Headquarters, U.S.
Marine Corps

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ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

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From: Commandant of the Marine Corps
To: Distribution List

Subj: ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

Encl: (1) LOCATOR SHEET

Reports Required: List, page v

1. Purpose. American society has shown a determined concern for the protection and enhancement of the environment. As a result, the Secretary of Defense has made the commitment that the Department of Defense (DoD) will take the lead in Federal agency environmental compliance and protection. Military leaders are expected to conform to a new national ethic and to consider a new set of priorities which have been superimposed on our traditional defense mission. Consistent with this objective, this Manual has been revised to provide guidance and instruction to installations enabling them to meet stringent environmental legislation and increasing pressure by regulatory agencies at the Federal, state, and local level.

2. Cancellation. MCO P5090.2

3. Effective Date. 1 July 1998

4. Summary of Revision. Revisions are considerable, and this Manual should be reviewed in its entirety.

5. Scope. This Manual accomplishes the following:

a. Implements the substantive requirements of DoD environmental policy;

b. Outlines the requirements for compliance with Federal environmental regulations;

c. Establishes Marine Corps policy for funding, evaluating, and continually improving environmental compliance and protection programs, with emphasis on pollution prevention and training and education.

6. Recommendations for Modification. Recommendations concerning the contents of this Manual are invited. Such recommendations will be forwarded to the Commandant of the Marine Corps (CMC) (LFL) via the appropriate chain of command.

7. Action. All Commanding Officers and Marines whose actions have the potential to adversely affect the environment should ensure that they are familiar with the applicable chapters of this Manual.

8. Reserve Applicability. This Manual is applicable to the Marine Corps Reserve.

9. Certification. Reviewed and approved this date.

J. M. HAYES
Acting Deputy Chief of Staff
for Installations and Logistics

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ENCLOSURE (1)

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

RECORD OF CHANGES

Log completed change action as indicated.

Change Number	Date of Change	Date Entered	Signature of Person Incorporated Change

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CHAPTER 1

GENERAL POLICIES AND RESPONSIBILITIES

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CHAPTER 1

GENERAL POLICIES AND RESPONSIBILITIES

SECTION 1: INTRODUCTION

1100. PURPOSE. This Manual establishes Marine Corps policy and responsibilities for compliance with both statutory/regulatory requirements and the management of Marine Corps programs as follows:

1. Protection of human health and the environment.

2. Compliance with appropriate laws and regulations.

3. Remediation of past contamination.

4. Pollution prevention.

5. Preservation of natural, cultural, and historic resources.

1101. APPLICABILITY

1. This Manual applies to all Marine Corps active and reserve installations, commands, detachments, and units.

2. The major Federal environmental statutes contain waivers of sovereign immunity that require Marine Corps installations to comply not only with Federal, but also state and local substantive and procedural requirements. Applicable Federal, state, and local requirements or Executive Orders (EO) which are more stringent than this Manual will be followed.

3. State and local regulatory programs may establish regulations which are more stringent than the Federal requirements. Each Marine Corps installation should obtain copies of its respective state and local regulations to determine if the installation is subject to requirements which go beyond the Federal laws and regulations outlined herein. Commanders of deployed units must be aware of changing requirements as the units deploy to locations different from their home installation.

4. Marine Corps Activities in Foreign Countries

a. Marine Corps activities in foreign countries are not, in general, subject to United States procedural requirements. Instead, the DoD Overseas Environmental Baseline Guidance Document (OEBGD, October 1992) and the applicable country-specific Final Governing Standards (FGS) establish policy for Marine Corps facilities in foreign countries. The country-specific FGS are prepared by the DoD Environmental Executive Agent based on the host nation's environmental requirements and the OEBGD. Currently, the only existing FGS applicable to Marine Corps installations are the Japan Environmental Governing Standards.

b. Commanders of units deployed to installations overseas must comply with the FGS established for the host country and should contact the appropriate CinC through the chain of command to seek any unique environmental requirements of the host country.

c. If no FGS are established for the host country, commanders must comply with applicable international agreements and host country pollution control standards of general applicability, as well as the OEBGD. In cases of conflicting requirements, commanders must comply with the standard that is more protective of human health and the environment.

1102. BACKGROUND. EO's and congressional legislation have directed all Federal agencies to provide leadership in the protection of our Nation's environment. The sources that generate the requirements, regulations, standards, mandates, policies, and guidance that form the basis of this Manual are identified in the appendices with a brief discussion of each source. Specific technical discussions of the sources are presented in each chapter as they apply to various media. Training requirements from many of the sources are also presented in the appendices.

1103. FEDERAL STATUTES

1. Background

a. Federal environmental legislation extends as far back as 1899 with the Rivers and Harbors Act. For many years, the DoD maintained that national security concerns and sovereign immunity

exempted it from compliance with environmental legislative requirements. However, recent court decisions have determined that Federal agencies must comply with legislative requirements. Further, Congress is continuing its trend of including waivers of sovereign immunity when reauthorizing or amending environmental statutes.

b. The Marine Corps implementation of executive and legislative mandates, as set forth in this Manual, is directed toward environmental compliance and protection. Accordingly, the environmental policies contained in this Manual consolidate into one document the policy, legislative mandates, and implementing Federal regulations for air, water, land, and solid and hazardous waste media, as well as for the management of forestry, fish, wildlife, and other environmental, natural, and cultural resources.

2. Federal Tort Claims Act of 1946, as Amended (28 U.S.C. 2671 et seq.). This Act substitutes the United States as the party defendant in cases alleging negligent action by a Federal employee or service member acting within the scope of employment. Absent this Act, such cases would involve the risk of personal liability.

1104. REQUIREMENTS. The Marine Corps will comply with environmental requirements in the following order: 1) statutory requirements, 2) regulatory requirements, 3) EO requirements, 4)DoD requirements, 5) DON requirements, and 6) Marine Corps requirements. These requirements are discussed below.

1. Statutory Requirements. Environmental laws passed by Congress and signed by the President require compliance by Federal installations with all requirements, substantive and procedural, applicable to environmental management. See appendix A for a summary of important Federal statutes. State and local governments often enact similar laws, which apply to Federal installations.

2. Regulatory Requirements. Federal, state, and local regulations implement and expand upon statutory requirements. See appendix A for a summary of important Codes of Federal Regulations. Each chapter in this Manual also includes many of the significant Federal regulations pertaining to environmental compliance, pollution prevention, and natural/cultural resources.

3. EO Requirements. EO 12088, Federal Compliance with Pollution Control Standards, October 13, 1978, requires executive agencies, including the military departments, to comply with applicable requirements of Federal laws. This EO requires each agency to submit to the Office of Management and Budget an annual plan for environmental pollution control with cost estimates for the design, construction, management, operation, and maintenance of Federal facilities. In addition, other EO's (e.g., EO 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements) require Federal agencies to assume a leadership role in environmental compliance and protection. See appendix A for a summary of important EO's.

4. DoD Requirements. Specifically referenced DoD Instructions and Directives are included as appendices to the basic Manual.

5. DON Requirements

a. Certain DON requirements, such as those published by the Office of the Assistant Secretary of the Navy, Installations and Environment, apply to both Navy and Marine Corps activities and installations.

b. OPNAVINST 5090.1, does not apply to Marine Corps installations. However, it may apply to Marine Corps activities aboard Navy installations.

6. Marine Corps Requirements. The CMC establishes Marine Corps environmental compliance and protection requirements. In addition to policies established in this Manual, the Commandant periodically provides additional policy and guidance through letters, memoranda, and messages.

1105. TERMS AND DEFINITIONS. Each chapter contains specific terms and definitions applicable to the medium being discussed.

CHAPTER 1

GENERAL POLICIES AND RESPONSIBILITIES

SECTION 2: MARINE CORPS POLICY

1200. MISSION. The two most important national functions of the Marine Corps are to make Marines and to win battles. Training is integral to the performance of these functions. By respecting and maintaining the natural resources entrusted to the Marine Corps, the training opportunities enjoyed by today's Marines will be available to future generations of Marines. In combat, leaders balance the accomplishment of the mission with the resources expended. This is the guiding principle used to develop the policies promulgated by this Manual. These policies ensure that every Marine will be afforded the opportunity to experience the training needed to win battles.

1201. MANUAL FORMAT. The Manual presents overall policy and program management in the opening 5 chapters, followed by 15 chapters dealing with specific environmental media and technical issues. Each chapter is broadly divided into three parts: Section 1: Introduction, Section 2: Marine Corps Policy, and Section 3: Responsibilities.

1. Section 1. Section 1 consists of the following components:

a. Purpose. The purpose explains why the chapter exists.

b. Applicability. Applicability identifies to whom the chapter applies.

c. Background. Background addresses why the Marine Corps is carrying out these actions, discussing historic items in relation to the subject of the chapter.

d. Federal Statutes. This section describes legislation applicable to the chapter's subject matter.

e. Requirements. This section explains how legislative and other requirements apply to the chapter's subject matter.

f. Terms and Definitions. The terms and definitions included are tailored to the chapter's subject matter.

2. Section 2. Section 2 considers all policy-related items that pertain to the chapter's subject matter.

3. Section 3. Section 3 considers all responsibilities associated with statutes, policies, and requirements.

4. Appendices A through Q and an index are provided at the end of the Manual to assist with clarification.

CHAPTER 1

GENERAL POLICIES AND RESPONSIBILITIES

SECTION 3: RESPONSIBILITIES

1300. CG/CO OF MARINE CORPS INSTALLATIONS, COMMANDER MARINE FORCES RESERVE (COMMARFORRES), COMMANDER MARINE FORCES PACIFIC (COMMARFORPAC), AND COMMANDER MARINE FORCES ATLANTIC (COMMARFORLANT). Publish a single environmental compliance and protection standard operating procedures (ECPSOP) document. Separate commands which are not co-signatories on an installation ECPSOP will also publish an ECPSOP. A single ECPSOP ensures continuity of effort and prevents conflicts in policies between various environmental media programs. The local implementation of the policies and requirements contained in this Manual must appear in the ECPSOP. The ECPSOP will be prepared in a manner complementary to, but not repetitive of, this Manual, and can be compiled from existing base orders, standard operating procedures, etc.

1301. ALL MARINE CORPS PERSONNEL

1. Know and comply with the environmental rules and regulations that apply to their duties.

2. Maintain a general awareness of all applicable Marine Corps environmental policies and goals.

3. Apply the principles of Total Quality Leadership to incorporate environmentally safe practices and procedures into daily operations.

4. Take advantage of pollution prevention opportunities in everything we do.

5. Emphasize environmental awareness and incorporate environmental compliance into every aspect of operational practices.

6. Promote pollution prevention as the primary means of achieving and maintaining compliance with environmental requirements.

7. Address environmental problems, rather than ignore them.

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CHAPTER 2

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CHAPTER 2

ENVIRONMENTAL PROGRAM MANAGEMENT

SECTION 1: INTRODUCTION

2100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with the statutory and procedural requirements that pertain to environmental program management. Effective program management enables Marine Corps units, tenants, commands, and installations to achieve and maintain environmental compliance and protection worldwide. In addition, this chapter provides overall direction and consistency for environmental compliance and protection programs, along with technical, legal, and data management support.

2101. APPLICABILITY. See paragraph 1101.

2102. BACKGROUND

1. An elite force, Marines train as intensely as they fight; therefore, they need a variety of landscapes on which to conduct training. Over time, however, training can degrade a landscape so that it no longer sustains necessary training levels. In addition, the American people have placed intrinsic value on certain resources; failure to protect those resources under the stewardship of the Marine Corps may lead to legislative, Executive, or judicial directives limiting Marine Corps access to lands necessary to maintain military readiness. Accordingly, all Marine Corps commands must work to guarantee continued access to land, air, and water resources for realistic military training and testing by ensuring that the natural and cultural resources entrusted to the Marine Corps remain healthy, intact, and available for future generations.

2. Marine Corps environmental programs enhance military readiness, protect the health of military and civilian personnel living and working aboard Marine Corps installations, and protect the environmental quality of the installation and adjacent communities to support future activities. Environmental programs strengthen Marine Corps relationships with regulatory agencies and the public and reduce the long-term costs of maintaining and

operating installations by avoiding penalties, cleanup costs, and the risk of future liability.

2103. FEDERAL STATUTES

1. Executive Order (EO) Requirements. EO 12088, Federal Compliance with Pollution Control Standards, October 13, 1978, requires all facilities owned by, leased to, or leased from the military to be designed, operated, and maintained per all applicable environmental compliance standards. Military and civilian personnel must cooperate with Federal, state, and local environmental protection agencies and must comply with applicable standards and criteria issued by these agencies. The primary Federal regulatory agency for environmental compliance and pollution prevention is the Environmental Protection Agency (EPA). The EPA assists the Executive Branch and Congress in writing environmental legislation, develops detailed Federal regulations and guidelines for compliance with the laws, and monitors compliance through EPA regional offices and coordination with state and local agencies.

2. Federal Tort Claims Act of 1946, as Amended (28 U.S.C. 2671 et seq.). This Act substitutes the United States as the party defendant in cases alleging negligent action by a Federal employee or service member acting within the scope of employment. Absent this Act, such cases would involve the risk of personal liability.

3. National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). This Act requires the decision maker to consider the environmental impacts of major Federal actions with the potential to significantly affect the quality of the human environment. These actions include, but are not limited to, new construction projects and programs and continuing actions for which there is discovery of substantial environmental degradation. Such considerations must be built into the decision making process at every level in the Marine Corps. Chapter 12 of this Manual describes NEPA requirements in detail and outlines pertinent Marine Corps policy and procedures.

4. Citizen Suits. All major environmental statutes include "citizen suit" provisions to allow private plaintiffs to make Government officials comply with statutory duties or to enforce permits or requirements. Citizen suit provisions vary from statute to statute, and numerous legal considerations apply in each case. Upon receipt of any indication that a citizen suit

might be commenced, a commander must rapidly coordinate environmental management, technical, and legal resources. For Marine Corps installations, the relevant statutes and the basis on which a citizen suit can be brought are summarized as follows:

a. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as Amended (42 U.S.C. 9601 et seq.). For violation of any standard, regulation, condition, requirement, or order pursuant to this Act or for an official's failure to perform any act or duty that is not discretionary.

b. Clean Air Act (CAA) of 1970, as Amended (42 U.S.C. 7401 et seq.). For violation of an air emission standard or limitation or an order related thereto, for the construction of a major emitting facility without a permit, or for being in violation of such a permit.

c. Federal Water Pollution Control Act of 1972, as Amended (33 U.S.C. 1251 et seq.), and the Clean Water Act (CWA) of 1977, as Amended (Public Law 95-217, 33 U.S.C. 1251 et seq.). For violation of any effluent standards or limitations under these Acts or of an order issued by the EPA Administrator or a state with respect to such standards or limitations.

d. Resource Conservation and Recovery Act (RCRA) of 1976, as Amended (42 U.S.C. 6901 et seq.). For violation of any permit, standard, regulation, condition, requirement, prohibition, or order effective pursuant to this Act; or for past or present handling, storage, treatment, transportation, or disposal of solid waste (SW) or hazardous waste (HW) that may imminently and substantially endanger human health or the environment.

e. Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). For violation of any provision of this Act or regulation issued pursuant to the Act.

f. Toxic Substances Control Act of 1976 (15 U.S.C. 2601 et seq.). For violation of this Act or certain regulations issued thereunder.

g. Pollution Prevention Act (PPA) of 1990 (42 U.S.C. 13101 et seq.). For violation of any provision of this Act or regulation issued pursuant to the Act.

5. Citizen Suits in Practice. In almost all instances, citizen suits must be preceded by a 20-day notice period prior to filing a complaint. If Federal personnel are sued in their individual

capacities along with the Government, a 60-day notice applies. Except in emergency circumstances, the notice generally is required to identify in detail the matters constituting a statutory or regulatory violation, and it must be served on specific persons. This period allows the EPA Administrator or other authority to take appropriate action that may preclude need for the suit. The Department of Justice (DOJ), upon request submitted via the DON, provides representation for the Marine Corps. To ensure maximum opportunity to develop litigation strategies, affected parties should seek legal counsel as soon as possible. Upon service of the complaints, the full array of trial preparation begins, leading eventually to dismissal, settlement, or trial resolution. Depending on the statute enabling the suit and the facts of the case, a citizen suit plaintiff may seek an injunction, an imposition of fines or penalties, and an award of attorneys' and expert witnesses' fees and litigation costs, in addition to forcing an alleged violator into compliance with the law.

2104. REQUIREMENTS

1. Compliance

a. Federal agencies must comply with applicable environmental compliance requirements. The major environmental statutes contain waivers of sovereign immunity that require compliance with Federal, state, and local substantive and procedural requirements. The fundamental test of a "requirement" is that it constitutes an objective, quantifiable standard, subject to uniform application. The application of sovereign immunity waivers varies somewhat across states and localities; since these environmental program waivers are in a state of change, personnel should seek the advice of legal counsel on specific issues that result in a dispute with state or local regulatory agencies. If, upon the advice of legal counsel, it appears that such a dispute will remain unresolved at the installation level, promptly notify the CMC (LF). Chapter 3 of this Manual discusses the payment of fees, fines, or taxes.

b. The Marine Corps faces a formidable challenge in its effort to achieve compliance with Federal, state, local, and international environmental laws, regulations, and guidelines that affect Marine Corps installations. Contributing to the challenge is the fact that environmental compliance is a dynamic and changing arena. New requirements can emerge from many sources, and the regulatory permitting/enforcement priorities of

Federal, state, and local agencies can vary. The Marine Corps implements a systematic approach to achieving compliance, which involves the following:

(1) Identifying environmental requirements applicable to Marine Corps installations and commanders;

(2) Implementing programs to achieve compliance; and

(3) Conducting assessments at Marine Corps installations and commands to identify areas in which improvements are needed, to set priorities for instituting such improvements, and to monitor overall compliance performance.

2. Radioactive Material. Use and management of radioactive material must comply with the most current applicable rules, regulations, and requirements established by the Nuclear Regulatory Commission, the Department of Transportation, the DoD, the Occupational Health and Safety Administration, and the EPA.

3. Precious Metals Recovery Program. The recovery of precious metals from waste streams is not addressed in this Manual, but will be managed per all applicable DoD, DON, Marine Corps, and EPA rules and regulations such as DoD Manual 4160.21-M, and MCO 4555.3, sponsored by the CMC (LPP-2).

2105. TERMS AND DEFINITIONS

1. Environment. Air, water, land, man-made structures, all organisms living therein, the interrelationships that exist among them, and archeological and cultural resources.

2. Environmental Enhancement. All actions taken to improve the environment beyond, but not limited to, those actions which maintain environmental compliance and meet environmental quality standards.

3. Environmental Pollution. The conditions resulting from the presence of chemical, physical, or biological agents or causes which alter the natural environment, adversely affecting human health or the quality of life, biosystems, structures and equipment, recreational opportunities, or natural beauty.

4. Environmental Security and Natural Resources Conservation Awards. Awards given annually by the Secretary of the Defense to

installations that have demonstrated outstanding achievements in environmental protection or natural resources conservation in the preceding 2 years.

5. Environmental Standard of General Applicability in the Host Country or Jurisdiction. Substantive environmental standards that are applicable, in effect, and uniformly enforced pursuant to the national pollution control laws of the host country or regulations issued by host government agencies to implement national laws. The term does not include pollution control standards enacted or adopted by local governmental units, nor does it include political subdivisions that do not implement national pollution control laws of the host nation. Specific provisions of Status of Forces Agreements (SOFA) that permit or require applicability of standards other than those of the host country will be considered part of the environmental pollution control standards of general applicability in the host country or jurisdiction.

6. EO. A direct order signed by the President under his constitutional authority as Chief Executive, specifying responsibilities and actions required by Executive Branch agencies.

7. Facilities. Land resources, buildings, installations, structures, public works, equipment, aircraft, vessels, and other vehicles and property owned by, constructed for or by, or manufactured for the purpose of leasing to the Marine Corps.

8. Federal Action. An action that is implemented, funded, or authorized by the United States Government. It does not include actions in which the United States participates only in an advisory, information gathering, representational, or diplomatic capacity, nor does it implement or initiate the action or provide funding for the action. Actions in which a foreign government uses funds derived indirectly from the United States are considered Federal actions. Federal actions do not include actions taken by a foreign government or those occurring in a foreign country that benefit the United States but are not initiated, implemented, or funded by the United States.

9. Foreign Nation. Any geographic area (land, water, and airspace) that is under the jurisdiction of one or more foreign government(s), any area that is under military occupation by the United States alone or jointly with any other foreign government, and any area that is the responsibility of an international organization of governments. The term "Foreign Nation" includes

contiguous zones and fisheries zones of foreign nations. The term "Foreign Government" includes governments (regardless of whether or not they are recognized by the United States), political factions, and organizations that exercise governmental power outside the United States.

10. GO/CO Plants/Facilities. A separate category of Government-owned real property not residing on, or under the jurisdiction of, military-owned and -controlled real property such as military installations and bases. GO/CO facilities consist of military-owned and -controlled real property that is jurisdictionally separated from and dedicated to a contractor operation under a facility's use or management contract.

11. Lead Agency. The agency having the primary responsibility for preparing required environmental analyses.

12. SOFA's. Agreements concerning the stationing or operation of forces in a host country. These actions include multilateral or bilateral stationing for operating and base rights agreements.

13. United States. All states, the District of Columbia, territories, and possessions of the United States, and all waters and airspace subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include the Virgin Islands, American Samoa, Wake Island, Midway Islands, Guam, Palmyra Island, Johnston Atoll, Navassa Island, and Kingman Reef. For the purpose of this Manual, the United States also includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Marianas.

14. United States (or Host Country) Provided Facilities. Facilities contracted at the expense of the United States (or host country).

CHAPTER 2

ENVIRONMENTAL PROGRAM MANAGEMENT

SECTION 2: MARINE CORPS POLICY

2200. ENVIRONMENTAL COMPLIANCE AND PROTECTION POLICY

1. The Marine Corps will actively protect and enhance the quality of the environment through strict compliance with all applicable regulatory requirements through a process of continual improvement.

2. In the earliest stages of formulating plans, actions, and programs, the Marine Corps will assess the potential environmental impact of the proposal. NEPA provides a mechanism for considering environmental compliance and protection issues as embodied in appropriate statutory, regulatory, and service implementing policy guidelines.

3. Marine Corps installations and commands will promote environmental training and education, pollution prevention, and the integrated management of natural resources as the long-term strategy for achieving and maintaining environmental compliance and protecting access to training areas.

4. The Marine Corps will ensure the protection, conservation, and management of watersheds, wetlands, natural landscapes, soils, forests, fish and wildlife, and other natural resources as vital Marine Corps assets.

2201. CONSISTENCY. The number of environmental regulations has increased dramatically in recent years. Marine Corps installations are regulated by a wide array of Federal, state, regional, and local agencies. Requirements and interpretations vary greatly. To ensure consistent responses to the various agencies and to avoid adverse precedents, particularly those with funding implications, installations and commands must coordinate permit conditions, demand for payment of Marine Corps funds, compliance agreements, settlements, negotiations, and responses to NOV from environmental agencies with the CMC (LF). Technical assistance is also available from the appropriate command counsel and environmental offices. EFD/EFA of the Naval Facilities

Engineering Command (NAVFACENGCOM) are also available to respond to such issues.

2202. POLLUTION PREVENTION. The preferred method of environmental protection is to eliminate or control the pollutant source. Responsible parties must identify means and methods for the elimination or minimization of pollutants and, where possible, incorporate them at the earliest stages of planning, design, and procurement of facilities, weapon systems, equipment, and material. Dedicated efforts are necessary to eliminate or minimize the use of hazardous material (HM) and the generation of HW. When assessing solutions to compliance requirements, installations and commands will employ the environmental management hierarchy (EMH) in environmental project planning. The PPA establishes the following order of preference for the EMH:

1. Source reduction,

2. Material recycling,

3. Treatment, and

4. Disposal.

2203. RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION (RDT&E). RDT&E may be initiated to meet existing and anticipated environmental requirements provided that such RDT&E efforts have not been undertaken by DoD Components or private industry. Since environmental requirements are not usually narrowly focused, every effort should be taken to leverage RDT&E initiated by others to avoid depleting scarce resources unnecessarily. Environmental RDT&E undertaken by the Marine Corps should be reported to the CMC (LF); Marine Corps Systems Command, Program Support Engineers; and to the Office of the Director of Defense Research and Engineering, Washington, DC 20301-3010.

2204. PERSONAL LIABILITY FOR VIOLATION OF ENVIRONMENTAL LAWS. In most cases, Federal employees and service members are named as defendants in their official capacities because the actions in question are usually undertaken by virtue of their official authority. These cases generally proceed without risk of personal liability for the employee. In some cases, however, a

Federal employee or service member may be sued in this individual capacity for injuries or damages to persons or property. Individuals who violate environmental laws or who injure or damage the persons or property of others as a result of carelessness may be personally liable for the consequences. Environmental cases involving the DON may be brought against the DON itself, some smaller component, or individual officers or employees. The individual officers or employees may be named because the Marine Corps can act only through its employees or service members.

1. Personal Liability for Injuries or Damages to Persons or Property. Where a Federal employee or service member's actions cause injuries or damage to the person or property of another, the injured party may bring an action to recover the cost of the damage.

a. In such cases, the DOJ may substitute the United States for the individual if it determines that the individual was acting within the scope of official duties. An individual exercising official authority to carry out command business per applicable Marine Corps regulations normally is determined to be acting within the scope of official duties.

b. Any employee or service member who is served with a complaint, subpoena, or other legal paper relating to activities undertaken pursuant to official duties must immediately report this information to the staff judge advocate, command counsel, legal officer, or CO for guidance on how to proceed. Additional guidance is available in the Judge Advocate General Manual, from the Office of the CMC (CL) and, if appropriate, from the Litigation Office of the Office of the General Counsel.

2. Civil Liability for Fines. Many of the environmental statutes impose civil penalties for the violation of requirements. Some of the statutes, such as the CAA, the CWA, and the Safe Drinking Water Act, provide varying degrees of immunity from civil penalties to individual Federal employees. Liability under other statutes is not as clearly delineated. However, it appears that Federal officials who have made good faith efforts to know and to comply with environmental requirements and who act within the scope of their employment do not face the likelihood of civil penalties imposed under Federal law.

3. Criminal Liability. Most of the environmental statutes impose criminal liability for willful or knowing violations. Some statutes impose criminal liability for negligent violations. Individual Federal employees, including military personnel, may be charged with criminal liability if their actions, or inactions, meet the requirements for imposing liability. Criminal charges may be brought by Federal or state prosecutors. Military officials have a duty to seek out and remedy violations that occur and to implement measures to ensure that future violations do not occur. Liability often does not depend on knowledge of, or personal participation in, the acts made criminal. With respect to violations that occur, the term "knowing" is defined as knowledge that the requirement or regulation exists, more so than to actual knowledge of specific violations. The Supreme Court has said "where dangerous or noxious waste materials are involved, the probability of regulation is so great that anyone who is aware that he is in possession of them must be presumed to be aware of the regulations." Responsible officials, therefore, have a legal duty to exercise vigilance and foresight.

4. Legal Representation Policy for the Marine Corps

a. An employee or service member who is named in a civil lawsuit in their personal capacity may request DOJ representation. DOJ may provide such representation if it determines that reasonable evidence exists that the employee or service member was acting within the scope of official duties and that such representation is in the best interest of the United States. The DOJ will consider the Marine Corps recommendation in making such a determination.

b. An employee or service member prosecuted for criminal violations of environmental laws in Federal court normally will not be provided with representation by an attorney of the DOJ or the Marine Corps. Representation by an attorney of the DOJ or the Marine Corps may be available for a Federal employee or service member prosecuted for criminal violations in state court if the DOJ determines that the actions that gave rise to the charges reasonably appear to have occurred in the performance of official Federal duties and if such representation is in the best interest of the United States. Representation by a Marine Corps attorney is available for service members prosecuted by court-martial.

5. Payment of Attorney Fees and Judgments. DOJ representation is free of charge to the employee or service member. If the

employee or service member is found personally liable, the employee or service member must pay any judgment or penalty out of personal funds, regardless of whether the DOJ provided representation. Currently, there are no specific provisions for reimbursing an employee or service member for any legal fees or judgments incurred.

2205. REPORTING NOTICES OF VIOLATION (NOV'S). Immediately upon discovery of failure or potential failure to comply with the requirement of the law, all Marine Corps personnel must report these matters via the chain of command. Submit a Report of Notice of Violation/Notice of Noncompliance Report (RCS MC-5090-01) per the procedures of appendix B-1. If necessary, seek assistance from the CMC (LF). See other sections of this chapter and chapter 3 for detailed discussions on organizational responsibilities, available support, and funding for environmental compliance. Marine Corps policy is to effect prompt corrective action or the coordination of a plan for such corrective action with regulatory authorities regarding areas not in compliance with applicable requirements. Such prompt attention is the best approach to avoiding possible criminal charges or individual penalties. Along with prompt corrective action, corrective investigation of violations is the best approach to avoiding possible criminal charges or individual penalties. Further guidance is available in MCO P5580.2, and in SECNAVINST 5520.3, (a document which establishes the Naval Criminal Investigative Service as the lead agency with other Federal, state, and local agencies).

2206. SITE INSPECTIONS. Upon the presentation of proper credentials, authorized EPA, state, or local regulators or representatives must be allowed to enter a Marine Corps installation at reasonable times to examine or copy records, inspect monitoring equipment, or sample any effluents or emissions that the officials have the authority to regulate. Such inspections will comply with the information and installation security requirements set forth below.

2207. INFORMATION SECURITY. Periodically, Marine Corps installations are visited by representatives of Federal, state, and local agencies that are exercising their regulatory authority under environmental laws. Particular attention is needed to ensure that installations comply with MCO's and other applicable directives governing the control and protection of classified and

sensitive unclassified information. Use the following guidelines:

1. Only personnel with appropriate security clearances or access authorizations will be permitted access to classified areas or information, and then only upon a determination by the cognizant Marine Corps official that a need-to-know exists to fulfill a legitimate regulatory purpose. In keeping with the need-to-know principle, such access is limited to classified information required to solve the matter at hand.

2. Marine Corps installations handle a considerable amount of sensitive unclassified information controlled under Marine Corps security regulations, Federal export control regulations, and other Government-wide requirements. While security clearances or access authorizations are not required for access to this information, a need-to-know determination still must be made as described above for classified information, and only United States citizens may be permitted access in most cases. Furthermore, before permitting access, it is important for the information holder to ensure that the recipient understands and complies with applicable security regulations governing the dissemination and protection of the information.

2208. GOVERNMENT-OWNED/CONTRACTOR-OPERATED (GO/CO) FACILITIES. Marine Corps offices or installations sponsoring GO/CO facilities must oversee facility use or management contracts to ensure 1) that the operating contractor complies with the environmental regulations imposed on the military-owned installations where the GO/CO facilities are located and 2) participates in the Marine Corps Environmental Compliance Evaluation (ECE) program. Marine Corps installations sponsoring GO/CO facilities should also encourage GO/CO facilities to incorporate the EMH into project planning and design when assessing the use of pollution prevention solutions to compliance requirements.

2209. FACILITY-USE OPERATIONS. Facility-use operations occur where the contractor has a facility-use contract to use a Government-owned plant or facility for the manufacturing of products which may or may not be purchased by the Government. Marine Corps offices or installations that issue such contracts must ensure that the contract requires the facility-use contractor to comply with applicable environmental regulations.

2210. OUTLEASE RELATIONSHIPS

1. Federal Code 10 U.S.C. 2667 authorizes the Secretary of a Military Department to lease to non-Federal entities non-excess Federal land that is not currently needed for public use. This practice establishes a traditional landlord-tenant relationship between the Government and the leaseholder.

2. This relationship includes dozens of non-Federal entities, including state parks and recreation departments; power companies; Morale, Welfare, and Recreation support contractors; credit unions; aid associations; and agricultural lessees, which conduct activities aboard Marine Corps installations. Many of these activities are carried out under the terms of an outgrant, such as a lease, easement, right-of-way, license, or permit. Each installation should formulate its own systematic approach to address the issue of outgrantee environmental and land-use law compliance. Specific issues of concern include:

a. Whether Federal environmental and land-use laws apply to outgrantees aboard Marine Corps installations;

b. The scope of the Marine Corps liability when these outgrantees violate environmental and land-use laws; and

c. If and when the Marine Corps is liable, what the installation commanders can do to limit liability.

3. Persons, corporations, or non-Federal agencies that conduct activities aboard Marine Corps installations must comply with any applicable Federal or state laws. In many cases, but not all, the legal obligations of these persons, corporations, or non-Federal agencies parallel the legal responsibilities of the Marine Corps. However, there are many statutory obligations specifically applicable to Federal agencies which do not apply to non-Federal outgrantees unless those obligations are incorporated into the negotiated real estate agreements between the DON (for the Marine Corps) and the outgrantee. Such Federal obligations, which are not automatically applicable to non-Federal outgrantees, include:

a. Complying with NEPA;

b. Avoiding actions that would jeopardize the survival of Federally-listed endangered or threatened species and consulting with the United States Fish and Wildlife Service concerning

Federal actions which may affect endangered or threatened species;

c. Complying with EO's dealing with environmental and land-use matters; and

d. Consulting with the cognizant state historic preservation officer concerning Federal actions which may affect resources listed or determined eligible for listing in the National Register of Historic Places.

4. Outgrantees may be obligated to share in the installation's special Federal agency obligations if these obligations are included in the terms of the outgrant agreement. Leases, easements, and other outgrants on Marine Corps installations are contracts negotiated between the DON and the outgrantee. In accordance with the contracts, the outgrantee is obligated to comply with the terms of the agreement for which the outgranteed bargained during the negotiation of the real estate agreement. To determine the outgrantee's obligations, the installation must look to the terms of each outgrant document. Many of these agreements, especially the older ones, did not anticipate the need to impose additional environmental and land-use responsibilities on outgrantees. Some agreements recognize the installation commander's authority to publish reasonable rules and regulations applicable to outgrantees.

5. It is clear that both law and Federal policy make the commander of a Marine Corps installation the steward over all land-use activities carried out aboard the installation. This stewardship responsibility includes the specific management of all activities, whether Federal or non-Federal, which may degrade the natural resources or the environment of the installation. Beyond the mandates contained in law and Federal policy, there is a mission-related requirement that installation commanders act to preserve installation natural resource assets, such as potable water, soil, vegetation, and wildlife, to support future Marine Corps training and quality of life needs. This stewardship policy suggests a particular installation land-use management philosophy, but it does not define the commander's liability for violations of particular environmental or land-use laws. The installation commander's stewardship, accountability, and potential liability for environmental law noncompliance require the installation commander to manage outgrant activities affirmatively.

6. The management of DON real estate transactions is governed by NAVFAC P-73, a two-volume manual, which states that during the term of the outleases, regular and periodic inspections must be conducted of the leased properties to ensure that lessees have complied with the terms and conditions of the lease. The manual suggests that prompt and decisive action be taken to correct any violations revealed by the inspections. The manual further suggests that such inspections be conducted by NAVFAC real estate specialists. However, when these specialists are unable to carry out this function, the installation commander may be responsible for conducting the inspections. Finally, the manual calls for the inspection of agricultural and grazing outleases by DON natural resource professionals to determine whether the leases are complying with lease soil and water conservation requirements.

7. Marine Corps installations risk significant liability for undetected violations of environmental laws by outgrantees. The following recommendations will enhance the oversight of outgrants aboard Marine Corps installations:

a. Institute policies to include specific environmental compliance actions in all leases, easements, licenses, and permits issued aboard an installation;

b. Work with the local NAVFACENGCOM EFD/EFA and the CMC (LF) to ensure that all outgrants aboard the installation are inspected periodically and to implement an effective plan to deal with violations of outgrant terms and conditions;

c. Ensure that the installation’s ECE program (see chapter 4 of this Manual) encompasses all tenants, to include outgrantees, aboard the installation;

d. Institute policies, as appropriate, to ensure that present and future installation orders cover outgrantee activities;

e. Institute policies to ensure that future installation plans, which may impact or be impacted by any installation outgrants, include relevant outgrant considerations;

f. Clearly designate an individual on the installation as responsible for overseeing outgrant environmental and land-use compliance; and

g. Document the installation's oversight of outgrantee compliance.

2211. OPERATIONS, FACILITY USE, OR LEASE AGREEMENTS. The owner of facilities leased or rented by the Marine Corps or a Marine Corps contractor is responsible for ensuring that the facilities comply with all applicable environmental requirements. Contractors must advise the Marine Corps of any permit and its conditions, must provide periodic compliance status reports as required by the managing Marine Corps office, and must participate in the Marine Corps ECE program.

2212. REGIONAL AND COMMUNITY PROGRAMS. The Marine Corps supports its employees' and officers' participation in regional and community programs to address pollution and waste management issues. Such participation may include advisory functions or the planning of pollution control facilities where Marine Corps installations contribute to the problem in question. When beneficial, the Marine Corps may participate in funding regional and community pollution control and SW management solutions. Before committing to participation, Marine Corps installations should consult with the CMC (LF). Employees should also seek the advice of superiors in the chain of command or management. Responsible officials may wish to consult with the installation counsel before approving such participation.

2213. COORDINATION BETWEEN ENVIRONMENTAL MANAGERS AND MARINE CORPS COMMANDS/UNITS AND TENANTS. Marine Corps installations should develop Inter-Service Support Agreements or similar mechanisms to detail responsibilities of Marine Corps command/unit and tenant organizations on the installation. Marine Corps installations should maintain close coordination with Marine Corps command/unit and tenant organizations to ensure that the Marine Corps commands/units and tenants meet the requirements of the support agreements, maintain compliance with all applicable environmental requirements, and participate in the host ECE program.

2214. COORDINATION BETWEEN ENVIRONMENTAL MANAGERS AND COUNSEL

1. Environmental programs are diverse and complex. New Federal, state, and local laws, regulations, and requirements arise constantly. Environmental program managers must comply with the

requirements and interact with Federal and state regulators. The decisions of regulators and representations may affect the legal rights, responsibilities, and liabilities of the Marine Corps and its employees (either in their official or personal capacity). Liabilities may include injunctive relief, administrative penalties, civil penalties, and/or criminal penalties. In addition, actions or positions taken at one installation on a particular issue have potential implications for other facilities.

2. For these reasons, environmental program managers must maintain a close working relationship with legal counsel. The legal consequences resulting from new program decisions, existing or foreseeable noncompliance, compliance agreements, and responses to NOV's always must be ascertained. Legal counsel is uniquely qualified to assess and to advise program managers and installation commanders on these issues. Providing timely information to, and obtaining advice from, legal counsel can help to avoid or lessen the impact of potentially serious problems and to focus appropriate command attention on these issues.

2215. RELEASE OF INFORMATION

1. The installation commander has the authority to release installation-specific information to Government agencies. The release of classified information is prohibited.

2. Policy on the release of information regarding the Marine Corps to the news media or the general public is governed by SECNAVINST 5720.44. Release of information must be coordinated with the command public affairs office.

3. Chapter 4 of this Manual discusses the release of ECE results.

4. Commanders may receive requests for information about environmental issues aboard their installations or within the Marine Corps. Public requests for information should be coordinated with the public affairs and/or Freedom of Information Act (FOIA) offices at each command to ensure that these requests are handled expeditiously and in accordance with established procedures. A brief discussion of FOIA is provided in chapter 4 of this Manual. In addition, the Installation Restoration (IR) program and NEPA each have specific public information programs which outline release requirements and procedures.

2216. RETENTION AND DISPOSITION OF RECORDS AND DOCUMENTATION

1. Dispose of records and documentation relating to drinking water and HW as directed by SECNAVINST 5212.5.

2. Destroy hazardous substance (HS) records required by CERCLA when they are 50 years old. This directive applies to IR program records pertaining to the containerization or treatment of any HS's contained or deposited on the facility. Other IR program records should be maintained as long as possible, pending promulgation of further EPA rules or regulations covering IR program records.

3. Retain all documentation in support of management plans mandated in this Manual until obsolete or superseded, whichever is later.

4. Destroy all reports, documentation, correspondence, and forms not covered by the paragraphs above after they are 10 years old.

a. Such records include:

(1) Environmental Assessments (EA);

(2) Environmental Impact Statements (EIS);

(3) Life-cycle analyses;

(4) Documentation of compliance/noncompliance;

(5) Documentation required by the Army Corps of Engineers (COE);

(6) Site inspections;

(7) Communications with non-DoD Federal, state, local, and foreign environmental authorities; and

(8) All other documentation required by law, regulation, and EO, including reports to the EPA.

b. Such records will cover the effect of Marine Corps activities on:

(1) Air quality;

(2) Tideland and fresh water wetland resources;

(3) Wildlife;

(4) Protected, threatened, and endangered species;

(5) Woodland resources;

(6) Coastal contiguous zone waters;

(7) Noise levels;

(8) Farm land;

(9) Private property;

(10) Land or property of historic/archaeological value; and

(11) Toxic waste sites.

2217. COMMANDER'S ENVIRONMENTAL STATEMENT. The CMC publishes White Letters to all commanders, outlining the Marine Corps policy on compliance and other environmental policy issues. Based on the Commandant's Letters, each major commander should publish a statement delineating the commander's policy to achieve and maintain compliance (and to support the host commander's environmental policies) with the applicable environmental requirements to preserve our installations for future generations of Marines. This document should be prepared in a manner similar to other policy statements. Consideration should be given to a statement signed jointly by the Marine Corps command/unit and tenant commanders.

2218. AUTOMATED ENVIRONMENTAL INFORMATION SYSTEMS: DEFENSE ENVIRONMENTAL SECURITY CORPORATE INFORMATION MANAGEMENT (DESCIM)

1. DESCIM Background. The CMC (LF) along with representatives from Marine Corps installations worldwide have worked with the DESCIM Program Management Office to develop and field common DoD databases for handling the vast information required to support environmental programs.

2. DESCIM Policy. All Marine Corps commands and installations will use applicable DESCIM Migratory Systems as they are made available and tested to ensure they are fully functional and

compatible with our installation business practices. The CMC (LF) will publish and update a DESCIM fielding plan as the information becomes available from the DESCIM Program Management Office.

3. Monthly Updates. One of the goals of the DESCIM family of databases is to reduce the reliance on repetitive, manual data calls to the field. In support of this goal, installations must submit monthly database updates or negative reports no later than the 10th calendar day of each month to the CMC (LF). This requirement applies to the Marine Corps Compliance Tracking System and other Marine Corps authorized environmental data management systems or their DESCIM equivalents.

2219. DESK-TOP PROCEDURES AND TURNOVER FOLDERS. Desk-top procedures and turnover folders are an excellent means to provide continuity in the absence or transfer of both military and civilian personnel. Unexpected absences due to injury, death, or temporary duty may prevent a formal turnover with a replacement. In addition, normal rotation of personnel will create gaps between incumbents. Military personnel usually know of an upcoming rotation a few months in advance and can plan a turnover. Civilian personnel, while normally providing continuity in offices, require only a minimum of 2 weeks notification of intent to leave a billet. All commanders will ensure that desk-top procedures and turnover folders are developed and maintained for each environmental billet, as described in appendix B-2.

2220. MAINTENANCE OF FILES, STUDIES, AND REPORTS

1. Installation commanders will ensure that the administrative aspects of the installation environmental department, office, division, etc., are evaluated at least every 2 years. This evaluation should be focused on the functional aspects of the recordkeeping, e.g.; the proper dating of files, labeling, destruction of instructions, archiving instructions, using a centralized control system for long-term records. This process will prevent the loss of very valuable and often expensive information as environmental programs mature and expand and as personnel turn over.

2. Internal filing and publication control systems will be set up within the environmental management offices per the appropriate SECNAVINST’s and MCO’s. The documentation of events,

policies, and procedures, as well as receipts, reports, and studies, are crucial elements in demonstrating the intent to comply and actual compliance with the multiple environmental laws, regulations, and requirements. Often, these records must be kept for up to 50 years or the lifetime of the employee affected.

3. For information on processing NOV's, see appendix B-1.

2221. SUPPLY AND EQUIPMENT POLICIES AND MAINTENANCE

1. The Marine Corps is investing significant resources in acquiring environmentally related equipment and tools, sets, chests, and kits to support environmental management. These items must be properly maintained, accounted for, and repaired. Installation commanders will request Field Supply Maintenance Analysis Office (FSMAO) to include an evaluation of environmental equipment as part of regularly scheduled assistance visits. The FSMAO's findings will be included in the results of the installation's environmental self-audit. Control of tool sets, chests, kits, and the calibration of test, measurement, and diagnostic equipment will be carried out per MCO P4790.2, MCO P4400.150, and MCO 4733.1. Environmentally related equipment often is purchased or procured outside of the normal Marine Corps equipment fielding process; therefore, commanders owning these pieces of equipment must develop and institute appropriate maintenance schedules and support similar to those identified in MCO P4790.2 for the safe operation and maintenance of this equipment.

2. If appropriate, commanders will institute a publications-control system within the environmental office, department, or division per MCO P4790.2. This publication control system will also be reviewed during FSMAO assistance visits.

2222. ENVIRONMENTAL LIBRARY. Commanders are encouraged to set up environmental libraries. These libraries can become the central repository of all files, reports, studies, plans, permits, evaluations, inspections, and references.

2223. REGIONAL ENVIRONMENTAL COORDINATORS (REC'S). DoD has established a DoD-wide system to ensure that regional coordination occurs. Environmental coordination consists of DoD

environmental Executive Agents, DoD REC's, and Component REC's. The Departments of the Army, Navy, and Air Force have been assigned as DoD environmental Executive Agents for each Federal EPA region. The Army is the Executive Agent for regions IV, V, VII, and VIII. The Navy is the Executive Agent for regions I, III, and IX. And the Air Force is the Executive Agent for regions II, VI, and X. DoD REC's are subsequently assigned by the Secretaries of the Military Departments for each of the regions assigned. Figure 2-1 at the end of this chapter illustrates the Federal EPA Region boundaries.

1. The purpose of the REC system is to coordinate the consistent interpretation and application of DoD environmental policies within the region in consultation with the Executive Agents and affected Component REC's.

2. Component REC's help focus on the growing number of regional, state, and local requirements affecting installations. Marine Corps Component REC's are general officers who provide senior leadership on key environmental issues. The role of Marine Corps Component REC's is to be a focal point for issues and discussions with the other services within those EPA regions in which the Marine Corps has a significant presence (regions III, IV, and IX).

3. REC's are the primary interface with regional Federal and state regulatory agencies. A key function of Marine Corps REC's is to monitor state environmental legislation and regulations for impact on Marine Corps operations and to ensure that agreed-upon positions are presented to state lawmakers and Federal, state, and local regulatory officials. The Marine Corps REC's keep affected installations and other Marine Corps commands informed on agreements, permit conditions, and responses to regulatory agencies within their region.

2224. ORGANIZATION

1. Commanders at all levels, including detached and separate commands, will assign in writing a HM/HW officer when their command is authorized to perform any type of maintenance or other function which generates an HW. The HM/HW officer will be properly trained (see chapter 5 of this Manual) and will coordinate and integrate the environmental protection efforts of

all command activities. Specific responsibilities and duties of the HM/HW officer are described in MCO P1200.7. Commanders assigning civilians as HM and/or HW Officer will ensure that these responsibilities and duties are assigned through the position description and critical elements.

2. The T/O of battalion/squadron and larger FMF units will reflect HM/HW officer billets or additional duty assignments by T/O line number. MOS 9954 is the additional MOS for the HM/HW officer and staff/noncommissioned officer. In comparable size units requiring an HM/HW officer where the T/O does not identify the HM/HW officer billet, the commander will assign an officer the duties of HM/HW Officer. These responsibilities may be assigned as an additional duty for an officer or as an additional duty for a staff noncommissioned officer when a full-time officer assignment is not required.

3. Major FMF commands and installations are encouraged to add a Marine Officer MOS 9631, Environmental Engineering Management Officer, to their T/O's. The MOS 9631 officer is a graduate of the Special Education Program or Advanced Degree Program with a master's degree in environmental engineering, management, or science. The vast majority of the installation environmental program management staffs are civilian. An MOS 9631 officer, as part of the installation environmental management staff, adds significant benefits and advantages to the command program by providing a unique operational perspective. The Marine Corps Officer is able to bridge and explain the often seemingly divergent requirements and needs of Marine training and environmental protection.

2225. <u>OFFICER OF THE DAY/COMMAND DUTY OFFICER (OOD/CDO)</u>. The OOD/CDO is the commander's representative during nonduty hours. The primary responsibility of the OOD/CDO is to handle any emergencies during nonduty hours and to keep the commander informed of any significant incidents. All commanders with an OOD/CDO will ensure that appropriate environmental instructions are contained in the OOD/CDO turnover folder. The purpose of these instructions is to provide guidance to the OOD/CDO on what should be done and who should be contacted during nonduty hours for incidents such as the taking of an endangered/listed species or an HM or HW incident. All plans and SOP's (such as an emergency response plan) will include the requirement to contact and keep informed the OOD/CDO immediately after contacting the appropriate emergency response organization.

2226. SOP'S AND POLICIES

1. Installation commanders will publish an environmental compliance and protection standard operating procedures (ECPSOP) document. The instructions contained in an ECPSOP need not contain all subordinate and Marine Corps command/unit and tenant functions, but it must be sufficiently clear, completely applicable at the command/unit and tenant level, and sufficiently detailed to ensure that each subordinate and Marine Corps command/unit and tenant can perform its mission in an environmentally sensitive manner. The ECPSOP should be a guide to the method of response and management plans which may apply to the reader, along with specific installation- or command-unique requirements not covered by these plans. While the environmental management departments, offices, divisions, etc., are aware of these plans, often the installation tenant or subordinate commanders are not.

2. Installation commanders are encouraged to publish a single ECPSOP vice multiple ECPSOP's. A single ECPSOP ensures continuity of effort and prevents conflicts in policies between various environmental media programs. It also smoothes communication with subordinate and Marine Corps command/unit and tenant commanders by providing a single source for them to use. Installation, FMF, and major Marine Corps command/unit and tenant commanders are encouraged to work together to publish a single ECPSOP.

3. Major FMF, detached, and separate commands will publish an ECPSOP if they are not co-signatories on an installation ECPSOP. The FMF, detached, and separate command ECPSOP will contain, at a minimum, policies on complying with NEPA (normally limited to training-related activities), HM, HW, and emergency response plans.

4. ECPSOP's will be prepared in a manner complementary to, but not repetitive of, this Manual.

CHAPTER 2

ENVIRONMENTAL PROGRAM MANAGEMENT

SECTION 3: RESPONSIBILITIES

2300. CMC (LF)

1. Develop and periodically update this Manual. This is the primary Marine Corps policy document, guiding both Marine Corps installations and operational commands in complying with Federal, state, and local environmental laws within the United States.

2. Issue environmental planning policies and procedures to ensure that decision makers are informed of the consequences, alternatives, costs, and mitigating factors that must be considered regarding decisions that have potentially significant environmental impacts. Ensure that decision makers consider, during activity and operational planning, constraints imposed by applicable Federal, state, and local environmental laws and regulations.

3. Include in all environmental policies and procedures specific provisions that encourage installations to engage in advanced environmental planning, including the development of environmental baseline information to support activity and operational planning.

4. Provide support to Marine Corps installations and operational commands in:

a. Interpreting Federal, state, and local environmental regulatory requirements and in uniformly applying Marine Corps policy as set forth in this Manual;

b. Assisting installations with resolving disputes with Federal, state, and local regulatory agencies as required;

c. Representing the interests of Marine Corps installations in liaison with the Defense Reutilization and Marketing Service and the Defense Logistics Agency to ensure adequate support in the disposal of HW's; and

d. Supporting outreach processes for environmental planning and analysis and other environmental areas.

5. Develop the long-range forecast necessary for planning, programming, and budgeting for Marine Corps environmental requirements.

6. Prepare annual reports to Congress on the status of environmental compliance and protection, including funding.

7. Provide notification to Marine Corps installations and operational commands of available environmental training.

8. Coordinate with Chief of Naval Operations (CNO(N45)), COMNAVFACENGCOM, and the geographical EFD/EFA's to ensure the equitable and timely allocation of funding from the Environmental Restoration, Navy account at Marine Corps installations consistent with CERCLA, RCRA, and the National Oil and Hazardous Substances Pollution Contingency Plan.

9. Provide oversight for the implementation of the IR program for the remediation of past HW disposal sites at Marine Corps installations.

10. Conduct a national and overseas ECE program within the Marine Corps and oversee the development of planned activities and necessary funding requests to correct environmental compliance deficiencies promptly.

11. Identify and conduct special environmental compliance and protection studies in areas where little information has been assembled to be used in establishing policy or initiating actions.

12. Work in conjunction with the Office of Legislative Affairs (OLA) and Office of the Assistant Secretary of the Navy, Installations and Environment (OASN(I&E)) to monitor proposed Federal environmental legislation for impact on Marine Corps operations and programs. Work with the Deputy Under the Secretary of Defense, Environmental Security DUSD(ES), OLA, and OASN(I&E) to develop responsible and workable legislative proposals for submittal to Congress.

13. Provide technical and programmatic support for maintenance of the Overseas Environmental Baseline Guidance Document.

14. Participate as the Marine Corps representative on inter-service and inter-agency committees and working groups for furthering the DoD mission while maintaining environmental compliance and protection. Coordinate and cooperate with, as well as provide timely notice to, the heads of DoD Components regarding environmental issues of common interest.

15. Coordinate with EPA Headquarters and regional offices and other Federal and state agency representatives on Marine Corps environmental compliance and protection issues.

16. Work with NAVFACENGCOM and EFD/EFA's to coordinate environmental issues and related facilities engineering assistance.

17. Provide semi-annual briefings to DUSD(ES) on the status of Marine Corps environmental programs including any Base Realignment and Closure related IR programs.

18. Promptly notify DUSD(ES) and all affected command elements of significant United States and overseas environmental events.

19. Develop the Environmental Campaign Plan to outline long-term objectives and special environmental compliance and protection goals for the Marine Corps.

20. Coordinate with the CMC (SD) on all environmental matters related to safety and occupational health.

21. Appoint Marine Corps REC's for each EPA region in which the Marine Corps has a significant presence.

22. Ensure that environmental and natural resource considerations and pollution prevention alternatives are considered in the decision making process for Marine Corps actions.

23. Coordinate all issues involving environmental compliance that may affect readiness and the ability to support military operations through the SECNAV.

2301. THE OFFICE OF THE ASSISTANT SECRETARY OF THE NAVY (OASN), RESEARCH, DEVELOPMENT, AND ACQUISITION (RDA)

1. Formulate DON acquisition and procurement policy for products that meet environmental requirements.

2. Issue acquisition procedure supplements to support Federal Acquisition Regulations and Defense Federal Acquisition Regulations revisions.

2302. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Adhere to the policies in this Manual.

2. Maintain a focal point for the coordination of the Marine Corps environmental compliance and protection programs with appropriate Federal, state, and local agencies and with private organizations and individuals.

3. Maintain compliance with applicable laws, regulations, agreements, orders, and permit conditions.

4. Respond to NOV's or similar assertions of noncompliance.

5. Respond to demands for payment of Marine Corps funds from regulatory agencies.

6. Organize, as needed, a base or station Environmental Compliance Review Board (ECRB) to consider current environmental compliance and protection issues. The board should assist in the development of environmental policy to be implemented through appropriate base or station orders. The ECRB may be established as a part of, or in addition to, the Environmental Impact Review Board (EIRB), whose function is to review actions for NEPA applicability.

7. Submit nominations for the Environmental Quality and Natural Resources Conservation Awards, and other awards programs, as appropriate.

8. Develop an ECPSOP to ensure, assist in, and monitor environmental compliance and protection.

9. Organize and establish an installation EIRB to administer procedures for the preparation, review, and submission of environmental documentation prepared in compliance with NEPA (including EA's and EIS's).

10. Plan, program, and budget for the resources and staffs needed to ensure environmental compliance and for an integrated natural resources management program.

11. Coordinate environmental matters with the CMC (LF), counsel, and other appropriate Federal, state, and local agencies. Such matters may include, but are not limited to, the following:

a. Negotiation of permit limits;

b. Payment of fees and fines;

c. NOV's;

d. Compliance agreements or administrative orders;

e. Positions and concerns relative to new or proposed regulations and requirements;

f. Certification and acceptance of environmental permits;

g. Any proposal or requirements with potential to adversely affect the installation's mission; and

h. Host-tenant agreement roles and responsibilities (including permit conditions).

12. Notify the Marine Corps REC of any regulatory issues or regulatory agency actions that may be of state- or region-wide importance.

13. Ensure that all personnel engaged in environmental protection and compliance activities are adequately trained and certified as required by this Manual and by Federal, state, or local rules and regulations.

14. Plan, program, and budget for the resources and staff required to ensure that the EMH ethic and pollution prevention concepts are integrated into procurement, facilities management, and environmental projects.

2303. CMC (CL) AND THE OFFICE OF GENERAL COUNSEL

1. Coordinate legal advice to command levels of the Marine Corps concerning the interpretation and applicability of environmental laws and regulations.

2. Provide legal advice in responding to NOV's or similar assertions of noncompliance.

3. Provide legal advice in determining the legitimacy of demands for payment of Marine Corps funds from regulatory agencies.

4. Provide legal advice on provisions in contracts or agreements with respect to environmental matters.

2304. COMMANDER OF NAVAL FACILITIES ENGINEERING COMMAND (COMNAVFACENGCOM), ENGINEERING FIELD DIVISIONS/ACTIVITIES (EFD/EFA), AND NAVAL FACILITIES ENGINEERING SUPPORT CENTER (NFESC)

1. Provide overall coordination and management of the Navy Environmental Protection Support Service (NEPSS).

2. Provide specialized environmental support services and information management to Marine Corps installations, as requested.

2305. CHIEF BUREAU OF MEDICINE AND SURGERY (BUMED)

1. Determine, validate, and establish health-related criteria and standards that are not available through Federal, state, or local laws or regulations.

2. Provide assistance to installations, offices, and commands concerning the health aspects of pollution sources or pollution control equipment, including the development of medical monitoring programs.

3. Include the responsible industrial hygienist in the approval process for procurement of new HM prior to its acquisition, HM emergency spills and other environmental emergencies, and design review.

4. Coordinate with the Agency for Toxic Substances and Disease Registry (ATSDR) for the timely completion of health assessments for National Priorities List sites.

5. Provide guidance concerning the disposal of medical waste in compliance with BUMED Instruction 6280.1.

2306. THE MARINE CORPS REGIONAL ENVIRONMENTAL COORDINATORS (REC'S)

1. Monitor and coordinate the consistent interpretation and application of DoD environmental policies at Marine Corps installations within their region and elevate issues of interest to the CMC (LF) and the DoD REC.

2. Serve as the focal point for information and the coordination of issues related to Marine Corps activities in the region.

3. Provide semi-annual executive summaries of Marine Corps regional activities, success stories, and issues to the CMC (LF) and the DoD REC.

4. Participate in regional meetings, as necessary, with the CMC (LF) and DoD Components and regulators and monitor and coordinate training activities with the DoD REC.

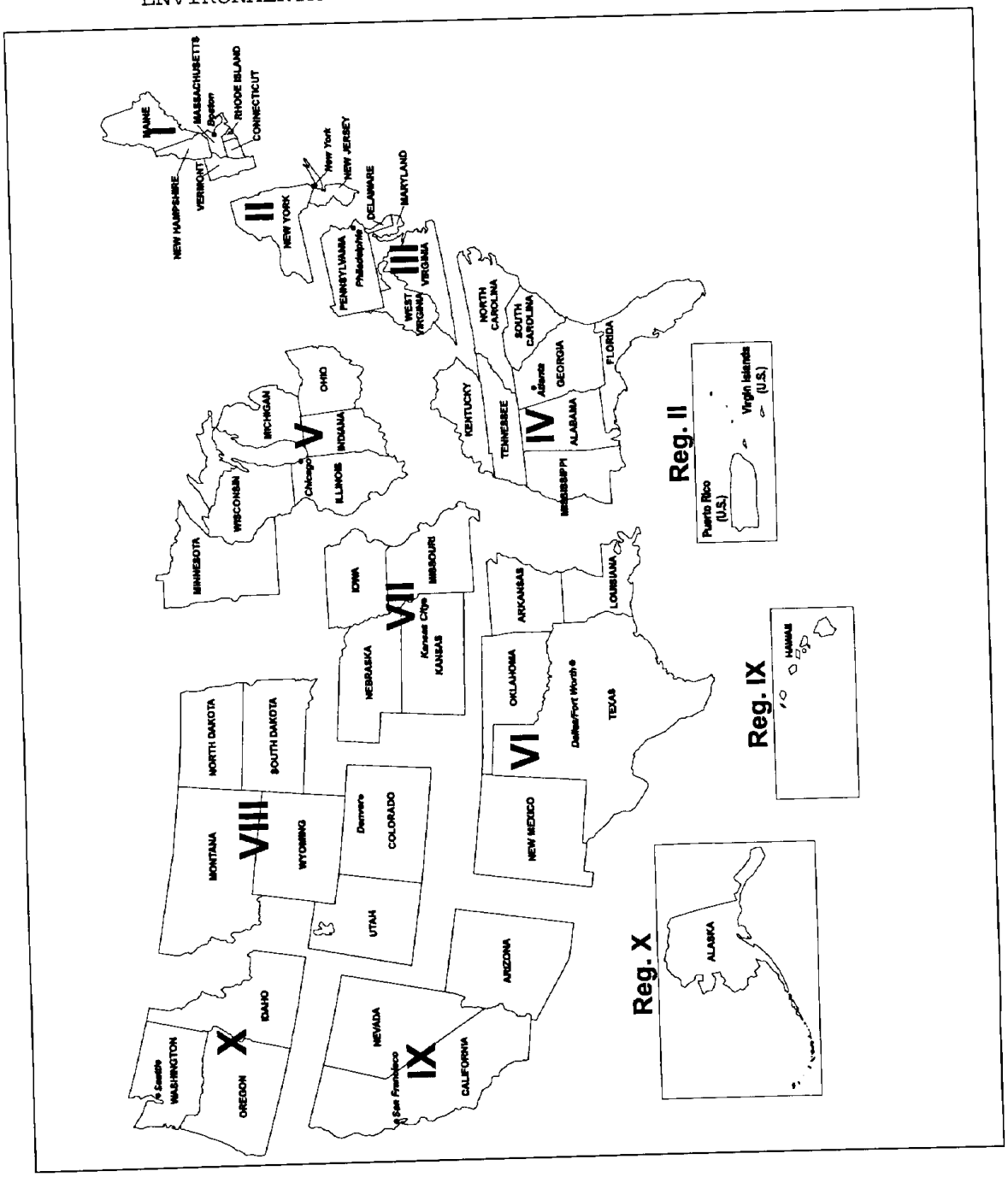

Figure 2-1.--Federal EPA Region Boundaries.

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FUNDING ENVIRONMENTAL COMPLIANCE

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CHAPTER 3

FUNDING ENVIRONMENTAL COMPLIANCE

SECTION 1: INTRODUCTION

3100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with Marine Corps procedures for funding environmental compliance. This chapter describes the funding sources and mechanisms for planning, programming, budgeting, and executing environmental requirements. It also outlines the means for securing the funds needed to manage an effective environmental program.

3101. APPLICABILITY. See paragraph 1101.

3102. BACKGROUND. The Marine Corps uses the following funds to meet environmental requirements: Naval Working Capital Fund (NWCF); Military Construction (MILCON); Operation and Maintenance, Marine Corps (O&MMC); Operation and Maintenance, Marine Corps Reserve (O&MMCR); reimbursable Agricultural Outlease, Forestry, and Fish and Wildlife Access Fees; Qualified Recycling Program (QRP) Revenues; and the Defense Logistics Agency, Defense Fuel Supply Center (DLA, DFSC - hereafter known as DFSC) funds (see paragraph 3105, Terms and Definitions). For information on funding the Installation Restoration (IR) program, see chapter 10 of this Manual.

3103. FEDERAL STATUTES

1. Executive Order (EO) 12088, October 13, 1978. This EO requires Federal agencies to comply with applicable Federal, state, local, and host nation environmental laws and regulations. Accordingly, EO 12088 requires the head of each Executive agency to ensure that: 1) "sufficient funds for compliance with applicable pollution control standards are requested in the agency budget," and 2) "funds appropriated and apportioned for the prevention, control, and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget."

2. Environmental Statute Requirements. Congress has stipulated, in most environmental laws, that Federal facilities are subject to reasonable service charges and fees in administering the environmental enforcement programs that are imposed by Federal, state, and local agencies. Service charges related to the Clean Water Act; the Clean Air Act (CAA); and HW management, HW storage and disposal, and underground storage tanks under the Resource Conservation and Recovery Act are among the types of charges that may be billed to an installation.

3104. REQUIREMENTS

1. Defense Planning Guidance (DPG). The Office of the Secretary of Defense annually establishes environmental funding policy through the DPG. In general, the DPG attempts to fund all DoD class 0 and class I requirements and a prudent number of class II requirements to ensure that forthcoming deadlines are met in accordance with environmental laws and regulations (see below for class definitions). However, since the DPG is published annually, slight variations on this overall guidance may occur in response to changes in fiscal constraints and operational requirements.

2. Commandant's Planning Guidance (CPG). The CMC establishes overall policy for the Marine Corps and publishes it in the CPG. This document establishes annual goals for the Marine Corps, including those relating to environmental programs.

3. Environmental Quality Classes. DoD policy provides information on these classes. A summary of the class distinctions follows:

a. Class O. This class includes activities needed to cover recurring administrative, personnel, and other costs associated with managing environmental programs that are necessary to meet applicable compliance requirements (Federal, state, and local laws and regulations as well as EO's, DoD policies, and the Final Governing Standards (FGS) overseas) or that are in direct support of the military mission. This class also includes environmental management activities associated with the operation of facilities, installations, and deployed weapon systems. Recurring costs consist of manpower, training, supplies, HW disposal, operating recycling activities, permits, fees, testing, monitoring and/or sampling and analysis, reporting and record- keeping (e.g., Toxic Release Inventory reporting),

maintenance of environmental equipment, and compliance self-assessments.

b. Class I. This class includes necessary projects and activities that are currently out of compliance (have received an enforcement action from a duly authorized Federal, state, or local authority; have a signed compliance agreement or have received a consent order; and/or have not met requirements based on applicable Federal, state, and local laws and regulations as well as EO's, DoD policies, and FGS overseas). This class also includes necessary projects and activities that are not currently out of compliance (deadlines or requirements have been established by applicable requirements, but deadlines have not passed or requirements are not in force), but will be out of compliance if projects or activities are not implemented within the current program year. Those activities include the preparation of plans (e.g., NEPA documentation, master plans, emergency response plans, integrated natural and cultural resources management plans, pollution prevention plans, etc.), opportunity assessments, and inventories. The preferred approach is to use pollution prevention projects or activities, if cost-effective, to bring a facility into compliance. For overseas facilities, this class includes projects and activities necessary to alleviate the human health threats to ongoing operations or necessary to comply with applicable treaties and agreements.

c. Class II. This class includes necessary projects and activities that are not currently out of compliance (deadlines or requirements have been established by applicable Federal, state, and local laws and regulations as well as EO's, DoD policies, and FGS overseas, but deadlines have not passed or requirements are not in force), but will be out of compliance if projects or activities are not implemented in time to meet an established deadline beyond the current program year. The preferred approach is to use pollution prevention projects or activities, if cost-effective, as the means of maintaining or bringing a facility into compliance. For overseas facilities, this class includes projects and activities identified using risk-based prioritization practices that meet the long-term objective of full implementation of the FGS for each foreign country where DoD maintains substantial installations.

d. Class III. This class includes projects and activities that are not explicitly required by law, but are needed to address overall environmental goals and objectives.

3105. TERMS AND DEFINITIONS

1. Centrally-Managed Environmental Program (CMEP). The CMEP funds both Environmental Management and Environmental Projects at the installation level. CMEP is also used to support Marine Corps-wide environmental initiatives such as the Environmental Compliance Evaluation (ECE) and the fielding of standard DoD databases.

2. Headquarters Authority Maintenance of Real Property (M2/R2). The CMC (LF)-approved ($ threshold) repair (M2) or construction (R2) project that exceeds an installation's funding threshold.

3. Local Authority Maintenance of Real Property (M1/R1). A locally-approved ($ threshold) repair (M1) or construction (R1) project that falls within an installation's funding threshold.

4. Marine Corps CompTRAK. A database that tracks environmental requirements and compliance status of installations.

5. MILCON. A repair or construction project that exceeds M2/R2 funding authority levels and requires Congressional approval.

6. NWCF. The NWCF is a revolving account which does not expire. If these funds are not used during the fiscal year, they revert back to the central NWCF account at the end of the fiscal year and are charged back in the rates to their customers.

7. Operational Plan Submission (OPS). A report submitted annually to the CMC (LF) by each installation explaining what it plans to do to execute environmental O&MMC funds in the given fiscal year. This submission is the official procedure for requesting CMEP funding from the CMC (LF).

8. O&MMC Funds. O&MMC is the primary source of environmental funds for active installations. It includes both centrally-managed and local accounts. (Refer to 3201.3b and 3c for further details.)

9. O&MMCR Funds. O&MMCR is the primary source of environmental funds for reserve installations.

10. Programming, Planning, and Budgeting System (PPBS). The process through which all Marine Corps resource requirements, including the environmental program, are identified, justified, and funded.

11. Program Objective Memorandum (POM). An exhibit through which installations submit their biennial program objectives.

12. POM Preparation Instruction (PPI). The guidance that Headquarters provides for preparing the biennial POM submissions via the Fiscal chain.

CHAPTER 3

FUNDING ENVIRONMENTAL COMPLIANCE

SECTION 2: MARINE CORPS POLICY

3200. FUNDING ENVIRONMENTAL COMPLIANCE. EO 12088, October 13, 1978, requires the Marine Corps 1) to ensure that adequate funds are planned, programmed, and budgeted to meet Marine Corps environmental responsibilities and 2) to ensure that, once budgeted, these funds are not reprogrammed to cover other nonenvironmentally related shortfalls in the year of execution.

3201. TYPES OF ENVIRONMENTAL FUNDS

1. NWCF. Compliance with environmental laws and regulations results in direct and indirect costs. MCLB's are encouraged to charge those commands using NWCF services the full cost for services that ensure compliance with legally mandated environmental requirements. MCLB's must track these costs and report them to the CMC (LF) so that further reporting can occur up the chain to the DON, DoD, and Congress.

2. MILCON. Each Marine Corps installation must forward requests for MILCON projects to the CMC (LF). Installations must include environmentally related MILCON projects as part of these requests. MILCON projects are validated by the CMC (LF) and, if approved, forwarded to Congress for authorization. The CMC (LF) tracks the costs of congressionally authorized, environmentally related MILCON projects and reports these costs up the chain to the DON, DoD, and Congress.

3. O&MMC

a. Environmental O&MMC funds come from two main sources: Installation operating funds and the CMC (LF) CMEP. For both installation operating funds and the CMEP, installations identify requirements through the PPBS and CompTRAK. The CMC (LF) tracks and reports these requirements up the chain to the DON, DoD, and Congress. Both installation operating and CMEP O&MMC funds are appropriated for 1 year. Installations must execute these funds using the SABRS environmental accounting codes (see tables 3-1 and 3-2 (a) through (e) of this chapter).

b. Installation Operating Funds. Certain costs are routine, recurring, easily estimated and foreseeable, and payable within the CG's/CO's yearly operating budget. Installations must include these costs in the activity's operating budget and in CompTRAK. Such costs include, but are not limited to, salaries, permits, fees, HW disposal, sampling, monitoring, analyses, training, travel, maintenance, supplies, materials, and M1/R1 projects. Costs for operating QRP's should be included to the extent that revenues are not expected to reimburse operating costs fully. Installations must execute these funds using the SABRS environmental accounting codes (see tables 3-1 and 3-2(a) through (e) of this chapter).

c. CMC (LF) CMEP. The CMEP funds two programs at the installation level: Environmental Management and Environmental Projects. The CMEP is also used to support Marine Corps-wide environmental initiatives such as the ECE Program, Comprehensive Environmental Training and Education Program, and the fielding of standard DoD environmental databases.

(1) The Environmental Management Program. This program provides supplemental funds for the installation's Operational Budget (OPBUD) and are intended for one time funding of nonrecurring requirements or recurring requirements that develop or emerge too late to be considered in a PPBS cycle. Installations must use CompTRAK to request these funds. Installations must execute these funds using the SABRS environmental accounting codes (see tables 3-1 and 3-2(a) through (e) of this chapter)

(2) The Environmental Projects Program. This program provides funding for environmental M2/R2 projects. These funds are separate from the Maintenance of Real Property (MRP) facilities account. Installations must execute these funds using the SABRS environmental accounting codes (see tables 3-1 and 3-2(a) through (e) of this chapter).

4. O&MMCR. MARFORRES identifies and manages environmental O&MMCR funds through the PPBS. MARFORRES must track these costs and report them to the CMC (LF) for further reporting up the chain to the DON, DoD, and Congress.

5. Reimbursable Accounts. The CMC (LF) tracks several reimbursable accounts managed by the Marine Corps. These accounts include:

a. Agricultural Outlease. The leasing of Marine Corps lands for agricultural purposes generates Agricultural Outlease funds. The cognizant Naval Facility (NAVFAC) Engineering Field Division/Activity (EFD/EFA) servicing the lease agreement must deposit lease revenues into the Marine Corps Agricultural Outlease account. The CMC (LF) makes these funds available to installations with Agricultural Outlease programs to cover expenses associated with maintaining these leases (e.g., personnel costs for managing real estate or for natural resources monitoring actions). These funds are also available Marine Corps-wide for installation natural resources programs (e.g., biological and geophysical surveys, natural resources planning, habitat improvement projects). Requests for Agricultural Outlease funds must be submitted through CompTRAK (see paragraph 3202). Agricultural Outlease funds, which expire at the end of the fiscal year, are considered to be nonappropriated, reimbursable funds.

b. Forestry. Forestry funds are generated by the sale of forest products from Marine Corps lands. Installation or NAVFAC EFD/EFA personnel servicing the timber sales contract must deposit sales revenues into the Marine Corps Forestry account. The CMC (LF) makes these funds available to installations with forestry programs to cover program expenses (e.g., forestry personnel, equipment, reforestation, timber management, fire and forest pest control, and forest access road maintenance). After installation expenses are covered, 40 percent of the installation net is paid to the state as an entitlement. Remaining funds are available Marine Corps-wide for installation natural resources projects. Requests for forestry funds to support installation forestry programs must be submitted via the installation annual forestry operating plans. Requests for forestry funds for natural resources projects must be submitted via CompTRAK (see paragraph 3202). Forestry funds, which expire at the end of the fiscal year, are considered to be nonappropriated, reimbursable funds.

c. Hunting, Fishing, and Trapping Access Fees. These fees are generated by the sale of installation hunting, fishing, and trapping licenses. Each installation must deposit revenues from these sales into its Hunting, Fishing, and Trapping Access Fee account (see chapter 11 of this Manual for more information). These funds may be used to improve installation hunting, fishing, and trapping programs only. The CMC (LF) authorizes installations that collect Hunting, Fishing, and Trapping Access Fees to execute these funds. Requests for this authority are submitted via CompTRAK. Hunting, Fishing, and Trapping

Access Fees, which expire at the end of the fiscal year, are considered to be nonappropriated, reimbursable funds.

d. QRP Revenues. The distribution of proceeds for operating a QRP must be consistent with Title 10 U.S.C. 2577 and 32 CFR 172. Proceeds from the sale of recyclable material must be used to reimburse the costs incurred by the installation in operating the recycling program. After reimbursement of the costs incurred by the installation for operations (e.g., operation and maintenance and overhead), installation commanders may use up to 50 percent of the remaining sales proceeds for environmental compliance, energy conservation, and occupational safety and health activities. Up to 50 percent of the cost of a minor construction project may also be funded by these proceeds. Remaining proceeds may be transferred to installation Morale, Welfare, and Recreation activities.

6. DFSC Funds

a. DoD bulk petroleum management policy authorizes the DLA to sponsor projects for Defense Fuel Support Points (DFSP) that issue, receive, and store DFSC-owned petroleum products. DoD Manual 4140.25-M, broadens the DFSC authority to fund maintenance and repair and minor construction projects at Government-owned DFSP's.

b. Environmental Compliance. Environmental compliance for petroleum, oils, and lubricants (POL) facilities is defined by the items below, each of which will be funded by the DFSC as required. However, the ultimate responsibility for environmental compliance associated with POL facility operations remains with the installation commander.

(1) The Design and Construction of Environmental Compliance Projects.The DFSC will fund projects that upgrade POL facilities in order to control emissions and discharges, enabling installations to meet environmental regulatory standards. Also funded are projects needed for POL facilities to achieve regulatory compliance in order to continue operations.

(2) POL Waste Site Assessment and Cleanup. The DFSC will fund the identification, assessment, and remediation costs of fuel spills/leaks that have occurred after 1 October 1992.

(3) Recurring Environmental Costs Used to Maintain POL Facility Compliance. These costs include the following items, as applicable to the DFSC fuel storage and distribution mission:

(a) Operating permits (tanks, fill stands, National Pollutant Discharge Elimination System, etc.);

(b) Operational documents applicable to bulk petroleum facilities;

(c) The sampling and testing of emissions and discharges;

(d) The removal and disposal of POL and other HW's;

(e) Fines and penalties. The DFSC is responsible for the payment of fines and penalties levied by regulatory agencies for the environmental noncompliance of bulk petroleum facilities previously identified and for those conditions beyond the control of the military services, unless such fines or penalties result from delinquency; and

(f) Operations and organizational maintenance. However, the DFSC will not fund the costs of operations and organizational maintenance of military service Government-owned/Contractor-operated facilities.

c. DFSC solicits requirements from eligible facilities through annual datacalls. Installations with eligible requirements are encouraged to submit requests to DFSC with a copy to the CMC (LF).

3202. MARINE CORPS COMPLIANCE TRACKING SYSTEM (COMPTRAK)

1. Background. Congress and the Secretary of Defense require that all environmental requirements and costs be tracked. Currently, the Marine Corps uses CompTRAK to meet this requirement. All Marine Corps environmental requirements must be entered into CompTRAK and maintained with the most current information available. A standard and uniform DoD tracking system designed to replace DoD Component systems, such as CompTRAK, is under development by Defense Environmental Security Corporate Information Management (DESCIM). The final schedule for implementation of this replacement system is yet to be determined. The Marine Corps will migrate to the DESCIM system once it is available and tested to ensure it is compatible with Marine Corps business practices.

2. Identifying Requirements for Environmental Projects (M2/R2) through CompTRAK. After an environmental compliance issue is identified that requires correction via a repair or minor construction project, enter the project into CompTRAK. Ensure that the same project title is used in all related documents and databases. Place the project number on DD Form 1391 using the naming procedure for the Environmental Maintenance and Repair Program, which is the two letter installation identifier (e.g., CP, ET, etc.),the last two digits of the FY (e.g., 97 for FY97), the last five digits of the CompTRAK number (e.g., 58331), and the repair or construction designator (M or R). For example, FY99 major repair project at MCAS Cherry Point with a CompTRAK number of 0014648190 would be numbered CP9948190M.

3. Requesting Funds for Environmental Projects (M2/R2). Requests for the funding of environmental projects previously identified through the process outlined in paragraph 3202.2 are to be submitted to the CMC (LFF-2) and the CMC (LFL-6) per the MCO P11000.5.

3203. BUDGET, EXECUTION, STANDARD ACCOUNTING AND BUDGETING REPORTING SYSTEM (SABRS) ACCOUNTING CODES, AND MARINE CORPS COMPLIANCE TRACKING SYSTEM (COMPTRAK). The Marine Corps environmental program generates a high level of interest and visibility internally within the Marine Corps, as well as externally with the Comptroller of the Navy (NAVCOMPT), DoD, and Congress. Due to the unique fund flow structure at each installation, environmental OPBUD funds risk losing visibility once released from the CMC (LF). This risk makes it imperative that any installation executing environmental OPBUD funds or CMEP funds make every effort to monitor and track these funds accurately, using the SABRS environmental accounting codes (see tables 3-1 and 3-2(a) through (e) at the end of this chapter). These accounting codes must also be used in CompTRAK as a formulation tool to support the CMC (LF) program sponsor and installation environmental managers with POM and budget requirements and as requests for CMEP funding for emergent requirements. The CompTRAK funding status must be kept current to assist the CMC (LF) with short notice reporting requirements (e.g., Congressional Inquiries) and to reduce data calls to the field. Installation environmental offices should formulate the POM and budget reports using CompTRAK Reports. The CMC (LF) environmental program sponsor uses CompTRAK to validate the requirements in the POM and to report budgets for each installation.

3204. REPORTING REQUIREMENTS. Installations must submit the following reports through CompTRAK. These reports will be rolled up at command level per figure 3-1 of this chapter and submitted annually to the CMC (LF) through CompTRAK.

1. POM Biennial Report and PPI Submittal. These reports will contain the installation's environmental program objective and program costs for the 6 years following the submission of these reports. The CMC (LF) environmental program sponsor will provide official guidance through the CMC (RFO) to assist installation environmental managers in preparing these reports, and will distribute this guidance to installation fiscal offices. The CMC (LF) environmental program sponsor will use CompTRAK to validate the requirements submitted in the POM and PPI exhibits. (See table 3-3(a) through (c) at the end of this chapter.)

2. Department of the Navy Environmental Quality Report (NAVCOMPT-EQR). This report is compiled from CompTRAK data and is categorized by environmental pillar (e.g., compliance, pollution prevention, conservation) and appropriation (e.g., NWCF, MILCON, O&MMC, O&MMCR). The CMC (LF) will submit the contents of the report as the Marine Corps environmental budget to the Office of the Secretary of the Navy, to the Office of the Secretary of Defense (OSD), and to the President's budget (PRESBUD). (See table 3-3(a) through (c) of this chapter.)

3. DoD Environmental Quality Report to Congress (RCS DD-5090-07). Title 10 U.S.C. 2706(b) requires the SecDef to submit this four-part report (listed below) on the environmental program to Congress annually (see table 3-4(a) through (d) of this chapter). A separate EQR must be submitted for each appropriation as follows:

a. EQR-1 must identify total environmental costs for each installation by appropriation (e.g., NWCF, MILCON, O&MMC, O&MMCR, etc.);

b. EQR-2 must identify total manpower for each installation;

c. EQR-3 must show manpower at the CMC (LF) and command roll-up levels by funding category, appropriated versus nonappropriated; and

d. EQR-4 must show projects for each installation, categorized by environmental pillar, project classification, project ID number, and title.

4. OPS Data. The CMC (LF) extracts this data annually from CompTRAK in response to CMEP funding requests. (See paragraph 3201.3c for details.)

3205. FACILITIES LEASED OR RENTED BY THE MARINE CORPS. Centrally managed funds are not normally available for environmental compliance projects at facilities leased or rented by the Marine Corps.

3206. FUNDING NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS. Costs associated with the preparation of NEPA documentation, pursuant to chapter 12, must be determined at the earliest practicable stage of a proposed action. The action sponsor or the functional area generating the need to prepare NEPA documentation is responsible for the budgeting and funding requirements of this documentation. NEPA requirements are not generally driven by the environmental program; therefore, the costs must be borne by the functional sponsor of the proposed action. For example, commands or units with training operations that trigger the requirement to prepare a NEPA document must pay the cost of preparing the document. Likewise, commands that are planning MRP projects or military construction projects must pay the costs associated with NEPA compliance. The only time that environmental funds should be used to pay NEPA costs is when the action triggering NEPA is an environmental project. Costs associated with specific permits and mitigation measures resulting from a complete NEPA analysis may be considered environmental costs per this Manual.

3207. FEES AND TAXES

1. Marine Corps installations must pay appropriate, reasonable fees or service charges, including fees for permits. Before any payment is made, however, it becomes important to distinguish between charges that are fees and those that are actually taxes. Disbursing authorities must consult with environmental program personnel when a fee or service charge is first presented. The CMC (LF) will formulate final positions on the legality of new fees in concert with legal counsel through consultation with the Department of Justice (DOJ), as appropriate. See chapter 2 of this Manual for information concerning legal issues.

2. Congress generally has not provided for the payment of taxes by Federal installations and activities. Marine Corps installations are not authorized to pay taxes to state or local agencies. It is often difficult to distinguish between a reasonable service charge or fee, which may be paid, and a tax, which may not be paid. Installations receiving bills for questionable fees from state or local agencies must apply the following three-element test to distinguish permissible fees from taxes:

a. Is the charge imposed on all entities in the state without discriminating between Government and private entities?

b. Is the charge a fair approximation of the cost of the benefits available to the payer, and does it fairly approximate the costs to the jurisdiction of implementing the required program at the specific activity?

c. Is the charge structured to produce revenue that will not exceed the total cost to the state of the benefits to be supplied, or does it support only the administrative costs to the state of the required program, without producing new revenues?

3. If all questions are answered in the positive, then the charge is a fee; that is, a "charge" is not a permissible fee that can be paid by a Federal facility unless the answers to all three questions in the three-element test above are "yes." The word "benefits" refers to the benefits available to those on whom the charges are imposed, as distinguished from the benefits received by the public at large.

4. If any question is answered in the negative, then the charge is a tax, and the installation has no lawful authority to expend public funds in payment of the charge. Installations should make these environmental program decisions in conjunction with the installation’s environmental counsel. If disputes develop with state and local regulatory agencies that cannot be resolved locally, installations should consult the CMC (LF).

5. Installations questioning a charge must make clear to the authority demanding payment that delay for legal review is not resulting from Marine Corps resistance to regulatory action, but is necessary because of legal issues that must be resolved before payment may be made lawfully. Notify the CMC (LF) if any fee is not paid and if it is contested.

6. If any agency imposes a charge for an environmental permit and refuses to issue or maintain the permit needed for lawful operations of the facility pending legal review of the charge, immediately refer the case to the CMC (LF).

7. One statute currently exists that allows taxation of Federal installations by states. The Low Level Radioactive Waste Policy Act Amendments empower states to levy taxes for low-level radioactive waste disposal.

3208. CITATIONS AND FINES. Immediately report to the CMC (LF) any citation by a regulatory agency for an alleged violation of any substantive or administrative requirement or of any attempt to levy a fine against a Marine Corps facility. Process the citation according to the processing procedures in appendix B.

3209. ECONOMIC ANALYSES

1. Life-cycle economic analysis must be conducted before decisions are made about options for complying with environmental requirements. Wherever practicable, options considered should include pollution prevention alternatives. For example, it may be more economical to implement one or more pollution prevention projects on processes that generate wastewater than to construct a new wastewater treatment plant. Or it may be more economical to use contractor transfer operations rather than to fund treatment or control projects. In other cases, it may be more economical to replace equipment as opposed to retrofitting to meet requirements. Long-term pollution prevention options take precedence over short-term controls wherever practicable.

2. Budget requests for environmental projects should include the results of the economic analysis and certification that the installation considered and assessed pollution prevention alternatives. When assessing solutions to compliance requirements, installations and commands will employ the environmental management hierarchy (EMH) in environmental project planning. The Pollution Prevention Act establishes the following order of preference for the EMH:

a. Source reduction.

b. Material recycling.

c. Treatment.

d. Disposal.

3210. THE COSTS OF HAZARDOUS MATERIALS (HM) AND HAZARDOUS WASTES (HW). The costs associated with the management of HM's and HW's will be paid in accordance with the following:

1. Installation Commanders. Installation commanders must pay the disposal costs of installation-generated HM's and HW's. Containers, labels, personal protective equipment, spill contingency supplies, etc., are routine operating expenses that should be borne by the original generator.

2. Garrison Marine Corps and Non-Marine Corps Units and Commands. Garrison Marine Corps and non-Marine Corps units and commands must pay the costs associated with the generation (drums, labels, protective equipment for personnel, etc.), containment (absorbent materials, overpack drums, etc.), preparation for transportation, and transportation of tenant-generated HM's and HW's associated with garrison-related, day-to-day activities and training not incident to exercises with specific funding responsibilities identified in an Inter-Service Support Agreement or other appropriate agreement with the host installation. The host installation will pay only the disposal costs.

3. Exercises With Unique Funding/Budgeting. Units and commands must fund the costs associated with the containment, preparation for transportation, transportation, and disposal of HW's that are generated coincident to an exercise that has unique funding. The cost of HW disposal should be managed the same as the cost for disposal of solid wastes, portable toilets, fuels, food, and other consumable supplies resulting from an exercise. The host installation commander must not add any overhead or handling costs.

4. Disposal of HM's as HW's. Over one-third of the HW disposal costs for the Marine Corps come from the disposal of HM's with an expired shelf life or from HM's contaminated by poor supply-and maintenance-handling procedures. The commander causing the disposal of HM's as HW's must bear the costs of containment, preparation for transportation, transportation, and disposal of the HW's. The host installation commander must not add any overhead or handling costs to these costs.

5. HM and HW Spills. The command or unit responsible for the spill must pay the costs associated with the cleanup of spills and disposal of spill debris.

6. Procurement of Recycled HM's. At times, the cost of recycling HM's is less than the procurement cost of new material through local purchase or the national stock/supply system. When viable and cost-effective recycled HM's are available, installation commanders must give priority to procurement of these less expensive recycled HM's over the procurement of new materials.

7. DFSC Oil Spill Cost Reimbursement. Installations may submit oil spill remediation costs of spills from DFSC-owned fuel stocks to DFSC for reimbursement. Contact DFSC-FQ at (703) 767-8312/8320 or DSN 427-8312/8320.

CHAPTER 3

FUNDING ENVIRONMENTAL COMPLIANCE

SECTION 3: RESPONSIBILITIES

3300. CMC (LF)

1. Provide input for the environmental portion of the CPG.

2. Provide Marine Corps input for the environmental portion of the DPG.

3. Monitor the environmental portion of the PPBS to ensure compliance with EO 12088, October 13, 1978, requirements. Review and validate deficiencies throughout the fiscal year.

4. As the environmental program sponsor coordinate, consolidate, and submit Marine Corps environmental financial information (e.g., POM/PPI, NAVCOMPT, OSD, PRESBUD, internal Marine Corps budget supporting exhibits, etc.) from all applicable appropriations to the DON, DoD, and Congress via the Marine Corps Fiscal Director.

5. Using information from CompTRAK, review and authorize the installation environmental O&MMC operating budget and the CMC (LF)'s CMEP O&MMC through the PPBS cycle.

6. Develop specific financial guidance for the formulation of the O&MMC environmental program in support of the PPBS cycle.

7. Ensure that Base Realignment and Closure and IR program requirements are planned, programmed, and budgeted to be consistent with the DPG, budget guidance, and other appropriate instructions.

3301. CMC (LP). Coordinate and validate NWCF environmental requirements and forward financial exhibits (installation breakouts and command roll-ups) in support of the CMC (LF) submission of overall Marine Corps environmental financial information to the DON, DoD, and Congress via the Marine Corps Fiscal Director.

3302. COMMANDER MARINE FORCES RESERVE (COMMARFORRES). Coordinate and validate O&MMCR environmental requirements and forward financial exhibits in support of the CMC (LF) submission of overall Marine Corps environmental financial information to the DON, DoD, and Congress via the Marine Corps Fiscal Director.

3303. COMMANDER MARINE FORCES PACIFIC (COMMARFORPAC) AND COMMANDER MARINE FORCES ATLANTIC (COMMARFORLANT)

1. Provide installation breakouts and command roll-ups of financial exhibits in support of the CMC (LF) submission of overall Marine Corps environmental financial information to the DON, DoD, and Congress via the Marine Corps Fiscal Director. (See paragraph 3204, tables 3-3(a) through (c) and 3-4(a) through (d), and figure 3-1.)

2. In accordance with EO 12088, October 13, 1978, ensure that adequate funding to meet environmental requirements is planned, programmed, budgeted, and executed at each installation and command under its cognizance. Ensure that the FGS/Japan Environmental Governing Standards, Overseas Environmental Baseline Guidance Document, and other applicable overseas environmental requirements are included in the budgeting process. Parent commands must provide subordinate commands with adequate funding based on environmental requirements.

3. Ensure that individual facilities enter all requirements into CompTRAK and that roll-ups are coordinated through appropriate channels.

4. Forward CompTRAK updates to the CMC (LF) via CompTRAK roll-up procedures on the tenth of each month through the appropriate chain of command.

5. Using CompTRAK, provide an OPS to the CMC (LF) annually. The CMC (LF) will notify the CG's/CO's annually of the date for this submission via separate correspondence.

6. Ensure the implementation and use of SABRS environmental accounting codes to develop the PPBS and to monitor and track the execution of funds. (See paragraph 3203 and tables 3-1 and 3-2(a) through (e) at the end of this chapter.)

7. For environmental repair and construction projects which exceed local authority (M2/R2 projects), follow the procedures outlined in MCO P11000.5 and MCO P11000.12.

8. Provide a message or letter to the CMC (LF) requesting concurrence if the reprogramming of the CMC (LF) CMEP-funded environmental projects is required. (Reprogramming is only allowed if funds are being shifted from one environmental requirement to another environmental requirement.) The message must contain the following for each project involved in the reprogramming: project title, CompTRAK project ID number, facilities project number (for M2/R2 only), dollar amount, and the Environmental Protection Agency (EPA) class. The message also must contain a brief justification/impact statement that necessitates this action.

3304. COMMANDER MCLB AND COMMANDERS MCAB (COMCABWEST AND COMCABEAST)

1. Provide installation breakouts and roll-ups of financial exhibits in support of the CMC (LF) submission of overall Marine Corps environmental financial information to the DON, DoD, and Congress via the Marine Corps Fiscal Director. (See paragraph 3204, tables 3-3(a) through (c) and 3-4(a) through (d), and figure 3-1 of this chapter.)

2. In accordance with EO 12088, October 13, 1978, ensure that adequate funding to meet environmental requirements is planned, programmed, budgeted, and executed at each installation and command under its cognizance. Parent commands must provide subordinate commands with adequate funding based on environmental requirements.

3. Ensure that individual facilities enter all requirements into CompTRAK and that roll-ups are coordinated through appropriate channels.

4. Forward CompTRAK updates to the CMC (LF) via CompTRAK roll-up procedures on the tenth of each month through the appropriate chain of command.

5. Using CompTRAK, provide an OPS to the CMC (LF) annually. The CMC (LF) will notify the CG's/CO's annually of the date for this submission via separate correspondence.

6. Ensure the implementation and use of SABRS environmental accounting codes to develop the PPBS and to monitor and track the execution of funds. (See paragraph 3203 and tables 3-1 and 3-2(a) through (e) of this chapter.)

7. For environmental repair and construction projects which exceed local authority (M2/R2 projects), follow the procedures outlined in MCO P11000.5 and MCO P11000.12.

8. Provide a message or letter to the CMC (LF) requesting concurrence if the reprogramming of the CMC (LF) CMEP-funded environmental projects is required. (Reprogramming is only allowed if funds are being shifted from one environmental requirement to another environmental requirement.) The message must contain the following for each project involved in the reprogramming: project title, CompTRAK project ID number, facilities project number (for M2/R2 only), dollar amount, and the EPA class. The message also must contain a brief justification/impact statement that necessitates this action.

3305. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Provide installation financial exhibits in support of the CMC (LF) submission of overall Marine Corps environmental financial information to the DON, DoD, and Congress via the Marine Corps Fiscal Director.

2. In accordance with EO 12088, October 13, 1978, ensure that adequate funding is planned, programmed, budgeted, and executed to meet installation environmental requirements.

3. Ensure that individual facilities enter all requirements into CompTRAK and that roll-ups are coordinated through appropriate channels.

4. Forward CompTRAK updates to the CMC (LF) via CompTRAK roll-up procedures on the tenth of each month through the appropriate chain of command.

5. Using CompTRAK, provide an OPS to the CMC (LF) annually. The CMC (LF) will notify the CG's/CO's annually of the date for this submission via separate correspondence.

6. Ensure the implementation and use of SABRS environmental accounting codes to develop the PPBS and to monitor and track the execution of funds. (See paragraph 3203 and tables 3-1 and 3-2(a) through (e) at the end of this chapter.)

7. For environmental repair and construction projects which exceed local authority (M2/R2 projects), follow the procedures outlined in MCO P11000.5 and MCO P11000.12.

8. Provide a message or letter to the CMC (LF) requesting concurrence if the reprogramming of the CMC (LF) CMEP-funded environmental projects is required. (Reprogramming is only allowed if funds are being shifted from one environmental requirement to another environmental requirement.) The message must contain the following for each project involved in the reprogramming: project title, CompTRAK project ID number, facilities project number (for M2/R2 only), dollar amount, and the EPA class. The message also must contain a brief justification/impact statement that necessitates this action.

9. For all financial exhibits for environmental projects, certify that the installation will apply the EMH and assess pollution prevention alternatives in the planning, life-cycle cost analysis, and design of the project.

3306. UNIT/TENANT COMMANDERS

1. In accordance with EO 12088, October 13, 1978, ensure that adequate funding is planned, programmed, budgeted, and executed to meet command environmental requirements not funded by host installations, including HM/HW management costs associated with the responsibilities outlined at paragraph 3210.

2. Ensure that command environmental requirements not funded by host installations are forwarded to COMMARFORLANT, COMMARFORPAC, or COMMARFORRES for entry into CompTRAK.

Table 3-1.-Standard Accounting reporting System (SABRES) Environmental Accounting Codes.

Installation	UIC	DoD Program Element Numbers (PENs)			DoN	DoN	DoN	SABRS Fund Codes		
		Compl	P2	Consrv	BA - Budget Activity	AG - Activity Group	SAG - Sub-Activity Group	Compl	P2	Consrv
MCLB Albany	M67004	0702856	0708054	0708053	1	A	4A	CJ	CU	CP
MCLB Barstow	M62204	0702856	0708054	0708053	1	A	4A	CJ	CU	CP
Blount Island Command	M38450	0702856	0708054	0708053	1	B	1B	CJ	CU	CP
MCAS Cherry Point	M00146	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCAS Beaufort	M60169	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCAS New River	M62573	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCAF Quantico	M00260	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCB Camp Lejeune	M67001	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCB Hawaii	M00318	0202056	0208854	0208853	1	A	4A	CI	CT	CN
Camp Smith	M67385	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCB Camp Butler	M67400	0202056	0208854	0208853	1	A	4A	CI	CT	CN
Camp Fuji		0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCAS Iwakuni	M62613	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCAS El Toro	M60050	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCAS Tustin	M62535	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCAS Pendleton	M67604	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCAS Miramar	M67865	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCAS Yuma	M62974	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCB Pendleton	M00681	0202056	0208854	0208853	1	A	4A	CI	CT	CN
MCMWTC Bridgeport	M64495	0202056	0208854	0208853	1	A	5G	CM	CX	CS
MCAGCC Twentynine Palms	M67399	0202056	0208854	0208853	4	A	3C	CK	CV	CQ
MCSA Kansas City	M67443	0202056	0208854	0208853	3	A	3C	CK	CV	CQ
MCRD Parris Island	M00263	0805756	0805754	0805753	3	A	5D	LC	CW	CR
MCRD San Diego	M00243	0805756	0805754	0805753	3	B	4F			
MCB Quantico	M00264	0805756	0805754	0805753	3	C	5G	CM	CX	CS
MC Barracks, 8th & I	M67029	0805756	0805754	0805753	4	A	4A	CI	CT	CN
HQ Battalion, Henderson Hall	M67353	0901256	0901854	0901853	1	A	4A	CI	CT	CN
COMCABEAST	M67358	0901256	0901854	0901853	1	A				
COMCABWEST	M67428	0901256	0901854	0901853						
MARCORSYSCOM	M67854	0901256	0901854	0901853						
MARFORRES	M67861	0901256	0901854	0901853	1	A	4A	CJ	CU	CP
LOGBASES		0901256	0901854	0901853	1	A	4A	CI	CT	CN
BASES JAPAN		0901256	0901854	0901853	1	A	4A	CI	CT	CN
MARFORPAC	M67025	0901256	0901854	0901853	1	A	4A	CI	CT	CN
MARFORLANT	M67026	0901256	0901854	0901853	1	A	4A	CI	CT	CN
I MEF	M68450	0901256	0901854	0901853	1	A	4A	CI	CT	CN
II MEF	M20133	0901256	0901854	0901853	1	A	4A	CI	CT	CN
III MEF	M67438	0901256	0901854	0901853	1	A	4A	CI	CT	CN

Table 3-2(a).--Budget Reporting Codes (BRC) for Environmental Programs.

Budget Reporting Codes (BRC) for Environmental Programs	**Usage**
BRC: EA - Program Management	Pertains to local recurring costs (e.g., salaries, training, travel, and supplies) dealing with the environmental program that do not fall into the categories covered in BRC's EB, EC, ED, EE, EF, EG, EH, and EJ.
BRC: EB - Locally-Funded/ Projects	M1/R1 projects (repairs & minor construction) required to meet environmental standards.
BRC: EC - HQTRS-Funded/ Projects	M2/R2 projects funded by HQTRS centrally-managed environmental program to meet environmental standards.
BRC: ED - Locally-Funded/ Studies and Investigations	Routine/recurring studies and investigations to determine alternatives and implementation strategies. Includes environmental planning efforts required to comply with NEPA.
BRC: EE - HQTRS-Funded/ Studies and Investigations	One time, initial start-up cost for non-recurring studies and investigations funded by HQTRS centrally-managed environmental program to determine alternatives and implementation strategies to meet environmental standards.
BRC: EF - Locally-Funded/ Sampling, Monitoring, and Analysis	Routine/recurring sampling, monitoring, and analysis (e.g., annual waste stream characterization, wastewater discharge monitoring, drinking water monitoring, and continuous air emissions monitoring) to meet environmental standards.
BRC: EG - HQTRS-Funded/ Sampling, Monitoring, and Analysis	One time, non-recurring sampling, monitoring, and analysis funded by HQTRS centrally-managed environmental program for such things as site assessments for UST removals.
BRC: EH - Locally-Funded/ Outreach	Recurring environmental/access projects.
BRC: EJ - HQTRS-Funded/ Outreach	One time, non-recurring environmental/access projects.

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Table 3-2(b)--Cost Accounting Codes (CAC) Series Definitions

Cost Accounting Codes (CAC) Series Definitions	Usage
Code: E3 **Short Title:** COMPLIANCE **Long Title:** COMPLIANCE **Activity Group:** ENVIRONMENTAL (EC)	Used to identify costs of efforts to comply with applicable Federal, state, and local environmental laws, regulations, criteria, and standards; and, efforts to comply with overseas FGS.
Code: E4 **Short Title:** POLLUTION PRVNT **Long Title:** POLLUTION PREVENTION **Activity Group:** ENVIRONMENTAL (EC)	Used to identify environmental projects which reduce the amount of a hazardous substance, pollutant, or contaminant entering the waste stream or otherwise released into the environment prior to recycling, treatment, and disposal. Includes projects which reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, and projects required to meet the requirements of Executive Orders 12856 and 12873.
Code: E5 **Short Title:** CONSERVATION **Long Title:** CONSERVATION **Activity Group:** ENVIRONMENTAL (EC)	Used to identify environmental stewardship conservation, which includes those activities required to comply with applicable stewardship conservation laws, regulations, criteria, and standards. Also includes efforts to protect and preserve natural and cultural resources, and projects which may be required by statute or regulation, but are unrelated to compliance regulations.

Table 3-2(c)--Cost Accounting Codes (CAC) for Compliance.

Cost Accounting Codes (CAC) for Compliance	Usage
CAC: E301 - Hazardous Waste Management	Compliance with RCRA Subtitle C and other applicable Federal, state, and local laws and regulations regarding the proper management of hazardous waste. For overseas installations, compliance with hazardous waste management portions of overseas FGS.
CAC: E302 - Underground Storage Tank (UST) Management	Compliance with RCRA Subtitle I and other applicable Federal, state, and local laws and regulations regarding the proper management of UST's. For overseas installations, compliance with UST management portions of overseas FGS.
CAC: E303 - Solid Waste (Non Hzd) Management	Compliance with RCRA Subtitle D and other applicable Federal, state, and local laws and regulations regarding the proper management of solid waste. For overseas installations, compliance with solid waste management portions of overseas FGS.
CAC: E304 - Air Pollution Abatement	Compliance with the CAA and other applicable Federal, state, and local laws and regulations regarding air pollution abatement. For overseas installations, compliance with the air pollution abatement portions of overseas FGS.
CAC: E306 - Environmental Planning	Costs incurred in planning for future environmental requirements or potential impacts, including compliance with NEPA. Do not include NEPA costs associated with specific projects (e.g., MILCON, M2/R2) or actions (e.g., training exercises), as those costs are to be funded as a cost of completing the project or action.
CAC: E307 - Environmental Auditing	Costs incurred in conducting or responding to environmental inspections, audits, program reviews, etc., from external regulatory and internal (DOD) sources. For example, self-inspections, HQMC ECE's, and IGS.
CAC: E308 - Compliance with Other Laws and Regulations	Compliance costs associated with other statutory requirements not included in other E3 series CAC's. Included are radon and asbestos investigations and mitigation to include facility demolition, release response, and cleanups, PCB cleanup and elimination, and noise control and abatement. Not included are costs associated with utility operations and contracts, incidental environmental requirements associated with larger construction and equipment actions, routine grounds maintenance, and routine pest control operations.

Table 3-2(d)--Cost Accounting Codes (CAC) for Pollution Prevention.

Cost Accounting Codes (CAC) for Pollution Prevention	**Usage**
CAC: E401 - Ozone Depleting Chemical Reduction/Recycling	Costs incurred in phasing out and replacement of ozone depleting chemicals, including process modifications, material substitutions, equipment purchase (non-PMC), and procedural changes.
CAC: E402 - Hazardous Materials Reduction Initiatives	Costs incurred in reducing the use and/or release of hazardous materials, including process modifications, material substitutions, equipment purchase (non-PMC), and procedural changes.
CAC: E403 - Hazardous Waste Reduction Initiatives	Costs incurred in minimizing the toxicity and/or volume of hazardous waste streams, including process modification, re-use, recycling, and treatment prior to disposal.
CAC: E404 - Solid Waste Reduction Initiatives	Costs incurred in front end reduction (not recycling) of the volume of solid waste streams, including studies and investigations to determine acceptable performance of substitute materials with post consumer content in a given process.
CAC: E405 - Toxic Release Inventory & Reduction Initiatives	Costs incurred in performing TRI reporting and to reduce the release of specific TRI chemicals. For example, costs of producing section 311, 312, and R Form reports, as well as process modifications and material substitutions aimed at reducing or eliminating particular TRI reportable chemicals.
CAC: E406 - Air Pollution Reduction Initiatives	Costs incurred in reducing all types of air pollutants. For example, studies to determine adequate performance of low VOC paints, purchase (non-PMC) of more efficient paint handling and application equipment.
CAC: E407 - Water Pollution Reduction Initiatives	Costs incurred in reducing the release of pollutants into wastewaters. For example, construction (non-MILCON) of closed loop, water recycling wash racks.
CAC: E408 - Nonpoint-Source Pollution Prevention Initiatives	Costs incurred in reducing the volume and toxicity of stormwater runoff. For example, studies and investigations to determine sources of pollutants, and construction (non-MILCON) of stormwater detention ponds.

Table 3-2(e)--Cost Accounting Codes (CAC) for Conservation

Cost Accounting Codes (CAC) for Conservation	**Usage**
CAC: E501 - Wetlands	Costs incurred in identifying, restoring, enhancing, and protecting wetlands (swamps, bogs, marshes)
CAC: E502 - Endangered Species	Costs incurred in endangered species protection, inventory, and habitat enhancement.
CAC: E503 - Ecosystem Management	Costs incurred in identifying, enhancing, and protecting ecosystems, including plans, studies, inventories, and projects.
CAC: E504 - Soil Erosion	Costs incurred in controlling erosion, including control plans, studies, and projects.
CAC: E505 - Archaeological Resources Management	Costs incurred in the inventory, protection, recovery, and curation of archaeological resources.
CAC: E507 - Historic Structures Resources Management	Costs incurred in the inventories, protection, and recordation of historic structures.

Table 3-3(a) Environmental Exhibit for POM/PPI, NAVCOMPT, OSD & PRESBUD Submission.

U.S. Marine Corps _____
(Enter Applicable Appropriation Above)

	PY	CY	BY	BY+1	BY+2	BY+3	BY+4	BY+5
Environmental Quality Recurring Costs								
Environmental Quality - Recurring Costs (Class 0)								
Manpower								
Education and Training								
Environmental Compliance - Recurring Costs (Class 0)								
Permits and Fees								
Sampling, Analysis, Monitoring								
Waste Disposal								
Other Recurring Costs								
Environmental Pollution Prevention - Recurring Costs (Class 0)								
Environmental Conservation - Recurring Costs (Class 0)								
Total Environmental Quality - Recurring Costs (Class 0)								
Environmental Compliance Non-Recurring Costs								
Non-Recurring - Class I&II								
RCRA Subtitle C - Hazardous Waste								
RCRA Subtitle D - Solid Waste								
RCRA Subtitle I - Underground Storage Tanks								
Clean Air Act								
Clean Water Act								
Planning								
Other								
Total Environmental Compliance - Non-Recurring (Class I&II)								
Overseas Compliance Program (Memo entry - funding included)								

Table 3-3(b).--Environmental Exhibit for POM/PPI, NAVCOMPT, OSD & PRESBUD Submissions.

U.S. Marine Corps_____
(Enter Applicable Appropriation Above)

	FY96	FY97	FY98	FY99	FY00	FY01	FY02	FY03
Non-Recurring Costs - Class I/II								
T&E Species								
Wetlands								
Other Natural Resources								
Historical & Cultural Resources								
Total Environmental Conservation - Non-Recurring (Class I/II)								

Table 3-3(c)--Environmental Exhibit for POM/PPI, NAVCOMPT, OSD & PRESBUD Submissions.

U.S. Marine Corps_____
(Enter Applicable Appropriation Above)

	FY96	FY97	FY98	FY99	FY00	FY01	FY02	FY03
Non-Recurring - Class I/II								
RCRA Subtitle C - Hazardous Waste								
RCRA Subtitle D - Solid Waste								
Clean Air Act								
Clean Water Act								
Hazardous Materials Reduction								
Other								
Total Pollution Prevention - Non-Recurring (Class I/II)								
GRAND TOTAL								

Table 3-4(a).--Environmental Quality Report Exhibit 1
(Funding By Installation)

APPROPRIATION: O&M,MC

CNTRY	ST	INSTALLATION	UIC	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03

**SEE EXAMPLE AT EQR-4 FOR MARFORPAC, LANT & COMMAND ROLLUPS

Table 3-4(b).--Environmental Quality Report Exhibit 2 (Manpower)

United States Marine Corps
O&M,MC

FY 1998-1999 BUDGET

(# FTEs)

Country	State	Installation	UIC	TH	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01

*SEE EQR-4 EXAMPLE OF COMMARFORPAC, LANT, & COMMAND LEVEL SUMARRY ROLL-UPS

Table 3-4(c)--Environmental Quality Report Exhibit 3
(Appropriated vs. Nonappropriated).

FY _____
United States Marine Corps
O&M, MC

	Military			Civilian			
	O	E		GS	WG		Total
Appropriated Personnel							
Headquarters							
Major Command							
Field Operating Agencies							
Base							
Subtotal:							
Nonappropriated Personnel							
Headquarters							
Major Command							
Field Operating Agencies							
Base							
Subtotal:							
GRAND TOTAL:							

* Marine Corps Reserves are not included in this exhibit.

Table 3-4(d).-- Environmental Quality Report Exhibit 4 (Projects Over $300K).

CLAIMANT	APPROP	PROJECT	INSTALLATION	STATE	PROJECT NAME	PILLAR	FY96	FY97	FY98	FY99
Installation example										
Marine Corps	O&MMC	xxxxxxxxxx	MCAS Pendleton	CA	Repair Wastewater Collection System - MCAS	EC				
Marine Corps	O&MMC	xxxxxxxxxx	MCAS Pendleton	CA	Repair WW Collection System Laurel Bay, Phase II	EC				
Marine Corps	O&MMC	xxxxxxxxxx	MCAS Pendleton	CA	Provide Backflow Preventors, Laurel Bay Housing	EC				
Marine Corps	O&MMC	xxxxxxxxxx	MCAS Pendleton	CA	Repair WW Collection System Laurel Bay, Phase III	EC				
MARFORPAC/LANT & Command Summary Roll-up example:										
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS El Toro	CA	SEE BREAK-OUT ATTACHED	EC	TOTAL DOLLARS FOR THAT PILLAR			
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS El Toro	CA	SEE BREAK-OUT ATTACHED	P2	TOTAL DOLLARS FOR THAT PILLAR			
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS El Toro	CA	SEE BREAK-OUT ATTACHED	CN	TOTAL DOLLARS FOR THAT PILLAR			
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS Tustin	CA	SEE BREAK-OUT ATTACHED	EC				
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS Tustin	CA	SEE BREAK-OUT ATTACHED	P2				
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS Tustin	CA	SEE BREAK-OUT ATTACHED	CN				
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS Pendleton	CA	SEE BREAK-OUT ATTACHED	EC				
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS Pendleton	CA	SEE BREAK-OUT ATTACHED	P2				
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS Pendleton	CA	SEE BREAK-OUT ATTACHED	CN				
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS Yuma	AZ	SEE BREAK-OUT ATTACHED	EC				
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS Yuma	AZ	SEE BREAK-OUT ATTACHED	P2				
Marine Corps/CCW	O&MMC	xxxxxxxxxx	MCAS Yuma	AZ	SEE BREAK-OUT ATTACHED	CN				

Figure 3-1.--Data Reporting Rollup.

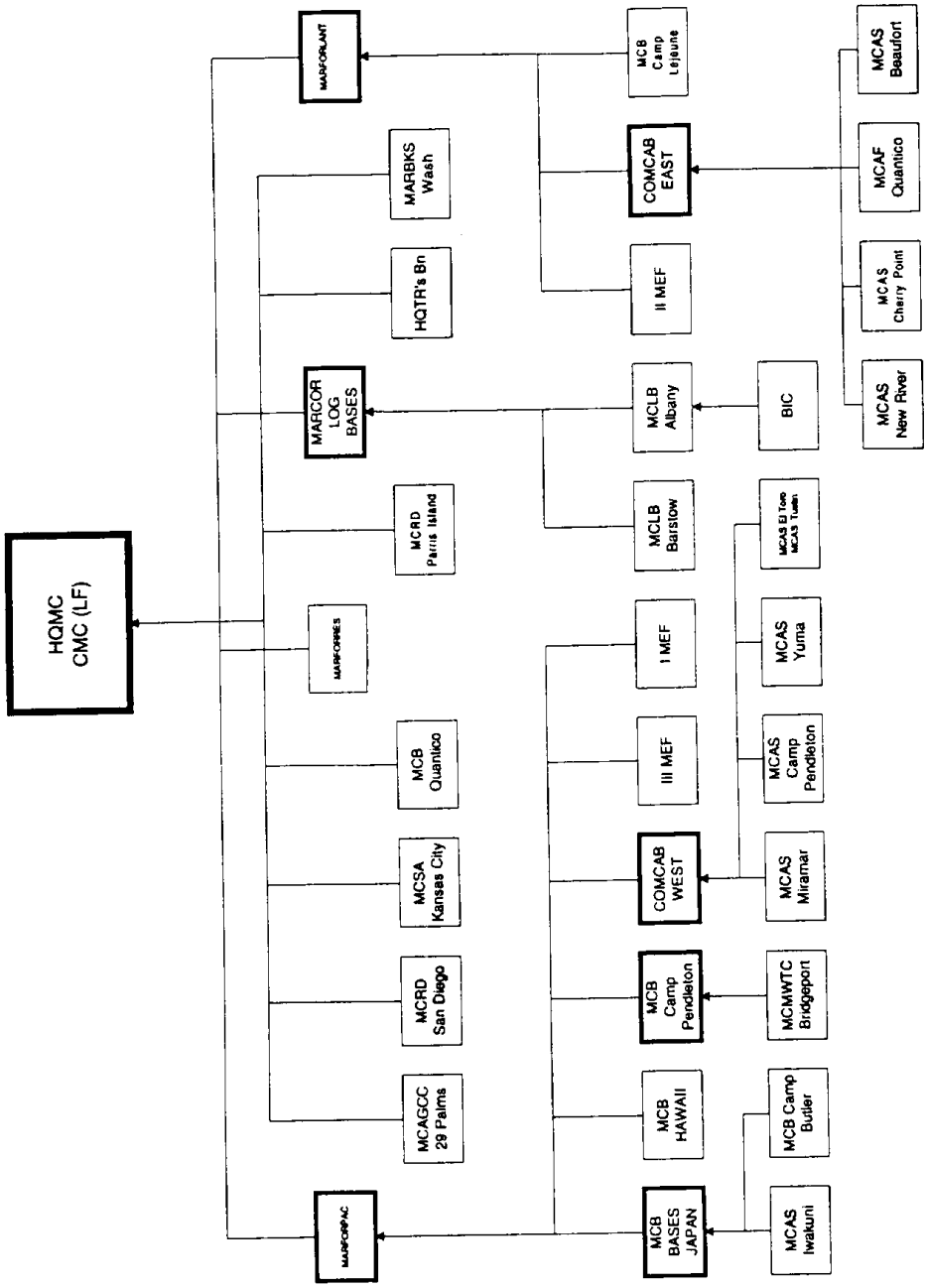

Figure 3-1.--Data Reporting Rollup.

CHAPTER 4

ENVIRONMENTAL COMPLIANCE EVALUATION PROGRAM

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CHAPTER 4

ENVIRONMENTAL COMPLIANCE EVALUATIONS

SECTION 1: INTRODUCTION

4100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for implementing the ECE Program.

4101. APPLICABILITY. See paragraph 1101.

4102. BACKGROUND

1. Federal regulations and Environmental Protection Agency (EPA) policy on Federal facility compliance recommend environmental "auditing" or evaluations as a tool to ensure compliance and to reduce exposure to possible adverse actions such as Notices of Violation (NOV) and risks to human health and the environment.

2. The Marine Corps has established the ECE Program to evaluate environmental compliance at Marine Corps installations and within Marine Corps commands. The ECE Program assesses the command's level of compliance, identifies actions necessary to correct compliance deficiencies, provides follow up on the implementation of those proposed actions, and facilitates continuous improvement in compliance efforts through the Self-Audit Program.

3. On July 9, 1986, the EPA issued a formal Agency-wide "Environmental Auditing Policy Statement" (Federal Register, vol. 51, No. 131, p. 25004). This statement specifically encourages Federal Facilities to adopt sound environmental management practices, particularly environmental auditing, to help achieve and maintain compliance with applicable environmental requirements as well as to help identify and correct unregulated environmental, hazards. This statement defines environmental auditing as a systematic, documented, periodic, and objective review by regulated entities of facility operations and practices related to meeting environmental requirements. Environmental auditing includes a variety of compliance assessment techniques, above and beyond those legally required, that are used to identify actual and potential environmental problems. Effective environmental auditing leads to higher levels of overall

compliance and reduces risk to human health and the environment. On July 1, 1991, the Department of Justice (DOJ) issued a policy memo, "Factors in Decisions on Criminal Prosecutions for Environmental Violations in the Context of Significant Voluntary Compliance or Disclosure Efforts by the Violator," that made the existence of a regular, intensive Self-Audit program an important factor mitigating against prosecution when environmental violations occur. More recently, the EPA issued a new policy statement, "Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations," Federal Register, vol. 60, No. 66, p. 706 (1995), that reemphasizes the importance of environmental self-assessment. This policy also provides some limited incentives (although few are of much benefit to Federal agencies) to encourage environmental self-assessment.

4103. FEDERAL STATUTES. No Federal statutes are specifically discussed in this chapter. Executive Order 12088, October 13, 1978, requires Federal agencies to comply with applicable Federal, state, and local environmental statutes and regulations.

4104. REQUIREMENTS

1. All Marine Corps installations are required to participate in the ECE Program. HQMC-sponsored benchmark ECE's will be conducted every 3 years in order to periodically assess Marine Corps-wide compliance efforts. Installations are required to provide an Annual Validation of the Plan of Action and Milestones (POA&M) of the most recent ECE. Installations are also required to draft and implement an annual Self-Audit Program.

2. Installations are required to prepare and submit to the CMC (LF) a POA&M based on the draft ECE report that is provided as part of each Benchmark ECE. This POA&M will respond to findings and issues identified during Benchmark ECE's.

3. The Automated Compliance Evaluation (ACE) software is the only authorized software for tracking Marine Corps compliance efforts. All Marine Corps installations will maintain and use ACE to track both HQMC-sponsored ECE's and the installation Self-Audit Program.

4105. TERMS AND DEFINITIONS

1. Deficiency Definitions. The ECE Program has adopted the IGMC terminology of "finding," "discrepancy," and "issue." This terminology aligns the ECE Program with the IGMC concepts.

a. Finding. A deficiency that could result in an NOV, a fine, or other enforcement action if discovered by a regulatory agency. Findings normally are the result of noncompliance with an applicable Federal, state, or local law, regulation, or permit. Deviation from the strict application of this definition is allowed, as demonstrated by the following example: An evaluator visits 15 sites and finds the same deficiency at 10 locations. The ECE Team Leader may assign a "Finding" to the worst site to identify the trend and assign "Discrepancy" to the remaining 9 sites.

b. Discrepancy. A deficiency that would not normally result in an NOV, a fine, or other enforcement action if discovered by a regulatory agency. Discrepancies normally result from poor management practices or failure to follow installation SOP's, MCO's, or DON and DoD directives. Also falling into the discrepancy category are minor differences in interpreting requirements and repetitive deficiencies identified as part of a trend.

c. Issues. Deficiencies beyond the capability of the commander to resolve. Issues may include trends across installations/commands that require a Marine Corps-wide approach to resolve or the need for clarification in regulation, guidance, orders, and/or checklists. Issues also may include significant differences in opinion or interpretation of requirements between the installation staff and the ECE team.

2. ECE Program. The Program consists of both triennial, HQMC-sponsored ECE's and a continuous Self-Audit Program. The ECE is an evaluation similar to those conducted by the IGMC or Field Supply Maintenance Analysis Office. It is designed to provide the commander with an assessment of the command's environmental compliance status.

a. Benchmark ECE. An ECE sponsored by the CMC (LF) and supported by contract. Benchmark ECE's, which are conducted at an installation every 3 years, meet both the EPA requirement for an independent, objective overview by a non-DoD entity, and the requirement for an external assessment every 3 years, as explained in appendix R.

b. Annual Validation of the Benchmark POA&M. This meets the EPA recommendation to follow up formally on Benchmark ECE deficiencies. It replaces the Program Management Review (PMR) and should not be confused with the Self-Audit Program. The installation commander will conduct an annual review and verification of the POA&M from the most recent Benchmark ECE. This Validation will certify that reviews and validation of the POA&M are complete. It will include copies of the updated POA&M and the environmental self-audit schedule of the installation's Commanding General's Inspection Program (CGIP) as enclosures.

c. Self-Audit Program. An internal plan for installation commanders to assess compliance within their fenceline, including all tenant commands and activities. The Self-Audit Program will use the ACE software as a tool to track compliance. POA&M's generated from self-audits are for installation/ tenant use.

d. External Inspection. An evaluation which is not part of the established Marine Corps ECE Program. These include regulatory inspections and IGMC evaluations. External inspections may be tracked on ACE, and the POA&M may be used as an internal management tool.

CHAPTER 4

ENVIRONMENTAL COMPLIANCE EVALUATIONS

SECTION 2: MARINE CORPS POLICY

4200. ENVIRONMENTAL COMPLIANCE EVALUATION (ECE) PROGRAM

1. Introduction. The Marine Corps conducts internal environmental audits through its ECE Program. The Program completed a 4-year cycle in FY95. Several significant changes to the program have been made since then. The changes include:

a. Discontinuation of PMR Tier II evaluations;

b. Reduction in the frequency of the CMC (LF)-sponsored ECE's from 3 out of 4 years to once every 3 years, with a formal Annual Validation of POA&M report provided during intervening years;

c. Discontinuation of regularly scheduled NAVFACENGCOM ECE's and their replacement with contractor-supported benchmark ECE's;

d. Incorporation of the Self-Audit Program into the internal inspection programs of major commands and installations;

e. Evaluation of the installation commander as the ECE Program focus;

f. Incorporation of the reserve centers and other independent Marine Corps commands; and

g. Formalization of terminology and reporting.

2. Purpose. The ECE Program provides the commander with a tool to achieve, monitor, and continually improve the command's compliance with environmental requirements.

3. Background. ECE's will be performed in a similar manner to the IGMC inspections. The results will be used as a tool for the commander and the CMC (LF) to plan, program, budget, and execute initiatives to achieve compliance. Comparison of the Benchmark ECE results will be made for overall trend analysis. A specific discussion of inspection principles is contained in MCO 5040.6.

4. Goals. The goals of the ECE Program are as follows:

a. To provide the commander with a tool to evaluate the command's environmental compliance;

b. To assess compliance levels and, as required, provide recommended corrective actions or improvements;

c. To provide a forum for the exchange of ideas and successes;

d. To provide the CMC (LF) with a broad evaluation of environmental compliance across the Marine Corps;

e. To provide a formal interface among installations, FMF commanders, and the IGMC;

f. To integrate environmental awareness into every facet and function of the Marine Corps way of life; and

g. To improve overall compliance efforts through a continuous, integrated program.

5. ACE Software

a. Background. ACE is a Windows-based automated database comprised of checklists for use by commanders and ECE teams. ACE presents known Federal requirements applicable across Marine Corps installations, specific state and local requirements unique to each installation, and requirements specified in this Manual. To avoid any misinterpretation of requirements, the ACE system uses the exact requirements from the applicable source document to formulate questions. Appropriate environmental professionals and legal counsel should be consulted to interpret the requirements if an issue arises.

b. Purpose. ACE is intended to provide the commander with a vehicle to evaluate the command's environmental compliance position by identifying actual environmental requirements. As a listing of specific requirements, it can serve as a quick reference to the installation user. ACE can be modified by the installation user to fit specific Marine Corps commands/units and tenants or media evaluations. Installation and command-unique requirements can be built directly into the ACE database. The most important management feature of the ACE database is the generation of a POA&M for each ECE or inspection conducted.

Eventually, ACE will provide conductivity to the Marine Corps Compliance Tracking System or the follow-up Defense Environmental Security Corporate Information Management system.

c. ACE Updates. ACE is a large database comprised of several checklists. The CMC (LF) will update the ACE software periodically. Each installation and Marine Corps-owned reserve site will receive an installation- or site-specific checklist based upon state and local requirements. The Federal checklist reflects a total universe of requirements known to apply to at least one Marine Corps installation. The state checklists reflect a total universe of requirements known to apply to the installations and sites in a given state. The local requirements reflect those requirements of the specific installation or site. For installations that cross many counties or districts, the checklist reflects the county or district with primacy for that installation or site. The CMC (LF) will update installation- unique databases annually. The schedule of updates is included in the ECE schedule published biannually by the CMC (LF). ACE is provided to the installations and Marine Forces Reserve (MARFORRES) commanders and allows command-unique questions to be added to the database. Unit and tenant commanders are encouraged to coordinate with the installation commander to receive a locally modified ACE database for their use.

d. Modification for Local Use. The installation commander is encouraged to build unique mission-specific checklists for the tenants and commands aboard the installation. This process is accomplished by archiving the nonapplicable responses from the CMC (LF) sponsored ECE's and further by modifying the checklist to fit the targeted unit. The specific procedures for modification are contained in the ACE User's Manual.

e. POA&M. An integral part of all evaluations is appropriate follow-up to ensure that corrective actions are completed. ACE allows the evaluated commander to develop and track the command's POA&M as part of the ECE documentation. Installation commanders must use this capability in developing and maintaining POA&M's that result from the CMC (LF) sponsored ECE's. Commanders are also encouraged to use the POA&M capability as part of their Self-Audit Programs. Once a year on the anniversary of the most recent Benchmark ECE, the installation commander will evaluate, update, and forward the POA&M to the CMC (LF). This POA&M is the primary requirement and document supporting the "Annual Validation of ECE POA&M."

POA&M's should be updated in ACE on a semiannual basis at a minimum. These updates can be used to support the installation Facility Review Board, Budget Reviews, and the Environmental Impact Review Board.

6. Scheduling of ECE's. The ECE schedule, which projects events for the next 4 years, is published by the CMC (LF) twice each year. The exact dates are identified for the current and next fiscal years. The month of the ECE is identified for the "out" years. The ECE schedule is based upon a 3-year cycle, with a benchmark ECE conducted every 3rd year.

7. Benchmark ECE Length. Benchmark ECE's are generally scheduled for a 2-week period. Based upon past experience, the 2-week period allows evaluators sufficient time to visit several field sites and to provide a reasonably in-depth evaluation of the various media. In addition, this timetable enables the installation staffs to function and respond to the mission requirements of the Marine Corps commands/units and tenants aboard the installation. Finally, the 2-week period allows flexibility in scheduling personnel availability for both the installation and the ECE teams.

8. Conduct of Benchmark ECE

a. Notification. The CMC (LF) provides formal notification of an ECE to the installation commander 2 months in advance. As part of the installation notification letter, the installation commander is tasked to complete a Pre-ECE Questionnaire and a point of contact (POC) Availability list. These forms must be returned to the CMC (LF) no later then 30 days prior to the start of the ECE.

b. Specific Media Evaluation Scheduling. The POC Availability list and Pre-ECE Questionnaire are used by the ECE teams to develop the specific ECE media evaluation schedule. The ECE team media schedule is provided to the installation commander approximately 2 weeks prior to the ECE. The media schedule informs the installation commander as to which media are scheduled for each day of the evaluation. The installation commander coordinates specific site events. Upon receipt of the ECE media evaluation schedule, the installation POC's are encouraged to contact the ECE team media evaluators to schedule specific site visits. The goal is to visit each of the major Marine Corps commands/units, tenants, and departments aboard the installation. The installation POC develops and coordinates a list of suggested sites and a schedule for the visit. Some

flexibility must be built into this schedule to allow the ECE media evaluator to stop and visit sites of particular interest. The ECE media evaluators normally will start at locations cited in previous CMC (LF)-sponsored ECE's.

c. In-Briefs. The CMC (LF) team leader, accompanied by the contractor ECE team leader, will conduct an in-brief with the installation commander. The in-brief provides the commander with a quick overview of the goals expected of the ECE and allows the commander to identify any specific areas of concern for the team to focus on during the evaluation. This brief normally lasts 10 to 15 minutes.

d. Daily Updates. The ECE team normally will assemble each afternoon to discuss the day's events. An installation representative is encouraged to attend these discussions. ECE team members use this period to discuss their progress, to identify sites for other team members to visit, to discuss any problems, and to coordinate the next day's evaluations with the installation representative.

e. Out-Briefs. The CMC (LF) team leader, accompanied by the contractor ECE team leader, will conduct an out-brief with the installation commander. The out-brief (approximately 30 minutes) will focus on issues and findings that require the specific attention of the commander to correct. Part of the ECE report provided to the commander is a media overview. This overview provides the commander with a summary of the status of each medium evaluated. In the case that several installations provide and/or receive support to/from other installation commanders, separate in- and out-briefs will be provided for each commander.

f. Document Review. If the ECE schedule and workload permits, the CMC (LF) ECE team leader will allow the installation staffs to review the media-specific portions of the ECE draft report as a courtesy prior to the out-brief with the installation commander. This review will help eliminate any misunderstandings and prevent surprises in the out-brief. After the review and discussion, areas of disagreement may result and will remain as a part of the ECE draft report. This review is not an installation approval process for the report. Installation staff must be aware that scheduling requirements and changes may not always allow for this draft review.

9. Reports. Three documents are required for CMC (LF) sponsored ECE's: Draft ECE Report, Installation Commander's POA&M, and Final ECE Report.

a. Draft ECE Report. This report is prepared by the ECE team and is presented to the installation commander at the out-brief. The specific format of the report is discussed below. As part of this report, the installation commander is requested to provide a critique of the ECE team within 2 weeks of the out-brief.

b. POA&M. The installation commander prepares this POA&M using the ACE software. This POA&M documents and tracks corrective actions selected by the commander. In addition, it provides the commander with the opportunity to comment on any of the deficiencies cited by the ECE team. The POA&M will be submitted via cover letter to the CMC (LF) within 60 days of the out-brief.

c. Final Report. The CMC (LF) reviews the comments provided by the installation commander in the POA&M. Should resolution of any disagreements be required of the CMC (LF), higher headquarters' comments will be prepared using ACE software. The CMC (LF) prepares a Final Report cover letter directed to the installation commander to state that the POA&M has been reviewed. The letter also includes the following instructions: the installation commander will mark out the word "DRAFT" on the report provided at the out-brief, print out the POA&M with installation commander and higher headquarters' comments, and place these documents in the same binder with the ECE Report on top. A copy of the Final Report cover letter with the POA&M will be provided to the IGMC by the CMC (LF).

d. Appendix C contains the format of the CMC (LF)-sponsored ECE Report.

10. Evaluation of ECE Teams. The installation commander's evaluation of the ECE team is extremely important to the success of the Marine Corps compliance program. The Draft ECE Report provides a critique form for the commander. The installation commander will return the completed critique within 2 weeks of the out-brief.

11. Self-Audit Program. See paragraph 4202 below.

12. Releasability

a. Requests for release of ECE reports are governed by the Freedom of Information Act (FOIA) and SECNAVINST 5720.42. Commands receiving a request for release of any ECE results must immediately notify the installation commander's counsel and the

CMC (LF). The out-brief Report II in the ACE database, which presents the citation, the requirement, and the deficiency, is intended to meet such requests for release. Draft ECE reports are working documents and are not normally subject to release until finalized. Preliminary Executive Overview, Media Overview, recommended corrective action, installation commander's comments, and higher headquarters' comments will not normally be released because they may contain internal advice, subjective evaluations, and project costs that are normally exempt from release. Normally, final ECE reports will be completed within a 120-day period from the date of the out-brief. While FOIA controls the release of ECE reports in the majority of cases, ECE reports requested in situations involving existing or reasonably anticipated litigation must be released per SECNAVINST 5820.8.

b. Because premature disclosures of information can tend to inhibit frank and thorough assessments or can skew inspections, commanders should carefully consider protecting self-assessment information to the extent permitted under EPA policy and any applicable laws. As set out in the EPA's new policy statement, "Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations," Federal Register, vol. 60, No. 66, p. 706 (1995), the EPA should not routinely request copies of a previous environmental audit during an inspection absent independent information of a particular violation. Should an EPA inspector request a report of a self-assessment, he or she should be asked to defer the request in the interest of ensuring a fair, objective inspection of all pertinent areas of the base, not just those with prior documented discrepancies. If the inspector agrees, a copy of a final environmental self-assessment may be provided upon completion of the inspection. If the inspector insists upon immediate turnover, the commander should consult with counsel who will try to determine the reason(s) why the inspector feels it necessary to deviate from EPA policy. The request may be elevated to the EPA regional headquarters if an adequate reason is not forthcoming. Once an adequate explanation of the reason for departing from policy is obtained and documented, the inspector may be given access to the environmental self-assessment report. Over 20 states have passed laws protecting environmental audits from disclosure in many instances, or providing that no punitive action can be taken on the basis of discrepancies listed in an environmental self-assessment. Because these laws may provide important protection to the command, each commander should consult with counsel to determine the scope of and procedures for preserving such protection for that particular state. The base commander will determine whether it is in the best interest of the Marine

Corps and DON to take advantage of any such privilege. Any attempt to take advantage must be approved by the Deputy Assistant Secretary of the Navy (Environment and Safety) and coordinated with the DOJ and EPA.

c. Trend Analysis. ECE reports are viewed as internal control documents, not report cards on installation commanders. The results will not be released by higher headquarters in a format which compares commanders. Therefore, the trend analysis will be conducted in a nonattributional format to allow and encourage open and frank exchanges between the ECE teams and commands. The CMC (LF) will publish annual and triennial trend analysis reports based upon the Benchmark ECE's.

13. Base Realignment and Closure (BRAC) Installations. Marine Corps installations selected by the BRAC commission for closure will continue to receive scheduled ECE's until operationally closed. Should the Marine Corps maintain a presence on any operationally closed installation, the ECE of the command maintaining the presence will incorporate evaluations of the remaining functions.

14. Waivers from ECE's. The CMC (LF) will evaluate requests for waivers on a case-by-case basis.

15. MARFORRES ECE Program. MARFORRES will establish an ECE Program similar to the CMC (LF)-sponsored ECE Program for Marine Corps-owned reserve sites and facilities. Benchmark ECE's will be coordinated with the CMC (LF). Reserve facility-unique ECE checklists will be maintained by the CMC (LF) and provided to MARFORRES. Reserve commands and units at sites not Marine Corps-owned will actively participate in their host's ECE (or equivalent) program and establish a Self-Audit Program tied to the MARFORRES CGIP. Reserve units on Marine Corps installations will actively participate in the host's ECE program. In accordance with DoD policy, tenant activities must adhere to the host installation's environmental instruction including the conduct of ECE's.

4201. SITE INSPECTIONS. Authorized Marine Corps, Marine Corps-sponsored, host command environmental, and command environmental personnel must be allowed to enter all commands/units and tenants aboard the host command to conduct ECE's and required monitoring and sampling.

4202. SELF-AUDIT PROGRAM. The purpose of the Self-Audit Program is to provide commanders with a tool to assess their command's environmental compliance status. This program will be incorporated into the CGIP as described in MCO 5040.6.

1. Installation Commanders. The primary focus of the Self-Audit Program is the installation commander. Marine Corps commands/units and tenants have the responsibility to actively support their host commander's Self-Audit Program. The goal of the installation commander's and/or host environmental staff Self-Audit Program is to assess compliance by annually visiting every permitted site and source, every process which generates a waste or may be considered a potential source, every Marine Corps command/unit and tenant, and every other activity potentially subject to an environmental requirement.

2. Other Types of Commanders

a. For Commanders with inspection authority and responsibility as listed in MCO 5040.6, and not included in paragraph 4202.1 above, the environmental self-audit program and the CGIP are merged. Each commander will use the environmental functional area checklist from the IGMC Automated Inspection Reporting System (AIRS) in performing the CGIP, and this procedure will serve as that commander's environmental Self-Audit program. Whereas the installation commander's Self-Audit program focuses on infrastructure and processes, this commander's Self-Audit Program focuses on the subordinate commander's readiness, support of the commander's environmental policies, and support of the host's (installation commander's) environmental compliance program.

b. Commanders with subordinate commanders geographically separated who are not considered tenants on another DoD agency's or service's installation or property will use a modified ACE checklist requested and obtained through the CMC (LF) to perform their self-audits on the subordinate commanders. Commanders may request NAVFAC or HQMC assistance in order to conduct an ECE once every 3 years for these locations. Many locations of this nature may be completely administrative in that no hazardous materials are handled or no hazardous wastes are generated. Requests for waivers from the ECE requirement for administrative sites should be forwarded for consideration to the CMC (LF).

c. Commanders with subordinate commanders geographically separated who are considered tenants on another DoD agency's or service's installation or property will depend on the host ECE

program. The Self-Audit Program for these subordinate commands will consist of the subordinate commander's support of the host ECE Program and the CMC (LF)-directed participation in the CGIP. Subordinate commands should obtain location-specific checklists through their host.

3. Development of the Self-Audit Program. The development of the command's Self-Audit Program should take advantage of all existing inspections and reporting requirements. The intent is not to create a redundant inspection/evaluation system; rather, the objective is to pull all environmental reporting, permitting, and internal controls into one program. Weekly Hazardous Waste Satellite Accumulation Area inspections, drinking water backflow prevention annual inspections, state required drinking water monthly sampling/inspections, and National Pollutant Discharge Elimination System dry weather inspections are all examples of reports, inspections, and evaluations currently being conducted in support of command environmental management programs. Installations should identify all of these requirements and reports and incorporate them into the Self-Audit Program and ultimately into the CGIP. In this manner, the commander is assured that the permits and other types of requirements are identified, validated, tracked, and completed in a timely fashion. In addition, the Self-Audit Program will support the funding process and will identify opportunities for pollution prevention initiatives.

4. Frequency. Installations will conduct the Self-Audit Program annually. This will ensure that all annual requirements are met and increase the effectiveness of the program.

5. Implementation of the Self-Audit Program. Every installation will develop its own Self-Audit Program reflecting the local enforcement environment, permitting requirements, and command philosophy. Regardless of the final format, actions to be completed and incorporated into all Self-Audit Programs are as follows:

a. Annual Environmental Self-Assessment Plan. A detailed POA&M must be published no later than 1 October of each fiscal year. A critical path method format is recommended. This annual environmental self-audit plan will determine which tenant units, subordinate units, installation organizations, specific buildings and locations, and/or media areas are to be evaluated during each month.

b. IGMC/CGIP Annual Inspection Report. A record of completion of each fiscal year's environmental Self-Audit Program will be incorporated in the Annual Inspection Reporting System required by MCO 5040.6. This report will list Marine Corps commands/units and tenants, subordinate units, installation organizations, specific buildings and locations, and media areas evaluated each month with an explanation of any changes or omissions in the published annual environmental Self-Assessment Plan.

c. Self-Assessment Approaches. There are two approaches to conducting a Self-Assessment aboard an installation. Most installations will institute a program using one or the other or a combination of both, as outlined below:

(1) Approach the Self-Audit Program by Organization. All the tenants, subordinate commanders, and base organizations individually receive a multimedia evaluation in a fashion similar to the CMC (LF) sponsored ECE's.

(2) Approach the Self-Audit Program by Media Area. In this method, the evaluation of media is spread over a period of time. Examples include the drinking water program (identification and inspection of every branch of the drinking water system), the backflow prevention program, and the inspection and certification requirements for an air permit renewal. The intent is to visit every building and/or site of every Marine Corps command/ unit and tenant, subordinate command, or base organization on an installation and to evaluate all procedures or processes for compliance with air permitting requirements. To avoid duplication, major commands and installations should coordinate their Self-Assessments. Because of scheduling constraints, installation environmental Self-Assessments should be planned and announced.

6. The Results of Self-Assessments are not Provided to the CMC (LF). Records of the Self-Assessment and the POA&M's to correct the deficiencies will be maintained by the command conducting the assessment. Commands should conduct a review of these records as part of the IGMC inspection program for effective implementation of the environmental Self-Audit Program into the CGIP.

4203. THE ENVIRONMENTAL COMPLIANCE EVALUATION (ECE) AND THE IGMC PROGRAMS. IGMC tasks the CMC (LF) to provide augment inspectors for IGMC teams inspecting the Marine Corps major subordinate commanders identified in MCO 5040.6. To avoid repetitive

inspections and evaluations, it is IGMC and the CMC (LF) policy to inspect commands during a short notice IGMC inspection, including external inspections, for environmental management if the short notice inspection falls outside of a 120-day window either before or after a scheduled CMC (LF)-level ECE of the same commander. The environmental functional area IGMC AIRS checklist used for these inspections is a modified version of the ACE Program Management media checklist.

CHAPTER 4

ENVIRONMENTAL COMPLIANCE EVALUATION

SECTION 3: RESPONSIBILITIES

4300. CMC (LF)

1. Schedule and implement the ECE Program. Issue letters informing installations of a scheduled ECE and provide the final report from an ECE.

2. Provide team leaders and conduct benchmark ECE's with contractor support.

3. Provide augment inspectors for IGMC teams as required.

4. Ensure that Marine Corps installations conduct the Annual Validation of POA&M and Self-Audit Programs.

5. Maintain a current list of all violations received by the installations and actively promote prompt actions to correct and resolve the deficiencies.

4301. OFFICE OF DEPUTY NAVAL INSPECTOR GENERAL FOR MARINE CORPS MATTERS/ IGMC. Include environmental compliance as an area of special interest. The augment inspector will evaluate the commander's Self-Audit Program and will validate the status of the POA&M from the most recent CMC (LF)-sponsored ECE.

4302. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Participate in the Marine Corps benchmark ECE Program.

2. Establish a command Self-Audit Program, incorporating it into the CGIP.

3. Publish Self-Audit Program implementation guidance as part of the Environmental Compliance and Protection Standard Operating Procedures (ECPSOP). See paragraph 2226 of this Manual for information on the ECPSOP.

4. Based on ECE's and other information, develop and execute a POA&M for achieving compliance. Coordinate with appropriate commands if notifications or compliance agreements with regulatory agencies are required.

5. Provide the CMC (LF) with current environmental compliance and protection data.

4303. COMMANDER OF NAVAL FACILITIES ENGINEERING COMMAND (COMNAVFACENGCOM). Provide technical assistance as necessary in support of installation self-audit programs.

CHAPTER 5

ENVIRONMENTAL TRAINING AND EDUCATION

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CHAPTER 5

ENVIRONMENTAL TRAINING AND EDUCATION

SECTION 1: INTRODUCTION

5100. PURPOSE

1. This chapter establishes Marine Corps policy and responsibilities to ensure compliance with mandated environmental training requirements and Marine Corps policies and standards for developing and managing environmental training instruction. It also outlines procedures designed to ensure that Marine Corps environmental programs are of a sufficient scope to identify and meet Marine Corps needs in the most effective and efficient manner.

2. While the responsibility for conducting environmental training may cross many functional and/or operational areas, this chapter establishes the following:

a. Responsibilities to ensure that relevant, high quality environmental instruction and information are provided at all levels of the Marine Corps as needed;

b. Policies and procedures that appropriately apply the Marine Corps Systems Approach to Training (SAT) processes to the environmental training arena as developed and advanced through the Comprehensive Environmental Training and Education Program (CETEP);

c. Documentation and reporting requirements that demonstrate Marine Corps progress in meeting its environmental training goals: to achieve and maintain full compliance with all applicable environmental training and public outreach requirements and to support the attainment of Marine Corps pollution prevention and other environmental goals;

d. Professional development opportunities to identify the needs of Marine Corps personnel who are assigned environmental responsibilities.

5101. APPLICABILITY. See paragraph 1101.

5102. BACKGROUND

1. The Environmental Training Challenge. Environmental requirements impact nearly every Marine Corps OccFld, MOS, and daily operation. Training and/or information requirements are explicitly stated or strongly implied (implicit) in many of these environmental statutes and regulations. Furthermore, many training requirements are both directly environmental and indirectly related to environmental compliance due to job actions, knowledge, or skills they require As a result, the scope of environmental training requirements and the number of Marine Corps personnel subject to them create a significant challenge.

a. This challenge is compounded by professional development needs, unique state and local requirements, provisions of many Federal requirements that training must be tailored to local (job site) conditions, and public information requirements.

b. In addition, Marine Corps personnel are frequently subject to multiple environmental training requirements due to the nature of their job responsibilities and/or conditions existing in their work site(s).

2. The Comprehensive Environmental Training and Education Program (CETEP). In recognition of the large magnitude and importance of the environmental training challenge, the Deputy Chief of Staff for Installations and Logistics established CETEP to meet the environmental training objectives published in the 1997 USMC Environmental Campaign Plan. CETEP was approved at the highest levels by both the Marine Corps training and environmental functional commands.

a. CETEP was established to support the Marine Corps goal of full compliance with all environmental requirements and Marine Corps pollution prevention goals. CETEP incorporates the application of established Marine Corps training and leadership concepts and procedures to characterize and address the training challenge systematically.

b. CETEP includes various needs analyses, professional development initiatives, public outreach projects, program development strategies, and research efforts to ensure that appropriate environmental instruction and information is provided at all levels of the Marine Corps in the most effective and efficient manner.

3. Meeting the Environmental Training Challenge. The ultimate goal of the Marine Corps environmental training program (as established in 1992) is to ensure that training and information are adequately available, highly efficient, and instructionally effective in preparing Marine Corps personnel to perform their environmental and primary job responsibilities competently and/or safely to support Marine Corps environmental objectives. CETEP reveals that this goal can best be achieved by attaining the following objectives:

a. The appropriate application of established Marine Corps SAT development and management processes to environmental training, including curriculum quality standards and program efficiency processes to environmental training.

b. The systematic development of comprehensive environmental training programs at Marine Corps installations based on, and justified by, a documented assessment of installation needs.

c. Full use of existing Marine Corps training systems and organizations.

d. Maximum application and use of existing environmental training materials, courses, and resources prior to new development initiatives.

e. Establishment and use of partnerships with environmental training providers outside the Marine Corps.

f. Maximum application of modern instructional technologies for the mass distribution of environmental instruction and information to diverse audiences.

g. Professional development of Marine Corps personnel tasked with environmental training management/instruction responsibilities to address environmental issues having the greatest impact on the Marine Corps.

h. Elimination of inappropriate and redundant training.

i. The "translation" of environmental requirements into pragmatic job requirements and directives that guide Marine Corps job performance, training, and operations.

4. The Marine Corps SAT and CETEP. The Marine Corps SAT is established and delineated in the 1553 Series of Training and

Education Orders. The formal SAT processes and their associated management documents (including Individual Training Standards (ITS) Systems and Programs of Instruction (POI)) are expressly applicable to Marine Corps formal schools, training centers, and formal courses at other Military schools, per MCO 1553.1. This includes environmental courses taught at such institutions.

a. The vast majority of Marine Corps environmental training does not fall under the formal curriculum development and management processes of the SAT. However, all Marine Corps training is required to incorporate and appropriately apply the basic concepts of the overall SAT process.

b. CETEP requires the application of Marine Corps-approved SAT concepts to the environmental training arena. This application serves as a bridge between the Marine Corps functional commands tasked with training and those tasked with environmental management. This chapter delineates and establishes requirements of that application to accomplish the objectives stated above.

5. Implementation of CETEP at Marine Corps Installations. Environmental permits (based on the Standard Industrial Classification of the parent organization) assign the CG's/CO's the responsibility for environmental compliance issues within the geographic boundaries of their installation. CG's/CO's can best protect themselves from penalties for noncompliance by ensuring that all personnel within the boundaries of their command receive appropriate environmental instruction. Further, the magnitude and parochial nature of environmental training requirements (and their enforcement actions) dictate that primary environmental training efforts be focused on local programs at Marine Corps installations under the guidance and support of the CMC (LF).

a. The original CETEP Plan included provisions for the development of a prototype training program at HQMC to both address the entire spectrum of Marine Corps-wide training issues and to serve as a model for program development processes and procedures.

b. The full implementation phase of CETEP will call for the replication of pertinent segments of this model at all Marine Corps installations. This chapter establishes and guides the modeling phase by describing critical CETEP components, program development procedures, and training quality assurance requirements for installation programs.

6. Environmental Training Expertise. Among the initial findings of the CMC (LF) sponsored Marine Corps-wide environmental training needs assessment was the critical need for uniformed environmental specialists to address environmental issues at the unit and installation levels. It was also recognized that in order for the planned CETEP implementation phase to succeed, environmental training expertise would have to be developed at all Marine Corps installations. In response to these needs, MOS 9954 and MOS 9631 were established and CETEP Coordinators identified. In addition, professional quality standards for environmental instructors and environmental instruction were formulated. For more information on these standards, see paragraphs 5201 and 5206 of this Manual.

a. MOS 9954, Hazardous Material/Hazardous Waste (HM/HW) Officer/Marine. MOS 9954 was established as a secondary MOS to provide the Marine Corps with uniformed Marines specifically trained to address HM and HW site management, primarily at the unit level.

(1) Specific guidance regarding MOS 9954 is published in MCO P1200.7. An ITS System that delineates training and job requirements for the MOS will be maintained by the MCCDC.

(2) Attainment of MOS 9954 may partially satisfy the training requirements established for Environmental Instructors and/or CETEP Coordinators discussed in this chapter under paragraph 5203 of this Manual.

b. MOS 9631, Environmental Engineering/Management Officer. MOS 9631 was established as a secondary MOS to provide the Marine Corps with a cadre of uniformed, operational expertise in the areas of environmental engineering, management, and science. These officers provide a unique view of environmental issues from a Marine’s perspective.

(1) MOS 9631 is administered under the Marine Corps Special Education Program and Advanced Degree Program. Recipients of the MOS have earned a Master’s Degree in environmental management, science, or engineering from designated colleges and universities.

(2) Specific information regarding MOS 9631 is published in MCO P1200.7, MCO 1520.9, and MCO 1560.19.

c. CETEP Coordinators. Personnel primarily responsible for local environmental training program leadership have been

identified as CETEP Coordinators at all Marine Corps installations.

(1) These environmental training managers ensure that installation programs are adequately structured and tailored to identify and appropriately address local training requirements and needs within the "fenceline" of the installation as per the requirements of this chapter.

(2) Specific training and experience requirements established for all CETEP Coordinators are detailed in paragraph 5203. The CMC (LF) sponsors various professional development initiatives for CETEP Coordinators.

7. DoD and Joint Service Committees. The Defense Environmental Security Education, Training and Career Development Committee and Inter-Service Environmental Education Review Board (ISEERB) are composed of environmental and training representatives from DoD and all military services. These organizations present viable forums for addressing broad environmental training issues and for identifying training resources and efficiencies across the services, private industry, and academia.

a. The CMC (LF) has provided a Marine Corps representative to both these committees since their inception. Various training materials and other resources have been secured and distributed throughout the Marine Corps as a result of this participation.

b. The focus of these committees includes sharing and pooling environmental training resource information, realizing cost reductions through combined mass "buys," and avoiding costs by eliminating instructional redundancy.

c. "ISEERB Approval" is an endorsement (seal of approval) given to specific environmental education and training courses. Among other things, such approval signifies that the course has been reviewed by subject matter experts from the DoD Components and has been found to have a common content suitable for use by more than one Component. Table 5-1 lists ISEERB-approved courses.

5103. FEDERAL STATUTES. Listed below are major sources of environmental training requirements. Other training requirements potentially applicable to Marine Corps personnel may be expressly stated (explicit) or strongly implied (implicit) in the Federal regulations, Executive Orders, state laws, regional directives,

local policies, and other mandates discussed or introduced throughout this Manual.

1. Federal Statutes with Major Training Implications. The Federal statutes listed below contain or invoke training requirements that have the greatest impact on Marine Corps personnel.

a. Clean Air Act

b. Clean Water Act

c. Comprehensive Environmental Response, Compensation, and Liability Act and the Superfund Amendments and Reauthorization Act

d. Endangered Species Act

e. Federal Facilities Compliance Act

f. Federal Insecticide, Fungicide, and Rodenticide Act

g. Hazardous Material Transportation Uniform Safety Act

h. National Environmental Policy Act

i. Occupational Safety and Health Act

j. Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments

k. Safe Drinking Water Act

2. Regulatory Training Requirements Invoked by Federal Statues. Many of the Federal statutes listed above (as well as others) invoke training requirements published in the Code of Federal Regulations (CFR) by various Federal agencies, including the Department of Transportation, Occupational Safety and Health Administration, and Environmental Protection Agency.

a. Appendix D contains a list of training requirements, here classified as "environmental," that have a significant impact on Marine Corps personnel. The appendix does not include all requirements established or invoked by Federal statutes.

b. Tables 5-2 and 5-3 of this chapter provide a summarizes significant provisions of major environmental training requirements included in Federal regulations.

5104. REQUIREMENTS

1. DoD Policy Implementation. This chapter implements the training program requirements established by the Under Secretary of Defense for Acquisition and Technology.

2. Training Requirements. Generally, the various policies and requirements of this chapter are generally not newly conceived, but an application of Marine Corps training policies and a delineation of environmental training requirements previously in effect. The sole intent of these requirements is to support established Marine Corps environmental objectives that will lead to attaining of the Marine Corps environmental goals.

5105. TERMS AND DEFINITIONS

1. By Name Assignment (BNA). An automated system used for scheduling and enrolling students in courses offered by military formal schools.

2. Chesty Brigade. The honorary organization composed of those active-duty, family members, civilian personnel, and non-Marine Corps individuals (and organizations) who have in some way contributed to Marine Corps environmental efforts.

3. CETEP. The Marine Corps training program designed to ensure that high quality, efficient, and effective environmental training, education, and information are provided at all levels of the Marine Corps.

4. Environmental Training. Any form of instruction and information that is based upon, derived from, or guided by environmental laws, regulations, or policies.

5. Environmental Training Needs Assessment. A comprehensive analysis conducted to identify training needs and to provide a rational basis for justifying the allocation of resources and requests for training services. The analysis also establishes a benchmark for evaluating the efficiency and effectiveness of the training effort.

6. Explicitly Required Training. Training overtly and expressly required by specific laws or regulations that applies to Marine Corps personnel due to the nature of their work assignments and/or work-site status or condition.

7. Hazard Communication (HAZCOM) Training. Training required under the Occupational Safety and Health Act, per 29 CFR 1910.1200.

8. Hazardous Waste Operations and Emergency Response (HAZWOPER) Training. Training required under the Occupational Safety and Health Act, per 29 CFR 1910.120.

9. Implicitly Required Training. Instruction and/or information that is not expressly stated as required by law or regulation, but that can be reasonably inferred as being required or necessary due to the nature of job actions, required functions, and/or specific licensing or certification requirements mandated by environmental law or regulation.

10. ISEERB. An advisory board composed of environmental and training leaders of all military services formed to identify environmental training efficiencies and resources.

11. Job Performance Enhancement Training. Training and education above and beyond the minimal or qualifying job requirements.

CHAPTER 5

ENVIRONMENTAL TRAINING AND EDUCATION

SECTION 2: MARINE CORPS POLICY

5200. ENVIRONMENTAL TRAINING POLICY

1. General. All Marine Corps personnel, members of the Marine Corps community, and appropriate segments of the general public will be provided effective and relevant environmental instruction and information as required by this chapter. All environmental training will be appropriately validated, documented, and managed to ensure that it meets Marine Corps quality standards and to demonstrate compliance with all established requirements.

2. CETEP. The prototype program components, development procedures, and management processes devised and advanced by the CMC (LF) CETEP and established in this chapter will serve as the strategic model and guide for environmental training in the Marine Corps.

5201. CETEP IMPLEMENTATION

1. General. An environmental training program, hereby designated as a "CETEP," will be established and maintained at all Marine Corps installations, appropriately reflecting and applying the major components of the CMC (LF) CETEP model (and development processes). Each CETEP will ensure that all environmental training needs are identified and appropriately addressed for all personnel assigned or operating within the geographic "fenceline" of the installation.

2. Required CETEP Components. Each installation CETEP must appropriately and adequately address the program components listed and described below.

a. CETEP Environmental General Awareness Component. An awareness of environmental requirements and programs is a precursor to actions that are critical to attaining Marine Corps pollution prevention, compliance, and other environmental goals. Each CETEP must include an environmental general awareness component that is of sufficient scope to ensure that everyone affiliated with or affected by its sponsoring installation are appropriately informed of their pragmatic environmental responsibilities and opportunities to support local and Marine Corps-wide environmental policies and projects.

(1) The CMC (LF) CETEP includes a Marine Corps-wide environmental outreach campaign that supports the production of a variety of environmental awareness materials (e.g., posters, videotape presentations, booklets, Internet homepage, displays) targeted to various populations, activities to commemorate Earth Day, displays and presentations at various major conferences, media releases and submission of articles for targeted publications, and the Chesty Brigade. The Chesty Brigade is an honorary organization devised to provide an avenue for recognizing individuals who have contributed to Marine Corps environmental efforts.

(2) As a cost-efficiency measure, installations should incorporate the CMC (LF) CETEP-sponsored awareness materials and activities (augmented by locally tailored materials and information) into their CETEP to the maximum extent possible. Joint development of materials by multiple installations is encouraged.

(3) Installation participation in Chesty Brigade activities necessitates the local establishment of specific membership requirements and administrative procedures. Routine coordination between the CMC (LF) and the installations regarding Chesty Brigade membership "privileges," database management, and program needs will be maintained to fully achieve the intended goals of the effort.

(4) Installations should include environmental awareness materials in local outreach efforts and events such as: Earth Day activities, Welcome Aboard briefings, initial check-in of all personnel, and welcome/orientation briefings to visitors.

(5) All environmental awareness initiatives should be documented and systematically evaluated to ensure their validity and effectiveness.

b. CETEP Job-Specific Required and Necessary Training Component. This CETEP component focuses on personnel assigned environmental job responsibilities and/or personnel subject to specific environmental training requirements due to the conditions in their work sites. This component must ensure that all such personnel are identified and promptly provided with

relevant and high quality training. This includes the incorporation of environmental requirements into local job guidance directives and standard operating procedures as appropriate. This type of training requirement includes those characterized below.

(1) Explicit Training and/or Information Requirements. These training requirements are expressly stated as required in laws and/or regulations and should be the first priority of training. While they vary widely (i.e., in length, content, required topics, etc.), training requirements are similar in that they generally apply to specified personnel (or groups) who are assigned job duties or to work sites that potentially subject them to hazardous or threatening conditions. Failure to provide training to address these conditions is a compliance violation.

(2) Implicit Training and/or Information Requirements. This category includes instruction/information that is not expressly stated as required by law or regulation, but that can be reasonably inferred as required or necessary due to the nature of the job actions, required functions, or licensing/certification requirements mandated by environmental law or regulation. Failure to provide training to address implicit requirements is not a compliance violation in itself. However, the effect of this training significantly impacts the competency of those assigned environmental responsibilities, which in turn dictates and forms the overall quality of the environmental program.

c. CG's/CO's and Senior Executive Service (SES) Members Information Component. All Marine Corps achievements begin with enlightened leadership. This CETEP component ensures that all top Marine Corps civilian and military leaders understand their unique roles and responsibilities regarding environmental issues.

(1) Appropriate environmental information must be included as part of the orientation/in-briefing that CG's/CO's receive upon assuming the command. This information must include environmental publications, such as this Manual, and the latest editions of the following:

(a) United States Marine Corps Commander's Guide to Environmental Compliance and Protection; and

(b) United States Marine Corps Environmental Campaign Plan.

(2) Commanders of visiting units to Marine Corps installations must be provided information on established installation environmental policies, contingency plans, procedures, and restrictions prior to the conduct of unit operations (such as training exercises) that may have an impact on environmental resources or programs within the geographic boundaries of the installation/facility. Such information must also be included in written agreements between the visiting CG/CO and the installation.

(3) Each CETEP should provide an environmental orientation tailored to newly assigned battalion/squadron and company commanders.

(4) Marine Corps CG's/CO's and SES members should be routinely notified of appropriate environmental training/information opportunities available to them. Their participation in such events is strongly encouraged.

5202. WRITTEN CETEP PLANS

1. CETEP Plan Overview. A written CETEP Plan must be developed by each Marine Corps installation as described below. This plan will serve as a planning and management tool for the development and maintenance of the CETEP. It will also document provisions established and progress made toward achieving and/or sustaining the Marine Corps environmental training goal.

2. CETEP Plan Required Sections

a. Training Needs Analysis. This section must describe procedures and results of established efforts to identify and update the environmental training needs of the installation. It must appropriately address the following:

(1) Pertinent Demographic Information. This must include a quantified description of the personnel targeted for training and information by the required CETEP components. Items such as the following should be considered and summarized: a tenant command list and personnel breakdown, populations assigned to housing areas, schools within the installation boundaries, local community populations, established T/O's, and routine visiting units.

(2) Significant Environmental Characteristics and Requirements. This must include a description of the

installation from the perspective of its significant environmental characteristics that impact training requirements. Items such as the following should be considered: the status of pertinent environmental permits, provisions of relevant plans (such as the installation's emergency response plan), number/type of hazardous waste streams and collection sites, Installation Restoration sites, treatment plants, emissions requirements, and unique local requirements. This section must include a listing of identified environmental training requirements pertinent to each CETEP component.

(3) Quantified Environmental Training Needs. This must include a listing of all significant environmental training requirements (as determined under paragraph 5202.2a(2) above) and the number of personnel subject to each requirement (based on paragraph 5202.2a(1) above). In addition, included in this section must be a defensible approximation of the number of personnel subject to each requirement who have not received the training as required. Personnel turnover rates must be appropriately considered in determining the final quantified training need (or requirement) under each specified category of training.

b. CETEP Development. This section must detail how each of the training requirements/needs identified are/will be addressed. This should include instructional strategies and sources of training selected to reconcile any/all differences between the scope and capacity of the existing training program and through-put required to achieve full compliance with each requirement. This section must include a Plan of Actions and Milestones established to achieve full compliance with all training requirements identified.

c. Instructional Quality Assurance. This section must describe the procedures established to ensure that all instruction provided is valid, relevant, and meets Marine Corps training quality standards. This process should include, at a minimum, procedures established to review and approve instruction prior to its conduct, internal evaluation procedures established to solicit student and instructor comments after instruction is presented, and procedures established to ensure the competency and capabilities of those providing environmental instruction.

d. Recordkeeping System. This section will describe procedures established and processes employed to ensure that all environmental training properly documents and readily demonstrates compliance with all applicable requirements.

e. Training Efficiencies. This section will describe procedures established to ensure that training is provided at the least possible cost to the Marine Corps. This process should include:

(1) a description of the incorporation of centrally provided (CMC and MCCDC) courses and materials,

(2) use of resources obtained through the ISEERB and other military services and government agencies,

(3) use of instructional delivery technologies,

(4) efforts taken to avoid unneeded redundancy of effort,

(5) cooperative efforts across functional organizations and commands within the boundaries of the installation, and

(6) other such efficiencies.

f. Implementing Orders. This section will include a list and description of all locally established orders, directives, and guidance that have been established by the installation to ensure implementation of the CETEP Plan as written. Copies of the actual directives should be included as appendices.

g. Plan Approval. This section will document the approval of the CETEP Plan by the installation CG/CO.

3. The CMC Participation in CETEP Plan Development. The CMC (LF) will provide ongoing technical training assistance and environmental training advice as requested to all installations to assist in the development of required CETEP Plans.

5203. MARINE CORPS CETEP COORDINATORS AND ENVIRONMENTAL INSTRUCTORS. Marine Corps personnel who provide environmental training must meet Marine Corps quality standards. The following designations and standards are established for CETEP Coordinators and Environmental Instructors. These individuals may request information about the required training courses from the CMC (LF) and from the Bureau of National Affairs system per MCO 1553.7.

1. Marine Corps personnel assigned the responsibility of developing and/or implementing a CETEP by their CG/CO will be designated as CETEP Coordinators. Within 12 months of the date of this Manual or the date of appointment, whichever is later,

the CETEP Coordinator must complete the following training requirements through established quota control methods and the BNA system:

a. Satisfactorily complete the Curriculum Developer's Course, or equivalent, offered by the United States Marine Corps Instructional Management Schools;

b. Successfully graduate from the Advanced Environmental Management Course taught by the Naval School, Civil Engineer Corps Officer School, Port Hueneme, California, or an equivalent course taught by a Marine Corps, DoD, or service-sponsored formal school or serve for 2 calendar years on a Marine Corps staff that has policy authority over multi-media environmental affairs; and

c. Successfully participate in the CMC (LF)-sponsored,-supported, and -approved CETEP Coordinators' workshops, seminars, task forces, or committees.

2. Waivers for the CETEP Coordinator requirements will be considered by the CMC (LF) on a case-by-case basis.

3. Marine Corps personnel assigned the responsibility of delivering instruction and who have satisfied the training requirements of this chapter will be designated as Marine Corps Environmental Instructors. Marine Corps Environmental Instructors, other than those whose duties are limited to delivering environmental awareness information, must have demonstrated a mastery of the subject matter and must possess, at a minimum, basic Marine Corps instructor skills within 12 months of the date of this Manual or prior to receiving the designation of Environmental Instructor. The following conditions must be fulfilled using established quota control methods and the BNA system in order to demonstrate adequate instructional skills:

a. Satisfactorily complete the Instructor Training Course, or equivalent, offered by the United States Marine Corps Instructional Management Schools

b. Successfully complete a minimum of 1 year of professional work experience in a position having job responsibilities directly related to the subject certification area or satisfactorily complete formal instruction equivalent to a minimum of 15 training days in the subject specialty area at a Marine Corps/DoD service school or college or university

c. Successfully instruct a minimum of three sessions of a course dedicated to the subject area with Marine Corps students. Instructor ratings by students must be documented and must average at least "satisfactory" in all areas

d. Obtain the written recommendation of a CETEP Coordinator endorsed by an installation Environmental Affairs Director, Officer, or Supervisor.

4. Waivers for the Environmental Instructor requirements may be granted by the installation CETEP Coordinator.

5204. EMBEDDED ENVIRONMENTAL INSTRUCTION. Environmental instruction will be incorporated, as appropriate, into all levels and types of training and education that are supported and/or attended by Marine Corps personnel. Marine Corps personnel will be trained to perform their primary job assignments and to maintain combat readiness in a manner that supports Marine Corps environmental goals.

5205. TRAINING COST-EFFICIENCIES. Installations must ensure that maximum results are obtained from limited environmental training resources. This process must include full use of existing instructional materials, services and expertise, and the elimination of training redundancies.

1. Centrally Provided Resources. Prior to requesting new environmental resources, installations should review the Marine Corps Training Input Plan, query the BNA system, and contact the MCCDC or the CMC (LF) to ensure that the desired instruction/ materials have not been previously established through central sources.

2. Internal Expertise. All those responsible for environmental training pertinent to the management of HW/HM should become aware of local Marines holding MOS 9954 and should apply their expertise to help meet identified HW/HM training needs.

3. Quality Assurance. CETEP Coordinators must ensure that all environmental instruction and materials secured from non-Marine Corps sources are adequately modified to meet Marine Corps instructional quality standards established under paragraph 5206.

5206. QUALITY STANDARDS FOR MARINE CORPS ENVIRONMENTAL TRAINING MATERIALS, COURSES, AND PROVIDERS

1. All environmental training sponsored or supported by the Marine Corps must demonstrate adherence to the following criteria:

a. Meet the expressed and identified needs of the Marine Corps, follow a CETEP plan approved by the installation's CG/CO, and address the expressed provisions set forth in this Manual;

b. Clearly identify the specific Federal, state, regional, and local environmental training requirement(s) and the established Marine Corps job requirements that are satisfied by each training course or exercise;

c. Each training program, course, or exercise must have a POI, course syllabus, administrative guide, outline, or equivalent document that clearly and concisely describes the training course. At a minimum, the training description must include the following components:

(1) Course content/learning objectives,

(2) Time allocation,

(3) Instructional sequence of events,

(4) Student evaluation procedures (where appropriate),

(5) Established mastery levels, and

(6) Established course evaluation procedures.

d. The evaluation of training must demonstrate that course instructors (Marine Corps and non-Marine Corps personnel) possess sufficient academic exposure, training, and/or work experience to have mastery of the subject matter in order to instruct Marines effectively. All instructors must, at a minimum, meet instructor qualification standards established in applicable Federal requirements and where applicable:

(1) Have sufficient quality and quantity of resources (including instructors, course materials, instructional equipment, facilities, and supplies) to fulfill the specified training need for which they are being considered;

(2) Employ established evaluation and feedback procedures to allow student/Marine Corps appraisals of completed instruction quality and relevance; and

(3) Be reasonably and competitively priced.

2. The design and development of all environmental training course curricula and instructional materials used for Marine Corps purposes must be in accordance with the policies and procedures defined in the benchmark series of MCO 1553.

3. The implementation of CETEP at the installation level must continually apply Marine Corps quality and efficiency standards to all types of instructional materials and delivery systems or modes.

4. The CMC (LF) will monitor and access (using the above standards as a guide) conventional and contemporary environmental training sources for potential Marine Corps-wide application.

5. The CMC (LF) will represent the interests of the Marine Corps on DoD, DON, and Inter-Service committees tasked with reviewing environmental training sources. Environmental training sources and courses identified and approved by these committees will be subject to the Marine Corps quality standards stated above. The CMC (LF) will inform appropriate personnel of all sources and courses which meet Marine Corps quality standards.

5207. RECORDKEEPING. Complete and accurate records will be maintained to document all environmental instruction available, required, and conducted, describing the effectiveness and efficiency of training. Specific written reporting and planning requirements outlined in this Manual will be retained for at least 3 years after their effective date.

CHAPTER 5

ENVIRONMENTAL TRAINING AND EDUCATION

SECTION 3: RESPONSIBILITIES

5300. CMC (LF)

1. Provide support to Marine Corps installations and units by interpreting Federal environmental training and education requirements and by uniformly applying Marine Corps policy as set forth in this Manual.

2. Ensure that Marine Corps personnel, both civilian and military, receive adequate training to support and maintain a standardized Hazardous Material Information System (HMIS). An office of primary responsibility will be appointed to provide policy and guidance for the Marine Corps role in the HMIS and to provide any information on HMIS implementation to the director of the Defense Logistics Agency.

3. Represent the interests of the Marine Corps with regard to environmental training and education in liaison with DoD, other military services, private and public institutions, agencies, and organizations concerned with such matters.

4. Coordinate efforts regarding environmental training and education with appropriate representatives of the MCCDC and other Marine Corps commands and units as appropriate.

5. Fully implement all components of CETEP, including:

a. The development and distribution of Marine Corps-wide environmental awareness materials.

b. The review of Marine Corps-wide job-specific guidance documents and training materials to ensure that environmental requirements are incorporated as appropriate.

c. The preparation of information and curricular materials suitable for Marine Corps-wide distribution and use.

d. The guidance and monitoring of CETEP implementation at all Marine Corps installations and MARFORRES.

e. The assessment of Marine Corps-wide environmental training and education needs and remedies as appropriate.

f. The tracking of Marine Corps-wide environmental training costs and the calculation of returns on investment.

6. Perform research, analysis, and coordination tasks as required for the establishment of environmental MOS's. Serve as the OccFld sponsor of such environmental specialties.

7. Notify Marine Corps installations and major commands of available and appropriate environmental instructional resources and opportunities.

8. Ensure that all environmental instruction given to Marine Corps personnel meets the needs and quality standards of the Marine Corps.

9. Secure quotas to Marine Corps, DoD, and other service-supported/funded professional development programs and environmental courses for Marine Corps personnel with assigned environmental responsibilities.

10. Assess the effectiveness and adequacy of the Marine Corps CETEP through the Environmental Compliance Evaluation (ECE) Program, augmentation to the IGMC, and special reviews.

11. Compile a library of installation/unit level-produced or-sponsored environmental training, public outreach, and general awareness materials to serve as a reference source and for potential replication Marine Corps-wide.

12. Provide technical assistance and advice to OccFld and MOS sponsors and representatives of functional areas with cognizance over Marine Corps job guidance documents to ensure that environmental elements are included as appropriate.

13. Direct activities and conduct periodic meetings of CETEP Coordinators.

14. Research and employ existing and emerging training technologies, information transfer systems, and curricular innovations to expedite environmental training and to affect program efficiencies.

15. Review and establish procedures to ensure that military and civilian environmental personnel are afforded career advancement opportunities.

16. Support installation and command requests for funding to implement CETEP.

5301. COMMANDER MARINE FORCES ATLANTIC (COMMARFORLANT), COMMANDER MARINE FORCES PACIFIC (COMMARFORPAC), AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Ensure that all subordinate personnel subject to environmental training requirements are appropriately trained per the requirements of this Manual. Forward reports of identified training deficiencies to the CMC (LF).

2. Include environmental training requirements in operational readiness reviews and inspections as appropriate.

3. Ensure that provisions for identifying and meeting the environmental training needs of subordinate commands are included in host/tenant agreements and other such documents as appropriate.

4. Select and forward names of candidates for the CMC (LF) centrally supported or sponsored environmental training courses as described in training opportunity announcements.

5. Plan, program, budget, execute, and track environmental training costs.

6. COMMARFORRES must develop and maintain a written CETEP Plan that specifically addresses all the environmental training requirements of this paragraph. COMMARFORLANT and COMMARFORPAC should consider the development and maintenance of a written CETEP Plan.

7. COMMARFORRES must designate one point of contact to serve as a CETEP Coordinator. Forward such designation and any changes to the CMC (LF).

5302. CG/CO OF MARINE CORPS INSTALLATIONS

1. Ensure that all subordinate tenant and other personnel operating on a permanent or temporary basis within the geographic

boundaries of Marine Corps installations and facilities receive environmental training, instruction, and information as required by the law and this Manual. CG's/CO's of overseas installations will ensure that environmental personnel complete the necessary training related to applicable environmental policies and program guidance (i.e., Final Governing Standards/Japan Environmental Governing Standards and OEBGD).

2. Develop and maintain a written CETEP Plan that specifically addresses the environmental training requirements of this chapter.

3. Designate one point of contact to serve as the Installation CETEP Coordinator. Forward such designation and any changes to the CMC (LF).

4. Perform environmental training needs assessments within all areas of cognizance to identify personnel requiring environmental training and the type(s) of training required.

5. Develop and implement programs, plans, and budgets as required to ensure that Marine Corps personnel receive required and appropriate environmental instruction and certification, as needed. Included will be provisions for host/tenant agreements, standing operating procedures, installation and unit level orders, and required management plans, as appropriate and applicable.

6. Establish and maintain records and documentation to demonstrate compliance with environmental instructional requirements of Federal, state, and local rules and regulations, and with the requirements of this Manual.

7. Establish a system to use the results of ECE's and installation inspections to refine training needs, to guide priorities for environmental training efforts, and to evaluate training effectiveness.

8. Ensure that all forms of training (including operational exercises) conducted within the geographic boundaries of the command include environmental elements as appropriate.

9. Plan, program, budget, execute, and track costs associated with the environmental training program in the same manner and to the same degree that other environmental projects and training programs are administered.

10. Develop and implement programs to ensure that appropriate Marine Corps personnel receive environmental awareness information on at least an annual basis.

11. Ensure that environmental training provided or sponsored by the installation meets the training needs of the target population effectively and efficiently.

12. Select and forward names of candidates to fill the CMC (LF) centrally provided environmental training classes per the directions contained in such class announcements. All environmental training will be coordinated through the installation CETEP Coordinator.

13. Ensure that no Marines or civilian employees are assigned job responsibilities subjecting them to formal environmental training requirements until such training is provided or is scheduled to be provided within the time limitations specified by statutory or regulatory requirements. Ensure, in all cases, that personnel requiring a Federal or state certification are trained and certified within the appropriate, specified time limit.

14. Ensure that position descriptions (PD), work plans, and training plans for civilians reflect environmental training requirements. For example, ensure that PD's for civilian pesticide applicators indicate that state certification is desired.

15. Ensure that CETEP Coordinators and Marine Corps personnel serving as Environmental Instructors are appropriately trained and qualified as required by the law and this Manual.

16. Ensure that all environmental training provided or sponsored by the installation meets the quality standards defined in this chapter.

17. Comply with additional environmental training requirements associated with applicable areas listed in appendix D.

5303. MARINE CORPS UNIT COMMANDERS

1. Where practicable, attend an appropriate environmental orientation course after selection for command.

2. Liase with installation CETEP Coordinator in order to ensure that the environmental training needs of subordinates are identified, properly addressed, provided, and documented.

3. Select candidates for the CMC (LF) centrally sponsored environmental training classes and forward their names through the appropriate chain of command in accordance with announcement directions.

4. As per the annual review required by MCO P5215.1, ensure that SOP's and local orders are reviewed annually to include elements which are support Marine Corps environmental goals. These reviews should also be used to identify operational roles/assigned job functions that invoke environmental training requirements.

5. Ensure that environmental considerations are included in planning sessions and briefings prior to conducting training (both on and off the installation) which may have an environmental impact.

6. Ensure that training and routine operations are conducted in an environmentally compliant manner and incorporate principles of pollution prevention, conservation, and environmental stewardship, as appropriate.

7. Forward to the installation CETEP Coordinator a copy of environmental training materials, public outreach, and environmental awareness materials prepared or sponsored by the command to serve as a potential resource Marine Corps-wide.

8. Plan, program, budget, execute, and track environmental training costs.

9. Ensure that appropriate manpower management entries documenting training and MOS qualifications are made.

5304. MARINE CORPS OCCFLD/MOS SPONSORS

1. Ensure that training directives, job guides, and manuals relative to cognizant OccFld's and MOS's include environmental references and performance tasks and/or steps as appropriate. This requirement specifically includes relevant ITS's, correspondence courses, POI's, field manuals, and orders.

2. Ensure that entries relative to cognizant OccFld's and MOS's in MCO P1200.7 include elements to ensure that personnel are trained to perform appropriate job functions in an environmentally compliant manner.

5305. ALL MARINE CORPS PERSONNEL

1. Perform job responsibilities in an environmentally compliant and responsible manner reflective of the Marine Corps policies and goals relative to environmental compliance and stewardship.

2. Notify superiors of environmental training requirements to which they are subject in the performance of their assigned job responsibilities and formally request that such training be provided at the time required.

Table 5-2--Major Environmental Training Requirements.

Table 5-1:--ISEERB Approved Training

Training Course	Presenting School
Air Quality Management	AFIT (L)
Asbestos Worker	CEIHOT (L)
Defense Hazmat/waste Handling Course	ALMC (L)
Environmental Compliance Assessment	AFIT (L) ALMC
Environmental Law (for Non-Lawyers)	CECOS (L)
Environmental Laws and Regulations	ETSC (L)
Emergency Response to Hazmat- Technician	CEIHOT (L)
Hazmat and Hazwaste Generator Compliance	CEIHOT (L) USAFSAM
Hazmat Train-the-Trainer	JFTS (L)
HAZWOPER for Uncontrolled HW Site Workers	USAFSAM (L)
Historic Preservation Law and Section 106 Compliance	CECOS
Introduction to Natural and Cultural Resources	ETSC (L)
Introduction to Cultural Resource Mgmt.	CECOS
Laws and Regulations	CECOS
Natural Resource Compliance	ALMC (L)
NEPA Implementation Course	CECOS
Native American Traditions and Cultures	ETSC (L)
Natural Resources Manager	ACEPDSC
Natural & Cultural Resources Awareness (video)	AFIT (L)
Pollution Prevention Pgm Ops & Mgt	USAFSAM (L)
Pollution Prevention Tools, Techniques, & Technologies	DLA (L)
Transportation of Hazardous Material/ Hazardous Waste for DoD	

(L) Designates lead school which is responsible for identifying course delivery options and developing and maintaining course materials.

ACEPDSC: Army Corps of Engineers Professional Development Support Center
Tel: 205-895-7420

AFIT: Air Force Institute of Technology, Wright-Patterson AFB, OH
Tel: 937-255-5654

AFCEE: Air Force Center of Environmental Excellence, Brooks AFB, TX
Tel: 210-536-3790

ALMC: Army Logistics Management College, Ft. Lee, VA
Tel: 804-765-4324

CECOS: Civil Engineer Corps Officer School, Port Hueneme, CA
Tel: 805-982-5655

CEIHOT: Army Center for Environmental Initiatives and Hands on Training
Tel: 580-442-2111

DLA: Defense Logistics Agency
Tel: 616-961-7047

ETSC: Environmental Training Support Center, USACE, Huntsville, AL
Tel: 205-895-7408

JFTS: Joint Forces Training School
Tel: 915-654-4852

USAFSAM: US Air Force School of Aerospace Medicine, Brooks AFB, TX
Tel: 210-536-4681

Table 5-3--Topics Explicitly Required.

	RCRA Large Quantity Generators	RCRA Small Quantity Generators	DOT	OSHA Hazard Communication Standard	OSHA Hazardous Waste Operations and Emergency Response	Spill Prevention, Containment and Countermeasures (SPCC)
Applicability	Facilitilies that generates more than 1,000 kg/month of hazardous waste	Facilities that generate from 100 to 1,000 kg/month of hazardous waste	Facilities involved in the transportation, shipment, or preparation for shipment of hazardous materials.	Facilities that handle hazardous chemicals	Facilities that may be involved in an emergency response operation involving the release of a hazardous substance	Facilities required to prepare a SPCC Plan
Who Must Be Trained	Employees who handle hazardous waste	Employees who handle hazardous waste	Employees involved in the transportation or shipment of hazardous materials/wastes	Employees who may be exposed to hazardous chemicals under normal operating conditions or in foreseeable emergencies	Employees who participate, or may be expected to participate, in emergency response; training based on level of involvement	Employees involved in the operation and maintenance of equipment that may discharge oil
When Training Must Occur	Within 6 months after employment or new job assignment; must be supervised until trained. Annual refresher for allemployees.	Not specified	Within 90 days after employment or new job assignment 49 CFR 172-704(c)	At time of initial assignment. Whenever a new hazard is introduced to the work area	Initial training prior to taking part in emergency response. Annual refresher	Spill prevention briefings must be conduted "at intervals frequent enough to assure adequate understanding of the SPCC Plan"
Record-keeping	Written job title and job description; written description of training required for each position; documentation that training has been provided	Not required	Written description of employee information including certification 49 CFR 172-704(d)	Written description of employee information and training must be included in hazard communication program	Must certify training or competency, including method used to demonstrate competency	Logs of personnel attending and topics discussed in training sessions are required.
Regulatory Citation	40 CFR 262.34(a)(4) 40 CFR 265.16	40 CFR 262.34(d)(5)(iii)	49 CFR 173.1(b); 49 CFR 177.800(a); 49 CFR 177.816; 49 CFR 172-700-704	29 CFR 1910.1200(b)(h)	29 CFR 1910.120(q)(5)(6) 29 CFR 1910.120(p)(7) and (p)(8)(iii)	40 CFR 112.7(e)(10)

Table 5-3--Topics Explicitly Required.

RCRA Large Quantity Generator (40 CFR 262)	RCRA Small Quantity Generator (40 CFR 262)	TRANSPORTATION OF HAZMAT (49 CFR 172.704)	OSHA Hazard Communication (29 CFR 1910.1200)	OSHA HAZWOPER (29 CFR 1910.120 (q))	SPILL PREVENTION, CONTROL, AND COUNTERMEASURES (40 CFR 112.3)
To ensure that employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.	To ensure that employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.	To ensure that employees are provided training in all elements necessary for proper shipment and transportation of hazardous materials:	To ensure that the hazards of all chemicals produced or imported are evaluated, and that information concerning their hazards is transmitted to employers and employees.	To ensure that emergency response personnel are instructed in their role and responsibilities of chemical incident response.	To ensure that affected personnel are instructed in the operation and maintenance of spill prevention and response equipment, laws, rules, and regulations.
Training topics to include: Emergency procedures, systems, and equipment: -Implementation of contingency plan -Emergency equipment, use, repair, inspection, and replacement -Communication/alarm systems -Release risk assessment -Response to fires and explosions -Spill response -Shutdown of operations -Response to groundwater contamination incidents -Automatic waste feed cutoff HW management procedures: -Registration and ID numbers -HW identification -Storage and accumulation times -Packaging -Labeling -Recordkeeping -Manifesting -Inspections -Interaction with DOT -Preparedness and prevention	**Training topics to include:** -Emergency procedures HW management procedures: -Registration and ID numbers -HW identification -Storage and accumulation times -Packaging -Labeling -Recordkeeping -Manifesting -Inspections -Interaction with DOT -Preparedness and prevention	**Training topics to include:** -Identification of HM's -Recognition of HM's -Packaging, labeling, marking, and placarding -Shipping papers and manifest -Knowledge of emergency response information, including oil spill plans -Self -protection measures -Accident prevention methods and procedures -Loading and storage procedures -Modal-specific requirements	**Training topics to include:** -Requirements of 29 CFR 1910.1200 -Operations where HM's are present -Location and availability of written HC program -Method and observations to detect the presence or release of HM's -Physical and health hazards of HM's -Protective measures and procedures implemented -Symptoms of overexposure Details of written HC program: - Labeling - MSDS - obtaining and using hazard information	**Training topics to include:** -Emergency response plan implementation (Level (L) 3) -Selection and use of PPE (L 2,3) -Specialized chemical PPE (L 3) -Notification and recognition of need for additional resources (L 1-3) -Basic control, containment, confinement (L 1-2) -Role in emergency response (L 1-3) -Ability to function in role in ICS (L 3) -Recognition of presence of HM's (L 2, 3) -Classification and verification of known and unknown HM's (L 2, 3) -Basic hazard and risk assessment techniques (L 3) -Hazard and risk assessment techniques (L 3) -Basic HM's terms (L 2, 3) -Chemical & toxicological terminology and behavior (L 3) -Implementation of decon. (L 3) -SOP's and termination (L 3) -Termination procedures (L 3) -Use of DOT emergency response guidebook (L 1-3)	**Training topics to include:** -Details of SPCC Plan -Applicable pollution control laws, rules, and regulations -Operation and maintenance of equipment to prevent oil discharge -Known spill events and failures -Malfunctioning components -Recently developed precautionary measures -Oil spill prevention and response

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 6

AIR QUALITY MANAGEMENT

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CHAPTER 6

AIR QUALITY MANAGEMENT

SECTION 1: INTRODUCTION

6100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with air quality and emissions requirements from stationary, mobile, and area sources consistent with the Clean Air Act (CAA), DoD policy, and Marine Corps guidance.

6101. APPLICABILITY

1. See paragraph 1101.

2. Chapter 7 of this Manual covers policy on air emissions/releases reporting requirements under the Toxic Release Inventory provisions of the Emergency Planning and Community Right-to-Know Act (EPCRA).

3. Marine Corps Policy on ozone depleting substances (ODS) is addressed Marine
Corps Bulletin in the 5090 series.

4. Radon policy, as specified in paragraph 6206 of this Manual, also applies to overseas installations.

6102. BACKGROUND. The CAA established National Ambient Air Quality Standards (NAAQS) to protect the health and general welfare of the public. Each state must achieve these standards and develop State Implementation Plans (SIP) that outline plans to achieve and maintain the NAAQS for the Environmental Protection Agency (EPA). Air emission sources are required to comply with the standards and other measures set forth in the individual SIP's. To improve air quality nationwide, the CAA Amendments of 1990 mandated stringent pollution control and prevention measures described within this Manual.

6103. FEDERAL STATUTES

1. CAA of 1970, as Amended (42 U.S.C. 7401 et seq.)

a. SIP's implement pollution control programs such as New Source Performance Standards (NSPS), New Source Review (NSR), and National Emission Standards for Hazardous Air Pollutants (NESHAP) at the state and local levels. States may require pollution control and prevention measures which are more stringent than those mandated by the EPA, but they may not allow measures which are less stringent. Federal agencies must comply with Federal, state, and local air pollution control regulations.

b. The 1990 Amendments to the CAA introduced sweeping changes to the legislation, including:

(1) reclassification of nonattainment areas,

(2) regulation of mobile sources,

(3) regulation of listed hazardous air pollutants (HAP),

(4) regulation of sulfur dioxide (SO2) and oxides of nitrogen (NOx) for acid deposition control,

(5) implementation of an extensive operating permit program, and

(6) strengthening EPA and state agency authority, allowing them better enforcement of the CAA provisions.

c. Section 118(a) of the CAA generally waives the Federal Government's sovereign immunity with respect to Federal, state, and local air pollution control laws and regulations. As a result of this waiver, Marine Corps activities are fully subject to the substantive and procedural requirements of Federal, state, and local air pollution control laws, including permitting requirements, and must obey compliance orders issued through administrative or judicial processes.

2. EPCRA of 1986 (42 U.S.C. 11001 et seq.). This Act, also known as title III of the Superfund Amendments and Reauthorization Act (SARA), in addition to the CAA, addresses the release of hazardous substances into the environment and also requires the release reporting of certain extremely hazardous substances to the environment. Certain chemicals subject to the HAP's and risk management provisions of CAA section 112 are also

Subject to title III. See chapter 7 of this Manual for detailed requirements.

3. The Alternative Motor Fuels Act (AMFA) of 1988, as Amended (Public Law 100-494). Congress passed AMFA in 1988 to achieve long-term energy security and to improve air quality. Under AMFA, a portion of the new vehicles, which the Federal Government acquires each year, must be alternative fuel vehicles (AFV) in order to encourage the production of these vehicles for consumer use.

4. The Energy Policy Act (EPACT) of 1992 (Public Law 102-486). EPACT seeks to enhance the Nation's long-term energy security by reducing dependency on imported oil and by improving energy efficiency. EPACT establishes a Federal leadership strategy which encourages automobile manufacturers and fuel suppliers to expand the commercial availability of alternative fuels and vehicles. Under EPACT, Federal agencies must acquire increasing numbers of AFV's.

5. Toxic Substances Control Act (TSCA) of 1976 (15 U.S.C. 2601 et seq.). In TSCA, the section on Indoor Radon Abatement requires Federal departments to conduct a study of radon levels in Federal buildings and to provide results of the study to the EPA. The EPA has submitted to Congress a consolidated report on radon levels in Federal buildings. Congress presently is considering new legislation for Federal departments as part of a comprehensive radon abatement program.

6104. REQUIREMENTS

1. Regulatory Scheme. With respect to the NAAQS, the EPA classifies all areas in the country as follows:

a. Unclassifiable. Any area which, on the basis of available information, cannot be classified as meeting or not meeting the NAAQS for a specific pollutant.

b. Attainment. Any area which meets the NAAQS for a specific pollutant.

c. Nonattainment. Any area which does not meet (or which contributes to ambient air quality in a nearby area which does not meet) the NAAQS for a specific pollutant.

(1) Certain regulatory requirements are considered fundamental and apply to all areas, regardless of their attainment status, while other requirements apply only to nonattainment areas. For help in determining attainment designations, contact the state or local air pollution control office or the appropriate EPA Regional Office.

(2) States have the primary responsibility for implementing the CAA goals. Each state must develop a SIP which outlines the state's strategy for achieving and maintaining the NAAQS. The EPA oversees this process.

2. Conformity Rule

a. Prohibition. Section 176(c) of the CAA prohibits any Federal agency from engaging in, supporting, providing financial assistance for, licensing, permitting, or approving any activity which does not conform to an applicable SIP or Federal Implementation Plan (FIP). The EPA outlines criteria and procedures for determining conformity. A Federal agency must determine whether a Federal action conforms to the SIP or FIP before implementing it. The general conformity rule applies only to Federal actions in areas designated as nonattainment or maintenance (see paragraph 6105.13, Terms and Definitions).

b. SIP Revision. SIP conformity criteria and procedures may be more stringent than the EPA rules if the state adopts conformity requirements that are equally applicable to all nongovernmental sources.

3. Enforcement/Citizen Suit Provisions

a. Sovereign Immunity. The broad waiver of sovereign immunity in the CAA subjects Federal facilities to all Federal, state, and local air pollution control requirements. These CAA requirements generally are enforced by the state or local air district; however, some may also be enforced by the EPA. Any penalties or fees assessed by the EPA should be referred up the chain of command to counsel and the CMC (LF) for further direction.

b. Punitive Penalties. Marine Corps commands that are assessed punitive civil fines or penalties by Federal, state, or local authorities for violations of air pollution control requirements must refuse to pay any such fines or penalties.

c. Administrative Fees. Marine Corps commands must pay administrative fees and assessments imposed by Federal, state, or local authorities when imposed to defray the costs of the air pollution regulatory program, when the fees are imposed generally on all similarly situated regulated entities in the same manner and extent (i.e., nondiscriminatory against Marine Corps facilities), and when the fees are not dependent upon the detection or processing of alleged violations.

d. Citizen Suits. Civil actions may be brought against any individual or governmental body (including the United States) for present or repeated CAA violations.

4. Provisions for Stationary Sources. Stationary sources must comply not only with the general requirements outlined above but also with the following standards:

a. Title V Operating Permits. EPA regulations establish minimum requirements for state programs. Title V of the CAA requires that each state develop, implement, and enforce an operating permit program. However, the EPA retains significant authority to oversee state permit program implementation. The EPA must review and approve state permit programs; review proposed permits; veto improper permits; and, if a state fails to adopt or implement an approved program, develop and implement a Federal permit program. The permit program attempts to clarify, in a single document, all the requirements applicable to a source, including requirements from the SIP, the acid rain program, and the air toxics program. The permit program also requires that permit fees be used to finance state air programs. After the effective date of any permit program approved under title V, the law prohibits violation of any requirement of such a permit and requires compliance with the title V permit to operate a source subject to this program. The program applies to all major stationary sources of air pollution, including those operated on Federal facilities, which are subject to Federal regulation under the CAA. The term "Major Source" is defined in paragraph 6104.4b for air toxics and paragraph 6104.6a for criteria pollutants.

(1) Permit Application. Applications for operating permits must be "timely" and "complete." An application is "timely" and "complete" if submitted according to the approved state program.

(2) Certification. A responsible official must certify permit applications regarding their truth, accuracy, and

completeness. The certification must include the facility compliance status and the method used to determine this status.

b. HAP's. Section 112 of the CAA lists certain pollutants as being hazardous and subject to regulation; it details Federal requirements for controlling HAP's. The EPA will revise the list as necessary.

(1) Major Source. A major source of HAP's is any stationary source (or group of stationary sources) located within a contiguous area and under common control that emits or may emit, 10 tons per year (tpy) or more of any HAP or 25 (tpy) or more of any combination of HAP's.

(2) Area Source. An area source of HAP's is any stationary source of HAP's that is not a major source. The term does not include motor vehicles or nonroad vehicles.

(3) Source Categories. Major and area sources are grouped into categories and subcategories. Regulations establishing emission standards for the source categories and subcategories must be issued according to a phased-in schedule, with 25 percent of all categories and subcategories having standards by 1994, 50 percent by 1997, and 100 percent by 2000.

(4) Emission Standards. The EPA must establish technology-based emission standards that achieve the maximum degree possible of emissions reductions for new and existing sources in the appropriate category, while giving consideration to cost, nonair quality health and environmental impacts,and energy requirements. Measures to achieve the desired emissions standards include: implementing process changes; material substitutions; and measures to treat or control emissions, generally through the application of Maximum Achievable Control Technology (MACT).

(a) Most Marine Corps emission sources are regulated under the National Primary and Secondary Ambient Air Quality Standards and include degreasers, aerospace coatings, asbestos, and dry cleaning processes. Some of the common emission sources at Marine Corps installations, such as printing or ground equipment coating operations, are not regulated under NESHAP's.

(b) The EPA also must develop and issue health-based standards within 8 years after technology-based standards have

been issued. These health-based standards must provide an ample safety margin to protect public health unless a more stringent standard is needed to protect the environment from an adverse effect.

c. Accidental/Risk Management Plans. The CAA requires owners and operators of stationary sources which manufacture, process, use, handle, or store EPA-regulated substances exceeding specified thresholds to identify hazards from releases of such substances, to design and maintain a safe facility to prevent releases, and to minimize the consequences of any accidental releases. Facilities exceeding the threshold limits must have Risk Management Plans. Marine Corps facilities should employ the environmental management hierarchy (EMH) and pollution prevention concepts in developing and updating their risk management plans. The risk management plans must also include emergency preparedness plans and procedures developed under the chemical process safety management standard described in paragraph 6104.7g(1).

d. Standards of Performance for New Stationary Sources or (NSPS). The provisions of this regulation apply to the owner or operator of any stationary source which contains an affected facility, the construction, reconstruction,or modification of which is commenced after the date of publication in 40 CFR 60 of any standard (or, if earlier, the date of publication of any proposed standard) applicable to such facility; common source types with applicable NSPS requirements include Municipal Waste Combustors, Fossil-Fuel Fired Steam Generators, Incinerators, Storage Vessels for Petroleum Liquids, Volatile Organic Liquid Storage Vessels.

5. Provisions for Mobile Sources

a. Aircraft. The CAA authorizes the EPA, in consultation with the Secretary of Transportation, to develop emission standards applicable to any air pollutant emission from any class or classes of aircraft engines. No state or local air quality region may adopt or attempt to enforce any standard respecting any air pollutant emission from any aircraft or engine unless such standard is identical to one developed by the EPA and the Secretary of Transportation. While limited regulation of emissions from aircraft engines is possible, such regulation applies only to uninstalled aircraft engines.

b. Nonroad Engines. The EPA conducted and published a study of nonroad engine and vehicle emissions in November 1991. On the

basis of this study, the EPA initiated actions to establish national standards for certain categories of nonroad engines.

c. Vehicle Inspection and Maintenance (I/M). Certain nonattainment areas require vehicle emissions testing. Federal facilities/installations in these areas must demonstrate compliance with applicable nondiscriminatory state I/M program requirements for all employee and government (Federally owned/leased) motor vehicles operated on the facility/installation even if the vehicle is not registered in that state. Military tactical vehicles are exempts from the I/M program.

d. Fuels

(1) Leaded Gasoline. All facilities in the United States that dispense fuel for vehicles with catalytic converters will be equipped to dispense unleaded gasoline to such vehicles. It is illegal to knowingly dispense leaded gasoline into vehicles with catalytic converters or into any vehicle labeled for unleaded gasoline. As of 1995, the production or sale of leaded gasoline or lead additives is prohibited.

(2) Oxygenated Gasoline. States which include all or part of an area designated nonattainment for carbon monoxide (CO) and having a design value (see paragraph 6105, Terms and Definitions) of 9.5 parts per million (ppm) or higher must include in their SIP a provision for selling and dispensing oxygenated gasoline in metropolitan areas within the nonattainment area. The EPA requires that this provision be in effect during high CO portions of the year (winter). The EPA may waive the requirement for oxygenated fuel if a state can demonstrate satisfactorily that imposing such a provision interferes with the attainment of any other NAAQS.

(3) Reformulated Gasoline. Beginning in 1995, the nine worst ozone nonattainment areas with a 1980 population greater than 250,000 must implement the use of reformulated gasoline. Other nonattainment areas may petition to opt-in to the reformulated gasoline program; however, if domestic supplies are inadequate, the EPA may delay extending the program into these areas by up to 3 years.

(4) Volatility. To reduce the substantial release of volatile organic compounds (VOC) into the atmosphere, Federal guidelines limit the volatility of gasoline marketed during the high ozone season (summer) in the CONUS.

(5) Diesel Fuel Sulfur Content. Effective October 1, 1993, diesel fuel used in motor vehicles must not exceed a sulfur content of 0.05 percent by weight, and it must meet a minimum cetane index of 40.

e. Clean Fuel Fleet/AFV's. According to the CAA, the clean fuel requirements impact the following owners/operators of centrally fueled fleets of 10 vehicles or more: those located in "serious," "severe," or "extreme" ozone nonattainment areas, and those located in "serious" CO nonattainment areas. Beginning with model year 1998, 30 percent of new light-duty fleet vehicle acquisitions must be clean-fuel vehicles; in model year 1999, that percentage increases to 50 percent; after the year 2000, it increases to 70 percent. The CAA mandates that any Federal facility which dispenses clean alternative fuels to Federal fleet vehicles must offer such fuel for public sale during reasonable business hours, subject to national security concerns and the commercial availability of such fuels in the vicinity of the facility.

6. Nonattainment Areas. The CAA mandates that areas designated as nonattainment for any pollutant develop an implementation plan to achieve attainment of NAAQS for that pollutant within 5 years of being designated nonattainment. New major sources or major modifications to existing major sources in nonattainment areas must obtain a Nonattainment NSR Permit before beginning any new construction or modification. The Nonattainment NSR Application must include lowest achievable emission rate (LAER) technology, applicable emission offsets, impact analysis, and other information relative to improving air quality. Additional Requirements for nonattainment areas are included below:

a. Ozone (O3). Most VOC sources at Marine Corps installations, such as emissions from printing and ground equipment coating operations, are ozone precursors which in sunlight form O3. These are regulated under the National Primary and Secondary Ambient Air Quality Standards according to the type of attainment area. Note: VOC's are O3 precursors in the lower atmosphere, which can cause serious human health effects. These substances should not be confused with chemicals such as Freon, which deplete the protective ozone layer in the upper atmosphere.

(1) Marginal Nonattainment Areas. In "marginal" nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 100 tpy or more of VOC's or NOx. Standards have been published for sulfur oxides (SOx), particulate matter, CO, O3, NOx, and lead (Pb). In nonattainment

areas, these substances are regulated according to the type of attainment area and the volume emitted. Those areas classified as "marginal" nonattainment for O3 must:

(a) Apply NSR requirements to major VOC and NOx sources;

(b) Complete an emissions inventory from all sources, to be updated every 3 years;

(c) Apply Reasonably Available Control Technology (RACT) requirements which were in effect prior to the CAA enactment;

(d) Devise a construction and operating permit program for new and modified sources;

(e) Write an emissions statement for stationary sources of VOC's and NOx; and

(f) Devise an offset program, which requires that each new or modified major source of VOC's or NOx be offset by the ratio of 1.1 to 1.

(2) Moderate Nonattainment Areas. In "moderate" nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 100 tpy or more of VOC's or NOx. In addition to meeting the requirements of "marginal" areas, "moderate" nonattainment areas must:

(a) By 1996, show reasonable further progress towards attainment through a 15 percent reduction in VOC's from the baseline;

(b) Apply RACT to all major stationary VOC and NOx sources;

(c) Require Stage II vapor recovery systems for all facilities which distribute more than 100,000 gallons of gasoline per month or, for independent, small business marketers, 50,000 gallons of gasoline per month. Requirements for the installation and operation of Stage II controls are effective in the state where the facility is located as follows: for new facilities (i.e., built after enactment) within 6 months after a rule requiring Stage II controls is adopted; for existing facilities with 100,000 gallons or greater capacity (average monthly sales

for 2 years prior to rule adoption date) within 1 year after adoption; or for all other facilities within 2 years;

(d) Initiate a basic vehicle I/M program; and

(e) Have an offset program which requires each new or modified major source of VOC's or NOx to be offset by the ratio of 1.15 to 1.

(3) Serious Nonattainment Areas. In "serious" nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 50 tpy or more of VOC's or NOx. In addition to meeting the requirements of "moderate" nonattainment areas, "serious" nonattainment areas must:

(a) Operate an enhanced ambient monitoring program for NOx, O3, and VOC's

(b) Demonstrate through computer modeling that required provisions will lead to attainment

(c) By 1996, show reasonable further progress towards attainment through a 15 percent reduction in VOC's from the baseline, plus an additional 3 percent per year averaged over each consecutive 3-year period until attainment

(d) Institute an enhanced vehicle I/M program to be enforced through denial of vehicle registration

(e) Establish a clean-fuel fleet program in those areas having a 1980 census population of 200,000 or more

(f) Have an offset program which requires each new or modified major source of VOC's or NOx to be offset by the ratio of at least 1.2 to 1.

(4) Severe Nonattainment Areas. In "severe" nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 25 tpy or more of VOC's or NOx. In addition to meeting the requirements of "serious" nonattainment areas, "severe" nonattainment areas must:

(a) Identify and adopt enforceable transportation-control measures to offset growth in vehicle miles traveled and require employers of 100 or more workers to increase average vehicle occupancy by 25 percent.

(b) Have an offset program requiring that each new or modified major source of VOC's or NOx be offset by the ratio of at least 1.3 to 1.

(c) By December 31, 2000, submit to the EPA a plan detailing enforcement provisions.

(5) Extreme Nonattainment Areas. In "extreme" nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 10 tpy or more of VOC's or NOx. In addition to meeting the requirements of "severe" nonattainment areas, states with "extreme" nonattainment areas must:

(a) Have an offset program which requires that each new or modified major source of VOC's or NOx be offset by the ratio of at least 1.5 to 1.

(b) Obtain an internal emissions offset of at least 1.3 to 1 for modifications of major stationary sources subject to NSR.

(c) Develop a plan which requires existing, new, or modified electric utility and industrial/commercial boilers emitting more than 25 tpy NOx to burn as their primary fuel natural gas, methanol, ethanol, or other clean fuel; or develop a plan to use advanced technology to control NOx emissions.

b. CO

(1) Moderate Nonattainment Areas. Areas designated as "moderate" nonattainment have a design value between 9.1 and 16.4 ppm. "Moderate" nonattainment areas must:

(a) Submit an accurate inventory of all emission sources and update the inventory every 3 years until attainment of the NAAQS is achieved.

(b) Annually provide and update a forecast of vehicle miles traveled, if the design value is 12.7 ppm or greater.

(c) Institute a vehicle I/M program applicable to CO with requirements equivalent to those for "marginal" O3 nonattainment areas. For those areas with a design value greater than 12.7 ppm, the requirements applicable to CO are the same as the enhanced I/M program required of "serious" O3 nonattainment areas.

(d) Institute a clean-fuel fleet program like that required in "serious nonattainment for CO" or "serious nonattainment for ozone" nonattainment areas if the design value is 16 ppm or greater.

(e) Demonstrate attainment of the CO standard if the design value is greater than 12.7 ppm. Such a demonstration must incorporate specific annual emission reductions necessary to achieve attainment.

(f) Require those areas with a design value of 9.5 ppm or above to dispense oxygenated fuel during high CO portions of the year.

(2) Serious Nonattainment Areas. In those "serious" nonattainment areas where stationary sources are believed to contribute substantially to ambient CO levels, a major source of CO is one which has the potential to emit 50 tpy of CO. "Serious" nonattainment areas have a design value of 16.5 ppm and above. In addition to all the requirements of "moderate" CO nonattainment areas with a design value of 12.7 ppm or higher, "serious" CO nonattainment areas must:

(a) Require transportation control measures targeting CO like those which apply to "severe" O3 nonattainment areas, with the exception that CO is targeted.

(b) Implement an economic incentive program to encourage emissions reductions of 5 percent per year until attainment. In those "serious" nonattainment areas where stationary sources are believed to contribute substantially to ambient CO levels, a major source of CO is one which has the potential to emit 50 tpy of CO pollution.

(3) Multi-State CO Nonattainment Areas. A multi-state CO area exists if a CO nonattainment area is part of more than one state. In such an interstate situation, each of the affected states must coordinate the revision and implementation of the CO SIP's as they apply to the affected areas.

c. Particulate Matter 10 Microns (PM-10) or Smaller. Areas designated as nonattainment for PM-10 are classified initially as "moderate" nonattainment areas; areas failing to attain by the specified attainment date are reclassified as "serious." In addition, if the EPA determines that any "moderate" nonattainment areas are unable to achieve the NAAQS practicably by

the specified attainment date, those areas will be reclassified as "serious" nonattainment areas.

(1) Moderate Nonattainment Areas. Areas designated as "moderate" nonattainment must achieve attainment as quickly as possible, but no later than 6 years after classification. The EPA may extend attainment dates if implementation requirements have been met and if performance standards have been achieved. "Moderate" nonattainment areas must:

(a) Devise a construction and operating permit program for new and modified stationary PM-10 sources;

(b) Use computer modeling to demonstrate that attainment by the attainment date can or cannot be achieved; and

(c) Use Reasonably Available Control Measures, including RACT, by December 10, 1993, or within 4 years of classification as "moderate" nonattainment.

(2) Serious Nonattainment Areas. In "serious" nonattainment areas, a major source of PM-10 is defined as any stationary source (or group of stationary sources located in a contiguous area and under common control) which emits, or has the potential to emit, 70 tpy of PM-10. All of the requirements that apply to "moderate" nonattainment areas also apply to serious nonattainment areas. In addition, "serious" nonattainment areas must:

(a) Use Best Available Control Measures (BACM) within 4 years of classification as "serious" nonattainment;

(b) Demonstrate attainment (or demonstrate the impracticability of attainment for those areas seeking an extension) within 4 years of designation as "serious." Those areas designated as "serious" due to a failure to attain the NAAQS must demonstrate attainment within 18 months of such designation. Also, provide an outline of the BACM to be employed within 18 months;

(c) If a "serious" PM-10 nonattainment area fails to attain the NAAQS, it must submit a demonstration of attainment, which provides for an annual reduction of PM-10 emissions of at least 5 percent in the area, based upon the most recent emissions inventory. All attainment demonstrations must include quantitative milestones which demonstrate how reasonable further progress will be achieved. "Serious" PM-10 nonattainment areas

must achieve milestones every 3 years until reaching attainment; and

(d) The EPA may waive any requirements for a "serious" PM-10 nonattainment area if it is determined that man-made sources do not contribute significantly to ambient PM-10 concentrations. Likewise, attainment dates may be waived if it is determined that nonman-made sources contribute significantly to the violation of the NAAQS.

7. Miscellaneous Provisions

a. Jet Engine Test Cells. Under the CAA, the EPA is evaluating emissions from aircraft engine test cells. NOx emissions from test cells will be studied jointly by the DoD, the Department of Transportation, and the EPA. Following the completed study, states may choose to adopt or enforce any standard for NOx emissions from aircraft engine test cells only after issuing a public notice stating whether such standards are in accordance with the findings of the study

b. FIP's. Section 110(c) of the CAA requires the EPA to issue a FIP when a state has failed to make a required SIP submission, when the SIP submission does not satisfy the minimum criteria, or when a SIP submission has been disapproved in whole or in part and the state has not corrected the deficiency in a timely manner. Typically, a SIP is disapproved because it does not contain sufficiently strict requirements to demonstrate attainment. A FIP generally will contain requirements which apply to more types of sources and which control emissions more stringently than did the SIP.

c. ERC's. Sections 110(a)(2)(A) and 172(c)(6) of the CAA authorize states, or their local Air Quality Districts (AQD), to establish a trading system for ERC's. ERC's are created when pollution emitting equipment is removed from service or when emissions from in-service equipment are reduced, when the emission reductions are not otherwise required by the CAA or a current SIP, and when the owner applies under the AQD regulations for reduction credit. Each ERC constitutes permission from the AQD to emit a stated amount of a specific air pollutant. Following validation by the AQD, ERC's may be transferred by sale, lease, or other disposal method for use by other emission sources within the same air quality districts.

d. Federal Contractor Restrictions. No Federal agency may enter into a contract with any person who is convicted of a

criminal offense under the CAA. This restriction applies to the procurement of goods, materials, and services to perform such contract at any facility which gave rise to the conviction if such facility is owned, leased, or supervised by such person.

e. Acid Rain. In order to reduce the detrimental environmental effects of acid deposition, title IV of the CAA mandates large-scale reductions in the emissions of SO2 and Nox through an innovative market-based approach aimed at electric utility plants. By the year 2000, the goal of title IV is to reduce SO2 emissions by 10 million tons below 1980 emission levels and to reduce NOx emissions by 2 million tons from 1980 levels.

f. Aerospace and Marine Coatings. The CAA requires the EPA to issue NESHAP's and Control Techniques Guidelines (CTG) to control emissions from aerospace manufacturing/rework and shipbuilding/repair. The rules establish MACT and Best Available Control Technology (BACT) requirements for aircraft and ship activities such as cleaning, painting, depainting, maskant application, and waste handling. Generally, the emission reductions are achieved through the use of compliant materials or control devices. Other requirements include testing, recordkeeping, and reporting protocols. These rules have substantial cost and labor impacts. The NESHAP's address a specific source category under 40 CFR 63, similar to the NESHAP's for gasoline terminals or halogenated solvent cleaning.

g. Training. Workers who prepare or supervise the preparation of air emissions inventories, air emissions permit requests, and air emissions reports will receive environmental overview training as specified in chapter 5 of this Manual. They will receive specific comprehensive training in their assigned subject matter and must be familiar with the provisions outlined in chapter 5 of this Manual. In addition, the CAA requires the following:

(1) Chemical Process Safety Management. The CAA requires the issuance of a chemical process safety standard to protect employees from the workplace dangers associated with accidental releases of highly hazardous chemicals. Employers must train workers in operating procedures, emphasize hazards and safe practices, ensure that contractors and contracted employees have appropriate information and training, and train and educate employees and contractors in emergency response as comprehensively and effectively required by SARA. The standard and a list of highly hazardous chemicals can be found in

29 CFR 1910.119, Process Safety Management of Hazardous Chemicals.

(2) Solid Waste Incineration. The CAA requires a program for the training and certification of operators of high capacity (greater than 250 tons per day) solid waste incineration units and high-capacity fossil fuel-fired plants. As of November 15, 1994, to legally operate any such unit, each person with control over processes affecting emissions from such units must satisfactorily complete a training program meeting EPA requirements.

8. Radon. The Navy Radon Assessment and Mitigation Program (NAVRAMP) was submitted and approved by EPA as the plan to identify, mitigate, and prevent radon contamination in Navy/Marine Corps-occupied buildings. All Marine Corps installations were invited to participate in the NAVRAMP testing program to identify the level of indoor radon. Buildings determined to have indoor radon levels above 4 picoCuries per liter (pCi/L) will be mitigated to reduce levels. Appropriate radon reduction techniques will be incorporated into the design and construction phases of new structures where it has been determined necessary because of regulatory requirements, historical data, or geological conditions.

9. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable Executive Orders (EO), and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

6105. TERMS AND DEFINITIONS

1. Acid Rain. The acidic deposition caused by the atmospheric chemical transformation of SO2 and NOx emissions.

2. Air Pollution Emergency Episodes. The accumulation of air pollutants in an area which reaches levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of individuals.

3. Alternative Fuels. Substitutes for traditional petroleum products such as gasoline and diesel fuel. The EPACT defines alternative fuels to mean methanol, denatured ethanol and other alcohol; mixtures containing up to 85 percent (but not less than 70 percent) alcohol with the balance consisting of gasoline or

other such fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived fuels; fuels derived from biological materials; electricity; and other substantially nonpetroleum-based fuels.

4. BACM. Emission control measures which achieve the greatest possible reduction in the emission of particulate matter.

5. BACT. Emission control technology to be applied to new sources which are located in areas that are in attainment of the NAAQS and which trigger NSR for the pollutants emitted from the new sources. States are to apply BACT on a case-by-case basis, taking into account economic considerations. BACT must be at least as stringent as the NSPS for similar facilities.

6. Clean Fuels. Any fuel such as alcohol or fuel blends containing 85 percent alcohol with gasoline or diesel; natural gas; liquefied petroleum gas;hydrogen; reformulated gasoline and diesel fuel; hydrogen; or any power source, including electricity, which meets the clean-fuel requirements and emission standards of the CAA.

7. Conformity. A conformity determination is a certification by the installation that it will comply with all requirements of the SIP. A determination is required only if emissions levels exceed that found in 40 CFR 51.853(b)(1) or (2) and if the installation is located in a nonattainment or maintenance area.

8. CTG. Documents published by the EPA designed to assist the states/localities in selecting the most appropriate technologies to apply for the control of major sources of air pollution.

9. Criteria Pollutant. A pollutant which the EPA Administrator has determined will cause or contribute to air pollution, which may reasonably be anticipated to endanger public health and welfare and for which air quality criteria has been established. Criteria pollutants include: SO2, nitrogen dioxide (NO2), O3, CO, Pb, and particulate matter with a mean aerodynamic diameter less than 10 microns in size (PM-10).

10. Design Value. The value (or range), usually measured in ppm, used for nonattainment classification of criteria pollutants; it reflects the severity of the nonattainment area.

11. FIP. A Federally imposed air quality plan which supersedes a SIP due to a state’s failure to develop an adequate plan to achieve and maintain the NAAQS.

12. LAER. That rate of emissions which reflects the most stringent emission limitation contained in the implementation plan of any state for such class or category of source, or the most stringent emission limitation achieved in practice by such class or category of source, whichever is more stringent. The application of an LAER will not permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under the applicable NSPS.

13. Maintenance Area. Any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under section 175A of the CAA.

14. Major Modification. Any physical or operational method change of a major stationary source that would result in a significant net emissions increase of any pollutant regulated by the CAA.

15. Major Source. Any source capable of emitting more than a threshold amount of a particular pollutant per year. The threshold amounts vary according to the attainment classification of the area in which the source is located and the pollutant (or pollutants). The EPA has issued guidance on the following major source issues: Major Source Determinations for Military Installations under the Air Toxics, New Source Review, and Title V Operating Permit Programs of the Clean Air Act, 2 August 1996.

16. MACT. Emissions control technology which achieves the maximum emission reduction possible. MACT is applicable only to major sources of pollutants listed as HAP's under section 112 of the CAA.

17. Motor Vehicle. Any self-propelled vehicle designed for transporting persons or property on a street or highway.

18. NAAQS. Air quality standards which the EPA has established for six criteria pollutants in order to provide an adequate margin of safety in protecting the general health and welfare of the public.

19. NSPS. See Standards of performance for New Stationary Sources (paragraph 6105.33).

20. NSR. State program for reviewing major sources and modifications prior to construction in both nonattainment and Prevention of Significant Deterioration (PSD) program areas.

21. Nonattainment Area. An area which fails to meet the NAAQS for one or more of the criteria pollutants.

22. Nonroad Engine. An internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards for stationary internal combustion engines, or emission standards for new motor vehicles or new motor vehicle engines.

23. Nonroad Vehicle. A vehicle that is powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.

24. Offsets. Emission reductions obtained from one source in order to compensate for increased emissions from another.

25. Oxygenated Gasoline. Gasoline which is blended with any one of a number of additives in order to increase the oxygen content, resulting in more complete combustion and reduced emissions.

26. Ozone (O3). The major constituent of "smog," O3 is formed when VOC's and NOx react in sunlight. The atmosphere has two distinct layers of O3. For air quality purposes, interest rests in the formation and transport of ground level O3. At ground level, O3 has been shown to adversely affect the respiratory system and has proven to be the primary criteria pollutant which has caused regions to be declared in nonattainment of the NAAQS. At altitudes above 7 miles, stratospheric O3 plays a vital role in blocking out dangerous ultraviolet radiation. Recent evidence of a decline in O3 levels has resulted in a worldwide call for the banning of ozone depleting substances.

27. ODS's. Any chemical which is listed as a Class I or Class II substance in section 602 of the CAA.

28. Particulate Matter 10 Microns or Smaller (PM-10). That portion of the total suspended particulate matter with an aerodynamic diameter of 10 microns or less. It is medically accepted that 10 microns is the threshold at which a particle becomes respirable and is capable of eluding the body's defensive mechanisms to impact the lung directly.

29. PSD Program. Emission control program under NSR which applies to attainment areas.

30. Radon. A heavy, colorless, odorless, radioactive gas formed by the decay of radium. Radon can be found in soils, rocks, and some groundwater supplies, and can seep into buildings.

31. RACT. Emissions control technology which achieves the lowest possible emissions level given technological and economic considerations. RACT is applied to existing stationary sources in nonattainment areas and often involves the installation of new control equipment on older sources.

32. Reformulated Gasoline. Gasoline which has undergone special processing in order to meet performance requirements for NOx emissions, oxygen content, benzene, heavy metals, and volatility.

33. Standards of Performance for New Stationary Sources or NSPS. National emission standards which limit the amount of pollution allowed from new or modified sources.

34. SIP. A plan developed by each state to implement an enforce regulations in order to achieve and maintain the NAAQS within that state.

35. Stationary Source. Generally, any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the CAA.

36. Title V Operating Permit. A Federally enforceable document issued by the states to major sources, sources subject to NSPS, sources subject to any standard under CAA section 112(d), and sources subject to NSR. This document defines emission standards, operational procedures, and all obligations of the source under the CAA.

37. VOC's. A VOC is a photochemically reactive organic compound which evaporates readily under normal temperature and pressure conditions. As a result of the tendency to evaporate readily, VOC's are primary contributors to the formation of ground level O3.

SECTION 2: MARINE CORPS POLICY

6200. STATIONARY SOURCES

1. It is Marine Corps policy to comply with all Federal, state, and local emission control standards and all other provisions of the CAA and with specific air emission permit conditions for all stationary sources. The EPA has issued guidance on the following major source issues: Major Source Determinations for Military Installations under the Air Toxics, New Source Review, and Title V Operating Permit Programs of the Clean Air Act.

2. Fuel Standards. Marine Corps commands must comply with Marine Corps and regulatory fuel composition requirements applicable to solid, liquid, and gaseous fuels for stationary fuel-burning equipment.

6201. MOBILE SOURCES

1. The Marine Corps must comply with all Federal, state, and local emission control standards relevant to mobile sources.

2. Tampering with Emission Controls. Marine Corps personnel must not permanently remove or render inoperative any device or element of design in a Government motor vehicle or engine which is installed to comply with air quality
regulations.

3. Fuel Standards. Marine Corps commands must comply with Marine Corps and regulatory requirements for the composition of fuels used in motor vehicles. Marine Corps installations dispensing gasoline must be equipped to dispense unleaded gasoline. The Marine Corps may not procure any gasoline-powered vehicle that cannot operate on unleaded gasoline.

4. Vehicle I/M. Marine Corps commands must comply with local area vehicle emission I/M program requirements for fleet vehicles and must furnish proof of compliance when required by the local regulatory authority. Commands are authorized to develop I/M procedures for their fleet vehicles as a part of normal preventive maintenance programs.

5. AFV's. Per EPACT requirements, the Marine Corps must incorporate light-duty (medium/heavy duty trucks and buses are optional) AFV's into its Garrison Mobile Equipment (GME) vehicle fleet. In order to meet CAA requirements, the Marine Corps began acquiring AFV's (by both lease and new vehicle acquisitions) in 1993 and has been targeting the placement of these vehicles at those activities located within nonattainment and metropolitan statistical areas (areas with a population of 250,000 or more).

a. The CMC (LF) prescribes minimum AFV requirements for the quantity and type of vehicles to be used at Marine Corps activities that meet fleet criteria under the EPACT. Marine Corps installations may meet these requirements by requesting AFV replacements for Marine Corps-owned vehicles and by leasing vehicles. Leased AFV's may be acquired through General Service Administration Interagency Fleet Management System under the HQMC-funded GME vehicle leasing program and/or by using local Operation and Maintenance, Marine Corps funds. Marine Corps activities that are not subject to the EPACT fleet criteria are encouraged to participate in the AFV program.

b. The Marine Corps prefers original equipment manufacturer AFV's to AFV conversions. However, when converting vehicles, every effort should be made to meet, at a minimum, certification requirements of the state in which the vehicles are located, such as those of the California Air Resources Board.

6202. AIR POLLUTION EMERGENCY EPISODES. Where required, Marine Corps facilities must have an air pollution emergency episode contingency plan identifying all actions that can reasonably be taken without compromising essential services and mission responsibilities.

6203. CONFORMITY. Marine Corps commands located in nonattainment or maintenance areas must comply with the requirements of the CAA general conformity rule. Conformity determinations typically will be conducted at the same time National Environmental Policy Act (NEPA) analysis and documentation procedures are done for the planned action (see NEPA procedures in chapter 12 of this Manual).

6204. EMISSION REDUCTION CREDITS (ERC). Installations must acquire and dispose of ERC's as if they were Government "personal" property.

1. Bases being closed or realigned under the Base Realignment and Closure Act and the Defense Base Realignment and Closure Act process or any subsequent base closure law must consider the use of ERC's and dispose of them per DoD and the DON policy.

2. Operating installations must use and dispose of ERC's in the following manner:

a. ERC's generated from a change in operations, removal from service of equipment, etc., or any other action that results in emissions reduction may be banked for:

(1) Future use by that same installation;

(2) Transfer to another Marine Corps installation within the same AQD or another AQD that will accept transfer of the credits;

(3) Transfer to any DoD installation within the same AQD or another AQD that will accept the transfer of credits; or

(4) Transfer to any other Federal agency within the same AQD or another AQD that will accept the transfer of credits.

b. Installations must employ the EMH and assess pollution prevention opportunities in considering the use of emission reduction credits.

c. ERC's may be transferred between services under 10 U.S.C. 2571, with or without compensation.

d. Installations must report ERC's determined to be Federal Government surplus for screening and disposal using the existing personal property disposal mechanisms. Installations requiring ERC's must either:

(1) Purchase ERC's from other sources; or

(2) Obtain offsets from on-installation sources; or

(3) Purchase ERC's when and if requirements necessitate their purchase after coordination with the CMC (LF). No ERC's may be disposed of or traded to non-Marine Corps facilities unless such action has been coordinated with the CMC (LF)/DoD REC.

6205. AIRBORNE RADIONUCLIDE EMISSIONS. Marine Corps installations must comply with MCO 5140.1 regarding airborne radionuclide emissions into the environment. Within the Navy and Marine Corps, the Naval Nuclear Propulsion Program is responsible for all aspects of compliance with requirements pertaining to nuclear propulsion.

6206. RADON. The EPA has approved the NAVRAMP as the plan to identify, mitigate, and prevent radon contamination in Marine Corps-occupied buildings. All Marine Corps installations must implement the NAVRAMP testing program to identify levels of indoor radon. Radon testing and results should be coordinated with the cognizant Navy Engineering Field Division/Activity. In buildings with indoor radon levels above 4 pCi/L, the Marine Corps must reduce radon to acceptable levels. Appropriate radon-reduction techniques must be incorporated into the design and construction phases of new structures where it has been determined necessary due to regulatory requirements, historic data, or geological conditions.

CHAPTER 6

CLEAN AIR QUALITY MANAGEMENT

SECTION 3: RESPONSIBILITIES

6300. CMC (LF)

1. Coordinate the overall implementation of CAA requirements. Ensure that all Marine Corps activities comply with current Federal, state, and local air pollution control requirements.

2. Coordinate the review of proposed and final CAA regulations.

3. Coordinate the review of fines/penalties with the CMC (CL) and, as necessary, Office of the Assistant General Counsel, Installations and Environment (OAGC (I&E)).

4. Include requests for resources to meet air pollution control requirements in the Program Objectives Memorandum (POM)/budget submissions.

5. Implement strategies to eliminate reliance on ODS's and submit the required information to support the management of the DoD ODS Reserve.

6. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

7. Conduct special environmental compliance and protection studies with regard to air quality management to assist in establishing policy or initiating actions.

8. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to air quality regulations.

9. Track Marine Corps progress toward meeting established air quality goals.

6301. MARINE CORPS REGIONAL ENVIRONMENTAL COORDINATORS (REC'S). In addition to the responsibilities identified in chapter 2 of this Manual, Marine Corps REC's must:

1. Coordinate input and comments to all applicable SIP's in their area of responsibility.

2. Coordinate ERC trading among Marine Corps facilities.

3. Function as Marine Corps air pollution episode coordinator within the Air Quality Control Regions, or portions thereof, under Marine Corps jurisdiction. Air pollution episode coordinators must ensure that air episode plans and actions are consistent in degree and timing for all Marine Corps activities in the affected episode area and also that the plans and actions are as consistent as possible with plans and actions of other Federal activities and state and local air pollution control authorities.

6302. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation
and funding requests for air sources that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with air quality management requirements. Pay appropriate Federal, state, and local fees. Ensure that the EMH is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

2. Ensure that all required Federal, state, and local permits are applied for and obtained. Sign or approve for signature: compliance statements/certifications; emission inventory reports; construction and operation permit applications, as required, for construction of all air quality management projects; and applications for permits related to the demolition, preconstruction, and construction phases of projects, unless multi-installation permit applications will be signed by a higher authority. Assist in the preparation of permit applications and studies and sign applications and negotiate conditions with regulatory agencies for operating permits and variances to temporarily operate those sources out of compliance.

3. Ensure that a base or station order is written to implement specifications set forth in this chapter. This requirement can

be accomplished either by writing an environmental compliance and protection standard operating procedures document to implement all environmental requirements or by writing a separate base order to implement specifications of this chapter alone.

4. Assure that CAA general conformity rule requirements are satisfied for all Marine Corps actions on the installation.

5. Survey emission sources to identify potential reductions.

6. Report ERC generation/requirements to the REC.

7. Submit, via the chain of command, to the CMC (LF) all instances in which compliance with fuel standards is impractical.

8. Maintain current records of physical, operational, and emission characteristics of air emission sources.

9. Ensure that air episode plans are developed as required, and provide copies of such plans to the REC.

10. Cooperate with the Marine Corps air pollution episode coordinator, the EPA, and state and local air pollution control authorities in executing air episode plans as required for areas under the proclamation of an air pollution emergency.

11. Ensure that motor vehicles and other mobile sources comply with applicable emission standards and other requirements.

12. Develop and implement transportation control measures as required by the SIP.

13. Where applicable, furnish to the appropriate regulatory authority proof of compliance with applicable nondiscriminatory state and local motor vehicle I/M requirements for all vehicles operated on the installation.

14. Implement and maintain proper adjustments in stationary heating and power plant operations to reduce total emissions. Substantial fuel savings can also result from proper combustion operations and combustion air monitoring.

15. Ensure that CAA-required training is provided.

16. Ensure that coordination occurs with the Safety Office when conducting risk evaluations or risk management.

17. Conduct a radon testing program for all regularly occupied buildings (includes existing and new structures), following NAVRAMP methodology for testing and quality assurance/quality control.

18. Maintain information for each building location on the radon levels and physical characteristics of Marine Corps facilities.

19. Identify compliance requirements for new construction and projects or modifications required for existing structures.

20. Identify and submit environmental compliance projects required to bring buildings into compliance.

21. Implement appropriate ODS procurement guidance as established by COMNAVSUPSYSCOM and COMNAVFACENGCOM.

22. Ensure that ODS’s are included in the "authorized HM use list."

23. Establish practices and procedures internally to reduce emissions of ODS’s as much as possible.

24. Provide resources (tuition, travel, per diem, etc.) for training refrigerant technicians on recovery and recycling equipment and ensure compliance with applicable certification requirements.

25. Submit requests for waivers to any of the mandatory provisions of this

26. Develop and implement an ODS phase-out plan to eliminate use of nonmission-critical class I ODS’s by 31 December 2000 and to eliminate use of nonmission-critical portable halon fire extinguishers by 1 January 1996.

27. Approve and submit plans to claimants for review and funding in the POM cycle.

28. Develop and implement a plan for ODS system leak checks, supply management,
and recycling and reclamation of Class I and Class II ODS’s.

29. Ensure that required plans meet regulatory requirements.

6303. COMMANDERS OPERATING ABOARD MARINE CORPS INSTALLATIONS

1. Comply with all applicable air quality regulations and coordinate with the installation environmental staff for compliance requirements, including the preparation of permit applications and environmental studies.

2. Per chapter 4 of this Manual and existing tenant/host agreements, identify and submit environmental compliance projects which are necessary to bring air sources into compliance.

CHAPTER 7

EMERGENCY PLANNING AND RESPONSE

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CHAPTER 7

EMERGENCY PLANNING AND RESPONSE

SECTION 1: INTRODUCTION

7100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with statutory requirements for emergency planning and response. This chapter also identifies procedures for preventing and providing proper training for oil discharges and hazardous substance (HS) releases to the air, land, and water. It outlines the Marine Corps organizational structure for response to its own spills as well as to non-Marine Corps spills which occur on and off an installation. Finally, the chapter identifies the responsibilities of installation commanders; handlers of petroleum, oil, and lubricants (POL) and HS's; and response team members.

7101. APPLICABILITY

1. See paragraph 1101.

2. For Marine Corps activities Outside the Continental United States (OCONUS), international oil pollution laws require that marine oil spills which impact, or may impact, the waters or shoreline of any coastal Nation must be reported immediately to proper authorities in that Nation.

7102. BACKGROUND

1. Provisions within the major statutes, as described below, recognize the need for emergency planning for uncontrolled releases of pollutants to the Nation's water, land, and air. Accordingly, these statutes require facilities with the potential for such releases to develop procedures to prevent releases, to provide written emergency procedures, and to implement the response provisions in the event of a release. Further, EPCRA requires that comprehensive information be provided to the public about possible or potential hazards associated with toxic, hazardous, and extremely hazardous chemical releases.

2. Many of these statutes contain overlapping requirements. The National Response Team (NRT) on June 5, 1996, published its Integrated Contingency Plan (ICP) Guidance, enabling facilities to meet multiple plan requirements in a single plan. Marine Corps installations are encouraged, as appropriate, to use this guidance.

3. Many state regulatory programs contain provisions for oil and hazardous substance (OHS) spill contingency planning and for notification of state and local authorities when OHS spills occur. Most state regulations complement the Federal OHS spill contingency planning and response efforts. However, some state regulations are more stringent than the Federal requirements. Each Marine Corps installation should obtain copies of its respective state's regulations to determine if it is subject to state requirements which go beyond the Federal laws and regulations outlined herein.

7103. FEDERAL STATUTES

1. Water Quality Act (WQA) of 1965 (Public Law 89-234), Water Quality Improvement Act of 1970 (Public Law 91-224), Federal Water Pollution Control Act (FWPCA) of 1972, as Amended (33 U.S.C. 1251 et seq.), and Clean Water Act (CWA) of 1977, as Amended (33 U.S.C. 1251 et seq.)

a. The WQA provided Federal assistance for the establishment and enforcement of jurisdictional water quality standards for surface waters. It was amended in 1970 by the Water Quality Improvement Act to prohibit releases of oil and sewage into navigable waters.

b. The FWPCA made the EPA responsible for setting nationwide effluent standards on an industry-by-industry basis. This Act provided effluent and water quality standards, and instituted a permit system for the regulation of oxygen-demanding pollutant discharges. In 1977, the Act was amended by the CWA which refocused the enforcement tools of the FWPCA on the control of toxics. The CWA amended the permit system, which is now the National Pollutant Discharge Elimination System. The CWA was amended in 1987 to include the regulation of stormwater runoff and to strengthen enforcement mechanisms. The intent of the CWA is to restore and protect the integrity of the Nation's waters by controlling discharges of pollutants, including OHS spills, into those waters.

c. The CWA contains the following national policy: "There should be no discharges of oil or HS into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1977, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act of 1976)."

d. Section 311 of the CWA addresses OHS liability. Important statutory requirements contained in section 311 are summarized as follows:

(1) Section 311(b)(3) prohibits the discharge of oil or HS's in harmful quantities into or upon the navigable waters of the United States. As noted in 40 CFR 110.3, discharges of oil in harmful quantities include those that violate applicable water quality standards, cause a film or sheen upon, or discoloration of, the water surface or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the water surface or upon adjoining shorelines.

(2) Section 311(b)(5) requires the individual in charge of an onshore facility to notify immediately the United States Government of any discharge of oil or HS from the facility in violation of section 311(b)(3). Failure to notify the Government is punishable by a fine or by imprisonment for no more than 5 years or both.

(3) Section 311(b)(6) provides for various classes of administrative penalties for violating the OHS discharge prohibition or for failure to comply with regulations pertaining to Oil Facility Response Plans under the National Response System.

(4) Section 311(b)(7) provides for civil penalty actions for violating the OHS discharge prohibition or for failure to comply with regulations pertaining to Oil Facility Response Plans under the National Response System.

(5) Section 311(c) authorizes the Federal Government to ensure the effective and immediate removal of a discharge, and the mitigation or prevention of a substantial threat of discharge, of oil or an HS.

(6) Section 311(d) requires the development and revision of a National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which provides for organizational structure and procedures necessary to prepare for, and respond to, oil discharges and releases of HS's, contaminants, and pollutants. It assigns responsibilities for contingency planning and response to various Federal agencies, including the DoD, and outlines state and local government and public and private interest group participation in these areas. The NCP also specifies notification procedures for certain oil discharges and HS releases.

(7) Section 311(e) provides for civil enforcement procedures, including orders to protect public health, for violating the OHS discharge prohibition or for failure to comply with regulations pertaining to Oil Facility Response Plans under the National Response System.

(8) Section 311(f) specifies liability limits for discharges. This section further authorizes the President (and installation commanders as duly appointed representatives) to act on behalf of the United States to recover all costs for restoring or replacing natural resources damaged by OHS spills.

(9) Section 311(j) establishes the National Response System. This section requires the President to issue regulations mandating the development of Oil Facility Response Plans by owners or operators of tank vessels and oil transfer and storage facilities.

(10) Section 311(m) requires facilities to maintain records, to allow entry and inspection of premises, and to provide public access to records.

2. Oil Pollution Act (OPA) of 1990 (Public Law 101-380, 33 U.S.C. 2701 et seq.)

a. The OPA amends section 311 of the CWA to augment Federal response authority, to increase penalties for oil spills, to expand the organizational structure of the Federal response framework, and to provide an emphasis on preparedness and response activities. The OPA requires contingency planning for "worst case" discharges and demonstrated response capabilities through planning, equipment, training, and exercises and does not preempt states' rights for establishing more stringent planning requirements.

b. Important statutory requirements of the OPA are summarized as follows:

(1) Section 1002 specifies that each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters, adjoining shorelines, or the exclusive economic zone is liable for removal costs and damages that result from the discharge. Damages can include those for natural resources, real or personal property, subsistence use of natural resources, loss of revenue, loss of profits or impairment of earning capacity, and provision of public services during or after removal activities.

(2) Section 1003 establishes defenses to liability, such as discharges due to acts of God, acts of war, an act or omission by a third party, or any combination thereof.

(3) Section 1004 establishes limits of liability for responsible parties.

(4) Section 1006 specifies conditions pertaining to damages to natural resources. The President has designated Marine Corps installation commanders as the Federal trustees for all natural resources under their control.

(5) Section 1011 specifies Presidential consultation with the affected trustees on the appropriate removal action to be taken in connection with any discharge of oil.

(6) Section 1012 discusses uses of the Oil Spill Liability Trust Fund.

(7) Section 1018 specifies that the OPA must not be construed to authorize or create a cause of action against a Federal officer or employee in the officer’s or employee’s personal or individual capacity for any act or omission while acting within the scope of the officer’s or employee’s office or employment.

(8) Section 2002 of the OPA amends section 311 of the CWA. A discussion of section 311 as amended by the OPA is presented in paragraph 7103.2, above.

3. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as Amended (42 U.S.C. 9601 et seq.)

a. Since the initial passage of CERCLA, Congress has amended it over 20 times. CERCLA authorizes Federal action to respond to the release or threatened release of an HS from any source into the environment. Remedial actions (RA) for past releases are covered by the Installation Restoration program, which is discussed in chapter 10 of this Manual.

b. Important statutory requirements of CERCLA pertaining to emergency planning and response are summarized as follows:

(1) Section 102 directs the Environmental Protection Agency (EPA) Administrator to promulgate and revise regulations that designate as HS's such elements, compounds, mixtures, solutions, and substances that, when released into the environment, may present substantial danger to the public health or the environment. These regulations also must specify the quantities of any released HS that necessitates a report to the National Response Center (NRC).

(2) Section 103 requires the individual in charge of an onshore facility to notify immediately the NRC of any release from the facility of an HS in excess of the reportable quantity (RQ) established by regulation pursuant to section 102. Section 103 also establishes civil and criminal penalties for failure to notify the NRC in the event of a release.

(3) Section 104 authorizes the Federal Government to ensure the effective and immediate removal and remediation of a release, and the mitigation or prevention of a substantial threat of release, of an HS, contaminant, or pollutant that may pose an imminent and substantial danger to public health,welfare, or the environment.

(4) Section 105 requires that the NCP be revised to include a national
HS response plan to the NCP which was developed under the CWA.

(5) Section 106 authorizes the President to take any necessary measures, including securing judicial orders, to protect public health from an actual or threatened HS release.

(6) Section 107 specifies conditions of liability for costs incurred for the removal or RA taken to abate a release;

other necessary costs; damages to, or destruction of, natural resources; or health assessment study costs. This section further establishes defenses to liability, such as discharges due to acts of God, acts of war, acts or omission by a third party, or any combination thereof. Section 107 also establishes limits to liability. It authorizes the President (and installation commanders as duly appointed representatives) to act on behalf of the United States to recover all costs for restoring or replacing natural resources.

(7) Section 109 provides for civil penalty actions for violating the HS release prohibition or for failure to comply with applicable regulations promulgated under CERCLA.

(8) Section 120 applies CERCLA to Federal departments, agencies, and installations in the same manner as any non-governmental entity. Section 120(j) authorizes the President, when necessary, to protect the national security interests of the United States, to issue site-specific orders at any DoD facility to exempt it from compliance with any CERCLA title I or Superfund Amendments and Reauthorization Act (SARA) title III requirement. The exemption
must be for a specified period not to exceed 1 year, although additional exemptions may be granted upon suitable justification.

(9) Section 310 allows citizens to file suits in a United States District Court against any individual, including a Marine Corps installation, allegedly violating CERCLA requirements.

4. Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. 6901 et seq.)

a. Congress enacted RCRA to protect human health and the environment from the hazards associated with hazardous waste (HW) generation, transportation, treatment, storage, and disposal. Major revisions resulted from the Hazardous and Solid Waste Amendments and the Federal Facility Compliance Act.

b. Subtitle C of RCRA requires the owners and operators of HW facilities to develop comprehensive HW management plans that address spill prevention and cleanup for these facilities. Under RCRA, this contingency planning requirement constitutes a facility plan distinct from the Oil and Hazardous Substance Spill Contingency Plan (OHSSCP) required by CERCLA, OPA, and the CWA.

c. Important statutory requirements of RCRA pertaining to emergency planning and response are summarized as follows:

(1) Section 3004(a)(5) requires the EPA Administrator to develop regulations applicable to owners and operators of HW treatment, storage, and disposal facilities (TSDF) pertaining to contingency plans to minimize unanticipated damage from treatment, storage, or disposal of any HW.

(2) Section 3007 specifies the rights of the EPA and state agency personnel to enter and inspect the premises, facilities, and records of TSDF owners or operators to determine compliance with applicable requirements of RCRA. Section 3007(c) authorizes annual EPA and state inspections of Federal facilities.

(3) Section 3008 provides for Federal enforcement of RCRA requirements, including compliance orders issuance and civil and criminal penalties assessment for RCRA violations.

(4) Section 3013 authorizes the EPA Administrator to order the owner or operator of a TSDF suspected of releasing any HW that may impact human health or the environment to conduct such monitoring, testing, analyzing, and reporting as the EPA Administrator deems necessary.

(5) Section 3016 requires each Federal agency to commit to an ongoing biannual program to complete, publish, and submit to the EPA and authorized states an inventory of each site that the agency owns, operates, or has owned or operated at which HW has been treated, stored, or disposed of at any time. The inventory must describe any response actions initiated or contemplated at contaminated sites.

(6) Section 6001 requires that the following comply with all Federal, state, interstate, and local requirements: instrumentalities of the Federal Government Executive Branch, such as Marine Corps activities which have solid waste (SW) management facilities or disposal sites or which engage in activities that potentially result in SW or HW disposal or management.

(7) Section 7002 provides for citizen suits to be filed against any individual, or the United States, allegedly in violation of any permit, standard, regulation, condition, requirement, prohibition, or order which has become effective pursuant to RCRA.

(8) Section 7003 authorizes the EPA Administrator to bring suit in United States District Court against any individual

or a Marine Corps installation, which is presenting an imminent and substantial danger to human health or to the environment due to present or past HW management practices.

(9) Section 9003 prescribes requirements for promulgating Underground Storage Tank (UST) regulations for release detection, prevention, and correction regulations (see chapter 18 of this Manual for further discussion of these regulations).

5. Clean Air Act (CAA) of 1970, as Amended (42 U.S.C. 7401 et seq.)

a. The CAA is the Federal statute mandating the prevention and control of air emissions from both stationary and mobile sources.

b. The CAA Amendments of 1990 added section 112(r), entitled "Prevention of Accidental Releases." The purpose of this section is to prevent the accidental release and to minimize the consequences of any such release of any regulated or extremely hazardous substance (EHS). The essential provisions of section 112(r) are as follows:

(1) Subsection 112(r)(1) requires that section 112(r) must not be interpreted, construed, implied, or applied to create any liability or basis for compensatory suit for bodily injury or any other injury or property damages to any person which may result from accidental releases of substances regulated under section 112(r).

(2) Subsections 1112(r)(3) - (5) require the EP Administrator to promulgate a list of substances which, in the case of an accidental release, are known to cause death, injury, or serious adverse effects to human health or the environment. The list also includes a threshold quantity for each substance, which accounts for its toxicity, reactivity, volatility, dispersability, combustibility, or flammability, and the amount which would result in death,injury, or serious and adverse effects to human health in the event of a release. The complete list of extremely hazardous air pollutants is published as table 1 in 40 CFR 63.74.

(3) Subsection 112(r)(6) establishes an independent Chemical Safety and Hazard Investigation Board, which is responsible for investigating accidental releases of regulated substances resulting in a fatality, serious injury, or substantial property damages, for issuing periodic reports on

accidental releases, and for establishing regulations for facilities to report accidental releases of regulated substances into the air.

(4) Subsection 112(r)(7)(A) authorizes the EPA Administrator to promulgate release prevention, detection, and correction requirements, including monitoring, recordkeeping, reporting, training, vapor recovery, secondary containment, and other design, equipment work practice, and operationalrequirements.

(5) Subsection 112(r)(7)(B) authorizes the EPA Administrator to promulgate regulations and guidelines to provide for the prevention and detection of accidental releases by owners and operators of such release sources. After this regulation is promulgated, subsection 112(r)(7)(E) makes it unlawful for any individual to operate in violation of these requirements any stationary source subject to them.

(6) Subsection 112(r)(9) authorizes the EPA Administrator to issue orders to, or to bring suit in United States District Court against, any individual or a Marine Corps installation presenting an imminent and substantial danger to human health or to the environment because of an actual or threatened accidental release of a regulated substance.

6. EPCRA of 1986 (42 U.S.C. 11001 et seq.). This Act, which is title III of SARA, is intended to encourage and support emergency planning and to provide timely and comprehensive information to the public about possible or potential hazards associated with toxic chemical releases. Most notably, specific sections of EPCRA require immediate notification of releases of EHS's and HS's defined under CERCLA to state and local emergency response planners. EPCRA requires state and local coordination in planning response actions to chemical emergencies. The Act also requires the submission of information on chemical inventories and releases.

7104. REQUIREMENTS

1. General

a. Statutory Requirements. The statutes discussed in paragraph 7103 require regulated Marine Corps-owned and -operated activities to develop and implement various emergency response plans and to conduct related activities:

(1) Spill Prevention Control and Countermeasures (SPCC) Plans mandated by the CWA.

(2) Facility Response Plans (FRP) mandated by OPA.

(3) OHSSCP's mandated by the CWA and by CERCLA.

(4) Hazardous Waste Facility Contingency Plans mandated by RCRA.

(5) Air Emissions Risk Management Plans mandated by the CAA.

(6) Notifying the State Emergency Response Commission (SERC) that the facility is subject to emergency planning requirements, designating a Facility Emergency Coordinator (FEC), and notifying the Local Emergency Planning Committee (LEPC) of the FEC's identity as mandated by EPCRA.

(7) Participating in development of a Community Comprehensive Emergency Response Plan mandated by EPCRA.

(8) Filing an Emergency and Hazardous Chemical Inventory Form mandated by EPCRA.

(9) Filing a Toxic Release Inventory (TRI) Reporting Form (Form R) mandated by EPCRA.

b. Regulatory Requirements. This section discusses regulations promulgated by various Federal agencies to implement the statutory requirements identified above. These agencies include the EPA, United States Coast Guard, the Department of Transportation's (DOT) Research and Special Programs Administration (RSPA), the Department of the Interior's (DOI) Minerals Management Service (MMS), the Occupational Safety and Health Administration (OSHA), the National Oceanic and Atmospheric Administration (NOAA), and the DOI's Fish and Wildlife Service (USFWS).

c. Executive Order (EO) Requirements. Several EO's issued by the President direct executive agencies, including the military departments, to comply with applicable requirements of Federal laws. The EO's pertaining to emergency planning and response are as follows:

(1) EO 12088, Federal Compliance with Pollution Control Standards, October 13, 1978. This EO requires Federal facilities

to comply with pollution control requirements pursuant to the CAA; CWA; Federal Insecticide, Fungicide, and Rodenticide Act; Marine Protection, Research, and Sanctuaries Act; RCRA; Solid Waste Disposal Act (SWDA); Safe Drinking Water Act; and Toxic Substances Control Act (TSCA).

(2) EO 12580, Superfund Implementation, January 23, 1987. This EO designated the Federal agencies which would form the NRT. In addition to placing the DoD on the NRT, the President also designated the SecDef as a Federal trustee for natural resources. The President further delegated to the SecDef the President's response authorities for releases or threatened releases from or on Federal facilities.

(3) EO 12777, Implementation of Section 311 of the FWPCA and the OPA, October 18, 1991. This EO amended EO 12580 to implement provisions of the OPA. The EO also delegated the President's responsibilities for promulgating regulations pertaining to oil facility response plans to the EPA Administrator and to the Secretary of the Department in which the Coast Guard operates.

(4) EO 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements, August 3, 1993. This EO requires all installations to comply with EPCRA sections 302-313.

d. DoD Requirements. Several directives and instructions issued by DoD, mandating the military departments to comply with applicable requirements of Federal laws, pertain to emergency planning and response as follows:

(1) Oil and Hazardous Substances Pollution Prevention and Contingency Program. A DoD OHS Pollution Prevention and Contingency Program is required of DoD installations for responding to OHS discharges in a manner consistent with the NCP. Regulated installations must develop and implement SPCC plans and OHS Spill Contingency Plans (SCP).

(2) Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, regional, and intrastate statutory and regulatory environmental requirements. DoD policy identifies the DON is the DoD Executive Agent for the NRT and Regional Response Team (RRT).

e. ICP Guidance

(1) The NRT, in conjunction with representatives from state and local agencies,industry, and environmental groups, has developed the ICP Guidance to provide facilities with a way to consolidate multiple contingency plans into a single functional response plan. The EPA, Coast Guard, RSPA, OSHA, and MMS signed the ICP Guidance and agree that integrated response plans prepared in the format provided by the ICP Guidance will be acceptable and will be the Federally preferred method of response planning.

(2) The purposes of the ICP Guidance are to:

(a) Provide a mechanism for consolidating multiple facility response plans into one plan that can actually be used in an emergency;

(b) Improve coordination of response activities within the facility and with public responders; and

(c) Minimize duplication and simplify plan development and maintenance.

(3) The ICP Guidance addresses planning requirements in the following Federal regulations:

(a) OPA FRP Regulations (EPA, Coast Guard, RSPA, and MMS);

(b) The EPA's CAA Risk Management Regulation, Oil Pollution Prevention Regulation, and RCRA Contingency Planning Requirements; and

(c) OSHA's Emergency Action Plan Regulation, Process Safety Standards, and Hazardous Waste Operations and Emergency Response (HAZWOPER) Regulation.

(4) The ICP Guidance format includes the following three sections:

(a) Plan introduction;

(b) A core plan that serves as the primary response tool; and

(c) A series of annexes that provide more detailed supporting information and regulatory compliance documentation.

(5) The ICP Guidance format is based upon the Incident Command System (ICS). This organization allows the plan to dovetail with established response management practices, thereby promoting its usefulness in an emergency. The ICP Guidance format also promotes a system of linkages to facilitate coordination with other facility plans as well as external plans, such as the LEPC Comprehensive Emergency Response Plan and the OPA Area Contingency Plan (ACP).

(6) Obtain copies of the ICP Guidance by contacting the EPCRA Hotline at 1-800-535-0202.

2. SPCC

a. Purpose. SPCC plans have two primary purposes:

(1) To establish procedures to prevent an oil spill into waters of the United States, and

(2) To document existing oil spill prevention structures, procedures, and equipment and to recommend additional containment structures if needed.

b. Facilities Required to Prepare SPCC Plans

(1) The EPA regulations in 40 CFR 112.3(a) require owners or operators
of onshore nontransportation-related facilities that have discharged or, due to their location, might discharge oil in harmful quantities into or upon navigable waters of the United States or adjoining shorelines to prepare an SPCC plan in accordance with requirements provided in 40 CFR 112.7.

(2) The EPA regulations in 40 CFR 112.3(c) require Marine Corps units which deploy portable, tactical refueling equipment, such as sixcons and collapsible fabric tanks, to prepare and implement an SPCC plan. For these portable facilities, the SPCC plan may be a general plan prepared using good engineering practice per requirements provided in 40 CFR 112.7. A new SPCC plan need not be prepared each time the facility is moved to a new site. When the equipment is redeployed to a new site, it must be located and installed using the spill prevention practices outlined in the SPCC plan for the facility. The SPCC plan applies only when the portable facility is in a fixed operating mode. During training exercises or deployments within the United States, mobile or portable facilities subject to this regulation must not operate unless the SPCC plan has been implemented.

(3) The regulations do not require SPCC plans for onshore fixed or portable facilities if:

(a) The facility has an aggregate aboveground storage capacity of 1,320 gallons (gal) or less of oil, has no single container capacity that exceeds 660 gal, and has a total underground storage capacity of 42,000 gal or less; or

(b) The facility, due to its location, is not expected to discharge oil into or upon the navigable waters of the United States or adjoining shorelines. This determination is based solely upon consideration of the geographical and locational aspects (e.g., proximity to navigable waters or adjoining shorelines, land contour, drainage patterns, proximity to fish and wildlife and sensitive environments, etc.) of the facility and must exclude man-made dikes or other structures which would serve to hinder, contain, or otherwise prevent an oil discharge from reaching navigable waters or adjoining shorelines.

c. Plan Contents. The 40 CFR 112.7 provides guidelines for the preparation and implementation of SPCC plans. The SPCC plan should be carefully considered and should follow the sequence outlined below:

(1) A description of all spill events which occurred in the preceding 12 months, the corrective actions taken, and plans for preventing the recurrence of such spills.

(2) Predictions of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each major type of equipment failure (such as tank overflow, rupture, or leakage).

(3) Appropriate containment measures, diversionary structures, or equipment to prevent discharged oil from reaching navigable waters. For portable facilities, such containment measures could include the construction of earthen berms, or placement of sand bags around and the installation of liners beneath fuel containers.

(4) Additional spill prevention standards for facility drainage areas, bulk storage tanks, facility transfer operations and pumps, and tank car and tank truck loading/unloading racks.

(5) Provisions for periodic inspections, adequate record- keeping, site security, and personnel training/briefings on spill prevention procedures.

(6) If the implementation of appropriate containment measures or diversionary structures is not practicable, 40 CFR 112(d) requires that the facility owner or operator clearly demonstrate such impracticability, and provide to the EPA Regional Administrator the following:

(a) A strong oil spill contingency plan following the provisions of 40 CFR 109, and

(b) A written commitment to manpower, equipment, and materials required for the expeditious control and removal of any harmful quantity of discharged oil.

d. Plan Certification. As specified in 40 CFR 112.3(d), each SPCC plan must be certified initially by a registered professional engineer (PE). In addition, the owner or operator of the facility must review, update, and amend the plan at least once every 3 years. As specified in 40 CFR 112.5(c), no amendment to an SPCC Plan can satisfy the requirements unless it has been certified by a PE.

e. Plan Availability. A complete copy of each SPCC plan must be maintained at the subject facility, as required in 40 CFR 112.3(e). The SPCC plan also must be available to EP representatives for on-site review during normal working hours.

f. Plan Amendments

(1) Under 40 CFR 112.4, the EPA Regional Administrator may require the owner or operator of a facility to revise its SPCC plan if the facility within any 12-month period has discharged more than 1,000 gal of oil, or has discharged oil in harmful quantities in two reportable spill events into or upon United States navigable waters.

(2) Under 40 CFR 112.5, the owner or operator of a facility must amend its SPCC plan whenever there is a change in facility design, construction, operation, or maintenance which materially affects the facility's potential for discharging oil. The amendments must be fully implemented no later than 6 months after such change occurs.

g. References

(1) Section 4.2 of the Marine Corps Guidance Manual on Emergency Planning, Preparedness, and Prevention for Oil Spills and Hazardous Substance Releases, discusses SPCC plans.

(2) To prepare and implement oil SPCC plans, activities can use the Oil Spill Prevention Control and Countermeasures Planning Manual (Naval Energy and Environmental Support Activity (NEESA) 7-030), published by the Naval Facilities Engineering Service Center (NFESC, formerly NEESA).

3. FRP's

a. Purpose. The purpose of an FRP is to ensure that appropriate successful removal actions will be initiated in response to oil discharges.

b. FRP. The OPA amended section 311(d) of the CWA to require facilities to prepare contingency plans for "worst case" discharges and to demonstrate response capabilities through planning, equipment, training, and exercises. Facilities subject to these requirements include the following:

(1) Nontransportation-related onshore facilities, regulated by the EPA in 40 CFR 112.20.

(2) Marine transportation-related facilities, regulated by the Coast Guard in 33 CFR 154.

(3) Bulk packaging containing oil, regulated by the DOT's RSPA in 49 CFR 130.

(4) Onshore oil pipelines, regulated by the RSPA in 49 CFR 194.

(5) Offshore facilities and pipelines, regulated by the DOI's MMS in 30 CFR 254.

c. Nontransportation-Related Onshore Facilities

(1) The OPA required facilities to submit oil response plans to the EPA by February 18, 1993, and to operate in compliance with the response plan by August 18, 1993. The OPA also stated that a facility may operate without an EPA-approved response plan for up to 2 years after the facility submits the plan for review, provided that the owner or operator has certified, by contract or other approved means, the personnel and equipment availability necessary for a worst case discharge response.

(2) The EPA regulations in 40 CFR 112.20 require the owner or operator of any nontransportation-related onshore

facility that, because of its location, might cause substantial harm to the environment by discharging oil into or upon navigable waters of the United States or adjoining shorelines to prepare a facility response plan that satisfies the requirements of 40 CFR 112.20, and to submit the plan to the cognizant EPA Regional Administrator.

(3) Facilities which meet the following criteria, when applied in accordance with the flowchart in attachment C-I to appendix C of 40 CFR 112.20, must prepare and submit a response plan and conform to all applicable requirements in 40 CFR 112.20:

(a) A facility which transfers oil over water to or from vessels and which has a total storage capacity greater than or equal to 42,000 gal, or

(b) A facility with a total oil storage capacity greater than or equal to 1 million gal and which meets one of the four criteria provided in 40 CFR 112.20(f)(1)(ii)(A)-(D).

(4) The owner or operator of a facility located aboard a Marine Corps installation who determines that the facility, because of its location, is not expected to cause substantial harm to the environment by discharging oil into or upon United States navigable waters or adjoining shorelines must complete and maintain at the facility the certification form contained in appendix C of 40 CFR 112. The owner/operator should also send a copy to the cognizant regulatory agency.

(5) As required in 40 CFR 112.20(g), a facility response plan must be consistent with the requirements of the NCP and the applicable ACP. It should also be coordinated with the local community emergency response plan developed by the LEPC under EPCRA. The facility must review annually the relevant portions of the NCP and applicable ACP and, if necessary, revise its plan to ensure consistency with the two. Figure 7-1 at the end of this chapter depicts the relationships of these plans with the facility response plan.

(6) The facility response plan must follow the format outlined in appendix F of 40 CFR 112.20. If it does not, the plan should at least include an emergency response action plan, as set forth in 40 CFR 112.20(h)(1), and be supplemented with a cross-reference section to identify the location of elements listed in paragraphs (h)(2) through (h)(10) of 40 CFR 112.20.

d. Marine Transportation-Related Onshore Facilities

(1) Per Coast Guard regulations in 33 CFR 154, an oil FRP is required of the owner or operator of any mobile or fixed facility that is capable of transferring bulk oil or hazardous material (HM) to or from a vessel with a capacity of 250 barrels (10,500 gal) or more and which, because of its location, might cause substantial harm to the environment by discharging oil into or upon navigable waters of the United States or adjoining shorelines.

(2) The FRP must follow the format outlined in subpart F of 33 CFR 154 and must be submitted to the appropriate Captain of the Port (COTP).

(3) See 33 CFR 154.1041 for specific response information which mobile facilities must maintain.

(4) As required in 33 CFR 154.1050, the response plan must identify the training to be provided to each individual with responsibilities under the plan. It also must detail the type and frequency of response drills to be conducted under the plan, which are specified in 33 CFR 154.1055. See 33 CFR 154.1057 for spill response equipment inspection and maintenance requirements.

e. Bulk Packaging Containing Oil

(1) The RSPA regulations in 49 CFR 130.1 prescribe prevention and response requirements of the DOT applicable to oil transportation. These requirements apply to any petroleum oil in packaging having capacities of 3,500 gal or more and any oil in a quantity of 42,000 gal or more per packaging. This regulation applies to Marine Corps fuel storage and transportation equipment such as 5,000-gal fuel tankers.

(2) The RSPA regulations in 49 CFR 130.31 prohibit any person, including Marine Corps units and activities, from transporting oil in a bulk packaging unless a readily available document indicating that the shipment contains oil is in the possession of the transport vehicle operator during transportation and has a current written response plan. The regulations do not require the plan to be submitted to RSPA unless the bulk packaging is greater than 42,000 gal.

(3) As specified in 49 CFR 130.31, the plan must:

(a) Describe the necessary response methods in the event of a discharge during transportation;

(b) Account for the maximum potential discharge;

(c) Identify who will respond to the discharge; and

(d) Identify the appropriate persons and agencies, including the NRC, to be contacted in the event of a discharge, along with their telephone numbers.

(4) The owning unit or activity must maintain a copy of the plan at its headquarters location and at each location where vehicle dispatching occurs.

(5) Marine Corps installations through which a railroad passes that transports oil by train should request a copy of the railroad's response plan for the response zone in which the installation is located.

f. Onshore Oil Pipelines

(1) The RSPA regulations in 49 CFR 194 require the owner or operator of any onshore pipeline that, because of its location, might cause substantial harm to the environment by discharging oil into or upon navigable waters of the United States or adjoining shorelines to prepare a facility response plan that satisfies the requirements of 40 CFR 112.20 and to submit the plan to the RSPA. The 40 CFR 194.101 specifies exceptions to this requirement.

(2) Pipeline operators must determine the worst case discharge in each response zone according to procedures specified in 49 CFR 194.105.

(3) The FRP must meet the requirements prescribed in 49 CFR 194.107, contain the information summary requirements specified in 49 CFR 194.113, and list response resources as required in 49 CFR 194.115.

(4) The 49 CFR 194.121 specifies that response plans must be reviewed every 3 years.

(5) Marine Corps installations through which passes a commercially-owned or -operated oil or HS pipeline should request a copy of the pipeline operator's response plan for the response zone(s) in which the installation is located.

g. Oil Complexes. Oil complexes which are subject to more than one Federal agency and are required to develop response plans under each agency's regulations can prepare a single plan using the ICP guidance discussed in paragraph 7104.1e of this Manual. The plan can be supplemented with a cross-reference section to identify the locations of all required elements for each agency's regulation and, in the case of EPA requirements, include an emergency action plan as specified in 40 CFR 112.20(h)(1). The plan should be submitted to each of the regulatory agencies.

h. Reference. A Navy-wide Model FRP Outline (Revision 1), which incorporates the requirements of the EPA final regulations in 40 CFR 112.20, is available in both electronic format and hard copy from the Naval Facilities Engineering Command (NAVFACENGCOM). For a copy of the plan outline, contact NAVFACENGCOM, Code 41DP, at DSN 221-6433 or (703) 325-6433.

4. OHS SCP's

a. Purpose. The purposes of SCP's are to identify those areas where spill incidents are likely to occur and to predetermine responses appropriate to future spills and releases.

b. On-Scene Coordinator (OSC) Planning Responsibilities

(1) In 40 CFR 300.120(c), the NCP predesignates the DoD as the Federal OSC for HS releases when the release is on, or the sole source of the release is from, any DoD facility or vessel. The DoD is also designated as the removal response authority for incidents involving DoD military weapons.

(2) Since the DoD does not provide Federal OSC's for DoD component HS releases, the individual services predesignate and provide their own Federal OSC's. The CMC (LF) has designated each installation's CG/CO to serve as the Federal OSC for Marine Corps HS releases originating aboard or threatening theinstallation. This authority may not be delegated. Figures 7-2 and 7-3 at the end of this chapter show the personnel relationships of the Marine Corps OSC for oil and HS pollution response incidents, respectively.

(3) As the OSC, the installation CG/CO should predesignate an On-Scene Commander (OSCDR) to manage and direct all response operations for the activity. The OSCDR should be accustomed to obligating and managing resources. The OSCDR leads

the On-Scene Operations Team (OSOT); establishes a spill reporting center; notifies OSOT members of a spill; provides the initial response, containment, and emergency functions; delegates appropriate duties to support personnel; and keeps installation DoD/Command Duty Officer informed.

(4) For oil releases, the Federal OSC is the Coast Guard for coastal zone releases or the EPA for inland zone releases. Agreements between the EPA and the Coast Guard define the boundaries for Federal response actions as identified in Federal Regional Contingency Plans.

(5) Regulated installations must develop and implement SCP's. These plans must be consistent with the relevant ACP's, as discussed in 40 CFR 300.210.

c. Plan Contents

(1) The OHS SCP must be consistent with the applicable ACP as discussed in 40 CFR 300.210(c). To obtain a copy of the local ACP, installations located in the inland zone should contact the appropriate EPA regional office while installations located in the coastal zone should contact the appropriate Coast Guard COTP. Figures 7-4 and 7-5 at the end of this chapter display the EPA Regions and Coast Guard Districts, respectively.

(2) The SCP should be compatible and coordinated with the LEPC's Comprehensive Emergency Response Plan for the adjacent community. Compatibility is important because a Marine Corps incident could threaten surrounding areas, and local agencies may need to request trained Marine Corps response personnel to assist during a nonmilitary incident. Marine Corps installations should contact the LEPC to obtain a copy of its response plan.

(3) The SCP should include information from RCRA facility plans for those facilities located aboard the installation.

d. Plan Certification. Unlike SPCC plans, SCP's do not require certification by a registered PE. However, they must be approved by the installation CG/CO.

e. Plan Amendments. The SCP should be reviewed annually to incorporate any changes which have occurred in facilities aboard the installation, in the response organization, or in related plans.

f. References

(1) The Marine Corps Guidance Manual on Emergency Planning, Preparedness, and Prevention for Oil Spills and Hazardous Substance Releases provides guidance for preparing SCP's.

(2) NFESC offers two publications which provide guidance on developing and implementing SCP's: NEESA 7-029, Part 1, Oil Spill Contingency Planning Manual and NEESA 15-022, Part 1, Hazardous Substance Spill Contingency Planning Manual.

5. RCRA Facility Contingency Plans

a. Purpose. RCRA facility contingency plans exist to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of HW or HW constituents to air, soil, or surface water.

b. Regulated Facilities. Owners and operators of permitted HW TSDF's must develop contingency plans per 40 CFR 264.51.

c. Plan Contents

(1) 40 CFR 264.52 specifies the contingency plan's contents. In particular, the plan must describe the actions that facility personnel must take
to be in compliance with the emergency procedures specified in 40 CFR 264.56.

(2) The contingency plan must include:

(a) Procedures for conducting pre-emergency planning and coordination with outside parties such as the SERC, LEPC, and local emergency response teams.

(b) Personnel roles, lines of authority/command, and lines of communication.

(c) Emergency recognition and prevention schemes.

(d) Safe distances and places of refuge during an emergency situation.

(e) Site security and access control.

(f) Evacuation routes and procedures.

(g) Decontamination procedures.

(h) Emergency medical treatment and first aid.

(i) Emergency alert and response procedures.

(j) Use of personal protective equipment and emergency equipment.

(k) Critique of response actions and follow-up discussions.

(3) If the activity already has a certified oil SPCC plan which complies with applicable requirements in 40 CFR 112.7, or a compliant OHS SCP, the existing plan can be amended, as noted in 40 CFR 264.52(b), to incorporate HW management provisions into the existing oil SPCC plan.

(4) The contingency plan also should incorporate the Occupational Safety and Health (OSH) Act requirements in 29 CFR 1910.120(p) for an emergency
response plan to protect facility operators.

d. Plan Certification

(1) If the contingency plan is incorporated into an oil SPCC plan, it must be recertified by a registered PE. Subsequently, the plan must be reviewed, updated, and recertified by a registered PE at 3-year intervals.

(2) If the contingency plan is incorporated into an OHS SCP, it does not require certification by a registered PE. However, it must be approved by the installation CG/CO.

e. Plan Availability

(1) As required by 40 CFR 264.53, maintain complete copies of the contingency plan at the subject facility and submit it to all local police and fire departments, hospitals, and state and local emergency response teams which may provide assistance.

(2) Provide copies of the plan to the installation fire department, the Provost Marshal’s Office, the explosive ordnance demolition detachment, the Navalhospital or health clinic, and the public affairs office.

f. Plan Amendments. Under 40 CFR 264.54, the owner or operator of a facility must amend its contingency plan whenever one of the following occurs:

(1) The facility permit is revised;

(2) The plan fails in an emergency;

(3) The facility changes in its design, construction, operation, maintenance, or other circumstance in a manner that materially increases the potential for fires, explosions, or releases of HW or HW constituents, or in a manner that changes the type of emergency response necessary;

(4) The list of emergency coordinators changes; or

(5) The list of emergency equipment changes.

g. Reference. Activities can use the Hazardous Substance Spill Prevention
Planning Manual (NEESA 15-030), published by NFESC, to incorporate HW management
provisions into an existing SPCC plan or OHS SCP.

6. CAA Risk Management Program

a. Purpose. A CAA risk management program provides facilities with an integrated approach to identifying and managing the hazards to human health or the environment posed by the CAA-regulated substances. The 40 CFR 68.130 contains the list of regulated substances and thresholds for accidental release.

b. Facilities Required to Implement a Risk Management Plan (RMP)

(1) As required in the 40 CFR 68.10(a), an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under 40 CFR 68.115, must comply with the
RMP requirements no later than the latest of the following dates: a) June 21, 1999; b) 3 years after the date on which a regulated substance is first listed under 40 CFR 68.130; or c) the date on which a regulated substance is first present above a threshold quantity in a process.

(2) Covered facilities fall into one of three program categories, as specified in 40 CFR 68.10: a) Program 1 for

facilities with low risk, b) Program 2 for facilities with moderate risk, and c) Program 3 for facilities with high risk, such as petroleum refineries, chemical manufacturing plants, and pulp mills.

(3) A Marine Corps facility is eligible for Program 1, as provided in 40 CFR 68.12(b), if it meets all of the following requirements: a) For the 5 years prior to the submission of an RMP, the process has not had an accidental release of a regulated substance where exposure to the substance, its reaction products, overpressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance led to any of the following off site: death, injury, or response or restoration activities for an exposure of an environmental receptor; b) the distance to a toxic or flammable endpoint for a worst-case release assessment conducted under subpart B, and 40 CFR 68.25, is less than the distance to any public receptor, as defined in 40 CFR 68.30; and c) emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.

(4) When a covered process no longer meets the eligibility criteria of its program level, the owner or operator must comply with the requirements of the new Program level that applies to the process and update RMP as provided in 40 CFR 68.190.

(5) Under the general requirements specified in 40 CFR 68.12, the owner or operator of a covered stationary source must submit a single RMP, as provided in 40 CFR 68.150 to 68.185. Additional requirements for each of the three program requirements also are contained in 40 CFR 68.12. The RMP must include a registration that reflects all covered processes.

(6) The owner or operator of a stationary source with processes subject to Program 2 or Program 3 must develop a management system to oversee the implementation of the RMP elements, as required in 40 CFR 68.15.

c. Hazard Assessment

(1) Subpart B of 40 CFR 68 contains requirements for conducting a hazard assessment for each regulated substance present at the stationary source
above the threshold quantity. The purpose of each hazard assessment is to evaluate the impact of significant accidental releases of regulated substances on the public and environment.

(2) Program 1 facilities must analyze and report in the RMP one worst-case release scenario for each Program 1 process as provided in 40 CFR 68.25 and must complete the 5-year accident history as provided in 40 CFR 68.42. The owner or operator of a Program 2 or 3 process must comply with all Sections in Subpart B for these processes.

d. Release Prevention Programs. Covered facilities must implement a multi-element prevention program tailored to suit the degree of hazards present at the source and the degree of complexity of the source's operations. While Program 1 facilities have no such requirements, 40 CFR 68 Subparts, for Program 2 and Program 3 Prevention Programs, specify the requirements.

e. Emergency Response Program. Subpart E contains emergency response requirements for Program 2 and Program 3 facilities. An emergency response program is required to prepare for response to, and mitigation of, accidental releases in order to limit the severity of such releases and their impact on the public health and environment.

f. Regulated Substances for Accidental Release Prevention. Subpart F designates substances to be listed under section 112(r)(3), (4), and (5), of the CAA; identifies their threshold quantities; and establishes the requirements for petitioning to add or delete substances from the list.

g. RMP

(1) The owner or operator must submit to a central point a single RMP in a method and format to be specified by the EPA prior to June 21, 1999, that includes the information required by subpart G for all covered processes. The facility owner or operator must submit the first RMP no later than the latest of the following dates: a) June 21, 1999, b) 3 years after the date on which a regulated substance is first listed under 40 CFR 68.130, or c) the date on which a regulated substance is first present above a threshold quantity in a process. Subsequent submissions of RMP's must be per 40 CFR 68.190.

(2) The RMP must exclude classified information. Classified data or information excluded from the RMP may be made available in a classified annex to the RMP for review by Federal and state representatives who have received the appropriate security clearances.

h. Recordkeeping, Public Information, Air Permit, and Auditing Requirements

(1) The stationary source owner or operator must develop and maintain for 5 years records supporting the implementation and development of the RMP as specified in 40 CFR 68.200.

(2) Although 40 CFR 68.210 requires that the RMP be made available to the public, Marine Corps facilities do not have todisclose classified information except as controlled by applicable laws, regulations, or EO's concerning its release.

(3) Permit content and air permitting authority or designated agency requirements apply to any stationary source subject to 40 CFR 68 and 40 CFR 70 or 71. These requirements are specified in 40 CFR 68.215.

(4) The implementing agency can conduct periodic audits of the RMP, in addition to enforcement inspections, as specified in 40 CFR 68.220.

7. EPCRA Reporting. In compliance with EO 12856, August 3, 1993, all Federal agencies are required to comply with the provisions in sections 301-304 and 311-313 of EPCRA, all implementing regulations, and future amendments.

a. EPCRA Section 301. Section 301 requires the establishment of state emergency response commissions, emergency planning districts, and local emergency planning committees. In designating emergency planning districts, the state emergency response commissions must indicate which facilities subject to EPCRA are within the planning district and appoint the members of the local emergency planning committee for each emergency planning district. Marine Corps facilities subject to EPCRA reporting requirements must be represented on the local committee. Responsibilities of the local emergency planning committee are to provide public notification of committee activities, hold public meetings to discuss the emergency plan, receive and respond to public comments on the plan, receive and process requests for information, and distribute the emergency plan.

b. EPCRA Section 302. A facility that has present on site any EHS in a quantity equal to or greater than the applicable threshold planning quantity (TPQ) will provide one-time notification to the SERC and LEPC that the facility is subject to

the emergency planning requirements of EPCRA for that substance. Notification must include the facility name, facility emergency coordinator and alternate, and business and home phone numbers of these personnel. Thereafter, if an EHS becomes present at the facility in excess of its TPQ, or if the EHS list is revised and the facility has present an EHS in excess of the TPQ, the facility will amend the original notification to the SERC and LEPC to include the additional substance within 60 days.

c. EPCRA Section 303. A covered facility will provide any emergency planning information requested by the LEPC, to the extent practical, while taking into consideration national security issues. At a minimum, a facility subject to EPCRA reporting requirements will appoint a facility emergency coordinator, a facility representative to serve as a liaison with the LEPC.

d. EPCRA Section 304. A facility where an EHS or HS is used or stored will provide an immediate verbal, and a written follow-up, notice as soon as practical of a substance released over a 24-hour period, to any environmental media, that exceeds the established RQ to all SERC's and all LEPC's for areas likely to be affected by the release. This notice does not relieve the facility of any notification requirements covered under other environmental regulations. Releases that result in exposure to personnel solely within the boundaries of the facility do not require notification to the LEPC or SERC, regardless of whether the RQ for the substance was exceeded.

e. EPCRA Section 311. A facility is required to submit applicable Material Safety Data Sheets (MSDS), or a list of the hazardous chemicals (HC) present on site grouped by hazard category, to the SERC, LEPC, and the fire department with jurisdiction over the facility 1) if the HC's present on site are greater than or equal to 10,000 pounds, or the HC's are EHS's and the amount present on site is greater than or equal to 500 pounds (or 55 gal), or its TPQ (whichever is less), and 2) the HC's present on site require an MSDS under the OSH Act. If a newly identified chemical is discovered at the facility, an MSDS or revised list submission must be submitted within 3 months to the SERC, LEPC, and the local fire department.

f. <u>EPCRA Section 312</u>. A facility meeting section 311 reporting requirements must submit an annual Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II) for applicable HC's. The annual submission is due by March 1 for the previous calendar year.

g. EPCRA Section 313. A facility meeting section 313 reporting requirements must annually submit a Toxics Release Inventory Report (RCS DD-5090-04). The annual submission is due by July 1 for the previous calendar year. See chapter 15 of this Manual for a further discussion of section 313 requirements.

8. Response Training and Exercises

a. Training Requirements

(1) Train Marine Corps installation response personnel in compliance with the OSH Act requirements specified in 29 CFR 1910.120(e).

(2) For SPCC plans, per 40 CFR 112.7(e)(10), owners/operators must train personnel regarding applicable pollution control requirements and to operate and maintain equipment to prevent the discharge of oil.

(3) For oil facility response plans, the following training requirements apply to each facility:

(a) Nontransportation-related onshore facilities regulated by the EPA, per 40 CFR 112.21(b), must develop and implement a facility response training program. 40 CFR 112.21(b) recommends basing the program upon the Coast Guard' Training Elements for Oil Spill Response, as applicable to oil facility operations.

(b) For marine transportation-related facilities regulated by the Coast Guard, 33 CFR 154.1050 identifies training requirements for facility response personnel.

(c) For bulk packaging containing less than 42,000 gal of oil regulated by RSPA, per 49 CFR 171.5(b), the response plan need not describe the training for response personnel.

(d) For onshore oil pipelines, per 49 CFR 194.117, operators must conduct appropriate training for each individual with responsibilities under the plan and must maintain proper records for this training.

(4) The 40 CFR 300 does not specify training requirements for OHSSCP's.

(5) For RCRA facility contingency plans, the 40 CFR 264.16 specifies requirements for training HW facility personnel.

(6) For CAA risk management programs, the 40 CFR 68.54 and 68.71, respectively, provide training requirements as part of the Program 2 and Program 3 prevention programs. In addition, the 40 CFR 68.9(e) would require the facility owner or operator to train all employees in relevant emergency response procedures and to document that training.

(7) The 40 CFR 355 or 370 does not specify training requirements for facilities subject to EPCRA.

b. Facility Response Plan Exercises

(1) The 40 CFR 112 does not specify exercise requirements for facilities with SPCC plans.

(2) For oil facility response plans, facility drilling and exercise requirements follow:

(a) For nontransportation-related onshore facilities regulated by the EPA, the 40 CFR 112.21(c) requires the facility owner or operator to develop a program of facility response drills/exercises, including evaluation procedures. A program that follows the National Preparedness for Response Exercise Program (PREP) meets this requirement.

(b) For marine transportation-related facilities regulated by the Coast Guard, 33 CFR 154.1055 identifies drill requirements which must be included within the facility response plan.

(c) For bulk packaging containing less than 42,000 gal of oil regulated by RSPA, 49 CFR 171.5(b) does not require drill information in the response plan.

(d) For onshore oil pipelines, 49 CFR 194.107(d)(1)(ix) requires the facility response plan to contain a section on drill procedures.

(3) Although the NCP, per 40 CFR 300.212, requires OSC’s to conduct periodic drills of removal capability without prior notice, these requirements are designed for Federal OSC’s in areas for which ACP’s are required. Marine Corps OSC’s, however, should conduct annual "no notice" drills to ensure that their OSCDR’s and OSOT’s are prepared to respond to OHS releases.

(4) No exercise requirements are specified for RCRA facility contingency plans. However, 40 CFR 264.33 requires testing of facility alarm and communications systems, fire protection and spill control equipment, and decontamination equipment in order to ensure proper operation.

(5) 40 CFR 68.9(f) provides drilling requirements to test and inspect emergency response equipment used for CAA risk management programs.

(6) 40 CFR 355 or 370 does not specify exercise requirements for facilities subject to EPCRA.

c. Reference. The PREP Guidelines (Government Printing Office (GPO) Stock No. 050-012-00365-3) establish consistent national standards for all exercises and minimum guidelines for ensuring overall preparedness within the response community. Order these guidelines by contacting the GPO at (202) 512-1800, or via the Internet at http://www.access.gpo.gov/index.html.

9. Release Notification Requirements

a. Release Notification under the CWA

(1) The EPA regulations in the 40 CFR 110.10 and 40 CFR 117.21 specify the CWA notification requirements for oil discharges and HS releases, respectively. Immediately report all harmful quantity oil discharges and all RQ HS releases to waters of the United States from a vessel, offshore facility, or onshore facility to the NRC at Coast Guard Headquarters at (800) 424-8802 or (202) 267-2675 by voice communication.

(a) Harmful quantities of oil (and oil-derived POL) discharged to navigable waters are those amounts which, according to 40 CFR 110.3, violate applicable water quality standards, cause a film on, sheen upon, or discoloration of the water surface or adjoining shorelines, or cause sludge or emulsion to be deposited beneath the water surface or upon adjoining shorelines.

(b) The EPA regulations in 40 CFR 116.4 and 40 CFR 117.3 specify the HS designated under the CWA and their RQ’s, respectively.

(2) Do not delay notification for lack of information or for the RQ to be reached when the release cannot be stopped in a timely manner. Immediately voice notify the NRC, thereby

fulfilling Federal notification requirements and ensuring that the predesignated EPA or Coast Guard Federal OSC will be notified. Per Coast Guard regulations in 33 CFR 153.203, if direct reporting to the NRC is not practicable, report directly to the Coast Guard or EPA predesignated OSC for the geographic area in which the discharge occurs. If the NRC or OSC cannot be notified immediately, contact the applicable EPA regional office or nearest Coast Guard station.

(3) For OCONUS Marine Corps activities, international oil pollution laws require that marine oil spills which impact, or may impact, the waters or shoreline of any coastal nation must be reported immediately to proper authorities in that nation.

b. Release Notification under CERCLA

(1) The EPA regulations in 40 CFR 302.6 specify the notification requirements for CERCLA HS releases. Immediately report all RQ HS releases from a vessel, offshore facility, or onshore facility to the NRC at Coast Guard Headquarters at (800) 424-8802 or (202) 267-2675 by voice communication.

(2) The EPA regulations in the 40 CFR 302.4 and 40 CFR 302.5 specify the HS designated under CERCLA and their RQ's, respectively.

c. Emergency Release Notification under RCRA

(1) As required in the 40 CFR 264.56(a), the RCRA facility emergency coordinator must notify appropriate state or local emergency agencies if their assistance is needed in the event of an imminent or actual emergency.

(2) If the facility has had a release, fire, or explosion which could threaten human health or the environment outside the facility, the 40 CFR 264.56(b) requires the emergency coordinator to notify appropriate local authorities if an evacuation of the local area may be advisable. Additionally, the emergency coordinator must notify the CG/CO, as the Federal OSC for Marine Corps HS releases. The 40 CFR 264.56(d)(2) provides requirements for notifying the NRC of the release.

(3) Title 40 CFR 264.56(j) requires the facility to provide a written report to the EPA Regional Administrator within 15 days of the release.

d. Release Notification under the CAA

(1) The 40 CFR 68 does not contain specific release notification requirements for accidental releases of HC's. However, the 40 CFR 68.95(a)(1)(i), requires the emergency response plan to include notification procedures for informing the public and emergency response agencies about such releases.

(2) The EPA regulations in 40 CFR 68.130 specify the list of CAA-regulated substances and thresholds for accidental release prevention.

e. Emergency Release Notification under EPCRA

(1) As required in the 40 CFR 355.40, Marine Corps-owned and operated facilities which release an RQ of any EHS or CERCLA HS must immediately notify the local community emergency coordinator for the LEPC of any area likely to be affected by the release and the SERC of any state likely to be affected. A written follow-up emergency notice is required as soon as practicable after the release. Commanders whose units release an RQ of any EHS or CERCLA HS at a location other than a DoD-owned and operated facility must immediately notify the local community emergency coordinator for the LEPC of any area likely to be affected by the release and the SERC of any state likely to be affected.

(2) The 40 CFR 355.40(b) identifies specific required elements to be included in the notice.

(3) Appendix A of 40 CFR 355 specifies the RQ's of EPCRA EHS's.

f. UST Releases. For UST releases, refer to chapter 18 of this Manual.

10. Response Requirements

a. Responsible Party. The party responsible for the release must take all necessary actions to contain and recover the release, if possible, and to mitigate natural resource damages. The responsible party is responsible financially for all response and restoration costs, whether incurred by it or another party. If a local government entity responds to an HS release aboard a Marine Corps installation, the 40 CFR 310 specifies procedures for reimbursing the local government for its

expenses in connection with the response. Figure 7-6 of this chapter displays the response process provided in the NCP.

b. ICS. As required by the OPA, the Marine Corps will use the ICS to facilitate coordination with its own, contractor, and regulatory personnel and the public during a spill event. Figure 7-7 of this chapter displays the structure of the ICS.

c. Oil Discharges

(1) The Marine Corps must respond to the discharge and coordinate response efforts with the Federal OSC. The EPA is the predesignated Federal OSC in the inland zone, and the Coast Guard is the Federal OSC in the coastal zone. The Federal OSC will monitor the response efforts of the Marine Corps and, if necessary, will advise the Marine Corps of appropriate actions. The Federal OSC may direct or take charge of response efforts if the Marine Corps response is determined to be inadequate. Subpart D of the 40 CFR 300 outlines the operational response phases for oil removal. These phases are as follows: (I) discovery or notification; (II) preliminary assessment and initiation of action; (III) containment, countermeasures, cleanup, and disposal; and (IV) documentation and cost recovery.

(2) Conduct the response in accordance with the oil facility response plan. The primary response asset available to the CG/CO is the activity's oil OSOT.

d. HS Releases

(1) The CWA, OPA, and CERCLA require the Marine Corps, as the responsible party, to contain, mitigate, and remove the release. As the Federal OSC for its HS releases, the Marine Corps CG/CO, through the OSCDR, directs the Federal response effort, including coordination with concerned Federal, state, and local authorities. Subpart E of the 40 CFR 300 outlines the procedures for HS response. These procedures include discover or notification, removal site evaluation, and removal actions. Conduct the response in accordance with the appropriate response plan. As with oil spills, the primary response asset available to the CG/CO is the activity's HS OSOT.

(2) Under RCRA, the 40 CFR 264.56(e) - (h) specifies response requirements to imminent or actual emergency situations.

(3) Under the CAA, the 40 CFR 68.9 contains the requirements for emergency response to releases of listed chemicals.

(4) Under EPCRA, the 40 CFR 355 has no response requirements.

11. Non-DoD Release Response

a. Local Releases

(1) Local non-DoD OHS releases can require responses by Marine Corps personnel and equipment. Some releases can originate off the installation and threaten to migrate onto it. Other releases may originate from a commercial pipeline, tank car on a railroad, or tank truck on a highway which directly cross Marine Corps property through an easement. In any of these cases, Marine Corps assets may be the closest responders.

(2) The installation CG/CO represents the SecDef as the trustee for natural resources located aboard the installation. In this role, the CG/CO may need to activate installation response assets or simply monitor the response being conducted by the responsible party. Paragraph 7104.12 below outlines procedures for assessing the damages to natural resources resulting from OHS releases.

b. Assistance to Federal OSC. In 40 CFR 300.175(b)(4), the NCP specifies DoD's responsibilities for responding to non-DoD releases when requested by the Federal OSC. As a participating NRT member, the DoD and its component services must provide any assistance requested by the Federal OSC in responding to OHS releases.

12. Marine Corps Natural Resource Trustee Responsibilities

a. Trusteeship. In the 40 CFR 300.600, the NCP assigns responsibilities to Federal officials for the protection of natural resources that are held in trust by the Federal Government for the public. The SecDef is responsible for natural resources located on, over, or under land administered by the DoD. Consequently, the installation commander is responsible for protecting natural resources aboard Marine Corps installations from any environmental damage, including OHS releases.

b. Natural Resource Damage Assessment (NRDA)

(1) As a trustee of Federal natural resources, the Marine Corps must assess the amount of damage suffered due to OHS spills using the appropriate NRDA procedures. Installation commanders and their staffs must use these procedures to determine the extent of injuries to the environment, determine the value of natural resources loss, develop a restoration plan, select a preferred alternative, and present the plan to the responsible party for implementation or to fund the trustee's costs of implementing the plan. Following the procedures will provide the installation with a defensible plan and a rebuttable presumption should the responsible party decline to settle a claim and litigation becomes necessary to recover monetary damages. Damages may be recovered for those natural resource injuries and losses that are not fully remediated by response actions. All money recovered in compensation for natural resource injuries must be used to restore, rehabilitate, replace, or acquire the equivalent of injured natural resources. Trustee officials may also recover the reasonable costs of assessing natural resource damages and any prejudgment interest.

(2) In 43 CFR 11, the DOI published the required procedures under CERCLA for assessing natural resource damages resulting from a discharge of oil or an HS release. Two types of NRDA's have been developed by the DOI. The type A assessment involves standard procedures for a simplified assessment requiring minimal field observations. The type B assessment involves site-specific procedures for detailed assessments in individual cases. Under both NRDA types, assessments consist of the following four phases:

(a) Assessment Phase I. Involves the activities that precede the actual assessment. Trustee officials, once notified of a discharge or release, perform a preassessment screening to ascertain whether further assessment actions are warranted. Subpart B of 43 CFR 11 describes this phase.

(b) Assessment Phase II. Involves the preparation of an Assessment Plan, which is subject to public review and comment. The Assessment Plan assists the involvement of potentially responsible parties, other trustee officials, the general public, and other interested parties. Subpart C of 43 CFR 11 describes the procedures used to develop an Assessment Plan.

(c) Assessment Phase III. Trustee officials conduct the work described in the Assessment Plan. The work involves three steps: injury determination, quantification, and damage determination. Subparts D and E of 43 CFR 11 describe the procedures for conducting type A and type B assessments.

(d) Assessment Phase IV. Whether a type A or type B assessment, this phase consists of post-assessment activities such as preparation of a report of assessment, establishment of an account for damage assessment awards, and development of a restoration plan for use of the awards. Subpart F of 43 CFR 11 describes the procedures used for this phase.

(3) In 15 CFR 990, the NOAA published required procedures for assessing natural resource damages resulting from a discharge of oil or an HS release to navigable waters under OPA and the CWA. These regulations discuss the meaning of a rebuttable presumption, coordination procedures, considerations for facility restoration, legal authorities and relationships with CERCLA and the NCP, complying with the National Environmental Policy Act and its implementing regulations, settlement procedures, and provisions for emergency restoration. Unlike the DOI's four-phase NRDA procedures, the NOAA NRDA has the following three phases:

(a) Preassessment Phase. This phase requires the trustee officials to determine whether natural resources or services have been injured by the discharge or release. If response actions are not expected to eliminate the threat of ongoing injury, and feasible restoration alternatives exist, trustees should proceed with the assessment. Subpart D of 15 CFR 990 outlines jurisdiction, the determination to conduct restoration planning, data collection procedures, filing a Notice of Intent to conduct restoration planning, and maintaining an Administrative Record.

(b) Restoration Planning Phase. This phase evaluates potential injuries to natural resources and services and uses that information to determine the need for, and scale of, restoration actions. Subpart E describes injury assessment determination and quantification, developing and evaluating restoration alternatives, selecting a preferred alternative, and developing a restoration plan or participating in a regional restoration plan.

(c) Restoration Implementation Phase. Subpart F outlines closing the Administrative Record for restoration

planning, presenting a written demand for damages to the responsible party, resolving unsatisfied demands, and opening an account for recovered damages.

(4) If a discharge or release of a mixture of oil and HS injures natural resources and/or services, trustees must use 43 CFR 11 regulations to obtain a rebuttable presumption.

(5) Trustees may request assistance for conducting an NRDA from the local USFWS representative and the NOAA regional scientific support coordinator.

7105. TERMS AND DEFINITIONS

1. Aboveground Release. Any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of a UST system and aboveground releases associated with overfills and transfer operations as a regulated substance moves to or from a UST system (40 CFR 280).

2. Adverse Weather. The weather conditions considered by the facility operator in identifying the response systems and equipment to be deployed in accordance with a response plan, including wave height, ice, temperature, visibility, and currents within the inland or coastal response zones in which those systems or equipment are intended to function (49 CFR 194).

3. Analysis of Off-Site Consequences. A qualitative or quantitative analysis of a range of accidental releases, including worst case releases, to determine off-site effects including potential exposures of affected populations (40 CFR 68).

4. Below-Ground Release. Any release to the subsurface of the land and to groundwater. This includes, but is not limited to, releases from the below-ground portions of a UST system and below-ground releases associated with overfills and transfer operations as a regulated substance moves to or from a UST system (40 CFR 280).

5. Coastal Zone. All United States waters subject to the tide, United States waters of the Great Lakes and Lake Champlain, specified ports and harbors on inland rivers, waters of the contiguous zone, other waters of the high seas subject to the

NCP, and the land surface or land substrate, groundwaters, and ambient air proximal to those waters (49 CFR 194).

6. Complex. A facility possessing a combination of transportation-related and nontransportation-related components that is subject to the jurisdiction of more than one Federal agency under section 311(j) of the CWA (40 CFR 112).

7. Contiguous Zone. The entire zone established or to be established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (40 CFR 110).

8. Contract or Other Approved Means

a. A written contract or other legally binding agreement between the operator and a response contractor or other spill response organization identifying and ensuring the availability of the specified personnel and equipment within stipulated response times for a specified geographic area;

b. Certification that specified equipment is owned or operated by the pipeline operator, and that operator personnel and equipment are available within stipulated response times for a specified geographic area; or

c. Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment to be available within stipulated response times for a specified geographic area (49 CFR 194). (A similar definition for facilities is provided in 40 CFR 112.)

9. Discharge. Includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, but excludes the following:

a. Discharges in compliance with a permit under section 402 of the CWA;

b. Discharges resulting from circumstances identified, reviewed, and included as part of the public record with respect to a permit issued or modified under section 402 of the CWA and subject to a condition in such permit; and

c. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the CWA, that are caused by events occurring

within the scope of relevant operating or treatment systems (40 CFR 110).

d. For purposes of the NCP, discharge also means threat of discharge.

10. Dispersant. Those chemical agents that emulsify, disperse, or solubilize oil into the water column or promote the surface spreading of oil slicks to facilitate dispersal of the oil into the water column (40 CFR 300).

11. EHS. Any substance listed in appendix A or B of 40 CFR 355.

12. Facility. All buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person who controls, is controlled by, or under common control with, such person). Includes man-made structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft (40 CFR 355).

13. Fish and Wildlife and Sensitive Environments. Areas that may be identified by either their legal designation or by evaluations of Area Committees (for planning) or members of the Federal OSC's spill response structure (during responses). These areas may include wetlands, National and state parks, critical habitats for endangered/threatened species, wilderness and natural resource areas, marine sanctuaries and estuarine reserves, conservation areas, preserves, wildlife areas, wildlife refuges, wild and scenic rivers, recreational areas, national forests, Federal and state lands that are research national areas, heritage program areas, land trust areas, and historic and archaeological sites and parks. These areas may also include unique habitats such as aquaculture sites and agricultural surface water intakes, bird nesting areas, critical biological resource areas, designated migratory routes, and designated seasonal habitats (40 CFR 112).

14. Foreign Areas. Any countries, territories, or jurisdictions not contained under United States areas or waters when used in relation to section 311(a)(5) of the CWA and section 101(27) of CERCLA.

15. HC. Any chemical that is a physical or health hazard as defined under 29 CFR 1910.1200(c), except that such term does not include the following substances:

a. Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration;

b. Any substance present as a solid in any manufactured item to the extent
exposure to the substance does not occur under normal conditions of use;

c. Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;

d. Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual; or

e. Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer (40 CFR 355).

16. HM

a. Any substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and which has been so designated. The term includes HS, HW, marine pollutants, and elevated temperature materials as defined in 49 CFR 171, materials designated as hazardous under the provisions of 49 CFR 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR 173.

b. Any other hazard-specific guidance (instructions or directives) takes precedence over this instruction for control purposes of HM. Such materials include ammunition, weapons, explosives and explosive-actuated devices, propellants, pyrotechnics, chemical and biological warfare materials, medical and pharmaceutical materials, medical waste and infectious materials, bulk fuels, radioactive materials, and other materials such as asbestos and mercury. These materials should also be considered hazardous, and personnel exposure may occur incident to manufacture, storage, use, and demilitarization of these items.

17. HS

a. As defined by section 101(14) of CERCLA, an HS is:

(1) Any substance designated pursuant to section 311(b)(2)(A) of the CWA;

(2) An element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA;

(3) Any HW having the characteristics identified under RCRA or listed pursuant to section 3001 of SWDA, but not including any waste that has been suspended by an act of Congress;

(4) Any toxic pollutant listed under section 307(a) of the CWA;

(5) Any hazardous air pollutant listed under section 112 of the CAA;

(6) Any imminently hazardous chemical substance or mixture with respect to which the EPA Administrator has taken action pursuant to section 7 of TSCA;

(7) The term does not include petroleum, including crude oil or any fraction thereof, that is not otherwise specifically listed or designated as an HS in the first sentence of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) (40 CFR 300).

b. As defined by 49 CFR 171, an HS is a material, including its mixtures and solutions, that:

(1) Is listed in appendix A to 49 CFR 172.101;

(2) Is in a quantity, in one package, which equals or exceeds the RQ listed in appendix A to 40 CFR 172.101; and

(3) When in a mixture or solution

(a) For radionuclides, conforms to paragraph 6 of appendix A to 49 CFR 172.101(3)(ii), and

(b) For other than radionuclides, is in a concentration by weight which equals or exceeds the concentration

corresponding to the RQ of the material, as shown in the table provided in 49 CFR 171.8 (49 CFR 171).

18. Injury. A measurable adverse change, either long- or short-term, in the chemical or physical quality or the viability of a natural resource resulting either directly or indirectly from exposure to a discharge of oil or exposure to a product of reactions resulting from a discharge of oil (40 CFR 122).

19. Inland Area. The area shoreward of the boundary lines defined in 46 CFR 7. In the Gulf of Mexico, it means the area shoreward of the lines of demarcation defined in 33 CFR 80.740-80.850. The inland area does not include the Great Lakes (49 CFR 194).

20. Inland Zone. The environment inland of the coastal zone excluding the Great Lakes, Lake Champlain, and specified ports and harbors on inland rivers (49 CFR 194).

21. Maximum Extent Practicable

a. The limitations used to determine oil spill planning resources and response times for on-water recovery, shoreline protection, and cleanup for worst case discharges from onshore nontransportation-related facilities in adverse weather (40 CFR 112).

b. The planned capability to respond to a worst case discharge in adverse weather, as contained in a response plan that meets the criteria in this subpart or in a specific plan approved by the cognizant COTP (33 CFR 154).

c. The limits of available technology and the practical and technical limitations on a pipeline operator in planning the response resources required to provide the on-water recovery capability and the shoreline protection and cleanup capability to conduct response activities for a worst case discharge from a pipeline in adverse weather (49 CFR 194).

22. Mitigation System. Specific equipment, substances or personnel designed or deployed to mitigate an accidental release (40 CFR 68).

23. NRT. Responsible for national response and preparedness planning, for coordinating regional planning, and for providing policy guidance and support to Regional Response Teams in addressing oil discharges and releases of HS's, pollutants, or

contaminants. The NRT's membership consists of representatives from 14 Federal agencies including the DoD.

24. Natural Resources. The land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the Exclusive Economic Zone), any state or local government or Indian tribe, or any foreign government (15 CFR 990).

25. Navigable Waters. The waters of the United States, including the territorial seas. This term includes:

a. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

b. Interstate waters, including interstate wetlands;

c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes,

(2) From which fish or shellfish are or could be taken and sold in interstate commerce,

(3) Which are or could be used for industrial purposes by industries in interstate commerce, and

d. All impoundments of waters otherwise defined as navigable waters under this paragraph;

e. Tributaries of waters identified above, including adjacent wetlands; and

f. Wetlands adjacent to waters identified above (40 CFR 112).

26. Off Site. Areas beyond the property boundary of the stationary source or areas within the property boundary to which the public has routine and unrestricted access (40 CFR 68).

27. Oil. Oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, vegetable oil, animal oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil (49 CFR 194).

28. Oil Spill Removal Organization. An entity that provides response resources (49 CFR 194).

29. OSC. The single Federal representative designated pursuant to the NCP and identified in approved Regional Oil and Hazardous Substances Pollution Contingency Plans (40 CFR 113).

30. Onshore Facility. Any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States, other than submerged land (40 CFR 110).

31. Qualified Individual. An English-speaking representative of an owner/operator, located in the United States, available on a 24-hour basis, with full authority to activate and contract with required oil spill removal organization(s), activate personnel and equipment maintained by the operator, act as a liaison with the OSC, and obligate any funds required to carry out all required or directed oil response activities (49 CFR 194).

32. Release. Under EPCRA, it includes pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any HC, EHS, or CERCLA HS (40 CFR 355).

33. Remove or Removal. The removal of oil from the water and shorelines or any necessary actions taken by the Federal OSC to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches (40 CFR 113).

34. RQ

a. Quantities that may be harmful as set forth in 40 CFR 117.3, the discharge of which is a violation of CWA section

311(b)(3) and requires notice as set forth in 40 CFR 117.21 (40 CFR 117).

b. That quantity, as set forth in 40 CFR 302, the release of which requires notification pursuant to 40 CFR 302.

c. For any CERCLA HS, the RQ established in table 302.4 of 40 CFR 302, for such substance. For any other substance, the RQ is 1 pound (40 CFR 355).

d. The quantity specified in column 3 of the appendix to 49 CFR 172.101 for any material identified in column 1 of that appendix (49 CFR 171).

35. Response Activities. The containment and removal of oil from the water and shorelines, the temporary storage and disposal of recovered oil, or actions taken to minimize or mitigate damage to the environment (49 CFR 194).

36. Responsible Party

a. In the demise of a vessel, any person owning, operating, or chartering the vessel;

b. In the case of an onshore facility (other than a pipeline), any person owning or operating the facility, except a Federal agency, state, municipality, commission, or political subdivision of a state, or any interstate body, that as the owner transfers possession and right to use the property to another person by lease, assignment, or permit;

c. In the case of a pipeline, any person owning or operating the pipeline (15 CFR 990).

37. Restoration. Any action (or alternative), or combination of actions (or alternatives), to restore, rehabilitate, replace, or acquire the equivalent of injured natural resources and services (15 CFR 990).

38. Sheen. An iridescent appearance on the surface of water (40 CFR 110).

39. Significant Accidental Release. Any accidental release of a regulated substance that has caused or has the potential to cause off-site consequences such as death, injury, or adverse effects to human health or the environment or to cause the public to seek shelter or be evacuated to avoid such consequences (40 CFR 68).

40. Spill Event. A discharge of oil into or upon the navigable waters of the United States, or adjoining shorelines in harmful quantities, as defined in 40 CFR 110 (40 CFR 112).

41. Spill Management Team. The personnel identified to staff the organizational structure identified in a response plan to manage response plan implementation (33 CFR 155).

42. Territorial Seas. The belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 (nautical) miles (40 CFR 116).

43. TPQ. The established amount of an EHS, which when present on site at a facility in excess of the threshold limit, requires reporting under EPCRA sections, 302, 311, and 312. TPQ's are listed in appendices A and B of 40 CFR 355.

44. United States. The 50 States, District of Columbia, Commonwealth of Puerto Rico, Commonwealth of the Northern Marianas Islands, Guam, American Samoa, and Virgin Islands (40 CFR 110).

45. Value. The maximum amount of goods, services, or money an individual is willing to give up to obtain a specific good or service, or the minimum amount of goods, services, or money an individual is willing to accept to forgo a specific good or service (15 CFR 990).

46. Vessel. Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel (40 CFR 110).

47. Worst Case Discharge. The largest foreseeable discharge of oil, including discharge from a fire or explosion, in adverse weather conditions (49 CFR 194).

48. Worst Case Release. The loss of all of the regulated substance from the process in an accidental release that leads to the worst off-site consequences (40 CFR 68).

CHAPTER 7

EMERGENCY PLANNING AND RESPONSE

SECTION 2: MARINE CORPS POLICY

7200. MARINE CORPS ORGANIZATION FOR PLANNING AND RESPONSE

1. The Marine Corps must plan and prepare fully for oil discharges and HS releases, and when such incidents occur, must undertake immediate, direct action to contain and remove the spill while minimizing any harmful effects to the environment. If appropriate, the Marine Corps will coordinate its response efforts with other DoD commands.

2. Commanders whose activities are subject to the regulations discussed in section 1 of this chapter must establish emergency planning and response policies consistent with this Manual.

3. The installation CG/CO must act as the Federal OSC for HS releases originating on, or from, their installations to include the movement of an HS from the installation until it reaches its destination.

4. Marine Corps installations where OHS spill risks exist must fully train and equip OSOT's to control, contain, and clean up OHS spills. These teams can be supplemented by OHS pollution response contracts or arrangements to access such contracts with trained, ready response contractors who can rapidly respond to spills which are beyond the capability of the OSOT's. All such contracts must be coordinated with the OSC.

7201. RELEASE NOTIFICATION TO THE CMC (LF)

1. In addition to notifying the NRC, SERC, LEPC, and other appropriate agencies, all harmful quantity oil spills and RQ HS releases occurring within the CONUS and OCONUS must be reported to the CMC (LF) within 3 work days.

2. For releases that result in serious environmental harm or that may generate adverse publicity, notify the CMC (LF) within 24 hours of the release by telephone as follows:

a. During duty hours (0700 - 1700 Eastern time), call the CMC (LF) at DSN 426-2138 or commercial 703-696-2138.

b. During nonduty hours, weekends, and holidays, call the CMC duty officer at DSN 255-7366 or commercial 703-695-7366.

3. For less serious releases and to provide more detailed information on serious releases, notify the CMC (LF) via the appropriate chain of command by message using the format in appendix E for oil discharges and HS releases. Use a routine precedence for less serious releases; use a priority precedence for serious releases.

4. For releases involving Marine Corps commands which are tenants of another service or agency or under the operational command of another service (e.g., COMNAVBASE Norfolk), report the release to the host installation environmental office. All Marine Corps commands/units and tenants and non-Marine Corps tenants on Marine Corps property, even if under the operational command of another service, should report the release to the installation environmental office. This includes oil spills as described by 33 CFR 153 for fueling operations.

7202. CONTINGENCY PLANNING

1. Marine Corps installations, including overseas activities, must prepare appropriate contingency plans providing geographic coverage for regulated Marine Corps-owned and -leased land or activities, including outlying or remote airfields, Reserve units, or mobile detachments.

2. Marine Corps installations may use a single contingency plan to meet all the diverse planning requirements but only if the plan meets the NRT’s ICP Guidance.

3. To meet Federal OSC contingency planning requirements, installation plans must identify and prepare for responding to "most probable" incidents and "worst case" discharges, identify Marine Corps, Navy, Federal, and commercial regional response assets, and be coordinated with other applicable Federal OSC plans. To meet state, local, and DoD planning requirements, these plans also must be tailored to the specific functions and risks of the installation.

4. Marine Corps tactical units which transport oil in bulk packaging or operate mobile facilities must provide a copy of the RSPA-required response plan or EPA-required SPCC plan, as appropriate, to the host installation's environmental office. Units deployed to another installation for training must provide a copy of the plan to that installation's environmental office upon arrival.

7203. RESPONSE OPERATIONS

1. Safety is the top priority for all Marine Corps response operations, both CONUS and OCONUS. Do not compromise the safety and health of response personnel at any point during on-scene response. Train all emergency response personnel per the requirements in 29 CFR 1910.120, 29 CFR 1910.38(a), and 29 CFR 1910.146(k).

2. Each installation will conduct response exercises per the applicable regulations and each response plan's requirements. Following the exercise, if necessary, revise the plan to incorporate improvements.

3. The Marine Corps must respond promptly to all Marine Corps OHS releases. For Marine Corps HS releases under CERCLA, the Marine Corps, as the predesignated Federal OSC, directs all required cleanup actions. For Marine Corps oil discharges under the CWA, either the EPA (inland zone) or Coast Guard (coastal zone) is the pre-designated Federal OSC and has statutory authority to assume control of the response if the OSC determines that Marine Corps actions are ineffective or inadequate. Marine Corps policy is to retain control of all Marine Corps OHS pollution responsibilities. This policy is consistent with provisions in the NCP (40 CFR 300) that define Federal agency response requirements. For HS releases under RCRA, the CAA, or EPCRA, the response will be consistent with applicable regulations and the appropriate response plan.

4. Under the terms and conditions of the NCP, the Federal OSC may request Marine Corps response assistance for non-Marine Corps spills. If the Federal OSC seeks Marine Corps assistance, this request will come to the Marine Corps through the DoD representative to the NRT or the RRT. The Marine Corps must respond to these requests to the extent that such response does not compromise essential mission requirements. Marine Corps resources also may respond to OHS releases in adjacent communities under the terms of mutual aid agreements.

7204. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA). Marine Corps policy is to comply with all requirements of EPCRA as required by EO 12856, August 3, 1993. Marine Corps facilities should comply with state EPCRA program requirements to the extent that resources allow, provided that such compliance does not interfere with command mission accomplishment or other legal obligations. The following procedures must be used by all Marine Corps installations in the customs territory of the United States:

1. All facilities must define the facility fenceline and the primary mission of the facility in support of EPCRA requirements. Inter-Service Support Agreements (ISSA) must be updated to reflect the data collection requirements of the tenants to the host.

a. The facility fenceline is most appropriately defined by class I property lines with the fenceline owner responsible for all DoD tenants. The fenceline owner, otherwise known as the "host" command, must file one report for the entire facility for each section of EPCRA requiring a report. Marine Corps facilities are not responsible for reporting actions of non-DoD Federal agencies.

b. The primary mission should be a broad vision of the overall requirements of the installation and should be consistent with the Installation Master Plan.

2. All facilities must determine whether they meet or exceed threshold requirements for an EHS or HS used at the facility. Each Marine Corps facility that exceeds a threshold is subject to the reporting requirements of EPCRA for emergency planning, providing of information, and emergency notification. Host commands must ensure that thresholds are calculated using the entire facility inventory.

a. Each facility that meets or exceeds a TPQ for an EHS must notify the SERC and the LEPC and provide a facility point of contact, telephone number, and an alternate point of contact.

b. Each covered facility must request to participate in local emergency planning functions and must appoint a facility representative to actively serve on the LEPC. As much as possible, each covered facility must provide any emergency planning information requested by the LEPC, while taking into consideration national security issues.

c. Each facility that releases an EHS or HS in excess of the RQ for that substance (into any environmental media) must immediately provide verbal notification to all LEPC's and SERC's in the area(s) likely to be affected. Submit a written follow-up notification of the release and actions taken as soon as practicable after the release. Prepare a standard facility form with approval chain identified to expedite the notification of covered releases. Notify the activity's higher headquarters in message form as soon as possible after the release has occurred.

d. Releases that result in exposure to personnel solely within the boundaries of the facility do not require notification to the LEPC or SERC, regardless of whether the RQ for that substance was exceeded.

3. All facilities must determine whether they meet or exceed threshold requirements for all HC's they possess that require a MSDS. Each Marine Corps facility that exceeds the threshold is subject to the reporting requirements of EPCRA for community right-to-know provisions. Host commands must ensure that thresholds are calculated using the entire facility inventory.

a. In general, if the quantity of an HC is present in amounts equal to or greater than 10,000 pounds (lbs), it is reportable; if the substance is an EHS, and the amount present is equal to or greater than 500 lbs (or 55 gal) or its TPQ, whichever is less, it is also reportable. For each reportable HC, facilities must provide a one-time submission of a copy of the MSDS or a list of reportable HC's, grouped by hazard category, to the LEPC, SERC, and the fire department with jurisdiction over the facility. A hard copy MSDS obtained from the Hazardous Material Information System is sufficient. Submit the MSDS to the fire department that would routinely be the first alerted during an emergency. While this generally would be the fire department located on the installation, it may be a fire department separate from the facility.

b. If a list is submitted, it must contain the following information:

(1) A list of the HC's for which an MSDS is required under OSH Act regulations, grouped by hazard category. That list need only include those chemicals (either in mixtures or in the pure form) that meet or exceed threshold levels.

(2) The HC listed under all applicable hazard categories.

(3) The chemical and common name of each HC as provided on the MSDS.

(4) Amendments to this submission must be made within a 3-month period after significant new information is received.

4. Facilities meeting or exceeding HC threshold requirements must annually submit Emergency and Hazardous Chemical Inventory Forms for those HC's to the LEPC, SERC, and the fire department with jurisdiction over the facility by March 1 covering the previous calendar year's inventory.

a. Facilities may submit either Tier I or Tier II information; however, they are not required to comply with requests to use any form other than the Federal Tier I or Tier II forms.

b. The SERC and the LEPC have the authority to request a Tier II submission for HC's present at the facility below threshold levels if the requester provides a written statement of need.

5. All facilities must determine whether they have exceeded any of the reporting thresholds for toxic chemicals used each calendar year. Each Marine Corps facility that exceeds the threshold is required to complete the Toxic Chemical Release Reporting Form R. Host commands must ensure that thresholds are calculated using the entire facility inventory.

6. Prior to the release of any reports, installations must review the information to prevent the release of classified information. In cases where information regarding the use of a substance is classified, the activity must develop alternative procedures for protecting activity and off-site personnel.

CHAPTER 7

EMERGENCY PLANNING AND RESPONSE

SECTION 3: RESPONSIBILITIES

7300. CMC (LF)

1. Provide information and advice to installation commanders regarding proposed and final rules and regulations pertaining to emergency planning and response and by uniformly applying Marine Corps policy as set forth in this Manual.

2. Advise installation commanders on preparing required plans and conducting response exercises.

3. Provide a representative to attend the NRT meetings.

4. Include requests for resources to meet emergency planning and response requirements in the Program Objectives Memorandum/budget submissions.

5. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

6. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local agencies with regard to emergency planning and response.

7301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for emergency planning and response activities that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with emergency planning and response requirements. Pay appropriate Federal, state, and local fees. Ensure that the environmental management hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

2. Ensure that all required Federal, state, and local permits are applied for and obtained. Sign certifications and permit applications, as required, for construction of all emergency planning and response projects.

3. Ensure that a base or station order or an environmental compliance and protection standard operating procedures (ECPSOP) document is written implementing this chapter. This requirement can be accomplished either by writing an ECPSOP to implement all of the requirements from this Manual or by writing a separate base order to implement this chapter alone.

4. Oversee response efforts for Marine Corps OHS releases within preassigned areas and support other Marine Corps and DoD installation response efforts, as necessary.

a. Serve as the Federal OSC under the NCP for Marine Corps HS releases and, as such, direct the total response effort to the incident.

b. Initiate and direct response operations for Marine Corps oil spills unless officially relieved by the Coast Guard or the EPA Federal OSC.

c. Coordinate response operations with adjacent commands and communities for OHS releases that may impact more than one installation or activity or the surrounding community. Coordinate response operations with the RRT DoD representatives.

5. Notify all required Federal, state, and local agencies of Marine Corps OHS releases and make Marine Corps chain-of-command notifications up to the CMC (LF).

6. Identify and program sufficient funds for hiring and training personnel, conducting exercises and drills, providing, operating, and maintaining response equipment, and constructing facilities required for implementing the installation’s emergency response plans.

7. Develop, review, and update emergency response plans using standard formats consistent with regulatory requirements.

a. Ensure that SPCC plans are up-to-date and reviewed at least every 3 years and recertified by a PE if structural changes affecting its potential to discharge were made to the facility.

b. Coordinate emergency response plans with appropriate Federal OSC's and state and local environmental and emergency planning authorities.

c. Develop OHS spill contingency plans and, within the United States, coordinate the development of the plans with overlapping ACP's, as prescribed in the NCP.

d. Annually review and certify that OHS spill contingency plans are current.

8. Ensure that the installation and tenant activities meet applicable EPA and state requirements related to the prevention of oil spills.

9. Retain responsibility for OHS in transit until the OHS has been accepted for disposition at its destination.

10. Establish, train, and exercise on-scene operations teams, spill management teams, and other response personnel for OHS responses.

11. Ensure that Installation Natural Disaster Plans incorporate the requirement for each unit to gather an inventory of HM and HW as part of the preparation process. The inventories will provide a commander with an accurate list of items to be accounted for should a natural disaster remove them from their storage or accumulation points.

12. Comply with EPCRA sections 302-312 reporting requirements as described in paragraph 7104.7 and:

a. Define the facility fenceline, including all tenants, and the primary mission of the facility to support EPCRA reporting requirements. Revise and update ISSA's to support these requirements.

b. Ensure that all thresholds are calculated using the entire facility inventory and that all reporting requirements for that facility under EPCRA are met.

c. Ensure that all publicly available data have been reviewed to prevent sensitive or classified information from being released.

d. Use data provided from EPCRA reporting to revise and maintain the installation Pollution Prevention Plan.

13. Ensure that coordination occurs as appropriate with the Safety Office and Federal Fire Departments in matters relating to emergency planning and emergency response actions.

7302. UNIT/TENANT COMMANDERS

1. Assist their installation commander emergency response efforts to the extent resources allow, provided such compliance does not interfere with command mission accomplishment or other legal obligations.

2. Notify all required Federal, state, and local agencies of off-base releases and make Marine Corps chain-of-command notifications up to the CMC (LF).

3. Prepare and implement an SPCC Plan for all off-base use of portable, tactical refueling equipment, such as sixcons and collapsible fabric tanks in accordance with paragraph 7104.2b.

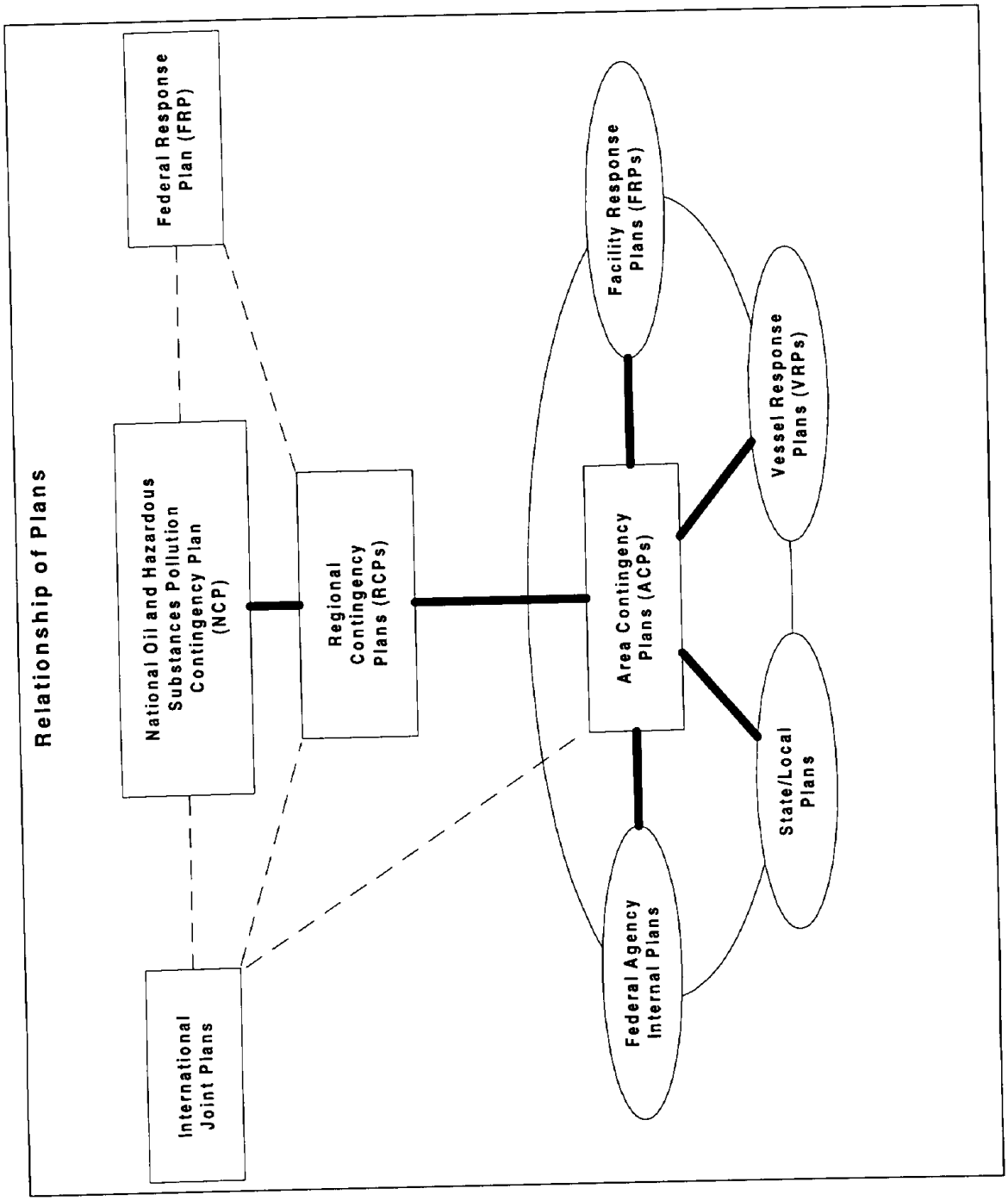

Figure 7-1.-- Relationships of Contingency and Response Plans.

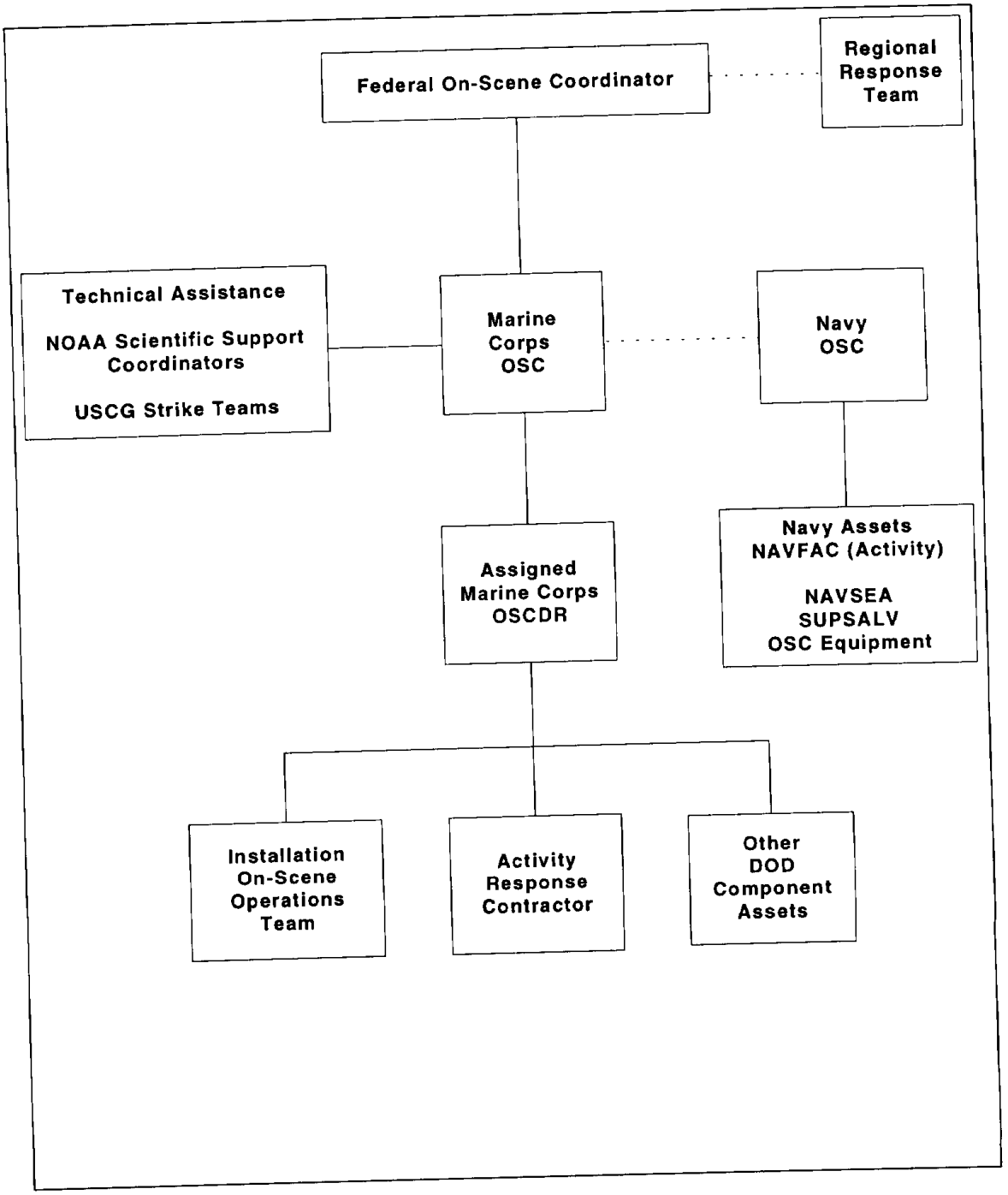

Figure 7-2.-- Marine Corps Oil Pollution Response Organization.

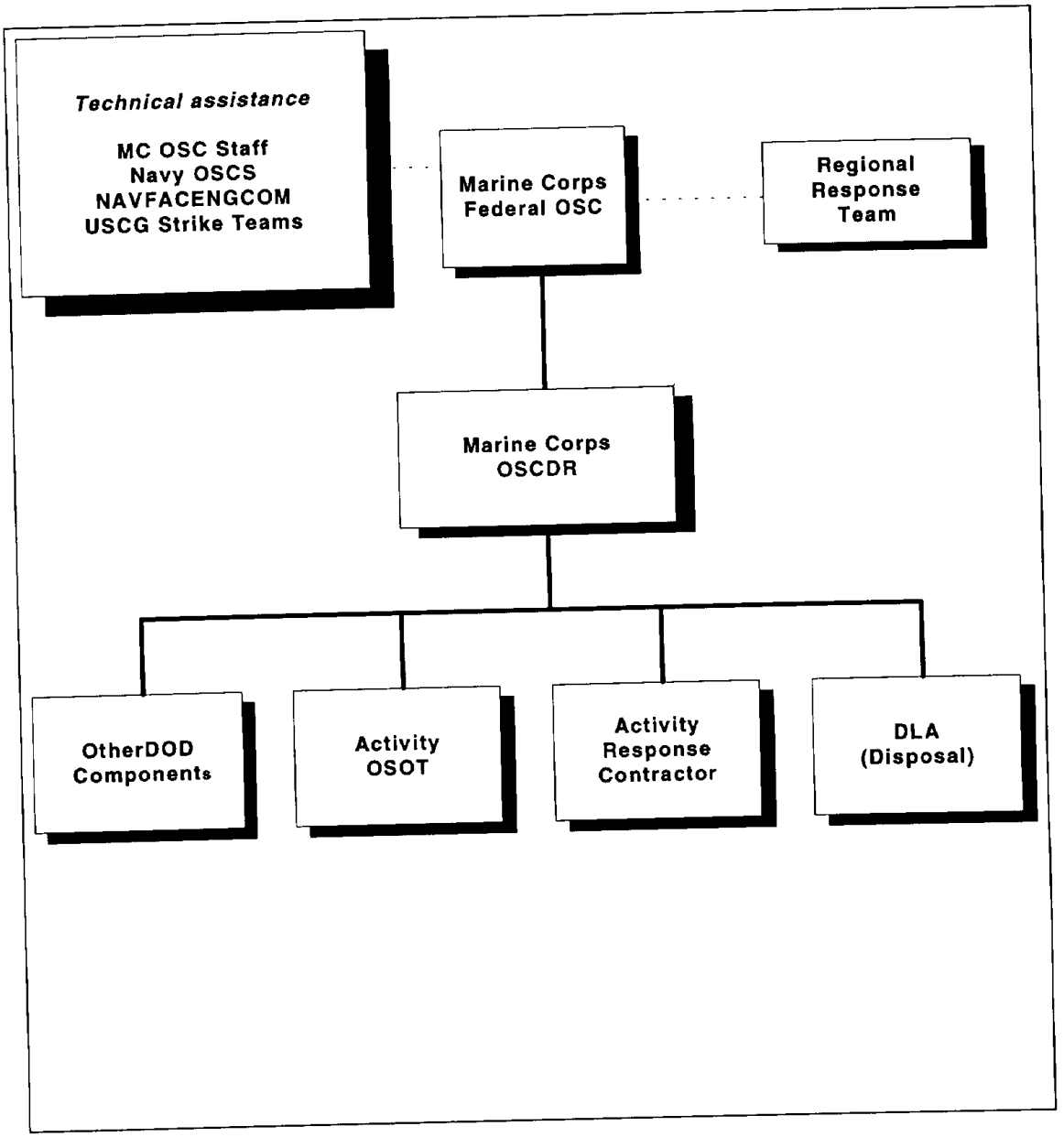

Figure 7-3.-- Marine Corps Hazardous Substance Pollution Response Organization.

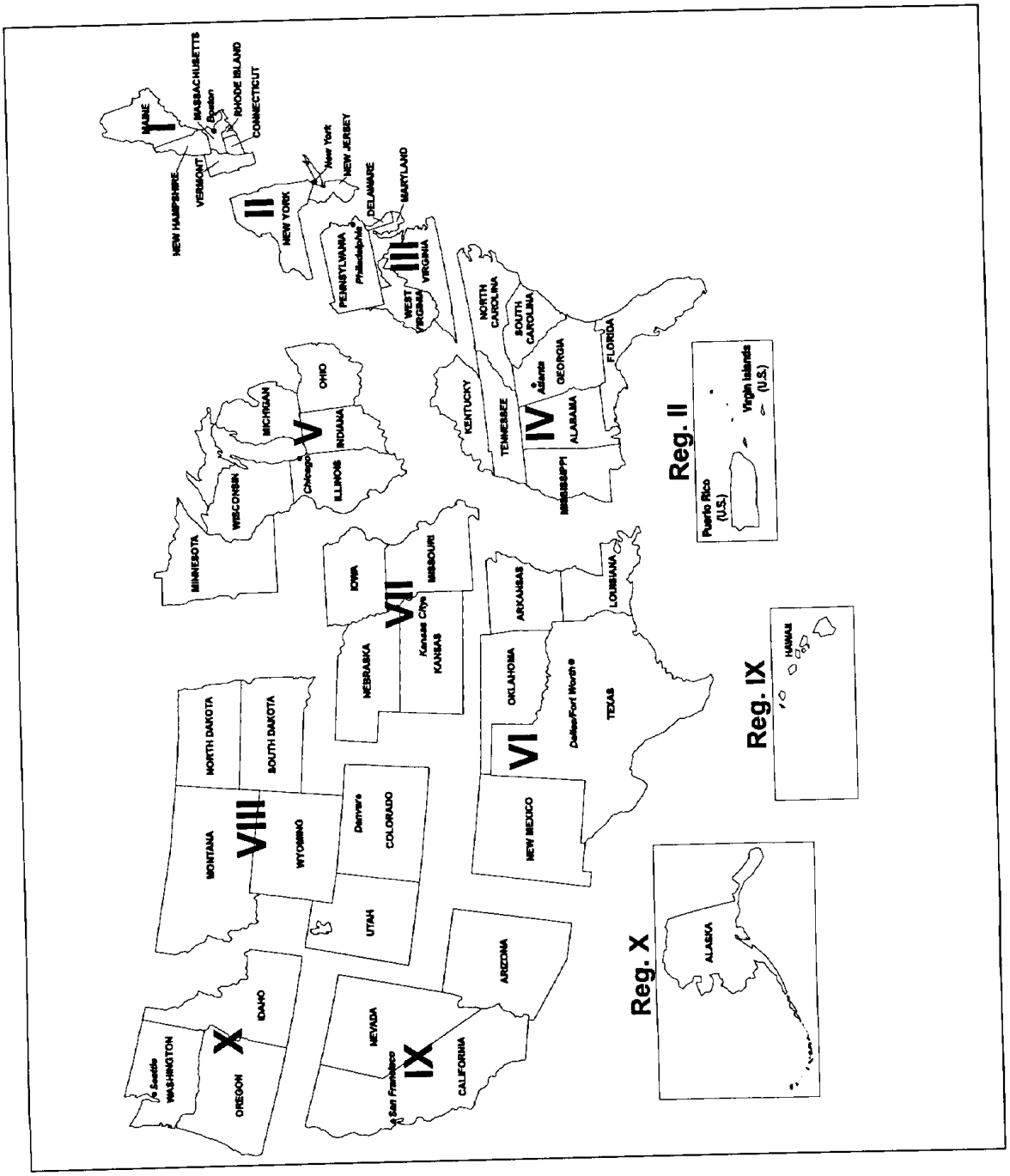

Figure 7-4.--Standard Regional Boundaries of the Environmental Protection Agency.

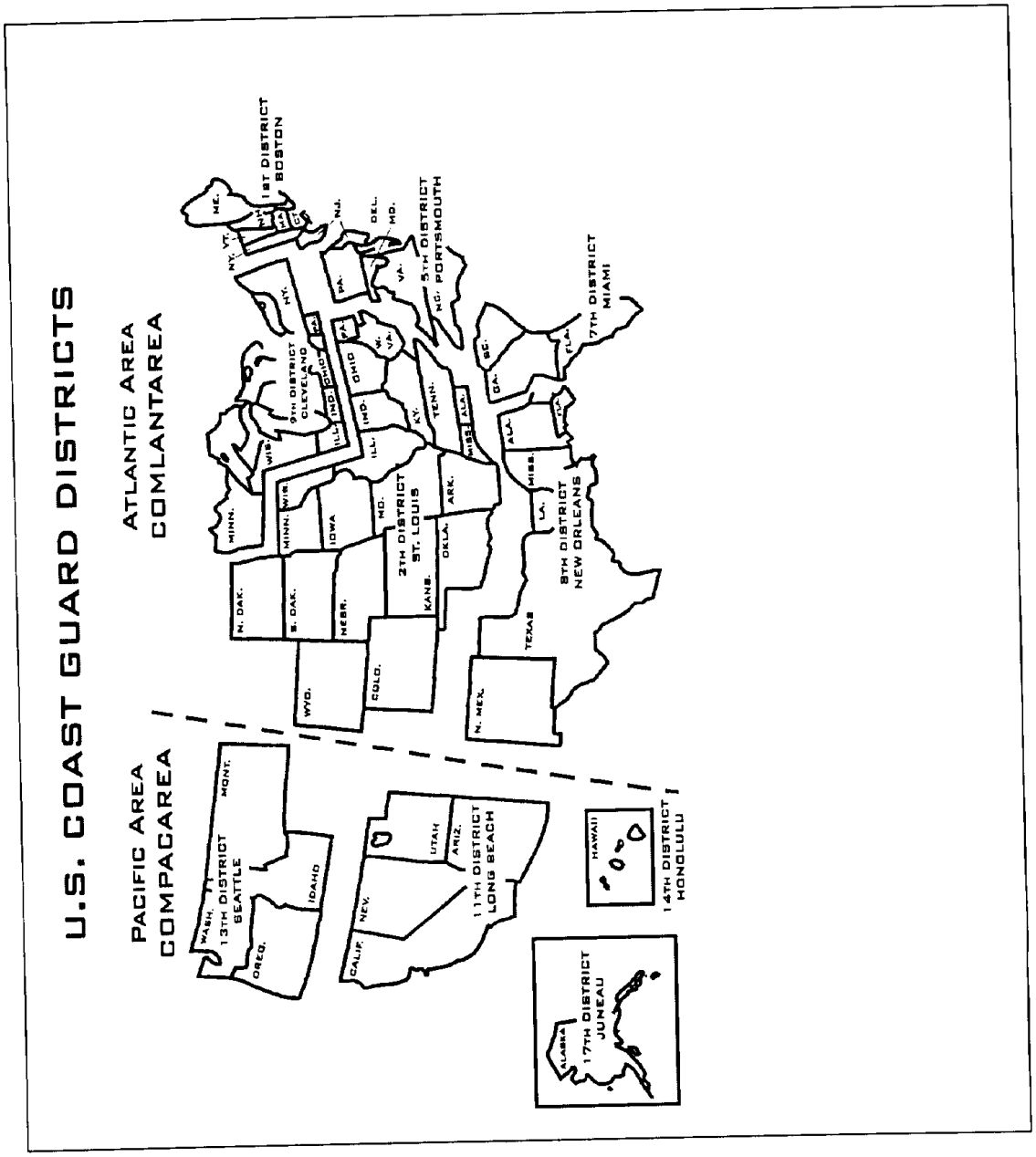

Figure 7-5.--United States Coast Guard District Boundaries.

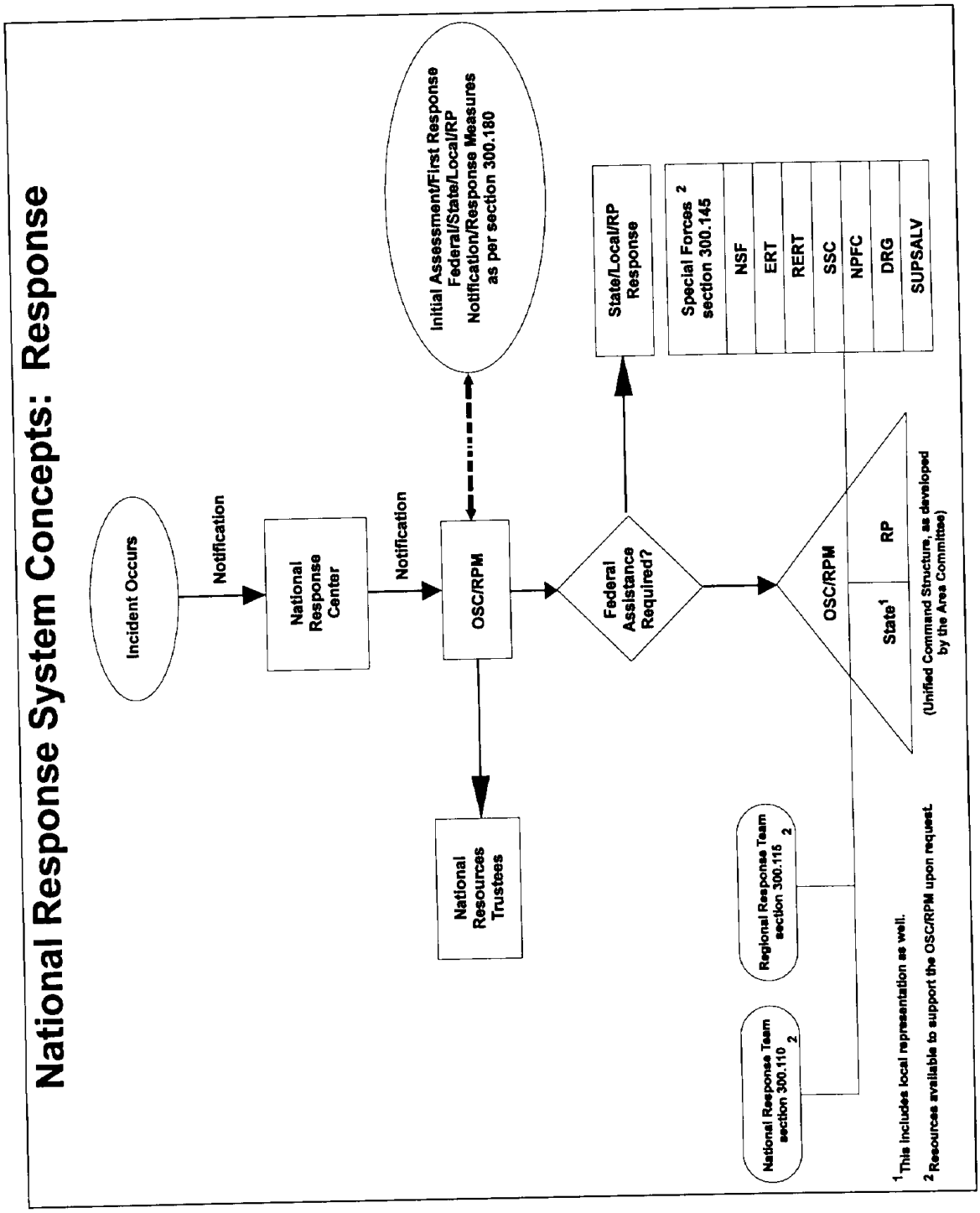

Figure 7-6.--National Response System Concepts: Response.

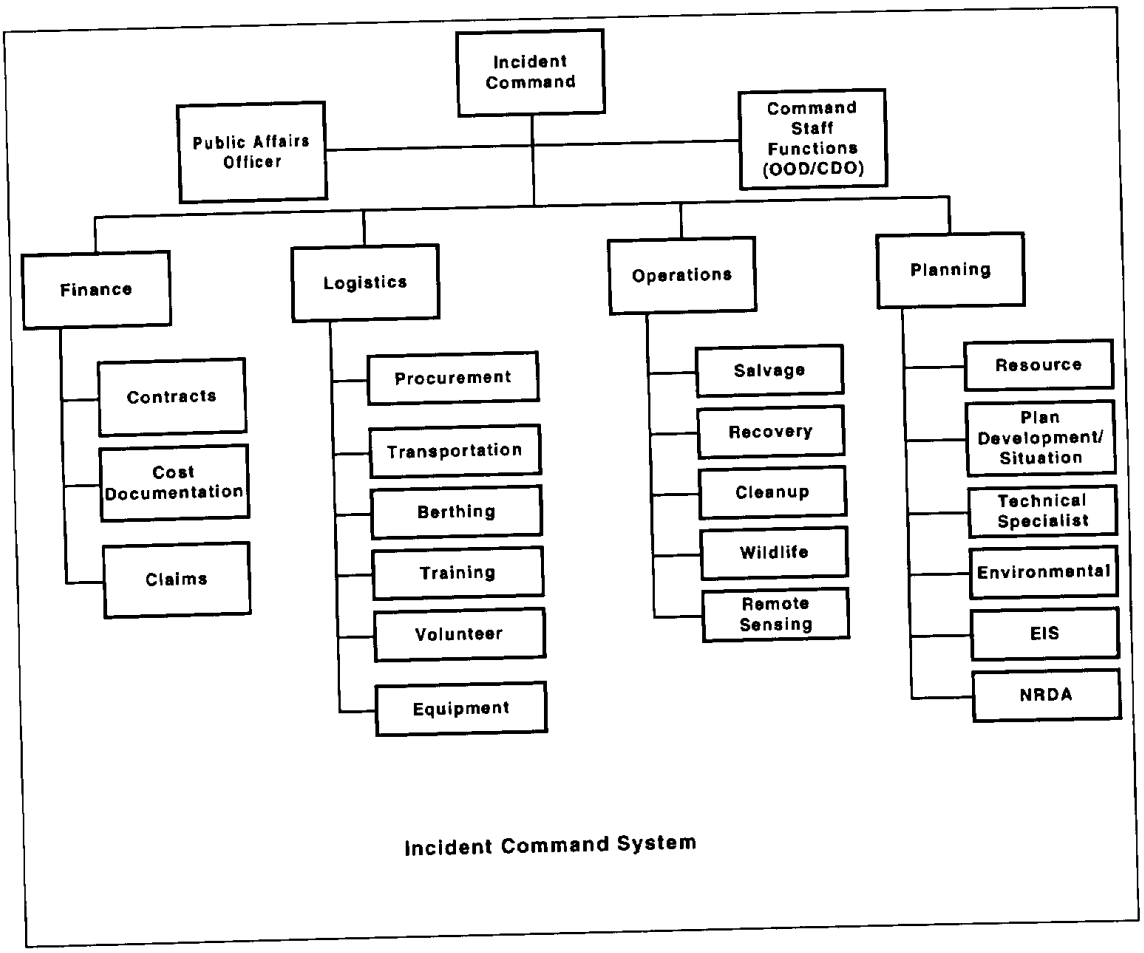

Figure 7-7.--Incident Command System.

CHAPTER 8

HISTORIC AND ARCHAEOLOGICAL RESOURCES PROTECTION

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CHAPTER 8

HISTORIC AND ARCHAEOLOGICAL RESOURCES PROTECTION

SECTION 1: INTRODUCTION

8100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with statutory requirements to protect historic and archaeological resources. This chapter addresses Marine Corps installation requirements for the development and implementation of an historic and archaeological resources protection program. This chapter also outlines the specifications of the National Historic Preservation Act (NHPA) and the Archaeological Resources Protection Act (ARPA). The material covered conforms with DoD specifications, which provide procedures for the management of archaeological and historic resources under DoD control. CG's/CO's of installations within the United States must implement an effective archaeological and historic preservation program, complying with the policies, guidance, and instructions contained herein.

8101. APPLICABILITY. See paragraph 1101.

8102. BACKGROUND. It is Federal Government policy, as established by the laws described in paragraph 8103, wherever and whenever possible, to preserve important historic, archaeological, and cultural aspects of our national heritage. It is also Federal policy to protect and preserve for Native Americans their inherent rights of freedom to believe, express, and exercise their traditional religions, and to return to affiliated Native American groups human remains, funerary objects, and objects of cultural patrimony located on Federal lands.

8103. FEDERAL STATUTES

1. Historic Sites, Buildings, and Antiquities Act of 1935 (Public Law 74-292, 16 U.S.C. 461 et seq.). This Act, which lists national historic sites, states that it is Federal policy to preserve historic and prehistoric properties of national significance. The Act enables the Secretary of the Interior as "keeper" of the National Register of Historic Places (NRHP) to

protect nationally significant historic resources and includes the authority to establish and acquire nationally significant sites.

2. National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). NEPA states that it is Federal Government policy to preserve important historic, cultural, and natural aspects of our national heritage and that it is a requirement to consider environmental concerns during project planning and execution. This Act requires Federal agencies to prepare and analyze environmental documentation concerning the effects of proposed actions on natural and cultural resources and to prepare an environmental impact statement for every major Federal action that has the potential to significantly affect the quality of the human environment.

3. NHPA of 1966 (16 U.S.C. 470 et seq.). The NHPA establishes historic preservation as a national policy. The Act authorizes the expansion and maintenance of the NRHP composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture. It allows for the designation of a state historic preservation officer (SHPO) and defines the SHPO's responsibilities under the Act. Additionally, the Act establishes an independent review agency, the Advisory Council on Historic Preservation. Section 106 of the Act requires that Federal agencies undertaking actions that may affect NRHP-eligible historic properties must consult with cognizant state historic preservation offices and the Advisory Council on Historic Preservation. Section 110 of the Act requires Federal agencies to inventory, evaluate, identify, and protect cultural resources that are determined eligible for listing in the NRHP. Although the NHPA does not impose an absolute preservation requirement, it does require an inventory and evaluation to determine eligibility and the impact of undertakings on NRHP-eligible properties.

4. Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.). This Act amended the Reservoir Salvage Act to extend its provisions beyond the construction of dams to any terrain alteration resulting from any Federal construction project or Federally licensed project, activity, or program. It provides a mechanism for funding the protection of historic and archaeological data.

5. Public Buildings Cooperative Use Act of 1976 (Public Law 94-541). This Act encourages adaptive reuse of historic buildings as administrative facilities for Federal agencies.

6. American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996). This Act directs United States policy to protect and preserve for Native Americans, Eskimos, Aleuts, and Native Hawaiians their inherent rights of freedom to believe, express, and exercise their traditional religions. These rights include, but are not limited to, access to sites, use and possession of sacred objects, and freedom to worship through ceremony and traditional rites Federal agencies are required to consider Native American requests for access To religious sites on Federal property. Agencies are encouraged, but not required, to grant access requests.

7. ARPA of 1979 (16 U.S.C. 470(aa) et seq.). The ARPA requires Federal land managers to issue permits for the excavation or removal of artifacts from lands under their jurisdiction. The Act requires that relevant Native American tribes be notified of permit issuance if significant religious or cultural sites will be affected. It prohibits the excavation, damage, alteration, or defacement of an archaeological site unless permitted by the Federal land manager; prohibits the sale or trafficking of artifacts removed from Federal lands across interstate or international boundaries; and levies both civil and criminalpenalties for illegal excavations, damages, or the defacement of archaeological sites and for the sale or trafficking of cultural materials illegally removed from Federal lands. This Act superseded the Antiquities Act.

8. Executive Order (EO) 11593, May 13, 1971. This EO requires all Federal agencies, as stewards for future generations, to administer cultural properties under their control. Agencies are required both to direct their policies, plans, and programs so that significant sites and structures are preserved and to consult with the Advisory Council on Historic Preservation to institute procedures ensuring that Federal plans contribute to the preservation of culturally significant sites and structures.

9. Antiquities Act of 1906 (16 U.S.C. 431-433). This Act provided for the protection of historic and prehistoric ruins and objects of antiquity on Federal lands and authorized scientific investigation of antiquities on Federal lands, subject to permits and other regulatory requirements. This Act was superseded by the ARPA.

10. Native American Grave Protection and Repatriation Act (NAGPRA) of 1990 (25 U.S.C. 3001 et seq.). This Act requires that Federal agencies and museums receiving Federal funds inventory their collections to identify Native American human remains and associated funerary objects. Unassociated funerary objects, sacred objects, and objects of cultural patrimony within these same collections must be listed in summaries. The agency or museum must furnish the complete inventories and summaries to culturally affiliated, Federally recognized tribesor groups, and upon request must return such items to the affiliated groups. It is illegal to sell or purchase human remains, funerary items, sacred objects, or items of cultural patrimony, regardless of whether the remains or items were
obtained on Federal or Native American lands. Discovery of human remains during a Federal undertaking requires immediate cessation of activity for a minimum of 30 days and consultation with Native American groups. Excavations into sites that may contain, or are likely to contain, human remains, funerary objects, sacred objects, or items of cultural patrimony require notification and consultation with appropriate Native American groups.

8104. REQUIREMENTS

1. General. Marine Corps installations which administer archaeological and historic resources must comply with applicable public laws and pursuant regulations.

2. NHPA, Advisory Council Process (Section 106)

a. General. At the earliest planning stages of any undertaking that may involve an NRHP property, the Marine Corps installation will consult with the SHPO. Prior to initiating consultation, the Marine Corps installation must determine whether cultural properties are present in the area of potential effect (APE), evaluate the property to determine its eligibility for listing in the NRHP, and evaluate the potential effects of the proposed undertaking on any NRHP-eligible property located in the APE.

b. Determination of "No Effect." When there are no NRHP-eligible properties within the area of potential effect or when there is no effect of any kind on historic properties, the Marine Corps installation will submit documentation to the SHPO with a finding of "No Effect." The SHPO may object to the finding within 15 days of receiving the documentation. If there

is no objection, the Marine Corps has completed its responsibilities under section 106 of the NHPA.

c. Determination of "No Adverse Effect"

(1) During the identification and evaluation process, if he Marine Corps installation finds that there are NRHP-eligible properties within the APE and that the undertaking will not diminish those characteristics that qualify the properties for the NRHP, the installation can request a concurrence from the SHPO with a finding of "No Adverse Effect."

(2) If the installation and SHPO concur that there will be an effect, but that it will not be adverse, the Marine Corps installation must send summary documentation to the advisory council, which has 30 days to file an objection. If the advisory council does not object, the Marine Corps has completed its responsibilities under section 106 of the NHPA, and the undertaking may proceed.

d. Determination of "Adverse Effect." If the advisory council objects to a determination of no adverse effect, or if the SHPO or the installation determines that there will be an adverse effect to an NRHP-eligible property if
the undertaking proceeds as proposed, then the installation must initiate formal consultation to eliminate or reduce the adverse effect. Following consultation, a memorandum of agreement may be executed that allows the undertaking to proceed after the Marine Corps implements specific mitigating actions.

e. Failure to Agree. In case of a failure to agree on conditions for accepting or mitigating the adverse effect, and after all other procedures specified in current regulations have been followed and documented, the installation via the CMC (LF), the SHPO, or the advisory council may terminate consultation. The installation must provide documentation of the consultation process to the advisory council and afford the council an opportunity to comment. The advisory council must provide written comments to the installation within 60 days of receipt of full documentation. The installation commander must take the council’s comments into account when making the final decision regarding the undertaking and must notify the council of the decision.

3. Protecting NRHP Resources (Section 110)

a. General. Each Marine Corps installation must establish a program to locate, inventory, nominate, and protect all properties that appear to meet the NRHP's criteria of significance. The installation will ensure that such properties are not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly. The installation must conduct an economic analysis for those historic properties that are eligible to appear in the NRHP, and that are being considered for demolition and replacement. The economic analysis is to include an evaluation of life-cycle maintenance costs, utility costs, replacement costs, and other pertinent factors. Failure to identify properties that meet NRHP criteria does not exempt the Marine Corps from the historic and archaeological regulations issued pursuant to the NHPA.

b. Phased Compliance. All Marine Corps land holdings must be surveyed by a cultural resources professional to locate NRHP-eligible resources. This process may be accomplished in phases:

(1) Phase 1 is an historic and archaeological resources overview of the entire installation or complex to determine whether recorded resources are present and to delineate probable areas, if any, for the existence of culturalresources.

(2) Phase 2, usually necessary as part of section 106 compliance, consists of intensive surveys to identify NRHP-eligible resources that may be affected by a Marine Corps undertaking. Therefore, section 110 of the NHPA requires that Federal agencies inventory their lands to locate and record NRHP-eligible resources so that appropriate protection measures can be established. Furthermore, the installation also must complete detailed NRHP inventory forms and submit via the CMC (LF) nominations of eligible properties to the keeper of the register.

4. National Historic Landmarks

a. General. Section 101(b) of the NHPA provides for the inclusion of National Historic Landmarks in the NRHP. Section 110(f) affords National Historic Landmarks more stringent protection than other NRHP resources. Federal regulations outline procedures for consultation with the SHPO, the Advisory Council, and the National Park Service (NPS) to minimize harm to National Historic Landmarks by Federal agency undertakings.

b. Monitoring of National Historic Landmarks. The NPS maintains a continued relationship with owners of National Historic Landmarks. Agencies must cooperate with the procedures of periodic visits, contacts with SHPO's, and other appropriate measures that the NPS uses 1) to ensure that landmarks retaintheir integrity, 2) to advise agencies concerning accepted preservation standards, 3) and to update administrative records on landmark properties. The Department of the Interior (DOI) reports annually to Congress regarding damaged or threatened National Historic Landmarks.

c. Landmark Designation Actions. Although property owners and SHPO's may nominate National Historic Landmarks, designation ordinarily occurs after a study by the NPS. Preservation is not absolutely required as long as mandated procedures are followed and documented in any decision not to preserve. A finding of adverse effect to a National Historic Landmark requires full council participation in the consultation process.

5. Protection of Archaeological Resources

a. ARPA Permits. Any agency or individual proposing to excavate or remove resources from public lands must apply for an ARPA permit. Excavations or removal of any artifacts without a permit can result in criminal and civil penalties. The Act also prohibits the sale of any artifacts or cultural objects recovered from public lands.

b. Recordkeeping. Every Federal land manager, when requested by state and Federal preservation agencies, must supply necessary information concerning programs and projects for historic and archaeological resource protection. Records must be kept to facilitate the installation's response to information requests.

6. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

8105. TERMS AND DEFINITIONS

1. Adverse Effect. Changes that diminish those attributes of a property qualifying it for listing in the NRHP.

2. Advisory Council on Historic Preservation (Advisory Council). A Federal council, established by title II of the NHPA and charged with advising the President, Congress, and other Federal agencies, whose function is to encourage private and public interest in historic preservation and archaeological resources protection and to comment on Federal agency actions under section 106 of the NHPA.

3. Antiquities Act Permit. A permit required by the Antiquities Act to conduct archaeological work on Federal land sites greater than 100 years old. The provisions under this Act have been superseded by the ARPA.

4. Archaeological Permit. A legal authorization required by the ARPA to conduct an archaeological survey or investigation that involves surface collecting or subsurface testing on Federal land.

5. Archaeological Resource. Any material remains of human life that are capable of contributing to scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques.

6. Assessment of Effect. A process to determine whether an undertaking may affect in any way the qualities of a property that make it eligible for listing in the NRHP. The assessment is made by the installation's CG/CO in consultation with the SHPO.

7. Consensus Determination. Documentation stating that the Marine Corps and the SHPO agree on eligibility for listing a property in the NRHP.

8. Consultation. An NHPA process initiated by the CG/CO wherein the CG/CO confers with the SHPO to seek ways to reduce or avoid adverse effects on historic properties. The Advisory Council and certain interested persons may participate as consulting parties.

9. Criteria of Effect. Standards promulgated by the advisory council (36 CFR 800) and applied in determining whether an undertaking will affect any property listed in the NRHP.

10. Criteria for Evaluation. Criteria published in 36 CFR 60 to be applied in determining whether a cultural resource is eligible for listing on the NRHP.

11. Cultural Resources. A generic term commonly used to include buildings, structures, districts, sites, and objects of significance in history, architecture, archaeology, engineering, or culture.

12. Cultural Resources Guidelines. Advice on selected aspects of cultural resources protective management for Federal Agencies that is promulgated in periodic publications issued by the Advisory Council and others tasked with inter-agency cultural resources responsibilities.

13. Cultural Resources Inventory. A detailed descriptive listing of an installation's cultural resources, including an evaluation of significance according to NRHP's criteria.

14. Cultural Resources Professional. A qualified anthropologist, archaeologist, architectural historian, historic architect, historian, or preservation planner with specialized training and experience in compliance with Federal preservation legislation.

15. Cultural Resources Protection. Protection includes: 1) routine maintenance and security; 2) consideration of the effects that an undertaking could have on cultural resources; and 3) formal, documented consultation with the SHPO, the Advisory Council, and other authorities. Cultural resources protection measures may or may not include preservation.

16. Cultural Resources Specialist. A staff person without all the qualifications of a cultural resources professional who performs routine cultural resources compliance functions, often as a collateral duty, and contracts out for professional expertise as needed for specific projects.

17. Cultural Resources Survey. The systematic process of locating and identifying cultural resources in compliance with the NHPA Amendments of 1980.There are two types of surveys: the Reconnaissance Survey and the Detailed or Intensive Survey.

18. Determination of Eligibility. A process to determine if a property is eligible for listing in the NRHP. A property can be determined eligible by consensus agreement or by determination by the keeper of the register. Decisions by the keeper cannot be challenged. If a property is determined eligible, it is treated as if it were listed in the NRHP, pending completion ofthe nomination procedure.

19. District. A geographically definable area (urban or rural) that possesses a significant concentration, linkage, or continuity of sites, structures, buildings, or objects united aesthetically by the plan or physical development or by past events. A district may also comprise individual elements separated geographically but linked by association or history.

20. Effect. Any condition of a project or undertaking that may cause a change in the quality of the historic, architectural, archaeological, or cultural character of a property that qualifies it for listing in the NRHP. An undertaking is considered to have an effect when any aspect of the undertaking changes the integrity of location, design, setting, materials, workmanship, feeling, or association of the property that contributes to its significance according to the NRHP criteria. Direct effects are caused by the undertaking and occur at the place and time of the undertaking. Indirect effects are those caused by the undertaking that occur later in time or are further removed in distance, but are still reasonably foreseeable.

21. Endangered Property. An historic property that is, or is about to be, subjected to a major impact that will destroy or seriously damage the resource, or those elements of the resource that make it eligible for listing in the NRHP.

22. Federal Historic Preservation Officer (FHPO). The individual responsible for coordinating the agency's activities under the NHPA and EO 11593, May 13, 1971, including nominating properties under the agency's ownership or control to the NRHP.

23. Federal Land Manager. With respect to public lands, the secretary of the department or head of any other agency or instrumentality of the United States, having primary management authority over such lands, including persons o whom such management authority has been officially delegated.

24. Historic and Archaeological Resources Protection (HARP). The identification, evaluation, recordation, documentation, curation, acquisition, protection, rehabilitation, restoration, management, stabilization, maintenance, and reconstruction of cultural resources, or any combination of the above.

25. HARP Management Plan. The management plan must include professional inventory, evaluation, and categorization of an installation's cultural resources, and provide strategies and priorities for ongoing maintenance and protection from adverse effects of planned undertakings.

26. Historic Property or Resource. Physical remains of any prehistoric or historic district, site, building, structure, or object significant in United States history, architecture, archaeology, engineering, or culture and included,or eligible for listing, in the NRHP. The term includes artifacts, records, and remains that are related to such a district site, building, structure, or object.

27. Inventory. A process to determine the location of cultural resources that may have national, state, or local historic or archaeological significance.

28. Material Remains. Physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated, including the following:

a. Surface or subsurface structures;

b. Surface or subsurface artifact concentrations or scatters;

c. Whole or fragmentary tools, implements, containers, weapons, clothing, and ornaments;

d. Byproducts, waste products, or debris resulting from use or manufacturing processes;

e. Organic waste;

f. Human remains;

g. Rock carvings, rock paintings, and intaglios;

h. Rock shelters and caves;

i. Shipwrecks; and/or

j. Any portion or piece of any of the above.

29. Memorandum of Agreement. A document arising from section 106 consultation that is signed by the CG/CO, SHPO, and Advisory Council and that resolves incompatibilities between a Marine Corps undertaking and the SHPO preservation requirements by stipulating measures to reduce adverse effects, or that accepts the effects as being unavoidable and in the public interest.

30. Mitigation. Lessening the adverse effects of an undertaking on properties listed in or eligible for listing in the NRHP. Mitigation can include the following:

a. Limiting the magnitude of the action;

b. Repairing, rehabilitating, or restoring the affected property;

c. Recovering and recording data that may be destroyed or substantially altered from cultural properties; and

d. Avoiding the effect altogether by not taking an action or part of an action, or by relocating the action.

31. National Historic Landmark. An NRHP resource designated by the keeper of the NRHP as having exceptional significance in the Nation's history and which is subject to the most stringent preservation requirements.

32. NRHP. The listing of districts, sites, buildings, structures, and objects of National, state, and local significance in United States history, architecture, archaeology, or culture that is maintained by the keeper of the NRHP.

33. NRHP Resource. A broad concept that includes all resources that meet NRHP significance criteria, even if the resources have not been formally registered, identified, or acknowledged as significant. Current Federal regulations use the term "historic property" as a synonym for NRHP resource.

34. Native American Lands. Lands of Native American tribes or Native American individuals which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for subsurface interests not owned or controlled by a Native American tribe or individual.

35. Overview. Literature review and records search to ascertain the cultural history of a particular area. A review of all prior archaeological or historic research in the area of concern to determine the presence or absence of cultural resources in the region. The overview may be used to develop a predictive model for identifying expected resources within the bounds of a particular project or installation area.

36. Preservation. The act or process of applying measures to sustain the existing form, integrity, and material of a building

or structure and the existing form and vegetative cover of a site. It may include initial stabilization work where necessary, as well as ongoing maintenance of the historic building materials.

37. Programmatic Agreement. A written agreement among the Marine Corps activity, SHPO, and Advisory Council that stipulates how to carry out a program or a class of undertakings, repetitive in nature or similar in effect, so as to avoid or mitigate adverse effects on cultural resources.

38. Recordation. Measured drawings, photographs, and other techniques 1) undertaken to provide a permanent record of resources that must be destroyed or substantially altered and 2) performed under the guidance of the keeper of the NRHP through the Historic American Buildings Survey/Historic American Engineering Record.

39. Restoration. The act or process of accurately recovering the form and details of property and its setting as it appeared at a particular period of time.

40. Section 106 Consultation. An NHPA compliance procedure in which an agency requests the comments of the SHPO and the Advisory Council on historic preservation when an undertaking may affect a property listed, or eligible for listing, in the NRHP.

41. Significance/Significant. Those attributes or characteristics of a property that qualify it as eligible for listing in the NRHP, as determined by Federal criteria. This term includes records and remains related to such properties.

42. SHPO. The official, appointed pursuant to law, who is responsible for administering the state historic preservation program within a state or jurisdiction.

43. Undertaking. Any Federal, Federally assisted, or Federally licensed action, activity, or program or support of any non-Federal action, activity, or
program, including both new and continuing projects and activities that are determined to impact properties listed, or eligible for listing, in the NRHP.

CHAPTER 8

HISTORIC AND ARCHAEOLOGICAL RESOURCES PROTECTION

SECTION 2: MARINE CORPS POLICY

8200. GENERAL

1. The Marine Corps identifies, protects, and promotes the rehabilitation, adaptive reuse, and conservation of historic and archaeological resources and other environmental assets through the best possible management practices and in cooperation with Federal, state, and local agencies. Marine Corps installations must integrate the historic and archaeological resource protection requirements of applicable laws with their planning and management efforts and encourage practical, economically feasible rehabilitation and adaptive reuse of significant historic resources, complying with environmental conservation specifications and documenting environmental impacts, as required by Federal law and DoD policies.

2. Installation personnel assigned to cultural resource management positions will assess the impact of installation programs on the cultural environment within the confines of the installation and on public and private resources outside the installation that may be affected by planned actions.

3. The Marine Corps establishes, maintains, and improves relations with Federal, state, and local authorities in the process of complying with relevant historic preservation laws and regulations and in developing agreements and procedures with state and local authorities.

4. Prior to new construction, lease, or the acquisition of buildings for the purpose of carrying out Marine Corp responsibilities, the Marine Corps must, to the maximum extent feasible, use available historic buildings, while preserving the historic character and function. Property preservation is to be conducted in a cost-effective manner that supports the military mission, and protects the health and safety of the occupants and employees.

8201. ADVISORY COUNCIL PROCESS

1. General. If cultural resources are likely to be present and may be affected directly or indirectly by an undertaking, the Marine Corps installation must contact the SHPO to determine the property's NRHP eligibility and, if it is eligible, consult with the SHPO regarding the effect(s) of the undertaking on the property.
2. Determination of Effect. After the Marine Corps has evaluated the eligibility of archaeological or historic sites and resources for listing in the NRHP, the installation will assess the effects of the proposed project or undertaking on the eligible resources. In coordination with the SHPO, the installation will document the process for determining eligibility and effects. If the SHPO concurs with the finding, the installation will submit summary documentation to the advisory council. If the undertaking is determined to have an "Adverse Effect," the installation will enter into a programmatic agreement with the SHPO and the Advisory Council to reduce or remove the adverse effect.

3. Failure to Agree. If the Marine Corps, the SHPO, and the advisory council fail to agree on ways to reduce or avoid the effect on NRHP-eligible or -listed properties, consultation may be terminated formally. After taking the Advisory Council's final comments into consideration, the SecNav must provide the council with its decision on whether or not the proposed undertaking will proceed.

8202. HISTORIC RESOURCES. The Marine Corps must cooperate with the SHPO in NPS periodic visits, contacts, and other appropriate actions or studies. The Marine Corps must cooperate in NPS studies and provide input that minimizes any constraints that a National Historic Landmark designation might impose on the Marine Corps. As with any of its NRHP resources, the Marine Corps retains ultimate authority over treatment and use of its National Historic Landmarks.

8203. ARCHAEOLOGICAL RESOURCES. Installations must obtain ARPA permits for archaeological work on Marine Corps installations. In the case that the Marine Corps contracts with archaeologists or that a Marine Corps contractor subcontracts with archaeologists to perform archaeological work for a Marine Corps installation, a brief compliance statement in the

contract/subcontract is considered the equivalent of a permit. In the case that employees of a Marine Corps installation perform archaeological work on Marine Corps property, legal permitting requirements will be satisfied by ensuring that such employees are professionally qualified archaeologists (as defined by current Federal regulations).

8204. RECORDKEEPING. HARP plans provide the Marine Corps with information about NRHP-eligible resources located on, or adjacent to, Marine Corps installations. Plans should begin with Phase 1 overviews and be updated to include information gathered in Phase 2 and later survey work. HARP management plans should:

1. Identify the areas of probability for NRHP resources based on overviews and surveys performed by cultural resources professionals.

2. Evaluate and inventory all known historic and archaeological resources on Marine Corps installations.

3. Describe applicable compliance strategies that avoid potential conflicts between the Marine Corps mission and preservation mandates.

4. Prescribe specific compliance actions to be taken if Marine Corps undertakings affect NRHP resources.

5. Develop plans in consonance with Federal and state preservation programs, cultural resource guidelines, and other Marine Corps planning documents and processes.

CHAPTER 8

HISTORIC AND ARCHAEOLOGICAL RESOURCES PROTECTION

SECTION 3: RESPONSIBILITIES

8300. CMC (LF)

1. Establish an HARP Program and promulgate guidelines and attendant responsibilities.

2. Designate a qualified staff person to serve as the Marine Corps FHPO and representative on the DoD Conservation Committee.

3. Coordinate with the Deputy Under Secretary of Defense, Environmental Security, DoD Components, the DOI, the Advisory Council, and the National Conference of SHPO's in matters related to historic and archaeological resources protection.

4. Identify Marine Corps-wide priorities and allocate centrally managed funds that may be used for historic and archaeological resource surveys and protective actions. Maintain cost records of inventory and treatment of cultural properties.

5. Maintain Marine Corps procedural and policy-making expertise for inter-agency coordination and other aspects of compliance with preservation legislation; assist in resolving disputes with Federal, state, local, and foreign regulatory agencies.

6. Forward NRHP nominations to the Office of the Assistant Secretary of the Navy, Installations and Environment and the keeper of the NRHP.

7. Respond to congressional and other inquiries to satisfy Office of the Secretary of Defense reporting requirements.

8. Provide support to Marine Corps installations and Marine Corps commands/units and tenants by interpreting Federal, state, local, and overseas historic and archaeological resource requirements and by uniformly applying Marine Corps policy as set forth in the Manual.

9. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with

Federal, state, and local regulatory agencies with regard to historic and archaeological resource regulations.

8301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for historic and archaeological resource protection that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with historic and archaeological resource protection requirements. Pay appropriate Federal, state, and local fees. Ensure that the environmental management hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

2. Prepare a base or station order or an environmental compliance and protection standard operations procedures document implementing these requirements.

3. Prepare, maintain, and implement Installation Cultural Resource Management Plans for all installation lands and water that contain cultural resources.

4. Plan, program, and budget for adequate compliance with historic and archaeological resources protection legislation that applies to resources under their control.

5. Provide for the professional identification, evaluation, inventory, nomination, and protection of resources under their control which are potentially eligible for listing in the NRHP.

6. Ensure that all mandated procedures are followed if NRHP resources are to be transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

7. Consult with the SHPO and advisory council whenever proposed undertakings may have an effect on NRHP resources and enter into memoranda of agreement regarding the mitigation of such effects.

8. Ensure that inadvertently discovered archaeological resources are protected at the site of discovery until cultural resource professionals evaluate the resources' significance and make recommendations regarding protection or recovery.

9. Whenever practical, use historic buildings instead of new acquisition, construction, or leasing to satisfy mission requirements.

10. Ensure that funds budgeted for historic preservation are applied to NRHP resources.

11. Provide for storage and professional curation of salvaged archaeological resources and records which result from compliance actions.

12. Take appropriate action on archaeological permit requests. Review requests for permits to allow the excavation and removal of archaeological resources from Marine Corps Lands.

13. Provide for the identification and repatriation of Native American remains
and associated cultural items in accordance with the NAGPRA and other implementing regulations issued by the DOI.

14. Allow Native Americans access to sites and resources that are of religious importance or that are important to the continuance of their cultures, as consistent with the military mission, the American Indian Religious Freedom Act and other appropriate laws and regulations subject to the same considerations as the general public.

15. When warranted by the presence of historic and/or archaeological resources, designate and train a staff person to serve as Cultural Resources Specialist.

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 9

HAZARDOUS WASTE MANAGEMENT

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CHAPTER 9

HAZARDOUS WASTE MANAGEMENT

SECTION 1: INTRODUCTION

9100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with statutory requirements for hazardous waste management. This chapter identifies the HW management requirements and responsibilities that are necessary to ensure the protection of human health and the environment. Requirements for hazardous materials (HM) and hazardous substance (HS) spills are discussed in chapter 7 of this Manual.

9101. APPLICABILITY. See paragraph 1101.

9102. BACKGROUND. The Resource Conservation and Recovery Act (RCRA) was enacted in 1976 as an amendment to the Solid Waste Disposal Act (SWDA). RCRA has since been amended by several public laws, including the Hazardous and Solid Waste Amendments (HSWA), the Used Oil Recycling Act, and the Federal Facilities Compliance Act (FFCA). The objectives of RCRA are to provide assistance to state and local agencies for the development of solid waste (SW) management plans, prohibit open dumping on the land and require the conversion of existing open dumps to facilities that do not pose a danger to the environment or to human health, and assure that HW management practices are conducted in a manner which protects human health and the environment. RCRA supports the "cradle-to-grave" tracking of HW from generator to storage, treatment, and ultimate disposal.

1. The Environmental Protection Agency (EPA) may delegate authority to a state to manage a RCRA program in lieu of part or all of the Federal HW program.

2. In a state that has final authorization to manage a RCRA program, all installations generating HW are subject to the state program, which must be at least as stringent as the Federal program. A few states also have been granted certain oversight authority for the HSWA.

3. The FFCA waived sovereign immunity under RCRA; therefore, the Marine Corps is subject to civil and administrative fines and

penalties levied by Federal, state, and local regulators. Full discussion of the FFCA is presented in paragraph 9103.2.

9103. FEDERAL STATUTES

1. RCRA of 1976 (42 U.S.C. 6901 et seq.)

a. Subtitle C: HW Management. Subtitle C provides the statutory basis for the EPA to promulgate the regulations contained at 40 CFR 260 - 272 and 279. The major topics covered in subtitle C are discussed briefly below.

(1) Section 3001: Identification and Listing of HW. This section of RCRA tasked the EPA with developing criteria for identifying the characteristics of HW and for listing HW. Properties taken into account are toxicity, persistence, and degradability in nature; potential for accumulation in tissue; flammability; corrosiveness; and other characteristics that make a substance
hazardous (40 CFR 261).

(2) Section 3002: Standards Applicable to Generators of HW. This section of RCRA establishes standards for HW generators as necessary to protect human health and the environment. The standards cover HW labeling and containerization, information on the chemical composition of HW, the manifest system, establishing a HW minimization program, and reporting to authorities the quantities and types of HW generated (40 CFR 262).

(3) Section 3003: Standards Applicable to Transporters of HW. This section of RCRA establishes the standards applicable to transporters of HW. These include requirements for HW to be picked up from, and transported to, the proper locations according to the manifest documents; HW to be properly labeled and containerized for shipment; and for Hazardous Material Transportation Act (HMTA) requirements to be met, as specified by the Department of Transportation (DOT).

(4) Section 3004: Standards Applicable to Owners and Operators of HW Treatment, Storage, and Disposal Facilities (TSDF). This section of RCRA covers many topics and is greatly expanded by HSWA and FFCA. Topics in section 3004 that are pertinent to the Marine Corps include:

(a) Section 3004(a) requires set performance standards for new and existing TSDF's, including recordkeeping;

reporting; manifests; the location, design, and construction of TSDF's; operating and maintenance practices; contingency planning; and permitting. See 40 CFR 264 and 40 CFR 265 for the resulting performance standards.

(b) Section 3004(c) was added by the HSWA and prohibits the land disposal of bulk or noncontainerized liquid HW or free liquids contained in HW.

(c) Sections 3004(d) - 3004(g) were added by the HSWA and establish time frames and procedures for the EPA to prohibit the land disposal of specific HW's.

(d) Section 3004(m) was added by the HSWA and requires the EPA to develop treatment standards for those HW's prohibited from land disposal.

(e) Section 3004(n) requires the EPA to establish air emissions monitoring and control regulations for TSDF's.

(f) Sections 3004(u) and 3004(v) establish the program for the cleanup of continuing releases, even if beyond the property line, from solid waste management units (SWMU) at TSDF's, regardless of when the release occurred.

(g) Section 3004(y) was added by the FFCA and requires the EPA and the DoD to develop regulations for identifying when military munitions become HW.

(5) Section 3005: Permits for Treatment, Storage, or Disposal of HW. This section of RCRA requires all owners/operators of existing or planned HW TSDF's to apply for and receive a RCRA permit prior to continuing or beginning operations. This section includes provisions for existing facilities to continue operation under interim status, as well as specific requirements for each type of TSDF, including landfills, surface impoundments, and waste piles.

(6) Section 3006: Authorized State HW Programs. Provisions under this section of RCRA allow states to administer and enforce an HW program as long as the requirements are at least as restrictive as those of the Federal program. Prior to implementing its HW program, each state must obtain written authorization from the respective EPA region.

(7) Section 3007: Inspections. This section establishes EPA and state access authority to facility premises and all

records regarding HW management. It requires that the EPA or the authorized state inspect all permitted HW TSDF's no less than once every 2 years. This section also includes provisions for the public availability of all records concerning HW management, unless they are confidential in nature (as defined by 18 U.S.C. 1905).

(8) Section 3008: Federal Enforcement. This section outlines the methods, means, and tools for the EPA to enforce RCRA. It includes policies and guidelines for issuing enforcement actions such as notices of violation, compliance orders, and interim status corrective action orders.

(9) Section 3016: Inventory of Federal Agency HW Facilities. This section of RCRA requires that each Federal Agency submit to the EPA an inventory of the sites it owns or operates, or previously owned or operated, where HW is or was stored, treated, or disposed of at any time.

b. Subtitle F: Federal Responsibilities

(1) Section 6001. This section is a comprehensive waiver of sovereign immunity from the applicability of RCRA to Federal facilities. This waiver was broadened further by the FFCA. Therefore, the requirements of RCRA apply to Federal installations in the same manner as they would to any other nongovernmental entity. The President may exempt, for up to 1 year, any SW management facility or department if it is in the express interest of the United States.

(2) Section 6002. This section on Federal Procurement states that each procuring agency must select those items made of the highest percentage of recovered materials practicable, unless such items are unreasonable, fail to meet performance standards, or are only available at an unreasonable price. For more information on procurement of recovered materials, see chapters 15 and 17.

(3) Section 6003. This section on Cooperation with the EPA states that Federal agencies must make available all information required by the Administrator concerning past or present waste management practices and past or presently owned, leased, or operated SW or HW facilities.

(4) Section 6004. This section on Applicability of Solid Waste Disposal Guidance to Executive Agencies states that executive agencies must comply with SW management regulations

when the agency: 1) has jurisdiction over the real property or the operation of a facility that is involved in SW management, or 2) generates SW which, if conducted by a person other than the agency, would require a permit or license to dispose of the waste.

c. Subtitle I: Regulation of Underground Storage Tanks (UST). Subtitle I of RCRA directs the EPA to promulgate standards for the management, control, and closure of UST's used to store petroleum products or HS's, including HW's (see chapter 18 of this Manual).

2. FFCA of 1992 (Public Law 102-386)

a. General. The FFCA amended several sections of the SWDA (as amended by RCRA).

b. Section 102. This section amends section 6001 of the SWDA by:

(1) Waiving Governmental immunity and subjecting Federal agencies to civil and administrative fines and penalties, regardless of whether the fines or penalties are punitive or coercive in nature;

(2) Requiring payment of any nondiscriminatory charges (e.g., assessments in connection with the processing and issuance of permits, amendments to permits, review of plans, studies and other documents, and inspecting and monitoring facilities) that are assessed in connection with a Federal, state, or local SW or HW regulatory program; and

(3) Exempting agents, employees, and officers of the United States from personal liability for any civil penalty arising from acts or omissions within the scope of his/her official duties.

c. Section 104. This section amends section 3007 of the SWDA by requiring the EPA and/or states to conduct annual inspections of each Federal facility for HW program compliance on a cost-reimbursable basis. It also requires Federalfacilities to conduct comprehensive groundwater monitoring evaluation where such an evaluation has not been conducted within the 1 year preceding the FFCA. Groundwater monitoring initiated under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) is specifically excluded from this requirement.

d. Section 106. This section was added to the SWDA as section 3022, which, with limited exceptions, provides that any HW generated on a public vessel is not subject to the storage, manifest, inspection, or recordkeeping requirements until the HW is transferred to an installation.

e. Section 107. This section was added to the SWDA as section 3004(y) and requires the EPA, in consultation with DoD, to propose and adopt regulations identifying when military munitions (both chemical and conventional) become HW's. It also requires the EPA and DoD to provide for the safe storage,transportation, and disposal of such wastes.

f. Section 108. This section was added to the SWDA as section 3033, which provides Federally Owned Treatment Works (FOTW) with the same sewage exclusion from HW regulation as afforded to Publicly Owned Treatment Works. For the exclusion to apply, the wastes received by the FOTW must either meet certain Clean Water Act pretreatment conditions and must comply with land disposal restrictions, or must be generated by households or by a person generating less than 100 kilograms (kg) of HW per month.

3. HMTA of 1975 (49 U.S.C. 5101 et seq.). The HMTA, administered by the DOT, regulates the shipping, marking, labeling, placarding, and recordkeeping requirements for HM's, including HW's and military munitions. The 49 CFR 100 -199 describes these regulations.

9104. REQUIREMENTS

1. HW Management

a. General. Any installation that 1) generates, transports, treats, stores, or disposes of HW's or 2) produces, burns, distributes, or markets any HW-derived fuels must notify the cognizant EPA office of its activities and comply with RCRA and/or the authorized state HW program.

(1) Upon presenting proper credentials, Federal and state agency officials with responsibility over the HW programs will be allowed access to Marine Corps installations to perform their inspection/oversight duties. Inadequately cleared personnel must not be allowed access to classified areas.

(2) The installation will maintain and forward records and reports as required to Federal, state, or local agencies with responsibility over the HW program.

b. Hazardous Waste Management Plans (HWMP). DoD 4160.21-M directs each installation to develop a HWMP to include all Marine Corps commands/units and tenants on the installation. This plan will identify and implement HW management actions required by RCRA and/or by authorized state HW programs. Marine Corps commands/units and tenants must provide input to the installation CG/CO for their portion of the plan. Marine Corps commands/units and tenants will comply with the HWMP, which will be developed to provide both the installation and tenants personnel with procedures and responsibilities to properly manage HW. The plan must be signed by the installation CG/CO and must be provided to all personnel (including all Marine Corps commands/units and tenants) who accumulate, generate, transport (including on-installation transportation), treat, store, or dispose of HW. The plan must be maintained to reflect current installation and tenant organization responsibilities and current regulatory requirements. It must be reviewed and updated whenever installation/facility conditions or operations affecting HW accumulation, generation, transportation, treatment, storage, or disposal change. The plan must include, at a minimum, the following:

(1) A list of EPA/state identification numbers for generating, transporting, storing, treating, or disposing of HW as applicable;

(2) The names of persons authorized by the CG/CO in writing to sign HW manifests;

(3) Procedures and responsibilities for the installation, Marine Corps commands/units and tenants, and personnel for generating, transporting, storing, treating, or disposing of HW;

(4) The type and quantity of HW for each activity generating HW, including all Marine Corps commands/units and tenant activities;

(5) A description of waste minimization and source reduction projects,funds, and goals and resulting HW generation and cost reductions;

(6) The location of all HW generation/accumulation sites (including satellite areas) and TSDF’s;

(7) A waste analysis plan, as applicable;

(8) Procedures for self-inspections of HW generation/accumulation sites (including satellite areas) and TSDF's;

(9) Procedures to prevent unauthorized access to HW generation/accumulation sites (including satellite accumulation areas) and TSDF's;

(10) Procedures to treat, store, or dispose of HW temporarily if existing facilities are not available;

(11) References and installation POC's for obtaining information on HW management and POC's for EPA and state officials administering the HW program;

(12) A description of the training program to ensure that all applicable personnel are educated in Federal, state, local, and Marine Corps requirements for HW management;

(13) A contingency plan and notification procedure for spills;

(14) A section on special wastes such as fluorescent tubes, rags, asbestos, and empty containers; and

(15) A closure plan for HW accumulation sites, including less than 90-day sites and TSDF's.

c. Identification of HW. There are two means by which a SW is designated as a HW; either it is listed or it exhibits at least one of four hazardous characteristics. Both listed wastes and characteristic wastes are categorized using the applicable EPA HW numbers.

(1) Listed HW's are located in several sections within 40 CFR 261 and are grouped into the following categories of EPA HW numbers:

(a) F Wastes (40 CFR 261.31). Wastes from nonspecific sources (e.g., spent solvents used in cleaning operations).

(b) K Wastes (40 CFR 261.32). Wastes from specific sources (e.g., wastewater treatment sludge from the manufacturing or processing of conventional explosive materials).

(c) P Wastes (40 CFR 261.33). Acutely hazardous discarded commercial chemical products, off-specification products, container residues, and spill residues thereof.

(d) U Wastes (40 CFR 261.33). Toxic discarded commercial chemical products, off-specification products, container residues, and spill residues thereof.

(2) Characteristic HW's are designated as EPA waste numbers beginning with the letter "D," and are described in 40 CFR 261.20 - 24. They are identified as follows:

(a) Ignitable Wastes (D001). Any SW when it is a liquid and has a flash point of less than 140o F; when it is not a liquid and is capable of igniting a vigorous, persistent fire through friction, absorption of moisture, or spontaneous chemical change; when it is an ignitable compressed gas; or when it is an oxidizer.

(b) Corrosive Wastes (D002). Any SW that has a pH of less than or equal to 2 or greater than or equal to 12.5; or a SW capable of corroding steel at a rate greater than 0.25 inch per year.

(c) Reactive Wastes (D003). Any SW with any of the following properties:

1 Normally unstable and readily undergoes violent change without detonating;

2 Reacts violently with water;

3 Forms potentially explosive mixtures with water;

4 Generates toxic gases when mixed with water;

5 Cyanide or sulfide bearing and capable of generating toxic gases when exposed to pH conditions between 2 and 12.5;

6 Capable of detonation or an explosive reaction when exposed to a strong initiating force or when heated under confinement;

7 Capable of detonation or an explosive decomposition reaction in normal room conditions;

8 A forbidden Class A or Class B explosive.

(d) Toxic Wastes (D004 - D043). Any SW, the extract of which, when tested using the Toxicity Characteristic Leaching Procedure, contains contaminant(s) exceeding the allowable level(s). The 40 CFR 261.24 describes the list of contaminants, allowable levels, and corresponding D Waste numbers.

(3) Emission residues from air pollution control equipment and sludge from wastewater treatment plants may display an HW characteristic. Toxicity is the most common characteristic of these residues and sludge. Therefore, theseresidues and sludge must be evaluated to determine whether they are HW, and, if so, they must be managed appropriately.

(4) Several pesticides exhibit toxic waste characteristics. Installations that use pesticides must determine whether the waste pesticides and pesticide waste products (containers, rinsate, etc.) meet the definition of toxic HW listed above. When ready for disposal, pesticides and pesticide waste products meeting this definition must be managed as HW.

(5) Mixtures of a non-HW and listed HW are also considered HW and must be managed appropriately. An example of such a mixture is 1,1,1-trichloroethane (TCA) mixed with used oil. Because TCA is listed at 40 CFR 261, the entire mixture becomes HW.

(6) Mixtures of a non-HW and a characteristic HW are regulated as HW only if the entire mixture exhibits one of the four hazardous characteristics.

(7) Due to the regulations summarized above, it is extremely important to segregate waste streams, both hazardous and nonhazardous, to avoid the added expense of managing HW when it can be avoided through proper segregation. Segregation of these waste streams is beneficial, resulting in volume reduction, cost savings for disposal, and avoidance of unnecessary record-keeping.

d. Generation of HW

(1) Monthly generation rates, accumulation times, and accumulation quantities for HW generators are established at 40 CFR 261.5 and 40 CFR 262. The requirements are as follows:

(a) Conditionally Exempt Small Quantity Generators (CESQG) must generate no more than 100 kg of HW and less than 1 kg of acute HW per month and must accumulate no more than 1,000 kg of HW on site at any given time. CESQG's are exempt from all of the HW management regulations, except HW identification and disposal requirements.

(b) Small Quantity Generators (SQG) generate greater than 100 kg and less than 1,000 kg of HW per month and accumulate no more than 6,000 kg of HW on site at any given time. SQG's are subject to limited HW management regulations, which include obtaining an EPA identification number, properly maintaining HW storage containers and tanks, using the Uniform Hazardous Waste Manifest (EPA Form 8700-22) to ship wastes off site, limiting on-site storage to 180 days (270 days if the waste has to be shipped more than 200 miles), and properly disposing of HW.

(c) Large Quantity Generators (LQG) generate 1,000 kg or more of HW per month. LQG's are subject to all HW management regulations, unless the on-site storage of HW is limited to less than 90 days.

(2) If any of the generation quantities outlined in paragraphs 9104.1d(1)(a) and 9104.1d(1)(b) above are exceeded, then the generator is considered to be a LQG and is subject to all HW management regulations except where on-site storage of HW is limited to less than 90 days. If any of the storage quantities or time frames outlined in paragraphs 9104.1d(1)(a) through 9104.1d(1)(c) are exceeded, then the generator is the operator of a storage facility and must apply for a RCRA Part B permit to remain in operation.

(3) Before offering HW for transport off site, the HW generator must ensure that all DOT requirements for labeling, marking, placarding, and containerizing are met. The HW generator must also ensure that the transporter has obtained an EPA identification number for the transportation of HW and thata Uniform Hazardous Waste Manifest (or state equivalent) accompanies each shipment.

(4) Generators must send their HW to permitted TSDF's that comply with HW regulations. Generators must certify that the site selected to receive the waste employs treatment, storage, or disposal methods which are the most practically and currently available for minimizing present and future threats to human health and the environment. The Defense Reutilization and Marketing Service (DRMS) and their local Defense Reutilization Marketing Offices (DRMO) perform this function for DoD generators. Questions on this process should be
addressed to the local DRMO or DRMS.

(5) Generators must certify that they have developed and implemented minimization programs at their sites as part of the HW manifest requirements. Additionally, the generator must certify that these programs are capable of reducing the volume, quantity, and toxicity of the generator's waste as a part of their biennial report. Waste minimization reporting is also required by section 6602 of the Pollution Prevention Act as it amended the Superfund Amendments and Reauthorization Act (SARA) section 313 reporting requirements.

(6) The EPA has promulgated land disposal restrictions (LDR), limiting or prohibiting the land disposal of certain HW's by specific dates. Treatment standards for each waste were also set to reduce substantially the toxicity or likelihood of HW migration. Wastes that meet the treatment standards, or for which there will be no migration of hazardous constituents for as long as the wastes remain hazardous, may be land disposed. 40 CFR 268 lists the specific HW's prohibited from land disposal and the effective dates of the prohibitions. Generators of HW must take the following steps to ensure that the requirements of the LDR's are met:

(a) Waste analyses or generator knowledge of the waste must be used to determine if the waste is on one of the LDR lists (solvents, dioxin-containing,California, first third, second third, or third third) and is, therefore, a restricted HW.

(b) If the HW is restricted and does not meet the established treatment standard, a written notice must accompany each shipment of the waste,notifying the TSDF of the appropriate treatment standards that must be met before land disposal of the HW can take place.

(c) If the HW is restricted and meets the established treatment standards, a written certification of this fact must accompany each shipment of the waste to the TSDF. In this case, further treatment of the HW is not required prior to land disposal.

(d) If restricted HW's are being treated on site to meet the established treatment standards, a written waste analysis plan must be developed describing the procedures used to comply with the treatment standards. The plan must be filed with

the EPA region or authorized state at least 30 days prior to commencing the on-site treatment process.

(e) Records of all notices, certifications, demonstrations, waste analysis data, and other documentation produced to satisfy the LDR requirements must be kept on site for 5 years from the date the HW was sent to a TSDF.

e. Transportation of HW's

(1) The Marine Corps normally contracts, via the DRMS, with private transporters to ship HW off site for recycling, treatment, storage, or disposal. The Marine Corps generator and DRMS are responsible for ensuring that the transporter meets all Federal, state, and local HW transportation regulations.

(2) MCO 4450.12 provides policies, procedures, and responsibilities for receipt, storage, transportation, and handling of HM's and HW's. That document is published by the Marine Corps, DLA, and the other military services. The provisions in this document are applicable to all installations under the command and control of the SecDef.

f. Treatment, Storage, and Disposal of HW

(1) TSDF's are facilities on installations that conduct treatment, storage, or disposal operations, and require a permit to continue existing operations or to initiate new operations. The EPA developed a two-part permitting procedure for TSDF's as outlined in the following two paragraphs.

(2) The Part A permit confers interim status on an existing TSDF, allowing the installation to continue operations. Interim status can only be conferred on TSDF's for which construction commenced on or before November 19, 1980. The Part A application deadlines have long passed (the last one was November 8, 1988). Therefore, any TSDF's that do not already have a Part A permit must obtain a Part B permit before commencing operations.

(3) The Part B permit confers final approval to operate TSDF's. The application for the Part B permit is much more detailed, requiring location maps, engineering drawings, operating procedures, waste analysis plans, contingency and emergency response plans, and other items. The Part B application is reviewed and approved by the cognizant regulatory agency (usually the state). After approval, the Part B permit

must be maintained to reflect accurately the latest operations at TSDF's. Prior to implementing major changes in operations (e.g., new or modified treatment process, the generation of a new type of waste, new or modified storage area), the Part B permit must be updated, and approval of the cognizant regulatory agency must be obtained.

g. HW Manifest System

(1) The Uniform HW Manifest (EPA Form 8700-22) or state equivalent is the document used to track HW from the generation point to the final disposal destination. All HW that is transported over public roads must be accompanied by a manifest prepared and signed by the HW generator. Each transporter and the owner or operator of the facility designated to receive the HW must sign the manifest and keep a record copy. A copy of the signed manifest must then be returned to the HW generator.

(2) If the DRMO is managing the disposal of HW for the installation, the HW must be accompanied by a DRMO Disposal Turn-in Document (DD1348/2A) and a HW Profile Sheet (DRMS Form 1930), unless a current profile sheet is already on file with the DRMO when the DRMO accepts custody of the HW. The DRMO willthen prepare the manifest. The HW generator must review the manifest for accuracy of each entry and sign as the generator. Each person must be authorized in writing to do so by the installation CG/CO.

(3) In addition to fulfilling EPA requirements, installations must include a 24-hour manned duty telephone number in block 15 on each manifest.

h. Accumulation and Storage of HW by LQG's. There are three types of HW accumulation/storage areas: satellite, less than 90-day, and permitted. The regulatory requirements differ for each type. It is not a requirement to use all three types of areas. For example, HW can be accumulated at a satellite area and later be transferred to a permitted storage area. Each installation should set up the appropriate number and type of accumulation and storage areas necessary to manage its HW properly. The following paragraphs provide a description of each type of HW accumulation/storage area and the corresponding regulatory requirements.

(1) A satellite accumulation area is at or near the point of generation where wastes initially accumulate and is under the control of the operator of the process generating the wastes. In

order to manage satellite areas effectively and to prevent waste stream contamination, HW container access must be restricted to authorized personnel only. Although not required, it is good practice to place spill control and emergency equipment (e.g., eyewash, fire extinguisher) near a satellite accumulation area. The other requirements for operating a satellite accumulation area are:

(a) Each container must be in good condition, compatible with the HW, and marked with the words "Hazardous Waste" or other words that identify the contents of the container.

(b) Each container must be kept closed at all times except when adding or removing HW.

(c) Generators may accumulate up to 55 gal (gal) of HW or 1 quart of acute HW at a satellite area for an indefinite amount of time. These quantity limits are for the total amount of HW or acute HW at the site, not for each waste stream at the site. For example, 55 gal of 1 waste stream is allowed. Thirty gal of 1 waste stream and 25 gal of another waste stream are also allowed. However, 55 gal of one waste stream and 55 gal of another are not allowed.

(d) Once the quantities of HW or acute HW listed above are accumulated, the operator must write the date on the container and move it to a less than 90-day or permitted storage area within 72 hours. The date on the container then becomes the accumulation start date, and a nonpermitted facility then has 90 days to move or transport the waste to a TSDF.

(2) Less than 90-day storage areas are used to store HW temporarily until it is either manifested and shipped off site for disposal or transferred to a permitted storage facility on site. HW’s at these areas may be stored only for 90 days. There is no quantity limit for less than 90-day areas as long as all the regulatory requirements listed below are met.

(a) Each container must be in good condition, compatible with the HW, and marked with the words "Hazardous Waste" and the accumulation start date.

(b) Each container must be closed at all times except when adding or removing HW.

(c) The area must be inspected at least weekly for container leaks, deterioration of containers, open containers, and condition of emergency response and spill control equipment.

(d) Containers holding HW incompatible with other HW or materials stored nearby must be separated by a berm, dike, wall, or other device.

(e) The areas must be maintained, operated, and equipped to meet preparedness and prevention requirements outlined in subpart C of 40 CFR 265.

(f) A contingency plan and emergency procedures must be developed for each area as outlined in Subpart D of 40 CFR 265.

(g) Personnel responsible for the area must be trained in the proper handling of HW (40 CFR 265.16).

(h) As part of the effort to minimize the possibility of releases to the environment, secondary containment should be provided for liquid HW stored in these areas.

(i) If the area uses tanks to store HW, then the requirements of Subpart J of 40 CFR 265 must be met.

(3) Permitted Storage. These areas require a RCRA permit to store HW. The permitting process is outlined in paragraph 9104.1f. Accumulation and storage requirements will be specified in the installation's permit.

i. Accumulation and Storage of HW by SQG's. As stated in paragraphs 9104.1d(1) through (6), SQG's generate greater than 100 kg and less than 1,000 kg of HW per month and accumulate no more than 6,000 kg of HW on site at any time. These criteria apply to the installation as a whole, not to individual accumulation or generation sites. Accumulation and storage requirements for SQG's are comparable to, but not as stringent, less than 90-day storage sites. Key requirements are:

(1) The accumulation time limit is 180 days, unless the TSDF to which wastes will be transported for disposal is greater than 200 miles, in which case the accumulation time is 270 days.

(2) Requirements (a) through (e) identified above for less than 90-day storage areas must be met.

(3) An emergency coordinator must be on site or on call at all times.

(4) Preparations for responses to spills and other emergencies must be made, including posting emergency response telephone numbers, providing and identifying locations of fire extinguishers and spill control equipment, and familiarizing all employees with proper waste handling and emergency response procedures appropriate to the site.

j. Accumulation and Storage of HW by CESQG's. CESQG's are not subject to accumulation and storage requirements of Federal regulations. State requirements, reasonable safety precautions, and requirements for satellite accumulation areas should be considered when establishing accumulation and storage practices on installations that qualify as CESQG's.

k. Reporting and Recordkeeping

(1) LQG's and TSDF owners/operators must submit annual or biennial reports (EPA Form 8700.13A) to the appropriate regional EPA office or cognizant state agency by March 1 of each even-numbered year or at such time as required by the state agency. The Hazardous Waste Report has been assigned RCS DD-5090-03. A copy of each of these reports must be kept at least 3 years from the due date of the report. LQG and TSDF owners/operators should check state reporting requirements, which may be more stringent.

(2) If an LQG has not received a return copy of the HW manifest within 35 days of the date the waste was accepted by the initial transporter, the transporter and/or the owner/operator of the TSDF must be contacted to determine the location of the waste and its status. An LQG must provide an immediate exception report to the EPA regional or state regulatory authorities if the TSDF designated to receive the HW has not returned a copy of the manifest with the handwritten signature of the TSDF owner/ operator within 45 days of the date the HW was accepted by the initial transporter. A copy of each exception report filed with the EPA or the state authority must be kept at least 3 years from the date of the report.

(3) Records of test results or waste analyses must be kept for 3 years from the date the waste was last manifested off site.

(4) Generators and transporters must retain copies of manifests signed by the generator, transporter, and TSDF owner/operator for 3 years from the date the HW was accepted by the initial transporter.

(5) Records of all required inspections, including emergency equipment tests, at HW accumulation and storage areas must be kept on site. All inspection records must be maintained for a minimum of 3 years.

(6) SQG's are exempt from the requirements listed above in paragraph 9104.1k(1). With regard to exception reporting (paragraph 9104.1k(2)), SQG's have 60 days from the date the HW was accepted by the initial transporter to notify the appropriate regulatory authority. SQG's are recommended but not required to expend efforts to determine the location of the HW and its status.

(7) CESQG's are exempt from the requirements listed above in paragraphs 9104.1k(1) through (6), provided they do not exceed the HW generation quantities outlined in paragraph 9104.1d(1)(a).

(8) All commands will establish policies and procedures to protect HM inventories and HW inventories/records during natural disasters. These documents will be presented in each command's natural disaster plan(s). This process serves to identify and quantify any losses caused by a natural disaster.

2. RCRA Corrective Action. The 40 CFR 264, subpart S, provides corrective action rules as required by section 3004(u) of the SWDA. These rules enable the EPA and states to require TSDF's to undertake removal and remedial actions similar to those under CERCLA. The areas required to be cleaned up are referred to as SWMU's.

3. Marine Corps/DLA HW Management Interface. Within DoD, the responsibility for the disposal of HM/HW is split between the military services and DLA. DoD 4160.21-M promulgates consolidated guidance regarding HM/HW disposal. DLA has been designated the responsible agency for the worldwide disposal of all HM/HW, with the exception of the following nine categories of materials:

a. Toxicological, biological, radiological, and lethal chemical warfare materials, if required by United States law to be destroyed. Disposal of the byproducts of such materials is

the responsibility of the DoD installation with assistance from the DLA.

b. Material that cannot be disposed of in its present form because of military regulations (e.g., controlled medical items and items awaiting demilitarization). This category would include instances when military regulations require the obliteration of all markings that could relate excess material to its operational program. Once the appropriate actions are taken to meet the military regulation, the resulting material could then be disposed of through the DLA.

c. Municipal-type garbage, trash, and refuse resulting from residential, institutional, commercial, agricultural, and community activities. This material can be disposed of in a state or local permitted municipal SW landfill.

d. Contractor-generated materials that are the contractor's responsibility for disposal under the terms of the contract. The HW identification number holder (normally the installation commander) must maintain appropriate control of these materials or wastes and assure that they are transported and disposed of in compliance with Federal and state requirements.

e. Sludge resulting from municipal-type wastewater treatment facilities.

f. Sludge and residues generated as a result of industrial plant processes or operations. Properly identified industrial process sludge and residues, which are not commingled or a product of an industrial waste treatment facility, are the responsibility of the DLA. The DLA does not accept sludge and residues from wastewater treatment facilities. The DLA does take sludge and residues from industrial processes that have not been commingled. For example, sludge and residues from industrial process "A" must be collected and stored separately from sludge and residues resulting from industrial process "B." Each process may result in sludge and residue contamination, but the sludge and residues from each process must be collected and stored separately.

g. Refuse and other discarded material that result from mining, dredging, construction, and demolition operations.

h. Unique wastes and residues of a nonrecurring nature generated by research and development experimental programs.

i. Wastes and residues (including contaminated soil) resulting from site cleanups associated with long-term, widespread contamination of the environment. This category includes wastes and residues from installation restoration efforts.

j. On a case-specific basis, the local DRMO may be able to arrange disposal of the above categories of HW. Contact the local DRMO for more information on the availability of this service.

4. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

9105. TERMS AND DEFINITIONS

1. Ammunition. A contrivance charged with explosives, propellants, pyrotechnics, or initiating composition or chemical material for use in connection with defense or offense, including demolitions, training, ceremonial,or nonoperational purposes.

2. Conventional Explosive Material. Includes liquid and solid propellants and explosives, pyrotechnics, riot control agents, smokes, and incendiaries used by DoD Components. Includes bulk conventional explosive ordnance, rockets, missiles, warheads, devices, and components thereof. Excludes wholly inert items, toxic chemical agents, and nuclear warheads and devices.

3. Disposal. The discharge, deposit, injection, dumping, spilling, leaking, or placing of any SW or HW into or on any land or water so that such SW or HW, or any constituent thereof, may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

4. Disposal Facility. A facility or part of a facility at which HW is intentionally placed into or on any land or water, and at which waste will remain after closure.

5. EPA HW Number. The number assigned by the EPA to each HW listed in 40 CFR 261, subpart D, and to each characteristic identified in 40 CFR 261, subpart C.

6. EPA Identification Number. The number assigned by the EPA or a state to each generator, transporter, and TSDF.

7. Generator. Any person, by site, whose act or process produces HW identified or listed in 40 CFR 261, or whose act first causes a HW to become subject to regulations.

8. HW. Any discarded material (liquid, solid, or gaseous) that because of quantity, concentration, or physical or chemical characteristics may:

a. Cause or significantly contribute to an increase in mortality or in a serious irreversible or incapacitating reversible illness.

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed, excluding infectious and radioactive waste; if infectious or radioactive wastes are mixed with EPA/state regulated HW, then the mixture remains regulated as an HW. HW does not include HM with an expired shelf life, unless designated as such by a DRMO.

9. HW Management. The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of HW.

10. Treatment. Any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any HW. Treatment includes neutralizing the waste, recovering energy or material resources from the waste, and rendering such waste nonhazardous or less hazardous and safer to transport, store, or dispose of. Treatment also includes making wastes amenable for recovery or storage and reducing the volume of wastes.

SECTION 2: MARINE CORPS POLICY

9200. GENERAL. Marine Corps installations and Marine Corps commands/units and tenants in the United States must comply with all Federal, state, and local regulatory requirements relating to HW. Compliance with all aspects of an EPA-approved state HW management program is deemed to be in compliance with allFederal requirements. If a state has a program that is not approved by the EPA, Marine Corps installations and commands/units and tenants in the given state must comply with both the state and Federal program requirements. Overseas Marine Corps bases must comply with HW requirements in the Overseas Environmental Baseline Guidance Document (OEBGD) or, if they exist, the Final Governing Standards (FGS)/Japan Environmental Governing Standards (JEGS).

9201. MARINE CORPS HAZARDOUS WASTE (HW) ANNUAL REPORT. This report is no longer required. The data that was collected on this report is now part of the Pollution Prevention Annual Data Summary (P2ADS). Specific guidance on P2ADS was provided in CMC letter 5090 LFL/S-157, 26 January 1998.

9202. HAZARDOUS WASTE (HW) MINIMIZATION

1. Marine Corps policy is to reduce the quantity of HW disposed of by using the pollution prevention hierarchy of reduction, recycling, treatment, and disposal.The highest priority should be placed on reduction of HW generation and recycling.

2. Federal and state regulations require all HW generators to certify (on each Uniform HW Manifest) that a program exists to minimize the volume and toxicity of HW's generated, insofar as economically feasible. Marine Corps activities that have programs for avoiding or reducing HW generation, or for recycling, reutilizing, and treating HW generated to the maximum extent practicable may make such a certification.

3. The Marine Corps met its previous goal of 50 percent reduction of HW (by weight) for the 5-year period extending from 1988 through 1992. The current Marine Corps HW minimization program goal is to reduce HW by 50 percent by CY 1999, with the baseline year being 1992. The long-term Marine Corps goal is to achieve continuous reduction of HW generation through pollution prevention initiatives, Best Management Practices, and Best Demonstrated Available Technology. Employing pollution prevention concepts in addressing HW compliance will help Marine Corps installations to achieve these HW reduction goals. Under Executive Order (EO) 12856, August 3, 1993, the Marine Corps must reduce total releases of toxic chemicals to the environment and off-site transfers of such toxic chemicals for treatment and disposal from facilities covered by 50 percent from CY 1994 to CY 1999. The toxic release reductions are chemical specific as opposed to HW stream specific, so care must be taken to measure the two separate goals. See chapter 15 of this Manual for more information on Toxic Release Inventory reduction goals and pollution prevention.

9203. MARINE CORPS AND DEFENSE LOGISTICS AGENCY (DLA) INTERFACE

1. Installation Management. See appendix I for information on the use of outside sources other than the DLA for HW disposal, if doing so will best accomplish the mission. Marine Corps policy is to use DLA HW disposal services insofar as it is possible. However, Marine Corps CG's/CO's have authority to directly contract for HW disposal if necessary to 1) comply with HW regulations,

2) improve efficiency, 3) produce economic benefits, or 4) allow successful accomplishment of the mission.

2. When using DLA HW disposal services, the Marine Corps must reimburse the DLA per procedures established by the DLA and the Comptroller of the Navy.

3. If a Marine Corps activity chooses to pursue an independent contract for HW disposal using non-DLA services, all aspects of the procurement (e.g., contract, technical specification, disposal criteria, quality assurance, and quality control plan) must be at least as stringent as those used by the DLA.

9204. STORAGE OR DISPOSAL OF NON-DOD HAZARDOUS WASTE (HW) ON MARINE CORPS PROPERTY. Marine Corps activities, with few exceptions, are prohibited by law from storing or disposing of non-DoD HW on site. In addition, Marine Corps policy prohibits HW generators and TSDF's from accepting non-DoD HW from off site. The exceptions to this rule are as follows:

1. Household hazardous waste in military housing;

2. Strategic and critical materials in the national defense stockpile;

3. Temporary storage or disposal of explosives to protect the public, to assist Federal, state, or local law enforcement agencies, or in emergency situations;

4. Disposal of excess explosives under a DoD contract after determining that feasible alternatives are not available;

5. Temporary storage of nuclear materials under agreement with the Department of Energy;

6. Storage of military resources for use in peacetime civil emergencies;

7. Temporary storage of materials from other Federal agencies during transportation emergencies; and

8. Storage or disposal of materials from a private person in connection with the authorized and compatible use of that person of a DoD industrial-type facility.

9205. HOST INSTALLATION AND MARINE CORPS COMMANDS/UNITS AND TENANTS ACTIVITY HAZARDOUS WASTE (HW) INTERFACE

1. Marine Corps installations are responsible for obtaining EPA HW generation numbers and TSDF permits. However, much of the HW generated at installations is the result of Marine Corps commands/units and tenants, including training exercises. Therefore, it is important for host installations and Marine Corps commands/units and tenants to agree upon their individual responsibilities with respect to the overall base HW management program. The following paragraph discusses Marine Corps policy regarding host and Marine Corps commands/units and tenants HW management responsibilities. (See chapter 2 of this Manual.)

2. Marine Corps policy requires that Inter-Service Support Agreements or equivalent agreements include responsibilities of both parties (host and commands/units and tenants) for the HW management program. Minimum topics to include in these agreements are funding for HW management and disposal, accumulation and storage, HW stream generation, HW coordinator designation, HW training, and HW minimization (use of pollution prevention techniques).

3. Contractors working on base must comply with items 1 and 2 of paragraph 9205.

CHAPTER 9

HAZARDOUS WASTE MANAGEMENT

SECTION 3: RESPONSIBILITIES

9300. CMC (LF)

1. Provide support to Marine Corps installations and Marine Corps commands/units and tenants by interpreting Federal, state, local, and overseas HW regulatory requirements and by uniformly applying Marine Corps policy as set forth in this Manual.

2. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

3. Represent the interests of Marine Corps installations in liaison with DRMS and DLA to ensure adequate support in the disposal of HW.

4. Conduct special environmental compliance and protection studies with regard to HW management to assist in establishing policy or initiating actions.

5. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to HW regulations.

6. Track Marine Corps progress toward meeting established HW minimization goals, using the P2ADS.

9301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for HW sources, collection systems, and treatment facilities that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with HW management requirements. Pay appropriate Federal, state, and local fees. Ensure that the environmental management hierarchy is employed, pollution prevention alternatives

evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

2. Ensure that all required Federal, state, and local permits are applied for and obtained. Sign certifications and permit applications, as required, for construction of all HW management projects.

3. Designate a focal point to coordinate the installation HW management program.

4. Determine, evaluate, and comply with those Federal, state, and local laws and regulations, or OEBGD and FGS/JEGS requirements applicable to HW management at the CONUS or outside the continental United States (OCONUS) Marine Corps installation, respectively.

5. Develop an installation HWMP as described in this chapter.

6. Designate in writing personnel authorized to sign HW manifests for the installation.

7. Budget and fund personnel, facilities, and equipment necessary to handle, store, transport, treat, and dispose of HW generated by installation operations.

8. Budget and fund personnel, facilities, equipment, and other costs necessary to transport and dispose of Marine Corp command/unit and tenant generated HW as outlined in paragraph 3210 of this Manual.

9. Develop training programs and train personnel involved in HW operations. Such training must meet Federal and state requirements relative to the management of HW.

10. Provide technical assistance and support to commands/units and tenants as needed.

11. Submit the P2ADS to NFESC, with copies to the CMC (LF) and the cognizant NAVFACENGCOM EFD/EFA.

12. Submit, as required, the biennial HW report to the EPA.

13. Ensure that coordination occurs as appropriate with the Safety Office in matters relating to the management of HW.

14. In addition, CG's/CO's of overseas Marine Corps installations must:

a. Ensure that HW (by United States or host nation definition) generated by Marine Corps actions is not disposed of overseas unless it is done in compliance with the OEBGD, FGS/JEGS, and any applicable international agreement, or with the concurrence of the appropriate host nation authority if no applicable international agreement exists.

b. Coordinate with the DoD Environmental Executive Agent or appropriate command for the disposal of HW in the United States or another foreign nation if disposal is not possible in the host nation.

c. Comply with the Status of Forces Agreement and other applicable international agreements on the shipping and storage of HW's.

15. Ensure that a base or station order is written to implement specifications set forth in this chapter. This requirement can be accomplished by writing an environmental compliance and protection standard operating procedures document to implement all environmental requirements.

9302. CG/CO OF MARINE CORPS COMMANDS/UNITS AND TENANTS

1. Comply with all host installation/CinC orders and plans that govern the management of HW. Participate in the updating of orders and plans to ensure that the needs of the Marine Corps commands/units and tenants are addressed.

2. Develop command/unit and tenant orders, directives, and/or SOP's as needed to implement host installation orders and a plan that governs HW management.

3. Designate HW management personnel for each HW generation, accumulation, and storage area under the cognizance of the Marine Corps commands/units and tenants.

4. Comply with all Federal, state, and local laws as well as regulations applicable to HW management at the Marine Corps commands/units and tenants. Or, if overseas, comply with OEBGD or FGS/JEGS requirements related to HW management.

5. Comply with state and local laws and regulations applicable to medical waste management at the command/unit and tenant command.

6. Assist the host installation HW management focal point in filling out all required regulatory reports and the Marine Corps P2ADS.

7. Budget and fund personnel, facilities, equipment, and other costs associated with the generation and preparation for transport of HW as outlined in chapter 3 of this Manual.

8. Ensure that designated HW coordinators and other personnel involved in HW management receive the appropriate training. Participate, when possible, in the host installation training program to take advantage of Marine Corps in-house expertise and economy of scale for contractor-provided training.

9. Request technical assistance from the host installation HW management focal point as needed.

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 10

INSTALLATION RESTORATION PROGRAM

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CHAPTER 10

INSTALLATION RESTORATION PROGRAM

SECTION 1: INTRODUCTION

10100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with procedural and statutory requirements under the DON IR program.

10101. APPLICABILITY. See paragraph 1101.

10102. BACKGROUND. The IR program identifies, investigates, and cleans up or controls hazardous substance (HS) releases from past waste disposal operations and spills at Marine Corps installations. The IR program is designed to comply with procedural and substantive requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Superfund Amendments and Reauthorization Act (SARA), and with regulations promulgated under these Acts and relevant state laws. Although the IR program is intended primarily to clean up past HS releases, it may address the cleanup of past releases of any pollutant and/or contaminant that endangers public health, welfare, or the environment, including petroleum, oil, and lubricants. For additional information and guidance, refer to the most current version of the Navy/Marine Corps IR Manual.

10103. FEDERAL STATUTES

1. CERCLA of 1980, as Amended (42 U.S.C. 9601 et seq.). This Act, commonly referred to as "Superfund," authorizes Federal action to respond to the release or threatened release of HS from any source into the environment. CERCLA also authorized the creation of a trust fund to be used by the Environmental Protection Agency (EPA) to clean up emergency and long-term Hazardous Waste (HW) problems. The DoD is not covered by the trust fund; however, Congress set up special funding outside CERCLA, the Defense Environmental Restoration Account (DERA), to pay the cost of DoD responses to HW site remediation. In a memorandum issued on 3 May 1995, the Deputy Secretary of Defense devolved DERA to the Military Departments and defense agencies.

The account that funds Marine Corps requirements is now referred to as the Environmental Restoration, Navy (ER,N) account.

a. SARA of 1986 (Public Law 99-499). This Act reauthorized and amended the authorities and requirements of CERCLA. SARA provisions that are of primary importance to the IR program are set forth in section 120, which addresses response actions at Federal Facilities, and in section 211, which codifies the Defense Environmental Restoration Program (DERP) into law.

b. Community Environmental Response Facilitation Act (CERFA) of 1992 (Public Law 102-426). CERFA amends CERCLA, section 120(h), Property Transferred by Federal Agencies. CERFA requires the Federal Government, before the termination of Federal activities on any real property owned by the Governmentto identify real property where no HS or petroleum was released, or disposed of. CERFA further clarifies the meaning of "remedial action taken" in CERCLA, section 120(h)(3).

c. National Oil and Hazardous Substances Pollution Contingency Plan (NCP). NCP is the regulation that implements the statutory requirements of CERCLA, SARA, and section 311 of the Clean Water Act. The NCP defines responses to HS releases or threatened releases. When addressing the cleanup of HS releases, CERCLA requires each Federal agency to comply with the Act in the same manner and to the same extent as any nongovernmental entity.

2. Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. 6901 et seq.). Amended by the Hazardous and Solid Waste Amendments (HSWA), RCRA and CERCLA are closely associated with each other. Of particular note is section 3004(u) of RCRA (i.e., corrective action) by which the EPA or a state may require the cleanup or a schedule for investigation and cleanup of all inactive solid waste management units (SWMU) on an installation before issuing a RCRA Part B permit for current HW operations at the installation. Cleanup standards may be different under RCRA (e.g., timetables) than under CERCLA. Therefore, in instances in which an installation is required to comply with RCRA, both IR program cleanup schedules and standards may be impacted.

3. NEPA of 1969 (42 U.S.C. 4321 et seq.). The primary requirement of NEPA is to incorporate environmental considerations into decisionmaking processes of major Federal actions that significantly impact the quality of human health and the environment. NEPA is a procedural statute that requires a Federal decision maker to consider the environmental impacts of a proposed action, while also ensuring that the public is fully

informed of the proposal and its impacts and given adequate opportunity to comment. IR program actions that follow the NCP and fulfill public participation requirements are deemed to be in compliance with NEPA.

4. Base Realignment and Closure Act (BRAC) of 1988 (Public Law 100-526). BRAC was enacted by Congress to select bases for realignment and closure as a part of overall military downsizing. BRAC selections were conducted in 1988, 1991, 1993, and 1995. Installations designated as realignments, receiving sites, or closing bases have special environmental considerations. These requirements form what is known as the BRAC Environmental Restoration program, which is discussed in this chapter. Although base closure legislation requires closing bases to cease operations and transfer property within a 6-year period following the enactment of legislation, environmental characterization and cleanups may continue for several years beyond this 6-year window. Ultimately, this cleanup process may prevent the transfer of cleaned parcels of land to the community in the 6-year time frame. However, the Marine Corps may initiate and execute lease agreements with interested parties before cleanup is complete. Upon completion of cleanup, transfer of land can occur.

5. Executive Orders (EO)

a. EO 12088, October 13, 1978, Federal Compliance with Pollution Control Standards, requires each Executive Agency to comply with applicable pollution control standards. Compliance with applicable pollution control standards means conforming to the same substantive, procedural, and other requirements that apply to private citizens.

b. EO 12580, January 23, 1987, Superfund Implementation, delegates the President's authority under CERCLA, as amended by SARA, to Federal agencies, including the DoD. Accordingly, DoD, not the EPA, has the lead agency authority to respond at DoD installations. The lead agency authority has been re-delegated by DoD to its individual departments.

6. State Laws. Many states have laws analogous to CERCLA. CERCLA does not enable delegation of the Superfund Program to states; however, under CERCLA, section 120(a)(4), state laws concerning removals, remedial action, and enforcement apply to Federal facilities not listed on the National Priorities List (NPL).

10104. REQUIREMENTS

1. IR Program Outline

a. The EPA is responsible for implementing CERCLA by developing and enforcing appropriate regulations. Regulations issued for CERCLA compliance are found in the NCP. General procedures are set forth under the NCP for initiating and carrying out the remedial action process at CERCLA sites (additional details can be found in the Navy/Marine Corps IR Manual) as follows:

(1) Site Discovery and Notification;

(2) PA/SI;

(3) HRS;

(4) RI/FS;

(5) ROD;

(6) RD/RA;

(7) LTO or Remedial Action Operations (RAO);

(8) LTM; and

(9) Site Close-out, NFRAP, or Delisting.

b. Provisions throughout this process ensure close coordination with regulatory agencies and the public. The EPA and appropriate state and local officials must have adequate opportunity to review and comment on assessments/studies and proposals regarding RA. Figure 10-1 at the end of this
chapter outlines the IR program and DON-responsible offices.

2. Site Discovery and Notification

a. Site discovery and notification is the first step in addressing uncontrolled or abandoned HS sites at Marine Corps installations. Other than a Federally permitted release, any HS release or threatened release, as defined in CERCLA section 101(22), from a facility in quantities equal to or greater than the reportable quantity established pursuant to CERCLA section 102 must be reported to the National Response Center (NRC). The NRC will convey the notification to all appropriate Government

agencies (e.g., state governor, the EPA, the appropriate state agency, and/or relevant local authorities) (CERCLA, section 103). Additionally, releases or threatened releases must be reported through the chain of command using the reporting format contained in appendix E, which is further described in chapter 7 of this Manual. Although notification duties may be delegated, the installation CG/CO ultimately is responsible to ensure proper and prompt notification. Upon request from the installation, the cognizant Naval Facilities Engineering Command (NAVFACENGCOM) Engineering Field Division/Activity (EFD/EFA) will take the lead to investigate the release. CERCLA makes no distinction between current or past releases under the reporting requirement. The requirement goes into effect upon discovery (i.e., as soon as the person in charge has knowledge of the release), which means that the installation must give prompt notice (CERCLA, sections 103(a) and (c)) of such information to the NRC by telephone. It is imperative that a follow-up confirming letter be sent to the appropriate agency in addition to the verbal telephone notice. An owner or operator who fails to notify the appropriate agency immediately upon discovery of such release, or who submits any information that is known to be false or misleading, can be prosecuted, fined, or imprisoned (up to $10,000 and 3 years in jail) upon conviction (CERCLA, section 103(b)).

b. Under the IR program, notification of an unconfirmed past release is accomplished when the CG/CO forwards a PA/SI report to the EPA and state regulatory agencies. If an installation, in reviewing its records, discovers that a potential disposal site exists that was not previously investigated, the installation will report this information to the EFD/EFA for further review. The potential site does not need to be reported to the NRC at this time since it is only a potential site.

3. Federal Agency HW Compliance Docket

a. Congress has created measures to ensure that Federal agencies accomplish PA's at certain installations. It requires the EPA to establish a Federal Agency HW Compliance Docket, which lists those Federal facilities that have submitted the following:

(1) RCRA, section 3005: Permits for Treatment, Storage, and Disposal of HW's;

(2) RCRA, section 3010: Notification of HW Generation, Transport, Treatment, Storage, or Disposal Activities;

(3) RCRA, section 3016: Biennial Inventory of Federal HW Facilities;and

(4) CERCLA, section 103: Notice of HS Release.

b. The docket also lists any installation that has reported a release of an HS, has applied for a RCRA Part A or Part B permit, or has submitted IR program information to the EPA. A PA must be prepared for every site on the docket (CERCLA, section 120(d)). The EPA must make the docket available for public inspection by establishing repositories of docket information at EPA regional offices (CERCLA, section 120(c)(3)). In conjunction with the installations, the NAVFACENGCOM EFD/EFA's will review and update the repository information and ensure that all sites are being addressed. The EPA may not remove sites from the docket, but must indicate as appropriate "No Further Action Required," "Site Evaluation Accomplished," or other status.

4. Removal Actions. Removal actions are part of the response process and follow the first response to a release or threatened release. Removals can be undertaken at any time during the remedial process. If a removal action does not fully address the threat posed by the release, then an orderly transition should be made from removal to another response. CERCLA, section 104, and EO 12580, January 23, 1987, grant the DoD the authority to carry out removal actions when the release is on a DoD installation, or when the sole source of the release is from a DoD installation. However, notice of removal actions must be given to the EPA and/or the state pursuant to SARA section 211.

5. PA/SI

a. After site discovery and notification by an installation, within 12 months after an installation has been listed in the Federal Agency HW Compliance Docket or within 12 months of receiving a petition (unless the assessment is deemed inappropriate), a PA must be conducted (CERCLA, section 120(a)). A follow-up SI is accomplished where appropriate. The PA is developed from readily available existing information and includes the following:

(1) A description of the release;

(2) A description of the probable nature of the release; and

(3) A recommendation of whether further action is warranted and whether an SI or removal action or both should be undertaken.

b. The PA determines whether additional investigation of a site is required. The installation CG/CO reviews, signs, and forwards the PA to the EPA and cognizant state agency. If additional investigation is required, actual samples are collected and analyzed in an SI. At the conclusion of an SI,the CG/CO approves the total PA/SI package and sends it to the EPA and cognizant state agency.

c. An SI is required if the PA reveals that additional investigation is needed. An SI should:

(1) Eliminate from further consideration those releases that pose no threat or potential threat to public health or the environment;

(2) Determine the need for removal actions; and

(3) Collect data to characterize the release for the effective and rapid initiation of an RI/FS.

d. CERCLA also authorizes the public to petition installations directly to conduct a PA, if any person or organization believes that an HS release or threat of a release exists.

6. HRS and National Priorities List (NPL). Information from the PA/SI is used to score HS releases. Using the HRS, the EPA evaluates HS releases to determine their potential to affect human health, welfare, and the environment. Historically, a site is proposed for the NPL if the HRS score is 28.5 or higher.The NPL is a list of sites which have been identified as posing the greatest or most immediate threat to human health, thus warranting a priority response. (See appendix A of 40 CFR 300.)

7. RI/FS

a. Sites identified in the PA/SI as potential threats to human health or the environment receive a comprehensive investigation called an RI/FS. Investigators will define all contaminants and their migration pathways, assesspotential risks to public health and the environment, and carry out a comprehensive, quantitative risk assessment. The RI serves as the mechanism to collect data for site and waste characterization

that is necessary to evaluate the performance and cost of possible treatment technologies and to support the evaluation, selection, and design of remedies. The FS serves as the mechanism to develop, screen, and provide detailed evaluations of potential remedial alternatives. The RI/FS evaluates thethreat to public health posed by the HS release, develops cleanup performance goals to compare the health risks of the remedial alternatives, and considers the cost of remedial alternatives.

b. CERCLA requires that an RI/FS be initiated no later than 6 months after a site is listed on the NPL. The RI/FS (at both NPL sites and non-NPL sites) is conducted in compliance with EPA guidelines.

8. Administrative Record/Retention of Records

a. NCP, 40 CFR 300.800. The NCP requires that an Administrative Record, or Information Repository, be established for all CERCLA sites. The Administrative Record must be established and made available to the public at or near the installation at the start of the RI or at the time the Engineering Evaluation/Cost Analysis for removal actions is approved. In any judicial action under CERCLA, a court will look to the administrative record to determine whether the agency's decision in selecting a response action was made properly. The NAVFACENGCOM EFD/EFA will establish and maintain the Administrative Record and send copies and updates to the installation, state, and EPA. The CG/CO must ensure that any new or additional information, such as correspondence with regulatory agencies and the public, is provided to the EFD/EFA for inclusion in the Administrative Record. Installations must ensure that the Administrative Record is available to the public. Therefore, an up-to-date duplicate of each item in the official EFD/EFA file must be established and maintained at the installation and at locations accessible for public review.

b. CERCLA, Section 103(d)(2). Any person responsible for providing notification of known, suspected, or likely releases should also retain records of the facility and HS releases for 50 years after the act was enacted (i.e., the year 2030), or for 50 years after the record was established, whichever is later (CERCLA, section 103(d)(2)). The records include information on the location, title, and condition of the facility and the identifying characteristics, quantity, origin, or condition (including containerization and previous treatment) of any HS contained or deposited on the facility. It is unlawful to destroy, mutilate, conceal, or falsify such records. The EPA may

promulgate rules and regulations covering records that should be retained, but it has not done so to date. Pending any such guidance, each installation should retain the appropriate records for at least the statutory time period or apply to the EPA for appropriate waivers.

9. Coordination with Regulatory Agencies and the Public

a. At this point in the IR program, initial investigation of a number of sites has been accomplished. CERCLA and EPA guidance require that regulatory agencies and the public be informed of these results and other studies and investigations as they occur. The installation CG/CO must, therefore, ensure that the EPA and appropriate state and local officials have adequate opportunity to review and comment on assessments, studies, and proposals for responses/RA's (SARA, section 211). Although assessments, studies, and recommendations for RA's normally are conducted for the Marine Corps installations by the cognizant NAVFACENGCOM EFD/EFA, the CG/CO remains ultimately responsible to ensure compliance by approving and forwarding documents to the appropriate regulatory agencies.

b. A proactive public information program must be implemented at each installation per SECNAVINST 5720.44 for all IR program sites, and a formal written Community Relations Plan (CRP) must be prepared by each installation that has a site listed on the NPL. The public information program must continue throughout the life of the IR program at the installation as follows:

(1) Inform the public (both on- and off-base) of investigations and cleanup alternatives. Team-building is an important element in IR program community relations implementation. Cleanup functions cannot be conducted separately from the CRP. Installation IR program Managers, Public Affairs Officers (PAO), and attorneys must work together to develop a cohesive CRP strategy. Conduct regular team meetings so that PAO's are well informed and project personnel do not face the public unprepared.

(2) Conduct community interviews both on and off the installation to identify the concerns of the local community and whether the community desires to participate in the site remediation process. These interviews should include the PAO and the IR program project managers. Training to conduct theseinterviews must be a priority. An installation representative should lead the interview team.

(3) If assistance is required in the CRP, contact the IR program manager at the CMC (LF).

10. TRC/RAB. SARA, section 211, requires that whenever possible and practical a TRC be established to review and comment on actions and proposed actions for releases or potential releases at the installation. TRC's should beconverted to RAB's if there is sufficient, sustained community interest. Installation commanders will expand the function of the current TRC's and establish RAB's if 1) a local government requests that a RAB be formed, 2) 50 local residents sign a petition requesting that a RAB be formed, 3) an installation determines that a RAB is required, or 4) the installation is scheduled for base closure.

11. Public Health Assessment. The Agency for Toxic Substances and Disease Registry (ATSDR) must perform a health assessment for each facility listed or proposed for the NPL. A Public Health Assessment is the evaluation of data and information on HS releases into the environment to assess any current or future impact on public health, to develop health advisories or other recommendations, and to identify studies or actions needed to evaluate and mitigate or prevent human health effects. To the maximum extent possible, the ATSDR must complete a health assessment before completion of the RI/FS. ATSDR will perform the assessment using available information from IR program studies. The results of the ATSDR analysis will be used in the RI/FS, as appropriate.

12. ROD/Decision Document. The installation CG/CO must prepare a ROD or decision document to record the decisionmaking process whenever an RA or no-action alternative is selected at both NPL and non-NPL sites. The cognizant NAVFACENGCOM EFD/EFA will prepare the ROD or decision document in coordination with the installation and forward the recommended ROD to the installation CG/CO. The CG/CO must review the proposed ROD and the Administrative Record carefully. Approval is indicated by the CG/CO's signature. As required by ERCLA, section 117(b), notice of the final ROD must be published, and the ROD must be made available to the public in the Administrative Record before adopting any RA. Any significant comments, criticisms, and new data submitted by the public requires a response and must be made available to the public before the commencement of any RA. For NPL sites, the ROD is forwarded to the EPA for concurrence. If agreement is not reached on the selection of an RA for NPL sites, then the EPA makes the selection. The Marine Corps has final decision authority for non-NPL sites per EO 12580, January 23, 1987, as long as all "applicable or relevant and appropriate

requirements (ARAR)," such as Federal, state, and local standards, are taken into account.

13. IAG

a. As required by CERCLA, section 120(e), Federal Agencies must enter into an IAG with the EPA for expeditious completion of all necessary RA's within 180 days after completion of each RI/FS for an NPL site. IAG's must be signed by the Assistant Secretary of the Navy for Installations and Environment (ASN(I&E)).

b. To expedite the cleanup process, where possible, the EPA and/or the state develop and sign an FFA as soon as possible after an installation is proposed for NPL listing. An FFA becomes an IAG for an Operable Unit (OU) or site cleanup at an installation once the ROD is signed and new schedules are negotiated for the actual remedial action. FFA's are not required by law; however, DoD and DON policy requires FFA's unless they are not advantageous to the Marine Corps.

c. There are also IAG's with states for cleanup at non-NPL installations related to the RCRA corrective action permit and section 3008(h) order process,
Underground Storage Tank cleanup agreements, and RCRA closure.

14. RD/RA. Following the RI/FS and the ROD, a site enters the RD/RA phase. During the RD, detailed designs, plans, specifications, and bid documents are developed for implementation of the cleanup or RA phase. The RA phase cleanup is implemented with the award of a contract to begin construction of the selected alternative(s). After the ROD has been completed, the RD/RA will commence. For NPL sites, "substantial continuous physical on-site remedial action" must commence no later than 15 months after completion of the RI/FS (CERCLA, section 120(e)).

15. LTO also Referred to as RAO. Many remedial technologies will require the operation and maintenance (O&M) of equipment after the RA is installed. Plans for O&M, including long-term monitoring, are identified in the FS, ROD, or decision document. Long-term O&M of the remedy begins with the initiation of the RA and continues until the remedy is no longer needed.

16. LTM. LTM is conducted by NAVFACENGCOM using ER,N funds for the first 5 years after the Response Complete (RC) is achieved. After that, the installation CG/CO funds and conducts the LTM.

17. Citizen Suits. CERCLA allows any citizen to sue any person or Government agency "who is alleged to be in violation of any standard, regulation, condition, requirement, or order that becomes effective pursuant to this Act (including any provision of an agreement under CERCLA, section 120, relating to Federal Facilities)." This process allows private citizens to ensure that Marine Corps installations are complying with CERCLA and with the terms of IAG's. To sue a Federal agency under these provisions, a citizen must give a Notice of Violation (NOV) to the President, to the state in which the violation occurs, and to the agency being sued. If diligent actions are taken within 60 days after receiving an NOV to comply with a CERCLA requirement, then the lawsuit can be prevented. To avoid lawsuits and potential court orders, Marine Corps installations, with assistance from their cognizant EFD/ EFA, must comply with CERCLA and the terms of IAG's. Installation CG's/CO's and their staffs should be alert to citizen and citizen group correspondence that purports to be an NOV and would commence the 60-day time limitation. The CMC (LF) and the CMC (CL) must be consulted immediately if a Marine Corps installation
receives a citizen suit letter.

18. PRP

a. The Marine Corps may be a PRP when there is an HW release or threat of a release generated by the Marine Corps. In the typical situation, it is a former HW disposal site that through mismanagement, bankruptcy, poor planning, or mere cessation of business operations on the part of the owner/operator requires a removal action or an RA under CERCLA. The EPA or state authorities may unilaterally or jointly undertake cleanup action with Superfund moneys (or similar state resources) and assess costs against all PRP's. Alternatively,the EPA and the state may arrange for cleanup by the PRP's. In either case, when Marine Corps HW is subject to corrective action at a disposal site, the Marine Corps is responsible for a portion of the cleanup costs.

b. Marine Corps involvement as a PRP begins when the EPA or state issues a general or special notice. A general notice is one announcing that the EPA is investigating a site and that the Marine Corps may be a PRP. A request for information about use of the site for HW disposal may precede or accompany thegeneral notice. A special notice is one in which the EPA advises all known PRP's that it will initiate work at the site unless the PRP's commit to work within 60 days.

c. To capitalize on NAVFACENGCOM expertise and to have execution and funding uniformity throughout the DON, CMC (LF), and Headquarters (HQ) NAVFACENGCOM, these offices have agreed that the latter, through its EFD/EFA offices, will represent Marine Corps interests regarding PRP responsibilities. This arrangement authorizes the NAVFACENGCOM to act on behalf of the Marine Corps; it does not relieve Marine Corps commands of their legal obligations and responsibilities under CERCLA.

19. Site Close-Out. Conduct a site close-out when no further response actions under the IR program are considered appropriate for the site and when the site cleanup confirms that no significant threat to public health or the environment exists. When possible, seek EPA and state concurrence.

a. Pursuant to the NCP requirements, sites may be deleted from, or re-categorized on, the NPL provided that 1) all appropriate response actions have been implemented, 2) no further response action is appropriate, or 3) the RI shows no significant threat from the release to public health or the environment. The EPA, in consultation with the state/commonwealth, will determine whether any of these requirements have been met and, if so, will prepare a notice of intent to delete. The EPA will obtain state/commonwealth concurrence with the deletion notice prior to making the notice available to the public. The final deletion package will also be made available to the public and will contain the response to public comments received. To delist a Federal NPL installation, all individual sites on the installation must be closed out.

b. For non-NPL sites, the EPA and the state must be notified that appropriate response actions have been completed and that no further response actions are appropriate. The site(s) will be designated as NFRAP, with the supporting documentation placed in the information repository, and the public will be notified of these actions.

20. RCRA Corrective Action. Installations seeking or renewing a permit for a treatment, storage, and disposal facility (TSDF) are required by RCRA, section 3004(u), to take corrective action for past releases of HW constituents from any SWMU at the installation. Permits issued by the EPA or a state with RCRA authority will contain schedules of compliance for such correction (where such action cannot be completed before the permit is issued). ER,N funds can be used for corrective action for past releases of HW at TSDF's if the releases are associated

with past disposal practices. Additional RCRA corrective action requirements include:

a. Per section 3004(v) of RCRA, corrective action must be taken for releases of HW that have migrated beyond the installation's boundary.

b. Per section 3008(h) of RCRA, the EPA may issue an order requiring corrective action to address HW releases (constituents omitted), whether or not from a SWMU, at facilities authorized to operate under interim status.

21. Property Transfer. CERCLA, section 120(h), outlines procedures for property transfer by Federal agencies. Facilities must include in the transfer contract information regarding the type and quantity of an HS stored for 1 year or more, or an HS known to have been released or disposed of on site. The contract must include notice of the time at which such storage, release, or source disposal took place. The report must be based on available data from agency files. CERFA amended CERCLA, section 120(h), by requiring the FederalGovernment, before termination of Federal activities on any real property owned by the Government, to identify real property where no HS and/or no petroleum products or their derivatives were released or disposed of. CERFA further clarifies the meaning of "remedial action taken" in CERCLA, section 120(h)(3). For bases subject to closure or realignment under a base closure law, the CERFA identification must be made, and concurrence must be obtained within either: 18 months of the CERFA enactment (October 19, 1992); 18 months of the date by which a joint resolution disapproving the closure or realignment must be enacted, when such a joint resolution has not been enacted; or 18 months of the
date on which the real property is selected for closure or realignment.

22. Environmental Compliance. See chapter 4 of this Manual for more information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

10105. TERMS AND DEFINITIONS

1. Administrative Record. Required by CERCLA, section 113(k), an Administrative Record is the documentation, formed by the combination of documents and other material, that provides the

basis for the Marine Corps installation's selection of a response action.

2. ARAR. Used for establishing the standards for cleanup based on the chemicals involved, the location, the suspected health impacts, or the response action technologies proposed at the site. ARAR's are required by CERCLA,section 121(d), which states that a requirement under other environmental laws may be either "applicable" or "relevant and appropriate" to an RA, butnot both. The two-tier test first determines whether a given requirement is applicable; then, if it is not applicable, it determines whether it is nevertheless relevant and appropriate.

3. Applicable Requirements. The cleanup standards, standards of control, and other substantive environmental protection requirements, criteria, or limitations promulgated under Federal and state laws that specifically address an HS, pollutant, contaminant, RA, location, or other circumstances at a CERCLAsite. "Applicability" implies that the RA and the circumstances at the site satisfy all of the jurisdictional prerequisites of a requirement.

4. BRAC Environmental Restoration Program. Environmental restoration activities at closing and realigning installations affected by BRAC, and funded by Marine Corps BRAC accounts. This program is analogous to DERP or IR and funds the same activities that are eligible under IR. It does not includebuilding demolition/debris removal or ordnance and explosive waste activities. Closure-related environmental compliance requirements are not included in this program.

5. CRP. A formal written proactive public information program developed by each installation, whether listed on the NPL or not. The plan must take into account the public comment period that precedes final selection of remedial or corrective action. The plan will consist of background and history of community involvement at the site, IR program objectives, community relations activities to be used to reach the objectives, and a mailing list of involved persons. The plan must be based on discussions with state and local authorities, civic And community organizations, interested residents, and local news media representatives.

6. Defense and State Memorandum of Agreement (DSMOA). An agreement between the DoD and a state or territory whereby the state or territory can be compensated for providing technical support for environmental restoration activities at operational

installations, closing and realigning installations, and Formerly Used Defense Sites (FUDS).

7. DERA. A funding account established by SARA, section 211, to pay the cleanup costs of DoD HW sites. Funds from DERA are transferred to the services for uses consistent with DERP. Beginning in FY97, DERA was devolved to the military departments. The DON account is called the ER,N account.

8. ER,N Account. Department of the Navy account used to pay for cleanup of HW sites.

9. Facility. Any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, aircraft, or any site where an HS has been deposited, stored, disposed of, placed, or otherwise come to be located.

10. Fast-Track Cleanup (FTC). The program established under the President's five-point reinvestment plan to expedite the restoration and transfer of property at closing and realigning installations.

11. FFA. A formal, negotiated, legal agreement between the EPA and/or the state, and the DON that establishes objectives, responsibilities, procedures, and schedules for the RI/FS phases at NPL installations. FFA's are intended to outline the working relationship and to improve communications between all parties by allowing the EPA and state to review all work and ultimately to make the selection process of any RA's less argumentative.

12. HRS. The EPA must score HS releases by their potential to affect human health, welfare, and the environment. The HRS is a means of applying uniform technical judgment regarding the potential hazards presented by the feasibility, desirability, or degree of cleanup required. The HRS ranks sites by a mathematical rating scheme. Historically, the EPA has proposed sites with scores above 28.5 for the NPL.

13. HS. Any material which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may pose a substantial hazard to human health or the environment when released or spilled. In the IR program, an HS is defined in CERCLA, section 101(14), and designated under 40 CFR 302.

14. Health Assessment. Required of any facility proposed for the NPL and accomplished by the ATSDR using information obtained from IR program studies and site visits before the completion of the RI/FS. A health assessment is an analysis of information conducted to determine whether the HS present at a site poses a risk to human health, whether steps should be taken to reduce human exposure to the HS, and whether surveillance of the exposed population is warranted.

15. IAG. Necessary for any installation listed on the NPL. CERCLA, section 120(e), requires the EPA to review the results of the RI/FS, and it requires the Marine Corps to enter into an IAG with the EPA for the expeditious completion of all necessary RA's at the facility within 180 days after the EPA's review of the RI/FS. The IAG must include a review of alternative RA's, the selection of an RA by the Marine Corps and the EPA, a schedule for the completion of each RA, and arrangements for long-term operation and maintenance of the facility.

16. Interim Remedial Action (IRA). An IRA is a near-term action taken to address HS releases that require an expeditious response. IRA's are often the first response to a release or threatened release.

17. Lead Agency. The agency that provides the on-scene coordinator or Remedial Project Manager (RPM) to plan and implement response actions under the NCP. The DON is always the lead agency for response actions on DON real property.

18. LTM. LTM is the maintenance and monitoring initiated after the RA objectives have been met. LTM can only be programmed for sites that have achieved RC.

19. NPL. The EPA's list of priority sites located throughout the United States with known releases or threatened releases of HS's, pollutants, or contaminants. Historically, sites that have scored above 28.5 on the HRS have been proposed for the NPL. The list is revised at least annually.

20. NFRAP. Sites which do not warrant moving further in the site evaluation process are designated as NFRAP. The primary criterion for NFRAP is a determination that the site does not pose a significant threat to public health or the environment. A NFRAP decision can be made at several points in the IR process, but must be documented and may be reversed if future information reveals that additional remedial activities are warranted.

21. OU. A discrete action that comprises an incremental step toward addressing site problems comprehensively. This discrete portion of a remedial response manages migration or eliminates or mitigates a release, threat of a release, or pathway of exposure. The cleanup of a site can be divided into a number of OU's, depending on the complexity of the problems associated with the site. OU's may address geographical portions of a site, specific site problems, or initial phases of an action, or it may consist of any set of actions performed over time or any actions that are concurrent but located in different parts of a site.

22. PRP. A generator, transporter, or site owner or operator who may be responsible for an HW site. This term is usually used in connection with off-installation sites.

23. PA/SI. Identifies potentially contaminated sites. The PA consists of a review of available historic information (records search) concerning installation activities and land use. The SI is an on-site visit consisting of limited sampling and analysis designed to verify the preliminary findings of the PA. Results of the PA/SI will determine the need for further investigationand whether the sites merit placement on the NPL by the EPA.

24. ROD. A written record on the appropriate remedy selected for the cleanup at a site.

25. Release. As defined by CERCLA, section 101(22): any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any HS, pollutant, or contaminant). Excludes the following: any release that results in exposure to persons solely within a workplace, specifically a claim that such persons made; emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; release of source, byproduct, or special nuclear material from a nuclear incident or any processing site that meets the conditions specified in CERCLA; and the normal application of fertilizer. In the NCP, release also means threat of release.

26. Relative Risk. The evaluation of individual sites to determine high, medium, or low relative risk to human health and the environment, based on contaminant hazards, migration pathways, and receptors, in accordance with DoD's Risk-Based Site Evaluation Primer (1994). Risk reduction is the movement of any site from a higher to a lower risk category because of natural

attenuation or interim remedial, remedial, or removal actions taken.

27. Relevant and Appropriate Requirements. Those cleanup standards, standards of control, and other substantive environmental protection requirements, criteria, or limitations promulgated under Federal or state law. While not specifically "applicable" to an HS, pollutant, contaminant, RA, location, orother circumstance at a CERCLA site, relevant and appropriate requirements may address problems and situations sufficiently similar to those encountered at the CERCLA site, demonstrating that their use is well suited to the particular site.

28. Remedial Action Construction (RAC). RAC is the construction of the final remedy. RAC's may include final remedies such as a soil removal or landfill cap, in which case the site would be considered an RC at the end of the RAC phase, or the RAC may be the construction of an active remediation system (pump and treat, soil vapor, extraction, etc.), which will have to be operated for an extended period prior to meeting the remedial objectives. In the latter case, once construction of the system is complete, it is considered a Remedy in Place (RIP).

29. RAO. RAO's are O&M activities required after the RAC is completed and before RAC objectives have been met (i.e. before RC has been achieved).

30. RD/RA. Begins following the completion of the ROD. The RD is the translation of the selected RA of the FS into designs and specifications for site remediation. The RA is the physical implementation of site remediation including full-scale drilling, excavation, and construction. For NPL sites, the RD/RA must commence no later than 15 months after completion of the RI/FS. An RA should commence and be completed as expeditiously as possible whether at an NPL site or non-NPL site.

31. RI/FS. A comprehensive investigation required for sites identified in the SI that pose potential threats to human health or the environment. The RI/FS is an extensive technical study conducted to determine the nature and extent of the threat posed by the release and to determine what action, if any, should be taken to remediate the site.

32. RIP. RIP is that point in time when the RAC of a system is complete, but the remedial objectives have not been met. This term is only used when there is a period of RAO following the RAC.

33. Removal Action. A Removal Action (also known as an IRA) is a near-term action taken to address HS releases that require an expeditious response. Removal actions are often the first response to a release or threatened release.

34. Reportable Quantity. The threshold quantity of an HS that must be reported if released. CERCLA, section 102, requires that the EPA establish and revise a list of HS's and their associated reportable quantities; this list is contained in 40 CFR 302.4.

35. RC. RC is achieved when the remedial action objectives have been met. The CG/CO makes this decision with regulatory concurrence when required under a cleanup agreement (FFA for NPL sites, FFSRA for some non-NPL sites).

36. RAB. A group established, wherever possible and practical, to act as a forum for discussion, information exchange, and decision making on actions and proposed actions with respect to releases or threatened releases at installation restoration sites. Committee participants may include representation from the EPA, appropriate state and local authorities, community members, and Marine Corps participants from the involved command and the cognizant NAVFACENGCOM EFD/EFA. The RAB is intended to enhance public involvement by bringing into the resolution process community members who reflect the diverse interestswithin the local community, enabling the early and continued two-way flow of information, concerns, values, and needs between the community and the installation. RAB's will not make decisions on environmental restoration activities, but will provide information, suggestions, and community input to be used by the Marine Corps in making decisions on actions and proposed actions regarding releases or threatened releases. RAB's will not take the place of community outreach and participation activities required by law, regulation, or policy. All community relations requirements must still be met.

37. Site. A location on an installation's property where an HS has been deposited, stored, disposed, placed, or otherwise located. Such areas may include multiple sources and may include the area between sources. This condition should not be confused with the EPA listing an entire installation on the NPL. An NPL installation will generally have several discrete sites.

38. SWMU. In RCRA corrective action, any unit in which wastes have been placed at any time, regardless of whether the unit was designed to accept SW or HW. Such units could include old

landfills, wastewater treatment tanks, and leaking process or waste collection sewers.

39. TRC. SARA, section 211, requires that a TRC be established to facilitate review and comment on technical aspects of response actions and proposed actions that pertain to releases or threatened releases at DoD installations. Members of the TRC include the Marine Corps, EPA officials, appropriate state and local authorities, Federal and state natural resource trustees, and community representatives.

40. Third-Party Site. An off-station or third-party site is a contractor-owned and contractor-operated HS release site that received Marine Corps HW and now requires corrective action under CERCLA.

CHAPTER 10

INSTALLATION RESTORATION PROGRAM

SECTION 2: MARINE CORPS POLICY

10200. GENERAL

1. All actions carried out under the Marine Corps IR program must be accomplished in compliance with all applicable requirements of CERCLA/SARA, and all terminology used by the Marine Corps must be consistent with that used in CERCLA/SARA and RCRA/HSWA. The Marine Corps must not adopt any guidelines or rules that are inconsistent with EPA guidelines and rules. Congress provides IR program funding to the DON through the ER,N account.

2. The Marine Corps IR program goal is to clean up or control HS releases from past HW disposal operations and spills in an expedient and cost-effective manner. The Marine Corps requires full, continuous dialogue and open cooperation with regulatory agencies and the public.

3. The COMNAVFACENGCOM manages the fiscal and technical aspects of the IR program at Marine Corps Installations. However, the installation CG/CO is responsible for approving IR program actions. Installations will provide the lead on critical procedural aspects of the program with support from the NAVFACENGCOM EFD/EFA. Success requires close cooperation and teamwork between the NAVFACENGCOM EFD/EFA and each installation.

4. CERCLA, Sections 120 and 121, and SARA, Section 211. The DoD must provide the opportunity for appropriate state authorities to be involved in the IR program. The DSMOA process provides funds to state regulatory agencies for oversight costs. The United States Army Corps of Engineers (COE) has beendesignated by the DoD to be the executive agent of the DSMOA program. All fund transfers will occur between the COE and the individual state.

10201. SITE DISCOVERY AND NOTIFICATION. If a release is discovered and that release has not previously been reported, report it immediately to the appropriate agencies. If a potential disposal site exists, conduct a PA to determine whether

a release has occurred. If a release has occurred, forward the PA to the appropriate agencies as notification.

10202. REMOVAL ACTIONS. At any site (even if the site is included on the NPL) where the Marine Corps determines that there is a threat to human health or the environment, the Marine Corps must use any appropriate means to abate, minimize,stabilize, mitigate, or eliminate the release or threat of release. Alternatives that attain or exceed applicable, or relevant, and appropriate Federal public health and environmental requirements; Federal criteria, advisories, and guidance; and state standards must be considered in selecting the type of removal action. The cognizant NAVFACENGCOM EFD/EFA, in coordination with the installation, must prepare an analysis of the removal alternatives for the site, make the analysis available to the public, and provide at least a 30-day comment period. A decision document developed in coordination with the installation also must be prepared to substantiate the need for the removal action, identify the selected action, explain the rationale for the removal, and respond to significant public comments. Removal action will then begin. If the Marine Corps determines that the removal action does not fully address the threat or potential threat posed by the release, the Marine Corps will ensure an orderly transition from removal to remedial response action.

10203. EMERGENCY RESPONSE. Under CERCLA (section 104), EO 12580, January 23, 1987, and the NCP, the DoD has the authority to respond to "emergency" situations (i.e., those circumstances that endanger human life, health, or the environment) in which the release or threatened release is on, or the sole source of the release is from, a Marine Corps installation. If an IR site appears to be causing an emergency situation, the Marine Corps is responsible for taking appropriate action to protect the public and the environment from the threat. The installation, in consultation with the cognizant NAVFACENGCOM EFD/EFA, is responsible for responding to emergency situations using ER,N funds.

10204. HAZARD RANKING SYSTEM (HRS). Following completion of a PA, the cognizant NAVFACENGCOM EFD/EFA, in coordination with the installation, should develop and forward a draft HRS scoring package to the EPA.

10205. PRELIMINARY ASSESSMENT/SITE INSPECTION (PA/SI)

1. The NAVFACENGCOM EFD/EFA (or the Naval Facilities Engineering Service Center) will conduct all PA's within 12 months of site discovery or as required in an IAG or other regulatory agreement. The NAVFACENGCOM EFD/EFA will conduct the PA in coordination with the installation after site discovery or listing on the Federal Agency HW Compliance Docket. Upon completion, NAVFACENGCOM EFD/EFA will provide the PA information to the installation for review and then forward it to the cognizant EPA region and the state.

2. An SI is required if the PA reveals the need for additional investigation.An SI will eliminate those sites that prove no threat or determine the need foradditional actions. The cognizant NAVFACENGCOM EFD/EFA, in coordination with the installation, will conduct SI's at sites recommended by the PA for further investigation. The SI should be completed as expeditiously as possible.

10206. REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS)

1. Sites identified in the SI that pose potential threats to human health or the environment require a comprehensive investigation specified as an RI/FS. The RI/FS determines the nature and extent of the threat and what actions, if any, should be taken to remediate the site.

2. An RI/FS must be started within 6 months of a site being listed on the NPL. If the site is not listed, there is no regulatory time limit on initiating the RI/FS.

3. The NAVFACENGCOM EFD/EFA or designee conducts the RI/FS in close coordination with the installation. The RI/FS should be accomplished as expeditiously as possible.

10207. NO FURTHER RESPONSE ACTION PLANNED (NFRAP). The Marine Corps should not expend resources on sites that pose little or no threat to human health or the environment. A no further action decision can be made at severalpoints within
the remedial process, but must be based on a defensible and properly documented "assessment of risk to human health and the environment." The Marine Corps may apply this procedure at both NPL and non-NPL installations to describe those locations where it has been determined that no further action is required,based

upon appropriate investigation. NFRAP decision documents must be prepared by COMNAVFACENGCOM or its designee and signed by the installation CG/CO. Upon signature, the installation must forward the NFRAP decision documentation to appropriate regulatory agencies for information and/or concurrence and must ensure that the public receives notification via RAB's, public meetings, or other appropriate methods. Remedial project managers must be alert to document
opportunities for a NFRAP decision.

10208. ADMINISTRATIVE RECORD. The NAVFACENGCOM initiates the Administrative Record as soon as the SI shows that the program will move into the RI/FS phase. The cognizant NAVFACENGCOM EFD/EFA establishes and maintains the Administrative Record and sends copies to the installation, the state, and the EPA asappropriate. Installations must ensure that a copy of the Administrative Record is available in an information repository. The repository must be available to the public at or near the site; notice of availability is part of the record.This record is the basis for actions taken by the Marine Corps and any future legal action concerning the site.

10209. TECHNICAL REVIEW COMMITTEE/RESTORATION ADVISORY BOARD (TRC/RAB)

1. Installations must establish a TRC as soon as the SI shows that the program will move into the RI/FS.

2. RAB's will be established at installations where there is sufficient, sustained community interest. Installation commanders will expand the function of TRC's and establish RAB's (or establish RAB's at non-TRC installations) if:

a. A local government requests that a RAB be formed;

b. Fifty local residents sign a petition requesting that a RAB be formed;

c. An installation determines that a RAB is required; or

d. The installation is scheduled for closure.

3. The conversion of TRC's to RAB's will be accomplished by:

a. Expanding existing TRC's to include additional community representatives;

b. Establishing co-chairs, one from the community members on the RAB and one
from the DON; and

c. Opening meetings to the public.

10210. FEDERAL FACILITY AGREEMENTS (FFA)

1. The Marine Corps must enter into an FFA at its NPL sites as early as possible after it becomes apparent that an RI/FS is required. These agreements are a high priority and are intended to improve communications between all parties by allowing the EPA and the state to review all work and ultimately to make the selection of an RA less controversial. FFA's at NPL sites must outline and clearly state mutual obligations regarding the working relationship between the states, the EPA, and the Marine Corps.

2. The Marine Corps may enter into agreements only if the provisions are realistically attainable and structured to avoid excessive reporting, duplication of effort, and other administrative practices that reduce the efficiency of the overall remedial response.

3. The Marine Corps must continue efforts to define problems at Marine Corps sites and move aggressively to determine what RA's are appropriate. Negotiations on an agreement must not impede the Marine Corps responsibility to protect the public from harmful exposures or halt efforts to obtain RA decisions to address problems at Marine Corps sites.

4. The Marine Corps must consult fully with the EPA and the states in the course of continuing IR program efforts while negotiating the terms of the FFA. The model language established by agreement between the DoD and the EPA must be used as the basis for negotiations.

5. The cognizant EFD/EFA, in coordination with the installation, will negotiate FFA's and State Remediation Agreements.

6. The ASN(I&E) will sign the FFA's and State Remediation Agreements. The EFD/EFA will prepare final agreements in coordination with the installation; before the ASN(I&E) can endorse the final agreements, signatures must be obtained from

the following: the installation CG/CO, COMNAVFACENGCOM, the CMC (CL), and the CMC (LF).

10211. RECORD OF DECISION/DECISION DOCUMENT (ROD). The cognizant NAVFACENGCOM EFD/EFA will provide a recommended ROD or decision document to the installation CG/CO at the conclusion of an RI/FS. The installation CG/CO must review carefully the proposed ROD/decision document and the Administrative Record. If the CG/CO concurs, then the ROD will be signed. If the CG/CO disagrees or has questions on the ROD, the issues must be resolved through consultation with the EFD/EFA and the CMC (LF). For NPL sites, the ROD is forwarded to the EPA regional office for concurrence. Although neither a ROD nor an IAG is required under CERCLA at non-NPL sites, state remediation laws may contain requirements for decision documentation. Where such requirements apply, the cognizant NAVFACENGCOM EFD/EFA must write a decision document that satisfies state law for submittal by the installation. If the state remediation law contains no specific requirements for decision documentation, the cognizant NAVFACENGCOM EFD/EFA must write a decision document that contains the elements of a ROD; and the installation must forward the document to the EPA and the state.

10212. INTER-AGENCY AGREEMENT (IAG). At the completion of an RI/FS at an NPL site, the law requires that an IAG be signed. After the ROD, the previously negotiated FFA becomes an IAG when the statutory requirements are incorporated.

10213. REMEDIAL DESIGN/REMEDIAL ACTION (RD/RA). An RD/RA must be completed as expeditiously as possible, whether at NPL or non-NPL sites. The RPM oversees coordination of the RD/RA with the installation, the EPA, the state and local officials; maintains the Administrative Record; participates in community Resident Officer in Charge of Construction assists the RPM and the installation, and manages the RA construction to ensure that the RA meets all specifications and is constructed in a manner that protects human health, welfare,and the environment.

10214. PUBLIC INFORMATION PROGRAM. All IR program sites must implement a proactive public information program. All sites must

develop and implement a written CRP as soon as the SI shows that the program will move into the RI/FS phase.

10215. LONG-TERM OPERATIONS (LTO) OR REMEDIAL ACTION OPERATION (RAO). LTO or RAO is the responsibility of the cognizant NAVFACENGCOM EFD/EFA using ER,N funds. This includes the O&M costs of a remedy after RAC and before RC.

10216. LONG-TERM MONITORING (LTM). Where HS's, pollutants, or contaminants remain on a site after RC is achieved, and as required by the decision document, LTM is the responsibility of the cognizant NAVFACENGCOM EFD/EFA using ER,N funds for 5 years after RC. The LTM ensures that the site or the OU remains protective of human health and the environment. During this 5-year period, the cognizant NAVFACENGCOM EFD/EFA will develop and implement a maintenance and monitoring plan and provide cost data to the installation to allow the installation CG/CO to budget in a timely manner for funds required to continue the LTM.

10217. MARINE CORPS AS A POTENTIALLY RESPONSIBLE PARTY (PRP). Historically, the Marine Corps has contracted with private companies to transport and dispose of HW generated at its installations. Many of the third-party disposal sites selected by contractors are threatening or contaminating the environment and need to be cleaned up. Upon receipt from the EPA or state authorities of a formal notice that a Marine Corps installation is involved in a site as a PRP, the installation must:

1. Provide the salient contents of the notice by message to the EFD/EFA that serves the geographic area in which the PRP site is located. Message information addressees should include the CMC (LF), COMNAVFACENGCOM, and the appropriate counsel office (e.g., Eastern Area Counsel Office, Western Area Counsel Office, and/or installation counsel).

2. By mail, provide copies of the EPA or state notice to the geographic EFD/EFA where the PRP is located, to the CMC (LF), COMNAVFACENGCOM, and the CMC (CL) representative serving the command. Some circumstances might warrant overnight mail service to provide the notice to the EFD/EFA.

3. Initiate actions to determine the extent of Marine Corps HW disposal at the site. Research requirements often will be time-sensitive. Collected information, such as HW disposal

records or results of interviews with employees familiar with prior HW disposal practices, will be made available to the EFD/EFA.

10218. FORMERLY OWNED OR USED MARINE CORPS PROPERTY/FORMERLY USED DEFENSE SITES (FUDS). FUDS differ from PRP sites in that FUDS are not identified as part of the EPA Superfund and are located on property formerly owned or operated by the DoD. The COE is responsible for the FUDS program. The Marine Corps responsibility for FUDS that were formerly Marine Corps sites is informational only. Should local interest arise, questions regarding the status of FUDS should be passed to appropriate COE officials. In special circumstances, authority can be obtained from the COE to address FUDS located on property that had been owned or operated by the Marine Corps. If an installation becomes aware of possible contamination at these properties (e.g., receives inquiries), forward the inquiries to the COE.

10219. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA). IR program actions that follow the NCP and fulfill public participation requirements are deemed to be in compliance with NEPA.

10220. STATE LAWS. Marine Corps policy is to comply with all state laws consistent with CERCLA, SARA, and the NCP. If state laws meet the criteria above, the Marine Corps can enter into negotiations with the state representatives to develop an agreement outlining response actions at the Marine Corps site. The guidelines to be considered during negotiation are as follows:

1. All response actions must be consistent with CERCLA and the NCP.

2. The issue of state oversight costs must be based on the DSMOA principles.

3. A modified two-party agreement modeled after the FFA's must be proposed to the state. The DON has lead responsibility for ensuring cleanup of non-NPL sites. The dispute resolution clause must allow the Marine Corps final decision authority and must provide the state all of their legal rights to judicial review.

4. The cognizant EFD/EFA, in coordination with the installation, will negotiate FFA's and State Remediation Agreements. The ASN (I&E) will review and sign the final agreement.

10221. CITIZEN SUITS

1. All major environmental statutes include "citizen-suit" provisions to allow private plaintiffs to make Government officials comply with statutory duties or to enforce permits or requirements. Citizen-suit provisions vary from statute to statute, and numerous legal considerations apply in each case. On receipt of any indication that a citizen suit might be commenced, an installation must rapidly coordinate environmental management, technical, and legal resources.

2. Immediately forward notice of a citizen suit to the cognizant EFD/EFA, the CMC (LF), and the CMC (CL).

10222. COORDINATION WITH OTHER ENVIRONMENTAL REGULATIONS. Although IR program actions that are consistent with CERCLA, section 121, and those that occur entirely on site are exempt from obtaining Federal, state, or local permits, inter-agency coordination is often required to ensure consistency with ARAR's or other environmental laws. RPM's must solicit early involvement of other Marine Corps/Navy specialists, including natural and cultural resources personnel to ensure that the Endangered Species Act, section 7, the National Historic Preservation Act, section 106, and related requirements are identified and completed. These requirements may occur at any phase of an IR program investigation including PA/SI, RI/FS, removal action, or RA.

10223. REAL PROPERTY TRANSFER. Installations must, in consultation with their cognizant NAVFACENGCOM EFD/EFA, ensure that the IR program is considered prior to engaging in real property transactions and as part of all land managementdecisions. IR program requirements associated with property transfer must be conducted pursuant to CERCLA, SARA, CERFA, and the NCP. For properties being obtained by the Marine Corps, the condition of the property should be evaluated from an IR program perspective prior to completing the property acquisition.

10224. SITE CLOSE-OUT. The following actions must be taken when it is determined that no further response actions are appropriate for the site ("site," in this case, refers to the installation as a whole).

1. NPL Sites. The installation must notify the EPA regional office that appropriate response actions have been completed and must request that the site be deleted from the NPL. The EFD/EFA and the installation must support the EPA and the state in their determination of whether to delete the site by providing information and public notification, as appropriate.

2. Non-NPL Sites. The installation must notify the EPA regional office and the state that appropriate response actions have been completed. The cognizant EFD/EFA, in coordination with the installation, must prepare the site(s) as NFRAP. The installation must ensure public notification by placing the NFRAP documentation in the information repository and by publishing the documentation's availability.

10225. CONSTRUCTION ON CONTAMINATED PROPERTY. All efforts must be made to ensure that Marine Corps projects are not constructed on contaminated sites. However, there may be times when the project is being planned or is underway and contamination is discovered.

1. If contamination is discovered during the planning stage, the site can be investigated and cleaned up following IR procedures. In most cases, this action takes several years, and the site may not be available for the subject project. The site investigation/cleanup competes with other IR sites on the basis of risk management.

2. If contamination is discovered during construction, the site investigation/cleanup can be done using ER,N funds and must compete with other IR sites on the basis of risk management. If ER,N funding is not available, construction project funds must be used to investigate/cleanup the site. If neither IR nor construction project funding is available in time to meet the construction schedule, the project will have to be re-sited. Subsequent investigation/cleanup of the original site with ER,N funds must again compete with other IR sites on a risk management basis. The installation must not pay for ER,N-eligible work with installation O&M funds if the sole project goal is site cleanup.

SECTION 3: RESPONSIBILITIES

10300. CMC (LF)

1. Provide support to Marine Corps installations in interpreting Federal, state, and local environmental regulatory requirements and in uniformly applying Marine Corps policy as set forth in this Manual.

2. Assist installations with resolving disputes with Federal, state, and local regulatory agencies as required.

3. Coordinate with the Office of Chief Naval Operations (CNO (N-45)), COMNAVFACENGCOM, and the geographical EFD/EFA to ensure equitable and timely allocation of funding from the ER,N and BRAC cleanup accounts and to support remediation of HS releases at Marine Corps installations consistent with CERCLA, RCRA, and the NCP.

4. Provide oversight for the implementation of the IR program for active and BRAC Marine Corps installations worldwide, to include:

a. Ensuring that installations identify IR program requirements to NAVFACENGCOM EFD/EFA's;

b. Ensuring that program information and guidance are passed to their installations;

c. Ensuring that installations coordinate installation cleanup planning, programming, budgeting, and execution with their cognizant EFD/EFA;

d. Ensuring that installations fulfill their responsibilities under the Marine Corps IR program and appoint an IR Coordinator;

e. Ensuring that public participation and other legal requirements are met at installations with IR sites; and

f. Ensuring that installation budgets reflect resource requirements to support the IR program.

5. In conjunction with the Office of Legislative Affairs (OLA) and OASN(I&E), monitor proposed Federal environmental legislation for impact on Marine Corps operations and programs, and review the efforts of the Deputy Under the Secretary of Defense, Environmental Security to generate service input to congressional staff in the development of responsible and workable legislative proposals. Participate in the preparation of the DERP annual report to Congress.

6. After receiving and reviewing an endorsed FFA or state remediation agreement, provide the agreement to the OASN(I&E) for signature.

7. Ensure that coordination occurs, as appropriate, with the Safety Office in matters relating to HS releases and safety and health training.

8. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to environmental regulations.

10301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Develop base orders, or an environmental compliance and protection standard operating procedures document to implement the specifications set forth in this chapter.

2. Notify the NRC, as well as appropriate state and local authorities, as soon as there is knowledge of an HS release in excess of a reportable quantity at, or migrating from, the installation.

3. Ensure that all applicable statutory and regulatory requirements including safety and health training (for installation personnel) and natural resources are met during site assessment and response actions.

4. Provide necessary review and comment on IR action plans and reports to the cognizant EFD/EFA.

5. Forward appropriate IR documents to the EPA and state regulatory agencies. Forward all final primary documents to the EPA and state regulatory agencies prior to deadlines in either FFA's or state agreements or orders.

6. Budget for and conduct any operation and maintenance or long-term monitoring after these requirements are no longer eligible for ER,N funding, 5 years after RC.

7. Provide an IR coordinator and logistic support for IR projects at the installation.

8. Establish and conduct periodic meetings of the TRC or RAB, when appropriate.

9. Provide information as required for updating project exhibits to cognizant EFD/EFA's for IR program studies and RA's.

10. Provide information as required to the CMC (LF) for IR program salaries, support, travel, and training costs.

11. Prepare and implement a public participation program, including a CRP, for IR program sites.

12. In conjunction with the cognizant EFD/EFA, select the remedy and sign the ROD/decision documents for all IR program sites.

13. Participate in negotiations of FFA's and state agreements.

14. Notify appropriate commands of any EPA or state notice or PRP action, and support PRP response. Track actions by EFD/EFA's on behalf of the command regarding PRP suits.

15. Ensure that IR program site conditions are considered prior to land use planning, development, or operations, especially in reference to military construction.

16. Ensure that appropriate information is placed in the information repository.

17. Inform the public of the availability of technical assistance grants for installations on the NPL and other technical assistance programs designed to enhance public participation.

18. Endorse and forward FFA's or state remediation agreements to the CMC (LF).

19. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for IR that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with IR program requirements. Pay appropriate Federal,state, and local fees. Ensure that the environmental management hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

10302. COMMANDER OF NAVAL FACILITIES ENGINEERING COMMAND (COMNAVFACENGCOM)

1. Operate the routine aspects of the IR program for the Marine Corps, in coordination with the Marine Corps installation and the CMC (LF), including the necessary overall planning, programming, budgeting, and execution.

2. Provide contract services to support technical aspects of the IR program at Marine Corps installations. Facilitate the development and use of innovative remediation technologies.

3. Conduct BRAC IR activities at closing and realigning installations by:

a. Planning, programming, and executing activities that support property reuse, using the results of relative risk site evaluations, and other criteria to meet DPG program goals.

b. Measuring program progress through the reduction of relative risks at sites, the progression of sites through the restoration phases, the accomplishment of milestones leading to site completion, and the acres of land environmentally suitable for transfer.

4. Conduct the FTC program to expedite the restoration and transfer or lease of property at closing or realigning installations. This procedure includes improving the efficiency of the IR process, partnering with Federal, state, and local regulatory agencies, and working with local communities and other stakeholders.

5. Perform IR studies and RA projects and prepare NFRAP documentation by contract, in-house effort, or a combination thereof.

6. Coordinate, at all stages, with regulatory agencies and installation CG's/CO's prior to initiating projects through project completion.

7. Ensure that IR work plans and ecological risk assessments are reviewed by health and safety and natural resources professionals affiliated with the site.

8. Integrate the relative risk concept into IR program planning and execution in accordance with the DoD Risk-Based Site Evaluation Primer.

9. Provide support to the DSMOA program by reviewing work plans, documents, and progress reports, and by forwarding budgeting requirements.

10. Prepare project plans and reports in coordination with the installation; prepare contract documents; coordinate review and comments; distribute final documents to installations.

11. Track project progress to meet schedule requirements; provide technical and financial oversight during project performance.

12. Prepare the ROD document and forward it to the installation CG/CO with a recommended alternative for review and signature.

13. Ensure that the IR database is updated quarterly for Marine Corps installations. EFD/EFA's should provide the installation with a chance to review database information prior to quarterly update.

14. Support the installation in fulfilling its TRC/RAB responsibilities.

15. Maintain the Administrative Record and distribute copies to the installation and appropriate parties.

16. Provide IR study results to Marine Corps environmental planning, real estate, and natural resources personnel. Work with the Marine Corps chain-of-command to ensure that other Marine Corps programs and projects account for HS site conditions before irreversible decisions are made.

17. Provide site-specific technical, progress, and budgeting information to satisfy program reporting requirements and to provide semi-annual IR program execution plans to the CMC (LF).

18. Review and update, in coordination with the installation, the Federal Agency HW Compliance Docket and upgrade repository information.

19. Upon receipt of a notice, message, or documentation from the Marine Corps installations regarding notification of PRP action, the EFD/EFA's will:

a. Prepare and submit substantive responses to the EPA and state inquiries related to the HW site and subsequent cleanup.

b. Meet with other PRP's and the EPA and state representatives to plan for remediation.

c. Negotiate and, on behalf of the DON, executes agreements relating to PRP remediation. Prior to execution, forward proposed agreements to the CMC (LF) for review and to the involved Marine Corps command(s) for information.

d. Administer remediation agreements, to include payment of costs borne by the ER,N.

20. The EFD/EFA, in close coordination with the installation and the appropriate Marine Corps Counsel Office, will negotiate FFA's and state remediation agreements. The final draft will be endorsed by the CMC (LF), NAVFAC, and forwarded to the Marine Corps installation for endorsement and resubmittal to the CMC(LF).

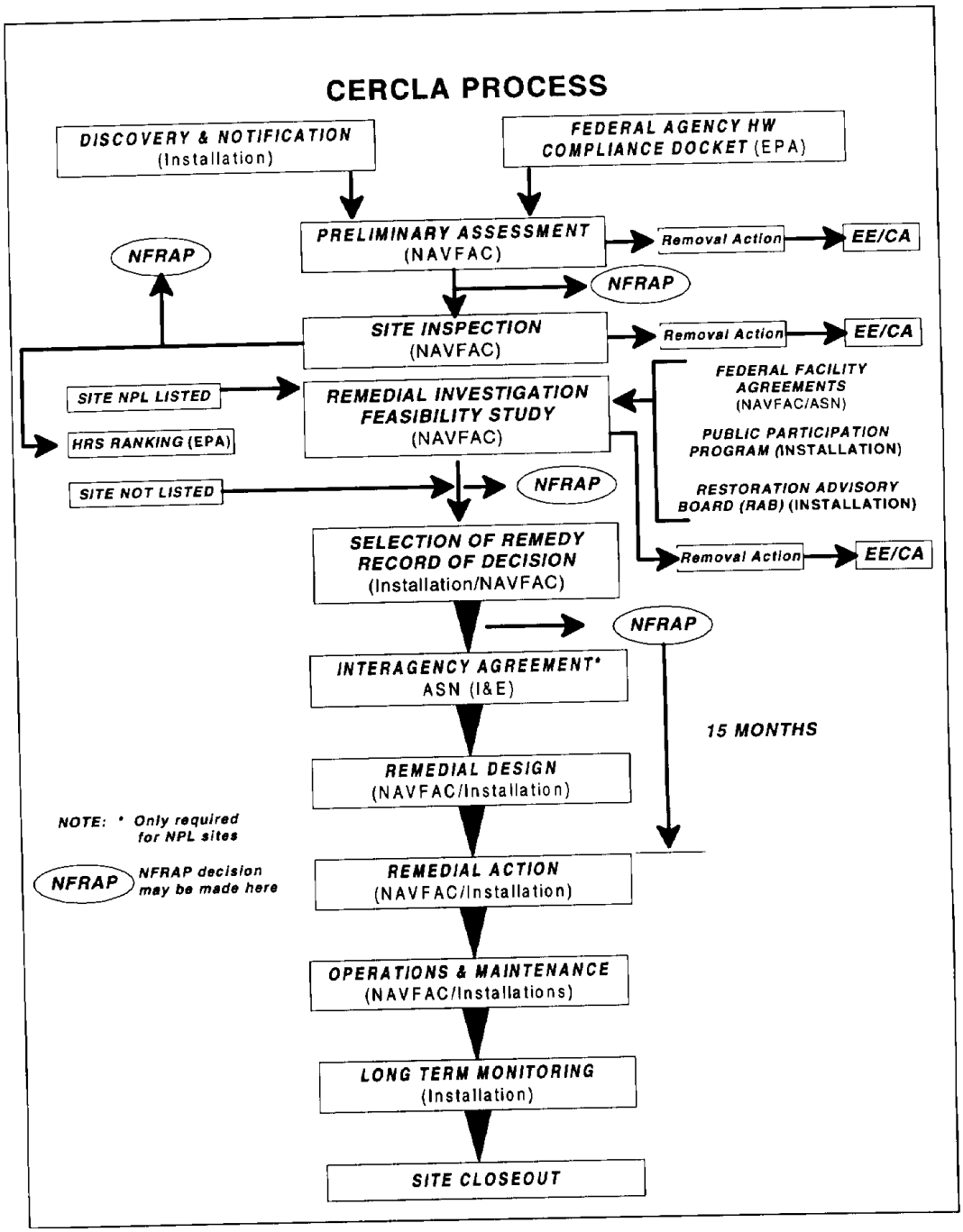

Figure 10-1. Installation Restoration (IR) Program CERCLA Process.

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 11

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CHAPTER 11

NATURAL RESOURCES MANAGEMENT

SECTION 1: INTRODUCTION

11100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with procedural and statutory requirements for managing natural resources at Marine Corps installations. This chapter summarizes the Natural Resources Management Program, which consists of land management, fish and wildlife management, forest management, and resource-based outdoor recreation management.

11101. APPLICABILITY. See paragraph 1101.

11102. BACKGROUND. Marines need a variety of landscapes to conduct training. However, training can degrade a landscape, making it unsuitable for future use. Also, training can degrade the value of natural resources on public lands. The American people place intrinsic value on certain resources; failure to protect those resources under the stewardship of the Marine Corps may lead to legislative, executive, or judicial directives limiting Marine Corps access to lands necessary to maintain military readiness. Accordingly, Marine Corps installation commanders must work to guarantee continued access to our land,air, and water resources for realistic military training and testing. Installation commanders must ensure that the natural resources entrusted to the Marine Corps care remain healthy and available for future generations.

11103. FEDERAL STATUTES

1. Bald Eagle Protection Act of 1940, as Amended (16 U.S.C. 688 et seq.). This Act prohibits the taking, possession, and transportation of bald eagles and golden eagles and the import and export of their parts, nests, or eggs. The definition of take includes pursue, shoot, shoot at, poison, wound, capture, trap, collect, molest, or disturb. The Act also provides for penalties of up to $5,000 for possession of eagles or eagle parts taken from birds after June 1940 Section 668A of the Act provides an exemption for the religious purposes of Native

American tribes, which may obtain a permit for religious use from the Director of the United States Fish and Wildlife Service (USFWS). Regulations pursuant to the Bald Eagle Protection Act are found in 50 CFR 22.

2. Clean Water Act (CWA) of 1977, as Amended (Public Law 95-217, 33 U.S.C. 1251 et seq.). This Act requires Federal agency consistency with state nonpoint source pollution management plans. The Act is the major Federal legislation concerning improvement of the Nation's water resources. The Act provides for the development of municipal and industrial wastewater treatment standards and a permitting system to control wastewater discharges to surface waters. The Act contains specific provisions for the regulation of the disposal of dredge soil within navigable waters, and placement of material into wetlands. Permits are required under sections 401, 402, and 404 of the Act for proposed actions which involve wastewater discharges and/or dredging/ placement of fill in waters of the United States (including wetlands and navigable waters). These permits are required prior to the initiation of proposed actions.

3. Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. 1451 et seq.). This Act requires that, to the maximum extent practicable, Federal action affecting any land/water use, or coastal zone natural resource, be implemented consistent with the enforceable policies of an approved state management program. The Act authorizes states to administer approved coastal nonpoint pollution programs. Advance concurrence from the State Coastal Commission is required prior to taking an action affecting the use of land, water, or natural resources of the coastal zone. Excluded from the coastal zone are lands solely subject to orheld in trust by the Federal Government, its officers, or its agents.

4. Conservation Programs on Military Reservations (Sikes Act) of 1960, as Amended (16 U.S.C. 670(a) et seq.). This Act requires that each military installation manage natural resources for multipurpose uses and public access appropriate for those uses, consistent with the military department's mission. The Act also requires that each military department provide professional services necessary for fish and wildlife resource management on each installation (per a tripartite cooperative plan agreed to by the military department, USFWS, and state wildlife agency). Additionally, the Act requires that each military department provide professional training in fish and wildlife management for resource management personnel and give priority to contracting

work with Federal and state agencies responsible for conserving or managing fish and wildlife.

5. Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 et seq.). Implemented by 50 CFFR 402 and 50 CFR 17, this Act requires all Federal agencies to carry out programs to conserve Federally listed endangered and threatened plants and wildlife. Development and implementation of these programs must be carried out with the consultation and assistance of the Departments of the Interior (DOI) and Commerce. A biological assessment may be required to determine whether formal consultation with the USFWS/National Marine Fisheries Services (NMFS) is necessary and/or may serve as a basis for a USFWS/NMFS biological opinion.

6. Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.). This Act provides for the control and eradication of noxious weeds and their regulation in interstate and foreign commerce.

7. Marine Mammal Protection Act (MMPA) of 1972, as Amended (16 U.S.C. 1361 et seq.). Implemented by 50 CFR 18, 215, and 228, this Act mandates a moratorium on the killing, capturing, harming, and importing of marine mammals and marine mammal products. This Act also prohibits the taking of any marine mammal by any person, vessel, or conveyance subject to the jurisdiction of the United States on the high seas or the taking of any marine mammal by a person, vessel, or conveyance in waters or lands under the jurisdiction of the United States. Taking means to harass, hunt, capture, collect, or kill any marine mammal, and includes without limitation any of the following: collection of dead animals or their parts, restraint or detention of a marine mammal, tagging a marine mammal,
the negligent or intentional operation of an aircraft or vessel, or doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal.

8. Marine Protection, Research, and Sanctuaries Act of 1972, as Amended (33 U.S.C. 1401 et seq. and 16 U.S.C. 1431 et seq.). This Act establishes regulations relating to dumping specific materials into open waters and establishes a program for the designation and regulation of national marine sanctuaries.

9. Migratory Bird Treaty Act of 1918, as Amended (16 U.S.C. 703 et seq.). This Act protects migratory birds and establishes a permitting process for legal taking.

10. Military Reservation and Facilities: Hunting, Fishing and Trapping Act of 1958 (Public Law 85-337, 10 U.S.C. 2671). This Act requires that all hunting, fishing, and trapping activities on military installations be conducted in accordance with the state fish and game laws in which the installation is located. Appropriate state licenses must be obtained for these activities on the installation.

11. Military Construction Authorization Act - Sale of Certain Interests In Lands; Logs (10 U.S.C. 2665). This section of the Act provides for the production and sale of forest products.

12. Military Construction Authorization Act - Leases; Non-Excess Property (10 U.S.C. 2667). This section of the Act provides for the outleasing of public lands, including outleasing for agricultural purposes.

13. National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). This Act requires consideration of environmental concerns during project planning and execution. The Act requires Federal agencies to prepare an environmental assessment or environmental impact statement for Federal actions that have the potential to significantly affect the quality of the human environment, including both natural and cultural resources. The Act is implemented by regulations issued by the Council on Environmental Quality (40 CFR 1500). The Act establishes Federal agency procedures for preserving important natural aspects of the national heritage and enhancing the quality of renewable resources.

14. Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.). This Act promotes state programs for the purpose of conserving, restoring, or otherwise benefiting nongame fish and wildlife, its habitats, or its uses.

15. Protection of Wetlands - Executive Order (EO) 11990, May 24, 1977, and Floodplain Management - EO 11988, May 24, 1977. These EO's address the Federal agency actions required to identify and protect wetlands and floodplains, minimize the risk of flood loss and destruction of wetlands, and preserve and enhance the natural and beneficial values of both floodplains and wetlands.

16. Outdoor Recreation - Federal/State Program Act (16 U.S.C. 460(L) et seq.). This Act requires consultations with the United States National Park Service (NPS) regarding management for outdoor recreation.

17. Soil Conservation Act (16 U..S.C. 5901 et seq.). This Ac provides for the application of soil conservation practices on Federal lands.

11104. REQUIREMENTS

1. General. This section summarizes the requirements of the laws, regulations, EO's, and directives that apply to natural resources. These requirements are organized loosely by subject areas, including program-wide requirements, fish and wildlife, land management, forestry management, outdoor recreation, and environmental restoration.

a. Natural Resources Management. Each Marine Corps installation must manage its natural resources to provide for sustained military use of the land.

b. Integrated Natural Resources Management Plans. Each installation having custody of class I property (land and water) suitable for the conservation and management of natural resources must prepare, or ensure preparation of, and implement a comprehensive, integrated, natural resources management plan that includes all elements of natural resources management applicable to the installation. Management plans must be prepared by professionally trained personnel, must address compliance with legal mandates protecting specific natural resources, and must include sections as appropriate on various programs discussed in this chapter. Management plans will be monitored continually, reviewed annually, and revised and/or reapproved at least every 5 years.

c. Pesticide Use in Natural Resources Management Programs. Pesticide use in support of installation natural resources management activities will comply with applicable requirements, particularly those of the Federal Insecticide, Fungicide, and Rodenticide Act. Pesticide use will be minimized.

d. Public Access Associated with the Natural Resources Management Program.Marine Corps lands will be available to the public and DoD employees for enjoyment and use of natural resources, except when a specific determination has been made by the installation CG/CO that a military mission prevents such use for safety or security reasons, or when such usage would cause substantial environmental degradation. A nonaccess determination will be included and explained in the installation integrated natural resources management plan.

e. Access by Federal and State Conservation Officials. Federal, state, and local officials will be permitted access to installation land and waters for official purposes after proper safety and security measures are taken.

f. Consistency with Coastal Zone Plans. The CZMA requires Marine Corps installations to ensure that their operations, activities, projects, and programs which affect the coastal zone in or on coastal lands or waters are consistent to the maximum extent practicable with the Federally approved Coastal Zone Management Plan of the state. Installation natural resources management planning will comply with this mandate.

g. Protection of Coastal Barriers. Before construction, maintenance, military activities, implementation of natural sources management projects, or other Federal expenditures on coastal barrier islands, the Marine Corps will consult with the Secretary of the Interior to determine the impacts on these resources. In areas designated as coastal barriers, the Marine Corps may only expend funds for military activities essential to national security; projects for the study, management, protection, and enhancement of natural resources; scientific research; essential emergency actions; maintenance (but not expansion) of publicly owned structures; and nonstructural projects for shoreline stabilization.

h. Exotic Organisms. Marine Corps installations will not introduce exotic species into any natural ecosystem, unless either the Secretary of Agriculture or the Secretary of Interior finds that such introduction will not have an adverse effect on those ecosystems per EO 11987, May 24, 1977. Exotic species with a potential for adverse effects on natural ecosystems will not be used in a manner that may result in escape to the wild. The manipulation of population numbers of exotic plant and animal species, up to and including total eradication, will be undertaken whenever such species threaten native plant communities or ecosystems.

i. Partnerships and Volunteer Programs. Marine Corps installations may use appropriate partnerships and volunteers to enhance conservation programs whenever practicable. This work will be performed under the direction of professionally trained natural resources personnel.

j. Natural Resources Personnel. Personnel whose duties involve natural resources must have the appropriate knowledge, skills, and professional training/education to carry out those

responsibilities. Installation commanders will provide necessary supplemental training to ensure proper and efficient management of those resources in a timely manner. Installation commanders will provide adequate staffing levels to ensure that appropriate resource management and protection will be provided,in accordance with the environmental conservation specifications included in DoD policy and the Sikes Act.

k. Environmental Compliance. See chapter 4 of this Manual for information about policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

2. Land Management

a. Wetlands Protection. The Marine Corps will obtain a permit from the U.S. Army Corps of Engineers (COE) prior to discharging dredged or fill material into waters of the United States, including wetlands, in compliance with section 404 of the CWA. The Marine Corps will comply with the national goal of no net loss of wetlands and will avoid loss of size, function, and value of wetlands. In addition, the Marine Corps will preserve and enhance the natural and beneficial values of wetlands while conducting its activities.

b. Nonpoint Source Pollution. The Marine Corps will comply with state guidelines to control nonpoint source pollution, as required by the CWA.

c. Agricultural Outleasing. As part of the integrated management of natural resources, installation commanders should review the suitability of their lands for agricultural leasing, under the Military Construction Authorization Act, when this practice is compatible with military requirements.

d. Soil Conservation. The Marine Corps will manage its lands to control and prevent soil erosion and to preserve natural resources by conducting surveys and implementing soil conservation measures. Altered or degraded landscapes and associated habitats are to be restored and rehabilitated whenever practicable.

e. Farmland Protection. The Marine Corps will identify prime and unique farmland and take into account the adverse effects of its actions on the preservation of farmland; will consider alternative actions, as appropriate, to reduce such

adverse effects; and will ensure that such actions, to the extent practicable, are compatible with state and local government, and private programs and policies to protect farmland.

f. Control of Noxious Weeds. Marine Corps installations will cooperate with state programs for controlling noxious plants and will allow access for that control, provided that it is consistent with installation safety and security considerations and that control measures are acceptable and have been followed on privately owned lands.

g. Floodplain Management. As it implements land management, construction, and land use actions, the Marine Corps will provide leadership in avoiding direct or indirect development of floodplains and in restoring and preserving the natural and beneficial values served by floodplains as required by EO 11988, May 24, 1977. Marine Corps installations must evaluate the potential effects of actions in floodplains, in order to provide an early opportunity for public review of proposals in floodplains, according to NEPA procedures outlined in chapter 12.

h. Wildfire Suppression and Prescribed Burning Fire is an important component of ecosystem management. Some vegetative types require fire for their maintenance; others are extremely susceptible to fire damage. Prescribed burning is an important tool to reduce fuel loading and to maintain fire-dependent ecosystems. Accordingly, Marine Corps installations which, due to mission requirements and vegetative types, are prone to wildfire will include fire management plans in their integrated natural resources management plans.

3. Fish and Wildlife Management

a. Endangered Species. The Marine Corps will consult with the USFWS or the NMFS (as appropriate) on any Marine Corps action(s) which may affect any Federally listed threatened or endangered species or their critical habitat, in order to ensure that such actions are not likely to jeopardize the continuedexistence of the species or result in the destruction or adverse modification of the habitat. Such consultations may be either formal or informal. When necessary, the Marine Corps will prepare a biological assessment of the effects of a proposed action on listed species to assist the USFWS or NMFS in issuing a biological opinion as to whether the action will jeopardize the continued existence of the species. In addition, the Marine Corps will use its authority to further programs for the conservation of endangered and threatened species.

supporting endangered species must include a section in their integrated natural resources management plan detailing protective measures which assure the continued health and viability of these species aboard the installation. Marine Corps installations will assist USFWS and NMFS in their efforts to prepare recovery plans for endangered species.

b. Marine Mammals. Under provisions of the MMPA, the Marine Corps must not take, harass, or kill marine mammals on the high seas or in waters or on land under the jurisdiction of the United States. Permits for a take that may be incidental to a legitimate operation may be obtained through a lengthy rule-making procedure. In addition, many marine mammals are also endangered species. The Marine Corps will evaluate operations that may affect marine mammals and will take the necessary steps to avoid impacts to these species.

c. Migratory Birds. The Marine Corps will consult with the USFWS informally to ensure that actions that result in the incidental taking of migratory birds is carried out in a manner that minimizes the taking of the species listed in 50 CFR 10.13. Marine Corps installations should discuss with the local USFWS actions with the primary intent to kill migratory birds, their young, or eggs for which the general public would be required to obtain a depredation permit. As a matter of comity, Marine Corps installations may apply for such permits. The lawful pursuit of migratory game birds is permitted in compliance with Federal, state, and local hunting regulations.

d. Fish and Wildlife Conservation. The Marine Corps will, to the extent practicable and consistent with military mission requirements, conserve and promote conservation of nongame fish and wildlife and their habitats.

e. Cooperative Plans for Military Fish and Wildlife Programs. Marine Corps activities will manage fish and wildlife cooperatively with appropriate Federal and state fish and wildlife agencies under a cooperative plan. Cooperative agreements with appropriate Federal, state, and local agencies will be required for installations having the potential to manage fish, wildlife, and outdoor recreation resources. Natural resources cooperative agreements are intended to expand installation opportunities for assistance from and cooperation with Federal, state, and local agencies.

f. Hunting, Fishing, and Trapping Licenses. Installations allowing hunting, fishing, and trapping must require all civilian

hunters, fishers, and trappers to possess applicable state licenses for hunting, fishing, or trapping on that installation. Military personnel engaged in these activities must possess such licenses if the host state permits the issuance of a resident license to members of the military without regard to established residence requirements. At installations within states that do not authorize licenses under the condition noted herein, members of the military may, at the discretion of the installation CG/CO, be authorized to hunt, fish, or trap by issuance of an installation permit in lieu of a state license.

g. Hunting, Fishing, and Trapping Access Fees. Installations that permit hunting, fishing, or trapping are authorized to collect fees for access to these recreational opportunities. Fees or proceeds from hunting, fishing, and trapping will be used only for funding, or supplementing the funding of, wildlife management programs to enhance hunting, fishing, and trapping opportunities on installations where fees are collected. Proceeds collected will be turned over to the servicing Marine Corps accounting and finance officer.

h. Fish and Wildlife Management Services. Marine Corps installations with such programs will ensure that professional services are provided for the management of fish and wildlife resources. When contracting fish and wildlife work, priority will be given to Federal, state, and local agencies having responsibilities for the conservation and management of fish and wildlife.

4. Forest Management

a. Management Requirements. Marine Corps installations containing forests or lands with the potential to grow and produce forest products will ensure the optimum sustainable yield of forest products and the improvement of forest resources consistent with the military mission and local ecosystem condition. When appropriate, installation-integrated natural resources management plans will include current forest inventories, conditions, trends, and potential uses;silvicultural goals; maintenance of forested areas and access roads; forest and stand improvement methods; harvesting and reforestation methods and schedules; and protection and enhancement of other natural resources.

b. Product Sales. Per the Military Construction Authorization Act, as implemented by the specifications in DoD Financial Management Regulation, volume 11A, chapter 16

(Accounting for Production and Sale of Forest Products), Marine Corps contracts for the sale of timber and forest products will include requirements for orderly harvesting, operational procedures, and payment for products to be sold. Forest products will not be given away, abandoned, carelessly destroyed, used to offset costs of contracts, or traded for products, supplies, or services. Proceeds collected from the disposal or sale of all merchantable forest products produced on a Marine Corps installation will be turned over to the servicing Marine Corps accounting and finance officer. For each installation generating forest product sales, records will be kept to show sales proceeds generated by fiscal year for determining payments to the host state as required by the Military Construction Authorization Act.

c. Accounting and Use of Forestry Proceeds. Marine Corps installations incurring obligations for the production and sale of forest products are to be reimbursed from collections made as a result of the sale of such products. Forest management program obligations must be related directly to the economic production and sale of forest products and the enhancement, protection, conservation, and management of Marine Corps forest resources. Insofar as they meet this test, obligations may include the funding of cooperative agreements and research agreements with appropriate agencies. Reimbursable program obligations do not include expenses incurred for operations that, while related to the land and forest, are for other purposes, nor do they include expenses for the protection of forests that are incapable of economic production of forestproducts. Nonessential program expenses will be limited to ensure a balanced program.

d. Forest Pest Suppression. Marine Corps installations with forest resources will cooperate fully in the planning, coordination, and execution of field operations to prevent and suppress the damaging of forests as well as insect and disease outbreaks, consistent with the terms of the Forest Pest Suppression Memorandum of Agreement between the Department of Agriculture and the DoD of 11 December 1990, and whenever it is determined to be necessary by either the Regional United States Forest Supervisor or cooperating state forestry department or commission.

5. Outdoor Recreation

a. Recreation Opportunities. Marine Corps installations will provide the public with access to natural resources to the extent appropriate and consistent with military mission requirements.

b. NPS. A Memorandum of Understanding between the DoD and the DOI provides guidance on the management of natural resources for outdoor recreation. Cooperative agreements with the NPS, in conjunction with the installation integrated natural resources management plan, are the mechanisms for a program of planning, development, maintenance, and coordination of outdoor recreation on Marine Corps installations.

c. Off-Road Vehicles. In accordance with EO 11644, February 8, 1972, pertaining to the use of off-road vehicles on public land, recreational off-road vehicle use on Marine Corps land will be permitted only in areas and on trails designated by installation commanders. Existing unimproved roads will be monitored to prevent the roadway from moving into sensitive areas.

6. Environmental Restoration

a. Natural Resources Trustees. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA; part 101, section 6), defines natural resources as "land, fish, wildlife, biota, air, water, groundwater, drinking supplies, and other such resources." CERCLA designates the President as the trustee for Federally protected or managed natural resources on behalf of the public. In addition, EO 12580, January 23, 1987, the National Oil and Hazardous Substances Pollution Contingency Plan, designates heads of specified departments, including the DoD, as natural resources trustees. Accordingly, the Marine Corps will act as a natural resources trustee for those resources it manages.

b. Natural Resources Trustee Responsibilities. After notification or discovery of a natural resource injury, loss, or threat, a trustee will take appropriate actions. These include conducting a preliminary survey of areas affected by a discharge or release to determine if natural resources are or may be affected; cooperating with the on-scene coordinator/regional project manager in coordinating assessments, investigations, and planning; and carrying out a plan for restoration, rehabilitation, replacement, or acquisition of equivalent natural resources. The Marine Corps will take these actions when acting as a trustee.

c. Ecological Risk Assessments. Through the authority found in CERCLA and other statutes, the Marine Corps will perform ecological risk assessments at all National Priority List sites

in order to protect wildlife, fisheries, and endangered and threatened species and their habitat. During the remedial investigation/feasibility study (RI/FS) stages, ecological effects and routes of exposure must be examined so that important impacts and transport pathways are not overlooked and so that reasonable estimates are made of the health, safety, and environmental effects of various remedial alternatives. These assessments require natural resource expertise in site reviews, work plans, contractor qualifications, and final product, as well as remedial action decisions.

11105. TERMS AND DEFINITIONS

1. Agricultural Outleasing. The use of DoD lands under a lease to an agency, organization, or person for the purpose of growing crops or grazing domesticated animals.

2. Annual Operational Plan. A management section addendum prepared annually to facilitate and implement the corresponding section of a natural resources management plan. The annual operational plan provides details and cost estimates of proposed work or projects to be accomplished during a fiscal year.

3. Best Management Practices (BMP). Within the scope of this chapter, BMP's are practical, economical, and effective management or control practices that will reduce or prevent water pollution or adverse impacts to natural resources. BMP's are applied as a system of practices based on site-specific conditions rather than a single practice. BMP's are usually prepared by state agencies for land-disturbing activities related to agriculture, forestry, and construction.

4. Biodiversity. The diversity of life and its processes; living organisms, the genetic differences among them, and the communities and ecosystems in which they occur.

5. Biological Assessment. An evaluation conducted as part of the interagency regulations under the ESA. This evaluation allows the regulatory agency to determine whether or not the proposed action will adversely affect the continued existence of a species listed, or proposed for listing, as endangered or threatened. Contained within 50 CFR 402 are the minimum requirements for inclusion in a biological assessment for ESA regulatory consultation.

6. Candidate Species. Any species being considered by the Secretary of the Interior or Commerce under the ESA for listing as an endangered or threatened species, but not yet proposed for listing.

7. Coastal Zone. An area specifically identified or otherwise delineated by a state in its approved Coastal Zone Management Plan. It is an area of coastal waters and adjacent shorelines strongly influenced by each other and in proximity to shorelines of other states, including islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. Excluded from the coastal zone are lands solely subject to or held in trust by the Federal Government, its officers, or its agents.

8. Conservation. Planned management, use, and the protection of natural resources to provide sustained use and continued benefit for present and future generations, as well as the prevention of exploitation, destruction, waste, and/or neglect.

9. Critical Habitat. The geographic area on which are found those physical or biological features essential to the continued existence of a species listed and published in 50 CFR 17 by the USFWS or the NMFS under the authority of the ESA.

10. Damages. The amount of money calculated to compensate for injury to, destruction of, loss of, or loss of use of natural resources, including the reasonable costs of assessing or determining the cost, which will be recoverable by a trustee.

11. Ecological Risk Assessment. A quantitative and/or qualitative appraisal of the actual or potential effects of a hazardous substance (HS) site on plants and animals other than people or domesticated species.

12. Ecosystem. A dynamic, natural complex of living organisms interacting with each other and with their associated nonliving environment.

13. Ecosystem Management. A goal-driven approach to managing natural and cultural resources that support present and future mission requirements; preserves ecosystem integrity; is at a scale compatible with natural processes; is cognizant of natural processes' time scales; recognizes social and economic viability within functioning ecosystems; is adaptable to complex, changing requirements; and is realized through effective partnerships among private, local, state, tribal, and Federal interests. Ecosystem management is a process that considers the environment

as a complex system functioning as a whole, not as a collection of parts, and recognizes that people and their social and economic needs are a part of the whole.

14. Endangered or Threatened Species. A species of fauna or flora that has been listed by the USFWS or the NMFS for special protection and management under the ESA.

15. Exotic Species. All species of plants and animals not naturally occurring, either presently or historically, in a given ecosystem.

16. Fish and Wildlife Cooperative Plan. A plan for the cooperative management of fish and wildlife on a military installation implemented by the installation Commander in cooperation with appropriate Federal and state agencies as required by the Sikes Act.

17. Fish and Wildlife Management. A coordinated program of actions designed to preserve, enhance, and regulate indigenous wildlife and its habitats, including the conservation of protected species and nongame species, management and harvest of game species, reduction in bird aircraft strike hazard (BASH),and animal damage control.

18. Forest Management. An integrated program for managing forest resources to ensure that the health, vigor, and diversity of forest ecosystems are maintained, while providing for a diverse, quality military training environment and the production of a sustained yield of commercial timber products. Major forest management functions include forest administration, timber management, reforestation, timber stand improvement, timber access road construction and maintenance, integrated pest management, fire management, other forest protection actions, forest inventory, and the development of integrated multiple use silvicultural prescriptions.

19. Forest Products. All plant materials in wooded areas that have commercial value.

20. Game Species. Fish and wildlife that may be harvested in accordance with applicable Federal, state, and local hunting and fishing laws.

21. Grounds. All land areas not occupied by buildings, structures, pavements, and other facilities. Grounds may be

classified as improved (those near buildings), semi-improved (those near runways and roads), or unimproved.

22. Habitat. An area where a plant or animal species lives, grows, and reproduces, and the environment that satisfies its life-cycle requirements.

23. Injury. Any adverse change in a natural resource or impairment of a service provided by a resource relative to baseline, reference, or control conditions. Injury incorporates the concepts of "destruction," "loss," and "loss of use."

24. Integrated Natural Resources Management Plan. An integrated ecosystem management plan showing the interrelationships of individual components of natural resources management (fish and wildlife, forestry, land management, and public access) to mission requirements and other land use activities affecting an installation’s natural resources.

25. Land Management. Programs and techniques to manage lands, wetlands, and water quality, including soil conservation, erosion control and nonpoint source pollution, surface and subsurface waters, habitat restoration, control of noxious weeds and poisonous plants, agricultural outleasing, grassland/ rangeland management, identification and protection of wetlands, watershed protection, floodplains management, landscaping, and grounds maintenance.

26. Natural Resources. All elements of nature and their environments of soil, air, water, and their associated flora and fauna.

27. Natural Resources Damage Assessment. The process of collecting and analyzing information to determine injury to, destruction of, or loss of natural resources and the assessment of damages for that injury, including costs of assessing the injury, destruction, or loss resulting from a past or present release or spill of hazardous material or oil.

28. Natural Resources Management Professional. Individual with an undergraduate or graduate degree from an accredited United States college or university in a natural resources-related discipline who has the responsibility for managing natural resources on a regular basis.

29. Natural Resources Trustee. Federal trustees are those agencies which have statutory responsibility to protect or manage

natural resources or stewardship responsibility as a manager of Federally-owned land. State agencies and Native American tribes also may be trustees.

30. Nongame Species. Fish and wildlife species not classified as game species and not harvested for recreation or subsistence purposes.

31. Nonpoint Source Pollution. Pollution caused by diffuse sources that are not regulated as point sources and normally associated with runoff from construction activities, urban, agricultural and silvicultural runoff, and other land, soil, and water disturbing activities such as military training and operations. This pollution can result from surface runoff, precipitation, atmospheric deposition, or percolation. This definition is necessarily general; legal and regulatory decisions have sometimes resulted in certain sources being assigned to either the point or nonpoint categories because of considerations other than their manner of discharge. For example, irrigation return flows are designated as "nonpoint source" by section 402(l) of the CWA, even though the discharge is through a discrete conveyance.

32. Noxious Weeds. Plant species identified by Federal or state agencies as requiring control or eradication.

33. Off-Road Vehicles. A vehicle designed or used for recreational travel on natural terrain. The term excludes a registered power boat confined to use on open water, a vehicle used for a military emergency; and any vehicle in use by an employee or agent of the Government or one of its contractors in the course of carrying out their official tasks.

34. Outdoor Recreation. Program, activity, or opportunity dependent on the natural environment. Examples are picnicking, bird watching, off-road vehicle use, hiking, wildlife and scenic river use, and primitive camping. Developed or constructed facilities such as golf courses, tennis courts, riding stables, lodging facilities, boat launching ramps, and marinas are not included.

35. Planning Level Survey/Inventory of Natural Resources. An inventory of natural resources which must be identified to prevent the impairment of the military mission or to meet regulatory requirements.

36. Proposed Species. Any species of fish, wildlife, or plant that is proposed in the Federal Register to be listed under section 4 of the ESA.

37. Stewardship. The responsibility to inventory, manage, conserve, protect, and enhance natural resources entrusted to one's care in a way which respects the intrinsic value of those resources, and the needs of present and future generations.

38. Waters of the United States. This term applies to the jurisdictional limits of the COE under the Clean Water Act, as defined in 33 CFR 328, and includes all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters subject to the ebb and flow of the tide. Also included are all interstate waters, interstate wetlands, and all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, wet meadows, playa lakes, or natural ponds.

39. Wetlands. Areas inundated or saturated by surfacewater or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, marshes, and bogs.

CHAPTER 11

NATURAL RESOURCES MANAGEMENT

SECTION 2: MARINE CORPS POLICY

11200. GENERAL

1. Stewardship. Natural resources under the stewardship and control of the Marine Corps will be managed to support the military mission, while preserving,protecting, and enhancing these resources. Land use practices and decisions must coincide with the military mission, rely on scientifically sound conservation procedures and techniques, and employ scientific methods and an interdisciplinary approach.

a. Responsibility for good stewardship of natural resources will be an important and identifiable function of all echelons of command management. Procedures must be established at each installation to ensure that Marine Corps decision makers are kept informed of the conditions of natural resources, the objectives of natural resources management plans, and the potential or actual conflicts between Marine Corps actions and the policies and procedures herein. Stewardship will be recognized as a high priority requirement in retaining control and use of Marine Corps lands for mission needs.

b. The policy of the Marine Corps is to act responsibly in the public interest to restore, improve, preserve, and properly use natural resources on Marine Corps administered lands. There will be a conscious and active concern for the inherent values of natural resources in all Marine Corps plans, actions, and programs. Proposals for new and continuing actions that affect natural resources must be coordinated by action sponsors with the managers of those resources. Recommendations of natural resource managers to minimize impacts to natural resources must be incorporated as much as possible.

c. The management and conservation of natural resources under Marine Corps control (including planning, implementation, and enforcement functions) are inherently Governmental functions that will not be outsourced by the Marine Corps under the DoD Commercial Activities Program or installation operating services contracts.

d. The principles of good stewardship also will be applied to natural resources not administered by the Marine Corps, including preservation of such resources as marine mammals, coral reefs, and others potentially affected by Marine Corps operations.

2. Ecosystem Management. It is Marine Corps policy to incorporate ecosystem management as the basis for land use planning and management on Marine Corps installations. This approach takes a long-term view of human activities, including military uses and biological resources as part of the same system. The goals are to preserve and enhance ecosystem integrity, and to sustain both biological diversity and continued availability of those resources for military and other human uses. Biologically or geographically significant or sensitive natural resources or species must be inventoried and managed in order to protect these resources and promote biodiversity. Ecosystem-based management will include a shift from single species to multiple species conservation, the formation of partnerships necessary to consider and manage ecosystems that cross boundaries, the use of the best available scientific information in decision making, and the use of adaptive management techniques in natural resources management.

3. Marine Corps Natural Resources Management Goals. Marine Corps installations must accomplish the following when managing natural resources:

a. Preserve our mission access to air, land, and sea resources;

b. Strengthen national security by strengthening conservation aspects of environmental security; and

c. Preserve the opportunity for a high quality of life for present and future generations of Americans.

4. Integrated Natural Resources Management Plans (INRMP). INRMP's that incorporate the principles of ecosystem management must be prepared, maintained, and implemented by installations for all lands and waters under Marine Corps. control which have suitable habitats for conserving and managing natural ecosystems including fish, forests, grazing lands, wildlife, and other natural resources. Each plan must contain information needed to make appropriate decisions about natural resources management.

a. Authorship. INRMP's must be prepared and/or reviewed and recommended for approval by natural resources management professionals. If preparation of sections of the installation INRMP is beyond the installation's technical or logistical capability, the installation may request cognizant Naval Facilities Engineering Command (NAVFACENGCOM) Engineering Field Divisions/Activities (EFD/EFA) or COE Districts to prepare these sections. The installation may also contract the preparation of INRMP sections to other appropriate Federal or state agencies or private contractors with appropriate oversight from installationnatural resources managers. Conservation management is a dynamic process. A consistent management approach to natural resources planning includes the following iterative steps:

(1) Assess military mission.

(2) Prepare detailed planning level survey.

(3) Analyze and assess risk to the resources.

(4) Prepare management plans.

(5) Implement management plans.

(6) Monitor and assess results.

(7) Conduct needs assessment survey.

(8) Reassess inventories.

(9) Reanalyze and reassess risk to resources.

(10) Adjust program as necessary.

b. Endorsement. All management sections of an installation INRMP will have a title page endorsed by the installation commander, or designee, to indicate the installation's commitment to, and acceptance and approval of, the section.Each section must be reapproved and signed every 5 years.

c. Recordkeeping and Reporting. Each installation must maintain data regarding natural resources to facilitate and ensure the efficient and effective accomplishment of program goals and objectives. Periodic reports will be required at the discretion of the CMC (LF) to ensure compliance with legal requirements and to facilitate the implementation and coordination of program responsibilities.

d. NEPA Compliance. Installations must conduct environmental review of natural resources management actions under NEPA per procedures discussed in chapter 12.

5. Coastal Zone Management. Marine Corps operations, activities, projects, and programs that affect the land, water, or natural resources of any coastal zone must be consistent, to the maximum extent practicable, with the enforceable policies of the coastal state's approved management program. Marine Corps installations will support the development and implementation of state coastal nonpoint pollution control programs on Marine Corps lands by identifying nonpoint sources, specifying corrective measures, and coordinating nonpoint source compliance efforts with state programs. Marine Corps installations also will identify areas of sensitive natural resources of the coastal zone, minimize the loss or degradation of coastal wetlands, enhance the natural value of wetlands, and protect water quality. The Marine Corps will encourage research and development efforts to address nonpoint sources of pollution to identify and understand Marine Corps impacts on the coastal and marine environment.

6. Partnerships. Marine Corps installations will encourage the use of partnerships and volunteers to complete projects under the direction and approval of installation natural resources personnel. Programs that foster pride in accomplishment among volunteers, partners, and the Marine Corps are encouraged. Examples of effective partnership programs include Coastal America, Partners In Flight, Student Conservation Association, and the Chesapeake Bay Initiative. Each partnering or cooperating agreement in which Marine Corps installations formally participate must recognize that:

a. The primary Marine Corps mission is the protection of national security. Marine Corps activities on military lands are vital to fulfillment of that mission.

b. Actions specified in these agreements must not detract from the military mission.

c. Military lands will not be used for the mitigation of nonmilitary action impacts occurring off the installation that affect the environment.

d. Military lands will not be set aside as permanent environmental preserves. The Marine Corps must maintain the

flexibility to adapt our defense mission to political and technological developments.

7. Exotic Species. Exotic species must not be introduced deliberately into any natural ecosystem on Marine Corps lands or waters unless it is explicitly determined that such introduction will not have an adverse effect on those ecosystems, in accordance with NEPA. Control and removal measures for exotic species, when determined to be practical and environmentally advantageous, will be included in installation INRMP's.

8. Funding for Natural Resources Programs. Funding for natural resources management is an important responsibility of Marine Corps installation commanders and must be included in Program Objective Memorandum submittals. Funds may be available from other sources to supplement portions of these programs such as agricultural outleasing, forestry, and hunting and fishing user fees. Installations are cautioned not to rely on any one source to fund stewardship and natural resource compliance programs.

9. Resources on Installations Identified for Closure. Natural resources on installations proposed for closure must be addressed during disposal and reuse planning as described in 40 CFR 1500-1508 and 42 U.S.C. 4341. Conservation easements may be granted on portions of installation real property that have significant ecological, cultural, scenic, recreational, or educational value. The Marine Corps must give consideration to providing excess property to conservation agencies or organizations in accordance with requirements governing property disposal.

11201. LAND MANAGEMENT

1. Land Management Section of INRMP. When appropriate, land management plans will address ecosystems, soils, water resources, wetlands and watersheds, estuaries, soil and water conservation, biodiversity, grounds maintenance, nonpoint source pollution control, landscaping, agricultural uses and potential,fire management, insect and disease management, range/grassland conditions and trends, critical or unique coastal barrier systems, critical habitats, other areas of special interest, and impact of readiness requirements on natural resources.

2. Use of Native Plants in Landscaping. Environmentally and economically beneficial landscaping practices will be used on all Marine Corps lands. Each Marine Corps installation will, to the

extent practical, use regionally native plants for landscaping and other beneficial techniques. Further guidance on the implementation of this policy is contained in the White House Memorandum for the Heads of Executive Departments and Agencies, April 26, 1994.

3. Wetlands. In order to comply with the national policy to permit no overall net loss of wetlands, Marine Corps installations will ensure that:

a. All facilities and operational actions avoid, to the maximum degree feasible, wetlands destruction or degradation regardless of wetland size or legal necessity for a permit. Any facility requirement that cannot be sited to avoid wetlands must be designed to minimize wetlands degradation and must include compensatory mitigation as required by wetland regulatory agencies in all phases of project planning, programming, and budgeting. Within this policy, use of Marine Corps lands and lands of other entities are permissible for mitigation purposes for Marine Corps projects when consistent with Environmental Protection Agency and COE guidelines or permit provisions. Proposals for permanent resource areas must be approved by the Assistant Secretary of the Navy (Installations and Environment) or his/her designee. Any agreement to deed restrictions for the purpose of maintaining wetlands in perpetuity, however, requires property disposal authority, such as a delegation from the General Services Administration. Requests by non-Marine Corps entities to mitigate for the effects of non-Marine Corps projects on Marine Corps lands may be approved only by the CMC (LF). This approval will be based on military mission requirements, the nexus of the proposed project to the land at issue, and the appropriateness of granting long-term use of the site to the best interests of the United States, including the Marine Corps.

b. Any action significantly affecting wetlands is addressed in an environmental document prepared pursuant to NEPA, as discussed in chapter 12 of this Manual.

c. Boundaries of legally defined wetlands, on all Marine Corps lands, are identified and mapped and these maps are distributed to all potential users, including facility planners and Marine Corps commands/units and tenants.

d. Adequate technical expertise is available to installation commanders for the protection, management, identification, and mapping of wetlands.

e. Land suitable for establishment or re-establishment of high quality wetlands is identified in all installation INRMP's and master plans. The Marine Corps encourages the implementation of wetlands creation or enhancement projects and wetland banking, where compatible with mission requirements.

4. Nonpoint Source Pollution. The Marine Corps will support and accelerate the development and implementation of nonpoint source pollution management programs that ensure water quality protection. The Marine Corps will place a special emphasis on preventing nonpoint source pollution from ground disturbing actions (e.g., construction, military training, natural resources management).

5. Agricultural Outleasing. Installations may obtain assistance from the cognizant NAVFACENGCOM EFD/EFA to determine the suitability of lands for agricultural outleasing. The NAVFACENGCOM acts as the Marine Corps agent for outleasing. In this capacity, the EFD/EFA will perform real estate contract execution, contract negotiations, and administration, appraisals, and cadastral support. Rental revenue from outleases will be deposited by NAVFACENGCOM as directed in NAVFAC P-73; Navy Real Estate Procedural Manual, vol. I; NaturalResources Management Procedural Manual, vol. II. Outleasing plan requirements are as follows:

a. Each outlease must contain a soil and water conservation plan outlining specific practices and projects to be performed by the lessee as part of the outleasing contract;

b. The Plan of Conservation Operations must include specific soil and water conservation practices required to protect and improve the productivity and fertility of the land, must contain a schedule for application of the required practices, and must provide for the restoration of the land area(s) upon termination of the lease;

c. The plan must include sound agricultural and pest management practices and be consistent with state and Federal regulatory requirements and the overall goals of the installation; and

d. All outlease contracts, with a term not exceeding 10 years, supplemental agreements, and conservation plans will be endorsed by the installation CG/CO.

6. Use of Agricultural Outleasing Proceeds. Administrative expenses of agricultural outleasing that may be funded with proceeds are limited to those direct supervisory, technical, clerical, legal, and accounting costs wholly attributable to agriculture leasing. This process includes initiating new leases and administering existing leases. Authorized expenses that may be reimbursed by outleasing funds are as follows, in priority order:

a. Administration expenses, including personnel- related expenses, that are directly attributable to agricultural and grazing program management.

b. Development and implementation of integrated natural resources management plans and programs including expenses of inventories and surveys.

c. Improvements or rehabilitation of land and other natural resources to enhance productivity.

d. Improvements or rehabilitation of land and water resources for the purpose of soil and water conservation.

e. Land and water resource improvements for fish and wildlife habitat enhancement.

f. Improvements to land and water to provide for outdoor recreational use of natural resources.

g. Travel and training in support of integrated natural resources management programs.

h. Purchase of equipment and materials to support integrated natural resources management programs and projects.

7. Agricultural Outleasing Fund Provisions. Agricultural outleasing funds to support natural resources management operations are provided by the CMC (LF). The direct obligation authority provided for this operation is footnoted on the operating budget and may not be transferred to other accounts or used for purposes not identified with integrated natural resources management. Expenditures are to be consistent with the installation’s annual operational plan. Modification of the plan may be made based only on the prior approval of the CMC (LF). Natural resources program requirements that may be funded with agricultural outlease proceeds do not include:

a. Mitigation or compensation for damage to natural resources caused by construction projects or operational requirements;

b. Projects and expenses of commercial forest production;

c. Recurring grounds maintenance requirements on improved and semi-improved grounds, such as mowing, fertilizing, irrigating, seeding, pruning, ornamental planting, and pest control;

d. Archaeological/cultural resources surveys and other program requirements that are not essential for natural resources management planning or implementation;

e. Animal damage control that is not essential for natural resources management planning or implementation. Habitat management aspects of bird and other animal/aircraft strike hazard reduction programs are not excluded; and

f. Requirements that are primarily organizational support versus natural resources management program support.

11202. FISH AND WILDLIFE MANAGEMENT

1. Endangered Species. The Marine Corps will review its activities, identify those that may affect Federally listed species or designated critical habitat, and use and consult formally or informally with the USFWS or NMFS, as appropriate. The Marine Corps will use its authority to enhance the recovery of Federally listed endangered species and their habitats. Federal candidate species will be inventoried and monitored to help evaluate and document the effects of military activities on those species that may be listed in the future. Consideration of state-listed species is not required by the ESA. However, state laws and regulations may govern the possession, propagation, sale, or taking of such species on military installations. In addition, NEPA may require the consideration of impacts on state listed species during environmental review of proposed Marine Corps actions. In this regard, installations are encouraged to inventory and monitor these species to facilitate compliance with NEPA and state laws and regulations.

2. Fish and Wildlife Management. It is Marine Corps policy that installations must comply with laws for the protection and management of wildlife resources, and must develop, where

compatible with military requirements, programs for the development, enhancement, and use of wildlife resources. Where appropriate, those programs will be performed under cooperative agreements with Federal, state, and local wildlife agencies. Installation CG's/CO's are authorized to execute cooperative agreements with other state and local agencies or institutions for the exchange of information or for conducting research or study projects that will contribute to the installation's integrated natural resources management plan.

3. Cooperative Fish and Wildlife Plan. The CG/CO of each installation that has land and water areas suitable for the propagation, conservation, and management of fish and wildlife resources will develop a cooperative fish and wildlife plan with the USFWS and cognizant state fish and wildlife agencies. Such determination will be made in consultation with representatives of the cooperating agencies. The installation CG/CO will provide copies of correspondence citing a negative determination to the CMC (LF).

a. The Cooperative Agreement. This agreement will be executed to provide for technical and consulting assistance in support of the development of the installation's cooperative agreement. The cooperative agreement must be signed by the installation's CG/CO, USFWS regional Director, and authorized representative of the state fish and game agency.

b. A Cooperative Plan. This plan consists of a fish and wildlife management section (of the integrated natural resources management plan) plus the cooperative agreement (with appropriate Federal and state agencies). Installations cannot legally allow trapping, hunting, fishing, or the collection fees for these activities without a cooperative management plan. Cooperative plans will be reviewed and signed by the installation commander.

c. Enforcement of Resource Protection Laws. Enforcement of laws primarily aimed at protecting natural resources (and recreational activities that depend on natural resources) must be an integral part of an installation natural resources program and must be coordinated with, or under the direction of, the installation natural resources manager. Natural resources law enforcement will be conducted by professionals who are properly trained and qualified to implement an effective program.

d. Hunting, Fishing, and Trapping Access Fee Deposits. Access fees collected by installations must be deposited into the Budget Clearing Account (Suspense) Navy 17X5095. Fee proceeds

must be turned in to the local disbursing officer for deposit, supported by an original and three copies of the Cash Collection Voucher (DD Form 1131) that must contain the following accounting data:

(1) Marine Corps C 17X5095.27XX. (The last two digits of the subhead (i.e., XX) reflect the fiscal year.);

(2) Unit Identification Code (UIC) and name of the generating installation;

(3) The stated purpose: "proceeds collected from the sale of installation hunting and fishing access licenses";

(4) The collection date must be the date payment is received. Forward a copy of DD Form 1131 to the CMC (LF); and

(5) The fee schedule for hunting, fishing, and trapping permits should be developed in the context of the cooperative plan with the state.

e. Hunting, Fishing, and Trapping Access Fee Expenses. Installation fish and wildlife enhancement operations may be funded from fees collected from the sale of permits. Such operations and planned expenditures must be directly related to the installation hunting, fishing, and Trapping program. Installations must request authority from the CMC (LF) to spend Hunting, Fishing, and Trapping Access Fee funds. This request must include:

(1) Financial summary of the fee account by prior year, budget year, and budget year plus one.

(2) Unobligated balance brought forward from the preceding fiscal year (actual).

(3) Estimate of fees to be collected.

f. Installation CG's/CO's must ensure that Hunting and Fishing Access Fee expenditures do not exceed the amount authorized by the CMC (LF) or the amount actually available from the fee account, whichever is less. Accounting for collections and expenditures relating to the management and harvesting of fish and wildlife must be per the provisions of the NAVCOMPT Manual, paragraph 032114 and MCO 7301.116.

g. Rod and Gun Clubs. Installation rod and gun clubs, other conservation organizations established as part of the command recreation program, miscellaneous nonappropriated fund activities, and private organizations are encouraged to participate in natural resources conservation efforts conducted under the auspices of the installation's natural resources staff. However, membership in such an organization must not be a condition of harvesting game or fish, nor may membership be a requirement for granting public access. Membership fees must not include the cost of a hunting, fishing, or trapping permit where such a fee is charged under the provisions of the installation's cooperative plan.

(1) Rod and gun clubs or similar organizations must not represent the command in an official capacity concerning integrated natural resources management programs when dealing with Federal, state, and local conservation agencies.

(2) The use of nonappropriated funds to support locally approved natural resources projects must in no way exclude participation by the general public in the privilege of hunting, fishing, or trapping as provided for in the installation's cooperative agreement.

(3) Planned programs or projects developed by rod and gun clubs or similar organizations must be in consonance with established natural resources programs.

(4) Use of Marine Corps property by such organizations must not result in increased liability to the Marine Corps for restoration of the site from releases of ammunition.

11203. FOREST MANAGEMENT

1. Management. It is Marine Corps policy that forest lands will be intensively managed to provide a variety of landscapes for military purposes. Forest management that accommodates and improves the economic and ecological value, wealth, and diversity of the forest also conserves natural resources through wise use, provides financial returns to the Government, and contributes commercial forest products to the economy. Forest management will be accomplished through the use of best management practices; an active, professional program based on soil-site capabilities, in a multidisciplinary, ecologically sound manner commensurate with the forest resources and species to be managed. Marine Corps forest management will include harvest,

reforestation, afforestation, and silvicultural treatments that foster forest health and vigor, structural and biological diversity, and regeneration and plant community succession.

2. Expenses. Forestry management operations may be supported on a reimbursable basis from proceeds generated by timber sales. Such operations and planned expenditures must be identified by the applicable cost account code and directly related to the production of lumber and timber products. The following Marine Corps installations have been approved by the CMC (LF) to conduct a Forest Management Program:

a. MCB Quantico, Virginia.

b. MCAS Cherry Point, North Carolina.

c. MCB Camp Lejeune, North Carolina.

d. MCAS Beaufort, South Carolina.

e. MCRD Parris Island, South Carolina.

f. MCLB Albany, Georgia.

3. Forest Management Installations. The Forest Management installations are authorized to conduct timber sales and to program for labor, material, and equipment required to carry out the program as addressed by the installation's Integrated Natural Resources Management Plan, provided that such costs are directly related to the production of lumber and timber products. Actual funding levels are subject to the approval of the CMC (LF). Funds to support forestry management operations are provided by the CMC (LF) in installation operating budgets. The direct obligation authority provided for this operation is footnoted on the operating budget and may not be transferred to other accounts or used for purposes not identified with production of lumber and timber products. Expenditures are to be consistent with the installation's annual operational plan. Modification of the plan may be made based only on the prior approval of the CMC (LF).

4. Forestry Expenditures. Plan and report incurred expenses through the use of Cost Account Codes 3B10 through 3B70 in compliance with the NAVCOMPT Manual, vol. 2, paragraph 024640. At fiscal year end, expend undelivered orders so that Marine Corps appropriations may be reimbursed. The state will receive 40 percent of an installation's net proceeds (see DoD Financial Management Regulation, vol. 11A, chapter 16 (Accounting for

Production and Sale of Forest Products, for more information on forestry expenditures)). The CMC (LF) will initiate this payment. Authorized expenses include the following:

a. Timber stand improvement.

b. Reforestation.

c. Forest protection.

d. Timber access roads,

e. Timber sale administration.

f. Timber management.

g. Equipment purchases.

5. Revenue Deposits. All proceeds generated from the sale of lumber and timber must be credited to the Budget Clearing Account (Suspense) Navy (17F3875). Proceed payments must be turned in to the local disbursing officer for deposit, supported by an original and three copies of the Cash Collection Voucher (DD Form 1131) that must contain the following accounting data:

a. Marine Corps C 17F3875.27XX. (The last two digits of the subhead (i.e., XX) reflect the fiscal year.);

b. UIC and name of the generating installation;

c. The stated purpose "proceeds collected from the sale of lumber and timber"; and

d. The collection date must be the date payment I received. A copy of DD Form 1131 must be forwarded to the CMC (LF).

6. Reporting Requirements. Per the Forestry Program Report (RCS DD-5090-05), reports are required by the CMC (LF) for the installations listed above.

11204. OUTDOOR RECREATION

1. Outdoor Recreation Planning. A program for outdoor recreational developments will be created in consultation with the DOI and appropriate state agency. Installation CG’s/CO’s are encouraged to execute a cooperative agreement with these agencies

for the purpose of obtaining technical and consulting assistance. Installation CG's/CO's are authorized to execute cooperative agreements with other state and local agencies or institutions for the exchange of information or conducting research or study projects that will contribute to the installation's integrated natural resources management program.

2. Recreational Off-Road Vehicles. Public lands, including Marine Corps lands, are subject to pressure from individual and organized off-road vehicle interests for access to land. This form of recreational use frequently conflicts with military land use requirements, wise land management practices, environmental values, and recreation activities. The term "off-road vehicle" refers to any motorized vehicle designated for, or capable of, cross-country travel on, or immediately over, land, water, sand, ice, marshes, swampland, or other natural terrain. This term excludes any registered motorboat; any military, fire, ambulance, or law enforcement vehicle when used for emergency purposes; any combat or combat support vehicle when used for national defense purposes; and
any vehicle use that is authorized by the CMC (LF) or a representative thereof for official use under a permit, lease, license, or contract. As a trustee of public lands, the Marine Corps has a responsibility to protect and enhance environmental quality, conserve natural resources, and provide opportunities for public recreation. Accordingly, the following policies and regulations regarding the use of off-road vehicles on Marine Corps lands have been established to implement EO's and the requirements contained in 32 CFR 190:

a. All land and water areas under Marine Corps control are closed to off-road travel by off-road vehicles except those areas specifically authorized by the installation CG/CO. Such authorization is contingent upon the installation's determination of suitability and specific designation of areas for such use under the procedures prescribed herein. In designating suitable sites, give preference to using existing trails.

b. In determining suitability of areas and trails for off-road vehicle use, consider each type of off-road vehicle separately, taking into account its potential environmental impact, the seasonal nature of its use, and potential conflict with other recreational users.

c. Any decision to open Marine Corps lands for use by off-road vehicles must include consideration that the public, as well as military personnel, should be authorized for such use. Such authorization must include prescribed conditions for

controlled public access to designated areas and trails for off-road vehicle use. Public access must be within management quotas, subject to safety requirements and military security, and at such times that access can be granted without compromising the military mission. Opportunities for recreational use of military land and water by the public must be equitably distributed by impartial selection procedures.

d. When off-road vehicle use is authorized, carefully regulate the intensity, timing, and distribution to protect environmental values.

e. Deny access to the installation to persons abusing off-road vehicle use privileges. Further action, as appropriate, may be taken as provided by 18 U.S.C. 1302.

f. The limitations imposed herein do not apply to the official use of vehicles for off-road travel.

g. If the installation CG/CCO or designee determines that off-road vehicle use is causing or will cause considerable adverse effects to the soil, vegetation, wildlife, wildlife habitat, or cultural or historic resources, the installation CG/CO will immediately prohibit such off-road vehicle use.

h. Restrictions on off-road vehicle use or closure of designated sites will remain in effect until such adverse effects have been eliminated or corrected with appropriate measures implemented to prevent recurrence.

11205. ENVIRONMENTAL RESTORATION

1. Natural Resources Trusteeship. During the conduct of natural resources trustee responsibilities, it is Marine Corps policy that installations will:

a. Provide for natural resources expertise in contingency planning;

b. Use natural resources professionals to evaluate the impacts of oil and HS releases and to assist in appropriate response actions;

c. Develop mitigation plans in response to Marine Corps spills and spills on Marine Corps lands;

d. Coordinate with other appropriate trustees; and

e. Assess natural resources damages, as appropriate, to mitigate spill impacts to natural resources on Marine Corps lands.

2. Ecological Risk Assessment. Use a natural resources professional familiar with sites under evaluation to assist in assessing the ecological risks in site cleanup decisions. Where sensitive habitats are involved, this professional will also review sites and work plans, evaluate contractor qualifications, and assist in remedial action and site restoration planning.

SECTION 3: RESPONSIBILITIES

11300. CMC (LF)

1. Ensure an adequate Marine Corps-wide organizational capability and the programming of resources necessary to establish and maintain an integrated natural resources program.

2. Conduct special environmental compliance and protection studies and provide policy to establish and maintain a program for the management, conservation, and enhancement of natural resources on Marine Corps lands.

3. Ensure resolution of natural resources issues in support of all aspects of the Marine Corps mission.

4. Assign a representative to serve on the Defense Conservation Committee.

5. Coordinate pertinent aspects of the Marine Corps natural resources program and issues with the headquarters of other Federal agencies, other military services, and private organizations.

6. Coordinate Marine Corps participation in the Secretary of the Navy and Secretary of Defense Natural Resources Conservation Awards program.

7. Identify Marine Corps-wide program and project priorities, and allocate available funds for natural resources requirements that cannot be funded locally.

8. Maintain an audit trail of all receipts from the use or sale of natural resources, and track expenditures charged to reimbursable natural resource accounts.

9. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to natural resource management regulations.

10. Provide support to Marine Corps installations and Marine Corps commands/units and tenants by interpreting Federal, state, local, and overseas natural resource management regulatory requirements and by uniformly applying Marine Corps policy as set for in this Manual.

11. Assist in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

11301. COMMANDER MARINE FORCES ATLANTIC (COMMARFORLANT), COMMANDER MARINE FORCES PACIFIC (COMMARFORPAC), COMMANDER MARINE CORPS SYSTEMS COMMAND (COMMARCORSYSCOM) AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Coordinate proposals for new and continuing actions that affect natural resources with the managers of those resources.

2. Take appropriate action necessary to assure that authorized, funded, or conducted actions comply with the ESA, the MMPA, NEPA, and the CWA.

11302. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Prepare base or station orders to implement provisions set forth in this chapter and to integrate natural resources requirements into the day-to-day decisionmaking process. Installations permitting hunting, fishing, and/or trapping must issue regulations for the harvesting of fish and wildlife and develop procedures for enforcing all applicable laws and regulations.

2. Act as a trustee for natural resources under their jurisdiction, and develop and maintain an effective conservation program as outlined in this chapter.

3. Enter into cooperative fish and wildlife plans that may be developed on behalf of the Secretary of Defense pursuant to the Sikes Act.

4. Within available resources, plan, program, and request sufficient funding to ensure the support of an integrated natural resources program that complies with all EO’s, Federal natural and cultural resources statutory and regulatory requirements, and state regulations as prescribed by this chapter.

5. Ensure the preparation of an integrated natural resources management plan to include the designation and special management provisions for special natural areas and systematically apply the conservation practices set forth in the plan.

6. Appoint an installation natural resources management program manager. This person's duties include ensuring that the CG/CO is informed regarding natural resources issues, conditions of natural resources, objectives of the installation integrated natural resources management plan, and potential or actual conflicts between mission requirements and natural resources mandates. Encourage appropriate staff personnel to participate in natural resources job training activities and professional meetings.

7. Implement programs of animal damage control to reduce the potential for collisions between birds or other animals and aircraft (if the installation has a flying mission).

8. Ensure the incorporation of soil and water conservation measures and landscaping with native vegetation, as appropriate, in the preliminary engineering, design, and construction of facilities involving ground disturbance. Ensure that erosion prevention and control measures are included as requirements in the specifications for all ground-disturbing construction projects. Include the costs of these measures as a specific item in new project investigations and preliminary engineering reports.

9. Review all non-excess land to identify areas that may be suitable and available for agricultural outleasing or commercial forestry.

10. Seek the aid of, and coordinate the natural resources program with, Federal, state, and local agencies. Coordinate proposals for new and continuing actions that affect natural resources with the managers of those resources.

11. Conduct surveys and other appropriate actions as necessary to document the presence of threatened or endangered species and identify currently used and periodically/indirectly used habitats for these species, and assist in the determination of whether any such habitats should be considered for designation as "critical habitat." Conduct surveys to determine presence and distribution of proposed threatened and endangered species, species under review for threatened or endangered status, and state/territory rare and endangered species.

12. Designate an installation representative to serve as a liaison with local governmental agencies and organizations having an interest in endangered and threatened species protection. Initial contacts must include the regional office of the USFWS, NMFS, and cognizant state Fish and Game Department.

13. Identify and delineate the boundaries of habitat areas of endangered and threatened species on maps to be included in the installation's master plan and integrated natural resources management plan.

14. Cooperate with the USFWS and NMFS during the development and implementation of recovery plans for listed species occurring on the installation.

15. Take appropriate action to avoid direct or indirect adverse impacts of military training, new construction, or other military actions on wetlands and on Federally listed, threatened, and endangered species.

16. Ensure that any action affecting natural resources is given proper consideration in the environmental review and public notification process.

17. Prepare and submit nominations for the DON and Defense Natural Resources Management Awards to recognize outstanding achievements.

18. Maintain records necessary to monitor and evaluate natural resources under their management, and provide requested information to agencies with jurisdiction and to the public when divulging that such information will not compromise the integrity of the resource.

19. If authorizing the use of recreational off-road vehicles, develop procedures prescribing operating conditions designed to protect resource values; preserve public health, safety, and welfare; minimize use conflicts; provide provisions for registration permits, user fees, and liability insurance requirements for users; designate where off-road vehicle use will be permitted; place appropriate signs at permitted areas and trails; provide for the administration, enforcement, and policing of trails and areas to ensure that conditions of use are met on a continuing basis; establish procedures to monitor the effects of off-road vehicle use; provide for the rehabilitation of trails and areas; negotiate cooperative agreements, when appropriate, with enforcement agencies on laws and regulations relating to

off-road vehicle use; and assess the environmental impact of planned off-road vehicle use complying with the guidelines contained in chapter 12 of this Manual.

20. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for air sources that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with air quality management requirements. Pay appropriate Federal, state, and local fees. Ensure that the Environmental Management Hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

CHAPTER 12

THE NATIONAL ENVIRONMENTAL POLICY ACT

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CHAPTER 12

THE NATIONAL ENVIRONMENTAL POLICY ACT

SECTION 1: INTRODUCTION

12100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with the NEPA of 1969 (42 U.S.C. 4321 et seq.).

12101. APPLICABILITY

1. This chapter applies to all Marine Corps active and reserve installations, commands, detachments, and units located within the United States, its territories and possessions.

2. Marine Corps active and reserve installations, commands, units, and detachments may also need to comply with state environmental planning procedures when joint activities with non-Federal parties are conducted.

3. Marine Corps actions in foreign countries are not subject to the requirements of NEPA. Thus, the requirements of this chapter do not apply to Marine Corps actions abroad. However, certain Marine Corps actions are subject to the DoD specifications outlined in appendix Q on environmental effects abroad of major DoD actions. Commanders must comply with these requirements, which are reprinted at 32 CFR 187.

12102. BACKGROUND. NEPA is the basic national charter for the protection of the environment. It establishes policies, sets goals, and provides means for carrying out environmental policy.

12103. FEDERAL STATUTES

1. NEPA of 1969 (42 U.S.C. 4321 et seq.)

a. Basic National Charter. NEPA requires decision makers to consider the environmental consequences of an applicable action before making the decision to take the action. For certain actions, NEPA requires decision makers to open the decisionmaking process to public scrutiny and involvement.

b. "Action-Forcing" Provisions. Section 102(2) of NEPA contains "action-forcing" provisions to ensure that Federal agencies act according to the letter and the spirit of NEPA. Section 102(2)(A) of NEPA mandates that Federal agencies "utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts, in planning and in decisionmaking that may have an impact on man's environment." Section 102(C) of NEPA requires that 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 by the responsible official on the environmental impacts of the proposed action." Further, section 102(E) of NEPA requires that Federal agencies "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."

c. Council on Environmental Quality (CEQ). Section 202 of NEPA created the CEQ in the Executive Office of the President. CEQ promulgates regulations that implement section 102(2) of NEPA. CEQ's regulations (40 CFR 1500-1508) are binding on the Marine Corps. CEQ also provides guidance documents which aid Federal agencies in their implementation of NEPA's myriad procedural requirements.

d. Four Basic Tenets. The four basic tenets of NEPA and CEQ regulations follow:

(1) Procedures must be in place to ensure that environmental information is available to decision makers and citizens before decisions are made and before Federal actions are taken.

(2) The NEPA process should identify and assess reasonable alternatives to proposed actions that would avoid or minimize adverse environmental effects.

(3) NEPA's purpose is to help agency officials make decisions based on an understanding of environmental effects, enabling them to take actions that protect, restore, and enhance the environment.

(4) Agencies must integrate the NEPA process with other planning at the earliest possible time to ensure that planning

and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts.

2. Interaction with other Environmental Statutes, Regulations, and Executive Orders (EO). A number of environmental statutes, implementing regulations, and EO's, which impose substantive and procedural requirements, may apply to a proposed action. The NEPA process facilitates the identification of applicable statutes, regulations, and EO's with which the action sponsor/ cognizant command must also comply. The following is a representative, but not inclusive, list of environmental legislation and EO's which may apply to a proposed action:

a. Clean Air Act (CAA) of 1970, as Amended (42 U.S.C. 7401 et seq.);

b. Clean Water Act (CWA) of 1977, as Amended (33 U.S.C. 1251 et seq.);

c. Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. 1451 et seq.);

d. Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 et seq.);

e. Marine Mammal Protection Act of 1972, as Amended (6 U.S.C. 1361 et seq.);

f. Marine Protection Research and Sanctuaries Act of 1972, as Amended (33 U.S.C. 1401 et seq. and 16 U.S.C. 1431 et seq.);

g. Migratory Bird Treaty Act of 1918, as Amended (16 U.S.C. 703 et seq.);

h. National Historic Preservation Act (NHPA) of 1966, (16 U.S.C. 470 et seq.);

i. Pollution Prevention Act (PPA) of 1990 (42 U.S.C. 13101 et seq.);

j. Safe Drinking Water Act (SDWA) of 1974 (42 U.S.C. 300(f) et seq.);

k. EO 11988, Floodplain Management, July 20, 1979;

l. EO 11990, Protection of Wetlands, September 9, 1987; and

m. EO 12898, Environmental Justice, March 14, 1994. EO 12898 requires each Federal agency to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. The DoD Strategy on Environmental Justice identifies a strategy and implementation plan which focuses on the areas of emphasis that can best meet the intent of the EO, minimizes any adverse effects on the health and environment of minority and low-income populations, and carries out the defense mission. The DoD Strategy promotes the implementation of the EO principally through, though not restricted to, compliance with the provisions of NEPA. The Marine Corps will use NEPA as the primary mechanism to implement the provisions of EO 12898. When appropriate, the Marine Corps uses Environmental Assessments (EA) and Environmental Impact Statements (EIS) to evaluate the potential environmental effects of proposed actions on minority and low-income populations. The Marine Corps should also consider employing pollution prevention solutions to minimize the impacts of activities or projects on minority and low-income populations. When appropriate, mechanisms to improve opportunities for minority and low-income populations to participate in the NEPA process will be provided. Mechanisms will include, but are not limited to:

(1) Providing translation of crucial public document summaries and conducting language interpretation of hearings as appropriate for affected minority populations;

(2) Preparing documents using language that is nontechnical;

(3) Ensuring that document repositories are readily accessible to the public;

(4) Scheduling meetings with the public at times and places convenient to community members; and

(5) Increasing the use of community organizations and nontraditional news organizations that may be primary information sources for minority and low-income populations.

12104. REQUIREMENTS

1. NEPA Threshold. The requirements of this chapter apply to proposed Federal actions which may have an impact on the human environment (i.e., those which may result in a change to the physical environment; social and economic impacts alone are not sufficient to trigger NEPA). Any action meeting the NEPA threshold must be documented as appropriate by a decision memorandum when invoking the use of a categorical exclusion (CE), an EA with a Finding of No Significant Impact (FONSI), or an EIS as appropriate, unless:

a. The action is a "continuing activity" exempt from NEPA documentation requirements, as described in paragraph 12104.7a, and is not classified as an "extraordinary circumstance," per paragraph 12104.3c;

b. The proposed action is a Comprehensive Environmental Response, Compensation, and Liability Act cleanup action;

c. The proposed action is exempt from NEPA by statute; or

d. Compliance with NEPA would cause a clear and unavoidable conflict with another Federal law.

2. Process Methodology. Use the following methodology for each proposed action in determining whether the requirements of this chapter apply and, if so, what level of NEPA documentation the action sponsor should initiate.

a. Step 1: Determine whether the proposed action may have an impact on the quality of the human environment. (See paragraph 12104.1, above.) If not, the requirements of this chapter do not apply. If so, go to Step 2.

b. Step 2: Determine whether the proposed action is exempt from NEPA documentation pursuant to paragraphs 12104.1a through d, above. If so, the requirements of this chapter do not apply. If not, go to Step 3.

c. Step 3: Determine whether the proposed action is contained in the list of CE's at paragraph 12104.3b. If not, go to Step 5 and prepare an EA or an EIS, as appropriate, per the applicable procedures. If so, go to Step 4.

d. Step 4: Determine whether any of the "extraordinary circumstances" listed at paragraph 12104.3c preclude the use of

the pertinent CE(s). If so, go to Step 5 and prepare an EA or an EIS, as appropriate, per the applicable procedures. If not, the proposed action is categorically excluded from the requirement of preparing an EA or an EIS, but must be analyzed and documented per the procedures at paragraph 12104.4. Note that even if a proposed action technically qualifies for a CE, the action sponsor may prepare an EA if the circumstances are such that it would be prudent to do so.

e. Step 5: Determine whether the proposed action is one that requires either an EA under paragraph 12104.5 or an EIS under paragraph 12104.6. If so,analyze and document the impacts per the applicable procedures. If not, go to Step 4.

3. CE (40 CFR 1508.4)

a. Overview. CEQ regulations provide for the establishment of CE's for actions that the DON has found to have no significant effect individually or cumulatively on the human environment and, therefore, for which neither an EA nor an EIS is required. CE's apply to those kinds of actions that do not significantly affect the quality of the human environment, that result in no significant change from existing conditions at the site of the proposed action, or whose effect is primarily economic or social. The use of a CE is documented by a decision memorandum. DON's approved list of CE's is set forth in paragraph 12104.3b.

b. List of CE's (32 CFR 775.6(f)). Pursuant to DON regulations and under normal conditions, the following actions are categorically excluded from the requirement to prepare an EA or EIS, unless one or more of the circumstances in paragraph 12104.3c apply:

(1) Routine personnel, fiscal, and administrative activities involving military and civilian personnel, e.g., recruiting, processing, paying, and recordkeeping.

(2) Reductions in force wherein impacts are limited to socioeconomic factors.

(3) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments (when no new support facilities are required) to perform as operational groups, and/or repair and overhaul.

(4) Relocation of personnel into existing Federally owned or commercially leased space which does not involve a

substantial change in the supporting infrastructure (e.g., an increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase).

(5) Studies, data, and information-gathering that involve no physical change to the environment, e.g., topographic surveys, bird counts, wetland mapping, forest inventories, and timber cruising.

(6) Routine repair and maintenance of facilities and equipment in order to maintain existing operations and activities, including maintenance of improved and semi-improved grounds such as landscaping, lawn care, and minor erosion control measures.

(7) Alteration of and additions to existing structures to conform or provide conforming use specifically required by new or existing applicable legislation or regulations, e.g., hush houses for aircraft engines and scrubbers for air emissions.

(8) Routine actions normally conducted to operate, protect, and maintain Marine Corps-owned and/or -controlled properties, e.g., maintaining law and order, physical plant protection by military police and security personnel, and localized pest management activities on improved and semi-improved lands conducted in accordance with applicable Federal and state directives.

(9) New construction that is consistent with existing land use and, when completed, the use or operation of which complies with existing regulatory requirements and constraints, e.g., a building on a parking lot with associateddischarges/runoff within existing handling capacities, a bus stop along a roadway, and a foundation pad for portable buildings within a building complex.

(10) Procurement activities that provide goods and support for routine operations.

(11) Day-to-day manpower resource management and research activities that are in accordance with approved plans and inter-agency agreements and which are designed to improve and/or upgrade Marine Corps ability to manage those resources.

(12) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment (where such equipment is not used to prevent/control

environmental impacts). This paragraph does not apply to permanent closure of public roads.

(13) Contracts for activities conducted at established laboratories and plants, to include contractor-operated laboratories and plants, within facilities where all airborne emissions, waterborne effluents, external radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, state, and local laws and regulations.

(14) Routine movement, handling, and distribution of materials, including hazardous materials (HM)/hazardous wastes (HW) that when moved, handled, or distributed are in accordance with applicable regulations.

(15) Demolition, disposal, or improvements involving buildings or structures not on or eligible for listing on the National Register of Historic Places (NRHP) and when in accordance with applicable regulations, including those regulations applying to removal of asbestos, polychlorinated biphenyls, and other HM's.

(16) Acquisition, installation, and operation of utility and communication systems, data processing cable, and similar electronic equipment which use existing rights-of-way, easements, distribution systems, and/or facilities.

(17) Renewals and/or initial real estate ingrants and outgrants involving existing facilities and land wherein use does not change significantly. This includes, but is not limited to, existing Federally owned or privately owned housing, office, storage, warehouse, laboratory, and other special purpose space.

(18) Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines,pumping stations, and facilities; and for similar utility and transportation uses.

(19) Transfer of real property from the Marine Corps to another military department or to another Federal agency, and the granting of leases (including leases granted pursuant to the agricultural outleasing program where soil conservation plans are

incorporated), permits, and easements where there is no substantial change in land use or where subsequent land use would otherwise be categorically excluded.

(20) Disposal of excess easement interests to the underlying fee owner.

(21) Renewals and minor amendments of existing real estate grants for use of Government-owned real property where no significant change in land use is anticipated.

(22) Pre-lease exploration activities for oil, gas, or geothermal reserves; e.g., geophysical surveys.

(23) Return of public domain lands to the Department of the Interior.

(24) Land withdrawal continuances or extensions which merely establish
time periods and where there is no significant change in land use.

(25) Temporary closure of public access to Marine Corps property to protect human or animal life.

(26) Engineering effort undertaken to define the elements of a proposal or alternatives sufficiently so that the environmental effects may be assessed.

(27) Actions which require the concurrence or approval of another Federal agency where the action is a CE of the other Federal agency.

(28) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.

(29) Installation of devices to protect human or animal life; e.g., raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, and fencing and grating to prevent accidental entry to hazardous areas.

(30) Natural resources management actions undertaken or permitted pursuant to agreement with or subject to regulation by Federal, state, or local organizations having management responsibility and authority over the natural resources in question, including hunting or fishing during hunting or fishing seasons established by state authorities pursuant to their state

fish and game management laws. With regard to natural resources regulated by another Federal agency, the responsible command may cooperate in any environmental analysis that may be required by the other agency's regulations.

(31) Approval of recreational activities which do not involve significant physical alteration of the environment or increase human disturbance in sensitive natural habitats an which do not occur in or adjacent to areas inhabited by endangered or threatened species.

(32) Routine maintenance of timber stands, including issuance of down-wood firewood permits, hazardous tree removal, and sanitation salvage.

(33) Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved.

c. Extraordinary Circumstances (32 CFR 775.6(e)). A CE will not be used if the proposed action:

(1) Adversely affects public health or safety.

(2) Involves an action that is determined to have the potential for significant environmental effects on wetlands, endangered or threatened species,
critical habitat, historic or archaeological resources, HW sites, or air quality. Examples include:

(a) If the project cannot be accomplished under guidelines of a U.S. Army Corps of Engineers (COE) nationwide permit or would not otherwise meet
COE or state/local regulatory resource agency requirements;

(b) If the National Marine Fisheries Service (NMFS) or the United States Fish and Wildlife Service (USFWS), as appropriate, would not concur with a "no adverse-effect" determination;

(c) If the State Historic Preservation Officer would not concur with a "no effect" or "no adverse-effect" determination;

(d) If the Installation Restoration program manager would not concur with the project; and

(e) If the action requires a conformity determination under the General Conformity Rule, section 176(c) of the CAA.

(3) Involves effects on the human environment that are highly uncertain, that involve unique or unknown risks, or that are scientifically controversial.

(4) Establishes precedents or makes decisions in principle for future actions with significant effects.

(5) Threatens to violate Federal, state, or local laws or requirements imposed for the protection of the environment.

4. Documentation. Document the decision to forgo preparation of an EA or EIS on the basis of one or more CE's. Documentation, in the form of a decision memorandum, must include the applicable exclusions, the facts supporting their use, and specific consideration of the extraordinary circumstances listed above. The decision memorandum should not be more than one or two pages and must be signed by the CG/CO or designee and the action sponsor. The decision memorandum, and any records of correspondence with regulatory agencies, must accompany the project file through project planning.

5. EA (40 CFR 1508.9)

a. Overview. An EA analyzes the potential environmental impacts of a proposed action. An EA is prepared for those proposed actions that meet the NEPA threshold, that are not included on the list of DON CE's, and when the action sponsor (a) initially predicts that the proposed action will not have a significant impact on the environment, or (b) is uncertain whether the effects of the proposed action will have a significant impact on the human environment, or (c) has reason to believe the proposed action will be environmentally controversial. Based on these criteria, an EA will result in either a FONSI or a decision to prepare an EIS.

b. Actions for which an EA Must Be Prepared. The following are examples of actions that under normal circumstances would require an EA:

(1) Training exercises on or over (airspace) nonmilitary property.

(2) Training exercises for which the impacts are unknown, are potentially significant, or have the potential for environmental degradation or controversy.

(3) Dredging projects that increase water depth over previously dredged or natural depths.

(4) Proposed land use that would impact the quality or quantity of tidelands or freshwater wetlands.

(5) Real estate acquisitions or outleases of land involving:

(a) New in/out-grants only (i.e., not renewals or continuances wherein land use remains the same).

(b) Where existing land use will substantially change.

(c) Renewals of agricultural or grazing leases that involve notably different animal stocking rates, agricultural practices, seasons of use, or conversions to or from cropland.

(6) Acquisition of any size or in/out-grants that may be considered environmentally controversial, regardless of the appropriation or intended use.

(7) Family housing projects when the resident population changes.

(8) New target ranges or range mission changes with new or increased environmental impact.

(9) Exercises conducted at the request of state or territorial governments wherein environmental impacts are expected.

(10) New low-altitude aircraft training routes or special use airspace and warning areas wherein overflights impact persons (particularly of low-income or minority populations), wildlife (particularly endangered species), or property.

(11) Mission changes, base closures, relocations, consolidations, or deployments that would cause major long-term population increases or decreases in affected areas. EA's are not required where impacts are purely socioeconomic and involve no potential for significant environmental impacts.

(12) Any proposed activity that may adversely affect a Federally listed threatened or endangered species, candidate species, or designated or recommended critical habitat of an endangered species. The EA does not replace the requirements for a biological assessment and consultation under the ESA (see chapter 11 of this Manual for a complete discussion of endangered species requirements).

(13) Any activity that would affect historic or cultural sites either listed, or eligible for listing in the NRHP (see chapter 8 of this Manual for a complete discussion of historic resources requirements).

(14) Permanent closure or limitation of access to any areas that were previously open to public use (e.g., roads and recreational areas).

(15) Construction or any other action resulting in discharges to, or potential contamination of, an aquifer, watershed, or recharge zone as described in the SDWA.

(16) Irreversible conversion of "prime or unique farmland" to other uses.

(17) Transportation of hazardous substances (HS), conventional munitions, or other wastes for intentional disposal into the ocean.

(18) Award or termination of contracts involving substantial quantities of natural resources, wherein the military is the contracting agency.

(19) Any action for which the environmental effect is controversial.

c. EA Public Participation (40 CFR 1501.4(2)(b)). In the preparation of an EA, CEQ regulations require agencies to involve the public to the extent practicable. Therefore, commands proposing an action will develop an appropriate public involvement strategy. In determining the extent to which public participation is practicable, consider the following factors:

(1) Those who would be interested in or affected by the proposal;

(2) The magnitude of the environmental considerations associated with the proposed action;

(3) The extent of anticipated public interest;

(4) Methods that would most effectively notify and involve the public; and

(5) Any relevant issues of national security or classification.

d. EA Procedures/Responsibilities

(1) Action Sponsor

(a) Following the determination that an EA should be prepared for a proposed action, the action sponsor must identify the following information and coordinate with the command environmental staff to initiate the environmental analysis process:

1 A clear, detailed description of the need, purpose (objectives) for action, the proposed action, and its expected results;

2 A brief description of all considered alternatives, including the reasons for eliminating them from further consideration;

3 A description of the likely results of canceling the proposal (e.g., "no action" alternative) and not meeting the need for action;

4 A description of the potential adverse impacts which might result from engaging in the proposed action and any alternative actions considered in detail;

5 A list of the supporters and likely opponents of the proposed action and alternatives;

6 A list of the names of persons and organizations familiar with the proposal, a summary of any current responses to the proposal, and a list of additional persons or agencies to be contacted during scoping;

7 A description of any associated support or facility requirements that would be necessary to accomplish the proposed action and any other connected actions, similar actions, or cumulative actions (see paragraph 12105.19 for the definition of "Scope");

8 A list of other past, present, or reasonably foreseeable future actions with the potential, together with the proposed action, to cause cumulative environmental impacts.

(b) The action sponsor is responsible for the EA preparation (exclusive of the EA conclusion and final recommendation) via contractor, Engineering Field Division/Activity (EFD/EFA) as a reimbursable service, installation environmental staff, or action sponsor staff (if the proposed action is not part of the mission of the affected Marine Corps activity). At the earliest opportunity, the action sponsor must determine which entity will prepare the EA. In preparing the EA, the action sponsor will accomplish the following:

1 Fully describe any impacts, including any potentially significant impacts, which may result from the proposed action or alternatives;

2 Identify potential mitigation measures which may be integrated into the proposed action's design; and

3 Conduct consultations and surveys required by other environmental laws, consider positions of the affected and interested public, identify regulatory requirements, and conduct the environmental impact analysis.

(2) Installation Environmental Staff. The command environmental staff will compile the EA documentation, including draft recommendations of findings, prepare a separate conclusion in the context of one of the alternatives identified below, and distribute all documentation to the command EIRB for appropriate action.

(3) Command EIRB

(a) The command EIRB will review the documentation and make one of the following determinations:

1 The proposed action will have no significant impact on the environment; a FONSI is appropriate, and the action may proceed as planned.

2 The proposed action as planned may have a significant impact on the environment unless prescribed mitigation measures are accomplished. The final recommendation will contain a full description of all required mitigation and monitoring necessary to ensure that no significant impacts

will occur. These measures will be made a part of the FONSI and incorporated into project design.

3 The proposed action cannot proceed as planned without a significant impact on the environment. However, a reasonable alternative to the proposal that was not originally evaluated in the EA can proceed without a significant impact. The final recommendation from the EIRB will contain a full description of the new preferred alternative and direct the EA to be revised appropriately.

4 A FONSI for the proposed action is inappropriate; significant impacts can be avoided only if the "no action" alternative is selected. The final recommendation will be to begin an EIS if the action proponent wishes to continue with the proposal. The determination should describe the significant impacts that cannot be avoided.

(b) Upon considering the EA and the conclusion of the environmental staff, the EIRB will prepare a recommended course of action (to include a draft FONSI, if appropriate) for consideration by the CG/CO.

(4) CG/CO. The CG/CO, upon consideration of the EA conclusion and EIRB recommendation, will take one of the following three actions:

(a) Finalize, approve, and issue a FONSI and initiate a course of action for proceeding with the selected action.

(b) For proposed actions which fall within one of the following categories set forth in paragraph 12104.5e, forward the proposed FONSI, EA, and a recommended course of action to the CMC (LF) for review and approval before the CG/CO signs the FONSI.

(c) Direct the preparation of an EIS if the action sponsor intends to proceed with the proposed action.

e. Coordinate with the CMC (LF)

(1) A recommended finding by the CG/CO to proceed with an EIS will be coordinated with the CMC (LF).

(2) For proposed actions which fall within one or more of the following categories, the CG/CO will forward the proposed FONSI, EA, and recommended course of action to the CMC (LF) for review and appropriate action:

(a) The proposed action is, or is closely similar to, one which normally requires the preparation of an EIS;

(b) The proposed action is of a nature that is without precedent;

(c) The proposed action is to develop substantial acres of undeveloped land; and/or

(d) The proposed action has or can be expected to have substantial public or congressional interest.

(3) Commands must promptly submit a copy of all published FONSI's and related EIRB recommendations (in the form of minutes taken during board meetings) to the CMC (LF).

f. Content of EA (40 CFR 1508.9). EA preparation should follow the basic format provided in paragraph 12104.6e. Following this format, the EA should:

(1) Describe the proposed action,

(2) Briefly discuss the need for the action,

(3) Describe reasonable alternatives considered (including the "no action" alternative),

(4) Describe the existing environment at the proposed site, and

(5) Describe the potential environmental impacts of the proposal and alternatives considered. Pay special attention to the following actions:

(a) Address the potential impact on endangered or threatened species, and/or their habitat.

(b) Satisfy the requirements of the General Conformity Rule under section 176(c) of the CAA.

(c) Satisfy EO 12898, March 14, 1994, and the DoD Strategy on Environmental Justice by identifying and addressing in the EA disproportionately high and adverse human health and environmental effects of Federal programs, policies, and activities on minority and low-income populations. See paragraph 12103.2m for more information on environmental justice.

(d) Address the potential impacts to: 1) property on, or eligible for, listing in the NRHP, and 2) archaeological resources to comply with the NHPA and the Archaeological Resources Protection Act.

(6) Describe any avoidance, mitigation, or environmental monitoring requirements.

(7) List the agencies and persons consulted.

(8) Include in the appendix substantive comments, replies, and consultation correspondence from agencies or entities with relevant expertise.

g. Preparation of a FONSI

(1) Signature Authority. If the CG/CO approves of the recommendation by the EIRB for a FONSI, the CG/CO will finalize and sign the FONSI. For actions described in paragraph 12104.5e above, the CG/CO will seek the CMC (LF) review and approval before signing the FONSI.

(2) Contents. The FONSI will consist of a brief summary of the EA. Each main section of the EA (as described in paragraph 12104.5f above) will be summarized in the FONSI, excluding the list of agencies, consultants, and correspondence. A Notice of the Availability (NOA) of a FONSI may be published in local newspapers vice the entire FONSI text.

(3) Publication

(a) Unless the proposed action meets one of the conditions in paragraph 12104.5g(3)(b) below, the action sponsor is responsible for publishing the signed FONSI or the NOA in local newspapers for at least 3 consecutive days if practicable (preferably over a weekend to ensure higher public visibility). The proposed action may begin once publication is effected.

(b) If the proposed action involves one of the following two conditions, the action sponsor must make the FONSI available for public review (including in state- and area-wide clearing-houses and forward the FONSI to the CMC (LF) for publication in the Federal Register) for 30 days before making the final determination whether to prepare an EIS and before the action may begin. The conditions are:

1 The proposed action is, or is closely similar to, one which normally requires the preparation of an EIS (e.g., there is a reasonable argument for the preparation of an EIS).

2 The nature of the proposed action is without precedent (e.g., if it is an unusual case, a new kind of action, or a precedent-setting case such as a first intrusion of even a minor development into a pristine area).

6. EIS (40 CFR 1502.1)

a. Overview. An EIS provides a full and unbiased discussion of significant environmental impacts and informs decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. Briefly, the EIS process includes public "scoping," the issuance of a draft EIS (DEIS), a final EIS (FEIS), a supplemental EIS (if applicable), and the opportunity for public comment. The process culminates in the issuance of a Record of Decision.

b. Significantly. As defined in paragraph 12105, Terms and Definitions, the term "significantly" provides a basis for determining whether a proposed action significantly affects the quality of the human environment. While all aspects of the definition are important, commands should pay special attention to the issues set forth below:

(1) The Geographical Extent of the Action (40 CFR 1508.27(b)(3)). For example, construction and land use modification to support a limited maneuver or training exercise by an individual command may not have a significant effect on the environment. However, training exercises on a broad geographic scale involving diverse natural areas could have a significant effect on environmental quality.

(2) The Long-Term Impact of the Action (40 CFR 1508.27(b)(6,7)). Maintain an objective overview toward the magnitude of environmental effects of both the immediately contemplated action and future actions for which the proposed action may serve as a precedent and which may result in a cumulatively significant impact.

(3) The Risk Potential (40 CFR 1502.22, 1508.27(b)(5)). For example, even though the environmental impact of an efficiently and safely operated fuel depot may not be significant, if a massive oil spill is reasonably foreseeable in

the lifetime of the project, the effects of an oil spill could render significant the effects of construction or operation of such a depot.

(4) Sites having existing or possible historic, architectural, or archaeological interest (40 CFR 1508.27(b)(8)) (see chapter 8 of this Manual).

(5) The potential impact on endangered or threatened species, and/or their "critical habitat" as designated by USFWS or NMFS (40 CFR 1508.27(b)(9)) (see chapter 11 of this Manual).

c. Actions for which an EIS Must Be Prepared

(1) The following are examples of actions which probably will significantly impact the quality of the human environment or which may have controversial environmental effects:

(a) Large dredging projects or dredging projects where dredged material disposal may result in significant impacts;

(b) Proposed major construction and the filling of tidelands or wetlands;

(c) Establishment of major new installations;

(d) Major land acquisitions or military operations that will result in changed use of the properties;

(e) New sanitary landfills; and

(f) Disposal of biological or chemical munitions, pesticides, or herbicides other than in the manner in which they are authorized for use or disposal.

(2) When an action is among those listed above, closely analogous to the same, or when an EA indicates that impacts are significant or environmentally controversial, the action sponsor must prepare an EIS using the procedures outlined in this chapter.

d. EIS Preparation

(1) General (40 CFR 1502.2). To achieve the NEPA goal of preparing a concise and useful statement, action sponsors must

prepare an EIS per the format in paragraph 12104.6e, following these guidelines:

(a) Write an analytic, rather than encyclopedic, EIS;

(b) Discuss impacts in proportion to their significance. Briefly discuss issues which are less significant. As in an FONSI, write only enough to show why more study is not warranted;

(c) Keep the EIS concise and no longer than is necessary to comply with NEPA, these regulations, and regulations issued by the CEQ. Length should vary first with potential environmental issues and then with project scope;

(d) Outline the criteria for selecting alternatives;

(e) Outline the range of alternatives, including a "no action" alternative, which are discussed in the EIS and which are to be considered by the ultimate decision maker or by the lead agency if the DoD is a cooperating agency;

(f) Cognizant commands must not make irreversible commitments of resources that change the physical environment before making a final decision;

(g) To satisfy EO 12898, March 14, 1994, and the DoD Strategy on Environmental Justice, identify and address in the EIS disproportionately high and adverse human health and environmental effects of Federal programs, policies, and activities on minority and low-income populations. See paragraph 12103.2m for more information on environmental justice.

(2) Document Length (40 CFR 1502.7). The text of the EIS normally should be less than 150 pages. For proposals of unusual scope or complexity, the EIS normally should be less than 300 pages. Restrict the document to pertinent facts, excluding material not directly applicable to the expected impact. The EIS must contain sufficient information and baseline data to support the conclusions reached. Data may be included in the EIS as appendices.

(3) Scoping (40 CFR 1501.7) and Lead and Cooperating Agencies (40 CFR 1501.5,6)

(a) The scoping process will:

1 Invite the participation of affected Federal, state, and local agencies, any Native American tribe, minority and low-income populations, and other interested persons.

2 Determine the scope and the significant issues to be analyzed in depth in the EIS.

3 Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review. Narrow the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or provide a reference to their coverage elsewhere.

4 Allocate assignments for the preparation of the EIS among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

5 Indicate any public EA's and other EIS's which are being, or will be, prepared and that are related to, but are not part of, the scope of the impact statement under consideration.

6 Indicate the relationship between the timing of the preparation of an EIS and the agency's tentative planning and decisionmaking schedule.

7 Identify other environmental review and consultation requirements (e.g., section 7 of the ESA, the compliance requirement of the NHPA, CAA Conformity, or the CZMA), so the lead and cooperating agencies may prepare other required analyses and studies concurrently with the EIS.

8 Identify environmental permits and regulatory agency approvals required for the project and the relationship between the timing of permits and approvals with the start of the proposed action.

(b) These scoping functions may be carried out in the context of a public, informal meeting at which written responses or oral presentations resulting from the public notices may be received. Such meetings, while not mandatory, may be held whenever practicable. There is no authority for the payment of expenses incurred by any person(s) in the preparation and presentation of information at these meetings.

(4) Public Notification (40 CFR 1506.6). As soon as practicable after the cognizant command has determined that an EIS is required and the proper chain of command has been notified, undertake the following efforts to involve agencies and the public appropriately and to focus the environmental analysis on the significant issues:

(a) The Command EIRB drafts a Notice of Intent (NOI) to prepare an EIS and forwards it to the installation CG/CO for approval. The CG/CO forwards the approved NOI to the CMC (LF) for HQEIRB review and approval. If approved, the Deputy Chief of Installations and Logistics (DC/SI&L) or designee signs the NOI.

(b) The CMC (LF) must publish the NOI to prepare an EIS in the Federal Register.

(c) Action sponsors must mail the NOI to national organizations that the cognizant command reasonably expects to be interested in the matter. In all cases, the cognizant command must mail the notice to those who have requested it.

(d) The NOI will:

1 Solicit the comments and suggestions of affected Federal, state, and local agencies, any affected Native American tribes, Hawaiian interest groups, the proponent of the action, and any other interested persons (including those who might not be in accord with the action on environmental grounds).

2 Briefly describe the proposed action and the scoping process to be undertaken.

3 If a scoping meeting is to be held, include a public notice of such meeting. This notice may be published separately from the NOI, but must be published no less than 15 days before the scheduled meeting, regardless of whether it is an individual notice or part of the NOI.

4 Be mailed directly to concerned agencies, organizations, and individuals and may be published in local newspapers.

(e) Per EO 12898, March 14, 1994, whenever practicable and appropriate, the NOI and announcement of the scoping meeting must be translated for non-English speaking populations.

(f) In the case of an action with effects of local concern primarily, the notice may include compliance with the affected state's public notice procedures of comparable actions.

(5) Time Limits (40 CFR 1501.8)

(a) Commands commencing the preparation of an EIS are encouraged to set time limits with due regard for operational requirements and the public and agency comment periods established by CEQ regulations at 40 CFR 1506.10. State or local agencies or members of the public may request that the cognizant command set time limits on the NEPA process. In determining time limits for completing an EIS, the command may consider the following factors:

1 Potential for environmental harm;

2 Size of the proposed action;

3 State-of-the-art analytic techniques;

4 Degree of public need for the proposed action, including the consequences of delay;

5 Number of persons and agencies affected;

6 Degree to which relevant information is known, and if not known, the time required for obtaining it;

7 Degree to which the action is controversial; and/or

8 Other time limits imposed on the agency by law, regulation, or EO.

(b) Time limits may also be set for the NEPA process as a whole.

e. Format (40 CFR 1502.10-1502.18). Print the document on 8-1/2 by 11-inch bond paper; fold-out sheets may be used as long as the 11-inch vertical dimension is retained. Use the following format for all EIS documents and, as appropriate, for EA documents:

(1) Cover Sheet. The one-page cover sheet includes the following:

(a) A list of the responsible agencies, including the lead agency and any cooperating agencies;

(b) The title of the proposed action that is the subject of the environmental analysis (and if appropriate, the titles of related cooperating agency actions), together with states, counties, and other jurisdictions where the action is located;

(c) The name, address, and telephone number of the person at the responsible command who can supply further information;

(d) A designation of the analysis as an EA, DEIS, FEIS, or draft or final supplement;

(e) A one-paragraph abstract of the analysis; and

(f) The date by which comments must be received.

(2) Summary. The summary appears at the beginning of the document, immediately following the cover sheet, usually will not exceed 15 pages, and includes the following:

(a) Indication of whether the analysis is an EA, DEIS, or FEIS;

(b) The name of the action and whether it is administrative or legislative;

(c) A brief description of the action and what geographical region (including state and county, as applicable) is particularly affected;

(d) A summary of the adverse environmental impacts and mitigating actions considered. This summary includes a statement as to whether the action is subject to the General Conformity Rule under section 176(c) of the CAA, and if so, whether applicable requirements have been met.

(e) A list of considered alternatives;

(f) A statement as to whether the action may have a significant environmental impact or may be environmentally controversial;

(g) For DEIS's, a list of all Federal, state, and local agencies from which comments have been requested. For FEIS's, a list of all Federal, state, and local agencies and other sources from which written comments have been received; and

(h) The dates the DEIS and FEIS were made available to the CEQ and public.

(3) Purpose and Need. This section, which actually begins the body of the analytic portion of the document, briefly specifies the underlying need for the project and its objectives for which the Marine Corps or action sponsor is presenting the proposed action and alternatives. It succinctly and objectively justifies the proposed action and explains the essential requirements that must be satisfied to achieve the purposes of the proposed action.

(4) Alternatives, Including the Proposed Action

(a) This section is the heart of the EA or EIS. Based on the information and analysis presented in the next sections entitled "Existing Environment" and "Environmental Consequences," it presents the environmental impacts of the proposal and the alternatives in a comparative (matrix) form, thus sharply defining the issues and providing a basis for choice among the options by the decision makers and the public.

(b) Rigorously explore and objectively evaluate all reasonable alternative actions, particularly those actions that might enhance environmental quality or avoid some or all of the adverse environmental effects. Include, where relevant, alternatives to the proposed action not within the existing authority of the agency. If applicable, conduct an analysis of such alternatives, and report the results relating to their environmental benefits, costs, and risks. This analysis should accompany the proposed action through the agency review process. If a cost/benefit analysis relevant to the choice among environmentally different alternatives is prepared, discuss the relationship between the analysis and any analysis of unquantified environmental impacts, values, and amenities (40 CFR 1502.23). The analysis evaluates qualitative and quantitative considerations, including factors not related to environmental quality, that are likely to be relevant and important to a decision. This process will prevent a premature foreclosure of options that
might enhance environmental quality or have less detrimental effects.

(c) Alternatives include, but are not limited to, the following examples:

1 Taking no action;

2 Postponing action;

3 Selecting actions of a substantially different nature that would meet mission and project objectives and have different environmental impacts;

4 Adopting different designs or details of the proposed action that would present different environmental impacts (including mitigation measures); and

5 Those alternatives not within the authority of the Marine Corps or action sponsor to implement but that would still meet project objectives.

(d) In each case, the analysis should be sufficiently detailed to reveal the agency's comparative evaluation of the proposed action and each reasonable alternative. In all cases, however, evaluate the alternatives of not proceeding with the proposed action. Throughout the EA or EIS, structurethe discussion and analysis to prevent a premature foreclosure of options that might enhance environmental quality or have less detrimental effects.

(5) Existing Environment of the Proposed Action. The EA or EIS succinctly describes the environment of the affected area as it exists prior to consideration of the proposed action, including existing and anticipated uses and activities in the area (i.e., a baseline description from which to compare the probable impact). The descriptions will be no longer than necessary to understand the effects of the proposed action. In the analysis, present the interrelationship of other Federal and non-Federal actions that might cause cumulative environmental impacts with the proposed action. The amount of detail provided in such descriptions will be commensurate with the extent and impact of the action and with the amount of information required at the particular level of decisionmaking.

(6) Environmental Consequences. This section forms the scientific and analytic basis for the comparison of impacts presented in the alternatives section. The discussion will include the proposed action, any adverse environmental impacts that cannot be avoided should the proposal be implemented, the

relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources that would be involved in the proposal should it be implemented. This section does not duplicate the discussions in the alternatives section. It includes several discussions:

(a) Direct effects and their significance; i.e., an analysis of the positive and negative effects of the proposed action. The attention given to different factors varies according to the nature, scale, and location of proposed actions. Give primary attention to a discussion of those factors most evidently impacted by the proposed action.

(b) Indirect effects and their significance. Include secondary or indirect consequences for the environment in the analysis. Many major Federal actions, especially those that involve construction (e.g., new installation or joint use of an installation), stimulate or induce secondary effects in the form of associated investments and changed patterns of social and economic activities. Such secondary effects, by their impact on existing community facilities and activities, by inducing new facilities and activities, or by changes in natural conditions, often are more substantial than the primary effects of the original action. For example, estimate the effects of the proposed action on population and growth impacts, if they may be significant. Evaluate the effect of any possible change in population patterns or growth upon the resource base, especially those that may impact low-income and minoritypopulations, including impacts on land use, water resources, and public services of the area in question. Consider major Federal actions that may cause indirect effects on the natural and physical environment off site or later in time.

(c) Possible conflicts between the proposed action and the objectives of Federal, state, and local (and in the case of a reservation, Native American tribe) land use plans, policies, and controls. Discuss how the proposed action will conform or conflict with the objectives and specific terms of approved or proposed Federal, state, and local land use plans, policies, and controls for the area affected, including those developed in response to environmental legislation. Where a conflict or inconsistency exists, describe the extent to which the agency has reconciled its proposed action with the plans, policies, or controls. In the absence of full reconciliation,document justification for any decision to proceed.

(d) The environmental effects of alternatives, including the proposed action. Base comparisons as outlined in paragraph 12104.6e(4), preceding.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures. Address the energy impact of the proposed action and alternatives.

(f) Any irreversible or irretrievable commitments of resources that would be involved if the proposed action is implemented. From a survey of unavoidable impacts, identify the extent to which the action irreversibly curtails the range of potential uses of the environment. "Resources" (both renewable and nonrenewable) means the natural and cultural resources committed to, or lost by, the action, as well as labor, funds, and materials committed to the action.

(g) The relationship between local short-term use of the environment and maintenance and enhancement of long-term productivity. Briefly discuss the extent to which the proposed action involves trade-offs between short-term environmental gains and the expense of long-term losses (and vice versa). Discuss the this context, "short-term" and "long-term" do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

(h) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(i) Ways to mitigate and/or monitor adverse environmental impacts (if not previously discussed). When appropriate, discuss mitigation measures in the form of avoidance, design modification, rehabilitation, preservation, orcompensation; address the extent of countervailing benefits derived from implementing mitigation measures and/or monitoring programs to avoid or reduce some or all of the adverse environmental effects. In the EIS, mitigation measures and monitoring programs, including implementing feasibility and funding availability, should be discussed in the context of "potential mitigation measures" and "potential monitoring programs." The decision to commit to a particular mitigation measure or monitoring program is made in the Record of Decision

(ROD). In many cases, mitigation measures should also be coordinated with cognizant regulatory agencies.

(j) Cumulative impacts as appropriate and in context with the scope and magnitude of the proposed action.

(k) Any probable and unavoidably adverse environmental effects should the proposal be implemented. Briefly discuss those effects that are adverse, not amenable to mitigation, and unavoidable under the proposed action.

(7) List of Preparers. Prepare environmental statements ------- interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts. To verify that this approach was undertaken, list the names, together with the qualifications (expertise, experience, professional disciplines) of the persons primarily responsible for preparing the EA or EIS, or significant background papers, including basic components of the statement. Where possible, identify the persons who are responsible for the particular analysis, including analyses in background papers. Normally the list will not exceed two pages.

(8) Distribution List. Include in the document a complete distribution list, including the names and addresses of all the organizations, agencies, and individuals to whom copies of the statement are to be sent.

(9) Correspondence. List all Federal, state, and local agencies, and heir records of correspondence related to the proposed action, from which comments and coordination have been requested.

(10) Appendix. An appendix to an EIS is optional; however, if used, it will:

(a) Consist of material prepared in connection with an EIS (as distinct from material that is not so prepared and that is incorporated by reference).

(b) Normally include material that substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decisions to be made.

(d) Circulate with the EIS or be readily available upon request.

f. Incorporation by Reference (40 CFR 1502.21). As much as possible, commands preparing environmental statements must incorporate material into an EIS by reference when the effect will cut down on bulk without impeding agency and public review of the action. Cite the incorporated material in the statement and briefly describe its contents. Do not incorporate material by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Do not incorporate by reference material based on proprietary data that is itself not available for review and comment.

g. Incomplete or Unavailable Information (40 CFR 1502.22). For the purposes of this section, "reasonably foreseeable significant adverse impacts" include those impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason. When the command preparing the EIS is evaluating reasonably foreseeable significant adverse effects on the human environment and there is incomplete or unavailable information, it must make clear that such information is lacking. For such situations it can take the following actions:

(1) Include the information in the EIS if the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant.

(2) Include the following items in the EIS, if the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art):

(a) A statement that such information is incomplete or unavailable;

(b) A statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment;

(c) A summary of existing credible scientific evidence that is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment; and

(d) The action sponsor's evaluation of such impacts based on theoretical approaches or research methods generally accepted in the scientific community.

h. The CMC (LF)/SECNAV Review of DEIS/FEIS. Following the Command EIRB recommendation, the installation CG/CO forwards the DEIS and FEIS to the CMC (LF) for HQEIRB approval. If approved by the HQEIRB, the DEIS or FEIS is forwarded to the DC/SI&L or designee for approval. If approved, the document is forwarded to SECNAV or a designee for signature. The CMC (LF) must deliver copies of the document to Environmental Protection Agency (EPA) Headquarters. The action sponsor distributes the DEIS or FEIS to interested parties.

i. ROD (40 CFR 1505.2)

(1) The ROD is a public record of the decision selecting one alternative for implementation from among the alternatives considered in detail in an EIS. The document, as proposed by the activity/action sponsor, will be finalized by the CMC (LF) on behalf of the HQEIRB and will state the decision, identify the alternatives considered (including those that were environmentally preferable), and discuss all factors, including non-environmental considerations, that influenced the decision. The ROD will commit the action sponsor to the appropriate mitigation, if applicable, to minimize environmental harm, and to identify those measures that were considered, but not selected, for implementation. Additionally, any monitoring program associated with selected mitigation measures will be addressed.

(2) The ROD must be drafted by the command in coordination with the CMC (LF) environmental planning staff. The Command EIRB must review the ROD and forward it with its recommendation to the installation CG/CO for approval. The CG/CO must forward the ROD to the CMC (LF) for consideration by the HQEIRB and approval. The CMC (LF) must forward the ROD to the SECNAV or a designee for signature. The CMC (LF) must publish the signed ROD in the Federal Register, and the command or action sponsor publishes the document in the local newspaper(s) and mails it to appropriate agencies, organization, and individuals.

7. Other Actions

a. Continuing Activity(ies)

(1) NEPA documentation is required for continuing activities (ongoing activities which are presently being carried out in fulfillment of the Marine Corps mission, including existing training functions) under the following circumstances:

(a) Where the currently occurring environmental effects of the activity have not been previously evaluated in a NEPA document, and there is a discovery that substantial environmental degradation is occurring, or is likely to occur, as a result of ongoing operations (e.g., a discovery that significant beach erosion is occurring as a result of continuing amphibious exercises, new designation of wetland habitat, or discovery of an endangered species residing in the area of the activity).

(b) There is a discovery that the environmental effects of an ongoing activity are significantly and qualitatively different or more severe than predicted in a NEPA document prepared in connection with the commencement of the activity.

(c) There is a substantial change in a continuing activity (such as a substantial change in operational tempo, area of use, or in methodology/equipment) which has the potential for significant environmental impacts. Such a change should be considered a proposal for a new action and be documented accordingly. Preparation of a NEPA document is not a necessary prerequisite, nor a substitute, for compliance with other environmental laws.

(2) Many installation operations may qualify as "continuing activities." Since NEPA documentation is required for continuing activities under certain circumstances, action sponsors must coordinate all continuing activities with the installation environmental planning staff. The environmental baseline for continuing activities is the present condition at the installation and not a pristine condition. Should an EA or an EIS be required for a continuing activity, the no-action alternative is to continue the activity under the current condition at the installation.

(3) When a continuing activity has the potential for significant environmental degradation, or when required by the

affected installation environmental planning staff, the action sponsor must provide a brief on the action to the affected installation EIRB. This brief will include a description of the proposed action, the need for the proposed action, and the objectives to be obtained by the proposed action. The description of the proposed action should include the proposed training, its location, and its timing.

b. Contractor Involvement in NEPA Documentation (40 CFR 1506.5). An EIS,like an EA, frequently is prepared by a contractor. To obtain unbiased analyses, the contractor must be selected in a manner avoiding any conflict of interest. Therefore, contractors will execute disclosure statements prepared by the Marine Corps which specify that the contractors have no financial or other interest in the outcome of the project. Closely monitor contractor efforts throughout the contract to ensure an adequate document and also to avoid extensive, time consuming, and costly revisions. Continuously involve project planners, action sponsors, and area land managers.

c. Cooperation with Federal, State, and Local Agencies (40 CFR 1506.2). To eliminate duplication with Federal, state, and local procedures and to fully address their requirements commands must cooperate with other agencies as muchas possible. Such cooperation could include:

(1) Joint planning processes.

(2) Joint environmental research and studies, including assessments of
the presence or special needs of minority and low-income groups (including foreign language interpretation and collection and analysis of demographic characteristics).

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint EA's or EIS's.

d. Administrative Record. The administrative record is a critical component of the NEPA process. The administrative record consists of all documents and materials (including intra-office e-mails) directly or indirectly considered by the decision maker. Should a decision be challenged, a reviewing court will review the decision primarily (if not solely) based on the administrative record. The decision maker is responsible for assembling and maintaining the administrative record. To

this end, commanders/supervisors/officers-in-charge must ensure that all administrative record documents and materials are properly maintained and readily retrievable upon request.

e. Classified EA and EIS Documents (40 CFR 1507.3(c))

(1) The fact that a proposed action is of a classified nature does not relieve the action sponsor from complying with the requirements of this chapter. Prepare, safeguard, and disseminate the DEIS and FEIS, as well as the EA, per the requirements applicable to classified information. When feasible, organize these documents in such a manner that classified portions are included as appendices so the unclassified portions can be made available to the public. Coordinate the review of classified NEPA documentation with the EPA for requirements applicable to section 309 of the CAA.

(2) In rare circumstances where even public notice of the desired action would disclose classified information, there is no "proposal" under NEPA and neither an EA nor an EIS is required. Plans for actions that would disclose the presence of nuclear weapons, for example, do not constitute "proposals" under NEPA. The CMC (LF) must review and approve such instances and may direct that environmental factors be considered using other internal procedures that provide decision makers with information of an equivalent quality to that produced under NEPA. For actions involving nuclear weapons, the internal procedures ensure that the following elements are addressed:

(a) A description of the worst case accident considering the particular weapons involved,

(b) The best estimate of accident probabilities,

(c) Alternative site impact information, and

(d) Additional information on potential land contamination and cleanup.

(e) An EA or EIS containing classified information, or other information for which the public release is prohibited by law, serves the same purpose as an EA or EIS without classified material, even though not all of its contents are subject to public review and comment. The entire package must accompany the proposal through the decisionmaking process. The content of an EA or an EIS containing portions that cannot be

released to the public must meet the same overall content requirements applicable to a fully published EA or EIS.

f. Emergency Actions. Where emergency circumstances outside Marine Corps control make it necessary to take an action with significant environmental impact without observing the provisions of CEQ regulations, the Marine Corps must consult with the CEQ about alternative arrangements. Action sponsors must contact the CMC (LF), as soon as practicable, to allow consultation with SECNAV and the CEQ. The CMC (LF) will consult with the CEQ and make alternative arrangements as appropriate with the CEQ to effect NEPA compliance for emergency actions. Alternative arrangements are limited to those aspects of a proposal that must proceed on an emergency basis. Remaining action to be taken is subject to normal NEPA review. Ordinarily, the failure to plan properly does not establish an emergency. Note: Regulations implementing other environmentallaws (e.g., CWA and ESA) contain requirements for consultation with the applicable regulatory agencies for actions taken relative to emergency circumstances.

g. Acquisition Programs

(1) As described in DoD Regulation 5000.2-R, Mandatory Procedures for Major Acquisition Programs and Major Automated Information System Acquisition Programs, DoD policy sets forth a process that requires the program manager to manage the DoD Overseas Environmental Base Guidance Document and the FinalGoverning Standards/Japan Environmental Governing Standards requirements during the development of the EA/EIS documentation process, to manage environmental requirements throughout the life-cycle of the acquisition program, and to maintain a documented record called a Programmatic Environmental Safety and Health Evaluation (PESHE). Compliance with NEPA or EO 12114, Environmental Effects Abroad of Major Federal Actions, January 4, 1979, is required when a proposed action within an acquisition program will impose a physical effect on
the natural environment.

(2) DoD Regulation 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System Acquisition Programs, provides a format for the action sponsor’s PESHE associated with an acquisition throughout its entire life cycle and measures to mitigate adverse effects. The PESHE is not a NEPA document. The purpose of the PESHE is to ensure that decision makers understand the nature, scope, and timing of an action’s potential environmental impacts as that information becomes available. The PESHE describes the

system and potential for significant environmental impacts associated with upcoming activities.

(3) Because environmental concerns may develop at any point during the acquisition process, DoD specifications (as described in DoD Regulation 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System Acquisition Programs) require program managers to maintain the PESHE as current throughout the program life cycle. If the PESHE indicates the requirement of NEPA or EO 12114 documentation, such documentation must be completed before a decision can be made that would have an adverse environmental impact or would limit the choice of reasonable alternatives. Before each milestone, the program manager must summarize the PESHE in the Integrated Program Summary.

(4) Project-specific requirements determine when the potential for significant impacts exists. For example, concept development during early phases of acquisition programs (e.g., concept, exploration, and definition) may use techniques (e.g., computer simulation) that are known not to cause an environmental impact. In other cases, the potential for significant impact may occur during these early phases due to testing and evaluation requirements.

h. Pollution Prevention

(1) The EPA evaluates NEPA documentation for incorporation of pollution prevention measures to assist Federal agencies in acknowledging and receiving credit for commitment to pollution prevention.

(2) The term "pollution prevention" includes equipment or technology modifications; process or procedure modifications; reformulation or redesign of products; substitution of raw materials; and improvements in housekeeping, maintenance, training, or inventory control. During all stages of project formulation, from early planning and NEPA documentation through implementation, action proponents should seek opportunities to incorporate pollution prevention into their programs.

(3) The following list describes areas where pollution prevention opportunities may be appropriately addressed during the NEPA scoping and subsequent environmental review phases:

(a) The definition of the project's purpose and need (it should be clearly identified and not slanted to support the proponent's desires, which could limit pollution prevention options);

(b) The project design specification and standards;

(c) The sizing of a project (e.g., a smaller project may affect less habitat, have fewer impacts on soil erosion and water quality, and/or result in less induced growth);

(d) The facility location;

(e) The range of alternatives (e.g., whether pollution prevention opportunities are included);

(f) Rejection of certain alternatives;

(g) Emphasis on environmental requirements (whether the focus is on pollution prevention, source reduction, innovative technologies, or traditional end-of-pipe, add-on controls);

(h) The proposed action's potential to prevent pollution;

(i) The secondary effects of a proposed action, which may discourage pollution prevention; and/or

(j) The mitigation measures incorporated into the proposal (e.g., some mitigation measures may have more pollution prevention benefits than others, and significant pollution prevention measures may require a basic change in the project).

(4) Further guidance on compliance with the PPA, as well as pollution prevention strategies, can be found in chapters 6, 7, and 15 of this Manual.

i. Tiering (40 CFR 1502.20 and 40 CFR 1502.28). CEQ regulations encourage the use of tiering whenever appropriate to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for discussion at each level of the environmental review. An EA or EIS of broad scope discussing the impacts of a wide-ranging or long-term phased program, referred to as a programmatic EA or EIS, can be followed by an EA or EIS of more narrow scope concentrating solely on issues specific to the actions being considered. Tiering is appropriate when it

helps the action sponsor to focus on issues that are ripe for decision and excludes from consideration issues already decided or not yet ripe. This results in a stepped approach to planning and decision making.

(1) Tiering is appropriate when the sequence of statements or analysis is:

(a) From a broad program, plan, or policy (not necessarily site-specific) EIS to a program, plan, or policy statement of lesser scope or to a site-specific EA or EIS. For example, a national program providing for mineral exploration on military-held lands with a subsequent analysis tiered for each installation impacted, or the initiation of a new training apparatus where the use of the apparatus itself may impact the environment, with subsequent tiered analysis at each site proposed for locating such training.

(b) From an EIS on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent EIS or EA at a later stage (such as environmental mitigation).

(2) Content of Programmatic EIS. In addition to the discussion required by these procedures for inclusion in an EIS, the programmatic EIS will discuss:

(a) A description of the related stages, sites, or actions that may ultimately be proposed in as much detail as presently possible;

(b) The implementing program factors that are known at the time of EIS preparation;

(c) The environmental impacts resulting from establishing the overall program that would be similar for subsequent stages, sites, or actions as further implementation plans are proposed; and

(d) The appropriate mitigation measures that would be similarly proposed for subsequent stages, sites, or actions.

(3) Preparation of a Tiered Analysis

(a) When the subsequent tier itself may have significant impact on the quality of the human environment or when an impact statement is required by these procedures, use the

EIS as the analytical document for a staged or site-specific analysis subsequent to the programmatic EIS. Otherwise, document the subsequent tiered analysis with an EA to fully assess the need for an EIS or a FONSI.

(b) In addition to the discussion required by these procedures for inclusion in EA and EIS documents, each subsequent tiered analysis must:

1 Summarize the program-wide issues discussed in the programmatic statements and incorporate discussions from the programmatic statement by reference,

2 Concentrate on the issues specific to the subsequent action,and

3 State where the programmatic document is available for review.

(4) Programmatic EIS's and all the subsequent tiered EIS's will be prepared, circulated, and distributed in the same fashion as required of any other EIS. Commands must prepare, circulate, and distribute tiered EA's and resulting FONSI's per the procedures applicable to EA's.

j. Supplemental Statements (40 CFR 1502.9). Prepare supplements to either a DEIS or FEIS if substantial changes are made in the proposed action and they are relevant to environmental concerns or if significant new circumstances orinformation arises that is relevant to environmental concerns. Prepare, circulate, and file such supplements in the same fashion as a DEIS or FEIS. Scoping is not required.

k. Procedures for Conducting Public Hearings under NEPA. Conduct hearings as follows:

(1) Guidelines and Standards. The action sponsor, in coordination with the CMC (LF), determines whether a public hearing will be held. Public hearings are appropriate in the following situations:

(a) When the proposed agency action will have a direct or peculiar environmental impact on the people residing in a particular geographic area;

(b) When public organizations or members of the public possess expertise concerning the environmental impact of the action that may not otherwise be available;

(c) When the proposed action is not a classified action, or when there is no overriding concern for national security associated with the proposed action;

(d) When a request for a hearing has been submitted by another agency with jurisdiction over the action and is supported by reasons why a hearing will be helpful; and/or

(e) When a minority or low-income population may be affected.

(2) Preparation

(a) The purpose of the public hearing on a proposed project is twofold. First, the hearing is intended to provide interested members of the general public with relevant information. Second, the hearing affords members of the public an opportunity to present their views of the proposed action. The two foregoing objectives dictate the format for conducting public hearings.

(b) If the proposed action dictates that a hearing be held, the public must be advised of the proposed hearing via the Federal Register at least 15 days prior to the scheduled hearing. This Federal Register notice is in addition to publication in local newspapers. Per EO 12898, March 14, 1994,provide notice, wherever practicable and appropriate, in foreign language local newspapers. Notification should include:

1 The date and time of the meeting, and the phone number of the hearing officer;

2 The request that speakers submit in writing their intention to participate;

3 The suggestion that technical statements or statements of considerable length be submitted in writing;

4 Any time limitation on the length of oral statements;

5 A summary of the proposed action, and the findings contained within the DEIS;

6 Offices/locations where the DEIS is available for examination; and/or

7 A request that any individual or groups with special needs (e.g., accessibility/transportation, need for foreign language interpretation,etc.) notify the agency conducting the hearing.

(c) If feasible, make copies of the DEIS available to the public at an appropriate regional or local location. Also, forward copies of the DEIS to the appropriate state, regional, and metropolitan clearing-house (unless the governor of the state involved has designated some other point for receipt of the information). At the same time the statement is sent to CEQ, the EPA, and other Federal agencies, make the DEIS available to the public at least 15 days prior to public hearings. Use local outlets such as libraries and county commissioners' offices whenever appropriate. As necessary, translate document summaries into languages other than English.

(d) Hold hearings at a time and place readily accessible to civilian organizations and individuals interested in the proposed action. Generally, hearings are preferable in a civilian facility such as a high school auditorium on a weekday evening when such groups can reasonably be expected to attend.

(e) The action sponsor must select a hearing officer who is of appropriate seniority, preferably military, thoroughly familiar with the proposed action, and of suitable temperament to preside at a public meeting at which the news media may attend. While there should be only one hearing officer, he/she may be assisted by other personnel who are also familiar with the proposed action or some phase of it. These personnel may help explain details or specialized portions of the proposed action. Foreign language interpreters should be present, as appropriate.

(f) An experienced court reporter or stenographer may prepare a verbatim or summary written record of the hearing, or the action sponsor may tape the hearing. Append to the record as exhibits all written statements submitted to the hearing officer during the hearing or prior to the record's completion. Add to the record the list of persons attending the hearing, along with the organizations or interests they represent and their addresses. Mail a copy of the hearing to persons who have indicated this desire, subject to the cost of the reproduction.

(3) Format. The following format for the conduct of a hearing is provided as a general guideline. Hearing officers should tailor the format for each hearing as the circumstances dictate to meet the objectives of the hearing. The objectives are to provide information to the public and to record the opinions of interested persons for later evaluation in conjunction with the proposed action.

(a) Apprise the hearing officer of those who attend the hearing. A record of attendance assists in preparing the record, in recognizing individuals who desire to make a statement, and in mailing written answers to persons who desire them. That record can be compiled by having each person attending the hearing complete an individual card indicating name, address, and organization represented, if any, and whether a statement will be made at the hearing. Use an appropriate number of attendants to distribute and collect the cards and to separate cards of those who desire to make a statement from those who do not. The hearing officer may then use the cards as an orderly system for calling upon individuals who desire to make statements. Additionally, those individuals responding to the announcement and requesting opportunity to speak should beasked to provide copies of any remarks for hearing proceedings.

(b) The hearing officer and any assistants first should be introduced, make a brief statement on the purpose of the hearing, state the general ground rules, and welcome any present dignitaries. Explaining the hearing's purpose will be simplified if written copies have been made available to attendees. The hearing officer should inform the attendees that he/she is not authorized to make any decision as to whether the project is to proceed, be modified, or abandoned.

(c) The hearing officer will fully explain what the proposed action entails, including information on alternative courses of action. The hearing officer may call upon one or more assistants to explain any particular phase of the program.

(d) The hearing officer only should answer questions that seek clarification of the action and should not attempt to respond to attacks on it. Include all questions asked in the record of the hearing.

(e) Offer the persons attending the hearing an opportunity to present oral and/or written statements and publicize this opportunity in the Notice of Public Hearing. The hearing officer will ensure that the name and address

of each person submitting an oral or written statement is noted. The attendees should be permitted to submit written statements during the hearing and within a reasonable time following the hearing (normally 2 weeks). Allot a reasonable length of time (3 to 5 minutes) for oral statements. After all other scheduled statements have been completed, offer an opportunity to speak to individuals who desire to make a written or oral statement but did not so indicate on the cards submitted when they entered the meeting.

(f) When it is time to adjourn the meeting, the hearing officer should first thank the attendees. Attendance may warrant an additional hearing, perhaps at another time and location. If so, the hearing officer should announce the intent, but not normally agree to repeat the entire procedure of publishing notice in the Federal Register, etc. At the conclusion of the meeting, the hearing officer should not express any opinion on the merits of the proposals or comments presented at the hearing.

8. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

12105. TERMS AND DEFINITIONS

1. Action. Broadly interpreted as any proposal initiated by the Marine Corps, including:

a. New activities or projects entirely or partly funded, assisted, conducted, regulated, or approved by the Marine Corps.

b. Substantive changes in continuing actions, such as major changes in operation tempo, areas of use, or in methodology/equipment, where these changes
have the potential for significant impact.

c. Specific projects, such as construction or management activities located in a defined geographic area (e.g., Military Construction projects, public/private venture projects, special projects, land acquisition, natural resources management projects, and locally funded projects).

2. Action Sponsor. That individual or organization proposing an action or responsible for implementing an action.

3. Administrative Record. The administrative record is a critical component of the NEPA process and consists of all documents and materials (including intra-office e-mails) directly or indirectly considered by the decisionmaker. Should a decision be challenged, a reviewing court will review the decision primarily (if not solely) based on the administrative record. The decision maker is responsible for assembling and maintaining the administrative record. To this end, commanders/supervisors/ officers-in-charge must ensure that all administrative record documents and materials are properly maintained and readily retrievable upon request.

4. Categorical Exclusions (CE) (40 CFR 1508.4). Actions that the DON has determined do not have a significant effect, individually or cumulatively, on the human environment under normal circumstances and for which neither an EA nor an EIS is required. DON CE's are provided in 32 CFR 775.6(f).

5. Command EIRB. A selected group of subject matter experts appointed by the CG/CO of the command. The board reviews environmental documentation to determine if the potential for environmental degradation or public controversy exists. The composition of this Board will include a cross section of the command, and where appropriate, other Marine Corps commands/units and tenants. Members of the board should include the counsel or staff judge advocate; the heads of facilities, environment, and operations/training; the comptroller; public affairs; community plans and liaison office; and any others as determined by the CG/CO. The EIRB will ensure that the documentation is in compliance with NEPA.

6. Continuing Action. NEPA documentation is required for continuing activities (ongoing activities which are presently being carried out in fulfillment of the Marine Corps mission, including existing training functions) under the following circumstances:

a. Where the currently occurring environmental effects of the activity have not been previously evaluated in a NEPA document, and there is a discovery that substantial environmental degradation is occurring, or is likely to occur, as a result of ongoing operations (e.g., a discovery that significant beach erosion is occurring as a result of continuing amphibious

exercises, new designation of wetland habitat, or discovery of an endangered species residing in the area of the activity); or

b. There is a discovery that the environmental effects of an ongoing activity are significantly and qualitatively different or more severe than predicted in a NEPA document prepared in connection with the commencement of the activity; or

c. There is a substantial change in a continuing activity (such as a substantial change in operational tempo, area of use, or in methodology/equipment) which has the potential for significant environmental impacts. Such a change should be considered a proposal for a new action and be documented accordingly. Preparation of a NEPA document is not a necessary prerequisite, nor a substitute, for compliance with other environmental laws.

7. Cooperating Agency. Any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or any reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. A state or local agency of similar qualifications or, when the effects are on a reservation, a Native American tribe may by agreement with the lead agency become a cooperating agency.

8. Decision Memorandum. A one-page document prepared by/for the action sponsor for an action that is identified under the listed CE's. Generally, the decision memorandum includes a description of the proposed action and the reasons for categorically excluding it. If prepared for the action sponsor, the action sponsor must co-sign the decision memorandum.

9. Environmental Assessment (EA) (40 CFR 1508.9). An EA is a concise document
that:

a. Briefly provides sufficient evidence and analysis for determining whether to prepare an EIS or FONSI.

b. Aids Marine Corps compliance with the NEPA when no EIS is necessary.

c. Facilitates preparation of an EIS when one is necessary (i.e., when the contemplated actions are considered to have a potential for significant environmental impact or environmental controversy, and therefore a FONSI is not appropriate).

d. Includes brief discussions of the need for the proposal, reasonable alternatives to the proposed action, environmental impacts of the proposed action, and a list of the agencies and persons consulted.

10. EIS (40 CFR 1502). A NEPA document that provides full and fair discussion of significant environmental impacts of major Federal actions and informs decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. It is used by Federal officials, in conjunction with other relevant materials, to plan actions and make decisions.

a. DEIS. A document normally prepared for actions potentially having a significant impact on the quality of the human environment or having potentially controversial environmental effects. DEIS's are filed with the EPA and distributed to cognizant Federal, state, local, and private agencies, organizations, and individuals for review and comment before preparation of an FEIS.

b. FEIS. A completed statement, normally a separate and additional document from the DEIS, incorporating all pertinent comments and information provided during public and agency review of the DEIS. Responses to all substantive review comments will be contained in the FEIS. The FEIS is filed with the EPA.

c. SEIS (40 CFR 1502.9). A document evaluating changes to either a DEIS or an FEIS necessitated by substantial modifications to the proposed action or significant new circumstances or information that would result in different environmental impacts than those evaluated in the original document. An SEIS may be prepared at any time after the preparation and filing of a DEIS or FEIS; it is filed with the EPA and distributed to recipients of the DEIS and FEIS.

11. FONSI (40 CFR 1508.13). A document in which the Marine Corps briefly presents reasons why an action, not otherwise categorically excluded, will not have a significant effect on the human environment and for which an EIS will not be prepared. A FONSI may be one result of the review of an EA.

12. HQEIRB. A selected group of subject matter experts established at the CMC (LF) to review and assess the content of submitted EIS's and selected EA's.

13. Human Environment (40 CFR 1508.14). The natural and physical environment and the relationship of people with that environment.

14. Impacts (40 CFR 1508.7 and 40 CFR 1508.8). Impacts are synonymous with effects and include direct, indirect, and cumulative impacts.

a. Direct Effect. Effect caused by an action and which occurs at the same time and place as the action.

b. Indirect Effect. Effect also caused by an action and which occurs later in time or farther removed in distance from the action. Indirect impacts include:

(1) Growth-inducing effects.

(2) Effects related to induced changes in the pattern of land use, population density, or growth rate.

(3) Related effects on the human environment, including the natural and physical environment.

c. Cumulative Impact. Impacts which result from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) undertakes such actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

15. Lead Agency. The agency or agencies preparing or having taken primary responsibility for preparing an EIS.

16. Mitigation (40 CFR 1508.20). Activities that would lessen or modify the adverse impacts associated with a proposed action. Mitigation includes:

a. Avoiding the impact altogether by not taking a certain action or parts of an action. This mitigation measure is preferred.

b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and

e. Compensating for the impact by replacing or providing substitute resources or environments.

17. Proposal (40 CFR 1508.23). A "proposal" exists at that stage in the development of an action when the action sponsor has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. A proposal may exist in fact as well as by agency declaration that one exists.

18. ROD. A concise public document providing a rationale for the alternative selected for implementation as presented in an FEIS. The document, as proposed by the activity/action sponsor, will be finalized by the CMC (LF) on behalf of the HQEIRB and will state the decision, identify the alternatives considered (including those that were environmentally preferable), and discuss all factors, including non-environmental considerations, that influenced the decision. The
ROD will commit the action sponsor to the appropriate mitigation, if applicable, to minimize environmental harm, and to identify those measures that were considered, but not selected, for implementation. Additionally, any monitoring program associated with selected mitigation measures will be addressed.

19. Scope (40 CFR 1508.25). "Scope" consists of the range of actions, alternatives, and impacts to be considered in an EA or an EIS. The scope of an individual EA or EIS may depend on its relationships to other EA's or EIS's. To determine the scope of an EA or an EIS, action sponsors must consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

a. Actions (other than unconnected single actions) which may be:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are "connected" if they:

(a) Automatically trigger other actions which may require EIS's.

(b) Cannot or will not proceed unless other actions are taken previously or simultaneously, or

(c) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An action sponsor may wish to analyze these actions in the same EA or EIS. It should do so when the best way to assess adequately the combined impacts of similar actions is to threat them in a single EA or EIS.

b. Alternatives, which include:

(1) No Action alternative.

(2) Other reasonable courses of action.

(3) Mitigation measures (not in the proposed action).

c. Impacts, which may be:

(1) Direct.

(2) Indirect.

(3) Cumulative.

20. Scoping. An early and open process for determining the scope of issues tobe addressed and for identifying the significant issues related to a proposed action.

21. Significantly (40 CFR 1508.27). "Significantly" as used in NEPA requires consideration of both context and intensity:

a. Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific

action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

b. Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment
are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been

determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, state, or local law or requirements imposed for the protection of the environment.

CHAPTER 12

THE NATIONAL ENVIRONMENTAL POLICY ACT

SECTION 2: MARINE CORPS POLICY

12200. GENERAL

1. The CMC (LF) is the cognizant organization within the Marine Corps for effecting compliance with NEPA and should be consulted regarding Marine Corps interpretation of the procedures contained in this chapter, DON regulations at 32 CFR 775, and the CEQ regulations, as well as any procedural requirementsrelated to NEPA analysis and decisionmaking within the chain of command.

2. As much as possible, the Marine Corps must ensure that it conducts its mission of providing for the national defense in a manner consistent with national environmental policies. In so doing, the Marine Corps recognizes that the NEPA process includes the systematic examination of the likely environmental consequences of implementing a proposed action. To use the NEPA process as an effective decisionmaking tool, action sponsors must integrate this process with other Marine Corps/Navy project planning at the earliest possible time. Doing so ensures that planning and decision making reflect environmental values and avoids delays and potential conflicts.

3. Whenever possible, action sponsors must include pollution prevention alternatives in the NEPA process. In particular, action sponsors must consider life-cycle costs and the options available in employing pollution prevention alternatives to minimize these costs while or when evaluating potential projects or actions.

4. Action sponsors must ensure that, consistent with other national policies and national security requirements, practical means and measures are used to protect, restore, and enhance the quality of the environment; to mitigate adverse consequences; and to attain the following NEPA (section 101) objectives:

a. Attain the widest range of beneficial uses of environmental resources without degradation, risk to health or safety, and other consequences that are undesirable and unintended.

b. Preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment that supports diversity and a variety of individual choices.

c. Enhance the quality and conservation of renewable resources and work toward the maximum attainable recycling of depletable resources.

d. Achieve a balance between resource use and development within the sustained carrying capacity of the ecosystem involved.

e. Provide the opportunity for public comment and involvement.

5. The command EIRB must include individuals with appropriate expertise to ensure that the document meets the requirements of NEPA, is consistent with the
command's operational and master planning goals, and meets the policies and goals of the command in the military and civilian communities.

12201. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE. To comply with the NEPA procedural requirements, the Marine Corps must attain the following objectives:

1. Ensure compliance by beginning analysis of the effects of an action at the earliest planning stage.

2. Assess environmental consequences of proposed actions that could affect the quality of the environment in the United States, its territories, and its possessions per the regulations issued by CEQ (40 CFR 1500-1508) and DON (32 CFR 775).

3. Use a systematic, interdisciplinary approach that ensures integrated use of the natural and social sciences and environmental considerations in planning and decision making when an adverse impact on the environment could occur.

4. Consider reasonable alternatives (including the "no-action" alternative) to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available natural resources.

5. Make available to states, counties, municipalities, institutions, and individuals any advice and information useful

toward restoring, maintaining, and enhancing the quality of the environment.

6. Use ecological information when planning and developing resource-oriented projects.

7. Ensure that presently unmeasured environmental amenities are considered in the decisionmaking process.

8. Set time limits appropriate to the proposed action, considering operational requirements, as well as necessary time for public notice and comment periods required under the CEQ regulations (40 CFR 1506.10) as legally applied by the EPA. The EPA publishes a weekly notice in the Federal Register of the EIS's filed during the preceding week. The following time periods calculated from publication of the EPA notice must be followed:

a. The DEIS should be made available to the public 15 days prior to any public hearing or meeting on the DEIS.

b. The FEIS may not be filed less than 45 days after publication of the notice of availability of the DEIS.

c. Prior to any ROD on the proposed action, the DEIS must be available to the public for no less than 90 days, and the FEIS for no less than 30 days.

CHAPTER 12

THE NATIONAL ENVIRONMENTAL POLICY ACT

SECTION 3: RESPONSIBILITIES

12300. CMC (LF)

1. Establish policy and procedures regarding NEPA compliance.

2. Coordinate the CMC (LF) review and disposition of EA's referred by activity CG/CO and all DEIS and FEIS documents through the HQEIRB.

3. Coordinate as appropriate with the CEQ, EPA, Deputy Under Secretary of Defense for Environmental Security, and Office of the Assistant Secretary of the Navy, Installations and Environment regarding NEPA actions elevated to Headquarters level.

4. Coordinate with the command EIRB during preparation of a ROD. The proposed ROD will be drafted to reflect the HQEIRB review of the FEIS and will be forwarded to SECNAV by the CMC (LF) for signature and final disposition.

5. Assist commands with the interpretation of policies, implementation of procedures, and compliance with NEPA in the Marine Corps.

6. Coordinate, as appropriate, with the director of public affairs, for releasing to the public environmental documents per NEPA and other applicable Federal laws.

7. Publish NOI's, announcements of public hearings, and ROD's in the Federal Register.

8. Provide assistance for actions initiated by private persons, state or local agencies, and other non-DON/DoD entities for which DON involvement may be foreseen.

9. Provide support to Marine Corps installations and Marine Corps commands/units and tenants by interpreting Federal, state, local, and overseas NEPA requirements and by uniformly applying Marine Corps policy as set forth in the Manual.

10. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

11. Ensure, through field visits and the ECE Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to NEPA regulations.

12301. HEADQUARTERS ENVIRONMENTAL IMPACT REVIEW BOARD (HQEIRB). Receive, review, and provide recommendations, as appropriate, to DC/S (I&L) on DEIS, FEIS, ROD, and those EA/FONSI documents elevated to Headquarters level.

12302. CG's/CO's OF INSTALLATIONS, and COMMANDER MARINE FORCES RESERVES (COMMARFORRES)

1. Designate, chair, and provide for establishing a command EIRB consisting of a cross section of command personnel, including both environmental and legal staff.

2. Designate an individual, not excluding CG's/CO's and commanders, responsible for approval and signature of decision memorandum, in cases where the action has been identified as a CE.

3. Promptly provide FONSI's and minutes of EIRB meetings to the CMC (LF).

4. Decide whether a FONSI is appropriate when the proposed action does not involve any of the circumstances listed at paragraph 12104.5, recommend preparation of a DEIS, or recommend that the action not proceed. The decision must be based on the command EIRB's recommendation.

5. Ensure that adequate funding and personnel are available for environmental review and that appropriate orders include the requirements of planning and funding environmental documents.

6. Ensure that analyses are conducted for the environmental effects of current and proposed actions per DoD regulations, CEQ regulations (40 CFR 1500-1508), and other applicable regulations.

7. As appropriate, encourage public participation in environmental evaluations of projects or programs.

8. Ensure that environmental analysis and the NEPA process are included at the initial planning stages and at each following procedural step or decision milestone in the development of a project or program.

9. Ensure that the administrative record supporting the NEPA process for the proposed action is assembled and maintained.

10. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for NEPA-related actions that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with NEPA requirements. Pay appropriate Federal, state, and local fees. Ensure that the Environmental Management Hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

12303. COMMAND ENVIRONMENTAL IMPACT REVIEW BOARD (EIRB)

1. Ensure that all NEPA documents fully comply with all legal and procedural requirements through a review for technical sufficiency, including but not limited to:

a. Complete analysis of alternatives and their associated impacts,

b. Appropriateness of alternatives analyzed, and

c. Appropriateness of proposal as required to coexist with other actions on the installation.

2. Ensure that all NEPA documents have undergone appropriate staff review.

3. Assist the action sponsor in determining whether the proposed action requires the preparation of an EA or EIS.

4. Review the completed EA, and make recommendation to CG/CO for a FONSI, a DEIS, or no-action. The EIRB will draft the proposed FONSI and forward both the EA and FONSI to the CG/CO for signature.

5. If the EA meets one of the requirements discussed in paragraph 12104.5, the EIRB will forward, for the CG/CO, the EA and proposed FONSI to HQEIRB for review and concurrence for approval.

6. Draft NOI, DEIS, and EIS, and forward NOI to CG/CO for approval.

7. Retain on file, for no less than 10 years, copies of all decision memoranda,completed EA's and EIS's, published FONSI statements, ROD's, and minutes taken during EIRB meetings.

8. The EIRB will include the CG's/CO's designated chair, a legal representative, the heads of facilities, environment, operations/training, comptroller, public affairs, community plans and liaison departments, as appropriate, and any others as determined by the CG/CO.

12304. COMMAND ENVIRONMENTAL STAFF

1. Assist the action sponsor to effect NEPA.

2. Provide specific installation guidance related to NEPA.

3. Review NEPA documents and provide technical assistance.

12305. ACTION SPONSORS

1. Provide funds for NEPA documentation and all related ancillary studies and mitigation costs. NEPA funding is not centrally managed. Action sponsors must program funds for NEPA compliance.

2. Coordinate with the command environmental staff at the earliest possible opportunity to determine the level of NEPA documentation required. The command environmental staff will consult with counsel and/or the EIRB when the level of NEPA documentation may be subject to legal or other qualifying interpretations.

3. Prepare or co-sign a decision memorandum if an action is to be categorically excluded. Provide the proposed decision memorandum to the designated signatory for approval. The action sponsor is to maintain the original documentation. Copies of the CE must be made available to the CMC (LF) upon request.

4. Coordinate with the installation environmental staff and fund for the development of an EA or EIS, as appropriate for actions not identified on the list of CE's.

5. Coordinate with the installation environmental staff and fund for the publication of the FONSI, NOI, or ROD, as appropriate, in local newspapers.

CHAPTER 13

NOISE MANAGEMENT

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CHAPTER 13

NOISE MANAGEMENT

SECTION 1: INTRODUCTION

13100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with statutory requirements for reducing environmental noise at Marine Corps installations. Workplace noise as an occupational health and safety issue is not addressed in this Manual.

13101. APPLICABILITY

1. See paragraph 1101.

2. This chapter also applies to overseas installations.

13102. BACKGROUND

1. The Noise Control Act seeks to protect Americans from "noise that jeopardizes their health or welfare." This Act directs Federal agencies to further this policy within their programs.

2. Marine Corps operations have the potential to cause adverse noise impacts on surrounding communities. State, local, and host nation laws may also prescribe maximum noise levels to control these impacts.

13103. FEDERAL STATUTES. The Noise Control Act of 1972 (42 U.S.C. 4901 et seq.) requires that Federal performance standards be incorporated into the design of certain new vehicles, railroad equipment, and products in order to reduce noise emissions. The Noise Control Act does not prescribe retrofit modifications for existing noise sources. Military aircraft, combat equipment,and weapon systems are exempt from new product design standards. The Act provides only for the prescription and amendment of standards for nonmilitary aircraft noise and sonic boom.

13104. REQUIREMENTS

1. Executive Order (EO) 12088, October 13, 1978. EO 12088 directs Federal facilities to comply with all requirements applicable to environmental noise management. Federal facilities must also comply with boundary noise limits established by state and local laws subject to specific exemption.

2. Air Installations Compatible Use Zone (AICUZ) Program. The AICUZ program was established by DoD, as described in appendix L, OPNAVINST 11010.36 and in 32 CFR 256. This program identifies and addresses incompatible developments in areas adjacent to air installations and subject to rated levels of aircraft noise and potential accident impacts.

3. State and Local Requirements

a. State and Local Laws

(1) State and local regulations on environmental noise vary too widely for any generic use in determining compliance for a specific operation at a specific site. As a general rule, states tend to treat environmental noise as source-specific, the emissions from which will be controlled depending on the community area specifically affected. State and local laws may prescribe maximum noise levels across property lines. These boundary noise limits are attainable by a variety of structural and natural noise path barriers and by source design modifications.

(2) The following Marine Corps installations and activities may be subject to state and local regulations and may require studies to determine the impact of environmental noise on the surrounding communities:

(a) Airfields.

(b) Weapon, rocket, missile-firing ranges.

(c) Test tracks for vehicles.

(d) Outdoor power-generating equipment.

(e) Demolition and explosive disposal sites.

b. Even in the absence of state and/or local environmental noise regulations, the Marine Corps must be aware of adverse

noise impacts in the surrounding community. The Marine Corps can minimize adverse public response to its programs by initiating a coordinated cooperative approach with the community and by emphasizing mutual problem solving with state and local governmental authorities and community organizations.

c. A review of complaints from residents of surrounding communities can help to determine the degree and extent to which the surrounding community perceives the Marine Corps as responsible for an adverse environmental noise impact. The Public Affairs Office and the community planning and liaison officer can be especially helpful in handling complaints and in advising the community of actions being taken to minimize environmental noise impacts.

d. Compliance with state and local requirements is generally interpreted to mean that the Marine Corps will comply with the procedural as well as the substantive aspects of environmental noise legislation. Obtaining permits forregulated functions would be an example of procedural compliance.

4. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

13105. TERMS AND DEFINITIONS

1. AICUZ Program. The AICUZ program recognizes that some air installation operations are incompatible with certain possible uses of the land in the vicinity of the installation. The AICUZ program seeks to restrict the use of such land to compatible uses through such means as local zoning, state legislation, acquisition of restrictive easements, and acquisition of fee titles by the Federal Government.

2. Environmental Noise. The intensity, duration, and character of sounds from all sources.

3. Low-Noise Emission Product. Any product that emits noise in amounts significantly below the levels specified in noise emission standards applicable
to that type of product under the Noise Control Act at the time of procurement.

CHAPTER 13

NOISE MANAGEMENT

SECTION 2: MARINE CORPS POLICY

13200. GENERAL

1. Unless specifically exempted, Marine Corps commands engaged in any activity
resulting in noise emissions must comply with Federal, state, interstate, and local requirements for the control and management of environmental noise.

2. The Marine Corps noise control and management programs must:

a. Coordinate with other Federal agencies to maintain active programs to protect the health and welfare of both on-base and off-base personnel from hazardous noise levels.

b. Procure, whenever feasible, low-noise emission products. Emphasize a "buy quiet" approach in procurement actions.

c. Soundproof, wherever feasible, Marine Corps-owned or-operated school and child development center buildings significantly affected by noise from military operations.

d. Locate noise-sensitive housing and other developments away from major noise sources.

e. Cooperate with and support neighborhood self-help programs to identify and address local noise problems.

f. Consider noise problems when planning, acquiring, and siting noise-generating equipment such as engine test stands. Give full attention to all available alleviating measures, such as remote siting and sound suppression equipment. Consider allocating aviation buffer zones to wildlife refuges or agricultural outleases to preclude encroachment of the civilian community.

g. Notify the public to the extent feasible of any significant increases in noise generation or in deviations from normal noise generation patterns. Also, where the generation of significant noise routinely affects the civil community,

institute a program of community education to develop positive public relations.

h. Minimize disruption to the local community regarding operations that are known to generate complaints. These activities should still be consistent with military requirements and the efficiency of operations, but they should be conducted at such times, locations, and under such conditions as to minimize the disruption to the local community.

13201. WORKPLACE NOISE. Workplace noise is not considered an environmental noise. Guidance for occupational noise is provided in MCO 6260.1.

13202. AVIATION NOISE SUPPRESSION

1. Marine Corps installations must consider ameliorating options such as remote siting, sound suppression equipment, and sound barriers when developing new aircraft-related systems such as engine test stands.

2. Marine Corps installations must consider suitably quiet, ground support equipment (e.g., starters, hush houses) when procuring new aircraft systems.

13203. RESTRICTING NOISY OPERATIONS. As much as possible, personnel must limit to normal working hours the use of power tools, machinery, construction equipment, and other noisy devices.

CHAPTER 13

NOISE MANAGEMENT

SECTION 3: RESPONSIBILITIES

13300. CMC (LF)

1. Promote research to define and study noise pollution problems unique to the
Marine Corps, and coordinate such research with other Marine Corps facilities and with the Environmental Protection Agency.

2. Ensure that ground equipment associated with procurements of new and/or follow up aircraft contain necessary noise suppressers.

3. Provide support to Marine Corps installations and Marine Corps commands/units and tenants by interpreting Federal, state, local, and overseas noise management requirements and by uniformly applying Marine Corps policy as set forth in the Manual.

4. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

5. Conduct special environmental compliance and protection studies with regard to noise management to assist in establishing policy or initiating actions.

6. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to noise management.

7. Track Marine Corps progress toward meeting established noise management goals.

13301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Establish a base or station order implementing the specifications set forth in this chapter.

2. Initiate procurement procedures to ensure that products and equipment not designed for combat use meet Federal or host nation noise standards.

3. Implement procedures for limiting on-base noise generating operations and for complying with property-line noise levels consistent with applicable local laws or host nation standards.

4. Ensure that coordination occurs as appropriate with the safety office in matters relating to noise exposure.

5. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for noise pollution management that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with environmental noise management requirements. Pay appropriate Federal, state, and local fees. Ensure that the Environmental Management Hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 14

PESTICIDE POLLUTION PREVENTION

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CHAPTER 14

PESTICIDE POLLUTION PREVENTION

SECTION 1: INTRODUCTION

14100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for complying with the legal use of pesticides at Marine Corps installations in accordance with the DoD pest management specifications outlined in appendix I and the DON requirements described in OPNAVINST 6250.4.

14101. APPLICABILITY. See paragraph 1101.

14102. BACKGROUND

1. OPNAVINST 6250.4 was signed jointly by direction of the CMC and the Chief of Naval Operations and applies to all Navy and Marine Corps deployed personnel,ships, and stations including non-DON property under DON stewardship where pestcontrol operations occur.

2. The DoD pest management specifications described in appendix I prescribe detailed procedures for the DoD pest management program. Procedures prescribed under the instruction are based on IPM concepts. IPM is the method of choice for DoD pest management and disease vector control. IPM is a sustainable approach to managing pests and controlling disease vectors by combining applicable pest management tools in a way that minimizes economic, health, and environmental risks. IPM uses regular or scheduled monitoring to determine if and when treatments are needed and employs physical, mechanical, cultural, biological, genetic, regulatory chemical, and educational tactics to keep pest numbers low enough to prevent unacceptable damage or impacts. Treatments are not made according to a predetermined schedule; they are made only when and where monitoring has indicated that the pest will cause unacceptable economic, medical, or aesthetic damage. Treatments are chosen and timed to be most effective and least disruptive to the natural control of pests. Least hazardous but effective pesticides are used as a last resort.

3. Relationship of Pesticide Pollution Prevention to other Environmental Program Areas

a. For Marine Corps policy on water quality management, see chapter 20 of this Manual.

b. For Marine Corps policy on pollution prevention, see chapter 15 of this Manual.

c. For Marine Corps policy on hazardous waste (HW) management, see chapter 9 of this Manual.

d. For Marine Corps policy on emergency planning and response, see chapter 7 of this Manual.

4. Additionally, the Marine Corps must integrate environmental compliance for pesticides with occupational health and safety policies and regulations.

14103. FEDERAL STATUTES

1. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of 1972, as Amended (Public Law 92-516, 7 U.S.C. 136 et seq.). FIFRA provides the principal means for preventing adverse effects on the environment from pesticides through product registration and applicator certification. The Environmental Protection Agency's (EPA) registration of all pesticide products results in label instructions on each container for use, storage, and disposal. Label instructions are legally applicable to all users. Under FIFRA, the EPA must accept certain recalled pesticides for safe disposal. It is illegal to purchase, distribute, or use any pesticide that does not have an EPA registration number or for which registration has been canceled or suspended. It is also illegal to apply, store, or dispose of any pesticide or container in any manner inconsistent with applicable regulations. Although FIFRA does not delegate enforcement responsibilities for Federal facilities to the states, many states have established Memoranda of Understanding (MOU) with the DoD regarding the procurement and use of pesticides and the on-site inspection of Marine Corps installations.

2. Resource Conservation and Recovery Act (RCRA) of 1976, as Amended (42 U.S.C.6901, et seq.). RCRA outlines the HW Management requirements for the disposing of excess or waste pesticides and for equipment and containers contaminated by

pesticides. RCRA regulations identify the criteria, standards, and requirements for considering excess pesticides, pesticide containers, and the waste resulting from the cleanup of pesticide spills (see chapter 9 of this Manual).

3. Federal Water Pollution Control Act of 1972, as Amended by the Clean Water Act of 1977 (33 U.S.C. 1251 et seq. This Act provides for protecting surface waters from contamination by pesticides in wastewater and in land runoff. Control is exercised through stringent effluent limitations imposed through the National Pollutant Discharge Elimination System permitting program (see chapter 20 of this Manual).

4. Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (42 U.S.C. 1100, et seq.). EPCRA provides for protecting and notifying communities in the event of a release of a toxic chemical. The list of toxic chemicals requiring notification includes several pesticides. The Marine Corps mustcomply with specific provisions of EPCRA as required by Executive Order (EO) 12856, August 3, 1993 (see chapter 7 of this Manual).

5. Toxic Substances Control Act (TSCA) of 1976 (15 U.S.C. 2601 et seq.). This Act requires the EPA to regulate and control harmful chemical and toxic substances in commercial use. Congress enacted TSCA to reduce unreasonable risks from chemicals to human health and the environment. Section 6 of TSCA authorizes the EPA to regulate hazardous chemical substances and mixtures.

6. Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531, et seq.). The ESA provides for protecting threatened and endangered species of fish, wildlife, and plants and their habitats. The Act requires Federal agencies to ensure that no agency action is likely to jeopardize the continued existence of endangered or threatened species. Under the ESA, the EPA is required to ensure that pesticide use is not likely to jeopardize endangered species or to adversely affect critical habitats. Endangered species and critical habitat protection is implemented through the pesticide labeling process and the issuance of state specific bulletins.

7. Migratory Bird Treaty Act of 1918, as Amended (16 U.S.C. 703, et seq.). This Act protects migratory birds and their nests and eggs from being hunted, captured, purchased, or traded. The United States Fish and Wildlife Service (USFWS must issue a permit before a pesticide can be used to manage bird populations other than starlings, English house finches (house sparrows), and pigeons.

8. Federal Noxious Weed Act of 1974 (7 U.S.C 2801 et seq.). This Act prescribes integrated management systems to control or contain undesirable plants.

9. National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). NEPA specifies requirements for the aerial application of pesticides, as well as the filing of environmental impact statements on pesticide decisions.

14104. REQUIREMENTS

1. DoD Pest Management Program. See appendix I for complete information on specific DoD requirements.

a. Develop and maintain the annual review and revise their pest management plans in accordance with the program elements in appendix I and with the Armed Forces Pest Management Board (AFPMB) Technical Information Memorandum (TIM) 18, Installation Pest Management Guide (see Technical Information Memoranda definition paragraph 14105.23).

b. Implement pest management programs approved by pest management consultants and performed by certified pesticide applicators in accordance with the pest management plan written for each installation.

c. Establish pest management self-help programs for military housing when cost-effective and when IPM monitoring indicates a need for a self-help program.

d. Have all pesticide applications to Marine Corps installations made only by properly trained and certified personnel in accordance with the DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides or by state-certified applicators.

e. Use pesticides in accordance with applicable laws including FIFRA.

f. Use only pesticides that have been approved by a DoD pest management consultant. Consideration should be given to locally purchased pesticides to ensure conformance with state management plans for groundwater protection and to facilitate use of recyclable pesticide containers when appropriate pesticides are not available in the Federal supply system. Pesticides may be procured locally if needed for an emergency, if required due to

unique local situations, or if required in quantities so small that the assignment of a National Stock Number (NSN) is not practical.

g. Maintain complete daily pesticide application and pest management operations records as required by FIFRA and 7 U.S.C. 136i-1 or for pest management Measures of Merit (MOM), using DD Form 1532-1 or a computer-generated equivalent. Produce a monthly summary, using DD Form 1532 or computer-generated equivalent, to provide data for regulatory, DoD, Federal, state, or local agency data calls; for Marine Corps program review and oversight; and for MOM's. Installation commanders must ensure that these records are archived after 2 years for permanent retention.

h. Use pest management contracts when more cost-effective than in-house services. Ensure that firms and their employees performing contract pest management work on Marine Corps installations and in support of Marine Corps operations overseas comply with all certification, licensing, and registration requirements of the state or country where the work is performed. Ensure that the technical portions of contracts involving pest management reflect IPM methodology and are reviewed and approved by a DoD pest management consultant before solicitation.

i. Have quality assurance evaluators (QAE), who have been trained in pest management at DoD-sponsored courses, inspect pest management operations and pesticide applications performed by contractors.

j. Report pest management operations and pesticide applications performed by contractors as required in paragraph 14104.g above.

2. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

14105. TERMS AND DEFINITIONS

1. Certifying Officials. Professional DoD pest management personnel who are designated in writing by the Service Components to the Executive Director, AFPMB, as being certified and qualified to meet the DoD standards in the DoD Plan for the

Certification of Pesticide Applicators of Restricted Use Pesticides.

2. Component Senior Pest Management Consultant. The professional DoD pest management individuals who are designated in writing by the Service Components to the Executive Director, AFPMB, as being the primary points of contact for the Component's pest management program, including technical guidance, management oversight, and information requirements.

3. Direct Supervision. Supervision that includes being at the specific location where pest management work is conducted, providing instruction and control, and maintaining a line-of-sight view of the work performed. Certain circumstances may temporarily remove the line-of-sight view of the application of pesticide from the supervisor such as topographic constraints, vegetation constraints, or building structural constraints. Under these temporary circumstances, the supervisor must be responsible for the actions of the pesticide applicators. (see Uncertified Installation Pesticide Applicator,definition paragraph 14105.13e, below).

4. Disease Vector. Any animal capable of transmitting the causative agent of a human disease; serving as an intermediate or reservoir host of a pathogenic organism; or producing human discomfort or injury, including (but not limited to) mosquitoes, flies, ticks, mites, other insects, snails, and rodents. It isrecognized that certain disease vectors are predominately economic pests that as conditions change may require management or control as a disease vector.

5. Disinfection. The procedure of killing or removing insects from ships or aircraft to prevent their importation into another port or country.

6. IPM. A planned program, incorporating continuous monitoring, education, recordkeeping, and communication to prevent pests and disease vectors from causing unacceptable damage to operations, people, property, materiel, or the environment. IPM uses targeted, sustainable (effective, economical, environmentally sound) methods, including education, habitat modification, biological control, genetic control, cultural control, mechanical control, physical control, regulatory control, and where necessary the judicious use of least-hazardous pesticides.

7. Monitoring. Thorough inspections or surveys conducted on a regular basis to determine the presence and prevalence of pests or disease vectors.

8. Nuisance Pests. Insects, other arthropods, and other organisms that do not cause economic damage or adversely affect human health, but which cause minor annoyance on occasion.

9. On-Site Supervision. Supervision that includes being physically located on the installation, but not necessarily at the specific work site, during the work performance and able to be contacted and to be present at the work site within 30 minutes.

10. Personal Relief. Pest management control efforts made by Marine Corps personnel or their family members at their own expense for the control of pests in accordance with DoD and Marine Corps pest management policy.

11. Pest Management QAE. A DoD employee trained in pest management and who protects the Government's interest through on-site performance evaluations of commercial pest management contracts or other contracts that involve the use of pesticides.

12. Pesticide. Any substance or mixture of substances, including biological control agents, that may prevent, destroy, repel, or mitigate pests and that are specifically labeled for use by the EPA. Also, any substance or mixture of substances used as a plant regulator, defoliant, desiccant, disinfectant, or biocide. (See Restricted-Use Pesticide, definition paragraph 14105.21). Note: The AFPMB does not review or approve disinfectants or biocides.

13. Pesticide Applicator. Any individual who applies pesticides or supervises the use of pesticides by others.

a. Certified Pesticide Applicator. Any individual who applies pesticides or supervises the use of pesticides and who has been authorized to do so by successfully completing a training program approved by the EPA, followed by formal certification by the DoD or a state. Outside the Continental United States (OCONUS) the DoD provisions described in appendix I apply to individuals who apply pesticides or supervise the use of pesticides.

b. DoD-Certified Pesticide Applicators. DoD military or civilian personnel certified in accordance with the DoD Plan for

the Certification of Pesticide Applicators of Restricted Use Pesticides.

c. Installation Pesticide Applicators. DoD employees or contract personnel whose job responsibilities involve the application of pesticides on DoD installations and property.

d. State-Certified Pesticide Applicators. Persons certified in accordance with FIFRA by a state with an EPA-approved certification plan.

e. Uncertified Installation Pesticide Applicators. Marine Corps employees who are not certified under the DoD or state plan during an apprenticeship period not exceeding 2 years must apply pesticides under the supervision of a DoD or state-certified applicator.

14. Pest Management. The prevention and control of disease vectors and pests that may adversely affect the Marine Corps mission or military operations; the health and well-being of people; or structures, materiel, or property.

15. Pest Management Consultant. Professional DoD pest management personnel located at Component Headquarters, field operating agencies, major commands, facilities engineering field divisions or activities, or area support activities that provide technical and management guidance for the conduct of installation pest management operations. Some pest management consultants may be designated by a DoD Component as certifying officials.

16. Pest Management Coordinator. The individual officially designated by the installation commander to coordinate and oversee the installation pest management program and installation pest management plan. Pest management coordinators must be certified as pesticide applicators if their job responsibilities require them to apply or supervise the use of pesticides.

17. Pest Management Materiel. Equipment or pesticides used to monitor, prevent, or control pests and disease vectors. Equipment items include, but are not limited to, all pesticide dispersal equipment, traps, nets, and pest-attracting or pest-repelling devices.

18. Pest Management Plan. A long-range, comprehensive installation planning and operational document that establishes the strategy and methods for conducting a safe, effective and environmentally sound integrated pest management program.

Written pest management plans are required as a means of establishing and implementing an installation pest management program.

19. Pests. Arthropods, birds, rodents, nematodes, fungi, bacteria, viruses, algae, snails, marine borers, snakes, weeds, and other organisms (except for human or animal disease-causing organisms) that adversely affect readiness, military operations, or the well-being of personnel and animals; attack or damage real property, supplies, equipment, or vegetation; or are otherwise undesirable.

20. Professional Pest Management Personnel. DoD military officers commissioned in the Medical Service or Biomedical Sciences Corps or DoD civilian personnel with college degrees in biological or agricultural sciences who are in a current assignment that includes pest management responsibilities exercised regularly. DoD civilian employees also must meet Office of Personnel Management qualification standards. Based on assignment, some professional pest management personnel are pest management consultants.

21. Restricted-Use Pesticide. A pesticide that the Administrator of the EPA (in accordance with FIFRA) or a state regulatory agency determines to have the potential to cause unreasonable and adverse effects on the environment or human health when applied in accordance with its directions for use, and therefore requires additional regulatory restrictions.

22. Surveillance. Thorough inspections or surveys made before or after pest management treatments to determine the presence and prevalence of pests or disease vectors.

23. TIM. Technical guidance prepared by the AFPMB on specific pest management and disease vector control topics. TIM are available from the AFPMB, Forest Glen Section/Walter Reed Army Medical Center, Washington, DC 20307-5001.

CHAPTER 14

PESTICIDE POLLUTION PREVENTION

SECTION 2: MARINE CORPS POLICY

14200. GENERAL. Marine Corps policy is to comply with the DoD requirements set forth in appendix I and to employ an integrated pest management program that minimizes pesticide use and that ensures the protection of human health and the environment where pesticide use is necessary. MOU's between DoD and a state/locality for the use of pesticides may also apply. The policy and guidance in OPNAVINST 6250.4 are incorporated by reference.

1. Establish and maintain safe, effective, and environmentally sound IPM programs to prevent or control pests and disease vectors that may adversely impact readiness or military operations by affecting the health of personnel or by damaging structures, materiel, or property.

2. Ensure that pest management programs achieve, maintain, and monitor compliance with all applicable EO's and applicable Federal, state, and local statutory and regulatory requirements.

3. Incorporate sustainable IPM philosophy, strategies, and techniques into all vector control and pest management planning, training, and operations, including installation pest management plans and other written guidance to reduce pesticide risk and prevent pollution.

14201. GOALS. In accordance with the DoD specifications described in appendix I, Marine Corps goals have been established:

1. By the end of FY97, 100 percent of Marine Corps installations will have pest management plans prepared, reviewed, and updated annually by pest management professionals.

2. By the end of FY98, 100 percent of Marine Corps installation pesticide applicators will be properly certified (either through the DoD or appropriate state). Direct-hire employees must have a maximum of 2 years of experience after initial employment to become certified. Contract employees should have the appropriate

state certification when the contract is let. Installations must implement the pest management program elements to achieve these goals.

3. By the end of FY00, the amount of pesticide applied annually on Marine Corpsinstallations will be reduced by 50 percent from the FY93 baseline in pounds of active ingredient. The goal for this MOM must not be achieved by substituting more toxic pesticides that have lower application rates than the pesticide
in use.

14202. INTEGRATED PEST MANAGEMENT (IPM)

1. IPM must be based on seven routine steps for addressing each pest problem as follows:

a. Identify and assess pest or disease vector problems;

b. Develop a written management plan or strategy that emphasizes natural controls and nonchemical tactics to deal with pest and disease vector problems;

c. Establish an action threshold for each pest and disease vector problem to define when corrective action must be implemented;

d. Use a monitoring procedure, such as inspection, trapping, or surveillance, for each pest and disease vector;

e. Apply corrective action when a threshold is reached for any pest or disease vector;

f. Use a documentation system to catalogue monitoring information and to document management problems; and

g. Verify and evaluate procedures to ensure that the IPM program is meeting stated risk-reduction measures and that information exists to redesign the IPM plan where required.

2. The written IPM plan or strategy must be a comprehensive document as outlined in appendix I.

14203. INSTALLATION PEST MANAGEMENT PLANS. Each installation must have a pest management plan as described in appendix I. The plan must list all program objectives, arranged in order of

priority, according to potential or actual impact on health, morale, structures, materiel, or property. Installations that have more than 0.5 productive work-years of pest management work must have their own plan. Installations with less than 0.5 productive work-years must have an individual plan, or be included in a supporting installation's pest management plan. Professional pest management personnel or certified pesticide applicators must manage these installation programs. For more information on Pest Management Plans, see appendix F-1.

14204. INSTALLATION CONSULTATIVE SUPPORT, PROGRAM REVIEWS, AND AUDITS

1. Command Program Reviews. To ensure adequate oversight of Marine Corps Pest Management Programs, pest management consultants or designated pest management professionals will conduct on-site reviews of installation pest management programs at least every 36 months, normally as part of the Marine Corps Environmental Compliance Evaluation (ECE) program, with the following exceptions.

a. Installations requiring less than 0.5 work-years of pest management services must be reviewed at the discretion of the cognizant pest management consultant.

b. Installations that receive pest management support from another installation must be reviewed during the review of the supporting installation.

c. Installations with documented pest management problems, such as deficiencies from environmental compliance audits, state inspections, or Federal inspections, should be reviewed annually until the deficiencies are resolved.

d. On-site review requirements can be met by formal program reviews, ECE's,and/or assistance visits.

2. Installations must notify the appropriate pest management consultant whenever Federal, state, or local regulators ask to inspect pest management operations.

14205. TRAINING AND CERTIFICATION OF PEST MANAGEMENT PERSONNEL. For requirements relating to the training and certification of pest management personnel, see appendix F-2.

14206. PESTICIDES AND PEST MANAGEMENT EQUIPMENT

1. Procurement

a. AFPMB must approve all introduction, stockage, and deletion of pest management materiel managed by the Defense Logistics Agency (DLA) for use in DoD programs. See appendix I for procedural information on the acquiring of pest management equipment and pesticides.

b. Marine Corps installations must not procure or acquire pest management materiel that has not been recommended by the AFPMB or approved by the cognizant Marine Corps pest management consultant. NSN's must not be assigned to pest management materiel that has not been approved by the AFPMB. Upon approval by the appropriate pest management consultant, pest management materiel may be procured locally if needed for an emergency, if required due to unique local situations, or if required in quantities so small that assignment of an NSN is not practical.

2. Pesticide Storage Facilities. The design of pesticide storage facilities must comply with standards described in MIL-HDBK-1028/8, Military Handbook. Existing facilities must comply with all applicable regulatory standards and will, where feasible, be modified to meet the standards for new pesticide storage facilities.

3. Pesticide Disposal. Installation commanders must ensure that installation pest management programs are managed so that pesticides do not become HW's. The installation pest management coordinator must ensure that excess EPA-registered pesticides are either returned to the DLA Materials Return Program, transferred to a DoD installation able to use the materiel, or transferred to the servicing DRMO. The appropriate DoD pest management consultant will, if requested, provide assistance in identifying installations where usable pesticides could beapplied. When the EPA publishes a proposed pesticide regulatory action that involves pesticide label suspension or cancellation affecting the DoD,
installations must comply with administrative procedures developed between the DLA and AFPMB. Installations must use the guidance in AFPMB TIM 21, Pesticide Disposal for Pest Control Shops for pesticide disposal.

4. Pesticide Safety. To ensure the safe use of pesticides, Marine Corps personnel must handle and apply pesticides in accordance with the product's label directions and AFPMB TIM 14, Personal Protective Equipment for Pest Management Personnel;

TIM 15, Pesticide Spill Prevention and Management; TIM 16, Pesticide Fires: Prevention, Control, and Cleanup; and TIM 21, Pesticide Disposal Guide for Pest Control Shops (see TIM definition paragraph 14105.23). Marine Corps policy prohibits construction of buildings with heating, ventilation, and air-conditioning (HVAC) ducts located in and below the floor to prevent accidental contamination of the ducts with termiticides. Similarly, Marine Corps policy prohibits post-construction treatment of structures with HVAC ducts without a waiver from Marine Corps pest management consultant.

5. Electrically Operated Devices. Except as noted in AFPMB TIM 25, Devices for electrocution of Flying Insects (see TIM definition paragraph 14105.23) Marine Corps personnel must not use electromagnetic exclusion or control devices, ultrasonic repellent or control devices, and outdoor devices for electrocuting flying insects on Marine Corps installations. However, indoor devices for electrocuting flying insects can be used when selected, purchased, located, and used in accordance with AFPMB TIM 25 (see TIM, definition paragraph 14105.23). Pest surveillance traps and monitoring equipment, such asnonelectrocuting mosquito light traps, must be used as integral tools for IPM programs.

6. Paints and Coatings Containing Pesticides and other Biocides. The Marine Corps explicitly prohibits the use of paints containing insecticides on Marine Corps property. This guidance applies to both interior or exterior paints that contain insecticides intended for application to broad structural surfaces such as walls, ceilings, and siding. It also applies to insecticides formulated and labeled for use as paint additives. Paints containing fungicides as mildew inhibitors may be used when application directions specify no special restrictions due to the fungicide. Approved marine antifouling compounds or coatings may be applied to protect the surfaces of watercraft.

7. Preventive or Scheduled Pesticide Treatments. The Marine Corps explicitly prohibits the use of regularly scheduled, periodic pesticide applications, except in situations where the installation pest management plan clearly documents that no other technology or approach is available to protect personnel or property of high value. Installations must not use preventive pesticide treatments unless the appropriate pest management consultant has given approval based upon current surveillance information or records documenting past disease vector or pest problems that require this approach.

14207. PEST MANAGEMENT CONTRACTING

1. Background. The Marine Corps must use pest management contracts when cost-effective or when advantageous for non-routine, large-scale, or emergency services, especially when specialized equipment or expertise is needed. Contractors must comply with the regulatory requirements of the state in which the work will be performed regarding the certification, licensing, and registration of pest management companies and their employees. OCONUS contractors must comply with the Final Governing Standards (FGS)/Japan Environmental Governing Standards (JEGS) or the Overseas Environmental Baseline Guidance Document (OEBGD) of the host country.

2. Review and Approval. Pest management consultants must review and approve contract documents for pest management operations, including augmentation contracts to ensure that appropriate pest management standards and IPM are specified. Contracting offices must award augmentation contracts only when the respective pest management consultant has verified that the contract will provide necessary services beyond the capability of any in-house staff. Installations that lack expertise in pest management should request the services of a DoD pest management consultant to develop the technical portions of pest management contracts in accordance with DoD/AFPMB Guideline Performance Work Statement for Contract Pest Control. Pest management consultants must act as technical consultants during the performance of contracted work.

3. Quality Assurance. Installation commanders must base pest management QAE staffing decisions on the following factors:

a. The number of pest management operations requiring 100 percent inspection,

b. The number of different functions being performed simultaneously,

c. The scope of the contract including required productive work-years, and

d. The level of monitoring or surveillance required for each operation.

14208. SPECIALIZED PEST MANAGEMENT OPERATIONS

1. Aerial Application of Pesticides. Documentation for aerial application projects must be kept in accordance with DoD and Marine Corps environmental requirements including compliance with the requirements of NEPA. A designated pest management consultant at the major command level or higher, who is certified in the aerial application pest control category, approves all proposed pest management projects that involve the aerial application of pesticides. Approval must be obtained before aerial application operations commence. Marine Corps pest management consultants must collaborate, as appropriate, with the 910th Airlift Wing (Air Force Reserve) during the review and approval process for aerial spray projects to be completed by the 910th. Installation commanders must ensure that installation personnel update documentation for projectapproval if subsequent aerial application operations are planned.

2. Disinfection of Military Aircraft. Marine Corps personnel must disinfect military aircraft for disease vectors and agricultural pests only when:

a. Required by a foreign nation as a prerequisite to entry.

b. Mandated by the United States Department of Health and Human Services or the United States Department of Agriculture (USDA).

c. Directed by a command-level or higher authority who has determined that the point of embarkment has active vector-borne disease, consistent with Joint Service regulation, Quarantine Regulations of the Armed Forces.

d. No passengers are on board (except when mandated by the DoD Foreign Clearance Guide).

3. Forest Pests. Marine Corps commanders must cooperate with the USDA, Forest Service, on applicable pest management programs, including annual USDA funding for forest insect and disease suppression projects on Marine Corps-controlled land in accordance with the Memorandum of Agreement (MOA) between the USDA and the DoD for conduct of Forest and Insect Disease Suppression on Lands Administered by the DoD, December 1990; see also the Joint Service Technical Manual, Weed Control and Plant Growth Regulation.

4. Medically Important Pests. The Marine Corps must ensure that responsibilities for surveillance and control of medically important insects and other arthropods are clearly delineated in installation pest management plans and operational plans. Specific guidance on the surveillance and control of Lime disease vectors is found in AFPMB TIM 26, Lime Disease-Vector Surveillance and Control (see TIM, definition paragraph 14105.23).

5. Nuisance Pests. Installation pest management personnel must not apply pesticides or other control procedures for nuisance pests unless such measures have been approved by the appropriate pest management consultant.

6. Pesticide Applications in the Range of Endangered Species. The Marine Corps must comply with regulations, including those issued under the ESA, which require Federal Agencies to ensure that their actions will not jeopardize endangered or threatened species (ETS) or associated habitat. Installation commanders must ensure that their installation pest management plans identify areas within their installation that contain ETS and that personnel using pesticides on the installation know the potential impact that pesticide applications could have on ETS. DoD pest management plans must comply with the ETS protection efforts of the USFWS and USFWS limitations on pesticide usage. To prevent consultations before every pesticide application or operation in the habitat of an ETS, pertinent sections of installation pest management plan must be submitted to the regional USFWS office for review and comment. Further coordination with the USFWS is not required unless the conditions of the pesticide applications are changed as indicated by county bulletins, pesticide labels, ETS status, or land use. If the USFWS arrives at a finding of "may affect" the ETS and if the pesticide application is considered a firm Marine Corps requirement by the Marine Corps installation commander and cognizant pest management professional, the Marine Corps installation commander must request a formal consultation with the USFWS. OCONUS installations must comply with the FGS/JEGS and OEBGD.

7. Pests in Health Care Facilities. Installation commanders must ensure that pest management in health care facilities is conducted according to the guidance in AFPMB TIM paragraph 14105.20, Pest Management in Health Care Facilities (see TIM, definition paragraph 14105.23).

8. Pest Management in Child Care and Food Service Facilities. Installation commanders must ensure that responsibilities for surveillance and control of insects and other arthropods in child care and food service facilities are clearly delineated in installation pest management plans and operations.

9. Pest Management in Military Quarters and Housing

a. Background. Installation commanders must ensure that residents of military quarters and housing practice good sanitation and correct minor nuisance pest problems. Quarters and housing occupants are responsible for controlling pests such as cockroaches, household infesting ants, and mice not originating in other quarters. The control of medically important pests, including venomous arthropods, which could affect human health, and structural pests which could damage property, must not be an occupant's responsibility.

b. Installation Role

(1) Installation commanders must ensure that installation pest management services are provided in military housing only when the pest threatens Government property or the occupants' health and when the occupants have been unable to control the pests through self-help efforts. Exceptions must only be made with the concurrence of the appropriate pest management consultant.

(2) Installation commanders may allow residents of military housing to contract with licensed pest management companies at their own expense.

c. Self-Help Program

(1) Installation commanders must establish installation self-help pest management for military housing when cost-effective and when IPM monitoring indicates the need for a self-help program. Self-help pest management materials issued to occupants of military housing may include cockroach and antbaits and/or traps, mouse traps, glue boards, and general-use pesticide aerosols with crack and crevice devices as recommended by the cognizant pest management consultant. Liquid pesticides should not be issued. The office designated to manage the installation's self-help program should coordinate procurementand the storage of pest management materials with the installation pest management shop, hazardous material manager, and the DLA Supply Center.

(2) Installation commanders must ensure that self-help personnel provide written instructions and appropriate precautions, beyond those on pesticide labels, to military quarters' and housing occupants to ensure proper pesticide application and safety.

(3) If pesticides are issued to occupants, records must be maintained as described in paragraph 14104.g. These records should enable installation self-help personnel to validate the occupant's attempts to control target pests before providing installation pest management services. Pest management consultants should review these records during annual reviews to evaluate the efficiency of the installation's self-help program.

10. Pest Management at Closing Installations. Because pests may cause serious damage to unused facilities, commanders must ensure that pest management consultants provide guidance needed to protect all closing or closed facilities from pests from the beginning of deactivation until property disposal.

11. Quarantinable Pests. The Joint Service, Quarantine Regulations of the Armed Forces contains policy for quarantine regulations applicable to the Armed Forces.

12. Stored Products Pests. Installation commanders must implement measures to minimize insect and vertebrate pest damage to subsistence, clothing and textiles, medical, and other infestible stored materiel according to AFPMB TIM 27 (see TIM, definition paragraph 14105.23), Stored Products Pest Monitoring Techniques. Commanders must ensure that the fumigation of subsistence stocks follows the guidance provided in AFPMB TIM 11 (see TIM, definition paragraph 14105.23), Hydrogen Phosphide Fumigation with Aluminum Phosphide. Guidance for protecting Meal, Ready-to Eat Rations is available from the pest managementconsultants. DLA Regulation 4145.31, Stored Product Pest Management Program, provides pest management guidance on infestible stored products.

13. Turf and Ornamental Pests. Installation commanders must implement measures to prevent unacceptable damage to shade trees, ornamental plantings, and turf (including golf courses) by insects, diseases, and weeds. Further, they must ensure that pesticide applications, if required, are based on the specific identification of the target pest by trained personnel. The pest management plan must identify recurring infestations. Installation commanders must ensure that the installation pest management plan describes the use of IPM for turf and ornamental

pests and for environmentally and economically beneficial land management practices, such as the use of native plants to reduce pesticide use.

14. Undesirable Plants. Installation commanders must develop programs to comply with the Federal Noxious Weeds Act. Installation commanders must:

a. Designate an office or person adequately trained in the management of undesirable plant species to develop and coordinate the installation undesirable plant management program.

b. Plan, program, and budget to achieve, maintain, and monitor compliance with the Federal Noxious Weeds Act.

c. Ensure that installations complete and carry out cooperative agreements with state agencies regarding the management of undesirable plant species on installations.

d. Establish integrated management systems to control or contain undesirable plant species targeted under cooperative agreements. The Federal Noxious Weeds Act does not require the Components to carry out programs on installations unless similar programs are being implemented on state or private lands in the vicinity of the installation.

15. Vertebrate Pests. Installation commanders must manage vertebrate pests in accordance with the MOA between the DoD and USDA/APHIS/ADC and:

a. Implement vertebrate pest management programs including wildlife aircraft strike hazard reduction programs to prevent interference with operations, destruction of real property, and adverse impacts on health and morale;

b. Cooperate with Federal, state, and local agencies that have implemented animal damage control programs on adjacent public and private lands;

c. Identify the potential for secondary and non-target effects to other organisms and design programs to preclude or minimize the risks;

d. Obtain all applicable Federal, state, and local permits; and

e. Use guidance in AFPMB TIM 37 (see TIM, definition

paragraph 14105.23), Feral Cats, for conducting feral cat control programs.

16. Weed Control. Installation commanders must ensure that weed control is performed according to 16 U.S.C. 1001 (reference (n)) and Joint Service Technical Manual, Weed Control and Plant Growth Regulation, on Marine Corps installations. Herbicides will not be used in war except as provided for in EO 11850, Renunciation of Certain Uses in War of Chemical Herbicides, April 8, 1975.

17. Wood-Destroying Organisms. Installation commanders must ensure that:

a. Pest management consultants review construction, repair, and termite control contract specifications for the proper protection of wood where wood-destroying fungi and insects are present, and specify that termiticides, when needed, are applied at the highest EPA-labeled concentration and application rate.

b. DoD-certified pesticide applicators or QAE's trained in pest management inspect contract applications of pesticides for the control of termites and other wood-destroying organisms.

c. Trained personnel inspect wooden buildings and structures in the range of termites: annually in USDA geographic Region 1 or if Formosan or drywood termites are present; biennially in USDA Region 2; or triennially in Region 3, as determined by the cognizant pest management professional. Installation commanders must follow the guidance in AFPMB TIM 35 (see TIM, definition paragraph 14105.23), Termite Inspection, for these inspections.

18. Wood Preservation. Naval Facilities (NAVFAC) MO 312, Wood Protection provides information on wood preservation. Commanders must ensure that DoD pest management professionals review construction specifications and procurement contracts to minimize losses to real property and materiel by specifying:

a. Proper use of wood products treated with preservatives (pesticides) where required to protect against losses caused by wood-destroying fungi and insects.

b. Inspection of treated wood products, performed by trained installation personnel. This inspection must require at a minimum:

(1) The examination of treated wood products to determine the presence of the American Lumber Standard Committee accredited inspection agency quality marking. Quality markings indicate conformance with the appropriate American Wood Preservers' Association and American National Standard Institute standards. Quality markings indicate that the product has been tested by the agency indicated, the date it was tested, the type use (above ground, ground contact, or marine contact suited), and the minimum amount of chemical preservative present. Unmarked material shall be tested by an independent third party. Certificates of conformance from the treating company must notbe accepted in place of physical inspection and testing.

(2) Random or planned sampling and testing.

c. Programs to protect waterfront structures from decay and marine borers are implemented, as necessary.

14209. PEST MANAGEMENT AND DISEASE VECTOR CONTROL DURING MILITARY CONTINGENCY OPERATIONS, READINESS TRAINING EXERCISES, AND DEPLOYMENTS

1. Complying with the DoD Pest Management Program. Military, civilian personnel, and contractors responsible for pest management and disease vector control during military contingency operations, readiness training exercises, and deployments must apply pesticides consistent with the policies and procedures described in appendix I.

2. Application. The application of pesticides for pest management and disease vector control during military, contingency operations, readiness training exercises, and deployments must be under the overall direction of personnelcertified in accordance with the DoD Plan for the Certification of Applicators of Restricted Use Pesticides. Individuals who apply pesticides in these situations must be certified in accordance with the DoD Plan or must be under the direct or on-site supervision of individuals certified in accordance with the DoD Plan. Shipboard independent duty technicians and other military personnel who have received special training for limited site application of pre-selected pesticides during military operations or deployments are exempt from the certification requirement. However, these individuals must be fully trained, including hands-on training for these specific applications. Commanders must develop specific site training programs for these individuals and a means to document who has received this

training. At a minimum, the training must include the safe use and proper application of the limited, pre-selected pesticides for the specific site for which these individuals are trained.

3. Contractors. Contractors who apply pesticides in these situations must comply with the FGS/JEGS and OEBGD of the host country.

4. Recordkeeping. Installation commanders must ensure that pesticide use in these situations is recorded completely and accurately.

14210. REPORTS AND RECORDS

1. Recordkeeping. Marine Corps must maintain complete daily records of pesticide applications and non-chemical pest management operations using DD Form 1532-1 or a computer- generated equivalent. These records must account for all shop operations and must provide an historic record of pest management operations and pesticide applications for each building, structure, or outdoor site.

a. Records must include information on kinds, amounts, uses, dates, places of application, applicators names, and certification numbers.

b. The record must include all pesticide applications performed on the installation, including work done on golf courses, by nonappropriated fund activities, by contract services, and as part of outleases and land management and forestry programs, as well as work performed by installation pest management shops.

2. Pest Management Report. DD Form 1532, Pest Management Report (RCS DD-6250-02), or a computer-generated equivalent, must be produced monthly using DD Form 1532-1 information and must be forwarded at least quarterly to major command headquarters for review and oversight.

3. Consultants. Pest management consultants must use this data to evaluate the efficiency of the overall installation pest management program and pest management operations.

4. Exclusions. Pesticides applied by installation personnel for their own relief are excluded from the recordkeeping requirement.

5. NAVFAC Engineering Field Division/Activity (EFD/EFA). Many of the functions and records supporting Marine Corps installation pesticide programs are performed, prepared, and maintained by the supporting NAVFAC EFD/EFA.

CHAPTER 14

PESTICIDE POLLUTION PREVENTION

SECTION 3: RESPONSIBILITIES

14300. CMC (LF)

1. Establish and maintain programs that conform to the policy, procedures, and requirements specified in appendix I.

2. Emphasize IPM techniques in pest management programs as a means to reduce pesticide risk and prevent pollution.

3. Exercise oversight and review of installation pest management programs from the Marine Corps major command and headquarters level.

4. Maintain accurate and complete reporting and recordkeeping of pest management operations and pesticide use.

5. Ensure that actions taken under the policies outlined in this chapter are consistent with the DoD environmental security specifications.

6. Ensure the implementation of IPM in the Marine Corps pest management programs, operations, regulations, publications, pest management training, and pesticide applicator certification programs.

7. Coordinate pest management actions, as appropriate, with the Assistant Secretary of Defense for Health Affairs, with state and local governments, and with host-nation agencies involved with pest management when human health is an issue.

8. Ensure that the Marine Corps pest management consultants review installation pest management programs on-site at least every 36 months as part of the ECE program.

9. Designate Marine Corps senior pest management consultants as the primary points of contact for the Marine Corps pest management program and for membership on the AFPMB in support of the Defense Environmental Security Council, and inform the Executive Director, AFPMB, of these designated consultants.

10. Designate pest management consultants, as certifying officials under the DoD Plan for the Certification of Pesticide applicators of Restricted Use Pesticides, to certify the competency of the Marine Corps pesticide applicators;
establish procedures for designating and certifying specific DoD pest management consultants in aerial application pest control to approve pest management projects requiring the aerial application of pesticides; and inform the Executive Director, FPMB, of these designated consultants.

11. Implement pest management MOM and answer data calls for the MOM's from the Deputy Under Secretary of Defense, Environmental Security (DUSD(ES)).

12. Cooperate with state and local government agencies involved with pest management.

13. Participate in the development of the Defense Environmental Security Corporate Information Management (DESCIM) process for pest management and use the pest management information system when fielded.

14. Monitor and track the use of IPM and reduction of pesticide use in installation pest management programs.

15. Ensure that each installation has a pest management plan and that the Marine Corps pest management consultants maintain the program through technical assistance, program review, and program oversight.

16. Ensure that installations receive state-of-the-art technical assistance in IPM. Ensure that pest management consultants who are designated pest management professionals are available on request to provide technical assistance for thepesticide portion of ECE's and to provide follow-up assistanceto ECE's.

17. Comply with OPNAVINST 6250.4.

18. Provide support to Marine Corps installations and Marine Corps commands/units and tenants by interpreting Federal, state, local, and overseas pest management regulatory requirements and by uniformly applying Marine Corps policy as set forth in this Manual.

19. Conduct special environmental compliance and protection studies with regard to pest management to assist in establishing policy or initiating actions.

14301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES) AND ALL INSTALLATIONS, UNITS, AND MARINE FORCES RESERVE (MARFORRES), INCLUDING SHIPS, STATIONS, AND DEPLOYED PERSONNEL WHERE PEST MANAGEMENT OPERATIONS ARE PERFORMED

1. Establish and maintain programs that conform to the policy, procedures, and
requirements specified in appendix I.

2. Emphasize IPM techniques in their pest management programs as a means to reduce pesticide risk and prevent pollution.

3. Exercise oversight and review of installation pest management programs from the Marine Corps major command and headquarters level.

4. Maintain accurate and complete reporting and recordkeeping of pest management operations and pesticide use.

5. Implement programs to achieve, maintain, and monitor compliance with applicable Federal, state, and local statutory and regulatory requirements for pest management.

6. Ensure that commanders of deployed forces enforce the use of all appropriate personal protection measures, including arthropod skin and clothing repellents and bed nets, to protect their troops from vector-borne diseases and rodent and arthropod health threats.

7. Ensure that any pesticide applications, excluding arthropod skin and clothing repellents, performed during military operations are recorded using DD Form 1532-1, Pest Management Maintenance Report, or a computer-generated equivalent, and establish a method to archive these records for permanent retention.

8. Ensure the implementation of IPM in the Marine Corps pest management programs, operations, regulations, publications, pest management training, and pesticide applicator certification programs.

9. Coordinate pest management actions, as appropriate, with the Assistant Secretary of Defense for Health Affairs, with state and local governments, and with host-nation agencies involved with pest management when human health is an issue.

10. Ensure that the Marine Corps pest management consultants review installation pest management programs on-site at least every 36 months as part of ECE's, and annually review installation pest management plans for adherence to the DoD specifications described in appendix I.

11. Establish procedures to ensure that recommendations from on-site pest management program reviews and annual reviews of pest management plans will result in appropriate corrective action.

12. Monitor pesticides available for purchase in Marine Corps commissaries and exchanges to ensure the pesticides available for sale are least-hazardous pesticides that are compatible with DoD IPM programs and are pesticides that comply with applicable Federal, state, and local laws. Marine Corps commissaries and exchanges OCONUS must comply with the FGS/JEGS and OEBGD of the host country.

13. Cooperate with state and local government agencies involved with pest management.

14. Participate in the development of the DESCIM process for pest management and use the pest management information system when fielded.

15. Provide management support, resources, and a professionally qualified pest management staff sufficient to ensure the effective implementation of pest management programs at all organizational levels.

16. Establish surveillance programs to assess potential adverse environmental or public health effects from pesticide use and to monitor the health and safety of persons who apply pesticides.

17. Monitor the use of IPM and the reduction of pesticide use in installation pest management programs.

18. Ensure that each installation has a pest management plan and that the Marine Corps pest management consultants maintain the program through technical assistance, program review, and program oversight. Installation commanders
must:

a. Plan and budget for the development and maintenance of the pest management plan;

b. Ensure that qualified personnel develop and update the pest management plan annually;

c. Designate a DoD-certified or state-certified pesticide applicator as the pest management coordinator to implement the plan;

d. Ensure that the pest management coordinator formally coordinates appropriate portions of the pest management plan with the senior medical officer, environmental coordinator, and senior engineering officer and ensure that these individuals sign the cover sheet of the pest management plan;

e. Ensure that appropriate portions of the pest management plan are reviewed by the natural resources program manager for consistency with the natural resources management plan;

f. Ensure that the pest management coordinator forwards the pest management plan to the cognizant pest management consultant for review, technical approval, and signature on the cover sheet;

g. Approve and sign the pest management plan for implementation;

h. Ensure implementation of the pest management plan and oversight of the installation pest management program by the pest management coordinator; and

i. Ensure that all pest management operations performed on the installation, except those for personal relief, are recorded, and ensure that all records are properly maintained and are reported to the cognizant component pest management consultant.

19. Comply with OPNAVINST 6250.4.

20. Coordinate these functions with the supporting Naval Facility Engineering Command (NAVFACENGCOM), EFD, or EFA, as appropriate.

21. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for pesticide pollution prevention management that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with pesticide pollution prevention management requirements. Pay appropriate Federal, state, and local fees. Ensure that the environmental

management hierarchy (EMH) is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

14302. ALL INSTALLATIONS, UNITS, AND MARINE FORCES RESERVE (MARFORRES), INCLUDING SHIPS, STATIONS, AND DEPLOYED PERSONNEL WHERE PEST MANAGEMENT OPERATIONS ARE PERFORMED

1. Establish and maintain programs that conform to the policy, procedures, and requirements specified in appendix I.

2. Emphasize IPM techniques in their pest management programs as a means to reduce pesticide risk and prevent pollution.

3. Exercise oversight and review of installation pest management programs from the Marine Corps major command and headquarters level.

4. Maintain accurate and complete reporting and recordkeeping of pest management operations and pesticide use.

5. Implement programs to achieve, maintain, and monitor compliance with applicable Federal, state, and local statutory and regulatory requirements for pest management.

6. Ensure that commanders of deployed forces enforce the use of all appropriate personal protection measures, including arthropod skin and clothing repellents and bed nets, to protect their troops from vector-borne diseases and rodent and arthropod health threats.

7. Ensure that any pesticide applications, excluding arthropod skin and clothing repellents, performed during military operations are recorded using DD Form 1532-1, Pest Management Maintenance Report, or a computer-generated equivalent, and establish a method to archive these records for permanent retention.

8. Ensure the implementation of IPM in the Marine Corps pest management programs, operations, regulations, publications, pest management training, and pesticide applicator certification programs.

9. Coordinate pest management actions, as appropriate, with the Assistant Secretary of Defense for Health Affairs, with state and

local governments, and with host-nation agencies involved with pest management when human health is an issue.

10. Ensure that the Marine Corps pest management consultants review installation pest management programs on site at least every 36 months as part of ECE's. Installation pest management plans must be reviewed annually for adherence to the specifications in appendix I.

11. Establish procedures to ensure that recommendations from on-site pest management program reviews and annual reviews of pest management plans will result in appropriate corrective action.

12. Monitor pesticides available for purchase in Marine Corps commissaries and exchanges to ensure that the pesticides available for sale are least-hazardous pesticides that are compatible with DoD IPM programs and are pesticides that comply with applicable Federal, state, and local laws. Marine Corps commissaries and exchanges OCONUS must comply with the FGS/JEGS and OEBGD of the host country.

13. Cooperate with state and local government agencies involved with pest management.

14. Participate in the development of the DESCIM process for pest management and use the pest management information system when fielded.

15. Provide management support, resources, and a professionally qualified pest management staff sufficient to ensure the effective implementation of pest management programs at all organizational levels.

16. Establish surveillance programs to assess potential adverse environmental or public health effects from pesticide use and to monitor the health and safety of persons who apply pesticides.

17. Monitor the use of IPM and reduction of pesticide use in installation pest management programs.

18. Ensure that each installation has a pest management plan and that the Marine Corps pest management consultants maintain the program through technical assistance, program review, and program oversight. Installation commanders must:

a. Plan and budget for the development and maintenance of the pest management plan;

b. Ensure that qualified personnel develop and update the pest management plan annually;

c. Designate a DoD-certified or state-certified pesticide applicator as the pest management coordinator to implement the plan;

d. Ensure that the pest management coordinator formally coordinates appropriate portions of the pest management plan with the senior medical officer, environmental coordinator, and senior engineering officer and ensure that these individuals sign the cover sheet of the pest management plan;

e. Ensure that appropriate portions of the pest management plan are reviewed by the natural resources program manager for consistency with the natural resources management plan;

f. Ensure that the pest management coordinator forwards the pest management plan to the cognizant Component pest management consultant for review, technical approval, and signature on the cover sheet;

g. Approve and sign the pest management plan for implementation;

h. Ensure the implementation of the pest management plan and oversight of the installation pest management program by the pest management coordinator; and

i. Ensure that all pest management operations performed on the installation, except those for personal relief, are recorded, and ensure that all records are properly maintained and are reported to the cognizant component pest management consultant.

19. Comply with OPNAVINST 6250.4.

20. Many of these functions are performed by the supporting NAVFACENGCOM, EFD, or EFA.

CHAPTER 15

POLLUTION PREVENTION

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CHAPTER 15

POLLUTION PREVENTION

SECTION 1: INTRODUCTION

15100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with pollution prevention and Toxic Release Inventory (TRI) reporting requirements under the EPCRA and the Pollution Prevention Act (PPA), as set forth by Executive Order (EO) 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements, August 3, 1993, and in keeping with DoD policy and guidance.

15101. APPLICABILITY. See paragraph 1101.

15102. BACKGROUND

1. Laws. In addition to the PPA and EPCRA, the following statutes contain pollution prevention requirements: the Federal Facilities Compliance Act; the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); the Resource Conservation and Recovery Act (RCRA); the Clean Air Act (CAA); the Energy Policy Act (EPACT); and the Clean Water Act (CWA).

2. EO's. The following EO's require pollution prevention activities: EO 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements, August 3, 1993; EO 12873, Federal Acquisition, Recycling, and Waste Prevention, October 20, 1993; EO 12843, Procurement Requirements and Policies for Federal Agencies for Ozone Depleting Substances, April 22, 1993; EO 12844, Federal Use of Alternative Fueled Vehicles (AFV), April 22, 1993; EO 12898, Federal Actions to Address Environmental Justice in Minority and Low Income Populations, March 14, 1994; and EO 12902, Energy Efficiency and Water Conservation at Federal Facilities, March 8, 1994.

3. Relationship of Pollution Prevention to Other Environmental Program Areas. Pollution prevention is a cross-cutting program with relevance to most other environmental program areas.

a. For AFV and energy conservation requirements, see chapter 6 of this Manual.

b. For pollution prevention requirements pertaining to emergency planning and response, see chapter 7 of this Manual.

c. For Marine Corps policy on meeting RCRA hazardous waste (HW) minimization requirements, see chapter 9 of this Manual.

d. For a discussion on National Environmental Policy Act documentation relating to pollution prevention planning, see chapter 12 of this Manual.

e. For Marine Corps policy on pesticide pollution prevention, see chapter 14 of this Manual.

f. For Marine Corps water conservation policies, see chapter 16 of this Manual.

g. For Marine Corps policy on solid waste (SW) reduction and recycling, see chapter 17 of this Manual.

h. For nonpoint source pollution prevention requirements, see chapter 20 of this Manual.

i. For Marine Corps policy on ozone depleting substances (ODS), see MCO 5090.1 and specifications in a MCBul in the 5090 series.

15103. FEDERAL STATUTES

1. PPA of 1990 (42 U.S.C. 13101 et seq.). This Act establishes the national policy that "pollution should be prevented or reduced at the source whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner."

2. CERCLA of 1980, as Amended (42 U.S.C. 9601 et seq.). This Act is intended to provide funding and enforcement authority for cleaning up waste disposal sites and for responding to hazardous substance (HS) spills. CERCLA establishes a comprehensive

response program for past HW activities and the planning and response framework for HS releases.

3. EPCRA of 1986 (42 U.S.C. 11001 et seq.). This Act, which is title III of the Superfund Amendments and Reauthorization Act, encourages and supports emergency planning and requires that the public receive timely and comprehensive information about possible or potential hazards associated with toxic chemical (TC) releases. Most notably, specific sections of EPCRA require immediate notification of releases of extremely hazardous substances (EHS) and HS's defined under CERCLA to state and local emergency response planners. EPCRA requires state and local coordination in planning response actions to chemical emergencies. The Act also requires the submission of information on chemical inventories and releases.

4. EPACT of 1992 (Public Law 102-486). EPACT seeks to enhance the Nation's long-term energy security by reducing dependency on imported oil and improving energy efficiency and to reduce air emissions from fossil fuels. EPACT establishes a Federal leadership strategy which encourages automobile manufacturers and fuel suppliers to expand the commercial availability of alternative fuels and AFV's. Under EPACT, Federal agencies must acquire increasing numbers of AFV's, reduce energy consumption, and increase energy efficiency.

5. CAA of 1970, as Amended (42 U.S.C. 7401 et seq.). The 1990 Amendments to the CAA mandate pollution prevention measures, such as the use of clean fuels and AFV's.

6. RCRA of 1976 (42 U.S.C. 6901 et seq.). The 1984 Hazardous and Solid Waste Amendments to RCRA encourage pollution prevention by requiring HW generators to certify that they have developed programs capable of reducing the volume, quantity, and toxicity of their waste as part of their biennial report. RCRA also requires Federal agencies to establish affirmative procurement programs.

7. CWA of 1977, as Amended (Public Law 95-217, 33 U.S.C. 1251 et seq.). The 1987 Amendments to the CWA establish the regulation of stormwater discharges from industrial facilities and require states to establish nonpoint source pollution management programs that identify best management practices for reducing nonpoint source pollution.

15104. REQUIREMENTS

1. EO 12856, August 3, 1993

a. EO 12856 requires the DoD to conduct its facility management and acquisition activities so that, as much as possible, the quantity of TC's entering any waste stream, including releases into the environment, is reduced expeditiously through source reduction; that waste generated is recycled as much as possible; and that any remaining wastes are stored, treated, or disposed of in a manner protective of public health and the environment.

b. EO 12856 requires the Marine Corps to establish a goal to reduce by 50 percent its total releases and off-site transfers for treatment and disposal of TC's by December 31, 1999, from a 1994 baseline. The 1994 baseline and reduction goal measurement includes only those chemicals that were on thelist of TC's as it existed on January 1, 1994. Each installation must strive to achieve this 50 percent reduction. As much as possible, such reductions must be achieved through source reduction practices.

c. Each Marine Corps facility not scheduled for operational closure by December 31, 1997, was required to develop a written Pollution Prevention Plan by the end of 1995, setting forth the facility's contribution to the 50 percent goal. In addition, the Marine Corps is required to review its standardized documents, including specifications and standards, and to identify opportunities to eliminate or reduce its use of EHS's and TC's, consistent with the safety and reliability requirements of its mission.

d. Annual TC releases and off-site transfers for treatment and disposal must be determined from data submitted in accordance with section 313 of EPCRA (TRI Form R reporting), pursuant to EO 12856. As of calendar year 1994, all Federal agencies must comply with the provisions in sections 301-304, 311-312, and 313 of EPCRA; all implementing regulations; and future amendments. The effective date for compliance with EPCRA, section 313, was July 1, 1995. Under section 313, a facility that has 10 or more full-time employees and manufactures or processes any listed TC in excess of 25,000 pounds (lb), or otherwise uses any listed TC in a quantity over 10,000 lb in a CY, must submit individual release data, Form R, for each applicable TC. The annual submission date is July 1, unless otherwise changed by the Environmental Protection Agency (EPA).

2. PPA

a. The PPA establishes the following environmental management hierarchy (EMH);

(1) Source reduction,

(2) Recycling,

(3) Treatment, and

(4) Disposal.

b. Source reduction activities are the most desirable option as they often reduce the amount of nonproduct output generated by a manufacturing process and result in lower life-cycle costs. In addition, source reduction reduces the volume and toxicity of pollution versus simply transferring it from one medium to another. Source reduction generally includes "in-process recycling" or "reuse," but not "out-of-process recycling."

3. Defense Acquisition and Mandatory Procedures for Major Acquisition Programs and Major Automated Information Systems Acquisition Programs. See appendix O and DoD Regulation 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System Acquisition (MAIS) Programs, for information on policy, responsibilities, and procedures for integrating pollution prevention requirements into all aspects of DoD acquisition programs, including weapons systems acquisition programs. DoD Service Acquisition Executives, Program Executive Officers, and Program Managers must consider using pollution prevention as an integral element of systems, system components, and associated support items in all program phases (entire system life-cycle), including the revision of standardized documents, military specifications and standards, technical manuals/orders/bulletins, and other related documents.

4. DoD Pollution Prevention Requirements

a. Comply with applicable Federal, state, and local environmental laws, regulations, and standards as well as with relevant EO’s. Installations located outside the United States should comply with applicable EO’s, international agreements, Federal statutes with extraterritorial effect, and with either the Final Governing Standards (FGS)/Japan Environmental Governing

Standards (JEGS) or the Overseas Environmental Baseline Guidance Document when no FGS/JEGS has been issued.

b. Reduce the use of hazardous materials (HM), the generation or release of pollutants, and the adverse effects on human health and the environment caused by DoD activities.

c. Reduce pollution through improvements in energy and water efficiency, the use of alternative fuels, and other activities that improve resource utilization.

5. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

15105. TERMS AND DEFINITIONS

1. AFV. Passenger cars or trucks (light-duty vehicles) and heavy-duty trucks or buses that have been designed or modified to operate on alternative fuels as defined in 42 U.S.C. 6374(g)(2).

2. Article. A manufactured item that is formed to a specific shape or design during manufacture and has functions dependent in whole or in part upon its shape or design during end-use and which does not release, or otherwise result in exposure to, a TC under normal conditions of use.

3. Authorized Use List (AUL). The list of all HM necessary to support the requirements of a command, facility, or activity, developed per DoD specifications defined in DoD Regulation 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System (MAIS) Acquisition Programs.

4. Environmentally Preferable. Products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution,reuse, operation, maintenance, or disposal of the product or service (from EO 12873, October 20, 1993, section 201).

5. EMH. National policy established by the PPA that "pollution should be prevented or reduced at the source whenever feasible;

pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal orother release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner."

6. Environmental Quality Classes. These environmental compliance classes are designated by DoD as described in chapter 3 of this Manual.

7. Facility. All buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person, otherwise known as the "host" or the "fenceline owner." For the purposes of section 304 of EPCRA, the term includes motor vehicles, rolling stock, and aircraft.

8. Hazardous chemical (HC). A chemical that is a physical or health hazard as defined in 29 CFR 1910.1200, Occupational Safety and Health (OSH) Act Hazard Communication Standard.

9. HM

a. In general, any material, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial hazard to human health or the environment. Included in this definition are all EHS’s, HC’s, HS’s, and TC’s.

b. For the following list of hazardous materials, consult other hazard-specific guidance (instructions or directives) that takes precedence over this Manual: ammunition, weapons, explosives and explosive-actuated devices, propellants, pyrotechnics, chemical and biological warfare materials, medical and pharmaceutical materials, medical waste and infectious materials, bulk fuels, radioactive materials, and other materials such as asbestos and mercury.

10. Hazardous Materials Consolidation Program (HCP). The Marine Corps-wide program to achieve life-cycle control and management of HM through the application of sound management practices that minimize the types and quantities of HM procured, stored, distributed, and used to accomplish mission requirements at commands and installations.

11. HS. Any material that is regulated as HM per 49 CFR 173.2, Shippers General Requirements for Shipments and Packaging, requires a material safety data sheet (MSDS) per 29 CFR 1910.1200, OSH Act Hazard Communication Standard, or which during end use, treatment, handling, packaging, storage, transportation, or disposal meets or has components that meet or have the potential to meet the definition of HW as defined by 40 CFR 261, Identification and Listing of Hazardous Waste, subparts A, B, C, or D.

12. HW. A SW or combination of SW's which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

a. Cause, or significantly contribute to, an increase in mortality or an increase in serious, irreversible or incapacitating, reversible illness.

b. Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Note that state regulations may be more stringent and take precedence over Federal regulations.

13. ODS's. Are substances controlled internationally under the Montreal Protocol and nationally under title VI of the CAA Amendments. ODS's include both class I and class II substances as follows:

a. "Class I substance." Any substance designated as class I in 57 Federal Register 33753, including chlorofluorocarbons, halogens, carbon tetrachloride, methyl chloroform, and any other substance so designated by the EPA by regulation at a later date.

b. "Class II substance." Any substance designated as class II in 57 Federal Register 33753, including hydrochlorofluorocarbons and any other substance so designated by the EPA by regulation at a later date.

14. Pollution/Pollutants. Refers to all nonproduct outputs, regardless of any recycling or treatment that will or may reasonably be anticipated to, cause deleterious effects to the public health or the environment. All nonproduct outputs, regardless of any recycling, treatment, or management, that may prevent or mitigate releases into the environment.

15. Pollution Prevention. Refers to "source reduction," and recycling as defined in the PPA and other practices that reduce or eliminate the creation of pollutants through:

a. Increased efficiency in the use of raw materials, energy, water, or other resources.

b. Protection of natural resources by conservation (see the definition of "Source Reduction" below).

c. Examples of pollution prevention techniques include:

(1) Input substitution.

(2) Product reformulation.

(3) Process redesign/modification.

(4) Improved operation and maintenance.

(5) Reuse (in-process recycling).

16. PACE. Marine Corps process intended to promote the implementation of pollution prevention techniques to solve compliance issues while reducing the life-cycle cost of environmental compliance efforts.

17. Qualified Recycling Program (QRP). An organized operation that diverts or recovers scrap or waste streams, and that identifies, segregates, and maintains the integrity of the recyclable materials in order to maintain or enhance the market ability of the materials. See also chapters 3 and 17 of this Manual.

18. QRP Materials

a. Excluded Materials. Excluded materials may not be sold through a QRP, and the proceeds from their sale will not be returned to a QRP. Excluded items are listed in chapter 17 of this Manual.

b. Other QRP Materials. Other QRP materials are materials that fit neither the definition of recyclable materials nor the definition of excluded materials.

c. Recovered Materials. Waste materials and by-products that have been recovered or diverted from solid waste but such

term does not include those materials and by-products generated from and commonly reused within an original manufacturing process (42 U.S.C. 6903).

d. Recyclable Materials. Recyclable materials can include, but are not limited to high quality paper and paper products; mixed paper, newspaper, cardboard; plastic; metal cans; glass; used oil (except when the oil is a HW); batteries; and tires. Other items that may be included in a QRP are scrap (including ferrous and nonferrous scrap) and firing range expended brass and mixed metals gleaned from firing range cleanup that do not require demilitarization. Previously used materials that are used in place of a raw or source material in the manufacturing process are not considered waste.

19. Recycling. The series of activities, including collection, separation, and processing, by which products or other materials are recovered from the SW stream for use in the form of raw materials in the manufacturing of new products other than fuel for producing heat or power by combustion (from EO 12873,October 20, 1993, section 207). Recycling also includes using, reusing, or reclaiming materials, as well as processes that regenerate a material or recover a usable product from it.

20. Source Reduction. Source reduction, as defined in the PPA, is any practice that:

a. Reduces the amount of any HS, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, and disposal; and

b. Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

c. The term includes equipment or technology modification, process or procedure modification, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control. Source reduction does not entail any form of waste management (e.g., recycling, treatment, and disposal).

21. Source Separation. The separation of recyclable materials at their point of generation by the generator.

22. TC. A chemical as defined in 42 U.S.C. 11023 (c). Any substance listed in 40 CFR 372, Toxic Chemical Release Reporting Regulations.

23. Waste Minimization.

a. Source reduction and the following types of recycling:

(1) Beneficial use/reuse, and

(2) Reclamation.

b. Waste minimization does not include recycling activities whose uses constitute disposal or burning for energy recovery.

SECTION 2: MARINE CORPS POLICY

15200. GENERAL. The Marine Corps will employ pollution prevention to eliminate or minimize environmental and other life-cycle costs and to reduce or eliminate the generation of pollution. Where cost-effective, Marine Corps installations must implement source separation for recycling and develop a single authorized QRP. See chapters 3 and 17 of this Manual for more information on QRP's.

15201. GOALS. In accordance with DoD policy, the Marine Corps PACE process, and the DoD Pollution Prevention Strategy, Marine Corps pollution prevention goals are:

1. By the end of Calendar Year 1999 (CY99), to reduce total releases and off-site transfers of TC's 50 percent from the 1994 TRI inventory baseline. The amount of toxic releases and off-site transfers will be measured and reported in pounds.

2. By the end of CY99, to reduce the disposal of HW 50 percent from the 1992 baseline. The amount of HW disposal will be measured and reported in pounds.

3. By the end of CY99, to reduce the disposal of nonhazardous SW 50 percent from the 1992 baseline. The amount of SW disposal will be measured and reported in pounds.

4. By the end of CY99, to ensure that 50 percent of nonhazardous SW generated will be recycled. The amount of nonhazardous SW recovered and sold DoD-wide for reuse will be measured and reported in lbs.

5. By the end of CY99, to ensure that 75 percent of DoD acquisitions of new, nontactical vehicles are AFV's.

6. By FY00, to increase investments in pollution prevention funding to 30 percent of combined pollution prevention and compliance funding.

7. By the end of FY00, to reduce the amount of pesticide in lb's of active ingredients applied annually on DoD installations by 50 percent from the 1993 baseline.

8. By FY00, to achieve a reduction in facilities energy consumption, as measured in millions of British Thermal Units (Btu)/1000 ft2, by 20 percent from the 1985 baseline.

9. By FY05, to identify and accomplish all energy and water conservation actions that pay back in 10 years or less.

10. By FY05, to achieve a reduction in facilities energy consumption, as measured in millions of Btu's/1000 ft2, by 30 percent from the 1985 baseline.

11. By FY05, to achieve an increase in industrial facilities energy use efficiency by 20 percent from the 1990 baseline.

15202. PRACTICES. To achieve pollution prevention goals and accomplish the provisions outlined in DoD policy, Marine Corps installations will:

1. Reduce the amount of HM used and HW generated by up-front HM control in procurement, supply, and use by employing the Marine Corps HCP. The HCP strives to reduce the amount of HM used and HW generated through HM life-cycle control and the management of HM. The goals of the HCP are to reduce unnecessary risks and costs associated with the disposal of excess or expired shelf-life HM, protect the environment, ensure safety, and enhance readiness. The HCP employs sound HM management practices, including establishing and enforcing HM AUL's.

2. Establish methods for substituting non or less HM whenever possible.

3. Develop and incorporate new technology or materials which have a reduced impact upon the environment, are safer and healthier, or result in reduced emissions.

4. Promote the use of environmentally preferable products and services.

5. Emphasize pollution prevention, including improvements in energy and resource use, as the alternative of "first choice" in achieving compliance with applicable environmental requirements and EO's.

6. Incorporate pollution prevention at installations and into all phases of acquisition, operations, maintenance, support, and the ultimate disposal of weapon systems over the system life cycle.

7. Instill knowledge and understanding in all personnel (military and civilian) of pollution prevention requirements through comprehensive education, training, career development, and awareness programs.

8. Promote pollution prevention through positive relations and partnerships with Federal, state, Native American tribal, and local government officials, as well as host country and other private and public stakeholders.

9. Develop, demonstrate, and implement innovative pollution prevention technologies and business practices.

10. Use the EMH to develop solutions to environmental compliance issues.

11. Reduce weapons systems life-cycle cost by avoiding the use of HM.

12. Plan, program, and budget to achieve these policies, using the environmental quality classes (defined in chapter 3 of this Manual) to prioritize environmental projects for funding.

13. Ensure, where cost effective, that all installations and activities have,or participate in, QRP's, and that these recycling programs are available to serve all host and tenant organizations occupying space on the installation, including leased space. See chapters 3 and 17 of this Manual for more information on QRP's.

15203. TRAINING. Marine Corps installations must provide specific and general awareness pollution prevention training, as appropriate to successfully integrate pollution prevention into all functional areas. At a minimum, general awareness training should encourage all members of the Marine Corps to participate in pollution prevention activities and programs. Examples of specific pollution prevention training include training in EPCRA, TRI reporting, and pollution prevention planning and implementation, to include, for example, housekeeping practices, process modifications, or how to conduct a pollution prevention opportunity assessment.

15204. PLANNING

1. Every Marine Corps installation not scheduled for operational closure by 31 December 1997 was required to have developed a pollution prevention plan by the end of 1995. That plan must address the necessary facility actions for reducing pollution from all sources and to all media. Facility pollution prevention plans must be developed in accordance with the Marine Corps Pollution Prevention Planning Guide, and with the Model Pollution Prevention Plan Technical Paper. The pollution prevention plans should include pollution information for the baseline years, pollution prevention opportunity assessments, investment strategies, and pollution prevention techniques such as HM consolidation, recycling, improved control technologies, and material sharing programs. Plans should be based on a comprehensive understanding of total chemical use at the facility.

2. Investment/implementation options selected in the pollution prevention plans should reflect the following priorities:

a. Life-cycle cost-effectiveness;

b. Compliance (e.g., those pollution prevention projects that help achieve/maintain compliance will receive high priority);

c. Ranking in the environmental management hierarchy (e.g., source reduction is preferable to recycling);

d. Achieving Marine Corps pollution prevention goals (see paragraph 15201);

e. Ease of implementation; and

f. Proven technologies.

3. Every Marine Corps installation should have a hazardous waste minimization plan and a stormwater pollution prevention plan. These plans and any others (e.g., a SW management plan or an ODS's phase-out plan) that an installation may have or may develop must either be referenced in or incorporated into installation pollution prevention plans.

4. Pollution prevention plans are living documents and should be updated annually to reflect new technologies, investment strategies, or environmental requirements.

15205. COMPLYING WITH THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA) SECTION 313. All Marine Corps installations in the customs territory of the United States must comply with section 313 of EPCRA.

1. Defining the Facility. For the purposes of EPCRA, all installations must define the facility fenceline. Installations must update Inter-Service Support Agreements (ISSA) to reflect the data-collection requirements of Marine Corps commands/units and tenants.

a. The facility fenceline is most appropriately defined by Class I property lines with the fenceline owner responsible for all DoD tenants. The fenceline owner, otherwise known as the "host" command, must file one report for the entire facility for each section of EPCRA requiring a report.

b. Marine Corps installations are not responsible for reporting actions of non-DoD Federal agencies.

2. TRI Reporting Criteria. Unless scheduled for operational closure by December 31, 1997, all installations must determine whether the facility meets reporting requirements for TRI Reporting, EPA Form R. Each Marine Corps installation that exceeds any of the three thresholds is subject to the EPA Form R reporting requirements. Host commands must ensure that thresholds are calculated using the entire inventory of the installation. Base TRI reporting requirements on the following criteria:

a. The facility has 10 or more full-time employees; and

b. The facility manufactured (includes imported) or processed a TC in quantities in excess of 25,000 lb over the course of a CY; or

c. The facility otherwise used a TC in quantities in excess of 10,000 lb over the course of a CY.

3. Exemptions. Certain statutory exemptions are intended to exclude some uses of TC’s because the installations are not necessary for the primary mission of the facility and because of the difficulties inherent in tracking small or diffuse quantities of listed chemicals. Three primary categories exist under the exemptions, including personal use, article, and de minimis. In general, the personal use exemption does not apply to TC’s manufactured, processed, or otherwise used in support of the

primary mission. Guidance on the applicability of exemptions can be found in the Revised Implementation Guidance for EO 12856, August 3, 1993.

4. Classified Information. Prior to releasing any report, installations must review the information to prevent the release of classified information.

5. TRI Report Submittals. All Marine Corps installations must use EPA Form R software to prepare their annual TRI reports/Form R's. TRI report submittals are due to the EPA by July 1 each year for the preceding calendar year. Installations must submit a copy of each signed TRI Report (RCS DD-5090-04) report concurrently to the CMC (LF) in an EPA Automated Form R-generated diskette.

6. Other EPCRA Requirements. Marine Corps policy and planning for EPCRA sections 301-304 and 311-312 are described in chapter 7 of this Manual.

15206. POLLUTION PREVENTION APPROACH TO COMPLIANCE EFFORTS (PACE)

1. Background. Rising costs have compelled the Marine Corps to reevaluate its approach to compliance. Traditionally, environmental projects have focused on costly end-of-the-pipe solutions (i.e., treatment). Now, through the PACE initiative, the Marine Corps will reduce the life-cycle cost of environmental compliance. Once fully implemented, this initiative will enable all Marine Corps installations both to meet today's compliance requirements and to alleviate future compliance costs, by implementing pollution prevention techniques to address compliance issues.

2. Project Reviews. As part of the PACE initiative, Marine Corps installations must categorize all environmental projects to determine whether all or part of an environmental project employs pollution prevention solutions. Projects that contribute to the Marine Corps goal of increasing pollution prevention investments while meeting compliance requirements will have high funding priority.

15207. OUTREACH

1. Policy. Marine Corps installations should aggressively seek out new partners and strengthen existing relationships outside the Marine Corps, including industries, regulators, universities, communities, and non-governmental organizations. The goals of such partnerships are to share information technologies and to inform and educate those partners about Marine Corps efforts to increase pollution prevention investments and to meet all applicable compliance requirements.

2. Guidance. Guidance for seeking partnerships and relationships is included in the Marine Corps Pollution Prevention Planning Guide.

SECTION 3: RESPONSIBILITIES

15300. CMC (LF)

1. Develop and implement Marine Corps pollution prevention policy and implement applicable pollution prevention requirements.

2. Identify pollution prevention opportunities that can be implemented at some or all Marine Corps installations and facilitate the transfer of pollution prevention technology throughout the Marine Corps.

3. Develop and maintain installation pollution prevention planning guidance.

4. Promote the development of pollution prevention technologies and assist in the implementation of pollution prevention efforts at Marine Corps installations.

5. Program, budget, allocate, and prioritize funds for facility installation pollution prevention projects (as identified in installation pollution prevention plans and submitted through the Marine Corps Compliance Tracking System) based on life-cycle cost and environmental compliance criteria and in accordance with DoD guidance and fiscal policies.

6. Track the progress of the Marine Corps in achieving pollution prevention goals.

7. In conjunction with the Office of the Assistant Secretary of the Navy, Research, Development and Acquisition, develop cooperative and commercially proven solutions for environmental facilities or services (in the United States and overseas) where economically advantageous and consistent with mission requirements. Include the use of acquisition authority and cross-service agreements in accordance with the DoD policy on mutual logistic support as appropriate.

8. Promote the concept that pollution prevention-based business practices increase efficiency and mitigate compliance impacts.

9. Develop and implement a methodology whereby installations and commands employ the EMH and life-cycle cost considerations in developing environmental projects.

10. Develop guidance and tools to improve pollution prevention program management throughout the Marine Corps.

11. Coordinate with the CMC (LP), CMC (SD), MCCDC, and MARCORSYSCOM in reviewing material substitution opportunities.

12. Provide support to Marine Corps installations and Marine Corps commands/units and tenants by interpreting Federal, state, local, and overseas pollution prevention program regulatory requirements and by uniformly applying Marine Corps policy as set forth in the Manual.

13. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

14. Conduct special environmental compliance and protection studies with regard to pollution prevention management to assist in establishing policy or initiating actions.

15. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to pollution prevention.

15301. CMC (LP)

1. Issue and institutionalize concepts of the Marine Corps HCP for centralized management and control of HM at the command, installation, or activity level, with the objectives of minimizing HM inventories and maximizing the reutilization of HM. Ensure that the HCP concept is incorporated into MCO P4450.12, and that this manual on HM is widely publicized.

2. As a management tool for implementing an installation HCP, promote the use of automated HM and HW tracking and environmental reporting software, and ensure that interfaces are developed, as appropriate, between all HM management, environmental reporting, and supply and logistics systems.

3. Ensure that MCO 4140.5, which implements DoD 4140.27-M, incorporates the HCP philosophy as it relates to HM managed as shelf-life items. Encourage commands, installations, and

activities that manage or store HM to use MCO 4450.13 for HM shelf-life management, and for criteria for extending type II shelf-life items published in the DoD Quality Status List.

4. Coordinate with the CMC (LF), CMC (SD), MCCDC and MARCORSYSCOM in reviewing material substitution opportunities. Ensure that the provisions of MCO 5100.25, are appropriately referenced in both MCO P4450.12 and MCO 4140.5.

15302. CMC (SD). Coordinate with the CMC (LF), CMC (LP), and MARCORSYSCOM in reviewing material substitution opportunities, as appropriate.

15303. MCCDC QUANTICO

1. The Director, Doctrine Division (C 42), must incorporate pollution prevention practices and the HCP philosophy or concept into doctrine applicable to the supporting elements.

2. The Director, Training and Education Division (C 46), must incorporate pollution prevention practices to include source reduction initiatives and the HCP philosophy or concept into appropriate Marine Corps individual training standards.

3. The Director, Requirements Division (C 44), must incorporate pollution prevention practices into combat service support requirement formulations and ensure that the use of HM, if a valid requirement, is supported and justified in
mission need statements or operational requirement documents.

15304. COMMANDER MARINE CORPS SYSTEMS COMMAND (COMMARCORSYSCOM), COMMANDER MARINE CORPS LOGISTICS BASES (COMMARCORLOGBASES)

1. Develop policy and guidance for ensuring that pollution prevention is incorporated and that pollution prevention considerations are integrated into all acquisition phases and across the entire life cycle (from concept exploration through system demilitarization and disposal) of all weapons systems acquisition programs, in accordance with the DoD specifications described in appendix O and DoD Regulation 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System (MAIS) Acquisition Programs. Pollution prevention activities for fielded weapon systems not

included within the scope of an active acquisition program must be conducted in accordance with appropriate DoD policy.

2. Ensure that all Program Executive Officers and Program Managers incorporate pollution prevention into all phases of weapon system acquisition (life-cycle) management, and that all acquisition personnel receive appropriate pollution prevention acquisition education and training.

3. Develop and implement Marine Corps policy and guidance for integrating pollution prevention requirements into all aspects of the Marine Corps Acquisition Programs.

4. Develop and implement HM elimination/reduction/substitution processes for all systems and operations under their cognizance. These processes must include the identification, evaluation and use of environmentally preferable materials and services that meet the Government's needs.

5. Develop and implement an affirmative procurement program in accordance with RCRA and EO 12873, October 20, 1993.

6. Revise all Marine Corps-owned standardized documents that have been designated for retention to eliminate or reduce HM references and/or to replace those references with less HM to the extent technically feasible and consistent with mission requirements.

7. Establish methods to minimize or eliminate new HM entry into the supply system through a review of specifications, standards, commercial item descriptions, purchase descriptions, and supply support requests, etc. Coordinate with the preparing activity to maximize the elimination of HM requirements in the aforementioned documents.

8. If non HM substitutes do not exist, maximize the use of substitutes with the least hazardous characteristics.

9. Ensure that an MSDS is obtained and reported per MCO 5100.25, for all HM acquisitions, procurements, or re-procurements.

15305. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Develop and implement both a pollution prevention program and an installation pollution prevention plan in accordance with the

Marine Corps Pollution Prevention Planning Guide. In accordance with EO 12856,August 3, 1993, and related DoD policy and instruction, all Marine Corps installations and activities were required to have developed their initial/baseline pollution prevention plan by the end of 1995 and update the plan annually. All pollution prevention plans and revisions are required to be received by the CMC (LFL) as they are developed and revised.

2. Establish and implement procedures to control and manage HM using methods to track and minimize the types, variety, and quantities of HM procured, stored,used, and ultimately disposed, via an HCP. HCP management procedures must include centralized HM information management and material reutilization, development, and enforcement of an HM AUL to prevent unauthorized HM procurement and use and centralized HM storage and issuance to an extent which does not inhibit or conflict with installation or activity mission requirements. HCP goals include reducing unnecessary risks and costs from HM shelf-life expiration, protecting the environment from the disposal of excess or overage HM and enhancing worker safety and ultimately mission readiness.

3. Comply with EPCRA, section 313 reporting requirements as described in paragraphs 15104 and 15205 (this requirement only applies to those Marine Corps
installations in the customs territory of the United States).

a. Define the facility fenceline, including all Marine Corps commands/ units and tenants, to support EPCRA reporting requirements. Revise and update ISSA's to support these requirements.

b. Ensure that threshold determinations for all HM used at the installation are performed and that those determinations include all HM used installation-wide.

c. Ensure that all publicly available data has been reviewed to prevent sensitive or classified information from being released. Sign each EPCRA Form R as the approving official.

4. Record, retain, and provide to authorities, as appropriate, information that describes pollution prevention plans and actions as well as the benefits associated with such a plan on installation operations and mission.

5. Evaluate pollution prevention decisions by economic analysis techniques, matching the magnitude of the decision being made and considering cost and intangible factors, as applicable.

6. Employ the EMH and life-cycle cost analysis as environmental project planning tools, with a particular focus on developing pollution prevention solutions to environmental compliance issues, i.e., PACE. Life-cycle cost analysis should be commensurate with project scope, compliance significance, and potential environmental benefit; should be assessed and initiated at the earliest instance and updated when appropriate; and must be provided as an exhibit to support environmental project budget submissions.

7. Provide specific and general awareness training to support pollution prevention program objectives.

8. Ensure, where cost effective, that a QRP is implemented in accordance with all applicable laws and guidance. (See chapters 3 and 17 of this Manual.)

9. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with pollution prevention requirements, submitting project documentation and funding requests to the CMC (LFL) and the CMC (LFF).

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 16

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CHAPTER 16

DRINKING WATER SYSTEMS AND WATER CONSERVATION

SECTION 1: INTRODUCTION

16100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with statutory requirements for the protection and conservation of drinking water and irrigation water resources. This chapter also outlines procedures regarding the use of underground injection wells as an effluent disposal method.

16101. APPLICABILITY. See paragraph 1101.

16102. BACKGROUND

1. Congress first enacted the Safe Drinking Water Act (SDWA) in 1974. The SDWA amended the Public Health Service Act by creating a new title XIV, entitled "Safety of Public Water Systems." Significant revisions to the SDWA were enacted in 1986, and subsequently in 1996 (see paragraph 16102.2). The SDWA's intent is to ensure the provision of safe drinking water to all persons supplied by a public water system and to protect against the contamination of aquifers which can be used to provide drinking water.

2. SDWA Amendments of 1996. The SDWA Amendments of 1996 established the following important new requirements:

a. Section 102(b) requires the Environmental Protection Agency (EPA) to list unregulated contaminants known to occur in public water systems, that may require regulation under the SDWA, as well as subsequent determination whether or not to regulate such contaminants. For unregulated contaminants, section 125 requires that the EPA Administrator establish criteria for a monitoring program.

b. Section 102(b) requires the EPA to list unregulated contaminants based on public health concerns, including the effect of such contaminants on infants, children, pregnant women, the elderly, and individuals with serious illness or other subpopulations.

c. Section 103 requires the EPA to establish national primary drinking water regulations that include maximum contaminant levels based on:

(1) Analysis of the incremental costs and health risk reduction benefits associated with each alternative maximum contaminant level considered;

(2) Effects on subpopulations that are identified as likely to be at greater risk than the general population for adverse health effects due to exposure to contaminants in drinking water; and

(3) Analysis of the incremental costs and health risk reduction benefits associated with each alternative treatment technique considered.

d. Section 104(b) provides authority for the EPA to promulgate rules for disinfectants and disinfectant byproducts.

e. According to section 109, the EPA must promulgate standards based on further study or risk analysis for:

(1) Arsenic,

(2) Sulfate, and

(3) Radon.

f. According to section 110, the EPA must promulgate standards for the recycling of filter backwash water within the treatment process of public water systems.

g. Section 114(c)(1) requires public water supply systems to provide public notice of:

(1) Failure to comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation;

(2) Failure to perform required monitoring;

(3) The existence of any variance or exemption granted for an inability to meet a maximum contaminant level requirement;

(4) The concentration level of any contaminant for which the EPA Administrator has required public notice; and

(5) The EPA Administrator is required to prescribe the manner, form, frequency, and content of such public notice.

h. Section 114(c)(4) requires public water supply system operators to maintain applicable records and mail annual reports to consumers (consumer confidence reports) on the level of contaminants in the drinking water purveyed by the system. The EPA Administrator must issue regulations by August 6, 1998, on this reporting requirement.

i. Section 118 specifically prohibits the use of lead in any pipes, plumbing fittings or fixtures, solder, and flux that is used for the installation or repair of public water supply systems and in any plumbing in residential or nonresidential facilities providing water for human consumption.

j. According to section 123, the EPA must publish minimum standards for operator certification within 30 months of the date of enactment (by February 6,1998).

k. According to section 125, public water supply system operators must establish and maintain records relevant to compliance with the SDWA Amendments of 1996, conduct monitoring, and make such information available to the EPA Administrator.

l. Section 129 expressly waives sovereign immunity for Federal facilities. It states that each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government owning or operating any facility in a WHP area; engaged in any activity at such facility resulting, or which may result, in the contamination of water supplies in any such area; owning or operating any public water system; or engaged in any activity resulting, or which may result, in underground injection which end angers drinking water will be subject to and comply with all Federal, state, and local requirements pertaining to such systems. It also specifies thatif the EPA Administrator finds that a Federal agency has violated an applicable requirement of the SDWA, the EPA Administrator may issue a penalty order assessing a penalty against the Federal agency in an amount not to exceed $25,000 per day per violation.

m. Section 132 requires the EPA to publish guidelines for states to carry out a source water assessment program to define drinking water sources within the state, and to identify the

origins of contaminants within the area to determine the susceptibility of public water systems in the delineated area to such contaminants.

n. Section 134 requires the EPA publish, by August 6, 1998, guidelines for water conservation plans for public water systems that serve fewer than 3,300 persons, that serve between 3,300 and 10,000 persons, and that serve more than 10,000 persons.

o. Section 136 authorizes the EPA Administrator to provide for the screening of estrogenic substances in drinking water.

16103. FEDERAL STATUTES

1. SDWA of 1974, as Amended (42 U.S.C. 300(f) et seq.)

a. The SDWA is divided into six parts:

(1) Part A lists definitions.

(2) Part B establishes national drinking water regulations pertaining to public water systems. The National Primary Drinking Water Regulations (NPDWR) identifies and regulates concentrations of contaminants that may have an adverse effect on human health. The National Secondary Drinking Water Regulations (NSDWR) applies to contaminants that may adversely affect the taste, odor, or appearance of water delivered to public water system users.

(3) Part C establishes programs to regulate underground fluid injection into aquifers and to protect sole source aquifers, both of which enable states to establish WHP programs.

(4) Part D provides the EPA Administrator with emergency powers to protect the health of persons threatened by an imminent and substantial endangerment from drinking water contaminants.

(5) Part E contains general provisions regarding Federal agencies; citizen suits; financial grants for research projects; and monitoring, recordkeeping, and reporting requirements.

(6) Part F specifies additional requirements to regulate drinking water safety. These requirements pertain to lead contamination in schools, rural water surveys, bottled water standards, and laboratory certification.

b. Important statutory requirements of the SDWA are summarized as follows:

(1) Section 1411 specifies that the NPDWR applies to each public water system in each state, except to a public water system which:

(a) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(b) Obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(c) Does not sell water to any person; and

(d) Is not a carrier that conveys passengers in interstate commerce.

(2) Section 1412 identifies the requirements for national drinking water regulations. It requires the EPA Administrator to identify drinking water contaminants which can be harmful to human health (see paragraph 16102 for the SDWA Amendments of 1996). For each contaminant, the EPA must publish NPDWR, within which are contained Maximum Contaminant Level Goals (MCLG) and Maximum Contaminant Levels (MCL) or treatment techniques for each contaminant. This section also requires the EPA Administrator to publish NSDWR related to the aesthetic qualities of drinking water such as color, taste, and odor.

(3) Section 1413 delegates to states with approved programs the primary responsibility to enforce compliance by ensuring that public water systems are operated in accordance with national drinking water regulations, and sampling,monitoring, notification, and recordkeeping requirements. The SDWA Amendments of 1996 further emphasize the concept of state primacy for the program.

(4) Section 1414 provides the EPA with enforcement responsibilities when a state has not taken appropriate enforcement action against a public water system which is out of compliance with the NPDWR. It also requires community water systems to prepare and distribute an annual consumer confidence report on drinking water. The SDWA Amendments of 1996 require the EPA to publish regulations that establish requirements for consumer confidence reports by August 1998. (See paragraph

16102.) When these regulations are published, Marine Corps installations should obtain copies of the regulations from their respective EPA regional office to determine what requirements for producing consumer confidence reports will apply to Marine Corps-owned or -operated public water systems.

(5) Section 1415 specifies the conditions under which variances from the NPDWR may be granted to public water systems.

(6) Section 1416 specifies the conditions under which exemptions from the NPDWR may be granted to public water systems.

(7) Section 1417 requires the use of lead-free pipe, solder, or flux in the installation or repair of any public water system or plumbing in residential or nonresidential facilities providing water for human consumption. Solders and fluxes are considered to be lead-free if they contain less than 0.2 percent lead; pipes and fittings are considered to be lead-free if they contain less than 8.0 percent lead. This section also requires each public water system to provide notice to persons who may be affected by lead contamination when it is discovered in the system.

(8) Section 1421 requires the EPA to publish regulations for State UIC programs.

(9) Section 1422 delegates the primary responsibility to enforce program requirement compliance to states which have approved UIC programs.

(10) Section 1423 provides the EPA with enforcement responsibilities when a state with an approved UIC program has not taken appropriate enforcement action against any person found to be violating the program requirements.

(11) Section 1427 establishes procedures for developing, implementing, and assessing demonstration programs that are designed to protect critical aquifer protection areas located within areas designated as sole or principal source aquifers.

(12) Section 1428 requires states to develop programs to establish WHP areas. Section 1428(h) requires all Federal agencies having jurisdiction over any potential source of contaminants identified by a state WHP program to comply with all requirements of the state and local programs the same "as any other person, including payment of reasonable charges and fees."

(13) Section 1431 provides the EPA Administrator with emergency powers to protect the health of persons endangered by a contaminant that is present in, or likely to enter, a public water system or an underground drinking water source.

(14) Section 1432 provides for civil penalties of up to $50,000 and/or up to 5 years imprisonment for any person who tampers with a public water system. Any person who threatens or attempts to tamper with a public water system may be fined up to $20,000 and/or imprisonment for up to 3 years.

(15) Section 1445 establishes monitoring, recordkeeping, public notification, site inspection, and reporting requirements for suppliers of water and persons subject to the NPDWR or the UIC program.

(16) Section 1447 contains a clear waiver of sovereign immunity. Each Federal agency with jurisdiction over a public water system or engaging in any activity which results, or may result, in underground injection that endangers drinking water must comply with applicable Federal, state, or local requirements, whether substantive or procedural, "in the same manner, and to the same extent, as any other person or any non-Governmental entity." The EPA has the authority to waive compliance with this requirement upon the request of the Secretary of Defense and after determination by the President that such a waiver is necessary in the interest of national security. The EPA can also impose administrative penalties of up to $25,000 per violation per day (also see paragraph 16102).

(17) Section 1449 provides for citizen suits against any person, including Federal agencies, alleged to be in violation of any requirement prescribed by the SDWA. Citizens can also sue under section 1447 to require that Federal agencies pay delinquent penalties within 18 months after the final order became effective.

2. Energy Policy Act (EPACT) of 1992 (Public Law 102-486)

a. This Act amended and updated the Energy Policy and Conservation Act and the National Energy Conservation Policy Act. The statements of purpose were revised to include a policy on water conservation.

b. Important statutory requirements of EPACT follow:

(1) Section 123 added section 325(j) to the Energy Policy and Conservation Act. This section establishes maximum water use standards for plumbing fixtures manufactured after January 1, 1994. The maximum water usage rates are 2.5 gallons per minute for showerheads and faucets, 1.0 gallon per flush for urinals, and 1.6 or 3.5 gallons per flush for toilets, depending upon the particular type.

(2) Section 152 amended section 543 of the National Energy Conservation Policy Act by establishing energy and water conservation requirements for Federal agencies. No later than January 1, 2005, each agency must, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years.

(3) Section 152 also amended section 546 of the National Energy Conservation Policy Act by authorizing Federal agencies to participate in programs established for water conservation. It also encourages Federal agencies to enter into negotiations with water utilities to design cost-effective water demand management and conservation incentive programs to address the unique needs of facilities used by these agencies.

16104. REQUIREMENTS

1. General

a. Statutory Requirements. The SDWA requires compliance by Federal installations and activities to comply with all Federal, state, or local requirements, whether substantive or procedural, applicable to a public water system or any activity which results, or may result, in underground injection that endangers drinking water supplies.

b. Regulatory Requirements

(1) Applicable requirements include Federal, state, interstate, and local regulations. The remainder of this section summarizes many of the significant Federal regulations pertaining to providing safe drinking water.

(2) Authorized EPA, state, or other regulatory officials who have presented proper credentials must be allowed to enter Marine Corps facilities at reasonable times to examine or copy records, inspect facilities and monitoring equipment, and sample

any raw or drinking water which the activity is required to monitor. Designated representatives of the CG/CO should accompany the officials during these site visits.

c. Executive Order (EO) Requirements. EO 12088, October 13, 1978, Federal Compliance with Pollution Control Standards, requires executive agencies, including the military departments, to comply with applicable requirements of Federal laws.

d. DoD Requirements

(1) Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements. DoD has established the Department of the Air Force as the DoD Executive Agent for implementation of the SDWA.

(2) Safe Drinking Water. DoD policy requires installations to comply with all applicable requirements of the SDWA and its implementing regulations.

2. NPDWR

a. Regulatory Citation. 40 CFR 141 contains the NPDWR. The EPA regulations for implementation and enforcement of the NPDWR are contained within 40 CFR 142.

b. Applicability. A Marine Corps installation must comply with the NPDWR if it or its designated contractor operates a public water supply system that meets all of the following criteria:

(1) Supplies water intended for human consumption;

(2) Is a community system or a nontransient, noncommunity system. A community water system is defined in the SDWA Amendments of 1996 as a public water system that serves at least 15 service connections used by year-round residents of the area served by the system or regularly serves at least 25 year-round residents;

(3) Operates drinking water collection and treatment facilities and does not consist solely of distribution and storage facilities;

(4) Treats some or all of its own drinking water (e.g., chlorinates or fluoridates water purchased from another public water system); and

(5) Sells water from its system to tenant or commercial activities.

c. MCL's. The EPA developed MCL's as enforceable health standards. Subparts B and G of the NPDWR specify MCL's and best available technology (BAT) treatment techniques for six categories of contaminants (see paragraph 16102 for new criteria for EPA to promulgate MCL's):

(1) Inorganic chemicals.

(2) Organic chemicals.

(3) Turbidity.

(4) Microbiological contaminants.

(5) Natural radioactivity.

(6) Manmade radionuclides.

d. Monitoring and Analytical Requirements

(1) For all contaminants identified in paragraph 16104.2c above, subpart C of the NPDWR specifies requirements for sampling locations, frequencies for routine and repeat monitoring, and analytical methodologies.

(2) Marine Corps-owned and -operated public water systems must conduct drinking water monitoring and analyses at such frequencies and for such contaminants as required by these or the corresponding state regulations, as appropriate.

e. Reporting, Public Notification, and Recordkeeping Requirements

(1) Subpart D of the NPDWR specifies requirements for reporting, public notification, and recordkeeping requirements. Public notification to persons served by the water system must be provided as follows:

(a) Public notification for non-acute violations must provide notice by publication in a daily newspaper in the area

served as soon as possible but no less than 14 days after the violation and must provide notice by mail or hand delivering not later than 45 days after the violation or failure;

(b) Public notification for acute violations must be provided by radio or television as soon as possible, but no later than 72 hours after the violation; and

(c) See paragraph 16102 for the SDWA Amendment of 1996 requirements for public notice and consumer reports.

(2) Marine Corps-owned and -operated public water systems must report to the state the results of any test measurement or analysis required for compliance within the shorter of the following time frames:

(a) The first 10 days following the month in which the result is received, or

(b) Within the first 10 days following the end of the required monitoring period as stipulated by the state.

(3) An installation operating a public water system must report to the state within 48 hours the failure to comply with any national primary drinking water regulation, including failure to comply with sampling and monitoring requirements. The installation must also notify the CMC (LF) by message of such noncompliance.

(4) Public notification requirements must be met when MCL's, treatment techniques, or variance and exemption schedules are violated. The timing, means, and wording for all notifications must be conducted as prescribed in 40 CFR 141, subpart D, or the corresponding state regulations, as appropriate. A representative copy of each type of notice distributed must be provided to the state.

(5) Marine Corps-owned and -operated public water systems must maintain the following records:

(a) Bacteriological analysis records for no less than 5 years;

(b) Chemical analysis records for no less than 10 years;

(c) Records of actions taken to correct NPDWR violations for no less than 3 years after the last action taken in respect to the violation involved;

(d) Records of sanitary survey reports, summaries, or related correspondence for no less than 10 years after the survey was completed;

(e) Records concerning a variance or exemption granted to the system for no less than 5 years following expiration of the variance or exemption; and

(f) Marine Corps installations must provide copies of required records to the EPA or state if requested.

(6) RCS DD-5090-06 has been assigned for reporting and recordkeeping requirements under the SDWA.

f. Special Regulations on Monitoring. Subpart E of the NPDWR specifies special monitoring requirements for organic chemicals (40 CFR 141.40), sodium (40 CFR 141.41), and corrosivity characteristics (40 CFR 141.42).

g. Prohibition on Use of Lead Pipes, Solder, and Flux

(1) Subpart E of the NPDWR (40 CFR 141.43) also prohibits the use of lead pipe, solder, or flux in the installation or repair of any public water system or any plumbing in residential or nonresidential facilities providing water for human consumption.

(2) Solders and fluxes are considered to be lead-free if they contain less than 0.2 percent lead; pipes and fittings are considered to be lead-free if they contain less than 8.0 percent lead.

h. MCLG's. Subpart F of the NPDWR specifies MCLG's for organic chemicals, inorganic contaminants, and microbiological contaminants. Maximum contaminant level goals are non-enforceable health goals.

i. Filtration and Disinfection Requirements

(1) Subpart H of the NPDWR specifies filtration and disinfection requirements for public water systems which are supplied by surface water or by a groundwater source under the direct influence of surface water. This subpart establishes

conventional filtration treatment technique requirements in lieu of MCL's for turbidity, heterotrophic plate count (HPC) bacteria, viruses, Giardia lamblia, and Legionella. It provides a series of criteria for avoiding filtration and a list of filtration techniques. As noted in paragraph 16102, the EPA may promulgate further rules for disinfectants and disinfectant byproducts.

(2) The 40 CFR 141.72 contains disinfection requirements for public water systems that do and do not provide filtration.

(3) To demonstrate compliance with these requirements, a state-approved laboratory must conduct measurements for pH, temperature, turbidity, and residual disinfectant. A laboratory certified by the state to perform such analyses must conduct measurements for total coliforms, fecal coliforms, and HPC. The 40 CFR 141.74(a) specifies methods for these measurements.

(4) The 40 CFR 141.74(b) and (c) contain monitoring requirements for public water systems that do and do not provide filtration.

(5) The 40 CFR 141.75 specifies reporting and recordkeeping requirements for public water systems that use a surface water source or a groundwater source under the influence of surface water. Unless the state specifies alternate requirements, these systems must report the specified information to the state on a monthly basis.

j. Control of Lead and Copper

(1) Subpart I of the NPDWR specifies regulations for lead and copper. This subpart establishes treatment techniques that include requirements for corrosion control treatment, source water treatment, lead service line replacement, and public education. These requirements are triggered, in some cases, by lead and copper action levels measured in samples collected at consumers' taps.

(2) The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period is greater than 0.015 milligram per liter (mg/L).

(3) The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period is greater than 1.3 mg/L.

(4) The 40 CFR 141.80(c)(3) specifies procedures for calculating the ninetieth (90th) percentile lead and copper levels.

(5) The 40 CFR 141.86 specifies monitoring requirements for lead and copper in tap water. The 40 CFR 141.87 and 40 CFR 141.88, respectively, provide monitoring requirements for other water quality parameters and for lead and copper in source water when lead and copper action levels are exceeded.

(6) The 40 CFR 141.89 specifies analytical methods for lead, copper, pH, conductivity, calcium, alkalinity, orthophosphate, silica, and temperature to identify optimal corrosion control for the system.

(7) The 40 CFR 141.90 contains extensive reporting requirements for complying with the lead and copper NPDWR. These requirements relate to reporting to the state the following information: results of tap water monitoring for lead and copper and for related water quality parameters; results of source water monitoring; actions taken regarding corrosion control treatment, source water treatment, and lead service line replacement; and the public education program.

(8) Marine Corps-owned and -operated public water systems in the United States subject to the lead and copper control requirements must retain original records of all sampling data and analyses, reports, surveys, letters,evaluations, schedules, state determinations, and any other information required in 40 CFR 141.81 through 40 CFR 141.88. These records must be retained for at least 12 years.

k. Use of Noncentralized Treatment Devices

(1) Subpart J of the NPDWR specifies the criteria and procedures with which public water systems must comply before they can use point-of-entry treatment devices to achieve compliance with any MCL.

(2) The 40 CFR 141.101 prohibits public water systems from using bottled water or point-of-use devices to achieve compliance with any MCL. They may be used only on a temporary basis to avoid an unreasonable risk to human health.

l. Treatment Techniques. Subpart K of the NPDWR specifies treatment techniques for acrylamide and epichlorohydrin if these compounds are used in the public water system.

m. Information Collection Requirements (ICR) for Public Water Systems. Subpart M of the NPDWR contains the general requirements, applicability, and schedule for this ICR. Subpart M requires public water systems with a treatment plant that services 50,000 persons or more to conduct disinfection byproduct and related monitoring, microbial monitoring, and disinfection byproduct precursor removal studies.

3. NSDWR

a. Regulatory Citation. The 40 CFR 143 contains the NSDWR. These regulations establish secondary MCL's for 15 contaminants that may affect the taste, odor, or appearance of drinking water delivered to the users of a public water system, as well as specific requirements for monitoring.

b. Applicability. These regulations are not Federally enforceable but are intended as guidelines for the states to promulgate their own regulations. Each Marine Corps installation should contact its state to determine whether the state has enforceable secondary MCL's.

c. Secondary Maximum Contaminant Limits. The 40 CFR 143.3 identifies the secondary MCL's. The contaminants for which secondary MCL's exist are aluminum, chloride, color, copper, corrosivity, fluoride (for which a primary MCL also exists at 40 CFR 141.11(c)), foaming agents, iron, manganese, odor, pH,silver, sulfate, total dissolved solids, and zinc.

d. Monitoring

(1) For all contaminants identified in paragraph 16104 above, 40 CFR 143.4 recommends that monitoring be conducted at intervals no less frequent than those listed for inorganic chemical contaminants in the NPDWR at 40 CFR 141.23.

(2) The 40 CFR 143.4 lists the recommended analytical methodologies for determining compliance with the secondary MCL's.

(3) Marine Corps-owned and -operated public water systems in the United States must conduct drinking water monitoring at such frequencies and for such secondary contaminants as the corresponding state regulations require.

e. Public Notification Requirements for Fluoride. A community water system which exceeds the secondary MCL for

fluoride (2.0 mg/L), but which complies with the primary MCL (4.0 mg/L) must provide the public notice described in 40 CFR 143.5(b) annually to all customers
and to the state.

4. Operation and Maintenance of Potable Water Supply Distribution Systems

a. Compliance Requirements. Marine Corps public water systems must be operated and maintained to meet the requirements of applicable Federal, state, local, and DON regulations. Overseas bases must comply with the Overseas Environmental Baseline Guidance Document (OEBGD) or the Final Governing Standards (FGS)/Japan Environmental Governing Standards as applicable.

b. Disinfection Requirements. After water mains, wells, and storage tanks are constructed or repaired, disinfection procedures must be followed before these systems are placed in service. If water supplies will be interrupted for a long period of time, temporary and/or mobile supplies of potable water must be delivered in compliance with NAVMED P5010.

c. Cross-Connection Control

(1) Marine Corps installations which operate public water systems in the United States must comply with state requirements for establishing, operating, and maintaining a cross-connection control program. Most state cross-connection control regulations require annual inspection and the testing of backflow prevention devices by certified plumbers to ensure that the backflow prevention devices work properly.

(2) All Marine Corps installations which operate and maintain distribution systems will develop and implement a cross-connection and backflow prevention program that identifies cross-connection hazards, corrects identified deficiencies, provides annual testing and maintenance of backflow prevention devices, incorporates cross-connection general awareness training, and ensures that appropriate backflow prevention devices are included in all new construction or major rehabilitation projects.

(3) Potable water lines and all nonpotable sources of water must have air gap separation. Interconnections between non-potable sources that cannot be eliminated or protected by an air gap must have backflow prevention devices. Reduced pressure-type backflow preventers must be used when the

possibility of a health hazard could arise from a backflow condition.

5. Water Conservation Program

a. Legal Requirements. As amended by EPACT, section 543 of the National Energy Conservation Policy Act establishes water conservation requirements for Federal agencies. No later than January 1, 2005, each agency must install in Government-owned buildings all water conservation measures with payback periods of less than 10 years. Consequently, Marine Corps installations must include these measures in the designs of all quarters and building military construction, repair, and rehabilitation projects. This requirement applies to Marine Corps installations in foreign countries. As noted in paragraph 16102, the EPA must publish guidelines by August 6, 1998, for water conservation plans for small, medium, and large water systems.

b. Plumbing Fixture Requirements. New showerheads, faucets, urinals, and water closets installed in Marine Corps buildings should have maximum water usage rates of 2.5 gallons per minute (gal/min) for showerheads and faucets, 1.0 gallons per flush for urinals, and 1.6 or 3.5 gal per flush for toilets,depending upon the particular type.

c. Commercial Utility Conservation Programs. As amended by PACT, section 546 of the National Energy Conservation Policy Act authorizes Federal agencies to participate in programs established for water conservation. It also encourages Federal agencies to negotiate with water utilities to design cost-effective water demand management and conservation incentive programs for Federal facilities. Installations and activities which purchase water from municipal, regional, or commercial utilities should discuss with these utilities opportunities for participation in water conservation and water demand management programs.

6. UIC Program

a. Regulatory Citation. The 40 CFR 144 contains the EPA regulations for the UIC permit program. The 40 CFR 145 contains the EPA regulations on approving, revising, and withdrawing state UIC programs. 40 CFR 146 specifies the EPA technical criteria and standards for the UIC program. The 40 CFR 147 contains the EPA-approved state UIC program regulations. The 40 CFR 148 provides EPA regulations on hazardous waste (HW) disposal restrictions for class I wells.

b. Well Classifications. The 40 CFR 146 classifies injection wells as follows:

(1) Class I wells include those used by generators of HW or owners/operators of HW management facilities to inject HW and those used by cities and industries to inject fluids beneath the lowermost aquifer containing an underground source of drinking water, within 1/4 mile of the well bore.

(2) Class II wells are used for residual fluids from oil and gas production, such as the injection of brine or fresh water to enhance the recovery of oil or natural gas.

(3) Class III wells are used for extracting minerals such as sulfur, potash, and salts.

(4) Class IV wells are used to dispose of hazardous and radioactive waste; new class IV wells are prohibited, and the existing wells must be phased out.

(5) Class V wells are all other injection wells not included in classes I-IV. Examples include certain septic system wells and cesspools, storm drainage wells, dry wells used for waste disposal, and heat pump wells used to circulate groundwater for heating office buildings. Class V wells are the types most commonly found aboard Marine Corps installations.

c. Prohibitions

(1) The 40 CFR 144.11 prohibits any underground injection of fluids, except as authorized by permit or rule issued under the UIC program.

(2) The 40 CFR 144.12 states that no owner or operator may construct, operate, maintain, convert, plug, abandon, or conduct any injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any NPDWR or adversely affect human health.

d. Authorization of Underground Injection

(1) The 40 CFR 144.21 authorizes underground injection into class I, II (except for existing enhanced recovery and hydrocarbon storage wells), and III wells.

(2) The 40 CFR 144.24 authorizes underground injection into class V wells. Note that 40 CFR 144.26 prohibits injection into class V wells if an owner/operator has not submitted class V inventory information in a timely manner.

(3) The 40 CFR 144.25 and the regulations of EPA-approved state UIC programs specify conditions under which the EPA or state may require a permit for the operation of any class I, II, III, and V wells.

(4) The 40 CFR 144, subpart D, contains the requirements for obtaining and complying with a UIC permit.

(5) The 40 CFR 144, subpart E, contains conditions applicable to UIC permits.

(6) Marine Corps installations in the United States that own underground injection wells must obtain permits or meet rule requirements before using a well. The disposal of waste from any of the following operations to a well requires authorization by the EPA or a state agency, depending upon which has primary enforcement responsibilities for the UIC program:

(a) Domestic sewage disposal;

(b) Industrial waste, pesticides, or spent cooling water disposal; and/or

(c) Stormwater drainage.

e. Criteria and Standards for the UIC Program. The 40 CFR 146 specifies the EPA criteria and standards applicable to each class of well. These rules include requirements for well construction operating, monitoring, and reporting.

7. Sole Source Aquifer Program

a. Regulatory Citation. The EPA regulations in 40 CFR 149 provide the criteria for identifying and designating critical aquifer protection areas. They do not apply to Marine Corps bases in foreign countries.

b. Federal Project Review Requirements. All Federal projects proposed for a designated sole source aquifer area are subject to review by the EPA to ensure that these projects are designed and constructed such that they do not result in, or

contribute to, conditions which would create a significant hazard to public health.

c. Reference. The EPA Office of Ground Water and Drinking Water maintains a fact sheet entitled "Designated Sole Source Aquifers - Nationally." To obtain this fact sheet, contact the EPA Office of Water at (202) 260-2305.

8. WHP Program

a. Legal Requirements

(1) Section 1428 of the SDWA requires states to develop programs to establish WHP areas. Each state program must be approved by the EPA. Installations should contact their respective state health department or environmental regulatory agency or the appropriate EPA regional office to determine if the EPA has approved their state WHP program. The state may require an installation to develop its own WHP area to safeguard its groundwater supply. At present, the EPA has not promulgated Federal regulations for this program.

(2) Section 1428(h) of the SDWA requires all Federal agencies having jurisdiction over any potential source of contaminants identified by a state WHP program to comply with all requirements of the state and local programs. States may require installations which operate groundwater-supplied drinking water systems to develop and implement their own WHP programs.

b. Program Goal. The goal of the WHP program is to protect groundwater supplies used for a drinking water source by controlling potential sources of contamination. The WHP program may be used as a basis for the Source Water Protection Program established by the SDWA Amendments of 1996 (see paragraph 16102).

c. Program Development. Implementing a WHP program involves five steps:

(1) Assembling a community planning team with technical experts in hydrogeology, environmental engineering, and land planning;

(2) Defining and mapping the land area to be included within the WHP area;

(3) Identifying and locating potential contaminant sources;

(4) Establishing regulatory and non-regulatory controls to manage activities with the potential to contaminate the groundwater source within the WHP area; and

(5) Planning for the future.

d. References

(1) The EPA Seminar Publication entitled Wellhead Protection: A Guide for Small Communities (EPA/625/R-93/002) provides in-depth information for conducting the five steps of developing a WHP program as outlined above.

(2) The EPA Handbook on Ground Water and Wellhead Protection (EPA/625/R-94/001) provides excellent information for delineating a WHP area. The handbook includes procedures for preparing potentiometric maps, measuring and estimating aquife parameters for developing flow equations, delineating WHP areas, using computer models, conducting an inventory of potential contaminant sources, assessing risks, and managing the WHP program.

16105. TERMS AND DEFINITIONS.

1. Action Level. The concentration of lead or copper in water specified in 40 CFR 141.80(c) which determines, in some cases, the treatment requirements that a water system must meet to control lead and copper (40 CFR 141).

2. Aquifer. A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring (40 CFR 149).

3. BAT. The best technology, treatment techniques, or other means which the EPA Administrator finds are available after examination for efficacy under field
conditions and not solely under laboratory conditions (40 CFR 141).

4. Community Water System. A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents (40 CFR 141).

5. Compliance Period. A 3-year calendar period within a 9-year compliance cycle. Each compliance cycle has three 3-year compliance periods. Within the first compliance cycle, the first compliance period was January 1, 1993, through December 31, 1995;

the second period is January 1, 1996, through December 31, 1998; and the third period will be January 1, 1999, through December 31, 2001 (40 CFR 141).

6. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water (40 CFR 141).

7. Conventional Filtration Treatment. A series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal (40 CFR 141).

8. Corrosion Inhibitor. A substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials (40 CFR 141).

9. Disinfectant. Any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone added to water in any part of the treatment or distribution process, that is intended to kill or inactivate pathogenic microorganisms (40 CFR 141).

10. Fluid. Any material or substance which flows or moves, whether as a semisolid, liquid, sludge, gas, or in any other form or state (40 CFR 144).

11. Generator. Any person, by site location, whose act or process produces HW identified or listed in 40 CFR 261 (40 CFR 144).

12. Groundwater. Water below the land surface in a zone of saturation (40 CFR 144).

13. Groundwater Under the Influence of Surface Water. Any water beneath the surface of the ground with:

a. Significant occurrence of insects or other microorganisms, algae, or large diameter pathogens such as *Giardia lamblia* (40 CFR 141); or

b. Significant and rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions (40 CFR 141).

14. Injection Well. A well into which fluids are injected (40 CFR 144).

15. Lead Service Line. A service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck, or other fitting which is connected to such lead line (40 CFR 141).

16. MCL. The maximum permissible level of a contaminant in water which is delivered to the free-flowing outlet of the ultimate user, except in cases where the maximum permissible level is measured at the point of entry to the distribution system (40 CFR 141).

17. MCLG. The maximum level of a contaminant in drinking water at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. Maximum contaminant level goals are nonenforceable health goals (40 CFR 141).

18. Noncommunity Water System. A public water system that is not a community water system (40 CFR 141).

19. Nontransient, Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least 25 of the same persons for over 6 months per year (40 CFR 141).

20. Owner or Operator. The owner or operator of any activity or facility subject to regulation under the UIC program (40 CFR 144).

21. Permit. An authorization, license, or equivalent control document issued by the EPA or an approved state to implement the requirements of the UIC program. The permit includes "area" permit and "emergency" permit, but does not include UIC authorization by rule or any permit which has not yet been the subject of final agency action, such as a draft permit (40 CFR 144).

22. Person. An individual, corporation, company, association, partnership, municipality, or state, Federal, or tribal agency (40 CFR 141).

23. Point-of-Entry Treatment Device. A treatment device applied to the drinking water entering a house or building for the

purpose of reducing contaminants in the drinking water distributed throughout the house or building (40 CFR 141).

24. Point-of-Use Treatment Device. A treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap (40 CFR 141).

25. Potable Water. Water that has been examined and treated to meet the proper standards and declared by responsible authorities to be fit for drinking.

26. Public Water System. A system for the provision of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. This term includes:

a. Any collection, treatment, storage, and distribution facilities (TSDF) under control of the operator of such system and used primarily in connection with such system (40 CFR 141); and

b. Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system (40 CFR 141).

27. Recharge Area. An area in which water reaches the zone of saturation by surface infiltration (40 CFR 149).

28. Supplier of Water. Any person who owns or operates a public water system (40 CFR 141).

29. Surface Water. All water which is open to the atmosphere and subject to surface runoff (40 CFR 141).

30. UIC. The regulation of the injection of fluids into the subsurface through a well to protect groundwater for potential use as drinking water (40 CFR 144).

31. Well. A bored, drilled, or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension (40 CFR 144).

32. WHP Area. The surface and subsurface area surrounding a water well or well field supplying a public water system through which contaminants are reasonably likely to move and to reach such water well or well field (SDWA, section 1428(e)).

33. Year-Round Resident. For purposes of applicability to Marine Corps installations, a year-round resident is defined as an installation resident or year-round employee who is regularly served (8 or more hours daily) by the water system. State definitions will apply in cases where the definitions differ.

SECTION 2: MARINE CORPS POLICY

16200. GENERAL

1. Marine Corps installations in the United States will comply with all applicable substantive and procedural drinking water regulations established by the EPA or those states that have been granted primary enforcement responsibility.

2. Marine Corps installations located within foreign countries will comply with the applicable FGS or OEBGD if no FGS has been published.

16201. DRINKING WATER PROGRAM

1. Marine Corps policy is to provide personnel who reside or work on its installations with the highest quality drinking water possible.

2. The use of a regional or municipal public water supply will be the preferred drinking water supply method whenever an analysis of life-cycle costs and environmental impacts indicates that the use of a such a supply is as or more economical and environmentally beneficial than constructing, upgrading, and operating a water collection and treatment facility. Economic components used in the analysis should include any capital cost contributions to the municipality for a prorated share of system capacity; continuing user fees and surcharges; treatment costs; and Marine Corps facility capital, operation, and maintenance costs (including expenses for permit fees, monitoring, utilities, equipment repair and replacement, solids handling and disposal, chemical usage, and personnel staffing, training, and certification). For more information, see NAVFAC P-443. The environmental analysis should include surface water and groundwater quality and quantity issues; threatened and endangered species impacts; and archaeological, cultural, and natural resources issues.

3. The development, expansion, and operation of Marine Corps-owned drinking water collection, treatment, storage, and

distribution facilities are authorized whenever a municipal system or other alternatives are not available or cost-effective.

4. Installations that purchase water from a public water system and distribute it to on-site activities or to any person or entity outside the community may be subject to the NPDWR. Contact the appropriate state agency to determine whether compliance with all or part of the NPDWR is required.

a. If the installation distributes water to on-site DoD tenant activities; Morale, Welfare, and Recreation activities; and/or commercial businesses and charges those entities only a pro rata share of its water costs and a maintenance surcharge, this practice normally is not considered to be selling water to persons. This situation is analogous to an office or industrial park that charges tenants a pro rata share for utilities services.

b. If the installation sells water to entities on or off site, the sale renders the activity a "public water supply" subject to monitoring and reporting requirements imposed by the municipality, state, and/or the EPA.

c. Installations that rechlorinate or fluoridate water purchased from a public water system may be considered to be operating a treatment process and may be required to comply with the NPDWR. To avoid having to comply with all provisions of the NPDWR except with those pertaining to microbiological contaminants, coliform monitoring, and disinfection or fluoride monitoring, the installation should request an exemption from the state.

d. A Marine Corps installation that purchases water from a public water system subject to SDWA regulations, operates no collection or treatment facilities of its own, and does not sell water to another entity normally is not subject to the NPDWR (40 CFR 141.3).

5. Marine Corps water system operators must meet the licensing or certification requirements of the state in which the system is located. Job descriptions for Marine Corps water system operators require a state certification or license or the ability to obtain and maintain a certification or license as a condition of employment at all facilities where state certification requirements apply, as required by the Federal Personnel Manual (Supplement 271-1, chapters 3-4, "License and Credentials").

6. Marine Corps laboratories that perform drinking water analyses as required under the NPDWR and NSDWR will be certified under applicable regulations of the Federal, state, or local authority. Appropriate chain-of-custody procedures will be used to track samples collected for analysis. Laboratories will use EPA-approved test procedures contained in 40 CFR 141 and 40 CF 143 for analyzing drinking water.

7. The Bureau of Medicine and Surgery will assist the installation CG/CO in carrying out the responsibilities for complying with the SDWA. The Bureau of Medicine and Surgery also may apply additional standards, as necessary, to any Marine Corps water system. The monitoring of coliform bacteria, chlorine residual, and fluorides by the Naval hospital or clinic's preventive medicine section must be conducted as prescribed by NAVMED P5010.

8. Marine Corps installations must establish, implement, and maintain a cross-connection control and backflow prevention program.

16202. WATER CONSERVATION PROGRAM

1. Installations must develop a water conservation program with initial emphasis on reducing the use of potable water for Marine Corps industrial processes and irrigation requirements. The priorities of the program must reflect economic feasibility and water conservation needs and the EPA water conservation guidelines to be published.

2. The water conservation program must address both short- and long-term measures necessary to optimize potable water usage and decrease the use of potable water for non-potable purposes. Such measures should include:

a. Conducting leak detection surveys and implementing repair programs. These surveys should target water distribution mains and service connections as well as building plumbing and water fixtures;

b. Replacing inefficient plumbing fixtures with water conserving showerheads, faucets, urinals, and commodes;

c. Replacing once-through cooling water applications with recirculating cooling towers;

d. Installing automatic irrigation control systems which adjust watering rates based on weather conditions and evapotranspiration rates instead of timed cycles;

e. Irrigating during late evening and early morning hours rather than daylight hours;

f. Reusing reclaimed wastewater to irrigate parade decks, athletic fields, golf courses, forests and tree lines, garrison and residential landscaping, and outleased areas used for agriculture and silviculture;

g. Replacing water intensive turf landscaping with native drought-tolerant vegetation; and

h. Using mulches in landscaping to reduce evaporative water losses.

16203. UNDERGROUND INJECTION CONTROL (UIC) PROGRAM

1. Marine Corps installations must not operate or inject fluids into class I,II, III, or IV injection wells.

2. Marine Corps installations must not inject fluids into class V injection wells if class V inventory information was not submitted to the appropriate EPA or state agency in a timely manner pursuant to 40 CFR 144.26.

3. Marine Corps installations must properly close all class V injection wells which are not essential to mission requirements in order to eliminate potential sources of groundwater contamination and prevent illicit disposal of hazardous substances (HS).

16204. SOLE SOURCE AQUIFER PROGRAM

1. Marine Corps installations located within an area where a sole source aquifer has been designated must contact their respective EPA regional office to determine if proposed construction projects or activities which could contaminate an aquifer are subject to review under this program.

2. Marine Corps installations must ensure that projects within sole source aquifer areas which are reviewed by the EPA are designed and constructed to meet conditions stipulated under the

EPA approved program. The completed activity must be operated such that it will not result in or contribute to conditions which would create a significant hazard to public health.

16205. WELLHEAD PROTECTION (WHP) PROGRAM

1. Marine Corps installations having jurisdiction over any potential source of contaminants identified by a state or local WHP program, or a state source water assessment program, will comply with all applicable requirements.

2. If a community adjacent to a Marine Corps installation initiates a WHP program, the CG/CO should request representation on the community planning team to ensure that the installation's interests are considered and protected. The installation should identify and locate potential contaminant sources within its boundaries and provide this information to the team.

3. Any Marine Corps installation or activity located within a designated WHP area will comply with all regulatory and nonregulatory controls to manage activities that have the potential to contaminate the groundwater source within that area.

SECTION 3: RESPONSIBILITIES

16300. CMC (LF)

1. Provide information and advice to installation commanders regarding proposed and final rules and regulations pertaining to drinking water systems and water conservation and uniformly apply Marine Corps policy as set forth in this Manual.

2. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

3. Conduct special environmental compliance and protection studies with regard to drinking water systems and water conservation management to assist in establishing policy or initiating actions.

4. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to drinking water systems and water conservation regulations.

5. Track Marine Corps progress toward meeting established drinking water quality and water conservation goals.

16301. CHIEF BUREAU OF MEDICINE AND SURGERY (BUMED)

1. Revise instructions and other appropriate documents to reflect health concerns and health-related requirements for drinking water systems.

2. Provide health-related advice to Marine Corps commanders for carrying out their responsibilities for drinking water quality and the water supply system.

16302. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for drinking water systems that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with drinking water systems and water conservation requirements. Pay appropriate Federal, state, and local fees. Ensure that the environmental management hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

2. Ensure that all required Federal, state, and local permits are applied for and obtained. Sign certifications and permit applications, as required, for construction of all drinking water systems and water conservation projects.

3. Ensure that a base or station order is written to implement specifications set forth in this chapter. This requirement can be accomplished either by writing an environmental compliance and protection standard operating procedures document to implement all environmental requirements or by writing a separate base order to implement specifications of this chapter alone.

4. Identify and submit to the CMC (LF) nonrecurring projects and funding required to bring drinking water systems, potential contamination sources within WHP areas, and underground injection wells into compliance with applicable existing and emerging regulations, requirements, and permits. Program and budget for sufficient personnel, equipment, materials, training, and monitoring resources required to effectively operate, maintain, and repair drinking water systems in compliance with drinking water program requirements. With command counsel concurrence, pay related Federal, state, and local fees.

5. Operate and maintain adequate facilities to produce, store, and distribute drinking water in the quantities required in compliance with the NPDWR and applicable state standards, regulations, and requirements.

6. Ensure that management programs and controls exist to comply with applicable regulations, NPDWR MCL’s and treatment techniques, UIC permit conditions; and monitoring, recordkeeping,

public notification, and reporting requirements for drinking water systems and underground injection wells.

7. Ensure compliance with all applicable water system operator certification requirements. Identify training and certification needs for Marine Corps operators of public water systems and allocate needed resources.

8. Oversee and provide resources for monitoring, recordkeeping, reporting, public notification practices, and the use of certified laboratories for analyses in compliance with EPA or EPA-approved state requirements. Retain copies of all records, reports, and public notices submitted to the EPA, state, and local water district offices.

9. Submit consumer confidence reports.

10. Coordinate with appropriate EPA, state, and regional offices the review of all projects for the construction of new or upgraded drinking water system facilities and for the construction, modification, or closure of underground injection wells.

11. Implement corrosion control treatment, source water treatment, and/or lead service piping replacement as needed to comply with NPDWR requirements for the control of lead and copper in drinking water.

12. Ensure that a cross-connection control and backflow prevention program is developed and implemented. Properly inspect, operate, and maintain backflow prevention devices, altitude and pressure-reducing valves, water meters,water-saving devices, and water reuse and recycle systems.

13. Ensure that the installation has applied for and obtained all required Federal and state UIC permits. Comply with UIC requirements under the SDWA. Inventory all class V wells and provide a copy of the inventory to the EPA or state, as appropriate.

14. Implement a multifaceted Marine Corps water conservation program. Execute water conservation studies to reduce water usage and generation of wastewater flows. Review the various uses of water at respective activities to ensure that all economically practical water conservation measures are taken.

15. Ensure that all water conservation measures with payback periods of less than 10 years, as required by EPACT, are installed in Government-owned buildings by January 1, 2005. Develop a prioritized list of required projects and programs, and provide resources for their implementation.

16. Ensure that adequate access to drinking water system collection, TSDF's, and to underground injection wells, is provided to the EPA, state, and local regulatory agencies for the purpose of sampling water and injected wastes, and for the inspection of operations and records.

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 17

SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY

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CHAPTER 17

SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY

SECTION 1: INTRODUCTION

17100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with statutory and procedural requirements for SW disposal, waste minimization, recycling, and resource recovery requirements.

17101. APPLICABILITY. See paragraph 1101.

17102. BACKGROUND. The Solid Waste Disposal Act (SWDA), as amended by the Resource Conservation and Recovery Act (RCRA), establishes requirements concerning the disposal and management of SW. The following types of facility activities may be subject to RCRA subtitle D, SW rules:

1. Thermal processing of 50 tons per day (tpd) or more of municipal-type SW;

2. Collecting and storing residential, commercial, and industrial SW;

3. Operating land disposal sites or using commercial off-site landfills for SW disposal;

4. Selling beverage containers; and

5. Purchasing products that contain recycled materials (40 CFR 247).

17103. FEDERAL STATUTES

1. SWDA of 1965, as Amended of 1976 (42 U.S.C. 6901 et seq.). The SWDA, normally now referred to as RCRA, requires that Federal installations comply with all Federal, state, and local requirements concerning the disposal and management of SW. These requirements include permitting, licensing, and reporting. The Act encourages the beneficial reuse of waste through recycling and burning for energy recovery.

2. RCRA of 1976 (42 U.S.C. 6901 et seq.). RCRA defines which SW's are hazardous and sets strict requirements for the handling of hazardous wastes (HW). RCRA bans the disposal of sludge and many liquids at SW disposal facilities. The Act encourages conserving and recycling SW with residual value. Subtitle D of RCRA establishes Federal standards for the management of nonhazardous SW. The primary goals of subtitle D are to encourage environmentally-sound SW management practices, the recycling of waste material, and resource conservation. Subtitle D has mandatory technical standards for nonhazardous SW disposal facilities.

3. Clean Air Act (CAA) of 1970, as Amended (42 U.S.C. 7401 et seq.). Section 112 of the CAA authorizes the Environmental Protection Agency (EPA) to set emission standards for hazardous air pollutants. In 1973, a standard for the control of asbestos fibers was issued as part of the National Emissions Standards for Hazardous Air Pollutants. Regulations addressing asbestos disposal in SW landfills are included in the CAA, section VI, Special Pollutants.

4. Military Construction Codification Act of 1982 (Public Law 97-214). Section 6 of the Military Construction Codification Act contains a provision that allows net proceeds from the sale of recyclable materials to be used by Marine Corps installations having qualified recycling programs (QRP) for certain purposes.

5. Federal Property and Administrative Services Act (FPAS) of 1949 (10 U.S.C. 484 et seq.). Section 203 of the FPAS contains provisions on the sale of recyclable materials.

6. Pollution Prevention Act (PPA) of 1990 (42 U.S.C. 13101 et seq.). This Act establishes the national policy that "pollution should be prevented at the source whenever feasible. Pollution that cannot be prevented should be recycled in an environmentally safe manner whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner."

7. Executive Order (EO) 12873, Federal Acquisition, Recycling, and Waste Prevention, October 20, 1993. This EO on Federal Acquisition, Recycling, and Waste Prevention, requires the Federal Government to make more efficient use of natural resources by maximizing recycling and preventing waste wherever

possible, in addition to using and procuring environmentally preferable products and services.

17104. REQUIREMENTS

1. SW Collection, Storage, and Disposal

a. Federal, state, and local requirements concerning collection, storage, and disposal apply to Marine Corps installations that.

(1) Generate SW, whether it is collected by the Marine Corps or by a nonmilitary collector.

(2) Dispose of SW on Marine Corps property, regardless of whether the waste is originated by the Marine Corps or other sources.

(3) Dispose of SW off Marine Corps property if the waste is generated by a Marine Corps installation and if the installation has direct management control over the disposal operation.

b. The 40 CFR 240-247 and 40 CFR 257-258 contain applicable Federal regulations for nonhazardous SW. Federal SW requirements have changed dramatically over the last several years, with most changes occurring in the following areas:

(1) Federal procurement of selected products containing recovered materials and post-consumer wastes, including oil, paper, tires, and building insulation; and

(2) Requirements for Municipal Solid Waste Landfills (MSWLF) (40 CFR 258).

c. Marine Corps waste materials (including trash, rubbish, dunnage, garbage, construction debris, and liquid waste) must not be burned in open fires, except in limited situations after considering health and safety issues and with the approval of the appropriate state or local agencies and the EPA regional office.

2. Thermal Processing of SW

a. Federal (40 CFR 240), state, and local requirements are applicable to thermal processing facilities designed to process 50 tpd or more of SW. For practical purposes, these requirements

apply to any facility designed to process, or which actually processes, an average of 2.1 tph or more (40 CFR 240.100).

b. Emissions must not exceed the existing air quality or emission standards established by the EPA, state, or local agencies. All water discharged from a thermal processing facility must be treated sufficiently to meet applicable effluent limitation standards. All necessary permits must be obtained from the appropriate Federal, state, or local agencies.

c. Thermal processing residue must be disposed of in an environmentally acceptable manner. Land disposal of residues must be per EPA guidelines for the land disposal of SW's. The guidelines also apply to those nonhazardous wastes which cannot be thermally processed for reasons of health, safety, or technological limitation.

3. Marine Corps-Owned Land Disposal Sites. The EPA promulgated requirements for MSWLF's which became effective on October 9, 1993 (40 CFR 258). The regulations address the design, location, construction, operation, closure, and post-closure of MSWLF's as follows:

a. MSWLF's and lateral expansions that stopped receiving SW on or before October 9, 1991, do not have to meet the requirements.

b. MSWLF's and lateral expansions that received SW after October 9, 1991, but stopped receiving SW on or before October 9, 1993, only have to meet the final cover requirements specified in 40 CFR 258.60(a). The final cover must have been installed no later than 6 months after receipt of the last wastes.

c. MSWLF's and lateral expansions that continue to receive wastes after October 9, 1993, must meet all of the requirements. Refer to 40 CFR 258.1(f) for site- and condition-specific exemptions for MSWLF's that continue to receive
SW.

4. Marine Corps-Owned Land Disposal Sites. The EPA promulgated revisions to existing criteria for SW disposal facilities and practices, for Nonmunicipal Nonhazardous Waste Disposal Units that receive Conditionally Exempt Small Quantity Generator waste, which will become effective on January 1, 1998 (40 CFR 257.7 through 257.13 and 257.30), and July 1, 1998 (40 CFR 257.21 through 257.28). These regulations address location, groundwater monitoring, and corrective action.

5. SW Resource Recovery

a. General

(1) The EPA, with the cooperation of other Federal agencies, has surveyed Federal activities to determine SW disposal rates within Standard Metropolitan Statistical Areas (SMSA). The DON has been designated the lead agency in nine SMSA's by the EPA: Charleston-North Charleston, SC; Chicago, IL; Honolulu, HI; Los Angeles-Long Beach, CA; San Diego, CA; San Francisco-Oakland, CA; Norfolk-Virginia Beach Portsmouth, VA/NC; Pensacola, FL; and Philadelphia, PA. Similarly, the United States Army has been designated lead agency in the Baltimore, MD; Colorado Springs, CO; Columbus, GA/AL; and Washington, DC/MD/VA SMSA's. The United States Air Force is the lead agency in the San Antonio, TX, SMSA, and the Department of Transportation (DOT) is the lead agency in the New York, NY/NJ, SMSA's.

(2) The philosophy underlying resource recovery is that material or energy recovery from waste is possible at a point downstream from the point of generation, and is an alternative to landfilling, incinerating, or otherwise disposing of the waste in a manner harmful to the environment or wasteful of natural resources.

(3) Generation rates, discussed under resource recovery guidelines, are based on 260 days per year and 100 tpd, equivalent to 26,000 tons per year. The amount of SW is calculated from the volume that remains after implementing the source separation guidelines.

(4) Marine Corps installations located within SMSA's must participate with the DoD Components and Federal facilities in the establishment and/or utilization of a single resource recovery facility if:

(a) Any one Federal facility generates 50 tpd or more of SW after complying with waste reduction and source separation policies;

(b) The combined total of this SW from all Federal installations within an SMSA is 100 tpd or more; and

(c) Within a qualified SMSA, the Federal agency generating the largest quantity of SW is designated by the EPA as the lead agency and has the responsibility for implementing the guidelines in the SMSA.

(5) A Marine Corps installation outside a SMSA that generates 100 tpd or more of residential, commercial, and institutional SW after complying with waste reduction and source separation policies must establish and/or use resource recovery facilities to separate and recover materials and/or energy from SW. Installations outside SMSA's must follow these requirements:

(a) The installation must advise the CMC (LF) if it generates 100 tpd or more of SW.

(b) Where the SW generation rate is below 100 tpd, installations should consider a resource recovery facility in order to meet state or local laws on SW reductions and/or when it appears to be cost-effective. Special emphasis should be given to cooperating with community resource recovery efforts. Installations generating less than 100 tpd must advise the CMC (LF) if and when participation in a resource recovery facility appears viable.

b. Recycling Programs: Closed Loop Recycling and QRP's. DoD policy requires all installations and commands to:

(1) Establish recycling programs and procedures that:

(a) Ensure, where cost-effective, that all installations and activities have, or participate in, QRP's, and that these recycling programs are available to serve all host and tenant organizations occupying space on the installation, including leased space.

(b) Ensure, where cost-effective, that contracts awarded after the effective date of the this instruction that provide for contractor operation of a Government-owned or -leased facility located within the United States, its territories, or possessions include provisions that obligate the contractor to participate in a recycling program. Where cost-effective, existing contracts covering Government-owned/contractor-operated facilities should be modified to incorporate recycling provisions. Participation by contractors operating government-owned or -leased facilities overseas where recycling programs are available is required.

(c) Ensure that QRP procedures address recyclable materials, excluded materials, and other QRP materials.

(d) Divert recyclable materials from the nonhazardous SW stream where economically feasible. Individual types of

recyclable materials that make up a substantial percentage of the nonhazardous waste stream should be included in recycling programs, unless doing so will make the overall recycling program unprofitable. Recyclable materials do not require informal screening as defined in DoD 4160.21-M.

(e) Establish controls that ensure excluded materials, including those listed in 32 CFR 172.2(b)(3), are not sold through a QRP.

(f) Authorize installation commanders, as appropriate, to sell directly recyclable and other QRP materials or to consign them to the Defense Reutilization and Marketing Service for sale.

1 Installations must implement procedures ensuring that United States trade security control policies are followed in accordance with DoD 4160.21-M prior to directly selling firing range-expended brass or mixed metals gleaned from firing range cleanup that do not require demilitarization and that are Munitions List Items (MLI) or Strategic List Items (SLI). Expended brass must be crushed, shredded, or otherwise destroyed prior to public sale.

2 Reuse Screening. Prior to selling directly other QRP materials, installations must implement procedures for local reuse screening to consider reutilization, transfer, and donation programs in accordance with DoD 4160.21-M.

3 Ensure that outside the United States the disposition of recyclable and other QRP materials, derived from goods that have been imported duty-free, is accomplished, consistent with the provisions contained in status of forces, surplus, or excess property agreements or other international agreements with host nations.

(g) Ensure that the distribution of recycling proceeds is consistent with 10 U.S.C. 2577.

1 Sale proceeds will be used first to cover the costs directly attributable to all installation recycling programs, including, but not limited to manpower, facilities, equipment, overhead, and other capital investments. After these costs are recovered, installation commanders may use up to 50 percent of the remaining proceeds for environmental compliance, pollution prevention, composting, alternative fuel vehicle infrastructure support and vehicle conversion, energy

conservation, or occupational safety and health projects, with first consideration given to projects included in the installation's pollution prevention plan. Any remaining proceeds may be transferred to the nonappropriated Morale, Welfare, and Recreation (MWR) account for any approved programs.

2 An accounting and control system must be established for a recycling program that provides detailed management and audit information, tracks material quantity handled, calculates sales and handling costs for recycled material, and tracks expenditures made for appropriate projects and MWR programs. Integrity of the audit trail will be a priority concern.

3 Ensure that appropriate management controls are in place for recyclable materials that may be hazardous, such as lead-acid batteries.

(2) Operate a composting program or participate in a regional composting program, if it is practicable to do so.

c. High-Grade Paper. Waste high-grade paper generated at Marine Corps installations must be separated at the source of generation, separately collected, and sold for the purpose of recycling. Exceptions may be made only if analysis by the managing installation determines that a market for recovered products is not available, or that compliance is not economical. In situations where a Marine Corps office facility is a tenant activity, the host activity (or lessor) is responsible for establishing a source separation program. The Marine Corps office facility must encourage the establishment of such programs and cooperate by separating high-grade paper. The Marine Corps installation must consider the specific methods and systems recommended in current requirements (40 CFR 246) for implementing a source separation program.

d. Used Newspaper

(1) Installations should separate used newspapers generated in Marine Corps residential areas at the source of generation, and sell them for recycling. Exceptions are appropriate only if the managing installation determines through analysis that markets are not available or that compliance is not economical. Such analyses must include the applicable portions of the life-cycle costs associated with the operation, maintenance, closure, and post-closure of Marine Corps-owned

landfills, as well as the applicable cost of disposal by contract.

(2) Extensive news releases to residents for motivation and coordination should precede and accompany the program. Subsequent guidance should indicate the need for the program, the specific collection days, how to prepare bundles for collection, and the use of bulk containers outside multi-family dwellings. Consideration must be given to the specific methods and systems recommended in current requirements for the implementation of newspaper source separation programs.

e. Corrugated Container Waste. Installations should collect and sell waste-corrugated containers for the purpose of recycling. Exceptions are appropriate only if the managing installation determines through analysis that markets are not available or that compliance is not economical. Such analyses must include the applicable portions of the life-cycle costs associated with the operation, maintenance, closure, and post-closure of Marine Corps-owned landfills and the applicable cost of disposal by contract.

f. Resource Recovery Facilities. Marine Corps installations with resource recovery programs must follow requirements outlined in 40 CFR 243 and 245.

(1) Marine Corps installations that dispose of, or are responsible for, the disposal of residential, commercial, or institutional SW in amounts of 100 tpd or more (equivalent to 26,000 tons or more annually), after the implementation of source separation and other waste reduction procedures, must establish and/or use resource recovery facilities to separate and recover materials and/or energy from such SW. Such resource recovery facilities may be owned by the Marine Corps, Federal agencies, or local/regional governmental or commercial interests.

(2) Marine Corps installations must not compete with a locally-available commercial recycling industry that offers a total SW resource recovery system as directed by SECNAVINST 4860.44. Installations should make every effort to use an established commercial industry.

(3) Marine Corps installations should consider constructing resource recovery facilities only after a thorough study has been made of alternative methods for processing SW.

(4) Marine Corps installations should design resource recovery facilities to process all residential, commercial, and institutional SW disposed of at DoD facilities, and they should convert as much as possible of the input SW into recycled material, fuel, or energy.

g. Returnable Beverage Containers. Marine Corps installations must comply with state laws regarding beverage containers. They should bring to the attention of the CMC (LF) any conflicts between Federal (40 CFR 244) and state requirements, as well as any situations that preclude compliance.

h. Recyclable Materials Sales Program

(1) Marine Corps installations must use the proceeds from the sale of recyclable materials to cover the operation, maintenance, and overhead costs incurred in the recycling operation. Use any excess funds for pollution prevention, environmental compliance, energy and safety projects, and/or nonappropriated morale or welfare purposes.

(2) Only installations with a QRP may accumulate proceeds from the sale of recyclable materials. A QRP can be established by a base or station order and must include the following program requirements:

(a) Designate through the CG/CO the managing entity. Potential managing units include: environmental affairs facilities; morale, welfare, and recreation; or a similar staff entity.

(b) Ensure fiscal accountability for all funds received and disbursed as per MCO 7301.116.

(c) Record maintenance regarding the quantity and types of materials sold for recycling.

(d) Develop a method of prioritizing projects/ activities to be funded from net proceeds. This process is usually accomplished by establishing a committee consisting of a cross section of installation organizations. This committee recommends priorities for the disbursement of revenues to the CG/CO.

(e) Ensure that the CMC (LF) reviews all projects funded with the proceeds of recycling sales.

(f) Implement the requirements in this Manual for the sale of recyclable material.

(g) Notify the Defense Reutilization and Marketing Office (DRMO) that the installation has a QRP implemented by base or station orders as established by the Military Construction Codification Act. An installation may notify the DRMO and accumulate proceeds through the sale of recyclable materials during the period that a base or station order is being prepared.

(3) Marine Corps installations with QRP's may sell recyclable materials directly without using the DRMO. A cost analysis should be performed by the installation to determine if better value can be achieved for the QRP by performing direct sales.

i. Records Requirements

(1) Federal regulations require the Marine Corps to determine what actions will be, or have been, adopted regarding source separation requirements. In situations when a decision is made not to source separate, the decision must be based on a fully supported analysis. If a source separation program is adopted, the sale of recyclable materials obtained as a result of the source separation or resource recovery guidelines or the sale of used petroleum products, less the cost of sales and handling, may be administered through the Defense Logistics Agency (DLA) and DRMO under the provisions of DoD 4160.21-M or sold by the QRP per DoD policy. This procedure does not apply to waste materials turned over to voluntary organizations or civilian communities for recycling, or to military exchanges and commissary stores where the activity owns or leases its own processing equipment.

(2) The DRMO must deposit 100 percent of recyclable material sales proceeds net of cost obtained as a result of the source separation or resource recovery guidelines or the sale of used petroleum products to the account designated by a managing activity that operates the QRP. The designated account number must appear on the Disposal Turn-in Document in order for the DRMO to return the proceeds. Procedures governing the sale of recyclable materials must be consistent with section 203 of the Federal Property and Administrative Services Act of 1949. Although the screening for utilization, transfer, and donation as described in DoD 4160.21-M is not required prior to offering recyclable materials for sale, such screening may occur at the discretion of the DLA director.

j. Procurement. In 40 CFR 247 and EO 12873, October 20, 1993, the product areas requiring affirmative procurement actions include: recycled paper, cement or concrete containing fly ash, retread tires, building insulation, and used oil. Marine Corps installations should promote procurement of these and other recovered materials.

6. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

17105. TERMS AND DEFINITIONS

1. Composting. A controlled process for managing the degradation of plant and other organic wastes to produce a useful product that can be used as mulch or soil conditioner.

2. Environmental Management Hierarchy (EMH). National policy established by the PPA that "pollution should be prevented or reduced at the source whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner." When assessing solutions to compliance requirements, installations and commands will employ EMH, emphasizing:

a. Source reduction.

b. Recycling.

c. Treatment.

d. Disposal.

3. Excluded Materials. Excluded materials may not be sold through a QRP, and the proceeds from their sale will not be returned to a QRP. Excluded items include, but are not limited to:

a. Government-furnished material.

b. Precious metal bearing scrap.

c. HW (including household HW).

d. Ozone depleting substances.

e. Electrical components.

f. Unopened containers of solvents, paints, or oil.

g. Fuels.

h. Material that can be sold (as is) as a usable item.

i. Repairable items that may be used again for their original purposes or functions, e.g., used vehicles, vehicle, or machine parts, etc.

j. Ships, aircraft, weapons, and other material required to be demilitarized or destroyed, as well as scrap resulting from demilitarization.

k. All MLI's and SLI's as defined in DoD 4160.21-M (reference (y)), Defense Reutilization and Marketing Manual, 23 March 1990, except firing range-expended brass and mixed metals gleaned from firing range cleanup.

l. Types of surplus personal property whose sales proceeds must be deposited to accounts other than a QRP per 32 CFR 172, Appendix B. See below:

(1) Scrap generated from Naval Working Capital Fund (NWCF) activities;

(2) Usable personal property purchased by NWCF activities;

(3) Property purchased with commissary surcharge funds;

(4) Automatic data processing equipment owned by the General Services Administration;

(5) Property purchased for the Military Assistance Program or purchased
with Foreign Military Sales administrative funds;

(6) Coast Guard property;

(7) Property owned by nonappropriated fund activities;

(8) Lost, abandoned, or unclaimed privately-owned personal property;

(9) Property owed by a country or international organization; and

(10) Bones, fats, and meat trimmings generated by a commissary.

4. Managing Activity. An administrative element assigned to manage the recycling program including personnel, funds, and equipment.

5. MSWLF's. A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. An MSWLF also may receive other types of RCRA subtitle D wastes, such as commercial SW, nonhazardous sludge, small quantity generator waste, and industrial SW. Such a landfill may be publicly or privately owned. An MSWLF may be a new MSWLF, an existing MSWLF, or a lateral expansion.

6. QRP. An organized operation that diverts or recovers scrap or waste streams, and that identifies, segregates, and maintains the integrity of the recyclable materials in order to maintain or enhance the marketability of the materials.

7. Other QRP Materials. Materials that fit neither the definition of recyclable materials nor the definition of excluded materials are classified as other QRP materials.

8. Recovered Material. Waste materials and by-products that have been recovered or diverted from solid waste but such term does not include those materials and by-products generated from and commonly used within an original manufacturing process (42 U.S.C. 6903).

9. Recyclable Materials. Recyclable materials can include, but are not limited to: high quality paper and paper products; mixed paper, newspaper, cardboard; plastic; metal cans; glass; used oil (except when the oil is an HW); batteries; and tires. In addition, scrap (including ferrous and non-ferrous scrap),firing range-expended brass, and mixed metals gleaned from firing range cleanup that do not require demilitarization and that are MLI's

or SLI's may be included in a QRP. Expended brass must be crushed, shredded, or otherwise destroyed prior to public sale.

10. Recycling. The series of activities, including collection, separation, and processing, by which products or materials are recovered from the SW stream for use in the form of raw materials in the manufacturing of new products other than fuel for producing heat or power by combustion (from EO 12873,October 20, 1993, section 207).

11. Resource Recovery. The process of recovering material or energy from SW.

12. Resource Recovery Facility. Any physical plant that processes nonhazardous, commercial, or institutional SW biologically, chemically, or physically and recovers useful products, such as shredded fuel, combustible oil or gas, steam, metal, and glass, for resale or reuse.

13. SW. Any garbage, refuse, trash, rubbish, sludge, waste, or scrap from commercial, agricultural, industrial, or residential activities. This classification does not include any of those materials that are identified as HW.

14. Source Reduction. Source reduction, as defined in the PPA, is any practice that:

a. Reduces the amount of any hazardous substance (HS), pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, and disposal; and

b. Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants. The term includes equipment or technology modification, process or procedure modification, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control. Source reduction does not entail any form of waste management (e.g.,recycling, treatment, and disposal).

15. Source Separation. The separation of recyclable materials at their point of generation by the generator.

16. Waste Office Paper. Materials such as letterhead, copy paper, miscellaneous business forms, stationary, typing paper, tablet sheets, and computer printouts and cards. Classified

wastes are explicitly excluded, except when applicable security directives allow their inclusion.

17200. MARINE CORPS SOLID WASTE (SW) MANAGEMENT PROGRAMS

1. General

a. For disposal purposes, all SW generated at Marine Corps installations is considered property of the Government except in those situations when Marine Corps exchanges and commissary stores salvage and dispose of their recoverable resources. Marine Corps installations must strive to reduce SW generation. SW collection, disposal, and resource recovery programs at Marine Corps installations must be implemented in the most cost-effective and environmentally acceptable manner. Changing mission requirements and market conditions necessitate the periodic review of these operations as commercial facilities become available, or as the installation's industrial-type activities change. Marine Corps installations must comply with the guidance of MCO 4860.3, for SW collection, storage, and disposal; and with NAVFAC P-442, for the establishment and/or disestablishment of resource recovery/source separation programs. Contractors on Marine Corps installations must dispose of their SW per their contract requirements.

b. The Marine Corps will design SW disposal programs as total systems that consider the relative economic advantages of the latest technology as well as the potential for resource recovery. Explore shredding, compacting, energy recovery, and similar processes. Develop installation SW management plans according to the following hierarchy (for more information on the pollution prevention EMH, see chapter 15):

(1) Source reduction.

(2) Material reuse.

(3) Recycling.

(4) Energy recovery.

(5) Disposal.

c. All Marine Corps installations and commands must comply with DoD policy for recycling programs and procedures in accordance with the specifications of appendix L (see paragraph 17104.4b).

2. Source Reduction. Marine Corps source reduction programs must incorporate the following, where feasible:

a. Composting to facilitate yard waste reduction.

b. Reducing excessive packaging, especially where packaging is used for attractive merchandising or convenience functions.

c. Reducing waste generation in an office by:

(1) Reusing materials (e.g., file folders, paper clips, interoffice routing envelopes).

(2) Dual-sided copying.

(3) Using electronic mail instead of paper memos.

(4) Reducing mail and distribution lists.

3. SW Resource Recovery

a. All Marine Corps installations, where cost-effective, must implement source separation for recycling and develop a single authorized QRP which has controls to ensure that excluded materials, including those listed in 32 CFR 172.2(b)(3), are not sold through the program. All Marine Corps commands/ units and tenants must participate in the host activity's QRP. Materials for which proceeds can be obtained must be sold through the host's QRP. Industrial-funded activities must maintain separate accounting for recycled materials purchased with industrial funds.

b. All Marine Corps installations must establish an installation recycling program for the following purposes:

(1) To protect the environment and prevent the depletion of valuable natural resources;

(2) To comply with Federal, state, and local environmental laws and regulations;

(3) To reduce the volume of waste disposed in landfills;

(4) To reuse readily available resources;

(5) To avoid excessive costs for the disposal of SW by other means; and

(6) To obtain proceeds from the sale of recyclable material.

c. Marine Corps installations at a minimum must segregate the following materials for recycling:

(1) Scrap metal,

(2) High-grade paper,

(3) Corrugated containers, and

(4) Aluminum cans.

d. Consider exceptions to recycling these materials only in the following situations:

(1) When state or local regulations do not require recycling.

(2) When market analyses conducted by the DRMO or the managing activity indicate that the recovered materials cannot be sold or disposed of economically because of a lack of market demand. Such analyses must include the applicable portions of the life-cycle cost associated with the operation, maintenance,closure, and post-closure of Marine Corps-owned SW landfills and the applicable cost of disposal by contract.

(3) When the net costs exceed the net income plus avoided costs for disposal by another means.

e. Make no exceptions where environmental laws and regulations require specific materials to be recycled or removed from the waste stream.

f. Develop appropriate management controls for recyclable materials that may be hazardous, such as lead-acid batteries.

g. Prior to any source separation effort, request from the DRMO an estimate of the market for recovered materials, including estimated returns from sales and the timing of market demand.

h. Screen QRP materials for reutilization, transfer, and donation prior to selling directly.

i. Consider the following additional materials in the development of recyclable material markets:

(1) Glass.

(2) Plastic.

(3) Newspaper from housing areas.

(4) Scrap wood.

(5) Other waste as market demand arises.

j. Ensure that United States trade security control policies are followed prior to selling firing range-expended brass or mixed metals gleaned from firing range cleanup that do not require demilitarization and that are MLI's or SLI's.

k. Update economic analysis and market determinations as market conditions change significantly, and maintain such records on file at the managing installation.

l. To maximize recycling, consider handling recyclable materials that are not profitable for a QRP through SW contracts where the cost in the contract to have the materials recycled is less than the cost in the contract to dispose of the material. Ensure that the contract includes recordkeeping of quantities and types of material recycled in this manner.

4. Marine Corps Records

a. Each installation must determine what actions will be, or have been, taken to adopt source separation requirements. When an installation decides not to source separate, such a decision must be based on a fully supported analysis.To determine SW management requirements, each installation must keep records of disposed SW and materials recycled. Records may be kept in the form of weight tickets, the number and size of truckloads delivered, contractor billings, or any other means of accurately determining or establishing the rate and volume of SW generated.

b. After establishing an organized QRP or if recycling is concurrent with such program development, the installation must determine whether to sell material directly or through their DRMO. If material is to be sold directly, the QRP procedures must address the identification of recyclable materials,excluded materials, and other QRP materials. The installation must coordinate with the DRMO when selling through the DRMO to determine whether the specific material to be sold actually is recyclable material. Refer disputes through the chain of command. Proceeds from sales, regardless of the type of sales transaction, are returned to the installation as described below:

(1) All Marine Corps installations, including those that operate under NWCF, may participate in the program.

(2) Deposit proceeds from the sale of recyclable materials at an installation with a QRP to account number **F3875.27 "Budget Clearing Account (suspense)" as instructed by MCO 7301.116. Accumulated funds in account number **F3875.27 are not affected by fiscal year end, so that proceeds acquiredduring one fiscal year may be carried forward and merged with proceeds of subsequent fiscal years. The proceeds must be segregated within the account to allow accounting as to the amounts collected and their disposition.

(3) Withdraw proceeds first from account number **F3875.27 to cover costs of operations, maintenance, and overhead for the processing and handling the recyclable materials (including the cost of any equipment purchases for recycling purposes). Military personnel must not be reimbursed from the proceeds of this account. If funds from account **F3875.27 are not sufficient to cover the costs of processing and handling these recyclable materials within a fiscal year, funds normally available for operations and maintenance will be used to cover the remainder.

(4) If a balance remains, not more than 50 percent of that balance may be used at the installation for projects for environmental compliance, energy conservation, and occupational safety and health activities. Construction projects are limited to 50 percent of the minor construction authority and must be paid for with proceeds from the sale of recyclable materials. Environmental compliance, energy conservation, and occupational safety and health projects must not be included in the normal minor construction program if sufficient recycling proceeds are available at the installation.

(5) Any remaining balance may be transferred to one or more of the local nonappropriated fund instrumentalities supporting MWR activities at the installation as defined in existing DON regulations.

(6) If the balance of an installation's proceeds remaining in account number **F3875.27 exceeds $2 million at the end of a fiscal year, deposit the amount in excess of $2 million into the United States Treasury as miscellaneous receipts.

5. Marine Corps Solid Waste Annual Report (SWAR). This report is no longer required. The data that was collected on this report is now part of the Pollution Prevention Annual Data Summary (P2ADS). Specific guidance on P2ADS was provided in the CMC letter 5090 LFL/S-157, 26 January 1998.

6. Technical Assistance. NAVFACENGCOM EFD's/EFA's will provide technical assistance to Marine Corps installations upon request.

17201. MARINE CORPS INSTALLATIONS IN FOREIGN COUNTRIES. Outside the United States, the disposition of recyclable and other QRP materials, derived from goods that have been imported duty free, is accomplished in accordance with the status of forces, surplus or excess property agreements, or other international agreements with host nations.

SECTION 3: RESPONSIBILITIES

17300. CMC (LF) AND CMC (LFF)

1. Provide information and advice to installation commanders regarding proposed and final rules and regulations pertaining to SW management and resource recovery and uniformly apply Marine Corps policy as set forth in this Manual.

2. Ensure compliance with the specifications provided in appendix L (see paragraph 17104.4b).

3. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

4. Conduct special environmental compliance and protection studies with regard to SW management to assist in establishing policy or initiating actions.

5. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to SW regulations.

6. Track Marine Corps progress toward meeting established SW minimization goals, using the P2ADS.

17301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for SW management and resource recovery facilities that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment,materials, training, and monitoring required to comply with SW management and resource recovery requirements. Pay appropriate Federal, state, and local fees. Ensure that the EMH is employed, pollution prevention alternatives evaluated, and life-cycle cost

impacts assessed, in evaluating and selecting projects that address compliance requirements.

2. Ensure that all required Federal, state, and local permits are applied for and obtained. Sign certifications and permit applications, as required, for construction of all SW management and resource recovery projects.

3. Ensure that a base or station order is written implementing local SW management and resource recovery policies.

4. Establish source separation programs and resource recovery facilities as feasible, and implement their operation through base or station orders.

5. If in a listed SMSA, cooperate with the designated SMSA lead agency.

6. Determine whether QRP or recycling sales programs are applicable.

7. Obtain applicable state or local permits and licenses for the site location and operation of on-site landfills.

8. Ensure that SW is disposed of according to applicable Federal, state, and local requirements.

9. Develop a system (e.g., listing, dumpster markings) to notify all base and unit personnel of the types of SW that may be placed in SW collection containers, and ensure that only those acceptable wastes are placed in the containers.

10. Ensure that off-base landfills receiving Marine Corps SW are licensed and are operating under applicable permits and regulations.

11. Ensure that Marine Corps installations located in the United States and its territories and possessions comply with certain Department of Agriculture (DOA) inspection and disposal requirements if they receive garbage from vehicles and/or aircraft arriving from outside the United States. These regulations are designed to prevent the spread of plant pests and animal diseases.

12. Develop SW management plans, including source reduction and recycling programs and resource recovery facilities as required.

13. Ensure that recyclable material direct sales performed by the QRP are performed in accordance with applicable laws and guidance.

14. Submit P2ADS data annually to NFESC and the CMC (LF).

17302. CG/CO OF MARINE CORPS COMMAND/UNIT AND TENANT TRAINING

1. Cooperate with the organization, lessor, or host activity that implements the SW management program outlined in this chapter.

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UNDERGROUND STORAGE TANKS

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CHAPTER 18

UNDERGROUND STORAGE TANKS

SECTION 1: INTRODUCTION

18100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with statutory requirements for UST's containing petroleum products and hazardous substances (HS).

18101. APPLICABILITY. See paragraph 1101.

18102. BACKGROUND. The 1986 amendments to the Resource Conservation and Recovery Act (RCRA) included provisions to prevent releases from UST's, mandating a comprehensive regulatory program. An UST is defined as any combination of tank and underground pipes in which 10 percent or more of the volume of the tank is beneath the ground surface (including associated underground piping).

18103. FEDERAL STATUTES

1. Hazardous and Solid Waste Amendments (HSWA) of 1984 (Public Law 98-616)

a. The HSWA extended and strengthened the provisions of the Solid Waste Disposal Act (SWDA) as amended by RCRA. Subtitle C of RCRA regulates UST's that contain hazardous waste (HW). Subtitle I of the HSWA provides for the development and implementation of a comprehensive regulatory program for UST's containing HS's or petroleum products, and releases of those substances into the environment. HS's regulated under subtitle I include any substance listed in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

b. The HSWA requires that Federal installations comply with all Federal and applicable state and local requirements regarding UST's, including payment of registration fees and permit fees when such fees are not taxes.

c. Federal regulations outline procedures by which the Environmental Protection Agency (EPA) may approve state programs to replace the Federal UST requirements, if those state programs have standards that are no less stringent than the Federal requirements and provide adequate enforcement of those standards. States with an approved UST program will have primary enforcement responsibility in their states. Currently, most states have UST regulatory programs in place. Until the EPA approves a state program, installations must comply with all applicable provisions of both the Federal and state UST programs. After the EPA approves a state's program, installations must comply with applicable state requirements.

d. Section 9002 of RCRA bars installing unprotected tanks after May 7, 1985. All new UST's must meet corrosion protection requirements. In addition, the EPA or designated state agency must be notified of the presence of existing regulated UST's. Provisions in the new UST program required the EPA to develop regulations for new tanks including design, construction, installation, release detection, and compatibility standards. This rule was promulgated September 23, 1988, and became effective December 22, 1988 (40 CFR 280, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks).

2. The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Public Law 99-499). Section 205 of SARA amended the SWDA by defining the term "petroleum" to mean petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60O F and 14.7 pounds per square inch absolute (psia)). Also, section 205 of SARA added provisions related to state UST inventories and financial responsibility for UST owners (i.e., the EPA/state authority for corrective actions, the EPA/ state cost recovery for remedial actions, and state/political subdivision rights to adopt and enforce more stringent requirements than Federal requirements on UST's).

18104. REQUIREMENTS

1. General Tank Standards and Operating Requirements. UST regulations applicable to Federal installations are found in 40 CFR 280, subparts A-G. A brief description of the requirements follows:

a. In 40 CFR 280, subpart A gives the definitions for the UST program and applicability of the regulations to each system.

b. For a tabular summary of the basic requirements and when they must be operative, see appendix G-1. Appendix G-2 provides information on responding to releases from UST's.

c. Federal UST regulations (40 CFR 280) apply to both existing (installed before December 1988) and new (installed after December 1988) tanks and the associated piping network. Tank standards stipulated under these regulations, including corrosion protection and spill/overflow prevention, are applicable immediately for new tanks or by December 22, 1998, via upgrade or retrofit for existing tanks. Tanks unable to meet Federal UST standards must be closed in compliance with 40 CFR 280, subpart G.

d. Wastewater treatment tank systems, UST's containing radioactive material (Atomic Energy Act of 1954), UST systems that are part of an emergency generator system at nuclear power generation facilities, airport hydrant fuel distribution systems, and UST systems with field-constructed tanks are deferred from the requirements of 40 CFR 280 except for subpart F governing release response and corrective action requirements.

e. Monitor transfer operations to ensure that spilling or overflowing does not occur.

f. Maintain and inspect corrosion protection measures, including cathodic protection, to ensure proper operation. A cathodic protection tester should perform cathodic protection maintenance activities.

g. UST systems must be made of, or lined with, materials compatible with substances stored in the UST system.

h. Conduct repairs to UST systems per a code of practice developed by a nationally recognized association or an independent testing laboratory; repairs may be made by the manufacturers' authorized representatives. Test repaired tanks operability for tightness and corrosion protection, and maintain records of all repairs for the remaining operating life of the UST system. Internal inspections of repaired tanks, using appropriate confined space entry procedures, may be permitted in lieu of tightness testing.

i. Maintain written records demonstrating compliance with operations and maintenance requirements.

j. The owner/operator must report all existing UST's and installation certifications for new UST systems to the proper agency. Owners/operators must also report releases, spills, and corrective actions planned in cleanup procedures.

2. Release Detection

a. The 40 CFR 280, subpart D identifies release detection requirements.

b. In addition to compliance with tank standards identified under 40 CFR 280.20 and 40 CFR 280.21, new, existing upgraded, and existing nonupgraded tanks and pipes must provide methods for release detection. Such requirements are to be phased in for existing tanks and piping systems, while new tanks and associated piping networks must provide methods for release detection upon installation. The schedule for phasing in release detection requirements regarding existing systems is based on the age of the tank and piping. The phase-in process began December 22, 1989, for tanks 25 years old or older (seeappendix G-1). As of December 22, 1993, all piping systems and existing tanks must have complied with release detection requirements.

c. Specific types of release detection methods to be employed are defined in 40 CFR 280, subpart D (see appendix G-3). The owner/operator must choose from the options outlined in these regulations: release detection will consist of one of the monthly monitoring methods as defined under 40 CFR 280.43(d)-(h) or tank tightness testing in combination with monthly inventory control. Tank tightness testing is required annually for existing tanks not yet meeting upgrade requirements and can only be used to meet release detection requirements until December 22, 1998. Tank tightness testing at intervals of 5 years is allowed for new tanks or tanks upgraded with corrosion protection until December 22, 1998, or 10 years after installation/upgrade, whichever date is later. The employment of release detection methods required under 40 CFR 280, subpart D, are necessary for the life of the tank and piping system.

d. While the use of a release detection option that involves the use of tank tightness testing may appear to be the less difficult way to meet initial regulatory requirements, it may not be the most prudent. This is especially true if there are plans to upgrade tanks to meet long-term storage needs. It is wise in

such cases to consider the use of long-term monitoring methods, as opposed to tank tightness testing that is considered to be an interim release detection option only.

e. Maintain records documenting compliance with release detection requirements for 5 years, or a length of time to be determined by the applicable regulatory agency.

3. Release Reporting, Investigation, and Confirmation

a. 40 CFR 280, subpart E, outlines release reporting, investigation, and confirmation requirements.

b. A suspected release from a UST system must be reported to the state implementing agency within 24 hours. The following discoveries constitute a suspected release:

(1) Sudden loss of product.

(2) Erratic behavior of dispensing equipment.

(3) Unexplained presence of water in a tank.

(4) Discovery of free product or vapor at the site or surrounding area, or when release detection methods indicate a release occurrence. Exceptions to the reporting requirement include: when tank system dispensing/pumping equipment is found to be defective but not leaking and can be replaced or repaired immediately; or in the case of inventory control, if the second month of data does not confirm the initial results; or when the monitoring device is found to be defective and is immediately repaired or replaced and recalibrated, and additional monitoring does not confirm the initial results. Follow the guidance in chapter 7 for reporting HS releases.

c. The regulatory agency may require off-site impact determinations under certain circumstances, such as those described in 40 CFR 280.51.

d. Suspected releases of regulated substances must be investigated and confirmed within 7 days by conducting a UST system test or another confirmation procedure established by the state. Further investigation is not required if a system test indicates a leak does not exist and no environmental contamination is present. If system testing indicates that no leak exists but environmental contamination is the cause for

suspecting a release, a site check, per 40 CFR 280.52(b), is required.

e. UST system spills or overfills must be immediately cleaned up and reported to the state within 24 hours for spills or overfills of:

(1) Over 25 gallons or if a petroleum sheen is present on nearby surface water for tanks containing petroleum products, and

(2) HS's exceeding reportable quantities under CERCLA.

f. If cleanup cannot be accomplished within 24 hours, immediately notify the regulatory agency.

g. Spills and overfills resulting in the release of petroleum that are less than 25 gallons must be contained immediately and cleaned up within 24 hours. If cleanup cannot be accomplished within 24 hours, immediately notify the regulatory agency.

4. Release Response and Corrective Action

a. 40 CFR 280, subpart F outlines release response and corrective action requirements.

b. Upon discovery of a confirmed or suspected release, owners and operators must notify the EPA and appropriate state agencies within 24 hours. Upon confirmation of a release, owner/operators must stop further release of the regulated substance from the UST system and identify and mitigate fire, explosion, and vapor hazards. Confirm the suspected release within 7 days of the initial discovery (40 CFR 280.52).

c. The following initial abatement measures are required for a confirmed release, as identified in 40 CFR 280.62:

(1) Remove as much of the regulated substance as necessary from the UST system to prevent further release;

(2) Remedy hazards posed by UST releases. Hazards include contaminated soils below ground level and migration of the regulated substance into surrounding soils and groundwater;

(3) Continue to monitor and mitigate any fire and safety hazards;

(4) Measure prudently for the presence and extent of releases around the UST site;

(5) Alleviate any hazards posed by contaminated soils and materials that were excavated or exposed as a result of any corrective or investigative activities. The owner/operator must comply with applicable Federal, state, and local regulations regarding disposal or treatment of these substances; and

(6) Report initial abatement steps within 20 days.

d. The EPA or state agency requires the submission of an initial site characterization report which includes at a minimum the determination of: the nature and extent of the release; the estimated quantity of the release; a free product assessment; and information on surrounding population, geology, water supply, wells, utilities, climate, and land use.

e. The site characterization report must be submitted to the regulatory agency within 45 days of release confirmation or another reasonable time as determined by the regulatory agency.

f. If free product is discovered, the owner/operator must begin abatement of it as soon as possible and to the maximum extent practicable. All free product abatement and disposal practices must comply with those listed in 40 CFR 280.64.

g. Investigate soil and groundwater contamination to determine the extent of the contamination plume. Submit the information obtained during the investigation to the proper regulatory agency. Submission of a corrective action plan to the appropriate regulatory agency may be required, with additional information on the condition and extent of contaminated soil, groundwater remediation actions, and demonstration that adequate protection to human health, safety, and the environment is being provided. The regulatory agency will review this corrective action plan to determine if it will adequately protect human health, safety, and the environment. The regulatory agency may approve the plan or make any modifications prior to implementation.

h. The regulatory agency must notify members of the public for each confirmed release that requires a corrective action plan and make the corrective action plan available to the public, upon request. Additionally, the public must be notified if the selected corrective action fails to meet the established cleanup goals.

5. Out-of-Service UST Systems and Closure

a. The regulations applicable to this section are located in 40 CFR 280, subpart G.

b. Temporary closure of a UST system requires continued operation and maintenance of corrosion protection and release detection measures. Continue to maintain corrosion protection even when the UST system is empty.

c. Temporary closure of 3 months or more requires that vent lines be left open and all other lines, pumps, manways, and ancillary equipment be capped and secured.

d. Temporary closure of more than 12 months requires permanent closure of the UST system if it does not meet either new UST performance standards or corrosion protection upgrading standards. The regulatory agency may grant an extension of the 12-month, temporary closure period.

e. Owners/operators must notify the implementing agency 30 days prior to the permanent closure or change-in-service of a UST. Continued use of a UST to store a nonregulated substance is considered a "change-in-service." UST's must be emptied and properly cleaned prior to permanent closure or change-in-service, and closed tanks must be removed or filled with an inert solid and all tank openings must be capped. Owners/operators must perform a site assessment on UST's which undergo permanent closure or change-in-service. The site assessment must measure for the presence of contaminants in the places where they most likely will be present and detected. UST's which use proper groundwater or external vapor monitoring systems, which are operating in accordance with the applicable requirements, do not need to perform a site assessment if no release is detected at closure/change-in-service.

f. Site assessment of an excavation zone and compliance with closure requirements may also apply to UST systems permanently closed before December 22, 1988, if the regulatory agency determines that the UST may pose a current or potential threat to human health, safety, or the environment.

g. Maintain records documenting compliance with closure requirements for a period of 3 years after closure.

6. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for

achieving compliance with applicable Executive Orders, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

18105. TERMS AND DEFINITIONS

1. Aboveground Release. Any release of a regulated substance from a UST to the surface of the land or surface water. This includes, but is not limited to, release from the aboveground portion of a UST system and aboveground releases associated with overfill and transfer operations as the regulated substance moves to or from a UST system.

2. Ancillary Equipment. Any devices including, but not limited to, piping, fittings, flanges, valves, and pumps used to distribute, measure, or control the flow of regulated substances to and from a UST.

3. Cathodic Protection. A technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

4. Cathodic Protection Tester. A person who can demonstrate understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, the person must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

5. Connected Piping. All underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

6. Corrosion Expert. A person who, by reason of thorough knowledge of physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as

being qualified by the National Association of Corrosion Engineers, or must be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

7. Excavation Zone. The volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

8. Existing Tank System. A tank system used to contain an accumulation of regulated substances, or for which the installation has commenced on or before December 22, 1988. The installation is considered to have commenced if:

a. The owner or operator has obtained all Federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and

b. Either a continuous on-site physical construction or installation program has begun; or

c. The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.

9. Flow-through Process Tank. A tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of material prior to their introduction into the production process or for the storage of finished products or byproducts from the production process.

10. Free Product. A regulated substance that is present as a nonaqueous phase liquid (i.e., liquid not dissolved in water).

11. HS UST System. Any UST system that contains an HS defined in section 101(14) of CERCLA (but not including any substance regulated as an HW under subtitle C of RCRA) or any mixture of such substances and petroleum in a UST system that does not constitute a petroleum UST system.

12. Heating Oil. Petroleum that is Nos. 1, 2, 4, and 5 (light and heavy), and 6 (technical grades), other residual fuel oils (including Navy Special Fuel Oil and Bunker C), and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces. Oil, as defined in 40 CFR 122.2, is oil of any kind or in any form including, but not limited to, petroleum, fuel oil, sludge, or oil refuse.

13. Hydraulic Lift Tank. A tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

14. Liquid Trap. Sumps, well cellars, and other traps used in association with oil and gas production, and gathering an extraction operations (including gas production plants) for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

15. New Tank System. A tank system that will be used to contain an accumulation of regulated substances and which installation commenced after 22 December 1988.

16. Operator. Any person in control of or having responsibility for the daily operation of a UST system.

17. Overfill Release. A release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

18. Owner. In the case of an UST system in use on 8 November 1984 or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of a regulated substance; and, in the case of any UST system in use before 8 November 1984, but no longer in use on that date, any person who owned the UST immediately before the discontinuation of its use.

19. Petroleum. Petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60O F and 14.7 psia).

20. Petroleum UST System. A UST system that contains petroleum or a mixture of petroleum with minimum quantities of other regulated substances. Such systems include those containing

motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

21. Regulated Substance

a. Any substance defined in section 101(14) of CERCLA, but not including any substance regulated as an HW under subtitle C of RCRA.

b. Petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60O F and 14.7 psia).

c. The term "regulated substance" includes, but is not limited to, petroleum and petroleum-based substances consisting of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

22. Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment. The term excludes:

a. Any release that results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons;

b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

c. Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act. If such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of this Act, or for the purposes of section 104 of CERCLA, or any other response action, any release of source, byproduct, or special nuclear material from any processing site designated under section 102(a)(1) or section 302(a) of the Uranium Mill Tailings Radiation Control Act; and

d. The normal application of fertilizer.

23. Release Detection. Determining whether a release of a regulated substance has occurred from a UST system into the environment or into the interstitial space between the UST system and its secondary barrier or containment.

24. Septic Tank. A watertight, covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such a receptacle is distributed through the soil, and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

25. Stormwater or Wastewater Collection System. Piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water runoff resulting from precipitation, or domestic, commercial, or industrial wastewater. The collection of stormwater and wastewater does not include treatment except where incidental to conveyance.

26. UST's. All tank systems containing regulated substances for which the tank volume, including piping, is 10 percent or more beneath the surface of the ground. The following tank systems are excluded from Federal UST regulations:

a. Any UST system holding an HW listed or identified under subtitle C of RCRA, or a mixture of such an HW and other regulated substances.

b. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under sections 402 or 307(b) of the Clean Water Act.

c. Equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift tanks and electrical equipment tanks.

d. Any UST system that has a capacity of 110 gallons or less.

e. Any UST system that contains a minimum concentration of regulated substances.

f. Any UST emergency spill or overflow containment system that is expeditiously emptied after use.

g. Any residential tank containing motor fuel for noncommercial use with capacity of 1,100 gallons or less.

h. Any tank storing heating oil for consumptive use on the premises.

i. Any tank system on or above the floor of underground areas, such as basements or tunnels.

j. Any septic tank, stormwater, or wastewater collection system.

k. Any flow-through process tank.

27. Upgrade. The addition or retrofit of a system with cathodic protection, lining, or spill and overfill controls to improve the ability of an UST system to prevent the release of product.

28. UST System or Tank System. The UST and any connected underground piping, underground ancillary equipment, and containment system, if any.

29. Wastewater Treatment Tank. A tank that is designed to receive and treat influent wastewater through physical, chemical, or biological methods.

CHAPTER 18

UNDERGROUND STORAGE TANKS

SECTION 2: MARINE CORPS POLICY

18200. COMPLIANCE WITH UNDERGROUND STORAGE TANK (UST) REQUIREMENTS. The Marine Corps UST program policy is to comply with all Federal and applicable state and local regulations pertaining to the operation and management of UST's. Additionally, Marine Corps installations must develop long-term management plans to establish procedures for achieving and maintaining compliance, as well as to prioritize corrective actions against environmental risk.

18201. COMPLIANCE WITH UNDERGROUND STORAGE TANK (UST) INVENTORY. One of the most important initial steps in meeting UST regulatory requirements is to develop adequate baseline data regarding an installation's tank population. Marine Corps installations must maintain a complete and accurate UST inventory. Complete inventories must have all applicable data elements listed for each system record. Update data elements to reflect significant changes in the UST condition, especially at critical points during the useful life of each UST (e.g., following installation, when upgraded or repaired, if a release occurs, at closure, etc.). Such information is necessary not only to develop and maintain a rational UST compliance strategy, but also to apply accurate, appropriate funding sources to required UST actions.

18202. COMPLIANCE WITH UNDERGROUND STORAGE TANK (UST) MANAGEMENT

1. Compliance with UST regulations is necessary to reduce environmental liability but results in far-reaching management and cost implications to the Marine Corps. A long-term approach to reducing UST-related liability and the associated costs requires the development of installation UST management plans. These require Marine Corps installations to look beyond the specific regulatory compliance tasks and consider a comprehensive approach to effectively reduce environmental risk stemming from storage needs.

2. The primary goal of the UST management plan is to design a strategy to achieve and maintain compliance with regulatory

requirements. An important secondary objective of the management plan is to allow installations to utilize UST systems as efficiently as possible, therefore reducing environmental risk while minimizing costs associated with compliance. Marine Corps UST management plans should include the following:

a. A general UST inventory description and goal statement.

b. A consolidation and reduction plan of existing UST systems to meet storage needs while minimizing environmental risk.

c. An evaluation of alternate storage vessels such as aboveground tanks with proper spill prevention/containment or vaulted underground tanks to replace out-of-date UST's. Management plans should include economic considerations during the discussion of storage alternatives.

d. A plan-of-action and milestones to replace/upgrade active UST's and to properly close abandoned UST's. Management plans should include a discussion of specific projects necessary to meet management goals.

e. Procedures to ensure continued compliance into the future. Plans should include assignment of responsibilities to parties who will carry out compliance tasks such as inventory control, leak detection maintenance, corrosion protection maintenance, release reporting, and follow-up.

f. A description of recordkeeping practices to be maintained on all aspects of UST management. Records must document the useful life of the UST and include installation, registration, maintenance, upgrades, closure, operator training, and release reporting from discovery through cleanup and UST closure.

3. In reference to the management of deferred UST systems, as defined in paragraph 18104.1d and 40 CFR 280.11 applies:

a. No person may install an UST system listed in 40 CFR 280.10(c) for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction):

(1) Will prevent releases due to corrosion or structural failure for the operational life of the UST system.

(2) Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a

noncorrodible material, or designed in a manner to prevent the release of any stored substance; and

(3) Is constructed or lined with material that is compatible with the stored substance.

b. Notwithstanding paragraph 18202.3a of this section, an UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life.

c. Owners and operators must maintain records that demonstrate compliance with the requirements of this paragraph for the remaining life of the tank.

18203. FUNDING CATEGORIES

1. Primary Funding Categories for UST Closures, Replacements, Upgrades

a. Operations and Maintenance. Includes centrally and/or locally managed funds for repair (M1/M2) and minor construction(R1/R2). Investigations and other engineering support use (P) funds. Refer to MCO P11000.5 (vol. IV) and chapter 3 of this Manual for further information.

b. Military Construction. Used for projects that exceed minor construction limits. Includes entire tank replacement for existing "contamination-free" sites or new tank construction complying with MCO P11000.12 (vol. II).

c. The Defense Logistics Agency, Defense Fuel Supply Center (DFSC). Used for projects that involve DFSC-owned fuel, DFSC funds can be used for environmentally related minor construction, major repair, and military construction projects, as well as certain recurring costs.

d. Defense Environmental Restoration Account (DERA). Used for the cleanup of environmental contamination from UST's. Eligibility for DERA funding is linked with initial leak detection required by the Federal regulations. If site contamination is discovered prior to or during the initial leak detection that occurred no later than 22 December 1993, the site investigation and cleanup are eligible for DERA funding. After initial leak detection is completed and has shown that a system

has not caused a release to the environment, any cleanup of subsequent site contamination caused by that system will not be eligible for DERA funds.

e. Base Realignment and Closure. Used only when UST projects are related to the closure or realignment of an installation.

f. Japanese Facility Improvement Program. Used only at Japanese installations when a UST action is related to a project approved by Japanese officials with the purpose of improving conditions for local citizens.

2. Primary Funding Categories for Release Detection and Maintenance. Release detection and regular maintenance is an ongoing compliance requirement for new and existing tank systems. Installation funding requests to address these requirements will compete with all other similar requests. Therefore, to ensure that adequate funds are available, each installation should budget needed funds locally.

3. Primary Funding Categories for Release Response. Anticipated studies such as site characterization for closing UST's should be budgeted for during development of the removal/replacement projects. Initial response abatement and free product removal actions are viewed as similar to emergency response. Therefore, resultant costs of these actions must be absorbed by local installation operating funds. Response to spills and releases of DFSC-owned fuel which occur after October 1992 may be funded by DFSC on a reimbursable basis.

18204. COMPLIANCE WITH UNDERGROUND STORAGE TANK (UST) CLOSURE DOCUMENTATION

1. The Marine Corps has permanently closed many UST's to date and will continue to do so in order to meet regulatory requirements and eliminate unneeded storage capacity. Proper documentation of UST removals and in-place closures is very important to ensure compliance, reduce environmental liability, avoid duplicative effort, and show progress and due diligence.

2. Marine Corps installations must record and maintain specific, detailed information for every UST taken out of service. Such information should be organized into a written UST closure report. Appendix G-4 outlines a typical UST closure report.

a. Release Reporting Requirements. Marine Corps personnel must contain and clean up all spills or leaks of any size. Marine Corps personnel must report within 24 hours all confirmed or suspected leaks based on monitoring, or spills and overfills of petroleum exceeding 25 gallons, to the EPA or proper state agency. Such releases must also be reported to the CMC (LF). Utilize the message format provided in appendix E.

b. Release Investigation and Confirmation. Immediate investigation should be initiated using the following methods (or others specified by the state or the EPA):

(1) Perform inventory control for an additional month (if inventory reconciliation is the reason for suspecting a leak).

(2) If a leak is still suspected, tank/pipe isolated tightness tests must be used to locate the leak.

(3) If the UST system fails a tightness test or if environmental monitoring was the original reason to suspect a release, personnel must perform a site check.

(4) Upon release confirmation, report this information to the appropriate regulatory agencies and proceed with release response and corrective action as outlined in 40 CFR 280.60 through 40 CFR 280.67, or equivalent state regulations.

c. Small leaks or spills can sometimes be cleaned up without removing the tank or pipeline. In many cases, loose joints and connections cause leaks while the general condition of the tank or pipeline is good. In such cases, the tank or pipeline can be repaired per 40 CFR 280.33 and returned to service.

SECTION 3: RESPONSIBILITIES

18300. CMC (LF)

1. Provide information and advice to installation commanders regarding proposed and final rules and regulations pertaining to UST's and uniformly apply Marine Corps policy as set forth in the Manual.

2. Monitor installation compliance with upcoming UST upgrade requirements.

3. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

4. Conduct special environmental compliance and protection studies with regard to UST's to assist in establishing policy or initiating actions.

5. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to UST regulations.

18301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for UST systems that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with UST requirements.

2. Ensure that all required Federal, state, and local permits are applied for and obtained. Sign certifications and permit applications, as required, for construction of all UST projects. Pay appropriate Federal, state, and local fees.

3. Ensure that notification forms for UST's are completed and forwarded to the EPA or the appropriate state agency. Ensure that an accurate UST inventory is maintained.

4. Ensure that the environmental management hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements (see chapter 15).

5. Accomplish leak detection and product inventory requirements, recordkeeping, and operation of monitoring systems required by Federal, and applicable state, and local UST laws and regulations.

6. Comply with Federal, and applicable state, and local laws and regulations concerning the construction of new UST's, the upgrading of existing tanks, and the removal and closure of abandoned/unneeded tanks.

7. Identify resources required to meet the UST requirements in the Program Objective Memorandum, budget submittals, and the Annual Operational Plan.

8. Develop and implement a comprehensive, written UST management plan to facilitate compliance, and to reduce long-term costs associated with compliance.

9. When necessary, request technical assistance for UST management from the Naval Facilities Engineering Command Engineering Field Divisions/Activities or other available agencies for leak detection assistance, design assistance for new UST's, and estimation of resource requirements for corrective actions.

10. Ensure that coordination occurs as appropriate with the Safety Office in matters relating to UST cleaning and removals.

11. Ensure that a base or station order is written to implement specifications set forth in this chapter. This requirement can be accomplished either by writing an environmental compliance and protection standard operating procedures document to implement all environmental requirements or by writing a separate base order to implement specifications of this chapter alone.

CHAPTER 19

POLYCHLORINATED BIPHENYLS MANAGEMENT

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FIGURE

19-1 PCB ITEM MARKING 19-19

CHAPTER 19

POLYCHLORINATED BIPHENYLS MANAGEMENT

SECTION 1: INTRODUCTION

19100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with requirements under the Toxic Substances Control Act (TSCA) for managing PCB's. Although this chapter deals primarily with the management of PCB's, it recognizes that occupational safety and health policies and regulations must be integrated into the management of PCB's to attain an effective program.

19101. APPLICABILITY. See paragraph 1101.

19102. BACKGROUND. Except as authorized in 40 CFR 761.30, the Environmental Protection Agency (EPA) regulations ban the use of PCB's in any manner not totally enclosed. Regulations also prohibit PCB manufacturing, processing, importation, and distribution in commerce except for disposal. Although the manufacturing of new equipment using PCB's is prohibited, the regulations allow for the continued use of some PCB-containing equipment already in service through the end of its useful life, unless otherwise prohibited. Useful life is generally interpreted to be until equipment failure.

1. PCB's are also recognized as hazardous substances (HS) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for purposes of spill reporting.

2. The regulations at 40 CFR part 761, establish specific definitions for many terms (see paragraph 19105, Terms and Definitions.)

19103. FEDERAL STATUTES

1. TSCA of 1976 (15 U.S.C. 2601 et seq.). This Act requires the EPA to regulate and control harmful chemical and toxic substances in commercial use. Congress enacted TSCA to reduce unreasonable risks from chemicals to human health, safety, and the environment. Section 6 of TSCA provides the EPA with the

authority to regulate hazardous chemical substances and mixtures. Regulations on the manufacturing, processing, distribution in commerce, and use of PCB's are found in 40 CFR 761. The EPA promulgated additional regulations on the storage and disposal of PCB's on December 21, 1989.

2. Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. 6901 et seq.). RCRA was enacted as an amendment to the Solid Waste Disposal Act. RCRA has been amended by several public laws, including the Hazardous and Solid Waste Amendments (HSWA). The HSWA requirements include the prohibition on land disposal of hazardous wastes (HW) containing PCB's (for liquids with concentrations greater than 50 parts per million (ppm) and for nonliquids with concentrations of PCB's greater than 1,000 ppm).

19104. REQUIREMENTS

1. Use/Reuse. PCB's at any concentration may be used in transformers (other than railroad) and for purposes of servicing, including rebuilding these transformers for the remainder of their useful lives (40 CFR 761.30). The following requirements are applicable to the use and reuse of PCB's:

a. Marine Corps installations must not use or store for reuse large PCB capacitors, PCB transformers, or electromagnets that pose an exposure risk to human food or animal feed. Exposure risk exists if PCB's released in any way have a potential pathway to human food or animal feed. For PCB capacitors, if there is no exposure risk, use these capacitors only within a restricted-access electrical substation or a restricted-access indoor installation. At least every 3 months, visually inspect for leaks all PCB transformers or electromagnets in use, or in storage for reuse. Initiate cleanup and repair of leaks within 48 hours of discovery. Daily inspect all leaking PCB transformers until the leak has been repaired. In situations where transformers have 100 percent secondary spill containment, or have been serviced for purposes of reducing the PCB concentration and contain less than 60,000 ppm PCB's, visual inspections may be reduced to once every 12 months (40 CFR 761.30).

b. As of October 1, 1990, installations may no longer use network PCB transformers with secondary voltages equal to or greater than 480 volts, including 480/277 volt systems in, or near, commercial buildings. Such PCB transformers must be

converted to either PCB-contaminated or non-PCB status by retrofilling or by removal and replacement.

c. As of October 1, 1990, all radial PCB transformers and lower secondary voltage network PCB transformers (i.e., secondary voltages below 480 volts) used in, or near, commercial buildings must be equipped with electrical protection to avoid transformer failures caused by high-current faults. In addition to this protection, all radial PCB transformers with higher secondary voltages (i.e., 480 volts and above, including 480/277 volt systems) used in, or near, commercial buildings must have electrical protection to avoid transformer failures caused by sustained low-current faults. Radial transformers that are not provided with electrical protection must have been removed from service by October 1, 1990. Lower secondary voltage network transformers (described above) that are not provided with electrical protection must have been removed from service by October 1, 1993.

d. It is prohibited to install PCB transformers which have been placed into storage for reuse or which have been removed from another location in or near commercial buildings.

e. Installations must register all PCB transformers (including pole-mounted PCB transformers and those stored for reuse) with any fire department on-base or off-base able to respond to a fire.

2. Markings

a. Per 40 CFR 761. 40, mark as illustrated in figure 19-1, the following PCB items in existence on or after July 1, 1978:

(1) All PCB transformers and PCB Large High Voltage Capacitors (LHVC) in use or removed from use;

(2) Electric motors using PCB coolants, hydraulic systems, and heat transfer systems containing PCB’s of 50 ppm or greater;

(3) PCB Large Low Voltage Capacitors (LLVC) when they are removed from service;

(4) PCB article containers;

(5) Each storage area used to store PCB’s and PCB items; and

(6) PCB transformer locations.

b. Mark PCB storage areas and transport vehicles with special labels in accordance with 40 CFR 761.40, and the Department of Transportation's hazardous material transportation regulations.

c. Mark the date when PCB liquids, PCB containers, nonliquid PCB's, and PCB items are removed from service and placed in the storage facility.

d. If one or more PCB LHVC's are installed in a protection location such as on a power pole, structure, or behind a fence, the pole, structure, or fence, mark as illustrated in figure 19-1.

3. Storage

a. Per the requirements in 40 CFR 761.65, the following storage requirements apply to PCB's at concentrations of 50 ppm or greater and PCB items with PCB concentrations of 50 ppm or greater:

(1) The storage facility must have adequate roof and walls to prevent rainwater from reaching the stored PCB's and PCB items.

(2) The facility must have an adequate floor with a continuous 6-inch high curb.

(3) The facility cannot have drain valves, floor drains, expansion joints, sewer lines, or other openings that would permit liquids to flow from the curbed area.

(4) The facility cannot be located at a site that is below the 100-year flood water elevation.

b. Nonleaking PCB items or leaking PCB items placed in nonleaking containers with absorbent may be put into temporary storage facilities (those not meeting the requirements of a permanent facility) for up to 30 days (consult with state and local laws and regulations applicable to PCB item storage, as some allow longer storage times for certain PCB items). Containers with nonliquid PCB-contaminated soil, rags, or debris from spills and PCB containers with 50 to 500 ppm liquid PCB (as determined by a laboratory) may also be stored in temporary facilities. However, the EPA requires that the date of removal

from service be attached to all items in temporary storage. A Spill Prevention Control and Countermeasures plan must be prepared for the temporary storage area if it is used to store containers holding between 50 and 500 ppm PCB-contaminated liquids. Any container used for the storage of PCB's and PCB items must meet the requirements of 40 CFR 761.65(c).

c. In a permanent storage facility, store PCB transformers, PCB liquids, PCB containers, nonliquid PCB's, and PCB items (if they are to be stored for more than 30 days while awaiting disposal). PCB items may be stored for up to 1 year (or less if required by HW regulations) in a permanent PCB storage facility, provided it meets the applicable, minimum criteria as specified in 40 CFR 761.65.

d. Installations must not store combustible materials within 5 meters of any PCB transformer or its enclosure.

4. Transportation. PCB's must be transported as specified in 49 CFR 171-177.

5. Disposal

a. Dispose of PCB's and PCB items with concentrations of 50 ppm or greater within 1 year of the date that storage began.

b. For PCB fluids containing more than 500 ppm of PCB's, disposal is generally via high-temperature incinerators permitted by the EPA. PCB-contaminated mineral oil (less than 500 ppm PCB) may be burned in high-efficiency boilers, provided that specific EPA requirements are met, and EPA and appropriate state and local approval is obtained. HW landfills, approved by the EPA for PCB disposal, may be used for disposal of specific PCB items such as transformers, large capacitors, and debris from PCB spills (40 CFR 761.60). PCB transformers must be emptied of fluid and rinsed with appropriate solvent before they can be landfilled.

6. Emergency Response and Reporting

a. Immediately report by telephone to the National Response Center (NRC) fire-related incidents involving PCB transformers ((800) 424-8802). The owner of the PCB transformer also must take measures to contain and control any potential releases of PCB's and incomplete combustion products into water. Fires involving PCB's can generate extremely toxic reaction products (e.g., dioxins). Immediately evacuate a building in which a PCB fire occurs.

b. PCB's are an HS under TSCA and CERCLA, requiring spills to be reported as follows: A spill of a reportable quantity (RQ) of PCB (RQ = 1 lb) or greater must be reported to the appropriate response organizations and regulatory agencies within the required deadlines (see chapter 7 and appendix E of this Manual). Releases of a mixture containing PCB's must be reported only when the amount of the PCB component released exceeds the RQ. If the concentration of PCB's in the mixture is unknown, the release must be reported if the total amount of the mixture spilled is 1 pound (lb) or more (see 40 CFR 761.125).

7. Notification of PCB Waste Activity. Installations that generate PCB wastes must notify the EPA and obtain an EPA identification number for PCB waste generators. It is illegal for a PCB waste generator to process, store, dispose of, transport, or offer transportation for PCB wastes without having obtained an EPA identification number. PCB generators must notify the EPA of such activities by filing EPA Form 7710-53 (40 CFR 761.202). Generators that do not store PCB's or PCB items for over 30 days and that do not operate a PCB storage facility subject to the requirements of 40 CFR 761.65(b), or 40 CFR 761.65(c)(7), are exempted from notifying the EPA. Exempt generators must use the generic identification number "40 CFR 761" or a number assigned to the activity by the EPA or a state under RCRA.

8. PCB Recordkeeping. The EPPA requires that the following records be kept as applicable:

a. Records of inspections, maintenance, and repairs of PCB transformers and electromagnets in use, or stored for reuse, must be maintained at the installation at least 3 years after disposal of the PCB transformer or electromagnet.

b. Each owner or operator of a facility using or storing at any one time at least 45 kg (99.4 lb) of PCB's in PCB containers, 1 or more PCB transformers, or 50 or more large PCB capacitors must maintain annual records and a written annual document log of PCB waste disposal activities. These records and the log must be retained for 3 years after the facility ceases using or storing PCB's and PCB items in quantities described above. The document log must be completed by July 1 for the previous calendar year. Annual records must include all signed manifests for the calendar year and all certificates of disposal.

c. The written document log must contain the following specific inventory information for each type of PCB item:

(1) Name, address, and EPA identification number of the facility and the calendar year covered by the annual document log;

(2) Manifest number of every manifest generated by the facility during the calendar year;

(3) Total number by specific type of PCB articles, PCB article containers, PCB containers, PCB transformers, and any PCB's and PCB items in PCB containers; and

(4) Total weight in kilograms of PCB's in PCB article containers and PCB transformers, total weight in kilograms of contents of PCB containers, PCB article containers, and total weight of LHVC or LLVC PCB capacitors remaining in service at the facility at the end of the calendar year.

d. A record of each telephone call or some form of verification must be kept to confirm receipt of PCB's transported by an independent transporter.

e. Manifesting PCB Wastes. A generator who relinquishes control over PCB wastes for commercial off-site disposal must prepare a manifest using EPA Form 8700-22, or the appropriate state manifest. If the generator uses an independent transporter to ship the waste and the generator does not receive a signed copy of the manifest from the disposer or commercial storer within 35 days of shipment, then the generator will contact the transporter and/or disposer to determine the disposition of the waste. If the generator does not receive a manifest from the disposal facility within 45 days of shipment, then the generator must file an exception report with the EPA regional office. Copies of the manifests must be retained by the generator for at least 3 years after the facility ceases using or storing PCB's or PCB items (40 CFR 761.207).

f. Certificates of Disposal and One-Year Exception Reports. For each shipment of manifested PCB waste, the disposer is obligated to prepare a certificate of disposal that must be sent to the generator within 30 days of the date of disposal (40 CFR 761.218). A generator who manifests PCB's or PCB items to a disposer of PCB waste must submit a One-Year Exception Report to the EPA regional administrator whenever the following criteria are met (40 CFR 761.215):

(1) The generator has not received a certificate of disposal within 13 months from the date of removal from service; and

(2) The generator receives a certificate of disposal for a disposal date more than 1 year after the date of removal from service.

9. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable Executive Orders, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

19105. TERMS AND DEFINITIONS

1. Capacitor. A device for accumulating and holding a charge of electricity and consisting of conducting surfaces separated by a dielectric. Types of capacitors are as follows:

a. LHVC. A capacitor that contains 1.36 kg (3 lbs) or more of dielectric fluid and that operates at 2,000 volts (AC or DC) or above.

b. LLVC. A capacitor that contains 1.36 kg (3 lbs) or more of dielectric fluid and that operates below 2,000 volts (AC or DC).

c. Small Capacitor. A capacitor that contains less than 1.36 kg (3 lbs) of dielectric fluid.

2. EPA Identification Number. The number assigned by the EPA to each generator, transporter, and treatment storage or disposal facility.

3. In or Near Commercial Buildings. Within the interior of, on the roof of, attached to the exterior wall of, in an adjacent parking area serving, or within 30 meters of a nonindustrial, nonsubstation building.

4. Non-PCB Transformer. Any transformer that contains less than 50 ppm PCB, except that any transformer that has been converted from a PCB transformer or a PCB-contaminated transformer, cannot be classified as a non-PCB transformer until reclassification has occurred per the requirements of 40 CFR 761.30.

5. PCB. Any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees, or any combination of substances that contains such substance. Prior to stringent regulation of PCB's, they were used in a variety of applications as a fire retardant. PCB's were also used for other purposes, such as a component of sound insulating felt in submarines and electrical cables. Often, PCB's were added in these applications without being specified in material or equipment procurement specifications. Thus, the presence of PCB's cannot always be determined through review of applicable procurement documents. In the disposal of materials and components, care should be taken to identify all potentially HS's and carry out the disposal accordingly.

6. PCB Article. Any manufactured article, other than a PCB container, that contains PCB's and whose surface(s) have been in direct contact with PCB's. This includes capacitors, transformers, electric motors, pumps, pipes, and any other manufactured items.

7. PCB Article Container. Any package, can, bottle, bag, barrel, drum, tank, or other device used to contain PCB articles or PCB equipment, and whose surface(s) has not been in direct contact with PCB's.

8. PCB Container. Any package, can, bottle, bag, barrel, drum, tank, or other device that contains PCB's or PCB articles and whose surface(s) have been in direct contact with PCB's.

9. PCB-Contaminated Electrical Equipment. Any electrical equipment (e.g., transformers, capacitors, circuit breakers, reclosers, voltage regulators, switches, electromagnets, and cable), containers, materials, soils, or other items that contain 50 ppm or greater PCB, but less than 500 ppm PCB.

10. PCB-Contaminated Transformer. Any transformer that contains 50 ppm or greater PCB, but less than 500 ppm PCB.

11. PCB Equipment. Any manufactured item, other than a PCB container, or a PCB article container which contains a PCB article or other PCB equipment. This includes microwave ovens, electronic equipment, and fluorescent light ballasts and fixtures.

12. PCB Item. Any PCB article, PCB article container, PCB container, or PCB equipment that deliberately or unintentionally contains any PCB or PCB's.

13. PCB Leak. Any instance in which a PCB article, PCB container, or PCB equipment has any PCB's on any portion of its external surface.

14. PCB Transformer. Any transformer that contains 500 ppm or greater of PCB.

15. PCB Waste Generator. Any person whose act or process produces PCB's that are regulated for disposal or whose act first causes PCB's or PCB items to become subject to disposal requirements, or who has physical control over the PCB's when a decision is made that the use of the PCB's has been terminated.

16. Retrofill. To remove PCB or PCB-contaminated dielectric fluid and to replace it with either PCB, PCB-contaminated, or non-PCB dielectric fluid.

CHAPTER 19

POLYCHLORINATED BIPHENYL MANAGEMENT

SECTION 2: MARINE CORPS POLICY

19200. GENERAL. Marine Corps installations must comply with all applicable Federal, state, and local regulatory requirements relating to PCB management.

19201. MARINE CORPS POLYCHLORINATED BIPHENYL (PCB) ANNUAL INVENTORY REPORT. All Marine Corps installations that have PCB items still in use, or generate, store, treat, or dispose of PCB's must prepare an annual report of all PCB's and PCB items on the installation and those sent off-site for disposal during the past year. This report will be submitted to Naval Facilities Engineering Service Center (NFESC) per their guidance, with a copy to the cognizant Naval Facilities Engineering Command Engineering Field Division/Activity and the CMC (LF).

19202. MARINE CORPS AND DEFENSE LOGISTICS AGENCY (DLA) INTERFACE ON POLYCHLORINATED BIPHENYLS (PCB). The DLA must accept accountability for storage and disposal of PCB's and PCB items. The DLA must also accept custody where the Defense Reutilization and Marketing Office (DRMO) has conforming storage.

19203. POLYCHLORINATED BIPHENYL (PCB) TRANSFORMERS IN COMMERCIAL BUILDINGS. PCB transformers in commercial buildings must be registered with building host owners. Host installations will inform tenants as to the location and type of any PCB transformers in or near all buildings they occupy. Marine Corps policy is to treat Marine Corps, military, or civilian personnel assembly buildings, educational properties, institutional properties (including museums, hospitals, clinics), residential properties (living quarters), stores, office buildings (including administrative buildings), and transportation centers (including airport terminal buildings, bus stations, or train stations) as commercial buildings.

19204. POLYCHLORINATED BIPHENYL (PCB) EQUIPMENT REMOVAL POLICY. The Marine Corps policy is to eliminate PCB's from all Marine Corps-owned electrical distribution systems and equipment hydraulic fluids and cooling and lubricating oils using the following procedures.

1. Transformers

a. Determine by gas chromatography or another appropriate method the PCB concentration for all pad-mounted and pole-mounted transformers. Mark transformers in accordance with Federal, state, and/or local requirements. Note PCB test results (in ppm) for each transformer in the installation records.

b. By October 1998, eliminate all transformers containing 500 ppm or more PCB's. By October 2003, eliminate all transformers containing 50 ppm or more PCB's. To reduce future potential liabilities, accomplish transformer elimination by replacement, or by removal with load transfer to other non-PCB transformers.

2. Capacitors

a. Establish an accurate inventory of PCB capacitors based on manufacturing information. Label large PCB capacitors and large non-PCB capacitors in accordance with Federal, state, and/or local requirements. Note the PCB classification of each large capacitor in installation records.

b. By October 1998, eliminate all large PCB capacitors.

3. Elimination Plan. Complete annual updates of the installation PCB elimination plan until all PCB's and PCB items have been removed from the installation. The plan must include the proposed date of removal and the requested source of funding for each PCB item. Transformer and capacitor owners must prioritize corrective projects based on: 1) the severity of mission impact if a fire, explosion, or major PCB spill occurred and 2) the likelihood of such an incident occurring. Transformer and capacitor owners must coordinate priorities with impacted customers, paying special attention to the redesign of the power grid that accommodates PCB removal. PCB elimination plans must be updated every October.

4. Procurement. All future procurement of transformers or any other equipment containing dielectric or hydraulic fluid must be accompanied by a manufacturer's certification that the equipment

contains no detectable PCB's or that the equipment contains less than 2 ppm PCB's at time of shipment. Affix labels to such newly procured transformers and equipment stating that they are "Non-PCB" (i.e., no detectable levels of PCB present).

CHAPTER 19

POLYCHLORINATED BIPHENYL MANAGEMENT

SECTION 3: RESPONSIBILITIES

19300. CMC (LF)

1. Provide information and advice to installation commanders regarding proposed and final rules and regulations pertaining to PCB's and uniformly apply Marine Corps policy as set forth in this Manual.

2. Monitor the status of installation inventories and PCB management programs.

3. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

4. Conduct special environmental compliance and protection studies with regard to PCB's to assist in establishing policy or initiating actions.

5. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to PCB regulations.

6. Track Marine Corps progress toward meeting established PCB elimination goals.

19301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for PCB management facilities that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with PCB management requirements. Pay appropriate Federal, state, and local fees. Ensure that the environmental management hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost

impacts assessed, in evaluating and selecting projects that address compliance requirements (see chapter 15 of this Manual).

2. Ensure that all required Federal, state, and local permits are applied for and obtained. Sign certifications and permit applications, as required, for construction of all PCB management projects.

3. Designate an activity focal point to coordinate installation PCB management programs.

4. Determine, evaluate, and comply with applicable Federal, state, and local laws and regulations governing PCB management.

5. Submit and sign, as appropriate, PCB reports and other required data to the EPA, and state, and local agencies.

6. Budget and fund the operation and maintenance of facilities and equipment necessary to handle, store, transport, treat, and dispose of Marine Corps PCB's and PCB items in compliance with applicable Federal, state, and local requirements.

7. To the extent possible, transfer to the DRMO accountability and physical custody of PCB's and PCB items stored for disposal.

8. Complete the NFESC annual PCB inventory and forward to NFESC with a copy to the CMC (LF).

9. Report PCB spills or incidents involving combustion as prescribed in chapter 7 of this Manual when the spill exceeds the reportable quantities established in Federal regulations. Immediately report fire-related incidents involving PCB transformers to the NRC regardless of quantity.

10. Register all PCB transformers and equipment with cognizant fire departments.

11. Prepare and update the installation PCB elimination plan.

12. Ensure that coordination occurs as appropriate with the safety office in matters relating to PCB management.

CAUTION
CONTAINS
PCB's
(Polychlorinated Biphenyls)
A toxic environmental contaminant requiring special handling and disposal in accordance with US Environmental Protection Agency Regulations 40-CFR 761--For Disposal Information contact the nearest US EPA Office

In case of accident or spill call
toll free the US
Coast Guard National Response
Center
800 424-8802
Also Contact
Tel No

Figure 19-1.--PCB Item Marking.

CHAPTER 20

WATER QUALITY MANAGEMENT

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CHAPTER 20

WATER QUALITY MANAGEMENT

SECTION 1: INTRODUCTION

20100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with Federal water pollution control requirements for water quality management (WQM) programs. Chapter 16 of this Manual discusses specific provisions for preventing and controlling surface and groundwater pollution and for the protection of drinking water supplies. For information on the planning, prevention, and control of water pollution from oil discharges and hazardous substance (HS) releases, see chapter 7 of this Manual.

20101. APPLICABILITY. See paragraph 1101.

20102. BACKGROUND. Marine Corps operations that are regulated through the WQM program include the following:

1. Sanitary or industrial wastewater discharged directly to receiving waters or through an on-base Marine Corps Owned Treatment Works (MCOTW).

2. Sanitary or industrial wastewater discharged to an off-base POTW or to a treatment plant of another DoD activity.

3. Stormwater runoff associated with industrial or construction activities discharged to receiving waters.

4. Range operations which result in nonpoint source pollution.

5. Agricultural, silvicultural, and grazing operations, including outleases, which contribute to polluted runoff or groundwater contamination.

6. Sewage sludge generation, processing, use, and disposal practices.

7. Facilities involved in the transfer, storage, and transportation of petroleum, oil, and lubricants (POL) which, because of their location, could reasonably be expected to cause

substantial harm to the environment by discharging into navigable waters or on the adjacent shoreline.

8. Hazardous material storage areas and other regulated storage areas where runoff is likely to occur.

20103. FEDERAL STATUTES

1. Water Quality Act (WQA) of 1965 (Public Law 89-234), Water Quality Improvement Act of 1970 (Public Law 91-224), Federal Water Pollution Control Act (FWPCA) of 1972, as Amended by Clean Water Act (CWA) of 1977 (33 U.S.C. 1251 et seq.)

a. The WQA provides Federal assistance for the establishment and enforcement of jurisdictional water quality standards for surface waters. It was amended in 1970 by the Water Quality Improvement Act to prohibit releases of oil and sewage into navigable waters. The FWPCA made the Environmental Protection Agency (EPA) responsible for setting nationwide effluent standards on an industry-by-industry basis. This Act provided effluent and water quality standards, and instituted a permit system for the regulation of oxygen-demanding pollutant discharges. In 1977, the CWA Amendments refocused the enforcement tools of the FWPCA on the control of toxics. The CWA amended the permit system, which is now the National Pollutant Discharge Elimination System (NPDES), a nationwide permit program administered by the EPA. The CWA was amended in 1987 to include the regulation of stormwater runoff, and to strengthen enforcement mechanisms. The intent of the CWA is to restore and protect the integrity of the Nation’s waters by controlling discharges of pollutants, including oil and hazardous substance spills, into those waters.

b. The CWA identifies the following two national goals:

(1) To eliminate the introduction of pollutants into waters of the United States; and

(2) To develop water quality which protects and propagates fish, shellfish, and wildlife and provides for recreation in and on the water.

c. To attain these goals, the EPA has identified conventional, nonconventional, and toxic pollutants and the degrees of technology that must be applied to remove these pollutants from point and nonpoint sources of wastewater. Point

source discharge requirements are implemented through the NPDES, or through state programs that have been authorized by the EPA. Nonpoint source discharges are regulated through state WQM programs. The CWA also authorizes the EPA to promulgate pretreatment standards for industrial sources discharging effluents to POTW's.

d. Important statutory requirements of the CWA are summarized as follows:

(1) Section 208 requires the preparation of area-wide waste treatment management plans. These plans must contain alternatives for waste treatment management and must apply to all wastes generated within the area involved.

(2) Section 301 provides that the discharge of any pollutant by any person (including Federal installations) into waters of the United States is unlawful without a discharge permit and adherence to any permit requirements.

(3) Section 302 establishes requirements for the development of water quality related effluent limitations. These limits are calculated for a particular section of a receiving water and applied to one or more point sources by inclusion in an NPDES permit. These limits are more stringent than general water quality standards or categorical industry effluent limits.

(4) Section 303 requires states to develop and revise water quality standards and implementation plans for interstate and intrastate waters. These standards are used to determine effluent discharge limits in NPDES permits.

(5) Section 304(l) requires states to develop a list of impaired waters due to point source discharges of toxic pollutants and a determination of which point sources are responsible for the discharges. This section requires the imposition of an Individual Control Strategy for the toxic pollutant(s) within the NPDES permit in order to reduce the concentration of the toxic pollutant(s), which would enable the receiving water to meet its designated water quality standard.

(6) Section 306 requires the development of National Standards of Performance for new and existing sources of industrial wastewater from specified industrial categories. Categories relevant to Marine Corps operations include electroplating, metal finishing, metal products and machinery,

landfill leachate and incinerators, waste treatment, transportation equipment cleaning, and industrial laundries.

(7) Section 307 establishes a list of toxic pollutants and requires the development of effluent and pretreatment standards for those pollutants.

(8) Section 308 establishes the EPA's right to enter and inspect any facility subject to the CWA provisions. It also specifies requirements for permittees to monitor discharges and to establish and maintain appropriate records and reports.

(9) Section 309 provides for Federal enforcement of the CWA, to include filing of Notices of Violation, issuing compliance orders, and bringing civil suits in United States District Courts against violators. This section also specifies criminal penalties of up to $25,000 per day and/or 1 year imprisonment for negligent violations; up to $50,000 per day and/or 3 years imprisonment for knowing violations; and up to $250,000 per day and/or 15 years imprisonment for an individual or up to $1,000,000 for an organization that knowingly endangers human life or causes serious bodily injury. Until a complete sovereign immunity waiver similar to that contained in the Federal Facilities Compliance Act (FFCA) is placed into the CWA by Congress, Marine Corps policy specifies that penalties levied under the CWA will not be paid.

(10) Section 311 addresses oil and HS liability. It requires the development of a National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The NCP provides the organizational structure and procedures for preparing for, and responding to, oil discharges and releases of HS's, contaminants, and pollutants. This section further provides that the President (and installation commanders as duly appointed representatives) act on behalf of the United States to recover all costs for restoring or replacing natural resources damaged by such discharges and releases.

(11) Section 313(a) states that Federal agencies, their facilities, and personnel are subject to, and must comply with, all Federal, state, and local requirements, administrative authority, process, and sanctions respecting the control and abatement of water pollution. It exempts Federal personnel from personal liability for civil penalties arising from performing official duties and limits the liability of the United States to only "civil penalties arising under Federal law or imposed by a state or local court to enforce an order or the process of such

court." The President may exempt any effluent source of any Federal installation from CWA compliance if he determines it is in the express interest of the United States to do so; however, no exemption may be granted from requirements promulgated for categorical industries under section 306 and toxic pollutants under section 307.

(12) Section 319 requires states to establish nonpoint source (NPS) pollution management programs. These management programs must identify the best management practices (BMP) for reducing specific types of NPS pollution, identifying programs to implement the BMP's, developing a schedule with annual milestones for implementing the BMP's, certifying that the state has adequate legal authority for administering and enforcing the program, and identifying sources of assistance and funding.

(13) Section 401 requires that any applicant for a Federal license or permit to conduct an activity that may result in a discharge to navigable waters must provide to the permitting agency a certification from the state in which the discharge will originate that any such discharges will comply with applicable CWA provisions. The applicant must provide an opportunity for the certifying state or agency to review the manner in which the facility will operate to ensure that effluent limits will not be violated.

(14) Section 402 establishes the NPDES-permit program.

(15) Section 403 establishes ocean discharge criteria.

(16) Section 404 establishes requirements for the issuance of permits by the Army Corps of Engineers (COE) for discharges of dredged or fill material into navigable waters.

(17) Section 504 provides authority to the EPA to bring suit in United States District Courts to immediately restrain any person (including Federal facilities) from causing or contributing to a discharge alleged to imminently and substantially endanger human health or welfare.

(18) Section 505 provides for citizen suits against any person (including the United States) who allegedly is violating an effluent standard or an order issued by the EPA or a state with respect to such a standard or limitation.

2. Oil Pollution Act (OPA) of 1990 (Public Law 101-380, 33 U.S.C. 2701 et seq.)

a. This Act prohibits harmful discharges of oil and HS's into waters of the United States or discharges which may affect natural resources owned or managed by the United States.

b. The OPA requires owners or operators of tank vessels and facilities to develop and submit appropriate facility response plans (see chapter 7 of this Manual) because their locations might cause substantial harm by discharging oil or HS's into the environment.

3. Safe Drinking Water Act (SDWA) of 1974 (42 U.S.C. 300(f) et seq.)

a. This Act and its amendments prescribe treatment and distribution control strategies for abating the contamination of drinking water. For more information on drinking water systems and conservation, refer to chapter 16 of this Manual.

b. Part C of the SDWA prescribes the protection of underground sources of drinking water. It establishes three groundwater protection programs for which the states should assume the primary responsibility. These programs are:

(1) The Underground Injection Control (UIC) Program. The purpose of this program is to regulate the injection of fluids into underground strata which could affect groundwater supplies.

(2) The Sole Source Aquifer Program. The purpose of this program is to designate and protect aquifers which are the sole or principal source of drinking water for an area and which, if contaminated, would create a significant hazard to public health.

(3) The Wellhead Protection (WHP) Program. The purpose of this program is for states to protect wellhead areas from contaminants which may have an adverse effect on the health of persons using wells for drinking water within that area.

4. Rivers and Harbors Act of 1899 (3 U.S.C. 407 et seq.). Sections 9 and 10 of this Act provide authority to the COE to issue or deny permits for construction of dams, dikes, or other structures in, or ones that will affect, navigable waters of the United States.

5. Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as Amended (33 U.S.C. 1401 et seq. and 16 U.S.C. 1431 et seq.)

a. This Act, also known as the Ocean Dumping Act, restricts the dumping of all types of materials which would adversely affect human health and welfare or the marine environment, originating from within and outside the United States, into ocean waters. It further prohibits ocean disposal of biological, chemical, and radiological warfare agents, high level radioactive waste, and medical waste.

b. The Act establishes a system for the issuance of permits by the EPA, under section 102, and by the COE, under section 103, for ocean disposal of dredged materials. Section 104 contains conditions for permits issued by the EPA and the COE. Section 104B of the MPRSA banned ocean disposal of sewage sludge or industrial waste after December 31, 1991.

6. CZMA of 1972 (16 U.S.C. 1451 et seq.)

a. This Act plays a significant role in water quality management, particularly with regard to nonpoint source pollution. State coastal zone management programs approved under the Act incorporate flood control, sediment control, grading control, and stormwater runoff control statutes. Under the CZMA, a Federal action that affects any land, water use, or natural resource of the coastal zone must be accomplished as consistently as possible with the enforceable policies of the approved state management programs (15 CFR 930.32). This requirement applies to activities conducted both within or outside the coastal zone if there are impacts in the coastal zone.

b. These state programs must be considered when addressing water pollution impacts of Marine Corps projects. Assistance in determining compliance requirements in specific situations may be requested from the CMC (LF).

c. In their coastal zone management program, states must list activities which directly affect the coastal zone and, therefore, require a consistency determination. Installations should review this list to identify activities applicable to their installation which are likely to require a consistency determination.

7. Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. 6901 et seq.)

a. This Act prescribes technical requirements for preventing leachate migration from solid or hazardous waste (HW) disposal sites to groundwater.

b. Section 3023, as implemented under the FFCA, defines and regulates FOTW's, which include Marine Corps domestic wastewater treatment plants. This section prohibits introducing any HW into an FOTW, specifies conditions under which an FOTW without a RCRA permit may receive industrial wastewaters, and discusses enforcement procedures.

c. Section 7003 provides authority to the EPA to bring suit in United States District Court to immediately restrain any person (including Federal facilities) from causing or contributing to a discharge alleged to imminently and substantially endanger human health or the environment.

20104. REQUIREMENTS

1. General

a. Statutory Requirements. The CWA requires compliance by Federal installations with all requirements, substantive and procedural, that are applicable to the control and abatement of water pollution. The CWA makes it illegal for any Marine Corps installation to discharge any pollutant, other than when such discharge is in compliance with effluent standards, treatment technology requirements, or other procedural requirements.

b. Regulatory Requirements

(1) Applicable requirements include Federal, state, and local regulations. The remainder of this section summarizes many of the significant Federal regulations pertaining to water quality management.

(2) Authorized EPA, state, or other regulatory officials who have presented proper credentials must be allowed to enter Marine Corps facilities at reasonable times to examine or copy records, inspect facilities and monitor equipment, and sample any wastewater or stormwater which the activity is required to monitor. Designated representatives of the CG/CO should accompany the officials during these site visits.

c. Executive Order (EO) Requirements. EO 12088, Federal Compliance with Pollution Control Standards, October 13, 1978, requires executive agencies, including the military departments, to comply with applicable requirements of Federal laws, including the CWA. The EO requires each agency to submit to the Office of Management and Budget an annual plan for environmental pollution control with cost estimates for the design, construction, management, operation, and maintenance of Federal facilities.

d. DoD Requirements. DoD has established the DON as the DoD Executive Agent for implementation of the CWA.

2. Point Source Control

a. Definition (40 CFR 122). A point source is any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

b. Discharge Permits

(1) Titles 40 CFR 122 and 40 CFR 125 require NPDES permits for all point source discharges into waters of the United States. Discharges must comply with all terms and conditions of EPA, state, and locally issued permits.

(2) For installations with discharge points located in states that have not been authorized to administer all or parts of CWA programs, NPDES permits must be requested from, and issued by, the EPA. If a state has a separate water pollution permit program, Marine Corps installations must, when required, obtain a state permit as well as an EPA permit for point sources regulated under that program.

(3) For all discharge points located in states that have EPA-approved NPDES programs, permit applications must be filed with, and issued by, the appropriate state agency.

(4) Any discharge that will continue after its discharge permit expires must be re-permitted prior to the expiration date of the current permit. A new permit application must be forwarded to the permitting agency no later than 180 days (90 days for stormwater discharges resulting from construction

activity) prior to the permit expiration date. In the case of complex permits, such applications should be filed well in advance of the 180 day (or 90 day) requirement. To meet these deadlines, installations must allow sufficient time to collect the required information and prepare the application.

(5) All permit applications and required reports must be prepared in the format prescribed by the permitting agency.

(6) Any monitoring records, including all original strip chart recordings for continuous monitoring, instrumentation and calibration, maintenance records, and laboratory test results pursuant to sampling, must be retained for a minimum of 3 years at the installation where monitoring is performed, if not otherwise prescribed.

(7) The owner of a treatment plant which continually fails to meet its discharge permit limits can be subject to enforcement actions by the permitting agency and to citizen suits filed in a United States court.

c. Industrial Wastewater Treatment and Direct Discharge Requirements

(1) Marine Corps Owned Industrial Wastewater Treatment Plants (IWTP) and other industrial based activities with direct discharge into receiving waters must obtain and comply with an NPDES permit.

(2) Direct discharges from oil/water separators must be permitted, monitored, and reported under the NPDES program. The installation of wash water recycling equipment (a pollution prevention technology) is the preferred method of treating and reusing air and ground equipment wash rack effluent. Where the installation of recycling equipment is not practical, wash rack discharges when aircraft or vehicles are being washed should be valved to oil/water separators which discharge to the sanitary sewer and valved to drainage ditches at all other times so that stormwater runoff does not overload the sanitary sewer system. Oil transfer and storage facility storm waters should be directed through an oil/water separator prior to discharge.

(3) When new NPDES permit standards are promulgated, Marine Corps Owned IWTP's and other industrial activity dischargers may not be able to comply automatically with the new standards. If the discharger determines it cannot meet the new standard, it must begin to upgrade its treatment processes to

meet the deadline for compliance with the new standards. If the discharger cannot meet the required compliance date, it should negotiate a new date in a Consent Order with the appropriate regulatory agency.

d. Discharge to FOTW's

(1) Industrial discharges to an FOTW will meet all applicable general and categorical pretreatment standards contained in 40 CFR 403 and 40 CFR 405 through 471, respectively, as appropriate. After the effective date of any new pretreatment standards for toxic substances, affected sources will comply within the time frame designated by the appropriate agency.

(2) If necessary, an FOTW can impose limitations more stringent than the categorical pretreatment standards on industrial activities which discharge to it, in order to prevent interference with treatment plant operations, to prevent pass-through of pollutants to receiving waters, to prevent sewage sludge contamination, to prevent workers from being exposed to health hazards, and to prevent a violation of the FOTW's NPDES permit. The repeated inability of an FOTW to meet its discharge permit limits, due to an industrial activity's failure to pretreat its waste, can result in enforcement actions against both the FOTW and the industrial activity.

(3) Industrial activities discharging to an FOTW will notify the FOTW operator of any substantial change in quantity or type of pollutants discharged and of any spills, releases, or slug discharges of any substance which could adversely impact the FOTW, its personnel, or the effluent discharged from the treatment works.

(4) FOTW's discharging to United States waters must be designed, constructed, operated, and maintained to comply with all effluent limitations as prescribed by discharge permits.

e. Discharge to POTW's

(1) Discharges to a POTW must meet all applicable general and categorical pretreatment standards. After the effective date of any new pretreatment standards for toxic substances, affected sources must comply within the timeframe designated by the permitting authority.

(2) A POTW controls discharges received from Marine Corps installations or activities through local ordinances, sewer use

contracts, and/or discharge permits. These control mechanisms often require the user to monitor its industrial discharges into the sewer, to pretreat certain categories of wastes, to notify the treatment plant of substantial changes to the quantity or quality of the influent, and to take other administrative or procedural actions as necessary.

(3) Dischargers to a POTW usually pay user fees commensurate with the waste load contributed. New sources to such systems may also be required to share in the capital costs for increasing the capacity of the POTW's collection, treatment, and disposal facilities.

(4) Under the CWA, states have established certain areas for which a regional approach to wastewater treatment is necessary. Such areas have developed section 208 management plans that detail collection and treatment works requirements, timetables for accomplishment of the plan, and requirements for individual participants. Since approved plans are binding on Marine Corps installations within the region, it is imperative that close liaison be established with these planning organizations.

f. Hazardous Pollutant Discharges

(1) In 40 CFR 116, the EPA identifies a list of HS's regulated under the CWA. Title 40 CFR 117 presents the reportable quantities for releases of these HS's. Chapter 9 discusses prevention of HS discharges that may result from accidental spills on land or into waters of the United States.

(2) A POTW which has an NPDES permit is deemed to have a RCRA permit (Permit by rule, 40 CFR 270.60(c)), and it may accept HW for treatment, provided that certain recording, manifesting, and reporting criteria are met. FOTW's are prohibited from treating a HW by section 3023(b) of the FWPCA.

(3) POTW's have a "domestic sewage exclusion" (40 CFR 261.4(a)(1)) that allows domestic sewage and other wastes, even HW's, that pass through the POTW to be excluded from the definition of a solid waste and thus are exempt from RCRA regulation. FOTW's have a similar but conditional "domestic sewage exclusion" (FWPCA section 3023(a)(1-4)), which would allow a waste, even if originally hazardous, to pass through the FOTW and escape RCRA regulation if it has first been processed at a separate wastewater treatment unit (40 CFR 260.10(120)) to meet the applicable industrial categorical pretreatmentstandards of

40 CFR 405-471. The FFCA excluded solid or dissolved wastes which meet one of the following conditions:

(a) Those subject to a pretreatment standard promulgated in subchapter N (40 CFR 405 through 471) for which the source is in compliance.

(b) Those covered under a pretreatment standard which the EPA is scheduled to promulgate by 1999.

(c) Those not prohibited from land disposal because they have been pretreated in accordance with RCRA section 3004(m).

(d) Those originating from a location which generates less than 100 kilograms of HW per month.

g. Stormwater Discharges

(1) The 1987 CWA amendments established greater regulation of stormwater discharges; the implementing regulations in 40 CFR 122.26 became effective in December 1990. Stormwater discharges from a point source are subject to NPDES permitting if the discharges are associated with industrial activity or are specifically identified as contributing to a violation of water quality standards. The regulations require an NPDES permit for such stormwater discharges made directly to receiving waters or to a municipal storm sewer that is separate from the municipal sanitary sewer. The regulations exclude discharges of stormwater to a combined sewer system or to a POTW.

(2) Applications for an NPDES stormwater permit can be submitted either through the individual permit application process or through a general permit. Installations should coordinate with regional EPA offices and cognizant state regulatory agencies to access the applicability of general or individual permit procedures.

(a) Operators of facilities with stormwater discharges associated with industrial activity which do not obtain coverage under a general permit or which are not eligible for a general permit must submit an individual permit application. The information required for an individual application includes a site drainage map, a narrative description of the site that identifies potential pollutant sources, and quantitative testing data. Stormwater discharges that cannot be authorized by general permits include those:

1 With existing effluent guideline limitations for stormwater;

2 With an existing NPDES individual or general permit for stormwater discharges; or

3 Which are, or may reasonably be expected to be, contributing to a violation of a water quality standard.

(b) Title 40 CFR 122.26(c) specifies the EPA's individual stormwater permit application procedures and information requirements. Applications must be submitted 180 days before the discharge begins or 90 days before the construction activity is due to begin. State regulations generally parallel those of the EPA in requiring that a permit application be filed with the appropriate permitting authority.

(c) General permits are intended to cover the majority of stormwater discharges associated with industrial activity. Dischargers seeking to be covered by a general permit must file a Notice of Intent (NOI) with the appropriate permitting authority. The NOI requirements for the general permit usually address only general information and typically do not require the collection of monitoring data. Title 40 CFR 122.28 provides information regarding general permit NOI filing requirements. The EPA published its final NPDES stormwater multi-sector general permit for industrial activities in the September 29, 1995, Federal Register.

(3) Industrial activities and facilities which can contaminate stormwater and to which these regulations apply may occur on Marine Corps installations. These activities and facilities include HW treatment, storage, and disposal facilities; scrap and waste material processing and recycling facilities; landfills; sewage sludge land application sites; petroleum bulk oil stations and terminals; airfields; wastewater treatment plants with a design capacity of one million gallons per day or greater; and construction activities.

(4) Installations discharging to a separate municipal storm sewer system serving a population of 100,000 or more must submit notification information to the operator of the municipal storm sewer system.

(5) In general, the EPA and state stormwater discharge permit regulations require the permittee to:

(a) File a permit application or NOI.

(b) Determine if any nonstormwater discharges occur. Certain nonstormwater discharges are authorized, such as water from fire fighting activities, hydrant flushing, street cleaning, air-conditioning and compressor condensates, and lawn watering. For other nonstormwaters, the discharger must develop a list of illicit discharges discovered and submit it to the regulatory agency. The agency determines which discharges may be permitted and under what conditions. Any discharges that cannot be permitted must be eliminated. Coordination with Federal and state regulatory agencies is essential to determine applicable requirements.

(c) Prepare and implement a stormwater pollution prevention plan (SWPPP). The plan's objectives should be to identify pollution sources potentially affecting stormwater discharge quality and to describe and implement practices to minimize and control pollutants from the industrial facility. The process for developing an SWPPP includes the following four steps: 1) formation of a qualified pollution prevention team; 2) assessment of potential stormwater pollution sources; 3) selection and implementation of appropriate BMP's and controls; and 4) periodic examination of the plan's effectiveness. Further information is provided in the EPA publication Stormwater Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices. Chapter 15 of this Manual provides additional information regarding general pollution prevention.

(d) As required by the permit, monitor the discharges, report the results to the permitting authority, and maintain required records.

(e) Comply with any effluent limits placed within the permit.

(6) The EPA's Guidance Manual for the Preparation of NPDES Permit Applications for Stormwater Discharges Associated with Industrial Activity (EPA-505/8-91-002) provides an overview of the permitting process and information regarding the permit application requirements.

h. Waste Disposal Sites

(1) Collected stormwater runoff from waste disposal sites, such as landfills, sewage sludge monofills, and land

application sites, is regulated under an NPDES permit as noted in paragraph 20104.3(f).

(2) Leachate from waste disposal sites must be tested for the hazardous characteristics listed in 40 CFR 261 to determine which disposal method can be used. Landfill leachates have been found to contain high concentrations of toxic organic compounds, metals, and conventional and nonconventional pollutants.

(a) Hazardous leachate must be treated or disposed of in accordance with requirements specified for HW (see chapter 10 of this Manual).

(b) Nonhazardous leachate from waste disposal sites may need to be pretreated prior to discharge to an FOTW or a POTW. Direct discharges of nonhazardous leachate to receiving waters must be permitted under the NPDES. The EPA will propose effluent guidelines and pretreatment for the landfill leachate and incinerator category (40 CFR 437) in 1997. Until those standards are promulgated, the general pretreatment standards (40 CFR 403) apply to leachate discharged to an FOTW or a POTW. The permitting authority will develop treatment and permit requirements for leachate discharged to receiving waters depending upon the quantity and nature of the leachate and its potential impact on the environment.

i. Non-NPDES Discharge Permits

(1) Sanitary and industrial wastewaters and stormwater may be disposed of in a nondischarging manner. Examples of such instances are evaporation/transpiration ponds, leach fields, spreading basins, and land application systems.

(2) Such discharges are not regulated under the NPDES program, but are normally regulated under a state permit program, such as California's "Waste Discharge Requirements." These state permits usually contain limitations and conditions similar to those in NPDES permits, such as monitoring, reporting, and recordkeeping requirements, flow restrictions, pollutant limits, etc. Noncompliance with these state permit conditions is subject to enforcement action by the permitting authority.

3. NPS Control

a. Regulatory Citation. The EPA regulations in 40 CFR 130 specify requirements for NPS management programs. These regulations incorporate CWA section 208 requirements for

development of area-wide waste treatment management plans. They also include CWA section 319 requirements for states to establish NPS pollution management programs through WQM plans.

b. State WQM Plan. The plan must describe the nonregulatory and regulatory programs, activities, and BMP's selected to control NPS pollution where necessary to protect or achieve approved water body uses. The plan must identify BMP's to be employed to reduce specific types of NPS pollution, identify programs to implement the BMP's, develop a schedule with annual milestones for implementing the BMP's, certify that the state has adequate legal authority for administering and enforcing the program, and identify sources of assistance and funding.

c. Contributors to NPS Pollution

(1) Most NPS pollution results from unchannelled runoff of stormwater, snowmelt, or irrigation. This runoff picks up contaminants from tilled land, urban and suburban areas, construction sites, timber harvest areas, mine drainage, and other disturbed areas.

(2) Aboard Marine Corps installations, nonpoint sources include agricultural, silvicultural, and grazing operations (including outleases), firing and training range operations, construction sites, industrial activities without discrete point source conveyances, parking lot and roof runoff, and runoff from lawn maintenance activities, such as fertilizer and herbicide applications, in residential and other garrison areas.

d. Discharge Permits. The EPA and the states do not require discharge permits for nonpoint sources of pollution.

e. BMP's

(1) Where required by states, installations must implement BMP's to control NPS pollution. If not required, installations should implement BMP's as resources allow.

(2) BMP's which can be implemented to reduce NPS pollution include, but are not limited to, the following:

(a) Pollution prevention, such as performing maintenance and storing materials under cover;

(b) Wet and dry stormwater detention and retention ponds with sedimentation manholes and inverted elbows to trap sediments and floatable items;

(c) Constructed wetlands;

(d) Grassed swales;

(e) Forest buffers from 50 to 100 feet wide along streams; and

(f) Fabric screens and hay bales at construction sites to reduce erosion and trap sediments prior to discharge.

f. Waste Disposal Sites

(1) To prevent surface water contamination, 40 CFR 258.25 requires that runoff from the active portion of the landfill unit not cause a discharge of pollutants into waters of the United States, including wetlands, which violates any requirements of the CWA, including NPDES requirements.

(2) Similarly, 40 CFR 258.27(b) prohibits any discharge of a nonpoint source of pollution to waters of the United States, including wetlands, which violates any requirement of an area-wide or state-wide WQM plan that has been approved under CWA section 208 or 319.

(3) If stormwater runoff and uncontrolled leachate discharges to surface waters occur, they must be controlled by an NPDES permit.

g. Reference. The EPA Seminar Publication entitled Nonpoint Source \Watershed Workshop (EPA/625/4-91/027) provides in-depth information for developing and implementing nonpoint source pollution control projects.

4. Septage Treatment and Disposal

a. Regulatory Citations

(1) The EPA regulations define domestic septage as "either liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or similar treatment works that receives only domestic sewage." Septage that does not meet this definition must be handled and disposed of per 40 CFR 257.

(2) Septage which is land applied must meet the requirements in 40 CFR 503.

b. Septic Tank Management. The EPA regulations for UIC in 40 CFR 146 apply to septic tanks and cesspools which are class V wells by virtue of their drain fields. They contain requirements for construction, operating, monitoring, and reporting.

c. References

(1) The EPA publication entitled Guide to Septage and Disposal (EPA/625/R-94/002) provides concise, practical information on septic tank management and the handling, treatment, and disposal of septage.

(2) The EPA Handbook on Septage and Disposal (EPA-625/6-84-009) presents a review of available design, performance, operation and maintenance, cost, and energy information pertaining to receiving, treatment, and disposal of septage.

5. Groundwater Protection

a. General. Another goal of programs which regulate point and nonpoint sources of water pollution is to prevent groundwater contamination from those sources. Specifically, the WQM plans, UIC program, and WHP program ensure that groundwater sources for drinking water are protected from contamination. Chapter 18 of this Manual provides information regarding groundwater protection requirements applicable to underground storage tanks (UST).

b. State WQM Plans

(1) State WQM plans identify and develop programs to control groundwater pollution resulting from disposal of pollutants on land or in subsurface excavations. States can require installations to monitor groundwater around landfills, leaking UST sites, firing ranges, wastewater oxidation and percolation ponds, septic tank leach fields, fire training pits which use waste fuel, HW storage sites, etc.

(2) States may issue Non-NPDES-discharge permits with pollutant limits intended to protect underlying aquifers from contaminants contained in the discharge using the state WQM plan as the basis for the permit limitations.

c. UIC Program

(1) Title 40 CFR 144 - 148 contains the UIC program regulations. Chapter 16 of this Manual summarizes these regulations and highlights important requirements.

(2) Installations must pay special attention to class V wells, which include certain septic system wells and cesspools, stormwater drainage wells, and dry wells used for waste disposal. To continue to operate these wells under the permit by rule, the installation must submit to the permitting authority an inventory of all wells located on the installation. Improperly managed wells can contaminate groundwater used by the installation for its drinking water supplies.

d. WHP Program

(1) This locally administered program protects community drinking water wells and well fields from contamination sources. Chapter 16 summarizes these regulations and highlights important requirements.

(2) An installation which derives its potable water from on-base wells should survey its agricultural, commercial, industrial, residential, and other activities to identify and locate operations with the potential to release pollutants into the underlying groundwater.

e. References

(1) The EPA Technical Assistance Document, A Review of Sources of Groundwater Contamination from Light Industry (EPA 440/6-90-005), addresses the potential impacts of contamination from light industrial activities on WHP areas. Light industry sectors covered by this document and found at Marine Corps installations include metal products and machinery, scrap material recycling, transportation equipment maintenance, automotive and truck repair, and highway de-icing.

(2) The EPA document, A Groundwater Information Tracking System with Statistical Analysis Capability (EPA/625/11-91/002), provides software and instructions to implement a comprehensive database system designed to store, analyze, and report data generated during groundwater monitoring programs required by RCRA, CERCLA, and the SDWA.

6. Sewage Sludge Use or Disposal

a. Regulatory Citations

(1) The EPA regulations in 40 CFR 268 provide standards for the land disposal of sewage sludge determined to be hazardous under 40 CFR 261.

(2) The EPA regulations in 40 CFR 258 provide the requirements for disposal of sewage sludge in a municipal solid waste landfill.

(3) The EPA regulations in 40 CFR 240 provide the requirements under which sewage sludge may be co-fired in an incinerator with other wastes.

(4) The EPA regulations in 40 CFR 503 provide the standards for the use and disposal of nonhazardous sewage sludge. These standards apply to the following:

(a) Any installation which prepares sewage sludge, applies sewage sludge to land, or fires it in a sewage sludge incinerator, and to the owner/operator of a surface disposal site;

(b) Any sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator;

(c) The exit gas from a sewage sludge incinerator stack; and

(d) The land where sewage sludge is applied, a surface disposal site, and a sewage sludge incinerator.

(5) The EPA regulations in 40 CFR 257 provide the standards for the disposal of nonhazardous sewage sludge on land when the sewage sludge is not disposed through a practice regulated under 40 CFR 503.

b. Permit Requirements

(1) An FOTW, which is classified under 40 CFR 122.2 as a "treatment works treating domestic sewage," must submit an NPDES permit application to comply with the provisions of 40 CFR 503. The application must be submitted to the appropriate permitting authority (either the EPA, or the state, if it has an EPA-approved sludge management program).

(2) For the operation of a sewage sludge incinerator, a Clean Air Act permit application must be submitted to the appropriate permitting authority.

c. Land Application Requirements

(1) Land application includes the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil so that it can condition the soil or fertilize crops or vegetation.

(2) Marine Corps installations which apply bulk sewage sludge to the land, prepare sewage sludge for application to land off site, sell or give away sewage sludge or a sewage sludge-derived product in a bag or other container, or apply domestic septage to the land must comply with the requirements in 40 CFR 503, subpart B. These requirements include adherence to pollutant ceiling concentrations, cumulative and annual pollutant loading rates, and monthly average pollutant concentrations; management practices; operational standards for pathogens and vector attraction reduction; and monitoring, recordkeeping, and reporting, depending on the quality of the sludge.

d. Surface Disposal

(1) Surface disposal involves the disposal of sewage sludge in an active sewage sludge unit. It does not include the treatment or storage of sewage sludge on land in preparation for ultimate use or disposal.

(2) If the same sewage sludge is stored at a site for more than 2 years, the permitting authority can determine that the storage site has become an active sewage sludge unit unless the installation can explain extenuating circumstances for delaying disposal.

(3) Marine Corps installations which dispose of sewage sludge at an active sewage sludge unit must comply with the requirements in 40 CFR 503, subpart C. These requirements include proper location of an active sewage sludge unit; submission of closure and post closure plans 180 days prior to closure of the unit; sewage sludge pollutant concentrations; management practices; operational standards for pathogens and vector attraction reduction; and monitoring, recordkeeping, and reporting.

e. Pathogens and Vector Attraction Reduction. The EPA regulations in 40 CFR 503, subpart D, provide the following requirements for pathogen and vector attraction reduction in sewage sludge:

(1) Class A pathogen control requirements for application of bulk sewage sludge to a lawn or garden or when sewage sludge is sold or given away in a bag or other container.

(2) Either class A requirements or class B requirements with appropriate site restrictions for application of bulk sewage sludge to agricultural land, forest land, a public contact site, or a reclamation site or for disposal in an active sewage sludge unit.

(3) Appropriate pH treatment and/or site restrictions when domestic septage is applied to agricultural or forest land or a reclamation site.

(4) At least one of the appropriate vector attraction reduction requirements in 40 CFR 503.33 for all forms of land application or disposal of sewage sludge or domestic septage.

f. Incineration

(1) Marine Corps installations which fire sewage sludge in a sewage sludge incinerator must comply with the requirements in 40 CFR 503, subpart E. These requirements include adherence to National Emission Standards for beryllium and mercury in 40 CFR 61, subparts C and E, respectively; pollutant limits for arsenic, cadmium, chromium, lead, and nickel as calculated by the appropriate equations in 40 CFR 503.43; operational standards for total hydrocarbons or carbon monoxide; management practices; and monitoring, recordkeeping, and reporting.

(2) Compliance with pathogen and vector attraction reduction requirements is not required for facilities which fire sewage sludge in a sewage sludge incinerator.

7. Dredge and Fill Operations

a. Permits

(1) Installations which intend to construct a dam, dike, dock, pier, or other structure, or to dredge, fill, or otherwise alter or modify navigable waters or wetlands must apply to the COE district engineer or authorized state agency for an

individual permit, unless the discharge is allowed under a nationwide or regional general permit.

(2) The EPA and COE regulations in 40 CFR 230 and 33 CFR 320, respectively, explain the basis of the dredge and fill permit system:

(a) 33 CFR 321 explain regulations for a COE permit to construct a dam or dike.

(b) 33 CFR 322 contains regulations for a COE permit to construct a structure in, or one that will affect, waters of the United States.

(c) 33 CFR 323 sets forth regulations for a COE permit to discharge dredged or fill material in waters of the United States.

(d) 33 CFR 325 specifies application requirements for individual COE permits.

(e) 33 CFR 330 contains regulations regarding general nationwide permits.

(f) 40 CFR 233 provides procedures on state permit programs regulated by the EPA for discharge of dredged or fill material.

(3) If the district engineer determines that a water quality certification for the proposed activity is necessary under CWA section 401, the district engineer will inform the installation of this requirement. The installation must obtain a state certificate indicating that the activity complies with applicable state effluent limitations, water quality related effluent limitations and standards, water quality implementation plans, and toxic effluent limitations. If the state includes any monitoring requirements, these must be forwarded to the COE district engineer for consideration with the permit application.

(4) An installation which is located within a state operating under an approved coastal zone management program must ensure that the proposed activity is consistent with the state CZMA management program. If the proposed activity is not consistent with the state CZMA program, the district engineer cannot make a decision on the permit application until the installation and the state have implemented the procedures specified in the CZMA for resolving their disagreements.

(5) The COE and states with EPA-approved dredging control programs may issue a general permit applicable for 5 years to categories of similar actions that will cause minimal environmental effects either singularly or cumulatively. The general permit may be issued on a state, regional, or national basis. Projects covered by a general permit do not require individual permits, although some additional individual requirements, such as revocation or modification for specific activities due to adverse environmental impact, may be applied by the COE or states on a case-by-case basis.

b. Permit Exemptions

(1) Normal agricultural, silvicultural, and ranching activities, such as plowing, cultivating, minor drainage, harvesting, and water conservation practices are exempt from regulation under CWA section 404.

(2) Federal construction projects specifically authorized by Congress for which an Environmental Impact Statement (EIS) has been written and submitted to Congress do not require COE or state permits, as specified in section 404(r) of the CWA.

c. Discharges of Dredged or Fill Material

(1) Discharges of dredged or fill material into waters under COE jurisdiction must comply with Federal regulations and the terms of the individual or general permit issued for that activity.

(2) Discharges into waters under the jurisdiction of states with approved dredging control programs must comply with applicable state permits and discharge regulations, including state fee schedules.

(3) Disposal site selection may entail field sampling and analyses. An elutriate and bioassay test may be required to determine if the proposed dredged materials should be classified as polluted or unpolluted. Other surveys, including site monitoring, may be required at disposal sites before, during, and after discharge of the dredged or fill material.

8. Ocean Disposal

a. Prohibited Disposal. Ocean disposal of other than dredged material, including any materials collected from Marine

Corps installations or units, is prohibited by the MPRSA unless authorized by an EPA permit.

b. Permits

1. No permit may be issued for ocean disposal of biological, chemical, and radiological warfare agents, high level radioactive waste, and medical waste.

(2) Under section 102 of the MPRSA, the EPA is the authority for issuing all permits for the transportation from the United States, or for the transportation from Outside the Continental United States Marine Corps installations, of any material for the purpose of dumping it in ocean waters at locations where the EPA Administrator determines such dumping will not unreasonably degrade or endanger human health or the marine environment.

(3) Under section 103 of the MPRSA, the COE is the authority for issuing all permits for the transportation of dredged material that will be disposed of in ocean waters. Installations which intend to transport or contract for the transportation of dredged material for ocean disposal must apply to the COE district engineer for an individual permit. EPA Regional Administrators have the authority to review, to approve or to disapprove, or to propose conditions upon Dredged Material Permits for ocean dumping. The EPA regulations for reviewing these COE permits are specified in 40 CFR 225.

(4) The EPA and COE regulations in 40 CFR 220 and 33 CFR 324, respectively, explain the basis of the ocean disposal permit systems:

(a) The 33 CFR 325 specifies application requirements for individual COE ocean disposal permits.

(b) The 40 CFR 221 contains EPA permit application requirements.

(c) The 40 CFR 222 sets forth EPA regulations pertaining to approval of ocean dumping permit applications.

(d) The 40 CFR 227 provides EPA regulations pertaining to evaluation of permit applications for the ocean dumping of material.

(5) Permit applications must be accompanied by an Environmental Assessment (EA) which includes an examination of the environmental impact criteria set forth in 40 CFR 227, subpart B.

c. Reporting and Recordkeeping. The EPA regulations in 40 CFR 224 require permittees to maintain appropriate records and to submit periodic reports to the EPA Administrator.

9. CZMA Consistency Determinations

a. Regulatory Citation. The National Oceanic and Atmospheric Administration regulations in 15 CFR 930 implement the CZMA. Marine Corps actions affecting the coastal zone must be as consistent as possible with approved state management plans, unless such consistency is prohibited based upon requirements of existing laws applicable to the installation and the mission of the Marine Corps. Actions affecting the coastal zone include those that take place outside the coastal zone but affect any land or water use or natural resource within the coastal zone. Chapter 11 of this Manual provides further information regarding the CZMA and its applicable regulations.

b. Consistency Determination. The consistency determination may employ any format as long as it complies with the requirements contained in 15 CFR 930, subpart C. A consistency determination must be prepared for the following:

(1) Development projects within the coastal zone (15 CFR 930.33),

(2) Nondevelopment projects within the coastal zone which may affect the coastal zone, and

(3) Installation- or unit-sponsored actions taking place outside the coastal zone but which may impact the coastal zone.

20105. TERMS AND DEFINITIONS

1. BMP. Methods, measures, or practices selected by an agency to meet its nonpoint source control needs including, but not limited to, structural and nonstructural controls and operation and maintenance procedures (40 CFR 130).

2. Coastal State. A state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico,

Long Island Sound, or one or more of the Great Lakes. This term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa (section 304, CZMA).

3. Coastal Waters. In the Great Lakes area, the waters within the jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries (section 304, CZMA).

4. Coastal Zone. The coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) that strongly influence each other and that remain close to the shorelines of the several coastal states, as well as islands, transitional and intertidal areas, salt marshes, wetlands, and beaches (section 304, CZMA).

5. Designated Uses. Those uses specified in water quality standards for each water body or segment whether or not they are being attained (40 CFR 131).Such uses can include public water supply, contact recreation, noncontact recreation, cold water fishery, warm water fishery, shellfishing, etc.

6. Discharge

a. Under NPDES, the addition of any pollutant or combination of pollutants to waters of the United States from any point source (40 CFR 122).

b. Under OPA, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, excluding NPDES-permitted discharges identified under section 402 of the CWA (40 CFR 110).

7. Disposal Site. An interim or ultimately approved and precise geographical area within which the dumping of wastes into the ocean is permitted under specified conditions (40 CFR 228).

8. Dredged Material. Material that is excavated or dredged from waters of the United States (33 CFR 323).

9. Dumping. A disposal and discharge of material, which does not include any effluent from any outfall structure, that is

regulated under the provisions of the CWA, under the provisions of section 13 of the Rivers and Harbors Act, or under the provisions of the Atomic Energy Act. Dumping does not mean a routine discharge of effluent incidental to the propulsion of, or operation of motor-driven equipment on, vessels (40 CFR 220).

10. Effluent Limitation. Any restriction imposed by the acting director (EPA Regional Administrator or state NPDES-approved program director, as appropriate) on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the United States, the waters of the contiguous zone, or the ocean (40 CFR 122).

11. FOTW. A facility that is owned and operated by a department, agency, or instrumentality of the Federal Government, which treats wastewater, a majority of which is domestic sewage, prior to discharge in accordance with a permit issued under section 1342 of the FWPCA.

12. Fill Material. Any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body (33 CFR 323).

13. Indirect Discharger. A nondomestic discharger introducing pollutants to a publicly owned treatment works (40 CFR 122). For the purposes of this Manual, an indirect discharger would include any industrial activity which discharges non sanitary wastewater or waste into a MCOTW.

14. IWTP. A wastewater treatment facility that discharges treated industrial effluent directly or indirectly into waters of the United States.

15. Load or Loading. An amount of matter (material) or thermal energy that is introduced into a receiving water. Loading can be either man-caused (pollutant loading) or natural (natural background loading) (40 CFR 130).

16. Material. Matter of any kind or description, including, but not limited to, dredged material; solid waste; incinerator residue; garbage; sewage; sewage sludge; munitions, radiological, chemical, and biological warfare agents; radioactive materials; chemicals; biological and laboratory waste; wrecked or discarded equipment; rock; sand; excavation debris; and industrial, municipal, agricultural, and other waste (40 CFR 220). This term does not include sewage from vessels as defined in section 312 of the CWA.

17. NPDES. The national program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and for imposing and enforcing pretreatment requirements under sections 307, 402, 318, and 405 of the CWA. The term includes approved state, interstate, or tribal programs (40 CFR 122).

18. Nonpoint Source Discharges. Discharges, typically in the form of runoff, that are not conveyed through a single point source. Major operations that result in nonpoint source discharges include agricultural activities, grazing, timber harvesting, construction, range activities, and improper waste disposal practices.

19. Ocean Waters. Waters of the open seas lying seaward of the baseline from which the territorial sea is measured, including the waters of the territorial sea, the contiguous zone, and the oceans (40 CFR 220).

20. Permit

a. Under NPDES, an authorization, license, or equivalent control document issued by the EPA or an approved state to implement the requirements of 40 CFR 122, 123, and 124. Permit includes an NPDES general permit, but does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit (40 CFR 122).

b. Under the CWA section 404 program, a written authorization issued by an approved state to implement the requirements of 40 CFR 233, or by the Marine Corps under 33 CFR Parts 320 - 330, which includes general permits, as well as individual permits (40 CFR 232).

21. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, and vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff (40 CFR 122).

22. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt,

and industrial, municipal, and agricultural waste discharged into water. A pollutant is not 1) "sewage from vessels" as defined in section 312 of the CWA or 2) water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well. In this case the well used either to facilitate production or for disposal purposes is one approved by authority of the state in which the well is located; however, the state must determine that such injection or disposal will not result in the degradation of ground or surface water resources (40 CFR 122).

23. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or introducing such pollutants into a POTW. The reduction or alteration may be accomplished by physical, chemical, or biological processes, operational process changes, material substitutions, or by other approved means.

24. POTW. Any device or system (including recycling and reclamation) used in the treatment of municipal sewerage or industrial wastes of a liquid nature which is owned by a state or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment (40 CFR 122).

25. Runoff. Water that drains overland from any part of a facility.

26. Sediment. Solid material, such as clay, gravel, mud, silt, sand, and organic matter that moves from its site of origin and settles to the bottom of a water course or water body.

27. Septage. The liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or from a holding tank when the system is cleaned or maintained (40 CFR 122).

28. Sewage Sludge. Any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. It includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment; scum, septage, portable toilet pumpings; type III marine sanitation device pumpings; and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during incineration of sewage sludge (40 CFR 122).

29. Sewage Sludge Use or Disposal Practice. The collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge (40 CFR 122).

30. Territorial Sea. The belt of seas measured from the baseline, in accordance with the Convention on the Territorial Sea and the Contiguous Zone (the line of ordinary low water located along the coast that is in direct contact with the open sea and the line marking the seaward limits of inland waters), and extending seaward at a distance of 3 nautical miles (40 CFR 230).

31. Treatment Works Treating Domestic Sewage. A POTW, FOTW, or any other sewage sludge or wastewater treatment device or system, regardless of ownership, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge (40 CFR 122).

32. Toxic Pollutant. Any pollutant listed as toxic under section 307(a)(1) of the CWA or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA (40 CFR 122). Toxic pollutants include those that have been determined by the EPA as causing death, disease, behavioral abnormalities, cancer, genetic mutations, physical deformities, or physiological malfunctions.

33. Underground Injection. A well injection which consists of the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the well dug is greater than the largest surface dimension (40 CFR 144).

34. Wasteload Allocation. The portion of a receiving water’s loading capacity that is allocated to one of its existing or future point sources of pollution (40 CFR 130).

35. Water Quality Standards. Provisions of state or Federal law which consist of a designated use or uses for the waters of the United States, and water quality criteria for such waters based upon such uses (40 CFR 130).

36. Waters of the United States. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters including interstate wetlands; all other waters such as intrastate lakes, rivers, perennial and intermittent streams,

mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds. The use, degradation, or destruction of these waters could affect interstate or foreign commerce, including waters used for recreational, industrial, or other purposes (e.g., fishing, harvesting shellfish, etc.); impoundments of waters otherwise defined herein; tributaries of waters identified above; the territorial seas; and wetlands adjacent to waters identified above (33 CFR 328).

37. Whole Effluent Toxicity. The aggregate toxic effect of an effluent measured directly by a toxicity test (40 CFR 122). Toxicity tests can be conducted to measure "acute" and "chronic" toxic effects.

CHAPTER 20

WATER QUALITY MANAGEMENT

SECTION 2: MARINE CORPS POLICY

20200. GENERAL

1. Marine Corps installations in the United States will comply with all substantive and procedural WQM regulations established by the EPA or those states that have been granted primary enforcement responsibility.

2. Marine Corps installations within foreign countries will comply with the applicable Final Governing Standards (FGS)/Japan Environmental Governing Standards or the Overseas Environmental Baseline Guidance Document if no FGS has been published.

20201. POINT SOURCE CONTROL

1. Marine Corps policy directs the reduction or elimination of wastewater treatment and disposal needs through a pollution prevention program. This program should examine and implement wastewater volume and pollutant reductions through process changes, materials substitution, cooling water recycling, water conservation practices and equipment, wastewater reclamation and reuse, and wastewater collection system maintenance and renovation to decrease groundwater infiltration and stormwater inflow. Ensure that the environmental management hierarchy (EMH) is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements. The Pollution Prevention Act establishes the following order of preference for the EMH:

a. Source reduction,

b. Recycling,

c. Treatment, and

d. Disposal.

2. The use of a regional or municipal POTW will be the preferred method for wastewater collection, treatment, and disposal

whenever an analysis of life-cycle costs and environmental impacts indicates that the use of a POTW is more economical and environmentally beneficial than constructing/upgrading and operating an FOTW. Economic components used in the analysis should include any capital cost contributions to the POTW for a prorated share of system capacity; continuing user fees and surcharges; pretreatment costs; and FOTW capital; operation and maintenance costs, including expenses for permit fees, monitoring, utilities, equipment repair and replacement; solids handling and disposal; chemical usage; and personnel staffing, training, and certification. The environmental analysis should include surface and groundwater quality and quantity issues, threatened and endangered species impacts, and archaeological, cultural, and natural resources issues.

3. The installation and operation of Marine Corps owned wastewater treatment and disposal facilities are authorized whenever a municipal system or other alternatives are not available or cost-effective.

4. The Marine Corps encourages wastewater reclamation for reuse; this option should be studied during planning for the construction of new wastewater facilities or for renovation, expansion, or the upgrading of existing facilities. Reuse options pertain to industrial wastewater recycling, aquifer recharge, constructed wetlands, wildlife habitat mitigation or enhancement; and to the irrigation of parade decks, athletic fields, golf courses, forests and tree lines, and garrison and residential landscaping; and to outleased areas used for agriculture, silviculture, or grazing.

5. Job descriptions for Marine Corps wastewater treatment plant and collection system operators must require a state certification, or license, or the ability to obtain and maintain a certification or license as a condition of employment at all facilities where state certification requirements apply, as stipulated in the Federal Personnel Manual (Supplement 271-1, subchapters 3-4, "License and Credentials").

6. The CMC (LF) supports funding for annual refresher training for all plant and collection system operators, especially for safety-related courses. Training sources include the EPA, state environmental and health departments, local colleges and universities, extension courses, and private firms.

7. Marine Corps laboratories which perform wastewater and stormwater analyses as required in permit monitoring conditions

must be certified under applicable regulations of the Federal, state, or local permitting authority, if required. Appropriate chain of custody procedures will be used to track samples collected for analysis. The 40 CFR 136 contains EPA test procedures for analyzing water pollutants.

20202. NONPOINT SOURCE CONTROL

1. Marine Corps installations must implement BMP's to control nonpoint source pollution.

2. Stormwater from military construction projects that increase impervious surfaces must be managed in accordance with state regulations and engineering practices that manage the quantity and quality of stormwater runoff.

3. Lease terms for agricultural, silvicultural, and grazing operations will include requirements for implementing BMP's for pesticide, fertilizer, and erosion controls to reduce contaminated runoff.

20203. SEPTAGE TREATMENT AND DISPOSAL

1. Marine Corps installations with septic tanks will ensure that these tanks do not contaminate adjacent surface waters or groundwaters.

2. A periodic inspection program must be developed to determine when pumping is required and if any structural defects, such as broken baffles or cracked pipes, exist. The recommended frequency is every 4 to 5 years.

3. Marine Corps installations may select their own preferred method of septage disposal. If land disposal is selected, the installation or its contractor must adhere to the requirements in 40 CFR 503.

20204. GROUNDWATER PROTECTION

1. Underground injection of wastes will be used only as a last resort at Marine Corps installations after all other disposal alternatives have been considered and rejected as unfeasible. Any underground injection well, including those within class V,

will be operated in compliance with the UIC program and applicable permits.

2. Marine Corps installations will inventory all class V wells to determine whether pollutants are discharged into underlying aquifers. Class V wells include certain septic system wells and cesspools, stormwater drainage wells, and dry wells used for waste disposal, such as those found in motor pools.

20205. SEWAGE SLUDGE USE AND DISPOSAL

1. The preferred method of sewage sludge disposal is the beneficial use at land application sites, as regulated under 40 CFR 503. This method requires the effective pretreatment of industrial wastes, including proper management of oil/water separators, to prevent contamination of sewage sludge. An effective monitoring program is also necessary to ensure compliance with subpart B requirements.

2. If sewage sludge is transported off site for disposal, the installation will ensure that the disposal agent acts in accordance with applicable regulations and permits.

20206. DREDGE AND FILL OPERATIONS

1. Marine Corps installations proposing to undertake any action requiring a COE permit must apply to the COE District Engineer for the district in which the proposed activity is to be conducted. The installation may request assistance from the cognizant Naval Facilities Engineering Command Engineering Field Division/Activity (EFD/EFA) in preparing and submitting the permit application. Applications for COE permits are normally initiated by the EFD/EFA at the 35 percent design stage. Whenever a potential requirement for a COE permit under this section is identified, initiate consultation with the CMC (LF).

2. A National Environmental Policy Act (NEPA) analysis must be conducted for any actions that will require an individual permit for dredge and fill activities or the loss of wetlands. Because this process is complex and lengthy, it must be initiated well in advance of developing and filing the permit applications. Further information on the NEPA process is provided in chapter 12 of this Manual.

3. COE permits are required by Marine Corps installations for the following actions:

a. The construction of a dam or dike (33 CFR 321);

b. The construction of a structure in, or one that will affect, waters of the United States (33 CFR 322);

c. Dredging projects for navigation to enhance morale, welfare, and recreational activities (33 CFR 322);

d. The discharge of dredged or fill material into the navigable waters of the United States, including wetlands (33 CFR 323); and

e. The transportation of dredged material for dumping in ocean waters (33 CFR 323).

4. Existing disposal sites, approved by the COE, should be used wherever possible. Proposed new disposal sites should be identified and reported to the cognizant COE district engineer for evaluation and approval 2 to 3 years before project initiation.

5. If a land disposal site is proposed, consideration must be given to the liquid runoff and leaching potential of undesirable chemical constituents and to any NPDES-permit requirements. Requests for revalidation of existing permits for maintenance dredging and disposal must be received by the COE at least 6 months prior to expiration of the permit.

6. A permit for maintenance dredging will include an expiration date that will not extend more than 10 years from the issue date. A request for renewal from the COE must be filed with the cognizant District Engineer at least 1 year before expiration.

7. The COE or the supporting EFD/EFA may be requested, on a cost-reimbursable basis, to prepare or assist in the preparation of an EA/EIS for projects requiring a COE permit.

8. Early planning for dredge spoil disposal site selection, preparation, and use is essential to avoid unnecessary costs and delays.

20207. OCEAN DUMPING. Except in emergency situations (e.g., jet fuel dumped from aircraft in an emergency situation to safeguard life), ocean dumping may be authorized only on a case-by-case basis by the EPA. Requests for such authorization must be accompanied by an EA (see chapter 12). Full compliance with EPA regulations (40 CFR 220-229) is required.

20208. COASTAL ZONE MANAGEMENT ACT (CZMA) CONSISTENCY DETERMINATIONS. Marine Corps installations must review proposed actions to identify those that directly affect the coastal zone. For all activities affecting the coastal zone, provide a consistency determination to the appropriate state agency at least 90 days prior to final approval for the activity.

CHAPTER 20

WATER QUALITY MANAGEMENT

SECTION 3: RESPONSIBILITIES

20300. CMC (LF)

1. Provide information and advice to installation commanders and tenants regarding proposed and final rules and regulations pertaining to WQM and uniformly apply Marine Corps policy as set forth in the Manual.

2. Assist installations in resolving disputes with Federal, state, local, and foreign regulatory agencies as required.

3. Conduct special environmental compliance and protection studies with regard to water quality management to assist in establishing policy or initiating actions.

4. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to water quality regulations.

5. Track Marine Corps progress toward meeting established water quality goals.

20301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for water quality management facilities that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with water quality management requirements. Pay appropriate Federal, state, and local fees. Ensure that the EMH is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

2. Ensure that all required Federal, state, and local permits are applied for and obtained. Sign certifications and permit applications, as required, for construction of all water quality management projects.

3. Ensure that a base or station order is written to implement the specifications of this chapter. This requirement can be accomplished either by writing a comprehensive base order to implement all of this Manual, or by writing a separate base order to implement the contents of this chapter alone.

4. Identify and submit to the CMC (LFL) and (LFF) project documentation and funding requests for wastewater sources, collection systems, and treatment facilities that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with wastewater treatment requirements.

5. Ensure that all required Federal, state, and local permits are applied for and obtained. Sign certifications and permit applications, as required, for construction of all wastewater treatment projects.

6. Identify applicable effluent limitations, new toxic pollutant effluent standards, pretreatment standards, wastewater discharge problems associated with solid waste disposal sites, and nonpoint source requirements pursuant to regional plans under section 208 of the CWA.

7. Coordinate the review of all projects for the construction of new or upgraded treatment works with the appropriate EPA, state, and regional offices to ensure early identification of discharge permit conditions and limits, siting restrictions, innovative treatment alternatives, wastewater reclamation criteria, and sewage sludge use or disposal options.

8. Use innovative treatment technology where technically and economically feasible in the designs for the construction of new or the upgrading of existing wastewater treatment plants.

9. Ensure that management programs and controls exist to comply with applicable regulations, permit limits, monitoring, recordkeeping, and reporting requirements for wastewater and stormwater discharges from point and nonpoint sources.

10. Identify training and certification needs for operators of treatment and collection system facilities, and allocate needed resources.

11. Use municipal or regional wastewater collection and disposal systems to the maximum extent feasible.

12. Maintain a liaison with the COE and state or area-wide planning organizations to ensure that Marine Corps interests are considered during regional wastewater treatment planning or to facilitate dredge/fill projects.

13. If responsible for operation of a FOTW:

a. Notify the cognizant permitting agency of any changes in wastewater input to the treatment plant that may affect the ability of the plant to comply with applicable requirements.

b. Operate and maintain the collection system, treatment works, and effluent discharge facilities to ensure compliance with applicable permit requirements.

14. Provide the resources for monitoring, sampling, and testing, as well as for maintaining and demonstrating compliance with permit and pretreatment requirements; maintain records of all monitoring information.

15. Identify pollution prevention measures, devices, systems, and procedures to reduce the total generation of wastewater volume and pollutants.

16. Ensure that adequate access to wastewater generating and treatment facilities is provided to the EPA, state, and local pollution control authorities for the purpose of waste stream sampling and the inspection of operations and records.

17. Ensure that coordination occurs as appropriate with the Safety Office in matters relating to wastewater discharges, sewage sludge use or disposal, dredge and fill operations and, POL management.

20302. COMMANDERS RESPONSIBLE FOR DISCHARGES TO FEDERALLY OWNED TREATMENT WORKS (FOTW) AND PUBLICLY OWNED TREATMENT WORKS (POTW)

1. Comply with all applicable pretreatment requirements. This includes providing the necessary resources for monitoring, sampling, recordkeeping, and reporting.

2. Implement procedures to notify operators of treatment works receiving Marine Corps discharges of any changes in discharges or of accidental pollutant discharges.

APPENDIX A

FEDERAL ENVIRONMENTAL STATUTES, REGULATIONS, EXECUTIVE ORDERS, AND MILITARY MANDATES

A. FEDERAL STATUTES

1. Alternative Motor Fuel Act of 1988, as Amended (Public Law 100-494). This Act was enacted by Congress to achieve long-term energy security and to improve air quality by encouraging the production of alternative fuel vehicles (AFV). The Act requires a portion of the new vehicles that the Federal Government acquires each year to be AFV's.

2. American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996). This Act states the policy of the United States to protect and preserve for Native Americans their inherent rights of freedom to believe, express, and exercise the traditional religions of Native Americans, Eskimos, Aleuts, and Native Hawaiians. These rights include, but are not limited to, access to sites, use and possession of sacred objects, and the freedom to worship through ceremony and traditional rites.

3. Antiquities Act of 1906 (16 U.S.C. 431-433). This Act provides for the protection of historic and prehistoric ruins and objects of antiquity on Federal lands and for the authorized scientific investigation of antiquities on Federal lands, subject to permits and other regulatory requirements.

4. Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.). This Act directs Federal agencies to notify the Secretary of the Interior when any Federal construction project of a Federally licensed activity or program may cause irreparable loss or destruction of significant scientific, prehistoric, historic, or archaeological data. The Act also provides a mechanism for funding the protection of historic and archaeological data.

5. Archaeological Resources Protection Act (ARPA) of 1979 (16 U.S.C. 470(aa) et seq.). This Act prohibits the removal, sale, receipt, and interstate transportation of archaeological resources obtained illegally (without permits) from public or Native American lands and authorizes agency permit procedures for investigations of archaeological resources on public lands under the agency's control. Public Law 100-555 amended the ARPA to

require the Secretaries of the Interior, Agriculture, and Defense 1) to develop plans for surveying the lands under their control to determine the nature and extent of archaeological resources, and 2) to prepare a schedule for surveying those lands that are likely to contain the most scientifically valuable archaeological resources.

6. Atomic Energy Act (AEA) of 1954, as Amended (42 U.S.C. 2011 et seq.). This Act amended the AEA of 1946, which had placed complete power for atomic energy development in the hands of the Atomic Energy Commission. The Act was passed to promote the peaceful uses of nuclear energy through private enterprise and to implement President Eisenhower's Atoms for Peace Program. The Act allowed the Atomic Energy Commission to license private companies to use nuclear materials and to build and operate nuclear power plants. The purpose of the Act is to assure the proper management of source, special nuclear, and byproduct material. The AEA and amendments delegate the control of nuclear energy primarily to the Department of Energy, the Nuclear Regulatory Commission, and the Environmental Protection Agency (EPA).

7. Bald Eagle Protection Act of 1940, as Amended (16 U.S.C. 668 et seq.). This Act, amended in 1972, prohibits the killing, harassment, possession, or selling of bald eagles. The Act also imposes penalties for the possession of bald eagles or eagle parts taken from birds after June 1940. The Act provides an exemption for the use of bald eagle parts in Native American religious ceremonies, provided that the appropriate permit is granted to the tribe by the United States Fish and Wildlife Service.

8. Base Closure and Realignment Act (BRAC) of 1988 (Public Law 100-526). This Act, as amended in 1990 (PL 101-510), was enacted by Congress to select bases for realignment and closure as a part of overall military downsizing. The Act contains provisions which provide for the BRAC Environmental Restoration Program. This program ensures that the property is not released for public use until all hazardous waste (HW) has been removed from the property. Ultimately, this cleanup process may prevent the transfer of cleaned parcels of land in the otherwise required 6-year time frame. However, the Act does not prevent the Marine Corps from initiating and executing lease agreements with interested parties before cleanup is complete.

9. Clean Air Act (CAA) of 1970, as Amended (42 U.S.C. 7401 et seq.). This Act, the major Federal legislation concerning the control of the Nation's air quality, requires the setting of National Ambient Air Quality Standards and the development of Federal and state programs to achieve these standards through the control of air pollution sources. The Act also provides for the EPA's delegation of authority to states to conduct air pollution control programs. The 1990 amendments (Public Law 101-549) stress pollution control and prevention.

10. Clean Water Act (CWA) of 1977, as Amended (Public Law 95-217, 33 U.S.C. 1251 et seq.). This Act is a compilation of decades of Federal water pollution control legislation. The Act amended the Federal Water Pollution Control Act (FWPCA) and requires Federal agency consistency with state nonpoint source pollution abatement plans. The CWA is the major Federal legislation concerning improvement of the Nation's water resources. The Act was amended in 1987 to strengthen enforcement mechanisms and to regulate stormwater runoff. The Act provides for the development of municipal and industrial wastewater treatment standards and a permitting system to control wastewater discharges to surface waters. The CWA contains specific provisions for the regulation of dredge soil disposal within navigable waters and for the placement of material into wetlands. Permits are required under sections 401, 402, and 404 for proposed actions which involve wastewater discharges and/or dredging/placement of fill in wetlands or navigable waters. These permits are required prior to the initiation of proposed actions.

11. Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. 1451 et seq.). This Act provides incentives for coastal States to develop and implement coastal area management programs. The Act plays a significant role in water pollution abatement, particularly with regard to nonpoint source pollution. State coastal zone management programs frequently incorporate flood control, sediment control, grading control, and stormwater runoff control statutes. Under the CZMA, Federal actions that have a direct impact on the coastal zone must be consistent to the maximum extent practicable with the state program. These state statutes must be considered when addressing the water pollution impacts of Marine Corps projects.

12. Community Environmental Response Facilitation Act (CERFA) of 1992 (Public Law 102-426). This Act amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), section 120(h), Property Transferred by Federal Agencies. CERFA

requires the Federal Government, before the termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substances (HS) or petroleum was stored, released, or disposed of. CERFA further clarifies "remedial action taken" in CERCLA section 120(h)(3).

13. CERCLA of 1980, as Amended (42 U.S.C. 9601 et seq.). This Act was enacted to deal with health and environmental hazards caused by past HW management practices. As amended by the Superfund Amendments and Reauthorization Act (SARA), the Act requires the EPA to promulgate revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (the National Contingency Plan (NCP)). The NCP establishes the process for determining appropriate removal and remedial action for the Nation's most serious Superfund HW sites. Additionally, the NCP establishes the national framework for planning and response to oil discharges and HS releases. The NCP assigns responsibilities for contingency planning and response to various Federal agencies, including the DoD, and outlines state and local Government and public and private interest group participation in these areas. The NCP also specifies notification procedures for certain oil discharges and HS releases.

14. Conservation Programs on Military Reservation (Sikes Act) of 1960, as Amended (16 U.S.C. 670(a) et seq.). This Act requires each military department 1) to manage natural resources and to ensure that necessary services are provided for the management of fish and wildlife resources on each installation, 2) to provide their personnel with professional training in fish and wildlife management, and 3) to give priority to contracting work with Federal and state agencies that have responsibility for the conservation or management of fish and wildlife. The Act authorizes cooperative agreements with state and local governments, non-governmental organizations, and individuals that call for each party to provide matching funds or services to carry out natural resources projects and initiatives.

15. Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (42 U.S.C. 11001 et seq.). Also known as SARA, title III, this Act focuses on the hazards associated with toxic chemical (TC) releases. Most notably, specific sections of EPCRA require the immediate notification of releases of extremely hazardous substances and CERCLA-defined HS's to state and local emergency response planners. EPCRA requires state and local coordination in planning response actions to chemical emergencies. The Act also requires certain industries to submit information on chemical inventories and fugitive emissions.

16. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). This Act determines and protects both plant/animal species and their critical habitats that are threatened or endangered. The Act prohibits any Federal action that may jeopardize such species and provides for the designation of critical habitat of such species wherein no action is to be taken concerning degradation of the habitat. The Act requires a biological assessment of Federal agency actions when an endangered or threatened species may be present in the area affected by the actions.

17. Energy Policy Act of 1992 (Public Law 102-486). This Act seeks to reduce the Nation's dependency on imported oil and to improve energy efficiency. It includes provisions on Government purchases of AFV's, electricity, and global warming research. The Act promotes energy efficiency and renewable energy and uses a mixture of voluntary and mandatory measures, requiring new efficiency standards for appliances that use energy and water.

18. Energy Policy and Conservation Act of 1975, as Amended (42 U.S.C. 6201 et seq.). This Act increases the supply of petroleum reserves, while concurrently lowering the demand for those products. The Act provides for the creation of a Strategic Petroleum Reserve, the implementation of price incentives to increase the supply of fossil fuels, the regulation of certain energy uses, and the reduction in demand for petroleum products through programs designed to promote the use of coal. The Act also provides for the increased energy efficiency of automobiles, major appliances, and other consumer products, as well as the conservation of water via efficiency improvements in plumbing.

19. Federal Facilities Compliance Act of 1992 (Public Law 102-386). This Act amends the Solid Waste Disposal Act (SWDA) to waive governmental immunity, subjects Federal agencies to civil and administrative penalties, and requires payment of any nondiscriminatory charges that are assessed in connection with a Federal, state, or local solid waste (SW) or HW regulatory program. The Act also provides Federally Owned Treatment Works with the same sewage exclusion from hazardous waste regulation as afforded to Publicly Owned Treatment Works.

20. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of 1947, as Amended (Public Law 92-516, 7 U.S.C. 136 et seq.). This Act provides the principal means for preventing environmental pollution from pesticides through product registration and applicator certification. The Act requires that all pesticide products registered by the EPA must have label instructions for use, storage, and disposal on each container

(label instructions are legally applicable to all users). Under FIFRA, the EPA is required to accept certain pesticides under recall for safe disposal. It is unlawful to purchase, distribute, or use any pesticide that does not have an EPA registration number or for which registration has been canceled or suspended, or to apply, store, or dispose of any pesticide or container in any manner inconsistent with applicable regulations. The Act was amended in 1972 by the Federal Environment Pesticide Control Act, and subsequently in 1975 and 1978.

21. Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.). This Act provides for the control and eradication of noxious weeds and their regulation in interstate and foreign commerce. The Act requires a general or specific permit from the Secretary of Agriculture for the movement of noxious weeds identified in the regulation into or through the United States unless such movement is from Canada.

22. Federal Property and Administrative Services Act of 1949 (10 U.S.C. 484 et seq.). This Act contains provisions on the sale of recyclable materials.

23. Federal Tort Claims Act of 1946, as Amended (28 U.S.C. 2671 et seq.). This Act substitutes the United States as the party defendant in cases alleging negligent action by a Federal employee or service member.

24. FWPCA of 1972, as Amended (33 U.S.C. 1251 et seq.). As the precursor to the CWA, this Act contains virtually all the same tools and enforcement mechanisms that the CWA contains. The CWA amendments of the FWPCA in 1977 redefined the contaminants of concern, which had previously been oxygen-demanding materials. The FWPCA is usually referred to as the CWA.

25. Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.). This Act promotes state programs for the purpose of conserving, restoring, or otherwise benefiting nongame fish and wildlife, and their habitat.

26. Freedom of Information Act of 1966, as Amended (5 U.S.C. 552 et seq.). This Act provides the mechanisms and procedures by which Federal agency information is distributed to the public.

27. Hazardous and Solid Waste Amendments (HSWA) of 1984 (Public Law 98-616). See SWDA.

28. Hazardous Materials Transportation Act (HMTA) of 1975 (49 U.S.C. 5101 et seq.). This Act regulates the shipping, marking, labeling, placarding, and recordkeeping requirements for hazardous materials (HM), including HW and military munitions. The Act applies to the transportation of HM's by rail car, aircraft, vessels, interstate, and foreign carriers by motor vehicle. Substances covered by the Act are HW's, HS's, flammable cryogenic liquids in portable tanks and cargo tanks, and marine pollutants. The Act is administered by the Department of Transportation (DOT).

29. Hazardous Materials Transportation Uniform Safety Act (HMTUSA) of 1990 (Public Law 101-615). This Act clarifies the maze of conflicting state, local, and Federal regulations relating to the transportation of HM's. Like the HMTA, the HMTUSA requires the Secretary of Transportation to promulgate regulations for the safe transport of HM's in intrastate, interstate, and foreign commerce. The Secretary also retains authority to designate materials as hazardous when they pose unreasonable risks to health, safety, or property. The Act includes provisions to encourage uniformity among different state and local highway-routing regulations, to develop criteria for the issuance of Federal permits to motor carriers of HM's, and to regulate the transport of radioactive materials.

30. Historic Sites, Buildings, and Antiquities Act of 1935 (Public Law 74-292, 16 U.S.C. 461 et seq.). This Act lists national historic sites and sets forth Federal policy to preserve historic and prehistoric properties of national significance. The Act enables the Secretary of the Interior to protect nationally significant historic resources and includes the authority to establish and acquire nationally significant sites.

31. Low-Level Radioactive Waste Policy Act of 1980, as Amended (42 U.S.C. 2021 et seq.). This Act mandates that radioactive waste be disposed of in the state, or the associated compact, where it is generated. The Act also transfers the responsibility for the storage and disposal of low-level radioactive waste from the Federal Government to the states or compacts, excepting several cases in which the Federal Government is responsible for the generation of regulated wastes.

32. Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.). This Act halts overfishing by foreign fleets and aids the development of the domestic fishing industry. The Act gives the United States sole management authority over living resources within its jurisdictional waters.

33. Marine Mammal Protection Act of 1972, as Amended (16 U.S.C. 1361 et seq.). This Act protects marine mammals and establishes a marine mammal commission.

34. Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as Amended (33 U.S.C. 1401 et seq. and 16 U.S.C. 1431 et seq.). This Act, also known as the Ocean Dumping Act, protects oceanic waters from dumping. The Act provides for the establishment of procedures for regulating the transportation of materials into the oceans for the purpose of dumping. The Act prohibits the dumping of sewage sludge after December 31, 1991.

35. Migratory Bird Treaty Act of 1918, as Amended, (16 U.S.C. 703 et seq.). This Act prohibits taking or harming a migratory bird, its eggs, nests, or young without the appropriate permit.

36. Military Construction Authorization Act, Passed Annually. This Act is an annual update of military construction projects.

37. Military Construction Codification Act of 1982 (Public Law 97-214). This Act provides guidance for the sale of certain recyclable materials.

38. Military Reservation and Facilities: Hunting, Fishing, and Trapping Act of 1958 (Public Law 85-337, 10 U.S.C. 2671). This Act requires that all hunting, fishing, and trapping activities on military installations be conducted in accordance with the state fish and game laws in which the installation is located. Appropriate state licenses must be obtained for these activities on the installation.

39. National Energy Conservation Policy Act of 1978 (Public Law 95-619). This Act promulgates conservation measures and efficiency standards to control the growth rate of energy demands.

40. National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) This Act ensures that environmental factors are given the same consideration as other factors in decisionmaking by Federal agencies. Through the environmental impact statement requirements, NEPA mandates that all Federal agencies consider the environmental effects of, and any alternatives to, all proposals for major Federal actions that significantly affect the quality of the human environment. The Act also established the Council on Environmental Quality in the Executive Office of the President.

41. National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.). This Act provides for the nomination, identification (through listing on the National Register of Historic Places (NRHP)), and protection of historical and cultural properties of significance. The Act establishes specific procedures for compliance, including initial review authority by the cognizant State Historic Protection Officer.

42. Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001 et seq.). This Act requires Federal agencies to establish procedures for identifying Native American groups associated with cultural items on Federal lands, to inventory human remains and funerary objects in Federal possession, and to return such items upon request to affiliated groups. The Act also requires that any discoveries of cultural items covered by this statute must be reported to the head of the cognizant Federal entity, who will notify the appropriate Native American tribe or organization and cease activity in the area of discovery for at least 30 days.

43. Noise Control Act of 1972 (42 U.S.C. 4901 et seq.). This Act authorizes the establishment of Federal noise emissions standards for products distributed in commerce and coordinates Federal research efforts in noise control.

44. Noxious Plant Control Act of 1968 (43 U.S.C. 1241 et seq.). This Act requires the head of Federal departments and agencies to allow a state having a program for the control of noxious plants to enter upon any Federal lands, for the purpose of controlling noxious plants, if certain criteria are met.

45. Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.). This Act ensures safe and healthful working conditions by authorizing the enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to ensure safe and healthful conditions; and by providing for research, information, education, and training in the field of occupational safety and health.

46. Oil Pollution Act (OPA) of 1990 (Public Law 101-380, 33 U.S.C. 2701 et seq.). This Act prohibits the harmful discharges of oil and HS's into waters of the United States or discharges which may affect natural resources owned or managed by the United States. The Act amended section 311 of the CWA to augment Federal response authority, increase penalties for oil spills, expand the organizational structure of the Federal response

framework, and provide an emphasis on preparedness and response activities.

47. Outdoor Recreation - Federal/State Program Act (16 U.S.C. 460(L) et seq.). This Act requires consultation with the National Park Service regarding management for outdoor recreation.

48. Pollution Prevention Act (PPA) of 1990 (42 U.S.C. 13101 et seq.). This Act establishes the national policy that pollution should be prevented at the source whenever feasible. Pollution that cannot be prevented should be recycled in an environmentally safe manner whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

49. Public Buildings Cooperative Use Act of 1976 (Public Law 94-541). This Act encourages the adaptive reuse of historic buildings as administrative facilities for Federal agencies or activities.

50. Resource Conservation and Recovery Act (RCRA) of 1976, as Amended (42 U.S.C. 6901 et seq.). This Act gives the EPA the authority to regulate the generation, transportation, treatment, storage, and disposal of HW's ("cradle-to-grave" management). The most significant of the ten subtitles of RCRA is subtitle C, which establishes the national HW management program. The 1986 amendments to RCRA provide the EPA with regulatory authority over underground storage tanks (UST) containing HS's and petroleum. RCRA focuses only on active and future facilities. Of particular note is section 3004(u) (i.e., corrective action) by which the EPA or a state may require the cleanup or a schedule for investigation and cleanup of all inactive Solid Waste Management Units on an installation before issuing a RCRA part B permit for current HW operations at the installation. Note that cleanup standards may be different under RCRA than under CERCLA.

51. Rivers and Harbors Act of 1899 (33 U.S.C. 407 et seq.). This Act, commonly referred to as the Refuse Act, provides authority to the United States Army Corps of Engineers to issue or deny permits for the construction of dams, dikes, or other structures in or affecting navigable waters of the United States.

52. Safe Drinking Water Act (SDWA) of 1974 (42 U.S.C. 300(f) et seq.). This Act amended the Public Health Service Act and specifies a system for the protection of drinking water supplies through the establishment of contaminant limitations and enforcement procedures. The EPA has two kinds of promulgated contaminant limitations: primary drinking water standards to protect public health and secondary drinking water standards to protect public welfare. This Act requires each state to adopt a program to protect wells within its jurisdiction from contamination. States have the primary responsibility to enforce compliance with national primary drinking water standards and sampling, monitoring, and notice requirements. The 1996 amendments (Public Law 104-182) to the SDWA include new regulations based on risk and public health concerns. These regulations include prohibiting the use of lead in plumbing that carries potable water and the listing of unregulated contaminants which pose a health threat or which are known to occur in public water supplies. Additionally, the amendments waive sovereign immunity for Federal facilities.

53. Sikes Act. See Conservation Programs on Military Reservation of 1960.

54. Soil Conservation Act of 1938 (16 U.S.C. 5901 et seq.). This Act provides for the application of soil conservation practices on Federal lands.

55. SWDA of 1965, as Amended (42 U.S.C. 3251 et seq.). The HSWA extended and strengthened the provisions of the SWDA, as amended by RCRA. Subtitle I of HSWA provides for the development and implementation of a comprehensive regulatory program for UST’s containing HS’s, petroleum products, and releases of those substances into the environment. HS’s regulated under subtitle I include any substance listed in section 101(14) of CERCLA.

56. SARA of 1986 (Public Law 99-499). This Act reauthorized CERCLA to continue cleanup activities around the country. An $8.5 million appropriation was authorized for the "Superfund" program. Several site-specific amendments, definitions, clarifications, and technical requirements were added to the legislation, including additional enforcement authorities.

57. Toxic Substances Control Act (TSCA) of 1976 (15 U.S.C. 2601 et seq.). This Act provides for the Federal regulation of chemical substances that present a hazard to health or the environment. Such regulation requires the testing of new substances and subsequent control of their commercial

distribution. The Act also contains specific requirements relative to polychlorinated biphenyls, asbestos, and Radon.

58. Uranium Mill Tailings Radiation Control Act of 1978 (42 .S.C. 7901 et seq.). This Act, which amended the AEA, provides or the custody, remediation, and transfer of lands which are disposal sites for residual radioactive materials, Uranium and Thorium byproduct materials, and mill tailings. Regulations govern the long-term care and maintenance, monitoring requirements, cleanup standards, and emergency management plans f tailings sites. The Act includes provisions for the use of source material by prime contractors, as well as for the sale or ease of subsurface mineral rights.

59. Used Oil Recycling Act of 1980, as Amended (Public Law 6-463). This Act was enacted to protect and conserve the scarce" supplies of oil and to protect human health and the environment from the hazards of the improper disposal of used oil. The Act provided for the recycling/reuse of used oil and required the labeling of used oil. Provisions of the Act were incorporated into the HSWA of the SWDA.

60. Water Quality Act of 1965 (Public Law 89-234). This Act was the first major legislation pertaining to the water quality standards of surface waters. The Act provides states and interstate compacts with Federal support in the establishment and enforcement of water quality standards. The concepts in the Act are largely superseded by the CWA of 1977.

61. Water Quality Improvement Act of 1970 (Public Law 91-224). This Act prohibits the discharge of "harmful" quantities of oil and sewage from recreational boats into navigable waters. Regulations at 40 CFR 110 define "harmful" quantities as those discharges which will cause a sheen or discoloration on the surface of the water or a sludge or emulsion to be deposited beneath the surface of the water.

B. FEDERAL REGULATIONS

1. 15 CFR 930, Federal Consistency with Approved Coastal Management Programs.

2. 15 CFR 902-981, National Oceanic and Atmospheric Administration (NOAA).

3. 29 CFR 1910, Occupational Safety and Health Standards.

4. 29 CFR 1910.120, Occupational Safety and Health Administration Regulations on Hazardous Waste and Emergency Response.

5. 29 CFR 1910.1200, Occupational Safety and Health Administration Hazard Communication Standard.

6. 30 CFR 254, Spill Response for Offshore Facilities Including State Submerged Lands and Pipelines.

7. 32 CFR 172, Disposition of Proceeds from DoD Sales of Surplus Personal Property.

8. 32 CFR 190, Natural Resources Management Program.

9. 32 CFR 775, Procedures for Implementing the National Environmental Policy Act.

10. 33 CFR 80, COLREGS DEMARCATION Lines, General.

11. 33 CFR 153, Control of Pollution by Oil and Hazardous Substances Discharge Removal.

12. 33 CFR 154, Facilities Transferring Oil or Hazardous Materials in Bulk.

13. 33 CFR 320, General Regulatory Policies, Water Pollution.

14. 33 CFR 321, Permits for Dams and Dikes in Navigable Waters of the United States.

15. 33 CFR 322, Permits for Structures or Work in, or Affecting, Navigable Waters of the United States.

16. 33 CFR 323, Permits for Discharges of Dredged or Fill Materials into Waters of the United States.

17. 33 CFR 324, Permits for Ocean Dumping of Dredged Materials.

18. 33 CFR 325, Processing of Department of the Army Permits.

19. 33 CFR 326, Enforcement.

20. 33 CFR 327, Public Hearings.

21. 33 CFR 328, Definition of Waters of the United States.

22. 33 CFR 329, Definition of Navigable Waters of the United States.

23. 33 CFR 330, Nationwide Permits.

24. 36 CFR 60, National Register of Historic Places.

25. 36 CFR 800, Protection of Historic and Cultural Properties.

26. 40 CFR 61, National Emission Standards for Hazardous Air Pollutants.

27. 40 CFR 63, National Emission Standards for Hazardous Air Pollutants for Source Categories.

28. 40 CFR 68, Chemical Accident Prevention Provisions.

29. 40 CFR 70, State Operating Permit Programs.

30. 40 CFR 71, Federal Operating Permit Programs.

31. 40 CFR 109, EPA Regulations on Criteria for State, Local, and Regional Oil Removal Contingency Plans.

32. 40 CFR 110, EPA Regulations on Discharge of Oil.

33. 40 CFR 112, EPA Regulations on Oil Pollution Prevention.

34. 40 CFR 113, EPA Regulations on Liability for Small Onshore Oil Storage Facilities.

35. 40 CFR 116-117, EPA Regulations on Hazardous Substances.

36. 40 CFR 122-124, EPA Regulations Implementing CWA.

37. 40 CFR 125, EPA Regulations on Criteria and Standards for the National Pollutant Discharge Elimination System.

38. 40 CFR 129, EPA Toxic Pollutant Effluent Standards.

39. 40 CFR 130, EPA Requirements for Water Quality Planning and Management.

40. 40 CFR 131, Toxic Criteria for those States not Complying with Clean Water Act, section 303(C)(2)(B).

41. 40 CFR 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants.

42. 40 CFR 141-143, EPA National Drinking Water Regulations.

43. 40 CFR 144, Underground Injection Control Program.

44. 40 CFR 145, State Underground Injection Control Program Requirements.

45. 40 CFR 146, Underground Injection Control Program: Criteria and Standards.

46. 40 CFR 147, State Underground Injection Control Programs.

47. 40 CFR 148, EPA Regulations on Hazardous Waste Disposal Restrictions for Class I Wells.

48. 40 CFR 149, Sole Source Aquifers - Criteria for Identifying Critical Aquifer Protection Areas.

49. 40 CFR 220-225, Ocean Dumping Regulations and Criteria.

50. 40 CFR 227, Criteria for the Evaluation of Permit Applications for Ocean Dumping of Materials.

51. 40 CFR 228, Criteria for the Management of Disposal Sites for Ocean Dumping.

52. 40 CFR 229, General Permits.

53. 40 CFR 230, EPA Interim Regulations on Discharge of Dredged or Fill Material into Navigable Waters.

54. 40 CFR 232, Program Definitions: Exempt Activities not Requiring 404 Permits.

55. 40 CFR 233, State Program Regulations.

56. 40 CFR 240-241, EPA Guidelines for the Thermal Processing of Solid Wastes and for the Land Disposal of Solid Wastes.

57. 40 CFR 243, EPA Guidelines for Solid Waste Storage and Collection.

58. 40 CFR 244, Solid Waste Management Guidelines for Beverage Containers.

59. 40 CFR 245, EPA Guidelines for Resource Recovery Facilities.

60. 40 CFR 246, Source Separation for Materials Recovery Guidelines.

61. 40 CFR 247, EPA Guidelines for Procurement of Products that Contain Recovered Material.

62. 40 CFR 257, EPA Regulations on Criteria for Classification of Solid Waste Disposal Facilities and Practices.

63. 40 CFR 258, Criteria for Municipal Solid Waste Landfills.

64. 40 CFR 261, Identification and Listing of Hazardous Waste.

65. 40 CFR 264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.

66. 40 CFR 268, Land Disposal Restrictions.

67. 40 CFR 270, EPA Administered Permit Programs: The Hazardous Waste Permit Program.

68. 40 CFR 280, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks.

69. 40 CFR 300, EPA National Oil and Hazardous Substances Pollution Contingency Plan under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

70. 40 CFR 302, EPA Designation, Reportable Quantities and Notification Requirements for Hazardous Substances under the Comprehensive Environmental Response, Compensation, and Liability Act.

71. 40 CFR 310, Reimbursement to Local Governments for Emergency Response to Hazardous Substances Releases.

72. 40 CFR 355, EPA Regulations for Emergency Planning and Notification under CERCLA.

73. 40 CFR 370, EPA Hazardous Chemical Reporting and Community Right-to-Know Requirements.

74. 40 CFR 372, EPA Toxic Chemical Release Reporting Regulations.

75. 40 CFR 403, General Pretreatment Regulations for Existing and New Sources of Pollution.

76. 40 CFR 405-471, EPA Effluent Guidelines and Standards.

77. 40 CFR 413, EPA Effluent Guidelines and Standards for Electroplating.

78. 40 CFR 433, EPA Effluent Guidelines and Standards for Metal Finishing.

79. 40 CFR 503, Standards for the Use or Disposal of Sewage Sludge.

80. 40 CFR 1500, Purpose Policy Mandate (Council on Environmental Quality Regulations on Implementing NEPA Procedures).

81. 40 CFR 1501, NEPA and Agency Planning.

82. 40 CFR 1502, Environmental Impact Statement.

83. 40 CFR 1503, Commenting.

84. 40 CFR 1504, Predecision Referrals to the Council of Proposed Federal Actions to be Environmentally Unsatisfactory.

85. 40 CFR 1505, NEPA and Agency Decision Making.

86. 40 CFR 1506, Other Requirements of NEPA.

87. 40 CFR 1507, Agency Compliance.

88. 40 CFR 1508, Terminology and Index.

89. 43 CFR 11, Natural Resources Damage Assessment.

90. 46 CFR 7, Boundary Lines.

91. 49 CFR 130, Oil Spill Prevention and Response Plans.

92. 49 CFR 171, General Information, Regulations and Definitions.

93. 49 CFR 172, Hazardous Material Table, Special Provisions, Hazardous Material Communications, Emergency Response Information, and Training Requirements.

94. 49 CFR 173, Shippers - General Requirements for Shipping and Packagings.

95. 49 CFR 174, Carriage by Rail.

96. 49 CFR 175, Carriage by Aircraft.

97. 49 CFR 176, Carriage by Vessel.

98. 49 CFR 177, Carriage by Public Highway.

99. 49 CFR 194, Response Plans for Onshore Pipelines.

100. 50 CFR 17, Fish and Wildlife Service List of Endangered and Threatened Wildlife.

101. 50 CFR 18, Regulations Concerning Marine Mammals.

102. 50 CFR 22, Eagle Permits.

103. 50 CFR appendix A to chapter I, Codes for the Representation of Names of Countries.

104. 50 CFR 216, National Marine Fisheries Service and NOAA Regulations.

105. 50 CFR 229, National Marine Fisheries Service and NOAA Regulations.

106. 50 CFR 402, Interagency Cooperation-Endangered Species Act of 1973, as Amended.

C. EXECUTIVE ORDERS (EO)

1. EO 11593, May 13, 1971 (Reprinted as a Note at 16 U.S.C. 470). This EO directs Federal agencies to provide leadership in preserving, restoring, and maintaining the historic and cultural environment of the Nation; to ensure the preservation of cultural resources; to locate, inventory, and nominate to the NRHP all properties under their control that meet the criteria for nomination; and to ensure that cultural resources are not inadvertently damaged, destroyed, or transferred before the completion of inventories and evaluation for the NRHP.

2. EO 11644, February 8, 1972 (Reprinted as a Note at 42 U.S.C. 4321). This EO controls the use of off-road vehicles on public lands so as to protect the resources of those lands, promote the safety of all users of those lands, and minimize conflicts among the various uses of those lands. The EO was amended by EO 11989.

3. EO 11987, May 24, 1977 (Reprinted as a Note at 42 U.S.C. 4321). This EO restricts the introduction of exotic species into the United States.

4. EO 11988, May 24, 1977 (Reprinted as a Note at 42 U.S.C. 4321). This EO requires Federal agencies to evaluate the effects of their actions on floodplains.

5. EO 11989, May 24, 1977 (Reprinted as a Note at 42 U.S.C. 4321). This EO clarifies agency authority to define zones of use by off-road vehicles on public lands and amends EO 11644, February 8, 1972, by exempting fire, military, emergency, law enforcement, or combat/combat-support vehicles.

6. EO 11990, May 24, 1977 (Reprinted as a Note at 42 U.S.C. 4321). Directs agencies to take action to protect wetlands on Federal property and mandates the review of proposed actions on wetlands through procedures established by NEPA.

7. EO 12088, October 13, 1978 (Reprinted as a Note at 33 U.S.C. 1401 and 42 U.S.C. 4321). This EO replaces EO 11507 and directs Federal agencies to comply with applicable Federal, state, local, and host nation environmental laws and regulations. The EO also requires the head of each Executive agency to ensure that sufficient funds for compliance with applicable pollution control standards are requested in the agency budget. The EO requires Federal facility leadership in furthering the purpose and policies of the following statutes: the CAA; FWPCA; SWDA; MPRSA; SDWA; TSCA; NEPA; FIFRA; and the Noise Control Act.

8. EO 12114, January 4, 1979 (Reprinted as a Note at 33 U.S.C. 1401 and 42 U.S.C. 4321). This EO directs Federal agencies to take action to further the purpose of the NEPA with respect to the environment outside the United States and its territories and possessions.

9. EO 12580, January 23, 1987 (Reprinted as a Note at 42 U.S.C. 9615 and 42 U.S.C. 4321). This EO delegates authority to Federal agencies to investigate and respond to HS spills under CERCLA, as amended by SARA.

10. EO 12777, October 18, 1991 (Reprinted as a Note at 33 U.S.C. 1321, 33 U.S.C 2712, and 42 U.S.C. 9615). This EO implements section 311 of the FWPCA and the OPA. The EO amended EO 12580 to implement provisions of the OPA. The EO also delegates the President's responsibilities for promulgating regulations pertaining to oil facility response plans to the Environmental Protection Agency (EPA) Administrator and to the Coast Guard through the Secretary of the DOT or, in times of war, the Secretary of the DoD.

11. EO 12843, April 22, 1993. This EO covers the early phase-out of ozone-depleting chemicals.

12. EO 12844, April 22, 1993. This EO accelerates Federal purchases of alternative fuel vehicles (AFV).

13. EO 12856, August 3, 1993. This EO requires the DoD to conduct its facility management and acquisition activities to follow, as much as possible, the pollution prevention hierarchy established by the PPA of 1990. The EO sets the goal for each Federal agency to reduce by 50 percent its total releases and off-site transfers for the treatment and disposal of TC's by December 31, 1999, from a 1994 baseline. The EO also requires Federal agencies to comply with EPCRA, section 313, TC release and off-site transfer reporting requirements.

14. EO 12873, October 20, 1993. This EO addresses Federal acquisitions, recycling, and waste prevention. The EO requires the Federal Government to make more efficient use of natural resources by maximizing recycling and preventing waste wherever possible, in addition to using and procuring environmentally preferable products and services. The EO directs Federal agencies to set goals for SW prevention and recycling, establishes a model facility program, and sets minimum recycled content standards for printing and writing paper.

15. EO 12898, March 14, 1994 (Reprinted as a Note at 42 U.S.C.4321). This EO requires Federal actions to address environmental justice in minority and low-income populations. The EO directs each Federal agency, wherever practicable and appropriate, to collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are subject to the reporting requirements under the EPCRA, sections 11001-1105, and that are expected to have a substantial environmental, human health, or economic effect on surrounding populations.

16. EO 12902, March 8, 1994. This EO requires Federal agencies to set goals for reducing energy consumption, increasing energy efficiency, auditing their facilities for energy and water use, purchasing energy efficient products, increasing the use of solar and other renewable energy sources, designating a "showcase" facility, and minimizing the use of petroleum-based fuel.

D. DEPARTMENT OF DEFENSE (DOD) DIRECTIVES AND INSTRUCTIONS. See appendices H-Q for DoD specifications.

E. SECRETARY OF THE NAVY INSTRUCTIONS (SECNAVINST)

1. SECNAVINST 4860.44.

2. SECNAVINST 5000.2.

3. SECNAVINST 5212.5.

4. SECNAVINST 5212.10.

5. SECNAVINST 5520.3.

6. SECNAVINST 5720.42.

7. SECNAVINST 5720.44.

8. SECNAVINST 5820.8.

F. NAVAL FACILITIES (NAVFAC) PUBLICATIONS

1. NAVFAC P-73, Navy Real Estate Procedural Manual, Vol. I, Natural Resources Management Procedural Manual, Vol. II.

2. NAVFAC P-442, Economic Analysis Handbook.

G. NAVAL MEDICINE (NAVMED) PUBLICATION

1. NAVMED P5010, Manual of Naval Preventative Medicine.

H. CHIEF, BUREAU OF MEDICINE AND SURGERY (BUMED) INSTRUCTION

1. BUMED Instruction 6280.1.

I. NAVAL OPERATIONS INSTRUCTIONS (OPNAVINST)

1. OPNAVINST 5090.1.

2. OPNAVINST 6250.4.

3. OPNAVINST 11010.36.

J. MARINE CORPS ORDERS (MCO)

1. MCO P1200.7. This order describes the specific responsibilities and duties of Military Occupational Specialty (MOS) 9954, HM/HW Specialist and Officer; and MOS 9631, Environmental Engineering Management Officer.

2. MCO 1553.1. This order delineates the systems approach to training requirements which are applicable to Marine Corps formal schools, training centers, and formal courses of instruction at other military schools.

3. MCO 1553.7. This order contains procedures for requesting information about required training courses through the By Name Assignment System, which allocates course space to Marine Corps students.

4. MCO 1520.9. This order contains specific prerequisites and other information regarding MOS 9631, Environmental Engineering Management Officer.

5. MCO 1560.19. This order contains specific prerequisites and other information regarding MOS 9631, Environmental Engineering Management Officer.

6. MCO 4140.5. This order implements DoD 4140.27-M, Shelf-Life Item Management Manual.

7. MCO P4400.150. This order sets forth policies for consumer level supplies.

8. MCO 4450.12. This order provides policies, procedures, and responsibilities for the receipt, storage, transportation, and handling of HW's and HM's.

9. MCO 4450.13. This order contains procedures for HM shelf-life management and criteria for extending type II shelf-life items published in the DoD Quality Status List.

10. MCO 4555.3. This order outlines policies, procedures, and responsibilities for the recovery of precious metals.

11. MCO 4733.1. This order requires commanders to establish procedures for the calibration, safe operation, and maintenance of test, measurement, and diagnostic equipment that supports the installation's environmental management program.

12. MCO P4790.2. This order requires commanders to establish procedures for the control of tool sets, chests, and kits and other equipment that supports the installation's environmental management program.

13. MCO 4860.3. This order supplies guidance for performing commercial and industrial-type activities.

14. MCO 5040.6. This order describes the Commanding Generals Inspection Program and requires that the administrative aspects of an installation's environmental program be evaluated at least every 2 years.

15. MCO 5100.25. This order contains procedures for using the Hazardous Material Information System, including the use of hazardous material substitution opportunities.

16. MCO 5104.1. This order sets forth guidance for laser hazard control.

17. MCO 5215.1. This order promulgates policies and procedures for the management and administration of the Marine Corps Directives System. Provides guidance on the review, preparation, filing, and maintenance of Marine Corps directives.

18. MCO P5580.2. This order includes policies and procedures for reporting noncompliance.

19. MCO 7301.116. This order provides procedures governing unfunded reimbursable accounts.

20. MCO P11000.5. This order supplies guidance for requesting funds to support environmental compliance requirements.

21. MCO P11000.12. This order supplies guidance for requesting funds for construction activities involved with environmental compliance requirements.

APPENDIX B-1

PROCESSING NOTICES OF VIOLATION (NOV)

A. GENERAL. An NOV is an administrative measure taken by an environmental regulatory agency to enforce requirements of the law. When a Marine Corps installation receives an NOV, prompt and complete action must be taken, not only to ensure protection of human health and the environment, but also to preclude possibilities of serious adverse actions being taken against the installation, the Marine Corps, and the individuals responsible. The procedures for processing NOV's are described below.

B. OTHER ENFORCEMENT ACTIONS. NOV's constitute only a small segment of the potential enforcement spectrum. Depending on the medium and the statute involved, a regulatory agency may issue a warning order, notice of deficiency, administrative complaint, administrative order, corrective action order, immediate compliance order, delayed compliance order, or emergency power order. The regulatory agency may also instigate a civil or criminal judicial action. The relative gravity of any of these actions, to include consideration of the possibility of fines and penalties, depends upon many factors. Continuing amendments in the various environmental statutes and waivers of sovereign immunity by Executive Orders present increasingly greater potential liabilities to installations and responsible officers.

C. FEDERAL FACILITY COMPLIANCE AGREEMENT (FFCA). Regulatory agencies may demand negotiation and execution of an FFCA if it appears to the regulatory agency that a cited installation may not quickly regain compliance. An FFCA is a formal document identifying and scheduling the steps needed to correct or remediate the cited deficiencies. The matters giving rise to an NOV may also constitute felony criminal conduct for which responsible officials could face prosecution. Accordingly, it is in the best interest of the Marine Corps to cooperate with Federal, state, and local agencies in developing FFCA plans and schedules to achieve compliance.

D. REPORTING OF ENFORCEMENT ACTIONS. Often, prompt and complete response to any notification of a pending enforcement action will defuse the potential of receiving a formal enforcement action or

may reduce the severity of any formal action taken by the regulatory agency. Failure to respond appropriately can lead to undesirable environmental consequences, loss of scarce resources, and further adverse action.

1. Informal Indication of an Enforcement Action. Upon receipt of any type of informal or oral indication of an enforcement action by a regulatory agency, the commander immediately will:

a. Consult with counsel to determine the commander's legal obligations. The Eastern Area Counsel Office (EACO) and Western Area Counsel Office (WACO) have environmental specialists on staff for the specific purpose of advising commanders on environmental topics.

b. In cases of actual significant environmental damage or possible immediate adverse publicity for the Marine Corps, notify the CMC (LF) by telephone on the same day of the potential enforcement notification unless reporting falls within the purview of MCO 5740.2.

2. Formal Receipt of an Enforcement Action. Upon receipt of any type of formal enforcement action by a regulatory agency, the cited commander will:

a. Report of Notice of Violation (NOV)/Notice of Noncompliance (RCS MC-5090-01). Within 5 working days of receipt of any written enforcement action, submit report by routine message traffic, inform the Assistant Deputy Chief of Staff, Installations & Logistics (Facilities) (CMC (LF)), through the chain of command, either EACO or WACO, and the appropriate Regional Environmental Coordinator. The message will contain the following information concerning each enforcement action received:

(1) Name of cited installation, activity, and/or individuals;

(2) Name of issuing agency;

(3) Date of written notice and date received by the cited installation;

(4) Certification that an appropriate violation in the Marine Corps Compliance Tracking System (CompTRAK) or Defense Environmental Security Corporate Information Management (DESCIM)

follow-on entry is complete and will be submitted with the next monthly update;

(5) Law or regulation cited (with specific section);

(6) Cited findings or deficiencies in the following categories:

a Class I: Releases to the environment,

b Class II: Violations with a potential to cause a release to the environment, or

c Class III: Administrative procedural violations (this category includes specific violations, citations, or findings resulting from improper paperwork, report filings, or labeling, but excludes improper permit applications).

(7) Amount of any fines and/or penalties assessed or sought;

(8) Discussion of corrective or remedial action (RA) sought, to include whether an FFCA is demanded or contemplated or if a Special Education Program may be considered;

(9) Estimate of current risks for environmental harm posed by the circumstances giving rise to the cited deficiencies;

(10) Estimate of the required corrective actions or projects, to include estimated costs and CompTRAK project number(s) as required;

(11) Optional discussion of any other relevant matter (possible defenses against allegations of wrongdoing, time frames needed to return to compliance, potential obstacles to compliance, etc.); and

(12) Commander’s point of contact to include commercial and Defense Switching Network voice and FAX phone numbers.

b. Make the appropriate CompTRAK or DESCIM follow-on product entries for submission with the next monthly update. Any changes to the status of the enforcement action will be promptly recorded in CompTRAK for submission with the next monthly update. This will eliminate the need for manual repetitive data calls.

E. CLOSURE OF ENFORCEMENT ACTIONS

1. An enforcement action is closed if any of the following conditions exists:

a. The regulatory agency states in writing that it is satisfied with actions taken by the commander to resolve the findings noted in the enforcement action;

b. The regulatory agency rescinds the enforcement action;

c. The regulatory agency supersedes one enforcement action with another;

d. A compliance agreement is signed which supersedes and incorporates the enforcement action; or

e. A completed FFCA transfers the project to correct the violation to the Comprehensive Environmental Response, Compensation, and Liability Act authorities for completion under the Installation Restoration program.

2. In situations wherein the installation commander is unable to reach formal closure with a regulatory agency, the following procedure may be followed to achieve "closure" of an enforcement action. Upon completion of the corrective action or RA sought by the regulatory agency to correct or remediate the enforcement action, the installation commander should start the following process:

a. Informally contact the regulatory agency to confirm completion of the corrective action or RA sought by the regulatory agency to correct or remediate the enforcement action. Request that the regulatory agency provide documentation as described in paragraph 2015(5)(a).

b. If the regulatory agency does not agree to provide a formal closure document, prepare a letter to the regulatory agency explaining in detail the corrective action or RA taken to correct or remediate the enforcement action. Enclose a copy of the original enforcement action. Clearly state the following message in the body of the letter: "The commander will conclude that the enforcement action is resolved if the regulatory agency does not contact him within the next 60 days." Send the correspondence registered mail with a return receipt requested.

c. If the regulatory agency has not responded in 60 days, prepare follow-up correspondence. The commander should cite the previous correspondence and clearly state that a response has not been received and that the enforcement action is now considered resolved. Send the correspondence registered mail with a return receipt requested.

d. Finally, update CompTRAK to reflect closure of the enforcement action and submit the change with the next monthly update.

APPENDIX B-2

DESK-TOP PROCEDURES AND TURNOVER FOLDERS

A. DESK-TOP PROCEDURES

1. The frequent change of personnel within units and installations results in a lack of expertise and continuity in day-to-day operations. Proper use of desk-top procedures and turnover folders alleviates this situation and improves the overall efficiency of an organization. It also provides a backup for the civilian work force in the cases of unforeseen events which suddenly and temporarily remove a long-term employee. The Environmental Compliance and Protection Standard Operating Procedures (ECPSOP) must state the requirements,contents, details, and billets that require desk-top procedures and turnover files.

2. Each unit/section will prepare desk-top procedures for each billet involving administrative and management functions. For example, desk-top procedures are appropriate for hazardous waste handlers, recycling materials handlers, CompTRAK clerks, Environmental Compliance Evaluation (ECE) evaluators, training specialists, library clerks, budget analysts, and other administrative clerks. Desk-top procedures need not be all inclusive or formalized; rather, they should be a simple listing of significant items or notes pertinent to everyday operations within a particular billet. Normally, they would include such items as current references, procedures for carrying out required duties, telephone numbers of individuals who might need to be contacted, and reports required. The listing of procedures should not be voluminous, as this will tend to discourage its use. Each document will prescribe steps to be followed in the accomplishment of all actions. Procedures will standardize requirements, actions, and recordkeeping.

B. TURNOVER FOLDERS

1. A turnover folder will include information about policy, personnel, status of permits affecting the command or for which the billet is responsible, applicable excerpts from the command’s latest Plan of Actions and Milestones (POA&M) which affect the billet, status of pending projects, references, management controls, functioning of the section, ways and means of

accomplishing routine as well as infrequent tasks, and other information of value to an individual assigned to that billet. The ECPSOP must state the requirements, contents, details, and billets that require turnover folders. At a minimum, all media and program managers along with supervisors must have turnover folders.

2. Turnover folders will contain, as a minimum, statements concerning the following:

a. Title of the billet.

b. To whom the individual occupying the billet reports and incumbent billets subordinate to this billet. A T/O is ideal.

c. The mission of the billet (broad billet responsibilities). A copy of the position description for civilian billets is a part of this section.

d. A copy of the commander’s environmental statement and The Campaign Plan.

e. The functions involved in accomplishing the mission (principle action taken). A copy of the Critical Elements for civilian billets is a part of this section.

f. Tasks and basic operations regularly performed in accomplishing specific functions. A copy of the civilian work plan is a part of this section.

g. A list of training requirements for this billet along with the training plan to accomplish this training. A schedule of refresher training as required for the incumbent is a required part of this section.

h. A list of all laws, regulations, orders, or other directives pertinent to the billet and their location.

i. A list of required reports, dates of submission, and a tabular record of submission of the report or negative response for the past year.

j. A list of permits over which the individual occupying the billet has cognizance:

(1) For the operational commander, this should be limited to the permits directly affecting functions with the perimeter of the command. It should list the types and locations of permitted functions and any limitations or local SOP's on those permitted functions (for example, that vehicles will be washed only on wash racks or regarding the release of rain water accumulated within secondary containment around tanker trucks). The operational commander's concern is to operate properly within the permits affecting his mission accomplishment and to inform the installation commander of any required changes prior to implementation. Acquiring and maintaining the permits is an installation commander's responsibility.

(2) For the installation commander, this section will include a list of all permits, especially all permitted sites and processes for all media covered by the incumbent. Using a database format, this list will include at a minimum the exact location of each permitted function, a quick description of the function, the expiration date of the permit, the fee paid for that permit (listed as an annual or a one-time payment), the CompTRAK entry number to pay the next billing of the permit fee, the unit billet point of contact and phone number, and frequency of inspection for compliance. This section will also include a POA&M anticipating any required studies needed for the next permit application and the corresponding CompTRAK entry number for funding requests. This section may be moved to a separate binder if it is too large to fit a single turnover folder binder. The separate location should be annotated in the turnover folder.

k. A listing of the relationship with activities both in the official and unofficial chain of command, including unofficial liaison and coordinating functions. List also relationships with regulators: Federal, state, and local as appropriate for installations. Include brief statements concerning the type of matters about which these agencies are consulted.

l. A listing of contacts within, or external to, the command, with telephone numbers and addresses. Include the purpose served by the contact.

m. Miscellaneous information. For example, administrative or operational procedures peculiar to the billet, such as dual responsibility for certain functions or limitations in responsibility or authority within particular functions. Include any other information that might assist in carrying out the responsibilities.

n. Itemized and current listings of past, pending, and anticipated projects. The last POA&M should be included for the command environmental officer, media managers, and department and division heads. For the Major Subordinate Command, a printout of CompTRAK projects after monthly validation of CompTRAK will be included. A short resume of pending and past projects to include a status report of each pending project, a brief outline of the project, and a brief outline of projects considered worthwhile for future implementation (if not included as part of the command's POA&M). Critical path diagrams (PERT or GANTT charts) are ideal for this requirement.

o. Pending projects or actions from the last CMC (LF)-sponsored ECE and installation Self-Audit or IGMC inspection. Place the Automated Compliance Evaluation POA&M report for each media covered by the incumbent in this

3. Folders will be arranged in such a manner as to permit ease in changing those sections requiring frequent modification. The degree of detail must be flexible and is subject to the discretion of organizational commanders. The important consideration is that the content of the folders be directed towards rendering maximum assistance to the relief. Turnover folders may be organized by functional area.

4. Every environmental billet will have either a desk-top procedure or a turnover folder. Some billets may have both if the breadth of responsibilities makes a single document too voluminous.

5. The requirement for properly maintaining these documents will be included in civilian billet critical elements or work plans.

APPENDIX C

CMC (LF)-SPONSORED ENVIRONMENTAL COMPLIANCE EVALUATION (ECE) REPORT FORMAT

A. DRAFT ECE REPORT. The Draft ECE Report for the CMC (LF)-sponsored ECE's will contain, as a minimum, the following:

1. Preliminary Executive Overview. Prepared by the CMC (LF) Team Leader and normally two pages in length, this document is the out-brief to the installation commander. It contains the following parts: definitions, deficiencies, positive comments, areas of concern and interest, a request for comments and the Plan of Actions and Milestones (POA&M), a request for an evaluation of the ECE team, and a summary of the deficiencies presented in tabular format.

2. Media Overview. Prepared by the media-specific evaluator. This is a 3 to 5 sentence paragraph providing the installation commander with a word picture of the status for each media area evaluated.

3. Positive Findings. Positive results which warrant specific attention from the commander.

4. Deficiencies. This section includes all deficiencies (findings, discrepancies, and issues).

5. Not Reviewed. This section includes all questions not reviewed by the ECE team. These questions will require research by the installation commander to determine whether they apply to the installation and the installation environmental compliance status.

6. Yes Section. This section includes all questions receiving a positive or "yes" response that include comments.

7. Evaluation Lookup Report. This is a quality control report included to document responses to all questions in the checklist. There are several questions in the checklist which do not apply to all Marine Corps installations or may apply to only a few. This report is to provide a complete record of the ECE.

8. Nonapplicable Report. This section includes all questions receiving a "nonapplicable" response by the ECE team. This

printout is provided as formal documentation for the commander that a specific requirement was reviewed and found to be nonapplicable aboard the installation. This report must be kept with the rest of the ECE report because all nonapplicable questions are erased from the installation copy of the ECE database once the out-brief is completed. The installation commander may retrieve the nonapplicable questions from the CMC (LF) should the need arise. As ECE's are only reflective of a snapshot in time, the commander should ensure as part of the commander's self-audit program that all nonapplicable responses are correct and that no changes to processes have occurred since the ECE.

B. POA&M. The installation commander will develop and submit a POA&M using the POA&M module in the Automated Compliance Evaluation (ACE). An installation commander's comment field is provided in the ACE POA&M module. This field is for the installation commander to describe the corrective action taken or projects to be developed to solve and/or prevent the noted situation. Any disagreement with the ECE team's report should be placed in the installation commander's comment field. The POA&M is a dynamic document with management flexibility built into the reporting format to allow the commander to track and document progress.

C. FINAL ECE REPORT. The Final Report is made up of the following: 1) the Final Report cover letter, 2) a paper copy of the POA&M report with installation commander and Higher Headquarters' comments, and 3) the draft out-brief report with appropriate administrative mark outs. A copy of the Final Report cover letter with the POA&M will be provided to the IGMC by the CMC (LF).

APPENDIX D

ENVIRONMENTAL TRAINING REQUIREMENTS

Instruction and information designed to satisfy the following requirements and/or derived from the following topical areas are expressly included within the scope of the Comprehensive Environmental Training and Education Program (CETEP). The following list serves as an example of the scope of "environmental" topics. It is not a comprehensive description of all environmental training requirements.

A. ENVIRONMENTAL PROTECTION AGENCY (EPA)

1. Resource Conservation and Recovery Act (RCRA). RCRA requires hazardous waste (HW) generators to ensure that all employees who handle HW are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities. The 40 CFR 262.34(d) specifies RCRA's small quantity generator training requirements. The 40 CFR 265.16 specifies RCRA's large quantity generator training requirements. Both of these statutes require that all employees who handle HW receive training concerning emergency procedures, systems, and equipment. An annual refresher is required after the initial training is completed. The training program design must ensure that personnel are able to respond effectively to emergencies by including, as a minimum, the following: procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; procedures for automatic waste feed cut-off systems; communications or alarm systems; response to fires, explosions, and groundwater contamination incidents; and procedures for shutdown of operations.

2. Pesticide Management. The 40 CFR 171 specifies pesticide management training and certification requirements. The EPA requires various training and certification procedures depending on the type of pesticide applicator (commercial vs. private) and/or the specific category within the type of applicator. In general, all applicators of pesticides must demonstrate a competency in the use and handling of pesticides through the training and certification procedures. This competency may be based on written examinations and appropriate performance testing as outlined in the 40 CFR 171. These standards must include the following areas of competency: label and labeling comprehension,

safety, environment, pests, pesticides, equipment, application techniques, and applicable laws and regulations. Initial and refresher training/certification is entirely dependent on the specific EPA-approved standard used by the pesticide applicator.

3. Spill Prevention, Control, and Countermeasures (SPCC). The 40 CFR 112.7 specifies SPCC training requirements. SPCC requires owners and operators to be responsible for properly instructing their personnel in the proper operation and maintenance of equipment to prevent the discharges of oil, the instruction of all applicable pollution control laws, and rules and regulations. Training and refresher information will be given in the form of frequent briefings to assure adequate understanding of the SPCC plan for the facility.

4. National Environmental Policy Act (NEPA). The 40 CFR 1500-1508 specifies NEPA's requirements. NEPA mandates that Federal agencies use a systematic approach in the planning and decisionmaking processes for any action that may have an impact on the environment. NEPA further requires that Federal agencies include a detailed environmental impact statement of major Federal actions which significantly affect the quality of the environment. Consequently, these requirements imply that personnel must be informed of potential adverse environmental effects, thereby inferring a need for personnel training.

5. Water Treatment. The 40 CFR 141-149 specifies water treatment requirements based on the Safe Drinking Water Act (SDWA). Generally, SDWA and individual states stipulate specific guidelines and permitting requirements for the proper maintenance and operation of public water systems. These Federal and state mandated guidelines and requirements invoke training requirements for personnel to properly comply with the multitude of water treatment requirements.

B. DEPARTMENT OF TRANSPORTATION (DOT). The 49 CFR 172.700 specifies DOT's training requirements. DOT requires all employees involved in the transportation or shipment of hazardous materials (HM) to receive general awareness/familiarization, function-specific, and safety training every 2 years. This training must enable the employee to recognize and identify hazardous materials; properly label, mark, package, and placard a hazardous material; properly load, unload, and store hazardous materials; and properly complete shipping papers and manifests.

C. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

1. Hazardous Waste Operations and Emergency Response (HAZWOPER) Installation Restoration (IR). The 29 CFR 1910.120 specifies HAZWOPER IR training requirements. OSHA requires all employees who work on site and are exposed to hazardous substances (HS), health hazards, or safety hazards to receive 40 hours of initial training and an annual refresher of 8 hours thereafter. This training must include the following: names of personnel and alternates responsible for site safety and health; safety, health, and other hazards present on site; use of personal protective equipment (PPE); work practices by which the employee can minimize risks from hazards; safe use of engineering controls and equipment on the site; medical surveillance requirements, including recognition of symptoms and signs which might indicate overexposure to hazards; decontamination procedures; an emergency response plan; confined-space entry procedures; and a spill containment program.

2. HAZWOPER Treatment, Storage, and Disposal (TSD). The 29 CFR 1910.120(p) specifies HAZWOPER TSD training requirements. OSHA requires all employees who are exposed to health hazards or hazardous substances at TSD operations to receive training that is part of the employer's safety and health program. This training program must enable the employees to perform their assigned duties and functions in a safe and healthful manner so as to not endanger themselves or other employees. The initial training must be 24 hours, and annual refresher training must be 8 hours.

3. HAZWOPER (First Responder Awareness). The 29 CFR 1910.120(q) specifies HAZWOPER First Responder Awareness level training requirements. OSHA requires first responders at the awareness level to receive sufficient training or to have had sufficient experience to understand what hazardous substances are and their risks in an incident; to understand potential outcomes of an emergency with hazardous substances; to recognize hazardous substances in an emergency; to understand the role of the first responder awareness individual; and to notify the communication center appropriately. Although an initial amount of training is not specified, an annual refresher is required.

4. HAZWOPER (First Responder Operations). The 29 CFR 1910.120(q) specifies HAZWOPER First Responder Operations level training requirements. OSHA requires first responders at the operations level to be trained to respond in a defensive fashion without trying to stop the release. The training program for

first responders at the operational level must enable them to contain the release from a safe distance, to keep it from spreading, and to prevent exposures. The amount of training required for first responders at the operations level is at least 8 hours initially with an annual refresher thereafter.

5. HAZWOPER (Hazardous Material Technician). The 29 CFR 1910.120(q) specifies HAZWOPER Hazardous Material Technician training requirements. The training received by hazardous material technicians must enable them to assume a more aggressive role than a first responder at the operations level in that they will approach the point of release in order to plug, patch, or otherwise stop the release of a hazardous substance. Therefore, OSHA requires hazardous material technicians to receive at least 24 hours of training in accordance with the first responder operations level requirements. In addition, the hazardous material technician must be able to implement the installation's emergency response plan, use field survey equipment, function within the Incident Command System, use PPE, conduct hazard and risk assessments, perform advance control, containment, and confinement operations, use decontamination procedures, as well as termination procedures, and understand basic chemical and toxicological terminology and behavior.

6. HAZWOPER (Hazardous Material Specialist). The 29 CFR 1910.120(q) specifies HAZWOPER Hazardous Material Specialist training requirements. The training received by hazardous material specialists must enable them to have a more directed or specific knowledge of the various substances that they may be called upon to contain and allow them to act as a site liaison with Federal, state, local, and other government authorities in regards to site activities. Therefore, OSHA requires hazardous material specialists to receive at least 24 hours of training in accordance with the hazardous material technician level. In addition, the hazardous material specialist must be familiar with the local and state emergency response plans, the site safety and control plan, in-depth hazard and risk assessment techniques, and chemical, radiological, and toxicological terminology and behavior.

7. HAZWOPER (On Scene Incident Commander). The 29 CFR 1910.120(q) specifies HAZWOPER On Scene Incident Commander training requirements. The training received by the incident commander must enable them to implement all applicable emergency response plans and control and manage the incident. Therefore, OSHA requires incident commanders to receive at least 24 hours of training in accordance with the first responder operations level.

In addition, the incident commander must be able to implement and run the Incident Command System and installation emergency response plan, and be familiar with the local state emergency response plans and the Federal Regional Response Team.

8. Emergency Action Plans. The 29 CFR 1910.38 specifies emergency action plan training requirements. OSHA requires the employer to designate and train a sufficient number of persons to assist in the safe and orderly evacuation of employees. The training must include a review of those parts of the plan the employees must know in order to protect themselves and others in an emergency. This training must take place upon initial assignment, and a written plan must be kept at the workplace for employee review.

9. Hazard Communication (HAZCOM). The 29 CFR 1910.1200 specifies HAZCOM training requirements. HAZCOM requires that the hazards of all chemicals produced or imported be evaluated and information concerning their hazards be communicated to employers and employees. This communication of information will be accomplished by means of comprehensive hazard communication programs. Hazard communication programs must include container labeling and other forms of warning, Material Safety Data Sheets and employee training. Information and training must be provided upon initial assignment and whenever a new physical or health hazard is introduced into the work area.

D. CETEP GENERAL AWARENESS. Chapter 5 of this Manual specifies CETEP General Awareness training requirements. This annual training must ensure that all individuals affiliated with, or affected by, a Marine Corps installation are aware of Marine Corps policies and programs regarding the environment. Training and refresher information may be given in any form specified in this Manual.

E. CETEP CG/CO INSTRUCTION. CG's/CO's are required to be routinely informed of environmental issues impacting their command and of relevant Marine Corps policies and programs designed to assist them in meeting environmental issues. This instruction is beyond the requirement for awareness training applicable to all Marine Corps personnel.

F. MILITARY OCCUPATIONAL SPECIALTY (MOS) 9954, HAZARDOUS MATERIAL/HAZARDOUS WASTE (HM/HW) OFFICER AND MARINE. MCO P1200.7 specifies MOS 9954 training requirements. This training must enable the HM/HW Officer/Marine to implement Hazard Communication programs; to train command personnel in HM/HW compliance; to monitor inventory control procedures; and to develop proper storage, transportation, and disposal practices. The training requirements include the successful completion of an approved formal school or a CMC (LF) approved base/installation course of instruction that meets the applicable guideline requirements of the EPA, DoD, DOT, Navy/Marine Corps, and relevant state/local regulations. In addition, the following Federal requirements must be met: RCRA, Code of Federal Regulations title 49 (hazardous material regulations consisting of general/familiarization and safety training), HAZWOPER First Responder Operations level, and HAZCOM.

G. ENVIRONMENTAL COMPLIANCE EVALUATION (ECE). This Manual specifies ECE requirements. The ECE program requirements include identifying actual and potential areas of noncompliance, recommending corrective actions, and providing immediate assistance to installations for implementing easily accomplished corrective actions. These program requirements invoke training requirements in order to obtain a clear understanding of all applicable Federal, state, and local environmental statutes and regulations, to measure the status of compliance, and to apply plans and milestones for correctly identifying deficiencies.

H. POLLUTION PREVENTION (EO 12856). Executive Order 12856 challenges the Federal Government to apply source reduction in the management of its facilities and in its acquisition practices. As a result, federal facilities that manufacture or process 25,000 pounds or otherwise use 10,000 pounds of toxic chemicals must annually report their releases and off-site transfers. Federal facilities must also comply with the emergency planning and notification requirements of the Emergency Planning and Community Right-to-Know Act (EPCRA). Pollution prevention includes the notification requirements of EPCRA, and EPCRA requires communities be informed of hazardous chemicals, thereby inferring a need for training individuals to effectively comply with the regulations.

I. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT/TOXIC RELEASE INVENTORY (EPCRA/TRI). The 42 U.S.C. 11001-11050 specifies EPCRA requirements. EPCRA requires that the public be informed of hazardous and toxic chemicals in their communities and emergency procedures in the event of a release of extremelyhazardous substances. These requirements establish that individuals must be informed of the potential dangers of hazardous and toxic chemicals and the appropriate emergency planning procedures, thereby inferring that training in some form is necessary to properly disseminate this information.

J. NATURAL/CULTURAL RESOURCES MANAGEMENT. Natural/Cultural Resources Management requirements are specified and dispersed in numerous Federal statutes such as the Clean Water Act (CWA), Endangered Species Act, NEPA, National Historic Preservation Act, and Archaeological Resources and Protection Act. These requirements call for the overall identification, protection, restoration, improvement, and proper use of natural and cultural resources. Although there are no explicitly stated training requirements, it can be inferred that periodic technical instruction and personnel training are necessary to ensure the proper protection, development, and assessment of these resources.

K. AIR QUALITY MANAGEMENT. The 42 U.S.C. 7401, the Clean Air Act (CAA), specifies air quality management requirements. CAA mandates the prevention and control of air pollution from both stationary and mobile sources. This mandate is carried out through a multitude of permitting, monitoring, and reporting requirements, worker practice standards, emission limits, and restrictions on material use. Many of these requirements involve specific certifications and/or guidelines which in turn imply the need for training to effectively comply with these complex and stringent requirements.

L. WASTEWATER TREATMENT. The CWA and individual state guidelines specify wastewater treatment requirements. Generally, CWA and individual states stipulate that certain certifications are required for the proper maintenance and operation of a wastewater treatment facility and its components. A certification implies that an individual must have completed an appropriate level of training to obtain the desired certification. Therefore, training is necessary to effectively comply with the CWA and state requirements.

M. MEDICAL WASTE MANAGEMENT. Individual state programs specify medical waste requirements. The state programs dictate the requirements necessary for medical waste management. However, employee training is necessary to inform employees of appropriate worker practice standards and guidelines for the proper procedures of medical waste management.

APPENDIX E

OIL DISCHARGE AND HAZARDOUS SUBSTANCE RELEASE REPORTS MESSAGE FORMATS

A. TRANSMITTAL PRECEDENCE. Send oil discharge and hazardous substance (HS) release report messages by routine precedence. Use priority precedence if the release is very large, threatens human health, requires evacuation of the local populace, is expected to result in significant environmental harm, or is expected to generate adverse publicity.

B. CLASSIFICATION OR SPECIAL HANDLING MARKING. Do not include classified or sensitive unclassified information in the report, unless necessary for operational reasons. Report symbol DD-5090-10 applies.

C. OUTSIDE THE CONTINENTAL UNITED STATES REPORTS. For releases occurring outside the United States, its territories, and its possessions, delete the Coast Guard District and the Environmental Protection Agency (EPA) region organizations from the addressee and information blocks in the message. Instead, add the appropriate higher headquarters to the list of addressees.

D. MESSAGE DATA ELEMENTS. The essential data elements for reporting oil spills and HS releases are provided on the following pages:

FM: ACTIVITY/COMMAND//CODE//

TO: CMC WASHINGTON DC//I-L//
COMDT COGARD WASHINGTON DC (U.S. SPILLS ONLY)
COGARD MSO AREA COORDINATOR (MARINE U.S. SPILLS ONLY)
COAST GUARD DISTRICT COMMANDER (MARINE U.S. SPILLS ONLY)
EPA REGIONAL OFFICE (INLAND U.S. SPILLS ONLY)

INFO: HIGHER HEADQUARTERS (IF APPLICABLE)
COMNAVFACENGCOM ALEXANDRIA VA
COGNIZANT ENGINEERING FIELD DIVISION
NFESC PORT HUENEME CA

UNCLAS //N06280//
PASS TO LFL
SUBJ: OIL SPILL REPORT, REPORT SYMBOL DD-5090-10

RMKS/1. DATE TIME GROUP IN WHICH SPILL OCCURRED
2. ACTIVITY ORIGINATING SPILL (INSTALLATION; UIC)
3. SOURCE (FUEL TANK, BARGE, PIPELINE, RAIL CAR, VEHICLE, AIRCRAFT, ETC.)
4. LOCATION (AREA, BUILDING DESIGNATION, PIER, ETC.)
5. AMOUNT (BARRELS, GALLONS, LITERS)
IF UNKNOWN, INDICATE DIMENSIONS OF CONTAMINATED AREA
6. TYPE (JP-5, GASOLINE, DIESEL, LUBE OIL, ETC.)
7. CONTAINER FROM WHICH RELEASE OCCURRED (DRUM, STORAGE TANK, ETC.)
8. SAMPLES TAKEN (YES/NO; SPECIFY ANALYSES REQUESTED/PERFORMED)
9. CAUSE OF RELEASE (EQUIPMENT FAILURE, PERSONNEL ERROR, ACCIDENT, ETC.)
10. RELEASE SCENE DESCRIPTION (OIL SLICK, CONTAMINATED AREA, ETC.)
11. ACTION TAKEN/PLANNED:
A. CONTAINMENT EFFORTS (BOOM, ABSORBENT PADS, DRY SWEEP, ETC.)
B. RECOVERY EFFORTS (SUCTION TRUCK/PUMPS, SOIL EXCAVATION, ETC.)
C. RESIDUALS DISPOSAL (DRUMS TO DRMO, SOIL BIOREMEDIATION, ETC.)
D. RESPONSE/RECOVERY UNIT (TACTICAL UNIT, FIRE DEPT., ORSO, USGC, ETC.)
12. ON-SCENE WEATHER/WIND (TEMPERATURE, HUMIDITY, WIND VELOCITY, VISIBILITY)
13. AREAS THREATENED/DAMAGED (BEACH, WETLANDS, WATER INTAKE, AQUIFER, ETC.)
14. POTENTIAL DANGERS (FIRE, EXPLOSION, OILED WILDLIFE, ETC.)
15. NOTIFICATIONS MADE (NRC, COAST GUARD MSO, EPA REGION, STATE, LOCAL AGENCY, ETC.)
16. TELEPHONIC REPORT TO NRC WAS/WAS NOT MADE (NRC POC/REPORT NUMBER)
17. POC FOR REPORT (PERSON, ACTIVITY/CODE, TELEPHONE [DSN AND COMMERCIAL])
18. ASSISTANCE REQUIRED/COMMENTS
//BT

FM: ACTIVITY/COMMAND//CODE//

TO: CMC WASHINGTON DC//I-L//
COMDT COGARD WASHINGTON DC (U.S. SPILLS ONLY)
COGARD MSO AREA COORDINATOR (MARINE U.S. SPILLS ONLY)
COAST GUARD DISTRICT COMMANDER (MARINE U.S. SPILLS ONLY)
EPA REGIONAL OFFICE (INLAND U.S. SPILLS ONLY)

INFO: HIGHER HEADQUARTERS (IF APPLICABLE)
COMNAVFACENGCOM ALEXANDRIA VA
COGNIZANT ENGINEERING FIELD DIVISION
NFESC PORT HUENEME CA

UNCLAS //N06280//
PASS TO LFL
SUBJ: HAZARDOUS SUBSTANCE RELEASE REPORT, REPORT SYMBOL DD-5090-10

RMKS/1. DATE TIME GROUP IN WHICH RELEASE OCCURRED
2. ACTIVITY ORIGINATING RELEASE (INSTALLATION; UIC)
3. SOURCE (STORAGE AREA, SHOP, VEHICLE, ETC.)
4. LOCATION (BUILDING DESIGNATION, PIER, HIGHWAY, RANGE, ETC.)
5. AMOUNT (GALLONS/LITERS, POUNDS/KILOGRAMS)
IF UNKNOWN, INDICATE DIMENSIONS OF CONTAMINATED AREA
6. TYPE (PESTICIDES, CORROSIVE LIQUIDS, TOXIC SUBSTANCES, EXPLOSIVES, ETC.)
7. CONTAINER INVOLVED (DRUM, BAG, STORAGE TANK, RAIL CAR, PLATING TANK, ETC.)

8. SAMPLES TAKEN (YES/NO; SPECIFY ANALYSES REQUESTED/PERFORMED)
9. CAUSE OF RELEASE (EQUIPMENT FAILURE, PERSONNEL ERROR, ACCIDENT, ETC.)
10. RELEASE SCENE DESCRIPTION (CONTAMINATED AREA, PATH OF RELEASE, ETC.)
11. ACTION TAKEN/PLANNED:
A. CONTAINMENT EFFORTS (BOOM, ABSORBENT PADS, DRY SWEEP, ETC.)
B. RECOVERY EFFORTS (SUCTION TRUCK/PUMPS, SOIL EXCAVATION, ETC.)
C. RESIDUALS DISPOSAL (DRUMS TO DRMO, SOIL BIOREMEDIATION, ETC.)
D. RESPONSE/RECOVERY UNIT (TACTICAL UNIT, FIRE DEPT., ORSO, USGC, ETC.)
12. ON-SCENE WEATHER/WIND (TEMPERATURE, HUMIDITY, WIND VELOCITY, VISIBILITY)
13. AREAS THREATENED/DAMAGED (BEACH, WETLANDS, WATER INTAKE, AAQUIFER, ETC.
14. POTENTIAL DANGERS (FIRE, EXPLOSION, TOXIC VAPOR, ETC.)
15. NOTIFICATIONS MADE (NRC, COAST GUARD MSO, EPA REGION, STATE, LOCAL AGENCY, ETC.)
16. TELEPHONIC REPORT TO NRC WAS/WAS NOT MADE (NRC POC/REPORT NUMBER)
17. POC FOR REPORT (PERSON, ACTIVITY/CODE, TELEPHONE [DSN AND COMMERCIAL])
18. ASSISTANCE REQUIRED/COMMENTS
//BT

APPENDIX F-1

INTEGRATED PEST MANAGEMENT (IPM) PLANS

A. DOD PEST MANAGEMENT PROGRAM. Each installation must have a pest management plan as described in appendix I. The plan must list all program objectives, arranged in order of priority, according to potential or actual impact on health, morale, structures, materiel, or property. Installations that have more than 0.5 productive work-year of pest management work must have their own plan. Installations with less than 0.5 productive work-year must have an individual plan, or be included in a supporting installation's pest management plan. Professional pest management personnel or certified pesticide applicators must manage these installation programs.

B. CONTENT. Pest management plans must be comprehensive, long-range, narrative documents, as outlined in appendix I, and must:

1. Describe all installation and satellite installation pest management requirements and programs, including those for contracts, natural resources, golf courses, and outleases, and identify minimum pest management staffing requirements.

2. Describe all IPM procedures required to monitor and control pests on the installation.

3. Describe all IPM procedures for the surveillance and control of disease vectors.

4. Identify all resources, such as work-years, facilities, and equipment, required to support the IPM program.

5. Identify all pesticides, including the Environmental Protection Agency (EPA) registration numbers, approved by the respective pest management consultant for use in the IPM program.

6. Describe all health and safety measures that will be taken to protect both pest management personnel and the general public from pesticide exposure and risk.

7. Identify any planned measures to comply with DoD Memoranda of Agreement with state pesticide regulatory offices relating to use or application of pesticides.

8. Describe pest management functions that can be done more economically through commercial contracts and provide or reference cost comparison analyses.

9. Describe any pest management operation with special environmental considerations such as those that:

a. Use a restricted-use pesticide.

b. Use any pesticide application that may contaminate surface water or groundwater.

c. Include 259 or more contiguous hectares (640 acres) in one pesticide operation.

d. May adversely affect endangered or other protected species or their habitats.

e. Involve aerial application of pesticides.

f. Involve the management or control of designated noxious weeds in accordance with 7 U.S.C. 10 in cooperation with local control efforts.

g. Involve permits for the use of experimental-use pesticides.

10. Identify animal control efforts for feral cats, feral dogs, or wildlife.

11. Identify active or potential vector-borne diseases and describe medical department collaboration with local and state agencies or host nations for vector surveillance and control matters.

12. Identify golf course pest management operations.

APPENDIX F-2

PEST MANAGEMENT PERSONNEL
TRAINING AND CERTIFICATION REQUIREMENTS

A. PERSONNEL QUALIFICATIONS. IPM programs are comprehensive and include all pest management operations on an installation to support facilities engineering, nonappropriated funds, leased or out-leased activities, contract operations, materiel resources, etc. Therefore, the IPM coordinator must have an appropriate position, educational background, and management skills to implement the plan for the installation commander. Pesticide applicators must meet the job qualification standards specified by the Office of Personnel Management. Outside of the United States, Marine Corps pesticide applicators must comply with the DoD Overseas Environmental Baseline Guidance Document or the Final Governing Standards.

B. TRAINING AND CERTIFICATION. All IPM personnel who apply or supervise the application of pesticides must be trained and certified within 2 years of employment in accordance with the "DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides," 8 December 1985, or an EPA-approved state certification plan. Personnel who are undergoing apprenticeship training, but are not yet certified, must apply pesticides only under the direct supervision of a certified pesticide applicator.

1. IPM and pesticide application requirements may vary with installation mission, location, size, and environmental considerations. Some installations may have unique requirements. Training requirements for individual pesticide applicators may vary due to the pest management categories and complexity of the work to be performed. Therefore, the Marine Corps senior pest management consultants must determine the training and experience necessary to perform the pest management activities within their areas of responsibility. The minimum training for Marine Corps installation pesticide applicators or contractors must be required by the EPA for certification in the applicable pesticide application categories. However, additional training beyond certification may be required due to the circumstances at a particular installation or the nature of the work to be done. These additional pest management training requirements may be fulfilled by successful completion of any DoD, other Federal

agency, state, local, or private pest management training, provided the specific DoD requirements would be satisfied by the training.

2. Both DoD-certified and state-certified pesticide applicators must be recertified every 3 years in accordance with the "DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides," and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), respectively. Designated certifying officials may administratively extend individual certifications for up to 6 months for cause.

3. Contractor employees performing pest management work on a Marine Corps installation must be certified prior to the beginning of the contract under a state plan accepted in the state in which the work is performed. The contractor must provide evidence of certification in all appropriate pest management categories. Additionally, the contractor must provide evidence of training and experience equivalent to that determined by the Marine Corps for the particular pest management function to be contracted. Successful bidders for contracts must be afforded the opportunity to receive initial DoD pest management training on a space-available basis at the contractor’s expense.

4. Quality Assurance Evaluators (QAE) trained in pest management must monitor and evaluate contractor performance for pest management services, unless a DoD employee, certified in accordance with the "DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides," is available to assist the QAE. If an installation’s pest management contract efforts are less than 0.25 a work-year, the presence of a trained QAE at the installation is recommended, but is not mandatory.

5. Installations must encourage all eligible professional pest management personnel to obtain appropriate certification in accordance with FIFRA and to obtain certification from applicable professional boards and professional certifying organizations. Professional pest management personnel must be certified if their duties include:

a. Making recommendations for the use of pesticides, applying pesticides, or directly supervising the application of pesticides.

b. Conducting demonstrations on the proper use of techniques of pesticide application or the supervision of such demonstrations.

c. Conducting field research that includes using or supervising the use of pesticides.

d. Marine Corps personnel and family members who apply pesticides under Marine Corps installation self-help programs or for their own relief are exempted from the certification requirement. Requirements for operational and deployable military personnel are described in chapter 14 of this Manual.

APPENDIX G-1

MINIMUM REQUIREMENTS FOR UNDERGROUND STORAGE TANKS

A. GENERAL. The following information concerning underground storage tank (UST) requirements was adopted from a document published by the United States Environmental Protection Agency (EPA) Office of Underground Storage Tanks in August 1988. It includes minimum requirements and important deadlines.

B. WHAT DO YOU HAVE TO DO?

LEAK DETECTION

NEW TANKS + 40 CFR 280.41(a)(1)) Three choices	1. Monthly monitoring* 2. Monthly inventory control & tightness test every 5 years 3. Monthly manual tank gauging & tightness test every 5 years (only for tanks holding 2,000 gallons or less); (Can use tightness test methods for only 10 years after installation or upgrading.)
EXISTING TANKS++ (40 CFR 280.41(a)(2)) Two choices	1. Monthly monitoring* 2. Monthly inventory control & annual tightness test (Can use tightness test methods only until 1998 when tank must be upgraded or permanently closed. If upgraded, follow requirements for new tanks.)
ALL TANKS WITH CAPACITIES OF 550 GALLONS OR LESS (40 CFR 280.41a)(3)) Two choices	1. Methods listed above 2. Weekly manual tank gauging
NEW & EXISTING PRESSURIZED PIPING (40 CFR 280.41(b)(1)) One choice from each set	1. Automatic flow restrictor 2. Automatic shutoff device 3. Continuous alarm and 1. Annual line tightness test 2. Applicable monthly monitoring*

NEW & EXISTING SUCTION PIPING (40 CFR 280.41(b)(2)) Three choices	1. Line tightness test every 3 years 2. Applicable monthly monitoring 3. None if: a. Piping sloped back to tank b. Only one check valve present just below pump c. Piping operates at below atmospheric pressure

CORROSION PROTECTION

NEW TANKS (40 CFR 280.20 (a)) Three choices.	1. Coated & cathodically protected 2 Fiberglass-reinforced plastic 3. Steel-fiberglass-reinforced plastic composite
EXISTING TANKS (40 CFR 280.21 (b)) Three choices	1. Add interior liner with periodic inspections 2. Add cathodic protection system proving after tank is tight and not corroded 3. Add interior liner & cathodic protection system
NEW PIPING (40 CFR 280.20 (b)) Three choices	1. Coated & cathodically protected steel 2. Fiberglass-reinforced plastic 3. Piping approved by the regulatory agency
EXISTING PIPING (40 CFR 280.21 (c)) Two choices	1. Upgrade to new piping standards 2. Add cathodic protection system

SPILL/OVERFILL PREVENTION

ALL TANKS** (40 CFR 280.20 (c), 40 CFR 280.21 (d))	1. Spill catchment basin and 1. Automatic shutoff device (approved by the One choice from each set regulatory agency) 2. Overfill alarm 3. Ball float valve

* Monthly tank gauging (40 CFR 280.43(d) through (h)) includes:
Automatic monitoring
Vapor monitoring
Interstitial monitoring
Groundwater monitoring
Other approved methods

\+ New tanks are those installed after December 1988
++ Existing tanks are those installed before December 1988
** Spill/overfill prevention devices are not required for tanks filled by transfer of 25 gallons or less.

C. WHEN DO YOU HAVE TO ACT?

IMPORTANT DEADLINES

TYPE OF TANK AND PIPING	LEAK DETECTION 40 CFR 280.40)	CORROSION PROTECTION (40 CFR 280.21	STILL/OVERFLOW PREVENTION (40 CFR 280.21 (a))
New tanks and Piping *	At Installation of System	At Installation of System	At Installation of System
Existing tanks installed:			
Before 1965 or unknown	December 1989	December 1998	December 1998
1965-1969	December 1990	December 1998	December 1998
1970-1974	December 1991	December 1998	December 1998
1975-1979	December 1992	December 1998	December 1998
1980-1988	December 1993	December 1998	December 1998
Existing piping** Pressurized/ suction	December 1990 Same as existing tanks	December 1998 December 1998	Does not apply Does not apply

* New tanks and piping are those installed after December 1988

** Existing tanks and piping are those installed before December 1988

APPENDIX G-2

RELEASE REPORTING REQUIREMENTS

A. RELEASE REPORTING REQUIREMENTS. All confirmed leaks, suspected leaks based on monitoring, or spills or overfills of fuels exceeding 25 gallons must be reported to the EPA or proper state agency within 24 hours. All spills or leaks of any size must be contained and cleaned up.

B. RELEASE INVESTIGATION AND CONFIRMATION. Immediate investigation using the following methods (or methods specified by the state EPA):

1. Inventory check;

2. Tank or pipeline isolation and monitoring system recheck;

3. If a leak is still suspected, a tightness or hydrostatic test must be used to locate the leak;

4. If the system fails a tightness test, soil coring or groundwater sampling should be conducted;

5. When conducting an evaluation of immediate risk to drinking water, explosive vapors, etc., the Installation Restoration program method or an updated risk assessment method should be used; and

6. Reporting of investigation results to the implementing agency.

C. A separate set of corrective actions is required for petroleum products versus hazardous substances. The procedures are listed in 40 CFR 280.60 to 280.67, but will vary based on state requirements and risk.

D. Small leaks can be cleaned up without removing the tank or pipeline. Often, even if loose joints and connections are causing the small leaks, the general condition of the tank is

still good. In such cases, the tank or pipeline must be repaired in accordance with 40 CFR 280.33 and the UST upgraded to meet new tank standards.

APPENDIX G-3

UNDERGROUND STORAGE TANKS
OPTIONS FOR RELEASE DETECTION

A. INTRODUCTION

1. The most immediate and demanding requirements of 40 CFR 280 concern the release-detection methods that must be implemented or installed on the Marine Corps UST systems. A synopsis of 40 CFR 280.40 to 280.45 follows.

2. The type of release-detection method used will vary with the type and age of the tank or pipeline. Furthermore, UST's used to store fuel for emergency generators are deferred from meeting the requirements for release detection. Emergency generator fuel tanks must comply with all other parts of this requirement.

B. RELEASE DETECTION FOR TANKS

1. Option 1-Combination of Precise Inventory Control and Tightness Testing. If UST's meet the new tank standards in 40 CFR 280.20, operators must conduct monthly inventory control and a tightness test every 5 years until 1998 or 10 years after upgrading.

2. Option 2-Combination of Precise Inventory Control and an Automated Gauging Device. The automatic gauging device must be able to detect a leak of 0.2 gallon/hour.

3. Option 3-Vapor Monitoring in Soils Surrounding Tanks. These monitoring requirements include:

a. Only in sandy and gravely soils,

b. Monthly soil gas sampling,

c. Must detect vapors above background levels,

d. Groundwater must not impede monitoring, and

e. Sufficient number of vapor monitoring wells.

4. Option 4-Groundwater Monitoring Near Tanks. Monitoring requirements include:

a. Stored liquid must be immiscible in water and have a specific gravity less than one,

b. Groundwater must be within 20 feet of the ground surface,

c. Soils must have a hydraulic conductivity of 0.01 cm/sec or greater,

d. Proper monitoring well design and proper number of wells, and

e. Use of an automatic or manual method capable of detecting a 1/8-inch layer of floating fuel.

5. Option 5-Interstitial Monitoring. This method applies only to UST's surrounded by a secondary containment barrier. Monitoring wells must be placed between the primary tank and the containment barrier when the barrier is within the excavation zone. For double walled tanks and tanks fitted with internal liners ("bladders"), the interstitial space must be monitored.

6. Option 6-Another Method Approved by the Implementing Agency. The method must be able to detect a 0.2 gallon/hour leak or 150 gallons/month release with a 95 percent probability of detection and a 5 percent probability of false positives.

C. PIPING RELEASE MONITORING. EPA regulations place more stringent requirements on pipes that convey liquids under pressure. The following release detection requirements apply:

1. Pressurized Piping

a. Must be equipped with automatic line leak detection (e.g., automatic flow restrictor, continuous alarm, or automatic shutoff capabilities).

b. Must have annual tightness test or monthly monitoring system.

2. Suction Piping. Tightness test every 3 years or monthly monitoring. European suction piping requires no leak detection.

APPENDIX G-4

UNDERGROUND STORAGE TANKS
OUTLINE OF PERMANENT CLOSURE REPORT

I. EXECUTIVE SUMMARY

II. INTRODUCTION AND PURPOSE
- a. Brief statement of report purpose and scope
- b. Identify contractors involved and UST owner/operators

III. SITE DESCRIPTION AND UST IDENTIFICATION
- a. Identify and describe facility related to UST's and general setting
- b. Identify and describe UST's included in the report
- c. Scaled site drawings

IV. NOTIFICATION AND PERMITTING
- a. Regulatory notification/permits
- b. Contractor certification/licensing

V. UST CLOSURE PROCEDURES
- a. Residual liquid removal
- b. Tank/pipe cleaning and closure preparation
- c. Tank/pipe removal or in-place closure
- d. Excavated soil management
- e. Safety measures and considerations

VI. SITE ASSESSMENT PROCEDURES
- a. Describe appropriate environmental conditions and factors
- b. Visual observations
- c. Field analyses and checks
- d. Soil/water sampling procedures and Quality Assurance/Quality Control (QA/QC)
- e. Soil/water analytical procedures and QA/QC
- f. Results and conclusions of site assessment

VII. NECESSARY ATTACHMENTS AND APPENDICES
- a. Contractor certifications and licenses
- b. Residual fuel disposal/reuse receipts
- c. Tank sludge disposal manifests or receipts
- d. Tank washwater disposal manifests or receipts
- e. Contaminated soil manifests or receipts

f. UST disposal receipts/certificates of destruction
g. Photographs of site work and conditions
h. Laboratory chain-of-custody forms
i. Laboratory analytical results
j. Removal notifications and permits
k. Related correspondence to/from regulators
l. Well permits, if wells installed
m. Drill cuttings and purged well water manifests, if needed.

APPENDIX H

EXCERPT FROM DEPARTMENT OF DEFENSE DIRECTIVE 4001.1 INSTALLATION MANAGEMENT

September 4, 1986

ASD (A&L)

Refs:(a) Deputy Secretary of Defense Memorandum, "Defense-wide Application of the Model Installation Management Approach," 26 March 1986

A. PURPOSE. This Directive establishes the DoD installation management policy.

B. APPLICABILITY. This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), and the Defense Agencies (hereafter referred to collectively as "DoD Components")

C. POLICY

1. The Commanding Officer of an installation is responsible for accomplishing the mission assigned to the installation, and should be delegated broad authority to decide how best to accomplish the mission, and is accountable for all resources applied to the mission.

2. Headquarters staff activities shall be directed toward facilitating any installation commander's ability to accomplish the mission. Regulations that limit installation commanders' freedom to do their jobs are contrary to the basic DoD installation management policy, and shall be canceled or revised. Exceptions should be rare.

3. Except where required to preserve essential wartime support capability, or constrained by law or federal regulation, installation commanders shall be free to purchase goods and services wherever they can get the combination of quality, responsiveness, and cost that best satisfies their requirements.

4. Unless prohibited by law, a share of any resources saved or earned at an installation should be made available to the installation commander to improve the operations and working and living conditions at the installation.

D. RESPONSIBILITIES

1. Heads of DoD Components shall ensure that all regulations for which they are responsible comply with the policies contained in this Directive.

2. The Inspector General, DoD shall review and report compliance with these policies.

E. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward one copy of implementing documents to the Assistant Secretary of Defense (Acquisition and Logistics) within 120 days.

William H. Taft IV
Deputy Secretary of Defense

APPENDIX I

EXCERPT FROM DEPARTMENT OF DEFENSE INSTRUCTION 4150.7
PEST MANAGEMENT PROGRAM

NUMBER 4150.7

April 22, 1996

USD(A&T)

SUBJECT: DoD Pest Management Program

References:
(a) DoD Directive 4715.1, "Environmental Security," February 24, 1996
(b) Section 125 of title 10, United States Code
(c) DoD 5025.1-M, "DoD Directives System Procedures," August 1994, authorized by DoD Directive 5025.1, June 24, 1994
(d) "DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides," December 8, 19851
(e) Through (p), see enclosure 1

1. PURPOSE. This Instruction:

1.1. Implements policy, assigns responsibility, and prescribes procedures for the Department of Defense Pest Management Program, as established under references (a), (b), and the Joint Service Regulation, "Joint Field Operating Agencies of the Office of The Surgeon General of the Army," August 16, 1988.

1.2. Authorizes the publication of DoD 4150.7-M, "DoD Pest Management Training and Certification," in accordance with reference (c).

1.3. Authorizes the publication of DoD 4150.7-P, "DoD Plan for the Certification of Pesticide Applicators," in accordance with reference (c).

1.4. Designates the Secretary of the Army as the DoD Executive Agent for the Armed Forces Pest Management Board (AFPMB).

2. APPLICABILITY AND SCOPE. This Instruction:

2.1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments (including the Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

2.2. Applies to all DoD operations, activities, and installations worldwide including appropriated fund activities; non-appropriated fund activities; contracted activities; and Government-owned, contractor-operated facilities.

2.3. Applies to all DoD buildings, structures, lands, public works, equipment, aircraft, vessels, and vehicles.

2.4. Applies to all DoD vector control and pest management operations performed worldwide during peacetime, wartime, and military deployments including those done by contract.

2.5. Outside the Continental United States (OCONUS), applies consistent with applicable international agreements, Status of Forces Agreements, Final Governing Standards (FGS) issued for the host nations, or where no such FGS have been issued, the criteria in the Overseas Environmental Baseline Guidance Document.

2.6. Does not apply to:

2.6.1. The civil works function of the Army Corps of Engineers.

2.6.2. State-owned or State-operated (funded) installations or facilities that the National Guard uses part-time or full-time.

3. DEFINITIONS. Terms used in this Instruction are defined in enclosure 2.

4. POLICY. It is DoD Policy under DoD Directive 4715.1 (reference (a)) to:

4.1. Establish and maintain safe, effective, and environmentally sound integrated pest management (IPM) programs to prevent or control pests and disease vectors that may adversely impact readiness or military operations by affecting the health of personnel or damaging structures, materiel, or property.

4.2. Ensure DoD pest management programs achieve, maintain, and monitor compliance with all applicable Executive Orders and applicable Federal, State, and local statutory and regulatory requirements.

4.3. Incorporate sustainable IPM philosophy, strategies, and techniques in all aspects of DoD and Component vector control and pest management planning, training, and operations including installation pest management plans and other written guidance to reduce pesticide risk and prevent pollution.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Acquisition and Technology, through the Deputy Under Secretary of Defense (Environmental Security) (DUSD(ES)), shall:

5.1.1. Oversee the implementation of this Instruction and represent the Secretary of Defense for both internal and interagency matters on the DoD Pest Management Program.

5.1.2. Provide operational direction and supervision to the AFPMB.

5.1.3. Provide policy guidance and coordination for the DoD Pest Management Program.

5.1.4. Maintain and enforce the DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides (reference (d)).

5.1.5. Monitor compliance with this Instruction, including the Components' use of the DoD Pest Management Program Measures of Merit (enclosure 3).

5.1.6. Coordinate pest management actions with the Assistant Secretary of Defense for Health Affairs when human health is an issue.

5.2. The Director of Defense Research and Engineering, under the Under Secretary of Defense for Acquisition and Technology, shall, in coordination with DUSD(ES), ensure that an appropriate level of effort is provided in research, development, and transfer of technology to support DoD pest management requirements.

5.3. The Heads of the DoD Components shall:

5.3.1. Establish and maintain programs that conform to the policy, procedures, and requirements specified in this Instruction including the program elements in enclosure 4.

5.3.2. Emphasize IPM techniques in their pest management programs as a means to reduce pesticide risk and prevent pollution.

5.3.3. Exercise oversight and review of installation pest management programs from the Component's major command and headquarters level.

5.3.4. Maintain accurate and complete reporting and record-keeping of pest management operations and pesticide use.

5.3.5. Ensure that actions taken under the policy in section 4, above, are consistent with DoD Directive 4715.1 (reference (a)).

5.3.6. Implement programs to achieve, maintain, and monitor compliance with applicable Federal, State, and local statutory and regulatory requirements for pest management.

5.3.7. Ensure that Commanders of deployed forces enforce the use of all appropriate personal protection measures, including arthropod skin and clothing repellents and bed nets, to protect their troops from vector-borne diseases and rodent and arthropod health threats.

5.3.8. Ensure that any pesticide applications, excluding arthropod skin and clothing repellents, performed during military operations are recorded using DD Form 1532-1, "Pest Management Maintenance Report," or a computer-generated equivalent. The DoD Components shall establish a method to archive these records for permanent retention.

5.3.9. Ensure the implementation of IPM in Component pest management programs, operations, regulations, publications, pest

management training, and pesticide applicator certification programs.

5.3.10. Coordinate pest management actions, as appropriate, with the Assistant Secretary of Defense for Health Affairs, with State and local governments, and with host-nation agencies involved with pest management when human health is an issue.

5.3.11. Ensure that the Component's DoD pest management consultants review installation pest management programs on-site at least every 36 months and annually review installation pest management plans for adherence to DoD policy.

5.3.12. Establish procedures to ensure that recommendations from on-site pest management program reviews and annual reviews of pest management plans will result in appropriate corrective action.

5.3.13. Designate Component senior pest management consultants as the primary points of contact for the Component's pest management program and for membership on the AFPMB in support of the Defense Environmental Security Council and inform the Executive Director, AFPMB, of these designated consultants.

5.3.14. Designate pest management consultants, as certifying officials under the DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides (reference (d)), to certify the competency of the Component's pesticide applicators; establish procedures for designating and certifying specific DoD pest management consultants in aerial application pest control to approve pest management projects requiring aerial application of pesticides; and inform the Executive Director, AFPMB, of these designated consultants.

5.3.15. Implement pest management measures of merit (enclosure 3) and answer data calls for the measures of merit from the DUSD(ES).

5.3.16. Monitor pesticides available for purchase in DoD commissaries and Component exchanges to ensure the pesticides available for sale are least-hazardous pesticides that are compatible with DoD IPM programs and are pesticides that comply with applicable Federal, State, and local laws. DoD commissaries and Component exchanges OCONUS shall comply with subsection 2.5.,above.

5.3.17. Cooperate with State and local government agencies involved with pest management.

5.3.18. Participate in the development of the Defense Environmental Security Corporate Information Management (DESCIM) process for pest management and use the pest management information system when fielded.

5.3.19. Provide management support, resources, and a professionally qualified pest management staff sufficient to ensure effective implementation of pest management programs at all organizational levels.

5.3.20. Establish surveillance programs to assess potential adverse environmental or public health effects from pesticide use and to monitor the health and safety of persons who apply pesticides.

5.3.21. Monitor the use of IPM and reduction of pesticide use in installation pest management programs.

5.3.22. Ensure that Installations:

5.3.22.1. Develop, maintain, annually review, and revise their pest management plans consistent with the program elements in enclosure 4 and AFPMB Technical Information Memorandum (TIM) 18, "Installation Pest Management Guide," February 1987.

5.3.22.2. Implement pest management programs approved by pest management consultants and performed by certified pesticide applicators in accordance with the pest management plan written for each installation.

5.3.22.3. Establish pest management self-help programs for military housing when cost effective and when IPM monitoring indicates a need for a self help program.

5.3.22.4. Have all pesticide applications to DoD installations made only by properly trained and certified personnel in accordance with DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides (reference (d)) or by State-certified applicators.

5.3.22.5. Use pesticides in accordance with applicable laws including FIFRA (reference (e)), and the constraints of subsection 2.5., above.

5.3.22.6. Use only pesticides that have been approved by a DoD pest management consultant. Consideration should be given to locally purchased pesticides to ensure conformance with State management plans for ground water protection and to facilitate use of recyclable pesticide containers when appropriate pesticides are not available in the Federal supply system. Pesticides may be procured locally if needed for an emergency, if required due to unique local situations, or if required in quantities so small that assignment of an NSN is not practical.

5.3.22.7. Maintain complete daily pesticide application and pest management operations records as required by FIFRA (reference (e)) and 7 U.S.C. 136i-1 (reference (f)) or for pest management measures of merit, using DD Form 1532-1 or a computer-generated equivalent. Produce a monthly summary, using DD Form 1532 or computer-generated equivalent, to provide data for regulatory, DoD, Federal, State, or local agency data calls; Component program review and oversight; and Measures of Merit. Installation commanders shall ensure these records are archived after 2 years for permanent retention.

5.3.22.8. Use pest management contracts when more cost-effective than in-house services. Ensure that firms and their employees performing contract pest management work on DoD installations, and in support of DoD operations overseas, comply with all certification, licensing, and registration requirements of the State or country where the work is performed. Ensure that the technical portions of contracts involving pest management reflect IPM methodology and are reviewed and approved by a DoD pest management consultant before solicitation.

5.3.22.9. Have quality assurance evaluators (QAEs), who have been trained in pest management at DoD-sponsored courses, inspect pest management operations and pesticide applications performed by contractors.

5.3.22.10. Report pest management operations and pesticide applications performed by contractors as required in paragraph 5.3.22.7., above.

5.4. The Secretary of the Air Force shall maintain a large-area, fixed-wing aerial pesticide application capability to control disease vectors, pest organisms, and vegetation and to treat oil spills in combat areas, on DoD installations, or in response to declared emergencies and shall provide sufficient training for aerial pesticide application air crews and ground support personnel.

5.5. The Secretary of the Army, as Executive Agent, shall provide administrative and logistic support, through the Surgeon General, for operation of the AFPMB.

5.6. The Secretaries of the Military Departments shall ensure that the Surgeons General shall nominate qualified candidates and provide uniformed military entomologists for the directorate positions of the AFPMB and provide technical support for the development, testing, and evaluation of pest management equipment as described below:

5.6.1. The Surgeon General of the Army shall provide three military entomologists to the AFPMB staff and conduct studies on engineering and durability of pest management equipment.

5.6.2. The Surgeon General of the Navy shall provide 2 military entomologists to the AFPMB staff and conduct studies on efficacy and military application of pest management equipment.

5.6.3. The Surgeon General of the Air Force shall provide 2 military entomologists to the AFPMB staff.

5.7. The Deputy Under Secretary of Defense for Environmental Security, through the Armed Forces Pest Management Board, shall:

5.7.1. Recommend policy, provide scientific advice, and enhance coordination among the DoD Components on all matters related to pest management.

5.7.2. Serve as the coordinating office for the DoD Undesirable Plant Management Program required by the Federal Noxious Weed Act (FNWA)(reference (g)).

5.7.3. Review and update DoD Environmental Security Measures of Merit for Pest Management.

6. PROCEDURES

6.1. The Component’s pest management programs shall include the elements in enclosures E3, E4, E6, E7, and E8.

6.2. The AFPMB, reestablished by DoD Directive 4715.1 (reference (a)), consisting of a Council and Committee Structure, Directorate, and Defense Pest Management Information Analysis Center (DPMIAC) shall operate as described in enclosure 5.

7. INFORMATION REQUIREMENTS

The record-keeping and the reporting requirements prescribed herein are assigned Report Control Symbol DD-A&T(A&AR)1080. Existing data elements from DoD 8320.1-M-1 (reference (h)) shall be used in the reporting requirements to the greatest extent possible.

8. EFFECTIVE DATE. This Instruction is effective immediately.

Paul G. Kaminski
Under Secretary of Defense
(Acquisition and Technology)

Enclosures - 8

1. References
2. Definitions
3. DoD Environmental Security Measures of Merit for Pest Management
4. DoD Pest Management Program Elements
5. AFPMB Functions, Organizations and Management
6. Requirements for Installation Pest Management Programs
7. Procedures for the Acquisition of Pest Management Equipment and Pesticides
8. Content of Installation Pest Management Plans, Suggested Format

E1. ENCLOSURE 1

REFERENCES

(e) Section 136 et seq. of title 7, United States Code, "Federal Insecticide, Fungicide, and Rodenticide Act 1976 (FIFRA)," as amended

(f) Section 136i-1 of title 7, United States Code, 1990, Food, Agriculture, Conservation, and Trade Act of 1990"

(g) Section 10 of title 7 (2801), United States Code, Federal Noxious Weed Act of 1974 et seq., as amended

(h) DoD 8320.1-M-1, "Data Element Standardization Procedures," January 1993, authorized by DoD Directive 8320.1, September 26, 1991

(i) Sections 4321 to 4370a of title 42, United States Code, "National Environmental Policy Act (NEPA) of 1969," as amended

(j) DoD 4500.54-G, "DoD Foreign Clearance Guide," current edition, authorized by DoD Directive 4500.54, May 1, 1991

(k) Memorandum of Agreement between the United States Department of Agriculture (USDA) and the Department of Defense for Conduct of Forest Insect and Disease Suppression on Lands Administered by the U.S. Department of Defense, December 1990

(l) Section 1531 et seq. of title 16, United States Code, "Endangered Species Act of 1973," as amended

(m) Department of Defense-United States Department of Agriculture/Animal Plant Health Inspection Service/Animal Damage Control Memorandum of Agreement on Animal Damage Control, April 19901

(n) Section 1001 et seq. of title 16, United States Code, "Aquatic Nuisance Prevention and Control Act of 1990"

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1 Available from the AFMB, Forest Glen Section/Walter Reed Army Medical Center, 20307-5001 Washington, D.C.

(o) Executive Order 11850, "Renunciation of Certain Uses in War of Chemical Herbicides and Riot Control Agents," April 8, 19752

(p) DoD Directive 5105.18, "DoD Committee Management Program," January 18, 1990

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2 Available form the AFMB, Forest Glen Section/Walter Reed Army Medical Center, 20307-5001 Washington, D.C.

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Certifying Officials. Professional DoD pest management personnel designated, in writing by the Components to the Executive Director, AFPMB, who review and certify that qualifications of DoD applicators meet the DoD standards in DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides (reference (d)).

E2.1.2. Component Senior Pest Management Consultant. The professional DoD pest management individuals, designated in writing by the Components to the Executive Director, AFPMB, who are the primary points of contact for the Component's pest management program including technical guidance, management oversight, and information requirements.

E2.1.3. Direct Supervision. Supervision that includes being at the specific location where pest management work is conducted; providing instruction and control; and maintaining a line-of-sight view of the work performed. Certain circumstances may temporarily remove the line-of-sight view of the application of pesticide from the supervisor such as topographic constraints, vegetation constraints, or building structural constraints. Under these temporary circumstances, the supervisor shall be responsible for the actions of the pesticide applicators. (See Uncertified Installation Pesticide Applicator, Definition E2.1.13.5., below).

E2.1.4. Disease Vector. Any animal capable of transmitting the causative agent of a human disease; serving as an intermediate or reservoir host of a pathogenic organism; or producing human discomfort or injury, including (but not limited to) mosquitoes, flies, other insects, ticks, mites, snails, and rodents. It is recognized that certain disease vectors are predominately economic pests that as conditions change may require management or control as a disease vector.

E2.1.5. Disinsection. The procedure of killing or removing insects from ships or aircraft to prevent their importation into another port or country.

E2.1.6. Integrated Pest Management (IPM). A planned program, incorporating continuous monitoring, education, recordkeeping, and communication to prevent pests and disease

vectors from causing unacceptable damage to operations, people, property, materiel, or the environment. IPM uses targeted, sustainable (effective, economical, environmentally sound) methods including education, habitat modification, biological control, genetic control, cultural control, mechanical control, physical control, regulatory control, and where necessary, the judicious use of least-hazardous pesticides.

E2.1.7. Monitoring. Thorough inspections or surveys conducted on a regular basis to determine the presence and prevalence of pests or disease vectors.

E2.1.8. Nuisance Pests. Insects, other arthropods, and other organisms that do not cause economic damage or adversely affect human health, but which cause minor annoyance on occasion.

E2.1.9. On-Site Supervision. Supervision that includes being physically located on the installation, but not necessarily at the specific worksite, during the work performance and being able to be contacted and at the worksite within 30 minutes.

E2.1.10. Personal Relief. Pest management control efforts made by DoD personnel or their family members at their own expense for control of pests consistent with DoD and Component pest management policy.

E2.1.11. Pest Management Quality Assurance Evaluator. A quality assurance inspector who is a DoD employee, trained in pest management, who protects the Government's interest through on-site performance evaluation of commercial pest management contracts or other contracts that involve the use of pesticides.

E2.1.12. Pesticide. Any substance or mixture of substances, including biological control agents, that may prevent, destroy, repel, or mitigate pests and are specifically labeled for use by the U.S. Environmental Protection Agency (EPA). Also, any substance or mixture of substances used as a plant regulator, defoliant, desiccant, disinfectant, or biocide. (See Restricted-Use Pesticide, definition E2.1.21.) The AFPMB does not review or approve disinfectants or biocides.

E2.1.13. Pesticide Applicator. Any individual who applies pesticides or supervises the use of pesticides by others.

E2.1.13.1. Certified Pesticide Applicator. Any individual who applies pesticides or supervises the use of pesticides, and who has been authorized to do so by successfully

completing a training program approved by the EPA, followed by formal certification by the Department of Defense or a State, or, for OCONUS, the provisions of subsection 2.5. of the main body of this Instruction.

E2.1.13.2. DoD-Certified Pesticide Applicators. DoD military or civilian personnel certified in accordance with the DoD Plan for the Certification of Pesticide Applicators o Restricted Use Pesticides (reference (d)).

E2.1.13.3. Installation Pesticide Applicators. DoD employees or contract personnel whose job responsibilities involve the application of pesticides on DoD installations and property.

E2.1.13.4. State-Certified Pesticide Applicators. Persons certified in accordance with FIFRA (reference (e)) by a State with an EPA-approved certification plan.

E2.1.13.5. Uncertified Installation Pesticide Applicators. DoD employees who are not certified under the Department of Defense or State plan during an apprenticeship period not exceeding 2 years and who must apply pesticides under the supervision of a DoD or State-certified applicator.

E2.1.14. Pest Management. The prevention and control of disease vectors and pests that may adversely affect the DoD mission or military operations; the health and well-being of people; or structures, materiel, or property.

E2.1.15. Pest Management Consultant. Professional DoD pest management personnel located at Component Headquarters, field operating agencies, major commands, facilities engineering field divisions or activities, or area support activities who provide technical and management guidance for the conduct of installation pest management operations. Some pest management consultants may be designated by their Component as certifying officials.

E2.1.16. Pest Management Coordinator. The individual officially designated by the installation commander to coordinate and oversee the installation pest management program and installation pest management plan. Pest management coordinators shall be certified as pesticide applicators if their job responsibilities require them to apply or supervise the use of pesticides.

E2.1.17. Pest Management Materiel. Equipment or pesticides used to monitor, prevent, or control pests and disease vectors. Equipment items include, but are not limited to, all pesticide dispersal equipment, traps, nets, and pest-attracting or pest-repelling devices.

E2.1.18. Pest Management Plan. A long-range, comprehensive installation planning and operational document that establishes the strategy and methods for conducting a safe, effective, and environmentally sound integrated pest management program. Written pest management plans are required as a means of establishing and implementing an installation pest management program.

E2.1.19. Pests. Arthropods, birds, rodents, nematodes, fungi, bacteria, viruses, algae, snails, marine borers, snakes, weeds, and other organisms (except for human or animal disease-causing organisms) that adversely affect readiness, military operations, or the well-being of personnel and animals; attack or damage real property, supplies, equipment, or vegetation; or are otherwise undesirable.

E2.1.20. Professional Pest Management Personnel. DoD military officers commissioned in the Medical Service or Biomedical Sciences Corps or DoD civilian personnel with college degrees in biological or agricultural sciences who are in a current assignment that includes pest management responsibilities exercised regularly. DoD civilian employees also shall meet Office of Personnel Management (OPM) qualification standards. Based on assignment, some professional pest management personnel are pest management consultants.

E2.1.21. Restricted-Use Pesticide. A pesticide that the Administrator of the EPA (in accordance with FIFRA (reference (e)), or a State regulatory agency determines to have the potential to cause unreasonable adverse effects on the environment or human health, when applied in accordance with its directions for use, and therefore requires additional regulatory restrictions.

E2.1.22. State. Any one of the 50 United States of America; the District of Columbia; the Commonwealths of Puerto Rico, the Northern Marianas, Virgin Islands; and the Territories of Guam and American Samoa.

E2.1.23. Surveillance. Thorough inspections or surveys made before or after pest management treatments to determine the presence and prevalence of pests or disease vectors.

E2.1.24. Technical Information Memoranda. Technical guidance prepared by the AFPMB on specific pest management and disease vector control topics. Technical Information Memoranda (TIM) are available from the AFPMB, Forest Glen Section/Walter Reed Army Medical Center, Washington, DC 20307-5001.

E2.1.25. Training. Formal or informal instruction in one or more subject areas concerning IPM and disease vector control to increase the expertise and measurable competence of pest management personnel in performance of specific IPM and disease vector control skills. Training methods are varied and include workshops, seminars, conferences, symposia, training courses, apprenticeships, interactive models, satellite and video tele-training, correspondence courses, training support packages including video-based products, other distributive products, or materials.

E3. ENCLOSURE 3

DOD ENVIRONMENTAL SECURITY

MEASURES OF MERIT FOR PEST MANAGEMENT

E3.1.1. Measure of Merit 1. Installation Pest Management Plans;

E3.1.1.1. By the end of FY 97, 100 percent of DoD installations will have pest management plans prepared, reviewed, and updated annually by pest management professionals.

E3.1.2. Measure of Merit 2. Pesticide Use Reduction;

E3.1.2.1. By the end of FY 2000, the amount of pesticide applied annually on DoD installations will be reduced by 50% from the FY 93 baseline in pounds of active ingredient. The goal for this measure of merit shall not be obtained by substituting more toxic pesticides that have lower application rates than the pesticide in use.

E3.1.3. Measure of Merit 3. Installation Pesticide Applicator Certification;

E3.1.3.1. By the end of FY 98, 100 percent of DoD's installation pesticide applicators will be properly certified (either DoD or appropriate State). Direct hire employees have a maximum of 2-years to become certified after initial employment. Contract employees should have the appropriate State certification when the contract is let.

E4. ENCLOSURE 4

DOD PEST MANAGEMENT PROGRAM ELEMENTS

E4.1.1. DoD Pest Management Program Elements. DoD Pest Management Programs shall include the following elements that are described in this enclosure:

E4.1.1.1. Installation Pest Management Plans.

E4.1.1.2. Integrated Pest Management.

E4.1.1.3. Installation Consultative Support, Pest Management Program Reviews, and Audits.

E4.1.1.4. Training and Certification of Pest Management Personnel.

E4.1.1.5. Pesticides and Pest Management Equipment.

E4.1.1.6. Contracting for Commercial Pest Management Services.

E4.1.1.7. Specialized Pest Management Operations.

E4.1.1.8. Pest Management and Disease Vector Control in Military Contingency Operations,

E4.1.2. Installation Pest Management Plans. Each installation shall have a pest management plan as described in enclosure 6. The plan shall list all program objectives, arranged in order of priority, according to potential or actual impact on health, morale, structures, materiel, or property. Installations that have more than 0.5 productive work-years of pest management work shall have their own plan. Installations with less than 0.5 productive work-years must have an individual plan, or be included in a supporting installation's pest management plan. Professional pest management personnel or certified pesticide applicators shall manage these installation programs.

E4.1.2.1. Component Role. The DoD Components shall ensure that each installation has a pest management plan and that the Component's pest management consultants maintain the program

through technical assistance, program review, and program oversight. The Components shall ensure that Installation Commanders:

E4.1.2.1.1. Plan and budget for the development and maintenance of the pest management plan.

E4.1.2.1.2. Ensure that qualified personnel develop and update the pest management plan annually.

E4.1.2.1.3. Designate a DoD-certified or State-certified pesticide applicator as the pest management coordinator to implement the plan.

E4.1.2.1.4. Ensure that the pest management coordinator formally coordinates appropriate portions of the pest management plan with the senior medical officer, environmental coordinator and senior engineering officer and ensure that these individuals sign the cover sheet of the pest management plan.

E4.1.2.1.5. Ensure that appropriate portions of the pest management plan are reviewed by the Natural Resources Program Manager for consistency with the Natural Resources Management Plan.

E4.1.2.1.6. Ensure that the pest management coordinator forwards the pest management plan to the cognizant component pest management consultant for review, technical approval, and signature on the cover sheet.

E4.1.2.1.7. Approve and sign the pest management plan for implementation.

E4.1.2.1.8. Ensure implementation of the pest management plan and oversight of the installation pest management program by the pest management coordinator.

E4.1.2.1.9. Ensure that all pest management operations performed on the installation, except those for personal relief, are recorded, and ensure that all records are properly maintained and are reported to the cognizant component pest management consultant.

E4.1.2.2. Content. Pest management plans shall be comprehensive, long-range, narrative documents, as outlined in enclosure E8, and shall:

E4.1.2.2.1. Describe all installation and satellite installation pest management requirements and programs, including those for contracts, natural resources, golf courses, and out leases, and identify minimum pest management staffing requirements.

E4.1.2.2.2. Describe all IPM procedures required to monitor and control pests on the installation.

E4.1.2.2.3. Describe all IPM procedures for surveillance and control of disease vectors.

E4.1.2.2.4. Identify all resources, such as work-years, facilities, and equipment, required to support the installation pest management program.

E4.1.2.2.5. Identify all pesticides, including EPA registration numbers, approved by the respective Component pest management consultant for use in the installation pest management program.

E4.1.2.2.6. Describe all health and safety measures that will be taken to protect both pest management personnel and the general public from pesticide exposure and risk.

E4.1.2.2.7. Identify any planned measures to comply with DoD Memoranda of Agreement with State pesticide regulatory offices relating to use or application of pesticides.

E4.1.2.2.8. Describe pest management functions that can be done more economically through commercial contracts and provide or reference cost comparison analyses.

E4.1.2.2.9. Describe any pest management operation with special environmental considerations such as those that:

E4.1.2.2.9.1. Use a restricted-use pesticide.

E4.1.2.2.9.2. Use any pesticide application that may contaminate surface or ground water.

E4.1.2.2.9.3. Include 259 or more contiguous hectares (640 acres) in one pesticide operation.

E4.1.2.2.9.4. May adversely affect endangered or other protected species or their habitats.

E4.1.2.2.9.5. Involve aerial application of pesticides.

E4.1.2.2.9.6. Involve management or control of designated noxious weeds in accordance with 7 U.S.C. 10 (reference (g)) in cooperation with local control efforts.

E4.1.2.2.9.7. Involve permits for the use of experimental-use pesticides.

E4.1.2.2.10. Identify animal control efforts for feral cats, feral dogs, or wildlife.

E4.1.2.2.11. Identify active or potential vector-borne diseases and describe medical department collaboration with local and state agencies or host nations for vector surveillance and control matters.

E4.1.2.2.12. Identify golf course pest management operations.

E4.1.3. Integrated Pest Management

E4.1.3.1. Background. IPM is the method of choice for DoD pest management and disease vector control. IPM is a sustainable approach to managing pests and controlling disease vectors by combining applicable pest management tools in a way that minimizes economic, health, and environmental risks. IPM uses regular or scheduled monitoring to determine if and when treatments are needed and employs physical, mechanical, cultural, biological, genetic, regulatory chemical, and educational tactics to keep pest numbers low enough to prevent unacceptable damage or impacts. Treatments are not made according to a predetermined schedule; they are made only when and where monitoring has indicated that the pest will cause unacceptable economic, medical, or aesthetic damage. Treatments are chosen and timed to be most effective and least disruptive to natural controls of pests. Least hazardous, but effective, pesticides are used as a last resort.

E4.1.3.2. Process. IPM in the Department of Defense shall be based on seven steps that are routine procedures for addressing each pest problem. These steps are:

E4.1.3.2.1. Identification and assessment of pest or disease vector problems.

E4.1.3.2.2. Development of a written management plan or strategy that emphasizes natural controls and non-chemical tactics to deal with pest and disease vector problems.

E4.1.3.2.3. Establishment of an action threshold for each pest and disease vector problem to define when corrective action must be implemented.

E4.1.3.2.4. Use of a monitoring procedure, such as inspection, trapping, or surveillance, for each pest and disease vector.

E4.1.3.2.5. Application of corrective action when a threshold is reached for any pest or disease vector.

E4.1.3.2.6. Use of a documentation system to catalogue monitoring information and to document management problems.

E4.1.3.2.7. Verification and evaluation procedures to ensure that the IPM program is meeting stated risk reduction measures and that information exists to redesign the IPM plan where required.

E4.1.4. Installation Consultative Support, Program Reviews and Audits

E4.1.4.1. Consultative Support. The DoD Components shall ensure that installations receive state-of-the-art technical assistance in IPM.

E4.1.4.2. Command Program Reviews. To ensure adequate oversight of DoD Component Pest Management Programs, DoD Component pest management consultants or designated pest management professionals shall conduct on-site reviews of installation pest management programs at least every 36 months with the following exceptions:

E4.1.4.2.1. Installations requiring less than 0.5 work-years of pest management services shall be reviewed at the discretion of the cognizant pest management consultant.

E4.1.4.2.2. Installations that receive pest management support from another DoD installation shall be reviewed during the review of the supporting installation.

E4.1.4.2.3. Installations with documented pest management problems, such as deficiencies from environmental compliance

audits, State inspections, or Federal inspections, should be reviewed annually until the deficiencies are resolved.

E4.1.4.2.4. On-site review requirements can be met by formal program reviews, environmental audits or assistance visits.

E4.1.4.3. Environmental Compliance Audits

E4.1.4.3.1. The Components shall ensure that pest management consultants or designated pest management professionals are available, on request, to provide technical assistance for the pesticide portion of environmental audits, to provide follow-up assistance to audits, or to further evaluate audit findings.

E4.1.4.3.2. The Components shall ensure installations notify the appropriate pest management consultant whenever Federal, State, or local regulators ask to inspect pest management operations. As directed by the Components, pest management consultants shall provide technical coordination services for such inspections consistent with existing Memoranda of Agreement between the Department of Defense and State pesticide regulatory offices relating to use or application of pesticides.

E4.1.5. Training and Certification of Pest Management Personnel

E4.1.5.1. Personnel Qualifications. Installation pest management programs are comprehensive and include all pest management operations on an installation to support facilities engineering, non-appropriated funds, leased or out-leased activities, contract operations, materiel resources, etc. Therefore, the installation pest management coordinator shall have an appropriate position, educational background, and management skills to implement the plan for the Installation Commander. DoD pesticide applicators shall meet the job qualification standards specified by the OPM. Outside of the United States, DoD pesticide applicators shall comply with subsection 2.5. of the main body of this Instruction.

E4.1.5.2. Training and Certification. All installation pest management personnel who apply or supervise the application of pesticides shall be trained and certified within 2 years of employment in accordance with the DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides, reference

(d), or an EPA-approved State certification plan. Personnel who are undergoing apprenticeship training, but are not yet certified, shall apply pesticides only under the direct supervision of a certified pesticide applicator.

E4.1.5.2.1. IPM and pesticide application requirements may vary with installation mission, location, size, and environmental considerations. Some installations may have unique requirements. Training requirements for individual pesticide applicators may vary due to the pest management categories and complexity of the work to be performed. Therefore, the Component's senior pest management consultants shall determine the training and experience necessary to perform the pest management activities within their areas of responsibility. The minimum training for DoD installation pesticide applicators or contractors shall be that required by the EPA for certification in the applicable pesticide application categories. However, additional training beyond certification may be required due to the circumstances at a particular installation or the nature of the work to be done. These additional pest management training requirements may be fulfilled by successful completion of any DoD, other Federal agency, State, local, or private pest management training, provided the specific DoD requirements would be satisfied by the training.

E4.1.5.2.2. Both DoD-certified and State-certified pesticide applicators shall be recertified every 3 years in accordance with the DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides (reference (d)) and FIFRA (reference (e)), respectively. Designated Component-certifying officials may administratively extend individual certifications for up to 6 months for cause.

E4.1.5.2.3. Contractor employees performing pest management work on a DoD installation shall be certified prior to the beginning of the contract under a State plan accepted in the State in which the work is performed. The contractor shall provide evidence of certification in all appropriate pest management categories. Additionally, the contractor shall provide evidence of training and experience equivalent to that determined by the Components as necessary to satisfy the performance requirements for the particular pest management function to be contracted. Successful bidders for contracts shall be afforded the opportunity to receive initial DoD pest management training on a space-available basis at the contractor's expense.

E4.1.5.2.4. QAEs, trained in pest management, shall monitor and evaluate contractor performance for pest management services, unless a DoD employee, certified in accordance with the DoD Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides (reference (d)), is available to assist the QAE. If an installation's pest management contract efforts are less than 0.25 work-year, the presence of a trained QAE at the installation is recommended, but is not mandatory.

E4.1.5.2.5. The DoD Components shall encourage all eligible professional pest management personnel to obtain appropriate certification in accordance with reference (d) and FIFRA (reference (e)) and to obtain certification from applicable professional boards and professional certifying organizations. Professional pest management personnel shall be certified if their duties include:

E4.1.5.2.5.1. Making recommendations for the use of pesticides, applying pesticides, or directly supervising the application of pesticides.

E4.1.5.2.5.2. Conducting demonstrations on the proper use and techniques of pesticide application or the supervision of such demonstrations.

E4.1.5.2.5.3. Conducting field research that includes using or supervising the use of pesticides.

E4.1.5.2.6. DoD personnel and family members who apply pesticides under DoD installation self-help programs or for their own relief are exempted from the certification requirement. Requirements for operational and deployable military personnel are described in section E4.1.8. of this enclosure, below.

E4.1.6. Pesticides and Pest Management Equipment

E4.1.6.1. Procurement of Pest Management Materiel

E4.1.6.1.1. AFPMB shall approve all introduction, stockage, and deletion of pest management materiel managed by the Defense Logistic Agency (DLA) for use in DoD programs. Enclosure E7 provides specific procedures for AFPMB review and approval of pesticides and equipment.

E4.1.6.1.2. The DoD Components shall not procure or acquire pest management materiel that has not been recommended by the AFPMB or approved by the cognizant Component pest management

consultant. National Stock Numbers (NSNs) shall not be assigned to pest management materiel for use by the Department of Defense that has not been approved by the AFPMB. Upon approval by the appropriate pest management consultant, pest management materiel may be procured locally if needed for an emergency, if required due to unique local situations, or if required in quantities so small that assignment of an NSN is not practical.

E4.1.6.2. Pesticide Storage Facilities. The design of pesticide storage facilities shall comply with standards described in MIL-HDBK-1028/8A, "Military Handbook, Design of Pest Management Facilities," November 1991. Existing facilities shall comply with all applicable regulatory standards and shall, where feasible, be modified to meet the standards for new pesticide storage facilities.

E4.1.6.3. Pesticide Disposal. Installation Commanders shall ensure that installation pest management programs are managed to ensure pesticides do not become hazardous wastes. The installation pest management coordinator shall ensure that excess EPA-registered pesticides are either returned to the DLA Materials Return Program, transferred to a DoD installation able to use the materiel, or transferred to the servicing Defense Reutilization and Marketing Office. The appropriate DoD pest management consultant shall, if requested, provide assistance in identifying installations where usable pesticides could be used. When the EPA publishes a proposed pesticide regulatory action involving pesticide label suspension or cancellation that affects the Department of Defense, the Components and installations shall comply with administrative procedures developed between the DLA and AFPMB. The Components shall use the guidance in AFPMB TIM 21, "Pesticide Disposal for Pest Control Shops," October 1986, for pesticide disposal.

E4.1.6.4. Pesticide Safety. To ensure the safe use of pesticides, DoD personnel shall handle and apply pesticides in accordance with the product's label directions and AFPMB TIM 14, "Personal Protective Equipment for Pest Management Personnel," May 1992; TIM 15, "Pesticide Spill Prevention and Management, June 1992; TIM 16, "Pesticide Fires: Prevention, Control and Cleanup," January 1981; and TIM 21, "Pesticide Disposal Guide for Pest Control Shops," October 1986. DoD policy prohibits construction of buildings with heating, ventilation and air conditioning (HVAC) ducts located in and below the floor to prevent accidental contamination of the ducts with termiticides. Similarly, DoD policy prohibits post-construction treatment of

structures with HVAC ducts without a waiver from the Component pest management consultant.

E4.1.6.5. Electrically Operated Devices. It is DoD policy to not use electromagnetic exclusion or control devices, ultrasonic repellent or control devices, and outdoor devices for electrocuting flying insects on DoD installations, except as noted in AFPMB TIM 25, "Devices for Electrocution of Flying Insects," August 1988. However, indoor devices for electrocuting flying insects can be used when selected, purchased, located, and used in accordance with AFPMB Technical Information Memorandum 25. Pest surveillance traps and monitoring equipment, such as non-electrocuting mosquito light traps, shall be used as integral tools for IPM programs.

E4.1.6.6. Paints and Coatings Containing Pesticides and other Biocides. DoD policy prohibits use of paints containing insecticides on DoD property. This guidance applies to both interior or exterior paints that contain insecticides intended for application to broad structural surfaces such as walls, ceilings, and siding. It also applies to insecticides formulated and labeled for use as paint additives. Paints containing fungicides as mildew inhibitors may be used when application directions specify no special restrictions due to the fungicide. Approved marine anti-fouling compounds or coatings may be applied to protect surfaces of watercraft.

E4.1.6.7. Preventive or Scheduled Pesticide Treatments. DoD policy prohibits the use of regularly scheduled, periodic pesticide applications except in situations where the installation pest management plan clearly documents that no other technology or approach is available to protect personnel or property of high value. Installations shall not use preventive pesticide treatments unless the appropriate pest management consultant has given approval based upon current surveillance information or records documenting past disease vector or pest problems that require this approach.

E4.1.7. Pest Management Contracting

E4.1.7.1. Background. The Department of Defense shall use pest management contracts when cost-effective or when advantageous for non-routine, large-scale, or emergency services, especially when specialized equipment or expertise is needed. Contractors shall comply with State regulatory requirements in the State where the work will be performed regarding certification, licensing, and registration of pest management

companies and their employees. Outside of the United States, contractors shall comply with section 2.5. of the main body of this Instruction.

E4.1.7.2. Review and Approval. Pest management consultants shall review and approve contract documents for pest management operations including augmentation contracts to ensure that appropriate pest management standards and IPM are specified. Contracting offices shall award augmentation contracts only when the respective pest management consultant has verified that the contract will provide necessary services beyond the capability of any in-house staff. The Components shall encourage installations that lack expertise in pest management to request the services of a DoD pest management consultant to develop the technical portions of pest management contracts in accordance with DoD/AFPMB Guideline Performance Work Statement (GPWS) for Contract Pest Control, July 1986. Pest management consultants shall act as technical consultants during the performance of contracted work.

E4.1.7.3. Quality Assurance.

E4.1.7.3.1. The Components shall ensure that QAEs, who inspect the performance of contractor-provided pest management services, are trained in pest management.

E4.1.7.3.2. Installation Commanders shall base pest management QAE staffing decisions on the following factors:

E4.1.7.3.2.1. The number of pest management operations requiring 100 percent inspection.

E4.1.7.3.2.2. The number of different functions being performed simultaneously.

E4.1.7.3.2.3. The scope of the contract including required productive work-years.

E4.1.7.3.2.4. The level of monitoring or surveillance required for each operation.

E4.1.8. Specialized Pest Management Operations

E4.1.8.1. Aerial Application of Pesticides. Documentation for aerial application projects shall be in accordance with DoD and Component environmental requirements including compliance with the requirements of the NEPA (reference (i)). The DoD

Components shall ensure that a designated pest management consultant at the major command level or higher, who is certified in the aerial application pest control category, approves all proposed pest management projects that involve the aerial application of pesticides. Approval shall be obtained before aerial application operations commence. DoD Component pest management consultants shall collaborate, as appropriate, with the 910th Airlift Wing (Air Force Reserve) during the review and approval process for aerial spray projects to be completed by the 910th. Installation commanders shall ensure that installation personnel update documentation for project approval if subsequent aerial application operations are planned.

E4.1.8.2. Disinsection of Military Aircraft. DoD personnel shall disinsect military aircraft for disease vectors and agricultural pests only when:

E4.1.8.2.1. Required by a foreign nation as a prerequisite to entry as specified in the DoD Foreign Clearance Guide (reference (j)).

E4.1.8.2.2. Mandated by the U.S. Department of Health and Human Services or the U.S. Department of Agriculture.

E4.1.8.2.3. Directed by a command-level or higher authority who, consistent with Joint Service regulation, "Quarantine Regulations of the Armed Forces," January 24, 1992, has determined that the point of embarkment has active vector-borne disease.

E4.1.8.2.4. No passengers are on board (except when mandated by the DoD Foreign Clearance Guide (reference (j))).

E4.1.8.3. Forest Pests. The Components shall cooperate with the USDA, Forest Service, on applicable pest management programs including annual USDA funding for forest insect and disease suppression projects on DoD-controlled land in accordance with the MOA between the USDA and the Department of Defense (reference (k)) and Joint Service Technical Manual, "Weed Control and Plant Growth Regulation," May 24, 1989.

E4.1.8.4. Medically Important Pests. The DoD Components shall ensure that responsibilities for surveillance and control of medically important insects and other arthropods are clearly delineated in installation pest management plans and operational plans. Specific guidance on the surveillance and control of

Lyme disease vectors is found in AFPMB TIM 26, "Lyme Disease- Vector Surveillance and Control," March 1990.

E4.1.8.5. Nuisance Pests. Installation pest management personnel shall not apply pesticides or other control procedures for nuisance pests unless such measures have been approved by the appropriate pest management consultant.

E4.1.8.6. Pesticide Applications in the Range of Endangered Species. The Components shall comply with regulations, including 16 U.S.C. 1531 et seq. (reference (l)), requiring Federal Agencies to ensure their actions will not jeopardize endangered or threatened species (ETS) or associated habitats. Installation Commanders shall ensure that their installation pest management plans identify areas within their installation that contain ETS and that personnel using pesticides on the installation know the potential impact that pesticide applications could have on ETS. DoD pest management plans shall comply with the ETS protection efforts of the U.S. Fish and Wildlife Service (FWS) and FWS limitations on pesticide usage. To prevent consultations before every pesticide application or operation in the habitat of an ETS, pertinent sections of installation pest management plan shall be submitted to the regional FWS office for review and comment. After initial coordination, only changes to the plan shall be forwarded to the FWS for review. Further coordination with the FWS is not required unless the conditions of the pesticide application(s) are changed as indicated by county bulletins, pesticide labels, ETS status, or land use. If the FWS arrive at a finding of "may affect" the ETS, and the pesticide application is considered a firm DoD requirement by the Installation Commander and cognizant pest management professional, the Installation Commander shall request a formal consultation with the FWS. OCONUS installations shall comply with section 2.5. of the main body of this Instruction.

E4.1.8.7. Pests in Health Care Facilities. Components shall ensure that pest management in health care facilities are conducted according to the guidance in AFPMB TIM 20, "Pest Management in Health Care Facilities," October 1989.

E4.1.8.8. Pest Management in Child Care and Food Service Facilities. DoD Components shall ensure that responsibilities for surveillance and control of insects and other arthropods in child care and Food Service are clearly delineated in installation pest management plans and operations.

E4.1.8.9. Pest Management in Military Quarters and Housing

E4.1.8.9.1. Background. Installation Commanders shall ensure that residents of military quarters and housing practice good sanitation and correct minor nuisance pest problems. Quarters and housing occupants are responsible for controlling pests such as cockroaches, household infesting ants, and mice not originating in other quarters. Control of medically important pests, including venomous arthropods, which could affect human health, and structural pests, which could damage property, shall not be an occupant's responsibility.

E4.1.8.9.2. Installation Role

E4.1.8.9.2.1. Installation Commanders shall ensure that installation pest management services are provided in military housing only when the pest threatens Government property or the occupants' health, and the occupants have been unable to control the pests through self-help efforts. Exceptions shall only be made with the concurrence of the appropriate pest management consultant.

E4.1.8.9.2.2. Installation Commanders may allow residents of military housing to contract with licensed pest management companies at their own expense.

E4.1.8.9.3. Self-Help Program

E4.1.8.9.3.1. The DoD Components shall establish installation self-help pest management for military housing when cost-effective and when IPM monitoring indicates the need for a self-help program. Self-help pest management materials issued to occupants of military housing may include cockroach and ant baits and/or traps, mouse traps, glue boards, and general-use pesticide aerosols with crack and crevice devices as recommended by the cognizant pest management consultant. Liquid pesticides should not be issued. The office designated to manage the installation's self-help program should coordinate procurement and storage of pest management materials with the installation pest management shop, hazardous material manager, and the DLA Supply Center.

E4.1.8.9.3.2. Installation Commanders shall ensure that self-help personnel provide written instructions and appropriate precautions, beyond those on pesticide labels, to military quarters and housing occupants to ensure proper pesticide application and safety.

E4.1.8.9.3.3. If pesticides are issued to occupants, records must be maintained as described in subparagraph 5.3.22.7. of the main body of this Instruction. These records should enable installation self-help personnel to validate the occupant's attempts to control target pests before providing installation pest management services. Pest management consultants should review these records during annual reviews to evaluate the efficiency of the installation's self-help program.

E4.1.8.10. Pest Management at Closing Installations. Because pests may cause serious damage to unused facilities, the Components shall ensure that pest management consultants provide guidance needed to protect all closing or closed facilities from pests from the beginning of deactivation until property disposal.

E4.1.8.11. Quarantinable Pests. The Joint Service, "Quarantine Regulations of the Armed Forces," January 24, 1992, contains policy for quarantine regulations applicable to the Armed Forces.

E4.1.8.12. Stored Products Pests. The DoD Components shall implement measures to minimize insect and vertebrate pest damage to subsistence, clothing and textiles, medical, and other infestible stored materiel according to AFPMB TIM 27, "Stored Products Pest Monitoring Techniques," June 1992. The Components shall ensure fumigation of subsistence stocks follows the guidance provided in AFPMB TIM 11, "Hydrogen Phosphide Fumigation with Aluminum Phosphide," February 1987. Guidance for protecting Meal, Ready-to Eat Rations is available from Component pest management consultants. DLA Regulation 4145.31, "Stored Product Pest Management Program," June 8, 1990, provides pest management guidance on infestible stored products.

E4.1.8.13. Turf and Ornamental Pests. Installation Commanders shall implement measures to prevent unacceptable damage to shade trees, ornamental plantings, and turf (including golf courses) by insects, diseases and weeds. Further, they shall ensure that pesticide applications, if required, are based on specific identification of the target pest by trained personnel. The pest management plan shall identify recurring infestations. Installation Commanders shall ensure the installation pest management plan describes the use of IPM for turf and ornamental pests, and environmentally and economically beneficial land management practices, such as the use of native plants, to reduce pesticide use.

E4.1.8.14. Undesirable Plants. The DoD Components shall develop programs to comply with the FNWA (reference (g)). The Components shall:

E4.1.8.14.1. Designate an office or person adequately trained in the management of undesirable plant species to develop and coordinate the Component's undesirable plant management program.

E4.1.8.14.2. Plan, program, and budget to achieve, maintain, and monitor compliance with the FNWA (reference (g)).

E4.1.8.14.3. Ensure that installations complete and carry out cooperative agreements with State agencies regarding the management of undesirable plant species on installations.

E4.1.8.14.4. Establish integrated management systems to control or contain undesirable plant species targeted under cooperative agreements. The FNWA (reference (g)) does not require the Components to carry out programs on installations unless similar programs are being implemented on State or private lands in the vicinity of the installation.

E4.1.8.15. Vertebrate Pests. The Components shall manage vertebrate pests, in accordance with the MOA between the Department of Defense and USDA/APHIS/ADC (reference (m)), and:

E4.1.8.15.1. Implement vertebrate pest management programs including wildlife aircraft strike hazard reduction programs to prevent interference with operations, destruction of real property, and adverse impacts on health and morale.

E4.1.8.15.2. Cooperate with Federal, State and local agencies that have implemented animal damage control programs on adjacent public and private lands.

E4.1.8.15.3. Identify the potential for secondary and non-target effects to other organisms and design programs to preclude or minimize the risks.

E4.1.8.15.4. Obtain all applicable Federal, State and local permits.

E4.1.8.15.5. Use guidance in AFPMB TIM 37, "Feral Cats," February 1996, for conducting feral cat control programs.

E4.1.8.16. Weed Control. Installation Commanders shall ensure that weed control is performed according to 16 U.S.C. 1001 (reference (n)) and Joint Service Technical Manual, "Weed Control and Plant Growth Regulation," May 24, 1989, on DoD installations. Herbicides will not be used in war except as provided for in E.O. 11850 (reference (o)).

E4.1.8.17. Wood-Destroying Organisms. The DoD Components shall ensure that:

E4.1.8.17.1. Pest management consultants review construction, repair, and termite control contract specifications for proper protection of wood where wood-destroying fungi and insects are present, and specify that termiticides, when needed, are applied at the highest EPA-labeled concentration and application rate.

E4.1.8.17.2. DoD-certified pesticide applicators or QAEs trained in pest management inspect contract applications of pesticides for the control of termites and other wood-destroying organisms.

E4.1.8.17.3. Trained personnel inspect wooden buildings and structures in the range of termites: annually in USDA geographic Region 1 or if Formosan or drywood termites are present; biennially in USDA Region 2; or triennially in Region 3 as determined by the cognizant pest management professional. Installation Commanders shall follow the guidance in AFPMB TIM 35, "Termite Inspection," February 1996, for these inspections.

E4.1.8.18. Wood Preservation. NAVFAC MO 312," Wood Protection," May 1990, provides information on wood preservation. Components shall ensure that DoD pest management professionals review construction specifications and procurement contracts to minimize losses to real property and materiel by specifying:

E4.1.8.18.1. Proper use of wood products treated with preservatives (pesticides) where required to protect against losses caused by wood-destroying fungi and insects.

E4.1.8.18.2. Inspection of treated wood products, performed by trained installation personnel. This inspection shall require as a minimum:

E4.1.8.18.2.1. Examination of treated wood products to determine the presence of the American Lumber Standard Committee accredited inspection agency quality marking. Quality markings

indicate conformance with the appropriate American Wood Preservers' Association (AWPA) and American National Standard Institute standards. Quality markings indicate the product has been tested by the agency indicated, the date it was tested, the type of use (above ground, ground contact, or marine contact suited), and the minimum amount of chemical preservative present. Unmarked material shall be tested by an independent third party. Certificates of Conformance from the treating company shall not be acceptable in place of physical inspection and testing.

E4.1.8.18.2.2. Random or planned sampling and testing.

E4.1.8.18.3. Programs to protect waterfront structures from decay and marine borers.

E4.1.9. Pest Management and Disease Vector Control during Military Contingency Operations, Readiness Training Exercises, and Deployments.

E4.1.9.1. Military personnel and contractors responsible for pest management and disease vector control during military contingency operations, readiness training exercises, and deployments shall apply pesticides consistent with the policies and procedures described in this Instruction.

E4.1.9.2. The application of pesticides for pest management and disease vector control during military contingency operations, readiness training exercises, and deployments shall be under the overall direction of personnel certified in accordance with the DoD Plan for the Certification of Applicators of Restricted Use Pesticides (reference (d)). Individuals who apply pesticides in these situations shall be certified in accordance with reference (d) or shall be under the direct or on-site supervision of individuals accordance with reference (d). Shipboard independent duty technicians and other military personnel who have received special training for limited site application of pre-selected pesticides during military operations or deployments are exempt from the certification requirement. However, these individuals shall be fully trained, including hands-on training for these specific applications. The Military Services shall develop specific site training programs for these individuals and a means to document who has received this training. At a minimum, the training shall include the safe use and proper application of the limited, pre-selected pesticides for the specific site for which these individuals are trained.

E4.1.9.3. Contractors who apply pesticides in these situations shall comply with the policy in subsection 2.5. in the main body of this Instruction.

E4.1.9.4. The Military Services shall ensure that pesticide use in these situations is recorded as stated in paragraph 5.3.4. of the main body of this Instruction.

E4.1.10. Reports and Records

E4.1.10.1. The DoD Components shall ensure that all DoD installations maintain complete daily records of pesticide applications and non-chemical pest management operations using DD Form 1532-1 or a computer-generated equivalent as stated in section 5.3.22.7. of the main body of this Instruction. These records shall account for all shop operations and shall provide a historical record of pest management operations and pesticide applications for each building, structure, or outdoor site.

E4.1.10.1.1. Records shall include information on kinds, amounts, uses, dates, places of application, and applicators names and certification numbers.

E4.1.10.1.2. The record shall include all pesticide applications performed on the installation, including work done on golf courses, by non-appropriated fund activities, by contract services, and as part of out leases and land management and forestry programs, as well as work performed by installation pest management shops.

E4.1.10.2. DD Form 1532, "Pest Management Report," or an equivalent computer product, shall be produced monthly using DD Form 1532-1 information and shall be forwarded at least quarterly to major command headquarters for review and oversight.

E4.1.10.3. Pest management consultants shall use this data to evaluate the efficiency of the overall installation pest management program and pest management operations.

E4.1.10.4. Pesticides applied by installation personnel for their own relief are excluded from the recordkeeping requirement.

E5. ENCLOSURE 5

AFPMB FUNCTIONS, ORGANIZATION AND MANAGEMENT

E5.1.1. Functions. The purpose of the AFPMB is to recommend policy, provide scientific advice, and provide coordination among the DoD Components on all matters related to pest management. The AFPMB shall:

E5.1.1.1. Develop and recommend policy to the Under Secretary of Defense (Acquisition & Technology) for the DoD Pest Management Program.

E5.1.1.2. Coordinate pest management activities in the Department of Defense.

E5.1.1.3. Develop, issue, and maintain manuals and other guidance necessary to implement the technical requirements of FIFRA (reference (e)).

E5.1.1.4. Implement the DoD Plan for Certification of Pesticide Applicators of Restricted Use Pesticides (reference (d)) and develop comprehensive training guidance for DoD pest management personnel.

E5.1.1.5. Coordinate DoD contingency disease vector and pest management with the Chairman of the Joint Chiefs of Staff, the Combatant Commands and other contingency planning organizations.

E5.1.1.6. Serve as an advisory body to the DoD Components and provide timely scientific and professional pest management advice.

E5.1.1.7. Develop and distribute technical information and guidance on pest management to the Components by means of Technical Information Memoranda, Disease Vector Ecology Profiles and similar publications.

E5.1.1.8. Review and approve any introduction, stockage, and deletion of pest management materiel by the DLA in the DoD supply system. The AFPMB does not review or approve disinfectants or biocides.

E5.1.1.9. Operate the DPMIAC.

E5.1.1.10. Coordinate and develop requirements for pest management research, development, and testing in the Department of Defense:

E5.1.1.10.1. Provide technical coordination for the annual review of USDA pest management research of interest to the Department of Defense;

E5.1.1.10.2. Provide research requirements and recommendations to the Director of Defense Research Engineering, or designee, and to other organizations performing pest management research, development, and testing for the Department of Defense.

E5.1.1.11. Establish committees that shall function in accordance with DoD Directive 5105.18 (reference (p)) to facilitate the performance of AFPMB functions.

E5.1.1.12. Support the Defense Environmental Security Council and the Environmental Safety and Occupational Health Policy Board in the area of pest management.

E5.1.1.13. Perform other functions as assigned.

E5.1.2. Organization and Management. The AFPMB, a joint DoD activity comprised of the Council and Committee structure, the Directorate, and the DPMIAC, shall be organized and managed as follows:

E5.1.2.1. The Council, a part-time approval, coordination and advisory body of the AFPMB, shall be composed of 13 voting members appointed from the Military Departments and DLA. Each Military Department may appoint up to 4 members. The DLA may appoint one member. Members shall be professional pest management personnel whenever possible. Other DoD Components with operational pest management programs may request membership. Other DoD Components or Federal Agencies may be invited by the Council to participate in Council meetings when matters of common interest are under consideration. However, invited participants may not vote.

E5.1.2.1.1. The Council shall elect from among its membership a chair of the AFPMB and a vice-chair who will serve in the absence of the chair. They shall serve 2-year terms that may be extended by reelection. The chair shall preside over meetings of the Council and the Board; establish standing and ad hoc committees and task groups to assist the Council in

performing its functions; and call at least three meetings annually to carry out the mission of the Board.

E5.1.2.1.2. The Council may develop procedural rules necessary to accomplish its mission.

E5.1.2.2. The Directorate shall be the full-time administrative and operational body of the Board. It shall be composed of an Executive Director; an Assistant Executive Director; a Contingency Liaison Officer (CLO); a Research Liaison Officer (RLO); the Chief, Defense Pest Management Information Analysis Center; and any professional, technical, and clerical personnel necessary for its operation and administration.

E5.1.2.2.1. The Executive Director shall be an active duty military medical entomology officer, preferably in the grade 0-6, nominated by the respective Surgeon General of the Military Departments, and appointed by the DUSD(ES) for a period of 4 years. When practical, appointees shall rotate in the order of the Army, Navy, and Air Force. The Executive Director shall supervise the Directorate, provide assistance to the Council as required, and perform other tasks the DUSD(ES) may assign. The Executive Director shall also serve as the Director of Defense Pest Management, Office of the DUSD(ES).

E5.1.2.2.2. The Assistant Executive Director shall be an active duty military medical entomology officer, with a minimum grade of 0-5. Length of tour, nomination, and appointment procedures shall be the same as for the Executive Director. The Assistant Executive Director shall serve in the absence of the Executive Director.

E5.1.2.2.3. The CLO shall be an appropriately trained active duty medical entomology officer, with a minimum grade of 0-5 and extensive field and staff experience. Length of tour, nomination, and appointment procedures shall be the same as for the Executive Director. The CLO shall serve as the principal contact between the AFPMB and the Chairman of the Joint Chiefs of Staff, Unified Combatant Commands, and Component service organizations lacking a staff medical entomologist. The CLO shall support the contingency, readiness, and deployment functions of the AFPMB. The CLO shall provide updated information on specific vector-borne disease threats in any country in the world in coordination with the DPMIAC, shall assist in the development of appropriate sections of operational

plan medical annexes, and shall identify resources for surveillance and control of disease vectors for specific operations.

E5.1.2.2.4. The RLO shall be an active duty military medical entomology officer, with a minimum grade of 0-5, with experience in both research and administration. The length of tour, nomination, and appointment procedures shall be the same as for the Executive Director. The RLO shall coordinate the research and evaluation function of the AFPMB and shall serve as the principal contact between the AFPMB and other Federal agencies' pest management research offices.

E5.1.2.2.5. The DPMIAC shall be the center for collection and analysis of scientific and technical integrated pest management and disease vector information. It shall, upon request, distribute this information to the DoD Components, the Chairman of the Joint Chiefs of Staff and Combatant Commands. It shall also assist committees, task groups, and the AFPMB Council; provide resource material; and develop pest management TIMs, bulletins, and other guidance for the DoD Components, the Chairman of the Joint Chiefs of Staff and Combatant Commands. Each of the Military Departments shall provide one medical entomology officer to the staff of the DPMIAC. Medical entomology consultants of the three Military Departments shall nominate personnel for approval by the Executive Director.

E6. ENCLOSURE 6

REQUIREMENTS FOR INSTALLATION PEST MANAGEMENT PROGRAMS

Pest Management Requirement (Productive Work-years)	Installation Pest Management Plan Requirement	On-site Program Review Requirement
Less than 0.49	Individual plan is not required, but requirements shall be included in supporting installation's pest management plan	Review interval determined by the pest management consultant that reviews the supporting installation's pest management plan
0.50 or more	Individual pest management plan is required	At least 36 months

E7. ENCLOSURE 7

PROCEDURES FOR THE ACQUISITION OF PEST MANAGEMENT EQUIPMENT AND PESTICIDES

E7.1.1. The AFPMB, shall:

E7.1.1.1. Operate as the single point of contact for, and maintain liaison with, other Government agencies in all professional and technical matters involving pest management materiel.

E7.1.1.2. Coordinate the introduction and standardization of pest management materiel.

E7.1.1.3. Continually evaluate pest management materiel that is in the Federal supply system.

E7.1.1.4. Coordinate with the appropriate commodity integrated material managers (CIMMs) for the introduction, revision, and deletion of pest management materiel.

E7.1.2. The appropriate CIMM shall submit cataloging actions only for pest management materiel that has been approved by the AFPMB. Unapproved materiel shall be referred to the AFPMB for consideration.

E7.1.3. The DoD Components shall request approval of stocking of pest management materiel through command channels to the AFPMB. Such requests shall include the necessary technical and supply management information. Once approved by the AFPMB, the request shall be given to the CIMM for cataloging action. Proposals from the Components recommending revision to and deletion of pest management materiel from the supply system shall be submitted to the AFPMB in the same manner. When pest management materiel is decentralized for procurement from local sources, procuring activities shall ensure that item identification changes are proposed when such materiel requires changes to the Federal item identification. Proposed item identification changes shall be processed through the AFPMB to the CIMM. When items no longer are available for procurement, procurement activities shall inform the AFPMB so that deletion and replacement recommendations, when appropriate, can be made by the AFPMB through the appropriate CIMM.

E7.1.4. Except as specifically authorized in this Instruction, the Components may not procure or acquire pest management materiel that has not been approved by the AFPMB. NSNs will not be assigned to pest management materiel for DoD use that has not been approved by the AFPMB.

E7.1.5. When approved by the pest management consultant concerned, pest management materiel may be procured locally if needed for an emergency, required due to unique local situations, or used in quantities so small that assignment of an NSN is not feasible. Installations shall make every effort to use pest management materiel in the DoD Supply System before requesting local purchase authority. In answer to AFPMB data calls, the Components shall provide the AFPMB with memoranda listing all locally procured pest management materiel they have approved. The listings shall include the amount purchased, the proposed use, and any other information needed by the AFPMB. The AFPMB shall monitor the appropriateness of locally procured pest management materiel for use in the Department of Defense. When justified, the AFPMB shall request that an NSN be assigned to pest management materiel.

E7.1.6. The AFPMB shall base its decisions upon data from all available sources. When additional testing and evaluation are required, the U.S. Navy Bureau of Medicine and Surgery shall provide data from studies on user efficacy and military application of commercial equipment, and the U.S. Army Medical Department shall provide data from studies on pest management equipment engineering and durability.

E8. ENCLOSURE 8

CONTENT OF INSTALLATION PEST MANAGEMENT PLANS, SUGGESTED FORMAT

Installation pest management plans shall include the following basic elements listed below as the elements apply to each individual installation:

1. Cover Sheet

    a. Title

    b. Installation Name

    c. Approval and Technical Review (signatures):

        (1) Installation Pest Management Coordinator

        (2) Installation Environmental Coordinator

        (3) Installation Medical Officer

        (4) Senior Installation Engineer

        (5) Component Pest Management Consultants

        (6) Installation Commander

    d. Date of Last Annual Review

    e. Date of Last On-Site Review

2. Executive Summary

3. Installation Implementation Authority (Installation instruction, standard operating procedure, etc.), if applicable.

4. Introduction

    a. Objective of the pest management plan

    b. Installation description and mission

c. Responsibilities for conduct of the pest management program.

5. Pest Management Requirements and Strategies for Applicable Pest/Disease Vector Categories (for each pest/disease vector category describe the IPM strategy as outlined on page 6-6).

a. Disease Vectors and Other Health-Related Pests

b. General Household and Nuisance Pests

c. Structural Pests

d. Weed Control

e. Stored Products Pests

f. Pests of Ornamental Plants and Turf

g. Pests of Natural Resources

h. Golf Course Pests

i. Miscellaneous Pests

j. Vertebrate Pests

k. Other categories

6. Administration

a. Job Orders

b. Contracts

c. Inter-Service Support Agreements

d. Outleases

e. Resources (Current and Proposed)

(1) Funding

(2) Staffing

(3) Materials (Pesticides, Equipment, Supplies, etc.)

(4) Facilities

f. Reports and Records

g. Training Plans

h. Coordination with Food Service Managers, Maintenance Personnel, etc.

i. Termite Inspection Plan

7. Health and Safety Measures

a. Requirements

b. Methods to Reduce Potential Hazards to:

(1) Pest Management Personnel

(2) Installation Personnel (including housing occupants)

(3) Public

c. Safety and Health Measures Associated with the Pest Management/Control Shops.

d. Safety and Health Measures Associated with Pest Management Vehicles

8. Public Laws and Regulations

9. Coordination with other Organizations and Agencies

10. Measures for Compliance with Memorandum of Understanding with State Pesticide Regulatory Office(s)

11. Pest Management Operations with Special Environmental Considerations

a. Operations using Restricted Use Pesticides

b. Operations with Potential to Contaminate Surface or Groundwater

c. Operations more than 640 Acres.

d. Operations in Areas with Endangered or Protected Species

e. Operations involving Aerial Application

f. Operations involving Designated Noxious Weeds

g. Operations involving Experimental-Use Permits

h. Operations involving Environmentally Sensitive Areas

12. Other Pest Management Plan Issues

a. Applicable Pollution Control Projects

b. Applicable Pollution Abatement Procedures

c. Pesticides Sold in Commissaries and Exchanges

13. Pest Management Plan for Services Provided to other Activities or Installations

a. On Installation

b. Off Installation

14. Annexes

a. Installation Map

b. Annual Pesticide Procurement Approval Obtained from the Cognizant Component Pest Management Consultant prior to Procurement of Pesticides

c. Pesticide Inventory including pesticide name, manufacturer, unit of issue, concentration, quantity, NSN, etc.

d. Pesticide Labels, Material Safety Data Sheets, and Consumer Protection Information Sheets for Preservative Treated Wood Products

e. Operational Control and Maintenance Records from Previous Years

f. Applicable Instructions and Procedures

g. Contracting Standards, Specifications, and Statements of Work

h. Manpower Surveys

i. Shop Equipment and Sources

j. List of Safety Items and Personal Protective Equipment

k. Technical Information

l. Spill Plan and Pesticide Clean-up Guidance

m. Industrial Hygiene Surveys of Pest Management Shop

n. Cost Comparison Analyses

IPM PLAN OR STRATEGY OUTLINE

1. Pest or Disease Vector Problem

a. Target life stage or stages

b. Reason this pest or disease vector is a problem

2. Ongoing Monitoring Plan

a. Responsible organization or official

b. Techniques and procedures

c. Location or locations (specify)

d. Schedule

e. Threshold for management and/or control

3. IPM Strategy and Methods

a. Responsible organization or official

b. Nonchemical controls (biological, cultural, mechanical, etc.)

(1) Techniques or procedures

(2) Method of application, if applicable

(3) Sites/locations to receive non-chemical control

c. Pesticide Applications

(1) Common name

(2) EPA Registration number

(3) Formulation

(4) Percent of active ingredient

(5) Source or NSN

(6) Application concentration

(a) Finished formulation

(b) Diluent

(c) Application rate

(e) Method of application

(7) Location or locations to be treated. For each specific site include units (such as square feet or acres) treated, number of applications, schedule of treatment, and climate or weather constraints.

4. Evaluation Procedures and Standards Used to Verify the IPM Strategy such as Acceptable Quality Levels (AQL) for in-house functions or Maximum Defect Rates (MADR) for contractor performance.

5. Education Necessary for Installation Personnel to Support the IPM Strategy

6. Sensitive Areas (with respect to each pest or disease vector) to be:

   a. Avoided by either nonchemical or chemical controls.

   b. Treated with caution.

7. Special Health and Safety Measures Required.

8. Control Procedures that Require Pest Management Consultant Approval or Coordination.

9. Other Procedures such as Emergency Requirements for Control of Vector-borne Disease.

10. Manpower Requirement for IPM Strategy (include method used to identify the personnel required).

APPENDIX J

EXCERPT FROM DEPARTMENT OF DEFENSE INSTRUCTION 4165.57
AIR INSTALLATIONS COMPATIBLE USE ZONES

NUMBER 4165.57

November 8, 1977

ASD (MRA&L)

References:

(a) Department of the Air Force Manual 86-8, "Airfield and Airspace Criteria," November 10, 1964
(b) Department of the Navy Publication, NavFac P-272, "Definitive Designs for Naval Shore Facilities," July 1962
(c) Department of the Navy Publication, NavFac P-80, "Facility Planning Factor Criteria for Navy and Marine Corps Shore Installations"
(d) through (j), see enclosure 1

A. PURPOSE. This Instruction (1) sets forth Department of Defense policy on achieving compatible use of public and private lands in the vicinity of military airfields; (2) defines (a) required restrictions on the uses and heights of natural and manmade objects in the vicinity of air installations to provide for safety of flight and to assure that people and facilities are not concentrated in areas susceptible to aircraft accidents; and (b) desirable restrictions on land use to assure its compatibility with the characteristics, including noise, of air installations operations; (3) describes the procedures by which Air Installations Compatible Use Zones (AICUZ) may be defined;and (4) provides policy on the extent of Government interest in real property within these zones which may be retained or acquired to protect the operational capability of active military airfields (subject in each case to the availability of required authorizations and appropriations).

B. APPLICABILITY. This Instruction applies to air installations of the Military Departments located within the United States, its territories, trusts, and possessions.

C. CRITERIA

1. General. The Air Installations Compatible Use Zone for each military air installation shall consist of (a) land areas upon which certain uses may obstruct the airspace or otherwise be hazardous to aircraft operations, and (b) land areas which are exposed to the health, safety or welfare hazards of aircraft operations.

2. Height of Obstructions. The land area and height standards defined in AFM 86-8 (reference (a)), NavFac P-272 (reference (b)), and P-8O (reference (c)), and TM 5-803-4 (reference (d)) will be used for purposes of height restriction criteria.

3. Accident Potential

a. General

(1) Areas immediately beyond the ends of runways and along primary flight paths are subject to more aircraft accidents than other areas. For this reason, these areas should remain undeveloped, or if developed should be only sparsely developed in order to limit, as much as possible, the adverse effects of a possible aircraft accident.

(2) DoD fixed wing runways are separated into two types for the purpose of defining accident potential areas. Class A runways are those restricted to light aircraft (see enclosure 2) and which do not have the potential for development for heavy or high performance aircraft use or for which no foreseeable requirements for such use exists. Typically these runways have less than 10% of their operations involving Class B aircraft (enclosure 2) and are less than 8000 feet long. Class B runways are all other fixed wing runways.

(3) The following descriptions of Accident Potential Zones are guidelines only. Their strict application would result in increasing the safety of the general public but would not provide complete protection against the effects of aircraft accidents. Such a degree of protection is probably impossible to achieve. Local situations may differ significantly from the assumptions and data upon which these guidelines are based and require individual study. Where it is desirable to restrict the density of development of an area, it is not usually possible to state that one density is safe and another is not. Safety is a

relative term and the objective should be the realization of the greatest degree of safety that can be reasonably attained.

b. Accident Potential and Clear Zones (See Enclosure 3)

(1) The area immediately beyond the end of a runway is the "Clear Zone," an area which possesses a high potential for accidents, and has traditionally been acquired by the Government in fee and kept clear of obstructions to flight.

(2) Accident Potential Zone I (APZ I) is the area beyond the clear zone which possesses a significant potential for accidents.

(3) Accident Potential Zone II (APZ II) is an area beyond APZ I having a measurable potential for accidents.

(4) Modifications to APZs I and II will be considered if:

(a) The runway is infrequently used.

(b) The prevailing wind conditions are such that a large percentage (i.e., over 80 percent) of the operations are in one direction.

(c) Most aircraft do not overfly the APZs as defined herein during normal flight operations (modifications may be made to alter these zones and adjust them to conform to the line of flight).

(d) Local accident history indicates consideration of different area.

(e) Other unusual conditions exist.

(5) The takeoff safety zone for VPR rotary-wing facilities will be used for the clear zone; the remainder of the approach-departure zone will be used as APZ 1.

(6) Land use compatibility with clear zones and APZs is shown in enclosure 4.

4. Noise

a. General. Noise exposure is described in various ways. In 1964, the Department of Defense began using the

Composite Noise Rating (CNR) system to describe aircraft noise. Several years ago the Noise Exposure Forecast (NEF) system began to replace CNR. In August 1974, the Environmental Protection Agency notified all Federal agencies of intent to implement the Day-Night Average Sound Level (Ldn) noise descriptor, and this was subsequently adopted by the DoD. This Ldn system will be used for air installations. Where AICUZ studies have been published using the CNR of NEF systems or where studies have progressed to the point that a change in the descriptor system is impractical or uneconomical, such studies may be published and continued in use. However, in such cases, data necessary for conversion to Ldn should be collected and studies should be revised as soon as time and budgetary considerations permit. However, if state or local laws require some other noise descriptor, it may be used in lieu of Ldn.

b. Noise Zones

(1) As a minimum, contours for Ldn 65, 70, 75 and 80 shall be plotted on maps as part of AICUZ studies.

(2) See section G. for a further discussion of Ldn use and conversion to Ldn from previously used systems.

D. POLICY

1. General. As a first priority step, all reasonable, economical and practical measures will be taken to reduce and/or control the generation of noise from flying and flying-related activities. Typical measures normally include siting of engine test and runup facilities in remote areas if practical and provision of sound suppression equipment where necessary, and may include additional measures such as adjustment of traffic patterns to avoid built-up areas where such can be accomplished with safety and without significant impairment of operational effectiveness. After all reasonable noise source control measures have been taken, there will usually remain significant land areas wherein the total noise exposure is such as to be incompatible with certain uses.

2. Compatible Use Land

a. General

(1) DoD policy is to work toward achieving compatibility between air installations and neighboring civilian

communities by means of a compatible land use planning and control process conducted by the local community.

(2) Land use compatibility guidelines will be specified for each Clear Zone, Accident Potential Zone, Noise Zone and combination of these as appropriate.

(3) The method of control and regulation of land usage within each zone will vary according to local conditions. In all instances the primary objective will be to identify planning areas and reasonable land use guidelines which will be recommended to appropriate agencies who are in control of the planning functions for the affected areas.

b. Property Rights Acquisition

(1) General. While noise generated by aircraft at military air installations should be an integral element of land use compatibility efforts, the acquisition of property rights on the basis of noise by the Department of Defense may not be in the long term best interests of the United States. Therefore, while the complete requirement for individual installations should be defined prior to any programming actions, acquisition of interests should be programmed in accordance with the following priorities.

(2) Priorities

(a) The first priority is the acquisition in fee and/or appropriate restrictive easements of lands within the clear zones whenever practicable.

(b) Outside the clear zone, program for the acquisition of interests first in Accident Potential Zones and secondly in high noise areas only when all possibilities of achieving compatible use zoning, or similar protection, have been exhausted and the operational integrity of the air installation is manifestly threatened. If programming actions are considered necessary, complete records of all discussions negotiations, testimony, etc., with or before all local officials, boards, etc., must be maintained. This will ensure that documentation is available to indicate that all reasonable and prudent efforts were made to preclude incompatible land use through cooperation with local government officials and that all recourse to such action has been exhausted. Such records shall accompany programming actions and/or apportionment requests for items programmed prior to the date of this Instruction. In addition, a

complete economic analysis and assessment of the future of the installation must be included.

(i) Costs of establishing and maintaining compatible use zones must be weighed against other available options, such as changing the installation's mission and relocating the flying activities, closing the installation, or such other courses of action as may be available. In performing analyses of this type, exceptional care must be exercised to assure that a decision to change or relocate a mission is fully justified and that all aspects of the situation have been thoroughly considered.

(ii) When, as a result of such analysis, it is determined that relocation or abandonment of a mission will be required, then no new construction shall be undertaken in support of such activities except as is absolutely necessary to maintain safety and operational readiness pending accomplishment of the changes required.

(3) Guidelines. This Instruction shall not be used as sole justification for either the acquisition or the retention of owned interests beyond the minimum required to protect the Government.

(a) Necessary rights to land within the defined compatible use area may be obtained by purchase, exchange, or donation, in accordance with all applicable laws and regulations.

(b) If fee title is currently held or subsequently acquired in an area where compatible uses could be developed and no requirement for a fee interest in the land exists except to prevent incompatible use, disposal actions shall normally be instituted. Only those rights and interests necessary to establish and maintain compatible uses shall be retained. Where proceeds from disposal would be inconsequential, consideration may be given to retaining title.

(c) If the cost of acquiring a required interest approaches closely the cost of fee title, consideration shall be given to whether acquisition of fee title would be to the advantage of the Government.

3. Rights and Interests Which May Be Obtained. When it is determined to be necessary for the Federal Government to acquire interests in land, a careful assessment of the type of interest to be acquired is mandatory. Section F. of this Instruction

contains a listing of possible interests which should be examined for applicability.

4. Environmental Impact Statements

a. Any actions taken with respect to safety of flight, accident hazard, or noise which involve acquisition of interests in land must be examined to determine the necessity of preparing an environmental impact statement in accordance with DoD Directive 6050.1, "Environmental Considerations in DoD Actions," March 19, 1974 (reference (e)).

b. All such environmental impact statements must be forwarded to appropriate Federal and local agencies for review in accordance with reference (e).

c. Coordination with local agencies will be in accordance with OMB Circular A-95 (reference (f)).

E. THE AIR INSTALLATION COMPATIBLE USE PROGRAM

1. The Secretaries of the Military Departments will develop, implement and maintain a program to investigate and study all air installations in necessary order of priority to develop an Air Installation Compatible Use Zone (AICUZ) program for each air installation consistent with Section D. AICUZ studies which contain an analysis of land use compatibility problems and potential solutions shall be developed and updated as necessary. As a minimum, each study shall include the following:

a. Determination by detailed study of flight operations, actual noise and safety surveys if necessary, and best available projections of future flying activities, desirable restrictions on land use due to noise characteristics and safety of flight;

b. Identification of present incompatible land uses;

c. Identification of land that if inappropriately developed would be incompatible;

d. Indication of types of desirable development for various land tracts;

e. Land value estimates for the zones in question.

f. Review of the airfield master plans to ensure that existing and future facilities siting is consistent with the policies in this Instruction.

g. Full consideration of joint use of air installations by activities of separate Military Departments whenever such use will result in maintaining operational capabilities while reducing noise, real estate and construction requirements.

h. Recommendations for work with local zoning boards, necessary minimum programs of acquisition, relocations, or such other actions as are indicated by the results of the study.

2. Procedures. In developing AICUZ Studies the Secretaries of Military Departments shall:

a. Follow the review and comment procedures established under OMB Circular A-95 (reference (f));

b. Ensure that appropriate environmental factors are considered; and

c. Ensure that other local, state, or Federal agencies engaged in land use planning or land regulation for a particular area have an opportunity to review and comment upon any proposed plan or significant modification thereof.

3. Coordination with State and Local Governments. Secretaries of the Military Departments shall develop procedures for coordinating AICUZ Studies with the land use planning and regulatory agencies in the area. Developing compatible land use plans may require working with local governments, local planning commissions, special purpose districts, regional planning agencies, state agencies, state legislatures, as well as the other Federal agencies. Technical assistance to local, regional, and state agencies to assist them in developing their land use planning and regulatory processes, to explain an AICUZ Study and its implications, and generally to work toward compatible planning and development in the vicinity of military air fields, should be provided.

4. Property Rights Acquisition. The AICUZ Study shall serve as the basis for new land acquisitions, property disposal, and other proposed changes in Military Departments real property holdings in the vicinity of military airfields where applicable.

5. Required Approvals. Based on the results of the AICUZ Studies, each Military Department will prepare recommendations for individual installations AICUZ programs for approval as follows:

a. The Secretaries of the Military Departments or their designated representatives will review and approve the AICUZ Studies establishing the individual air installation AICUZ program.

b. When relocation or abandonment of a mission or an installation is apparently required, the Secretaries of the Military Departments will submit the proposed plan for the installation, with appropriate recommendations, to the Secretary of Defense for approval.

c. A time-phased fiscal year plan for implementation of the AICUZ program in priority order, consistent with budgetary considerations, will be developed for approval by the Secretary of the Military Departments, or their designated representatives. These plans will serve as the basis for all AICUZ actions at the individual installations.

6. Coincident Actions. The Secretaries of the Military Departments will also take action to assure in accordance with section D.1. and D.2. that:

a. As the first priority action in developing an AICUZ program, full attention is given to safety and noise problems.

b. In all planning, acquisition, and siting of noise generating items, such as engine test stands, full advantage is taken of available alleviating measures, such as remote sites or sound suppression equipment.

c. The noise exposure of on-installation facilities personnel are considered together with that off the installation.

d. There is development or continuation with renewed emphasis of programs to inform local governments, citizens groups, and the general public of the requirements of flying activities, the reasons therefore, the efforts which may have been made or may be taken to reduce noise exposure, and similar matters which will promote and develop a public awareness of the complexities of air installation operations, the problems associated therewith, and the willingness of the Department of

Defense to take all measures possible to alleviate undesirable external effects.

7. Responsibilities for the acquisition, management, and disposal of real property are defined in DoD Directive 4165.6, "Real Property, Acquisition, Management and Disposal," December 22, 1976 (reference (g)).

8. The Deputy Assistant Secretary of Defense (Installations and Housing) will examine the program developed pursuant to this Instruction, and from time to time review the progress thereunder to assure conformance with policy.

F. REAL ESTATE INTERESTS TO BE CONSIDERED FOR CLEAR ZONES AND ACCIDENT POTENTIAL ZONE

1. The right to make low and frequent flights over said land and to generate noises associated with:

a. Aircraft in flight, whether or not while directly over said land,

b. Aircraft and aircraft engines operating on the ground at said base, and

c. Aircraft engine test/stand/cell operations at said base.

2. The right to regulate or prohibit the release into the air of any substance which would impair the visibility or otherwise interfere with the operations of aircraft, such as, but not limited to, steam, dust, and smoke.

3. The right to regulate or prohibit light emissions, either direct or indirect (reflective), which might interfere with pilot vision.

4. The right to prohibit electrical emissions which would interfere with aircraft and aircraft communications systems or aircraft navigational equipment.

5. The right to prohibit any use of the land which would unnecessarily attract birds or waterfowl, such as, but not limited to, operation or sanitary landfills, maintenance of feeding stations or the growing of certain types of vegetation attractive to birds or waterfowl.

6. The right to prohibit and remove any buildings or other nonfrangible structures.

7. The right to top, cut to ground level, and to remove trees, shrubs, brush, or other forms of obstruction which the installation commander determines might interfere with the operation of aircraft, including emergency landings.

8. The right of ingress and egress upon, over and across said land for the purpose of exercising the rights set forth herein.

9. The right to post signs on said land indicating the nature and extent of the Government's control over said land.

10. The right to prohibit land uses other than the following:

a. Agriculture.

b. Livestock grazing.

c. Permanent open space.

d. Existing water areas.

e. Rights or way for fenced two lane highways, without sidewalks or bicycle trails and single track railroads.

f. Communications and utilities right of way, provided all facilities are at or below grade.

11. The right to prohibit entry of persons onto the land except in connection with activities authorized under 1., 2., 3., and 6., of this section.

12. The right to disapprove land uses not in accordance with enclosure 4.

13. The right to control the height of structures to insure that they do not become a hazard to flight.

14. The right to install airfield lighting and navigational aids.

G. AIR INSTALLATIONS COMPATIBLE USE ZONE NOISE DESCRIPTORS

1. Composite Noise Rating (CNR) and Noise Exposure Forecast (NEF) values as previously required by Sections III., IV., and V. of DoD Instruction 4165.57, "Air Installations Compatible Use Zones," July 30, 1973 (reference (j)) will no longer be used.

2. Where CNR 100 (or the quietest boundary of CNR Zone 2 if otherwise computed) or NEF 30 would previously have been used, data shall be collected sufficient to permit computation of Ldn 65 noise contours and these noise contours shall be plotted on maps accompanying AICUZ studies.

3. Where CNR 115 (or the boundary of CNR Zone 3 if otherwise computed) or NEF 40 would previously have been used, data shall be collected sufficient to permit computation of Ldn 75 noise contours, and these noise contours shall be plotted on maps accompanying AICUZ studies.

4. Where previous studies have used CNR or NEF, for matters of policy, noise planning and decision making, areas quieter than Ldn 65 shall be considered approximately equivalent to the previously used CNR Zone 1 and to areas quieter than NEF 30. The area between Ldn 65 and Ldn 75 shall be considered approximately equivalent to the previously used CNR Zone 2 and to the area between NEF 30 and 40. The area of higher than Ldn 75 shall be considered approximately equivalent to the previously used CNR Zone 3 and to noise higher than NEF 40. The procedures shall remain in effect only until sufficient data to compute Ldn values can be obtained.

5. When computing helicopter noise levels using data collected from meters, a correction of +7db shall be added to meter readings obtained under conditions where blade slap was present until and unless meters are developed which more accurately reflect true conditions.

6. Noise contours less than Ldn 65 or more than Ldn 80 need not be plotted for AICUZ studies.

7. Since CNR noise levels are not normally directly convertible to Ldn values without introducing significant error, care should be exercised to assure that personnel do not revise previous studies by erroneously relabeling CNR contours to the approximately equivalent Ldn values.

8. Where intermittent impulse noises are such as are associated with bombing and gunnery ranges are of importance, such noises will be measured using standard "C" weighting of the various frequencies to insure a description most representative of actual human response.

H. EFFECTIVE DATE AND IMPLEMENTATION. This Instruction is effective immediately. Forward two copies of implementing regulations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) within 90 days. (Final Rule of this Instruction was published in the Code of Federal Regulations under 32 CFR 256.)

JOHN P. WHITE
Assistant Secretary of
Defense (Manpower,
Reserve Affairs and
Logistics)

Enclosures - 4
1. List of additional references.
2. Runway Classification by Aircraft Types.
3. Accident Potential Zone Guidelines.
4. Land Use Compatibility Guidelines for Accident Potential Zones.

Enclosure 1

Additional References

(d) Department of the Army Technical Manual, TM 5-803-4, "Planning of Army Aviation Facilities, "March 1970

(e) DoD Directive 6050.1, "Environmental Considerations in DoD Actions," March l9, 1974

(f) Office of Management and Budget Circular A-95, "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects," February 9, 1971

(g) DoD Directive 4165.6, "Real Property, Acquisition, Management, and Disposal," December 22, 1976

(h) DoD Instruction 4170.7, "Natural Resources - Forest Management," June 2l, 1965

(i) DoD Instruction 7310.1, "Accounting and Reporting for Property Disposal and Proceeds from Sale of Disposable Personal Property and Lumber or Timber Products," July 10, 1970

(j) DoD Instruction 4165.57, "Air Installations Compatible Use Zones," July 30, 1973 (hereby canceled)

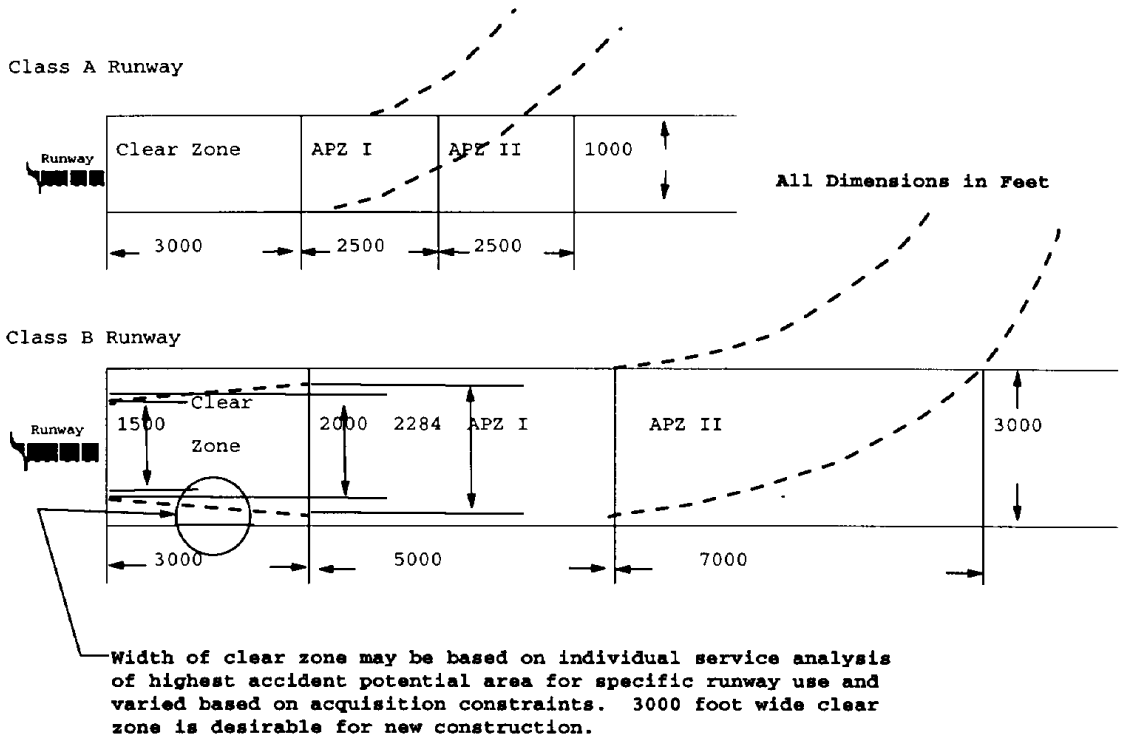
Enclosure 2

Runway Classification by Aircraft Type

Class A Runways		Class B Runways		
S-2	U-10	A-1	F-106	C-121
VC-6	U-11	A-3	F-5	EC-121
C-1	LU-16	A-4	F-15	WC-121
C-2	TU-16	A-5		C-123
TC-4C	HU-16	A-6	S-3	C-130
C-7	U-21	A-7	T-29	HC-130B
C-8	QU-22	A-38	T-33	C-131
C-l2	E-l	AV-8	T-37	C-140
C-47	E-2	P-2	T-39	C-5A
C-117	0-1	P-3	T-1	KC-97
U-1	0-2	F-9	T-2	C-124
U-3	0V-l	F-14	T-38	EC-130E
U-6	0V-l0	F-4	B-52	HC-130
U-8	T-28	F-8	B-57	C-135
U-9	T-34	F-111	B-57F	VC-137
	T-41			
	T-42	YF-12	B-66	C-141
		SR-71	C-9	KC-135
		F-100	C-54	EC-135
		F-101	C-97	RC-135
		F-102	C-118	U-2
		F-104	C-119	
		F-105		

Accident Potential Zone Guidelines}

Accident Potential Zone Guidelines



Enclosure 4

Land Use Compatibility Guidelines for Accident Potential Zones and Footnotes

Land Use Category	Compatibility1		
	Clear Zone	APZ I	APZ II
Residential			
Single family	NO	NO	YES2
2-4 family	NO	NO	NO
Multi-family dwellings	NO	NO	NO
Group quarters	NO	NO	NO
Residential hotels	NO	NO	NO
Mobile home parks or courts	NO	NO	NO
Other residential	NO	NO	NO
Industrial/Manufacturing3			
Food and kindred products	NO	NO	YES
Textile mill products	NO	NO	YES
Apparel	NO	NO	NO

1 A "Yes" or "No" designation for compatible land use in to be used only for gross comparison. Within each, uses exit where further definition may be needed as to whether it is clear or normally acceptable/unacceptable owing to variations in densities of people and structures.

2 Suggested maximum density 1-2 DU/AC, possibly increased under a Planned Unit Development where maximum lot covered less than 20%.

3 Factors to be considered: Labor intensity, structural coverage, explosive characteristics, air pollution.

Lumber and wood products	NO	YES	YES
Furniture and Fixtures	NO	YES	YES
Paper and allied products	NO	YES	YES
Printing, publishing	NO	YES	YES
Chemicals and allied products	NO	NO	NO
Petroleum refining and related industries	NO	NO	NO
Rubber and misc. plastic goods	NO	NO	NO
Stone, clay, and glass products	NO	YES	YES
Primary metal industries	NO	YES	YES
Fabricated metal products	NO	YES	YES
Professional, scientific, and controlling instruments	NO	NO	NO
Misc. manufacturing	NO	YES	YES
Transportation, Communications & Utilities[4]			
Railroad, rapid rail transit (on-grade)	NO	YES[4]	YES
Highway and street ROW	YES	YES	YES
Auto parking	NO	YES	YES
Communication	YES	YES	YES
Utilities	YES	YES[4]	YES
Other transportation, communications & utilities	YES	YES	YES
Commercial/retail trade			
Wholesale trade	NO	YES	YES

4 No passenger terminals and no major above ground transmission lines in APZ I.

Building materials-retail	NO	YES	YES
General merchandise-retail	NO	NO	YES
Food-retail	NO	NO	YES
Automotive, marine, aviation-retail	NO	YES	YES
Apparel and accessories-retail	NO	NO	YES
Furniture, home furnishing-retail	NO	NO	YES
Eating and drinking places	NO	NO	NO
Other retail trade	NO	NO	YES
Personal and Business Services5			
Finance, insurance, and real estate	NO	NO	YES
Personal services	NO	NO	YES
Business services	NO	NO	YES
Repair services	NO	YES	YES
Professional services	NO	NO	YES
Contract construction services	NO	YES	YES
Indoor recreation services	NO	NO	YES
Other services	NO	NO	YES
Public and Quasi-Public Services			
Government services	NO	NO	YES[5]
Educational services	NO	NO	NO
Cultural activities	NO	NO	NO
Medical and other health services	NO	NO	NO

5 Low intensity office uses only. Meeting places, auditoriums, etc., not recommended.

Cemeteries	NO	YES[6]	YES[6]
Non-profit organization incl. churches	NO	NO	NO
Other public and quasi-public services	NO	NO	YES

6 Excludes chapels.

Outdoor Recreation			
Playground's neighboring parks	NO	NO	YES
Community and regional parks	NO	YES[7]	YES[7]
Nature exhibits	NO	YES	YES
Spectator sports incl. arenas	NO	NO	NO
Golf course[8], riding stables[9]	NO	YES	YES
Water based recreational areas	NO	YES	YES
Resort and group camps	NO	NO	NO
Entertainment assembly	NO	NO	NO
Other outdoor recreation	NO	YES[7]	YES
Resource Production & Extraction and Open Land			
Agriculture[10]	YES	YES	YES
Livestock farming, animal breeding[11]	NO	YES	YES
Forestry activities[12]	NO[13]	YES	YES

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7 Facilities must be low intensity.
8 Clubhouse not recommended.
9 Concentrated rings with large classes not recommended.
10 Includes livestock grazing but excludes feedlots and intensive animal husbandry.
11 Includes feedlots and intensive animal husbandry.
12 No structures (except airfield lighting), buildings or above ground utility/communication lines should be located in the clear to the clear zone. For further runaway safety clearance limitations pertaining to the clear zone see AFM 86-6 (reference (a)), TM 5-803- 4 (reference (d)) and NAVFAC P-80 (reference (c)).
13 Lumber and timber products removed due to establishment, expansion or maintenance of clear zones will be disposed of in accordance with DoD Instruction 4170.7, "Natural Resources - Forest Management," June 21, 1965 (reference (h)) and DoD Instruction 7310.1, "Accounting and Reporting for Property Disposal and Proceeds from Sale of Disposable Personal Property and Lumber or Timber Products, " July 10, 1970 (reference (I))

Fishing activities & related services[14]	NO15	YES[14]	YES
Mining activities	NO	YES	YES
Permanent open space	YES	YES	YES[14]
Water areas[14]	YES	YES	YES

14 Includes hunting and fishing.

15 Controlled hunting and fishing may be permitted for the purpose of wildlife control.

APPENDIX K

EXCERPT FROM DEPARTMENT OF DEFENSE INSTRUCTION 4715.5,
MANAGEMENT OF ENVIRONMENTAL COMPLIANCE AT OVERSEAS INSTALLATIONS

NUMBER 4715.5

April 22, 1996

USD(A&T)

SUBJECT: Management of Environmental Compliance at Overseas Installations

References: (a) DoD Directive 6050.16, "DoD Policy for Establishing and Implementing Environmental Standards at Overseas Installations," September 20, 1991 (canceled)
(b) DoD Directive 4715.1, "Environmental Security," February 24, 1996
(c) Section 342(b) of Public Law 101-510, "National Defense Authorization Act Fiscal Year 1991," November 4, 1990, referred to in 10 U.S.C. 2701, note
(d) Executive Order 12344, "Naval Nuclear Propulsion Program," February 1, 1982
(e) through (m), see enclosure 1

1. PURPOSE. This Instruction:

1.1. Replaces reference (a), which was canceled by reference (b).

1.2. As required by reference (c), implements policy, assigns responsibilities, and prescribes procedures under reference (b), establishing environmental compliance standards for protection of human health and the environment at DoD installations in foreign countries.

1.3. Provides for designation of DoD Environmental Executive Agents in accordance with subsection 6.1., below.

2. APPLICABILITY AND SCOPE

2.1. This Instruction:

2.1.1. Applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities, including any other integral DoD organizational entity or instrumentality established to perform a governmental function (hereafter referred to collectively as "the DoD Components").

2.1.2. Applies to the actions of the DoD Components at installations outside the United States, its territories, and possessions.

2.1.3. Does not apply to DoD installations that do not have the potential to affect the natural environment (e.g., offices whose operations are primarily administrative, including defense attach, offices, security assistance offices, foreign buying offices, and other similar organizations) or for which the DoD Components exercise control only on a temporary or intermittent basis.

2.1.4. Does not apply to the operations of U.S. military vessels, to the operations of U.S. military aircraft, or to off-installation operational and training deployments. Off-installation operational deployments include cases of hostilities, contingency operations in hazardous areas, and when United States forces are operating as part of a multi-national force not under full control of the United States. Such excepted operations and deployments shall be conducted in accordance with applicable international agreements, other DoD Directives and Instructions and environmental annexes incorporated into operation plans or operation orders. However, it does apply to support functions for U.S. military vessels and U.S. military aircraft provided by the DoD Components, including management or disposal of off-loaded waste or material.

2.1.5. Does not apply to facilities and activities associated with the Naval Nuclear Propulsion Program, which are covered under E.O. 12344 (reference (d)) and conducted under 42 U.S.C. 7158 (reference (e)).

2.1.6. Does not apply to the determination or conduct of remediation to correct environmental problems caused by the Department of Defense's past activities.

2.1.7. Does not apply to environmental analyses conducted under E.O. 12114 (reference (f)).

2.2. Nothing in this Instruction shall create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

3. DEFINITIONS. Terms used in this Instruction are defined in enclosure 2.

4. POLICY. It is DoD policy under reference (b) that:

4.1. The Department of Defense shall establish, maintain, and, as described in subsection 6.3., below, comply with Final Governing Standards (FGS) to protect human health and the environment for each foreign country where the Department of Defense maintains substantial installations. Using the procedures described in section 6., below, the FGS will reconcile the requirements of applicable international agreements, applicable host-nation environmental standards under E.O. 12088 (reference (g)), and the Overseas Environmental Baseline Guidance Document (OEBGD).

4.2. The DoD Components shall not dispose of wastes overseas that are generated by overseas DoD actions and that are considered hazardous under either U.S. law or host-nation standards without concurrence, as set out in subsection 6.4., below, of the nation where the disposal takes place.

4.3. Pollution prevention shall be the preferred means for attaining compliance, where economically advantageous and consistent with mission requirements.

4.4. The DoD Components shall use cooperative solutions for environmental facilities or services (e.g., waste storage and disposal facilities, solid waste collection and disposal services, water or wastewater treatment works), where economically advantageous and consistent with mission requirements, to include the use of acquisition authority and

cross-servicing agreements negotiated under DoD Directive 2010.9 (reference (h)).

4.5. The DoD Components should use commercially proven solutions, where possible, to achieve, maintain, and monitor compliance.

4.6. The DoD Components shall establish and conduct a program for regular assessment of environmental compliance at installations overseas.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Acquisition and Technology, in coordination with the Chairman of the Joint Chiefs of Staff and the Under Secretary of Defense for Policy, shall have authority and responsibility for DoD environmental policy for overseas installations and shall coordinate DoD environmental policy for overseas installations with the other DoD Components, the Department of State, and other Federal Agencies, as appropriate.

5.2. The Deputy Under Secretary of Defense for Environmental Security shall implement this Instruction on behalf of the Under Secretary of Defense for Acquisition and Technology and shall:

5.2.1. Designate DoD Environmental Executive Agents as set out in subsection 6.1., below.

5.2.2. Resolve issues raised by environmental policy principals of the DoD Components under subsection 6.9., below.

5.2.3. Provide policy and guidance, oversight, advocacy, and representation for environmental security compliance programs.

5.2.4. Monitor compliance with this Instruction, including development of appropriate Measures of Merit and periodic review of the compliance programs of the DoD Components.

5.3. The Heads of the DoD Components shall:

5.3.1. Ensure actions at installations in foreign countries, including administration and support under 10 U.S.C. 165 (reference (i)) of forces assigned to the Unified Combatant

Commanders, as well as planning, budgeting, programming, and execution, comply with the applicable standards described in subsections 4.4. and 4.5., above.

5.3.2. Carry out the responsibilities of Executive Agents for particular nations when designated by the Department of Defense or delegate such authority as provided in paragraph 5.3.5., below, including the following:

5.3.2.1. Plan, budget, and program for preparation and maintenance of the FGS.

5.3.2.2. Identify applicable host-nation environmental standards, monitor regulatory trends, and maintain copies of applicable host-nation environmental documents, standards, and regulations.

5.3.2.3. Consult with host-nation authorities on environmental issues, as required, to maintain effective cooperation on environmental matters.

5.3.2.4. Consult with the Chief of the U. S. Diplomatic Mission in the host nation, the affected Military Service through the chain of command, and the geographic Unified Combatant Command on significant issues arising from DoD environmental policy in that country.

5.3.2.5. Prepare and maintain the FGS for the designated host nation, technical, legal and programmatic support to the process.

5.3.2.6. Resolve requests for waivers from the DoD Components under subsection 6.4., below.

5.3.2.7. Keep DoD Components informed of current environmental developments and trends.

5.3.3. Provide technical, legal and programmatic support to the process for maintenance of the OEBGD.

5.3.4. Establish and implement an environmental compliance assessment program for overseas installations that will include internal and external environmental assessments. Conduct internal self-assessments at least annually. Conduct external compliance self-assessments at least once every three years at all major installations.

5.3.5. Designate Component Commanders or other officials who are authorized to apply for waivers under subsection 6.6., below, or to initiate appeals under subsection 6.9., below.

5.3.6. Promptly notify the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)) and all affected elements of command of significant environmental events.

5.3.7. Coordinate with, cooperate with, and provide timely notice to each other regarding environmental items of common interest affecting overseas installations.

5.4. The Secretary of the Air Force shall have lead responsibility for maintaining the OEBGD, including printing and distribution of any revisions.

5.5. The Commanders of the Unified Combatant Commands shall:

5.5.1. Coordinate and approve implementation of this Instruction by the DoD Environmental Executive Agents in their geographic areas of responsibility, as necessary, to carry out their mission.

5.5.2. Resolve disputes between the DoD Components and the Executive Agent as provided in subsection 6.9., below.

6. PROCEDURES

6.1. Designation of DoD Environmental Executive Agents

6.1.1. The DUSD(ES) shall designate a DoD Component as the DoD Environmental Executive Agent for environmental matters in foreign countries where DoD installations are located and where the DUSD(ES) determines that the level of DoD presence justifies establishment of FGS. Current designations are listed in enclosure 3.

6.1.2. Military Departments, the Unified Combatant Commander or an appropriate component or subunified commander may be designated as DoD Environmental Executive Agent. When a Military Department is designated as Executive Agent, the Department should delegate authority via the chain of command to an appropriate general or flag-level commander.

6.1.3. Each Unified Combatant Commander with a geographic area of responsibility encompassing foreign countries may recommend changes adding, substituting or eliminating DoD Environmental Executive Agents. Such recommendations shall be submitted to the Chairman of the Joint Chiefs of Staff for coordination with the Military Departments prior to submittal to DUSD(ES).

6.1.4. The DUSD(ES) shall coordinate with the Chairman of the Joint Chiefs of Staff and any affected DoD Components before adding, substituting, or eliminating DoD Environmental Executive Agents.

6.2. Maintenance of the Overseas Environmental Baseline Guidance Document

6.2.1. The Department of Defense shall establish, maintain, and, as described in subsection 6.3.8., below, comply with the OEBGD. The OEBGD shall be designed to protect human health and the environment; shall consider generally accepted environmental standards applicable to DoD installations, facilities, and actions in the United States; and shall incorporate requirements of U.S. law that have extraterritorial application to the Department of Defense.

6.2.2. The OEBGD shall be reviewed as needed, but at least biennially, to ensure that it protects human health and the environment, and reflects consideration of current, generally accepted environmental standards applicable to similar DoD installations and actions in the United States, and incorporates requirements of U.S. law that have extraterritorial application.

6.2.3. The Department of the Air Force shall conduct the OEBGD review process, chairing a multidisciplinary committee consisting of, at a minimum, representatives of the Military Departments, the Chairman of the Joint Chiefs of Staff, and the Defense Logistics Agency. Field comments will be solicited during the review process.

6.2.4. Revisions to the OEBGD proposed by the committee shall be forwarded to DUSD(ES) for coordination, final approval, and distribution, in accordance with DoD 5025.1-M (reference (j)), to the DoD Components and DoD Environmental Executive Agents.

6.3. Development and Maintenance of Final Governing Standards for Overseas Installations

6.3.1. The DoD Components in a foreign nation shall consult with other DoD Components with similar environmental issues and shall coordinate environmental matters with the environmental executive agent designated under this Instruction.

6.3.2. The DoD Environmental Executive Agent shall identify applicable host nation environmental standards. In identifying these standards, the DoD Environmental Executive Agent shall:

6.3.2.1. Identify published host-nation law, including transnational enforceable standards, and applicable international agreements for the protection of human health and the environment within the host nation.

6.3.2.2. Determine the extent to which the host-nation environmental standards are adequately defined and generally in effect and enforced against host-government and private sector activities. Laws of local governmental units are not included unless they implement national laws that delegate authority to, or recognize the authority of, the local governmental unit.

6.3.2.3. Consider whether responsibility for construction, maintenance, and operation of the installation rests with the United States or the host nation.

6.3.3. The DoD Environmental Executive Agent shall determine the Final Governing Standards as follows:

6.3.3.1. The DoD Environmental Executive Agent shall use the OEBGD to establish the FGS unless the OEBGD is inconsistent with applicable host-nation environmental standards or standards under applicable international agreements and these other applicable standards provide more protection to human health and the environment. In case of inconsistency, the DoD Executive Agent shall normally use the more protective standard to establish the FGS unless a specific international agreement with the host nation establishes a different standard applicable to U.S. installations.

6.3.3.2. The DoD Environmental Executive Agent normally should base the comparison of standards on individual standards. Where, however in the judgment of the Executive Agent, a standard cannot be considered individually because it is part of a comprehensive regulatory regime for a particular environmental

subject, the comparison may be made on a broader scope. In such cases, the Executive Agent may compare the overall regulatory regime for the threat to human health or the environment in the OEBGD with the corresponding regulatory regime of the applicable host nation environmental standards or standards under applicable international agreements. The more protective regime normally shall then be used to establish the FGS.

6.3.3.3. If a particular environmental threat is not addressed by the OEBGD but is addressed by relevant host-nation environmental standards or standards under applicable international agreements, the DoD Environmental Executive Agent shall consider the applicable host-nation environmental standards or standards under applicable international agreements to establish the FGS. Until the DoD Environmental Executive Agent establishes a standard for that threat in the FGS, the host nation or international agreement standard shall apply.

6.3.4. The DoD Environmental Executive Agent shall issue the FGS after consultation with the appropriate in-country or theater representatives of the other DoD Components operating in the country, approval of the Unified Combatant Commander, and notification to the U.S. Diplomatic Mission.

6.3.5. The DoD Components in a foreign nation for which FGS have been established shall comply with the FGS established for that country.

6.3.6. The DoD Environmental Executive Agent shall revalidate and update the FGS on a periodic basis, but at least every two years.

6.3.7. The DoD Environmental Executive Agent shall forward a copy of the new or revised FGS for each country via the Unified Combatant Commander and the Chairman of the Joint Chiefs of Staff to the Military Departments and DUSD(ES) for information.

6.3.8. The DoD Components in a foreign nation for which no FGS have been established shall comply with applicable international agreements, applicable host nation environmental standards under E.O. 12088 (reference (g)), and the OEBGD, and in cases of conflicting requirements, shall comply with the standard that is more protective of human health or the environment. Such DoD Components shall consult with the DoD Environmental Executive Agent (or if no Executive Agent has been designated, with the Unified Combatant Commander) on actions that involve a substantial commitment of funds or that could set a precedent.

6.3.9. The Reserve component commander, in consultation with the DoD Environmental Executive Agent, shall establish an awareness and training package instructing Reserve component units on Final Governing Standards (FGS) or other standards described in paragraphs 6.3.5. and 6.3.8., above, as appropriate.

6.4. Additional Procedures for Hazardous Wastes. In addition to the FGS or OEBGD (where no FGS have been issued), the following additional procedures shall be followed for the disposal of hazardous waste:

6.4.1. The DoD Components shall not dispose of wastes in a foreign nation that are generated by DoD actions and that are considered hazardous under either U.S. law or applicable host-nation standards, unless the disposal complies with either the OEBGD or FGS (under paragraphs 6.3.5. and 6.3.8.,above, as appropriate) and is in accordance with any applicable international agreement. Absent an applicable international agreement that grants disposal authority, explicit or implicit concurrence is required by the appropriate authorities of the nation where the disposal takes place.

6.4.2. When the requirements of paragraph 6.4.1., above, cannot be met, the hazardous waste shall be disposed of in the United States or in another foreign nation where the applicable conditions can be met, unless other disposal arrangements are approved by DUSD(ES).

6.4.3. The determination of whether a DoD-generated hazardous waste may be disposed of in a foreign nation shall be made by the DoD Environmental Executive Agent, in coordination with the applicable Unified Combatant Commander, Director of the Defense Logistics Agency (DLA), the other relevant DoD Components, and the Chief of the U.S. Diplomatic Mission. If there is no DoD Environmental Executive Agent, the determination shall be made by the Director of the DLA in coordination with the other relevant DoD Components, and the Chief of the U.S.
Diplomatic Mission.

6.4.4. In addition to compliance with the applicable standards described in paragraphs 6.3.5. and 6.3.8., above, the DoD Components must comply with provisions of the Status of Forces Agreement (SOFA) and other applicable international agreements on the shipping and storage of hazardous wastes.

6.5. Planning, Programming, Budgeting of Funds and Execution. Planning, programming and budgeting of funds and other resources required for compliance with this Instruction shall be accomplished in accordance with DoD procedures generally applicable to environmental compliance and the following:

6.5.1. For planning, programming, and budgeting, the DoD Components shall treat the applicable set of environmental compliance standards for the host nation under paragraphs 6.3.5. or 6.3.8., above, as validated budgetary requirements and the functional equivalents of generally accepted environmental standards for similar installations, facilities, and operations in the United States. The DoD Components shall plan, program and budget for these requirements over the length of the first Program Objectives Memorandum (POM) cycle following the effective date of this Instruction or, for modifications to the applicable set of environmental compliance standards, the effective date of the modification.

6.5.2. Standards contained in the FGS or OEBGD shall be given the highest priority for funding and execution and shall be funded in the current or the immediately following fiscal year if leaving them unremedied would result in one or more of the following:

6.5.2.1. An imminent and substantial threat to human health;

6.5.2.2. A direct threat to ongoing U.S. operations or U.S. access to an overseas base or installation; or

6.5.2.3. A U.S. default on a standard made directly applicable to U.S. overseas operations in a basing agreement, SOFA or other international agreement.

6.5.2.4. All other requirements should be addressed according to a risk-based prioritization, based on local circumstances and long-term objectives.

6.5.3. This Instruction does not require or authorize the DoD Components to expend funds or use other resources to meet requirements that are the responsibility of host nations, as stipulated in applicable international agreements. Nor, however, does this Instruction restrict the authority of a commander to protect the human health and safety of the command from environmental threats.

6.6. Waivers. A DoD Component may request a waiver of an otherwise applicable standard under subsections 6.3.5. or 6.3.8., above, only if compliance with the standards at particular installations or facilities would seriously impair their actions, adversely affect relations with the host nation or would require substantial expenditure of funds for physical improvements at an installation that has been identified for closure or at an installation that has been identified for a realignment that would remove the requirement. Waivers may not be granted to standards if noncompliance would constitute a breach of applicable U.S. law with extraterritorial effect or applicable international agreements.

6.6.1. A DoD Component submitting a request for waiver shall:

6.6.1.1. Identify the particular standard for which a waiver is requested;

6.6.1.2. Describe the extent of the relief requested and the period that the waiver will be in effect;

6.6.1.3. Describe the anticipated impact of the waiver, if any, on human health and the environment over the period of the waiver; and,

6.6.1.4. Describe the justification for the waiver and if a complete waiver of the standard is requested, why a partial and/or temporary deviation would not be sufficient.

6.6.2. Upon receipt of a request for waiver, the DoD Environmental Executive Agent shall consult with the relevant DoD Components and the Unified Combatant Command with geographic responsibility. Where the waiver or deviation is from a host-nation standard, the DoD Environmental Executive Agent should normally consult through the appropriate U.S. Diplomatic Mission (or other agencies established by applicable international agreements) with the responsible host-nation authority.

6.6.3. The DoD Environmental Executive Agent may grant or deny the request for waiver in whole, in part or upon conditions. Pending action by the DoD Environmental Executive Agent, the Unified Combatant Commanders may, consistent with applicable international agreements and other law, authorize temporary emergency waivers and deviations in countries in their geographic area when they determine that such a waiver or deviation is

essential to the accomplishment of an operational mission directed by the National Command Authorities. Such waivers shall be no broader than appropriate to accomplish the mission.

6.6.4. If, as a result of consultation with host-nation authorities by the Executive Agent, it is determined that the waiver or deviation from the applicable host-nation standards should not be approved, the DoD Environmental Executive Agent or the DoD Component requesting the waiver may forward the request along with a complete report to the DUSD(ES), who shall attempt to resolve the issue through consultation with relevant authorities and other Federal Agencies as appropriate.

6.6.5. Where the Military Department or Defense Agency requesting the waiver is also the DoD Environmental Executive Agent, the waiver shall be referred to the Unified Combatant Commander for decision.

6.6.6. A DoD Environmental Executive Agent, Unified Combatant Commander or the DUSD(ES), as appropriate, shall maintain a written record of its decision on each waiver requested.

6.7. Pollution Prevention Guidance. Additional pollution prevention guidance can be found in DoD Instruction 4715.4 (reference (k)).

6.8. Annual Information. The DoD Components shall provide information to DUSD(ES) required and requested to comply with paragraphs 6.3.5. and 6.3.8., above, for each military installation. Under 10 U.S.C. 2706(b), (reference (l)), this information shall be compiled and submitted as part of the Department of Defense's annual report to Congress on environmental quality. The DoD Components should also notify DUSD(ES) of noteworthy environmental achievements such as major environmental initiatives, milestones, and good news stories that show leadership, as appropriate.

6.9. Dispute Resolution. If a DoD Component disagrees with the establishment of one or more FGS by an Executive agent, the failure to fully approve a request for a waiver, or another determination of the DoD Environmental Executive Agent, the DoD Component may seek resolution of the disagreement directly with the applicable Unified Combatant Commander, who shall issue a decision after consultation with the DoD Environmental Executive Agent. If the DoD Component still disagrees with the resolution of the issue, the Component's senior environmental policy

principal may refer the matter to the DUSD(ES) for final determination after notice to the Chairman of the Joint Chiefs of Staff.

7. INFORMATION REQUIREMENTS

7.1. The annual report to Congress on the Department of Defense's Environmental Quality compliance in subsection 6.8., above, has been assigned Report Control Symbol DD-ANT (A) 1997. This information is required before the President's Budget submission to Congress under reference (l).

8. EFFECTIVE DATE. This Instruction is effective immediately.

Enclosures - 3

1. References
2. Definitions
3. Designated DoD Environmental Executive Agents

E1. ENCLOSURE 1

REFERENCES

(e) Section 7158 of title 42, United States Code
(f) Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions," January 4, 1979
(g) Executive Order 12088, "Federal Compliance with Pollution Control Standards," October 13, 1978
(h) DoD Directive 2010.9, "Mutual Logistic Support Between the United States and Governments of Eligible Countries and NATO Subsidiary Bodies," September 30, 1988
(i) Section 165 of title 10, United States Code
(j) DoD 5025.1-M, "DoD Directives System Procedures," August 1994, authorized by DoD Directive 5025.1, June 24, 1994
(k) DoD Instruction 4715.4, "Pollution Prevention," June 18, 1996
(l) Section 2706(b) of title 10, United States Code
(m) DoD Directive 5530.3, "International Agreements," June 11, 1987

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Final Governing Standards (FGS). A comprehensive set of country-specific substantive provisions, typically technical limitations on effluent, discharges, etc., or a specific management practice.

E2.1.2. Installation. A base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a Military Department that is located outside the United States and outside any territory, commonwealth, or possession of the United States.

E2.1.3. International Agreement. A multilateral or bilateral agreement, such as a base rights or access agreement, a status of forces agreement, including practices and standards established pursuant to such agreement, or any other instrument defined as a binding international agreement under DoD Directive 5530.3 (reference (m)).

E2.1.4. Applicable Host-Nation Environmental Standards. Either those specific management practices to control pollution or those objective, numeric or qualitative pollution control standards that are generally in effect and enforced against host-government and private sector activities. Laws of local governmental units are not included unless they implement national laws that delegate authority to, or recognize the authority of, the local governmental unit. Limitations on discharges, emissions, effluents, and disposal are included, but procedural or administrative requirements, such as permitting, licenses, fees, fines, penalties, or other sanctions, are not.

E2.1.5. Overseas Environmental Baseline Guidance Document (OEBGD). A set of objective criteria and management practices developed by the Department of Defense, pursuant to this Instruction, to protect human health and the environment. The OEBGD also contains procedures for use by the Department of Defense to establish the FGS for a particular geographic area or, as described in subsection 6.3.8., above, to provide standards for environmental compliance where no FGS have been established.

E3. ENCLOSURE 3

DESIGNATED DOD ENVIRONMENTAL EXECUTIVE AGENTS

COUNTRY	EXECUTIVE AGENT
EUROPEAN COMMAND	
United Kingdom	CINCUSAFE
Germany	CINCUSAREUR
Italy	CINCUSNAVEUR
Spain	CINCUSNAVEUR
Greece	CINCUSNAVEUR
Belgium	CINCUSAREUR
Netherlands	CINCUSAREUR
Turkey	CINCUSAFE
CENTRAL COMMAND	
Azores	USAF Air Combat Command
Ascension Island	USAF Space Command
Antigua	USAF Space Command
Bahamas	CINCLANTFLT
Cuba	CINCLANTFLT
Greenland	USAF Space Command
Iceland	CINCLANTFLT
SOUTHCOM	
Panama and all countries in AOR	CG,USARSO
PACIFIC COMMAND	
Japan	COMUSFORJAPAN
Korea	CINCUSFORKOREA
Diego Garcia	CINCPACFLT

APPENDIX L

EXCERPT FROM DEPARTMENT OF DEFENSE INSTRUCTION 4715.7
ENVIRONMENTAL RESTORATION PROGRAM

April 22, 1996

USD(A&T)

References: (a) DoD Directive 4715.1, "Environmental Security," February 24, 1996
(b) Sections 2701-2708 and 2810 of title 10, United States Code, "Department of Defense Environmental Restoration Program" (Section 211 of Superfund Amendments and Reauthorization Act of 1986 (SARA))
(c) Sections 6901-6992k and implementing regulations concerning corrective action of title 42, United States Code, "Resource Conservation and Recovery Act" (RCRA)
(d) Sections 9601-9675 of title 42, United States Code, "Comprehensive Environmental Response, Compensation, and Liability Act," as amended (CERCLA or "Superfund")
(e) through (z), see enclosure 1

A. PURPOSE. This Instruction:

1. Implements reference (a) with respect to the Defense Environmental Restoration Program (DERP) and the Base Realignment and Closure (BRAC) environmental restoration program consistent with references (b) through (w).

2. Implements and refines policies, assigns responsibilities, and prescribes procedures for the DERP, funded by the environmental restoration accounts; and the BRAC environmental restoration program, funded by the BRAC account.

3. Assigns responsibilities for planning, programming, budgeting, executing, and reporting for the DERP and the BRAC environmental restoration program.

4. Establishes requirements for evaluating the relative risk posed by a site and for using that information for program planning and execution.

5. Establishes measures of merit for assessing the progress towards established goals and accomplishments of the DERP and the BRAC environmental restoration program.

6. Implements the Fast-Track Cleanup (FTC) Program t expedite restoration and transfer or lease of property at closing and realigning installations.

7. Establishes the Environmental Security Cleanup Committee (ESCC).

8. Designates the Secretary of the Army as the DoD Executive Agent for the Formerly Used Defense Sites (FUDS) Program, and as the lead agency for Defense and State Memorandum of Agreement (DSMOA)/Cooperative Agreements and the Agency for Toxic Substances and Disease Registry (ATSDR) programs.

B. APPLICABILITY AND SCOPE. This Instruction:

1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies with land management responsibilities, and the DoD Field Activities, including any other integral DoD organizational entity or instrumentality established to perform a governmental function (hereafter referred to collectively as "the DoD Components").

2. Applies to facilities or installations within the United States and its territories and possessions that are controlled by the Department of Defense, or under the jurisdiction of the Department of Defense or one of the DoD Components (including installations designated for closure or realignment under BRAC). Restoration activities may be conducted beyond the boundaries of a DoD facility or installation when it has been determined that contamination has migrated from a source within such a facility or installation or when hazardous substances from a DoD facility have come to be placed outside the facility. Contamination on facilities outside the United States and its territories is covered under the Deputy Secretary of Defense Memorandum (reference (x)).

3. Applies to FUDS that were under the jurisdiction of the Department of Defense at the time of actions that caused the release of hazardous substances or other environmental damage.

4. Applies to other sites for which the Department of Defense may be a potentially responsible party, as defined by the Deputy Under Secretary of Defense (Environmental Security) Memorandum (reference (s)).

5. Does not apply to contractor-owned and contractor-operated facilities that are not on real property controlled by the Department of Defense; contamination caused by non-military civil works activities of the Commander, the U.S. Army Corps of Engineers; and responses to spill incidents associated with current operations, and as specified in reference (s).

C. DEFINITIONS. Terms used in this Instruction are defined in enclosure 2.

D. POLICY. The goal of the DERP and BRAC environmental restoration program is to reduce, in a cost-effective manner, the risks to human health and the environment attributable to contamination resulting from past DoD activities. This goal is accomplished through the following policies:

1. Identify, evaluate, and, where appropriate, remediate contamination resulting from past DoD activities.

2. Ensure immediate action to remove imminent threats to human health and the environment.

3. Comply with statutes, regulations, Executive Orders and other legal requirements governing cleanup of contamination.

4. Conduct DERP and BRAC environmental restoration program activities to meet program goals as stated in the Defense Planning Guidance (DPG).

5. Develop partnerships regarding restoration activities with the U.S. Environmental Protection Agency (EPA) and appropriate State, local, and territorial regulatory agencies.

6. Promote and support public participation in the DERP and the BRAC environmental restoration program.

7. Support the development and use of cost-effective innovative technologies and process improvements in the restoration process.

8. Support community reinvestment initiatives at closing and realigning installations through the selection of remedies, where practicable, that are consistent with redevelopment actions.

E. RESPONSIBILITIES

1. The Under Secretary of Defense for Acquisition and Technology shall:

a. Serve as the Decision Authority for the DERP and BRAC environmental restoration program.

b. Issue policy and guidance for the DERP and BRAC environmental restoration program, including establishing program scope, goals, and priorities.

c. Provide oversight of the DERP and BRAC environmental restoration program, including ensuring that program implementation is consistent with guidance and is consistent across DoD Components.

d. Delegate program authority, as appropriate.

2. The Deputy Under Secretary of Defense for Environmental Security, under the Under Secretary of Defense for Acquisition and Technology, shall:

a. Subject to the concurrent authority of the Under Secretary of Defense for Acquisition and Technology (USD(A&T)), exercise all responsibilities and authorities of the Secretary of Defense under 10 U.S.C. 2701-2708 and 2810 (reference (b)) and E.O. 12580 (reference (m)) necessary to execute the DERP and BRAC environmental restoration program.

b. Prepare policy and guidance for the DERP and BRAC environmental restoration program.

c. Conduct analysis and oversight of the DERP and BRAC environmental restoration program.

d. Propose updates to the DPG to the USD(Policy) through the USD(A&T).

e. Coordinate efforts with the Assistant Secretary of Defense (Economic Security) (ASD(ES)) to prepare policy, guidance, goals, objectives, and funding requirements for the BRAC environmental restoration program.

f. Establish a DoD-wide management information system that is the central source for all site and programmatic information in accordance with DoD Directive 8000.1 (reference (y)). Data in this system shall be consistent with data in the DoD Planning, Programming, and Budgeting System (PPBS). Provide for regularly scheduled data collection, and issue other data calls as required.

g. Establish performance goals and measures to implement the DERP and BRAC environmental restoration program.

h. Conduct in-progress reviews (IPR) of the DERP and BRAC environmental restoration program and report the results to USD(A&T).

i. Provide liaison with other Federal Agencies, States, and territories. Support the Assistant Secretary of Defense (Legislative Affairs) liaison with Congress.

j. Prepare and issue the DERP Annual Report to Congress in accordance with references (b), and (i) through (k).

k. Consolidate, submit, and defend environmental restoration Program Objective Memoranda (POMs) and budgets for the Defense-wide account, which includes non-BRAC funding for the Deputy Under Secretary of Defense (Environmental Security) (DUSD(ES)), the Defense Logistics Agency, the Defense Nuclear Agency, and FUDS.

l. Propose to the Under Secretary of Defense (Comptroller) (USD(C)) and the Director, Program Analysis and Evaluation (PA&E), updates of displays of the annual budget preparation instructions and POM preparation instruction (PPI) that adequately depict program requirements for the DERP and BRAC environmental restoration program.

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1 Propose to the Under Secretary of Defense (Comptroller) (USD)) and the Director, Program Analysis and Evaluation (PA&E), updates of displays of the annual budget preparation instructions and POM preparation instructions (PPI) that adequately depict program requirements for the DERP and BRAC environmental restoration program/

m. Review and evaluate DoD Components' POMs, budget submissions, and funding. Make recommendations to the Director, PA&E and the USD(C).

n. Evaluate DoD Components' execution of the DERP and BRAC environmental restoration program based on goals and measures of merit.

o. Establish and direct the ESCC and its operation.

p. Sign DSMOAs with interested States and territories to expedite restoration by securing technical support services at operational installations, closing and realigning installations, and WDS.

q. Establish a Memorandum of Understanding (MOU) with the Agency for Toxic Substances and Disease Registry (ATSDR), in coordination with the DoD Components, to transfer funds in support of public health activities.

r. Enter into other agreements, on behalf of the Department of Defense, regarding environmental restoration.

s. Delegate program authority, as appropriate.

3. The Assistant Secretary of Defense for Economic Security, under the Under Secretary of Defense for Acquisition and Technology, shall coordinate efforts with the DUSD(ES) to establish the goals, objectives, and funding requirements of the BRAC environmental restoration program in accordance with the DPG.

4. <u>The Under Secretary of Defense (Comptroller) shall:</u>

a. Incorporate appropriate changes to the DERP and BRAC environmental restoration program budget preparation formats to ensure that appropriate, meaningful data are collected.

b. Consult with the DUSD(ES) regarding DERP and BRAC environmental restoration program budget submissions.

c. Review and adjust DoD Component DERP and BRAC environmental restoration program budget submissions.

d. Coordinate with the DUSD(ES) to implement financial reports on DERP and BRAC environmental restoration program funding to ensure accurate reporting.

5. The Under Secretary of Defense (Comptroller) shall ensure that the Director, Program Analysis and Evaluation, shall:

a. Review and analyze DoD Component DERP and BRAC environmental restoration program POM submissions.

b. Coordinate with the DUSD(ES) on DoD Component DERP and BRAC environmental restoration programming, including Program Planning Instruction requirements, POM submissions, and program review decisions.

6. The Secretaries of the Military Departments Directors of the Defense Agencies with land management responsibilities under OSD Principal Staff Assistants and those that report directly to the Secretary or Deputy Secretary of Defense, and to the extent applicable, the Heads of other DoD Components shall:

a. Subject to the concurrent authority of the USD(A&T) and the DUSD(ES), exercise all responsibilities and authorities of the Secretary of Defense under 10 U.S.C. 2701-2708 and 2810 (reference (b)), and E.O. 12580 (reference (m)), necessary to execute the DERP and BRAC environmental restoration program. Those authorities derived from paragraphs 2(j) and 4(e) of reference (m) may be redelegated in writing only to a member of the Senior Executive Service or a General/Flag Officer with principal responsibility for the execution of the DERP; all remaining authorities may be redelegated in writing as appropriate.

b. Establish DERP and BRAC environmental restoration programs with scope, goals, and priorities prescribed by USD(A&T); and implement and execute DoD policies and guidance for these programs.

c. Designate an executive to oversee implementation of DERP and BRAC environmental restoration program policy and guidance within the DoD Component. Authorities and responsibilities for executing the programs in a manner consistent with this guidance may be delegated further within the DoD Component.

d. Plan, program, and budget DERP and BRAC environmental restoration program requirements in a manner consistent with the DPG, budget guidance, and other appropriate instructions. Defend those requirements, and execute the programs in a manner consistent with the DoD fiscal and programmatic guidance.

e. Collect and maintain data and documentation by site, including program estimates, schedules, and performance measures necessary to plan, program, budget, and track execution of the DERP and BRAC environmental restoration program.

f. Monitor and report on program execution, providing information for each site regarding status, schedule, and cost to the DUSD(ES) by updating regularly the Restoration Management Information System (RMIS), or its successor tracking system.

g. Provide DERP and BRAC environmental restoration program status information during IPRs and other data calls.

h. Negotiate and sign Federal Facility Agreements (FFA) and other types of Federal and State restoration agreements, as appropriate. Agreements shall address the relationships between agencies, reflect budget constraints, and allow for flexibility of schedules.

i. Select preferred alternatives at remedial action sites and sign and execute restoration decision documents.

j. Provide liaison with other Federal and State environmental agencies, as appropriate.

k. Support the DSMOA program by reviewing work plans, documents, and progress reports, and by providing funds.

l. Comply with and support agreements, as appropriate, with other organizations such as ATSDR and EPA.

m. Integrate the relative risk concept into program planning and execution in accordance with the Risk-Based Site Evaluation Primer (reference (u)).

n. Expedite the restoration process. For example, where appropriate, take interim remedial actions and removal actions, and use generic cleanup strategies.

o. Encourage public participation in the DERP and BRAC environmental restoration program.

p. Support and facilitate the development and use of innovative technologies.

q. Participate in the preparation of the DERP Annual Report to Congress.

r. Address third-party site claims arising from disposal of waste by the DoD Component.

7. The Director Defense Logistics Agency, under the Under Secretary of Defense for Acquisition and Technology, shall address third-party site claims arising from a Defense Reutilization and Marketing Service sale or disposal contract.

8. The Secretary of the Army shall:

a. Act as the DoD Executive Agent for the FUDS program. This includes identifying to the DUSD(ES) funding required, and conducting restoration activities at eligible properties on behalf of the DoD Components, and reporting on program progress. Funds for FUDS will be programmed and budgeted in the Defense-wide environmental restoration account.

b. Act as lead agency for:

(1) DSMOA and Cooperative Agreements programs. This includes negotiating DSMOAs, for DUSD(ES) signature, with interested States and territories to facilitate their participation and technical support in restoration at operational installations, closing and realigning installations, and FUDS. Notify the DoD Components of the costs of each cooperative agreement in a timely manner to enable the DoD Components to plan, program, and budget accordingly. Report on program progress.

(2) Carrying out DoD responsibilities under the MOU with ATSDR. This includes notifying the DoD Components of the costs in a timely manner to enable the them to plan, program, and budget accordingly. Report on program progress.

F. PROCEDURES

1. Conduct DERP activities at operational installations to:

a. Plan, program, and execute activities using the results of relative risk site evaluations in accordance with the Risk-Based Site Evaluation Primer (reference (u)), and other criteria to meet program goals as stated in the DPG.

b. Measure program progress in terms of:

(1) Reduction of relative risk at sites.

(2) Progression of sites through the restoration phases.

(3) Accomplishment of milestones leading to site completion.

2. Conduct BRAC environmental restoration activities at closing and realigning installations to:

a. Plan, program, and execute activities that support property reuse, using the results of relative risk site evaluations in accordance with reference (u), and other criteria to meet program goals as stated in the DPG.

b. Measure program progress in terms of:

(1) Reduction of relative risk at sites.

(2) Progression of sites through the restoration phases.

(3) Accomplishment of milestones leading to site completion.

(4) Acres of land environmentally suitable for transfer.

3. Conduct the FTC program to expedite restoration and transfer or lease of property at closing and realigning installations. This includes improving the efficiency of the restoration process, partnering with Federal and State regulatory agencies, and working with local communities and other stakeholders.

4. Ensure that actions necessary to protect human health, safety, and the environment are taken before the property is transferred or leased. Environmental response actions found to be necessary subsequent to property transfer at BRAC properties shall normally be addressed by the losing DoD Component.

5. Negotiate and sign FFA and other types of Federal and State restoration agreements, as appropriate. Agreements shall address the relationships between agencies, reflect budget constraints, and allow for flexibility of schedules.

6. Conduct public participation in a manner consistent with the requirements of the Comprehensive Environmental Response,

Compensation, and Liability Act (CERCLA), the National Contingency Plan, and other applicable laws and regulations by ensuring timely public access to information, opportunity for public comment on proposed activities, and consideration of public comments in the decision-making process. Establish Technical Review Committees (TRC) or Restoration Advisory Boards (RAB) that include representatives of the community, in accordance with the Deputy Under Secretary of Defense (Environmental Security) Memorandum (reference (s)).

7. Develop management plans for each installation that identify all sites, planned activities, schedules, and costs.

G. INFORMATION REQUIREMENTS

1. The information requirement at E.2.f. has been assigned Report Control Symbol (RCS) DD-A&T(A& AR)1995 in accordance with DoD 8910.1-M (reference (z)).

2. The DoD Components will present program status information at regular IPRs. Other information will be provided as necessary.

H. EFFECTIVE DATE. This Instruction is effective immediately.

Paul G. Kaminski
Under Secretary of Defense
(Acquisition and Technology)

Enclosures - 2
1. References
2. Definitions

Enclosure 1

REFERENCES

(e) Section 2687 of title 10, United States Code, note, (Title II of Public Law 100-526), "Defense Authorization Amendments and Base Closure and Realignment Act of 1988," October 24, 1988
(f) Section 2687 of title 10, United States Code, note, (Title XXIX of Public Law 101-510), "Defense Base Closure and Realignment Act of 1990, " November 5, 1990
(g) Sections 331-336 of Public Law 102-190, "National Defense Authorization Act for Fiscal Years 1992 and 1993," December 5, 1991
(h) Sections 321-332 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993," October 23, 1992
(i) Sections 1001-1005 of Public Law 103-160, "National Defense Authorization Act for Fiscal Year 1994," November 30, 1993
(j) Sections 321-329 of Public Law 103421, "National Defense Authorization Act for Fiscal Year 1995," October 5, 1994
(k) Sections 321-325 of Public Law 104-106, "National Defense Authorization Act for Fiscal Year 1996," January 22, 1996
(l) Title 40, Code of Federal Regulations, Part 300, "National Oil and Hazardous Substances Pollution Contingency Plan," current edition
(m) Executive Order 12580, "Superfund Implementation," January 23, 1987
(n) Executive Order 12088, "Federal Compliance with Pollution Controls Standards," October 13, 1978
(o) Executive Memorandum, "Five-Part Plan for Revitalizing Base Closure Communities," President William Clinton, July 2, 1993
(p) Deputy Secretary of Defense Memorandum, "Fast-Track Cleanup at Closing Installations," September 9, 1993, or current edition
(q) DoD Directive 5134. l, "Under Secretary Of Defense of Acquisition and Technology (USD (A&T))," June 8, 1994
(r) DoD 7000. 14-R, Department of Defense Financial Management Regulations, Volume 2, "Budget Formulation and Presentation," May 1994
(s) Deputy Under Secretary of Defense (Environmental Security) Memorandum, "Program Management Guidance for Execution of the FY94/95 and the Development of the FY96 Defense Environmental Restoration Program, " April 14, 1994

(t) Federal Register, Volume 57, pages 28835-28841, "Defense Environmental Restoration Program, Notice of Fund Availability and Application Instructions for Defense and State Memoranda of Agreement," June 29, 1992

(u) Office of the Deputy Under Secretary of Defense (Environmental Security), "Risk-Based Site Evaluation Primer," Summer 1994, or current edition

(v) Deputy Under Secretary of Defense (Environmental Security) Memorandum, "Environmental Security Program Measures of Merit," May 16, 1995

(w) Joint Department of Defense and U. S. Environmental Protection Agency Guidance, "Restoration Advisory Board (RAB) Implementation Guidelines," September 27, 1994

(x) Deputy Secretary of Defense Memorandum, "Environmental Remediation Policy for DoD Activities Overseas," October 18, 1995

(y) DoD Directive 8000.1, "Defense Information Management (IM) Program," October 27, 1992

(z) DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," November 28, 1986

Enclosure 2

DEFINITIONS

1. Agency for Toxic Substance and Disease Registry (ATSDR). A branch of the U.S. Public Health Service that performs public health assessments at DoD National Priorities List installations in accordance with the agency's authority and responsibility under CERCLA.

2. Base Realignment and Closure (BRAC) Environmental Restoration Program. Environmental restoration activities at closing and realigning installations affected by 10 U.S.C. 2687, note (references (e) and (f)), and funded by the DoD Component BRAC accounts. This program is analogous to the DERP and funds the same activities that are eligible under the DERP. It does not include Building Demolition/Debris Removal or Ordnance and Explosive Waste activities. Closure-related environmental compliance requirements are not included in this program.

3. Contamination. The existence of biological, chemical, low-level radiological, or other substances including petroleum, oil, and lubricants that may present a hazard to human health or that may render some portion of the environment unsuitable for use.

4. Decision Authority. The highest level decision-maker for the DERP and BRAC environmental restoration program.

5. Defense and State Memorandum of Agreement (DSMOA). Agreement between the Department of Defense and a State or territory whereby the State or territory can be compensated for providing technical support of environmental restoration activities at operational installations, closing and realigning installations, and FUDS.

6. Defense Environmental Restoration Program (DERP). Program established by Congress in 1986 under Section 211 of SARA (10 U.S.C. 2701-2707 and 2810) (reference (b)) to provide funding for cleanup of contaminated DoD sites in a manner consistent with the requirements of CERCLA (reference (d)).

7. Environmental Restoration. Studies, cleanup, and other actions taken to address contamination from past DoD activities to protect human health and the environment.

8. Environmental Restoration Accounts. Accounts established by each Military Department and the Defense-wide account (DUSD(ES), DLA, DNA and FUDS), used to fund environmental restoration activities at operational installations and formerly owned or used properties.

9. Environmental Security Cleanup Committee (ESCC). A committee under the Environmental Security Council, comprised of senior representatives of OSD and the DoD Components. The Committee is chaired by the Assistant Deputy Under Secretary of Defense (Environmental Security)/Cleanup and meets regularly to identify and resolve programmatic issues.

10. Environmental Security Program. The program that institutionalizes DoD environmental, safety, and occupational health awareness, making it an integral part of DoD daily activities. The DUSD(ES) is responsible for activities related to restoration, compliance, conservation, pollution prevention, safety, occupational health, fire and emergency services, pest management, explosives safety, environmental security technology, and international programs.

11. Executive Agent. The agency directly responsible for program implementation.

12. Fast-Track Cleanup (FTC). The program established under the President's five point reinvestment plan (reference (o)) to expedite the restoration and transfer of property at closing and realigning installations.

13. Federal Facilities Agreement (FFA). The agreement between regulators and the Department of Defense for the accomplishment of all necessary remedial actions. Agreements signed in accordance with CERCLA section 120 are Interagency Agreements.

14. Formerly Used Defense Sites (FUDS). Real property that formerly was used by, leased to, or otherwise was under the operational control of the Department of Defense. The restoration program at FUDS properties is similar to that at DoD installations. However, information concerning the origin of contamination, land transfer, and current ownership must be evaluated to determine whether a site is eligible for DoD funding. Sites that were transferred under the BRAC program shall not normally be considered FUDS.

15. Generic Cleanup Strategy. A strategy that has been implemented successfully and can be used to expedite the cleanup process at sites having similar characteristics.

16. Innovative Technology. Newly developed technologies, or adaptations of existing technologies, that are not normally considered certified or proven for use in site remediation.

17. Lead Agency. The agency that coordinates activities for the Department of Defense.

18. Management Plan. A plan that identifies each contaminated site on an installation, planned restoration activities, a schedule for accomplishing these activities, and costs. At closing and realigning installations, this is known as a BRAC Cleanup Plan.

19. Measure of Merit. An indicator of progress toward established goals. These measures are established by the DUSD(ES) to evaluate the status and progress of programs.

20. Relative Risk. The evaluation of individual sites to determine high, medium, or low relative risk to human health and the environment, based on contaminant hazards, migration pathways and receptors, in accordance with DoD's Risk-Based Site Evaluation Primer (reference (u)). The movement of any site from a higher to lower relative risk category as a result of natural attenuation, interim remedial, remedial, or removal actions taken is called risk reduction.

21. Restoration Advisory Board (RAB). A group of stakeholders, including representatives from the installation, the affected community, Federal and State regulatory agencies, the local government and/or redevelopment authority, and others. The RAB provides a forum for the discussion and exchange of information regarding restoration activities.

22. Restoration Management Information System (RMIS). A computerized database used by the OSD and the DoD Components to track the status of sites in the DERP and BRAC environmental restoration program. RMIS is the central source of all site and programmatic information.

23. Site. Area containing one or more releases or threatened releases of hazardous substances that, for response purposes, is treated as a discrete entity, including any building, impoundment, landfill, storage container, or other site or area

where a hazardous substance has or had come to be located and including formerly used defense sites.

24. Technical Review Committee (TRC). A committee, established in accordance with 10 U.S.C. 2705 (reference (b)) composed of representatives of the Department of Defense, regulatory agencies, and the affected community. The TRC is a mechanism for exchanging information about restoration activities at an installation.

25. Third-Party Site. A site where the Department of Defense has no current or past ownership interest and where the Department of Defense has a responsibility for cleanup under CERCLA (reference (d)).

APPENDIX M

EXCERPT FROM DEPARTMENT OF DEFENSE INSTRUCTION 4715.8
ENVIRONMENTAL REMEDIATION FOR DOD ACTIVITIES OVERSEAS

NUMBER 4715.8

February 2, 1998

USD(A&T)

SUBJECT: Environmental Remediation for DoD Activities Overseas

References: (a) Deputy Secretary of Defense Memorandum, "Environmental Remediation Policy for DoD Activities Overseas," October 18, 1995
(b) DoD Instruction 4715.5, "Management of Environmental Compliance at Overseas Installations," April 22, 1996
(c) DoD Directive 5530.3, "International Agreements," June 11, 1987

1. PURPOSE. This Instruction:

1.1. Implements policy, assigns responsibilities and prescribes procedures under reference (a) for remediation of environmental contamination on DoD installations or facilities or caused by DoD operations outside the United States.

1.2. Is for the internal management of the Department of Defense and does not create any independent right enforceable against the Department of Defense, the United States, or their officers, agents, or employees.

1.3. Supersedes previous guidance that is inconsistent with its provisions.

1.4. Does not supersede or amend any existing agreement respecting remediation of DoD environmental contamination outside the United States.

2. APPLICABILITY AND SCOPE.

2.1. This Instruction applies to:

2.1.1. The Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities, including any other integral DoD organizational entity or instrumentality established to perform a government function (hereafter referred to collectively as "the DoD Components").

2.1.2. Remediation of environmental contamination on DoD facilities or installations outside the United States, including DoD activities on host-nation installations or facilities.

2.1.3. Remediation of environmental contamination caused by current DoD operations, including training, that occur off a DoD installation or facility outside and the United States. Such operations do not include operations connected with actual or threatened hostilities, security assistance programs, peacekeeping missions, or relief operations. Such operations also do not include logistics, maintenance, or administrative support functions provided by a contractor off base.

2.2. This Instruction does not apply to:

2.2.1. Actions to remedy environmental contamination that are covered by requirements in environmental annexes to operation orders and similar operational directives, or to requirements issued under DoD Instruction4715.5 (reference (b)), either in country-specific Final Governing Standards or, where no Final Governing Standards have been issued, in the Overseas Environmental Baseline Guidance Document.

2.2.2. The civil works function of the Department of the Army.

2.3. For purposes of this Instruction, "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of Northern Marianas, any other territory or possession over which the United States has jurisdiction, and associated navigable waters, contiguous zones,

and ocean waters of which the natural resources are under the exclusive management authority of the United States.

3. POLICY

The DoD Components shall, in accordance with the specific limitations contained in Sections 5 and 6 of this Instruction, remedy known environmental contamination caused by DoD operations outside the United States.

4. RESPONSIBILITIES

4.1. The Deputy Under Secretary of Defense for Environmental Security, under the Under Secretary of Defense for Acquisition and Technology, shall:

4.1.1. Provide guidance on policy for remediation of overseas environmental contamination.

4.1.2. Resolve a DoD Component's objections to a Combatant Commander's resolution of a dispute between the DoD Component and the Executive Agent if such objection is properly referred to the Deputy Undersecretary of Defense for Environmental Security.

4.2. The Heads of the DoD Components shall:

4.2.1. Remedy known environmental contamination to the extent required by this Instruction and the country-specific policy established by Environmental Executive Agents as set out in paragraph 4.2.3.1., below.

4.2.2. Resolve site-specific issues such as approving strategies for remediation and determining how best to use DoD Component resources.

4.2.3. Carry out or delegate the responsibilities of Environmental Executive Agents for particular nations when designated by the Department of Defense under DoD Instruction 4715.5 (reference (b)), including the following:

4.2.3.1. Establish country-specific remediation policy to ensure consistent remediation of DoD-contaminated sites in the host nation. Consistent with this Instruction and subject to the specific limitations contained in Sections 5 and 6, below, the country-specific policy shall:

4.2.3.1.1. Define, or provide procedures to define, the appropriate level of remediation at contaminated sites;

4.2.3.1.2. Provide procedures for negotiating the scope of any required remedial measures with the host nation that are consistent with the policy and procedures for negotiating and concluding international agreements in DoD Directive 5530.3 (reference (c)); and

4.2.3.1.3. Provide procedures for furnishing documentation to the host government.

4.2.3.2. Negotiate, or coordinate and approve the negotiations of the DoD Components, with host nations on implementation of this Instruction, and regularly inform the cognizant Combatant Commander of such negotiations.

4.2.3.3. Consult with one another to ensure in-theater consistency in implementing this Instruction.

4.3. The Commanders of the Combatant Commands shall:

4.3.1. Coordinate and approve implementation of the overall policy within their geographic areas of responsibility, as necessary, to carry out their mission.

4.3.2. Resolve disputes between a DoD Component and the Environmental Executive Agent on country-specific policy.

5. PROCEDURES. Subject to the availability of funds and the other provisions of this Instruction, the following requirements apply to remediation of environmental contamination overseas:

5.1. DoD Installations or Facilities That Are Open and Have Not Been Designated for Return

5.1.1. The DoD Components shall take prompt action to remedy known imminent and substantial endangerments to human health and safety due to environmental contamination that was caused by DoD operations and that is located on or is emanating from a DoD installation or facility.

5.1.2. After consultation with the DoD Environmental Executive Agent, if any, the in-theater commander of the DoD Component may approve additional remediation of environmental contamination if the commander determines the additional remedial

measures are required to maintain operations or protect human health and safety.

5.1.3. International agreements may also require the United States to fund
environmental remediation.

5.1.3.1. Such remediation may be more extensive than that necessary to remedy known imminent and substantial endangerments to human health and safety.

5.1.3.2. Before a DoD Component begins remediation under such an agreement, it shall consult with the DoD Environmental Executive Agent, if any, and shall obtain a legal determination that the requirement for environmental remediation is mandatory and arises from a binding international agreement that pertains to U.S. military operating rights in the host country.

5.1.4. Remediation beyond that specified in paragraphs 5.1.1. through 5.1.3., above, may be undertaken by the host nation using its own resources during U.S. occupancy of the installation or facility. The DoD Components shall encourage such remediation and cooperate with host-nation efforts by providing the information specified in section 6., below, and appropriate access to contaminated sites, subject to operational and security requirements.

5.2. DoD Installations or Facilities That Have Been Designated for Return or That Are Already Returned

5.2.1. The DoD Components shall take prompt action to remedy known imminent and substantial endangerments to human health and safety that are due to environmental contamination that was caused by DoD operations and that is located on or is emanating from a DoD installation or facility designated for return to the host nation.

5.2.1.1. Such remediation may be completed after return of the installation or facility to the host nation, but shall be limited to the essential elements in a remediation plan approved by the DoD Component before return. If remediation will continue after return, too ensure consistency among Do Components before finally approving a remediation plan, the appropriate DoD Component shall consult with the DoD Environmental Executive Agent, if any.

5.2.1.2. The remediation plan is developed for a particular installation by application of this Instruction and

country-specific policy to the particular circumstances of the installation, and shall include, but is not limited to sites to be remedied, a real and vertical extent of the contamination, contaminants to be addressed, and cleanup levels.

5.2.2. After consultation with the DoD Environmental Executive Agent, if any, the in-theater commander of the DoD Component may approve additional remediation of environmental contamination on installations or facilities that have been designated for return if the commander determines, in light of the projected return date, that the additional remedial measures are required to maintain operations or protect human health and safety.

5.2.3. International agreements may also require the United States to fund environmental remediation.

5.2.3.1. Such remediation may be more extensive than that necessary to remedy known imminent and substantial endangerments to human health and safety.

5.2.3.2. Before a DoD Component begins remediation under such an agreement, it shall consult with the DoD Environmental Executive Agent, if any, and shall obtain a legal determination that the requirement for environmental remediation is mandatory and arises from a binding international agreement that pertains to U.S. military operating rights in the host country.

5.2.3.3. After return of an installation or facility, the Department of Defense shall not fund any environmental remediation in excess of that required by binding international agreement or that which is pursuant to an approved remediation plan under paragraph 5.2.1., above.

5.2.4. Remediation beyond that specified in paragraphs 5.2.1. through 5.2.3., above, may be undertaken by the host nation using its own resources during U.S. occupancy of the installation or facility. The DoD Components shall encourage such remediation and cooperate with host-nation efforts by providing the information specified in section 6., below, and appropriate access to contaminated sites, subject to operational and security requirements.

5.3. Environmental Contamination Off a DoD Installation or Facility

5.3.1. The DoD Components shall take prompt action to remedy known imminent and substantial endangerments to human health and safety due to environmental contamination caused by current DoD operations at locations within the territory of a nation other than the United States and that is not located on or emanating from a DoD installation or facility.

5.3.2. After consultation with the DoD Environmental Executive Agent, if any, the in-theater commander of the DoD Component may approve additional remediation of environmental contamination caused by current DoD operations if the commander determines the additional remediation is required to maintainoperations.

5.3.3. International agreements may also require the United States to fund environmental remediation.

5.3.3.1. Such remediation may be more extensive than that necessary to remedy known imminent and substantial endangerments to human health and safety.

5.3.3.2. Before a DoD Component begins remediation under such an agreement, it shall consult with the DoD Environmental Executive Agent, if any, and shall obtain a legal determination that the requirement for remediation is mandatory and arises from a binding international agreement that pertains to U.S. military operating rights in the host country.

5.3.4. Remediation beyond that specified in paragraphs 5.3.1. through 5.3.3., above, may be undertaken by the host nation using its own resources. The DoD Components shall encourage such remediation and cooperate with host-nation efforts by providing the information specified in section 6., below, and appropriate access to contaminated sites, subject to operational and security requirements.

5.4. Determination of Known Imminent and Substantial Endangerment and Extent of Remedy

5.4.1. The decision as to whether a contaminated site poses an imminent and substantial endangerment shall be made by the in-theater commander of the DoD Component after consultation with the appropriate DoD medical authority and the DoD Environmental Executive Agent, if any, for the respective host nation.

5.4.2. The authority to make this decision may be delegated by the in-theater commander of the DoD Component to an

installation or facility commander, as appropriate, but consultation as set out in paragraph 5.4.1., above, is still required.

5.4.3. Projects designed to remedy an imminent and substantial endangerment are considered complete when the contamination no longer poses an imminent and substantial endangerment to human health, environment, and safety. Commanders have the discretion to make risk-based decisions on how to carry out the remediation, ranging from institutional responses, such as restricting access, to more permanent remedies.

5.5. Residual Value Adjustment for Host-Nation Contributions. Consistent with the provisions of applicable international agreements, actual or anticipated environmental remediation costs incurred by the host nation for DoD-caused contamination on or emanating from DoD installations or facilities or caused by current DoD operations may be considered as an offset against the residual value of DoD capital improvements.

5.6. Host-Nation Contribution. To the extent consistent with applicable international agreements, the responsible official under section 4., above, shall seek host-nation or third country contribution, including assistance in kind, for remediation funded by the United States.

5.7. Negotiations with Host Nation. Negotiations with the host nation, whether by the DoD Environmental Executive Agent or DoD Component, shall be conducted in accordance with this Instruction; DoD Directive 5530.3 (reference (c)), and other applicable Directives.

6. INFORMATION REQUIREMENTS

6.1. The DoD Components may develop information, and shall maintain existing information, about environmental contamination at DoD locations for five years after the location is returned to the host nation and all claims or other issues about contamination are finally resolved.

6.2. Information on contamination not located on or emanating from a DoD installation or facility that was caused by DoD operations shall be collected and maintained for five years after issues about the contamination are finally resolved with the host nation.

6.3. Subject to security requirements, this information shall be provided, through the DoD Environmental Executive Agent and the Embassy, where required, to host-nation authorities upon request.

7. EFFECTIVE DATE. This Instruction is effective immediately.

APPENDIX N

EXCERPT FROM DEPARTMENT OF DEFENSE INSTRUCTION 4715.9
ENVIRONMENTAL PLANNING AND ANALYSIS

NUMBER 4715.9

May 3, 1996

USD(A&T)

SUBJECT: Environmental Planning and Analysis

References: (a) DoD Directive 4715.1, "Environmental Security," February 24, 1996
(b) DoD Instruction 4715.6, "Environmental Compliance," April 24, 1996
(c) DoD Instruction 4715.4, "Pollution Prevention," June 18, 1996
(d) DoD Instruction 4715.3, "Environmental Conservation Program," May 3, 1996
(e) through (k), see enclosure 1

1. PURPOSE. This Instruction:

1.1. Implements policy and assigns responsibilities for integration of environmental considerations into DoD activity and operational planning.

1.2. Assigns responsibilities and prescribes procedures for implementing reference (a) in accordance with references (b) through (f).

2. APPLICABILITY AND SCOPE. This Instruction:

2.1. Applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating under the Department of the Navy), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands (as appropriate), the Office of Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities, including any other integral DoD organizational entity or instrumentality established to perform a governmental function) (hereafter referred to collectively as "the DoD Components").

The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

2.2. Does not apply to the civil works function of the Department of the Army.

2.3. Supplements the requirements of the National Environmental Policy Act (NEPA) (reference (g)) and the Council On Environmental Quality (CEQ) regulations under 40 CFR 1500-1508 (reference (h)). Policies specific to reference (g) are included in enclosure 2.

2.4. Requires the DoD Components to implement policy and prescribe procedures specific to their activities and operations to comply with this Instruction.

2.5. Is limited to DoD activities and operations that may have environmental effects within the United States.

3. DEFINITIONS

3.1. Domestic Maritime Boundary of the United States. The seaward limits of the geographic area within a distance of 3 nautical miles seaward of the baseline for all states, territories, and possessions, except the Gulf Coast of Florida and Texas, where it means a distance of 3 marine leagues (9 nautical miles) seaward of the baseline.

3.2. Environmental Partnering. Joint and systematic efforts of the DoD Components to formally engage other governmental agencies (Federal, State, local), non-profit groups, and private contractors and other parties, as appropriate, to implement specific programs and projects dealing with restoration, conservation, compliance, or pollution-prevention activities.

3.3. Environmental Planning. The process of identifying and considering environmental factors that impact on, or are impacted by, planned DoD activities and operations.

3.4. Proponent. The organization that exercises primary management responsibility for a proposed action or activity.

3.5. United States. All States, territories, and possessions of the United States and all waters and airspace within the domestic maritime boundary of the United States.

4. POLICY. It is DoD policy to:

4.1. Integrate environmental considerations into DoD plans for defense activities and operations. DoD activity and operational planning should fully consider the environmental consequences of proposed actions in conjunction with national security requirements and other considerations of national policy.

4.2. Prepare necessary documentation required under references (g) and (h) whenever a proponent develops a proposal for an action that has the potential for significant environmental impacts and the Component is actively preparing to make a decision on one or more alternative means of accomplishing that proposal.

4.3. Integrate environmental considerations into installation master planning and operational planning.

4.4. Integrate environmental considerations into acquisition programs in accordance with DoD 5000.2-R (reference (e)) and DoD Directive 5000.1 (reference (f)).

4.5. Require the proponent of an action to program for funding of the costs of any environmental planning and analysis necessitated by the action.

5. RESPONSIBILITIES

5.1. The Deputy Under Secretary of Defense for Environmental Security, under the Under Secretary of Defense for Acquisition and Technology shall:

5.1.1. Provide policy and oversight for integration of environmental considerations into DoD activity planning and, as appropriate, operational planning.

5.1.2. In consultation with appropriate Assistant Secretaries of Defense and other applicable DoD Components, resolve disagreements over departmental policy about environmental planning issues when agreement among the DoD Components cannot be reached.

5.1.3. Support DoD budget requests to manage and implement this Instruction.

5.1.4. Be the principal point of contact for the Department of Defense on environmental issues brought before the CEQ, the Office of Management and Budget, the Advisory Council on Historic Preservation, Headquarters U.S. Environmental Protection Agency, the Federal Aviation Administration, and other Federal Agencies at the Headquarters level on environmental planning issues that have DoD-wide applicability. This provision does not apply to the National Security Council and National Security Council-chartered working groups for which the Chairman of the Joint Chiefs of Staff is the principal point of contact.

5.1.5. Oversee DoD Component implementation of this Instruction.

5.1.6. Establish and maintain a multi-Service manual as an adjunct to this Instruction addressing installation-compatible use zone and noise issues.

5.2. The Heads of the DoD Components shall:

5.2.1. Integrate environmental considerations into planning for all applicable DoD Component-level activities and operations.

5.2.2. Plan, program, and budget for environmental planning and analysis and execute such environmental planning and analysis consistent with DoD guidance and fiscal policies.

5.2.3. Ensure that decisionmakers are cognizant of the potential environmental impacts of their decisions.

5.2.4. Provide policy and procedures for implementing the requirements of this Instruction.

5.2.5. Support outreach processes on environmental planning and analysis.

5.2.6. Coordinate with other DoD Components on environmental issues that affect them.

6. PROCEDURES

6.1. The Deputy Under Secretary of Defense (Environmental Security) shall transmit to Congress environmental impact analyses prepared to support DoD legislative proposals.

6.2. The Heads of DoD Components shall:

6.2.1. Issue environmental planning policies and procedures to promote the early integration of environmental considerations into activity and operational planning to ensure that:

6.2.1.1. Decisionmakers are informed of the consequences, alternatives, costs, and mitigation factors that must be considered about DoD decisions that have potential significant environmental impacts;

6.2.1.2. Decisionmakers consider, during activity and operational planning, constraints imposed by applicable Federal, State, interstate, and local environmental laws and regulations, and Executive Orders; and,

6.2.1.3. Potential delays and conflicts in mission execution are minimized.

6.2.2. To the extent practicable and appropriate, and subject to the availability of funds, include in any environmental policies and procedures issued under paragraph 6.2.1., above, provisions that encourage installations to engage in advance environmental planning, including development of environmental baseline information to support activity and operational planning. Such information should be included in master plans or such other plans developed for installation-wide activities and operations. This information should be available in a format that provides ready-access to managers and staff responsible for environmental compliance and to decisionmakers who require early information to identify environmental impacts and alternatives.

6.2.3. Adopt, as necessary, procedures to supplement 42 U.S.C. 4321 et seq. (reference (g)) and 40 CFR 1500-1508 (reference (h)).

6.2.4. Develop intergovernmental and other public consultation procedures, as appropriate, with State and local elected officials and governmental bodies, Indian tribes, native Hawaiian organizations, citizen groups, and the general public for proposed activities that have potentially significant impacts on the human environment.

6.2.5. Develop interagency consultation procedures with other Federal Departments and Agencies for proposed actions that are of potential interest to these Agencies. Include

environmental partnering approaches and processes, as appropriate, with Federal and State agencies under 42 U.S.C. 2701 et seq. (reference (i)).

6.2.6. Develop, implement, and maintain noise and Installation Compatible Use Zone programs that promote compatibility between the activities and operations within the installation, and between the activities and operations of the installation and neighboring civilian communities.

7. EFFECTIVE DATE. This Instruction is effective immediately.

Paul G. Kaminski
Under Secretary of Defense
(Acquisition and Technology)

Enclosures - 2

1. References
2. Policies Specific to Section 4321 et seq. of title 42, United States Code (reference (g)).

E1. ENCLOSURE 1

REFERENCES

(e) DoD 5000.2-R, "Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System (MAIS) Acquisition Programs," March 15, 1996 authorized by DoD Directive 5000.1, March 15, 1996
(f) DoD Directive 5000.1, "Defense Acquisition," March 15, 1996
(g) Section 4321 et seq. of title 42, United States Code, "National Environmental Policy Act of 1969" as amended
(h) Title 40, Code of Federal Regulations, Parts 1500-1508, "Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act"
(i) Section 2701 et seq. of title 42, United States Code, "Intergovernmental Cooperation Act 1968
(j) Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994
(k) Section 9601 et seq. of title 42, United States Code, Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended

E2. ENCLOSURE 2

POLICIES SPECIFIC TO SECTION 4321 ET SEQ. OF TITLE 42, UNITED STATES CODE (REFERENCE (G))

E1.1.1. Emergencies. When emergency actions are taken that have potential for significant environmental impacts and that make it necessary to consult with the Council on Environmental Quality, Heads of the DoD Components (or designees) will, as soon as practicable, advise the Office of the Deputy Under Secretary of Defense (Environmental Security). The DoD Component Head (or designee), the DUSD(ES), and General Counsel of the Department of Defense (GC, DoD)) will jointly consult with CEQ. Because of the importance of engaging the CEQ, the DoD Component may unilaterally consult with CEQ concerning the emergency action if the DUSD(ES) and the GC, DoD are not available. (40 CFR 1506.11) (reference (h)).

E1.1.2. Environmental Justice. The DoD Component documentation under 42 U.S.C. 4321 et seq. (reference (g)) must contain an analysis of the impacts of the proposed action and alternatives considered, including impacts that may have disproportionately high adverse human health or environmental effects on populations covered by E.O. 12898 (reference (j)).

E1.1.3. Filing of Reference (g) Documentation. The DoD Components shall provide to the DUSD(ES) a copy of notices of intent or similar notice documents issued to announce the preparation of reference (g) documentation. Upon request, copies of any reference (g) documents shall be furnished to the DUSD (ES). The DoD Components shall maintain official record copies of all reference (g) documents prepared by the DoD Component for a time period commensurate with the significance of the proposed action.

E1.1.4. Electronic Filing. The DoD Components shall file, electronically, copies of all draft and final environmental impact statements, and Records of Decision with the Defense Technical Information Center as part of their public distribution procedures. Components may exclude graphics and/or figures from the document filed. This provision does not apply to documentation being prepared under contracts that exist at the time this Instruction becomes effective.

E1.1.5. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (reference (k)) and National Environmental Policy Act (NEPA) (reference (g)) Relationship. The procedural requirements for preparation of documentation to meet the statutory requirements for remediation and/or restoration projects undertaken under reference (k) are substantially the same as prescribed under reference (g). Consequently, Components are not required to prepare separate reference (g) documents for CERCLA actions.

E1.1.6. Mitigation Measures. The DoD Components shall establish procedures for identifying and tracking mitigation measures committed to in environmental planning documents.

E1.1.7. Self Audit Programs. The DoD Components shall evaluate through self-audit programs whether mitigation measures were implemented.

APPENDIX O

EXCERPT FROM DEPARTMENT OF DEFENSE DIRECTIVE 5000.1
DEFENSE ACQUISITION

NUMBER 5000.1

March 15, 1996

USD(A&T)

SUBJECT: Defense Acquisition

References: (a) DoD Directive 5000.1, "Defense Acquisition," February 23, 1991 (hereby canceled)
(b) DoD Directive 8120.1, "Life-Cycle Management of Automated Information Systems," January 14, 1993 (hereby canceled)
(c) DoD 5000.2-R, "Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems," 1996
(d) Office of Management and Budget Circular A-109, "Major Systems Acquisitions," April 1976
(e) through (ggg), see enclosures 1 and 2

1. PURPOSE. This Directive:

1.1. States policies and principles for all DoD acquisition programs and identifies the Department's key acquisition officials and forums.

1.2. Replaces DoD Directive 5000.1, "Defense Acquisition," February 23, 1991 (reference (a)) and DoD Directive 8120.1, "Life-Cycle Management of Automated Information Systems," January 14, 1993 (reference (b)).

1.3. Authorizes publication of DoD 5000.2-R, "Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems" (reference (c)).

1.4. In accordance with OMB Circular A-109 (reference (d)), establishes a disciplined yet flexible management approach for acquiring quality products that satisfy the operational user's needs.

1.5. Cancels the documents identified at Enclosure 2.

These cancellations will be replaced by DoD 5000.2-R, "Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems" (reference (c)).

2. APPLICABILITY AND SCOPE. This Directive applies to all elements of the DoD. This includes the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Defense Agencies, and DoD Field Activities (hereafter referred to collectively as "DoD Components"). This Directive and 5000.2-R (reference (c)) rank first and second in order of precedence for providing mandatory policies and procedures for the management of acquisition programs, except when statutory requirements override. If there is any conflicting guidance pertaining to contracting, the Federal Acquisition Regulation and/or Defense Federal Acquisition Regulation Supplement shall take precedence over this Directive and DoD Regulation 5000.2-R (reference (c)). This Directive describes broad management principles that are applicable to all DoD acquisition programs. Highly sensitive classified programs, cryptologic, and intelligence programs, shall follow the guidance contained in this Directive. DoD 5000.2-R (reference(c)) describes operating procedures that are mandatory only for Major Defense Acquisition Programs (MDAPs), Major Automated Information System (MAIS) acquisition programs, and for other acquisition programs as specifically stated in the Instruction. DoDD 8000.1 (reference (e)) describes management principles that are mandatory for all information management activities, including those related to acquisition of information systems, resources, services, and infrastructures. Providing quality products needed by the United States Armed Forces requires a highly disciplined, yet flexible management framework that effectively translates operational needs into stable, affordable acquisition programs. The policies and principles stated in this Directive are intended to serve as broad guidelines for acquisition personnel throughout the DoD. The accompanying document, DoD 5000.2-R (reference (c)), focuses on MDAPs, MAIS acquisition programs, and other programs as specifically identified, and describes more detailed mandatory procedures necessary for the effective operation of the defense acquisition system.

3. DEFINITIONS

3.1. Acquisition Executive. The individual, within the Department and Components, charged with overall acquisition

management responsibilities within his or her respective organizations. The Under Secretary of Defense (Acquisition and Technology (A&T)) is the Defense Acquisition Executive (DAE) responsible for all acquisition matters within the Department of Defense. The Component Acquisition Executives (CAEs) for each of the Components are the Secretaries of the Military Departments or Heads of Agencies with power of redelegation. The CAEs, or designee, are responsible for all acquisition matters within their respective Components.

3.2. Acquisition Phase. All the tasks and activities needed to bring a program to the next major milestone occur during an acquisition phase. Phases provide a logical means of progressively translating broadly stated mission needs into well defined system-specific requirements and ultimately into operationally effective, suitable, and survivable systems. An example of an acquisition phase is Program Definition and Risk Reduction.

3.3. Acquisition Program. A directed, funded effort that is designed to provide a new, improved, or continuing weapons system or automated information system (AIS) capability in response to a validated operational need. Acquisition programs are divided into categories, which are established to facilitate decentralized decision-making and execution and compliance with statutory requirements.

3.4. Automated Information System (AIS). A combination of computer hardware and software, data, or telecommunications, that performs functions such as collecting, processing, transmitting, and displaying information. Excluded are computer resources, both hardware and software, that are: physically part of, dedicated to, or essential in real time to the mission performance of weapon systems.

3.5. Major Automated Information System (MAIS) Acquisition Program. An AIS acquisition program that is (1) designated by ASD(C3I) as a MAIS, or (2) estimated to require program costs in any single year in excess of 30 million in fiscal year (FY) 1996 constant dollars, total program costs in excess of 120 million in FY 1996 constant dollars, or total life-cycle costs in excess of 360 million in FY 1996 constant dollars. MAIS Acquisition Programs do not include highly sensitive classified programs (as determined by the Secretary of Defense). For the purpose of determining whether an AIS is a MAIS, the following shall be aggregated and considered a single AIS: (1) the separate AISs that constitute a multi-element program; (2) the separate AISs

that make up an evolutionary or incrementally developed program; or (3) the separate AISs that make up an a multi-component AIS program.

3.6. Major Defense Acquisition Program (MDAP). An acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and that is: (1) designated by the USD(A&T) as an MDAP, or (2) estimated by the USD(A&T) to require an eventual total expenditure for research, development, test and evaluation of more than 355 million in FY 1996 constant dollars or, for procurement, of more than 2.135 billion in FY 1996 constant dollars (10 USC Sec. 2430, reference (f)).

3.7. Major Milestones. A major milestone is the decision point that separates the phases of an acquisition program. MDAP milestones include, for example, the decisions to authorize entry into the engineering and manufacturing development phase, or to begin full-rate production. MAIS milestones may include, for example, the decision to begin program definition and risk reduction.

3.8. Milestone Decision Authority (MDA). The individual designated in accordance with criteria established by DoD 5000.2-R (reference (c)) to approve entry of an acquisition program into the next phase.

3.9. OSD Principal Staff Assistants (PSAs). The PSAs represent the user community in the functional area under their direction on acquisition and requirements matters. The OSD PSAs are the Under Secretaries of Defense (USDs), the Director of Defense Research and Engineering (DDR&E), the Assistant Secretaries of Defense (ASDs), the Director, Operational Test and Evaluation (DOT&E), the General Counsel of the Department of Defense (GC, DoD), the Inspector General of the Department of Defense (IG, DoD), the Assistants to the Secretary of Defense (ATSDs), and the OSD Directors or equivalents, who report directly to the Secretary or the Deputy Secretary of Defense.

4. POLICY. The primary objective of the defense acquisition system is to acquire quality products that satisfy the needs of the operational user with measurable improvements to mission accomplishment, in a timely manner, at a fair and reasonable price. Successful acquisition programs are fundamentally dependent upon competent people, rational priorities, and clearly defined responsibilities. The following policies and principles

govern the operation of the defense acquisition system and are divided into three major categories: (1) Translating Operational Needs into Stable, Affordable Programs, (2) Acquiring Quality Products, and (3) Organizing for Efficiency and Effectiveness. These principles shall guide all defense acquisition programs:

4.1. Translating Operational Needs into Stable, Affordable Programs

4.1.1. Integrated Management Framework. The policies stated herein are intended to forge a close and effective interface among the Department's three principal decision support systems: 1) the Requirements Generation System, 2) the Acquisition Management System, and 3) the Planning, Programming, and Budgeting System. The requirements generation system, governed by CJCS MOP 77 (reference (g)), produces information for decision-makers on projected mission needs for MDAPs and MAISs, with missions requiring interface to the joint warfighter. The DoDD 8000.1 (reference (e)) provides complementary guidance for MAIS functional areas. The acquisition management system governed by this Directive provides for a streamlined management structure and event-driven management process that emphasizes risk management and affordability and that explicitly links milestone decisions to demonstrated accomplishments. The planning, programming, and budgeting system, governed by DoDD 7045.14 (reference (h)), provides the basis for making informed affordability assessments and resource allocation decisions on defense acquisition programs. All three systems operate continuously and concurrently to assist the Secretary of Defense and other senior officials in making critical decisions. The information derived from these systems permits senior DoD officials to plan for the future, allocate resources to meet the highest national priorities, and execute the current budget. The interaction of these systems enables the United States to acquire the quality products needed by the nation's Armed Forces.

4.1.2. Integrated Product and Process Development (IPPD). PMs and other acquisition managers shall apply the concept of IPPD throughout the acquisition process to the maximum extent practicable. IPPD is a management technique that integrates all acquisition activities starting with requirements definition through production, fielding/deployment and operational support in order to optimize the design, manufacturing, business, and supportability processes. At the core of IPPD implementation are Integrated Product Teams (IPTs).

4.1.3. Program Stability. Once DoD initiates an acquisition program to meet an operational need, managers at all levels shall make program stability a top priority. To maximize stability, the Components shall develop realistic long-range investment plans and affordability assessments. The Department's leadership shall strive to ensure stable program funding throughout the program's life-cycle.

4.1.4. Risk Assessment and Management. PMs and other acquisition managers shall continually assess program risks. Risks must be well understood, and risk management approaches developed, before decision authorities can authorize a program to proceed into the next phase of the acquisition process. To assess and manage risk, PMs and other acquisition managers shall use a variety of techniques, including technology demonstrations, prototyping, and test and evaluation. Risk management encompasses identification, mitigation, and continuous tracking, and control procedures that feed back through the program assessment process to decision authorities. To ensure an equitable and sensible allocation of risk between government and industry, PMs and other acquisition managers shall develop a contracting approach appropriate to the type of system being acquired.

4.1.5. Total System Approach. Acquisition programs shall be managed to optimize total system performance and minimize the cost of ownership. The total system includes not just the prime mission equipment, but the people who operate and maintain the system; how systems security procedures and practices are implemented; how the system operates in its intended operational environment and how the system will be able to respond to any effects unique to that environment (such as Nuclear, Biological and Chemical (NBC) or information warfare); how the system will be deployed to this environment; the system's compatibility, interoperability, and integration with other systems; the operational and support infrastructure (including Command, Control, Communications, Computers and Intelligence (C4I)); training and training devices; any data required by the system in order for it to operate; and the system's potential impact on the environment and environmental compliance.

4.1.6. Cost as an Independent Variable (CAIV). Fiscal constraint is a reality that all participants in the defense acquisition process must recognize. Cost must be viewed as an independent variable. Accordingly, acquisition managers shall establish aggressive but realistic objectives for all programs and follow through by trading off performance and schedule,

beginning early in the program (when the majority of costs are determined), to achieve a balanced set of goals, based on guidance from the MDA.

4.1.7. Program Objectives and Thresholds. Beginning at the inception of a new acquisition program, the PM, together with the user, shall propose for MDA approval objectives and thresholds for cost, schedule, and performance, that will result in systems that are affordable, timely, operationally effective, operationally suitable, and survivable. The PM shall refine these objectives and thresholds as the program matures, consistent with operational requirements.

4.1.8. Nontraditional Acquisition. The Department must be prepared to plan and execute a diverse variety of missions. To meet the user's needs in a timely manner, the acquisition system must be able to rapidly insert advanced technology directly into the warfighter's arsenal. Doing so means being able to demonstrate new and improved military capabilities on a scale adequate to establish operational utility and affordable cost. Demonstrations based on mature technologies may lead to more rapid fielding. Where appropriate, managers in the acquisition community shall make use of non-traditional acquisition techniques, such as Advanced Concept Technology Demonstrations (ACTDs), rapid prototyping, evolutionary and incremental acquisition, and flexible technology insertion.

4.1.9. Performance Specification. In solicitations and contracts, standard management approaches or manufacturing processes shall not be required. Performance specifications shall be used when purchasing new systems, major modifications, and commercial and nondevelopmental items. Performance specifications include DoD performance specifications, commercial item descriptions, and performance-based nongovernment standards. If it is not practicable to use a performance specification, a nongovernment standard shall be used. There may be cases when military specifications are needed to define an exact design solution because there is no acceptable nongovernment standard or because the use of a performance specification or nongovernment standard is not cost-effective, not practical, or does not meet the user's needs. In these cases, the use of military specifications and standards is authorized as a last resort, with an appropriate waiver or exception from the MDA.

4.2. Acquiring Quality Products

4.2.1. Event-Oriented Management. The Department shall use a rigorous, event-oriented management process that emphasizes effective acquisition planning, improved and continuous communications with users, and prudent risk management by both the Government and industry. Event-oriented means that the management process shall be based on significant events in the acquisition life-cycle and not arbitrary calendar dates.

4.2.2. Hierarchy of Materiel Alternatives. In response to operational requirements, priority consideration shall always be given to the most cost-effective solution over the system's life-cycle. Generally, use or modification of systems or equipment that the Department already owns is more cost-effective than acquiring new materiel. If existing U.S. military systems or other on-hand materiel cannot be economically used or modified to meet the operational requirement, an acquisition program may be justified and acquisition decision-makers shall observe the following hierarchy of alternatives: (1) the procurement (including modification) of commercially available systems or equipment, the additional production (including modification) of already-developed U.S. military systems or equipment, or Allied systems or equipment; (2) cooperative development program with one or more Allied nations; (3) new joint Service development program; and (4) a new Service-unique development program. Important in this evaluation process for new or modified systems are considerations for compatibility, interoperability, and integration with existing and future components or systems.

4.2.3. Communications with Users. The defense acquisition community shall maintain continuous and effective communications with the operational user. The objective is to gain a sound understanding of user needs and to work with the user to achieve a proper balance among cost, schedule, and performance considerations.

4.2.4. Competition. Competition provides major incentives to industry to enhance the application of advanced technology and life-cycle cost advantages to defense programs, as well as a mechanism to obtain an advantageous price. DoD Components shall acquire systems, subsystems, equipment, supplies and services in accordance with the statutory requirements for competition (10 USC Sec. 2304, reference (i)).

4.2.5. Test and Evaluation. Test and evaluation programs shall be structured to provide essential information to

decision-makers, assess attainment of technical performance parameters, and determine whether systems are operationally, effective, suitable, and survivable for intended use. Each Military Department shall establish an independent operational test and evaluation activity, reporting directly to the Service Chief, to plan and conduct operational tests, report results, and provide evaluations of effectiveness and suitability.

4.2.6. Modeling and Simulation. Models and simulations shall be used to reduce the time, resources, and risks of the acquisition process and to increase the quality of the systems being acquired. Representations of proposed systems (virtual prototypes) shall be embedded in realistic, synthetic environments to support the various phases of the acquisition process, from requirements determination and initial concept exploration to the manufacturing and testing of new systems, and related training.

4.2.7. Independent Assessments. Assessments, independent of the developer and the user, are extremely important to ensure an impartial evaluation of program status. Consistent with statutory requirements and good management practice, DoD shall use independent assessments of program status. Senior acquisition officials shall consider these assessments when making decisions. Staff offices that provide independent assessments shall support the orderly progression of programs through the acquisition process. Independent assessments shall be shared with the Integrated Product Team so that there is a full and open discussion of issues with no secrets.

4.2.8. Innovative Practices. The Department encourages PMs to continually search for innovative practices that reduce cycle time, reduce cost, and encourage teamwork.

4.2.9. Continuous Improvement. The Department shall continuously focus on implementing major improvements necessary to streamline the acquisition process, reduce infrastructure, and enhance customer service through process reengineering and technological breakthrough. Through a commitment to reengineering, the Department shall increase its ability to fund warfighting requirements and continued research and development.

4.2.10. Legality of Weapons Under International Law. DoD acquisition and procurement of weapons shall be consistent with all applicable treaties, customary international law, and the law of armed conflict (also known as the laws and customs of war). The Head of each DoD Component shall ensure that all Component

activities that could reasonably generate questions concerning compliance with obligations under arms control agreements to which the United States is a party shall have clearance from the USD(A&T), in coordination with the OSD General Counsel and the Under Secretary of Defense (Policy), before such activity is undertaken. The Head of each DoD Component shall ensure that the Component's General Counsel or Judge Advocate General, as appropriate, conducts a legal review of the intended acquisition of a potential weapon to determine that it is consistent with U.S. obligations. The review shall be conducted before the award of the engineering and manufacturing development contract and before the award of the initial production contract. Files shall be kept permanently. Additionally, legal reviews of new, advanced, or emerging technologies which may lead to development of weapons or weapons systems are encouraged.

4.2.11. Software-Intensive Systems. Software is a key element in DoD systems. It is critical that software developers have a successful past performance record, experience in the software domain or product line, a mature software development process, and evidence of use and adequate training in software methodologies, tools, and environments.

4.2.12. Environmental Management. It is DoD policy to prevent, mitigate, or remediate environmental damage caused by-acquisition programs. Prudent investments in pollution prevention can reduce life-cycle environmental costs and liability while improving environmental quality and program performance. In designing, manufacturing, testing, operating and disposing of systems, all forms of pollution shall be prevented or reduced at the source whenever feasible.

4.3. Organizing for Efficiency and Effectiveness

4.3.1. Streamlined Organizations. DoD shall use a streamlined acquisition management structure characterized by short, clearly defined lines of responsibility, authority, and accountability. In general, the chain of command shall include the PM, the Program Executive Officer (PEO), the Component Acquisition Executive (CAE), reporting through the Head of the Component, and the USD(A&T) or ASD(C3l). In all cases, no more than two levels of review shall exist between a PM and the MDA.

4.3.2. Acquisition Corps. The DoD acquisition workforce shall be fully proficient in the acquisition process. To ensure proficiency, and in accordance with the statutory requirements contained in 10 USC Sec. 1701 (reference (j)), the USD(A&T) shall

establish education, training, and experience standards for each acquisition position based on the level of complexity of duties carried out in that position. These standards are contained in DoDD 5000.52 (reference (k)).

4.3.3. Teamwork. Defense acquisition works best when all of the Department's Components work together. Cooperation and empowerment are essential. The Department's acquisition community shall implement the concepts of Integrated Product and Process Development (IPPD) and Integrated Product Teams (IPTs) as extensively as possible.

4.3.4. Limited Reporting Requirements. Complete and up-to-date program information is an essential ingredient of the defense acquisition process. At the same time, it is important to keep reporting requirements to a minimum. Consistent with statutory requirements, PMs and other participants in the defense acquisition process shall be required to present only the minimum information necessary for decision authorities to understand program status and make informed decisions. The exchange of program information shall be facilitated by the use of IPTs.

4.3.5. Tailoring. Certain core issues must be addressed at the appropriate milestone for every acquisition program. These issues are described in detail in the major sections of DoD 5000-R (reference (c)) and include program definition, program structure, program design, program assessments, and periodic reporting. How these issues are addressed shall be tailored by the appropriate MDA to minimize the time it takes to satisfy an identified need consistent with common sense, sound business management practice, applicable laws and regulations, and the time sensitive nature of the requirement itself. Tailoring may be applied to various aspects of the acquisition process, including program documentation, acquisition phases, the timing and scope of decision reviews, and decision levels. MDAs shall promote flexible, tailored approaches to oversight and review based on mutual trust and a program's size, risk, and complexity.

4.3.6. Automated Acquisition Information (AAI). The Department shall maintain an automated acquisition information (AAI) infrastructure to provide current and comprehensive information to decision-makers and interested parties, and to give PMs access to management tools that facilitate efficient and effective acquisition. The Defense Acquisition Deskbook satisfies the requirement for an AAI infrastructure. The Defense Acquisition Deskbook is an automated repository of information that consists of an electronic Desk Reference Set, a Tool

Catalog, and a Forum for the exchange of information. The Reference Set organizes information into two main categories: mandatory guidance and discretionary information.

4.3.7. Management Control. Rigorous internal management control systems are integral to effective and accountable program management. The objective is to perform acquisition functions efficiently and effectively while maximizing the utilization and protection of resources through internal management controls. Managers throughout the acquisition community should implement appropriate management controls in accordance with this Directive and DoD 5000.2-R (reference (c)) (both of which satisfy the requirements of DoDD 5010.38 (reference (l)). Control objectives for acquisition program cost, schedule, and performance parameters are embodied in Acquisition Program Baselines (APBs). Material weaknesses are identified through deviations from approved APB parameters and exit criteria, as reflected in the DAES. In implementing internal management control systems, managers shall focus on results, not process.

5. RESPONSIBILITIES. This section describes the responsibilities of key acquisition officials and key forums. A key official is a DoD official who is: a member of the streamlined acquisition chain of command or a member of the Defense Acquisition Board. This section is descriptive only. Official responsibilities and authorities are set forth in individual DoD Directives and Component documents for each official and some forums.

5.1. Key Officials

5.1.1. The Deputy Secretary of Defense approves funding for new acquisition programs and provides general affordability planning guidance for use in structuring these programs, and leads the Defense Resources Board (DRB) (10 USC Sec. 132 (reference (m)).

5.1.2. The Under Secretary of Defense for Acquisition and Technology (USD(A&T)) is the Department’s Acquisition Executive for MDAPs. As such, the USD(A&T) establishes acquisition policies and procedures, and chairs the Defense Acquisition Board (DAB) (10 USC Sec. 133 (reference (n)), DoDD 5134.1 (reference (o)).

5.1.3. The Under Secretary of Defense (Policy) (USD(P)) leads the Department's planning effort (10 USC Sec. 134 (reference (p)), DoDD 5111.1 (reference (q)).

5.1.4. The Under Secretary of Defense (Comptroller) (USD(C)) leads the Department's budgeting effort (10 USC Sec. 135 (reference (r)), DoDD 5118.3 (reference (s)).

5.1.5. The Secretary of each Military Department, and the Heads of other DoD Components having acquisition management responsibilities, ensure that policies and procedures governing the operation of the Department's acquisition, requirements, and budgeting systems are effectively implemented. Each Secretary and Component Head also designates a single, full-time Acquisition Executive at the Assistant Secretary (or equivalent) level known as the Component Acquisition Executive (CAE), selects PEOs, establishes a centralized system for selecting PMs, and charters a Component-level system of acquisition oversight and review.

5.1.6. The Vice Chairman of the Joint Chiefs of Staff (VCJCS) chairs the Joint Requirements Oversight Council (JROC), vice-chairs the DAB, and represents the Commanders-in-Chiefs of the Unified Combatant Commands on acquisition and requirements matters (10 USC Sec. 154 (reference (t)).

5.1.7. The Director, Operational Test and Evaluation (DOT&E) establishes Department policies and procedures for operational test and evaluation and live-fire test and evaluation (10 USC Sec. 139 (reference(u)), DoDD 5141.2 (reference (v)).

5.1.8. The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C3I)) is the Department's Chief Information Officer (CIO) (formerly the Senior IM Official). As such, the ASD(C3I) is the Department's Acquisition Executive for AISs; establishes acquisition policies and procedures unique to AISs, and chairs the MAISRC (10 USC Sec. 138 (reference (w)); DoDD 5137.1 (reference (x)).

5.1.9. The Director, Program Analysis and Evaluation (DPA&E) leads the Department's programming effort (DoDD 5141.1 (reference (y)), provides guidance for and reviews the results of analysis of alternatives studies prepared for acquisition programs, and for AIS systems determines that the cost and benefit analyses are accurate and complete.

5.1.10. The Component Acquisition Executives (CAE) supervise the operation of the acquisition system within their respective Component and are responsible for enforcing policies established by the USD(A&T). CAE's also serve as decision authorities for assigned programs.

5.1.11. Program Executive Officers (PEO) review and assess changes reported in assigned programs, the significance of the problems reported by the PM, the PM's proposed action plans, and the level of risk associated with such plans. PEO's also serve as decision authorities for assigned programs.

5.1.12. System Command (SYSCOM)/Designated Acquisition/Materiel Command Commanders provide support to PEO's and PMs and are decision authorities for assigned programs.

5.1.13. Program Managers (PMs) manage assigned programs in a manner consistent with the policies and principles articulated in this Directive and the PM Bill of Rights. In addition, PMs provide assessments of program status and risk to higher authorities and to the user or user's representative; actively manage, to the best of their abilities within approved resources, program cost, performance, and schedule; and provide assessments of contractor performance.

5.1.14. OIPT Leaders provide strategic guidance to the program office, resolve issues, and provide an independent assessment to the USD(A&T) and the DAB at major decision points, using information gathered through the Integrated Product Team (IPT) process.

5.2. Key Forums

5.2.1. The Defense Resources Board (DRB) is the senior DoD resource allocation board chaired by the Deputy Secretary of Defense. The DRB advises the Deputy Secretary on major resource allocation decisions.

5.2.2. The Defense Acquisition Board (DAB) is the senior DoD acquisition review board chaired by the USD(A&T). The DAB advises the USD(A&T) on major decisions on individual acquisition programs, specifically, and acquisition policies and procedures, generally.

5.2.3. The Major Automated Information System Review Council (MAISRC) is the senior DoD automated information systems acquisition review board chaired by the ASD(C3I). The MAISRC

advises the ASD(C3I) on major decisions on individual major automated information system acquisition programs, specifically, and AIS acquisition policies and procedures, generally.

5.2.4. The Joint Requirements Oversight Council (JROC), chaired by the VCJCS, conducts requirements analyses, validates mission needs and key performance parameters, and develops recommended joint priorities for those needs. The JRO validates the C4I certification of mission need and operational requirements documents for conformance with joint C4 policy and doctrine, architectural integrity, and interoperability standards. The JROC advises the Chairman of the Joint Chiefs of Staff (CJCS)on requirements (MCM 14-95 (reference (z)).

5.2.5. Cost Analysis Improvement Group (CAIG), chaired by the Deputy Director, Resource Analysis, PA&E, conducts reviews of DoD Component cost estimates and prepares the independent cost estimate (DoDD 5000.4 (reference (aa)).

5.2.6. The Integrated Product Team (IPT) is composed of representatives from all appropriate functional disciplines working together with a Team Leader to build successful and balanced programs, identify and resolve issues, and make sound and timely recommendations to facilitate decision-making. There are three types of IPTs: Overarching IPTs focus on strategic guidance, program assessment, and issue resolution. Working Level IPTs identify and resolve program issues, determine program status, and seek opportunities for acquisition reform. Program IPTs focus on program execution, and may include representatives from both Government, and after contract award, industry.

6. EFFECTIVE DATE. This Directive is effective immediately.

Enclosures - 2

1. References
2. List of Cancellations Authorized by update of DoD Directive 5000.1

E1. ENCLOSURE 1

REFERENCES

(e) DoD Directive 8000.1, "Defense Information Management (IM) Program," October 27, 1992
(f) Title 10, United States Code, Section 2430, Major defense acquisition program defined (these amounts have been increased pursuant to the statutory notice provided to Congress)
(g) Chairman Joint Chiefs of Staff (CJCS) MOP 77, Requirements Generation System Policies and Procedures
(h) DoD Directive 7045.14, "Planning, Programming, Budgeting System (PPBS)," Change 1, May 22, 1984
(i) Title 10, United States Code, Section 2304, Contracts: competition requirements
(j) Title 10, United States Code, Section 1701, Management policies
(k) DoD Directive 5000.52, "Defense Acquisition Education, Training and Career Development Program," October 25, 1991
(l) DoD Directive 5010.38, "Internal Management Control Program," April 14, 1987
(m) Title 10, United States Code, Section 132, Deputy Secretary of Defense
(n) Title 10, United States Code, Section 133, Under Secretary of Defense for Acquisition and Technology
(o) DoD Directive 5134.1, "Under Secretary of Defense for Acquisition and Technology (USD(A&T)," June 8, 1994
(p) Title 10, United States Code, Section 134, Under Secretary of Defense for Policy
(q) DoD Directive 5111.1, "Under Secretary of Defense for Policy (USD(P))," March 22, 1995
(r) Title 10, United States Code, Section 135, Under Secretary of Defense (Comptroller)
(s) DoD Directive 5118.3, "Comptroller of the Department of Defense (C, DoD)," June 24, 1991
(t) Title 10, United States Code, Section 154, Vice Chairman of the Joint Chiefs of Staff
(u) Title 10, United States Code, Section 139, Director of Operational Test and Evaluation
(v) DoD Directive 5141.2, "Director of Operational Test and Evaluation," Change 1, April 2, 1984
(w) Title 10, United States Code, Section 138, Assistant Secretaries of Defense

(x) DoD Directive 5137.1, "Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C3I))," February 12, 1992
(y) DoD Directive 5141.1, "Assistant Secretary of Defense (Program Analysis and Evaluation)," February 1, 1989
(z) MCM 14-95, Charter of the Joint Requirements Oversight Council
(aa) DoD Directive 5000.4, "OSD Cost Analysis Improvement Group (CAIG), " Change 1, November 24, 1992

E2. ENCLOSURE 2

List of Cancellations Authorized by update of DoD Directive 5000.1

E2.1.1. DoD Directives, Instructions, and Manuals

(bb) DoD Instruction 5000.2, "Defense Acquisition Management Policies and Procedures," February 23, 1991
(cc) DoD Directive 5000.49, "Defense Acquisition Board," September 11, 1989
(dd) DoD 7920.2-M, "Automated Information System Life-Cycle Management Manual," March 1990
(ee) DoD Instruction 7920.4, "Baselining of Automated Information Systems," March 21, 1988
(ff) DoD Instruction 8120.2, "Automated Information System Life-Cycle Management Process, Review, and Milestone Approval Procedures," January 14, 1993
(gg) DoD 5000.2-M, "Defense Acquisition Management Documentation and Reports," February 23, 1991

E2.1.2. Policy Memoranda

(hh) Office of the Secretary of Defense Memorandum, "Implementation Guidelines for Relating Cost and Operational Effectiveness Analysis (COEA) Measures of Effectiveness (MOEs) to Test and Evaluation," March 9, 1992
(ii) Under Secretary of Defense for Acquisition and Technology Memorandum, "Foreign Military Sales of Major Defense Systems Which Have Not Completed Operational Test and Evaluation Satisfactorily," May 15, 1992
(jj) Under Secretary of Defense for Acquisition and Technology Memorandum, "F-22 Exit Criteria" (last paragraph), May 20, 1993
(kk) Under Secretary of Defense for Acquisition and Technology Memorandum, "Long Leadtime Item Procurement," September 13, 1993
(ll) Under Secretary of Defense for Acquisition and Technology Memorandum, "Work Breakdown Structures," October 8, 1993
(mm) Under Secretary of Defense for Acquisition and Technology Memorandum, "Reporting of Program Modifications and Upgrades," October 14, 1993
(nn) Under Secretary of Defense for Acquisition and Technology Memorandum, "ACAT I Notification," January 6, 1994

(oo) Under Secretary of Defense for Acquisition and Technology Memorandum, "Live Fire Test and Evaluation Guidelines," January 27, 1994

(pp) Under Secretary of Defense for Acquisition and Technology Memorandum, "Use of Commercial Quality System Standards in the Department of Defense," February 14, 1994

(qq) Under Secretary of Defense for Acquisition and Technology Memorandum, "DoD Policy for Automatic Test Systems," April 29, 1994

(rr) Under Secretary of Defense for Acquisition and Technology Memorandum, "Request for Waiver to DoD Instruction 5000.2 (Part 2), Paragraph C2(f), " August 18, 1994

(s) Under Secretary of Defense for Acquisition and Technology Memorandum, "Request for Waiver Cases #436 and #437," August 18, 1994

(tt) Under Secretary of Defense for Acquisition and Technology Memorandum, "Release to Contractors of Numerical Weights Used in Source Selections," August 22, 1994

(uu) Under Secretary of Defense for Acquisition and Technology Memorandum, "Tailoring of Acquisition Procedures and Documentation for Acquisition Category (ACAT) II, III, and IV Programs," August 23, 1994

(vv) Office of the Secretary of Defense Memorandum, "Use of Ada," August 26, 1994

(ww) Under Secretary of Defense for Acquisition and Technology Memorandum, "Integrated Program Management," September 30, 1994

(xx) Under Secretary of Defense for Acquisition and Technology Memorandum, "Streamlined Acquisition Decision Memorandum Process," December 15, 1994

(yy) Under Secretary of Defense for Acquisition and Technology Memorandum, "Defense Acquisition Environmental Policies and Procedures, DoDI 5000.2, Part 6, Section I," December 30, 1994

(zz) Under Secretary of Defense for Acquisition and Technology Memorandum, "Operating and Support Costs in Acquisition Program Reviews," March 15, 1995

(aaa) Under Secretary of Defense for Acquisition and Technology Memorandum, "Quantities to be Procured for Low Rate Initial Production," April 14, 1995

(bbb) Secretary of Defense Memorandum, "Use of Integrated Product and Process Development and Integrated Product Teams in DoD Acquisition," May 10, 1995

(ccc) Under Secretary of Defense for Acquisition and Technology Memorandum, "Competition in Acquisition of Defense Systems," May 4, 1995

(ddd) Director Operational Test and Evaluation Memorandum, "Live Fire Test and Evaluation Authority and Responsibility," June 3, 1995

(eee) Under Secretary of Defense for Acquisition and Technology Memorandum, "Policy on Cost-Performance Trade-Offs," July 19, 1995

(fff) Under Secretary of Defense for Acquisition and Technology Memorandum, "Technical Representatives at Contractor Facilities," August 9, 1995

(ggg) Under Secretary of Defense for Acquisition and Technology Memorandum, "Acquisition Program Baselines and Performance Based Management of Defense Programs," September 27, 1995

APPENDIX P

EXCERPT FROM DEPARTMENT OF DEFENSE INSTRUCTION 6050.5
DOD HAZARD COMMUNICATION PROGRAM

NUMBER 6050.5

October 29, 1990

Administrative Reissuance

Incorporating Change 1,
May 6, 1996

USD(A&T)

SUBJECT: DoD Hazard Communication Program

References: (a) DoD Instruction 6050.5, "Hazardous Materials Information System," January 25, 1978 (hereby canceled)
(b) Title 29, Code of Federal Regulations, Section 1910.1200, "Hazard Communication," August 24, 1987, Section 1910.120, "Hazardous Waste Operations and Emergency Response," May 4, 1987 and Section 1910.1450, "Occupational Exposure to Hazardous Chemicals in Laboratories," January 31, 1990.
(c) DoD Safety and Occupational Health Program Policy Memorandum 88-1, "Hazard Communication," February 9 ,1988 (hereby canceled)
(d) Federal Standard 313, "Material Safety Data Sheets, Transportation Data, and Disposal Data for Hazardous Materials furnished to Government Activities," latest revision
(e) through (q), see enclosure 1

1. REISSUANCE AND PURPOSE. This Instruction reissues reference (a); fulfills the requirements of reference (b); updates DoD policy responsibilities and procedures for a Comprehensive Hazard Communication Program that:

1.1. Prescribes training for DoD personnel to ensure that they are:

1.1.1. Aware of the potential health hazards associated with their occupation.

1.1.2. Informed of safe work practices and proper use of engineering controls.

1.1.3. Trained in the selection, use, and availability of appropriate personal protective equipment to prevent chemically related injuries and illnesses.

1.2. Requires the DoD Components to comply with the Occupational Safety and Health Administration (OSHA) under 29 C.F.R. 1910.120, 1910.1200, and 1900.1450 hazard communication standards (HCS) reference (b).

1.3. Updates policy on hazard communication, DoD Policy Memorandum 88-1 (reference (c)), and policy on the DoD Hazardous Materials Information System (HMIS) data system under this Instruction. The HMIS is used to acquire, review, store, and disseminate selected information on hazardous materials as they are defined in Federal Standard 313 and FARS subparagraph 22.3 and DFARS 252.223-7004 (references (d) and (e)). The HMIS provides reference information required at all levels of DoD management to:

1.3.1. Develop procedures to prevent injuries and occupational illness in the handling, storage, use, transportation, and disposal of hazardous materials and wastes.

1.3.2. Apprise DoD and contractor personnel of the potential hazards of materials encountered in DoD workplaces.

1.3.3. Devise environmentally acceptable disposal procedures.

1.3.4. Assist in hazardous materials and hazardous waste minimization programs under DoD Directive 4210.15 (reference (f)).

1.3.5. Comply with Federal safety and health regulations (reference (b)).

1.4. Authorizes the continued publication of the following documents, consistent with DoD 5025.1-M (reference (h)).

1.4.1. DoD 6050.5-M (reference (i)).

1.4.2. DoD 6050.5-G, (reference (j)).

1.4.3. DoD 6050.5-G-1, (reference (k)).

1.4.4. DoD 6050.5-H, (reference (l)).

1.4.5. DoD 6050.5-W, (reference (m)).

2. APPLICABILITY AND SCOPE

2.1. This Instruction applies to:

2.1.1. The Office of the Secretary of Defense (OSD); the Military Departments; the Chairman, Joint Chiefs of Staff and the Joint Staff; the Unified and Specified Commands; the Inspector General, Department of Defense (IG, DoD); the Uniformed Services University of the Health Sciences (USUHS); the Defense Agencies; and the DoD Field Activities (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

2.1.2. All DoD personnel who use, handle, or may be potentially exposed to hazardous materials and waste, including those working in contractor facilities. Where feasible, such DoD personnel may be included in the contractor’s hazard communication program. In those cases, DoD Components retain ultimate responsibility for program oversight, adequacy, and DoD worker participation.

2.1.3. All DoD Components in the acquisition and processing of material safety data sheets (MSDS), in their roles as:

2.1.4.1. Employers of personnel potentially exposed to hazardous materials in the workplace.

2.1.4.2. Distributors of hazardous materials to downstream DoD personnel and/or customers, as defined in accordance with (IAW) the requirements of Section 1900.1200 of reference (b).

2.2. This Instruction applies to all hazardous materials used within the Department of Defense, whether centrally or locally managed and procured.

2.3. Contractor employees who are employed at a DoD-owned or -operated facilities may be included in the DoD Components’ Hazard Communication Program on a space-available and

reimbursable basis, as determined by the contracting officer. In those cases,contractors must assume ultimate responsibility that their employees have received appropriate training and ensure that all required records for their employees are maintained. Nothing in this Instruction alleviates Government contractors from full compliance with reference (b) and comparable state and local requirements.

2.4. The training and labeling requirements of 29 CFR 1910.1200, DoD 6050.5-H (references (b) and (l)) and the requirements of this Instruction apply to all DoD Components. Those requirements should not be duplicated for DoD personnel regulated by other Federal Agencies exercising statutory authority under Section 1910.1200, Section (b) (6), of reference (b); e.g., pest control and nuclear facility workers.

2.5. This Instruction applies only to the occupational uses and exposures to hazardous chemicals.

3. POLICY. It is DoD policy to:

3.1. Protect DoD personnel from adverse effects of workplace hazardous materials and waste in order to reduce chemically related injuries and illnesses.

3.2. Have a standardized HMIS established, maintained, and used by all the DoD Components.

4. RESPONSIBILITIES

4.1. The Deputy Under Secretary of Defense (Environmental Security (DUSD(ES)) shall provide policy guidance, coordination, and oversight of the DoD Hazard Communication Program.

4.2. The Head of DoD Components shall:

4.2.1. Establish and maintain hazard communication programs that conform to the requirements of this Instruction.

4.2.2. Designate an office or agency as office of primary responsibility (OPR) to issue policy and guidance for that Component’s role in the HMIS. If appropriate, designate a separate office or agency to serve as that DoD Component’s focal point for obtaining reviewing, entering, and providing

information to the HMIS data bank in accordance with the DoD Component's guidance.

4.2.3. Inform Headquarters, Defense Logistics Agency (DLA) (Attn: DLA-CAAE), of changes in focal points.

4.2.4. Ensure that purchase requests for applicable supply items include a requirement for contracting activities to obtain from offerors/suppliers MSDS and OSHA HCS compliant hazard warning label, IAW MIL-STD-129K, Federal Standard 313 and DFARS 252.223-7004, (references (n),(d), and (e)). The MSDS must be available for worker training and reference prior to the material being released for use in the workplace.

4.2.5. Establish health education programs IAW this Instruction and DoD Instructions 6055.1 and 6055.5 (references (o) and (p)) to ensure that all personnel who work with hazardous materials or wastes are notified of the following:

4.2.5.1. Hazards to which they are potentially exposed.

4.2.5.2. Exposure symptoms and emergency first aid treatment.

4.2.5.3. Precautions for safe use.

4.2.5.4. Personal protective equipment and control devices.

4.2.5.5. Waste disposal instructions.

4.2.5.6. Develop procedures to ensure that any proprietary formulary and/or trade secret information in an MSDS is protected and used only as a management tool for exposure and accident prevention and health hazard education. Trade secret information shall be treated IAW the requirements and restrictions of 29 C.F.R. 1910.1200 (reference (b)). Disclosure of any information outside the Department of Defense shall be IAW DoD Directive 5400.7 (reference (q)).

4.2.5.7. Provide guidance to its contracting officers to include in contracts for the purchase of hazardous materials; a notice that the MSDS and manufacturer's labels are to be forwarded to the designated office of the contracting activity, who shall be responsible for forwarding the MSDS and manufacturers label to the DoD Components' HMIS focal point.

4.2.5.8. Ensure that MSDS and label information in any of the Component's local level reference systems is forwarded to their designated focal point for review and submission to the DoD HMIS, as appropriate.

4.2.5.9. If requested, provide the Director, DLA, with information for the semiannual management report on status of HMIS implementation.

4.3. The Director, Defense Logistics Agency (DLA) is hereby designated Executive Agent for the HMIS and publication of DoD Manual 6050.5-M, "DoD Hazardous Materials Information System Procedures" and shall administer the HMIS IAW the policies established by the Assistant Deputy Under Secretary of Defense (Safety and Occupational Health Policy) (ADUSD(SH)), under the direction of the DUSD(ES), and specifically shall:

4.3.1. Establish and operate the DoD HMIS data bank for the storage and retrieval of data IAW the following minimum provisions:

4.3.1.1. Material Safety Data Sheet (MSDS), transportation, disposal, and label information shall be accessible by National Item Identification Number (NIIN), focal point assigned stock number (in the absence of NIIN), trade name and/or part number, hazard characteristic code, hazardous ingredients, and manufacturer/distributor commercial and government entity (CAGE) code.

4.3.1.2. The data bank shall be open ended to allow for expansion, as required by future safety, health, environmental, or transportation legislation or regulation.

4.3.1.3. MSDS records shall be retained for at least 40 years. Data may be centrally archived as the system grows.

4.3.2. Receive and process hazardous materials information from DoD Component's focal points, the General Services Administration (GSA), and other Federal Agencies as specified in the DoD 6050.5-M (reference (i)).

4.3.3. Publish and distribute the HMIS in both restricted and nonrestricted versions and the data in media (microfiche and/or electronic data interchange technologies) appropriate to the needs and/or technology availabilities of the DoD customer on a quarterly basis IAW standard practices for the media involved.

4.3.4. Issue guidance to all DoD Components, as required to establish, operate, and improve the DoD HMIS data bank.

4.3.5. Provide a semiannual management report to the DUSD(ES) on the status of the implementation of the HMIS for all of the Department of Defense. Include the operational content and use statistics of the database. This report is due May 15 and November 15 of each year. DoD Component input must be requested through the Component OPR.

4.3.6. Negotiate agreements with Federal Agencies establishing OPRs and focal points and for interaction with HMIS.

4.3.7. Negotiate agreements with industry to exchange hazardous material data.

5. PROCEDURES

5.1. Training

5.1.1. Personnel occupationally exposed to hazardous materials shall be trained IAW the HCS requirements (reference (b)) prior to being assigned to work with hazardous materials or wastes.

5.1.2. The DoD and Federal Agency Hazard Communication Training Program DoD 6050.5-G-1, (reference (k)) should be used as the minimum training for all DoD personnel who handle or use hazardous materials. The DoD Components are not to develop or purchase other basic hazard communication training programs.

5.1.3. In-depth training on specific chemicals or operations is required and may be accomplished using commercial or DoD Component-developed programs. Research activities may tailor the program in Section 1910.1450 of reference (b) to meet the special needs of their workers. Copies of DoD Component-developed programs (base level, major command, or Component-wide) should be submitted to the ODUSD(ES) for the purpose of sharing those programs among the DoD Components.

5.2. Material Safety Data Sheets (MSDS)

5.2.1. Hazard warning information, MSDS and label, shall be readily accessible to DoD personnel for all hazardous materials they handle, use, or may be potentially exposed.

5.2.2. DoD or contractor occupational health and/or safety personnel shall be available, on request, to provide explanations or interpretations of MSDS to supervisors and affected workers and assistance in HCS training.

5.2.3. DoD policy is to use the HCS (Section 1910.1200 of reference (b)) as a basis for hazard communication programs in foreign countries. Officials responsible for installations in foreign countries shall determine requirements for items to be acquired by contract and shall specify the need for the contractor to furnish safety and health hazard data. That requirement shall be stated in each procurement request for each hazardous chemical to be acquired either as an end item or as a component of the material being procured. A copy of the hazardous material information shall be provided to the DoD Component's focal point, for transmittal to the DoD HMIS, if the hazardous chemical is expected to be procured more than once or will ultimately be turned in to the Defense Reutilization and Marketing Office.

5.2.4. The activity controlling the formulation of hazardous chemicals produced by DoD Components shall develop the MSDS and the DoD label (DD Forms 2521 and 2522). The controlling DoD Component shall supply the MSDS and the DoD label to subsequent users and to the DoD Component focal point for entry into the HMIS data bank. Classified MSDSs and DoD labels shall be maintained and used by the DoD Components but will not be sent to the DoD HMIS. Unclassified versions of this MSDS, adequate for transportation, spill response, and emergency medical treatment, along with emergency telephone number, should be provided to the DoD HMIS.

5.2.5. For nationally stock-listed and locally purchased nonstandard stock hazardous chemicals, MSDS and HCS-compliant labels shall be contractually required and obtained by the responsible contracting officer and forwarded to the DoD Component's focal point for processing to the HMIS data bank. For locally purchased chemicals, the contracting officer shall ensure that the installation MSDS points of contact (POC) review the MSDS and label for adequacy before contract award. The installation POC shall then forward the MSDS and label to the DoD Component's focal point for processing (DoD 6050.5-M reference (i)).

5.3. DoD Labeling

5.3.1. All hazardous chemicals used by DoD Components will be labeled IAW with HCS (reference (b)).

5.3.2. Commercial suppliers shall be required to label all hazardous materials with HCS-compliant labels (Section 1910.120 of reference (b)) IAW MIL-STD-129 (reference (n)).

5.3.3. DoD activities are not required to relabel, with the DoD label, hazardous chemicals received from commercial suppliers when those materials are labeled IAW the HCS (29 C.F.R. 1910.1200, reference (b)).

5.3.4. The DoD hazardous chemical warning labeling system (DoD 6050.5-H, reference (l)) is a method of communicating standardized hazard warning information to DoD personnel when manufacturers' labels cannot be used. DoD labeling shall be based on the information provided on the manufacturers' MSDS and label, and be IAW the methodology described in reference (1). The DoD label and data descriptors are to be used to meet the OSHA labeling requirements within the DoD for:

5.3.4.1. Hazardous chemicals manufactured by the DoD. If required, specific ingredients, composition, or properties may be protected for national security reasons. Labels for items with protected information should contain unclassified information adequate to identify hazards and protect personnel,including name and address of DoD activity responsible for developing the MSDS and the DoD label. Copies of unclassified label information should be provided to the appropriate HMI focal point.

5.3.4.2. Repackaged containers or breakdown quantities of hazardous chemicals.

5.3.4.3. Marking tanks, piping, vats, or similar vessels of hazardous chemicals when other means, such as placards, are not available.

5.3.4.4. Unlabeled hazardous materials already available in the DoD inventory. Chemicals in depot storage will be labeled when shipped or removed for use.

5.3.5. The DoD label can be applied with variations. Color DoD labels may be used. The size of the DoD label may be locally varied to fit the size and shape of the container being labeled. Local reproduction is authorized.

5.3.6. For efficient and consistent use of DD Forms 2521 and 2522, "Hazardous Chemical Warning Label," the DLA shall develop the system capability to allow the Military Departments, DLA, GSA, and other organizations the capability to develop a data base of HCS-compliant labeling information for all hazardous chemicals in the HMIS. New fields shall be added to the HMIS, as required to contain DoD labeling information. The DLA shall provide the DoD Components a labeling file that prints the DoD Hazardous Chemical Warning label (DD Forms 2521 and 2522) from the HMIS compact disk-read only memory (CD-ROM) disk within 90 days of publication of this Instruction.

5.3.7. DoD Components shall not develop or use other workplace hazardous materials warning labels, except for Navy ships which may use alternate HCS compliant labeling for repackaged or breakdown containers or unlabeled containers aboard ship.

5.4. Hazard Communication and Chemical Hygiene Plans

5.4.1. All DoD Component installations using hazardous materials shall develop a written hazard communication plan IAW 29 C.F.R. 1910.1200 (reference (b)). Additionally, DoD installations with laboratories shall develop a chemical hygiene plan, IAW Section 1900.1450 of reference (b).

5.4.2. The installation plans should be readily available to all affected personnel and include any installation unique procedures about the local purchase of hazardous materials.

5.4.3. The hazard communication plan must ensure that contractors bringing hazardous materials onto DoD installations shall:

5.4.3.1. Provide advance notification (normally 30 days) to installation officials of hazardous materials that will be used in the performance of the work.

5.4.3.2. Provide copies of MSDS and labels of the hazardous chemicals and materials to the contracting officer, who shall forward these documents to installation health and safety officials 5 working days before the materials are brought onto the installation.

5.5. HMIS. The DoD Component’s focal points shall input information to the HMIS data bank as described in the DoD 6050.5-M (reference (i)) and in the following procedures:

5.5.1. Receive all MSDS obtained by the DoD Component's procuring activities.

5.5.2. Review MSDS and labels as received to ensure that data are complete, reasonable, legible, and in conformance with the requirements of the HCS (29 C.F.R. 1900.1200, reference (b)). (Laboratory verification of technical elements is not required.) Add missing data elements and check obvious or suspected errors with the originator. Return incomplete or inadequate MSDS and labels to the supplier for correction.

5.5.3. Submit data to the DoD system through the media (hard copy or electronic data interchange technologies) appropriate to the technological capabilities and/or availabilities of the DoD Component system users IAW the procedures of DoD 6050.5-M (reference (i)).

5.5.4. Act as the primary POC between the DoD hazardous material data bank and the Component activities.

6. INFORMATION REQUIREMENTS. The information requirements prescribed herein, including the establishment and operation of the DLA database, are assigned Report Control Symbol DD-(FM&P) (A,Q&AR) 1486.

7. EFFECTIVE DATE. This Instruction is effective immediately.

Christopher Jebn
Assistant Secretary of Defense
(Force Management and Personnel)

Enclosures - 1

1. References

E1. ENCLOSURE 1

REFERENCES

(e) Federal Acquisition Regulation (FAR), Subpart 23.3,and 52.223-3, "Material Safety Data Sheets: Hazard Materials Identification and Material Safety Data"
(f) Defense FAR Supplement (DFARS), Subpart 223.72 and clause 252.223-7004, "Material Safety Data Sheets: Hazard Materials Identification and Material Safety Data"
(g) DoD Directive 4210.15, "Hazardous Materials Pollution Prevention," July 27, 1989
(h) DoD 5025.1-M, "Department of Defense Directive System Procedures," April 1981, authorized by DoD Directive 5025.1, December 23, 1988
(i) DoD 6050.5-M, "DoD Hazardous Materials Information System Procedures," July 1981, authorized by this Instruction
(j) DoD 6050.5-G, "The Hazardous Materials Information System Users Guide," January 1987, authorized by this Instruction
(k) DoD 6050.5-G-1, "Department of Defense Federal Hazard Communication, Training Program - Trainer’s Guide," April 1988, authorized by this Instruction
(l) DoD 6050.5-H, "Department of Defense Hazardous Chemical Warning Labeling System," June 1989, authorized by this Instruction
(m) DoD 6050.5-W, "Department of Defense Federal Hazard Communication, Training Program - Student’s Workbook," April 1988, authorized by this Instruction
(n) MIL-STD-129k "Marketing for Shipment and Storage," September 15, 1989
(o) DoD Instruction 6055.1, "DoD Occupational Safety and Health Program," October 26, 1984
(p) DoD Instruction 6055.5, "Industrial Hygiene and Occupational Health," January 10, 1989
(q) DoD Directive 5400.7, "DoD Freedom of Information Act Program," May 13, 1988

APPENDIX Q

EXCERPT FROM DEPARTMENT OF DEFENSE DIRECTIVE 6050.7
ENVIRONMENTAL EFFECTS ABROAD OF MAJOR DEPARTMENT OF DEFENSE ACTIONS

NUMBER 6050.7
March 31, 1979

ASD(MRA&L)

SUBJECT: Environmental Effects Abroad of Major Department of Defense Actions

Reference: (a) Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions," dated January 4, 1979

1. PURPOSE. Executive Order 12114 provides the exclusive and complete requirement for taking account of considerations with respect to actions that do significant harm to the environment of places outside the United States. This directive provides policy and procedures to enable Department of Defense (DoD) officials to be informed and take account of environmental considerations when authorizing or approving certain major federal actions that do significant harm to the environment of places outside the United States. Its sole objective is to establish internal procedures to achieve this purpose, and nothing in it shall be construed to create a cause of action. Guidance for taking account of considerations with respect to the environment of places within the United States is set out in DoD Directive 6050.1. That guidance is grounded on legal and policy requirements different from those applicable to this directive.

2. APPLICABILITY. The provisions of this directive apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD components").

3. DEFINITIONS

3.1. Environment means the natural and physical environment, and it excludes social, economic, and other environments. Social and economic effects do not give rise to any requirements under this directive.

3.2. Federal Action means an action that is implemented or funded directly by the United States Government. It does not include actions in which the United States participates in an advisory, information-gathering, representational, or diplomatic capacity but does not implement or fund the action; actions taken by a foreign government or in a foreign country in which the United States is a beneficiary of the action, but does not implement or fund the action; or actions in which foreign governments use funds derived indirectly from United States funding.

3.3. Foreign Nation means any geographic area (land, water, and airspace) that is under the jurisdiction of one or more foreign governments; any area under military occupation by the United States alone or jointly with any other foreign government; and any area that is the responsibility of an international organization of governments. "Foreign nation" includes contiguous zones and fisheries zones of foreign nations. "Foreign government" in this context includes governments regardless of whether recognized by the United States, political factions, and organizations that exercise governmental power outside the United States.

3.4. Global Commons are geographical areas that are outside the jurisdiction of any nation, and include the oceans outside territorial limits and Antarctica. Global commons do not include contiguous zones and fisheries zones of foreign nations.

3.5. Major Action means an action of considerable importance involving substantial expenditures of time, money, and resources, that affects the environment on a large geographic scale or has substantial environmental effects on a more limited geographical area, and that is substantially different or a significant departure from other actions, previously analyzed with respect to environmental considerations and approved, with which the action under consideration may be associated. Deployment of ships, aircraft, or other mobile military equipment is not a major action for purposes of this directive.

3.6. United States means all States, territories, and possessions of the United States; and all waters and airspace subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include the Virgin Islands, American Samoa, Wake Island, Midway Island, Guam, Palmyra Island, Johnston Atoll, Navassa Island, and Kingman Reef.

4. POLICY

4.1. Executive Order 12114 is based on the authority vested in the President by the Constitution and the laws of the United States. The objective of the Order is to further foreign policy and national security interests while at the same time taking into consideration important environmental concerns.

4.2. The Department of Defense acts with care in the global commons because the stewardship of these areas is shared by all the nations of the world. The Department of Defense will take account of environmental considerations when it acts in the global commons in accordance with procedures set out in enclosure 1 and its attachment.

4.3. The Department of Defense also acts with care within the jurisdiction of a foreign nation. Treaty obligations and the sovereignty of other nations must be respected, and restraint must be exercised in applying United States laws within foreign nations unless Congress has expressly provided otherwise. The Department of Defense will take account of environmental considerations in accordance with enclosure 2 and its attachments when it acts in a foreign nation.

4.4. Foreign policy considerations require coordination with the Department of State on communications with foreign governments concerning environmental agreements and other formal arrangements with foreign governments concerning environmental matters under this directive. Informal working-level communications and arrangements are not included in this coordination requirement. Consultation with the Department of State also is required in connection with the utilization of additional exemptions from this directive as specified in paragraph E2.3.3.2. of enclosure 2. Coordination and consultation with the Department of State will be through the Assistant Secretary of Defense (International Security Affairs).

4.5. Executive Order 12114, implemented by this directive, prescribes the exclusive and complete procedural measures and

other actions to be taken by the Department of Defense to further the purpose of the National Environmental Policy Act with respect to the environment outside the United States.

5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) shall:

5.1.1. Serve as the responsible Department of Defense official for policy matters under Executive Order 12114 and this directive;

5.1.2. Modify or supplement any of the enclosures to this directive in a manner consistent with the policies set forth in this directive;

5.1.3. Maintain liaison with the Council on Environmental Quality with respect to environmental documents;

5.1.4. Participate in determining whether a recommendation should be made to the President that a natural or ecological resource of global importance be designated for protection; and

5.1.5. Consult with the Assistant Secretary of Defense (International Security Affairs) on significant or sensitive actions or decisions affecting relations with another nation.

5.2. The Assistant Secretary of Defense (International Security Affairs) shall:

5.2.1. Maintain liaison and conduct consultations with the Department of State as required under this directive; and

5.2.2. Serve as the responsible official, in consultation with the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), for monitoring the continuing cooperation and the exchange of information with other nations concerning the environment.

5.3. The General Counsel, DoD, shall provide advice and assistance concerning the requirements of Executive Order 12114 and this directive.

5.4. The Secretaries of the Military Departments, Directors of the Defense Agencies, and Commanders of the Unified and Specified Commands, for operations under their jurisdiction, shall:

5.4.1. Prepare and consider environmental documents when required by this directive for proposed actions within their respective DoD component (this reporting requirement has been assigned Report Control Symbol DD-M(AR) 1327 (section 6.));

5.4.2. Insure that regulations and other major policy issuances are reviewed for consistency with Executive Order 12114 and this directive;

5.4.3. Designate a single point-of-contact for matters pertaining to this directive; and

5.4.4. Consult with the Assistant Secretary of Defense (International Security Affairs) on significant or sensitive actions or decisions affecting relations with another nation.

6. INFORMATION REQUIREMENTS

The documents to be prepared under subsection 5.4. and enclosures 1 and 2 are assigned Report Control Symbol DD-M(AR) 1327 (formerly DD-H&E(AR) 1327).

7. EFFECTIVE DATE AND IMPLEMENTATION

This directive is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) within 90 days.

Enclosures - 3

1. Requirements for Environmental Considerations Global- Commons
2. Requirements for Environmental Considerations-Foreign Nations and Protected Global Resources
3. References

E1. ENCLOSURE 1

REQUIREMENTS FOR ENVIRONMENTAL CONSIDERATIONS-GLOBAL COMMONS

E1.1. GENERAL

This enclosure implements the requirements of Executive Order 12114 with respect to major Department of Defense actions that do significant harm to the environment of the global commons. The focus is not the place of the action, but the location of the environment with respect to which there is significant harm. The actions prescribed by this enclosure are the exclusive and complete requirement for taking account of environmental considerations with respect to Department of Defense activities that affect the global commons.

E1.2. ACTIONS INCLUDED

The requirements of this enclosure apply only to major federal actions that do significant harm to the environment of the global commons.

E1.3. ENVIRONMENTAL DOCUMENT REQUIREMENTS

E1.3.1. General. When an action is determined to be a major federal action that significantly harms the environment of the global commons, an environmental impact statement, as described below, will be prepared to enable the responsible decision-making official to be informed of pertinent environmental considerations. The statement may be a specific statement for the particular action, a generic statement covering the entire class of similar actions, or a program statement.

E1.3.2. Limitations on Actions. Until the requirements of this enclosure have been met with respect to actions involving the global commons, no action concerning the proposal may be taken that does significant harm to the environment or limits the choice of reasonable alternatives.

E1.3.3. Emergencies. Where emergency circumstances make it necessary to take an action that does significant harm to the environment without meeting the requirements of this enclosure, the DoD component concerned shall consult with the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics). This includes actions that must be taken to promote the national

defense or security and that cannot be delayed, and actions necessary for the protection of life or property.

E1.3.4. Combining Documents. Environmental documents may be combined with other agency documents to reduce duplication. If an environmental impact statement for a particular action already exists, regardless of what federal agency prepared it, no new statement is required by this directive.

E1.3.5. Collective Statements. Consideration should be given to the use of generic and program statements. Generic statements may include actions with relevant similarities such as common timing, environmental effects, alternatives, methods of implementation, or subject matter.

E1.3.6. Tiering. Consideration should be given to tiering of environmental impact statements to eliminate repetitive discussions of the same issue and to focus the issues. Tiering refers to the coverage of general matters in broader environmental impact statements, with succeeding narrowerstatements or environmental analyses that incorporate by reference the general discussion and concentrate only on the issues specific to the statement subsequently prepared.

E1.3.7. Lead Agency. When one or more other federal agencies are involved with the Department of Defense in an action or program, a lead agency may be designated to supervise the preparation of the environmental impact statement. In appropriate cases, more than one agency may act as joint lead agencies. The following factors should be considered in making the lead agency designation:

E1.3.7.1. The magnitude of agency involvement;

E1.3.7.2. Which agency or agencies have project approval and disapproval authority;

E1.3.7.3. The expert capabilities concerning the environmental effects of the action;

E1.3.7.4. The duration of agency involvement; and

E1.3.7.5. The sequence of agency involvement.

E1.3.8. Categorical Exclusions. The Department of Defense may provide categorical exclusions for actions that normally do not, individually or cumulatively, do significant harm to the

environment. If an action is covered by a categorical exclusion no environmental assessment or environmental impact statement is required. Categorical exclusions will be established by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) and will be identified in Attachment 1 to this enclosure. DoD components identifying recurring actions that have been determined, after analysis, not to do significant harm to the environment should submit recommendations for categorical exclusions and accompanying justification to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

E1.3.9. Environmental Assessments. The purpose of an environmental assessment is to assist DoD components in determining whether an environmental impact statement is required for a particular action. The assessment should be brief and concise but should include sufficient information on which a determination can be made whether the proposed action is major and federal, and whether it significantly harms the environment of the global commons. As a minimum, the assessment should include consideration of the need for the proposed action and the environmental effect of the proposed action. The environmental assessment will be made available to the public in the United States upon request, but there is no requirement that it be distributed for public comment.

E1.4. ENVIRONMENTAL IMPACT STATEMENTS

E1.4.1. General. Environmental impact statements will be concise and no longer than necessary to permit an informed consideration of the environmental effects of the proposed action on the global commons and the reasonable alternatives. If an action requiring an environmental impact statement also has effects on the environment of a foreign nation or on a resource designated as one of global importance, the statement need not consider or be prepared with respect to these effects. The procedures for considering these effects are set out in enclosure 2.

E1.4.2. Draft Statement. Environmental impact statements will be prepared in two stages and may be supplemented. The first, or draft statement, should be sufficiently complete to permit meaningful analysis and comment. The draft statement will be made available to the public, in the United States, for comment. The Department of State, the council on Environmental Quality, and other interested federal agencies will be informed of the availability of the draft statement and will be afforded an opportunity to comment. Contacts with foreign governments are

discussed in subsection 4.4. of the directive and subsection E1.4.11. of this enclosure.

E1.4.3. Final Statement. Final statements will consider, either individually or collectively, substantive comments received on the draft statement. The final statement will be made available to the public in the United States.

E1.4.4. Supplemental Statement. Supplements to the draft or final statement should be used when substantial changes to the proposed action are made relative to the environment of the global commons or when significant new information or circumstances, relevant to environmental concerns bear on the proposed action or its environmental effects on the global commons. Supplemental statements will be circulated for comment as in subsection E1.4.2. above unless alternative procedures are approved by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

E1.4.5. Statement Content. The statement will include: a section on consideration of the purpose of and need for the proposed action; a section on the environmental consequences of the proposed action and reasonable alternatives; a section that provides a succinct description of the environment of the global commons affected by the proposed action and reasonable alternatives; and a section that analyzes, in comparative form, the environmental effects on the global commons of the proposed action and reasonable alternatives.

E1.4.6. Incomplete Information. The statement should indicate when relevant information is missing due to unavailability or scientific uncertainty.

E1.4.7. Hearings. Public hearings are not required. Consideration should be given in appropriate cases to holding or sponsoring public hearings. Factors in this consideration include: foreign relations sensitivities; whether the hearings would be an infringement or create the appearance of infringement on the sovereign responsibilities of another government; requirements of domestic and foreign governmental confidentiality; requirements of national security; whether meaningful information could be obtained through hearings; time considerations; and requirements for commercial confidentiality. There is no requirement that all factors listed in this section be considered when one or more factors indicate that public hearings would not produce a substantial net benefit to those responsible for authorizing or approving the proposed action.

E1.4.8. Decision. Relevant environmental documents developed in accordance with this enclosure will accompany the proposal for action through the review process to enable officials responsible for authorizing or approving the proposed action to be informed and to take account of environmental considerations. One means of making an appropriate record with respect to this requirement is for the decision-maker to sign and date a copy of the environmental impact statement, indicating that it has been considered in the decision-making process. Other means of making an appropriate record are also acceptable.

E1.4.9. Timing. No decision on the proposed action may be made until the later of 90 days after the draft statement has been made available and notice thereof published in the Federal Register, or 30 days after the final statement has been made available and notice thereof published in the Federal Register. The 90-day period and the 30-day period may run concurrently. Not less than 45 days may be allowed for public comment. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) may, upon a showing of probable important adverse effect on national security or foreign policy, reduce the 30-day,45-day, and 90-day periods.

E1.4.10. Classified Information. Environmental assessments and impact statements that address classified proposals will be safeguarded and classified information will be restricted from public dissemination in accordance with Department of Defense procedures (DoD Directive 5200.1) established for such information under Executive Order 12065. The requirements of that Executive Order take precedence over any requirement of disclosure in this directive. Only unclassified portions of environmental documents may be disseminated to the public.

E1.4.11. Foreign Governments. Consideration will be given to whether any foreign government should be informed of the availability of environmental documents. Communications with foreign governments concerning environmental agreements and other formal arrangements with foreign governments concerning environmental matters under this directive will be coordinated with the Department of State. Informal, working-level communications and arrangements are not included in this coordination requirement. Coordination with the Department of State will be through the Assistant Secretary of Defense (International Security Affairs).

Attachments - 1

1. Report Control Symbol DD-M(AR) 1327, Categorical Exclusions - Global Commons

E1.A1. ENCLOSURE 1 ATTACHMENT 1

REPORT CONTROL SYMBOL DD-M(AR) 1327

CATEGORICAL EXCLUSIONS--GLOBAL COMMONS

E2. ENCLOSURE 2

REQUIREMENTS FOR ENVIRONMENTAL CONSIDERATIONS- FOREIGN NATIONS AND PROTECTED GLOBAL RESOURCES

E2.1. GENERAL

This enclosure implements the requirements of Executive Order 12114 to provide for procedural and other actions to be taken to enable officials to be informed of pertinent environmental considerations when authorizing or approving certain major Department of Defense actions that do significant harm to the environment of a foreign nation or to a protected global resource.

E2.2. ACTIONS INCLUDED

E2.2.1. The requirements of this enclosure apply only to the following actions:

E2.2.1.1. Major federal actions that significantly harm the environment of a foreign nation that is not involved in the action. The involvement of the foreign nation may be directly by participation with the United States in the action, or it may be in conjunction with another participating nation. The focus of this category is on the geographical location of the environmental harm and not on the location of the action.

E2.2.1.2. Major federal actions that are determined to do significant harm to the environment of a foreign nation because they provide to that nation: (1) a product, or involve a physical project that produces a principal product, emission, or effluent, that is prohibited or strictly regulated by federal law in the United States because its toxic effects on the environment create a serious public health risk; or (2) a physical project that is prohibited or strictly regulated in the United States by federal law to protect the environment against radioactive substances. Included in the category of "prohibited or strictly regulated" are the following: asbestos, vinyl chloride, acrylonitrile, isocyanates, polychlorinated biphenyls, mercury, beryllium, arsenic, cadmium, and benzene.

E2.2.1.3. Major federal actions outside the United States that significantly harm natural or ecological resources of global importance designated for protection by the President or, in the case of such a resource protected by international agreement binding on the United States, designated for protection by the

Secretary of State. Such determinations by the President or the Secretary of State are listed in Attachment 1 to this enclosure.

E2.2.2. The actions prescribed by this enclosure are the exclusive and complete requirement for taking account of environmental considerations with respect to federal actions that do significant harm to the environment of foreign nations and protected global resources as described in subsection E2.2.1. above. No action is required under this enclosure with respect to federal actions that affect only the environment of a participating or otherwise involved foreign nation and that do not involve providing products or physical projects producing principal products, emissions, or effluents that are prohibited or strictly regulated by federal law in the United States, or resources of global importance that have been designated for protection.

E2.3. ENVIRONMENTAL DOCUMENT REQUIREMENTS

E2.3.1. General

E2.3.1.1. There are two types of environmental documents that officials shall use in taking account of environmental considerations for actions covered by this enclosure:

E2.3.1.1.1. Environmental studies--bilateral or multilateral environmental studies, relevant or related to the proposed action, by the United States and one or more foreign nations or by an international body or organization in which the United States is a member or participant; and

E2.3.1.1.2. Environmental reviews--concise reviews of the environmental issues involved that are prepared unilaterally by the United States.

E2.3.1.2. This section identifies the procedures for the preparation of environmental studies or reviews when required by this enclosure and the exceptions from the requirement to prepare environmental studies or reviews. If an environmental document already exists for a particular action, regardless of what federal agency prepared it, no new document is required by this enclosure.

E2.3.2. Lead Agency. When one or more other federal agencies are involved with the Department of Defense in an action or program, a lead agency may be designated to supervise the preparation of environmental documentation. In appropriate cases, more than one agency may act as joint lead agencies.

The following factors should be considered in making the lead agency designation:

E2.3.2.1. The magnitude of agency involvement;

E2.3.2.2. Which agency or agencies have project approval and disapproval authority;

E2.3.2.3. The expert capabilities concerning the environmental effects of the action;

E2.3.2.4. The duration of agency involvement; and

E2.3.2.5. The sequence of agency involvement.

E2.3.3. Exemptions. There are general exemptions from the requirements of this enclosure provided by Executive Order 12114, and the Secretary of Defense has the authority to approve additional exemptions.

E2.3.3.1. General Exemptions. The following actions are exempt from the procedural and other requirements of this enclosure under general exemptions established for all agencies by Executive Order 12114:

E2.3.3.1.1. Actions that the DoD component concerned determines do not do significant harm to the environment outside the United States or to a designated resource of global importance.

E2.3.3.1.2. Actions taken by the President. These include: signing bills into law; signing treaties and other international agreements; the promulgation of Executive Orders; Presidential proclamations; and the issuance of Presidential decisions, instructions, and memoranda. This includes actions taken within the Department of Defense to prepare or assist in preparing recommendations, advice, or information for the President in connection with one of these actions by the President. It does not include actions taken within the Department of Defense to implement or carry out these instruments and issuances after they are promulgated by the President.

E2.3.3.1.3. Actions taken by or pursuant to the direction of the President or a cabinet officer in the course of armed conflict. The term "armed conflict" refers to: hostilities for which Congress has declared war or enacted a specific authorization for the use of armed forces; hostilities or

situations for which a report is prescribed by section 4(a) (1) of the War Powers Resolution, 50 U.S.C.A. _ 1543(a) (1) (Supp. 1978); and other actions by the armed forces that involve defensive use or introduction of weapons in situations where hostilities occur or are expected. This exemption applies as long as the armed conflict continues.

E2.3.3.1.4. Actions taken by or pursuant to the direction of the President or a cabinet officer when the national security or national interest is involved. The determination that the national security or national interest is involved in actions by the Department of Defense must be made in writing by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

E2.3.3.1.5. The activities of the intelligence components utilized by the Secretary of Defense under Executive Order 12036, 43 Fed. Reg. 3674 (1978). These components include the Defense Intelligence Agency, the National Security Agency, the offices for the collection of specialized intelligence through reconnaissance programs, the Army Office of the Assistant Chief of Staff for Intelligence, the Office of Naval Intelligence, and the Air Force Office of the Assistant Chief of Staff for Intelligence.

E2.3.3.1.6. The decisions and actions of the Office of the Assistant Secretary of Defense (International Security Affairs), the Defense Security Assistance Agency, and the other responsible offices within DoD component with respect to arms transfers to foreign nations. The term "arms transfers" includes the grant, loan, lease, exchange, or sale of defense articles or defense services to foreign governments or international organizations, and the extension or guarantee of credit in connection with these transactions.

E2.3.3.1.7. Votes and other actions in international conferences and organizations. This includes all decisions and actions of the United States with respect to representation of its interests at international organizations, and at multilateral conferences, negotiations, and meetings.

E2.3.3.1.8. Disaster and emergency relief actions.

E2.3.3.1.9. Actions involving export licenses, export permits, or export approvals, other than those relating to nuclear activities. This includes: advice provided by DoD components to the Department of State with respect to the issuance of munitions export licenses under section 38 of the Arms Export Control Act, 22 U.S.C. 2778 (1976); advice provided by DoD components to the

Department of Commerce with respect to the granting of export licenses under the Export Administration Act of 1969, 50 U.S.C. App. __ 2401-2413 (1970 & Supp. V 1975); and direct exports by the Department of Defense of defense articles and services to foreign governments and international organizations that are exempt from munitions export licenses under section 38 of the Arms Export Control Act, 22 U.S.C. _ 2778 (1976). The term "export approvals" does not mean or include direct loans to finance exports.

E2.3.3.1.10. Actions relating to nuclear activities and nuclear material, except actions providing to a foreign nation a nuclear production or utilization facility, as defined in the Atomic Energy Act of 1954, as amended, or a nuclear waste management facility.

E2.3.3.2. Additional Exemptions. The Department of Defense is authorized under Executive Order 12114 to establish additional exemptions that apply only to the Department's operations. There are two types of additional exemptions: case-by-case and class.

E2.3.3.2.1. Case by-Case Exemptions. Exemptions other than those specified above may be required because emergencies, national security considerations, exceptional foreign policy requirements, or other special circumstances preclude or are inconsistent with the preparation of environmental documentation and the taking of other actions prescribed by this enclosure. The following procedures apply for approving these exemptions:

E2.3.3.2.1.1. Emergencies. This category includes actions that must be taken to promote the national defense or security and that cannot be delayed, and actions necessary for the protection of life or property. The heads of the DoD components are authorized to approve emergency exemptions on a case-by-case basis. The Department of Defense is required to consult as soon as feasible with the Department of State and the Council on Environmental Quality with respect to emergency exemptions. The requirement to consult as soon as feasible is not a requirement of prior consultation. A report of the emergency action will be made by the DoD component head to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), who, with the Assistant Secretary of Defense (International Security Affairs), shall undertake the necessary consultations.

E2.3.3.2.1.2. Other Circumstances. National security considerations, exceptional foreign policy requirements, and other special circumstances not identified in paragraph E2.3.3.1. above,

may preclude or be inconsistent with the preparation of environmental documentation. In these circumstances, the head of the DoD component concerned is authorized to exempt a particular action from the environmental documentation requirements of this enclosure after obtaining the prior approval of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), who, with the Assistant Secretary of Defense (International Security Affairs), shall consult, before approving the exemption, with the Department of State and the Council on Environmental Quality. The requirement for prior consultation is not a requirement for prior approval.

E2.3.3.2.2. Class Exemptions. Circumstances may exist where a class exemption for a group of related actions is more appropriate than a specific exemption. Class exemptions may be established by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) who, with the Assistant Secretary of Defense (International Security Affairs), shall consult, before approving the exemption, with the Department of State and the Council on Environmental Quality. The requirement for prior consultation is not a requirement for prior approval. Requests for class exemptions will be submitted by the head of the DoD component concerned to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) after coordination with other interested DoD components. Notice of the establishment of a class exemption will be issued as Attachment 2 to this enclosure.

E2.3.4. Categorical Exclusions. The Department of Defense is authorized by Executive Order 12114 to provide for categorical exclusions. A categorical exclusion is a category of actions that normally do not, individually or cumulatively, do significant harm to the environment. If an action is covered by a categorical exclusion, no environmental document is required. Categorical exclusions will be established by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), and will be identified in Attachment 3 to this enclosure. DoD components identifying recurring actions that have been determined, after analysis, not to do significant harm to the environment should submit requests for categorical exclusions and accompanying justification to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

E2.4. ENVIRONMENTAL STUDIES

E2.4.1. General. Environmental studies are one of two alternative types of documents to be used for actions described by paragraph E2.2. of this enclosure.

E2.4.1.1. An environmental study is an analysis of the likely environmental consequences of the action that is to be considered by DoD components in the decision-making process. It includes a review of the affected environment, significant actions taken to avoid environmental harm or otherwise to better the environment, and significant environmental considerations and actions by the other participating nations, bodies, or organizations.

E2.4.1.2. An environmental study is a cooperative action and not a unilateral action undertaken by the United States. It may be bilateral or multilateral, and it is prepared by the United States in conjunction with one or more foreign nations, or by an international body or organization in which the United States is a member or participant. The environmental study, because it is prepared as a cooperative undertaking, may be best suited for use with respect to actions that provide strictly regulated or prohibited products or projects to a foreign nation (E2.2.1.2.) and actions that affect a protected global resource (E2.2.1.3.).

E2.4.2. Department of State Coordination. Communications with foreign governments concerning environmental studies and other formal arrangements with foreign governments concerning environmental matters under this directive will be coordinated with the Department of State. Informal, working-level communications and arrangements are not included in this coordination requirement. Coordination with the Department of State will be through the Assistant Secretary of Defense (International Security Affairs).

E2.4.3. Whether to Prepare an Environmental Study. The judgment whether the action is one that would do significant harm to one of the environments covered by this enclosure normally will be made in consultation with concerned foreign governments or organizations. If a negative decision is made, the file will be documented with a record of that decision and the decision-makers who participated. If a decision is made to prepare a study then, except as provided by this enclosure, no action concerning the proposal may be taken that would do significant harm to the environment until the study has been completed and the results considered.

E2.4.4. Content of the Study. The document is a study of the environmental aspects of the proposed action to be considered in the decision-making process. The precise content of each study must be flexible because of such considerations as the sensitivity of obtaining information from foreign governments, the

availability of useful and understandable information, and other factors identified under "Limitations" (subsection E2.4.6. below). The study should, however, include consideration of the following:

E2.4.4.1. A general review of the affected environment;

E2.4.4.2. The predicted effect of the action on the environment;

E2.4.4.3. Significant known actions taken by governmental entities with respect to the proposed action to protect or improve the environment; and

E2.4.4.4. If no actions are being taken to protect or enhance the environment, whether the decision not to do so was made by the affected foreign government or international organization.

E2.4.5. Distribution of the Study. Except as provided under "Limitations" (subsection E2.4.6., below), and except where classified information is involved, environmental studies will be made available to the Department of State, the Council on Environmental Quality, other interested federal agencies, and, on request, to the public in the United States. Interested foreign governments also may be informed of the studies, subject to the "Limitations" (subsection E2.4.6., below) and controls on classified information, and furnished copies of the documents. No distribution is required prior to the preparation of the final version of the study or prior to taking the action that caused the study to be prepared.

E2.4.6. Limitations. The requirements with respect to the preparation, content, and distribution of environmental studies in the international context must remain flexible. The specific procedures must be determined on a case-by-case basis and may be modified where necessary to:

E2.4.6.1. Enable the component to act promptly. Considerations such as national security and foreign government involvement may require prompt action that must take precedence in the environmental review process;

E2.4.6.2. Avoid adverse impacts on relations between the United States and foreign governments and international organizations;

E2.4.6.3. Avoid infringement or the appearance of infringement on the sovereign responsibilities of another government. The collection of information and the preparation and distribution of environmental documentation for actions in which another nation is involved, or with respect to the environment and resources of another nation, unless done with proper regard to the sovereign authority of that nation, may be viewed by that nation as an interference in its internal affairs and its responsibility to evaluate requirements with respect to the environment;

E2.4.6.4. Ensure consideration of:

E2.4.6.4.1. Requirements of governmental confidentiality. This refers to the need to protect sensitive foreign affairs information and information received from another government with the understanding that it will be protected from disclosure regardless of its classification;

E2.4.6.4.2. National security requirements. This refers to the protection of classified information and other national security interests;

E2.4.6.4.3. Availability of meaningful information. Information on the environment of foreign nations may be unavailable, incomplete, or not susceptible to meaningful evaluation, particularly where the affected foreign nation is not a participant in the analysis. This may reduce or change substantially the normal content of the environmental study;

E2.4.6.4.4. The extent of the participation of the DoD component concerned and its ability to affect the decision made. The utility of the environmental analysis and the need for an in-depth review diminishes as DoD's role and control over the decision lessens; and

E2.4.6.4.5. International commercial, commercial confidentiality, competitive, and export promotion factors. This refers to the requirement to protect domestic and foreign trade secrets and confidential business information from disclosure. Export promotion factors includes the concept of not unnecessarily hindering United States exports.

E2.4.7. Classified Information. Classified information will be safeguarded from disclosure in accordance with the Department of Defense procedures (DoD Directive 5200.1) established for such information under Executive Order 12065. The requirements of that

Executive Order take precedence over any requirement of disclosure in this directive.

E2.5. ENVIRONMENTAL REVIEWS

E2.5.1. General. Environmental reviews are the second of the two alternative types of documents to be used for actions covered by paragraph B of this enclosure.

E2.5.1.1. An environmental review is a survey of the important environmental issues involved. It includes identification of these issues and a review of what if any consideration has been or can be given to the environmental aspects by the United States and by any foreign government involved in taking the action.

E2.5.1.2. An environmental review is prepared by the DoD component concerned either unilaterally or in conjunction with another federal agency. While an environmental review may be used for any of the actions identified by section E2.2. it may be uniquely suitable, because it is prepared unilaterally by the United States, to actions that affect the environment of a nation not involved in the undertaking (E2.2.l.1.).

E2.5.2. Department of State Coordination. Communications with foreign governments concerning environmental agreements and other formal arrangements with foreign governments concerning environmental matters under this enclosure will be coordinated with the Department of State. Informal, working-level communications and arrangements are not included in this coordination requirement. Coordination with the Department of State will be through the Assistant Secretary of Defense (International Security Affairs).

E2.5.3. Whether to Prepare an Environmental Review. Sufficient information will be gathered, to the extent it is reasonably available, to permit an informed judgment as to whether the proposed action would do significant harm to the environments covered by this enclosure. If a negative decision is made, a record will be made of that decision and its basis. If a decision is made to prepare a review, then, except as provided by this enclosure, no action concerning the proposal may be taken that would do significant environmental harm until the review has been completed.

E2.5.4. Content of the Review. An environmental review is a survey of the important environmental issues associated with the

proposed action that is to be considered by the DoD component concerned in the decision-making process. It does not include all possible environmental issues and it does not include the detailed evaluation required in an environmental impact statement under enclosure 1 of this directive. There is no foreign government or international organization participation in its preparation, and the content therefore may be circumscribed because of the availability of information and because of foreign relations sensitivities. Other factors affecting the content are identified under "Limitations" (subsection E2.5.6. below). To the extent reasonably practical the review should include consideration of the following:

E2.5.4.1. A statement of the action to be taken including its timetable, physical features, general operating plan, and other similar broad-gauge descriptive factors;

E2.5.4.2. Identification of the important environmental issues involved;

E2.5.4.3. The aspects of the actions taken or to be taken by the DoD component that ameliorate or minimize the impact on the environment; and

E2.5.4.4. The actions known to have been taken or to be planned by the government of any participating and affected foreign nations that will affect environmental considerations.

E2.5.5. Distribution. Except as provided under "Limitations," (subsection E2.5.6. below), and except where classified information is involved, environmental reviews will be made available to the Department of State, the Council on Environmental Quality, other interested federal agencies, and, on request, the public in the United States. Interested foreign governments also may be informed of the reviews and, subject to the "Limitations" (subsection E2.5.6. below) and controls on classified information, will be furnished copies of the documents on request. This provision for document distribution is not a requirement that distribution be made prior to taking the action that is the subject of the review.

E2.5.6. Limitations. The requirements with respect to the preparation, content, and distribution of environmental reviews in the international context must remain flexible. The specific procedures must be determined on a case-by-case basis and may be modified where necessary to:

E2.5.6.1. Enable the component to act promptly. Considerations such as national security and foreign government involvement may require prompt action that must take precedence in the environmental review process;

E2.5.6.2. Avoid adverse impacts on relations between the United States and foreign governments and international organizations;

E2.5.6.3. Avoid infringement or the appearance of infringement on the sovereign responsibilities of another government. The collection of information and the preparation and distribution of environmental documentation for actions in which another nation is involved or with respect to the environment and resources of another nation, unless done with proper regard to the sovereign authority of that nation, may be viewed by that nation as an interference in its internal affairs and its prerogative to evaluate requirements with respect to the environment; and

E2.5.6.4. Ensure consideration of:

E2.5.6.4.1. Requirements of governmental confidentiality. This refers to the need to protect sensitive foreign affairs information and information received from another government with the understanding that it will be protected from disclosure regardless of its classification;

E2.5.6.4.2. National security requirements. This refers to the protection of classified information;

E2.5.6.4.3. Availability of meaningful information. Information on the environment of foreign nations may be unavailable, incomplete, or not susceptible to meaningful evaluation, and this may reduce or change substantially the normal content of the environmental review;

E2.5.6.4.4. The extent of the participation of the DoD component concerned and its ability to affect the decision made. The utility of the environmental analysis and the need for an in-depth review diminishes as the role of the Department of Defense and control over the decision lessens; and

E2.5.6.4.5. International commercial, commercial confidentiality, competitive, and export promotion factors. This refers to the requirement to protect domestic and foreign trade secrets and confidential business information from disclosure.

Export promotion factors include the concept of not unnecessarily hindering United States exports.

E2.5.7. Classified Information. Classified information will be safeguarded from disclosure in accordance with the DoD procedures (DoD Directive 5200.1) established for such information under Executive Order 12065. The requirements of that Executive Order take precedence over any requirement of disclosure in this directive.

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