approval

6.1 General Authority

Under policy established by the Deputy Assistant Secretary of the Army for Environment, Safety, and Occupational Health (DASA-ESOH) on 2 October 1989, the authority to sign, approve, and review execution of actions in all BRAC rounds resides in the Secretariat. The policy recognizes that although all levels of the Army family must be involved in executing such complicated actions, final decisions for implementing legislated realignments and disposal actions should reside in the Secretariat. Where appropriate, select aspects of documenting NEPA compliance are delegated.

6.2 Document Review Procedures

The objective of NEPA and Army NEPA policy is quality analysis in support of Army decisionmaking. To this end, thorough and timely reviews will accompany the preparation of all BRAC NEPA documents. This section establishes review procedures for BRAC NEPA documents.

6.2.1 Review Precepts

Precepts. The following precepts guide review of BRAC NEPA documents:

- *Lead reviewer procedures.* Review of BRAC NEPA documents use “lead reviewer” procedures (see Section 6.2.3).
- *Concurrent reviews.* BRAC NEPA documents are reviewed concurrently, rather than consecutively, by designated echelons of the Army.
- *Electronic transmission.* Preparers transmit documents and reviewers submit comments electronically.
- *Comment consolidation.* Comments are consolidated in a “comment response matrix.” These documents form the basis for subsequent changes in the BRAC NEPA document.
- *Document length.* The depth of analyses and length of documents are proportionate to the nature and scope of the action, the complexity and level of anticipated effects on important environmental resources, and the ability of Army decisions to influence those effects in a productive, meaningful way from the standpoint of environmental quality.
- *Focus.* Documents are analytic, not encyclopedic, with emphasis on those issues most important to the decisionmaker and the public. Emphasis is on focusing on major environmental issues affecting decisions; inconsequential or irrelevant matters are eliminated.

All BRAC NEPA documents must be reviewed for legal sufficiency. The purpose of the legal sufficiency review is to ensure that all legal issues of the BRAC NEPA process have been addressed. A legally sufficient document is one that procedurally complies with CEQ and Army regulations and published policies and that identifies and analyzes all relevant issues and conditions. A legally sufficient NEPA document is one that accomplishes the two goals of NEPA: to provide for informed decisionmaking by the federal agency and to disclose to the public the environmental effects of the proposed action and alternatives. To accomplish these goals, the document must clearly identify and analyze the proposed action; reasonable alternatives; impacts associated with the proposed action and alternatives, including cumulative impacts; and means to avoid or minimize adverse effects (mitigation).

Quality. Army Regulation 25-1 (*Army Knowledge Management and Information Technology Management*) incorporates the Data Quality Act (Section 515, Public Law 106-554) into Army procedures relating to dissemination of information to the public. Under the Data Quality Act, the Army is required to maintain a basic standard of quality (objectivity, utility, and integrity) and take appropriate steps to incorporate information quality criteria into public information dissemination practices. The quality of information in BRAC NEPA documents is enhanced through use of sound data gathering methods, objective presentation and evaluation of issues, and thorough reviews prior to the release of the documents. To these ends, proponents will establish appropriate procedures for validating information relied upon in preparing NEPA documents and for ensuring substantive internal reviews of documents.

6.2.2 Documents Subject to Review

Environmental documents prepared to support BRAC actions include RECs, EAs, EISs, NOIs, FNSIs, and RODs. At their various stages of completion, iterations of these documents may be designated as preliminary draft, draft, preliminary final, or final. Documents related to the BRAC process include NOAs and Release Packages (consisting of IMC, MFC, and Q&A). These latter documents aid public involvement and dissemination of information. A sample Release Package is shown in Appendix P. Review of documents should focus on ensuring their substantive accuracy, as well as their consistency with Army procedures.

6.2.3 Designation of Review Participants

Review of BRAC NEPA documents adheres to procedures established at 32 CFR 651.6, which provides that “approving officials may select a lead reviewer for NEPA analysis before approving it. The lead reviewer will determine and assemble the personnel needed for the review process.”

The level of analysis to be performed (REC, EA, or EIS) will influence the number of draft document iterations and the number of reviewers. The Lead Organizations serving as proponent for a BRAC action will ensure the sufficiency of each BRAC NEPA document by using adequate review mechanisms. Each document will be reviewed at the critical junctures of its preparation to ensure both substantive accuracy and compliance with requisite procedures. The NEPA document proponent may, as appropriate to the type of proposed action, draw upon the following to review NEPA documentation for BRAC actions:

- NEPA Support Team (primary reviewer on behalf of DAIM-BD)
- Installation staff, including the BEC and BCT
- Lead Organization
- IMA Headquarters and Regional Office staff
- MACOM staff (when affected by realignment or enclave creation)
- BRAC Division staff
- Army Staff and Secretariat (for functional interests in BRAC actions, see Section 2.3.3)
- Other Army entities, as appropriate (e.g., AEC)

Before distributing documents for review, the proponent will establish liaison with the reviewing organization or entity to identify the person responsible for conducting the review. That person will then be the one to receive the document by electronic mail and to provide a timely response directly back to the proponent with comments on behalf of the organization or entity.

The proponent will ensure that, prior to each review, the NEPA document is technically edited. This will relieve reviewers from having to point out errors such as misspellings, typographical mistakes, and poor syntax.

In addition to identifying who will review each iteration of a document, at the outset of preparing documentation for each BRAC action, the proponent will specify the following:

- *Type of NEPA document.* Each BRAC action will be evaluated by use of a categorical exclusion or through an EA or EIS culminating, respectively, in a REC, FNSI, or ROD. Each EIS will involve NOAs and Release Packages at the draft and final stages of preparation.
- *Draft documentation.* In unusual cases, a draft REC may be prepared to allow additional review prior to execution. Analysis through preparation of an EA will normally be accomplished by preparing a draft, check copy draft, and final EA. Analysis through preparation of an EIS will normally be accomplished by preparing a preliminary draft, draft, preliminary final, and final EIS. Additional iterations of EAs and EISs are neither required nor desired.

6.2.4 Use of the World Wide Web for Public Review

DAIM-BD and IMA may establish a World Wide Web site for each BRAC project or for multiple BRAC projects. Information posted to the Web site concerning the BRAC projects might vary because of the nature of the installation or availability of information. Proponents will ensure that all NEPA documents required to be made available for public review are posted on an appropriate Web site. Documents to be posted include all RECs, final EAs, draft and final FNSIs, draft EISs, final EISs, and RODs. Other documents that might be appropriate for posting include copies of any NOI, NOA, or matter relating to scoping. NOAs published in the *Federal Register* or local media will include the Web site address where documents can be viewed. Web sites will be designed to enable submission of comments by the public. All comments will be considered by the proponent and, in appropriate instances, may be responded to either by a memorandum to be filed in the administrative record or by a direct response to the person who submitted the comment. All comments received on draft EISs will be handled as specified in the CEQ regulations and 32 CFR Part 651.

6.3 Document Approval and Signature Authority

The officials designated to approve and sign BRAC NEPA documents will be identified during preparation of analyses. The Army Lead Organization serves as proponent for the NEPA document. The proponent for disposal actions is DAIM-BD. For all other actions, the proponent is IMA. In designated cases, in lieu of IMA, the Army National Guard or major command having special installation responsibility (e.g., Army Materiel Command, Surface Deployment and Distribution Command, Medical Command) will serve as the proponent for the NEPA analysis.

Samples of FNSIs and RODs are contained in Appendix Q and Appendix R, respectively.

6.4 Documents: Authority to Release

As project proponent and document preparer, the DAIM-BD or Lead Organization develops the following documents:

- NEPA documents: EA, draft and final FNSI, draft and final EIS, and ROD

- NOA for *Federal Register* for draft EIS, final EIS, or ROD and NOA for local publication for EA and draft FNSI
- Release Package (consisting of IMC, MFC, and Q&A) for all NEPA documents (NOI, draft FNSI, DEIS, FEIS, and ROD)

BRAC EAs, unless otherwise directed by higher command, will be signed by the Garrison Commander. BRAC EISs will follow the standard procedures contained in 32 CFR 651.14 and 651.4 (Subpart F) unless the authority has been delegated. Proponents will send NOAs for draft and final EISs, Release Packages, and RODS for review and signature by DASA-ESOH. Pursuant to 32 CFR 651.4, decision documents for proposed actions of the Army National Guard are signed within the National Guard Bureau. Signature authority on decision documents for the Army Reserves will be at their discretion.

Proponents will send NOAs for draft and final EISs, Release Packages, and RODs to DAIM-BD for administrative processing to obtain Secretariat approval for release to the public. Upon receipt, DAIM-BD prepares a cover sheet and a memorandum to be signed by ACSIM, forwarded through DASA-ESOH, requesting approval for release of the (1) NEPA document, (2) NOA for a draft or final EIS or ROD, and (3) Release Package.

In conjunction with the preceding steps, DAIM-BD prepares a letter to the *Federal Register* to be signed by DASA-ESOH requesting publication of the NOA for a draft or final EIS or a ROD. DAIM-BD also prepares a letter for DASA-ESOH signature to the EPA's Office of Federal Activities to accompany five copies of a draft or final EIS.

Issuance of a draft FNSI initiates a 30-day review and public comment period. At the end of that period, and subject to any comments received concerning the proposed action, alternatives, or analysis contained in the final EA, the final FNSI will be executed. Implementation of a proposed action may not proceed until the final FNSI is signed. In the case of an EIS, implementation of the proposed action may not proceed until the ROD has been signed.

6.5 Document Drop Meetings

Upon approval of authority to release BRAC NEPA documents, DAIM-BD makes arrangements for the Army's coordinated document release activities. DAIM-BD takes the lead to convene the Drop Meeting. Other participants include DASA-ESOH and the DASA-ESOH NEPA POC, OCLL representative, and OCPA representative. DAIM-BD should be prepared to provide the DASA-ESOH a brief (2-minute) overview of the NEPA document, other environmental issues, and any contentious issues affecting the installation. At the Drop Meeting, the DASA-ESOH signs the memoranda and letters described in Section 6.4. The Drop Meeting ensures synchronization of the following:

- Drop of IMC by OCLL
- Issuance of Release Package, coordinated by OCPA
- Delivery of documents to the *Federal Register* by DAIM-BD
- Delivery of documents to EPA

6.6 NOA Publication in the *Federal Register*

Five copies of a draft EIS or final EIS must be filed with the EPA's Office of Federal Activities. EPA publishes in the *Federal Register* an NOA of all EISs submitted in the preceding week. This NOA is published on the Friday of the week following the filing date. It is EPA's NOA that

starts the 45-day public comment period in the case of the draft EIS and the 30-day period in the case of a final EIS. As EPA requires a full week to process NOA publications, the Army must provide the documents by at least the preceding Friday. DAIM-BD should coordinate with the *Federal Register* to ensure that the Army's NOA is published on the same date as EPA's NOA to prevent confusion regarding when the public comment period begins. EPA's NOA will appear in the EPA section of the *Federal Register*, and the Army's NOA will appear in the DoD section. Army publication of an NOA in the *Federal Register* is a "notice;" it does not initiate the public comment period. Only EPA's publication in the *Federal Register* initiates the comment period. Inquiries concerning deliveries of documents to EPA or EPA's publication of NOAs in the *Federal Register* may be made by calling 202-564-7167.

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