OPNAV-M 5090.1
3 Sep 2019

ENVIRONMENTAL READINESS PROGRAM MANUAL

DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

OPNAV M-5090.1
OPNAV N4
3 Sep 2019

FOREWORD

This manual implements the policy set forth in Chief of Naval Operations Instruction (OPNAVINST) 5090.1E, Environmental Readiness Program. It is issued under Secretary of the Navy Instruction (SECNAVINST) 5090.8A, Policy for Environmental Protection, Natural Resources and Cultural Resource Program, 30 January 2006. It contains the Navy's policy guidance for environmental readiness. It discusses requirements, delineates responsibilities, and issues policy guidance for the management of the environmental, natural and cultural resources for all Navy ships and shore activities.

This manual is effective immediately, it is mandatory and applicable to all afloat and ashore Navy commands.

This manual may be accessed via the Department of the Navy (DON) Issuances Web site, (https://www.secnav.navy.mil/doni/default.aspx) under the "Manuals" tab. This manual is approved for authorized registered users and distribution is unlimited. References for this manual that are not legislation, regulations, executive orders, or international agreements are located on the DON Issuances Web site, (https://www.secnav.navy.mil/doni/default.aspx), on the DoD Issuances Web site, (https://www.esd.whs.mil/dd/), and on the Office of the Chief of Naval Operations, Environmental Readiness and Mission Protection Division (OPNAV N45) Environmental Planning and Compliance Library Web site, (https://epl.navfac.navy.mil/).

R. L. WILLIAMSON
Deputy Chief of Naval Operations
(Fleet Readiness and Logistics)

ENVIRONMENTAL READINESS PROGRAM MANUAL

TABLE OF CONTENTS

SECTION I — GENERAL REQUIREMENTS AND MANAGEMENT
Chapter 1: Organization and Coordination 1-1
1-1 Scope 1-1
1-2 Legislation 1-5
1-3 Requirements 1-5
1-4 Responsibilities 1-18
1-5 Definitions 1-30

Chapter 2: Funding 2-1
2-1 Scope 2-1
2-2 Legislation 2-1
2-3 Requirements 2-2
2-4 Responsibilities 2-8
2-5 Definitions 2-9

Chapter 3: Environmental Readiness Training 3-1
3-1 Scope 3-1
3-2 Legislation 3-2
3-3 Requirements 3-2
3-4 Responsibilities 3-14
3-5 Definitions 3-15

Chapter 4: Environmental Performance Reporting 4-1
4-1 Scope 4-1
4-2 Legislation 4-2
4-3 Requirements 4-2
4-4 Responsibilities 4-6
4-5 Definitions 4-7

Chapter 5: Outreach and Communications 5-1
5-1 Scope 5-1
5-2 Legislation 5-2
5-3 Requirements 5-2
5-4 Responsibilities 5-6
5-5 Definitions 5-6

Chapter 6: Reserved for Future Use

Chapter 7: Sampling and Laboratory Testing 7-1
7-1 Scope 7-1
7-2 Legislation 7-2
7-3 Requirements 7-3

7-4 Responsibilities 7-6
7-5 Definitions 7-7

Chapter 8: Reserved for Future Use

Chapter 9: Reserved for Future Use

SECTION II — PLANNING AND CONSERVATION
Chapter 10: Environmental Planning Under the National Environmental Policy Act and Executive Order 12114 10-1
10-1 Scope 10-3
10-2 Legislation 10-5
10-3 Requirements 10-6
10-4 Responsibilities 10-86
10-5 Definitions 10-87

Chapter 11: Reserved for Future Use

Chapter 12: Natural Resources Conservation 12-1
12-1 Scope 12-1
12-2 Legislation 12-5
12-3 Requirements 12-6
12-4 Responsibilities 12-38
12-5 Definitions 12-42

Chapter 13: Cultural Resources Compliance and Management 13-1
13-1 Scope 13-1
13-2 Legislation 13-3
13-3 Requirements 13-4
13-4 Responsibilities 13-16
13-5 Definitions 13-22

Chapter 14: Coastal Zone Management 14-1
14-1 Scope 14-1
14-2 Legislation 14-2
14-3 Requirements 14-2
14-4 Responsibilities 14-10
14-5 Definitions 14-12

Chapter 15: Navy Operational Range Environmental Sustainment 15-1
15-1 Scope 15-1
15-2 Legislation 15-2
15-3 Requirements 15-2
15-4 Responsibilities 15-7
15-5 Definitions 15-9

Chapter 16: Reserved for Future Use

SECTION III — SHORE COMPLIANCE
Chapter 17: Environmental Management Systems and Environmental Compliance Audits Ashore 17-1
17-1 Scope 17-1
17-2 Legislation 17-3
17-3 Requirements 17-3
17-4 Responsibilities 17-23
17-5 Definitions 17-28

Chapter 18: Reserved for Future Use

Chapter 19: Processing Notices of Violation Under Environmental Laws and Regulations 19-1
19-1 Scope 19-1
19-2 Legislation 19-2
19-3 Requirements 19-2
19-4 Responsibilities 19-8
19-5 Definitions 19-9

Chapter 20: Clean Water Ashore 20-1
20-1 Scope 20-1
20-2 Legislation 20-2
20-3 Requirements 20-3
20-4 Responsibilities 20-10
20-5 Definitions 20-12

Chapter 21: Safe Drinking Water Compliance Ashore 21-1
21-1 Scope 21-1
21-2 Legislation 21-3
21-3 Requirements 21-3
21-4 Responsibilities 21-20
21-5 Definitions 21-21

Chapter 22: Clean Air Ashore 22-1
22-1 Scope 22-1
22-2 Legislation 22-3
22-3 Requirements 22-3
22-4 Responsibilities 22-23
22-5 Definitions 22-32

Chapter 23: Hazardous Materials Management Ashore 23-1
23-1 Scope 23-1
23-2 Legislation 23-3
23-3 Requirements 23-3
23-4 Responsibilities 23-5

23-5 Definitions 23-8

Chapter 24: Pesticide Compliance Ashore 24-1
24-1 Scope 24-1
24-2 Legislation 24-2
24-3 Requirements 24-3
24-4 Responsibilities 24-9
24-5 Definitions 24-12

Chapter 25: Toxic Substances Control Act 25-1
25-1 Scope 25-1
25-2 Legislation 25-2
25-3 Requirements 25-2
25-4 Responsibilities 25-11
25-5 Definitions 25-14

Chapter 26: Procedures for Implementing the Emergency Planning and Community Right-to-Know Act 26-1
26-1 Scope 26-1
26-2 Legislation 26-3
26-3 Requirements 26-3
26-4 Responsibilities 26-17
26-5 Definitions 26-18

Chapter 27: Hazardous Waste Management Ashore 27-1
27-1 Scope 27-1
27-2 Legislation 27-3
27-3 Requirements 27-3
27-4 Responsibilities 27-20
27-5 Definitions 27-26

Chapter 28: Solid Waste Management and Resource Recovery Ashore 28-1
28-1 Scope 28-1
28-2 Legislation 28-3
28-3 Requirements 28-3
28-4 Responsibilities 28-11
28-5 Definitions 28-13

Chapter 29: Low-Level Radioactive Waste Disposal Program 29-1
29-1 Scope 29-1
29-2 Legislation 29-2
29-3 Requirements 29-2
29-4 Responsibilities 29-3
29-5 Definitions 29-5

Chapter 30: Oil Management Ashore 30-1

30-1 Scope 30-1
30-2 Legislation 30-2
30-3 Requirements 30-2
30-4 Responsibilities 30-8
30-5 Definitions 30-9

Chapter 31: Storage Tanks 31-1
31-1 Scope 31-1
31-2 Legislation 31-2
31-3 Requirements 31-2
31-4 Responsibilities 31-10
31-5 Definitions 31-12

Chapter 32: Reserved for Future Use

Chapter 33: Reserved for Future Use

SECTION IV — AFLOAT AND OVERSEAS COMPLIANCE
Chapter 34: Overseas Environmental Compliance Ashore 34-1
34-1 Scope 34-2
34-2 Legislation 34-3
34-3 Requirements 34-3
34-4 Responsibilities 34-11
34-5 Definitions 34-14

Chapter 35: Environmental Compliance Afloat 35-1
35-1 Scope 35-2
35-2 Legislation 35-3
35-3 Requirements 35-4
35-4 Responsibilities 35-56
35-5 Definitions 35-66

Chapter 36: Permitted Ocean Disposition 36-1
36-1 Scope 36-1
36-2 Legislation 36-2
36-3 Requirements 36-2
36-4 Responsibilities 36-5
36-5 Definitions 36-7

Chapter 37: Reserved for Future Use

Chapter 38: Reserved for Future Use

SECTION V — SPILLS, DAMAGE, AND RESTORATION

Chapter 39: Oil and Hazardous Substance Spill Preparedness and Response 39-1
39-1 Scope 39-1
39-2 Legislation 39-3
39-3 Requirements 39-3
39-4 Responsibilities 39-21
39-5 Definitions 39-30

Chapter 40: Sunken Military Craft 40-1
40-1 Scope 40-1
40-2 Legislation 40-1
40-3 Requirements 40-2
40-4 Responsibilities 40-4
40-5 Definitions 40-5

Chapter 41: Natural Resource Damage 41-1
41-1 Scope 41-1
41-2 Legislation 41-3
41-3 Requirements 41-3
41-4 Responsibilities 41-18
41-5 Definitions 41-21

Chapter 42: Environmental Restoration 42-1
42-1 Scope 42-2
42-2 Legislation 42-4
42-3 Requirements 42-4
42-4 Responsibilities 42-26
42-5 Definitions 42-33

SECTION VI — APPENDICES

A Summary of Major Legislation, Regulations, Executive Orders, and International Agreements A-1
B Acronyms B-1
C Message Formats C-1
D Afloat Environmental Checklists D-1
E Web Sites E-1
F Forms and Reports F-1

LIST OF FIGURES

10-1 Generalized Geographic Applicability 10-7

10-2 NEPA Process Flowchart 10-39

10-3 E.O. 12114 Environmental Planning Flowchart for Navy Actions 10-75

14-1 CZMA Federal Consistency Flowchart 14-4

21-1 Water System Classification Flowchart.....21-6

42-1 Navy ER Process.....42-5

LIST OF TABLES

1-1 EPA Regions and DoD RECs 1-10

1-2 EPA Regions and Navy RECs.....1-10

3-1 NERTP Formal Training Courses.....3-7

10-1 Geographic Applicability.....10-8

10-2 Guidance for Choosing the Environmental Planning Process for Complying with NEPA and E.O. 12114 10-10

10-3 Sample “Impact” and “Harm” Conclusions for Environmental Planning and Decision Documents 10-15

10-4 Summary of EIS Version Nomenclature and Management 10-19

10-5 Comparison of Programmatic and Comprehensive Environmental Planning Documents 10-22

10-6 Department of the Navy List of CATEXs 10-40

10-7 List of Actions Normally Requiring an EA.....10-45

10-8 Notification Elements.....10-46

10-9 Core Components of an EA.....10-48

10-10 Factors for Determining When to Elevate an EA for OPNAV N45 Action.....10-51

10-11 Template for a FONSI 10-52

10-12 Factors to Be Considered When Determining the Level of Public Participation for an EA 10-55

10-13 Elements of an NOI Package 10-57

10-14 Core Components of an EIS 10-61

10-15 Potential Stakeholders to Be Considered in DEIS Distribution 10-64

10-16 Information Required in an NOPM or NOPH 10-67

10-17 Template for a ROD 10-71

10-18 Elements of a Negative Decision 10-77

10-19 Core Components of an OEA.....10-81

10-20 Core Components of an ER or ES.....10-85

10-21 Action Proponent Guidance 10-88

14-1 Elements of a Consistency Determination 14-5

14-2 Elements of a Negative Determination 14-6

17-1 Required Elements of an EMS 17-4

22-1 Primary Applicable Requirements in Nonattainment Areas 22-4

22-2 Commonly Applicable NESHAPs 22-7

22-3 Commonly Applicable NSPSs and EGs 22-10

22-4 Regulations Applicable to Engines and Fuels 22-11

27-1 Health and Safety Training Requirements for HW and Emergency Response.....27-22

35-1a Summary of Navy Pollution Control Discharge Restrictions 35-13

35-1b Summary of Navy Pollution Control Discharge Restrictions 35-14

35-1c Summary of Navy Pollution Control Discharge Restrictions 35-15

35-2 Permissible VOC Limits for Applications.....35-24

35-3 Disposal of Shipboard HM 35-73

39-1 Facilities Criteria 39-5

40-1 Minimum Review Panel Representation 40-2

40-2 Review Panel Procedures After Notification of Potential Release 40-3

C-1 Navy Root Cause Analysis Codes.....C-13

CHAPTER 1

ORGANIZATION AND COORDINATION

Table of Contents

1-1 Scope 1-1
1-1.1. Related Chapters 1-2
1-1.2. References 1-2
1-1.3. Applicability 1-3
1-1.4. Related Programs 1-4

1-2 Legislation 1-5

1-3 Requirements 1-5
1-3.1. Organization 1-5
1-3.2. Coordination 1-10
1-3.3. Disputes 1-15
1-3.4. Environmental Management Systems 1-15
1-3.5. Environmental Regulatory Agency Interface 1-15
1-3.6. Information Security 1-16
1-3.7. Environmental and Natural Resources Regulator Permits 1-17
1-3.8. National Defense or Military Activities Waivers 1-18
1-3.9. Sovereign Immunity 1-18
1-3.10. Record Retention and Recordkeeping 1-18

1-4 Responsibilities 1-18

1-5 Definitions 1-30

1-1 Scope

a. Environmental readiness encompasses all aspects of environmental compliance, planning, conservation, pollution prevention (P2), and remediation. The mission of the Navy's environmental readiness program is to ensure that U.S. Navy forces effectively train, test, and operate worldwide. Doing so in an environmentally responsible manner helps ensure continued access to land, air, and sea. The environmental readiness program provides Navy commanders, operators, design agents and life-cycle managers, installation managers, Navy military and civilian employees, and government contractors with comprehensive and effective policy guidance, tools, and training to support operational readiness and sustainability in compliance with environmental laws, regulations, and executive orders (E.O.) across the Navy enterprise.

b. This manual identifies and is consistent with applicable Federal, State, and local environmental laws, statutes, regulations; E.O.s; Department of the Navy (DON) regulations, requirements, and instructions; and Department of Defense (DoD) directives, instructions, and other issuances. It directs commands, when and where appropriate, to consult the applicable

DoD final governing standards (FGS) for host-nation-specific criteria, or the Overseas Environmental Baseline Guidance Document (OEBGD) when host-nation-specific FGSs have not been developed (see chapter 34 (Overseas Environmental Compliance Ashore) of this manual). It also establishes and provides Navy policy guidance for managing and complying with these requirements and assigns responsibility for their planning and execution. Directives set forth in this manual should be read in a manner consistent with higher guidance. All subsequent Navy environmental readiness program-related instructions, manuals, guidance, and directives derived from this manual must be aligned with the direction set forth herein.

1-1.1. Related Chapters. Each chapter in this manual covers a specific environmental readiness program area. The Related Chapters paragraph in each chapter of this manual lists where program areas overlap one or more other chapters. Related chapters and their associated references should be referred to as appropriate.

1-1.2. References

(a) Public Law 101-508, Pollution Prevention Act of 1990;

(b) OPNAVINST 5100.23G, Navy Safety and Occupational Health Program Manual;

(c) OPNAVINST 11010.40, Encroachment Management Program;

(d) DoD Directive 5000.01 of 12 May 2003, The Defense Acquisition System;

(e) DoD Instruction 5000.02 of 8 December 2008, Operation of the Defense Acquisition System;

(f) SECNAVINST 5000.2E, Implementation and Operation of the Defense Acquisition System and the Joint Capabilities Integration and Development System;

(g) SECNAV-M 5000.2, DON Acquisition and Capabilities Handbook;

(h) SECNAVINST 5090.8B, Policy for Environmental Protection, Natural Resources, and Cultural Resources Programs;

(i) DoD MIL-STD-882E, DoD Standard Practice: System Safety, 11 May 2012;

(j) OPNAVINST 5100.24B, Navy System Safety Program Policy;

(k) E.O. 13834, Efficient Federal Operations;

(l) OPNAVINST 5440.77B, Missions, Functions, and Tasks of United States Fleet Forces Command;

(m) OPNAVINST 5450.337B, Missions, Functions, and Tasks of Commander, United States Pacific Fleet;

(n) CNO message 261950Z Sep 03;

(o) Department of the Navy (DON) and U.S. Special Operations Command (USSOCOM) Memorandum of Agreement of 30 Apr 10;

(p) Commander, Navy Installations Command (CNIC) and Commander, Naval Special Warfare Command (COMNAVSPECWARCOM) Memorandum of Agreement Ser 00/0523 of 09 Jul 12;

(q) DoD Instruction 4715.02 of 28 August 2009, Regional Environmental Coordination;

(r) USD memo of 15 Apr 08, Department of Defense Supplemental Guidance for Implementing and Operating a Joint Base;

(s) DoD Instruction 4715.17 of 15 April 2009, Environmental Management Systems;

(t) SECNAVINST 5510.30B, Department of the Navy (DON) Personnel Security Program (PSP) Instruction;

(u) SECNAV M-5510.36 of 30 June 2006, Department of the Navy Information Security Program;

(v) SECNAVINST 5000.37, Provision of Department of the Navy Documentary Material;

(w) SECNAVINST 5090.6A, Environmental Planning for Department of the Navy Actions;

(x) E.O. 12114, Environmental Effects Abroad of Major Federal Actions;

(y) SECNAVINST 5400.15C, Department of the Navy Research and Development, Acquisition, Associated Life-Cycle Management, and Logistics Responsibilities and Accountability;

(z) E.O. 12344, Naval Nuclear Propulsion Program; and

(aa) DoD Directive 3200.15 of 18 December 2013, Sustaining Access to the Live Training and Test Domain.

1-1.3. Applicability. The policies and procedures in this manual apply to all Navy commands, organizations, installations, personnel (civilian and military), Navy contractors, and non-Navy-supported components under joint basing within the Chief of Naval Operations (CNO) chain of command. In addition, some requirements of this manual apply to organizations, personnel, and commands outside of the CNO chain of command through DON policy statements and instructions. This manual describes the internal management of the Navy's environmental readiness program and is not intended to create any right or benefit, substantive or procedural, enforceable by law by any party against DON, its officers, its employees, or any person. This manual does not apply to Marine Corps or other military Service activities, except when they are

tenant commands located on Navy installations as described in subparagraph 1-3.2f of this manual.

1-1.4. Related Programs. All environmental readiness program areas covered within this manual are under the cognizance of the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45), except as specifically noted. Other related references and instructions relevant to specific programs under OPNAV N45 cognizance are also identified, including:

a. P2. Reference (a) requires all Federal agencies to prevent or reduce pollution at the source where feasible, recycle waste, and handle and dispose of waste in an environmentally safe manner. P2 covers multiple programs and is addressed specifically in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore), chapter 23 (Hazardous Materials Management Ashore), and chapter 27 (Hazardous Waste Management Ashore) of this manual.

b. Noise. Noise impacts primarily related to occupational safety and health are not included in this manual as a standalone chapter. These impacts are covered in reference (b). The requirements for assessing the noise impacts of proposed Navy actions, however, should be considered during the environmental planning process discussed in chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual.

c. Readiness Sustainment and Compatibility (RSC) Program. A key element of the RSC program is encroachment management. Per reference (c), encroachment is any action or condition that restricts or prohibits the attainment or sustainment of the Navy's statutory responsibilities to man, train, maintain, and equip a combat-ready force. Additionally, any lack of action by the Navy to work with local communities and monitor development plans or to adequately manage its facilities and real property can result in encroachment. Encroachment arises in a variety of ways including, but not limited to urban development; competition for air, land and sea space; foreign proximity concerns; threatened and endangered species; and other environmental or incompatible development concerns. The Navy's ability to manage encroachment properly relies upon an RSC program that identifies and addresses encroachment challenges and issues early and systematically, and it is imperative that the Navy's management of encroachment be coordinated with all internal stakeholders. This process requires a coordinated effort led by OPNAV N45 and involves the commands whose responsibilities include sustaining mission readiness at installations, ranges, and operating areas (OPAREA) within the United States; its territories, trusts, and possessions; and assets where the Navy manages, controls, or otherwise operates. Community planning and liaison officers are the primary positions dedicated to RSC at the installation level.

d. Environmental Readiness in Acquisition

(1) This program provides and implements Navy program policies and procedures to ensure environmental readiness at reduced cost over an acquired system's life cycle. Environmental readiness in acquisition refers to the ability of a new system to be used in realistic

testing, training, and operations, in full compliance with environmental requirements upon delivery to the fleets.

(2) DoD and Secretary of the Navy (SECNAV) policy concerning environmental readiness requirements shall be applied to the Navy's implementation of the Defense Acquisition System. The Defense Acquisition System, which is described in references (d) and (e), establishes the framework of policy, processes, and documentation for the acquisition of systems, and the planning and decision-making for the life-cycle sustainability of those systems. For Navy acquisition programs, environmental readiness in acquisition requirements and considerations shall be fully incorporated into the development and testing of new systems to ensure realistic fleet training and operations, in full compliance with applicable environmental laws and regulations. Navy acquisition programs shall comply with DoD and SECNAV environmental provisions and policy as outlined in references (d) through (j).

e. Strategic Sustainability

(1) Sustainability is not an individual departmental program but an organizing paradigm that applies to all DoD mission and program areas. Today our military has sufficient access to energy, clean water, healthy air, and land, which allows our military to train, fight, and provide humanitarian support anywhere in the world. DoD's vision of sustainability is to maintain this capability to operate in the future without decline. Reference (k) provides an approach for complying with Federal requirements related to energy and environmental performance in a manner that increases DoD efficiency, optimizes performance, eliminates unnecessary use of resources, and protects the environment. DoD's vision of sustainability is to maintain sufficient access to energy, clean water, healthy air, and land in order for our military to train, fight, and provide humanitarian support anywhere in the world.

(2) Sustainability Report and Implementation Plan requirements are addressed in individual chapters of this manual, including chapter 4 (Environmental Performance Reporting).

1-2 Legislation. Major legislation applicable to each chapter's subject matter and Navy responsibilities is listed in each chapter and summarized in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

1-3 Requirements

1-3.1. Organization

a. Budget Submitting Offices (BSO). For the purposes of this manual, BSOs plan, program, budget, and allocate resources to fund environmental readiness requirements for their subordinate commands. BSOs provide oversight of their subordinate commands to ensure they adhere to the policies in this manual and comply with applicable environmental readiness requirements.

b. Commander, United States Fleet Forces Command (COMUSFLTFORCOM) and Commander, United States Pacific Fleet (COMUSPACFLT). COMUSFLTFORCOM and

COMUSPACFLT are echelon 2 commands under the administrative control of CNO. Per CNO-delegated authority (references (l) and (m)), COMUSFLTFORCOM and COMUSPACFLT organize, man, train, equip, and maintain assigned Navy forces and shore activities to generate required levels of current and future fleet readiness. COMUSFLTFORCOM and COMUSPACFLT are BSOs with financial management authority and responsibility for assigned forces, shore activities, military and civilian personnel, infrastructure, and budget. COMUSFLTFORCOM generates and communicates Navy global force management solutions concerning general-purpose forces and ad hoc forces retained by the Secretary of the Navy. To support their missions, COMUSFLTFORCOM and COMUSPACFLT develop and execute environmental readiness programs to support fleet warfighting, basing, and training in support of operational readiness.

c. Commander, Navy Installations Command (CNIC). CNIC is an echelon 2 command. It has overall shore installation management responsibility and authority as the BSO for installation support, and is the Navy point of contact for installation policy and program execution oversight. CNIC is the supporting commander to the warfighter for shore services. Support is provided through region and installation commands. CNIC encompasses the region commands of Commander, Naval District Washington; Commander, Navy Region Mid-Atlantic (COMNAVREG MIDLANT); Commander, Navy Region Midwest (COMNAVREG MIDWEST); Commander, Navy Region Northwest (COMNAVREG NW); Commander, Navy Region Southeast (COMNAVREG SE); Commander, Navy Region Southwest (COMNAVREG SW); Commander, Navy Region Europe Africa Southwest Asia; Commander, Navy Region Hawaii (COMNAVREG PEARL HARBOR HI); Commander, Navy Region Japan; Commander, Navy Region Korea; Commander, Joint Region Marianas (COMJTREG MARIANAS GU); and the corresponding installations within each region. Per reference (n), CNIC is responsible for Navy shore environmental readiness program execution and oversight, as well as planning, programming, and budgeting for regional and shore installation environmental readiness program management requirements for the host installation, and coordination with tenant commands. Exceptions may exist in the case of non-CNIC tenants and when environmental memoranda of agreement (MOA) are negotiated with tenant commands or their BSOs, as described in subparagraph 1-3.2f of this manual.

(1) Commanders of Navy Region Commands. Commanders of region commands are assigned a specific shore-based geographic area of responsibility (AOR). As an echelon 3 command reporting to the fleets or the cognizant outside the continental United States (OCONUS) naval forces commander for operational control, and CNIC for administrative control for installation support, the commanders of Navy regions are the focal point for all shore services, fleet support, and delegated mission environmental readiness programs in the region. Region commanders have the responsibility to oversee and coordinate matters of wide-ranging Service interest, including matters related to areas designated as “special areas.” Region commanders may direct the actions of all tenant and visiting commands, including those commands not otherwise aligned to an installation, on matters concerning the safeguarding or preservation of Navy-owned or Navy-controlled property and the security, safety, and welfare of all individuals and families on board Navy-owned or Navy-controlled property. Region commanders are responsible for compliance with all Federal and State environmental laws, regulations, E.O.s, and DoD and DON policy throughout the region.

(2) Navy Installation Commanding Officers (ICO). As echelon 4 commands reporting to the Region Commander, the ICOs are responsible for all shore services and support for fleet operations. ICOs oversee and coordinate matters of common interest to ensure the effective and efficient operation of the installation. ICOs are responsible for environmental readiness program management aboard their installation, including coordinating the actions of all tenant and visiting commands and individuals on matters concerning the safeguarding or preservation of Navy-owned or -controlled property. They also oversee the security, safety, and welfare of all individuals and families on board the installation.

d. Commander, Navy Facilities Engineering Command (COMNAVFACENGCOM). COMNAVFACENGCOM is the shore facilities systems command (SYSCOM) for the facilities life cycle (including planning, design, construction, and maintenance); utilities and energy systems; and environmental, transportation, weight handling, and real estate services. COMNAVFACENGCOM delivers engineering services, develops and maintains shore facilities, acquires and manages capabilities for the Navy's expeditionary combat forces, provides contingency engineering responses, and enables energy security and environmental stewardship. COMNAVFACENGCOM serves as the Navy's primary technical authority and primary execution agent in support of CNIC for environmental planning, compliance, restoration, and natural and cultural resources conservation for Navy shore facilities. It also serves as the primary execution agency for COMUSFLTFORCOM and COMUSPACFLT at-sea and range environmental planning and compliance documentation.

e. SYSCOMs. SYSCOMs include COMNAVFACENGCOM, Office of Naval Research; Commander, Naval Sea Systems Command (COMNAVSEASYSCOM); Commander, Naval Air Systems Command (COMNAVAIRSYSCOM); Commander, Naval Supply Systems Command (COMNAVSUPSYSCOM); and Space and Naval Warfare Systems Command (COMNAVSPAWARSYSCOM). SYSCOMs have been established to provide Navy-wide support in specific areas of technical expertise and, with the exception of COMNAVFACENGCOM, are the BSOs for these areas. The BSO for COMNAVFACENGCOM is CNIC. SYSCOMs and their affiliated program executive offices (PEO) are charged with programming, budgeting, procuring, and maintaining Navy facilities, platforms, and weapon and sensor systems. They are responsible for providing systems engineering with due consideration to environmental readiness, including compliance, natural and cultural resources conservation, and environmental planning, as applicable. This includes the responsibility to ensure environmental readiness requirements are appropriately considered in their assigned mission. SYSCOMs that are also BSOs are charged with programming, budgeting, procuring, and maintaining platforms and weapon and sensor systems.

(1) SYSCOMs, BSOs, and Tenant Environmental Staffs. SYSCOMs and other tenant BSOs have chosen to fund their own environmental staffs at tenant commands when required services or specific technical expertise is not available through CNIC or COMNAVFACENGCOM, or does not meet specific needs. To avoid duplication, however, responsibilities must be de-conflicted using environmental MOAs as described in subparagraph 1-3.2f of this manual.

(2) PEOs. PEOs are in charge of major acquisition programs. PEOs report directly to the Assistant Secretary of the Navy (Research, Development, and Acquisition) (ASN(RD&A)) and are affiliated with an individual SYSCOM. Each PEO must assign or delegate a person to review all specifications for systems compliance with all environmental laws, regulations, E.O.s, and DoD and DON policy.

f. Environmental Specialty Offices. Environmental specialty offices have been established under COMNAVSEASYSCOM, COMNAVAIRSYSCOM, and COMNAVFACENGCOM to provide Navy-wide support in unique areas of technical expertise.

(1) Naval Ordnance Safety and Security Activity. The Naval Ordnance Safety and Security Activity (NOSSA) Ordnance Environmental Support Office (OESO), located in Indian Head, MD, serves as the Navy's technical authority and provides core expertise and leadership to the Navy on issues related to environmental support in the area of military munitions and ordnance-related processes. OESO serves as the delegated authority for ordnance range sustainment, munitions rule implementation, munitions response aspects of environmental remediation, and materials potentially presenting an explosive hazard. This includes program management, oversight of program execution, program assessment and verification, and development of guidance and training for ordnance-related environmental programs.

(2) Laboratory Quality and Accreditation Office. The Laboratory Quality and Accreditation Office, located at Naval Weapons Station Charleston, SC, provides core expertise and leadership to the Navy on issues related to environmental sampling, laboratory testing, and data quality. This includes environmental sampling and testing policy development, technical assistance, legislative review, and development of guidance and training.

(3) Aircraft Environmental Support Office (AESO). AESO, located in North Island, CA, provides Navy-wide support relative to aircraft and aircraft facility environmental protection. AESO serves as the Navy's technical expert and provides Navy organizations with environmental support on aircraft engines in areas including conformity determinations, environmental planning for basing, atmospheric dispersion modeling, noise mapping, and jet-engine emissions testing.

(4) Naval Facilities Engineering and Expeditionary Warfare Center (NAVFAC EXWC). The NAVFAC EXWC is located in Port Hueneme, CA, and provides Navy-wide support relative to specialized environmental engineering, technology, and information management expertise. NAVFAC EXWC conducts environmental protection systems and technology development, testing, evaluation, adaption, technology transfer, and implementation. Products and services support environmental aspects of installation operations including facilities management, utility systems, port and air operations, and strategic sustainable practices that maintain the ability to operate without decline.

g. Commander, Naval Special Warfare Command (COMNAVSPECWARCOM). COMNAVSPECWARCOM is an echelon 2 command in an active, fully operational status under the Combatant Command, U.S. Special Operations Command (USSOCOM). It is the special warfare component of the U.S. Navy and serves as the USSOCOM lead component for maritime

special operations. Per references (o) and (p), the Navy is responsible for funding and providing Service-common services. For environmental readiness programs, this is interpreted to include environmental compliance (e.g., disposal of containerized hazardous waste) and shore installation environmental planning documentation that supports the development of categorical exclusions. COMNAVSPECWARCOM is responsible for funding environmental planning documentation such as environmental assessments and environmental impact statements (i.e., National Environmental Policy Act (NEPA) documents) for COMNAVSPECWARCOM. Support to COMNAVSPECWARCOM is provided through Navy region and installation commands. CNIC and its regional commanders and installation commanders are responsible for providing shore installation management as well as environmental planning support for regional and shore installations where COMNAVSPECWARCOM is a tenant. Environmental planning support includes environmental compliance; development of NEPA documents; real estate actions; and engagement, coordination, and consultation with external agencies and tribes to support COMNAVSPECWARCOM activities and operations or both within the established CNIC regions.

h. Naval History and Heritage Command (NHHC). NHHC is an echelon 2 command with Field Support Activity as its BSO. NHHC has the responsibility to collect, preserve, protect, and make available the artifacts, documents, and art that best embody naval history and heritage for present and future generations. NHHC advances the knowledge of naval history and heritage through professional research, analysis, interpretation, products, and services, and is under the administrative control of CNO. Furthermore, NHHC develops, reviews, and implements policies related to the preservation and protection of U.S. Navy sunken military craft and associated contents, and serves as the principal technical advisor on matters related to submerged cultural resources. Refer to chapter 13 (Cultural Resources Compliance and Management) and chapter 40 (Sunken Military Craft) of this manual for more information.

i. U.S. Navy Judge Advocate General's Corps (JAG) and Office of the General Counsel (OGC). The Navy JAG and OGC attorneys within the chain of command are a command's primary legal resource. Attorneys specializing in environmental law are available for assistance and are assigned to fleet commanders, BSOs, Navy regional environmental coordinators (REC), region legal service offices, and COMNAVFACENGCOM subordinate commands. They are also available to provide additional environmental legal support upon request. The OGC's Naval Litigation Office provides environmental litigation support. Environmental legal advice is also available from the Office of the Assistant General Counsel (Energy, Installations, and Environment). Legal questions, including interpretations of laws, regulations, E.O.s, permits, compliance agreements, and similar legal documents, must be referred to and coordinated with the appropriate environmental counsel.

j. Chief, Bureau of Medicine and Surgery (BUMED). The Navy and Marine Corps Public Health Center under BUMED provides specialized technical support in the areas of public health risk assessment and risk communication, industrial hygiene, entomology, radiation health, environmental and occupational medicine, toxicology, food sanitation and water, disease cluster investigation, and epidemiology. Products and services support environmental health aspects of Navy installations and afloat operations.

1-3.2. Coordination

a. DoD RECs

(1) Reference (q) establishes a framework for DoD RECs and component RECs within the United States. Oversight of this program is provided by the Office of the Assistant Secretary of Defense for Sustainment (OASD(Sustainment)).

(2) Under the DoD REC construct, the secretaries of the military departments serve as the DoD REC for their assigned Federal regions. The DoD REC for each Federal region is responsible for coordinating Federal, regional, State, and local environmental matters among the DoD components in the region. DoD RECs also engage appropriate regional, State, and local officials on proposed legislation, regulation, policies, and other environmental readiness matters of interest to DoD to articulate a single coordinated DoD position. The DoD REC for each region has a military department representative (DoD REC representative) located in the region, to coordinate the DoD REC program with the other DoD components as indicated in table 1-1. In Environmental Protection Agency (EPA) regions 1 and 3, COMNAVREG MIDLANT is the DoD REC representative. In EPA Region 9, COMNAVREG SW is the DoD REC representative.

Table 1-1. EPA Regions and DoD RECs

EPA Region	**DoD REC**
1, 3, and 9	Secretary of the Navy
4, 5, 7, and 8	Secretary of the Army
2, 6, and 10	Secretary of the Air Force

b. Component RECs

(1) In support of the DoD RECs, the Army, Navy, and Air Force also designate component RECs in each Federal region to coordinate environmental readiness issues (as well as energy and encroachment issues) for their respective Services. The DoD REC representative in a region can also serve as the component REC in the same region. Component RECs coordinate with the DoD REC representative regarding their Service's activities in the region and communications with Federal, regional, State, and local agencies and officials. Component RECs elevate issues requiring DoD-wide attention to the DoD REC via the DoD REC representative and appropriate chain of command. One Navy Region Commander must be assigned as the Navy REC for each Federal EPA region, with the exception of EPA Region 9, where there are three. Navy RECs are identified by Federal EPA region in table 1-2.

Table 1-2. EPA Regions and RECs

EPA Region	**Navy REC**
EPA Region 1 (CT, ME, VT, NH, MA, RI)	COMNAVREG MIDLANT
EPA Region 2 (NY, NJ, PR, VI)	COMNAVREG MIDLANT; coordinating with COMNAVREG SE on Puerto Rico and Virgin Islands issues
EPA Region 3 (DE, DC, MD, PA, VA, WV)	COMNAVREG MIDLANT

EPA Region	Navy REC
EPA Region 4 (AL, FL, GA, KY, MS, NC, SC, TN)	COMNAVREG SE; coordinating with COMNAVREG MIDLANT on NC and KY issues
EPA Region 5 (IL, IN, MI, MN, OH, WI)	COMNAVREG MIDLANT; coordinating with COMNAVREG NW on MN issues
EPA Region 6 (TX, LA, OK, NM, AR)	COMNAVREG SE; coordinating with COMNAVREG SW on NM issues
EPA Region 7 (IA, KS, MO, NE)	COMNAVREG SE; coordinating with COMNAVREG NW on NE and IA issues
EPA Region 8 (CO, MT, ND, SD, UT, WY)	COMNAVREG NW; coordinating with COMNAVREG SW on UT and CO issues
EPA Region 9 (AZ, CA, NV)	COMNAVREG SW
EPA Region 9 (HI)	COMNAVREG PEARL HARBOR HI; coordinating with COMNAVREG SW as needed
EPA Region 9 (Commonwealth of Northern Mariana Islands, Federated States of Micronesia, Freely Associated States of the Republic of the Marshall Islands, Guam, Republic of Palau, and United States Flag Area of American Samoa)	COMJTREG MARIANAS GU; coordinating with COMNAVREG SW as needed
EPA Region 10 (AK, ID, OR, WA)	COMNAVREG NW

(2) There are no designated overseas RECs. Overseas coordination is discussed in subparagraph 1-3.2g and chapter 34 (Overseas Environmental Compliance Ashore) of this manual.

(3) Reference (q) formalized coordination requirements when developing final DoD positions on environmental readiness matters. Navy region commanders serving as the DoD REC representative or the Navy REC must implement these requirements in these ways:

(a) DoD and component positions developed within a region must conform to existing DoD and component policy. All communication among OASD(Sustainment), DoD RECs, military department representatives, component RECs, and DoD components must follow the chain of command. For operational environmental matters, including, but not limited to at-sea compliance; range documentation and permitting; home-basing decisions; and afloat and shipboard environmental compliance, the chain of command for the Navy component REC or the Navy's military department representative must be via the appropriate Fleet Commander (COMUSFLTFORCOM or COMUSPACFLT) for matters within their respective AORs, and OPNAV N45. For shore installation matters, the chain of command must be via CNIC, the applicable BSO, and OPNAV N45.

(b) Issues with the potential to affect afloat assets or forces, issues of potential national significance, and issues affecting the relationship between Federal and State regulation must be coordinated with OPNAV N45 via the chain of command.

(c) Navy RECs are assigned to correspond to specific EPA regions and do not necessarily align with Navy region commands. Where Navy region commanders are assigned as Navy RECs for areas or States in another Navy region command, the Navy REC must keep the appropriate Navy region command informed of environmental readiness issues that occur in the Navy region to which the area or State belongs. Navy regions responsible for a State or States in another REC's AOR must immediately inform the designated REC of all regulatory issues related to shore installation compliance; enforcement actions; permit conditions; visits by State and Federal regulators; or any other issues that may impact other Navy or DoD installations within the REC's AOR. To ensure consistent application of Navy policy throughout Federal EPA regions, Navy regions responsible for States in another REC's AOR must coordinate all interactions with State or Federal regulators regarding shore installation compliance with the designated Navy REC.

(d) For issues requiring immediate attention from OASD(Sustainment), the DoD REC, not the military department representative or Navy REC, must notify OASD(Sustainment) and the Navy chain of command, including OPNAV N45.

c. Area Environmental Coordinators (AEC). COMUSFLTFORCOM and COMUSPACFLT are designated as AECs. As AECs, COMUSFLTFORCOM and COMUSPACFLT must ensure consistent application of environmental readiness policy for Navy actions occurring from the high-water mark seaward within their assigned AORs.

d. Joint Bases (including Joint Region Marianas)

(1) The Navy as Supporting Component. Per reference (r), in those instances where the Navy is the supporting component (lead Service), the Navy will be responsible for all environmental compliance, environmental conservation, P2, and environmental restoration functions. The Navy will also be responsible for budgeting to meet those requirements for the joint base upon transfer of real property to the Navy. Responsibilities include:

(a) Maintaining and complying with all existing, previously negotiated, and executed permits, orders, and agreements;

(b) Overseeing environmental contracts; and

(c) Reporting all environmental readiness requirements and metrics.

(2) The Navy as Supported Component. Where a Navy activity is a tenant on a non-Navy installation, the activity must participate in the host environmental compliance program per an inter-Service support agreement. Where the non-Navy host environmental compliance program is not consistent and less restrictive than Navy, BSO, and parent command policy, Navy activities must follow Navy, BSO, and parent command instructions, directives, and policy guidance. In addition, the Navy must:

(a) Make its facility and environmental information accessible to the supporting component;

(b) Notify the supporting component and obtain prior approval for all new, modified, or decommissioned pollution sources or regulated activities on the installation used by the Navy or its contractors; and

(c) Provide the supporting component all requirements identified or programmed to meet minimum environmental standards identified under common output levels of services.

(3) Media- and Program-Specific Guidance. Whether or not joint bases have one or multiple environmental readiness programs or environmental reporting requirements depends on the specific media or environmental program area as detailed in reference (r) and on whether or not the parts of the joint base are geographically contiguous (or adjacent to each other) or are non-contiguous (or geographically separate). In all cases, where the Navy is not the lead Service, the Navy must coordinate with and report through the joint base lead.

e. Fleet and Shore Facility Relationship

(1) When naval vessels or aircraft are present at a shore facility, personnel assigned to associated operating units must comply with the host command's environmental readiness program policies to ensure compliance. To the maximum extent possible, shore commands and Navy RECs must provide afloat units with assistance in meeting shore facility environmental readiness requirements. When in a private shipyard, personnel must follow shipyard policy.

(2) Operational environmental readiness issues including at-sea compliance; range documentation and permitting; home-basing and home-porting decisions; afloat and shipboard environmental compliance; fleet NOSC; and other similar issues that affect readiness or fleet operations such as coastal and marine spatial planning; ecosystem-based management; mission compatibility assessments; and offshore gas, oil, and renewable energy compatibility assessments must also be coordinated with the appropriate COMUSFLTFORCOM or COMUSPACFLT Fleet Commander.

f. Host and Tenant Relationships

(1) Navy ICOs of host commands are responsible for all aspects of environmental readiness at their installation. Host commands may elect to share responsibility for an environmental aspect with the CO or officer in charge of a tenant command per environmental MOAs.

(2) Environmental MOAs can be initiated by either the host or tenant command and must be developed between host commands and tenant commands that have their own environmental functions and staffs to document roles and responsibilities with respect to environmental compliance and establish mechanisms for internal and external communication, dispute resolution, performance evaluation, and methods to hold each other accountable. The intent of the agreement is to ensure that both parties have a common understanding of the environmental readiness responsibilities that apply to their operations as well as the procedures both parties will coordinate and execute to ensure each is able to accomplish their respective mission in full

compliance with all applicable laws, regulations, E.O.s, and DoD and DON policy relating to the protection of the environment.

(3) Commands must establish environmental compliance boards consisting of host and tenant management personnel. At a minimum, commands should include both host and tenants on environmental management system (EMS) review boards (refer to chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual).

(4) Knowledge of compliance status and permit requirements is necessary for both host and tenant commands to perform varying operations and missions. Hosts and tenants must share information and ensure all applicable Navy RECs and BSOs, as well as CNIC, have appropriate information to assess environmental readiness and compliance status, to include warning letters, notices of deficiency, and notices of violation (NOV).

(5) Disputes between host and tenant commands regarding environmental readiness program interaction should be elevated to the appropriate BSOs for resolution. The Deputy Chief of Naval Operations for Fleet Readiness and Logistics (CNO N4) must adjudicate disputes among BSOs.

g. Overseas Coordination. DoD-designated lead environmental components (LEC) are responsible for identifying applicable host-nation environmental standards, monitoring regulatory trends, and maintaining copies of applicable host-nation environmental documents, standards, and regulations per DoD FGSs for host-nation-specific criteria and the OEBGD when host-nation-specific FGSs have not been developed. The LEC consults with host-nation authorities, the Chief of the United States 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 readiness policy in that country. The LEC also resolves requests for waivers of FGS, OEBGD, or other applicable requirements submitted by DoD components. Navy shore activities, facilities, and installations located outside the United States, its territories, and its possessions must coordinate environmental issues, including requests for waivers from any applicable requirements, with the LEC for the host nation via the appropriate chain of command. Chapter 34 (Overseas Environmental Compliance Ashore) of this manual contains additional information.

h. Contractor Compliance. Navy contracting officers must ensure contractors performing work on Navy installations and on Navy systems, platforms, and other equipment comply fully with applicable Federal, State, and local statutes, laws, regulations; E.O.s; DoD and DON policies and requirements; and Navy installation-specific environmental readiness policies and requirements, including training requirements under the applicable EMS. Contracting officers must ensure contractors monitor subcontractors for compliance.

i. Government-Owned, Contractor-Operated (GOCO) Facilities. Navy BSOs or activities sponsoring GOCO facilities must exercise oversight through the facility's lease, use, or management contracts to ensure the operating contractor complies with applicable environmental laws, regulations, E.O.s, and DoD and DON policy. When a GOCO facility has no operating

contractor or lessee, the BSO for the GOCO facility must comply with the requirements of this manual.

j. Facilities Leased or Rented by the Navy

(1) Facility-use contracts, rental agreements, or leases must require the lessee be responsible for ensuring the facilities comply with all applicable environmental requirements. The lessee must operate all facilities and equipment under all applicable substantive and procedural environmental readiness requirements, obtain all necessary permits, and sign as operator, unless otherwise directed by contract.

(2) The lessor must ensure lease contract terms and conditions place full responsibility for environmental compliance on the lessee. The lessor must exercise appropriate oversight of the leased property to ensure lessee compliance with environmental laws, regulations, E.O.s, and DoD and DON policy, including scheduled and documented environmental compliance reviews and, if applicable, resource management plans.

k. Real Estate Purchases. The purchasing command must conduct a pre-purchase environmental survey and a property transaction audit that includes a preliminary assessment (PA) for potential hazardous material (HM)-contaminated sites. If the seller completed a PA, then the purchasing activity must review documents for accuracy to determine the need for an onsite survey. If contamination is suspected or known, refer to chapter 42 (Environmental Restoration) of this manual for additional guidance.

1-3.3. Disputes. Unresolved issues between two organizations under the cognizance of different BSOs must be elevated through both chains of command for resolution. If the two cognizant BSOs cannot reach agreement, the issue must be elevated to CNO N4 for resolution.

1-3.4. Environmental Management Systems. EMS is the Navy's primary system for ensuring environmental readiness and maintaining environmental compliance at Navy shore activities, reducing the number of NOVs, improving environmental quality, and achieving P2 goals. Per reference (s), EMS must be integrated into missions, activities, functions, contracts, and installation support agreements as a business practice for improving overall performance. EMS is not just an environmental readiness program function, but it requires active participation from all functions and organizations. Additional EMS requirements can be found in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual.

1-3.5. Environmental Regulatory Agency Interface

a. Routine interactions with regulatory agencies should be conducted by or in coordination with the host commands at the local or regional level as appropriate. Exceptions, which must be approved by CNO N4, include issues of a national or regional scope requiring interactions with the National Marine Fisheries Service (NMFS) headquarters, EPA headquarters, United States Fish and Wildlife Service (USFWS) headquarters, the Advisory Council on Historic Preservation (ACHP), and State and tribal historic preservation officers (SHPO and THPO).

b. The Navy must establish consistent regulatory consultation approaches and responses throughout the United States to similar questions presented by different regulatory agency regions. This avoids establishing an adverse precedent in one Navy region that regulatory agencies apply to other regions. Commands must send all interpretations or agreements likely to set Navy-wide precedents to CNO N4 immediately, via the chain of command, with copies to the Navy REC.

c. Environmental, natural, and cultural resources permits, conditions, demands for payment of Navy funds, compliance agreements, settlements, negotiations, responses to written NOVs, and other related interactions with regulatory agencies for land-based and coastal zone issues must be fully coordinated with the Navy REC and all other affected Navy commands.

d. Interaction with regulatory agencies for actions occurring from the high-water mark seaward and other environmental issues that affect readiness or fleet operations must also be coordinated with the appropriate AEC.

(1) Facility Inspections. Navy shore installation commanders and tenant commanders must allow entry during reasonable hours of operation per permit requirements to Federal, State, and local environmental regulators or their representatives, upon presentation of proper credentials, to examine or copy records, inspect monitoring equipment, inspect work being performed in regard to environmental and regulatory compliance, or sample any wastes or substances that they have the authority to regulate. Such inspections must comply with information and facility security requirements set forth in reference (t) and paragraph 1-3.6 of this manual. Installations must notify CNIC, affected tenant BSOs, and the Navy REC of scheduled regulatory inspections and may request cognizant COMNAVFACENGCOM commands or Navy REC assistance at such inspections. If an inspection is to occur solely at a tenant command and is coordinated by the regulatory agency directly with the tenant command, the tenant command must notify the installation environmental program director (IEPD) and affected tenant BSO upon learning of the inspection and may request support from either the IEPD or BSO as needed. Chapter 34 (Overseas Environmental Compliance Ashore) of this manual provides guidance on access by host nations. Chapter 35 (Environmental Compliance Afloat) of this manual provides requirements for inspections aboard ships.

(2) NOVs. Chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual contains instructions for the processing of notices of noncompliance and associated chain-of-command responsibilities.

1-3.6. Information Security. Representatives of Federal, State, and local agencies, exercising their regulatory authorities under environmental laws and regulations, periodically visit Navy shore commands. Activities must properly enforce Federal statutes and Navy regulations governing the control and protection of classified and controlled unclassified information. Should regulators demand access to classified information, they must comply with Federal laws and regulations regarding access to that information. Commands must adhere to the guidelines listed in subparagraphs 1-3.6a through 1-3.6d of this manual and ensure they are reflected in instructions they issue covering this area. Chapter 35 (Environmental Compliance Afloat) of this manual discusses information security regarding ships.

a. Classified Information. Only personnel with appropriate security clearances or access authorizations must be permitted access to classified information and then only upon a determination by the cognizant Navy official that a need-to-know (limited to classified information required to resolve the matter at hand) exists to fulfill a legitimate regulatory purpose. When permitting access, activities must negotiate arrangements under reference (t) to assure continued protection of the information by the regulatory personnel.

b. Controlled Unclassified Information. While security clearances or access authorizations are not generally required for access to controlled unclassified information, a need-to-know determination must be made as described in subparagraph 1-3.6a of this manual. Per reference (u), the holder of the information must comply with applicable security and dissemination regulations and must ensure the recipient understands and complies with applicable information controls before permitting access.

c. Naval Nuclear Propulsion Information. Access to classified or unclassified naval nuclear propulsion information or to the propulsion plant spaces of nuclear-powered ships requires the specific approval of the Director, Naval Nuclear Propulsion Program (CNO N00N).

d. Publicly Releasable Information. Because access to classified and sensitive unclassified information by regulatory personnel creates administrative burdens for both the Navy and the regulator, as described in paragraph 1-3.6 of this manual, Navy commands are encouraged to satisfy the needs of regulatory personnel using information that is publicly releasable.

1-3.7. Environmental and Natural Resources Regulatory Permits

a. Navy commands must apply for and obtain all required Federal, State, and local permits (e.g., permits, letters of authorization, incidental harassment authorizations), including those for the construction and operation of facilities and ranges, and for actions related to at-sea and ashore training and research, development, test, and evaluation (RDT&E) activities, and must comply with all permit terms and conditions.

b. Host commands must coordinate permit conditions with all affected tenant commands. Where appropriate, ICOs of host commands should delegate authority to negotiate, sign, and hold environmental permits to COs of tenant commands where operations under the permit fall completely under that tenant and such permits directly impact the ability of the tenant command to perform its mission. ICOs must review ownership of all permits and determine if permit ownership has been delegated from the ICO to the tenant CO. Where appropriate and warranted, the ICO must ensure a delegation letter is issued and a copy is included in the command EMS documentation. In addition, the environmental MOAs must address permit coordination and communication. COs of tenant commands must coordinate all such permits with the host command, Navy REC, and tenant-command BSO prior to signing the permit. In some instances, region commanders may choose to sign regional permits covering multiple commands. These permits should be coordinated with all affected host and tenant commands.

c. Each Navy organization sponsoring a GOCO facility must sign, as owner, for all environmental permits the operating contractor or lessee of the GOCO facility is required to

have. Contractors must obtain all necessary permits and sign the permits as operators unless otherwise directed by contract. Contractors must advise the Navy of any permit and its conditions, and provide periodic compliance status reports as required by the managing Navy office.

d. Regardless of the permit holder, permits for environmental and natural resources actions at Navy shore installations must be coordinated with the appropriate Navy REC. Additionally, permits for any actions from the high-water mark seaward must be coordinated with the AECs or Navy range owners in whose AOR(s) the action will occur. Regulatory registrations, even if called "permits," do not require advance coordination with the appropriate Navy REC unless the terms require negotiation prior to being issued. If such a document is issued directly to a tenant who owns or operates the equipment or process, the tenant must provide a copy of the document to the IEPD.

1-3.8. National Defense or Military Activities Waivers. When, in the interest of national defense or a particular mission, a Navy command considers that compliance with an applicable requirement is impractical or inappropriate due to security considerations or impact on the military mission, the issue must be referred to CNO N4 via the chain of command. National defense exemptions may be available under some statutes, but Navy policy is to achieve and maintain compliance with applicable laws, regulations, and E.O.s. Commands must seek waivers from applicable environmental requirements only as a last resort, after reasonable effort is made to come to comply with the regulatory requirement, and CNO N4 must not authorize pursuit of such waivers where compliance is deemed practical. Commands seeking waivers must comply with environmental readiness requirements while the request is pending. Note: Most waivers or exemptions require approval at the SECNAV or Secretary of Defense level, sometimes with Cabinet-level coordination, and require both robust documentation of rationale and regulatory coordination efforts. The typical timeline for obtaining waivers or exemptions can range from 3 to 6 months.

1-3.9. Sovereign Immunity. Where environmental statutes contain waivers of sovereign immunity, Federal agencies must comply with applicable Federal, State, and local statutes, regulations, and other requirements. As the application of sovereign immunity waivers varies with specific situations, personnel should seek the advice of Navy legal counsel. Requirements for the payment of fees, fines, or taxes are discussed in chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual.

1-3.10. Record Retention and Recordkeeping. All documentary material requests, including administrative and litigation holds, must be conducted per reference (v). Environmental-media- and program-specific requirements are in their respective chapters and may be more stringent.

1-4 Responsibilities

Note: Additional subject-specific responsibilities are listed in subsequent chapters.

1-4.1. CNO N4, through OPNAV N45, per references (h) and (w), must:

a. Monitor proposed Federal environmental legislation, Federal regulations, and proposed rules; coordinate Navy impact analyses; and ensure articulation of Navy positions and concerns in conjunction with the Navy Office of Legislative Affairs (OLA) and Assistant Secretary of the Navy (Energy, Installations, and Environment) (ASN(EI&E));

b. Establish and regularly update implementing policy guidance and direct and monitor progress of the Navy environmental readiness programs;

c. Coordinate environmental readiness policy guidance and program matters with ASN(EI&E), OASD(Sustainment), other Services, EPA, and other Federal agencies;

d. Coordinate review and issuance of NEPA documents and documents prepared under reference (x);

e. Serve as CNO's assessment and resource sponsor (RS) for fleet and shore environmental readiness program and requirements as well as radiological controls;

f. Coordinate with RSs; the Deputy Chief of Naval Operations for Integration of Capabilities and Resources (CNO N8); the Assistant Secretary of the Navy, Financial Management and Comptroller; the Bureau of the Fiscal Service; and the Office of Management and Budget in the reconciliation of environmental readiness requirements versus budgeted resources;

g. Serve as the CNO environmental readiness advocate to ASN(RD&A) in all matters dealing with environmental logistics during initial and iterative systems development throughout the acquisition program life cycle, per reference (y);

h. Provide oversight of EMS to ensure compliance with all applicable environmental laws, regulations, E.O.s, and DoD and DON environmental policies; and

i. Inform Navy personnel and the public about exceptional achievements in environmental resources protection.

1-4.2. CNO N00N must fulfill all responsibilities prescribed in reference (z) and implement Navy instructions for all matters pertaining to naval nuclear propulsion, including all radiological aspects of naval nuclear propulsion, oversight of radiological environmental compliance and monitoring, and involvement, where needed, in other environmental compliance and monitoring matters that affect naval nuclear propulsion.

1-4.3. The Navy Office of Information must:

a. Provide guidelines for the release of information involving environmental readiness matters;

b. Provide guidance on environmental readiness matters of public concern or interest; and

c. Implement an outreach program to gather and publicize Navy environmental readiness program accomplishments.

1-4.4. In addition to the command-specific BSO responsibilities assigned throughout this chapter, echelon 2 commands and their BSOs must:

a. Provide appropriate oversight of their subordinate commands to ensure they adhere to the policies in this manual and comply with applicable environmental readiness requirements;

b. Plan, program, budget, and allocate sufficient resources to fund environmental readiness requirements for their activities;

c. Issue guidance to activities regarding planning, programming, and budgeting of environmental readiness requirements and execution of associated programs and projects;

d. Ensure all subordinate organizations maximize the use and reuse of geospatial information and Navy enterprise geographic information systems to enhance decision making while reducing cost;

e. Ensure all subordinate organizations, including GOCOs, submit all environmental readiness requirements to BSOs as soon as such requirements are foreseen;

f. Support CNO N4 as program assessment and RS by providing detailed information in support of program baseline assessments as requested;

g. Provide input on requirements for OPNAV N45-sponsored RDT&E programs through the individual processes defined for each program, and direct the implementation of innovative solutions to environmental compliance, cost, and liability issues;

h. As requested, review draft policy, legislation, and regulations and provide OPNAV N45 with timely comments and assessments on the impact of draft policy, legislation or regulations on their activities;

i. Ensure consistent application of environmental policy within AORs and coordinate all environmental planning and compliance for actions taking place at sea (from the high-water mark seaward) with the appropriate AEC;

j. Cooperate with CNIC and COMNAVFACENGCOM in systematically identifying, assessing, and reporting other accrued environmental liability (OEL) costs that COMNAVFACENGCOM estimates and CNIC reports on behalf of the Navy; and

k. Provide Navy environmental readiness advocacy and support to Navy acquisition programs during design, development, procurement, and sustainment of Navy systems.

1-4.5. CNIC must:

a. Serve as the BSO and program manager (PM) and execute planning, programming, budgeting, and execution (PPBE) functions for the environmental planning, compliance, P2, and natural and cultural resources conservation programs for Navy shore installations;

b. Provide oversight for regional environmental coordination regarding shore installation management matters;

c. Appoint a senior naval officer in each region under their cognizance to serve as the shoreside NOSC;

d. Ensure consistent application of environmental policy for Navy installations;

e. Provide oversight of installation execution of the environmental readiness program through a compliance evaluation program and coordinate with naval SYSCOM oversight programs, if applicable; and

f. Coordinate with COMUSFLTFORCOM and COMUSPACFLT, as appropriate, on all operational environmental readiness issues, including at-sea compliance; range documentation and permitting; home-basing and home-porting decisions; afloat and shipboard environmental compliance; fleet NOSC; coastal and marine spatial planning; and ecosystem-based management.

g. Serve as the PM and execution agent for the U.S. Navy Environmental Portal, to include Environmental Readiness Program Requirements Web, Environmental Data and Metrics Web, and Environmental Management System Web Site (refer to appendix E (Web Sites) for Web site addresses).

1-4.6. COMNAVFACENGCOM must:

a. Serve as the Navy's primary technical authority and primary execution agent in support of CNIC for environmental planning, compliance, P2, restoration, and natural and cultural resources conservation for Navy shore installations;

b. Fulfill the responsibilities of technical authority by establishing and assuring adherence to technical standards and policy, and providing a range of technically acceptable alternatives with risk and value assessments;

c. Establish, monitor, and approve technical standards, tools, and processes in conformance with higher authority policy, requirements, architectures, and standards;

d. Ensure the safety, environmental compliance, and competency of work delivered to the Navy;

e. Serve as the execution agent for the CNIC Environmental Compliance and Environmental Conservation Programs;

f. Serve as the PM and execution agent for the Base Realignment and Closure (BRAC) Program; Environmental Restoration, Navy Program; and Tier 1 Oil Spill Response Equipment Program;

g. Serve as execution agent for agricultural outleases and forestry;

h. Manage the Living Marine Resources (LMR) RDT&E Program and Navy Environmental Sustainability Development to Integration RDT&E Program;

i. Serve as the execution agent for environmental projects and OEL programs for the Navy on a reimbursable basis;

j. Serve as the acquisition authority to deliver environmental products and services through various contract mechanisms as delegated by ASN(RD&A);

k. Serve as the acquisition authority to enter into Defense Environmental Restoration Program, BRAC functions, natural and cultural resources, and technology cooperative agreements as delegated by ASN(RD&A);

l. Prepare analyses of relevant operational, legal, and technical issues raised by proposed Federal, State, and local environmental legislation as requested;

m. Provide environmental, technical, legal, data-management, and information-exchange support to Navy organizations;

n. Develop, manage, and disseminate environmental program data as requested by CNO or CNIC;

o. Ensure consistent application of environmental policy and coordinate all environmental planning and compliance within the appropriate Navy REC and AEC;

p. Assist OPNAV N45 in managing shoreside P2 technology-transfer efforts; and

q. Provide technical assistance to shore commands to implement P2 practices and incorporate P2 technology into command processes.

1-4.7. COMUSFLTFORCOM and COMUSPACFLT must develop and execute environmental readiness programs to support fleet warfighting, basing, and training in their respective AORs in support of operational readiness. Actions include:

a. Complete and maintain necessary environmental compliance for training range complexes and OPAREAs;

b. Complete all necessary environmental compliance documentation for proposed home-basing and home-porting actions within assigned areas of the continental United States (CONUS) and the western Pacific;

c. Manage range sustainability programs to ensure continued access to fleet training ranges from an environmental compliance, encroachment, and human health and safety perspective, including operational range clearance;

d. Per reference (aa), maintain a list of current and projected range training requirements, and conduct environmental data collection and environmental document reviews to inform stakeholders of COMUSFLTFORCOM and COMUSPACFLT efforts to ensure environmental readiness on training ranges as well as ensure appropriate articulation of operations requirements for subsequent environmental analysis;

e. Assist fleet training area managers and scheduling authorities with environmental subject matter expertise and manpower to incorporate environmental readiness consideration into their range complex sustainment responsibilities and provide headquarters-level environmental policy development and coordination to implement an effective Navy-wide environmental program;

f. Per reference (aa), maintain a list of current and projected range training requirements, and conduct environmental data collection and environmental document reviews to inform stakeholders of COMNAVAIRSYSCOM efforts to ensure environmental readiness on training ranges as well as ensure appropriate articulation of operations requirements for subsequent environmental analysis;

g. Provide all necessary products, tools, reporting mechanisms, and environmental professional services to fleet operators and the numbered fleets to assist in complying with environmental laws, regulations, E.O.s, and permits during the conduct of live training;

h. Per reference (aa), maintain a list of current and projected range training requirements, and conduct environmental data collection and environmental document reviews to inform stakeholders of COMNAVSEASYSCOM efforts to ensure environmental readiness on training ranges as well as ensure appropriate articulation of operations requirements for subsequent environmental analysis;

i. Engage with OPNAV N45 and SYSCOM environmental staffs on environmental readiness in acquisition integration during major defense acquisition programs;

j. Support preparation and review of annual marine mammal and endangered marine species environmental compliance reports and provide recommendations and tools to meet requirements more efficiently and to minimize the impact to U.S. Navy at-sea readiness activities;

k. Assess current and potential marine mammal and endangered marine species environmental mitigations and coordinate with OPNAV N45 to propose modifications to mitigation measures that reflect scientific efficacy while meeting fleet military readiness objectives;

l. Evaluate and provide recommendations on DON research related to the potential effects of anthropogenic sound from naval activities on LMR and serve as advocate for integrated fleet research requirements and priorities in various forums within the U.S. Navy;

m. Coordinate operational environmental issues as the AECs for assigned CONUS areas, AORs, fleet training ranges, and OPAREAs that support CONUS-based units or deployed units; and ensure consistent application of environmental policy within AORs. Monitor all mission and operational matters including, but not limited to at-sea compliance; range documentation and permitting; home-basing and home-porting decisions; afloat and shipboard environmental compliance; coastal and marine spatial planning; and ecosystem-based management;

n. Execute environmental PPBE functions to support environmental compliance for fleet actions, to include requirements management for environmental compliance, natural and cultural resources conservation, and range sustainment funding;

o. Ensure program objective memorandum and project review environmental funding requirements development and submittal is coordinated between the fleets; and

p. Develop, manage, implement, or use information management tools in cooperation with COMNAVFACENGCOM, CNIC, and COMNAVSPAWARSYSCOM that support operational and environmental planning and compliance, natural resources conservation, and range management for fleet training and OPAREAs.

1-4.8. COMNAVSEASYSCOM must:

a. Manage the Shipboard, Ordnance, and Munitions Environmental Protection RDT&E Program;

b. Manage the Radiation Detection, Indication, and Computation Development RDT&E Program;

c. Maintain tier 2 and tier 3 oil and hazardous substance (OHS) pollution response equipment and expertise for Navy offshore and salvage-related OHS spills or releases through the Supervisor of Salvage and Diving;

d. Plan, program, and budget to implement management of historic ships afloat and historic ships in the inactive fleet under COMNAVSEASYSCOM control, in coordination with NHHC;

e. Plan, program, and budget to provide Navy-wide support on ordnance environmental issues through OESO;

f. Complete and maintain necessary environmental compliance for operational range complexes;

g. Manage range sustainability programs to ensure continued access to COMNAVSEASYSCOM test and evaluation ranges from an environmental compliance,

encroachment, and human health and safety perspective. Work includes operational range clearance; and range and water range sustainability environmental program assessments;

h. Prepare and maintain range complex management plans and conduct data collection and environmental document reviews to inform stakeholders of COMNAVSEASYSCOM efforts to protect access and to sustain, upgrade, modernize, and transform operational ranges as well as ensure appropriate articulation of assigned mission requirements for subsequent environmental analysis;

i. Provide all necessary products, tools, reporting mechanisms, and environmental professional services to COMNAVSEASYCOM RDT&E efforts to assist in complying with environmental laws, regulations, E.O.s, and permits during the conduct of live RDT&E events; and

j. Provide environmental readiness program oversight and policy guidance to directorates, affiliated PEOs, and field activities.

1-4.9. COMNAVAIRSYSCOM must:

a. Plan, program, and budget to provide Navy-wide support on aircraft- and aircraft-facility-related environmental readiness issues through AESO;

b. Provide environmental readiness program oversight and policy guidance to Naval Air Warfare Center, Aircraft Division; Naval Air Warfare Center, Weapons Division; and fleet readiness center facilities; and

c. Provide environmental readiness advocacy and support to Navy acquisitions programs throughout the life cycle;

d. Manage range sustainability programs to ensure continued access to COMNAVAIRSYSCOM test and evaluation ranges from an environmental compliance, encroachment, and human health and safety perspective. Work includes operational range clearance and range and water range sustainability environmental program assessments;

e. Complete and maintain necessary environmental compliance for assigned test and evaluation range complexes;

f. Prepare and maintain range complex management plans and conduct data collection and environmental document reviews to inform stakeholders of COMNAVAIRSYSCOM efforts to protect access and to sustain assigned test and evaluation ranges as well as ensure appropriate articulation of requirements for subsequent environmental analysis;

g. Assist COMNAVAIRSYSCOM test and evaluation range managers and scheduling authorities with subject matter expertise and manpower to accomplish their range complex sustainment responsibilities and provide headquarters-level policy development and coordination to implement an effective Navy-wide program; and

h. Provide all necessary products, tools, reporting mechanisms, and environmental professional services to COMNAVAIRSYSCOM RDT&E efforts to assist in complying with environmental laws, regulations, E.O.s, and permits during the conduct of live RDT&E events.

1-4.10. COMNAVSPAWARSYSCOM must provide environmental readiness program oversight and policy guidance to COMNAVSPAWARSYSCOM Systems Center Pacific and COMNAVSPAWARSYSCOM Systems Center Atlantic facilities.

1-4.11. BUMED must:

a. Serve as environmental PM and BSO for environmental readiness program requirements to BUMED activities;

b. Determine, validate, and establish health-related criteria and standards not available through Federal, State, or local laws and regulations or health advisories;

c. Provide assistance to activities, offices, and commands concerning the health aspects of pollution sources or pollution control equipment, including development of medical monitoring programs; provide human health risk assessments; and health and safety, toxicological disease clusters, and risk communication support;

d. Provide industrial hygiene, medical expertise, human health risk assessments, and risk communication to activities during spill events and other environmental emergencies;

e. Coordinate with the Agency for Toxic Substances and Disease Registry (ATSDR) for the timely completion of public health assessments for National Priorities List sites, toxicological profiles on any specific contaminants, health education, health consultations, and other activities provided in the DoD or ATSDR annual plan of work;

f. Serve as the Navy subject matter experts for dental, medical, and pharmaceutical waste; and provide technical input to OPNAV N45 upon request for the development of policy guidance.

g. Promulgate policy guidance for the disposition of dental, veterinary, regulated medical, and pharmaceutical waste generated by BUMED facilities;

h. Provide a broad range of expertise and services in preventive medicine, occupational health, environmental health, risk assessment epidemiology, toxicology, and risk communication to evaluate the health aspects of the Navy's environmental readiness program;

i. Provide leadership and services to anticipate, identify, assess, and counter environmental health threats, as requested by echelon 2 commands; and

j. Provide health and environmental risk communication support to Navy environmental readiness program, to include training and consultation.

1-4.12. COMNAVSUPSYSCOM must:

a. Support the Navy HM distribution and the Consolidated HM Reutilization and Inventory Management Program per chapter 23 (Hazardous Materials Management Ashore) of this manual; and

b. Provide technical support for bulk-fuel-related environmental compliance through the COMNAVSUPSYSCOM energy office.

1-4.13. The Naval Education and Training Command must:

a. Ensure effective training programs on environmental readiness exist throughout the Navy; and

b. Through the Naval Civil Engineer Corps Officers School, execute approved environmental training courses and provide programming and budgeting information to CNO N4.

1-4.14. Commander, Military Sealift Command (COMSC) must:

a. Ensure COMSC-owned and COMSC-chartered vessels, as public vessels, comply with the policies and procedures of this manual;

b. Include applicable environmental readiness requirements of this manual in all charters, contracts, and leases for vessels; and

c. Ensure consistent application of environmental policy within AECs' AORs, and coordinate all environmental readiness activities for actions taking place at sea (from the high-water mark seaward) with the appropriate AEC.

1-4.15. Office of the Judge Advocate General Environmental Law Division and OGC must:

a. Review the Navy Environmental Readiness Training Program courses for currency; and

b. Develop, conduct, and budget for environmental law training courses for their respective personnel sufficient to meet recommended training levels for Navy military and civilian attorneys providing legal advice on environmental law issues.

1-4.16. The JAG and OGC attorneys must provide advice and counsel on:

a. Interpretation of environmental laws, regulations, and E.O.s and their effect on the Navy;

b. Responses to NOVs or similar assertions of non-compliance and to demands for payment of Navy funds from any environmental agency; and

c. Provisions in contracts or agreements with respect to environmental readiness matters.

1-4.17. Navy region commanders, as Navy-component RECs, must:

a. Execute responsibilities of DoD military department representative if assigned;

b. Coordinate public affairs and community relations in the region with respect to environmental readiness matters and serve as the Navy point of contact for public and media inquiries when appropriate for matters of regional scope;

c. Ensure consistent Navy positions, agreements, permit conditions, and responses to regulatory agencies within the region, coordinating closely with affected shore installations and commands, BSOs, and COMNAVFACENGCOM organizations;

d. Assist in reconciling the positions and developing a single Navy position within the region in instances where activities are taking inconsistent positions on similar environmental issues;

e. Elevate issues to CNO N4 via OPNAV N45 and the chain of command for resolution as discussed in paragraph 1-3.3 of this manual if differences remain unresolved among affected shore activities, BSOs, or other military-Service-component RECs;

f. Serve as the primary Navy interface with their region's Federal, State, and local environmental regulatory agencies;

g. If required, designate activities within their region to serve as the primary interface with individual State and local environmental regulatory agencies for specific actions;

h. Coordinate exchange of environmental information among Navy shore activities in the region, including the distribution of State, regional, and local laws; rules; and regulations;

i. Hold meetings and conferences, as necessary, for commands within their region on environmental readiness issues and support stewardship when possible;

j. Monitor environmental readiness at commands within their region;

k. Develop regional plans of action for specific environmental readiness initiatives in coordination with ICOs of Navy shore commands in the region and BSOs;

l. Coordinate regional environmental readiness training initiatives among Navy commands and with other Federal, State, and local agencies to promote efficient use of training resources;

m. Provide assistance to installations and tenant commands in dealing with environmental regulatory agencies as requested;

n. Act as the liaison between visiting foreign warships, environmental regulatory personnel, and port services on environmental requirements during ship visits and refer to chapter 35 (Environmental Compliance Afloat) of this manual for Navy policy guidance on regulatory agency inspections on board ships;

o. Ensure agreed-upon Navy positions and concerns are articulated to Federal, State, and local environmental regulatory officials and State lawmakers within their region by appropriate Navy officials;

p. Review and evaluate proposed State environmental legislation and regulations for potential impact on Navy installations and operations, and keep the chain of command and appropriate BSOs and shore commands informed on the status of State legislative and regulatory proposals;

q. Refrain from entering into any compliance commitment or agreement, for which the Navy REC is not the permit holder, or signing any memorandum of understanding (MOU) or similar document, if unresolved differences remain with any affected shore activities or commands;

r. Review proposed MOUs and MOAs that are to be agreed upon within their respective AOR to ensure consistency with DoD and DON policy and legal requirements; and

s. Coordinate with COMUSFLTFORCOM or COMUSPACFLT as appropriate on all operational environmental readiness issues including at-sea compliance; range documentation and permitting; home-basing and home-porting decisions; afloat and shipboard environmental compliance; fleet NOSC; coastal and marine spatial planning; and ecosystem-based management.

1-4.18. Navy ICOs and commanding officers (CO) of other shore activities must:

a. Comply with applicable Federal, State, and local environmental laws, regulations, E.O.s, and DoD and DON policy, and continuously strive for improvements in all areas of P2;

b. Cooperate with Federal, State, and local, and Native American tribal government environmental, land management, and cultural resources regulatory officials;

c. Ensure consistent application of environmental policy within AEC's AORs and coordinate all environmental planning and compliance for actions taking place at sea (from the high-water mark seaward) when the environmental coordinator or range owner delegates authority;

d. Coordinate installation environmental, natural, and cultural resources matters (e.g., enforcement actions, agreements, consultations, permit conditions) with Navy RECs, cognizant BSOs, and the AEC for any actions from the high-water mark seaward;

e. Integrate environmental readiness requirements into all levels of management through EMS and the application of program management procedures, including oversight, inspection, and identification;

f. Request sufficient resources from the cognizant BSO to support all environmental readiness program requirements;

g. Budget for and execute all environmental readiness program requirements;

h. Cooperate with CNIC and COMNAVFACENGCOM in systematically identifying, assessing, and reporting OEL costs that CNIC reports on the Navy's behalf; and

i. Comply with the provisions provided in chapter 34 (Overseas Environmental Compliance Ashore) of this manual for OCONUS commands.

1-4.19. COs and masters of naval vessels must:

a. Comply with applicable Federal, State, local, and overseas environmental laws, regulations, E.O.s, and DoD and DON policy, and continuously strive for improvements in all areas of P2;

b. Comply with written environmental directives of host shore facilities and cooperate with hosts' designated environmental management staff to ensure compliance with applicable Federal, State, and local requirements; and

c. Comply with the provisions in chapter 35 (Environmental Compliance Afloat) of this manual.

1-5 Definitions

1-5.1. Special Area. Special areas are geographically distinct areas that are remote from the host installation's main or primary site. Navy special areas will be assigned to an installation within the geographic CNIC region in which they occur.

CHAPTER 2

FUNDING

Table of Contents

2-1 Scope 2-1
2-1.1. Related Chapters 2-1
2-1.2. References 2-1

2-2 Legislation 2-1

2-3 Requirements 2-2
2-3.1. Environmental Readiness Program Priorities 2-2
2-3.2. Environmental Readiness Levels 2-2
2-3.3. Environmental Readiness Program Funding Guidelines 2-3
2-3.4. Appropriations 2-5
2-3.5. Additional Funding Guidelines 2-6
2-3.6. Environmental Readiness Program Requirements Web 2-8

2-4 Responsibilities 2-8

2-5 Definitions 2-9

2-1 Scope. This chapter provides implementing policy guidance for identifying and programming resources for environmental shore compliance; afloat compliance; radiological controls; environmental restoration; information technology systems; other research, development, testing, and evaluation (RDT&E); environmental planning; and natural and cultural resources conservation. This chapter only applies to environmental programs funded by the Deputy Chief of Naval Operations for Fleet Readiness and Logistics (CNO N4).

2-1.1. Related Chapters. This chapter relates to all other chapters that require funding.

2-1.2. References

(a) DoD Instruction 4715.08 of 1 November 2013, Remediation of Environmental Contamination Outside the United States;

(b) UNDERSECNAV memo of 28 Dec 00, Compliance with Environmental Requirements in the Conduct of Naval Exercises or Training at Sea (At Sea Policy); and

(c) 16 U.S.C. §670a–f.

2-2 Legislation. There is no specific legislation for this chapter.

2-3 Requirements

a. The Navy environmental readiness program must achieve, maintain, and monitor compliance with all applicable executive orders (E.O.) and Federal, State, interstate, regional, and local statutory and regulatory environmental protection requirements worldwide. This includes compliance with requirements in statutorily mandated or authorized documents such as permits, judicial decrees, or consent or compliance agreements that seek to preserve, protect, or enhance human health and the environment. In addition, Navy shore installations outside the United States must achieve compliance with applicable final governing standards (FGS). Where FGSs have not been issued, they must achieve compliance with the Overseas Environmental Baseline Guidance Document (OEBGD) and other applicable requirements outlined in chapter 34 (Overseas Environmental Compliance Ashore) of this manual.

b. The Office of the Chief of Naval Operations (OPNAV), Energy and Environmental Readiness Division (OPNAV N45) is responsible for initiating program objective memorandum (POM) guidance to environmental stakeholders. OPNAV N45 POM guidance must define the Navy's vision and the required process, timelines, and deliverables needed to develop future requirements.

2-3.1. Environmental Readiness Program Priorities

a. Environmental Readiness Objective and Priorities. The objective of the environmental readiness program is to ensure human health and safety and maintain sustainable, legal compliance in accordance with U.S. laws, regulations, E.O.s, FGSs, and the OEBGD in support of the Navy mission to deliver combat ready naval forces. In alignment with Secretary of the Navy (SECNAV) and Chief of Naval Operations (CNO) priorities, OPNAV N45 will prioritize its environmental readiness programs to: 1) ensure the Navy is ready to fight today and lays the foundation of future readiness; 2) bolster capabilities and readiness, and build a culture that “respects and protects” our people; and 3) improve and strengthen business operations through reducing administrative and regulatory burden. The Navy’s environmental readiness program is also committed to complying with Department of Defense (DoD) policy and investing in future compliance to the extent that is affordable. Requirements must be defined using environmental readiness levels (ERL). Refer to paragraph 2-3.2 of this manual for the definitions of the four ERLs.

b. Emergent Requirements. The cost of emergent environmental readiness requirements that must be addressed immediately to meet a legal requirement or a SECNAV commitment to Congress, or to address an issue that poses an immediate risk to human health, must be funded by the appropriate budget submitting office (BSO) during the budget execution years. Note: Cleanup projects undertaken per reference (a) are considered emergent requirements.

2-3.2. Environmental Readiness Levels. ERLs, as defined in subparagraphs 2-3.2a through 2-3.2d of this manual, are listed in order of funding priority, where ERL 4 is the absolute minimum requirement to achieve compliance and has the highest funding priority.

a. ERL 4. ERL 4 is for legal requirements derived from existing laws, regulations, E.O.s, FGSs, or the OEBGD, as applicable, and applies to Navy activities, platforms, and operations.

b. ERL 3. ERL 3 is for requirements derived from DoD policy and Department of the Navy policy, or proactive initiatives that could enable future compliance or result in a positive return on Navy investments. They could also support critical readiness activities by decreasing encumbrances of statutory compliance requirements. These efforts are not mandated by law or other Federal, State, or local requirements but would minimize current or future impacts (including costs) to the Navy mission.

c. ERL 2. ERL 2 is for requirements derived from pending Federal, State, or local legal requirements, laws, regulations, or E.O.s that could enable future compliance but result in less certain returns on investments and uncertain benefits to the Navy mission. These project efforts are not mandated by existing law or other Federal, State, or local requirements. Funding requirements should be based on best-available scientific or commercial data or on pending Federal, State, or local regulations under development (where publication is scheduled) using model State regulations or permit standards, if available.

d. ERL 1. ERL 1 is for investments in environmental leadership and general proactive environmental stewardship.

2-3.3. Environmental Readiness Program Funding Guidelines. Navy environmental staff should apply the guidelines described in subparagraphs 2-3.3a through 2-3.3d of this manual to determine applicability of environmental readiness program funding:

a. Shore Environmental Readiness

(1) OPNAV N45 is the resource sponsor (RS) for compliance and conservation oversight associated with all applicable Federal, State, and local environmental laws and implementing regulations and E.O.s for Navy shore installations in the United States. For installations outside the United States, OPNAV N45 is the RS for compliance oversight associated with the FGSs or, where no FGSs have been issued, the OEBGD and other applicable requirements as outlined in chapter 34 (Overseas Environmental Compliance Ashore) of this manual. Refer to the discussion of OPNAV N45's Environmental Readiness Program Requirements Web (EPRWeb) Guidebook in subparagraph 2-3.6c of this manual for funding requirements.

(2) Shore environmental readiness funding does not encompass:

(a) Construction of, capital improvements to, installation of, or operation and maintenance of real property, such as historic structures, drinking water treatment plants, wastewater treatment plants, air pollution control equipment, process controls, and continuous monitoring equipment;

(b) Purchase, modification, alteration, or maintenance and repair of plant equipment or historic structures to meet new or existing environmental standards; and

(c) Operation of municipal solid waste disposal and recycling programs, or bird/animal aircraft strike hazard (BASH) programs.

(3) Environmental aspects and permitting requirements applicable to construction projects (e.g., new construction, repairs, and improvement projects) must be resourced through the project programming process. For example, any environmental aspect of a construction project that meets the applicable funding threshold for military construction (MILCON) must be resourced through the MILCON programming process rather than the environmental program. Construction projects (whether they meet MILCON threshold or not) required by new and existing permitting requirements are also not considered valid environmental requirements (e.g., construction of stormwater retrofits, best management practices). National Environmental Policy Act requirements are considered planning and should be funded with operation and maintenance, Navy (O&M,N) dollars.

b. Fleet Environmental Readiness. OPNAV N45 is the RS for actions associated with at-sea environmental readiness, which includes environmental planning and shipboard environmental compliance.

(1) Environmental planning includes homeporting and homebasing, and permits and mitigation efforts required to protect and conserve natural or submerged cultural resources in the marine environment. This includes environmental documentation and associated records of decision; letters of authorization issued under the Marine Mammal Protection Act; biological opinions issued under the Endangered Species Act that analyze training, testing, and maintenance on Navy ranges and in open ocean areas; and compliance monitoring per reference (b).

(2) Compliance with ship and dry-dock requirements includes compliance with various environmental media applicable to shipboard operations and the interface with shoreside operations.

(a) OPNAV N45 is the RS for:

1. Procurement, storage, and readiness of the oil spill response equipment for the timely response to a Navy or national major oil spill per Oil Pollution Act regulations; and

2. Life-cycle maintenance, in-service engineering agent support, and RDT&E for ship environmental systems and platforms.

(b) OPNAV N45 is the requirements sponsor for U.S. Navy ships, submarines, floating dry docks, and environmental readiness issues. The appropriate ship or submarine RSs (i.e., OPNAV, Strategic Mobility and Combat Logistics Division (OPNAV N42); OPNAV, Expeditionary Warfare Division (OPNAV N95); OPNAV, Surface Warfare Division (OPNAV N96); OPNAV, Undersea Warfare Division (OPNAV N97); or OPNAV, Air Warfare Division (OPNAV N98)) are the respective RSs for new environmental systems and modernization of existing ship environmental systems (i.e., procurement, installation, and initial technical or logistics support).

c. Radiological Controls. OPNAV N45 is the RS and the requirements sponsor for the Radiological Affairs Support Program and the Radiation Detection, Indication, and Computation (RADIAC) program.

d. Environmental Restoration. Environmental Restoration, Navy (ER,N) is a separate appropriation that funds active installations for both the Installation Restoration Program and the Munitions Response Program. Other types of funding are not authorized as substitutes or supplements for ER,N funds except where the work is within the scope of the MILCON or O&M,N-funded construction projects. The Navy must use the DoD or State memorandum of agreement or the Navy cost reimbursement cooperative agreement to provide funds to State regulatory agencies for oversight. ER,N only funds environmental restoration when undertaken by the Navy within the United States. Refer to chapter 42 (Environmental Restoration) of this manual for eligibility details. Environmental restoration does not apply outside of the United States. ER,N funds can be used for Resource Conservation and Recovery Act corrective action for past releases of hazardous waste (HW) at permitted facilities, or facilities seeking permits, if these are the same types of releases covered by the ER,N program. For sites on an approved base closure list, base realignment and closure funds are used exclusively for response actions.

2-3.4. Appropriations. OPNAV N45 resources its programs using three main appropriations. O&M,N appropriations are used to finance those things whose benefits are derived for a limited period of time and are not related to military personnel (i.e., expenses rather than investments). For longer-term investments, OPNAV N45 uses Other Procurement, Navy (OPN) and RDT&E appropriations.

a. O&M,N appropriations fund expenses such as Navy civilian salaries; training and education; supplies and materials; travel; and recurring and non-recurring projects. The EPRWeb Guidebook (refer to paragraph 2-3.6 of this manual) provides guidance for use by Navy installations, regions, and headquarters staff in preparing environmental readiness program requirements submissions for consideration during the POM process.

b. OPN appropriations fund those acquisition programs that have been approved for production (to include low-rate initial production or acquisition objective quantities) and all costs integral and necessary to deliver a useful end item intended for operational use or inventory upon delivery. OPN is Navy procurement funding and can be obligated for 3 years, per DoD's Financial Management Regulation guidance, assuming it meets the other criteria for procurement dollars.

(1) Radiological Control. OPN appropriations are to be used for acquiring and deploying RADIAC equipment and RADIAC equipment upgrades that cost $250,000 or more.

(2) Afloat Environmental Equipment. OPN appropriations are used to purchase and install environmental equipment aboard U.S. Navy ships for retrofit and modernization.

(3) Oil Spill Equipment. The Navy Oil Spill Response Program is a centralized procurement program that supports Navy shore installations. This equipment is used on a frequent (daily or weekly) basis. OPN funds are also used to procure oil spill response and containment equipment that is stored as Navy emergency ship salvage material and ready for immediate worldwide deployment in case of an oil spill. Equipment includes skimmers, platform and utility boats, and containment booms. The oil spill equipment enables the Navy to meet the National Oil and Hazardous Substances Pollution Contingency Plan requirement for rapid and effective response to oil spills.

c. RDT&E appropriations accounts finance RDT&E efforts performed by contractors and government installations to develop equipment, material, or computer application software; and perform its development, test, and evaluation and initial operational test and evaluation. RDT&E also funds the operation of dedicated research and development (R&D) installation activities for the conduct of R&D programs. RDT&E funding may be used for any of these purposes:

(1) Shore Environmental RDT&E. OPNAV N45 is the RS and the requirements sponsor for the shore environmental RDT&E appropriation through the Navy Environmental Sustainability Development to Integration (NESDI) program. NESDI invests in innovative and cost-effective technologies, processes, materials, and knowledge that support fleet readiness and weapon-system-acquisition programs by minimizing operational risk, constraints, and costs while ensuring shore-based environmental stewardship and regulatory compliance.

(2) Afloat Environmental R&D. OPNAV N45 is the RS and the requirements sponsor for the afloat environmental R&D program. The afloat environmental R&D program demonstrates and assesses data and technology solutions to afloat environmental compliance issues on ships, submarines, and floating dry docks.

(3) Marine Resources R&D. OPNAV N45 is the RS and the requirements sponsor for the Living Marine Resources (LMR) R&D program. The LMR R&D program develops, demonstrates, and assesses data and technology solutions to protect biological marine resources by minimizing the environmental risks of Navy at-sea training and testing activities while preserving core Navy readiness capabilities.

(4) Radiological Control RDT&E. RDT&E appropriations are to be used to develop, test, and evaluate RADIAC requirements, including designing prototypes and processes.

2-3.5. Additional Funding Guidelines. Navy environmental staff must apply the overarching guidelines described in subparagraphs 2-3.5a through 2-3.5f of this manual when working with matters related to funding worldwide, including requirements derived from FGSs, OEBGD, and other applicable sources per chapter 34 (Overseas Environmental Compliance Ashore) of this manual.

a. Replacements, Retrofitting, or Modification of Existing Vehicles, Vessels, and Equipment. Replacements, retrofitting, or modification of existing vehicles, vessels, and equipment for complying with both existing and new environmental requirements must be resourced through the respective vehicles, vessels, and equipment programming process rather than the environmental readiness program.

b. Aircraft and Weapon Systems

(1) Aircraft. Commander, Naval Air Systems Command, with fleet input, submits budget requests for aircraft environmental systems to OPNAV N98, usually as part of airframe modernization or engine upgrade programs.

(2) Weapon Systems. The appropriate hardware systems command submits budget requests for environmental compliance requirements of its weapon systems to the appropriate weapon-system RS.

c. Environmental Permit Applications, Studies, and Plans. Environmental permit applications, studies, and plans are valid environmental requirements unless exclusively required for military operations or training, construction of new facilities, or maintenance or repair of existing facilities or equipment.

d. Fees and Taxes

(1) Under many statutes, Federal facilities are subject to reasonable fees related to the administration of the environmental readiness program imposed by Federal, State, and local agencies. Service charges related to the discharge of effluent into bodies of water; discharge of air emissions into the atmosphere; monitoring of underground storage tanks; and storage, treatment, transportation, and disposal of HW are among the types of service charges that may be paid using environmental funding. Additional information on payment of reasonable service charges related to stormwater management is found in chapter 20 (Clean Water Ashore) of this manual.

(2) Congress has generally not provided for the payment of taxes by Federal installations and activities. Fees and taxes, therefore, must be differentiated before activities begin making payments. Disbursing authorities must consult with the command counsel or Navy regional environmental counsel (who should also coordinate with the DoD regional environmental coordinator (REC)) when an agency first presents a fee or service charge. Where appropriate or necessary, final determinations regarding the legality of new fees must be formulated in consultation with the Department of Justice at the headquarters level.

(3) In general, a command must examine charges presented as fees or for services to determine whether:

(a) The charge in question is imposed on all regulated entities without discriminating against Federal agencies;

(b) The charge fairly approximates the cost to the State or local authority in making the services available; or

(c) The charge does not generate revenues over and above the cost of the relevant programs it supports.

(4) Negative answers to any of the inquiries listed in subparagraph 2-3.5d(3) of this manual suggest the charge is a tax rather than a fee, thus obliging the Navy to determine whether to contest it. Commands should refer questions about these charges to command counsel or regional environmental counsel, and must make clear to the authority demanding payment that the delay for review is not a reflection of Navy resistance to regulatory action, but is necessary to evaluate legal issues prior to payment. If a regulatory agency refuses to issue an environmental permit to a

command because the command has not paid an assessment pending legal review, the command must immediately notify OPNAV N45 via the chain of command and its REC.

e. Fines and Penalties. Notices of violation (NOV) must be processed per chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual prior to payment of any associated fines or penalties. In general, any payment of fines or penalties must be from operating funds of the command responsible for the NOV.

f. Land-Management Fees and Proceeds. Fees and proceeds collected from hunting, fishing, aquaculture, mariculture, and trapping must be used only to fund or supplement wildlife management programs, including the funding of partnerships and cooperative or research agreements with appropriate agencies. User fees collected for the privilege of hunting, fishing, or trapping must be collected, deposited, and used per reference (c). Further collections must be used exclusively for fish and wildlife conservation and management on the installation where collected.

2-3.6. Environmental Readiness Program Requirements Web. EPRWeb is the official online database used for collecting programming and budgeting requirements and defining environmental readiness requirements for all programs except ER,N.

a. Accessing EPRWeb. Users can access EPRWeb through the U.S. Navy Environmental Portal (refer to appendix E (Web Sites) of this manual for Web site address).

b. Entering Budget Information into EPRWeb. BSOs are responsible for ensuring all environmental requirements are entered into the financial module of EPRWeb and are available for review by OPNAV N45 within specified timeframes. The financial module of EPRWeb records data on project expenditures and provides immediate, Web-based access to requirements entered by the command, region, and BSO locations, as well as from OPNAV N45.

c. EPRWeb Guidebook. The EPRWeb Guidebook, available on EPRWeb, provides guidance on the funding requirements for each program. It is updated and maintained by OPNAV N45 subject matter experts (SME). The EPRWeb Guidebook is a tool to help staff estimate environmental readiness requirements for resource planning. Site-specific, detailed requirements and cost estimates should be developed and submitted where practical.

2-4 Responsibilities. To ensure all legal requirements are properly funded, it is critical that all proposed requirements continue via the chain of command until a decision is made.

2-4.1. OPNAV N45 must:

a. Respond to all inquiries from BSOs for ownership of requirements where there is a discrepancy on who should fund the requirement;

b. Maintain and update the list of funding and appropriate RSs listed within this chapter;

c. Issue environmental readiness program POM planning guidance to BSOs identifying requirements to comply with CNO N4 program development;

d. Review all project submissions to render a final decision on approval for inclusion into the POM cycle;

e. Conduct annual execution reviews;

f. Ensure the programming objectives of the planning, programming, budgeting, and execution (PPBE) process are met; and

g. Act as the requirements sponsor for afloat environmental areas and radiological control programs.

2-4.2. BSOs must:

a. Ensure subordinate commands prepare, submit, and promote EPRWeb budget submissions with sufficient detail to support informed decision-making throughout the chain of command;

b. Review and validate all environmental readiness program requirements submitted by subordinate commands;

c. Ensure all environmental readiness program requirements are validated and vetted through the appropriate CNO N4 RS;

d. Identify any potential opportunities for efficiencies within the environmental readiness program;

e. Ensure all environmental readiness requirements are entered into EPRWeb and are available for review and approval by the chain of command by the dates specified by OPNAV N45; and

f. Conduct sufficient analysis to ensure sustained environmental compliance at the lowest total ownership cost.

2-5 Definitions

2-5.1. Budget Submitting Office. BSOs budget and allocate resources to fund environmental readiness requirements for their subordinate commands. BSOs effectively manage and execute the appropriated funds to accomplish the budgeted workload.

2-5.2. Requirements Sponsor. The requirements sponsor is an OPNAV SME who evaluates a program submitted by one or more echelon 2 commands and assigns funding requirements across multiple RSs, based on program needs and legal drivers. The requirements sponsor is typically one of the RSs and serves as the OPNAV advocate to the other OPNAV RSs during the POM and budgeting process.

2-5.3. Resource Sponsor. The RS is an OPNAV SME who is responsible for ensuring the programming objectives of the PPBE process are met. OPNAV N45 is the primary organization responsible for identifying, validating, and allocating funds required to execute the capabilities needed to maintain environmental compliance, environmental restoration, natural and cultural resources conservation, P2, and radiological compliance.

CHAPTER 3

ENVIRONMENTAL READINESS TRAINING

Table of Contents

3-1 Scope 3-1
3-1.1. Related Chapters.....3-1
3-1.2. References 3-1

3-2 Legislation.....3-2

3-3 Requirements 3-2
3-3.1. Navy Environmental Readiness Training Program Steering Committee.....3-2
3-3.2. Unauthorized Training.....3-2
3-3.3. Environmental Awareness Training 3-3
3-3.4. Specific Environmental Readiness Training 3-3
3-3.5. Specialty Environmental Readiness Training.....3-3
3-3.6. Billet-Specific Training 3-4
3-3.7. Reserve Component Environmental Readiness Training.....3-6
3-3.8. Formal Environmental Readiness Training Courses 3-6
3-3.9. Embedded Environmental Readiness Training 3-13
3-3.10. Environmental Compliance Assessment Training and Tracking System 3-13

3-4 Responsibilities.....3-14

3-5 Definitions.....3-15

3-1 Scope. This chapter establishes the Navy's implementation of policy guidance regarding environmental readiness training, defines the organizational structure and responsibilities of the Navy Environmental Readiness Training Program (NERTP), identifies required training for specific billets, lists NERTP formal training courses, and assigns responsibilities for executing the NERTP.

3-1.1. Related Chapters. This chapter is applicable to all other chapters in this manual regarding courses or other vehicles to provide training for the identified requirements.

3-1.2. References

(a) Navy Environmental Readiness Training Program Navy Training System Plan (N45-NTSP-X-10-10010B/A), April 2015;

(b) 29 CFR 1910.120; and

(c) E.O. 13834, Efficient Federal Operations.

3-2 Legislation. Environmental readiness training is required by legislation and subsequent regulation. The Clean Air Act; Clean Water Act; Resource Conservation and Recovery Act; Comprehensive Environmental Response, Compensation, and Liability Act; and Hazardous Materials Transportation Act are only a few of the laws with provisions that impact environmental readiness training. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

3-3 Requirements. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time as required in support of the Navy's mission. The NERTP supports this goal by identifying and resourcing the development and delivery of quality environmental readiness training courses. In addition to NERTP-sponsored courses, other specialty schools may resource, develop, and deliver environmental readiness training to meet specific requirements. The NERTP requirements are documented in the NERTP Navy Training System Plan (NTSP) (reference (a)). The NTSP describes the roles and responsibilities in the development, execution, and management of the NERTP and lists formal courses, electronic learning (eLearning), and other training vehicles authorized within the NERTP. Between NTSP revisions, the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45), in consultation with the NERTP Steering Committee, may modify the program by authorizing new training, or modifying or deactivating existing training. Additional environmental readiness training requirements are identified in references (b) and (c).

3-3.1. Navy Environmental Readiness Training Program Steering Committee. The NERTP Steering Committee manages a process to identify unmet environmental readiness training needs, validate the needs, and recommend whether NERTP training should be made available. In addition, it defines the environmental readiness training requirements, recommends priorities for dedicated environmental readiness training courses, assesses the effectiveness and efficiency of the training, and identifies and recommends actions to resolve training issues. This committee is chaired by OPNAV N45 and comprises representatives from budget submitting offices (BSO), the Naval Civil Engineer Corps Officers School (CECOS), the Naval Safety and Environmental Training Center (NAVSAFENVTRACEN), and others as invited by the chair. At its discretion, the NERTP Steering Committee may appoint working groups to address specific issues.

3-3.2. Unauthorized Training. It is the Navy's intent to prevent duplicative or redundant training efforts to best use Navy resources. To the greatest extent possible, and unless otherwise specified by a specialty school such as the Naval Education Training Center, Naval Surface Warfare School, Naval Supply School, or Naval Aviation School, Navy personnel are required to attend the NERTP formal training courses listed in table 3-1 of this manual to obtain environmental readiness training for specific job duties as assigned. Training courses offered outside of the NERTP or specialty schools should be evaluated closely by questioning the requirement and cost. The use of non-NERTP formal training courses is not allowed unless:

a. A specific course is unavailable through Navy sources (e.g., courses required to meet State certification requirements);

b. A course approved by the Inter-Service Environmental Education Review Board (ISEERB) for Navy personnel does not exist (refer to paragraph 3-5.3 of this manual for ISEERB information);

c. An enforcement action makes training time-sensitive, and a commercially available course equivalent to a NERTP course is available; or

d. NERTP formal training course offerings do not meet or cannot be modified to meet the legal requirements of the State or location in which the command is located.

3-3.3. Environmental Awareness Training. All personnel (i.e., civilian, active-duty military, and reserve military) must receive initial and refresher environmental awareness training as soon as is practical after reporting to an installation and at least every 3 years. The training must be both command-specific and general and stress the roles and environmental responsibilities of the individual as well as the command. Officers and enlisted personnel must receive environmental awareness training during initial accession. Site-specific environmental management system (EMS) training fulfills this requirement. If site-specific EMS training is not available, general EMS training will suffice. Both site-specific and general EMS training can be obtained by accessing the Environmental Compliance Assessment Training and Tracking System (ECATTS), where available. See paragraph 3-3.10 of this manual for ECATTS information (refer to appendix E (Web Sites) for Web site address).

3-3.4. Specific Environmental Readiness Training. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. Refer to individual chapters of this manual for specific environmental readiness training requirements. NERTP course descriptions, target audiences, and schedules are available on the CECOS and NAVSAFENVTRACEN Web sites (refer to appendix E (Web Sites) of this manual for Web site addresses).

3-3.5. Specialty Environmental Readiness Training

a. Surface Warfare Officers. Surface warfare officers must receive environmental readiness training through the Surface Warfare Officers School Command as part of their curriculum.

b. Supply Officers. Supply officers must receive environmental readiness training at the Naval Supply Corps School and NAVSAFENVTRACEN as part of an appropriate curriculum.

c. Naval Aviators. Naval aviators must receive environmental readiness training as part of flight training or soon thereafter. Embarked squadrons or detachments must participate in their ships' training programs. All involved in potential animal-related air strikes must take the CECOS bird/animal aircraft strike hazard (BASH) awareness training through the Department of Defense (DoD) Environment, Safety, and Occupational Health Network and Information Exchange Web site (see appendix E (Web Sites) of this manual for Web site address).

d. Submarine Officers. Submarine officers must receive environmental readiness training at the earliest opportunity as part of prospective commanding officer (CO) or prospective executive officer (XO), department head, and basic submarine officer training.

e. Navy Judge Advocate General Officers. At the earliest opportunity, staff judge advocates (SJA) must receive environmental readiness training through the Naval Justice School SJA course.

3-3.6. Billet-Specific Training. Subparagraphs 3-3.6a through 3-3.6h of this manual list select billets and personnel categories required to attend specific NERTP course(s). These requirements are not discussed in the individual chapters of this manual. Personnel must attend the courses applicable to their specific job assignments and levels of responsibility. Personnel not identified in subparagraphs 3-3.6a through 3-3.6h of this manual may require environmental readiness training to ensure compliance and conformance with laws, regulations, executive orders (E.O.), and DoD and Department of the Navy (DON) policies. As such, commands or supervisors must identify those personnel's environmental readiness training requirements. Target audiences and course information for these courses are provided in table 3-1 of this manual.

a. Installation COs (ICO) and XOs

(1) National Environmental Policy Act (NEPA) Navy Executive Overview (A-4A-0076);

(2) EMS for ICOs and XOs (CSFE-COXO-1); and

(3) Incident response training, as applicable. Refer to chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual for specific training related to levels of responsibility.

b. Regional Environmental Coordinators

(1) Advanced Environmental Management (A-4A-0063);

(2) Basic Environmental Law (A-4A-0058);

(3) Advanced Environmental Law (A-4A-0068);

(4) Incident response training, as applicable. Refer to chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual for specific training related to levels of responsibility; and

(5) NEPA Navy Executive Overview (A-4A-0076).

c. Civil Engineer Corps (CEC) Officers. Environmental readiness training requirements for CEC officers, including public works officers (PWO), facility engineering and acquisition division (FEAD) personnel, and resident officers in charge of construction (ROICC), are phased

over the course of a CEC officer's career. Training must be commensurate with levels of responsibility for specific job duties and billet assignments. Training requirements could include:

(1) Basic Environmental Law (A-4A-0058);

(2) Environmental Protection (A-4A-0036);

(3) NEPA Application (A-4A-0077);

(4) NEPA Executive Overview (A-4A-0076);

(5) Incident response training, as applicable (refer to chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual for specific training related to levels of responsibility);

(6) Advanced Environmental Management (A-4A-0063); and

(7) Buying Green: A Multifunctional Approach to Pollution Prevention (P2) (Defense Logistics Agency (DLA) course DCPSO00R750).

d. Installation Environmental Program Directors (IEPD). Landscapes at Navy installations vary greatly, depending on geographical locations as well as military operations that occur on the installation. Installation landscapes range from industrial settings such as shipyards to vast expanses of land that support natural resource areas with threatened or endangered species or critical habitat. IEPDs must obtain environmental readiness training commensurate with levels of responsibility and consider the landscapes that they manage.

(1) All IEPDs must take this training as they progress through their tenure as IEPDs:

(a) Basic Environmental Law (A-4A-0058);

(b) Environmental Protection (A-4A-0036); and

(c) Advancing an Effective EMS (A-4A-0098).

(2) Additional follow-on training, depending on the installation environmental landscape or operations, could include one or more of:

(a) NEPA Application (A-4A-0077);

(b) Environmental Negotiation Workshop (A-4A-0067);

(c) Natural Resources Compliance (A-4A-0087);

(d) Incident response training, as applicable (refer to chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual for specific training related to levels of responsibility);

(e) Introduction to Cultural Resources Management Laws and Regulations (A-4A-0070); and

(f) Advanced Environmental Management (A-4A-0063).

e. Contracting Officers with Environmental Contracting Responsibilities

(1) Acquisitions Involving Environmental Sampling or Testing Services (eLearning module);

(2) Green Procurement (Defense Acquisition University continuous learning course 046); and

(3) Buying Green: A Multifunctional Approach to P2 (DLA course DCPSO00R750).

f. Facility Planners

(1) Air Installations Compatible Use Zones (AICUZ) Seminar (facility planners with air installation responsibility);

(2) Buying Green: A Multifunctional Approach to P2 (DLA course DCPSO00R750);

(3) NEPA Application (A-4A-0077); and

(4) Basic Environmental Law (A-4A-0058).

g. Community Planning and Liaison Officers (CPLO). CPLOs should take the AICUZ Seminar series as it pertains to their specific job duties to manage noise issues at naval air stations.

h. Personnel with Collateral Environmental Duties. These personnel require Navy environmental awareness training. ECATTS provides this and environmental readiness training for specific environmental media and job duties. See paragraph 3-3.10 of this manual for ECATTS information. Completion of CECOS Environmental Protection (A-4A-0036) will also satisfy this requirement.

3-3.7. Reserve Component Environmental Readiness Training. Commanders and COs of naval reservists must ensure, to the greatest extent possible, reserve personnel obtain appropriate environmental readiness training in preparation for mobilization duties.

3-3.8. Formal Environmental Readiness Training Courses. A formal Navy environmental readiness training course is a course that has been issued a Navy course identification number

and has undergone a formal review process that validates the technical accuracy of the course. Table 3-1 of this manual lists both the formal NERTP courses and the non-Navy-ISEERB-approved formal courses. In addition to the courses listed in table 3-1 of this manual, other Internet and computer-based training is available. Refer to appendix E (Web Sites) of this manual for Web sites that contain course descriptions, target audiences, and schedules. CECOS and NAVSAFENVTRACEN courses are offered tuition-free to all Navy military and civilian personnel. Since non-standard courses do not promote standardized Navy environmental readiness training, Navy personnel must take the NERTP courses identified in table 3-1 of this manual unless justified by an exception listed in paragraph 3-3.2 of this manual.

Table 3-1. NERTP Formal Training Courses

Training Course Title and Target Audience
CECOS Courses Specific course descriptions can be found on the CECOS Web site (refer to appendix E (Web Sites) for Web site address).
Advanced Environmental Law (A-4A-0068)
Audience limited to officers O-1 through O-6, and civilians General Schedule (GS) grades GS-5 through GS-15 whose responsibilities include managing installation and other environmental management programs. Includes installation environmental officers, deputy environmental officers, and program managers (PM) and their staffs in the areas of compliance, training, natural and cultural resources, P2, and installation restoration (IR) who need advanced training in environmental law and policy.
Advanced Historic Preservation Law & Section 106 Compliance (A-4A-0073)
Cultural resources managers (CRM), environmental lawyers, and environmental staffs; collateral duty personnel responsible for cultural resources management and compliance with Federal laws and DoD policy); and personnel who are non-cultural resources specialists (civil works managers from U.S. Army Corps of Engineers (USACE), facility planners; range planners, etc.) having a direct or indirect impact on cultural resources during the performance of their duties.
Advancing an Effective EMS (A-4A-0098) (currently offered in Webinar format)
Navy military, civilian, and contractor professionals charged with managing, implementing, and sustaining an installation's or region's EMS. Not only for environmental professionals; includes guidance for senior process owners to understand concepts necessary to ensure continued EMS conformance.
Advanced Environmental Management (A-4A-0063)
Military (O-2 and above, E-6 and above, and W-1 and above), and civilian (GS-11 and above) personnel responsible for managing environmental programs at Navy and Marine Corps shore activities or as the major duty at their commands.
Basic Environmental Law (A-4A-0058)
Environmental planners, engineers, scientists, other environmental specialists, SJAs, and attorneys who need a survey of environmental law and whose duties involve managing installation and other environmental management programs including compliance, natural and cultural resources, P2, and IR.
Ecological Risk Assessment (A-4A-0081)

Training Course Title and Target Audience
Remedial project managers (RPM), base realignment and closure (BRAC) environmental coordinators (BEC), and engineers in charge (EIC) involved in IR, BRAC, and underground storage tank (UST) programs.
Emergency Planning and Community Right-to-Know Act (EPCRA) and Toxics Release Inventory (TRI) Reporting (A-4A-0082)
Military active duty or civil service employees responsible for EPCRA and TRI data gathering or reporting.
Environmental Background Analysis (A-4A-0092)
IR program RPMs, remedial technical managers (RTM), BECs, and Navy personnel responsible for Navy hazardous waste (HW) sites.
Environmental Negotiation Workshop (A-4A-0067)
Military and civilian personnel in environmental compliance, IR, and natural and cultural resources and planning who are responsible for communicating and negotiating with other environmental professionals, regulators, and public stakeholders regarding environmental matters.
Environmental Protection (A-4A-0036)
Military and civilian personnel working in environmental and cultural and natural resources programs and others whose jobs require direct knowledge of environmental requirements. Useful to personnel working in environmental protection, compliance, cultural and natural resources programs, including collateral duty and staff assignments; public affairs, safety, facility planning, public works, acquisition, budget, and management staff; and ROICCs.
Environmental Quality Sampling (A-4A-0026)
Military, civilian, or contractor personnel who collect or oversee the collection of environmental samples for DoD.
Hazardous Waste Facility Operators (A-493-0076)
Personnel working at treatment, storage, and disposal facilities (TSDF), less than 90-day accumulation facilities, and onboard HW trainers.
Hazardous Waste Operations and Emergency Response (HAZWOPER) for Uncontrolled Hazardous Waste Site Workers-Initial 40 HR (A-4A-0075)
All personnel assigned to work at or oversee work at uncontrolled HW sites that require initial safety training.
HAZWOPER for Uncontrolled Hazardous Waste Site Workers-Refresher (A-4A-0074)
RPMs, ROICCs, and FEAD and other personnel who work at or oversee work at uncontrolled HW sites and who have received the initial 40-hour HAZWOPER training.
Health and Environmental Risk Communication Workshop (A-4A-0072)
Military and civilian personnel in environmental compliance, IR, natural and cultural resources, and planning who are responsible for communicating environmental issues associated with environmental risk management, including: RPMs, BECs, base closure team members, IEPDs, technical experts, engineers, scientists, health and safety personnel, natural and cultural resources personnel, environmental planners, public affairs personnel, ICOs and their staff, executive staff, attorneys, and, on a case-by-case

Training Course Title and Target Audience
basis, sponsored contractors. Also recommended for graphic illustrators; ROICCs; and construction, contracts, law enforcement, and security officer personnel, depending on job-duty assignments.
Human Health Risk Assessment (A-4A-0078)
RPMs, BECs, and EICs involved in IR, BRAC, and UST programs.
Integrated EMS and Compliance Auditing (A-4A-0079)
Individuals at the installation or regional level who will be engaged actively or semi-actively on an internal assessment team's execution of the Internal Assessment Plan. As prescribed by Navy policy, lead auditors and team members performing internal and external EMS audits, EMS management representatives, and environmental staff responsible for implementation and maintenance of the EMS must complete the CECOS Integrated EMS and Compliance Auditing training course. May include, but are not limited to: IEPDs, media managers, major process owners (including energy managers), installation cross-functional team members, and installation EMS managers.
Introduction to Cultural Resources Management Laws & Regulations (A-4A-0070)
CRMs, environmental lawyers and environmental staffs; collateral duty personnel responsible for cultural resources management and compliance with Federal laws and DoD policy; and personnel who are non-cultural resources specialists (civil works managers from USACE, facility planners; range planners, etc.), having a direct or indirect impact on cultural resources during the performance of their duties.
Introduction to Hazardous Waste Generation and Handling (A-493-0080)
Personnel (military or civilian) who generate, package, handle, store, transport, or manage hazardous material (HM) or HW in the performance of their duties.
Munitions Response Site Management (A-4A-0093)
RPMs, BECs, and EICs involved in IR, BRAC, and UST programs.
NEPA Application (A-4A-0077)
In general, limited to officers O-1 through O-5 and civilians GS-5 through GS-15. Targeted for major claimant staff, weapons acquisition program staff responsible for environmental compliance, environmental professionals at engineering field divisions and shore station activities, natural resources managers, real estate specialists, environmental counsel/SJAs, and CEC officers assigned to environmental billets.
NEPA Navy Executive Overview (A-4A-0076)
Executive seminar targeted for senior military (O-3 and above) and civilian personnel (GS-11 and above) including flag officers, base commanders, and their staff, including tenants and PMs. Includes those in executive positions of authority who are responsible for and manage fleet training and operational exercises; major acquisitions programs; BRAC actions; construction projects and real estate actions; research, development, testing, and evaluation; and shore facility operations.
Natural Resources Compliance (A-4A-0087)

Training Course Title and Target Audience
Personnel who manage natural resources for DoD and the U.S. Coast Guard (USCG) as their primary or collateral duty; environmental and community planners, acquisition personnel, installation commanders, training and operations personnel, range managers, restoration PMs, environmental coordinators, environmental and civil engineers, and other conservation personnel. Contractors performing natural resources duties for the government may attend, subject to being sponsored by an installation or command and approved by headquarters personnel.
Navy Environmental Restoration Program (A-4A-0069)
RPMs, BECs, and EICs involved in IR, BRAC, and UST programs.
Optimizing Remedy Selection and the Site Closeout Process (A-4A-0089)
Military and civilian personnel responsible for the communication of environmental issues associated with IR and environmental risk management, including RPMs, BECs, base closure team members, IEPDs, technical experts, engineers, scientists, health and safety personnel, natural and cultural resources personnel, environmental planners, public affairs personnel, ICOs and their staff, executive staff, attorneys, and sponsored contractors on a space-available basis. Also recommended for graphic illustrators, construction and contracts personnel, ROICCs, and law enforcement and security officer personnel.
Overseas Hazardous Waste Facility Operations (A-493-0093)
Overseas personnel (military or civilian) who manage, generate, package, handle, store, transport, or manage HM/HW in the performance of their duties.
Overseas Hazardous Waste Generator (A-493-0094)
Overseas personnel who have completed the Overseas Hazardous Waste Facility Operations course and require annual updates.
Resource Conservation and Recovery Act (RCRA) Hazardous Waste Review (A-493-0081)
Generators of HW who accumulate waste for less than 90 days and personnel who have completed the Hazardous Waste Facility Operators course or the Hazardous Waste Generators/Handlers course and require annual updates.
Uniform Federal Policy for Quality Assurance Project Plans (UFP QAPP) (A-4A-0095)
Personnel who develop, review, implement, or use quality assurance project plans (QAPP) or personnel who must communicate QAPPs.
NAVSAFENVTRACEN Courses Specific course descriptions can be found on the NAVSAFENVTRACEN Web site (refer to appendix E (Web Sites) for Web site address).
Afloat Environmental Protection Coordinator (AEPC) (A-4J-0021-Classroom)/(A-4J-0022-Global online)
Senior enlisted and officer personnel assigned as AEPCs or environmental compliance officers and afloat staff aboard ships and submarines.
Facility Response Team (FRT) Five Day (A-493-0012)
Personnel who are, or may be designated as leaders or members, on the FRT or facility spill management team.
FRT Three Day (A-493-0013)

Training Course Title and Target Audience
Personnel who are or may be designated as leaders or members on the FRT or facility spill management team.
Hazardous Substance Incident Response Management (HSIRM) (A-493-0077)
Civilian and military personnel ashore who may serve as activity emergency response (ER) personnel as well as: fire and police department personnel; environmental engineers, specialists, and technicians; environmental managers and supervisors; safety and occupational health personnel; waste handlers and TSDF personnel, HM minimization center personnel; warehousemen; and laboratory personnel. Shipboard personnel will be granted quotas, as space is available, upon verification of membership on the shipboard spill response team (SRT). All personnel must have at least 12 months from the course date remaining in their job assignments.
HSIRM Refresher (A-493-0083)
Personnel who have met the initial training requirements of HAZWOPER regulations and are required to receive refresher training to maintain competencies.
Incident Command System 300 (ICS 300) (A-493-2300)
Personnel who have previously taken the ICS 100- and 200-level courses. These are civilian and military personnel who work at or support an Oil Pollution Act of 1990 (OPA 90) facility, who also should be assigned to the Navy on-scene coordinator (NOSC) oil and hazardous substance (OHS) contingency plan or facility response plan (FRP) spill management team or be designated to provide specific support, expertise, or equipment to the NOSC spill management team or facility spill management team. This may include upper management; SRT leaders; public affairs personnel; safety and health personnel; natural resources personnel; environmental personnel; finance and contract personnel; logistics and support personnel; and security, force protection, and emergency management personnel.
Incident Command System 300 (ICS 300) Refresher (A-493-2301)
Personnel who have previously taken the ICS 300 course and must receive refresher training to maintain competencies.
Oil and Hazardous Substance Spill Response Tabletop Exercise (OHSTTX) (A-493-2501)
Personnel who have previously taken the ICS 100, 200, and 300 courses. Critical personnel should be trained in the Incident Action Plan process. Civilian and military personnel who work at or support an OPA 90 facility, who also should be assigned to the NOSC OHS contingency plan or FRP spill management team or be designated to provide specific support, expertise, or equipment to the NOSC spill management team or facility spill management team. May include upper management; SRT leaders; public affairs personnel; safety and health personnel; natural resources personnel; environmental personnel; finance and contract personnel; logistics and support personnel; and security, force protection, and emergency management personnel.
Non-Navy ISEERB Courses Air Force Institute of Technology (AFIT), DLA, USACE, and USCG course descriptions can be found on agency Web sites (refer to appendix E (Web Sites) for Web site addresses).
Advanced Air Quality Management (AFIT) (WENV-532)

Training Course Title and Target Audience
Installation or command air PMs, primary air program support personnel, attorneys with environmental responsibilities, environmental flight chiefs, environmental compliance chiefs, RECs, and regional environmental officers.
Air Quality Management (AFIT) (WENV 531)
Personnel who work in air compliance, whether at the regional or facility level.
Buying Green: A Multifunctional Approach to P2 (DLA) (DCPSO00R750)
Employees of DoD and other Federal employees in the contracting, procurement, project planning, or credit-card-holder community. This includes employees responsible for the purchasing or writing specifications to purchase items that can be made with recovered materials, hazardous or toxic materials, ozone-depleting substances, energy-efficient components, or items that use alternative fuels.
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)/RCRA Process (USACE) (356/33HEL01A)
800-series engineers; environmental protection specialists, PMs, engineering and science, industrial hygienists, chemists, and geologists/hydrologists. Nominees must have at least 1 year of environmental experience. Priority will be given to personnel directly involved in environmental restoration.
Defense Hazardous Materials/Hazardous Waste Handling/Refresher (Army Logistics University) (ALMC-HA/ALMC-DM)
Nominees should be military or civilian personnel (or supervisors of personnel) who package, handle, store, transport, and manage HM/HW.
Environmental Laws and Regulations (USACE) (170/CECC-E 33ELRO1A)
Personnel assigned environmental duties that require understanding of environmental laws and regulations.
Environmental Sampling Design and Data Quality Assurance (AFIT) (WENV 441)
IR program personnel who collect or oversee the collection and analysis of environmental samples from uncontrolled HW sites.
Hazardous Waste Manifest/Department of Transportation (DOT) Certification and Recertification (USACE) (223/CECW-ET/429/CECW-ET)
Persons who identify proper shipping names for HW as per DOT regulations; select appropriate packaging, marking, labels and placards; determine RCRA waste identification and classification; complete or review HW manifests and land disposal restriction notifications; prepare shipping documents for HW, used oil, polychlorinated biphenyls, and asbestos; ship analytical samples, load or unload HW; and prepare waste/materials for transport.
On-Scene Coordinator Crisis Management Course (USCG) (OSCCM-MS-523)
Unit COs or XOs at O-6/O-5 level with on-scene coordinator responsibility for OHS incidents.
Qualified Recycling Program (QRP) Management (AFIT) (WENV 160)
Installation-qualified recycling PMs and installation P2 PMs who manage the QRP. Secondary audience is P2 PMs who supervise QRP managers, environmental flight chiefs, and other recycling program personnel.

Training Course Title and Target Audience
Transportation of HM/HW and Transportation of HM/HW Refresher (DLA) (DCPSO00R510/DCPSO0610)
Meets the DOT initial and refresher training for personnel who package and transport HM/HW. Focuses on compliance with shippers' responsibilities for surface transportation of HM/HW. Topics include: hazardous property identification and classification, training requirements, ER information, shipping paper (manifest) requirements, packaging, marking, labeling, and placards.
Water Quality Management (AFIT) (WENV 541)
All DoD water PMs.
COMNAVFACENGCOM Courses Specific information can be found on the COMNAVFACENGCOM Web site (refer to appendix E (Web Sites) for Web site address).
AICUZ Seminar
Personnel involved in naval air station AICUZ programs, including COs, XOs, air operations officers, CPLO, PWOs, public affairs officers, designated AICUZ personnel, planners, natural resources personnel, and safety personnel.

3-3.9. Embedded Environmental Readiness Training. In addition to the NERTP-approved courses, many non-environmental Navy training courses have environmental content embedded into their curricula. Though the environmental content may constitute a small portion of these training courses, the accuracy and completeness of the environmental content must be maintained. It is the Navy's intent to continually update these courses to ensure the inclusion of current environmental laws, regulations, E.O.s, and DoD and DON policies. Curriculum control authorities are responsible for course content and must ensure environmental content in non-environmental-readiness training courses are appropriate, accurate, and complete. When curricula are under development or revision, curriculum control authorities may request participation by a NERTP PM or their representative as a quality assurance check on the accuracy and completeness of the environmental content.

3-3.10. Environmental Compliance Assessment Training and Tracking System

a. ECATTS is a Web-based environmental readiness training and assessment tool (refer to appendix E (Web Sites) of this manual for Web site address) for Navy installations to use to provide environmental compliance awareness training to military, civilian, and contractor personnel.

b. Federal, State, and local environmental laws, regulations, E.O.s, DoD environmental directives; DON-specific environmental instructions; and installations' environmental policies are integrated into ECATTS. Installations may use ECATTS as an integral part of their EMSs to meet training requirements specified in reference (c). Refer to chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual for more specific EMS training requirements.

c. ECATTS may not be available at all installations. For installations where ECATTS is not available, the installation environmental office may provide guidance regarding installation-specific environmental management and awareness training.

3-4 Responsibilities

3-4.1. OPNAV N45 must:

a. Provide overall program management for NERTP;

b. Act as the primary resource sponsor for the NERTP training courses. As such, provide billets and funding for NERTP execution through the planning, budgeting, and execution process;

c. Chair the NERTP Steering Committee;

d. Maintain the list of dedicated environmental readiness training courses and annually issue an updated list of NERTP courses and other training vehicles;

e. Update the NERTP NTSP as required; and

f. Serve as the voting member representing the Navy on inter-Service training efforts such as the ISEERB.

3-4.2. BSOs must:

a. Provide representation on the NERTP Steering Committee;

b. Ensure funding is provided to their commands to accomplish necessary environmental readiness training;

c. Ensure officer, enlisted personnel, and civilian environmental awareness training is accomplished during initial accession or employment; and

d. Provide subject matter experts (SME) to assist in training execution and course review.

3-4.3. The Naval Education and Training Command must:

a. Develop and maintain training course curricula to ensure accuracy with regulatory, policy, and technical information;

b. Periodically accomplish a review of approved courses to ensure curricula technical accuracy and completeness. The review must include SMEs not affiliated with the school and ensure the course meets the needs of the target audience and accomplishes learning objectives;

c. Provide representation on the NERTP Steering Committee; and

d. Through the Center for Seabees and Facilities Engineering, and CECOS:

(1) Execute approved environmental readiness training courses;

(2) Provide programming and budgeting information to OPNAV N45; and

(3) Provide representation on the NERTP Steering Committee.

3-4.4. NAVSAFENVTRACEN must:

a. Execute approved environmental readiness training courses;

b. Develop and maintain training course curricula to ensure accuracy with regulatory, policy, and technical information;

c. Periodically accomplish a review of approved courses to ensure curricula technical accuracy and completeness. The review must include SMEs not affiliated with the school and ensure the course meets the needs of the target audience and accomplishes learning objectives;

d. Provide programming and budgeting information to OPNAV N45; and

e. Provide representation on the NERTP Steering Committee.

3-4.5. Navy ICOs must:

a. Ensure officers and enlisted personnel receive environmental awareness training during initial accession. Site-specific EMS training fulfills this requirement. If site-specific EMS training is not available, general EMS training will suffice. Refer to chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual for more specific EMS training requirements;

b. Budget for environmental readiness training as required; and

c. Ensure all personnel receive job-specific environmental readiness training so that compliance with environmental laws, regulations, E.O.s, and DoD and DON policies is maintained.

3-4.6. COs and officers in command of afloat Navy commands must ensure all personnel receive job-specific environmental readiness training and training on environmental-related equipment to ensure compliance with at-sea environmental programs as delineated in chapter 35 (Environmental Compliance Afloat) of this manual.

3-5 Definitions

3-5.1. Curriculum Control Authority. The curriculum control authority is the activity that approves instructional methods and assists subordinate activities in the systematic development

of curricula materials. Curriculum control authorities ensure training activities continuously review and update all courses for quality and standardization, and ensure they meet the needs of the students.

3-5.2. Electronic Learning. eLearning is a generic term that encompasses all forms of electronically supported learning. eLearning applications and processes include Web-based learning and stand-alone, computer-based learning using compact discs.

3-5.3. Inter-Service Environmental Education Review Board. ISEERB is a standing board of the Inter-Service Training Review Organization. The board's goal is to ensure environmental education and training in the Services is accomplished with as little redundancy as possible. An ISEERB-approved course is one suitable for use by more than one Service.

3-5.4. Inter-Service Training Review Organization. The Inter-Service Training Review Organization is an organization established by the joint chiefs with a goal to eliminate duplication and redundancy within the Services.

CHAPTER 4

ENVIRONMENTAL PERFORMANCE REPORTING

Table of Contents

4-1 Scope 4-1
4-1.1. Related Chapters.....4-1
4-1.2. References.....4-2
4-1.3. Applicability 4-2

4-2 Legislation.....4-2

4-3 Requirements 4-2
4-3.1. Reports to Congress and Department of Defense Environmental Management Reviews.....4-2
4-3.2. Department of Defense Sustainability Report and Implementation Plan 4-2
4-3.3. Environmental Liabilities Reporting.....4-3
4-3.4. Environmental Planning Reporting.....4-4
4-3.5. Information Collection 4-4
4-3.6. U.S. Navy Environmental Portal.....4-5

4-4 Responsibilities 4-6

4-5 Definitions.....4-7

4-1 Scope. Accurate and timely data are of the utmost importance as they are used to develop guidance; shape policy; determine upcoming regulatory impacts; and respond to Department of Defense (DoD) environmental management reviews (EMR), Congressional inquiries, and annual reports. This chapter provides policy guidance on environmental performance reporting for Navy shore installations and identifies requirements and responsibilities for U.S. Navy Environmental Portal (Portal) (refer to appendix E (Web Sites) for Web site address) data collection.

4-1.1. Related Chapters. Chapter 2 (Funding) of this manual addresses the Portal financial module, Environmental Readiness Program Requirements Web (EPRWeb) (refer to appendix E (Web Sites) for Web site address). Chapter 12 (Natural Resources Conservation) of this manual discusses the natural resources data-call station used to track integrated natural resources management plan status and implementation measures for regulatory review. Chapter 13 (Cultural Resources Compliance and Management) of this manual discusses data-call requirements related to cultural resources. Environmental management system (EMS) reporting requirements are discussed in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual, and notices of violation (NOV) reporting requirements are discussed in chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations). Reporting requirements pertaining to the Toxics Release Inventory (TRI) are located in chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-

Know Act) of this manual. Chapter 41 (Natural Resource Damage) of this manual discusses the cleanup management review.

4-1.2. References

(a) DoD Directive 5100.01 of 21 December 2010, Functions of the Department of Defense and Its Major Components;

(b) E.O. 13834, Efficient Federal Operations;

(c) Public Law 101–576, Chief Financial Officer Act of 1990;

(d) Public Law 103–356, Government Management and Reform Act of 1994;

(e) Public Law 104–208, Omnibus Consolidated Appropriations Act;

(f) ASN(EI&E) memo of 24 Aug 16, Environmental Planning Process Improvements, Metrics, and Reporting;

(g) DoD Instruction 8910.01 of 19 May 2014, Information Collection and Reporting; and

(h) 44 U.S.C. §35.

4-1.3. Applicability. This chapter applies to all Navy commands, as required.

4-2 Legislation. There is no specific legislation for this chapter.

4-3 Requirements

4-3.1. Reports to Congress and Department of Defense Environmental Management Reviews. Reports to Congress describe environmental accomplishments in DoD programs including conservation, compliance, pollution prevention, and environmental cleanup each fiscal year (FY). To exercise the oversight role per reference (a), the Office of the Assistant Secretary of Defense for Sustainment (OASD(Sustainment)) issues an annual data call to all DoD Services requesting reporting of environmental program management information for each FY. The OASD(Sustainment) data call may request additional data for a particular EMR to ensure DoD is meeting its environmental goals and objectives related to a specific issue of DoD interest that year. Following receipt of the OASD(Sustainment) data call, the Office of the Chief of Naval Operations (OPNAV), Energy and Environmental Readiness Division (OPNAV N45) develops and distributes its own data-call memo, which directs actions and responsibilities required of Navy components (e.g., echelon 2 commands). The OPNAV N45 memo references particular data requests from the OASD(Sustainment) data call and provides suspense dates. Requested data must be submitted per stated deadlines by all affected echelons.

4-3.2. Department of Defense Sustainability Report and Implementation Plan. The DoD Sustainability Report and Implementation Plan, required by reference (b), is DoD's department-

wide sustainability plan, which DoD is required to submit to the Office of Management and Budget (OMB) annually. The plan contains qualitative and quantitative objectives, goals, and sub-goals for meeting DoD's sustainability requirements. In addition, DoD requires an annual Navy-component Sustainability Report and Implementation Plan to describe Navy-specific sustainability implementation strategies. OPNAV N45 issues data calls to support the Sustainability Report and Implementation Plan based on DoD-driven timelines. Reporting responsibilities fall under multiple OPNAV resource sponsors (e.g., environmental, facilities, human resources). Requested data must be submitted per stated OPNAV N45 deadlines by all affected echelons for DoD to meet the Federal deadline.

4-3.3. Environmental Liabilities Reporting. Environmental liabilities (EL) are required to be recognized, measured, and valuated per references (c), (d), and (e). Additionally, ELs are required to be reported quarterly on the DoD financial statement per the DoD Financial Management Regulation. ELs occur in three broad areas: real property, facilities and equipment, and weapon systems. The area of weapon systems includes nuclear environmental disposal, chemical agents and munitions destruction, and other weapon-systems disposal. The purpose of the reporting process is to provide an unqualified audit opinion for the EL line (Note 14) of the DoD-wide financial statement. Note 14 has three applicable categories: active installation Defense Environmental Restoration Program (DERP), base realignment and closure (BRAC), and non-DERP and non-BRAC (other accrued EL (OEL)).

a. Active Installation DERP EL and BRAC EL

(1) Active installation DERP EL and BRAC EL reporting is executed by Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) for the Department of the Navy (DON). It includes the Installation Restoration Program and the Munitions Response Program and covers the identification, investigation, research and development, and cleanup of contamination from hazardous substances, pollutants, and contaminants. It also includes the correction of other environmental damage, such as detection and disposal of unexploded ordnance, which creates an imminent and substantial endangerment to public health or welfare or to the environment.

(2) Cost-to-Complete (CTC) estimates are prepared for DERP liability reporting purposes and include, on a current cost basis, all anticipated costs required to affect the restoration of the site, as well as the costs of complying with applicable legal and regulatory requirements. DON also identifies and reports the subset of liabilities covered by un-liquidated obligations.

b. OELs

(1) OELs are the future environmental costs associated with the closure or cleanup (i.e., remediation, decommissioning, decontamination, and disposal) of operating shore assets not under the purview of Active Installation DERP, BRAC, or environmental disposal for weapon systems. The Navy's OEL Program addresses ELs for a broad range of Navy and Marine Corps assets including facilities, structures, utilities, land, relocatables, and non-military equipment.

(2) Annually, OELs are re-evaluated through the OEL sustainment process to address changes in asset inventories, regulations, and policies. Although the Navy's OEL Program was established to improve financial management, promote fiscal accountability, and produce reliable financial information for the DoD financial statement, information retained in support of the OEL Program is also a valuable resource to all other environmental programs. Commanders of shore installations must ensure support for the OEL Program during execution of the OEL sustainment process by OEL teams.

(3) DON's OEL Program is executed by COMNAVFACENGCOM; Commander, Navy Installations Command (CNIC); Headquarters, Marine Corps, Land Use and Military Construction Branch; and Office of the Assistant Secretary of the Navy, Financial Management Office.

4-3.4. Environmental Planning Reporting. Per reference (f), Navy components must report cost and time data for all environmental assessments (EA) and environmental impact statements (EIS) completed during the FY. The data are due each March following the FY being reported. The collected and reported data must include:

a. Cost Data

(1) For documents prepared in-house by government employees, Navy components must report the total cost as a function of labor, travel, and other related expenses necessary for the completion of the document.

(2) For documents prepared using a contractor, Navy components must report the total cost of the contract effort including change orders or contract modifications. Government in-house labor management costs should not be included.

(3) Costs for key supporting studies (i.e.; noise, traffic, cultural resources, etc.) that directly support the environmental planning effort should be reported.

(4) Total estimated costs of any mitigation commitments identified in the EIS or record of decision (ROD) or EA or finding of no significant impact (FONSI) should be reported.

b. Time Data

(1) For EAs, time is measured from the project kickoff meeting date to the FONSI signature date.

(2) For EISs, time is measured from the Federal Register notice of intent publication date to the ROD signature date.

4-3.5. Information Collection. Per reference (g), prior to collecting information, users (e.g., budget submitting offices (BSO) or other requesting entities) requiring the information must ensure it is not a duplication of information already available. When information is not already available, users must ensure that other methods (e.g., statistical sampling) that may minimize the

information collection burden cannot be used; and that the information collection request is valid, accurate, and essential to the mission of the user's organization.

a. Information Collection Requirements. Information collection requirements must be designed to meet only essential needs, be as infrequent and as feasible as possible, and have reasonable due dates. The number of copies to be prepared must be kept to a minimum. One-time requirements may not be imposed when the need for a recurring information collection requirement is indicated. When the requirement has been approved and the information is collected, it must be made visible, available, and usable to any potential authorized user. Information collection requirements that have not been properly approved will not be honored.

b. Public Information. Information that DoD components and other Federal agencies collect from the public, as defined in reference (h), must be minimized, accounted for, and controlled. Collection of information that contains individuals' personal identification information requires special handling, as outlined in reference (g).

c. Geographic Information System (GIS). To mitigate environmental impacts to the military mission and facilitate compliance with environmental laws and regulations, commands should strive to keep data (including GIS data) up-to-date and accurate. Activities should work together and with CNIC and COMNAVFACENGCOM to store accurate and authoritative geospatial data in the enterprise-based geodatabase managed by COMNAVFACENGCOM.

4-3.6. U.S. Navy Environmental Portal. The Portal is a means to improve and standardize the data-collection process; manage environmental compliance and conservation data for the installations, regions, BSOs, and OPNAV N45; and assist OPNAV N45 in responding to Congressional requests, senior-level briefings, government agency reporting requirements, and overall Navy environmental readiness program management.

a. Modules. The Portal includes a financial module (EPRWeb) and multiple data and metrics modules, which are grouped under the Environmental Data and Metrics Web. EPRWeb is discussed in more detail in chapter 2 (Funding) of this manual. OPNAV N45 requires the Portal modules be used for data and metrics collection to support development of reports to Congress and EMRs, as well as other environmental program requirements.

b. Accessing the Portal. Users can access the Portal to enter or obtain environmental data (refer to appendix E (Web Sites) of this manual for Web site address).

c. Updating Information. Navy installations and tenant commands are required to update Portal data fields continually as changes occur. Examples of events that would trigger updates include permit updates and NOVs (new and closed). BSOs are required to review the Portal to ensure accuracy of their information for these events per this schedule:

(1) NOV module—consistently;

(2) Water Quality module—1 November;

(3) Air Quality module—31 January;

(4) Hazardous Waste module—15 March;

(5) Solid Waste module—1 November; and

(6) EMS metrics—1 November.

4-4 Responsibilities. For the Web-based data collection process to be effective, quality assurance and quality control are required at every level in the chain of command.

4-4.1. OPNAV N45 must:

a. Respond to Congressional requests;

b. Issue environmental management information data-call memos to echelon 2 commands in a timely fashion with reasonable response deadlines;

c. Request, collate, review, and conduct quality control of data and write-ups for reports to Congress, EMRs, and sustainability report and implementation plans;

d. Review all Navy submissions for quality prior to submitting to the Office of the Secretary of Defense (OSD);

e. Prepare the final report and presentation package for OSD, OMB, or Congress, or all three, as required; and

f. Periodically access the Portal and obtain information to support reports to Congress, senior-level briefings, government agency reporting requirements, and Navy environmental readiness program management.

4-4.2. BSOs must:

a. Respond to all inquiries related to performance reporting;

b. Compile and review echelon 2 command comments and responses;

c. Consolidate and verify data prior to forwarding them to OPNAV N45;

d. Coordinate with the field to ensure data are put into the Portal by required deadlines; and

e. Review the Portal data to ensure their consistency and accuracy.

4-4.3. The Naval Facilities Engineering and Expeditionary Warfare Center must manage Portal modules.

4-4.4. Navy installation commanding officers (ICO) must:

a. Ensure completed data and metrics are compiled and submitted in a timely manner;

b. Ensure Portal data fields are continually updated as changes occur (e.g., permit updates, NOV status); and

c. Ensure Portal data updates include the Environmental Protection Agency (EPA)'s notifications of significant non-compliance (SNC).

4-4.5. COs of tenant commands must:

a. Ensure completed data and metrics are compiled and submitted in a timely manner in support of BSO and host command requirements;

b. Ensure Portal data fields are continually updated as changes occur (e.g., permit updates, NOV status); and

c. Ensure Portal data updates include EPA's notifications of SNC.

4-5 Definitions. There are no definitions for this chapter.

CHAPTER 5

OUTREACH AND COMMUNICATIONS

Table of Contents

5-1 Scope 5-1
5-1.1. Related Chapters.....5-1
5-1.2. References.....5-2

5-2 Legislation.....5-2

5-3 Requirements 5-2
5-3.1. Key Stakeholder Engagement.....5-2
5-3.2. Environmental Exhibits at Outreach Events 5-4
5-3.3. Ship Embarks.....5-4
5-3.4. Celebrations and Events 5-4
5-3.5. Training Requirements 5-5

5-4 Responsibilities.....5-6

5-5 Definitions.....5-6

5-1 Scope. This chapter discusses Navy-wide (ashore and afloat) policies and procedures for environmental outreach and communications. Almost all aspects of the Navy's environmental and natural resources policies and programs covered within this manual are of potential interest to other government agencies, commercial and private sector organizations, the media, and the general public, particularly in cases where the Navy's activities have the potential to affect human health or the environment.

5-1.1. Related Chapters

a. Public affairs personnel and other Navy personnel who perform outreach and communication functions with environmental components as part of their job responsibilities should be familiar with the chapters of this manual and be prepared to communicate accurately about those topics in a manner consistent with Navy policy.

b. Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual provides guidance on National Environmental Policy Act (NEPA) regulations regarding public involvement. Information regarding marine mammal incidents can be found in chapter 12 (Natural Resources Conservation) and chapter 35 (Environmental Compliance Afloat) of this manual. Chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual provides the Navy's policy guidance for environmental management systems (EMS) at naval installations, including the role of internal and external communications.

5-1.2. References

(a) OPNAVINST 5726.8B, Outreach: America's Navy;

(b) OPNAVINST F3100.6J, OPNAV Special Incident Reporting (OPREP-3 PINNACLE, OPREP-3 NAVY BLUE, and OPREP-3 NAVY UNIT SITREP) Procedures (NOTAL);

(c) SECNAVINST 5720.44C, Department of the Navy Public Affairs Policy and Regulations; and

(d) SECNAVINST 5730.5K, Mission, Function, and Responsibilities of the Office of Legislative Affairs and Procedures for Handling Legislative Affairs and Congressional Relations.

5-2 Legislation. There is no legislation applicable to this chapter.

5-3 Requirements

5-3.1. Key Stakeholder Engagement. Per reference (a), educating the American public about the capability, importance, and value of today's Navy is essential. As resources allow, commands should proactively engage key stakeholders (including media, government agencies, non-government agencies, and Federally recognized Indian tribes) and the American public to increase awareness of the Navy's national security mission requirements and energy and environmental stewardship activities.

a. Marine Mammal Incidents. Per reference (b), the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) must be informed of all marine mammal incidents (e.g., strikes, strandings) worldwide. Fleets and regions, as well as commands conducting systems testing or maintenance at sea, must be prepared to respond or have appropriate subordinate command(s) respond effectively and according to guidance in the event that a marine mammal incident occurs near (within 100 nautical miles of) a Navy vessel or within a Navy training range or transit lane. OPNAV N45 must coordinate with the Navy Chief of Information (CHINFO) and issue marine mammal incident public affairs guidance to the echelon 2 commands on an as-needed basis. This guidance outlines Navy-wide strategies and actions necessary to successfully manage communications in response to a marine mammal incident by compliance with reference (b).

b. Media Engagement. Many energy and environmental issues are of local, national, and international interest. Per reference (c), all energy and environmental information provided to national or international news media must be coordinated with the chain of command and approved in advance by CHINFO and OPNAV N45. Local media inquiries require less coordination. If a command learns that a news report will receive national or international attention, the command must inform CHINFO and OPNAV N45 via the chain of command. Controversial issues, such as chemical releases, oil spills, radiological contamination, and other emerging events with potentially significant impacts to human health or the environment may require increased coordination and planning among CHINFO; OPNAV N45; Chief, Bureau of

Medicine and Surgery; relevant echelon 2 commands; and the fleets to ensure an effective public affairs and communications response.

c. Congressional Inquiries and Requests. Responses to Congressional inquiries on Navy energy or environmental programs and policy and requests to respond to the concerns of a constituent must be coordinated with OPNAV N45 and the Office of Legislative Affairs (OLA) (reference (d)).

d. Publicly Accessible Web Sites. Navy public affairs personnel and others responsible for posting information on publicly accessible Navy Web sites should ensure environmental data and information posted is accurate and reflects current Navy policy. Command-sponsored Web site pages must be reviewed at least every 6 months, and any outdated or inaccurate information must be refreshed or removed. However, if subject matter experts are aware that information published on the Web site has changed or become outdated in between these reviews, a change request should be submitted to the cognizant Webmaster. In particular, ensure potentially time-sensitive content is updated on a frequency that is within industry standards for the subject matter to maintain the Web site's relevancy, accuracy, and credibility, even if that requires the information to be reviewed more often than every 6 months.

e. Stakeholder Involvement in Natural and Cultural Resources. Installation planning activities that may have an impact on certain natural resources such as endangered species or on historically and culturally significant resources may be required to conduct consultations with other Federal, State, or local agencies, and Federally recognized Indian tribes (refer to chapter 12 (Natural Resources Conservation) and chapter 13 (Cultural Resources Compliance and Management) of this manual for more information).

f. Public Involvement Under NEPA. Public involvement is essential when pursuing certain environmental planning efforts under NEPA. NEPA mandates that Federal agencies provide documents in clear language and perform public outreach to involve the public in preparing and implementing their NEPA procedures. Refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual for guidance. In some cases, effective public involvement will require support by public affairs personnel and OLA.

g. Public Involvement Under the Comprehensive Environmental Response, Compensation, and Liability Act. Public involvement, especially through restoration advisory board activities, is a cornerstone of the Navy's environmental restoration program. Refer to chapter 42 (Environmental Restoration) of this manual for guidance on requirements for official notification, public comment periods, and public meetings throughout the process.

h. Public Involvement Under the Resource Conservation and Recovery Act (RCRA). RCRA requires permits for hazardous waste treatment, storage, and disposal facilities. RCRA public-involvement activities are associated with obtaining and renewing permits to operate facilities. RCRA also allows States to require certain corrective action or cleanup as a condition of a facility's permit. The Environmental Protection Agency (EPA) has developed a specific RCRA public participation manual, which is available on its Web site (refer to appendix E (Web Sites)

of this manual for Web site address). Also refer to chapter 27 (Hazardous Waste Management Ashore) of this manual for additional information.

i. Public Involvement Under the Safe Drinking Water Act (SDWA). SDWA includes requirements for notification to customers on the quality of drinking water being provided and distributed, including both routine consumer confidence reports and reports of failure to comply with applicable SDWA standards. Additional information is available on EPA's Web site (refer to appendix E (Web Sites) of this manual for Web site address) and chapter 21 (Safe Drinking Water Compliance Ashore) of this manual.

j. Public Involvement Under the Clean Air Act. Most naval installations discharging regulated air pollutants must obtain a permit from EPA or their State. The application process for new or modified permits usually involves public notice or public meetings. Additional information is available on EPA's Web site (refer to appendix E (Web Sites) of this manual for Web site address) and chapter 22 (Clean Air Ashore) of this manual.

k. Public Involvement Under the Clean Water Act (CWA). Opportunities for public hearings must be provided before certain CWA permits can be issued, renewed, or modified. Additional information is available on EPA's Web site (refer to appendix E (Web Sites) of this manual for Web site address) and chapter 20 (Clean Water Ashore) of this manual.

l. EMS. Chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual provides the Navy's policy guidance for EMSs at naval installations, including providing for internal and external communications.

5-3.2. Environmental Exhibits at Outreach Events. To the extent practicable, Navy commands worldwide should incorporate environmental messaging and related success stories as an aspect of their local outreach event support. Large-scale Navy outreach events are included in CHINFO's "Calendar for America." Additional information is included on the Navy Office of Community Outreach Web site (refer to appendix E (Web Sites) of this manual for Web site address).

5-3.3. Ship Embarks. Per reference (a), Commander, United States Fleet Forces Command (COMUSFLTFORCOM) and Commander, United States Pacific Fleet (COMUSPACFLT) are responsible for executing the "Leaders to Sea" embark program, to include at least four environmentally oriented embarks annually for Office of the Deputy Assistant Secretary of the Navy (Environment) (DASN(E)) and Deputy Chief of Naval Operations for Fleet Readiness and Logistics (CNO N4). OPNAV N45 must work with COMUSFLTFORCOM and COMUSPACFLT to prepare the crew of the aircraft carrier and other fleet assets in advance of energy- and environmentally focused ship embarks.

5-3.4. Celebrations and Events. Event organizers must consider environmental stewardship when planning ceremonies, homecoming celebrations, and outreach events. Event organizers should implement measures to reduce solid waste generation, promote adequate wastewater collection and treatment, and avoid generating plastic waste (e.g., water bottles) to the extent feasible. "Greening Your Meetings and Conferences: A Guide for Federal Purchasers," found

on EPA's Web site (refer to appendix E (Web Sites) of this manual for Web site address), provides information on environmental aspects of event planning. In addition, because helium-filled balloons travel significant distances from point of release and can harm terrestrial and aquatic life, Navy commands must not release helium-filled balloons during ceremonies, celebrations, or outreach events.

5-3.5. Training Requirements. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental training courses. In addition to NERTP-sponsored courses, other specialty schools may resource, develop, and deliver environmental courses to meet their specific requirements.

a. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the Civil Engineer Corps Officer School and Naval Safety and Environmental Training Center Web sites (refer to appendix E (Web Sites) of this manual for Web site addresses). Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental training requirements as well as personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered.

b. Public affairs personnel and other Navy employees involved in regular communication with key stakeholders should receive appropriate job-specific education, experience, and training to perform their assigned tasks. Personnel with environmental communication responsibilities should consider the following training:

(1) Basic Environmental Law (A-4A-0058);

(2) NEPA Application (A-4A-0077);

(3) Health and Environmental Risk Communication Workshop (A-4A-0072);

(4) Navy Environmental Restoration Program (A-4A-0069);

(5) Naval Postgraduate School Strategic Communication Workshop; and

(6) Naval Postgraduate School Strategic Planning for Execution: Assessment and Risk (SPEAR) Workshop.

5-4 Responsibilities

5-4.1. COMUSFLTFORCOM and COMUSPACFLT must:

a. Engage key stakeholders and the American public to increase awareness of the Navy's national security mission requirements and environmental stewardship activities;

b. Be prepared to respond or have appropriate subordinate command respond effectively and according to guidance provided by CHINFO and OPNAV N45 if a marine mammal incident occurs. See reference (b) for the list of activities that qualify as marine mammal incidents. Any messaging to the public must be coordinated with the holders of any Marine Mammal Protection Act authorization in the region to ensure that public messaging is aligned with any reporting requirements to the regulators;

c. As requested, support at least four environmentally oriented embarks annually for DASN(E) and CNO N4; and

d. Consider energy conservation and environmental stewardship when planning ceremonies, homecoming celebrations, and outreach events.

5-4.2. Commander, Navy Installations Command; systems commands; region and installation commands; and tenant commands must:

a. Engage key stakeholders and the American public to increase awareness of Navy's national security mission requirements and energy and environmental stewardship activities;

b. Consider energy conservation and environmental stewardship when planning ceremonies, homecoming celebrations, and outreach events; and

c. In the case of region commands, be prepared to respond effectively and according to guidance provided by CHINFO and OPNAV N45 if a marine mammal incident occurs within or near their area of responsibility.

5-5 Definitions. There are no definitions for this chapter.

CHAPTER 7

SAMPLING AND LABORATORY TESTING

Table of Contents

7-1 Scope 7-1
7-1.1. Related Chapters 7-1
7-1.2. References 7-1
7-1.3. Applicability 7-2

7-2 Legislation 7-2

7-3 Requirements 7-3
7-3.1. Conformance with National and International Standards 7-3
7-3.2. Uniform Standards for Sampling 7-3
7-3.3. Uniform Standards for Laboratory Testing 7-3
7-3.4. Prohibited Practices 7-4
7-3.5. Contract Improvement 7-4
7-3.6. Personnel Qualifications 7-5
7-3.7. Training Requirements 7-5

7-4 Responsibilities 7-6

7-5 Definitions 7-7

7-1 Scope. This chapter identifies requirements, policy, and responsibilities for establishing environmental quality systems for Navy activities and programs involving the collection, management, and use of environmental data.

7-1.1. Related Chapters. This chapter is applicable to all other chapters in this manual involving the collection or dissemination of environmental data.

7-1.2. References

(a) DoD Instruction 4715.15 of 11 December 2006, Environmental Quality Systems;

(b) DEPSECDEF memo of 10 Feb 03, Ensuring Quality of Information Disseminated to the Public by the Department of Defense;

(c) DoD Directive 4715.1E, Environment, Safety, and Occupational Health (ESOH), of 19 March 2005;

(d) ANSI/ASQ E4-2004, Quality Systems for Environmental Data and Technology Programs—Requirements with Guidance for Use [Copyrighted];

(e) ISO/IEC 17025:2017, General Requirements for the Competence of Testing and Calibration Laboratories [Copyrighted];

(f) DTIC ADA 395303 of March 2005, Uniform Federal Policy for Implementing Environmental Quality Systems Evaluating, Assessing, and Documenting Environmental Data Collection and Use Programs;

(g) DTIC ADA 427785 of March 2005, Uniform Federal Policy for Quality Assurance Project Plans—Evaluating, Assessing, and Documenting Environmental Data Collection/Use and Technology Programs;

(h) USD(AT&L) memo of 4 Dec 07, Acquisitions Involving Environmental Sampling or Testing Services;

(i) Department of Defense (DoD) Department of Energy (DOE) Consolidated Quality Systems Manual (QSM) for Environmental Laboratories (Version 5.1), 2017;

(j) ISO/IEC 17011:2017, Conformity Assessment—General Requirements for Accreditation Bodies Accrediting Conformity Assessment Bodies [Copyrighted]; and

(k) Office of Management and Budget, Circular A-76 of 29 May 2003.

7-1.3. Applicability. This chapter applies to activities and programs involving the collection, management, and use of environmental data that support all applicable laws, E.O.s, and regulations at Navy operations, commands, and installations worldwide, including formerly used defense sites and government-owned, contractor-operated facilities. It does not apply to contractor-owned and contractor-operated facilities that are not on real property controlled by Department of Defense (DoD), nor does it apply to radiological data collected under the Naval Nuclear Propulsion Program.

7-2 Legislation

a. Legislation that contains provisions that pertain to the collection, management, and use of environmental data includes:

(1) Clean Air Act, 42 U.S.C. §7401–7671q;

(2) Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387;

(3) Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601–9675;

(4) Data Quality Act, 44 U.S.C. §3504d(1) and 3516;

(5) Occupational Safety and Health Act, 29 U.S.C. §651–678;

(6) Resource Conservation and Recovery Act (Solid Waste Disposal Act), 42 U.S.C. §6901–6992k;

(7) Safe Drinking Water Act (Title XIV of the Public Health Service Act), 42 U.S.C. §300f–300j-26; and

(8) Toxic Substances Control Act, 15 U.S.C. §2601–2697.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

7-3 Requirements. Reference (a) defines and implements policy for establishing environmental quality systems for DoD activities involving the collection, management, and use of environmental data, per references (b) and (c). Reference (a) also establishes the DoD Environmental Laboratory Accreditation Program.

7-3.1. Conformance with National and International Standards. Navy commands must implement environmental data quality systems for the collection and use of environmental data consistent with references (d) and (e). In all cases where environmental sampling and testing services are performed, periodic quality assurance (QA) surveillance must be performed by a Navy QA manager (QAM), named by the commanding officer (CO) of the installation.

7-3.2. Uniform Standards for Sampling. Navy commands, including contractors and subcontractors, must perform environmental sampling activities according to a documented quality system meeting the requirements of reference (d). Quality systems documentation must support, and be consistent with, established Navy administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with reference (b). Quality systems documentation must include:

a. Documentation of the sampling organization's quality system (usually called a quality management plan) per reference (f);

b. Documentation of project specific sampling, testing, QA, and quality control activities (usually called a QA project plan (QAPP)) per reference (g);

c. Descriptions of all QA surveillance activities to be conducted by the Navy; and

d. Specific procedures that will be used by the Navy to review and substantiate the quality of environmental information before it is disseminated to the public.

7-3.3. Uniform Standards for Laboratory Testing. As required by reference (h), environmental laboratories providing services to the Navy must possess any required State or host-nation certification and have an established and documented laboratory quality system that conforms to reference (e) as implemented by the latest version of reference (i). In addition:

a. Laboratories must demonstrate the ability to generate acceptable results from analysis of proficiency testing (PT) samples, subject to availability, using each applicable method in the specified matrix;

b. Upon request, laboratories must make available to the Navy the results of all PT samples analyzed by the laboratory during the period of performance;

c. Laboratories are subject to project specific reviews by authorized Navy representatives;

d. Laboratories providing environmental testing services in support of the Defense Environmental Restoration Program (DERP) (refer to chapter 42 (Environmental Restoration) of this manual) must be accredited for each applicable test method per reference (a); and

e. Laboratories providing environmental testing services to the Navy for all programs other than DERP must be accredited for each applicable test method per reference (a) or by a nationally recognized laboratory accreditation body (e.g., National Environmental Laboratory Accreditation Program) compliant with reference (j). If the laboratory is not accredited per reference (a), it must declare conformance to reference (i) per reference (h).

7-3.4. Prohibited Practices. Organizations performing sampling and testing on behalf of the Navy must adhere to professional standards of ethical conduct defined in quality systems documentation and must not engage in any prohibited practices defined in reference (h). Examples of prohibited practices include:

a. Fabrication, falsification, or misrepresentation of data;

b. Improper date or time recording;

c. Unwarranted manipulation of samples, software, or analytical conditions;

d. Misrepresenting or misreporting quality control samples;

e. Improper calibrations;

f. Concealing a known analytical or sample problem;

g. Concealing a known improper or unethical behavior or action; and

h. Failing to report the occurrence of a prohibited practice or known improper or unethical act to the appropriate laboratory or contract representative, or to an appropriate government official.

7-3.5. Contract Improvement. As required by reference (h), the uniform standards contained in this chapter must be incorporated into all solicitations and contracts involving sampling or testing performed by, or on behalf of, the Department of the Navy (DON). This requirement also applies to orders placed by non-DoD agencies (e.g., the General Services Administration) on

behalf of DON. Contracting officer's representatives must consult technically qualified personnel when providing contract support services for solicitations and contracts involving environmental sampling or testing. DON must document nonconformance with contract specifications, including quality systems specifications, and must execute contract remedies, where appropriate.

7-3.6. Personnel Qualifications. As required by references (f), (g), and (i), personnel involved in sampling or testing must have the appropriate education and experience to perform their assigned tasks.

a. Personnel performing the duties of the QAM must have a bachelor's degree with at least 4 years of combined experience in the laboratory or as part of a consultant project management team. If not a degreed chemist, the QAM must have knowledge and experience in the sampling and analysis of environmental media and associated QA.

b. Personnel performing the duties of the government chemist must have at least 30 semester hours in chemistry, supplemented by course work in mathematics through differential and integral calculus, and at least 6 semester hours of physics. As applicable to the specific project, the government chemist should have knowledge of environmental analytical chemistry methodologies, general knowledge of the chemistry of remedial treatment technology and chemical fate transport, and experience in the sampling and analysis of toxic and hazardous chemicals in environmental matrices.

7-3.7. Training Requirements. Environmental sampling and testing organizations must document training and keep records current, per their quality systems documentation. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental readiness training courses. Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental readiness training requirements as well as training requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered.

a. Personnel performing the duties of environmental PMs, who routinely request sampling and testing or develop sampling and testing quality systems documentation as part of their management of a program, must have this minimum training provided via a documented training plan:

(1) Environmental laws, E.O.s, and regulations relevant to the specific environmental program for which sampling and testing are being conducted;

(2) Systematic planning process or development of data quality objectives (completion of the Uniform Federal Policy for QAPPs training course (A-4A-0095) sponsored by CECOS will satisfy this requirement); and

(3) Training applicable to the specific area(s) of program management relative to sampling plan development (e.g., sampling and testing for National Pollutant Discharge Elimination System (NPDES) program compliance).

b. Documented training for sampling personnel must include, at a minimum (completion of Environmental Quality Sampling (A-4A-0026) sponsored by CECOS will satisfy these requirements):

(1) Basic sampling techniques (e.g., grab sampling, composite sampling, how to avoid contamination, use of preservatives);

(2) Specific sampling techniques as required (e.g., NPDES sampling, bacteriological sampling, potable water sampling);

(3) Completion of sampling documentation (e.g., sample container labels, field logs, chain-of-custody documentation);

(4) Health and safety training; and

(5) Ethics training.

c. Documented training for laboratory personnel must include, at a minimum:

(1) Demonstrations of analyst proficiency;

(2) Training in the laboratory quality system;

(3) Training in general laboratory operations;

(4) Specific training applicable to the tests to be performed;

(5) Health and safety training; and

(6) Ethics training.

7-4 Responsibilities

7-4.1. The Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) must issue policy guidance, as appropriate, based on recommendations made by the Navy Laboratory Quality and Accreditation Office (LQAO).

7-4.2. Budget submitting offices (BSO) must:

a. Plan, program, and budget for the implementation of quality systems associated with environmental sampling and testing;

b. Ensure shore commands comply with the requirements of this chapter;

c. Establish programs to monitor and achieve progress toward the implementation of environmental quality systems; and

d. Include environmental data quality in periodic management reviews.

7-4.3. The Navy LQAO must:

a. Provide overall guidance and advice to OPNAV N45 for environmental sampling operations and laboratory testing improvement initiatives Navy-wide;

b. Provide technical assistance and prepare appropriate manuals or other forms of guidance for implementing proper sampling and testing techniques at Navy activities;

c. Coordinate efforts across commands including continual process improvement and cost efficiencies for Navy sampling and laboratory testing services;

d. Coordinate BSO approval and implementation of Navy LQAO recommendations; and

e. Approve any exceptions to the uniform standards for laboratory testing contained in paragraph 7-3.3 of this manual.

7-4.4. COs of shore commands must:

a. Implement environmental quality systems for activities and operations involving the collection, management, and use of environmental data;

b. Designate a Navy QAM;

c. Use environmental laboratories meeting the requirements of paragraph 7-3.3 of this manual;

d. Conduct QA surveillance;

e. Implement any necessary corrective action identified during QA surveillance activities and management reviews; and

f. Ensure training programs meeting the requirements of this chapter are established and maintained for sampling and testing personnel under their command.

7-5 Definitions

7-5.1. Accreditation. Per reference (j), accreditation is defined as third party attestation related to a laboratory conveying formal demonstration of its competence to carry out specific tests.

7-5.2. Accreditation Body. Per reference (j), the accreditation body is the authoritative body that performs accreditation.

7-5.3. Data Quality Objectives. Data quality objectives are qualitative and quantitative statements that clarify study objectives, define the appropriate type of data, and specify tolerable levels of potential decision errors that will be used as the basis for establishing the quality and quantity of data needed to support decisions.

7-5.4. Environmental Data. Per reference (d), environmental data are defined as any measurements or information that describe environmental processes, location, or conditions; ecological or health effects and consequences; or the performance of environmental technology.

7-5.5. Government Chemist. The government chemist is that individual responsible for providing environmental chemistry expertise and developing contract- and project-specific performance standards pertaining to environmental sampling and testing on behalf of the government.

7-5.6. Proficiency Testing. PT is a means of evaluating a laboratory's performance under controlled conditions relative to a given set of criteria through analysis of unknown samples provided by an external source.

7-5.7. Project-Specific Reviews. Project-specific reviews are a process used by government or contractor project chemists to ensure DoD Environmental Laboratory Accreditation Program accredited laboratories are capable of meeting project-specific requirements.

7-5.8. Quality Assurance. QA involves an integrated system of activities involving planning, quality control, quality assessment, reporting, and quality improvement to ensure a product or service meets defined standards of quality with a stated level of confidence.

7-5.9. Quality Assurance Manager. The QAM is that individual responsible for reviewing and approving project-specific quality systems documentation and for monitoring compliance with contract- and project-specific performance standards on behalf of the government. The QAM must be independent from units or commands performing sampling or testing and must have direct access to senior project management.

7-5.10. Quality Assurance Surveillance. Per reference (k), QA surveillance is defined as the government's monitoring of a service provider's performance per the QA surveillance plan and the performance requirements identified in the solicitation.

7-5.11. Quality System. Per reference (d), a quality system is defined as a structured and documented management system describing the policies, objectives, principles, organizational authority, responsibilities, accountability, and implementation plan of an organization for ensuring quality of its work processes, products, and services.

7-5.12. Systematic Planning. Systematic planning is a planning process based on the scientific method. It is a common-sense approach designed to ensure the level of detail in planning is commensurate with the importance and intended use of the data, as well as the available resources.

CHAPTER 10

ENVIRONMENTAL PLANNING UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT AND EXECUTIVE ORDER 12114

Table of Contents

10-1 Scope 10-3
10-1.1. Related Chapters 10-3
10-1.2. References 10-3
10-1.3. Applicability 10-4

10-2 Legislation 10-5

10-3 Requirements 10-6
10-3.1. General Guidance Applicable to Environmental Planning Conducted Under the National Environmental Policy Act and Executive Order 12114 10-6
10-3.2. Limitations on Actions 10-12
10-3.3. National Environmental Policy Act and Executive Order 12114 Signature Authority 10-12
10-3.4. General Guidance for Conducting Environmental Planning 10-15
10-3.5. Lead Agency, Cooperating Agency, and Other External and Internal Coordination Requirements 10-26
10-3.6. Mitigation Identification and Implementation 10-29
10-3.7. OPNAV N45 Environmental Planning and Compliance Library and Reporting Requirements 10-30
10-3.8. Pre-Planning Process Requirement 10-33
10-3.9. Action Proponent Responsibility to Produce Quality Documents 10-33
10-3.10. Training Requirements 10-35
10-3.11. Weapon-System-Acquisition Programs 10-35
10-3.12. Responsibilities for Environmental Planning Under the National Environmental Policy Act 10-36
10-3.13. National Environmental Policy Act 10-36
10-3.14. Categorical Exclusions 10-36
10-3.15. Environmental Assessments 10-44
10-3.16. Environmental Impact Statements 10-56
10-3.17. Emergency Actions 10-73
10-3.18. Executive Order 12114 Compliance Overview 10-73
10-3.19. Major Navy Actions Abroad 10-73
10-3.20. Exemptions to the Requirement to Prepare Environmental Documentation Under Executive Order 12114 10-76
10-3.21. Negative Decision 10-77
10-3.22. Executive Order 12114 Categorical Exclusions 10-78
10-3.23. Determining the Type of Environmental Planning Documentation Based on Location of Effects 10-78
10-3.24. Determining Significant Harm 10-79

10-3.25. Overseas Environmental Assessments 10-79
10-3.26. Overseas Environmental Impact Statements 10-81
10-3.27. Environmental Reviews or Environmental Studies 10-84
10-3.28. Combination National Environmental Policy Act and Executive Order 12114 Environmental Planning Documents 10-85

10-4 Responsibilities 10-86

10-5 Definitions 10-87

List of Figures

10-1. Generalized Geographic Applicability 10-7
10-2. NEPA Process Flowchart 10-39
10-3. E.O. 12114 Environmental Planning Flowchart for Navy Actions 10-75

List of Tables

10-1. Geographic Applicability 10-8
10-2. Guidance for Choosing the Environmental Planning Process for Complying with NEPA and E.O. 12114 10-10
10-3. Sample “Impact” and “Harm” Conclusions for Environmental Planning and Decision Documents 10-15
10-4. Summary of EIS Version Nomenclature and Management 10-19
10-5. Comparison of Programmatic and Comprehensive Environmental Planning Documents 10-22
10-6. Department of the Navy List of CATEXs 10-40
10-7. List of Actions Normally Requiring an EA 10-45
10-8. Notification Elements 10-46
10-9. Core Components of an EA 10-48
10-10. Factors for Determining When to Elevate an EA for OPNAV N45 Action 10-51
10-11. Template for a FONSI 10-52
10-12. Factors to Be Considered When Determining the Level of Public Participation for an EA 10-55
10-13. Elements of an NOI Package 10-57
10-14. Core Components of an EIS 10-61
10-15. Potential Stakeholders to Be Considered in DEIS Distribution 10-64
10-16. Information Required in an NOPM or NOPH 10-67
10-17. Template for a ROD 10-71
10-18. Elements of a Negative Decision 10-77
10-19. Core Components of an OEA 10-81
10-20. Core Components of an ER or ES 10-85
10-21. Action Proponent Guidance 10-88

10-1 Scope. This chapter implements Navy policy for conducting environmental planning in compliance with the National Environmental Policy Act of 1969 (NEPA); Executive Order (E.O.) 12114, Environmental Effects Abroad of Major Federal Actions; and reference (a) through reference (p), section 4321 et seq.

10-1.1. Related Chapters. Due to the interdisciplinary nature of environmental planning, personnel should also refer to other chapters in this manual, specifically chapter 2 (Funding) for funding policy guidance and requirements, chapter 12 (Natural Resources Conservation) for management of natural resources and guidance on preparing NEPA documents for integrated natural resources management plans (INRMP), chapter 13 (Cultural Resources Compliance and Management) for guidance on compliance with cultural resources requirements associated with environmental planning, chapter 14 (Coastal Zone Management) for compliance with the Federal consistency provisions of the Coastal Zone Management Act (CZMA), chapter 22 (Clean Air Ashore) for policy requirements and procedures for preparing Clean Air Act (CAA) general conformity evaluations, and chapter 34 (Overseas Environmental Compliance Ashore) for overseas environmental compliance ashore.

10-1.2. References

(a) SECNAVINST 5000.2F, Defense Acquisition System and Joint Capabilities Integration and Development System Implementation;

(b) UNDERSECNAV memo of 28 Dec 00, Compliance with Environmental Requirements in the Conduct of Naval Exercises or Training At Sea (At Sea Policy);

(c) 40 CFR Parts 1500–1508;

(d) 54 FR 777;

(e) E.O. 12114, Environmental Effects Abroad of Major Federal Actions;

(f) 32 CFR Part 775;

(g) United Nations, Convention on the Law of the Sea, 10 December 1982;

(h) DoD 2005.1-M, Maritime Claims Reference Manual, June 2005;

(i) DoD 4715.05-G, Overseas Environmental Baseline Guidance Document, May 2007;

(j) SECNAV memo of 6 May 09, Supplemental Guidance to SECNAVINST 5090.6B for Consultations and Regulatory Coordination;

(k) OPNAV ltr 5090 Ser N45B1/7U158202 of 17 Jul 07;

(l) E.O. 13526, Classified National Security Information;

(m) E.O. 12344, Naval Nuclear Propulsion Program;

(n) SECNAV memo of 3 May 07, Policy Guidance for Environmental Planning Mitigation Composition, Monitoring and Tracking;

(o) DoD Instruction 5000.02 of 7 January 2015, Operation of the Defense Acquisition System;

(p) 42 U.S.C. et seq.;

(q) SECNAV memo of 24 Aug 16, Environmental Planning Process Improvements, Metrics, and Reporting;

(r) E.O. 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects;

(s) SECNAV memo of 28 Feb 19, Environmental Planning Timelines;

(t) ASN(EI&E) memo of 16 Apr 19, Implementation of ASN(EI&E) Environmental Planning Timelines Memorandum;

(u) SECNAVINST 11011.47C, Acquisition, Management, and Disposal of Real Property and Real Property Interests by the Department of the Navy;

(v) E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations;

(w) 76 FR 2681;

(x) Council on Environmental Quality, Emergencies and the National Environmental Policy Act, 2016;

(y) 50 U.S.C. §1543 et seq.;

(z) E.O. 12333, United States Intelligence Activities;

(aa) E.O. 13470, Further Amendments to Executive Order 12333, United States Intelligence Activities; and

(bb) 5 U.S.C. §552.

10-1.3. Applicability. This chapter applies to all Navy environmental planning actions including those actions that fall within the realm of weapon-system acquisition (reference (a)), training and exercises at sea (reference (b)), training and operations on land, science- and technology-related programs, and shore installation management. In general, the environmental planning requirements of NEPA and E.O. 12114 apply to all major Federal actions authorized, funded, or carried out by the Navy that may affect the environment. A major Federal action under NEPA is

defined in reference (c). A major Federal action under E.O. 12114 is defined in paragraph 10-3.19 of this manual.

a. NEPA Application. As a matter of Navy policy, NEPA applies to Navy actions that affect the human environment in the United States, including the 12-nautical-mile (NM) U.S. territorial sea. The Navy's policy is based on reference (d) that extends the exercise of U.S. sovereignty and jurisdiction under international law to 12 NM. Reference (d), however, expressly provides that this proclamation does not extend or otherwise alter existing Federal law or any associated jurisdiction, rights, legal interests, or obligations. Per judicial decision, NEPA also applies to Federal agency actions that affect Antarctica (Environmental Defense Fund, Inc. v. Massey, 772 F. Supp. 1296 (1991)).

b. E.O. 12114 Application. Reference (e) applies to Navy actions occurring outside the United States and its territories and possessions.

c. Geographic Applicability of Environmental Planning Requirements. Figure 10-1 of this manual illustrates the generalized geographic applicability of NEPA and E.O. 12114. Table 10-1 of this manual indicates the geographic applicability of several key environmental laws and E.O.s, which are often interrelated with analyses conducted under NEPA and E.O. 12114. Table 10-2 of this manual provides guidance regarding geographic scope, applicable references, and document selection for environmental planning under NEPA and E.O. 12114.

10-2 Legislation

a. The following legislation contains provisions pertaining to environmental planning, protection, management, and conservation:

(1) Clean Air Act (CAA), 42 U.S.C. §7401–7671q;

(2) Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387;

(3) Coastal Zone Management Act (CZMA), 16 U.S.C. §1451–1466;

(4) Endangered Species Act (ESA), 16 U.S.C. §1531–1544;

(5) Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), 16 U.S.C. §1801–1884;

(6) Marine Mammal Protection Act (MMPA), 16 U.S.C. §1361, 1362, 1371–1389, 1401–1407, 1411–1418, 1421–1423h;

(7) National Environmental Policy Act (NEPA), 42 U.S.C. §4321–4370h;

(8) National Historic Preservation Act (NHPA), 54 U.S.C. §300101 et seq.; and

(9) National Marine Sanctuaries Act (NMSA), 33 U.S.C. §1431–1445.

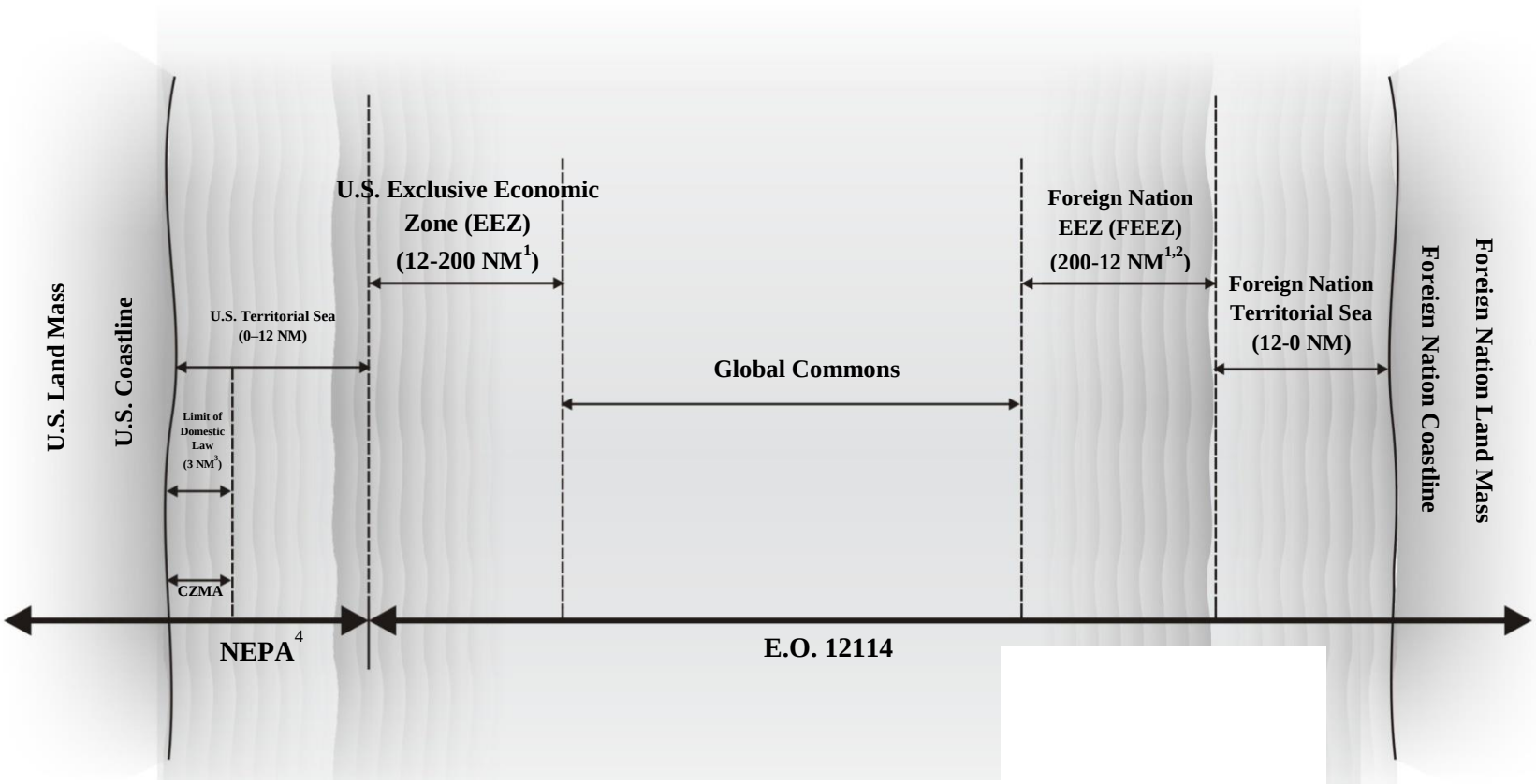
b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

10-3 Requirements

10-3.1 General Guidance Applicable to Environmental Planning Conducted Under the National Environmental Policy Act and Executive Order 12114. Paragraphs 10-3.1 through 10-3.11 of this manual discuss the elements of environmental planning common to both NEPA and E.O. 12114 compliance. Paragraphs 10-3.12 through 10-3.17 of this manual address the NEPA process, and paragraphs 10-3.18 through 10-3.28 of this manual address the E.O. 12114 process.

a. Environmental Planning Process. Navy environmental planning is the process of identifying and assessing the potential environmental effects of a proposed action to allow informed decision-making. In addition, preparation of an environmental planning document is often used as a vehicle to facilitate and demonstrate compliance with several other environmental requirements, including, but not limited to the CAA, CWA, CZMA, NHPA, MSFCMA, Fish and Wildlife Coordination Act, MPRSA, Migratory Bird Treaty Act (MBTA), Pollution Prevention Act, MMPA, NMSA, ESA, E.O. 12898, E.O. 13045 (Protection of Children from Environmental Health Risks and Safety Risks), and E.O. 13089 (Coral Reef Protection).

Figure 10-1. Generalized Geographic Applicability



Notes:

1. This depiction is meant to provide general awareness of jurisdictional boundaries and is not intended to extend or otherwise alter existing Federal or State law or any jurisdiction, rights, legal interests, or obligations derived therefrom.
2. EEZs as measured from the baseline per reference (g).
3. See reference (h) for claimed EEZ boundaries for foreign nations.
4. For Puerto Rico, Texas, and the Gulf Coast of Florida, waters subject to Commonwealth or State jurisdiction extend to 3 marine leagues (approximately 9 NM).
5. Per judicial decision, NEPA (not E.O. 12114) applies in the Antarctica land mass.

NOT TO SCALE

Table 10-1. Geographic Applicability

Statute/E.O.	Location of Effects						
	Within 3 (or 9) NM of U.S.[2]	**Within U.S. Territorial Sea (12 NM off coast)**	**Within U.S. EEZ (12–200 NM off coast)**	**Global Commons (High Seas)**	**FEEZ (200–12 NM off coast)[3]**	**Within Foreign Nation Territorial Sea (12–0 NM)**	**Landward of Foreign Nation[4]**
NEPA[1]	X	X					
E.O. 12114			X	X	X	X	X
ESA[1]	X	X	X	X			
MMPA[1]	X	X	X	X			
CZMA[5]	X	X					
MSFCMA (Essential Fish Habitat)	X	X	X				
Act to Prevent Pollution from Ships	X	X	X	X	X	X	
Ocean Dumping Act	X	X	X	X	X	X	
Marine Protection, Research, and Sanctuaries Act (MPRSA)[6]	X	X	X	X	X	X	
E.O. 13089 (Coral Reefs)	X	X	X				

Notes:
1. The environmental planning provisions of NEPA apply within the 50 States, territories, and possessions of the United States. As a matter of policy per reference (b), the Navy applies NEPA to those Navy actions that affect the human environment within the 12-NM U.S. territorial sea (0–12 NM) (reference (d)). Most environmental statutes apply seaward to the pre-1988 limit of the U.S. territorial sea (0–3 NM). The MMPA and ESA represent two of the most common statutes that apply to Navy activities outside the territorial sea (0–12 NM), but are not the only statutes applicable to Navy activities outside the territorial sea.

2. For CZMA, generally, State seaward boundaries extend to 3 NM, with the exception of Texas, the Gulf Coast of Florida, and the Commonwealth of Puerto Rico, where their seaward boundaries are at 3 marine leagues, or approximately 9 NM.
3. Claimed EEZs of foreign nations are as set forth in reference (h).
4. For actions ashore, the requirements of chapter 34 (Overseas Environmental Compliance Ashore) of this manual and applicable final governing standards (FGS) for the affected host nation(s) apply. If FGSs have not been issued for the affected host foreign nation(s), Navy shore activities must comply with the applicable status-of-forces agreement (SOFA) and reference (i).
5. Federal agency activities within or outside the State's coastal zone that affect any land or water use or natural resource of the coastal zone must be carried out in a manner that is consistent to the maximum extent practicable with the enforceable policies of the approved State coastal management program.
6. MPRSA applicability is dependent on the type of activity (e.g., ocean dumping applies through FEEZs; sanctuaries only apply through the U.S. EEZ).

Table 10-2. Guidance for Choosing the Environmental Planning Process for Complying with NEPA and E.O. 12114

Locations of Effects	**Environmental Planning Process**	**Applicable Instruction/Guidance**	**Environmental Planning Document**
Within U.S. territory and 3 NM of U.S. coast (State waters)	NEPA	• Reference (f) • Paragraphs 10-3.12 through 10-3.17 of this manual	• Record of categorical exclusion (CATEX) • Environmental assessment (EA) and finding of no significant impact (FONSI) • Environmental impact statement (EIS) and record of decision (ROD)
Within U.S. territorial sea (0–12 NM)	NEPA	• Reference (f) • Paragraphs 10-3.12 through 10-3.17 of this manual	• Record of CATEX • EA and FONSI • EIS and ROD
Within U.S. territorial sea and U.S. EEZ (0–200 NM)	NEPA and E.O. 12114 may apply	• Reference (f) • 32 Code of Federal Regulations (CFR) Part 187 • Paragraphs 10-3.12 through 10-3.28 of this manual	• Record of CATEX • EA and overseas environmental assessment (OEA) and FONSI and finding of no significant harm (FONSH) depending on location of effects • EIS and overseas environmental impact statement (OEIS) and ROD depending on location of effects
Within U.S. EEZ (12–200 NM of United States)	E.O. 12114	• 32 CFR Part 187 • Paragraphs 10-3.18 through 10-3.27 of this manual	• OEA and FONSH • OEIS and environmental decision document • Negative decision
Within the global commons (high seas) or 200 NM from any foreign coastline	E.O. 12114	• 32 CFR Part 187 • Paragraphs 10-3.18 through 10-3.27 of this manual	• OEA and FONSH • OEIS and environmental decision document • Negative decision

Locations of Effects	Environmental Planning Process	Applicable Instruction/Guidance	Environmental Planning Document
Within a FEEZ (200–12 NM)	E.O. 12114	• 32 CFR Part 187 • Paragraphs 10-3.18 through 10-3.27 of this manual	• Environmental review (ER) • Environmental study (ES) • Negative decision
Within territorial sea of a foreign nation or landward of the coastline of a foreign nation (12–0 NM)	E.O. 12114	• As required by SOFA or other international agreements or treaties or FGS • 32 CFR Part 187 • Paragraphs 10-3.18 through 10-3.27 and chapter 34 (Overseas Environmental Compliance Ashore) of this manual	• As required by SOFA or other international agreements or treaties or FGS • ES • ER • Negative decision
Notes: 1. A memorandum for the record (MFR) is prepared for actions relying on previously approved Navy NEPA and E.O. 12114 environmental planning documentation and regulatory consultations and coordination (refer to subparagraph 10-3.4f of this manual). 2. Acceptable combined documents are: EA and OEA; and EIS and OEIS. Unacceptable combinations of documents are: OEA and ER or ES; OEIS and ER or ES; and OEA and NEPA record of CATEX.			

b. General Requirements. The Navy is able to achieve its core mission at home, at sea, and abroad more efficiently when environmental planning is properly integrated and sequenced into Navy decision-making for those major Navy actions that may have significant environmental impacts. It is important to note that the environmental planning process is intended to support such activities as the strategic laydown process, homebasing, homeporting, and other Navy processes to provide information to decision-makers, and it is not intended to be the final decision-making authority over proceeding with an action. To implement the NEPA and E.O. 12114 processes effectively and prepare quality and consistent environmental planning documents, advanced planning and early coordination that engages all stakeholders, including Navy environmental subject matter experts (SME), planners, and others, as appropriate, is required. To this end, the Navy must:

(1) Conduct environmental planning and decision-making using a systematic, interdisciplinary approach that integrates the natural and social sciences where there may be an impact on the human environment under NEPA and the physical environment under E.O. 12114;

(2) Consider and evaluate a reasonable range of alternatives to proposed actions that rigorously explores and sharply defines the issues, provides full disclosure of the potential environmental consequences, and provides a clear basis for choice among options by the decision maker and the public;

(3) Strive to achieve a balance between resource use and the Navy's mission and seek to site new construction, training, or testing in areas of least constraint to avoid or minimize the potential for environmental impacts, risks to health and safety, or other consequences that are undesirable and unintended; and

(4) Provide the opportunity for public involvement in the environmental planning process, where applicable, including public meetings, public review and comment of environmental planning documents, and access to project Web sites.

10-3.2. Limitations on Actions. Until environmental planning has been completed per the provisions set forth in this chapter, no proposed Navy action may be undertaken that may have an adverse environmental impact in the geographic area where NEPA applies, or significantly harms the environment in the geographic area where E.O. 12114 applies, or results in an irreversible or irretrievable commitment of resources that may prejudice the final selection of any reasonable alternatives.

10-3.3. National Environmental Policy Act and Executive Order 12114 Signature Authority

a. Assistant Secretary of the Navy (ASN) (Research, Development, and Acquisition) (ASN(RD&A)) and ASN (Energy, Installations, and Environment) (ASN(EI&E)) Have Signature Authority Under NEPA and E.O. 12114

(1) ASN(RD&A) is the signature authority under NEPA and E.O. 12114 for actions related to weapon-system-acquisition programs and science-and-technology projects per reference (a).

(2) ASN(EI&E) is the signature authority under NEPA and E.O. 12114 for all non-weapon-system-acquisition actions, such as training, shore installation management, and home basing and homeporting of naval platforms. ASN(EI&E) must endorse actions related to weapon-system-acquisition programs and science-and-technology projects for ASN(RD&A) signature per reference (a).

(3) In addition, ASN(EI&E) has delegated its FONSI and FONSH signature authority to the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45), as identified in reference (f), with authority to sub-delegate.

b. Sub-Delegation of FONSI and FONSH Signature Authority for Non-Weapon-System-Acquisition NEPA and E.O. 12114 Environmental Planning Documents by OPNAV N45

(1) Delegation Eligibility. In appropriate circumstances, OPNAV N45 may delegate FONSI and FONSH signature authority to eligible echelon 2 commands for non-weapon-system-acquisition program environmental planning documents. Commands may request delegation by letter to OPNAV N45, provided the following requirements have been (and will continue to be) met:

(a) Qualified and dedicated environmental staff must be maintained at the command level;

(b) Dedicated legal advisor with environmental law expertise must be maintained at the command level; and

(c) Identification by the requesting command of one of the following as FONSI or FONSH signer for non-weapon-system-acquisition program environmental planning documents: a designated flag officer or his or her designated deputy; a designated officer in the grade of O-6 whose nomination for promotion to flag officer rank has been confirmed by the Senate and who is serving in a flag officer billet and in command of a naval service unit or activity; or, a vice commander at a systems command (SYSCOM).

(2) Delegations in Place. OPNAV N45 has delegated FONSI and FONSH signature authority for non-weapon-system-acquisition program environmental planning documents to:

(a) Commander, U.S. Fleet Forces Command (COMUSFLTFORCOM);

(b) Commander, U.S. Pacific Fleet (COMUSPACFLT);

(c) Commander, Navy Installations Command (CNIC), including eligible CNIC region commanders;

(d) Commander, Naval Sea Systems Command (COMNAVSEASYSCOM); and

(e) Commander, Naval Air Systems Command (COMNAVAIRSYSCOM).

(3) Further Delegation of FONSI and FONSH Signature Authority. Commands that have been delegated FONSI and FONSH authority may request to further delegate signature authority by letter to OPNAV N45.

(4) Requirements for Maintaining Delegated FONSI and FONSH Signature Authority for Non-Weapon-System-Acquisition Program Environmental Planning Documents. To retain delegated FONSI and FONSH signature authority for non-weapon-system-acquisition program environmental planning documents, each designated command must:

(a) Maintain qualified and dedicated legal and environmental staff within designated command headquarters;

(b) Ensure OPNAV N45 is notified in writing via chain-of-command notification letter or NEPA notification to OPNAV EA initiation form *before* a scope of work for an EA or OEA is finalized or funded with a government service provider (i.e., after conducting appropriate pre-planning, refer to subparagraphs 10-3.15c and 10-3.25b of this manual);

(c) Except as provided in subparagraph 10-3.4c of this manual, ensure no FONSI or FONSH is signed before all consultation, coordination, and authorization processes have been completed (reference (j));

(d) Prepare a memorandum of legal sufficiency (refer to paragraph 10-5.18 of this manual) and complete form OPNAV 5090/3, Statement of Technical Review (refer to paragraph 10-5.32 of this manual), for every EA or OEA on which action is taken, including review, approval, or endorsement. These memoranda must be retained in command files for a minimum of 7 years and made available to OPNAV N45 upon request;

(e) Ensure all interactions with the headquarters staff of Federal agencies, including the Environmental Protection Agency (EPA), National Marine Fisheries Service (NMFS), or U.S. Fish and Wildlife Service (USFWS), are pre-coordinated with OPNAV N45;

(f) Coordinate with the area environmental coordinator (AEC) and regional environmental coordinator (REC) and obtain an authorized representative's signature on OPNAV 5090/3 (refer to paragraph 10-5.32 of this manual) prior to public release and finalizing an EA or OEA or signing a FONSI or FONSH when the proposed action would affect resources under their cognizance (refer to chapter 1 (Organization and Coordination) of this manual for AEC roles and REC responsibilities);

(g) Ensure all signed documents are uploaded to the OPNAV N45 Environmental Planning and Compliance Library Web site (refer to appendix E (Web Sites) of this manual for Web site address) no later than 30 working days after FONSI and FONSH signature (refer to subparagraph 10-3.7c of this manual for requirements to upload environmental planning documents to the OPNAV N45 Environmental Planning and Compliance Library Web site); and

(h) Submit an annual certification letter accompanied by an annual program review summary to OPNAV N45 (refer to subparagraph 10-3.7f of this manual for more information) no later than 45 working days following the end of the fiscal year (FY).

c. Delegation of FONSI and FONSH Signature Authority for Acquisition Program NEPA and E.O. 12114 Environmental Planning Documents

(1) Reference (a) delegates FONSI and FONSH signature authority for acquisition program environmental planning documents to certain program executive officers (PEO), SYSCOM commanders, and direct reporting program managers (DRPM). Such authority may not be re-delegated. Prior to the signing of a FONSI or FONSH, the PEOs, SYSCOM commanders, and DRPMs must obtain OPNAV N45 endorsement of the environmental planning document (or the endorsement of OPNAV N45's designated endorser, as applicable). OPNAV N45 endorsement will require proof the action proponent has coordinated with the AEC and the REC, as applicable.

(2) Reference (a), tables E6T1 and E6T2, footnote 3 grants endorsement authority to OPNAV N45 for environmental planning documents prepared by the PEOs, SYSCOM commanders, and DRPMs. Per reference (k), OPNAV N45 has delegated its endorsement

authority to COMNAVSEASYSCOM's Maintenance, Modernization, Environment, and Safety Department with respect to EAs, FONSIs, OEAs, and FONSHs prepared by COMNAVSEASYSCOM-affiliated PEOs.

d. Delegated Authority. OPNAV N45 annually reviews selected environmental planning documents prepared and signed by commands with delegated FONSI signature authority to ensure conformance with statutory and regulatory guidance and this manual. OPNAV N45, at its discretion, may assign audit responsibilities to commands with delegated FONSI or FONSH signature authority to audit conformance within their command or sub-delegated command with FONSI signature authority. If subsequent OPNAV N45 review of such assigned audits or if new information demonstrates consistent or substantial nonconformance with the requirements of this manual, delegation of FONSI or FONSH signature authority will be revoked.

10-3.4. General Guidance for Conducting Environmental Planning

a. Regulatory and Statutory Conclusions in Environmental Planning Documents

(1) All environmental planning documents must include appropriate and applicable regulatory and statutory conclusions for NEPA and E.O. 12114 and applicable resource areas.

(2) All such resource-related regulatory and statutory conclusions must be supported by appropriate analyses, and such analyses and conclusions must be specific to the statutory requirement. Related, non-regulatory analyses should be addressed in separate subsections of an environmental planning document. For example, the assessment of essential fish habitat (EFH) should be specific to the discussion of potential adverse effects on defined EFH; other impacts to fish species or fish assemblages should be addressed separately. Similarly, analyses of Federally listed ESA species should be separate from discussions of State-listed species.

(3) Conclusions reached following the environmental analysis process should be phrased such that the legal threshold, if any, pertinent to each particular environmental statute or regulatory program is clearly identified.

(4) Sample resource regulatory and statutory conclusions are available in the Document Preparation Guide associated with the Environmental Planning Standards on the OPNAV N45 Environmental Planning and Compliance Library Web site. Sample impact or harm conclusions specific to NEPA and E.O. 12114 environmental planning documents and related decision documents are provided in table 10-3 of this manual.

Table 10-3. Sample "Impact" and "Harm" Conclusions for Environmental Planning and Decision Documents

Document	Example Conclusion	Remarks
Record of CATEX	"The proposed action is within the scope of CATEX ____. None of the exclusions from reliance on a CATEX apply in this case. Therefore, the proposed action is	Case-by-case review of the facts of the proposed action is required to ensure the action is covered by a listed CATEX, and that none of the extraordinary circumstance factors

Document	Example Conclusion	Remarks
	excluded from the requirement for further NEPA analysis."	apply (refer to subparagraph 10-3.14c of this manual for more information).
FONSI	"The proposed action will not significantly affect the quality of the human environment. Therefore, an EIS will not be prepared."	If the EA analysis shows there will be a significant effect that cannot be mitigated, then an EIS must be prepared.
FONSH	"The proposed action will not significantly harm the environment of the global commons (high seas)."	If the OEA analysis shows there will be significant harm that cannot be mitigated, then an OEIS must be prepared.
Negative decision	"The proposed action does not have the potential to cause significant harm to the environment."	If a major Navy action will not result in significant harm to the environment of a FEEZ, or a foreign nation's territorial sea, or territory under E.O. 12114, a negative decision is prepared.
NEPA EAs	"There would be no significant impact on X resource."	If there are significant adverse impacts, then mitigation must be identified or the proposed action must be modified to incorporate mitigation that will bring potential impacts to below significance. Otherwise, the action proponent must prepare an EIS.
E.O. 12114 OEAs	"There would be no significant harm on X resource."	If there would be significant harm to a resource, then measures to minimize or ameliorate the potential harm must be identified or the proposed action must be modified to incorporate measures that will bring impacts to below significant harm. Otherwise, the action proponent must prepare an OEIS.

b. NEPA and E.O. 12114 Analysis Involving Protected Species Impacts and INRMPs. Action proponents should consult chapter 12 (Natural Resources Conservation) of this manual for:

(1) Notification requirements when a proposed action triggers the need for a NEPA and E.O. 12114 analysis and compliance under one or more other environmental protection statutes (e.g., the ESA, MMPA, MBTA, MSFCMA (for impacts to EFH)) or other natural resources compliance authority; and

(2) Specific NEPA compliance requirements for implementing INRMPs. This chapter provides general NEPA guidance for preparing EAs and EISs.

c. Completion of Required Consultation, Coordination, and Authorization Processes

(1) Consultation, Coordination, and Authorization. Consultation, coordination, and authorization processes under applicable environmental protection statutes (including, but not limited to the ESA, MMPA, CZMA, MSFCMA, NMSA, and NHPA) must be completed before a FONSI or FONSH may be signed or a final EIS (FEIS) or final OEIS may be published (reference (j)). The guidance in subparagraphs 10-3.4c(1)(a) through 10-3.4c(1)(f) of this manual clarifies what constitutes completion of consultation, coordination, and authorization processes:

(a) This requirement does not mean that every permit associated with the execution of the proposed action is issued by the time a FONSI or FONSH is signed or an FEIS is published. For example, while the CAA and CWA are identified on the list of statutes in reference (j) that may have consultation, coordination, or authorization processes, this manual recognizes that many of the specific permits issued under these two statutes are based on final designs that likely will not be completed until after the signing of a FONSI, FONSH, or ROD, or publication of the FEIS. Similarly, when an MMPA letter of authorization (LOA) is sought, NMFS requires the Navy to release its FEIS and complete the 30-day wait period before it can adopt the FEIS, sign its ROD, and conclude the ESA section 7 consultation process, and thereafter issue an MMPA final rule.

(b) In the context of the MMPA and ESA, when a proposed action requires an MMPA authorization (incidental harassment authorization (IHA) or LOA) and ESA section 7 consultation, a FONSI or FONSH may be signed or an FEIS or final OEIS may be published no earlier than the date on which the draft MMPA authorization or, if formal consultation is required, the draft biological opinion (BO), have been received from the regulator for review (i.e., before their final approval and signature), or after the section 7 consultation is completed by receipt of a letter of concurrence. Publication of a notice of proposed IHA and request for comments by NMFS in the Federal Register is not a draft IHA for the purposes of this manual. All relevant requirements in the draft MMPA authorization and the draft BO or both must be fully incorporated into the environmental planning analysis before a decision document (FONSI, FONSH, or ROD) may be signed or the FEIS or final OEIS released to the public.

(c) In the context of the CAA and CWA, it is expected that initial coordination with the regulatory agency will have occurred and any design or operating requirements or parameters will have been identified and assessed as part of the NEPA or E.O. 12114 process. For example, coordination with the U.S. Army Corps of Engineers regarding impacts to wetlands or other waters of the United States should be completed, but an application for a dredge and fill permit under section 404 of CWA may not be submitted until after a FONSI or ROD has been signed.

(d) Consultation under the NHPA should follow the guidance in paragraph 13-3.9 of this manual.

(e) Regulatory agencies typically do not conduct consultations for all alternatives being analyzed for a proposed action. Consultations or coordination, therefore, need not be completed for every alternative assessed in an environmental planning document. It is

acceptable to complete consultation or coordination required by regulation only with respect to the preferred alternative. A sufficient level of impact analysis, however, should be included in the environmental planning document relative to all alternatives to ensure regulatory agencies and the decision maker have information on the potential impacts and mitigation associated with each alternative and that agency input can be presented in the environmental planning document to allow a meaningful comparison of alternatives.

(f) As the timeline for completing consultation, coordination, and authorization processes can be lengthy, it is critical that an action proponent develops a schedule that initiates consultations and regulatory coordination early in the environmental planning process and monitors progress to ensure these processes can be completed in a timely manner, per references (q), (r), (s), and (t).

(g) Beginning in FY 2020, all EAs must be complete in 1 year or less measured from the EA kickoff meeting to the issuance of a FONSI. All EISs, except for at-sea documents, must be complete in 2 years or less measured from the notice of intent (NOI) to the ROD. OPNAV N45 may grant waivers for EAs, whereas waivers for EISs must be submitted through the chain of command to the Deputy Assistant Secretary of the Navy (Environment), per references (s) and (t). To meet these timelines, consideration should be made to preplanning, early stakeholder engagement, adherence to Navy NEPA templates and standards, chain-of-command reviews, developing clear proposed actions and range of alternatives, and tailored analysis aligning to the specific proposed action.

(2) Justifications for Not Completing Required Consultation, Coordination, or Authorization Processes Prior to Publication of an FEIS or a Final OEIS

(a) In situations where the required consultation, coordination, or authorization processes cannot be completed in time to support the timely publication of an FEIS or final OEIS, the action proponent must provide a detailed written justification for moving forward to OPNAV N45 and ASN(EI&E). This justification, separate from any briefing materials and provided as part of the memorandum of legal sufficiency, should include:

1. A summary of the current status of outstanding consultation, coordination, or authorization processes;

2. Legal risk or impact to proposed action implementation timeline and budget if publication is delayed until consultation processes are complete;

3. Reasons for the delay in completion of regulatory coordination;

4. Discussion of how the pending results of the consultations may impact the determination of a preferred alternative;

5. Anticipated schedule for completing consultations; and

6. Anticipated outcomes of consultations, including mitigation requirements.

(b) Justification should be provided even when Federal and State agencies require the completion of an EIS prior to finalizing consultation or authorization processes. The written justification provides OPNAV N45 and ASN(EI&E) with an awareness of the issues, risks, and implications of a decision to move forward with publication of the FEIS. FEIS publication will occur only if the consultation, coordination, or authorization processes are completed as documented in subparagraph 10-3.4c(2)(a)1 through 10-3.4c(2)(a)6 of this manual, or if the justification provided prior to publication of an FEIS is deemed acceptable by OPNAV N45 and ASN(EI&E).

(c) For all EISs, the action proponent must provide OPNAV N45 with periodic status reports (or briefs) regarding consultations and other authorizations. These reports must begin with the preliminary draft EIS (DEIS) version (V.2) forwarded to OPNAV N45 for review (refer to subparagraph 10-3.4d of this manual for discussion of document versions) and continue with the submission of a status report for each subsequent version of a DEIS or FEIS, unless otherwise directed by OPNAV N45. As appropriate, OPNAV N45 will keep ASN(EI&E) informed of any problems, interagency disagreements, and other significant issues, along with courses of action for resolution of identified issues.

(3) Justification for Not Completing Required Consultation, Coordination, or Authorization Processes for an EA or OEA. Where there is an operational need to finalize an EA or OEA and sign a FONSI or FONSH, but the required consultation, coordination, or authorization processes are not complete, an action proponent will submit a written request to OPNAV N45 to proceed. Such written request must include the items laid out in subparagraphs 10-3.4c(2)(a)1 through 3.4c(2)(a)6 of this manual. Written requests for proceeding without completion of the required consultation, coordination, or authorization processes will be considered on a case-by-case basis. OPNAV N45 will coordinate with ASN(EI&E) on each request, and the action proponent may be required to brief senior leadership before action may be taken on a FONSI or FONSH. These requirements also apply to the release of an FEIS.

d. Management of Internal Navy Comments on Preliminary Draft Versions of EISs. Table 10-4 of this manual standardizes the nomenclature for review and release versions of a DEIS and FEIS. Variations in this document review management scheme may occur after coordination with OPNAV N45.

Table 10-4. Summary of EIS Version Nomenclature and Management

Version Identification	**Explanation**
Pre-draft DEIS or pre-draft FEIS Version 1 (V.1)—team review	This first reviewable version of the EIS prepared by the action proponent is typically reviewed internally by the action proponent team, which should comprise the action proponent, its service provider, and Navy echelon 2 or other stakeholders.
Pre-draft DEIS or pre-draft FEIS Version 2 (V.2)—staff review	This second reviewable version of the EIS prepared by the action proponent should be a complete analysis ready for headquarters review. All issues raised during the review of V.1 should be fully addressed. OPNAV N45, ASN(EI&E) staff, other concerned or involved OPNAV N-codes, and cooperating agencies (if involved) concurrently review the V.2 document for the time period

Version Identification	Explanation
	identified in exhibit C posted in the Reference Materials Library module of the OPNAV N45 Environmental Planning and Compliance Library Web site. Alternatively, OPNAV N45 and the action proponent may mutually agree to another review time period that accommodates the workload. Comments are returned to the action proponent in a mutually acceptable method. A joint tiger team meeting or conference call may be held to discuss the comments.
Pre-release DEIS or pre-release FEIS Version 3 (V.3)—critical error review	The action proponent incorporates Navy and cooperating agency comments, as applicable, and prepares V.3 of the pre-release DEIS or FEIS. V.3 is a redline-and-strikeout version of the document that is transmitted digitally to OPNAV N45, ASN(EI&E), and any cooperating agencies. V.3 must be accompanied by a comment matrix explaining how each comment was responded to within the document. V.3 is reviewed only for completeness and critical errors. V.3 redline must be revised and resubmitted if headquarters review identifies critical errors.
DEIS or FEIS public release Version 4 (V.4)	V.4 is the version of the EIS ready for filing with EPA. V.4 is transmitted to OPNAV N45 and is submitted, unless otherwise agreed between the action proponent and OPNAV N45, with: • Proper organizational endorsements or chain of command endorsements; • A statement of technical review (OPNAV 5090/3); and • A memorandum of legal sufficiency. V.4 is transmitted to OPNAV N45 digitally. There is limited OPNAV N45 review of V.4.
Note: Distribution of each version is discussed in exhibit C available in the Reference Materials Library module of the OPNAV N45 Environmental Planning and Compliance Library Web site.	

e. Continuing Activities (Continuing Actions)

(1) The Council on Environmental Quality (CEQ) defines major Federal actions subject to evaluation under reference (c) to include "continuing activities," in addition to new projects or programs (reference (c), section 1508.18, paragraph (a)). A continuing activity (action), which may necessitate the preparation of an environmental planning document, is one that either:

(a) Began before January 1970 and that has continued substantially in the same manner and environment; or

(b) Began after January 1970, for which the requisite environmental planning has been completed, and that has continued in substantially the same manner and environment.

(2) An environmental planning document (new or supplemental) is required for a continuing Navy action where:

(a) The currently occurring environmental effects have not been previously evaluated in an environmental planning document and there is a discovery that substantial environmental impacts are occurring, or are likely to occur, because of ongoing activities. Examples of applicable situations include the discovery that significant beach erosion is occurring due to continuing amphibious exercises; new wetland habitat has been designated; or the discovery that an endangered species is inhabiting the area of the continuing activity;

(b) There is a discovery that either a major change in the nature of a continuing activity or the circumstances surrounding that activity have resulted in environmental impacts that are significantly or quantitatively different or more severe than previously predicted in an existing environmental planning document prepared in connection with the commencement of that activity;

(c) There has been a substantial change in a continuing activity (such as a substantial change in operational tempo, area of use, or in technique or equipment) that has the potential for significant environmental impacts; or

(d) The existing environmental planning document is outdated or inadequate (e.g., a new methodology for assessing effects is developed, or those data, which were the basis for the analysis in the original document, become suspect) (refer to subparagraph 10-3.4f of this manual for additional information when relying on previously approved environmental planning documentation).

(3) If the action proponent decides not to prepare updated environmental planning documentation for a continuing action because the situations described in subparagraphs 10-3.4e2(a) through 10-3.4e2(d) of this manual are not triggered, the rationale for this decision should be documented in an MFR and contain the information laid out in subparagraphs 10-3.4f(2)(a) through 10-3.4f(2)(d) of this manual.

f. Reliance on Previously Approved Navy Environmental Planning Documentation

(1) Validating the Previously Approved Documentation. When an action proponent considers relying on previously approved Navy environmental planning documentation, the action proponent must validate the analysis. As a general rule, when previously approved Navy environmental planning documentation was prepared or approved 5 or more years prior to the scheduled implementation of a proposed action, the action proponent should evaluate the continued validity of the analysis for future decision-making or for incorporation by reference into new environmental planning documents. Specifically, the action proponent should carefully examine the description of existing conditions and the analytical methodologies used to assess environmental impacts. The results of this examination must be justified in writing for the administrative record (AR).

(2) Preparing an MFR when Relying on Previously Approved and Valid Navy Environmental Planning Documentation. When an action proponent decides to rely on previously prepared and valid Navy environmental documentation for coverage of a new

proposed action, an MFR must be prepared. The MFR need not be lengthy but at a minimum should:

(a) Identify the environmental planning documents relied upon and confirm they were reviewed to ensure they apply to the proposed action;

(b) Acknowledge coordination with the "owner" of the environmental planning document;

(c) Delineate the mitigation required by permits and regulatory consultations and authorizations applicable to the proposed action (the action proponent is required to comply with mitigation and monitoring reporting and tracking as required in subparagraph 10-3.7e of this manual); and

(d) Identify any other program-related considerations that are part of the proposed action.

g. Comprehensive and Programmatic Environmental Planning Documents and Tiering

(1) Comprehensive Documents. A comprehensive environmental planning document addresses a specific activity or facility that may be broad in nature and can occur at single or multiple locations (e.g., training or testing activities). With comprehensive environmental planning documents, there is no intent to phase the action or to prepare a future planning document that tiers from the original environmental planning document.

(2) Programmatic Documents

(a) A programmatic or broad-scale environmental planning document is prepared to address conceptual or planning alternatives that may include several phases or involve common elements (e.g., groups of geographically or generically related projects or actions). The intent of a programmatic document is to provide "high-level" (i.e., broad-brush) analysis that requires at least one more level of site-specific environmental planning analysis before an action proponent can begin on-the-ground implementation (refer to table 10-5 and subparagraph 10-3.4g(3) of this manual). The action proponent should avoid segmenting an action. Segmentation is when an action is broken down into small parts to avoid the appearance of significance of the total action.

Table 10-5. Comparison of Programmatic and Comprehensive Environmental Planning Documents

Parameter	**Programmatic Documents**	**Site-Specific and Comprehensive Study Area Documents**
Tier	**First Tier**	**First or Second Tier**
Proposed action	Policy, Strategy, or Program	Specific Activity or Facility at single or multiple locations
Alternatives	Typically a set of policies or scenarios, the specifics of which are	Well-defined proposal with a known location(s); range of alternatives

Parameter	Programmatic Documents	Site-Specific and Comprehensive Study Area Documents
	not yet known; range of alternatives may have differing objectives.	includes different ways to meet a common objective.
Affected environment	Broad geographic area or regional in scope; may cross political boundaries and cover numerous ecosystems.	Emphasis on individual project site and immediate surroundings or geographic study area. May involve multiple locations with similar ecosystems.
Impact focus	Emphasis on cumulative effects of multiple activities.	Emphasis on direct and indirect effects of a single activity or group of related activities.
Mitigation	Emphasis on developing broad environmental policies, programs, or plans that would apply to many future projects, the details and location of which are not yet known.	Emphasis on minimizing impacts of a proposed action.

(b) When deciding whether to prepare a programmatic environmental planning document, the action proponent should consider such factors as the ripeness of the program, policy, or action for discussion; and cost-effectiveness, long-term applicability, and complexity of the proposed policy, program, or action. In addition to the content required by this manual for other environmental planning documents, the programmatic document must provide, in as much detail available at the time of preparation:

1. A description of the subsequent stages or sites that may ultimately be proposed, including where and when deferred issues will be addressed;

2. The environmental impacts that will result from establishment of the overall program itself that are similar for subsequent stages or sites as further implementation plans are proposed; and

3. The appropriate mitigation measures to be proposed for subsequent stages or sites.

(3) Tiering. Tiering is appropriate when the action proponent prepares a site-specific environmental planning analysis for a subsequent stage or phase of an action previously assessed in a completed programmatic environmental planning document. This helps the action proponent focus on those issues ripe for decision-making and exclude issues already decided or not yet ripe for consideration. Each subsequently tiered analysis should:

(a) Summarize the program-wide issues discussed in the programmatic analysis, incorporating by reference the analysis contained in the overarching programmatic document;

(b) Concentrate on the issues specific to the subsequent action; and

(c) State where the earlier document is available.

h. Revised Draft and Supplemental Environmental Planning Documents

(1) A revised draft or supplemental EA or EIS is prepared to amend an original environmental planning document when the action proponent determines that:

(a) Substantial changes have been made to the proposed action that are beyond the scope of the original environmental planning document (e.g., new or additional alternatives are being considered);

(b) Significant new circumstances occur or information becomes available that could affect the proposed action and its potential environmental impacts (e.g., baseline conditions have changed or new analytical methodologies are available to assess potential environmental impacts); or

(c) The Navy determines that doing so will further its interests or the purposes of NEPA or E.O. 12114.

(2) The original environmental planning document should be incorporated by reference into the supplemental document. Sufficient detail should be provided, however, to allow the public to understand the substance of the new information and how the proposed action and its potential environmental impacts may have changed since the public release of the original environmental planning document.

(3) All supplemental environmental planning documents submitted for review and approval by OPNAV N45 must be complete documents. Submission of changed pages with the original document being supplemented as an attachment is not acceptable.

(4) Action proponents will prepare and circulate revised drafts or supplements as required by this manual for environmental planning documents including the publication of an NOI in case of an EIS.

(5) Although scoping is not required for a supplement (or a revised draft environmental planning document), the action proponent should consider the following factors in making a determination if scoping is appropriate: the reason for the revised draft or supplement, the magnitude of the environmental effects and the need for mitigation, and whether there is a potential for public controversy.

i. AR. The development of an AR begins when the environmental planning process is initiated by the action proponent's command. The AR consists of all papers, documents, memoranda, studies, other bibliographic references, and electronic files used by the Navy to reach a decision on whether or not to go forward with a particular proposed action. All documents and materials relevant to the Navy's decision-making process must be included in the AR. The AR can include all documents and materials prepared, provided, reviewed, or received

by Navy personnel, and used by or available to the decision maker, even though the decision maker may not actually have reviewed or known about those documents and materials.

(1) General Guidelines on Documents to be Included in the AR. The term "document" has a very broad definition. It includes not only paper documents but also email messages, digital files, microfilm and microfiche, maps, graphics, raw data, video, audio recordings, and any other format used to communicate, store, present, or maintain information. The term "document" even includes electronic messages and data that have been stored but not printed. Source documents identified in an environmental planning document, including paper or digital copies of cited Internet Web sites, must be included in the AR.

(2) Responsibilities for Maintaining the AR. The action proponent must designate the person responsible for maintaining the AR and develop a plan for what will be included in the AR at the outset of the environmental planning process. All environmental planning team members should be provided a copy of the plan. The AR should be kept up-to-date throughout the development of the environmental planning document. The AR needs to be maintained by the government for 7 years post-ROD or -FONSI or -FONSH. Also, a litigation hold may be a possibility, and it is in the best interest of the action proponent to hold documents in case of such an event.

j. Incorporation by Reference. To the extent practicable, action proponents preparing environmental planning analyses must incorporate material by reference to cut down on bulk without impeding agency and public review of the action. Action proponents must cite the incorporated material in the statement and briefly describe its content. Action proponents must not incorporate any material by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. In addition, action proponents must not incorporate by reference any material based on proprietary data.

k. Incomplete or Unavailable Information. When the action proponent is evaluating significant adverse effects on the human environment in an environmental planning document and there is incomplete or unavailable information, the action proponent must always make clear that such information is lacking. CEQ provides more detailed guidance in reference (c), section 1502.22.

(1) 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 in terms of funding or time, the action proponent must include the information in the environmental planning document; and

(2) 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 (i.e., the means for obtaining it are beyond the state-of-the-art), the action proponent must provide a statement explaining the circumstances within the environmental planning document.

l. Classified Actions

(1) Some aspects of a proposed action may involve information not releasable to the public because it is classified within the definition found in reference (l) or sensitive for some other legal reason (e.g., regulatory agency restrictions on the release of certain information to the public, such as the exact location of specific resources protected under the ESA or the NHPA). This does not relieve the action proponent of the duty to comply with the requirements of this chapter. Personnel and commands preparing material that may be classified are responsible for the proper handling, control, and safeguarding of all information and analyses that may be classified per appropriate Department of Defense (DoD) and Navy requirements.

(2) The action proponent must prepare, safeguard, and disseminate environmental planning documents per the requirements applicable to classified or sensitive unclassified information. When the components of the environmental planning document have been thoroughly scrubbed so that each component contains only unclassified information, the action proponent must continue to be sensitive to the potential for the final assemblage of that information to be considered classified. The requirement to safeguard classified information takes precedence over any requirement to disclose records to the public.

(3) When feasible, the action proponent should organize the environmental planning document in such a manner to include the classified or sensitive unclassified portions as appendices. In this way, the action proponent can make unclassified portions available to the public. If classified information will be included in an environmental planning document, in an appendix or otherwise, the action proponent must coordinate special handling procedures with OPNAV N45.

10-3.5. Lead Agency, Cooperating Agency, and Other External and Internal Coordination Requirements

a. Lead Agency. Navy stakeholders in the proposed action are responsible for determining the lead agency for supervising the preparation of an environmental planning document using the definition of action proponent in this manual and guidance found in reference (c), section 1501.5.

b. Cooperating Agencies

(1) Identifying Cooperating Agencies. Cooperating agencies should be identified early in the environmental planning process for all levels of environmental planning documentation. Consideration must be given to Federal agencies that have jurisdiction by law and special expertise with respect to all reasonable alternatives or significant environmental, social, or economic impacts associated with the proposed action that requires environmental planning analyses. Should a need be identified to partner with a State, local, or tribal government through a cooperative agreement, the action proponent will coordinate with OPNAV N45 on the best way to accommodate the legal requirements of the Navy and other parties. This may necessitate additional coordination because of the unique legal requirements of State, local, and tribal governments. The Federal Aviation Administration (FAA) is always invited to be a cooperating

agency when a proposed action involves the establishment, designation, or modification of special use airspace, or use of commercial airports.

(2) Invitations to Cooperating Agencies

(a) OPNAV N45 will be responsible for inviting and coordinating with cooperating agencies at the national level (headquarters). Such invitations and coordination must be conducted, as required, with the Navy Secretariat. The action proponent will be responsible for inviting and coordinating with cooperating agencies at the regional or district level, including State, local, and tribal governments. Establishing a cooperating agency relationship neither creates a requirement nor constitutes a presumption that a lead agency provides financial assistance to a cooperating agency. When extending an invitation to another agency to enter into a cooperating agency relationship, the action proponent should consider:

1. Whether such agencies are interested in and appear capable of assuming the responsibilities of becoming a cooperating agency;

2. Setting time limits, identifying milestones, assigning responsibilities for analysis and documentation, specifying the scope and detail of the cooperating agency's contribution, and establishing other appropriate ground rules addressing issues such as availability of pre-decisional information; and

3. Documenting their expectations, roles, and responsibilities in a memorandum of agreement (MOA) or correspondence.

(b) Whenever invited Federal, State, or local governments and agencies elect not to become cooperating agencies, they should still be considered for inclusion in interdisciplinary teams engaged in the environmental planning process and on distribution lists for review and comment on environmental planning documents.

(3) Declining a Cooperating Agency Invitation. Other agencies may periodically request that Navy be a cooperating agency for preparation of their environmental planning documents. Navy commands or activities that do not accept cooperating agency status in whole or in part for a proposed action must respond to the request in writing.

(4) Adoption of an EA or EIS

(a) Sufficiency of Navy Environmental Planning Documents to Meet Other Agencies' NEPA Adoption Requirements. For actions where Navy environmental planning may be adopted for the purpose of another Federal agency's compliance with NEPA (e.g., for agency permit issuance), Navy commands must identify this need, to the extent those requirements are known, as part of the notification process and prior to any interagency coordination. Note: Specific additional analyses may be required for the Navy environmental document to suffice in meeting another agency's NEPA requirements.

(b) Adoption of Another Agency's EA or EIS

1. The Navy may adopt an EA or EIS prepared by another Federal agency where a cooperating agency relationship has been established, and where the Navy's proposed action is substantially the same as that described in the EA or EIS. In such cases, the Navy action proponent will independently review the EA or EIS and determine that it is current and satisfies the requirements of this chapter. The Navy will then prepare its own FONSI or ROD, as appropriate, and conduct the required public notification.

2. In situations where the proposed action is not substantially the same as that described in the EIS or a cooperating agency relationship has not been established, a Navy action proponent may adopt the EIS, or a portion thereof, after recirculating the EIS, as appropriate, as a draft and then preparing the FEIS and ROD.

3. Where a cooperating agency relationship has not been established for an EA, and the Navy's proposed action is substantially the same as that described in the other agency's EA, the Navy action proponent will independently review the EA to determine it is current and satisfies the requirements of this chapter. If so, the action proponent will process the adopted EA and a FONSI as identified in this chapter.

4. A Navy action proponent may not adopt an environmental planning document prepared by a State agency unless the Navy has participated in the preparation of the document (analysis and documentation) to ensure it satisfies the requirements of NEPA.

(5) Cooperating Agency Status for Annual Program Review Summary. An echelon 2 command with delegated FONSI signature authority will input cooperating agency status as part of its annual program review summary submittal to the OPNAV N45 Environmental Planning and Compliance Library Web site.

c. Joint Basing Relationships. Refer to chapter 1 (Organization and Coordination), subparagraph 1-3.2e of this manual for roles and responsibilities in meeting environmental planning requirements for joint basing and host and tenant relationships, etc.

d. Coordination with Director, Naval Nuclear Propulsion Program (CNO N00N). Under reference (m), statutorily prescribed by Public Law 98-525, section 2511 of Title 50, U.S. Code, CNO N00N is responsible for prescribing and enforcing environmental standards and regulations for the control of radiation and radioactivity associated with naval nuclear propulsion activities, including the safety and health of workers, operators, and the general public. Accordingly, the director or designee, in coordination with OPNAV N45 or the designee, is responsible for applying CATEXs and approving records of CATEX and for developing, approving, and issuing EAs and FONSIs for actions within the purview of CNO N00N, including obtaining the concurrence of other affected Navy commands as appropriate. CNO N00N must coordinate with OPNAV N45 in any decision to prepare an EIS. As appropriate, ASN(EI&E) or ASN(RD&A) is the signature authority on any ROD.

e. Coordination with the Department of State (DOS) Under E.O. 12114. The Secretary of State conducts U.S. foreign policy. When a proposed major Navy action may significantly harm the environment of a foreign territorial sea or the territory of a foreign nation, coordination with DOS may be required. OPNAV N45, per reference (f), will assist the Navy Secretariat in executing any necessary coordination with DOS.

f. Coordination with AEC or REC. If a proposed action assessed in an environmental planning document will occur in the area of responsibility (AOR) of an AEC or REC, the action proponent must obtain written acknowledgement (an email is sufficient or signature on a statement of technical sufficiency) from the AEC and the REC concerning the consistency of each proposed action with other actions occurring within their AOR, including the alternatives considered and mitigation. For example, for shore installation management actions involving in-water activities within the continental United States (CONUS), including pile driving, the action proponent must coordinate with and obtain the signature of COMUSFLTFORCOM, the AEC, and the REC.

10-3.6. Mitigation Identification and Implementation

a. To the extent feasible, action proponents will incorporate impact avoidance measures into project planning to minimize or eliminate the need for mitigation measures (e.g., plan a road around wetlands rather than through wetlands) (see notification requirements in tables 10-8 and 10-12 of this manual).

b. As required by reference (n), the action proponent will include a mitigation matrix or table in all environmental planning documents. Alternatively, the action proponent may document mitigation measures in a separate mitigation chapter. This matrix or mitigation chapter must provide:

(1) Specific detailed description of the mitigation measure(s), including any compensatory mitigation;

(2) Description of the anticipated benefit of the mitigation. Environmental planning documents must identify those measures that result from regulatory compliance requirements such as ESA consultation or MMPA permitting. The anticipated benefit of any identified regulatory mitigation measure must be discussed in environmental planning documents;

(3) Factors used in evaluating the efficacy of mitigation applied to avoid significance or reduce the severity or intensity of the adverse impacts of an action;

(4) Description of how the mitigation measures would be implemented and monitored; and

(5) Assignment of command responsibility for implementing mitigation measures and determining their effectiveness (i.e., through monitoring).

c. An action proponent is legally responsible for implementing all mitigation measures to which it has committed as part of its decision-making (e.g., in a FONSI, FONSH, or ROD) whether undertaken for environmental planning purposes or to satisfy a regulatory requirement. Refer to subparagraph 10-3.7e of this manual for information on reporting and tracking of mitigation measures and monitoring requirements.

10-3.7. OPNAV N45 Environmental Planning and Compliance Library and Reporting Requirements

a. OPNAV N45 Environmental Planning and Compliance Library: General

(1) The OPNAV N45 Environmental Planning and Compliance Library Web site (refer to appendix E (Web Sites) of this manual for Web site address) is an online, searchable electronic repository of completed and ongoing Navy environmental planning documents covering actions undertaken worldwide. The library also serves as a tool for tracking the completion of environmental planning documents, as well as the submission of required annual environmental planning reports and program review submittal to the Navy Secretariat and other authority.

(2) In addition, the library is maintained as a centralized policy resource for Navy environmental planners and includes related statutes, regulations, DoD and Navy policy, and other guidance documents. Specific policy adopted by OPNAV N45 may be accessed within the library for processing environmental planning documents (i.e., processing timelines for EAs and EISs), preparing environmental planning documents (i.e., environmental planning standards preparation guide and associated document templates), reviewing Navy environmental planning documents (e.g., the environmental planning checklist), and other aids to Navy environmental planners.

b. Access to the OPNAV N45 Environmental Planning and Compliance Library Web Site. The OPNAV N45 Environmental Planning and Compliance Library Web site is accessible to individuals who have a DoD Common Access Card (CAC). An individual with a navy.mil email address may establish an account by registering his or her CAC with the Web site. OPNAV N45 will approve such registrations as soon as possible. Contractors with a DoD CAC who have a demonstrated need to obtain access to the Web site but do not have a navy.mil email address must request temporary access through a Navy sponsor before attempting to register their CAC with the Web site. The Navy sponsor may submit such requests to OPNAV N45 by selecting the "Contact Us" link found on the bottom margin of the Web site home page. The request should identify the non-Navy individual (including email address) who requires access to the library, the reasons for needing access, and the period during which access may be approved. OPNAV N45 will approve valid requests for access. Existing registered Web site users may request additional access permissions (e.g., upload permission) by request via the "Contact Us" link.

c. Requirement to Upload Environmental Planning Documents to the OPNAV N45 Environmental Planning and Compliance Library Web Site

(1) Action proponents must timely upload to the OPNAV N45 Environmental Planning and Compliance Library Web site:

(a) Notifications to prepare an EA, OEA, ER, ES, or an NOI package for an EIS, OEIS, or hybrid document, with proper endorsements, as soon as the notification is approved by the chain of command;

(b) Environmental planning and associated compliance documents not later than 30 working days after a decision document (e.g., FONSI, FONSH, ROD) is signed or a notice of availability (NOA) is published for an EIS in the Federal Register. The types of documents that must be uploaded include:

1. Approved EAs, OEAs, ERs, ESs, EISs, OEISs, or hybrid document (draft and final);

2. Signed decision documents (e.g., FONSI, FONSH, ROD);

3. Related completed environmental compliance documents such as:

a. ESA biological assessments or evaluations (with transmittal letters) and BOs;

b. MMPA permit applications (with transmittal letters), rules, and LOAs and incidental take authorizations;

c. EFH assessments and consultation letters;

d. CZMA consistency and negative determinations; and

e. NMSA Sanctuary Resource Statements;

4. Records of CATEX that rely on CATEX #44 or #45; and

5. Records of CATEX for Navy actions where a Programmatic Agreement (PA) or MOA has been signed with a State Historic Preservation Officer to mitigate an adverse effect on resource historic property (the PA and MOA must be uploaded with the signed record of CATEX).

(2) Uploaded documents must be in the latest Navy-Marine Corps-Intranet-approved version of Adobe Acrobat. In preparing the document for upload, action proponents must ensure the document is saved such that text may be copied and images captured for the purpose of inserting into a word-processing document and that the file has been optimized to shrink its size and boost display speed. Do not upload password-protected files.

(3) Do not upload preliminary draft documents, or memoranda of legal sufficiency or statements of technical review (OPNAV 5090/3) (refer to paragraph 10-5.32 of this manual). Only published DEISs and FEISs are to be uploaded to the OPNAV N45 Environmental Planning and Compliance Library Web site.

(4) Commands wishing to obtain electronic copies of OPNAV N45 Environmental Planning and Compliance Library Web site documents in a word-processing format such as Microsoft Word should contact the action proponent that prepared the document.

d. Contacting OPNAV N45 via Email. Do not email environmental planning documents to the OPNAV N45 action officers. The use of an email address is not appropriate for the transmission of large environmental planning documents. Draft documents for review by OPNAV N45 must be transmitted electronically using an Internet file transfer protocol Web site, such as the Environmental Information Management System (see appendix E (Web Sites) of this manual for Web site address). Routine project-specific correspondence should always be sent to the email address of the assigned OPNAV N45 action officer. Copies of final documents should be uploaded to the OPNAV N45 Environmental Planning and Compliance Library Web site.

e. Mitigation and Monitoring Reporting and Tracking. "Mitigation" reduces or avoids potentially significant adverse effects of an action on the environment. "Monitoring" provides information on the effects of the action on the environment and the effectiveness of the mitigation measures themselves. Best management practices (BMP) or standard operating procedures (SOP) are not considered mitigation measures for the purposes of reporting and tracking. Results from mitigation and monitoring reporting must be used to: support negotiations with the regulatory agencies to ensure only effective mitigation measures are employed, assist in adaptive management efforts, and track completion of mitigation measures that the action proponent has committed to implement in an environmental planning decision document.

(1) Inputting Mitigation and Monitoring Requirements to the OPNAV N45 Environmental Planning and Compliance Library Web Site

(a) Action proponents must input mitigation and monitoring requirements committed to in approved environmental planning decision documents into the OPNAV N45 Environmental Planning and Compliance Library Web site (the mitigation and monitoring tracking tool is found in the library's Required Reporting module) as soon as possible after completion of the proposed action (but in any case, no later than 30 working days after the signing of the applicable decision document).

(b) Mitigation and monitoring data that will be inputted to the Web site are discussed in detail in reference (n). All mitigation committed to within the applicable environmental planning decision document that reduces potential adverse environmental impacts below the level of significance must be reported until the project has been completed. As mentioned previously, BMPs or SOPs need not be tracked.

(2) Actions Spanning a Period of Years. For implementation of those actions that span a period of years, the action proponent must, at a minimum, annually review and revise the mitigation and monitoring data submitted to the Required Reporting module of the OPNAV N45 Environmental Planning and Compliance Library Web site. This review and revision requirement may be discontinued upon completion of all mitigation measures committed to in a FONSI or ROD.

(3) When Mitigation and Monitoring Reports are Prepared and Submitted to Regulators. Some actions proposed in an environmental planning decision document or associated permits require the preparation and submission of annual monitoring and exercise or test event reports to regulators in compliance with consultations and permits (e.g., operational range EISs). To avoid duplication, such annual monitoring and exercise or test event reports may be substituted for the mitigation and monitoring reporting required in this subparagraph provided the action proponent inputs the financial costs of implementing each mitigation or monitoring requirement to the OPNAV N45 Environmental Planning and Compliance Library Web site. All annual monitoring and exercise or test event reports submitted to regulators should also be uploaded to the Web site (refer to subparagraph 10-3.7c of this manual).

f. Annual Certification Requirement and Annual Program Review Summary

(1) Annual Certification Requirement. No later than 45 working days following the end of each FY, flag officers or civilian equivalents exercising NEPA or E.O. 12114 decision authority delegated under this manual and PEOs (flag officers or senior executive service) exercising NEPA or E.O. 12114 authority delegated under reference (a) must certify by letter sent by official mail to OPNAV N45 (and uploaded to the OPNAV N45 Environmental Planning and Compliance Library Web site) that all notifications, final environmental planning documents, and reporting as required for the previous FY under subparagraphs 10-3.7c and 10-3.7e of this manual have been uploaded and reported as required in a timely manner to the OPNAV N45 Environmental Planning and Compliance Library Web site and that all mitigation measures identified in decision documents have been and will be implemented. The annual certification must also identify the members of their qualified legal and environmental staff. Substantial nonconformance with the requirement to submit the annual certification by upload to the OPNAV N45 Environmental Planning and Compliance Library Web site (accompanying the annual program review summary) will result in revocation of delegated NEPA or E.O. 12114 decision authority.

(2) Annual Program Review Summary. No later than 45 working days following the end of each FY, each command with delegated FONSI signature authority must input its annual program review summary to the OPNAV N45 Environmental Planning and Compliance Library Web site (Required Reporting module) to allow tracking of technical and cost data for each environmental planning document as specified on the Web site.

10-3.8. Pre-Planning Process Requirement. Action proponents will conduct pre-planning as early as possible with their environmental planners and SMEs in project development to ensure environmental considerations are fully integrated into project design and the identification of preliminary alternatives (see subparagraphs 10-3.15a(2), 10-3.15c, and 10-3.16b of this manual for the pre-planning requirements for an EA and an EIS, respectively). Early and comprehensive pre-planning will support the action proponent in meeting the requirements identified in references (q), (s), and (t).

10-3.9. Action Proponent Responsibility to Produce Quality Documents. Navy action proponents will ensure environmental planning documents are prepared consistent with the requirements of this chapter and are legally defensible if challenged.

a. Action proponents will conform to document preparation guidance and templates as prescribed by OPNAV N45. These tools are available for download on the OPNAV N45 Environmental Planning and Compliance Library Web site.

b. OPNAV N45 recommends development and implementation of a quality assurance (QA) plan in the form of an SOP that focuses attention on the need for quality documents and delineates the action proponent reviews that will be undertaken to ensure quality.

c. It is also recommended that action proponents develop a diverse internal stakeholder team to support the technical development and review of a quality document.

d. Echelon 2 commands are responsible for ensuring documents submitted to OPNAV N45 and the Navy Secretariat have been properly reviewed for quality (an environmental planning checklist is available on the OPNAV N45 Environmental Planning and Compliance Library Web site). Quality Navy environmental planning documents must be:

(1) Comprehensive and Logical. The analyses must consider all relevant data, and the conclusions must clearly be supported by appropriate data;

(2) Consistent Across the Navy. The discussions of purpose and need, proposed action, and environmental setting; and the analysis of environmental consequences, mitigation measures, and cumulative impacts must be internally consistent, to the extent practicable, with other environmental planning documents prepared by the same command and by other Navy commands. The OPNAV N45 Environmental Planning and Compliance Library Web site should be consulted to see how similar issues have been treated in recently completed environmental planning documents;

(3) Legally Sufficient. The scope of issues and alternatives considered and the adequacy of the technical analysis must be sufficient to meet legal standards established in NEPA, E.O. 12114, the Administrative Procedures Act, and other applicable statutes;

(4) Technically Sufficient. Each environmental planning document must be based on the best available scientific information and data. The evaluation of all potentially affected areas of the environment and the analyses must be prepared by SMEs knowledgeable about the resource at issue. Furthermore, the analyses must be objective and unbiased, take a “hard look” at the issues, and anticipate and respond to potentially opposing views; and

(5) Understandable. An environmental planning document should be written so a member of the general public, who has no advanced education or knowledge of the Navy, can easily understand the purpose and need for the project, how each alternative would meet the project’s goals, and the strengths and weaknesses associated with each alternative. Each document must be kept as brief as possible, using clear, concise writing, an easy-to-use format, effective graphics and visual elements, and discussion of issues and impacts in proportion to their significance as is directed in the document preparation guides and templates as prescribed by OPNAV N45 and available for download on the OPNAV N45 Environmental Planning and Compliance Library Web site.

10-3.10. Training Requirements

a. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental readiness training courses. In addition to NERTP-sponsored courses, other specialty schools may also resource, develop, and deliver environmental courses to meet specific requirements. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the Civil Engineer Corps Officer School (CECOS) and Naval Safety and Environmental Training Center (NAVSAFENVTRACEN) Web sites (refer to appendix E (Web Sites) of this manual for Web site addresses). Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental readiness training requirements as well as training requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered.

b. Within 3 years of assignment, Navy environmental planners must receive, at a minimum, the following training (or its equivalent):

(1) Basic Environmental Law (A-4A-0058);

(2) NEPA Application (A-4A-0077); and

(3) Advanced Environmental Law (A-4A-0068).

c. Throughout an environmental planner's career the following courses (or their equivalent) should be taken as needed to build proficiency in performing specific job duties:

(1) Health and Environmental Risk Communication (A-4A-0072);

(2) Environmental Negotiation Workshop (A-4A-0067);

(3) Natural Resource Management and Compliance (A-4A-0087); and

(4) Introduction to Cultural Resources Management Laws & Regulations (A-4A-0070).

10-3.11. Weapon-System-Acquisition Programs

a. The program manager (PM) must comply with NEPA and E.O. 12114 when a research, development, test, and evaluation (RDT&E)-related proposed action may affect or harm the environment. It is prudent for the PM to consider environmental compliance at the earliest stages of the acquisition process to avoid potential schedule delays and additional costs, as well as to ensure an efficient introduction of weapon systems to the fleet for its use (reference (a)).

b. References (a) and (o) require PMs to prepare programmatic environment, safety, and occupational health evaluations (PESHE) at various phases in the acquisition process. The PESHE is a tool for PMs to integrate environmental considerations and risk into program decisions. The PESHE requires a NEPA or E.O. 12114 compliance schedule that will summarize program actions that may require environmental planning documentation. While the schedule is a mandatory component of the PESHE, it does not satisfy the environmental planning requirements for each identified action.

c. PESHEs prepared by PMs should be reviewed by the environmental and legal staffs of the affiliated SYSCOM headquarters before being provided to gate and milestone reviewers during the acquisition process.

10-3.12. Responsibilities for Environmental Planning Under the National Environmental Policy Act. NEPA of 1969 is the basic charter for environmental planning within the United States. It requires Federal decision makers to inform themselves of the environmental consequences of proposed actions that may significantly affect the human environment and consider those consequences in determining courses of action. NEPA requires some level of public involvement in the decision-making process, particularly when the proposed action involves preparation of an EIS.

10-3.13. National Environmental Policy Act. NEPA established CEQ, which issues regulations to implement NEPA. CEQ regulations prescribe a three-tiered compliance approach (refer to figure 10-2 of this manual) for determining and assessing predicted effects of proposed actions:

a. CATEXs;

b. EAs; and

c. EISs.

10-3.14. Categorical Exclusions

a. The CEQ regulations (reference (c)) allow Federal agencies to categorically exclude from further analysis those actions that, after consideration, have been found not to have a significant effect on the environment, individually or cumulatively. The list of Department of the Navy (DON) actions that may be categorically excluded from further analysis under NEPA, also known as CATEXs, is provided in table 10-6 of this manual. Action proponents may not split a single proposed action into separate elements for the purpose of applying multiple CATEXs as a substitute for preparing an EA. There may be limited situations, however, where independent actions may be considered together for administrative or fiscal purposes such that separate CATEXs may be applied to each of those independent actions. If considering the use of multiple CATEXs, the action proponent must ensure that the proposed action has not been improperly segmented to meet the definition of a CATEX; that the proposed action is not connected to other actions with potentially significant impacts; is not related to other actions with individually insignificant but cumulatively significant impacts; and, would not irreversibly commit the Navy to one large action. CATEXs are applicable to those kinds of military actions that do not

significantly affect the quality of the human environment or result in any significant change from existing conditions at the site of the proposed action, or whose effect is primarily economic or social.

Example in Which Reliance on More Than One CATEX May Be Appropriate:

Separate CATEXs exist for the construction of a building and for the demolition of a building (CATEXs #34 and #35). Even though the Navy would normally contract and fund, as a single action, the demolition of existing—and construction of a new—building on the same site, these two activities are essentially two different actions. Given the relationship between these two types of actions, however, the application of two separate CATEXs may be appropriate in lieu of preparing an EA, provided environmental impacts remain the same (e.g., same level of traffic generated, same noise levels).

b. It is the responsibility of the action proponent (often at the activity level) to determine if the use of a CATEX is appropriate for the proposed action and to document the decision to apply a CATEX as outlined in subparagraph 10-3.14(d) of this manual. Clarifying guidance on the application of these approved Navy CATEXs (and the extraordinary circumstances) is available in the Reference Materials Library module of the OPNAV N45 Environmental Planning and Compliance Library Web site.

c. Conditions Under Which a CATEX Cannot Be Used

(1) When Effects May Be Individually or Cumulatively Significant, or the Action Meets Any of the Extraordinary Circumstances. Even if a proposed action generally fits the description of a particular CATEX, a CATEX must not be used if the proposed action would have a significant effect on the human environment individually or cumulatively, or the proposed action would meet any of these extraordinary circumstances listed in subparagraphs 10-3.14c(1)(a) through 10-3.14c1(c) of this manual. Additional clarifying guidance on the application of extraordinary circumstances is available in the Reference Materials Library module of the OPNAV N45 Environmental Planning and Compliance Web site.

(a) Would adversely affect public health or safety;

(b) Involves effects on the human environment that are highly uncertain, involve unique or unknown risks, or are scientifically controversial;

(c) Establishes precedents or make decisions in principle for future actions that have the potential for significant impacts;

(d) Threatens a violation of Federal, State, or local environmental laws applicable to DON; or

(e) Involves an action that, as determined in coordination with the appropriate resource agency, may:

1. Have an adverse effect on Federally listed endangered and threatened species or marine mammals;

2. Have an adverse effect on coral reefs or on Federally designated wilderness areas, wildlife refuges, marine sanctuaries, or parklands;

3. Adversely affect the size, function, or biological value of wetlands and is not covered by a nationwide or regional permit;

4. Have an adverse effect on archaeological resources or resources (including, but not limited to ships, aircraft, vessels, and equipment) listed or determined to be eligible for listing in the National Register of Historic Places (NRHP) unless the conditions of subparagraph 10-3.14c(3) are met; or

5. Result in an uncontrolled or unpermitted release of hazardous substances or require a conformity evaluation under the standards of the CAA General Conformity Rule (reference (p), section 7506).

Figure 10-2. NEPA Process Flowchart

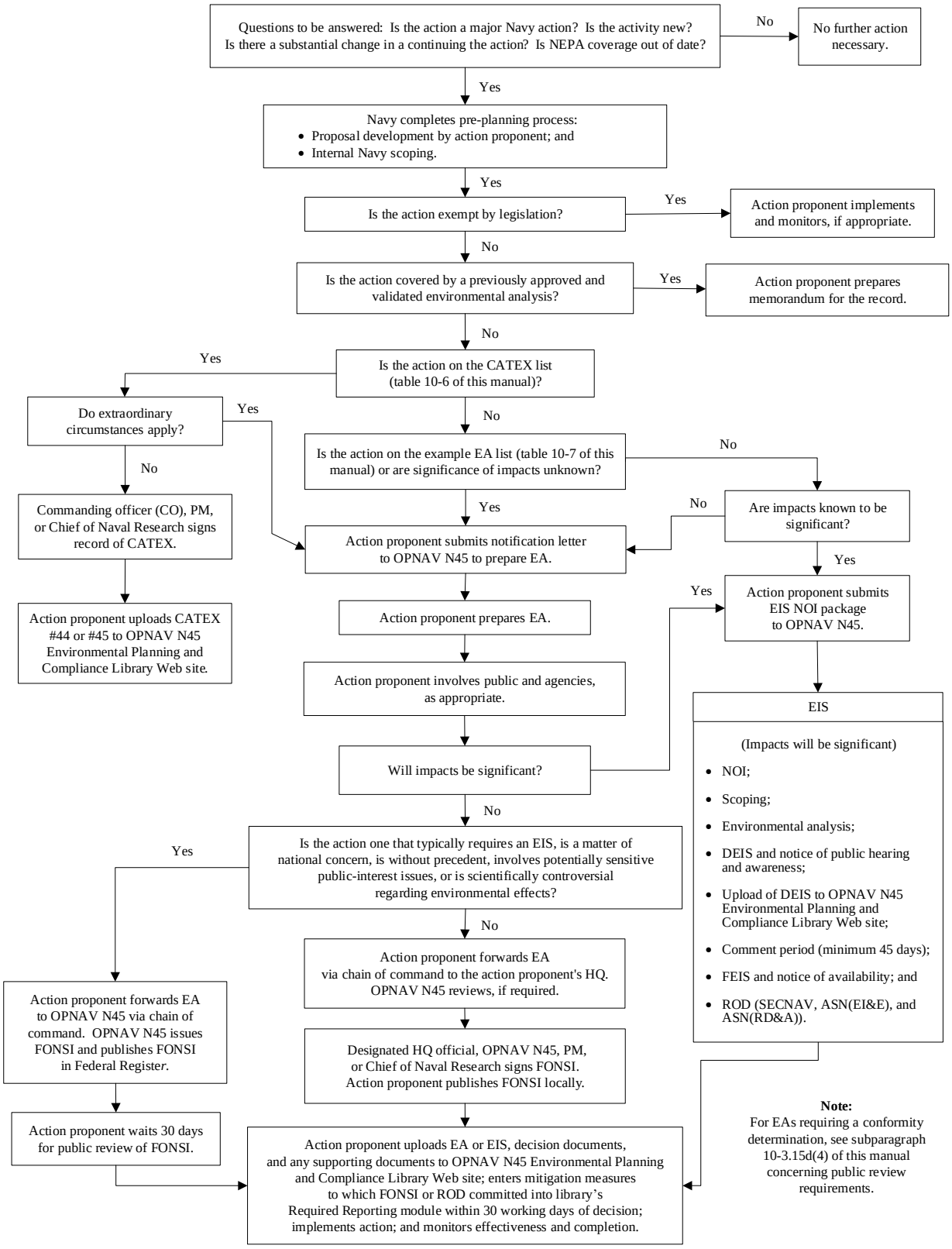


Table 10-6. Department of the Navy List of CATEXs

1. Routine fiscal and administrative activities, including administration of contracts;
2. Routine law and order activities performed by military personnel, military police, or other security personnel, including physical plant protection and security;
3. Routine use and operation of existing facilities, laboratories, and equipment;
4. Administrative studies, surveys, and data collection;
5. Issuance or modification of administrative procedures, regulations, directives, manuals, or policy;
6. Military ceremonies;
7. Routine procurement of goods and services conducted in accordance with applicable procurement regulations, executive orders, and policies;
8. Routine repair and maintenance of buildings, facilities, vessels, aircraft, and equipment associated with existing operations and activities (e.g., localized pest management activities, minor erosion control measures, painting, refitting);
9. Training of an administrative or classroom nature;
10. Routine personnel actions;
11. Routine movement of mobile assets (such as ships and aircraft) for homeport reassignments, for repair/overhaul, or to train/perform as operational groups where no new support facilities are required;
12. Routine procurement, management, storage, handling, installation, and disposal of commercial items, where the items are used and handled in accordance with applicable regulations (e.g., consumables, electronic components, computer equipment, pumps);
13. Routine recreational/welfare activities;
14. Alteration of and additions to existing buildings, facilities, structures, vessels, aircraft, and equipment to conform or provide conforming use specifically required by new or existing applicable legislation or regulations (e.g., hush houses for aircraft engines, scrubbers for air emissions, improvements to stormwater and sanitary and industrial wastewater collection and treatment systems, installation of firefighting equipment);
15. The modification of existing systems or equipment when the environmental effects will remain substantially the same and the use is consistent with applicable regulations;
16. Routine movement, handling and distribution of materials, including hazardous materials (HM) and hazardous wastes (HW) that when moved, handled, or distributed are in accordance with applicable regulations;
17. New activities conducted at established laboratories and plants (including contractor-operated laboratories and plants), where all airborne emissions, waterborne effluent, external ionizing and non-ionizing radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, State, and local laws and regulations;
18. Studies, data, and information gathering that involve no permanent physical change to the environment (e.g., topographic surveys, wetlands mapping, surveys for evaluating environmental damage, engineering efforts to support environmental analyses);
19. Temporary placement and use of simulated target fields (e.g., inert mines, simulated mines, passive hydrophones) in fresh, estuarine, and marine waters for the purpose of non-explosive military training exercises or RDT&E;
20. Installation and operation of passive scientific measurement devices (e.g., antennae, tide gauges, weighted hydrophones, salinity measurement devices, water quality measurement

devices) where use will not result in changes in operations tempo and is consistent with applicable regulations;
21. Short-term increases in air operations up to 50% of the typical operation rate, or increases of 50 operations per day, whichever is greater. Frequent use of this CATEX at an installation requires further analysis to determine there are no cumulative impacts;
22. Decommissioning, disposal, or transfer of Navy vessels, aircraft, vehicles, and equipment when conducted in accordance with applicable regulations, including those regulations applying to removal of HMs;
23. Non-routine repair, renovation, and donation or other transfer of structures, vessels, aircraft, vehicles, landscapes, or other contributing elements of facilities listed or eligible for listing in the NRHP that will result in no adverse effect;
24. Hosting or participating in public events (e.g., air shows, open houses, Earth Day events, athletic events) where no permanent changes to existing infrastructure (e.g., road systems, parking and sanitation systems) are required to accommodate all aspects of the event;
25. Military training conducted on or over nonmilitary land or water areas, where such training is consistent with the type and tempo of existing nonmilitary airspace, land, and water use (e.g., night compass training, forced marches along trails, roads and highways, use of permanently established ranges, use of public waterways, use of civilian airfields);
26. Transfer of real property from DON to another military department or to another Federal agency;
27. Receipt of property from another Federal agency when there is no anticipated or proposed substantial change in land use;
28. Minor land acquisitions or disposals where anticipated or proposed land use is similar to existing land use and zoning, both in type and intensity;
29. Disposal of excess easement interests to the underlying fee owner;
30. Renewals and minor amendments to existing real estate grants for use of government-owned real property where no significant change in land use is anticipated;
31. Land withdrawal continuances or extensions that merely establish time periods and where there is no significant change in land use;
32. Renewals or initial real estate in-grants and out-grants involving existing facilities and land wherein use does not change significantly (e.g., leasing of Federally owned or privately owned housing or office space, agricultural out-leases);
33. 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;
34. New construction that is similar to existing land use and, when completed, the use or operation of which complies with existing regulatory requirements (e.g., a building within a cantonment area with associated discharges or runoff within existing handling capacities);
35. Demolition, disposal, or improvements involving buildings or structures when done in accordance with applicable regulations, including those regulations applying to removal of asbestos, polychlorinated biphenyls (PCB), and other HMs;
36. Acquisition, installation, and operation of utility (e.g., water, sewer, electrical) and communication systems (e.g., data processing cable and similar electronic equipment) that use existing rights of way, easements, distribution systems, and or facilities;

37. Decisions to close facilities, decommission equipment, or temporarily discontinue use of facilities or equipment, where the facility or equipment is not used to prevent/control environmental impacts; 38. Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site; 39. Relocation of personnel into existing Federally owned or commercially leased space that does not involve a substantial change affecting the supporting infrastructure (e.g., no increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase); 40. Pre-lease upland exploration activities for oil, gas or geothermal reserves (e.g., geophysical surveys); 41. Installation of devices to protect human or animal life (e.g., raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, fencing and grating to prevent accidental entry to hazardous areas); 42. Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved; 43. Temporary closure of public access to DON property to protect human or animal life; 44. Routine testing and evaluation of military equipment: (a) on a military reservation or an established range, restricted area, or operating area (OPAREA); (b) similar in type, intensity and setting, including physical location and time of year to other actions for which it has been determined, through NEPA analysis where DON was a lead or cooperating agency, that there are no significant impacts; and (c) conducted in accordance with all applicable SOPs protective of the environment; and 45. Routine military training associated with transits, maneuvering, safety and engineering drills, replenishments, flight operations, and weapon systems: (a) conducted at the unit or minor exercise level; (b) similar in type, intensity and setting, including physical location and time of year, to other actions for which it has been determined, through NEPA analysis where DON was a lead or cooperating agency, that there are no significant impacts; and (c) conducted in accordance with all applicable SOPs protective of the environment.
Source: Reference (f).

(2) When an EA is Being Prepared. A CATEX may not be applied to individual components of an action that are the subject of an EA. The entire action must be evaluated in the EA.

(3) When an Agreement Has Been Executed with Appropriate Consulting Parties to Address a Potential Adverse Effect on Historic Properties. When compliance with section 106 of the NHPA has been previously resolved through the execution of an agreement between the Navy and appropriate consulting parties, a CATEX may be applied to a proposed action that may have an adverse effect on a historic property (archaeological, historic, landscape, object, etc., that is listed or eligible for listing in the NRHP). In such situations, the action proponent must demonstrate evidence of completion of the NHPA section 106 process within the signed record of CATEX. The executed agreement, with the signed record of CATEX, must be uploaded to the OPNAV N45 Environmental Planning and Compliance Library Web site. In addition, implementation of mitigation measures must be tracked using the mitigation and monitoring tracking tool on the OPNAV N45 Environmental Planning and Compliance Library Web site.

d. Documenting Reliance on a CATEX. When a proposed action meets the scope of a DON CATEX, a record of CATEX is prepared, which is signed by the action proponent or installation commanding officer (ICO) or his or her designee for a non-weapon-system-acquisition action or the PM or designee for a weapon-system-acquisition action. As shown in subparagraph 10-3.5(d) of this manual, the CNO N00N director or designee, in coordination with OPNAV N45 or the designee, is responsible for applying CATEXs and preparing and approving records of CATEX.

(1) Factors for Determining Whether to Prepare a Record of CATEX. A written record of CATEX need not always be prepared. In determining whether it is appropriate to prepare a record of CATEX for a proposed action, the signatory should consider that:

(a) Some activities may carry little risk of significant environmental effects such that there is no practical need for, or benefit from, preparing and signing a record of CATEX. Examples of such activities include routine fiscal and administrative activities (CATEX #1), routine use and operation of existing facilities (CATEX #3), or routine personnel actions (CATEX #10);

(b) For other proposed actions (e.g., CATEX #17, new activities conducted at established laboratories and plants), preparation of a record of CATEX may be appropriate or necessary to demonstrate that the proposed action comports with any limitations identified in prior NEPA analysis and that there are no potentially significant impacts expected as a result of extraordinary circumstances (i.e., one or more of the extraordinary circumstances in subparagraph 10-3.14c of this manual may apply). In such cases, the documentation should address proposed specific factors and show consideration of extraordinary circumstances with regard to the potential for localized impacts;

(c) A record of CATEX may be necessary to demonstrate compliance with the consultation and coordination requirements of other laws, regulations, and policies, such as the ESA or the NHPA, when the extraordinary circumstances (refer to subparagraph 10-3.14c(1) of this manual) are determined not to apply;

(d) A decision to rely on CATEX #44 or CATEX #45 for a proposed action always requires the preparation and signing of a written record of CATEX. Records of CATEX relying on CATEX #44 and #45 must be uploaded to the OPNAV N45 Environmental Planning and Compliance Library Web site per subparagraph 10-3.7c of this manual;

(e) A written record of CATEX is necessary when an action proponent is relying on a CATEX for a proposed action that may result in an adverse effect on historic property and where the action proponent has already executed an agreement with the appropriate consulting parties under section 106 of the NHPA to mitigate that adverse effect. The record of CATEX must address how the action proponent considered alternatives to avoid and minimize the potentially adverse effects; and

(f) If lengthy documentation (more than 15 pages) is needed to establish a rationale for applying a CATEX in a particular situation, the ICO should consider whether it is appropriate to apply the CATEX or if an EA should be prepared instead.

(2) Contents of a Record of CATEX. A record of CATEX is concise and must describe:

(a) The specific CATEX found applicable by the action proponent;

(b) Specific considerations of whether the exceptions to the use of a CATEX are applicable (refer to the extraordinary circumstances in subparagraph 10-3.14c of this manual);

(c) Facts supporting the use of the applicable CATEX (if one or more CATEXs are being relied upon, the record of CATEX must address the potential for cumulative impacts); and

(d) A record of CATEX supporting a request to the FAA for the establishment, designation, or modification of special use airspace must provide sufficient project-specific or related data and project impact analysis to allow decision making by the FAA as a cooperating agency.

(3) Requirements for Retaining a Record of CATEX. At a minimum, the record of CATEX must be retained in command files for 7 years and made available for review during environmental quality assessments.

10-3.15. Environmental Assessments

a. General

(1) An EA is an analysis of the potential environmental impacts of a proposed action. Action proponents must prepare an EA when they do not know beforehand whether or not a proposed action will significantly affect the human environment or be controversial regarding environmental effects, and when a CATEX does not apply. An EA will either result in a FONSI or, if a significant impact is identified in the EA, a decision to prepare an EIS.

(2) Pre-planning and advance coordination with environmental planners and conservation program SMEs will enable action proponents to identify land areas with the fewest environmental constraints for new construction, training, or testing, and for the analysis of alternatives, thereby avoiding and minimizing the potential for impacts of proposed actions on the environment.

(3) Procedural requirements applicable to NEPA, as indicated in paragraphs 10-3.4 through 10-3.9 of this manual, must be followed in the preparation of EAs. These include requirements to: include resource regulatory and statutory conclusions in environmental planning documents; address mitigation measures and their implementation; and upload final environment planning documents to the OPNAV N45 Environmental Planning and Compliance Library Web site.

b. Actions Normally Requiring EAs. Table 10-7 of this manual lists examples of actions that, under normal conditions, would likely require the preparation of an EA.

Table 10-7. List of Actions Normally Requiring an EA

1. Training exercises on or over (airspace) non-military property where such training is not consistent with the type and tempo of existing non-military airspace, land, and water use.
2. Major training exercises on military property not categorically excluded, for which the impacts are unknown, or for which the action proponent does not already know the impacts to be significant.
3. Dredging projects that increase water depth over previously dredged or natural depths.
4. Proposed utilization of tidal and non-tidal wetlands that would require an individual permit.
5. Real estate acquisitions or outleases of land involving 50 acres or more where existing land use will change and will not be categorically excluded.
6. Real estate acquisition of any size or in-grants or out-grants, which may be considered environmentally controversial, regardless of the appropriation or intended use.
7. Family housing projects when resident population changes substantially.
8. New target ranges or range mission changes that would increase environmental impact.
9. Actions conducted at the request of States or territorial governments (e.g., ship sinking for artificial reefs) wherein an environmental impact is expected.
10. New low-altitude aircraft training routes or special use airspace and warning areas where overflights impact persons or wildlife (particularly endangered species).
11. Mission changes, base closures, relocations or consolidations, and deployments that would cause major long-term population increases or decreases in affected areas. EAs are not required where impacts are purely socioeconomic and involve no potential for significant environmental impacts.
12. Any activity proposed that may adversely affect Federally listed threatened or endangered species, or the designated or proposed critical habitat of a Federally listed endangered species. Chapter 12 (Natural Resources Conservation) of this manual discusses the associated but separate need for a biological assessment and consultation under the ESA.
13. Permanent closure or limitations on public access to any areas previously open to public use, such as roads or recreational areas.
14. Construction or any other action resulting in discharges to or potential contamination of an aquifer, watershed, or recharge zone regulated by the Safe Drinking Water Act (SDWA).
15. Irreversible conversion of "prime or unique farmland" to other uses.
16. Award or termination of contracts involving substantial quantities of natural resources, wherein the Navy is the contracting agency.
17. Any action requiring directed take authorizations or actions covered by the MBTA.
18. Any action that may adversely affect the conditions of coral reef ecosystems.

c. Pre-Planning and Notification

(1) Pre-Planning Process. Before a scope of work for an EA is finalized or funded with a government service provider or contractor, the action proponent must convene environmental SMEs, planners, and others to identify the environmental issues associated with the proposed action and to assist in the development of preliminary alternatives for analysis as outlined in reference (q). The action proponent must document the results of the pre-planning process.

(2) Notification. Notification to OPNAV N45 of the intent to prepare an EA facilitates overall awareness of internal Navy environmental planning activities and proposed projects, ensures consistent application of policy, and avoids planning conflicts and delays. Notification also facilitates awareness by the chain of command of potentially controversial issues or the action proponent's intent to release a document for public review. OPNAV N45 may provide guidance on recently completed projects that are similar in scope or that should be included in a cumulative effects analysis, new regulatory developments that could result in different effect thresholds, or political sensitivities that the action proponent should consider in public engagement planning.

(a) Timing of Notification. Following completion of the pre-planning process, the action proponent notifies OPNAV N45 of its intent to prepare an EA. The notification letter or NEPA Notification to OPNAV EA Initiation Form to OPNAV N45 must be coordinated within the action proponent's chain of command and include the AEC, REC, and the affected Region Commander(s). Notification letters or EA notification initiation forms must show proof of coordination with all affected mission-related commands (i.e., REC and AEC signatures in notification form).

(b) Contents of the Notification. The notification for an EA should be sufficient to provide the reader with a clear understanding of the proposed action and its elements addressing the basic information identified in table 10-8 of this manual. Should changes to the proposed action occur following submittal of the notification to OPNAV N45, the action proponent must send an email describing the changes to OPNAV N45 via the "Contact Us" link on the OPNAV N45 Environmental Planning and Compliance Library Web site.

Table 10-8. Notification Elements

1. Length: Preferably 3 to 5 pages, excluding any tables or charts
2. Elements:
1) Date of Notification; 2) Title of EA; 3) Action Proponent; 4) As a Result of Early Planning Process and Discussions, Identification of the Commands, Specialties, and Dates that Discussions Were Conducted; 5) Date of Kickoff Meeting; 6) Estimated Decision Date(s). Identify date(s) for signing of the FONSI and implementation of the proposed action; 7) Description of Installation/Location of Proposed Action. (Optional: Include map or diagram, if available.); 8) Description of the Proposed Action and its Location. Provide a brief description that answers "what," "where," "when," and "why." Identify environmental factors considered; 9) Explanation of Why a CATEX Cannot be Applied. Explain why an action may not be modified to qualify for use of a CATEX; 10) General Screening Factors that May Be Employed or an Outline of Preliminary Alternatives or Both, Based on Early Planning Process and Discussions. Preliminary alternatives under consideration should include an explanation of how the proposed

action (new construction, training, or testing) has been planned or designed, or alternatives identified, to avoid or minimize the potential for significant environmental impacts (refer to table 10-9 of this manual on core components of an EA for further guidance on alternatives and guidance with respect to EAs supporting implementation of an INRMP);
11) Description of How the Proposed Action Has Been Designed to Avoid or Minimize the Potential for Environmental Impacts, if Possible;
12) Based on Current Knowledge, Identification of Issues of Potential Controversy or Public Interest;
13) Overview of Public Participation Elements, Based on Anticipated Interest. Indicate whether public involvement is being considered in the form of public meetings, hearings, or public release of the document for comment. In determining the appropriate level of public involvement, the action proponent must document its rationale based on the factors identified in subparagraph 10-3.15e(4)(b) of this manual;
14) Potential Regulatory Agency Consultations and Permits;
15) Relevant or Applicable Resource Areas to be Analyzed. Identification of important or potentially significant environmental issues that will be analyzed in the document (e.g., wetlands, endangered species, high noise levels, presence of marine mammals);
16) Anticipated Monitoring or Mitigation Requirements;
17) Identification and Description of Potential Underwater Sound Sources. Identify any underwater sound sources that may be used in marine, estuarine, and fresh waters (e.g., sonar, explosives, pile driving);
18) Any Cooperating Agency Relationships;
19) Whether OPNAV N45 Involvement Is Required (e.g., Endorsement or FONSI Signature). If so, explain why;
20) For Joint Basing Actions or Where There Are Host and Tenant Relationships, Explanation of How the Proposed Action Will Be Coordinated and Approved (e.g., FONSI Is to Be Signed by Both Parties). Refer to chapter 1 (Organization and Coordination) of this manual for details on host and tenant relationships;
21) Action Proponent Point of Contact (POC) (Name, Email, Telephone);
22) Chain-of-Command Coordination and Endorsements with All Affected Mission-Related Commands (i.e., REC and AEC Signatures and Dates). The AEC for CONUS is COMUSFLTFORCOM. The AEC for Hawaii and Guam is COMUSPACFLT. The AEC must ensure consistent application of environmental policy for Navy actions occurring on fleet training ranges and at-sea OPAREAs from the high-water mark seaward within their assigned AORs. AEC signature is required when a proposed action involves in-water pile driving or has the potential to affect operational type, tempo, or duration, or all three.

(3) Substantial Changes to the Proposed Action after Submittal of Notification. If the proposed action or the public involvement strategy is substantially changed after submittal of initial notification to OPNAV N45 (e.g., significant design changes may have potentially significant environmental impacts or a determination is made to hold public meetings), the action proponent must notify OPNAV N45 of the changes via the “Contact Us” link on the OPNAV N45 Environmental Planning and Compliance Library Web site.

(4) Cancellations. If, after notification, the action proponent subsequently cancels a proposed action, then a timely cancellation notification should be submitted to OPNAV N45 as soon as possible after the decision to cancel a proposed action is made. This may be accomplished via email using the "Contact Us" link on the OPNAV N45 Environmental Planning and Compliance Library Web site.

d. EA Content. When preparing an EA, the action proponent should focus on the issues of concern and make the EA no longer than required to sufficiently address those issues. The core elements that must be included in an EA are identified in table 10-9 of this manual. In addition:

(1) Document Preparation Guide and Templates. The action proponent must use the Navy's "Environmental Document Preparation Tools," which include a document preparation guide and standardized templates, as directed in reference (q), provided on the OPNAV N45 Environmental Planning and Compliance Library Web site (see appendix E (Web Sites) of this manual for Web site address). The templates and preparation guide are provided in the Reference Materials Library module under the Environmental Planning Standards tab. Updates to the templates are encouraged and should be submitted to the OPNAV N45 Environmental Planning and Compliance Library Web site (see appendix E (Web Sites) of this manual for Web site address).

(2) Guidance on Assessing Impacts. The discussion of environmental impacts must provide sufficient information to support a decision to prepare either an EIS or FONSI, taking into account the definition of "significantly", per paragraph 10-5.31 of this manual.

(3) Guidance on Assessing Climate and Resilience. The action proponent must address the potential effects of a proposed action on regional or global climate. Where possible, the analysis should quantify greenhouse gas (GHG) emissions (i.e., carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) and describe the measures to reduce GHG emissions (e.g., energy-efficient construction).

Table 10-9. Core Components of an EA

EA Component	Guidance
Inside Cover Sheet *(1 page)*	1. Designation of the analysis as an EA. 2. Title of the proposed action that is the subject of the EA (and if appropriate list related cooperating agency actions), together with the State(s) (or other jurisdiction(s) if applicable) where the action is located. 3. Identity of the action proponent and cooperating agencies, if applicable. Do not identify the Navy preparer or the contractor on the outside or inside cover pages. 4. Name, address, and telephone number of the person at the responsible command (action proponent) who can supply further information. 5. One-paragraph abstract of the statement.
Executive Summary	Place immediately after the cover sheet and before the table of contents to include: 1. Name of the action.

EA Component	Guidance
(3–5 pages maximum)	2. Brief description of the action and the affected geographical region (State and county, as applicable). 3. Description of alternatives considered. 4. Summary of the environmental impacts and major mitigating actions required.
	Body of EA
Need for the Action	Brief description of the proposed action and concisely and objectively explain the need for the proposed action, setting out the essential requirements to be satisfied. Although not a requirement, the action proponent may also describe the purpose of the proposed action.
Alternatives Including the Proposed Action	The number of alternatives identified and carried through the analysis should be determined by the level of unresolved conflicts concerning alternative uses of available resources and identified issues. For all EAs (except those prepared in support of implementing an INRMP, alternatives should, at a minimum, include the proposed action, no action, and at least one other reasonable action alternative. The rationale for not including an action alternative in addition to the proposed action and no action must be explained in detail. If screening factors will be used (e.g., operational or locational needs), they must be listed. Alternatively, a summary of the basis for identifying reasonable alternatives for analysis must be provided. For actions associated with implementation of an INRMP, analysis of the proposed action and no action alternatives is acceptable without including a supporting rationale.
Existing Environment of the Proposed Action	1. Concise description of the human environment and natural resources that would be affected by implementation of the proposed action. The baseline is used to compare the impacts of the various alternatives. 2. The amount of detail provided should be commensurate with the extent and impact of the action (i.e., context and intensity) and with the analysis required for the EA.
Environmental Consequences	1. Description of the environmental impacts of reasonable alternatives in terms of direct and indirect effects and cumulative impacts, including their significance (i.e., an assessment of the positive and negative effects of the proposed action), giving primary attention to the discussion of those factors most evidently affected by the proposed action. Analyze cumulative impacts. 2. Compliance with applicable regulatory processes must be addressed in the analysis and conclusions reached should be consistent with the guidance in subparagraph 10-3.4a of this manual: (a) Refer to chapter 14 (Coastal Zone Management) of this manual for additional information regarding Federal consistency under the CZMA; (b) Discuss the potential effect on threatened or endangered animal or plant species and designated critical habitat (refer to chapter 12 (Natural Resources Conservation) of this manual);

EA Component	Guidance
	(c) Address effects on cultural resources (refer to chapter 13 (Cultural Resources Compliance and Management) of this manual), including historic properties as defined in the NHPA; and (d) Address effects on climate (include a comparison of the differences between the alternatives in terms of their effects on climate). 3. Means to mitigate and monitor adverse environmental impacts (include in mitigation matrix or separate chapter as required by paragraph 10-3.6 of this manual).
List of Agencies and Persons Consulted	List of any non-Navy agencies, organizations, groups, and persons consulted in the development of the EA. This list should identify any cooperating agencies.
List of Preparers	List of the names, expertise, experience, and professional disciplines of the persons who were primarily responsible for preparing the documents or significant background papers, including Navy personnel directly responsible for review.
Appendix	To substantiate impact analysis and to verify consultation and coordination has been completed, each final EA must include, as appropriate and preferably in an appendix, associated correspondence, memos to file, associated emails, studies, biological evaluations or assessments and BOs, permits, final rules, the record of non-applicability (where required), etc.

(4) CAA General Conformity Rule. The action proponent must determine if the CAA General Conformity Rule (reference (p), section 7506) applies to the proposed action as defined in the EA. The CAA General Conformity Guidance (refer to chapter 22 (Clean Air Ashore) of this manual) describes the requirements and procedures for preparing a conformity evaluation. The action proponent should include the results of the conformity evaluation as an appendix to an EA proposing an action in a non-attainment or maintenance area:

(a) Where a record of non-applicability is required for a proposed action occurring in a non-attainment or maintenance area, the action proponent will sign the record of non-applicability and include it, along with the supporting analysis, in the EA as an appendix; and

(b) Where a conformity evaluation is required for a proposed action, the action proponent must distribute a “review EA” (with the draft conformity evaluation as an appendix to the EA) to the appropriate review agencies listed in the CAA General Conformity Rule and interested parties for a 30-working day comment period (refer to chapter 22 (Clean Air Ashore) of this manual and subparagraph 10-3.15e of this manual for guidance on public involvement for EAs). Concurrently, the action proponent must publish a public notice on the availability of a draft conformity evaluation in the local newspaper. Once the EA and its conformity evaluation are finalized by the action proponent, the EA is processed internally as shown in figure 10-2 of this manual.

e. Processing EAs

(1) Submitting the EA for Approval and FONSI Signature

(a) If the action proponent is in COMUSFLTFORCOM, COMUSPACFLT, CNIC (and CNIC region commanders), COMNAVSEASYSCOM, or COMNAVAIRSYSCOM, the completed EA is submitted via the chain of command to the flag-level official designated to sign FONSIs at its headquarters. Each EA submitted for review by the chain of command must be accompanied by a memorandum of legal sufficiency (refer to paragraph 10-5.18 of this manual) and a statement of technical review (OPNAV 5090/3) (refer to paragraph 10-5.32 of this manual);

(b) If the action proponent is weapon-system-acquisition-related, the EA is processed per reference (b);

(c) If the action proponent is not in any of the chains of command identified in subparagraph 10-3.15e(1)(a) of this manual, or the proposed action meets any of the factors identified in table 10-10 of this manual, the action proponent must forward the EA, via the chain of command, together with the statement of technical review (OPNAV 5090/3), and memorandum of legal sufficiency, to OPNAV N45 for action. The action proponent must notify the AEC and REC (as appropriate).

Table 10-10. Factors for Determining When to Elevate an EA for OPNAV N45 Action

1. The action proponent is not in a chain of command that has been delegated FONSI signature authority (see subparagraph 10-3.1(b)(2) of this manual); or
2. The proposed action:
(a) Involves effects of national concern;
(b) Is closely similar to conditions that normally require the preparation of an EIS;
(c) Is without precedent;
(d) Involves potentially sensitive public interest issues; or
(e) Is scientifically controversial regarding environmental effects.

(2) EA Review and Decision-Making

(a) The designated decision maker and staff for the commands previously identified in this manual with delegated FONSI signature authority, or OPNAV N45, as applicable, must evaluate the documented impact of the proposed action on the environment and advise the action proponent if additional information is required. Each EA must include appropriate resource regulatory and statutory conclusions as supported by the analysis (refer to subparagraph 10-3.4a of this manual for further guidance on regulatory and statutory conclusions).

(b) EAs that require OPNAV N45 action (i.e., review or signature or both) must be submitted to OPNAV N45 with sufficient time to allow for a minimum of 30 working days for review or decision-making or both by OPNAV N45. Information on EA and OEA processing times is available in exhibit A in the Reference Materials Library module of the OPNAV N45

Environmental Planning and Compliance Library Web site (refer to subparagraph 10-3.7a of this manual).

(c) If a draft EA has been circulated for public review, the final EA must be revised to address all substantive comments received. A separate appendix to the EA identifying and addressing each comment is not required, but a record of disposition of all comments must be developed and retained in the AR.

(d) After evaluating the analysis and conclusions documented in the EA, the designated decision maker decides whether a FONSI is appropriate or whether the proposed action would generate significant impacts requiring preparation of an EIS. If deemed appropriate, the decision maker signs a FONSI. A template for a FONSI is provided in table 10-11 of this manual.

Table 10-11. Template for a FONSI *(5 or fewer pages in length)*

DEPARTMENT OF DEFENSE
Department of the Navy

FINDING OF NO SIGNIFICANT IMPACT FOR [***XXXXXXX AT XXXXXXX, CITY/COUNTY, STATE***]

Pursuant to the Council on Environmental Quality regulations (40 Code of Federal Regulations [CFR] Parts 1500–1508) implementing the National Environmental Policy Act (NEPA) and Department of the Navy (DON) NEPA regulations (32 CFR Part 775), DON gives notice that an Environmental Assessment (EA) has been prepared and an Environmental Impact Statement (EIS) is not required for *XXXXXXXXX at CITY/COUNTY, STATE (SPELLED OUT)*. This action will be implemented as set out in *Alternative X*. The [*IDENTIFY AGENCY*] is a cooperating agency for this action [*IF APPLICABLE*].

Proposed Action: [*BRIEFLY DESCRIBE THE PROPOSED ACTION IN NON-ENVIRONMENTAL RESOURCE TERMS*.]

Purpose and Need: [*BRIEFLY DESCRIBE THE PURPOSE AND THE NEED FOR THE PROPOSED ACTION*.]

Alternatives Considered: The EA analyzes the potential environmental impacts of the following alternatives: [*BRIEFLY DESCRIBE EACH ACTION ALTERNATIVE ANALYZED. THIS CAN BE IN A BULLETIZED OR NUMBERED LIST WITH A SUBSEQUENT PARAGRAPH. EACH ALTERNATIVE SHOULD BE DESCRIBED SIMILARLY TO THE PROPOSED ACTION. ENSURE THAT THE NO ACTION ALTERNATIVE IS IDENTIFIED FIRST ON THIS LIST. DESCRIBE ALTERNATIVES THAT WERE ELIMINATED FROM FURTHER CONSIDERATION. IDENTIFY WHETHER A PREFERRED ALTERNATIVE IS BEING SELECTED AND PROVIDE A RATIONALE FOR THIS SELECTION*].

Environmental Effects: No significant direct, indirect, or cumulative environmental impacts would occur from implementing the proposed action. Certain environmental resources

[*IDENTIFY RESOURCES*] were not analyzed in detail in this EA because implementation of the proposed action would not be likely to result in any potential environmental impacts on these resources or impacts would be negligible. Potential environmental impacts on [*IDENTIFY RESOURCES*] are summarized here.

Identify Each Resource Area: [*DESCRIBE THE MAJOR POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROPOSED ACTION FOR EACH RESOURCE AREA CARRIED THROUGH THE ANALYSIS. ARE IMPACTS DIRECT, INDIRECT, LONG-TERM, MINOR, OR SHORT-TERM? WHICH EFFECTS REQUIRE MITIGATION MEASURES? WHAT ARE THE POSITIVE ENVIRONMENTAL EFFECTS, IF ANY? IS THE RATIONALE CLEAR THAT SIGNIFICANT IMPACTS ARE REMOTE? IS THERE ANY OUTSTANDING CONTROVERSY OR UNRESOLVED DISAGREEMENTS WITH REGULATORS OR EXTERNAL GROUPS OR PERSONS (e.g., TRIBES, ENVIRONMENTAL GROUPS, PRIVATE CITIZENS)? IF THERE IS, DESCRIBE SPECIFICALLY WHY THE NAVY DISAGREES.*]

Mitigation Measures: Identify mitigation measures [*NOTE: MITIGATION MEASURES ARE MEANS/METHODS TO REDUCE OR AVOID POTENTIALLY SIGNIFICANT ADVERSE EFFECTS OF AN ACTION ON THE ENVIRONMENT. BEST MANAGEMENT PRACTICES OR STANDARD OPERATING PROCEDURES ARE NOT CONSIDERED MITIGATION MEASURES SHOULD NOT BE IDENTIFIED AS SUCH*].

Public Outreach: [*BRIEFLY DESCRIBE THE PUBLIC OUTREACH PROCESS EMPLOYED FOR THE EA, IF APPLICABLE.*]

Finding: Based on the analysis presented in the EA, which has been prepared in accordance with the requirements of NEPA and DON policies and procedures (32 CFR Part 775), and in coordination with [*XXXXXXX, YYYYYYYY, and ZZZZZZZZ (e.g., ALABAMA DEPT. OF ENVIRONMENTAL QUALITY, U.S. FISH AND WILDLIFE SERVICE, STATE HISTORIC PRESERVATION OFFICER, IF APPLICABLE)*], DON finds that implementation of the proposed action as set out in *Alternative X* will not significantly impact the quality of the human environment. Therefore, an EIS will not be prepared.

Electronic copies of this EA and Finding of No Significant Impact may be obtained by written request to: [*INSERT ORGANIZATION (ATTENTION: XXXXXXX, TITLE), STREET ADDRESS, STATE, ZIP CODE*].

1. The inclusion of mitigation measures as part of the proposed action may bring adverse impacts below the threshold of significance. Commitment to mitigation measures in the FONSI is legally binding on the action proponent and must be implemented.

2. All consultation and authorization processes required by law, including, but not limited to those set forth in the ESA, MMPA, NHPA, MSFCMA, MBTA, CZMA, NMSA, CAA, and CWA, must be completed before a FONSI may be signed (see subparagraph 10-3.4c of this manual for specific guidance).

(e) After the FONSI is signed, the decision maker notifies the action proponent to complete required public notification:

1. Before undertaking any physical action that would affect the environment, the action proponent must make every effort to make the FONSI available for public review using any combination of newspaper advertisements, radio or television announcements, Internet Web sites (if established by an action proponent), mailings, social media, etc.

2. For projects previously determined to meet any combination of the factors in table 10-10 of this manual, the action proponent will make the FONSI available to the public for 30 calendar days by means identified in subparagraph 10-3.15e(2)(e)1 of this manual for notifying the public. Such notification must occur before the decision becomes final and before implementation of any part of the proposed action.

(f) Implementing the Proposed Action. After public notification is complete, the proposed action may be implemented.

(3) Mitigation Tracking and Uploads to OPNAV N45 Environmental Planning and Compliance Library Web Site

(a) Within 30 days of FONSI signature, the mitigation measures committed to in the FONSI must be inputted to the OPNAV N45 Environmental Planning and Compliance Library Web site using the mitigation and monitoring tracking tool within the Required Reporting module. Implementation of mitigation and monitoring measures will be tracked annually to completion (see subparagraph 10-3.7e of this manual).

(b) The action proponent must ensure that within 30 working days of FONSI signature, a copy of the final EA and FONSI is uploaded to the Web site. Guidance on the Web site is provided in subparagraph 10-3.7c of this manual. (Memoranda of legal sufficiency or statements of technical review should not be uploaded.) These documents should be retained in command files for 7 years.

f. Public Participation Considerations for EAs. CEQ's regulations recognize the importance of public participation in preparing EAs. General guidelines for public participation are:

(1) EAs involving the preparation of a conformity evaluation or meeting the factors identified in table 10-10 of this manual must always be circulated for public review for 30 calendar days, as previously discussed in this manual.

(2) For all other EAs, the means for involving the public described in this chapter pertinent to EISs may be employed at the action proponent's discretion. Although a 30-day public review period may be considered optimal, the intent of this manual is to allow the action proponent flexibility in tailoring their EA public participation strategy to the complexity of and potential for public interest in the proposed action. At a minimum, action proponents should ensure appropriate communications are initiated and maintained with affected and interested parties. Action proponents desiring to involve the public in the preparation of an EA will notify

OPNAV N45 in advance of any public scoping or public review of an EA or of their intent to hold public meetings (refer to notification requirements in subparagraph 10-3.15c of this manual).

(3) In determining the extent to which public participation, including public review periods and public meetings, is practicable for an EA, the action proponent should consider the factors identified in table 10-12 of this manual, which should also be documented and explained in the notification to OPNAV N45. Given nongovernmental organization and Congressional interest is often high, ensuring consistency in public engagement approaches within and across Navy regions is an essential role of OPNAV N45.

Table 10-12. Factors to Be Considered When Determining the Level of Public Participation for an EA

1. The complexity and scope of the proposed action;
2. The magnitude of the environmental effects and the extent to which mitigation measures may be needed to bring potential impacts to a less than significant level;
3. Anticipated public interest or controversy;
4. Any relevant questions of national security and classification; and
5. State, local, and regional common practices regarding public participation.

(4) When an action proponent decides it is appropriate to circulate an EA for public review:

(a) Every effort must be made to notify the public of the availability of the draft EA using any combination of newspaper advertisements, radio or television announcements, Internet Web sites (if established by an action proponent), mailings, social media, etc.

(b) The draft FONSI may be released for public review at the same time.

(c) To provide adequate time for review of the documents, the public must be allowed a minimum review period of 15 calendar days unless a public meeting is proposed, in which case the minimum review period is 30 calendar days. Upon completion of the final EA and the signing of a FONSI, the action proponent notifies the public of its decision.

(5) Where there are significant non-English-speaking populations within the proposed project study area, in coordination with the appropriate public affairs officer (PAO), the action proponent must consider translating the executive summary of the EA or the complete EA or FONSI into languages other than English.

(6) Internet Web sites and content posted on such sites that may be established or used to support environmental planning efforts must be in compliance with current Navy policy.

(7) All EAs and FONSIs released to the public must go through a security review prior to publication to ensure that no classified or sensitive information is inadvertently released. The security review would be conducted by the action proponent's command with appropriate

knowledge and clearance to verify that the documents contain no classified or sensitive information.

10-3.16. Environmental Impact Statements. In an EIS, the action proponent provides a full and unbiased analysis of significant environmental impacts and informs the decision makers and the public of the reasonable alternatives that meet the proposed action's purpose and need. Procedural requirements applicable to NEPA, as indicated in paragraphs 10-3.4 through 10-3.9 of this manual, must be followed in the preparation of EISs. These include requirements to: include resource regulatory and statutory conclusions in environmental planning documents; address mitigation measures and their implementation; and upload final environment planning documents to the OPNAV N45 Environmental Planning and Compliance Library Web site. Additional guidance is provided in subparagraphs 10-3.16a through 10-3.16c.

a. Actions Normally Requiring an EIS. When an action is deemed to have the potential for significant environmental impacts, or when an EA concludes that potential impacts would be significant, the action proponent must prepare an EIS using the procedures outlined in this chapter. Examples of actions that may have a significant impact on the quality of the human environment, and for which an action proponent should consider the preparation of an EIS include:

(1) Large dredging projects or dredging projects where dredged material disposal may result in significant impacts (large is in the context of the body of water to be dredged);

(2) Proposed major construction and filling in tidelands or wetlands;

(3) Establishment of major new installations or significant mission changes at existing installations that result in a change in infrastructure or land use;

(4) Major land acquisitions that result in a change in how the property is used (a major land acquisition is as defined in reference (u));

(5) New municipal solid waste landfills or HW land disposal units; and

(6) Long-term use of sea ranges and OPAREAs or land ranges for training exercises and RDT&E, which is expected to result in a significant number of "takes" of protected species as defined in either the MMPA or the ESA, or adverse effects on historic properties under the NHPA.

b. Pre-Planning (Project EIS Review Team Process) and NOI Package. As early as possible in the planning process (and prior to EIS contract award), the action proponent must convene an interdisciplinary project EIS review team to review all aspects of the proposed action and ensure environmental considerations are fully integrated into project design and preliminary alternatives development. The project EIS review team will consist of representatives from the action proponent, interdisciplinary environmental planners and SMEs, legal counsel, public affairs, and the EIS service provider (including the designated EIS project manager) and invite headquarters staff from OPNAV N45 and ASN(EI&E).

(1) The project EIS review team will review all aspects of the proposed action with consideration given to:

(a) Ensuring the purpose is clearly defined and the need for the proposed action is confirmed and has clear leadership support;

(b) Establishing a process for strategic communications and development of consensus among internal Navy stakeholders;

(c) Providing adequate information for cost-effective contracting and document preparation and review;

(d) Ensuring collection and development of current information, data, statistics, and best available science that are the foundation of sound analysis and high-quality environmental planning documents; and

(e) Using master plans and geographic information systems to identify land areas with the fewest environmental constraints for new construction, training, or testing, and for analysis of alternatives, thereby avoiding and minimizing the potential for impacts of proposed actions on the environment up front.

(2) The pre-planning process must culminate in a common understanding and consensus among Navy stakeholders as to why the proposed action is necessary, critical timing considerations (i.e., delivery of a new platform), what requirements are essential to achieving the proposed action's purpose (screening criteria), and what reasonable alternatives could achieve this purpose and avoid or minimize the potential for significant environmental impacts.

(3) After conducting pre-planning, the action proponent prepares an NOI package with the elements indicated in table 10-13 of this manual. The NOI package is submitted to OPNAV N45 via the chain of command, including coordination with the AEC and REC. OPNAV N45 is responsible for conducting a technical and legal review of the NOI package and coordinating with ASN(EI&E).

Table 10-13. Elements of an NOI Package

Elements of an NOI Package *(preferably no more than 20 pages total)*
1. Cover Letter
a. The identity of the action proponent; b. Summary of the proposed action and the results of project EIS review team discussions to include a description of how the discussion shaped the proposed action, purpose and need, and preliminary alternatives. c. The identity of the agency(ies) with which a cooperating agency relationship is being considered. For joint basing actions or where there are host or tenant relationships, provide an explanation on how this project will be coordinated and approved; d. Identification of any required permits, consultations, or authorizations that will be undertaken as part of the proposed action and the agencies with regulatory jurisdiction; and

Elements of an NOI Package *(preferably no more than 20 pages total)*
e. List of technical and legal points of contact.
2. Draft Stick Chart (stick chart is preferred, rather than a Gantt chart). Ensure the stick chart delineates key milestones, including, but not limited to: a. Anticipated publication of the NOI; b. Dates for scoping meetings; c. Key dates for submittal of permit applications and consultation packages and proposed and final rules and BOs, as appropriate; d. Anticipated date for completion of a DEIS; e. Target date for completion of a FEIS and ROD signature; and f. Tiger team reviews. A notional stick chart is provided in the Reference Materials Library module of the OPNAV N45 Environmental Planning and Compliance Library Web site.
3. Endorsements. Ensure the NOI package contains proper chain of command endorsements and has been coordinated with the AEC and REC, as appropriate.
4. Preliminary DOPAA *(10 pages excluding maps and charts)*
a. Cover, with the identity of the action proponent and, if applicable, the cooperating agency(ies); b. Summary and scope of the proposed action, including locations to be affected (with maps or charts); c. Summary of purpose and need (including mission and background, as appropriate); d. A brief explanation of how a reasonable range of alternatives will be generated and evaluated, and any internal coordination required between the action proponent and other stakeholders (e.g., SYSCOMs, other OPNAV directorates). At least two action alternatives plus the no action alternative must be identified and analyzed, unless rationale for not including an action alternative in addition to the proposed action and no action alternative is explained in detail. If screening factors will be used (e.g., operational or locational needs), they must be listed. Alternatively, a summary of the basis for identifying reasonable alternatives for analysis must be provided; e. Proposed alternatives (with maps or tables, including a table comparing the elements of each alternative); f. An explanation of how the proposed action has been planned or designed, or alternatives identified, to avoid or minimize the potential for significant environmental impacts. g. Regulatory considerations (e.g., potential permitting, consultations); h. Based on current knowledge, a summary of anticipated issues of concern, including Congressional issues, public-interest issues, and issues of other interested parties; and i. Summary of public involvement plan.
5. Draft NOI: Prepare a draft NOI using this template.
DEPARTMENT OF DEFENSE **Department of the Navy** **Notice of Intent to Prepare an Environmental Impact Statement (EIS) for [*PROPOSED ACTION*] at [*INSTALLATION/RANGE/OPAREA*], [*CITY/COUNTY*], [*STATE*] and to Announce Public Scoping Meetings**

Elements of an NOI Package *(preferably no more than 20 pages total)*
AGENCY: Department of the Navy (DON), DoD. **ACTION:** Notice. **SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969; sections 4321 et seq. of Title 42, U.S. Code; Council on Environmental Quality regulations (Parts 1500–1508 of Title 40, Code of Federal Regulations [CFR]); and DON regulations (32 CFR Part 775), DON announces its intent to prepare an EIS to evaluate the potential environmental consequences of [*SUMMARY OF PROPOSED ACTION AND ITS COMPONENTS*]. DON's action proponent for this proposal is [*IDENTIFY ACTION PROPONENT*]. **DATES AND ADDRESSES:** Public scoping meetings will be held in [*CITY/COUNTY/STATE*] to receive oral and written comments on environmental concerns that should be addressed in the EIS. Public scoping meetings will be held on [*DAYS, DATES, TIMES, LOCATIONS*].* **FOR FURTHER INFORMATION CONTACT:** [*POC, COMMAND, ADDRESS, TELEPHONE, FACSIMILE, EMAIL ADDRESS*]. **SUPPLEMENTARY INFORMATION:** [*TEXT SHOULD COVER THE FOLLOWING, AS APPROPRIATE*]*:* • *Specific action proponent within DON* [*e.g., COMMANDER, NAVAL AIR STATION WHIDBEY ISLAND OR COMUSFLTFORCOM*] • *Brief description of the proposed action, including identification of action proponent and any cooperating agency.* • *Locations to be affected.* • *Purpose and need for the action.* • *Alternatives to be considered.* • *Extent and duration of action.* • *Resources to be evaluated based on knowledge of sensitive issues.* • *Public meeting dates, times, and locations. Deadline for receipt of written comments.* • *POC with address, telephone, facsimile, and email address (as appropriate) to whom comments should be sent.*
***Action proponents must provide target dates for planned public scoping meetings; the meeting dates, however, must be flexible to allow OPNAV N45 and ASN(EI&E) time for approval of the NOI package after its submission.**

(4) OPNAV N45 will publish the NOI in the Federal Register after approval by ASN(EI&E). The action proponent mails the NOI directly to concerned agencies and persons, making every effort to notify the public using any combination of newspaper advertisements, radio or television announcements, Internet Web sites (if established by the action proponent), mailings, and social media.

(5) If the action proponent cancels an activity for which an NOI was published in the Federal Register, then the action proponent will submit a cancellation letter (with proper endorsements) via the chain of command to OPNAV N45 as soon as possible after the decision to cancel a proposed action is made. After discussion with ASN(EI&E), OPNAV N45 will arrange for publication of a cancellation notice in the Federal Register.

c. Scoping

(1) Action proponents may hold public scoping meetings whenever practicable, but they are not mandatory. There is no authority for the payment of expenses incurred by any private person(s) in the preparation and presentation of information at these meetings. If no public meeting is to occur, the cognizant command must address the issues received in response to published notices.

(2) If public scoping meetings are to occur, the NOI must provide date, times, and locations for the meetings, to the extent possible, and to minimize costs. Scoping meetings must be held no earlier than 15 calendar days following the publication of the NOI (or a notice announcing public scoping meetings, where applicable). The action proponent should refer to subparagraph 10-3.16e of this manual for guidance on procedures for conducting public meetings or hearings. Public input received during scoping should be used by action proponents to focus on issues of importance to the public and identify and de-emphasize insignificant issues from detailed analysis in the EIS or those previously covered by other environmental planning documents.

(3) The action proponent will provide OPNAV N45 with summaries of each public scoping meeting no later than 5 days after the meeting is held. Each summary will include, at a minimum, the total number of non-Navy attendees, attendance by Congressional representatives (if any), attendance by press representatives (if any), and issues raised.

d. DEISs

(1) Process Timeline

(a) EISs must be prepared in an expeditious manner, taking into consideration timelines required for compliance with applicable laws, regulations, and this manual. Information on EIS processing times is available in exhibit B in the Reference Materials Library module of the OPNAV N45 Environmental Planning and Compliance Library Web site and in reference (s).

(b) Before a final decision is made, cognizant commands must not take any actions concerning the proposal that would constitute an irreversible or irretrievable commitment of resources, would have an adverse environmental impact, or would limit the choice of reasonable alternatives.

(2) DEIS Content

(a) General Guidelines. In preparing an EIS, an action proponent must consider that:

1. EISs should be analytic rather than encyclopedic. The action proponent should make every effort to restrict the document only to pertinent facts, excluding material not directly applicable to the expected impact and ensure there is sufficient information and baseline data to support the conclusions reached. If desired, the action proponent may include additional data in appendices to the EIS;

2. The action proponent must use the document template and preparation guide, as directed in reference (q), provided on the OPNAV N45 Environmental Planning and Compliance Library Web site (see appendix E (Web Sites) of this manual for Web site address). The template and preparation guide are provided in the Reference Materials Library module under the Environmental Planning Standards tab. Updates to the templates are encouraged and should be submitted to the OPNAV N45 Environmental Planning and Compliance Library Web site (see appendix E (Web Sites) of this manual for Web site address); and

3. Per reference (v), where there are significant non-English-speaking populations within the proposed project study area, and in coordination with the appropriate PAO, the action proponent should consider translating the DEIS or FEIS executive summary (or other portions of the DEIS or FEIS) into languages other than English.

(b) Core Components of the DEIS. The core components of an EIS are identified in table 10-14 of this manual. All relevant resource areas should be addressed in the description of the existing environment and the analysis of environmental consequences.

Table 10-14. Core Components of an EIS

EIS Component	Guidance
Inside Cover Sheet *(1 page)*	1. Designate the analysis as a DEIS or FEIS, or draft or final supplement. 2. Provide the title of the proposed action that is the subject of the environmental analysis (and, if appropriate, list of related cooperating agency actions), together with the State(s) (or other jurisdiction, if applicable) where the action is located. 3. Identify the action proponent. The outside or inside cover pages must not identify the Navy preparer (service provider) or the contractor by name or by the placement of logos. 4. Provide the name, address, and telephone number of the person at the responsible command who can supply further information. 5. Provide a one-paragraph abstract of the proposed action.
Executive Summary	Place immediately after the cover sheet and before the table of contents to include: 1. Name of the action. 2. Description of the action and the affected geographical region (State and county, as applicable).

EIS Component	Guidance
(preferably fewer than 20 pages)	3. Description of alternatives considered. 4. Summary of the environmental impacts and major mitigating actions required. 5. Summary of significant environmental impacts of the proposed action and the alternatives in comparative (matrix) form.
Body of EIS	
Purpose of and Need for the Action	Briefly describe the proposed action and explain the purpose of and need for the proposed action concisely and objectively. Set out the justification for the action (purpose, goal, or objective to be achieved by the proposed action) and the essential requirements that must be satisfied to achieve the purposes of the action (the need or why the requirement is essential to the Navy).
Alternatives Including the Proposed Action	1. Identify all reasonable alternatives, particularly those that might enhance environmental quality or avoid some or all adverse environmental effects. The potential environmental impacts of all reasonable alternatives must be rigorously explored and objectively evaluated in the EIS. 2. Describe the factors for selecting alternatives. Where relevant, include alternatives to the proposed action not within the existing authority of the agency. 3. Indicate those considerations, including factors not related to environmental quality that are likely to be relevant and important to a decision to prevent premature foreclosure of options that might enhance environmental quality or have less detrimental effects. 4. Examples of alternatives include: taking no action; postponing action; selecting actions of a significantly different nature (i.e., meeting mission and project objectives with different environmental impacts); and different designs or details of the proposed action that would present different environmental impacts (including mitigation measures). 5. The alternatives analysis should be sufficiently detailed to reveal the agency's comparative evaluation of the proposed action and each reasonable alternative. 6. The FEIS must identify the action proponent's preferred alternative (if not previously identified in the DEIS).
Existing Environment of the Proposed Action	1. Concisely describe the human environment and natural resources that would be affected by implementation of the proposed action. The baseline is used to compare the impacts of the various alternatives. 2. The amount of detail provided should be commensurate with the extent and impact of the action (i.e., context and intensity) and with the amount of information required at the particular level of decision-making.
Environmental Consequences	1. Describe the environmental impacts of reasonable alternatives in terms of: a. Direct and indirect effects and their significance (i.e., an assessment of the positive and negative effects of the proposed action) giving attention those factors most evidently affected by the proposed action. b. Cumulative impacts as appropriate and in context with the action's scope and magnitude.

EIS Component	Guidance
	c. Relationships between the proposed action and the objectives of Federal, State, and local land use plans, policies, and controls for the area concerned. d. Irreversible or irretrievable commitments of resources anticipated upon implementation of the proposed action. e. Adverse environmental impacts that cannot be avoided if the proposal is implemented. f. Relationship between local, short-term use of man's environment and maintenance and enhancement of long-term biological productivity. g. Means to mitigate and monitor adverse environmental impacts as required by paragraph 10-3.6 of this manual (include in a separate chapter or at a minimum in a mitigation matrix). h. Compliance with applicable regulatory processes must be addressed in the analysis (refer to subparagraphs 10-3.4a and 10-3.4c of this manual). 2. For FEISs, discuss and provide responses to substantive public comments received on the DEIS. 3. Summarize the significant environmental impacts of the proposed action and the alternatives in comparative (matrix) form (same matrix as used in the executive summary).
List of Preparers	List the names, expertise, experience, and professional disciplines of the persons who were primarily responsible for preparing the documents or significant background papers, including Navy personnel directly responsible for review.
Distribution List	List the names and addresses of all Federal, State, and local organizations and persons to whom the EIS is distributed.
Appendix	1. Include any of the following information as appendices to the EIS: a. Material prepared in connection with an EIS (as distinct from material that is not so prepared or bulky documentation that is incorporated by reference). b. Analytic and relevant material to the decision to be made (e.g., biological evaluations or assessments and BOs; coastal consistency or negative determinations; archaeological, historical, or cultural evaluations). c. Material that substantiates any analysis fundamental to the impact statement (e.g., permits, final rules). d. The results of the conformity evaluation as an appendix to the EIS if the proposed action is in a non-attainment or maintenance area. 2. To substantiate impact analysis and to verify consultation and coordination has been completed, each final EA must include, as appropriate and preferably in an appendix, associated correspondence, memos to file, associated emails, studies, biological evaluations or assessments and BOs, permits, final rules, etc. 3. For FEISs, provide comment letters received on the DEIS and responses.

(c) Guidance on Assessing Climate and Resilience. The action proponent must address the potential effects of a proposed action on regional or global climate. Where possible, the analysis should quantify GHG emissions (i.e., carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) and describe the measures to reduce GHG emissions (e.g., energy-efficient construction).

(3) DEIS Review and Processing

(a) Headquarters Review of Preliminary DEIS. The action proponent must submit the preliminary DEIS for review by OPNAV N45 and ASN(EI&E) staff, no later than V.2 (staff review). Refer to table 10-4 of this manual for an explanation regarding EIS versions. The V.2 staff review of the DEIS must be accompanied by a written status summary (no more than three pages in length) on the progress of all consultation, coordination, and authorization processes pertaining to the proposed action.

(b) Filing of the DEIS and Public Outreach. Upon ASN(EI&E) approval, OPNAV N45 will digitally file DEIS V.4 (release version) with EPA. The Office of Legislative Affairs (OLA) will make the Congressional notifications prior to EPA's publication of the NOA in the Federal Register.

(c) Public Distribution of the DEIS. Reference (w) requires that an action proponent publicly distribute DEISs no later than the time the DEIS is filed with EPA.

1. Action proponents, OPNAV N45, and the Navy Secretariat must coordinate closely to ensure the DEIS is approved for release early enough to enable the action proponent to make the required distribution.

2. The action proponent will ensure the DEIS is posted electronically on the project Web site the same day that the DEIS is filed with EPA and made available for public review in local outlets such as libraries or county commissioners' offices, whenever possible.

3. To the extent possible, the Navy must distribute electronic copies of the document and post the DEIS on its project Web site. Consideration must be given to outreach and distribution of the DEIS to the potential stakeholders identified in table 10-15 of this manual.

Table 10-15. Potential Stakeholders to be Considered in DEIS Distribution

1. Any Federal agency that has jurisdiction by law or special expertise regarding any environmental impact involved or one authorized to develop and enforce standards applicable to the proposed action (e.g., cooperating agencies).
2. Appropriate State and local agencies that are authorized to develop and enforce standards applicable to the proposed action.
3. Native Hawaiian organizations, Native American or Alaskan Native tribal governments when the effects of Navy proposed actions may impact their interests, on or off reservations.
4. Any agency that has requested that it receive EISs on actions of the kind proposed.
5. Nongovernmental organizations with an interest in the proposed action.

6. The public, affirmatively soliciting comments from those persons or organizations that may reasonably be interested or affected.
7. Minority and low-income populations.

(d) DEIS Public Review

1. DEIS Public Review Period. A minimum of 45 calendar days is allocated for agency and public review, beginning on the date on which EPA publishes the NOA for the DEIS in the Federal Register. Normally that date is the Friday following the week that the DEIS is filed with EPA. Any requests for extensions of the public review period must be considered and processed as identified in subparagraph 10-3e(3)(d) of this manual. Typically, a public meeting or hearing is held during the public review period, but such meeting or hearing is not mandatory.

2. Public Review for Conformity Evaluations. Where the EIS requires a conformity evaluation, the action proponent must include a discussion of the public review requirements in the notice of public meeting or hearing published in the Federal Register by OPNAV N45 and in newspaper advertisements, radio or television announcements, Web sites (if established by an action proponent), mailings, social media, etc. The public review of a conformity evaluation runs concurrently with the 45-day DEIS review period.

3. NHPA Section 106 General Public Outreach Requirements. Where a proposed action triggers compliance requirements under section 106 of the NHPA, and the action proponent decides to use the NEPA public outreach process to satisfy the section 106 public engagement requirement, it is important to notify consulting parties and the public of the plan to coordinate public engagement under NEPA and section 106 of the NHPA. The action proponent must accommodate section 106 general public outreach requirements during the public review period following release of the DEIS. Chapter 13 (Cultural Resources Compliance and Management), paragraphs 13-3.2, 13-3.3, and 13-3.9 of this manual provide additional section 106 and cultural resources consultation and stakeholder engagement requirements, and policy for NEPA integration with section 106.

e. Guidance for Conducting Public Meetings and Hearings

(1) General. Action proponents may conduct public meetings or hearings to fulfill the public involvement requirements of NEPA and E.O. 12114. Public meetings or hearings are appropriate:

(a) Where the Navy's proposed action will have a direct or peculiar environmental impact on the people living in a particular geographic area;

(b) Where public organizations or members of the public possess expertise concerning the environmental impact of the action that may not otherwise be available;

(c) Where no overriding consideration of national security or time makes it illegal or impractical to involve such organizations or members of the public in the consideration of a proposed action in which there is evidence of wide public interest;

(d) When another agency with jurisdiction over the action submits a request for a meeting or hearing and supports its reasons why a meeting or hearing will be helpful; or

(e) Where the proposed action may affect a minority or low-income population.

(2) Formats for Public Meetings or Hearings. The format for a public meeting or hearing must be tailored to meet the action proponent's objectives and take into account local or regional customs and traditions, or reasonable accommodations, as necessary. The formats available to Navy environmental planners include town hall meetings, open public information or poster sessions, interactive Web sites, live "virtual" public meetings, recorded Webinars, and combinations thereof. These formats share the same basic premise, which is to open up lines of communication to increase knowledge and understanding, enhance trust and credibility, and resolve conflict.

(3) Record of Attendance. A record of the names and addresses of meeting attendees must be kept, when appropriate, to ensure a complete AR and for purposes of mailing lists. In some instances, keeping a tally or count of the number of meeting attendees may be appropriate because of the impracticality of having attendees sign in due to logistics issues. Action proponents must take the necessary steps to protect the names and address information of private citizens from disclosure to the extent allowable by law.

(4) Translating Environmental Public Information Materials, and Public Notices into Languages Other than English. Per reference (v), where there are significant non-English-speaking populations within the proposed project study area, in coordination with the appropriate PAO, the action proponent should consider announcing public meetings in local foreign language newspapers and translating crucial meeting materials (e.g., fact sheets, summaries, displays) into languages other than English. Also, whenever appropriate and practicable, the action proponent should provide interpreters at public meetings to ensure all citizens, including those with limited writing ability and who speak limited English, can provide comments.

(5) Timing and Notice of Public Meeting or Hearing

(a) If the action proponent decides to hold a public meeting or hearing, it should preferably be scheduled at least 15 days after publication of the NOA by EPA in the Federal Register and no less than 10 calendar days before the close of the public comment period to allow adequate time for the submission of written comments.

(b) A notice of public meeting (NOPM) or notice of public hearing (NOPH) should be published in the Federal Register at least 15 calendar days before the first scheduled meeting or hearing. OPNAV N45 is responsible for publishing the NOPM or NOPH in the Federal Register and typically coincides with EPA's NOA publication. To facilitate publication of the notice, the action proponent must submit a draft NOPM or NOPH to OPNAV N45 that includes the information listed in table 10-16 of this manual, as appropriate.

(c) The Federal Register notice is in addition to efforts made by the action proponent to notify the public of the scheduled public meetings using any combination of newspaper

advertisements, radio or television announcements, Internet Web sites (if established by an action proponent), mailings, social media, etc. Public meetings or hearings held for the furtherance of public participation and not mandated by NEPA or E.O. 12114 need not be announced in the Federal Register, but the public should be notified using these means.

(6) Summaries of Public Meetings or Hearings. The action proponent must provide OPNAV N45 with summaries of each public meeting or hearing the day after the meeting or hearing is held. The summary must include, at a minimum, the total number of non-Navy attendees, attendance by Congressional representatives (if any), attendance by press representatives (if any), and a summary of the issues raised.

Table 10-16. Information Required in an NOPM or NOPH

1. The Navy POC with mailing address of who is designated to receive all written comments or answer questions.
2. The location, date, and time for the public hearing or meeting.
3. A summary of the proposed action.
4. A summary of the findings contained in the environmental planning document.
5. A discussion of the public review requirements associated with a conformity evaluation or NHPA section 106 consultation, if applicable.
6. Any limitations on the length of oral statements and a suggestion that technical statements or statements of considerable length be submitted in writing.
7. The date by which comments must be received or postmarked.
8. The location(s) where the environmental planning document is available for examination.

(7) Requests to Extend a Public Review Period or Schedule Additional Public Meetings or Hearings. The action proponent may extend the review time or schedule additional public meetings or hearings in response to a timely written request. Formal written requests received from Federal, State, or local elected officials, agencies, tribal governments, nongovernmental organizations, or individuals to extend public comment periods should be coordinated with OPNAV N45. An interested party's failure to file timely comments will not be a sufficient reason for the Navy to extend the review period. When deemed appropriate, OPNAV N45 will arrange for a notice extending the public comment period to be published in the Federal Register. The action proponent is responsible for the publication of similar notices in local newspapers or via any combination of newspaper advertisements, radio or television announcements, Internet Web sites (if established by the action proponent), mailings, and social media.

f. FEISs

(1) Process Timeline. The action proponent may announce availability of the FEIS no less than 45 days from the date the announcement of the DEIS appears in the Federal Register.

(2) Core Components of FEISs. In addition to the core components of a DEIS identified in table 10-14 of this manual, the action proponent must:

(a) Identify a preferred alternative in the FEIS if not previously identified in the DEIS; and

(b) Incorporate into the FEIS all relevant comments received on the DEIS. Where comments reveal previously unrecognized impacts or changes to identified impacts, action proponents must include sufficient analysis thereof. Action proponents must reproduce in the FEIS the relevant individual comments received from agencies and the public, followed by an appropriate response. Including verbatim transcripts of public meetings or hearings in the FEIS is not required or desired, but they should be uploaded to the EIS Web site and included in the AR. Action proponents must also include a meaningful response to all reasonable opposing views that have not been adequately addressed in the DEIS. Possible types of comment-response strategies that the action proponent may employ in preparing the FEIS may include:

1. Modifying alternatives including the proposed action;

2. Developing and evaluating alternatives not previously given serious consideration;

3. Supplementing, improving, or modifying the analyses;

4. Making factual corrections;

5. Providing explanations of why the comments do not warrant further response, citing the sources, authorities, or reasons that support such a position; and, if appropriate, indicating those circumstances that would trigger a reappraisal or further response; and

6. Where Navy responses to comments can be accomplished by referencing sections contained in the DEIS, clearly identifying pertinent sections in the response.

(3) Determining Whether to Publish a Supplement or a Revised DEIS. The guidance provided in subparagraph 10-3.4h of this manual should be reviewed when an action proponent is considering whether preparation of a revised DEIS or supplement is appropriate instead of release of an FEIS.

(4) FEIS Review and Processing

(a) FEIS Submittal. The action proponent submits the FEIS for review to OPNAV N45 and ASN(EI&E) staff beginning no later than with V.2 (staff review). Information on EIS processing times is available on the OPNAV N45 Environmental Planning and Compliance Library Web site (refer to subparagraph 10-3.7a of this manual for more information).

(b) Completion of Consultation and Authorization Processes. All consultation and authorization processes required by law, including, but not limited to those set forth in the ESA, MMPA, NHPA, MSFCMA, MBTA, CZMA, CAA, and CWA, must be completed prior to FEIS publication. In the context of the CAA and CWA, it is expected that the initial coordination with the regulatory agency will have occurred and any design or operating requirements or parameters have been identified and assessed as part of the environmental planning process (refer to subparagraph 10-3.4c of this manual). If appropriate, the FEIS must include the final conformity evaluation.

1. With the submission of V.2 of the preliminary draft FEIS (refer to table 10-4 of this manual for an explanation of versions), the action proponent must include an update on the status of completion for all consultation, coordination, and authorization processes pertaining to the proposed action. The summary should be no more than three pages in length and identify whether such consultation, coordination, and authorization processes must be completed prior to FEIS briefing to ASN(EI&E). This updated status summary must be accompanied by supporting official correspondence, email, meeting records, etc., that support the report's findings; and

2. In situations where completion of the required consultation, coordination, or authorization processes cannot be completed in time to support the completion of the FEIS, a detailed justification for moving forward with the FEIS must be submitted to OPNAV N45 and ASN(EI&E), as identified in subparagraph 10-3.4c of this manual.

(c) FEIS Processing. Upon ASN(EI&E) approval, OPNAV N45 will digitally file the FEIS V.4 (release version) with EPA. The action proponent must distribute the FEIS to recipients of the DEIS and to any person, organization, or agency that submitted substantive comments on the DEIS. Reference (w) requires that action proponents publicly distribute FEISs no later than the time the FEIS is filed with EPA.

1. Action proponents, OPNAV N45, and the Navy Secretariat must coordinate closely to ensure the FEIS is approved for release early enough to enable the action proponent to make the required distribution and implement its public affairs strategy. Congressional notifications by the Navy OLA will be conducted prior to the publication of EPA's NOA in the Federal Register.

2. To the extent possible, the Navy must distribute electronic copies of the document and post the FEIS on its project Web site. The action proponent must ensure the FEIS is posted electronically on the project Web site no later than when OPNAV N45 files the FEIS with EPA.

3. At a minimum, the FEIS must be made available for public review in the same local outlets as the DEIS.

g. ROD. The signing of a ROD completes the EIS process. OPNAV N45 and ASN(EI&E) staff, in coordination with the action proponent, prepare the ROD for publication and ASN(EI&E) or ASN(RD&A), as appropriate, approves it. All mitigation measures to which a ROD commits is legally binding on the action proponent.

(1) Template for a ROD. RODs should be prepared using the template identified in table 10-17 of this manual, as appropriate. As a matter of special emphasis, the ROD must be totally consistent with information presented in the EIS (i.e., every factual assertion in the ROD must be supported by specific analysis or discussion in the EIS). It should also be written in standard English and avoid the use of overly technical terms or jargon.

(2) Posting the Notice on the Project Web Site. The action proponent must post the ROD on its EIS Web site and distribute a ROD notice to all interested parties. If applicable, the action

proponent must publish an NOA of the final conformity evaluation in the same local outlets as the DEIS and FEIS, distributing it to agencies and interested parties within 30 calendar days of the approval of the ROD.

(3) Publishing a ROD Notice in the Federal Register. OPNAV N45 must publish a notice summarizing the signed ROD in the Federal Register within 30 calendar days of the approval of the ROD.

(4) Implementing the Action

(a) Action proponents must delay committing resources irreversibly for a proposed action until the later date of:

1. Ninety calendar days after publication of the Federal Register notice announcing the filing of the DEIS with EPA; or

2. Thirty calendar days after publication of the Federal Register notice of the filing of the FEIS with EPA (wait period).

(b) Within 30 days of ROD signature, the mitigation measures committed to in the ROD must be inputted to the OPNAV N45 Environmental Planning and Compliance Library Web site. Implementation and annual monitoring of mitigation must use the mitigation and monitoring tracking tool within the Required Reporting module. This is required for tracking completion.

Table 10-17. Template for a ROD *(20 pages or fewer in length)*

DEPARTMENT OF DEFENSE
Department of the Navy

Record of Decision for the Final Environmental Impact Statement (FEIS) for [*PROPOSED ACTION*] at [*INSTALLATION/RANGE/OPAREA*], [*CITY*], [*STATE*]

AGENCY: Department of the Navy, DoD.

ACTION: Record of Decision.

SUMMARY: The U.S. Department of the Navy (DON), after carefully weighing the strategic, operational, and environmental consequences of the proposed action announces its decision to [*SUMMARY OF DECISION*]. DON's action proponent for this proposal is [*IDENTIFY ACTION PROPONENT*].

FOR FURTHER INFORMATION CONTACT: [*POC, COMMAND, ADDRESS, TELEPHONE, FACSIMILE, EMAIL ADDRESS*].

A. SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969; sections 4321 et seq. of Title 42, U.S. Code; Council on Environmental Quality regulations (Parts 1500–1508 of Title 40, Code of Federal Regulations [CFR]); and DON regulations (32 CFR Part 775), DON announces its decision to [*STATE DECISION*]. This decision will enable the Navy to [*COMPLETE WITH RESTATEMENT OF HOW PROPOSED ACTION MEETS PURPOSE AND NEED*].

B. BACKGROUND AND ISSUES: [*PROVIDE BACKGROUND ESSENTIAL FOR READER TO UNDERSTAND THE ISSUE(S) OR CONTEXT OF THE ACTION.*]

Purpose and Need

Public Involvement

Alternatives Considered

- Describe the screening process used to identify a reasonable range of alternatives, including alternatives eliminated from consideration (where applicable).
- Summarize the range of alternatives.
- Identify the environmentally preferable alternative.

Environmental Impacts: [*SUMMARIZE SIGNIFICANT ENVIRONMENTAL EFFECTS ONLY.*]

Agency Consultation and Coordination: [*INCLUDE IDENTIFICATION OF COOPERATING AGENCIES AND THEIR EXPERTISE, WHERE APPLICABLE.*]

Mitigation Measures

- Identify any mitigation measures selected.

- State whether all practicable means to avoid or minimize significant environmental harm from the selected alternative were adopted, and if not, why they were not.
- Summarize any provisions for monitoring, where applicable, for mitigation.

Responses to Comments Received on the FEIS: [*DISCUSS ONLY SUBSTANTIVE COMMENTS NOT ALREADY ADDRESSED IN THE DEIS.*] DON reviewed and considered all comments that were received during the 30-day public review and wait period following the issuance of the notice of availability of the FEIS. The comments summarized here represent the major substantive comments received. A total of XX comment letters or emails totaling XXX comments were received on the FEIS. All but XX of the comments were similar or identical to comments received on the Draft EIS that were previously considered and addressed in the FEIS. The majority of the comments received were concerned with [*ISSUE 1*] (XX percent). The next most significant number of comments concerned [*ISSUE 2*] (XX percent), [*ADDRESS ADDITIONAL SIGNIFICANT CONCERNS*]. The remaining comments addressed [*SUMMARY OF REMAINING COMMENTS*]. Comments warranting specific responses are:

Comment 1, etc.: [*SUMMARIZE COMMENT.*]

Response: [*RESPONSE TO COMMENT.*]

C. CONCLUSION:

- Explain the rationale for the decision.
- Discuss preferences among alternatives based on relevant factors including economic, technical, and mission considerations.
- Identify and discuss any essential considerations of national policy that entered into the decision.
- Discuss any factors that were not discussed in the EIS (e.g., cost or operational considerations).

Example Text: After carefully considering the purpose and need for the proposed action, the analyses contained in the final EIS, and comments received on the draft and final EISs from Federal, State, and local agencies, Native Hawaiian organizations, Native American tribes, nongovernmental organizations, and members of the public [*DELETE COMMENTER TYPES, AS APPROPRIATE*], I have determined that the preferred alternative *identified in the final EIS,* [*IDENTIFY ALTERNATIVE SELECTED*], best meets the needs of DON. Implementation of [*IDENTIFY ALTERNATIVE SELECTED*] will enable DON to achieve the [*CUSTOMIZE TEXT TO EXPLAIN HOW THE SELECTED ALTERNATIVE BEST MEETS THE IDENTIFIED NEED, e.g., FOR A TRAINING EXERCISE, THE TEXT COULD ADDRESS ACHIEVING THE LEVELS OF OPERATIONAL READINESS REQUIRED UNDER SECTION 5062 OF TITLE 10, U.S. CODE, WITHOUT RESULTING IN SIGNIFICANT ENVIRONMENTAL IMPACTS OR BY MANAGING AND MITIGATING ANY POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS*].

10-3.17. Emergency Actions

a. When an action proponent is considering a proposed emergency action (e.g., natural disaster response, fire, HM spill) with less than significant impacts or is uncertain about the significance of impacts, a concise and focused EA may be prepared per reference (x). Guidance is provided by CEQ on its Web site (refer to appendix E (Web Sites) for Web site address). OPNAV N45 should be consulted, and a notification letter must be submitted as soon as practicable.

b. Alternatively, CEQ regulations allow the use of "alternative arrangements" in place of an EA or EIS in emergency circumstances when approved by CEQ. Requests for this course of action must be submitted to OPNAV N45 via the chain of command. Action proponents must consult with OPNAV N45 prior to submitting such requests.

c. There must be no delay in taking immediate actions necessary to either secure the lives and safety of personnel or protect national security assets before consulting with OPNAV N45, but OPNAV N45 must be consulted with as soon as possible thereafter.

10-3.18. Executive Order 12114 Compliance Overview

a. E.O. 12114 provides the exclusive and complete set of the requirements for assessing the effects of major Navy actions that may significantly harm the environment of places outside the United States, its territories, and possessions. This subparagraph describes environmental policy and procedures for carrying out the purpose of E.O. 12114 in the U.S. EEZ, the global commons (high seas), FEEZs, and foreign territorial seas and territory. Nothing in this subparagraph is intended to conflict with international legal requirements in an EEZ of a foreign nation. However, for actions ashore, the requirements of chapter 34 (Overseas Environmental Compliance Ashore) of this manual and applicable FGSs for the affected host nation(s) apply. If FGSs have not been issued for the affected host foreign nation(s), Navy shore activities must comply with the applicable SOFA and reference (i).

b. For each proposed major Navy action that is not excluded or exempted from compliance with E.O. 12114, the action proponent must complete environmental planning documentation per this manual. Figure 10-3 of this manual illustrates the E.O. 12114 environmental planning process as described in paragraphs 10-3.19 through 10-3.27 of this manual.

10-3.19. Major Navy Actions Abroad. E.O. 12114 (reference (e)) only applies to Navy actions carried out directly or indirectly funded by the Navy, including Navy training and testing at sea. An action proponent is responsible for determining which at-sea activities are being conducted primarily for the purposes of training. Figure 10-3 of this manual provides a detailed breakdown of Navy actions abroad and the applicability of E.O. 12114 to those activities.

a. Factors to Be Considered in Determining if an Action Is a Major Navy Action Abroad. In making a determination whether an action is a major Navy action, the action proponent must consider that:

(1) A major action involves substantial expenditures of time, money, and resources by the Navy; affects the environment on a large geographic scale or has substantial environmental effects on a more limited geographical area; and is substantially different or a significant departure from other Navy actions.

(2) Per reference (b), major training exercises are major Navy actions. Other factors for consideration are:

(a) Unique characteristics of the geographic area affected;

(b) Intensity and scope of the action; and

(c) Nature of the effects (direct and indirect).

b. Navy Action Is Not a Major Action Abroad. If the action proponent determines that a proposed action is not a major Navy action, E.O. 12114 does not apply and no further analysis is necessary.

(1) Actions involving the routine deployment of ships, aircraft, or other mobile military equipment are not major Navy actions.

(2) Routine training, testing, and exercises at sea are not major Navy actions. Generally, routine training, testing, and exercises:

(a) Are associated with transits; maneuvering; safety and engineering drills; replenishments; flight operations; and shipboard or airborne gunnery, missile, or torpedo firings;

(b) Are conducted as unit operating schedules permit;

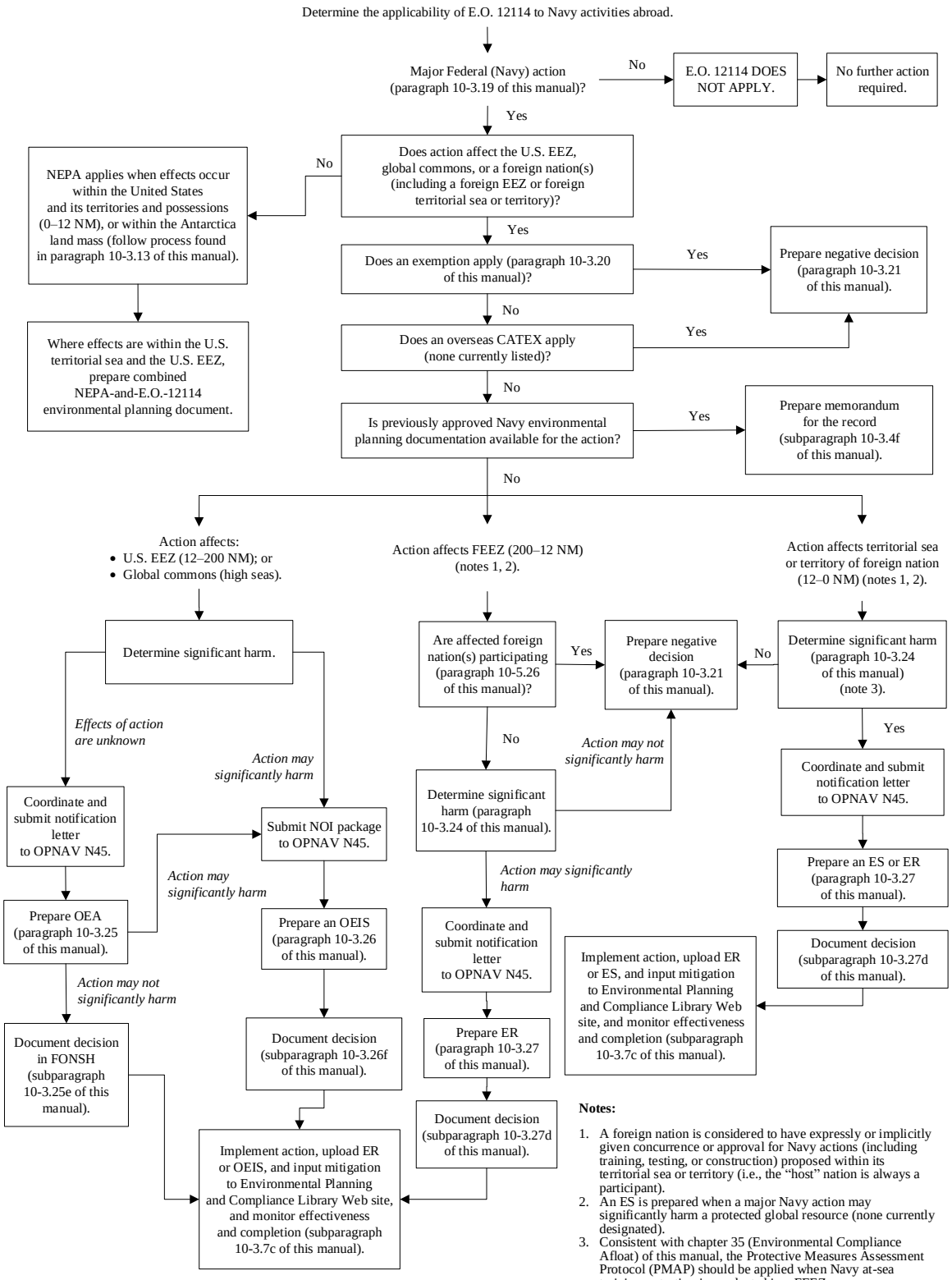
(c) Are not repeated in the same vicinity as other land-based activities;

(d) Use available sensors and assets within normal operating parameters;

(e) Are conducted per all applicable SOPs protective of the environment (e.g., apply the Protective Measures Assessment Protocol (PMAP)); and

(f) Ordinarily have only minor, localized, and transient effects on the environment.

Figure 10-3. E.O. 12114 Environmental Planning Flowchart for Navy Actions



10-3.20. Exemptions to the Requirement to Prepare Environmental Documentation Under Executive Order 12114. Reference (e) establishes several exemptions from E.O. 12114 applicability when a major Navy action would affect a FEEZ, foreign territorial sea, or foreign territory. A negative decision is the appropriate documentation for reliance on an exemption (refer to paragraph 10-3.21 of this manual for negative decision requirements).

a. General Exemptions. Reference (e) establishes general exemptions that can be used without approval from a higher authority. The general exemptions most commonly applicable to Navy actions are:

(1) Actions that lack any potential to cause significant harm to the environment outside the United States (refer to paragraph 10-3.24 of this manual for guidance on making a significant harm determination). To rely on this exemption, an action proponent must be certain that a proposed action lacks the potential to cause significant harm;

(2) Actions taken or directed by the President or a cabinet officer during armed conflict. This exemption applies to actions during armed conflict and as long as the armed conflict continues. Armed conflict includes: a state of war declared by Congress and hostilities for which Congress has authorized the use of armed force; hostilities or situations for which a report is prescribed by section 4(a)(1) of the War Powers Resolution (reference (y), section 1543(a)(1)); and other actions by U.S. Armed Forces involving defensive use or introduction of weapons into situations in which hostilities have occurred or are reasonably expected;

(3) Actions taken or directed by the President or a cabinet officer when national security or national interests are involved that the Under Secretary of Defense, Acquisition, Technology, and Logistics (USD(AT&L)) has determined, in writing, to involve national security or national interest;

(4) Activities applicable to the intelligence components used by the Secretary of Defense under references (z) and (aa), including the Office of Naval Intelligence;

(5) Activities of the Navy International Programs Office and other activities pertaining to arms transfer. Arms transfer includes granting, loaning, leasing, exchanging, and selling defense articles and services to foreign governments or international organizations, and extending or guaranteeing credit in connection therewith;

(6) Navy participation in disaster and emergency relief, or providing assistance to, relief efforts; and

(7) Actions involving nuclear activities and nuclear material, excluding actions providing "nuclear production;" a "utilization facility," as defined in reference (p), section 2014; or a "nuclear waste management facility" to a foreign nation.

b. Case-by-Case Exemptions. If a case-by-case exemption applies, the action proponent must obtain written approval of SECNAV via the chain of command to apply the exemption to the proposed action. Upon receipt of written approval of SECNAV, the action proponent must

prepare a negative decision (refer to paragraph 10-3.21 of this manual for negative decision requirements).

(1) Emergencies. This exemption applies to actions to promote national defense or security that must be taken without delay and to actions necessary to protect life or property. SECNAV must report the granting of this exemption to USD(AT&L), who, working through the Assistant Secretary of Defense for International Security Affairs (ASD(ISA)), must inform and consult with DOS. For cases within the purview of CEQ, ASN(EI&E) must notify and confer with CEQ as soon as it is feasible. Immediate actions necessary to either preserve lives or protect national security assets from imminent danger should not be delayed to accommodate identified consultation and coordination requirements.

(2) Special Circumstances. National security considerations, exceptional foreign policy interests, and other special circumstances not identified in the general exemptions listed in subparagraph 10-3.20a of this manual may preclude or be inconsistent with preparation of environmental planning documentation. In such cases, SECNAV, with approval of USD(AT&L), may exempt an action from the environmental planning requirements of subparagraph 10-3.20a of this manual. Before granting approval, USD(AT&L), working through ASD(ISA), must consult with DOS and CEQ.

(3) Class Exemptions for Related Actions. At present, there are no class exemptions. SECNAV, after coordination with other interested DoD components, may submit a request for a class exemption for groups of related actions to USD(AT&L), who is the approval authority for exemptions. Working through ASD(ISA), USD(AT&L) must consult with DOS and CEQ on such requests.

10-3.21. Negative Decision. Negative decisions are prepared and signed by the ICO or his or her deputy or the PM for a weapon-system-acquisition action. As applicable, a negative decision must include the elements identified in table 10-18 of this manual.

Table 10-18. Elements of a Negative Decision

Element	Action Applicable To
Element (1): Describe or provide a reference to the proposed action, including its location—foreign nation, foreign nation's territorial sea, or FEEZ.	All negative decisions
Element (2): Identify whether or not the action is a major Navy action.	All negative decisions
Element (3): Identify how or where the affected foreign nation (or other foreign nations) is participating in the action.	When the affected foreign nation is participating
Element (4): Identify the exemption or overseas CATEX (none currently listed) being applied.	Include this section only when an exemption or overseas CATEX applies (there are currently no approved overseas CATEXs)

Element	Action Applicable To
Element (5): Briefly discuss the facts supporting the negative decision (such as how the action is exempt from the requirement to prepare environmental planning documentation under E.O. 12114; *or* how the action would not cause significant harm to the environment of a FEEZ).	All negative decisions

10-3.22. Executive Order 12114 Categorical Exclusions. At present, there are no approved CATEXs for use in complying with E.O. 12114. Should CATEXs be established for E.O. 12114 by the Office of the Secretary of Defense (OSD), OPNAV N45 must provide implementing guidance. Refer to paragraph 10-5.23 of this manual for guidance in submitting recommendations for establishing a CATEX under E.O. 12114.

10-3.23. Determining the Type of Environmental Planning Documentation Based on Location of Effects. The appropriate environmental planning documentation that must be prepared for a proposed major Navy action is determined by where the effects on the physical environment occur rather than where the action takes place. Table 10-2 of this manual provides a summary of the appropriate environmental planning documents an action proponent should prepare to comply with the requirements of E.O. 12114 based on location of effects.

a. Environmental Planning Documentation for Actions Affecting the U.S. EEZ or Global Commons. An OEA or OEIS is prepared when a major Navy action may significantly harm the environment of the U.S. EEZ or the global commons (high seas). NEPA and E.O. 12114 hybrid documents (e.g., EA and OEA or EIS and OEIS) may be prepared depending on the location of effects. An action proponent may not prepare a hybrid document where one component is a NEPA Record of CATEX. The preparation of an EA and OEA hybrid is appropriate in such circumstances.

b. Environmental Planning Documentation for Actions Affecting a FEEZ

(1) When the affected foreign nation is participating in the major Navy action, the Navy action proponent prepares a negative decision; and

(2) When the affected foreign nation is not participating in a major Navy action, the Navy action proponent must first determine if the action will significantly harm the environment of that nation. If the action proponent determines the action will not significantly harm the environment of the foreign nation affected by the action, a negative decision is prepared. If the action proponent determines the action will significantly harm the environment of the affected foreign nation, an ER must be prepared. Hybrid documents (e.g., OEA and ER or OEIS and ER) must not be prepared.

c. Environmental Planning Documentation for Actions Affecting a Foreign Nation or Foreign Territorial Seas. A negative decision is prepared when a major Navy action will not significantly harm the environment of a foreign nation's territorial sea or the foreign nation itself.

If the action will significantly harm the environment of the affected foreign nation, an ER or ES must be prepared. A foreign nation is always considered to be a participant in a proposed action that would occur within its territorial sea or on its territory.

d. Actions Affecting Protected Global Resources. Upon consultation with OPNAV N45, an ES is prepared when a major Navy action may significantly harm a protected global resource regardless of whether there is foreign nation participation. There are currently no designated protected global resources.

10-3.24. Determining Significant Harm

a. Per reference (e), an action significantly affects the environment if it does significant harm to the environment even though on balance the action may be beneficial.

b. "Significant harm" occurs when the major Navy action will introduce to a foreign nation's territory, territorial sea, or EEZ:

(1) A product, or 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 (i.e., a "toxic product"); 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 (i.e., a "radioactive substance").

c. Consistent with chapter 35 (Environmental Compliance Afloat) of this manual, the PMAP should be applied when Navy at-sea training or testing is conducted in a FEEZ.

10-3.25. Overseas Environmental Assessments

a. General. An OEA under E.O. 12114 is an environmental analysis similar to an EA under NEPA. The objective of an OEA is to document the environmental consequences of a proposed action, allowing the reviewing authority to determine whether or not the effects of the action will significantly harm the environment (refer to paragraph 10-5.31 of this manual for the definition of significantly). If the action will affect the environment in the U.S. EEZ and the global commons (high seas) (refer to figure 10-1 and table 10-1 of this manual) and the action proponent does not know beforehand that the effects will result in significant harm to the environment, the action proponent must prepare an OEA. If the action proponent believes or knows that the proposed action will result in significant harm to the environment, an OEIS must be prepared. Figure 10-3 of this manual is a flowchart illustrating the logic flow for determining the proper E.O. 12114 environmental planning document to prepare.

b. Pre-Planning and Notification

(1) Pre-Planning and Other Procedural Requirements. As applicable, the procedural requirements indicated in paragraph 10-3.4 of this manual must be followed in the preparation of

OEAs. These requirements include, but are not limited to correct resource regulatory and statutory conclusions, inclusion of mitigation measures and their implementation, and the upload of final environment planning documents to the OPNAV N45 Environmental Planning and Compliance Library Web site. Additional guidance is provided in subparagraphs 10-3.25c through 10-3.25e of this manual.

(2) Notification. The pre-planning procedures delineated in subparagraph 10-3.15c of this manual for an EA should be followed. The contents of the notification for an OEA are generally the same as for an EA). Note: In the case of an OEA where the proposed action will affect the U.S. EEZ (12 to 200 NM), the analysis of two reasonable action alternatives is required, in addition to the no action alternative. If an additional action alternative is not practical, the notification letter and the OEA must explain in detail the rationale for not including an additional alternative.

c. OEA Content. The document should be brief and concise and not encyclopedic. For example, detailed descriptions of potentially affected species should not be included in the body of the document (but could be included in appendices depending on the cooperating or reviewing Federal agencies' needs). The size of an OEA should be commensurate with the complexity of the proposed action and may range in size from 10 pages to 150 pages. OEAs should contain sufficient information and analysis upon which to make a determination on whether it is reasonably likely that an action will significantly harm the environment. Accordingly, an OEA must include those core components identified in table 10-19 of this manual.

d. OEA Processing. An OEA must be submitted for review and processing via the chain of command in the same manner as described for an EA in paragraph 10-3.15 of this manual. An OEA is an internal Navy document; public participation during its preparation is not required. It is releasable under reference (bb), subject to restrictions on records that are classified or exempt.

e. Review and Decision

(1) The decision maker for an OEA is the same as identified for an EA in paragraph 10-3.15 of this manual. After considering the documented potential effects of the proposed action on the environment, the decision maker must decide whether a FONSH is appropriate using the same factors as described for a FONSI. If appropriate, he or she must prepare a FONSH.

(2) The inclusion of mitigation measures as part of the proposed action may bring impacts below the threshold of significance. The action proponent must implement all mitigation committed to in the FONSH.

(3) The FONSH must conclude with a finding that the proposed action will not significantly harm the environment and that an OEIS will not be prepared. Within 30 days of FONSH signature, the mitigation measures committed to in the FONSH must be inputted to the OPNAV N45 Environmental Planning and Compliance Library Web site using the mitigation and monitoring tracking tool within the Required Reporting module. This is required for tracking completion.

Table 10-19. Core Components of an OEA

1. Description of the proposed action in sufficient detail to allow a reader unfamiliar with it to understand fully what is proposed, the location of the proposed action, the timing of the action, and any other pertinent details. 2. Discussion of the need for the action. 3. Identification and analysis of alternative means to accomplish the proposed action. For actions affecting the environment of the U.S. EEZ (12 to 200 NM), the analysis of two reasonable action alternatives is required, in addition to the no action alternative. If an additional action alternative is not practical, the notification letter and the OEA must explain in detail the rationale for not including an additional alternative. 4. Evaluation of potential effects to the natural and physical environment, including, but not limited to underwater acoustics, water quality, air quality, marine biology, EFH (where applicable, refer to table 10-1 of this manual), and marine geology. 5. Description of the mitigation measures (planned or taken) to avoid or reduce environmental effects (may be in a matrix or separate chapter). 6. Identification of the preparers of the document, including their names and areas of expertise. 7. To substantiate impact analysis and to verify that consultation and coordination have been completed, inclusion of, as appropriate and preferably in an appendix, associated correspondence, memos to file, emails, studies, biological evaluations and assessments and BOs, permits, final rules, etc.

10-3.26. Overseas Environmental Impact Statements

a. General. An OEIS under E.O. 12114 is an environmental analysis similar to an EIS under NEPA. The objective of an OEIS is to document the potential environmental consequences of a proposed action that may cause significant harm to the environment (refer to paragraph 10-5.31 of this manual for the definition of significant) of the U.S. EEZ and the global commons (high seas) (refer to figure 10-1 and table 10-1 of this manual).

b. Pre-Planning and Notification

(1) Pre-Planning Process and Other Procedural Requirements. As applicable, the procedural requirements identified in paragraph 10-3.16 of this manual must be followed in the preparation of OEISs. These requirements include, but are not limited to, correct regulatory and statutory conclusions in environmental planning documents, inclusion of mitigation measures and their implementation, and the upload of final environmental planning documents to the OPNAV N45 Environmental Planning and Compliance Library Web site.

(2) NOI. The action proponent must notify OPNAV N45, via the chain of command, of its intent to prepare an OEIS. The contents of the NOI package for an OEIS are generally the same as for an EIS. OPNAV N45 will coordinate with ASN(EI&E) and then publish the NOI in the Federal Register.

c. Scoping. There is no requirement for conducting public scoping under E.O. 12114, but scoping may be appropriate, depending on the magnitude of the environmental effects and the

need for mitigation, and if there is a potential for public controversy. Such scoping would be conducted within the United States. If the environment of any foreign nation is potentially affected, OPNAV N45, per reference (f), will assist the Navy Secretariat in executing any necessary coordination with the Office of the Secretary of Defense for Policy (OSD-P) and DOS.

d. Draft OEISs

(1) Core Content. The document should consist of concise and analytical (rather than encyclopedic and descriptive) discussions of the reasonably foreseeable environmental effects of the proposed action. The core content and format of an OEIS must be basically the same as identified for an EIS in table 10-14 of this manual, except that the OEIS must only address the potential effects to the natural and physical environment as defined in paragraph 10-5.4 of this manual. Content includes, but is not limited to underwater acoustics, water quality, air quality, marine biology, EFH (refer to table 10-1 of this manual for EFH applicability), and marine geology. The OEIS must evaluate reasonably foreseeable significant effects using the best scientific information available.

(2) Process Timeline. A preliminary draft OEIS V.2 must be submitted to OPNAV N45 via the chain of command as soon as it is available for review. Further information on OEIS processing following submittal to OPNAV N45 is available in the Reference Materials Library module of the OPNAV N45 Environmental Planning and Compliance Library Web site.

(3) Distribution and Review. A draft OEIS must be made available for public comment in the United States. The public comment period must be for a minimum period of 45 calendar days unless USD(AT&L) determines that, upon a showing of probable important adverse effect on national security or foreign policy, a lesser period is required. Consideration must be given to whether any foreign government should be informed of the availability of the document and any notifications to foreign governments must be coordinated with DOS. OPNAV N45, per reference (f), will assist the Navy Secretariat in executing any necessary coordination with OSD-P and DOS.

(a) Once approved by ASN(EI&E) or ASN(RD&A), OPNAV N45 will direct the action proponent to forward the draft OEIS to CEQ and other interested Federal agencies, as appropriate. In addition, if the environment of any foreign nation is potentially affected, OPNAV N45, in conjunction with the Navy Secretariat, will execute any necessary coordination with OSD-P and DOS.

(b) Public meetings or hearings are not required, but may be held in the United States, if directed by ASN(EI&E), after consultation with ASD(ISA), DOS, and CEQ. The following factors must be considered in determining if public meetings or hearings should be held: foreign relations sensitivities; whether the meetings or 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 of the listed factors be considered when one or more factors indicate public meetings or

hearings would not produce a substantial net benefit to those responsible for authorizing or approving the proposed action.

(c) OPNAV N45 will be responsible for the Federal Register publication of the NOA for the draft OEIS. If a public meeting or hearing is to be held, the Navy action proponent must prepare a draft notice, which must be combined with the NOA for the draft OEIS, and identify the schedule for meeting or hearing for cost savings. The action proponent must provide the draft notice to OPNAV N45 at least 3 weeks in advance of the preferred date of publication in the Federal Register. The preferred date for publication must take into account the need to publish the notice in the Federal Register no less than 15 calendar days prior to the first scheduled meeting or hearing. The date of publication in the Federal Register signifies the first day of the public comment period.

(d) The action proponent should refer to subparagraph 10-3.16e of this manual for guidance on procedures for conducting a public meeting or hearing.

e. Final OEISs

(1) The final OEIS must consider, individually or collectively, all substantive comments received on the draft OEIS. All final OEISs, including drafts submitted for action, concurrence, or endorsement, must identify the responsible technical and legal points of contact involved in their preparation and review.

(2) The final OEIS must be made available to the public in the United States. OPNAV N45 will publish the NOA for the final OEIS in the Federal Register. A draft NOA must be provided to OPNAV N45 by the action proponent no less than 3 weeks prior to the preferred date of publication in the Federal Register.

f. Decision

(1) Action proponents must not take any action that would cause or result in significant harm to the environment or limit choice among reasonable alternatives until a decision document is signed for the final OEIS. No decision may be made until the later of 90 calendar days after the draft OEIS has been made available and notice thereof published in the Federal Register, or a 30-calendar-day public review and wait period after the final OEIS has been made available and notice thereof published in the Federal Register. The 90-day period and the 30-day public review and wait period may run concurrently. The date of publication in the Federal Register signifies the first day of the 30-day public review and wait period.

(2) The decision document prepared on the proposed action by ASN(EI&E) or ASN(RD&A), or their delegated authority, must indicate that the final OEIS has been considered in the decision-making process. Within 30 days of decision-making, the mitigation measures committed to in the decision document must be inputted to the OPNAV N45 Environmental Planning and Compliance Library Web site using the mitigation and monitoring tracking tool within the Required Reporting module. This is required for tracking completion for subsequent tracking to completion.

10-3.27. Environmental Reviews or Environmental Studies

a. Pre-Planning and Notification

(1) Pre-Planning Process and Other Procedural Requirements. Procedural requirements applicable to E.O. 12114 environmental planning in paragraph 10-3.4 of this manual should be tailored to and followed in the preparation of ERs or ESs. These requirements include, but are not limited to correct resource regulatory and statutory conclusions, inclusion of mitigation measures and their implementation, and the upload of final environmental planning documents to the OPNAV N45 Environmental Planning and Compliance Library Web site.

(2) Notification

(a) The pre-planning and notification procedures delineated in subparagraph 10-3.15c of this manual for an EA should be followed. The contents of the notification for an ER or ES are generally the same as for an EA.

(b) Because an ES is a cooperative, bilateral, or multilateral effort, OPNAV N45 elevates ES notification letters to ASN(EI&E), who will coordinate with OSD-P and DOS. ASN(EI&E) decides whether to prepare an ES after consultation with ASD(ISA). Once a decision to prepare an ES has been made, the Navy action proponent must not take any action that would significantly harm the environment until the ES is completed and approved by ASN(EI&E).

b. ER or ES Content. The contents of an ER and ES should be commensurate with the complexity of the proposed action. These documents are intended to be concise surveys of important environmental issues and effects to be used in the decision-making process. Generally, an ER must include the core components identified in table 10-20 of this manual. However, the precise content of an ES 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 national security factors.

c. Processing an ER or ES. An ER or ES must be submitted for review, processing, and decision-making via the chain of command in the same manner as an EA that is submitted for OPNAV N45 action. ERs and ESs are internal Navy documents; public participation during their preparation is not required. An ER or ES is releasable under reference (bb), subject to restrictions on records that are classified or exempt.

Table 10-20. Core Components of an ER or ES

1. A statement of the action to be taken, including its timetable, physical features, general operating plan, and other similar broad gauge descriptive factors. 2. Identification of the important environmental issues involved. 3. Description of the aspects of the actions taken or to be taken by the Navy action proponent that ameliorate or minimize the impact on the environment. 4. Identification of 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. 5. Identification of the preparers of the document, including their names and areas of expertise.

d. Review and Decision. The decision maker for an ER is OPNAV N45. The decision maker for an ES is ASN(EI&E). The decision maker will evaluate the analysis prepared for the proposed action and the proposed mitigation documented in the ES or ER. If appropriate, he or she will prepare and sign a decision document. There is no follow-on documentation.

10-3.28. Combination National Environmental Policy Act and Executive Order 12114 Environmental Planning Documents

a. As a matter of policy, if both NEPA and E.O. 12114 apply (refer to paragraph 10-1.3 of this manual), the analyses for both should be combined into a single environmental planning document. However, should the circumstances or nature of the proposed action warrant it, two separate environmental planning documents may be prepared.

b. In combining analyses, the action proponent must differentiate between NEPA and E.O. 12114 descriptions of the affected environment and the impact analysis so it is clearly understood which authority applies to the affected environment being assessed and the resources that are affected. In addition, the action proponent must consider:

(1) Using charts or matrices to identify which authority applies to specific elements of a proposed action;

(2) Using charts or matrices to identify location of affected resources to assist in identifying which authority applies to the respective analyses;

(3) Separating sections or paragraphs to set out the respective findings specifically required by NEPA and E.O. 12114;

(4) Combining the NEPA and E.O. 12114 discussions in a unified paragraph or text, especially when discussing relevant regulatory permitting, authorization, and consultation requirements that apply within both NEPA and E.O. 12114 areas of applicability; and

(5) Addressing E.O. 12114 conclusions in the NEPA ROD when a hybrid EIS and OEIS is prepared.

10-4 Responsibilities

10-4.1. OPNAV N45 must:

a. Develop and promulgate Navy environmental planning policy guidance, act as resource and assessment sponsor, and provide oversight of the Navy's environmental planning program. This includes development and promulgation of environmental planning document preparation guides and document templates;

b. Review environmental planning documents submitted for the Navy Secretariat or OPNAV N45 action to ensure compliance with Navy policy, consistency with Navy-wide environmental planning practices, and avoidance of adverse Navy-wide precedents. When appropriate, OPNAV N45 conducts these reviews concurrently with ASN(EI&E) staff and informs ASN(EI&E) of any potentially controversial planning issues. For EAs prepared in compliance with NEPA and submitted for OPNAV N45 review, OPNAV N45 will make decisions on whether a FONSI is appropriate or if an EIS is required. Likewise, for OEAs or ERs prepared in compliance with E.O. 12114, OPNAV N45 will make decisions on whether an OEIS is required;

c. Bring environmental planning matters that involve controversial issues or that may affect environmental planning policies or their implementation to the attention of ASN(EI&E) and, where appropriate, ASN(RD&A) for coordination and determination;

d. Conduct an annual audit of EAs prepared by Navy commands with delegated NEPA and E.O. 12114 signature authority;

e. Represent the Navy to other U.S. Armed Services, the OSD, CEQ, and other Federal agencies at the headquarters level regarding environmental planning matters;

f. Coordinate with the Judge Advocate General regarding publication of environmental planning notices in the Federal Register;

g. Coordinate with the Navy Office of Information for public release of environmental planning and decision documents; and

h Coordinate with the Navy OLA regarding Congressional notification of environmental planning documents.

10-4.2. Budget submitting offices or echelon 2 commands with installation-level responsibilities, region commanders and ICOs, PEOs, weapon-system-acquisition PMs, direct-reporting PMs, and science and technology PMs with the exception of tenant commands must:

a. Ensure compliance with the requirements of this chapter in matters under their cognizance;

b. Coordinate with the AEC and REC for all proposed actions that will occur within their respective AOR;

c. Plan and program for environmental planning documentation, as applicable, for anticipated proposed actions;

d. Ensure high-quality environmental planning documents are produced for each proposed action. Each environmental planning document must be consistent with Navy environmental policy; rely on a common organizational structure; be based on the best available science; use understandable, simple, and concise writing so that the public can understand the explanations of project decisions; and clearly demonstrate compliance with the appropriate regulatory and legal requirements. Specific Navy QA requirements are addressed in paragraph 10-3.9 of this manual;

e. Ensure funding for and implementation of any mitigation and monitoring requirements established in environmental planning and decision documents prepared pursuant to NEPA and E.O. 12114;

f. Plan, program, budget, and ensure training identified in paragraph 10-3.10 of this manual is obtained by Navy environmental planners;

g. Ensure completed environmental planning documents are uploaded to the OPNAV N45 Environmental Planning and Compliance Library Web site; and

h. As appropriate, comply with required reporting, including submission of an annual certification, annual program review summary, and mitigation and monitoring reporting.

10-4.3. AECs must:

a. Coordinate and review all Navy mission and operational environmental planning occurring within their designated AOR; and

b. Ensure all environmental planning documents and related permits, authorization, or consultations occurring within or affecting their AOR are coordinated with the RECs, as appropriate.

10-4.4. RECs must:

a. Participate in the preparation of environmental planning documents for proposed actions that affect resources under their control or issues of concern in their designated AOR; and

b. Coordinate and review environmental planning documents involving actions that affect resources in their designated AOR.

10-5 Definitions

10-5.1. Action Proponent

a. The action proponent is the commander, CO, ICO, or civilian director of a unit, activity, or organization who initiates a proposal for action. The general rule is that the action proponent

is the most junior element in the chain of command that "controls" the entire proposed action. Where multiple Navy organizations are involved in a proposed action, it is sometimes not apparent which command should be the lead action proponent. Early discussion among the participating commands is necessary in these cases to identify the appropriate lead action proponent. If agreement cannot be reached, the matter must be elevated promptly through their chains of command to OPNAV N45. Table 10-21 of this manual provides examples where commands in the past have been action proponents for various types of proposed actions.

b. The action proponent is responsible for coordination during the environmental planning process with respect to flow of information, document comment, review, concurrence, and approval and resolution of environmental issues. Coordination between the action proponent and other interested parties and stakeholders, both internal and external to the Navy, is necessary for the preparation of accurate, consistent, timely, and cost-effective documentation that supports the mission of all interested parties and stakeholders. Tenant commands proposing actions at an installation must follow all environmental guidance of the ICO (refer to chapter 1 (Organization and Coordination) of this manual).

Table 10-21. Action Proponent Guidance

Proposed Action	Usual Action Proponent	Comments
Actions affecting only one shore installation (non-mission-specific or operational issues)	ICO	Could also be Region Commander
Actions affecting multiple shore installations in the same region (non-mission-specific or operational issues)	CNIC HQ or Region Commander	Supported by ICOs
Homeporting or homebasing decisions	Fleet commander	Supported by Region Commander(s)
Major training exercises on or off established ranges and OPAREAs (and any other mission-specific or operational issues)	Fleet commander	Supported by Region Commander and numbered fleet
RDT&E, radar, sonar, and other testing not involving the use of commissioned vessels	SYSCOMs or PEO	Coordinate with AEC, numbered fleet, REC, Region Commander, and range manager, as appropriate (refer to note). A SYSCOM is the action proponent for RDT&E conducted on a SYSCOM range.
RDT&E, sonar, explosives, and other testing involving the use of commissioned vessels	Fleet chain of command, SYSCOMs, or PEO	PEO is normally the action proponent for testing largely independent of fleet training activity. Fleet is normally the action proponent if RDT&E testing is a small

Proposed Action	Usual Action Proponent	Comments
		part of larger exercise (refer to note). A SYSCOM is the action proponent for RDT&E conducted on a SYSCOM range.
Artificial reefing	Inactive ships PEO	Supported by Region Commander
Action involving COMNAVSPECWARCOM training	Range or property owner and COMNAVSPECWARCOM	For actions involving ranges or property owned by other Services (e.g., U.S. Marine Corps, Army, Air Force) or other Federal or State agencies, the Navy (OPNAV N45) may be required to co-sign or sign the decision document
Action involving COMNAVSPECWARCOM shore installation management on Navy installations or other Navy-owned or Navy-controlled property	ICO and COMNAVSPECWARCOM	Supported by Region Commander
Action involving COMNAVSPECWARCOM infrastructure on non-Navy property	COMNAVSPECWARCOM	The Navy (OPNAV N45) may be required to sign or co-sign the decision document
Action involves an action proponent whose chain of command does not meet the eligibility requirements for delegation of FONSI signature authority	COMNAVSPECWARCOM	The Navy (OPNAV N45) may be required to sign or co-sign the decision document
Key: COMNAVSPECWARCOM=Commander, Naval Special Warfare Command (OPNAV N45 has not delegated FONSI signature authority to COMNAVSPECWARCOM). **Note:** For weapon-system-acquisition actions that will result in follow-on homebasing or homeporting actions or changes to future training, weapon-system-acquisition program offices must coordinate with the affected AEC or REC to ensure the effects of future systems are properly addressed.		

10-5.2. Categorical Exclusion (NEPA). A CATEX is a published category of actions that, under normal conditions, is excluded from further documentation requirements under NEPA. Categorically excluded actions do not individually or cumulatively have a significant effect on the human environment and have been found to have no such effect in procedures adopted by the Navy for implementing the CEQ regulations. Also, refer to paragraph 10-5.23 of this manual for the E.O. 12114 CATEX definition.

10-5.3. Categorical Exclusion (E.O. 12114). An overseas CATEX is a category of actions that normally do not, individually or cumulatively, do significant harm to the environment. Commands may develop white papers with recommendations and supporting rationale that upon approval by their chains of command, may be submitted to OPNAV N45 and ASN(EI&E) for consideration and forwarding to USD(AT&L)). USD(AT&L) is the approval authority for overseas CATEXs. Overseas CATEXs will be published as an addendum to this chapter; at present, there are none.

10-5.4. Cooperating Agency. A cooperating agency is any Federal agency, other than a lead agency, that has jurisdiction by law or special expertise concerning any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. Additionally, a State or local agency of similar qualifications may by agreement with the lead agency become a cooperating agency or, a tribal government when the effects are on a reservation.

10-5.5.Environment (E.O. 12114). Environment means the natural and physical environment and does not include social, economic, and other environments.

10-5.6.Environmental Assessment (NEPA). An EA is a concise public NEPA document that briefly provides sufficient evidence and analysis for determining whether to prepare an EIS or a FONSI, aids in the Navy's decision-making when no EIS is necessary, or facilitates preparation of an EIS when one is necessary.

10-5.7. Environmental Impact Statement (NEPA). An EIS is an analysis prepared pursuant to NEPA for actions with the potential to have a significant impact on the quality of the human environment or that is potentially controversial in environmental effects. A DEIS requires a complete and comprehensive analysis of anticipated impacts to the human environment and is distributed for agency and public review. An FEIS considers and addresses public and agency comments received on the DEIS.

10-5.8. Environmental Planning. Environmental planning is a systematic process undertaken to identify, facilitate, and ensure compliance with the substantive and procedural requirements of NEPA and E.O. 12114 as well as other laws, E.O.s, and regulations of the United States addressing environmental matters.

10-5.9. Environmental Review (E.O. 12114). Prepared unilaterally by the United States, an ER is a survey of the environmental issues associated with a major Navy action that may, if authorized or approved, significantly harm the environment of a foreign nation.

10-5.10. Environmental Study (E.O. 12114). Prepared bilaterally or multilaterally by the United States and one or more foreign nations or an international body or organization in which the United States is a member or participant, an ES informs officials of pertinent environmental considerations when authorizing or approving certain major Navy actions that do significant harm to the environment of a foreign nation or to a protected global resource (refer to paragraph 10-5.27 of this manual).

10-5.11. Exclusive Economic Zone. As described and governed by the relevant provisions of reference (g), an EEZ is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in reference (g), part V, and under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed. An EEZ may not extend beyond 200 NM from the baseline from which the territorial sea of a foreign nation is measured per reference (g).

10-5.12. Final Governing Standards. As defined in reference (i), FGSs are a comprehensive set of country-specific substantive provisions, typically in the form of technical limitations on effluents, discharges, etc., or a specific management practice. These environmental requirements for U.S. shore installations located in foreign nations are prepared per reference (i).

10-5.13. Finding of No Significant Harm. A FONSH is a determination based on an OEA that presents the factors for a proposed action that, if implemented, would not significantly harm the natural environment and that an OEIS will not be prepared.

10-5.14. Finding of No Significant Impact. A FONSI is a determination based on an EA and other factors in the public planning record for a proposed action that, if implemented, would have no significant impact on the human environment and that an EIS will not be prepared.

10-5.15. Global Commons (High Seas). For purposes of Navy environmental planning, global commons do not include territorial seas or EEZs as defined in reference (g), part V. This definition of global commons is consistent with the definition of high seas found in reference (g), part VII.

10-5.16. Human Environment (NEPA). The human environment is the natural and physical environment and the relationship of people with that environment.

10-5.17. Impacts (Effects)

a. The definition of impacts as used in this chapter is context sensitive, depending on the applicability of NEPA or E.O. 12114 to the proposed action. Generally, impacts may include those resulting from actions, which may have both beneficial and detrimental effects, even if when on balance the agency believes the effect will be beneficial.

b. Direct impacts result from an action and occur at the same time and place as the action. Indirect impacts also result from an action, but occur later in time or at a removed location from the action, and are reasonably foreseeable. Indirect impacts include but are not limited to:

(1) Growth-inducing effects;

(2) Effects related to induced changes in the pattern of land use, population density, or growth rate; and

(3) Related effects on the human environment.

c. Cumulative impacts (NEPA) 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) or person undertakes such actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

10-5.18. Lead Agency. The lead agency is the Federal agency preparing or having the primary responsibility for environmental planning documentation for major Navy actions. If the Navy is the lead agency, it will be responsible for conducting the required environmental planning as set forth in this chapter. If another Federal agency is the lead agency, the Navy must support the lead agency to the extent reasonable. When it is desirable to do so, two or more agencies may exercise a joint lead. The following factors should be used in determining the appropriate lead agency jurisdiction:

a. The magnitude of each agency's involvement in the proposed action;

b. The authority of each agency to approve (or disapprove) the undertaking of the proposed action;

c. The expert technical capabilities of each agency regarding the reasonably foreseeable effects of the proposed action;

d. The duration of each agency's involvement in the proposed action; and

e. The sequence of each agency's involvement.

10-5.19. Memorandum of Legal Sufficiency. A memorandum of legal sufficiency is a memorandum signed or endorsed by a legal advisor for the action proponent documenting the results of a legal review of an environmental planning document. The memorandum identifies any legal issues inherent in the proposed action and their resolution, discusses any aspects of the proposed action that may be considered controversial or sensitive, and assesses the risk of litigation relating to the proposed action. The memorandum must be marked and handled as protected under the attorney-client privilege.

10-5.20. Memorandum for the Record. An MFR is prepared when an action proponent relies on previously approved NEPA and E.O. 12114 environmental planning documentation and regulatory consultation and coordination for a proposed action. A MFR describes the proposed action and briefly discusses the supporting facts.

10-5.21. Mitigation. Mitigation includes measures identified in environmental planning documents that reduce the severity or intensity of adverse impacts of a proposed action. Such measures may include:

a. Avoiding the impact altogether by not taking a certain action, or parts of an action, or by moving the project location;

b. Minimizing the impact by limiting the degree or magnitude of the action and its implementation, for example, by adjusting site layout;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

d. Reducing or eliminating the impact over time by monitoring for the maintenance and or replacement of equipment or structures so that future environmental degradation due to equipment or structural failure does not occur during the life of the action; and

e. Compensating for the impact by replacing or providing substitute resources or environments.

BMPs or SOPs are not considered mitigation measures for the purposes of tracking and reporting.

10-5.22. Negative Decision. A negative decision is a document prepared when a determination has been made that the proposed action is exempt from the environmental planning requirements of E.O. 12114 or when the proposed action does not trigger the need to prepare an ER or ES.

10-5.23. Notice of Intent. An NOI is a required notice published in the Federal Register formally announcing the Navy's intent to prepare an EIS under NEPA or E.O. 12114. The NOI formally opens the public scoping process and usually, though not required, provides information regarding public scoping meetings to be held. Public scoping is not normally conducted for an OEIS prepared under E.O. 12114, but may be appropriate depending on the reason for the OEIS and if U.S. public interest is indicated.

10-5.24. Overseas Environmental Assessment (E.O. 12114). An OEA is an environmental planning document that contains a concise analysis of the environmental consequences of a proposed action. The Navy action proponent uses an OEA to assist in determining whether implementation of a major Navy action may cause significant environmental harm in the U.S. EEZ or the global commons (high seas), thereby requiring preparation of an OEIS.

10-5.25. Overseas Environmental Impact Statement (E.O. 12114). An OEIS is an environmental planning document that contains an analysis of the likely environmental consequences of the proposed major Navy action that may cause significant environmental harm in the U.S. EEZ or the global commons (high seas).

10-5.26. Participating or Otherwise Involved Nation. A participating or otherwise involved nation is a foreign nation whose government has expressly or implicitly given its approval of or concurrence with U.S. actions within its EEZ, territorial sea, or territory. Approval may be expressed by the conferring of rights upon the United States in a SOFA, or by some other affirmative statement by the foreign nation's political leadership or a defense official. A foreign nation may also be considered participating or otherwise involved when its government sponsors, controls, or otherwise has knowledge of a coordinated military exercise or research and development effort in which the United States is also a participant.

10-5.27. Protected Global Resource. A protected global resource is a natural or ecological resource of global importance designated for protection by the President or such a resource as designated by the Secretary of State per international agreement binding in the United States. There are currently no protected global natural or ecological resources designated by either the President or the Secretary of State.

10-5.28. Record of Categorical Exclusion. The record of CATEX documents an action proponent's decision that a proposed action may be appropriately categorically excluded from the requirement to prepare an EA or EIS. The record of CATEX is signed by the ICO or his or her designee, or the PM or designee for a weapon-system-acquisition action.

10-5.29. Record of Decision. The ROD is a decision document signed by an appropriate DON official completing an EIS. ASN(EI&E) is the appropriate official to sign RODs for DON except for weapon-system-acquisition actions per reference (a) for which the ASN(RD&A) has cognizance.

10-5.30. Scoping. Scoping is an early and open process used to determine the scope of issues to be addressed and to identify the significant issues to be analyzed in depth and the range of alternatives to be considered in a NEPA document. Scoping begins as soon as practicable after the decision to prepare an EIS is made.

10-5.31. Significant(ly). "Significant(ly)," as used in NEPA and E.O. 12114 (the latter for actions in the U.S. EEZ and global commons), requires consideration of both context and intensity of the environmental effects of an action (reference (c), section 1508.27 contains the complete definition). Factors that action proponents should also consider in evaluating an action's significance are:

a. The geographic extent of the action;

b. The duration of the action's effects;

c. The risk of controversial or highly uncertain or unique and unknown environmental impacts;

d. Whether the action is related to other actions with individually insignificant but cumulative significant impacts; and

e. Whether the action threatens a violation of Federal, State, or local laws and regulations.

10-5.32. Statement of Technical Review. A statement of technical review is a verification that the environmental planning document has received internal Navy review by appropriate SMEs. The form is OPNAV 5090/3 (Sep 2010) and can be found at Naval Forms Online (refer to appendix E (Web Sites) of this manual for Web site address and appendix F (Forms and Reports) of this manual). The completed statement of technical review is not a substitute for obtaining proper organizational endorsements. In-house staff should be used to verify the technical sufficiency of the document, based on their technical expertise.

10-5.33. Territorial Sea. Every nation has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 NM measured from baselines determined per reference (g). The United States claims a 12-NM territorial sea.

10-5.34. United States. The United States are the 50 States, the District of Columbia, the territories and possessions of the United States, and all waters and airspace subject to the territorial jurisdiction of the United States. As of the publication of this chapter, territories and possessions of the United States include American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, the Commonwealth of the Northern Mariana Islands, Palmyra Atoll, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Wake Island.

CHAPTER 12

NATURAL RESOURCES CONSERVATION

Table of Contents

12-1 Scope 12-1
12-1.1. Related Chapters.....12-1
12-1.2. References.....12-2

12-2 Legislation.....12-5

12-3 Requirements 12-6
12-3.1. Joint Bases 12-6
12-3.2. Program Goals 12-6
12-3.3. Ecosystem Management and Climate Resilience.....12-7
12-3.4. Integrated Natural Resources Management Plans.....12-8
12-3.5. Fish and Wildlife Resources 12-13
12-3.6. Marine Mammals and Special Marine and Aquatic Resources 12-15
12-3.7. Federally Threatened and Endangered Species.....12-21
12-3.8. Land and Watershed Management 12-25
12-3.9. Invasive Species 12-29
12-3.10. Outdoor Recreation 12-30
12-3.11. Mitigation for Impacts to Natural Resources 12-31
12-3.12. Integrating Natural Resources Conservation with the Other Navy Mission Activities.....12-34
12-3.13. Miscellaneous 12-35
12-3.14. Funding.....12-37
12-3.15. Training Requirements.....12-37

12-4 Responsibilities.....12-38

12-5 Definitions.....12-42

12-1 Scope. This chapter establishes Navy policy guidance and requirements to ensure sustainable military readiness through compliance with all applicable laws and regulations related to the conservation of natural resources in the United States and its territories and possessions, and on the high seas.

12-1.1. Related Chapters. Due to the interdisciplinary nature of the natural resources conservation (NRC) program, personnel should also refer to other chapters in this manual, specifically chapter 2 (Funding), chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) policies and requirements, chapter 13 (Cultural Resources Compliance and Management), chapter 14 (Coastal Zone Management), chapter 24 (Pesticide Compliance Ashore), chapter 34 (Overseas Environmental Compliance Ashore), chapter 41 (Natural Resource Damage), and chapter 42 (Environmental Restoration).

12-1.2. References

(a) SECNAVINST 5090.8B, Policy for Environmental Protection, Natural Resources, and Cultural Resources Programs;

(b) 16 U.S.C.;

(c) DoD Initial Guidance for BRAC 2005 Joint Basing Implementation, 22 January 2008;

(d) DoD Instruction 4715.03 of 18 March 2011, Natural Resources Conservation Program;

(e) DoD Manual 4715.03, Integrated Natural Resources Management Plan (INRMP) Implementation Manual, 25 November 2013;

(f) SECNAV memo of 25 Oct 02, New Guidance on the Sikes Act Improvement Amendments and Supplemental Guidance;

(g) 65 FR 62566, Unified Federal Policy for a Watershed Approach to Federal Land and Resource Management;

(h) E.O. 13352, Facilitation of Cooperative Conservation;

(i) Integrated Natural Resources Management Plan Guidance for Navy Installations, of 10 April 2006;

(j) Memorandum of Understanding (MOU) Among the U.S. Department of Defense and U.S. Fish and Wildlife Service and the International Association of Fish and Wildlife Agencies for a Cooperative Integrated Natural Resources Management Program on Military Installations, of 29 Jul 13;

(k) DON OGC memo of 28 Jul 10;

(l) DoDD 3210.06, Defense Grant and Agreement Regulatory System (DGARS), of 6 February 2014;

(m) 10 U.S.C.;

(n) DoD Instruction 1100.21 of 11 March 2002, Voluntary Services in the Department of Defense;

(o) OPNAVINST 5380.1D, Acceptance and Use of Voluntary Services in the Navy;

(p) DoD Instruction 8130.01 of 9 April 2015, Installation Geospatial Information and Services (IGI&S);

(q) SECNAV memo of 19 Jan 01, Implementation Guidance for Executive Order on Protection of Migratory Birds;

(r) E.O. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds;

(s) Memorandum of Understanding (MOU) Between the U.S. Department of Defense and the U.S. Fish and Wildlife Service to Promote the Conservation of Migratory Birds, of 10 Jul 14;

(t) 50 CFR;

(u) UNDERSECNAV memo of 28 Dec 00, Compliance with Environmental Requirements in the Conduct of Naval Exercises or Training At Sea (At Sea Policy);

(v) CNO memo of 9 Apr 12, Naval Undersea Warfare Center, Division Newport Roles and Responsibilities as the Center of Excellence for Navy Acoustic Modeling;

(w) E.O. 13089, Coral Reef Protection;

(x) Department of Defense Coral Reef Protection Implementation Plan, of November 2000;

(y) CNO memo Ser N45D/8U589139 of 4 Dec 98, Coral Reef Protection Policy;

(z) OPNAV ltr 5090 Ser N456M/11U1588080 of 22 Mar 11, Essential Fish Habitat Assessments and Consultations;

(aa) E.O. 13158, Marine Protected Areas;

(bb) CNO memo 5090 Ser N456N/3U574746 of 25 Jul 03, Section 7 Consultation Procedures Under the Endangered Species Act;

(cc) SECNAV memo of 25 Nov 02, Policy Guidance for Endangered Species Actions;

(dd) 33 CFR Parts 320–330;

(ee) 40 CFR Part 230 and 33 CFR Parts 325 and 332;

(ff) E.O. 11990, Protection of Wetlands, as amended by E.O. 12608, Elimination of Unnecessary Executive Orders and Technical Amendments to Others;

(gg) E.O. 11988, Floodplain Management;

(hh) E.O. 13834, Efficient Federal Operations;

(ii) 7 U.S.C. §136;

(jj) COMNAVFACENGCOM memo of 2 Jul 96, Guidelines for Establishment of Ecological Areas;

(kk) COMNAVFACENGCOM, Real Estate Operations and Natural Resources Management Procedural Manual NAVFAC P-73 Volume II, of 30 September 2001;

(ll) DoD 7000.14-R, Financial Management Regulation Volume 11A, chapter 16, August 2002;

(mm) Navy Comptroller (NAVCOMPT) Manual Volume 3 (NOTAL), 1996;

(nn) Public Law 108–198, Forest Resources Conservation and Shortage Relief Act of 1990;

(oo) Memorandum of Agreement (MOA) Between the United States Department of Agriculture and the United States Department of Defense for the Conduct of Forest Insect and Disease Suppression on Lands Administered by the U.S. Department of Defense, 11 Dec 90;

(pp) E.O. 13112, Invasive Species, as amended by E.O. 13751, Safeguarding the Nation from the Impacts of Invasive Species;

(qq) Public Law 104–332, National Invasive Species Act of 1996;

(rr) DoD Instruction 6055.06 of 21 December 2006, DoD Fire and Emergency Services (F&ES) Program;

(ss) SECNAVINST 6401.1B, Veterinary Health Services;

(tt) CNO memo 5090 Ser N456M/1U595820 of 10 Jan 02, Policy Letter Preventing Feral Cat and Dog Populations on Navy Property;

(uu) SECNAV memo of 15 Aug 02, Access to Outdoor Recreation Programs on Military Installations for Persons with Disabilities;

(vv) Public Law 109–364, John Warner National Defense Authorization Act for Fiscal Year 2007;

(ww) Presidential Memorandum of 16 April 2010, A 21st Century Strategy for America's Great Outdoors;

(xx) DoD Manual 6055.09, DoD Ammunition and Explosives Safety Standards, 29 February 2008;

(yy) E.O. 11644, Use of Off-Road Vehicles on Public Lands, as amended by E.O. 11989, Off-Road Vehicles on Public Lands;

(zz) E.O. 13443, Facilitation of Hunting Heritage and Wildlife Conservation;

(aaa) E.O. 12962, Recreational Fisheries, as amended by E.O. 13474, Amendments to Executive Order 12962;

(bbb) U.S. Fish and Wildlife Service and National Marine Fisheries Service Consultation Handbook of March 1998, Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act;

(ccc) 40 CFR 230.9;

(ddd) U.S. Fish and Wildlife Service memo of 02 May 03, Guidance for the Establishment, Use, and Operation of Conservation Banks;

(eee) OPNAVINST 11010.40, Encroachment Management Program;

(fff) DoD Instruction 5525.17 of 17 October 2013, Conservation Law Enforcement Program (CLEP);

(ggg) Public Law 111–11, Omnibus Public Land Management Act; and

(hhh) Public Law 107–314, Bob Stump National Defense Authorization Act for Fiscal Year 2003.

12-2 Legislation

a. Legislation that contains provisions pertaining to the protection, conservation, management, and rehabilitation of natural resources includes:

(1) Bald and Golden Eagle Protection Act, 16 U.S.C. §668–668d;

(2) Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387;

(3) Coastal Barrier Resources Act, 16 U.S.C. §3501–3510;

(4) Endangered Species Act (ESA), 16 U.S.C. §1531–1544;

(5) Fish and Wildlife Coordination Act, 16 U.S.C. §661–667e;

(6) Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), 16 U.S.C. §1801–1884;

(7) Marine Mammal Protection Act (MMPA), 16 U.S.C. §1361, 1362, 1371–1389, 1401–1407, 1411–1418, 1421–1423h;

(8) Migratory Bird Treaty Act (MBTA), 16 U.S.C. §703–712;

(9) Sikes Act (Conservation Programs on Military Installations), 16 U.S.C. §670a–670o; and

(10) National Marine Sanctuaries Act, 16. U.S.C. §1431–1445c.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements). In addition, several laws including the Anti-Deficiency Act, Coastal Zone Management Act, Forest Resources Conservation and Shortage Relief Act, Migratory Bird Treaty Reform Act, and Soil Conservation and Domestic Allotment Act contain provisions that affect NRC practices. All conservation laws are listed in Title 16, U.S. Code, and can be found at the U.S. Government Publishing Office United States Code Web site (refer to appendix E (Web Sites) for Web site address).

12-3 Requirements

a. The Navy's mission is to maintain, train, and equip combat-ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas. This chapter establishes the requirements for maintaining the health and long-term ecological integrity of the environment while ensuring the continued availability of the land, air, and sea space necessary for the readiness of the operating forces and the shore support of the Navy.

b. The Navy has responsibilities for the stewardship of natural resources on land and at sea (reference (a)). In addition to compliance with all appropriate environmental laws and regulations, the Navy has a mandate to implement a program for the conservation of natural resources (reference (b), sections 670a–f) on lands and in near-shore areas that are either titled to the Navy or are under Navy access control. For activities at sea, the Navy is committed to ensuring compliance with all appropriate laws and regulations and being a responsible steward of marine resources.

c. Professionally trained natural resources managers must be assigned the responsibility of implementing these requirements.

12-3.1. Joint Bases. NRC must be conducted by the supporting or supported command per the joint base agreement (reference (c)).

12-3.2. Program Goals. To ensure the success of the NRC program:

a. Integrate NRC responsibilities with military activities, installation planning and programming, and other activities as appropriate to ensure no net loss to the Navy mission;

b. Ensure sustainable multipurpose use of the resources and public access when consistent with the mission, safety, and security requirements; and

c. Ensure NRC program requirements are implemented by or coordinated with professionally trained natural resources managers.

12-3.3. Ecosystem Management and Climate Resilience. Ecosystems are functioning units of nature consisting of complex networks of relationships between land, water, and living resources. Ecosystems are subjected to various stressors ranging from human impacts to climate-related factors, and as such, need to be managed in a way that allows for mitigation, adaptation, and long-term sustainability on a regional basis.

a. Ecosystem-Based Management. Ecosystem principles must be applied to all aspects of the Navy's NRC program to the extent practicable (reference (d)) and in ways that optimally support the Navy mission. Ecosystem-based management includes, but is not limited to these main principles:

(1) A shift from single-species to multiple-species conservation;

(2) Formation of partnerships necessary to consider and manage ecosystems that cross installation boundaries; and

(3) Use of the best available scientific information and scientifically sound strategies for adaptive management.

b. Climate Resilience. Climate resilience should be integrated into the Navy's NRC program in practical ways that support informed decisions about climate-related threats. Adaptation consists of actions that enable species and ecosystems to better cope with changing environmental conditions, and resilience is achieved when natural resources managers identify and implement NRC strategies that strengthen ecosystem function.

(1) Identification and assessment of climate effects requires an environmental baseline and subsequent monitoring designed to evaluate whether shifts in ecosystem form and function are caused by climate-related factors or other stressors on the landscape. This must be accomplished by ensuring monitoring efforts are "climate-informed." For example, where breeding seasons are an important constraint on mission activities, monitoring programs should be evaluated and modified to ensure that impacts that may be related to climatic factors are detected. The ability to determine whether species and ecosystems effects are driven by natural variability, mission activities, or climatic factors is anticipated to be highly valuable in crafting avoidance, minimization, compensatory mitigation, and adaptive management strategies. The purpose of climate-informed monitoring is to reduce climate-related uncertainties associated with the management of natural resources toward specific goals and objectives.

(2) Scale is also an important consideration in climate-related effects assessment, monitoring, and adaptation planning. Climate vulnerability and resiliency assessments may guide essential monitoring requirements and planning for adaptive management. However, the abundance and distribution of species and habitats on Navy properties may be too small in scale to address climate-related effects, and as such, installation-specific climate vulnerability and resiliency assessments may not be appropriate. Natural resources managers are encouraged to seek and use regional climate-related assessments and adaptation strategies to guide the monitoring and management of installation natural resources.

12-3.4. Integrated Natural Resources Management Plans. Reference (b), sections 670a–f, and reference (d) require all military departments to prepare and implement comprehensive integrated natural resources management plans (INRMP) for each military installation with significant natural resources.

a. Evaluation of Need

(1) Commander, Navy Installations Command (CNIC) and any other budget submitting offices (BSO) responsible for Navy Class I property must determine if an INRMP is required for those properties. This includes all sites, special areas, and properties assigned to an installation in the Internet Naval Facilities Assets Data Store (iNFADS), and all other lands assigned to an installation by lease (including lands used by tenants), withdrawal, permit, or otherwise in the control of the Navy (references (d), (e), and (f) or the most current guidance). The determination must be based upon the presence of significant natural resources as defined in reference (d).

(2) An INRMP must be prepared for an installation when one or more of its assigned properties have significant natural resources. When an INRMP is prepared for an installation, all properties assigned to that installation must be described, including those assigned properties that may not have significant natural resources. The status of all properties should be reviewed periodically to determine whether the INRMP needs to be updated or revised to address new or altered conditions or uses of those properties. If a specific installation's sites, special areas, or properties have unique resources or special circumstances, a separate INRMP can be developed, but that INRMP should be referenced in the INRMP for the main installation.

(3) An INRMP is not required if it is determined that none of an installation's assigned properties has significant natural resources (references (e) and (f)). The BSO must provide documentation of this determination to the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) for review and approval. The BSO must reevaluate these determinations every 5 years.

b. Near-Shore Areas

(1) Reference (b), sections 670a–f requires INRMPs for military installations. Many Navy installations abut significant bodies of water, and the status of natural resources in near-shore areas can become an encumbrance to waterfront mission activities if stewardship of these areas is ignored. Navy INRMPs must, therefore, address installation watersheds, shorelines, and near-shore areas such that conservation benefits are provided to aquatic species and habitats in waters adjacent to Navy installations (reference (g).

(2) INRMPs must also address Federal regulatory requirements (e.g., ESA, MSFCMA) in near-shore areas and should include actions developed in support of cooperative conservation initiatives and other partnerships (reference (h)) with local natural resources agencies or other stakeholders.

c. INRMP Preparation and Implementation. Professionally trained installation natural resources managers must ensure Navy INRMPs are updated, implemented, and kept compliant per requirements of reference (e).

(1) INRMPs and Critical Habitat Designations. Natural resources managers must ensure INRMPs are prepared and implemented using scientific principles of ecosystem management to the maximum extent practicable, and in a manner consistent with the military mission, to preclude designations of critical habitat under the ESA. INRMPs should have detailed descriptions of the conservation practices being implemented to provide special management and protection to listed species and specifically articulate how implementation of the INRMP provides a conservation benefit to the species, provide certainty that INRMP actions will be implemented (per the Anti-Deficiency Act), and provide certainty that the conservation effort will be effective.

(2) Format and Required Plan Elements. Navy INRMPs must contain the information outlined in references (d) and (e) and formatted per reference (i) or the most current guidance.

(3) Cooperative Preparation

(a) Reference (b), sections 670a–f require preparation of an INRMP in cooperation with the U.S. Fish and Wildlife Service (USFWS) and the appropriate State fish and wildlife agency. The process for engaging USFWS and the State fish and wildlife agencies is outlined in reference (e). The INRMP and subsequent revisions must reflect mutual agreement of USFWS and the State fish and wildlife agencies concerning the conservation of the natural resources under their respective legal authorities (reference (j) or most recent memorandum of understanding (MOU)). Mutual agreement on the INRMP by Navy, USFWS, and State officials must be documented by signatures of the appropriate official on the title pages of the INRMP, which can be accompanied by letters of endorsement attached to the INRMP.

(b) While cooperative preparation with the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) is not required by reference (b), sections 670a–f, cooperative preparation with NMFS is appropriate and should be a priority at installations adjacent to river, bay, and ocean waters when the near-shore environment will benefit from INRMP implementation. NMFS will take INRMPs into consideration when making critical habitat determinations for listed species under their jurisdiction and when critical habitat exclusions in the near-shore environment may be necessary to support the installation mission. Mutual agreement by NMFS is not required to complete an INRMP. While it must be sought when appropriate, failing to obtain mutual agreement by NMFS must not be considered an impediment to finalizing or implementing an INRMP.

(4) Coordination and Review

(a) Coordination with internal Navy stakeholders, including those responsible for military readiness and shore support activities, is especially critical during preparation, updates, or revision of the INRMP (reference (i)).

(b) Federally recognized Indian tribes, Alaska Native entities, and Native Hawaiian organizations must be given opportunity to consult on the development, updates, and revisions of INRMPs where treaty rights, sacred sites, burial sites, or other rights to natural resources may be affected by implementation of the INRMP (reference (d)).

(c) Natural resources managers also are encouraged to work with other organizations and agencies both on and off the installation throughout the planning, development, update, and revision processes. Building partnerships with the right organization(s) is essential for ecosystem management.

(d) Draft INRMPs must be provided to CNIC via the chain of command for review and approval before final Navy endorsement.

(5) Public Involvement. Per reference (e), each installation must provide an opportunity for the public to comment on the initial draft final INRMP, or the draft of a revision that requires National Environmental Policy Act (NEPA) analysis (see subparagraph 12-3.4c(6) of this manual). Public comments must be obtained through the NEPA process if an environmental assessment (EA) or environmental impact statement (EIS) is required. Specific funding information in the INRMP's implementation table and other sensitive information must be removed from the INRMP prior to public release (reference (e)). Each installation must allow USFWS and the appropriate State fish and wildlife agency officials to review all public comments to ensure proper consideration of public concerns during INRMP development. Public opportunity to review a revised or updated INRMP is not required if INRMP implementation can be categorically excluded from further NEPA analysis (reference (e)).

(6) National Environmental Policy Act

(a) NEPA analyses are required before approval of all new INRMPs. INRMPs generally provide for beneficial effects on the environment and, in such cases, an EA will suffice (refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), table 10-8 of this manual). Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual provides general guidance for preparing NEPA documents for INRMPs. References (e) and (i) (or the most current guidance) also contain guidelines for preparing NEPA documents for INRMPs.

(b) In most cases the original INRMP NEPA analysis will cover an INRMP's updates. A new NEPA analysis, however, may be necessary if an extensive revision of the plan is required due to significant changes in land ownership, land uses, installation mission, or any change that results in environmental effects not previously considered (reference (e)). Navy funds may not be used to pay other Federal agencies (i.e., USFWS and NMFS) or State fish and game agencies to review NEPA documents (reference (k)).

(7) Navy Endorsement

(a) The INRMP title page must include a signature block for the installation commanding officer (ICO) and commanding officers (CO) of hosted commands on joint bases

where Navy is the hosting command, as a reflection of concurrence and acceptance of the INRMP. Where a joint base is officially designated as "regional," the INRMP must be signed by the regional commander as well as the individual ICOs. The INRMP should also be signed by the INRMP manager appointed by the ICOs as acknowledgement that the INRMP meets the installation's conservation goals developed in cooperation with USFWS, the State fish and wildlife agency, and NMFS where appropriate.

(b) INRMPs can only be signed by Navy officials after obtaining CNIC concurrence and a finding of no significant impact or a record of decision on the INRMP's NEPA analysis. Documentation of all endorsements must be uploaded to the Navy Conservation Web site (refer to paragraph 12-3.13 of this manual for a description of the Web site and appendix E (Web Sites) of this manual for Web site address).

(8) Compliant INRMPs

(a) INRMPS are considered compliant when all Navy endorsements, documentation of mutual agreement with USFWS and appropriate State fish and wildlife agency, and a documented review of operation and effect occur at least once every 5 years (reference (j)). Mutual agreement is based on elements of the INRMP within the scope of USFWS' and State fish and wildlife agency's authorities, i.e., the conservation and management of the installation's natural resources (reference (e)).

(b) A Navy-endorsed INRMP may be implemented (i.e., operational) without mutual agreement from USFWS or the State fish and wildlife agency only if: (1) a delay in the cooperative preparation process is documented as outlined in reference (e), or (2) the agency has objections based on the military mission of the installation and the Sikes Act's provision for no net loss to capability of the installation lands to support the installation's military mission. As operational INRMPs are technically not compliant INRMPs, all efforts must continue to obtain mutual agreement or endorsement from the other agencies.

(c) An electronic copy of each completed INRMP must be submitted via the chain of command to CNIC. Electronic copies of all INRMPs and associated signature pages, regulatory partner concurrence documentation, and NEPA documentation must be uploaded to the Navy Conservation Web site and the OPNAV N45 Environmental Planning and Compliance Library Web site (refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual for a description of the Web site and appendix E (Web Sites) of this manual for Web site address).

(9) Implementation

(a) All INRMPs must be implemented per reference (e) and supplemental policy memos issued by the Office of the Secretary of Defense (OSD) (refer to appendix E (Web Sites) of this manual for DoD natural-resources-related Web site addresses).

(b) All INRMP actions and projects must be entered into the Environmental Readiness Program Requirements Web (EPRWeb) (refer to appendix E (Web Sites) of this

manual for Web site address) for review and approval by the BSO and OPNAV N45. These include actions and projects that may be funded by OPNAV N45 via the POM or other sources of funding, or implemented via mechanisms other than contracts or cooperative agreements.

(c) Sikes Act cooperative agreements (developed with Federal and State agencies, universities, non-governmental organizations, and individuals) typically provide a suitable vehicle to accomplish the work addressed in the INRMP and should be administered per reference (l). Other options include, but are not limited to: interagency agreements; Economy Act orders (usually executed by issuance of Directives Division (DD) Form 448, Military Interdepartmental Purchase Request); cooperative ecosystem study unit agreements; contract; and in-house and self-help processes. Voluntary services may be provided for an NRC program under the authority of reference (m), section 1588, and of references (n) and (o).

(10) Recordkeeping and Data Management

(a) Installation natural resources managers must develop a centralized and organized method of data management and track INRMP implementation.

(b) All data collected as part of the NRC program should be incorporated into an installation data management system to support adaptive management of natural resources, INRMP updates and revisions, data calls, and environmental planning efforts. Natural resources managers are encouraged to use a geographic information system (GIS) (reference (p)) and electronic data to the maximum extent practicable. All data must be collected in the most current and approved scientific formats.

(11) Reviews and Updates

(a) Natural resources managers must conduct an annual assessment of the installation's NRC program by reviewing INRMP goals and objectives, actions taken to achieve goals and objectives (references (d), (e), and (i), or the most current guidance); and by completing the NRC metrics (formerly known as INRMP conservation metrics, annual reviews, or INRMP metrics) using the Navy Conservation Web site (refer to appendix E (Web Sites) of this manual for Web site address).

(b) ICOs must participate in the annual NRC program and NRC metrics review because the INRMP assists the installation commander with his or her natural resources responsibilities and to ensure adequate and appropriate conservation support for mission requirements (reference (e)). Also, this review must be completed with internal installation stakeholders prior to review with the USFWS (and NMFS when appropriate) and appropriate State fish and game agency when possible (reference (d)), as this review serves to ensure ongoing coordination between natural resources management and the installation mission (reference (i)).

(c) INRMPs must be updated by incorporating findings and recommendations developed as a result of the annual assessment required in subparagraph 12-3.4c(11)(a) of this manual. INRMP updates and revisions are defined in reference (j).

(d) INRMP updates and revisions should account for new policies issued by the OSD that address specific natural resources issues (refer to appendix E (Web Sites) of this manual for DoD natural-resources-related Web site addresses).

(12) Annual Reporting. The ICO must send a written report to USFWS (and NMFS, when appropriate) and the appropriate State fish and wildlife agency following the annual INRMP review and no later than 31 January of each year. This report must be uploaded to the Navy Conservation Web site (refer to appendix E (Web Sites) of this manual for Web site address) for end-of-year reporting purposes. The report must include:

(a) A copy of the invitation to the annual INRMP review meeting and a list of participants;

(b) An explanation and summary of INRMP metric results for the previous fiscal year (FY);

(c) A description of INRMP actions implemented in the previous FY;

(d) A description of benefits INRMP implementation provided to Federally threatened and endangered species or benefits provided by the INRMP's ecosystem management for species that are proposed for listing or are candidates for listing under the ESA;

(e) A description of changes to be made to the INRMP as a result of the annual assessment, if any; and

(f) A statement of whether an agreement was obtained with USFWS and the State fish and wildlife agency to recognize the annual INRMP meeting as a review of the INRMP for operation and effect, as required no less than every 5 years by reference (b), sections 670a–f.

(13) Review for Operation and Effect. Installation natural resources managers must review INRMPs for operation and effect with the cooperation of USFWS and the appropriate State fish and wildlife agency, at least once every 5 years (reference (b), sections 670a–f, and references (d), (f), and (i)). This review is the statutory responsibility of these agencies, and Navy funds may not be used to pay for their participation in this requirement (reference (k)). It is recommended that the review for operation and effect be conducted during the annual INRMP review. Mutual agreement on operation and effect must be documented in writing from the parties in the form of a new signature page for the INRMP. The new signature page must be appended to the INRMP and uploaded to the Navy Conservation Web site (refer to appendix E (Web Sites) of this manual for Web site address). NMFS is not required to review INRMPs for operation and effect, but their participation is recommended when appropriate.

12-3.5. Fish and Wildlife Resources. Fish and wildlife resources include all vertebrate and invertebrate species and their habitats found in aquatic and terrestrial environments on the installation. Marine mammals and special marine and aquatic resources are addressed separately in paragraph 12-3.6 of this manual.

a. Surveys and Monitoring

(1) Each installation must conduct surveys to develop an inventory of fish and wildlife species and habitats that may be present on the installation and provide this inventory in the installation INRMP. Data should be collected as necessary to keep inventories and INRMPs updated.

(2) Once identified, these resources should be monitored as necessary to determine their condition, abundance, and distribution and to document changes over time. Surveys and monitoring must be conducted using sound scientific methods and to a level sufficient to serve as a foundation for ecosystem management of those resources.

b. Management. Installation natural resources managers must identify and implement effective conservation and management programs for all fish and wildlife resources on their installation in compliance with all applicable laws and regulations, with goals and objectives that support the installation mission, and in ways that generate scientifically defensible data. Specific requirements are:

(1) Migratory Birds

(a) Migratory birds are protected by reference (b), section 703. Reference (q) requires that installations promote the goals of reference (r), which are detailed in reference (s). Reference (s) identifies specific measures designed to promote conservation of migratory birds and their habitats as affected by non-military readiness activities (i.e., NRC actions, shore support activities, operation of industrial activities, facility construction or demolition, and hazardous waste cleanup).

(b) The species of birds protected under reference (b), section 703 are listed in reference (t), section 10.13. Installation natural resources managers should use USFWS' Migratory Bird Program Web site (refer to appendix E (Web Sites) of this manual for Web site address) to find lists of birds of conservation concern and birds of management concern and address those species in INRMPs on installations where they occur. Additionally, lists of migratory birds found on DoD installations, as well as recommendations for the conservation of migratory birds in INRMPs, can be found on the DoD Partners in Flight Web site (refer to appendix E (Web Sites) of this manual for Web site address).

1. Prohibitions. Reference (b), section 703 prohibits the taking, killing or possession of migratory birds unless permitted by regulation. Installation natural resources managers must ensure any intentional "takes" of migratory birds occurring on the installation are covered by a permit obtained from the USFWS Regional Bird Permit Office (reference (t), Parts 13 and 21).

2. Military Readiness Rule. Reference (t), section 21.15 authorizes incidental "take" of migratory birds for military readiness activities, provided the Navy action proponent confers with USFWS to develop and implement appropriate conservation measures to minimize or mitigate negative effects if the proposed action will have a significant negative effect on the

viability of a migratory bird population. Population is defined in reference (t), section 21.3. Potential impacts to migratory bird populations and MBTA compliance must be addressed in NEPA analyses using information from the appropriate INRMP where applicable, and the best scientific data available.

(2) Bald Eagles and Golden Eagles. While bald eagles are no longer protected under reference (b), section 1531 et seq., they are protected under reference (b), sections 668a–c and 703, which contain prohibitions on incidental "takes" similar to reference (b), section 1531 et seq. Installations must ensure bald eagles are managed per the USFWS National Bald Eagle Management Guidelines to minimize or avoid adverse effects. Permits for incidental "takes" of both bald and golden eagles under reference (b), sections 668a–c must be obtained according to an application process promulgated by USFWS. Environmental planning analyses must address potential impacts of a proposed action to bald and golden eagles, pursuant to reference (b), sections 668a–c.

(3) Candidate Species and Species of Concern

(a) All Navy properties must be surveyed for the presence of candidate species (USFWS) and species of concern (NMFS) and their habitats. If the species or their habitats are found, conservation actions that benefit those species and their habitats, and that may obviate the need for listing under the Federal ESA, should be included in INRMPs either as specific actions or within the broader context of ecosystem management and in ways that support the installation mission. Potential effects to these species must be afforded separate discussion in environmental planning analyses.

(b) The Navy may use candidate conservation agreements (CCA), or other mechanisms established by USFWS or NMFS to obviate the need for a future listing action. OPNAV N45 must be notified in advance through the chain of command of proposed CCAs for review and approval.

12-3.6. Marine Mammals and Special Marine and Aquatic Resources. This paragraph describes Navy policy on how to address the effects of sound in the marine environment (both underwater and in air) for environmental compliance, MMPA requirements, and policies for special marine and aquatic resources. Special marine and aquatic resources include distinct features or designations within the marine environment.

a. Sound. Training, testing, and construction activities produce sound in the water and in air that may have effects on marine resources, including marine mammals, sea turtles, seabirds, and fish.

(1) Marine Mammals

(a) The Navy is required to assess potential impacts to marine mammals from training and testing (reference (u)), construction, and other in-water activities. Compliance with the MMPA (reference (b), section 1361) requires the development of specific exposure criteria and thresholds for certain naval activities using low-, mid-, and high-frequency active sonar,

underwater explosives, pile driving, air guns, etc. These criteria may evolve with advances in scientific and commercial research. OPNAV N45 should be contacted early in the environmental planning process (i.e., notice of intent (NOI) package or notification letter (refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual) for current exposure criteria and thresholds.

(b) An effects analysis must be conducted in cases where naval activities may introduce sound or explosive energy into the marine environment. Quantitative modeling may be necessary to determine if the sound or explosive energy is at levels where "take" may occur to marine mammal species. There are two standards for "take" under the MMPA, depending on whether an action qualifies as a "military readiness activity" or not. Action proponents will have to determine which standard for "take" is appropriate before conducting an effects analysis. The Navy has developed a single model (reference (v)) for estimating exposures of marine species to sonar and other active sources, and explosives based on established criteria and thresholds, to assist in determining if "take" will occur. This model is known as the Navy Acoustic Effects Model (NAEMO). NAEMO must be used to estimate potential acoustic and explosive effects to marine mammals in all environmental planning analyses, consultations, and permitting applications. For actions involving pile driving or the use of air guns, more simplified modeling (e.g., practical spreading equations) may be adequate, and the use of NAEMO is not required.

(2) Other Marine and Aquatic Species. For species other than marine mammals (e.g., sea turtles, seabirds, fish), action proponents must contact OPNAV N45 early in the environmental planning process (i.e., NOI package or notification letter (refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual) for guidance on appropriate analyses of acoustic effects. Action proponents also must consult with OPNAV N45 prior to agreeing to any natural resource agency suggestions to modify existing criteria or establish new criteria for assessing acoustic effects to marine species. These requirements are meant to ensure the best available science is being used and to ensure consistency of similar actions throughout the Navy.

b. MMPA

(1) Marine mammals are protected under reference (b), section 1361; some marine mammals are also protected by the ESA (reference (b), section 1531 et seq.). NMFS has jurisdiction over most species of marine mammals (i.e., whales, dolphins, porpoises, seals, and sea lions), while USFWS has jurisdiction over polar bears, sea otters, walruses, manatees, and dugong.

(2) Authorization under reference (b), section 1361 may be obtained by NMFS or USFWS to "take" marine mammals incidental to Navy activities if it is determined the Navy action will: (a) have a negligible impact on the species or stock(s), and (b) include measures to mitigate adverse impacts on the availability of the species or stock(s) for subsistence uses. If any of those marine mammals are also Federally listed as threatened or endangered, an ESA section 7 consultation will be required.

(a) Adverse Effects. The Navy must continue to avoid or minimize adverse effects to marine mammals from underwater sound and all other potential stressors. Chapter 35 (Environmental Compliance Afloat) of this manual provides guidance on environmental compliance by Navy vessels during training and testing activities at sea, including the requirements for reporting marine mammal strikes. Navy commands must evaluate their proposed actions and determine whether it is likely marine mammals will be affected in ways requiring an MMPA permit or an ESA section 7 consultation (reference (u)) or both.

(b) Release of Information. In addition, prior to release to any outside agency or the public of any documents containing analysis of effects on marine mammals (e.g., biological assessments (BA) or biological evaluations (BE), MMPA "take" authorization applications, NEPA or Executive Order (E.O.) 12114 documents), hard or electronic copies of the documents must be submitted to OPNAV N45 via the chain of command for review and concurrence after appropriate classification, legal, and technical review by the BSO. To ensure timely review and comment, the BSO point of contact must verify with OPNAV N45 the receipt of the documents to be reviewed. Comments must be resolved by the BSO before information is released.

(c) Authorizations

1. If an action proponent determines incidental "takes" are likely due to Navy-generated effects of the action on land or in the water, the action proponent must notify and receive concurrence from OPNAV N45 via the chain of command prior to notifying the regulatory agencies. The action proponent must also notify the appropriate Region Commander and the Navy area environmental coordinator (AEC) staff.

2. Permitting procedures under reference (b), section 1361 are contained in reference (t), section 216.1–47 and the incidental "take" authorization Web page on the NOAA Web site (refer to appendix E (Web Sites) of this manual for Web site address).

3. When the proposed action might affect marine mammals that are also listed under the ESA, the Navy must consult with NMFS or USFWS under section 7 of the ESA. NMFS or USFWS must conclude in a biological opinion (BO) that an action resulting in incidental "take" is not likely to jeopardize the continued existence of the species before issuing an MMPA permit. An incidental "take" statement provided with the BO, however, is not valid until an MMPA incidental "take" authorization has been issued. Action proponents must ensure adequate review time for both MMPA permitting and ESA consultation process completion.

a. Incidental Harassment Authorization (IHA) and Letter of Authorization (LOA). An IHA is appropriate if a proposed action has no potential for serious injury or mortality or the potential for serious injury or mortality can be negated through mitigation, and if the action is not likely to exceed 1 year in duration. An LOA may be appropriate instead of an IHA if the proposed action is likely to exceed 1 year in duration. If it is reasonably foreseeable that there is potential for serious injury, the applicant must request an LOA, regardless of project duration.

b. NEPA and E.O. 12114 Documentation. For actions that require an IHA, an EA is typically the appropriate level of NEPA documentation. In general, if an action proponent determines that a proposed action has the potential to cause serious injury, and a request for an LOA is warranted, an EIS or overseas EIS (OEIS) is usually warranted. Action proponents must communicate with OPNAV N45 MMPA staff for guidance on whether an IHA or LOA is appropriate and the level of NEPA documentation that is needed. Action proponents are encouraged to request cooperating agency status from NMFS or USFWS to facilitate the environmental review process required to issue MMPA permits. When using an EA, the regulator generally adopts the lead agency EA or drafts its own EA. Refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual for requirements of an EIS or OEIS and EA.

c. Uploading Documents. Per chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), subparagraph 10-3.7b of this manual, action proponents are required to upload the environmental planning and related environmental compliance documents to the OPNAV N45 Environmental Planning and Compliance Library Web site (refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) for a description of the Web site and appendix E (Web Sites) of this manual for Web site address) not later than 30 working days after the document is signed. These documents include MMPA permit applications (with transmittal letters), notices of receipt, proposed and final rules, LOAs, ESA consultation packages (with transmittal letters), and BOs.

c. Coral Reefs

(1) Coral reefs are biologically diverse and complex ecosystems that are afforded special protection (references (w) and (x)). Installation near-shore areas must be surveyed for the presence of coral reefs and their associated resources, where appropriate. Coral reefs in installation near-shore environments must be addressed in the installation INRMP where found. Information about coral reefs can be obtained by contacting NMFS's regional offices.

(2) Adverse impacts to corals must be avoided to the maximum extent feasible. Corals should be identified in areas where testing and training activities occur, and action proponents must ensure corals and associated resources are given special consideration in environmental planning analyses (reference (y)). Navy criteria for mitigation for unavoidable impacts and mitigation options are discussed in paragraph 12-3.11 of this manual. Any action likely to adversely affect a U.S. coral reef system or that may qualify as an exception under reference (w) must be reported to OPNAV N45 promptly.

(3) Avoidance or minimization of impacts to corals attached to man-made structures not intended as artificial reefs (e.g., pier pilings, sea walls) may be required by regulatory policies or regulations. Potential compensatory mitigation requirements for such corals should be included in environmental planning notification letters for EAs/OEAs and NOI packages for EISs.

d. Essential Fish Habitat

(1) The Navy must consult with NMFS prior to undertaking any actions that may reduce the quality or quantity of an essential fish habitat (EFH), as required by reference (t), sections 600.905–930 and reference (z). As part of the consultation, the Navy must provide NMFS with an EFH assessment (i.e., a written evaluation of the effect of that action on EFH). EFH assessments must be commensurate with anticipated effects (i.e., complexity and magnitude) and contain the requirements (e.g., elements, level of detail, maps) outlined in reference (t), section 600.920, paragraphs (e)(3) and (e)(4), and in reference (z).

(2) Upon completion of the EFH assessment, Navy personnel professionally trained in natural resources management must make a determination of effect (i.e., no adverse effect or may adversely affect) per reference (z). A draft environmental planning document (with all EFH assessment information clearly identified) may be submitted to NMFS for consultation if an action is likely to result in minimal adverse effects on EFH. A stand-alone EFH assessment should be prepared if an action is likely to have more than minimal adverse effects on EFH and when a more detailed analysis is warranted than that provided in the environmental planning document.

(3) Action proponents must respond to NMFS regarding proposed conservation recommendations (reference (t), sections 600.905–930) to avoid, minimize, or offset adverse impacts to EFH. Navy criteria for compensatory mitigation and mitigation options are discussed in paragraph 12-3.11 of this manual. Mitigation for adverse impacts to EFH must be budgeted for by the action proponent.

(4) Per chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), subparagraph 10-3.7b of this manual, action proponents are required to upload EFH assessments to the OPNAV N45 Environmental Planning and Compliance Library Web site (refer to appendix E (Web Sites) of this manual for Web site address) not later than 30 working days after the document is finalized.

(5) Identification of EFH in installation INRMPs may support EFH consultations. Where appropriate, INRMPs should identify ways in which wetlands, rivers, streams, and coastal areas may be enhanced to improve the quality and quantity of EFH adjacent to installations.

e. National Marine Sanctuaries

(1) National marine sanctuaries are defined in reference (b), section 1431 et seq. as "...certain areas of the marine environment which possess conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic qualities which give them special national, and in some cases international significance."

(2) Federal agency actions internal or external to a national marine sanctuary that are likely to destroy, cause the loss of, or injure any sanctuary resources are subject to consultation with the Secretary of Commerce (section 304(d)). Each Federal agency must provide a written statement, termed a Sanctuary Resource Statement, which describes the action and its potential

effects on sanctuary resources at the earliest practicable time, but no later than 45 days before final approval of the action.

(3) If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injury a sanctuary resource, the Secretary must (within 45 days of receipt of complete information on the proposed action) recommend reasonable and prudent alternatives that can be taken by the Federal agency to protect sanctuary resources.

(4) The Federal agency that receives the recommended alternatives must promptly consult with the Secretary on the alternatives. If the agency decides not to follow the alternatives, the agency must provide the Secretary with a written statement explaining the reasons for that decision.

f. Marine Protected Areas

(1) Marine protected areas (MPA) are defined in reference (aa) as "...any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein."

(2) The Department of Commerce established a national system of MPAs and maintains a current inventory of all MPAs. Natural resources managers and environmental planners should become acquainted with the National System of MPAs Web site (refer to appendix E (Web Sites) of this manual for Web site address) as a comprehensive resource tool to ensure compliance with all appropriate statutes that regulate MPAs. Adverse impacts to MPAs should be avoided to the maximum extent practicable.

(3) Installations must address adjacent MPAs in INRMPs, where appropriate, to ensure proper management of watersheds and other linkages to MPAs.

g. Coastal Barriers. Coastal barriers in the John H. Chafee Coastal Barrier Resources System should be identified in INRMPs, where appropriate, and conservation of these systems by means of appropriate management actions should be addressed. Before construction, maintenance, military activities, or other Federal expenditures may take place in designated coastal barriers, the Navy is required to consult with USFWS. Navy installations may expend funds in areas designated as coastal barriers in the John H. Chafee Coastal Barrier Resources System only for uses that include 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 non-structural projects for shoreline stabilization (reference (b), sections 3501–3510).

h. Coastal Zone Management. INRMPs should address management of all marine resources in installation coastal and near-shore environments. Chapter 14 (Coastal Zone Management) of this manual discusses all policies and requirements related to the coastal zone.

12-3.7. Federally Threatened and Endangered Species. The Navy must consult with USFWS and NMFS when any action authorized, funded, or to be carried out by the Navy may affect any Federally threatened or endangered species or the physical or biological features of designated critical habitat (section 7(a), paragraph (2) of the ESA).

a. Conservation

(1) All Navy properties must be surveyed as frequently as necessary to determine the presence of Federally listed threatened and endangered species and their habitats. The Navy must use its authority to further the conservation of those species (reference (x), section 7(a), paragraph (1)) by including management actions for these species and their habitats in INRMPs.

(2) All commands conducting activities on land and at sea should be aware of the presence of Federally listed threatened or endangered species, species proposed for listing, and areas designated or proposed for designation of critical habitat. Impacts to these species and critical habitat areas should be avoided to the extent practicable. Species and critical habitat information can be obtained from USFWS and NMFS.

b. ESA Section 7 Consultations and Conferences

(1) If a proposed action may affect Federally listed species or designated critical habitat, and those effects are reasonably certain to occur, the action proponent must request ESA section 7 consultations with USFWS and NMFS as required per reference (b), section 1531 et seq. There is no statutory obligation to consult with USFWS or NMFS if a proposed action will have no effect on Federally listed species or designated critical habitat. Informal and formal consultation procedures are found in reference (t), sections 402.13 and 402.14, respectively. Reference (bb) outlines specific ESA section 7 consultation procedures with NMFS for all Navy organizations conducting research, development, testing, training, and other activities in the marine environment.

(2) The trigger for a conference is a potential jeopardy situation for species proposed for listing, and a potential destruction of or adverse modification of proposed critical habitat (reference (b), section 1531 et seq.). All action proponents must request a conference when it is determined that species proposed for listing or critical habitat proposed for designation may be affected by a proposed action. This proactive step ensures compliance with reference (b), section 1531 et seq., and allows a non-jeopardy or adverse modification conference report issued by USFWS or NMFS to be adopted as a BO, including, as appropriate, an incidental “take” statement, upon request by the action proponent without the need to re-initiate consultation should the species become listed or the critical habitat become designated.

(3) Consultations and conferences must be requested by the action-proponent and coordinated as follows. For actions proposed ashore or in the near-shore environment, the consultation or conference team must comprise Navy staff that include a natural resources subject matter expert (SME) representing the ICO and an action-proponent SME representing the mission requirement. In cases where the installation and action proponent both have natural resources SMEs, the installation SME will be the lead in the consultation or conference though

the action proponent's natural resources SME will be fully engaged in the process. For actions proposed offshore the consultation or conference team must comprise Navy staff that include both natural-resources and mission requirement SMEs representing the action proponent command. The lead for these consultations and conferences shall be the command natural resources SME. Exceptions must be approved in advance by OPNAV N45.

(4) Action proponents must coordinate consultation and conference requests of national or regional scope with OPNAV N45 via the chain of command.

(5) A draft NEPA analysis may be used to make the initial effect determination. It may also be used for informal consultation.

c. BAs and BEs. A BA is required for evaluating the effects of a proposed major construction action (or other actions having similar physical impacts) (reference (t), section 402.12), and a BE evaluates the effects of all other actions, on Federally listed species, species proposed for Federal listing, designated critical habitat, and critical habitat proposed for designation. The BA or BE, along with a letter requesting formal consultation, must constitute the Navy's formal consultation package. Per chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), subparagraph 10-3.7b of this manual, action proponents are required to upload ESA consultation packages to the OPNAV N45 Environmental Planning and Compliance Library Web site (refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) for Web site description, and refer to appendix E (Web Sites) of this manual for Web site address) not later than 30 working days after the document is finalized.

(1) Preparation. Action proponents are responsible for the funding of BAs and BEs, and must ensure they are prepared by natural resources managers with subject matter expertise.

(2) Content. BAs and BEs must contain the information prescribed in reference (t), section 402.14, paragraph (c). A BA and BE must be developed as a separate document with more detailed information than that provided in the corresponding NEPA analysis unless otherwise approved in advance by OPNAV N45. When appropriate, INRMP actions and conservation recommendations adopted from prior consultations must be incorporated into the environmental baseline to ensure appropriate credit for benefits provided to species that may be affected by a proposed action. The recommended format for BAs and BEs is available in the OPNAV N45 Environmental Planning and Compliance Library described in chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual.

(3) Conservation Measures. Only those actions that avoid or minimize adverse effects within the action area should be incorporated into the proposed action as conservation measures. Conservation measures should not impact the effectiveness of the proposed action.

(a) Conservation measures can include activities undertaken off the military installation as that term is defined by reference (b), sections 670a–f, or outside of the action area, per reference (b), section 670c-1, and pursuant to a cooperative or interagency agreement, only if

the measures are necessary to avoid a jeopardy determination, and if they bear a direct relationship to the action under consultation.

(b) Exceptions to this policy on conservation measures must be coordinated with OPNAV N45.

(4) Review. For the action area concerned, all BAs and BEs must be reviewed and approved by the natural-resources SMEs described in subparagraph 12-3.7b(3) of this manual prior to submittal to USFWS or NMFS. This is to ensure potential impacts to Federally listed species and designated critical habitat are appropriately assessed and proposed conservation measures meet the criteria described in subparagraphs 12-3.7c(2) through 12-3.7c(3) of this manual.

d. BOs

(1) Action proponents are responsible for the planning, budgeting, and implementation of the proposed action described in a BO as well as the terms and conditions of incidental "take" statements. The action proponent must coordinate implementation of ashore and near-shore BO conservation-related requirements with the natural resources SME representing the ICO or Region Commander, unless an action proponent requests and an ICO or Region Commander agrees to be responsible for those requirements. In this case, the ICO or Region Commander must plan, budget, and implement the BO conservation requirements in support of the action proponent's mission. In the case of joint bases where the Navy is the hosting command, all conservation-related BO requirements will be executed per the joint base memorandum of agreement.

(2) Terms and conditions of incidental "take" statements in draft BOs must be reviewed to ensure they minimize the amount or extent of incidental "take" in ways that do not alter the basic design, location, scope, duration, or timing of the proposed action, and if necessary, involve only minor changes to the proposed action as required by reference (t), section 402.14(i).

(3) Action proponents must notify OPNAV N45 as soon as it is determined that a consultation may result in a draft jeopardy opinion.

(4) Action proponents are required to upload BOs, conference reports or opinions, and letters of concurrence to the OPNAV N45 Environmental Planning and Compliance Library Web site (refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) for a description of the Web site and appendix E (Web Sites) of this manual for Web site address) not later than 30 working days after the document is received.

e. Coordination with Chain of Command on Threatened and Endangered Species Actions. To ensure Navy lands remain available to support the military mission with proper planning and budgeting of natural resources efforts (reference (cc)) installations must observe:

(1) Threatened and Endangered Species Conservation Actions. Installations must review and coordinate requests for approval by the chain of command, including the Class I property

authority, the BSO, and OPNAV N45, any action to introduce or commit to introduce species to a Navy installation or lands controlled by the Navy that are, by Federal law or regulation, protected as endangered or threatened, or are proposed, or are candidates for protection (reference (cc)). Coordination and approval by the chain of command are also required prior to commencing, or committing to commence, habitat enhancement designed to actively promote the introduction of Federally listed endangered, threatened, proposed, or candidate species on a Navy installation or lands controlled by the Navy. Availability of funds, required stewardship efforts, and consistency with the Navy mission must be key considerations in evaluating requests from field commands. Requests must also identify the need for, and extent to which, documentation is required pursuant to NEPA. This approval process in no way alters the Navy commitment to use its authority to enhance the recovery of Federally listed threatened and endangered species and their habitats.

(2) Off-Site Conservation Partnerships. Conservation actions for threatened and endangered species pursuant to section 7(a)(1) of the ESA can include activities undertaken off of the military installation as that term is defined by reference (b), sections 670a–f per section 670c-1, when the purpose is to relieve or eliminate threatened and endangered species management requirements that could restrict, impede, or otherwise interfere with military activities. Goals and objectives that justify these actions must be clearly defined in an INRMP. Natural resources managers must coordinate with installation community planning and liaison officers (CPLO) to pursue funding through the OSD readiness and environmental protection integration (REPI) program. The REPI program is an example of an encroachment partnering program that allows commands to leverage partner and congressional funds to promote compatible uses near military installations.

(3) Developing or Proposed Federal ESA Actions by Regulatory Agencies

(a) Installations and commands must advise their chain of command of proposed ESA actions that have the potential to affect mission readiness. Installations, region commands, or echelon 2 authorities must engage with USFWS or NMFS in a coordinated fashion to ensure ESA proposals under development have minimal or no impact on the Navy mission.

(b) Official responses to regulatory agency proposals must be coordinated with all Navy stakeholders that are likely to be affected by a developing ESA action. Comments in response to any proposal published in the Federal Register to designate critical habitat or to list species for protection under the ESA that occur on a Navy installation or lands controlled by the Navy must be prepared by echelon 2 authorities and coordinated with OPNAV N45 for review and approval.

(c) Guidance for responding to ESA developments is available in the OPNAV N45 Environmental Planning and Compliance Library described in chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual.

f. Candidate Species and Species of Concern. Action proponents may include candidate species in ESA section 7 consultations when there is some certainty that the species will be

proposed for listing during the environmental planning process or sometime during the conduct of the proposed action. Re-initiation of consultation and resulting delays in proposed actions may thus be avoided when species listings are proposed and finalized. Listing certainty may be ascertained by requesting informal listing updates from USFWS and NMFS, reviewing candidate species priority numbers, and monitoring Federal Register notices.

g. State- and Territory-Listed Species. State- or territory-listed species must not be included in Federal ESA BAs or BEs and consultations as described in subparagraphs 12-3.7a through 12-3.7f of this manual, unless they are also on the Federal list of threatened and endangered species, are proposed for Federal listing, or are Federal candidates whose listing is certain. Potential effects to State or territory listed species and their habitats must be evaluated and mitigations proposed in environmental planning analyses, as appropriate. Conservation of these species and any other species at risk and their habitats should be addressed in INRMPs and per State wildlife action plans to the extent practicable and in ways that support the Navy mission.

12-3.8. Land and Watershed Management. Land and watershed management coordinates land-use and water-management decisions to protect water resources. The requirements, which are consistent with reference (d), are:

a. Water Development Projects. Any action that modifies a stream or body of water requires consultation with USFWS and the appropriate State fish and wildlife agency concerning the conservation of fish and wildlife resources possibly affected by the proposed action (reference (b), section 661).

b. Wetlands. Wetlands are protected under the CWA. Reference (dd) prohibits certain activities affecting navigation and navigable waters, including the discharge of dredged or filled material into waters of the United States, without first obtaining all necessary permits, which may include those from State regulatory agencies as well as the U.S. Army Corps of Engineers (USACE). Any action significantly affecting wetlands must be addressed by the environmental planning process described in chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual. Navy commands with natural resources responsibilities must comply with the national goal of "No Net Loss of Wetlands Policy" established in 1989, and as required by reference (ee).

(1) Surveys and Mapping. All Navy properties must be surveyed for wetlands. Wetlands must be mapped with sufficient accuracy to protect them from potential unplanned impacts, with locational data entered into a GIS that is maintained and kept current. Wetland maps must be included in an installation INRMP, and maps and GIS data must be made available upon request to all potential users, including facilities planners, operational units, and tenant commands.

(2) Waters of the United States. Jurisdictional determinations of wetlands or other waters of the United States may be required prior to construction or a military activity if wetlands or other waters are within or adjacent to the action area. Jurisdictional determinations are made by USACE or, in cases where the State has assumed CWA section 404 authority, by the appropriate State agency. Action proponents must plan and budget for jurisdictional determinations, when necessary, if wetlands or other waters of the United States may be impacted by a proposed

action. See chapter 20 (Clean Water Ashore), paragraph 20-5.29 of this manual for definitions and guidance.

(3) Avoiding Adverse Impacts. In carrying out construction and military activities, all Navy commands should avoid adverse impacts to or destruction (e.g., loss of size, function, and value) of wetlands (reference (ff)). Any requirement that cannot be sited to avoid wetlands must be designed (in all phases of the project's planning, programming, and budgeting process) to minimize wetlands degradation and must include compensatory mitigation as required by reference (ee). All requirements for compensatory mitigation must be budgeted for by the action proponent. Compensatory mitigation options are discussed in paragraph 12-3.11 of this manual.

c. Floodplain Management. Direct or indirect development of floodplains must be avoided, and the natural and beneficial values served by floodplains must be preserved to the extent possible per reference (gg). All potential effects of actions in floodplains must be evaluated in all environmental planning documents.

d. Soil Conservation. Surveys and mapping must be conducted and, if necessary, soil conservation measures must be implemented, to control and prevent soil erosion in undeveloped natural areas for the preservation of natural resources in support of the military mission.

e. Environmentally and Economically Beneficial Landscaping. Navy installations must comply with the goals of reference (hh), section 207 on all new or extended landscaped areas and must use native plants to the maximum extent practicable, when replacement or rejuvenation of existing landscaping is required.

f. Nonpoint-Source Pollution. Development and implementation of nonpoint-source pollution management programs must ensure water quality protection and place special emphasis on preventing nonpoint-source pollution from naturally occurring or ground-disturbing actions in shoreline, streamside, and near-shore areas. Natural resources managers should describe pollution prevention plans in INRMPs by coordinating with installation environmental compliance staff. Additionally, nonpoint-source problem areas (e.g., erosion) in undeveloped areas of installations should be addressed in INRMPs and be consistent with coastal and nonpoint-source programs where applicable.

g. Pesticide Use. All land-management activities, including habitat-enhancement activities, involving the use of pesticides must be accomplished in compliance with reference (ii) and applicable State laws, and be consistent with the requirements of chapter 24 (Pesticide Compliance Ashore) of this manual.

h. Ecological Reserves or Conservation Areas. Natural areas on mission-compatible Navy lands that warrant special conservation efforts may be identified as ecological reserves or conservation areas and should include characteristic or outstanding botanical, ecological, geological, and scenic features or processes. Reference (jj) provides guidance for selection and establishment of ecological reserve or conservation areas. Any proposal to designate an ecological reserve area on a Navy installation must be approved in advance through the chain of command to OPNAV N45. Availability of funds, required stewardship efforts, and consistency

with the installation mission (including proposed time period for designation) must be key considerations in evaluating requests from field commands. Requests must also identify the need for and extent to which documentation is required pursuant to NEPA and other environmental laws, such as the ESA.

i. Agriculture. Lands suitable for agricultural uses that are compatible with the installation mission may be identified for agricultural outleasing. Each agricultural outlease must include a conservation plan that details the best management practices (BMP) to protect the natural resources and government interests under the lease. Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) provides the technical and administrative functions of this program per reference (m), section 2667. Reference (kk), chapter 19 outlines procedures for the administration of rent receipts received from lessees. Navy installations must identify and minimize the adverse effects of their actions on prime and unique farmlands per reference (ii), section 4201 et seq. Revenues from agricultural outleases are available for:

(1) Administrative expenses of agricultural leases. Funding natural resources professionals directly responsible for the administration of agricultural programs must be given priority;

(2) Initiation, improvement, and perpetuation of agricultural outleases; and

(3) Implementation of related INRMP projects.

j. Forest Management. It is Navy policy to manage forestlands by restoration, enhancement, and improvement of forest resources and related ecosystems through an active program of professional forest management, based on soil-site capabilities, in a multi-disciplinary, ecologically sound manner. Navy forest management must include, as appropriate, harvest, reforestation, afforestation, and silvicultural treatments that must foster forest health and vigor, structural and biological diversity, and regeneration. Such management actions must produce financial returns to the government, contribute commercial forest products to the economy, and maintain and improve the economic and ecological value, health, and diversity of the forest resources and related ecosystems.

(1) Sustainable Yield and Improvement of Resources. Installations with forests or lands with the potential for the growth and production of forest products must provide for optimum sustainable yield of forest products and the improvement of forest resources, consistent with the installation mission and INRMP. INRMPs must, when appropriate, include current forest inventories, conditions, trends, and potential uses; silviculture goals; maintenance actions required for forested areas and access roads; forest and stand improvement methods; harvesting and reforestation methods and schedules; and protection and enhancement of other natural resources.

(2) Use of a Professional Forester. All Navy installations with commercial forestry programs must employ or use a professional forester to manage forest resources. This includes preparation and oversight of all forestry service and sales contracts and monitoring the use of reimbursable forestry funds provided to support the program. COMNAVFACENGCOM

provides the technical, administrative, and management functions of this program per reference (kk).

(3) Use of Clear Cutting. Foresters should use clear cutting as a standard harvest management practice only where essential to meet specific forest plan objectives, as defined in the installation INRMP, or for cleanup after natural catastrophes such as hurricanes, tornadoes, and wildfires. Alternative harvest methods must be used whenever feasible.

(4) Late Successional Forests. It is Navy policy to maintain old-growth forests in their natural state to preserve their unique biological, scientific, and aesthetic benefits. The harvest of mature or late successional forests must be based on balanced economic, social, and environmental values identified during the management and planning process.

(5) Forest Product Sales. Navy contracts for the sale of forest products must include requirements for orderly harvesting, operational procedures, and payment for sold products. The Navy must not give away, abandon, or carelessly destroy forest products; use them to offset costs of contracts; nor trade them for products, supplies, or services. Proceeds collected from the disposal or sale of all merchantable forest products produced on a Navy installation must be turned over to the servicing Navy accounting and finance officer and deposited in the Navy forestry account. Records must be kept to show sales proceeds generated by FY for determining payments to States, as required by reference (m), section 2665. Criteria and procedures for administering timber sale contracts are contained in reference (kk), chapter 3.

(6) Accounting and Use of Forestry Proceeds. Navy installations or commands incurring obligations for the production and sale of forest products must receive reimbursement from collections made from 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 Navy forests. These anticipated program expenses must be identified in the installation or command annual increment each year. Insofar as they meet this test, obligations may include 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 forest products. Nonessential program expenses must be limited to ensure a balanced program as required by references (ll) and (mm) and by reference (kk), chapter 3.

(7) Export Lumber. Reference (nn) prohibits the export of unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States and restricts substitution of unprocessed Federal timber for timber exported from private lands. All Navy solicitations and contracts for timber sales affected by this statutory limitation must contain a provision restricting the export of unprocessed timber obtained on Navy lands.

(8) Forest Pest Suppression. Foresters and natural resources managers must cooperate fully in the planning, coordination, and execution of field operations to prevent and suppress damaging forest insect and disease outbreaks, consistent with the terms of reference (oo) and whenever it is determined to be necessary by either the regional U.S. Forest Service (USFS)

supervisor or cooperating State forestry department or commission. Forestry management objectives should also include control and prevention of invasive species (references (d), (pp), and (qq)).

k. Wildland Fire Management

(1) Uncontrolled fires have the capacity to effect the developed environment as well as the undeveloped environment in ways that degrade the value of natural resources and capability of lands to support military readiness activities. INRMPs must address the need for management of fuel loads, including the use of prescribed burns, for habitat enhancement purposes and to reduce the potential for wildfires. A wildland fire-management plan must be developed for installations with vegetation in undeveloped areas capable of sustaining fire and per habitat-management objectives.

(2) Wildland fire-management activities may not be implemented by natural resources managers without coordination with and approval of the installation fire department and other installation authorities, or as appointed by the ICO. All wildfire-management activities must comply with all appropriate Federal laws and regulations and be consistent with reference (rr).

12-3.9. Invasive Species. Invasive species cause a loss of biodiversity, pose increased wildland fire hazards and habitat degradation, and cause other environmental problems. "Biosecurity" is achieved by controlling or eradicating the presence of invasive species, and the prevention of introductions by implementing rapid responses to new invasive species detections. These measures reduce impacts to the mission and human health and the environment while enhancing native ecosystems (references (d), (pp), and (qq)).

a. Prevention and Control

(1) Invasive species must be addressed in INRMPs per reference (d); reference (ii), sections 7701–7786; and reference (pp), section 3. The National Invasive Species Management Plan should be used as guidance, and is available on the National Invasive Species Council Web site (refer to appendix E (Web Sites) of this manual for Web site address). Refer to chapter 24 (Pesticide Compliance Ashore) of this manual and ensure sound integrated and environmentally safe application of any pesticides used to control invasive species.

(a) Natural resources managers must conduct surveys and manage natural resources in a way that prevents introductions of, reduces the spread of, or eradicates invasive species.

(b) Native plant species must be planted in bare or erodible soils and used in all restoration and mitigation projects.

(2) The potential to introduce or spread invasive species must be addressed in environmental planning analyses by all action proponents. Means by which the spread or introduction of invasive species can be avoided or minimized must be identified and implemented when and where appropriate.

(3) Navy installations must cooperate with States that maintain programs for controlling noxious plants and provide access for that control, provided access is consistent with installation security procedures. Only proven control measures that have been used on adjacent lands should be used.

(4) Navy installations must ensure, to the maximum extent possible, aquatic invasive species are not introduced into near-shore environments or bodies of water on or adjacent to the installation. Measures to prevent introductions of aquatic nuisance species through ballast water or hull fouling, as mandated by reference (qq), are provided in chapter 35 (Environmental Compliance Afloat) of this manual.

b. Feral Cat and Dog Control

(1) Feral or free-ranging domestic cats and dogs are considered by the professional wildlife management community to be one of the most widespread and serious threats to the integrity of native wildlife populations (e.g., birds, bats) and natural ecosystems in North America. Navy commands must prevent feral cat and dog populations (references (ss) and (tt)) and ensure their humane removal from Navy lands through close coordination and cooperation between natural resources, pest management, security, veterinary, and housing personnel.

(2) Navy commands must not allow trap-neuter-release (reference (tt)) or the release of unwanted house pets on their lands due to the potential of feral or free-ranging cat populations to act as disease reservoirs, threatening human health, native wildlife populations, and natural ecosystems.

c. Pest Control. The implementation of pest control at Navy facilities is not a component of the NRC program, and as such, pest control actions are not eligible for NRC program funding. However, due to the potential impact on natural resources, natural resources managers must provide biological expertise to assist in developing and implementing integrated pest management plans. This will ensure consistency and compliance with installation INRMPs and applicable natural resources laws and regulations.

12-3.10. Outdoor Recreation. The INRMP must address the appropriate level of public access (references (b), sections 670a–f; and references (d), (e), (f), and (i)), including access for disabled veterans, military dependents with disabilities, and other persons with disabilities (references (uu) and (vv)) for natural-resources-based recreational opportunities consistent with installation security, installation mission, and sustainable NRC objectives. Installations are encouraged to develop their own outdoor recreation programs and cooperate with Federal, State, and private organizations as outlined in reference (ww). Per reference (d), opportunities for public access must be equitably and impartially allocated consistent with:

a. Prohibitions to Access. ICOs must prohibit public access for recreational purposes in areas known to contain or suspected of containing unexploded ordnance or other munitions (reference (xx)). The ICO has discretion to allow hunting and fishing in explosive storage and operations areas under carefully controlled conditions that do not endanger life, property, or

hazardous materials. Limits to public access for recreational purposes and any controlling conditions must be specifically addressed in the installation INRMP.

b. Off-Road or Off-Highway Vehicles. Off-road or off-highway vehicle use on Navy land is permissible only on designated areas and trails (reference (yy)). Refer to reference (kk), chapter 5 for policies, procedures, and criteria for establishing designated off-road or off-highway areas and trails.

c. Recreational Hunting and Fishing. Reference (m), section 2671 established general requirements for hunting, fishing, and trapping on a military installation or facility under the jurisdiction of any military department in a State. Reference (zz) requires management of game species and their habitats. Installations must incorporate these requirements in INRMPs. In keeping with reference (aaa), INRMPs must address improvement of the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities. Per reference (d), installations must be available to the public for hunting where such programs exist and when not in conflict with mission or environmental readiness and NRC program goals.

d. Fees and Proceeds

(1) Fees and proceeds collected from hunting, fishing, aquaculture, mariculture, and trapping must be used only for funding or supplementing wildlife-management programs, including funding of partnerships and cooperative or research agreements with appropriate agencies. User fees collected for the privilege of hunting, fishing, or trapping must be collected, deposited, and used per reference (b), sections 670a–f. Further, collections must be used exclusively for fish and wildlife conservation and management on the installation where collected.

(2) The same fee schedule must be used for all participants with the exception of senior citizens, children, and the handicapped. Membership in an installation conservation organization must not give members priority in participating in hunting, fishing, and trapping programs. Efforts should be made to use the services of the installation morale, welfare, and recreation (MWR) function to collect funds locally per Sikes Act authorization.

12-3.11. Mitigation for Impacts to Natural Resources. Action proponents should follow the mitigation hierarchy to the extent practicable (i.e., avoid, minimize, and compensate). Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual describes the requirements for monitoring, tracking, and reporting of mitigation measures.

a. Navy Criteria. Mitigation measures considered by natural resources managers and action proponents for impacts to natural resources must be:

(1) Directly related to the proposed action;

(2) Compatible with the Navy mission while avoiding future encumbrances to the mission;

(3) Within the authority of the Navy to implement;

(4) Reasonable in terms of the scope of the impact;

(5) Reasonable in terms of cost;

(6) Not the mandated responsibility of another agency;

(7) Conducted off-installation if practicable and as allowed (see subparagraph 12-3.11d of this manual); and

(8) Have some reasonable expectation of success based on prior practice or best available commercial or scientific information.

b. Funding. Action proponents are responsible for funding and implementing all avoidance and minimization mitigation measures for the duration of the action. This includes one-time or other such non-recurring compensatory mitigation measures (i.e., there is a clear start and finish). For actions ashore and in the near-shore environment, all mitigation requirements must be coordinated in advance with natural resources managers representing the ICO. Natural resources compensatory mitigation measures (addressed in subparagraph 12-3.11c of this manual) that will have recurring requirements (i.e., maintenance in perpetuity) must be funded and implemented by the action proponent for the first 5 years to allow for future programming into the NRC program. If appropriate, the responsibility for the compensatory requirement can be realigned to the NRC program, and natural resources managers must address the recurring requirements in the installation INRMP.

c. Compensatory Mitigation

(1) General. Compensatory mitigation should be considered whenever a Navy action has unavoidable impacts to natural resources using the criteria described in subparagraph 12-3.11a of this manual. Some laws governing the conservation and protection of natural resources have requirements for compensatory mitigation, while compensatory mitigation is discretionary under other statutes. Compensatory mitigation must be conducted in compliance with Federal laws and regulations.

(2) Endangered Species Act

(a) Compensatory mitigation is not required by section 7(a)(2) of the ESA (reference (t), sections 402.14, paragraph (i)(1)(ii and iv) and 402.14, paragraph (i)(2); and reference (bbb)) to minimize the amount or extent of incidental “take.” Any action taken outside of the action area to offset the impact of such “take” on a Federally threatened or endangered species pursuant to section 7(a)(2) of the ESA may only be implemented per subparagraphs 12-3.7c(3) (i.e., conservation measures) and 12-3.7d(2) (i.e., BOs, terms, and conditions) of this manual.

(b) USFWS or NMFS may include compensatory mitigation as conservation recommendations in the last section of a BO. When appropriate, conservation recommendations and other measures that may benefit species affected by an action should be incorporated into INRMPs as actions to be taken to fulfill the Navy's ESA section 7(a)(1) responsibilities. Except as described in subparagraph 12-3.11d of this manual, any action taken outside of the action area to offset the impact of such "take" on a Federally threatened or endangered species must be implemented per subparagraphs 12-3.7c(3) and 12-3.7d(2) of this manual.

(3) Section 404 of the CWA. Compensatory mitigation is required when there are unavoidable impacts to wetlands, streams, and other aquatic resources. Action proponents must coordinate with natural resources managers and Class I property authorities when selecting the most appropriate mitigation tool for the action under consideration using the criteria described in subparagraph 12-3.11a of this manual. Detailed information on these requirements is provided in references (ee) and (pp).

(4) Essential Fish Habitat. If necessary, mitigation measures may be proposed to reduce or offset adverse effects to EFH from a proposed action. Avoidance and minimization measures eliminate or reduce impacts on EFH. Compensatory measures will not eliminate or reduce impacts and should not factor into an action proponent's adverse effect determination but may be used to offset unavoidable adverse impacts. Appropriate mitigation measures may be identified in discussions with NMFS. All mitigation measures must follow the criteria identified in subparagraph 12-3.11a of this manual.

d. Tools. The Navy's authorities for compensatory mitigation include:

(1) Permittee-Responsible Compensatory Mitigation. This form of mitigation is typically associated with permits received pursuant to section 404 of the CWA for unavoidable impacts to wetlands and other aquatic resources (reference (ccc)). This type of action, however, may be taken under any circumstances where a proposed Navy action has unavoidable impacts to any natural resource. These actions should be taken by the action proponent within the boundaries of an installation or within the action area of a project or activity, if practicable.

(2) Conservation Banking

(a) Reference (ddd) describes how conservation banks are established and how they work. Briefly, a conservation bank is typically established through a conservation easement held by a third-party on a parcel of land identified as containing natural resource values that are conserved and managed in perpetuity. The party holding the easement is responsible for enforcing the terms of the easement and in managing it as a conservation bank that must be used to offset impacts occurring to the same resources elsewhere. Project proponents may work with regulatory agencies to establish a conservation bank and purchase credits established for the natural resources within an existing conservation bank. The conservation bank sponsor assumes liability for mitigation performance and management.

(b) Conservation banking can be used for off-site (i.e., outside of installation boundaries or a project action area) compensatory mitigation to fulfill obligations under any

applicable provision of law protecting (or protection pending) species and their habitats. The authority for participating in a conservation banking programs is reference (m), section 2694c.

(3) Wetland Mitigation Banking. Wetland mitigation banks differ from conservation banks in several ways (reference (ddd)), primarily in that wetland mitigation banks specifically compensate for unavoidable impacts to wetlands, streams, or other aquatic resources areas regulated under reference (ccc). The responsibility for implementing the mitigation resides with the bank sponsor, which typically is a for-profit private enterprise. Mitigation banks must be already established and credits must be available (i.e., mitigation projects have been completed or are under way) for this type of compensatory mitigation to be used by a Navy action proponent. The mitigation bank sponsor assumes liability for mitigation performance and management. The authority for participating in wetland banking programs is reference (m), section 2694b.

(4) In-Lieu Fee Mitigation. An in-lieu fee is a payment to a pre-established fund, organization, or program typically administered by State or local governments or non-profit organizations. The in-lieu fee sponsor is responsible for performing and managing the compensatory mitigation, but unlike mitigation banks, projects under this program are not initiated until enough fees are collected and sponsors are not required to provide financial assurances. As a result, in the past there was more risk of the mitigation not being accomplished. Action proponents must be aware that there are caps on the number of advanced credits available through an in-lieu fee program, and a hierarchal process has been established for the selection of type and location of compensatory mitigation via the in-lieu fee program. The authorities for participating in an in-lieu fee program are reference (m), sections 2694b and 2694c.

(5) Sikes Act §670c-1. Under this authority (reference (b), sections 670a–f), the Navy may enter in cooperative agreements with eligible partners to use natural resources management solutions to challenges that could restrict, impede, or otherwise interfere with military activities. As stated in subparagraphs 12-3.7c(3) and 12-3.7d(2) of this manual, this authority may be used only as a conservation measure to obviate a jeopardy opinion pursuant to the ESA. For purposes other than the ESA, natural resources managers should work with action proponents to pursue compensatory mitigation through the in-lieu fee and conservation or mitigation bank authorities before considering the use of the Sikes Act authority.

12-3.12. Integrating Natural Resources Conservation with the Other Navy Mission Activities. Reference (b), sections 670a–f and reference (d) require NRC be conducted in a manner where there is no net loss to the military mission. In addition to the requirements described in paragraphs 12-3.1 through 12-3.11 of this manual, natural resources managers must, to the maximum extent possible, participate in or otherwise support other activities essential to the Navy mission.

a. Encroachment Partnering. Reference (eee) describes the Navy's Encroachment Management Program. Navy natural resources managers should coordinate with CPLOs, mission component commands, Navy ICOs, range COs, range complex coordinators, enhanced readiness teams, and others with roles and responsibilities for encroachment identification and quantification, to identify proactive opportunities for off-site conservation opportunities to

relieve encroachment pressures on an installation or range. Opportunities exist pursuant to reference (b), section 670c-1 and reference (m), section 2684a, for the authority to use or develop real property in the vicinity of, or ecologically related to a military installation.

b. Bird/Animal Aircraft Strike Hazard (BASH). BASH is not the responsibility of OPNAV N45, and as such, BASH-management actions are not eligible for OPNAV N45 funding. Due to the potential impact on natural resources by a command's BASH program, however, natural resources managers must provide biological expertise to assist naval air installations, air operations, and aviation safety officers in preparing and implementing BASH plans where necessary. BASH plans should be reviewed to ensure consistency and compliance with installation INRMPs and applicable natural resources laws and regulations. In support of BASH efforts, NRC actions that affect the abundance and distribution of wildlife and their habitats around active airfields are eligible for OPNAV N45 funding and should be identified and addressed in INRMPs. Airfield mowing and clear-zone establishment and maintenance are not considered OPNAV N45 NRC actions or military readiness activities under reference (t), Part 21.

c. Environmental Planning. Natural resources managers must review all environmental planning documents to ensure action proponents are in compliance with this manual and serve in an advisory capacity for any action that may necessitate consideration of NRC requirements.

d. Facilities Management. Climate resilience adaptation strategies will likely result in infrastructure and facility modifications. It will be necessary to minimize impacts to natural resources due to changes in the man-made environment in response to these strategies.

12-3.13. Miscellaneous

a. Navy Conservation Web Site. The Navy Conservation Web site is the Navy's official repository of natural resources information to track INRMP status and implementation measures for regulatory review; generate official reports; record Department of the Navy measures of merit and metrics; and centralize and track other documentation described in this chapter. This Web-based tool helps natural resources managers submit, compile, and retrieve information about the NRC program to obtain and maintain the most current information possible to track the status of various natural resources programs, have current data to respond to various program inquiries, and generate accurate reports. BSOs and regions must assign a specific installation point of contact to keep their data in the system up to date. A Common Access Card and U.S. Navy Environmental Portal account are required to access the Navy Conservation Web site (refer to appendix E (Web Sites) of this manual for Web site address).

b. Environmental Damage. Chapter 41 (Natural Resource Damage) of this manual describes polices, requirements, and all pertinent legislation, references, and information related to the release of oil or hazardous substances that injure or threaten to injure natural resources within Navy control or management.

c. Natural Resources Awards. Navy installations are encouraged to participate fully in DoD and other awards programs to promote conservation and demonstrate a leadership role in protecting the environment.

d. Partnerships and Volunteers. Per reference (h), partnerships (e.g., Coastal America, Partners in Flight, Student Conservation Association, Chesapeake Bay Initiative) should be used to the extent practicable. Volunteers may be used to augment the NRC program following procedures and guidelines described in references (n) and (o). Programs that foster pride in accomplishment among volunteers, partners, and the Navy are encouraged.

e. Conservation Law Enforcement. Reference (fff) requires enforcement of laws primarily aimed at protecting natural resources (and recreation activities that depend on natural resources). Conservation law enforcement must be an integral part of a natural resources program (reference (d)), and requirements must be coordinated with installation security forces and appropriate conservation law enforcement agencies. Commanders must permit Federal and State conservation officers' access to enforce natural resources laws after taking proper safety and security measures.

f. Paleontological Resources

(1) The Navy has general responsibility to protect paleontological resources, consistent with its role as a steward of Federal lands and resources that may have scientific value.

(2) Paleontological resources are not subject to direct legal protection on DoD lands not administered or controlled by the Department of the Interior (DOI) or USFS national forests (reference (ggg)) except, when found in association with cultural resources, they may be subject to laws and regulations that protect cultural resources.

(3) Where indicated by local geology, the potential presence of paleontological resources may be addressed in conjunction with natural or cultural resources surveys. Natural resources managers must coordinate with the installation or regional cultural resources manager (CRM) to ensure proper management of paleontological resources with cultural associations discovered on any land used or controlled by the Navy.

(a) Finds on Withdrawn or Special Use Permit Lands. Natural and cultural resources managers must coordinate notification of the proper authority if the resources are discovered on lands withdrawn from DOI or used by special permit within a national forest system. No paleontological resources must be disturbed until these notifications are made and legal requirements for collection or study are determined.

(b) Promote Cooperative Partnerships with Federal, State, and Local Organizations on Other Navy Lands

1. Natural resources managers must coordinate with CRMs to notify the nearest office within DOI (e.g., Bureau of Land Management, USFWS, National Park Service), USFS, National Forest Office, or natural history museum permitted for possession of such resources.

These agencies may be given access to the find before or after collection, the former being at the discretion of the ICO.

2. If there is no scientific interest in or cultural associations with paleontological resources found on a Navy property upon review by proper authorities, the resource may be collected and used for educational or other such purposes on the property by Navy natural resources managers. No person can take personal possession of such finds.

12-3.14. Funding

a. Chapter 2 (Funding) of this manual describes policies and guidance for the planning, programming, budgeting, and execution of resources to comply with environmental laws, regulations, E.O.s, and DoD instructions and directives. NRC is identified in the conservation pillar of the Navy's environmental quality program.

b. All NRC requirements identified through the implementation of this manual must be included in the program objective memorandum (POM) and submitted to OPNAV N45 through the chain of command using EPRWeb and Office of the Chief of Naval Operations guidance for programming NRC requirements (refer to appendix E (Web Sites) of this manual for Web site address).

c. All requirements must be submitted for Operations and Maintenance, Navy funding. Funds may be available from other sources such as agricultural outleasing, forestry programs, Sikes Act user fees, and MWR, but the funding requirement for natural resource projects should be reflected in the POM.

12-3.15. Training Requirements. Personnel with NRC responsibilities must receive the appropriate job-specific education and training to perform their assigned tasks.

a. Natural resources managers must receive, at a minimum, the education and training in:

(1) Basic environmental law (completion of Naval Civil Engineer Corps Officers School (CECOS) Basic Environmental Law (A-4A-0058) will satisfy this requirement);

(2) Natural resources compliance (completion of CECOS Natural Resources Compliance (A-4A-0087) will satisfy this requirement);

(3) Environmental protection (completion of CECOS Environmental Protection (A-4A-0036) will satisfy this requirement);

(4) Introduction to NEPA (completion of CECOS NEPA Application (A-4A-0077) will satisfy this requirement);

(5) Environmental negotiation (completion of CECOS Environmental Negotiation Workshop (A-4A-0067) will satisfy this requirement); and

(6) Program funding (EPRWeb online training will satisfy this requirement (refer to appendix E (Web Sites) of this manual for Web site address)).

b. Natural resources managers may substitute formal training courses with on the job training through specific job assignments, training events (e.g., annual natural resource workshops), Web-based training, or other Federal agency sponsored natural resource training programs (e.g., National Conservation Training Center, Webinars), as determined appropriate by commands or supervisors for the required level of responsibility. Training substituted for formal training courses should be sufficiently documented.

c. Personnel responsible for Federally listed species management must also receive additional, specialized training, as applicable to their responsibilities.

d. Personnel responsible for wetlands must also receive additional, specialized training, as applicable to their responsibilities.

e. Refer to chapter 3 (Environmental Readiness Training) of this manual for Navy environmental readiness training requirements and approved Navy training resources.

12-4 Responsibilities

12-4.1. OPNAV N45 must:

a. Serve as principal leader, overall Navy program manager, and policy advisor for the Navy in all matters related to natural resources per reference (a);

b. Ensure adequate resourcing and policy to meet Office of the Assistant Secretary of Defense for Sustainment (OASD(Sustainment)) and legislative requirements for the conservation of natural resources and the establishment of an NRC program on Navy installations;

c. Regularly update policy guidance and issue-specific implementing guidance based on new or changing laws, regulations, and Assistant Secretary of the Navy (Energy, Installations, and Environment) (ASN(EI&E)) and OASD(Sustainment) policies governing conservation of natural resources;

d. Address and coordinate resolution of natural resources issues affecting the Navy mission;

e. Coordinate natural resources policy and program matters with (ASN(EI&E)), OASD(Sustainment), other military Services, and other Federal agencies; and

f. Support as needed, OASD(Sustainment) programs, initiatives, and partnerships involving natural resources.

12-4.2. All BSOs must:

a. Ensure effective natural resources compliance is an identifiable function of the command;

b. Ensure all natural resources conservation activities are implemented according to this manual, and in compliance with all appropriate laws and regulations;

c. Identify, program, budget and allocate resources for NRC requirements;

d. Ensure natural resources managers are professionally trained and receive all required supplemental training;

e. Identify all developing species listing and critical habitat proposals that may affect the Navy mission. Engage in early coordination with USFWS and NMFS at the local level to achieve desired outcomes before proposed rules are published. Desired outcomes include: (1) unwarranted listing determinations and critical habitat exemptions based on INRMPs; and (2) critical habitat exclusions based on national security impacts when such impacts are identified. Ensure responses to all such proposals are coordinated with other stakeholders when such proposals overlap areas of responsibility;

f. Ensure any issue that needs resolution, or any action related to natural resources that may be of national scope, controversial, or precedent setting, is coordinated in advance with OPNAV N45;

g. Assist OPNAV N45, as needed, in addressing natural resources issues that may affect the Navy mission;

h. Assist OPNAV N45, as requested, with OASD(Sustainment) reporting requirements, programs, initiatives, and partnerships involving natural resources; and

i. Assist OPNAV N45, as requested, with coordination of natural resources policy and program matters with ASN(EI&E), OASD(Sustainment), other military Services, and other Federal agencies.

12-4.3. AECs, in addition to the duties listed in paragraph 12-4.2 of this manual, must ensure all NRC requirements are entered in EPRWeb (refer to appendix E (Web Sites) of this manual for Web site address), and validate POM submittals and other requests for funds for NRC program requirements.

12-4.4. CNIC and other Class I property authorities, in addition to the duties listed in paragraph 12-4.2 of this manual, must:

a. Ensure all lands owned, leased, withdrawn, permitted, or otherwise under the control of the Navy and under the purview of their command are evaluated for significant natural resources;

b. Re-evaluate lands without significant natural resources at least once every 5 years and provide findings to OPNAV N45 for coordination with the Secretary of the Navy;

c. Ensure each installation with significant natural resources implements and maintains a Sikes-Act-compliant INRMP;

d. Ensure professionally trained natural resources managers have been assigned to installations with significant natural resources.

e. Ensure all NRC requirements are entered in EPRWeb (refer to appendix E (Web Sites) of this manual for Web site address); and validate POM submittals and other requests for funds for NRC program requirements;

f. Ensure installation NRC program implementation and effectiveness is evaluated by natural resources professionals as part of environmental quality assessments (refer to chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual);

g. Ensure natural resources on government-owned, contractor-operated installations are managed in compliance with this chapter.

h. Program and budget resources to maintain and upgrade as necessary, and manage the Navy Conservation Web site (refer to appendix E (Web Sites) of this manual for Web site address) to be used as a central repository for information gathered from installations, COMNAVFACENGCOM field offices, and other BSOs to satisfy reporting requirements, legislative information requests, and other data-call purposes; and

i. Ensure adequate NRC programs are in place at installations scheduled for closure to ensure continued management and protection of resources until the land has been officially transferred to base realignment and closure program management office or another owner.

12-4.5. COMNAVFACENGCOM must:

a. Provide natural resources technical expertise and services, using professionally trained natural resources personnel, to assist CNIC, other BSOs, and AECs with their roles and responsibilities for the execution of the requirements of this chapter as requested or as dictated by echelon 2 command structure;

b. Provide overall management and oversight of fish and wildlife fees collected pursuant to the Sikes Act; and

c. Ensure the Navy's commercial forest production and agricultural outlease programs are executed per all appropriate laws and regulations, and submit an expenditure report for the preceding FY for each program, to OPNAV N45 by 15 November of each year.

12-4.6. CNIC region commanders must:

a. Advise OPNAV N45, via the chain of command, of situations involving natural resources that require national-level coordination with other Federal agencies;

b. Ensure installations under their command comply with Navy policies on INRMP preparation, implementation, review, updates, and revisions;

c. To the extent practicable using available resources, ensure that sufficient numbers of professionally trained natural resources management personnel and natural resources law enforcement personnel are available and assigned responsibility at installations to perform tasks necessary to carry out natural resources management responsibilities, including the preparation and implementation of INRMPs;

d. Ensure installations under their command with INRMPs complete the annual INRMP reviews and endorse the results prior to submittal to CNIC via the Navy Conservation Web site;

e. Approve budgets and plans for management of Navy forestry and agricultural outlease programs;

12-4.7. ICOs of shore commands holding Class I property must:

a. Ensure all assigned properties have been evaluated for significant natural resources, and where found an INRMP has been prepared;

b. Notify CNIC via the chain of command when an INRMP is not necessary as required by this chapter;

c. Ensure INRMPs are coordinated between natural resources managers and major tenant commands so there is no net loss to the installation's capacity and capability to support mission functions;

d. Sign the final version of the installation INRMP and the new signature page after each required review for operation and effect;

e. Coordinate with the Region Commander and CNIC to appoint, by letter, a professionally trained installation natural resources manager whose duties include ensuring the ICO is informed of natural resources issues, conditions of natural resources, preparation and implementation of the INRMP, and potential or actual conflicts between mission requirements and natural resources mandates. The letter of appointment must be included in the INRMP as an appendix;

f. Integrate NRC requirements into the day-to-day decision-making process;

g. Ensure implementation of the installation INRMP and systematically apply the requirements and conservation practices set forth in the plan:

(1) Identify a team of mutual partners or regulatory entities to participate in the review of the NRC metrics required by this chapter;

(2) Personally evaluate INRMP implementation during the annual assessment required by this chapter;

(3) Complete the "Mission" section of the NRC metrics; and

(4) Send a written report to USFWS and the State fish and wildlife agency no later than 31 January of each year, summarizing INRMP implementation over the past FY, and the status of any prior mutually agreed upon goals and updates.

h. Ensure BASH-management requirements are coordinated with the NRC program to ensure consistency with INRMP goals;

i. Ensure current and planned mission activities are effectively coordinated in a timely manner with appropriate natural resources managers;

j. Review all non-excess land to identify areas that may be suitable and available for agricultural outleasing or commercial forestry and document the results of this review as described in reference (kk), chapter 19;

k. Ensure tenant commands and activities comply with all statutory and regulatory requirements governing the protection of natural resources and the requirements of this chapter;

l. Properly consider any action affecting natural resources in the environmental planning process (refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual);

m. Provide access to local, State, or Federal conservation law enforcement officials as described in this chapter;

n. Ensure access to installation natural resources by Federally recognized tribes, Alaska Native entities, and Native Hawaiian organizations, by virtue of treaty rights, is appropriately addressed in the INRMP;

o. Determine, on a case-by-case basis, whether access by proper authorities responsible for the protection of paleontological resources is reasonable, as described in this chapter.

12-5 Definitions

12-5.1. Adaptive Management. Adaptive management is the process of implementing policy decisions as scientifically driven management experiments that test predictions and assumptions in management plans and use the resulting information to improve policy and management decisions.

12-5.2. Agricultural Outleasing. Agricultural outleasing is the use of non-excess DoD lands under a lease to an agency, organization, or person generally for growing crops or grazing domestic animals. The term “agriculture” includes activities related to producing; harvesting; processing; or marketing an agricultural, aquaculture, maricultural, or horticultural commodity; including the breeding; raising; shearing; feeding; caring for; training; and management of livestock, bees, poultry, fish, shellfish, and fur-bearing animals and wildlife; and the planting, cultivating for harvest, or processing short-rotation (less than 15 years) forest products.

12-5.3. Best Management Practices. BMPs are resources-management decisions based on the latest professional and technical standards for the protection, enhancement, and rehabilitation of natural resources. BMPs include schedules of activities, prohibitions of practices, maintenance procedures, treatment requirements, operating procedures, control practices, and other management practices to prevent or reduce pollution.

12-5.4. Biodiversity. Biodiversity is the variety of life forms and the ecological processes that sustain it, including living organisms; the genetic differences among them; the communities and ecosystems in which they occur; and the ecological and evolutionary processes that keep them functioning, yet ever changing and adapting, for a given geographic area.

12-5.5. Biological Assessment. Per reference (t), section 402.12, BA "refers to the information prepared by or under the direction of the Federal agency concerning Federally listed and proposed species and designated and proposed critical habitat that may be present in the action area and the evaluation of potential effect of the action on such species and habitat." A BE is often prepared for actions not considered major construction activities.

12-5.6. Biological Opinion. Per reference (t), section 402.02, a BO is "the document that states the opinion of the service as to whether or not the Federal action is likely to jeopardize the continued existence of Federally listed species or result in the destruction or adverse modification of critical habitat."

12-5.7. Biosecurity. A comprehensive strategy of actions and coordination used to exclude, manage, and eradicate alien and invasive species with the potential to harm the economy, environment, human health, and cultural and societal values associated with the natural environment.

12-5.8. Candidate Species (under USFWS) and Species of Concern (under NMFS). Candidate species and species of concern are those species considered for possible addition to the Federal list of threatened and endangered species. These are plant and animal taxa for which USFWS and NMFS have on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposal to list under the Federal ESA, but for which issuance of a proposed rule is currently precluded by higher priorities.

12-5.9. Coastal Barriers. Coastal barriers are unique landforms such as islands, sandbars, tombolos, spits, dunes, and fringing mangroves that protect the mainland and landward aquatic habitats against severe coastal storms and erosion. The John H. Chafee Coastal Barrier Resources System is a collection of undeveloped coastal barriers and their associated aquatic habitats mapped by USFWS that protect the Atlantic, Gulf, and Great Lakes coasts.

12-5.10. Compensatory Mitigation. Compensatory mitigation is the term of art for the restoration, establishment, enhancement, or in certain circumstances, preservation of wetlands, streams, or other resources or habitat for the purposes of offsetting unavoidable adverse impact.

12-5.11. Conservation. Conservation is the planned management, use, and protection of natural resources that best reflect sustainable use and continued benefit for present and future generations, and the prevention of exploitation, destruction, waste, and neglect.

12-5.12. Conservation Bank. A conservation bank is a parcel of land containing natural resources values that are conserved and managed in perpetuity, through a conservation easement held by an entity responsible for enforcing the terms of the easement, for specified Federally listed threatened or endangered species and used to offset impacts occurring elsewhere. Conservation banks are market enterprises whereby landowners can buy and sell credits to compensate for impacts to protected natural resources.

12-5.13. Cooperative Agreement. A cooperative agreement is an assistance vehicle used to acquire goods or services or stimulate an activity undertaken for the public good. Cooperative agreements assume substantial involvement between the Federal agency and recipient during performance of the activity. They may be used to accomplish work identified in the INRMP, and may be entered into with States, local governments, non-governmental organizations, and individuals to provide for the maintenance and improvement of natural resources, or to benefit natural resources research on DoD installations.

12-5.14. Cooperative Conservation. Cooperative conservation relates to the use, enhancement, and enjoyment of natural resources, protection of the environment, or both, and involves collaborative activity among Federal, State, local, and tribal governments; private for-profit and nonprofit institutions; other nongovernmental entities; and individuals compatible with and supportive of the Navy mission.

12-5.15. Cooperative Ecosystem Study Unit. A cooperative ecosystem study unit is a national network of government and university partnerships established to provide research, technical assistance, and education to Federal land management, environmental, and research agencies and their potential partners. Ecosystem studies include the biological, physical, social, and cultural sciences.

12-5.16. Critical Habitat. Per reference (b), section 1532(5), critical habitat for Federally listed species consists of: "the specific areas within the geographical area occupied by the species, at the time it is listed per the provisions of section 4 of the Act, on which are found those physical or biological features (constituent elements) (a) essential to the conservation of the species and (b) which may require special management considerations or protection and (c) specific areas outside the geographical area occupied by the species at the time it is listed per the provisions of section 4 of the Act, upon a determination by the Secretary that such areas are essential for the conservation of the species."

12-5.17. Ecological Reserve Areas. Ecological reserve areas are areas dedicated primarily or exclusively to preserving examples of ecosystems and genetic diversity and to scientific research and education on ecological and environmental problems.

12-5.18. Economy Act Order. An Economy Act order is an agreement between Federal agencies for goods or services, typically executed by issuance of DD Form 448, Military Interdepartmental Purchase Request.

12-5.19. Ecosystem. An ecosystem is a dynamic and natural complex of living organisms interacting with each other and their associated physical environment.

12-5.20. Ecosystem-Based Management. Ecosystem-based management is a process that considers the environment as a complex system functioning as a whole, not as a collection of parts.

12-5.21. Encroachment. Encroachment is any action planned or executed that inhibits, curtails, or potentially impedes on the attainment or sustainment of the Navy's Title 10, U.S. Code responsibilities.

12-5.22. Environmentally and Economically Beneficial Landscaping. Environmentally and economically beneficial landscaping reduces adverse impacts to the natural environment by implementing cost-effective and environmentally sound landscape practices.

12-5.23. Essential Fish Habitat. Per reference (t), section 600.10, EFH is defined by NMFS for the purposes of fisheries conservation as "…those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. Waters include aquatic areas and their associated physical, chemical, and biological properties. Substrate includes sediment underlying the waters. Necessary means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem. Spawning, breeding, feeding, or growth to maturity covers all habitat types utilized by a species throughout its life cycle."

12-5.24. Fish and Wildlife Management. Fish and wildlife management is actions designed to preserve, enhance and regulate indigenous wildlife (e.g., fish, birds, mammals and all other classes of wild animals) and their habitats, including conservation of protected species and non-game species, and management and harvest of game species.

12-5.25. Forest Management. Forest management is actions designed for the production and sale of forest products and for maintaining the health and vigor of forest ecosystems, including timber management, forest administration, timber sales, reforestation, afforestation, timber stand improvement, timber access road construction and maintenance, forest protection, and other directly related functions.

12-5.26. Forest Products. Forest products are those items produced from a forest such as sawtimber, veneer logs, poles, piles, posts, pulpwood, pine straw, stumpwood, bark and other mulch, cones, seeds, mistletoe, firewood, and wood chips.

12-5.27. Game Species. Game species are fish and wildlife species harvested per applicable Federal and State hunting and fishing laws and regulations for recreational or subsistence purposes.

12-5.28. Geographic Information System. GISs are an organized collection of computer hardware, software, and geographic data designed to capture, store, update, manipulate, analyze, and display efficiently all forms of geographically referenced data.

12-5.29. Grounds. Grounds are all land areas not occupied by buildings, structures, pavements, and other facilities. Depending on the intensity of management, grounds may be classified as improved (as those near buildings), semi-improved, or unimproved.

12-5.30. Habitat. Habitat is an area where a plant or animal species lives, grows, and reproduces, and the environment that satisfies its life requirements.

12-5.31. Incidental "Take." Incidental "take" is takings that result from, but are not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant. Refer to paragraph 12-5.52 of this manual.

12-5.32. Integrated Natural Resources Management Plan. An INRMP is a plan focused, to the maximum extent practicable, on ecosystem-based management that shows the interrelationships of individual components of NRC (e.g., fish and wildlife, forestry, land management, outdoor recreation) to mission requirements and other land-use activities affecting a Navy installation's natural resources. The primary purpose of the INRMP is to ensure NRC measures and military operations on the installation are integrated and consistent with environmental stewardship, laws and regulations, and the military mission.

12-5.33. Invasive Species. Invasive species means, with respect to a particular ecosystem, a non-native organism whose introduction causes economic harm, or harm to human, animal, or plant health. A "non-native species" or "alien species" means an organism, including its seeds, eggs, spores, or other biological material capable of propagating that species, that occurs outside of its natural range.

12-5.34. Land Management. Land management is 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 weed and poisonous plants; agricultural outleasing; range management; identification and protection of wetlands, watersheds, floodplains management, landscaping, and grounds maintenance.

12-5.35. Military Readiness Activity. Pursuant to reference (hhh), section 315(f), military readiness activity includes all training and operations of the Armed Forces that relate to combat, and the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use. The term does not include (a) the routine operation of installation operating support functions (e.g., administrative offices, military exchanges, commissaries, water treatment facilities, storage facilities, schools, housing, motor pools, laundries, MWR activities, shops, mess halls); (b) the operation of industrial activities; or (c) the construction or demolition of facilities used for a purpose described in subparagraphs 12-5.35(a) or 12-5.35(b) of this manual.

12-5.36. Natural Resources. Natural resources are all elements of nature and their environments of soils, sediments, air, and water. They consist of earth resources (nonliving resources such as minerals and soil components) and biological resources (living resources such as plants and animals).

12-5.37. Natural Resources Manager. A natural resources manager is an individual assigned the responsibility of managing installation natural resources on a regular basis and who keeps the chain of command informed of natural resources issues.

12-5.38. Near-Shore Areas. Near-shore areas are waters and submerged lands adjoining the installation from the mean high-water mark (i.e., the line on the shore established by the average of all high tides) to the boundaries of installation waterfront activities where the Navy controls access, and that are subject to the immediate authority of the ICO or tenant command.

12-5.39. Non-Game Species. Non-game species are fish and wildlife species not classified as game species and not harvested for recreation or subsistence purposes.

12-5.40. Nonpoint-Source Pollution and Polluted Runoff. Nonpoint-source pollution and polluted runoff is pollution caused by diffuse sources not regulated as point sources. It is normally associated with runoff from construction activities; urban, agricultural, and silvicultural runoff; and other land-disturbing activities such as military training and operations that disturb lands, soils, and waters. Nonpoint-source pollution is pollution from many diffuse sources caused by rainfall, snowmelt, or atmospheric deposition over, above, and through the ground, that picks up and carries natural and human-made pollutants (e.g., fertilizers, oil, salt, sediments, bacteria, pesticides) and deposits them into lakes, rivers, wetlands, coastal waters, and groundwater resources.

12-5.41. Noxious Weeds. Noxious weeds are plant species identified by Federal or State agencies as requiring control or eradication.

12-5.42. Off-Road or Off-Highway Vehicle. An off-road or off-highway vehicle is a vehicle designed or used for recreational travel on natural terrain. Some off-road and off-highway vehicles are not legal to operate on public roads. The term excludes a registered motorboat confined to use on open water and a military, emergency, or law enforcement vehicle during use by an employee or agent of the government or one of its contractors in the course of carrying out their official duties.

12-5.43. Outdoor Recreation. Outdoor recreation is a program, activity, or opportunity dependent on the natural environment, including picnicking, bird-watching, hiking, wild and scenic river use, hunting, fishing, and primitive camping that will not impair or degrade natural resources.

12-5.44. Professionally Trained. Professionally trained pertains to a person who has obtained an undergraduate or graduate degree from an accredited university in a natural resources-related science.

12-5.45. Proposed Species. Proposed species are any species of fish, wildlife, or plant that is proposed in the Federal Register to be listed under section 4 of the ESA.

12-5.46. Resilience. Resilience is the ability to anticipate, prepare for, and adapt to changing conditions and withstand, respond to, and recovery rapidly from disruptions.

12-5.47. Review for Operation and Effect. Review for operation and effect is a comprehensive review of an installation INRMP by the Navy, USFWS, and the appropriate State fish and wildlife agency, at least once every 5 years, to evaluate the extent to which the goals and objectives of the INRMP continue to meet the purposes of the Sikes Act.

12-5.48. Species of Concern. Refer to candidate species.

12-5.49. State- or Territory-Listed Species. A State- or territory-listed species is any species of fish, wildlife, or plant protected by an appropriate State agency as issued in a State's or U.S. territory's endangered species law and other pertinent regulations.

12-5.50. Stewardship. Stewardship is the responsibility to inventory, manage, conserve, protect, and enhance the natural resources entrusted to one's care in a way that enhances the resources and their benefits for present and future generations.

12-5.51. Sustainable Yield. Sustainable yield is managing renewable natural resources to provide an annual or periodic yield of goods, services, and direct and indirect benefits into perpetuity. This may include, but is not limited to, maintaining economic benefits, ecological processes and functions, and biodiversity.

12-5.52. "Take" (under the Bald and Golden Eagle Protection Act). "Take" means to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb. Disturb (and disturbance) is further defined as: to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle; (2) a decrease in its productivity by substantially interfering with normal breeding, feeding, or sheltering behavior; or (3) nest abandonment by substantially interfering with normal breeding, feeding, or sheltering behavior.

12-5.53. "Take" (under the ESA). Per section 3, paragraph (19) of the ESA, "take" means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct." Per reference (t), Part 402, harm is further defined by USFWS to include significant habitat modification or degradation that results in death or injury to species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. Harass is defined by USFWS (but not NMFS) as actions that create the likelihood of injury to Federally listed species to such an extent as to significantly disrupt normal behavior patterns, which include, but are not limited to breeding, feeding, or sheltering. Refer to incidental "take" (paragraph 12-5.31 of this manual).

12-5.54. "Take" (under the MMPA). Per reference (b), section 1362, paragraph (13) "take" means to "harass, hunt, capture, or kill, or attempt to harass, hunt, capture or kill any marine

mammal." Harassment was further defined and sub-divided into level A and level B, per reference (b), section 1362, paragraphs (18)(A), (C), and (D). Level A harassment has the potential to injure a marine mammal or marine mammal stock in the wild. Level B harassment has the potential to disturb a marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering. Per reference (b), section 1362, paragraph (18)(B), in the case of a military readiness activity, level A harassment was defined as any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild, and level B harassment was defined as any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered.

12-5.55. "Take" (under the MBTA). Per reference (q), "take" means to "pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention…for the protection of migratory birds…or any part, nest, or egg of any such bird."

12-5.56. U.S. Coral Reef Ecosystem. The U.S. coral reef ecosystem pertains to those species, habitats, and other natural resources associated with live coral reefs in all maritime areas and zones subject to the jurisdiction or control of the United States (e.g., Federal, State, territorial, or commonwealth waters), including reef systems in the South Atlantic, Caribbean, Gulf of Mexico, and Pacific Ocean.

12-5.57. Watershed. A watershed is a geographic area of land, water, and biota within the confines of a drainage divide.

12-5.58. Wetlands. Wetlands are those areas inundated or saturated by surface or ground water 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. Jurisdictional wetlands are those that meet criteria established by the Environmental Protection Agency (EPA) regulations and EPA and Department of the Army guidance.

CHAPTER 13

CULTURAL RESOURCES COMPLIANCE AND MANAGEMENT

Table of Contents

13-1 Scope 13-1
13-1.1. Related Chapters 13-1
13-1.2. References 13-2
13-1.3. Applicability 13-3

13-2 Legislation 13-3

13-3 Requirements 13-4
13-3.1. Preservation Program 13-4
13-3.2. Compliance with Section 106 of the National Historic Preservation Act 13-7
13-3.3. Consultation and Stakeholder Engagement 13-8
13-3.4. Integrated Cultural Resources Management Plans 13-9
13-3.5. National Historic Landmarks 13-10
13-3.6. Archaeology 13-11
13-3.7. Public Outreach and Heritage Tourism 13-12
13-3.8. Paleontology 13-13
13-3.9. National Environmental Policy Act Integration 13-13
13-3.10. Data Calls 13-14
13-3.11. Enforcement of Cultural Resources Protection Laws 13-14
13-3.12. Training Requirements 13-14
13-3.13. Funding 13-15

13-4 Responsibilities 13-16

13-5 Definitions 13-22

13-1 Scope. This chapter provides Navy cultural resources implementing policy guidance and assigns responsibilities for fulfilling the cultural resources management and historic preservation compliance requirements of references (a) through (dd).

13-1.1. Related Chapters. Broad responsibilities are defined in chapter 1 (Organization and Coordination) of this manual. Funding is addressed in chapter 2 (Funding) of this manual. Navy training requirements and approved Navy training resources are addressed in more detail in chapter 3 (Environmental Readiness Training) of this manual. Guidance on compliance with cultural resources requirements associated with environmental planning is found in chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual. Information on planning for paleontological resources is included in chapter 12 (Natural Resources Conservation) of this manual. Chapter 34 (Overseas Environmental Compliance Ashore) of this manual includes information on overseas requirements for cultural resources.

13-1.2. References. Additional summaries and information can be found at the Navy Conservation Web site, the Department of Defense (DoD) Conservation Web site, and the National Park Service (NPS) Web site (refer to appendix E (Web Sites) of this manual for Web site addresses).

(a) 54 U.S.C. §300101 et seq.;

(b) ASN(I&E) memo of 16 Nov 01, Historic Properties;

(c) 36 CFR;

(d) SECNAVINST 4000.35B, Department of the Navy Cultural Resources Program;

(e) SECNAVINST 5090.8B, Policy for Environmental Protection, Natural Resources, and Cultural Resources Programs;

(f) 63 FR 20496–20508;

(g) DoD Instruction 4715.16 of 18 September 2008, Cultural Resources Management;

(h) 48 FR 44716;

(i) E.O. 13287, Preserve America;

(j) E.O. 13007, Indian Sacred Sites;

(k) E.O. 13327, Federal Real Property Asset Management;

(l) E.O. 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities;

(m) E.O. 13834, Efficient Federal Operations;

(n) DoD Instruction 4710.02 of 14 September 2006, DoD Interactions with Federally-Recognized Tribes;

(o) SECNAVINST 11010.14A, Department of the Navy Policy for Consultation with Federally Recognized Indian Tribes;

(p) 43 CFR Part 10;

(q) DoD Instruction 4710.03 of 25 October 2011, Consultation with Native Hawaiian Organizations (NHOs);

(r) E.O. 13175, Consultation and Coordination with Indian Tribal Governments;

(s) 42 U.S.C.;

(t) 25 U.S.C. §3001 et seq.;

(u) 16 U.S.C.;

(v) 32 CFR;

(w) Public Law 103–454, Federally Recognized Indian Tribe List Act;

(x) Public Law 108–375, Sunken Military Craft Act of 2004;

(y) SECNAVINST 5360.2, Human Remains Associated with Sunken Military Craft;

(z) NEPA and NHPA: A Handbook for Integrating NEPA and Section 106, March 2013;

(aa) ODUSD(I&E) memo of 26 Oct 10, Section 110(g) of the National Historic Preservation Act;

(bb) DASN(E) memo of 29 Oct 10, Policy Guidance for Navy Department Funding of State Historic Preservation Officers (SHPOs);

(cc) Program Comment Pursuant to 36 CFR 800.14(e) Implementing Section 106 of the National Historic Preservation Act for the Evaluation of Vessels for Eligibility for Listing in the National Register of Historic Places and the Treatment of Eligible Vessels to Resolve Adverse Effects that May Result from Certain Methods of Final Disposition, 5 Mar 2010;

(dd) DoD Financial Management Regulation 7000.14; and

(ee) ASN(EI&E) memo of 27 Apr 18, National Historic Preservation Act Section 106 Compliance.

13-1.3. Applicability. Cultural resources management and compliance requirements apply to land and water areas under direct control of the Navy; Navy undertakings (regardless of who owns the property at issue); and real property assets and historic properties owned, leased, or otherwise controlled or managed by the Navy. Navy commands in foreign countries are subject to management and compliance for cultural resources, consistent with paragraph 13-4.10 and chapter 34 (Overseas Environmental Compliance Ashore) of this manual.

13-2 Legislation

a. Legislation that contains provisions that pertain to the protection, preservation, conservation, and possession of cultural resources include:

(1) American Indian Religious Freedom Act (AIRFA), 42 U.S.C. §1996–1996a;

(2) Antiquities Act of 1906, 16 U.S.C. §431–433;

(3) Archaeological and Historical Preservation Act (AHPA), 16 U.S.C. §469–469c;

(4) Archeological Resources Protection Act (ARPA), 16 U.S.C. §470aa–mm;

(5) National Environmental Policy Act (NEPA), 42 U.S.C. §4321–4370h;

(6) National Historic Preservation Act (NHPA), 54 U.S.C. §300101 et seq.;

(7) Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. §3001–3013; and

(8) Sunken Military Craft Act (SMCA), 10 U.S.C. §113.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

13-3 Requirements

13-3.1. Preservation Program. Per references (a) and (b) and related requirements, the Navy must maintain a preservation program for the identification, inventory, evaluation, maintenance, nomination to the National Register of Historic Places (NRHP) when appropriate, and protection of historic properties in a manner that considers the preservation of their historic, architectural, archaeological, and cultural values. The Department of the Navy (DON) Federal Preservation Officer (FPO) oversees the program. Consistent with reference (a), the Navy considers the effects of its actions on historic properties, per reference (c), Part 800, in carrying out the Navy mission.

a. Planning and Management. To ensure compliance with references (a) and (b); reference (c), Part 800; and references (d), (e), (f), and (g), it is Navy policy to incorporate cultural resources planning and management considerations in all aspects of planning, training, management, and implementation of the Navy's mission. It is Navy policy to give priority to preservation in the management of cultural resources, as defined in paragraph 13-5.7 of this manual, and to use professional preservation management and specific techniques to achieve cost-effective cultural resources stewardship.

(1) Cultural Resources Managers (CRM). Navy CRMs are responsible for managing and coordinating all aspects of installation cultural resources requirements. CRMs must be designated in writing and may be delegated signature authority for routine correspondence by the appropriate commander or installation commanding officer (ICO). CRMs must perform and coordinate cultural resources staffing responsibilities for the command. Consistent with the particular resource type(s) involved, CRMs must enlist the guidance and support of professionally qualified subject matter experts (SME) (reference (h)).

(a) Per reference (b); reference (c), Part 800; and references (d), (e), (f), and (g), and in support of the Navy mission, Navy CRMs must review proposed projects at the earliest opportunity, including, but not limited to, reviewing drafts of DD Form 1391 and providing input to construction planning, work induction processes, and installation development and operational planning efforts to ensure that potential impacts to cultural resources are properly considered.

(b) The requirement for CRM participation is determined by the character of the action being considered, regardless of the assumed presence or absence of cultural resources. Whenever Navy actions are of the type that could affect cultural resources, CRM participation is part of the planning process, to manage, among other things, identification and evaluation of historic properties; consultation with stakeholders; avoidance, minimization, and mitigation of adverse effects; notifications in the event that human remains are encountered; data recovery and curation of archaeological materials; rehabilitation, adaptive use, and economic analysis studies of built historic properties; and scoping and costing of mitigation.

(2) Historic Property Inventory Identification and Management

(a) Per references (a), (i), and (j), the Navy provides for the timely identification, evaluation, and management of historic properties under its jurisdiction or control, including properties of traditional, cultural, and religious importance to Indian tribes, Alaska Natives, or Native Hawaiian organizations (NHO). Successful inventory, identification, monitoring, and management allow the Navy to plan for preservation effectively and take into account the effects of its proposed actions on historic properties. In the case of sunken military craft outside of Navy installation boundaries, identification is a key factor upon which Navy management responsibility is based. Inventory data support consultation with stakeholders and interested parties using the most accurate information concerning what eligibility of the resources for listing in the NRHP, and what the best technical and operational practices are for keeping historic properties in current mission use. Identification of historic properties is conducted in consultation with State historic preservation officers (SHPO) and other appropriate parties (reference (c), Part 800). Failure to identify historic properties adequately does not exempt the Navy from any of its cultural resources responsibilities.

(b) Data regarding the NRHP eligibility status of the Navy's historic buildings and structures must be accurate and up-to-date in the Navy's real property database of record known as the Internet Naval Facilities Assets Data Store (iNFADS) (references (i) and (k)), which is also the property record system for real property heritage assets. In addition, the NRHP eligibility status (and non-historic status) of the Navy's historic buildings, structures, archaeological sites, and sites of religious or cultural significance to tribes or NHOs (subject to appropriate confidentiality provisions) must be easily accessible in geographical information systems (GIS). The real property database and GIS are tools to manage, account, and plan for stewardship of historic properties.

(3) National Register Nomination. Formal nomination of properties for listing in the NRHP is reserved for special circumstances, as determined by the DON FPO. Navy policy is to afford the full protection of the law to all eligible and unevaluated properties, regardless of NRHP listing status. Fiscal responsibility factors may limit the instances for investing additional

resources in the nomination process. The decision to nominate shore installation properties for the NRHP begins with the local installation command, and the nomination is routed up the chain of command for review by Commander, Navy Installations Command (CNIC) and the Navy Deputy Federal Preservation Officer (DFPO) for final decision by the DON FPO. Approved nominations are submitted by the DON FPO to the keeper of the NRHP (reference (d)). Nomination of National Historic Landmarks (NHL) must also be approved by the echelon 1 commander.

b. Surveys and Investigations. Reference (f) recognizes several techniques, methods, and types of surveys to allow a Federal land manager to make decisions about property use that is consistent with the legislated intent of protecting important cultural resources including, but not limited to archival research, reconnaissance surveys, intensive surveys, predictive modeling, sampling methodologies, and special survey techniques such as remote sensing or deep testing as appropriate. In compliance with Federal requirements, the CRM must request and program funding for systematic analysis of Navy lands and Navy submerged lands by qualified professionals, using appropriate survey methods, sufficient to make generalizations about type and distribution of cultural resources that may be present for planning purposes.

c. Monitoring of Condition

(1) Archaeological Resources. For archaeological resources, installations should develop procedures for monitoring the condition of known archaeological sites for evidence of disturbance from natural processes, such as erosion, fire, or floods; or human action, such as training activities, landscape maintenance activities, recreational use, or intentional looting. Monitoring procedures should be integrated with other installation management plans.

(2) Resources of Interest to Indian Tribes, Alaska Natives, or NHOs. For situations involving resources of interest to Indian tribes, Alaska Natives, or NHOs, the CRM should develop a monitoring procedure in consultation with the appropriate Indian tribes, Alaska Natives, and NHOs.

(3) Historic Buildings, Structures, or Districts. For historic buildings, structures, or districts that are eligible for or listed on the NRHP, or designated as protected cultural properties on overseas installations, installations should develop maintenance and treatment plans (MTP) for long-term care of these resources. An MTP typically identifies historic properties' character-defining features, contributing elements, materials, and condition and promotes the preservation of these resources through planning, design, cyclic maintenance, and appropriate treatments for repair, rehabilitation, and restoration. An MTP should be integrated with other installation management plans.

d. Program Alternatives. Alternatives to case-by-case and step-by-step NHPA section 106 consultation, including programmatic agreements, program comments, and standard treatments, must be used as appropriate (per reference (c), Part 800, section 14).

e. Historic Structures and Sustainable Design

(1) It is Navy policy to use, to the maximum extent feasible, historic properties, structures, and associated features (the built environment) for the purpose of carrying out its responsibilities. Consistent with section 111 of the NHPA, the Navy considers alternatives such as adaptive use to maintain usability of historic properties that may no longer be needed for their original purposes. The Navy may lease, exchange, or enter into contracts for management of any of these properties consistent with the requirements of section 106 of the NHPA. The consideration of alternative uses must include an economic analysis that evaluates life-cycle maintenance costs, utility costs, demolition costs, replacement costs, mitigation costs, and other pertinent factors for both new construction and rehabilitation or conversion alternatives (references (g) and (l)).

(2) Consistent with reference (m), the Navy must ensure the rehabilitation of its historic buildings uses best practices and technologies in retrofitting to promote long-term viability of buildings and adaptive use or rehabilitation of buildings. Consistent with reference (c), Part 68, Part 68, the Navy implements adaptive use and rehabilitation of historic properties to reduce demolition and construction waste in landfills and set an example for achieving the goals of reference (m). Potential adaptive uses must be considered jointly with the CRM before deciding to demolish or dispose of a historic property and associated features (reference (l)).

13-3.2. Compliance with Section 106 of the National Historic Preservation Act. All undertakings, as defined under paragraph 13-5.29 of this manual, are subject to compliance review by the CRM.

a. Section 106 review must be completed prior to the initiation of any Navy action of the type that could affect historic properties per reference (c), Part 800, regardless of the assumed presence or absence of historic properties.

b. Design-build projects reviewed at the concept stage for compliance with section 106 of the NHPA may be subject to additional review by the CRM to confirm the design remains consistent with the original determination of effect. Designs that create additional effects to historic properties, as determined by the CRM, require further NHPA section 106 review prior to construction. When design-build projects have the potential to affect historic properties, the CRM must be given the opportunity to review and comment on the request for proposals prior to release.

(1) The action proponent is responsible for funding measures to avoid, minimize, or mitigate adverse effects to historic properties that may result from the proposed action.

(2) Long-term management of adverse effects may be funded by the Deputy Chief of Naval Operations for Fleet Readiness and Logistics (CNO N4) when the commander or ICO determines the actions are core elements of the installation mission. These requirements must be coordinated by the CRM in support of the installation or action proponent.

13-3.3. Consultation and Stakeholder Engagement. Navy commands must ensure appropriate consultation or stakeholder engagement is conducted with other Federal agencies, State and local agencies, Indian tribes, Alaska Natives, NHOs, and the public in compliance with NHPA, NAGPRA, AIRFA, NEPA, and other requirements, as applicable (references (a) and (b); reference (c), Part 800; references (d), (g), (j), (n), (o), (p), (q), and (r); reference (s), sections 1996, 4321, and 4331–4335; reference (t); reference (u), sections 470aa–mm; and reference (v), Part 229). The CRM must coordinate and provide expertise to support the command in these consultations. If the CRM does not meet the applicable professional qualification standards for the cultural resources involved, the CRM must enlist appropriately qualified professional support.

a. Consultation with Stakeholders Under the NHPA. It is Navy policy to consult with interested parties, including Indian tribes, Alaska Natives, or NHOs, at the earliest stages in the planning process to allow consideration of alternatives that facilitate timely completion of the project or mission while avoiding or minimizing adverse effects to historic properties. With the support of the CRM, the local command directly responsible must initiate timely consultation with stakeholders whenever the Navy plans, conducts, or supports undertakings that may affect historic properties. The Navy retains ultimate authority and responsibility for decisions regarding the treatment of historic properties under Navy control.

b. Consultation with Tribes. The Federal trust responsibility, as well as reference (a) and reference (c), Part 800; references (j), (n), (o), (p), (q), and (r); reference (s), section 1996; reference (t); reference (u), sections 470aa–mm; and reference (v), Part 229, require Navy commands to consult with Federally recognized Native American tribes, including Alaska Natives, on a government-to-government basis in recognition of tribal sovereignty and in accordance with reference (w) and enclosure (1) of reference (o), when Navy actions may affect them. Consistent with requirements in reference (n), the Navy must assign tribe-liaison responsibilities at the headquarters level and designate local points of contact. In coordination with the CRM, consultations with Federally recognized tribes may occur at the staff level in support of the government-to-government relationship and may include Navy commanders, as appropriate (reference (a); reference (c), Part 800; references (j), (n), (o), (p), (q), and (r); reference (s), section 1996; reference (t); reference (u), sections 470aa–mm; and reference (v), Part 229). Additionally, the Navy will provide cultural communications training for civilian and military personnel with tribe consultation responsibilities.

c. Federal Trust Responsibility. The Federal trust responsibility between Indian tribes and the Federal government is an outgrowth of the Federal treaty period when Congress provided certain assurances in return for ceded lands. Among these are reserved or tribal treaty rights, which often include the use of their ancestral lands for fishing, hunting, and gathering in usual and accustomed places and tribal sovereignty. Consultations with Indian tribes concerning actions taken on Navy installations or undertaken by the Navy are recurring requirements. Consultations regarding proposed Navy actions may include, but are not limited to, ground-disturbing activities, construction, training, low-level overflights, management of sites with religious or cultural significance, protection of sacred sites, access to sacred sites, access to subsistence and medicinal natural resources, disposition of cultural items under the purview of

reference (t), and land use decisions, including development of integrated cultural resource management plans (ICRMP) and integrated natural resources management plans (INRMP).

d. Tribe Consultation Protocol. It is Navy policy to consult with Federally recognized tribes to identify issues of interest to individual tribes and to develop a protocol outlining the manner in which consultation will occur at government-to-government and staff levels. Consultation must include both general engagements to establish and maintain relationships with the tribes and Navy leadership or staff, as well as project-specific consultations. Consultation protocols, which may take the form of memoranda of understanding (MOU) or other formal agreement, should be incorporated in the ICRMP as an SOP. Comprehensive agreements may be executed under reference (p) to address the protocol for the unanticipated discovery of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. Development of tribe consultation protocol supports the Navy mission by building and maintaining relationships, and streamlining consultation processes.

e. NHOs. It is Navy policy to consult with NHOs when planning an undertaking that may affect a property or place of traditional, cultural, or religious importance to an NHO (reference (a); reference (c), Part 800; and references (d) and (q)). Consistent with requirements in reference (q), the Navy must assign NHO liaison responsibilities at the headquarters level and designate a primary point of contact in Hawaii. As with tribes, comprehensive agreements may be executed under reference (p) to address protocol for the unanticipated discovery of Native Hawaiian human remains, funerary objects, sacred objects, and objects of cultural patrimony. Additionally, the Navy must develop installation-specific consultation procedures and provide cultural communications training for civilian and military personnel with consultation responsibilities.

13-3.4. Integrated Cultural Resources Management Plans. An ICRMP is required to ensure compliance with the NHPA, NAGPRA, and other cultural resources statutes, regulations, and policies. This applies to all Navy installations with cultural resources, per references (d) and (g), to ensure the most time- and cost-efficient methods of integrating compliance and preservation requirements with project and operations planning to facilitate the Navy mission. It is Navy policy that installations develop and implement ICRMPs in consultation with SHPOs, affected tribes, NHOs, and other consulting parties, as appropriate. Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) headquarters promulgates Navy ICRMP guidelines.

a. Development. It is Navy policy for ICRMPs to be used in installation planning and referenced in master plans, regional shore installation plans, INRMPs, installation appearance plans, and similar documents. The ICRMP must:

(1) Address all cultural resources requirements, planning, and management for the area of coverage;

(2) Be signed by the Region Commander, ICO, or officer in charge as appropriate;

(3) Be reviewed and revised as required to remain current;

(4) Identify known historic properties and areas or properties requiring further assessment for NRHP eligibility, based on overviews and surveys performed by cultural resources professionals;

(5) Contain an inventory and evaluation of installation cultural resources and or a strategy for phased inventory and evaluation of unevaluated areas or resources. The inventory and evaluation process must also be used to enter or validate and update cultural resources information held in data repositories such as real property information systems;

(6) Identify management priorities as appropriate and describe applicable legal compliance strategies that avoid potential conflicts between Navy mission and preservation considerations. The ICRMP should incorporate applicable existing local and national agreements and discuss whether new or revised agreements are recommended;

(7) Be consistent with Federal and State preservation programs, consider the interests of Indian tribes or NHOs, and be consistent with other Navy planning documents and processes;

(8) Provide outreach strategies to ensure appropriate information about Navy cultural resources is disseminated to Navy members, employees, families, and the general public;

(9) Identify compliance actions to be taken if Navy undertakings may affect historic properties or other cultural resources; and

(10) Identify appropriate programmatic approaches to cultural resources management.

b. Installations Outside the United States. In foreign countries, commands must develop ICRMPs consistent with this section and the program requirements, as outlined in paragraph 13-4.10 and chapter 34 (Overseas Environmental Compliance Ashore) of this manual.

c. Distribution. Information in the ICRMP must be made widely available to planners, facilities managers, and other installation and regional personnel in the performance of their duties, subject to the confidentiality restrictions placed on the dissemination of information about archaeological sites and certain Native American and NHO resources. Electronic copies of the final signed ICRMP must be provided to the Region Commander, regional engineer environmental office, Navy DFPO, and CNO N4.

d. Waiver. The requirement to prepare an ICRMP may be waived, as allowed by reference (d), section 6b(12), if a qualified survey has shown the installation has no cultural resources. Waivers must be reviewed at least every 5 years by CNIC headquarters to confirm they are still valid.

13-3.5. National Historic Landmarks. Reference (c), Part 65, outlines procedures for consultation with the SHPO, Advisory Council on Historic Preservation (ACHP), and NPS on undertakings with the potential to affect NHL properties. It is Navy policy to minimize harm to NHLs, consistent with section 110(f) of the NHPA. The Navy cooperates in periodic visits or contacts with SHPOs and other appropriate means used by NPS to compile its annual report to

Congress on threats to the integrity of NHLs, to advise agencies concerning accepted preservation standards, and to update administrative records on NHL properties.

13-3.6. Archaeology. Reference (a) and reference (u), sections 470aa–mm, require the Navy to develop plans to survey all accessible lands to determine the nature and extent of archaeological resources. Disturbance of submerged lands requires appropriate survey methods to identify the potential to affect submerged cultural resources and sunken military craft. Additionally, reference (a); reference (c), Part 800; reference (i), references (p) and (t); reference (s), section 1996; reference (u), sections 470aa–mm; and reference (v), Part 229 require the Navy to protect archaeological sites and associated sensitive information. Compliance with these requirements must be coordinated by the CRM and must include participation of a qualified archaeologist.

a. Permitting for Archaeological Study. Per reference (u), sections 470aa–mm, and reference (v), Part 229, the Navy ensures any person proposing to study, remove, or excavate archaeological resources from Navy lands comply with reference (u), sections 431–433m or 470aa–mm. As applicable, permit requests must explicitly address and ensure professional curation of all remains, samples, and documentation per reference (c), Part 79. Consistent with reference (v), Part 229, individuals carrying out official duties under Navy direction are not subject to the permit requirements when the Navy CRM ensures that all provisions of reference (u), sections 470aa–mm, are met.

(1) Non-Navy Archaeological Work. ICOs of Class I property (Navy lands), in consultation with concerned stakeholders including tribes and NHOs, have the authority to issue ARPA permits for non-Navy archaeological work on Navy lands. Preparation and review of ARPA permits must be coordinated by the CRM. All ARPA permits must be prepared or recommended for approval by a professional Navy archaeologist meeting applicable qualification standards (reference (h)). All non-Navy archaeological work must also be reviewed and approved by the CRM.

(2) Contract Archaeological Work. In cases where the Navy contracts with an archaeologist (or a Navy contractor subcontracts with an archaeologist) to perform archaeological work for the Navy, commands may include a brief compliance statement in the contract or subcontract as the equivalent of a permit. All contract work must be reviewed and approved by the CRM.

(3) Navy Archaeological Work. In cases where Navy employees perform archaeological investigations on Navy lands, legal permitting requirements can be satisfied by ensuring such employees are, or are supervised by, professionally qualified archaeologists (as defined by reference (h)).

b. Sunken Military Craft Under the Jurisdiction of the Navy

(1) The Naval History and Heritage Command (NHHC) serves as the center of expertise and principal technical advisor within DON in matters related to the archaeological investigation, evaluation, identification, excavation, conservation, and curation of sunken military craft. Accordingly, NHHC may provide support to installations in fulfilling their submerged cultural

resources management requirements as per ARPA and the NHPA, through either serving as a consultant or engaging in coordinated and supported field research.

(2) Per reference (v), Part 767, and reference (x), any person proposing to engage in an activity that would disturb, remove, or injure a sunken military craft under the jurisdiction of DON must apply to NHHC for a permit. In coordination with applicable Navy operational and shore commands, NHHC may issue a permit for archaeological, historical, or educational purposes to any qualified person, subject to appropriate terms and conditions. In instances where a sunken military craft is located within Navy lands, NHHC must consult with the appropriate CRM in the adjudication of a permit request. In instances where a person proposes to disturb a sunken military craft that is also an archaeological resource, a permit issued under reference (v), Part 767, may include a brief compliance statement to comply with reference (v), Part 229.

(3) DON respects the sanctity of human remains and recognizes the sea as a fit and final resting place for human remains. DON will not plan, assist, or participate in any activity that disturbs, injures, or removes sunken military craft lost for more than 1 year, when such activity is conducted primarily to identify or recover human remains or personal effects, except when tasked by DoD or higher authority. In cases where human remains associated with sunken military craft are under imminent threat, DON entities may submit requests for exception to policy to the Director, NHHC, consistent with reference (y).

c. Curation. Reference (u), sections 470aa–mm, and reference (c), Part 79, establish that archaeological collections excavated or removed from lands owned by the United States remain Federal property. The Navy is required to deposit such collections and all associated documentation in a facility with adequate long-term curatorial capabilities to provide for their maintenance, physical security, research, and interpretive value. Reference (c) provides criteria for curation facilities. Navy policy requires regular monitoring of the care of collections and the capacity of its repositories to continue meeting the standards stipulated under Federal regulations (reference (c), Part 79). The Navy must report annually to the Office of the Secretary of Defense (OSD) on the state of curation of its archaeological collections.

d. Archaeological Site Location Protection and Management. Reference (a) and reference (u), sections 470aa–mm, require the Navy to protect certain information regarding the nature and location of archaeological resources to protect them from potentially destructive actions. The release or distribution of precise or exact resource location data and related information must be limited to the individuals who need to know. It is Navy policy to limit access to such information in databases and GIS to CRMs, professionals, and Navy decision makers with a need to know. Section 304(b) of the NHPA and the exemption b(3) of the Freedom of Information Act pertain to the public release of such information.

13-3.7. Public Outreach and Heritage Tourism

a. Reference (i); reference (u), sections 470aa–mm; and reference (v), Part 229 require the Navy to create public awareness and education programs promoting significance and protection of archaeological resources and other cultural resources. Per these requirements, it is Navy policy to promote and interpret the Navy's cultural resources to encourage public awareness and

to make appropriate cultural resources information available, consistent with reference (g), via the installation's Web page, public tours, and information packages to residents, employees, and visitors.

b. Interpretation of Navy cultural resources also supports the NHPA sections 106 and 110 compliance program by informing internal and external stakeholders of the existence and significance of Navy historic properties. In addition, the Navy promotes partnerships for public benefit with communities, agencies, professional and advocacy organizations, tribes, NHOs, and the general public, per reference (g), to promote local economic development and vitality, enhance public awareness of cultural resources, and expand the Navy's ability to manage and maintain Navy cultural resources.

13-3.8. Paleontology

a. Protection and management of access to paleontological resources are part of the Navy's general responsibility as a Federal landowner. Paleontological resources may have inherent, unique multiple-use values: (1) as the educational foundation of the history of life on earth; (2) for scientific significance and preservation of this non-renewable resource that is part of the public trust; and (3) for recreational opportunities to be enjoyed by all.

b. In cases where the Navy is conducting activities on lands owned or administered by other Federal agencies, Navy actions may be subject to additional review and compliance with public lands laws protecting paleontological resources. Analysis of impacts to the environment under reference (s), sections 4321 and 4331–4335, must consider paleontological resources. Although paleontological resources are not cultural resources unless they occur in direct physical association with cultural resources, the CRM may be positioned to contribute to the greater awareness of paleontological resources that may occur on Navy lands. Awareness of paleontological resource considerations is a joint responsibility of the cultural and natural resources programs. In coordination with the ICO, natural resources managers, and other experts as applicable, Navy CRMs must participate in the protection of paleontological resources (see chapter 12 (Natural Resources Conservation), paragraph 12-3.13 of this manual, for additional information). Where indicated by local geology, the potential presence of paleontological resources may be addressed in conjunction with archaeological and natural resources surveys. Where paleontological resources are present or likely to occur on Navy land, paleontological expertise should be sought to advise policies regarding protection and collection of these resources, to protect rare fossils for their scientific and educational values, and to establish legal parameters for preventing theft or damage.

13-3.9. National Environmental Policy Act Integration

a. Navy policy is to complete section 106 consultations and agreement documents prior to the publication of the final environmental impact statement (EIS) or final overseas EIS, and before signature of any finding of no significant impact or record of decision (refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual. The statutory requirements of reference (a) and of reference (s), sections 4321 and 4331–4335, although independent, are interrelated. Consistent with reference (c), Part

800, Navy commands are encouraged to coordinate compliance with NEPA and section 106 of the NHPA. Substitution of the NEPA project planning process for NHPA section 106 purposes is generally not recommended, and additional notifications are required (reference (c), Part 800, and reference (z)).

b. Effective coordination of compliance actions under section 106 of the NHPA and NEPA must begin as early as possible in the NEPA process and include a written plan for public participation, analysis, and review. It is important to notify the ACHP, consulting parties, and the public of the plan to coordinate public engagement under NEPA and section 106 of the NHPA.

c. In situations where substitution of NEPA documentation for NHPA section 106 requirements is proposed, responsible commands must receive prior approval from the Office of the Chief of Naval Operations, Energy and Environmental Readiness (OPNAV N45). Additionally, the Navy must notify the SHPO or Tribal Historic Preservation Officer (THPO) and the ACHP in advance that it intends to do so and must conform to the standards stipulated in reference (c), Part 800.

13-3.10. Data Calls. Regional and installation commands are responsible for completion of cultural resources data calls to be forwarded to CNO N4 for reports to DoD and Congress, as well as trend analysis and funding priority decisions. Data are collected on the Environmental Management System Web site (refer to appendix E (Web Sites) of this manual for Web site address).

13-3.11. Enforcement of Cultural Resources Protection Laws. Reference (u), sections 470aa–mm, and reference (v), Part 229 require enforcement of laws to protect archaeological resources. Conservation law enforcement must be an integral part of the cultural resources program and must be coordinated with installation security forces. Supplementary and separate enforcement provisions apply to sunken military craft as per reference (v), Part 767, and reference (x).

13-3.12. Training Requirements. Personnel with cultural resources management responsibilities will receive the appropriate job-specific education and training to perform their assigned tasks.

a. CRMs must receive, at a minimum, the education and training listed in subparagraphs 13-3.12a(1) through 13-3.12a(5):

(1) Introduction to historic preservation compliance (completion of Naval Civil Engineer Corps Officers School (CECOS) Intro to Cultural Resource Mgmt Laws & Regulations (A-4A-0070) or by prior training for personnel meeting the Secretary of the Interior's professional qualifications standards (reference (h)) will satisfy this requirement);

(2) Advanced historic preservation compliance (completion of CECOS Advanced Historic Preservation Law & Section 106 Comp (A-4A-0073) will satisfy this requirement);

(3) Introduction to NEPA (completion of CECOS National Environmental Policy Act (NEPA) Application (A-4A-0077) will satisfy this requirement);

(4) Environmental negotiation (completion of CECOS Environmental Negotiation Workshop (A-4A-0067) will satisfy this requirement); and

(5) Program funding (Environmental Readiness Program Requirements Web (EPRWeb) online training (refer to appendix E (Web Sites) of this manual for Web site address) will satisfy this requirement).

b. Personnel responsible for communication and consultation with Indian tribes, NHOs, and Alaska Natives must also receive additional, specialized training, as applicable to their responsibilities.

(1) Native American communication (completion of CECOS Native American Traditions and Cultures: Implementing DoD Native American Policy (A-4A-0085) or the DoD American Indian Cultural Communication Course will satisfy this requirement);

(2) Native Hawaiian communication (completion of the DoD Native Hawaiian Cultural Communication Course will satisfy this requirement); and

(3) Alaska Natives communication (completion of the DoD Alaska Natives Cultural Communication Course will satisfy this requirement).

c. Refer to chapter 3 (Environmental Readiness Training) for Navy environmental training requirements and approved Navy training resources.

13-3.13. Funding. Chapter 2 (Funding) describes policies and guidance for the planning, programming, budgeting, and execution (PPBE) of resources to comply with environmental laws, regulations, executive orders (E.O.), and DoD instructions and directives.

a. Cultural resources program requirements for Navy shore installations, such as those identified in the ICRMP, must be included in the program objective memorandum and submitted through the chain of command using EPRWeb (refer to appendix E (Web Sites) of this manual for Web site address). Shore installation requirements are generally programmed for operations and maintenance funding. Exceptions may include mitigation measures for adverse effects on historic properties funded using military construction dollars, as determined by the ICO in coordination with the CRM.

b. Funds for cultural resources projects may also be available from the Legacy Resource Management Program and other grant and research programs to supplement portions of cultural resources requirements.

c. CRMs may coordinate with installation community planning and liaison officers (CPLO) to pursue funding through the OSD readiness and environmental protection integration (REPI) program. The REPI program is an example of an encroachment partnering program that allows commands to leverage partner and congressional funds to promote compatible uses near military installations.

d. Section 110(g) of the NHPA authorizes the Navy to procure services from SHPO or THPO to gain assistance in carrying out the Navy's preservation responsibilities. Services such as tailored training, cultural resources surveys, data recovery and recordation, and data management are examples of services that the Navy may hire SHPO or THPO staff to perform.

e. Consistent with references (aa) and (bb), the Navy may not provide funding assistance for NHPA section 106 oversight responsibilities assigned to SHPOs or THPOs under reference (a).

13-4 Responsibilities. Cultural resources responsibilities are carried out consistent with the broader roles and responsibilities addressed in chapter 1 (Organization and Coordination) of this manual.

13-4.1. OPNAV N45 must:

a. Implement Navy cultural resources policy, act as resource and assessment sponsor, and issue specific instructions and orders to provide guidance for cultural resources programs at Navy shore installations, historic ships in the inactive fleet, and cultural resources aspects of Navy environmental readiness programs per reference (d);

b. Ensure a cultural resources management program is appropriately integrated with other planning and management processes to provide the most effective, efficient, and compliant management of Navy cultural resources;

c. Designate a qualified cultural resources professional to coordinate the Navy's cultural resources programs per reference (d).

d. Promulgate cultural resources program guidance, as needed;

e. Delegate cultural resources program responsibilities, as appropriate;

f. Identify Navy-wide priorities for cultural resources surveys and other stewardship actions to achieve compatibility with Navy missions and budgets;

g. Provide guidance on implementation of cultural resources policy and advise all levels of command regarding compliance with cultural resources legislation, regulations, and professional standards;

h. Review interagency cultural resources compliance agreements and National Register nominations, as recommended by subordinate commands;

i. Coordinate interagency consultation concerning cultural resources, Indian tribes, and NHOs at shore installations, in the inactive fleet, underwater, or affected by Navy undertakings;

j. Ensure full coordination with the Marine Corps and other military Services to avoid duplication of effort or inadvertent setting of precedents by one Service; and

k. Coordinate response(s) to Congressional inquiries and requests for cultural resources information from Federal, State, or private interests.

13-4.2. CNIC must:

a. Program, budget, and allocate funds for qualified staffing, training, surveys, plans, curation, and studies to facilitate the identification, evaluation, inventory, planning, maintenance, and protection of historic properties and other cultural resources at installations under their cognizance;

b. Ensure all real property under CNIC control is either addressed by an ICRMP or an ICRMP waiver approved by the DON FPO;

c. Ensure that CNIC instructions and other documents are updated as necessary to reflect the requirements of this chapter.

d. Delegate cultural resources program responsibilities, as appropriate;

e. Ensure subordinate commands and shore installations, as applicable, designate and train CRMs responsible for compliance with applicable cultural resources laws, regulations, and policy;

f. Coordinate cultural resources program data calls and cultural resources program metrics; and

g. Program, budget, and allocate funding and provide guidance for cultural resources training for Inter-Service Environmental Education Review Board courses and for implementation of Navy cultural resources metrics data collection and management systems.

13-4.3. COMNAVFACENGCOM must:

a. Act as the Navy's technical authority and principal advisor to CNO and CNIC in matters related to historic buildings, structures, sites, districts, archaeological sites and collections, traditional cultural properties, Native American sacred sites, and other cultural resources, except sunken military craft and submerged cultural resources (see paragraph 13-4.6 of this manual);

b. At the headquarters level, provide direct support on an operating condition basis to the CNIC Installation Environmental Program Manager.

c. Develop, promulgate, and update ICRMP guidelines;

d. Designate and train cultural resources professional staff as necessary at the echelon 2, 3, and 4 commands to perform cultural resources management functions;

e. Support CNIC by maintaining a list of the Navy's historic properties, integrated with the Navy's real property inventory system or iNFADS;

f. Provide technical assistance to identify, evaluate, inventory, nominate, maintain, and protect cultural resources under Navy control (except sunken military craft);

g. Cooperate with SHPOs and other preservation officials in their regions to expedite Navy projects and programs affecting cultural resources;

h. Assist installations in negotiating memoranda of agreement (MOA), MOUs, and program alternatives that protect, preserve, and manage cultural resources and facilitate Navy projects and programs;

i. Provide technical and legal support in resolving questions related to cultural resources management legal requirements, as requested;

j. Provide preservation guidance concerning appropriate cultural resources management procedures, techniques, and materials;

k. Participate in DoD's Historic Preservation Working Group (HPWG) and similar cultural resources planning groups;

l. Consider the adaptive use of historic buildings when available and practical during planning efforts; and

m. Support the development, collection, and review of cultural resources projects for submittal to the DoD Legacy, Program, Strategic Environmental Research and Development Program, and Environmental Security Technology Certification Program.

13-4.4. Commander, Naval Sea Systems Command (COMNAVSEASYSCOM) must:

a. Plan, program, budget, and implement subparagraphs 13-4.3b and 13-4.3c of this manual, and the program comment for the identification and management of historic ships afloat and historic ships in the inactive fleet under COMNAVSEASYSCOM control and coordinate with other commands (reference (cc)), in coordination with the DON FPO and NHHC;

b. Comply with reference (a) and other legislation applicable to stewardship of other cultural resources under COMNAVSEASYSCOM control;

c. Designate and train qualified staff responsible for compliance actions regarding cultural resources under their control; and

d. Respond to cultural resources data calls and inquiries.

13-4.5. Region commanders and ICOs must:

a. Coordinate the delegation of the responsibilities listed in subparagraphs 13-4.5b through 13-4.5r, as deemed appropriate;

b. Designate CRMs in writing and delegate signature authority for routine correspondence as appropriate.

c. Coordinate among subordinate and tenant activities to achieve maximum efficiency regarding compliance with cultural resources management requirements within their area of responsibility including development and implementation of regional ICRMPs and compliance agreements, when appropriate;

d. Ensure all cultural resources program requirements as required are addressed in the PPBE processes and are entered into EPRWeb (refer to appendix E (Web Sites) of this manual for Web site address);

e. Respond to and complete cultural resources data calls and inquiries and forward to CNO N4 for reports to DoD and Congress, as well as trend analysis and funding priority decisions;

f. Provide for the professional identification, evaluation, inventory, nomination where appropriate, and protection of historic properties under control of the Region Commander, and ensure the appropriate data management systems, including spatial data systems, accurately reflect the NRHP eligibility status of such resources (reference (f));

g. Ensure compliance with all legally mandated procedures when historic properties under their control may be transferred, leased, sold, demolished, or substantially altered (reference (a));

h. Develop, implement, and integrate ICRMPs with other planning documents and routine procedures applicable to activity projects and programs;

i. Consult with Federally recognized Indian tribes and NHOs on a government-to-government basis, as appropriate (reference (a); reference (c), Part 800; references (j), (n), (o), (p), (q), and (r); reference (s), section 1996; reference (t); reference (u), sections 470aa–mm; and reference (v), Part 229);

j. Consult with Federally recognized Indian tribes and NHOs prior to any Navy action that may impact tribal or NHO interests as defined by applicable laws and regulations, including NAGPRA's planned excavation and inadvertent discovery provisions (reference (a); reference (c), Part 800; references (j), (n), (p), (p), (q), and (r); reference (s), section 1996; reference (t); reference (u), sections 470aa–mm; and reference (v), Part 229);

k. Immediately initiate notification and consultation consistent with reference (a), reference (c), Part 800; and references (s) and (t) for all post-review discoveries of cultural resources or the inadvertent discovery of NAGPRA cultural items, and take appropriate steps to protect the discovered resources;

l. Use historic buildings when available and practical instead of new acquisition(s), construction, or leasing to satisfy mission requirements per references (i) and (l);

m. Process applications and issue ARPA permits authorizing professional excavation and removal of archaeological resources, as appropriate (reference (u), sections 470aa–mm, and reference (v), Part 229);

n. Ensure appropriate storage and professional curation of archaeological collections and associated records as may accrue in carrying out legal compliance actions (reference (c), Part 800; reference (v), Part 229; and reference (c), Part 79);

o. Determine whether to disclose potentially sensitive cultural resources information that may be protected from release under reference (a); reference (u), sections 470aa–mm, and reference (x); consult with NHHC in instances pertaining to sunken military craft prior to making such a determination;

p. Request a waiver from the requirement to prepare an ICRMP as allowed by reference (d), section 6b(12), if surveys have shown an installation has no cultural resources;

q. Complete the annual cultural resources program metrics; and

r. Designate and train qualified staff responsible for compliance actions regarding cultural resources under their control.

13-4.6. NHHC must:

a. Act as principal advisor for the Navy in matters related to sunken military craft and associated submerged cultural resources;

b. Support COMNAVSEASYSCOM in the implementation of the program comment for historic Navy vessels (reference (cc));

c. Designate and train qualified staff responsible for compliance actions regarding sunken military craft and for oversight and coordination of the Navy's submerged cultural resources and for oversight and coordination of the Navy's cultural resources programs related to sunken military craft;

d. Engage in and provide technical assistance with identifying, evaluating, inventorying, nominating, maintaining, and protecting sunken military craft that also represent cultural resources;

e. Advise and oversee, as appropriate, the preservation, conservation, and curation requirements and maintenance of historic sunken military craft and associated documents, artifacts, and materials;

f. Advise all levels of commands regarding compliance with submerged cultural resources legislation, regulations, and professional standards;

g. Review interagency compliance agreements and NRHP nominations of historic shipwrecks and aircraft wrecks as recommended by subordinate commands, and prepare nominations for DON FPO signature;

h. Negotiate MOAs and program alternatives that protect, preserve, and manage sunken military craft as historic properties, where applicable; and

i. Process applications and issue research permits for disturbance of sunken military craft under the jurisdiction of the Navy in compliance with reference (v), Part 767, and reference (x).

13-4.7. Tenant commands must coordinate with the ICO and the CRM to comply with installation cultural resources requirements.

13-4.8. Undertaking proponents must:

a. Coordinate with the CNIC chain of command and CNO N4 prior to making any commitment of Navy resources;

b. Plan, program, and budget in coordination with the CRM to ensure adequate identification and evaluation of potentially affected cultural resources, and implement measures to avoid, minimize, and mitigate adverse effects to historic properties (reference (c), Part 800); and

c. Coordinate with the host command, other commands, as applicable, and the CRM to perform particular cultural resources management activities associated with their undertakings.

13-4.9. CRMs must:

a. Conduct cultural resources management responsibilities in support of the Region Commander or ICO, as applicable;

b. Locate, evaluate, and protect historic properties per the NHPA and other cultural resources per Navy policy, or supervise or program for these activities for subordinate commands, as appropriate to the command;

c. Prepare or supervise the preparation of ICRMPs per applicable guidelines and policy;

d. Manage cultural resources consistent with professional standards and provide technical oversight for contractors engaged in cultural resources activities on behalf of the Navy;

e. Formulate preservation alternatives for consideration when cultural resources are proposed for demolition, deactivation, reactivation, rehabilitation, transfer, or disposal;

f. Perform timely interagency consultation and compliance with section 106 of the NHPA whenever a Navy-funded, -licensed, -permitted, or -assisted undertaking is of the type that could affect historic properties;

g. Disseminate technical guidance regarding maintenance, storage, and protection of cultural resources and proper procedures for interagency consultation;

h. Coordinate the maintenance of cultural resources records in the appropriate data management systems to ensure accurate information regarding Navy cultural resources;

i. Ensure the guidance of a cultural resources professional qualified in the appropriate discipline is incorporated in decisions regarding the identification and evaluation of historic properties, determinations of effect, and mitigation of adverse effects. Recommendations concerning the National Register eligibility of Navy properties must be reviewed by appropriately qualified cultural resources professionals before being submitted to the Navy decision maker;

j. Respond to cultural resources data calls and inquiries;

k. Prepare and enter into EPRWeb (refer to appendix E (Web Sites) of this manual for Web site address) all cultural resources program requirements as required in the PPBE processes; and

l. Complete annual cultural resources program metrics.

13-4.10. Outside the United States, Navy commands, activities, and other components under Navy supervision must:

a. Plan, program, and budget for applicable cultural resources requirements;

b. Take into account the effect of any Federal undertaking outside the United States that may directly or adversely affect a property on the World Heritage List or the applicable country's equivalent of the National Register (reference (a));

c. Take into account applicable provisions of status of forces agreements, international agreements, final governing standards, and Admiralty law;

d. Manage properties per reference (k); and

e. Respond to cultural resources data calls and inquiries.

13-5 Definitions. The abbreviated definitions listed in paragraphs 13-5.1 through 13-5.30 of this manual are provided for illustrative purposes. Please refer to the reference materials for complete definitions.

13-5.1. Adaptive Use. Adaptive use is utilization of a historic property for a purpose that differs from what the property was originally designed to support. Adaptive use requires a professionally qualified review to evaluate its potential effect to character-defining features, consistent with reference (c), Part 800.

13-5.2. Adverse Effect. An adverse effect results in the alteration, directly or indirectly, of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. In determining whether the effect of an undertaking is adverse, all qualifying characteristics of a historic property are considered, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the NRHP. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance, or be cumulative. If an adverse effect is identified, the ACHP must be notified (reference (c), Part 800).

13-5.3. Advisory Council on Historic Preservation. The ACHP is an independent Federal agency charged with advising the President, Congress, and Federal agencies regarding the protection of historic properties. It prepares and oversees reference (c), Part 800, which implements reference (a).

13-5.4. Archaeological Resources. Archaeological resources are material remains of past human life 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. Non-fossilized and fossilized paleontological specimens, or any portion or piece thereof, will not be considered archaeological resources unless found in archaeological context.

13-5.5. Archaeological Survey. An archaeological survey is a systematic analysis by a qualified professional designed to identify archaeological resources. Archaeological surveys can employ numerous methods to develop information necessary to allow a Federal land manager to make decisions about property use, consistent with the legislated intent of protecting important archaeological resources. Methods may include archival research, pedestrian surveys, reconnaissance surveys, intensive surveys, predictive modeling, sampling methodologies, and special survey techniques such as remote sensing or deep testing.

13-5.6. Consultation. Consultation is a process of discussion between the Navy and other parties, including, but not limited to the ACHP, SHPOs and THPOs, tribes and NHOs, local governments and agencies, and the public, as appropriate. The consultation process includes sharing information and considering the views of consultation participants with the goal of reaching consensus.

13-5.7. Cultural Resources. Cultural resources comprise a range of resources, such as historic buildings and structures, historic and prehistoric districts, cultural landscapes, archaeological sites and collections, traditional cultural properties, Native American sacred sites, and objects (as defined in reference (c), Part 800; references (g) and (p); and reference (v), Part 229).

13-5.8. Cultural Resources Manager. A CRM manages cultural resources compliance and coordinates and engages support from appropriately qualified professionals, as needed for specific projects. Individuals in this role must receive appropriate training to perform the CRM duties.

13-5.9. Cultural Resources Professional. A cultural resources professional is an individual meeting the professional standards and qualifications established by the Secretary of the Interior in the discipline appropriate to the type of resource, per reference (h). Cultural resources professionals must complete appropriate training to perform Navy CRM duties.

13-5.10. Curation. Curation is the management and preservation of archaeological collections and associated documentation. Curation is subject to compliance with reference (c), Part 79, regulations intended to ensure appropriate handling of these resources.

13-5.11. Federal Trust Responsibility. Federal trust responsibility is a special trust relationship between the Federal government and Indian tribes resulting from the Federal Trust Doctrine, treaties, statutes, E.O.s, judicial decisions, and other legal instruments. The Federal trust responsibility is discussed in reference (n). This trust responsibility creates a fiduciary duty and obligation of the Federal agency to tribes to protect tribal lands and cultural and natural resources for the benefit of tribes now and in the future. The trust responsibility guides Federal agency policy on tribal relationships including government-to-government consultation when actions have the potential to affect tribes, their culture, and their resources.

13-5.12. Government-to-Government. A government-to-government relationship is a relationship between sovereigns. Federally recognized Indian tribes are considered to be sovereign nations within the United States; consultations with such tribes are, therefore, governed by different protocols depending on the nature of the issue being addressed.

13-5.13. Heritage Assets. Heritage assets are property, plant, and equipment of historical, natural, cultural, educational, or artistic significance (e.g., aesthetic); or with significant architectural characteristics (reference (dd)).

13-5.14. Historic Property. Historic property means any prehistoric or historic district, site, building, structure, landscape, or object included in or eligible for inclusion on the NRHP, including artifacts, records, and material remains related to such a property or resource (reference (a) and reference (c), Part 60).

13-5.15. Indian Tribe. An Indian tribe is any tribe, band, nation, or other organized group or community, including any Alaska native village, that the Department of the Interior (DOI)'s Bureau of Indian Affairs recognizes as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans. The Bureau of Indian Affairs publishes a list of Federally recognized Indian tribes in the contiguous 48 States and Alaska, "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," which is available on the Library of Congress Web site (refer to appendix E (Web Sites) of this manual for Web site address).

13-5.16. Integrated Cultural Resources Management Plan. An ICRMP is a tool used by DoD components to manage planning and compliance with cultural resources requirements (references (d) and (g)). The ICRMP provides guidance and requirements for effective, efficient cultural resources compliance processes.

13-5.17. Intensive Survey. An intensive survey is a systematic detailed examination of an area designed to gather information about cultural resources sufficient to evaluate them against predetermined criteria of significance within specific historic contexts to determine eligibility for listing in the NRHP. Appropriate survey methods vary widely for different environments and cultural resource types.

13-5.18. Memorandum of Agreement. An MOA is a formal agreement normally associated with the resolution of adverse effects under NHPA section 106 consultation. An MOA specifies measures to avoid, minimize, and mitigate adverse effects. It is usually signed by the Navy ICO or Region Commander, an authorized representative of the State Historic Preservation Office or tribal historic preservation office, Federally recognized Indian tribes, or other interested groups and individuals, as applicable. The ACHP must be notified of adverse effects and determine the level of ACHP participation in development and execution of the MOA (reference (c), Part 800).

13-5.19. Mitigation. Mitigation refers to measures to resolve adverse effects to historic properties that may include specific forms of documentation, data recovery, and measures to protect historic properties in accordance with reference (c), Part 800, and reference (ee)).

13-5.20. National Historic Landmark. An NHL is a historic property that is designated by the Secretary of the Interior as having exceptional national significance and that is subject to additional consultation requirements under section 106 of the NHPA. NHL eligibility criteria and requirements are published under reference (c), Parts 60 and 65.

13-5.21. National Register of Historic Places. The NRHP is a formal list of sites, districts, buildings, structures, landscapes, and objects maintained by the Keeper of the NRHP within the DOI. The NRHP lists properties of significance in history and prehistory, architecture, archaeology, engineering, and culture. The criteria of eligibility are published in reference (c), Part 60.

13-5.22. Native Hawaiian Organization. An NHO is any organization that serves and represents the interests of Native Hawaiians, has as a primary and stated purpose the provision of services to Native Hawaiians, and has expertise in Native Hawaiian affairs (reference (c), Part 800, and reference (p)).

13-5.23. Paleontological Resource. A paleontological resource is any fossilized remains, traces, or imprints of organisms preserved in or on the earth's crust of paleontological interest that provide information about the history of life on earth. On Federal lands, fossils may constitute important stewardship resources of inherent scientific, educational, and recreational value. Management of these resources includes preservation and protection of fossils and possibly provisions for collection, as applicable and appropriate. Such collection and permitting processes may be modeled after other Federal agency guidelines. While identification and analysis of fossils require paleontological expertise, managing paleontological resources on Navy lands will often involve a multidisciplinary effort in which the CRM should be involved.

13-5.24. Program Alternative. A program alternative is a broad category of measures to address responsibilities under reference (a), including programmatic agreements, program comments,

standard treatments, exemptions, and alternate procedures. Procedures are set forth in reference (c), Part 800. Adopting a program alternative requires consultation with the chain of command, ACHP, SHPO(s), and other relevant stakeholders. Implementation and use of program alternatives generally require up-to-date inventories of historic properties and a comprehensive management approach.

13-5.25. Reconnaissance Survey. A reconnaissance survey is an examination of all or part of an area conducted by a qualified professional in sufficient detail to make generalizations about type and distribution of cultural resources that may be present. A reconnaissance survey will usually include archival research and may include predictive modeling, remote sensing, surface inspection, and subsurface testing to determine presence or absence of archaeological properties. It is often referred to as a Phase I survey.

13-5.26. State Historic Preservation Officer. The SHPO is the official appointed by the governor of each State and territory responsible for administering historic preservation programs within the State or territory. Partially funded by NPS via Federal appropriations, the SHPO plays a key role in the review processes conducted under reference (a) and reference (c), Part 800 for Federal undertakings. The SHPO may also assist with related responsibilities under section 110(g) of the NHPA.

13-5.27. Tribal Historic Preservation Officer. The THPO is the individual officially designated by a Federally recognized Indian tribe to direct a program approved by NPS under the authority of section 101(d)(2) of the NHPA. The THPO must have assumed some or all of the functions of SHPOs on tribal lands.

13-5.28. Undertaking. An undertaking is a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license, or approval (reference (c), Part 800).

13-5.29. Undertaking Proponent. An undertaking proponent is the commander, ICO, or civilian director of a unit, activity, or organization who initiates a proposal for a project, activity, or program.

CHAPTER 14

COASTAL ZONE MANAGEMENT

Table of Contents

14-1 Scope 14-1
14-1.1. Related Chapters.....14-1
14-1.2. References.....14-1
14-1.3. Applicability 14-2

14-2 Legislation.....14-2

14-3 Requirements 14-2
14-3.1. Compliance with the Coastal Zone Management Act Federal Consistency Process: Consistency Reviews.....14-2
14-3.2. Other Types of Consistency Determinations 14-6
14-3.3. Relationship Between Consistency Determinations and Negative Determinations and National Environmental Policy Act Documentation.....14-7
14-3.4. State Agency Conditional Concurrences and Objections 14-8
14-3.5. State Coastal Nonpoint Pollution Control Programs 14-9
14-3.6. Supplemental Coordination for Proposed Activities.....14-9
14-3.7. Training Requirements.....14-10

14-4 Responsibilities.....14-10

14-5 Definitions.....14-12

14-1 Scope. This chapter describes policy and guidance to ensure Navy action proponents proposing actions or activities that could potentially affect coastal uses or resources are in full compliance with the Federal consistency provisions of the Coastal Zone Management Act (CZMA).

14-1.1. Related Chapters. Personnel should also refer to chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual, as well as chapter 12 (Natural Resources Conservation) for management of natural resources and chapter 13 (Cultural Resources Compliance and Management) of this manual for cultural resources, including paleontological resources.

14-1.2. References

(a) 16 U.S.C. §1451–1466, Coastal Zone Management Act (CZMA);

(b) 15 CFR; and

(c) 40 CFR 1508.7.

14-1.3. Applicability. This chapter applies to all Navy actions or activities that may affect any land or water use, or natural or cultural resources of the coastal zone.

14-2 Legislation. Through reference (a), Congress established national policy to preserve, protect, develop, restore, or enhance resources in the coastal zone. This Act encourages coastal States to properly manage use of their coasts and coastal resources, prepare and implement coastal management programs (CMP), and provide for public and governmental participation in decisions affecting the coastal zone. To this end, the CZMA imparts an obligation upon Federal agencies whose actions or activities affect any land or water use, or natural or cultural resources of the coastal zone to be carried out in a manner consistent to the maximum extent practicable with the enforceable policies of Federally approved State CMPs.

14-3 Requirements

14-3.1. Compliance with the Coastal Zone Management Act Federal Consistency Process: Consistency Reviews

a. Consistency Review. Reference (a) and reference (b), Part 930 require the Navy and other Federal agencies proposing an action to determine if the action is reasonably likely to directly or indirectly (cumulatively or secondarily) affect any land or water use, or natural or cultural resources within the coastal zone. A consistency review should result in:

(1) Preparation of a consistency determination;

(2) Preparation of a negative determination; or

(3) Determination that no further action is necessary.

b. Flowchart. Figure 14-1 of this manual provides a flowchart for determining documentation requirements for Navy actions described in this manual. A guidance factsheet is available in the Reference Materials Library module of the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) Environmental Planning and Compliance Library Web site (refer to appendix E (Web Sites) of this manual for Web site address).

c. Effects Test

(1) To decide whether an action requires a consistency review, the Navy action proponent must first factually determine if reasonably foreseeable coastal effects will result from the proposed action. Direct, indirect, and cumulative effects must be considered.

(2) Moreover, application of the effects test to an action is not limited by the geographic location of the action. Consistency applies whenever an action may result in reasonably foreseeable coastal effects on the coastal uses or resources within a State's coastal zone, even if the action is occurring outside the State's coastal zone. In carrying out its effects test, the Navy action proponent must:

(a) Review the Federally approved State CMP's relevant enforceable policies for compliance, keeping in mind the definitions of coastal uses and resources. Action proponents should consult with Navy legal counsel on determinations of enforceable policies;

(b) Consider the definition of effects as identified in paragraph 14-5.10 of this manual;

(c) Assess whether an action taking place outside of a State's coastal zone will affect the coastal uses or resources within the State's coastal zone, provided the uses or resources being affected are, in fact, uses or resources of the State's coastal zone. The burden for determining or demonstrating effects is greater the farther removed an activity takes place outside of a State's coastal zone. The test is whether it is reasonably foreseeable that impacts that occur outside of the coastal zone will affect uses and resources of the coastal zone. Merely showing effects from an action outside of the coastal zone is not sufficient by itself to demonstrate that reasonably foreseeable effects extend to uses or resources within the coastal zone. For example, it is possible a Federal action could temporarily affect a coastal resource while that resource is outside of the coastal zone such that resource impacts are not felt within the coastal zone (e.g., temporary harassment of a marine mammal in the open ocean beyond State waters); and

(d) Determine whether the proposed action is consistent to the maximum extent practicable with the enforceable policies of the State's approved CMP.

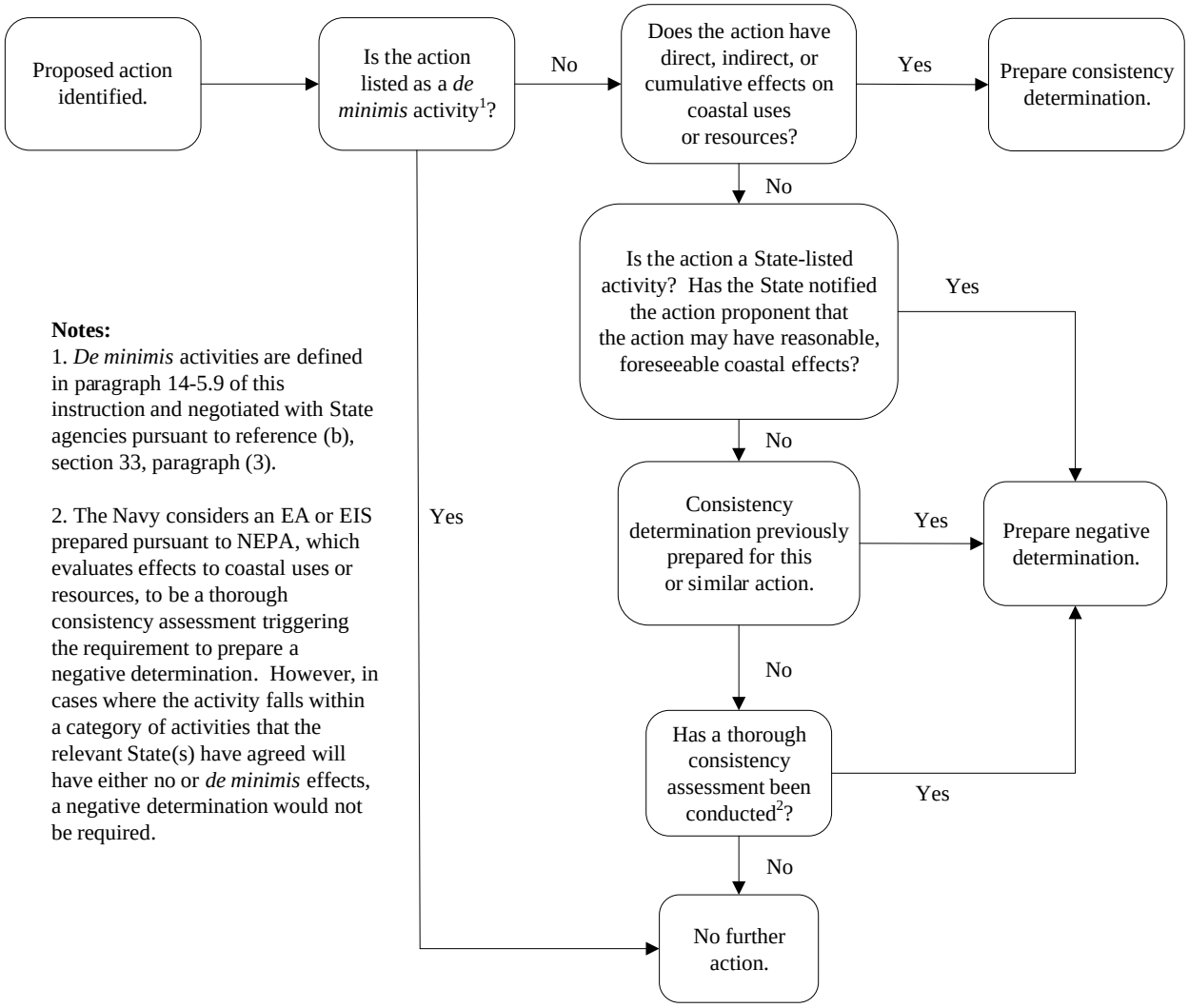
(3) The Navy action proponent must not claim insufficient funds as justification for not being consistent to the maximum extent practicable with an enforceable policy of a Federally approved State CMP.

d. Thorough Consistency Assessment. A Navy action proponent may assess the effects of its action on coastal uses and resources (for which there are enforceable policies under the State's CMP) as part of its preparation of an environmental assessment (EA) or environmental impact statement (EIS) pursuant to the requirements of the National Environmental Policy Act (NEPA). By Navy policy, an EA or EIS constitutes a "thorough consistency assessment" within the context of CZMA compliance.

e. Consistency Determination: When an Action May Have Reasonably Foreseeable Direct, Indirect, or Cumulative Effects on Coastal Uses or Resources. A consistency determination must be submitted for each affected coastal State when a Navy action may have a reasonably foreseeable direct, indirect, or cumulative effect(s) on any coastal use or resource, regardless of the location of the action. All Navy development projects within the coastal zone must be deemed to cause coastal effects unless excluded from State agency review as *de minimis* activities.

(1) The level of detail and information provided in a consistency determination must be commensurate with the expected effects of the action on the coastal zone. Some States or territories (e.g., the Commonwealth of Puerto Rico) require consistency determinations and negative determinations to be documented using specific State forms. Federal regulations do not require that consistency determinations and negative determinations be provided on the State

Figure 14-1. CZMA Federal Consistency Flowchart



form as long as such determinations comply with the requirements of CZMA regulations. Using such forms, where practical, is recommended, however, to avoid unnecessary conflict.

(2) The consistency determination must include data sufficient to support the Navy's determination. Where practicable, language contained in related documentation prepared pursuant to NEPA may be directly incorporated into the consistency determination. At a minimum, the consistency determination must include the elements identified in table 14-1 of this manual.

(3) A consistency determination must be submitted by the Navy action proponent no later than 90 days before final Navy approval of the proposed action, unless both the Navy action proponent and the State agency agree to an alternative notification schedule. Action proponents should also consider delivering the consistency determination as early as analysis and circumstances permit. Some proposed actions may require time beyond the regulatory 90 days

Table 14-1. Elements of a Consistency Determination

Element	Content
Brief Introductory Statement	Indicate whether or not the proposed action will be undertaken, to the maximum extent practicable, in a manner consistent with the enforceable policies of the relevant Federally approved State CMP.
Description of the Action	Provide a detailed description of the action and its associated facilities and reasonably foreseeable coastal effects.
Evaluation of Relevant State Enforceable Policies	• The evaluation should review each relevant State-enforceable policy and explain how the Navy action is fully consistent or consistent to the maximum extent practicable. • Consideration should be given to State CMP provisions that are in the nature of recommendations. • If full consistency with the enforceable policies of the State CMP is prohibited, the Navy action proponent must clearly describe the statutory provisions, legislative history, or other legal authority that limits the Navy action proponent's discretion to be fully consistent (refer to note).
Note: OPNAV N45 must be notified regarding assertions that full consistency with the enforceable policies of a State CMP is prohibited.	

to address and resolve issues that may arise, particularly for potentially controversial actions. In some cases, the action proponent may need time to consider and integrate issues that arise during the consistency determination process into NEPA documentation or other regulatory processes or authorizations. The Navy action proponent may presume State agency concurrence if a response is not received within 60 days from receipt of the Navy action proponent determination. However, State agency concurrence must not be presumed when an extension of time is requested to review the matter. The Navy action proponent must approve one State agency request for an extension period of 15 days or less.

f. Negative Determination: When an Action Does Not Have Coastal Effects

(1) A negative determination must be submitted to an affected State(s) when a Navy action proponent determines an action does not have an effect(s) on any coastal use or resource, and one or more of these items apply:

(a) The action is identified as a "listed activity or action" by a State agency;

(b) The State has notified the Navy action proponent that, as a result of its case-by-case monitoring of unlisted activities or actions, a Navy action may have reasonably foreseeable coastal effects and the Federal consistency provisions of reference (a), section 307 apply;

(c) The action is the same as, or similar to, actions for which consistency determinations have been prepared in the past; or

(d) The action was the subject of a "thorough consistency assessment" undertaken by the Navy action proponent that resulted in initial findings that the action had no coastal effects.

(2) At a minimum, negative determinations must contain the information identified in table 14-2 of this manual.

Table 14-2. Elements of a Negative Determination

Element	**Content**
Description of the Action	Provide a brief description of the action and its associated facilities and its location.
Basis for Negative Determination	Discuss the basis for determining the action that will not affect any coastal use or resource.
Evaluation of Relevant State-Enforceable Policies	The evaluation should review each relevant State-enforceable policy and explain how the Navy action proponent determined the Navy action would not result in effects on coastal uses or resources.

(3) A negative determination must be submitted by the Navy action proponent no later than 90 days before final Navy approval of the proposed action, unless both the Navy action proponent and the State agency agree to an alternative notification schedule. A State is not obligated to respond to a negative determination. Consequently, the Navy action proponent may presume State agency concurrence if a response is not received within 60 days from receipt of the Navy determination. State agency concurrence must not be presumed, however, when an extension of time is requested to review the matter. The Navy action proponent must approve one State agency request for an extension period of 15 days or less.

g. Classified Action. In the case of a classified action, the Navy action proponent is only required to provide the State with a description of the action and effects that will not breach the classified nature of the action. However, the Navy action proponent must conduct the classified action consistent to the maximum extent practicable with the enforceable policies of a State's CMP, unless exempted by the President. The Navy action proponent must provide, to the cognizant State agency, a description of the action and coastal effects the action proponent is legally permitted to release and that do not otherwise breach the classified nature of the action.

h. No Documentation Required. No documentation is required pursuant to reference (a), section 307 if there are no effects on any coastal use or resource and none of the provisions of subparagraph 14-3.1c of this manual are triggered.

14-3.2. Other Types of Consistency Determinations

a. General Consistency Determinations. A Navy action proponent may prepare a general consistency determination in cases where a repeated action will be performed (other than a development project) that would have cumulative effects on any coastal use or resource. Examples of repetitive actions include ongoing maintenance or waste disposal. Issuance of a general consistency determination avoids the need to issue separate consistency determinations for each iteration of the action. If a general consistency determination is issued, the Navy action proponent must thereafter periodically consult with the State agency to discuss the manner in which the repetitive actions are being undertaken. The Navy and State agencies may mutually agree on a general consistency determination for *de minimis* activities or any other repetitive

action or category of actions or activities. The Navy must document its decision to proceed with an action listed as a *de minimis* activity in a memorandum for the record.

b. General Negative Determinations. A general negative determination may be prepared in cases where the Navy action proponent will be performing a repeated action that will not have reasonably foreseeable cumulative coastal effects, whether performed separately or cumulatively. A general negative determination must describe in detail the action and repetitive action covered by the general negative determination and the expected number of occurrences of the activity over a specific period of time. If a general negative determination is issued, the Navy action proponent must thereafter periodically assess whether the general negative determination is still applicable.

c. Phased Consistency Determinations. A phased consistency determination may be provided in cases where the decisions of the Navy action proponent related to a proposed development project or other action will be made in phases based upon developing information that may not be available at the time of the original consistency determination. In this case, a separate consistency determination will be required for each major decision.

d. National or Regional Consistency Determinations. The Navy action proponent may provide coastal States with consistency determinations for actions of national or regional scope that affect any coastal use or resource of more than one State. Single consistency determinations may be prepared that address common State coastal management issues and enforceable policies. Where coastal effects and enforceable policies are unique to particular States, the consistency determination must contain separate sections addressing these unique effects and policies. National consistency determinations must be approved by and coordinated with OPNAV N45. Regional consistency determinations must also be approved by and coordinated with the area environmental coordinators (AEC) and regional environmental coordinators (REC).

e. Consistency Determinations in Emergency or Similar Unforeseen Circumstances. In the event of an emergency or similar unforeseen circumstances (i.e., increased threat conditions requiring immediate action), the Navy action proponent may deviate from full consistency with the enforceable policies of the State CMP. However, to the extent that the emergency or unforeseen circumstance allows, the action proponent must attempt to seek State agency concurrence prior to taking action. Upon addressing exigent circumstances or completing emergency response activities, the Navy action proponent must provide the State agency with a description of its actions and impacts to the coastal zone.

14-3.3. Relationship Between Consistency Determinations and Negative Determinations and National Environmental Policy Act Documentation. Consistency determinations and negative determinations must be prepared as stand-alone documents. States may not require submission of a draft or final NEPA analysis as a condition for a consistency determination application being complete. Stand-alone consistency determinations should be incorporated, at a minimum, in the correspondence appendix of a NEPA analysis.

14-3.4. State Agency Conditional Concurrences and Objections

a. Development of Conditions. When applicable, action proponents should cooperate with State agencies to develop conditions that, if agreed to during the State agency's consistency review period and included in the consistency determination, would allow the State agency to concur with the proposed action.

b. Proceeding with an Action

(1) If a State agency issues a conditional concurrence, the action proponent must use the remainder of the 90-day period to resolve any disagreements. The action proponent must also review the conditions to ascertain whether the proposed action remains consistent to the maximum extent practicable, by determining, at a minimum:

(a) Whether the conditions accurately represent the State's approved CMP, and

(b) Whether the conditions violate principles of Federalism including whether sovereign immunity has been waived or the identified conditions are preempted by Federal laws.

(2) If, after review, the action proponent concludes there are no legal or factual bases to justify proceeding over the State's objection, the action proponent should work with the State agency to:

(a) Remove conditions not acceptable to the Navy;

(b) Modify the conditions to those that can be implemented by the action proponent; and

(c) Implement the conditions.

(3) A conditional concurrence differs from a concurrence in that a concurrence may merely forward recommendations, while conditions in a conditional concurrence must be reviewed and implemented per subparagraph 14-3.4b(2) of this manual. Under a regular concurrence, the action proponent must consider the recommendations, but has no obligation to implement the recommendations and is not required to notify the State if it decides not to implement them. Notification via the chain of command to OPNAV N45 is required if any recommendation is not implemented. For a conditional concurrence, action proponents must discuss the potential for agreement to conditions that may set adverse precedent for future Navy actions through the chain of command with OPNAV N45. In the event these conditions remain a condition of State agency concurrence and they are unacceptable to the Navy, the Navy must treat the conditional concurrence as an objection by the State agency.

c. State Agency Objections

(1) If a State agency objects to a Navy consistency or negative determination, the action proponent must not proceed with the action over those objections unless the action proponent

provides written notification to OPNAV N45 requesting its participation in the review of the action and coordination with the State agency objecting to the action.

(2) In the case of a State agency's objection to a Navy consistency determination, such notification must state that:

(a) the Navy action proponent has concluded that under existing law, it is prohibited from the standard of being fully "consistent to the maximum extent practicable" with a Federally approved State CMP. The notification must clearly describe the legal impediments to full consistency; or

(b) the Navy action proponent has concluded that its action is fully consistent with the enforceable policies of the State CMP.

(3) In the case of a State agency's objection to a Navy negative determination, the notification must state the Navy action proponent's rationale for asserting that coastal effects are not reasonably foreseeable.

d. Serious Disagreements. Mediation is an option in the event of a serious disagreement between the Navy action proponent and a State agency regarding the consistency of a proposed Navy action affecting any coastal use or resource. Should the action proponent believe the disagreement can be resolved through mediation, it must notify OPNAV N45 and provide reasons. OPNAV N45 must coordinate within the Office of the Chief of Naval Operations (OPNAV), and if necessary, with the Secretariat on whether to approve the use of mediation.

14-3.5. State Coastal Nonpoint Pollution Control Programs. The Navy must support the development and implementation of State coastal nonpoint pollution control programs on Navy lands consistent with applicable laws and regulations. These may include identifying nonpoint sources, specifying corrective measures, and coordinating nonpoint-source compliance efforts with State programs. Consistent with Federal laws and regulations, the Navy must also 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. Integrated natural resource management plans (INRMP) should address management of all marine resources in installation coastal and near-shore environments. Chapter 12 (Natural Resources Conservation) of this manual discusses all INRMP requirements and those related to the coastal zone. The Navy must encourage research-and-development efforts to address nonpoint sources of pollution to identify and understand Navy impacts on the coastal and marine environment.

14-3.6. Supplemental Coordination for Proposed Activities

a. A Navy action proponent must prepare a supplemental consistency determination for any proposed Navy action that was previously determined to be consistent with a State's CMP (i.e., State concurred with the Navy's determination), that has not yet begun, but that the action proponent has subsequently determined that the proposed action will affect a coastal use or resource substantially different than originally described. Substantially different coastal effects are reasonably foreseeable if:

(1) The Federal agency makes substantial changes in the proposed activity that are relevant to management program enforceable policies; and

(2) There are significant new circumstances or there is information relevant to the proposed activity and the proposed activity's effect on any coastal use or resource.

b. Furthermore, the Navy action proponent should prepare a supplemental consistency determination if substantial changes were made to a proposed action during the period of the State agency's initial review that were relevant to CMP enforceable policies or affect coastal uses or resources, and the action proponent did not notify the State agency of those substantial changes prior to State concurrence with the determination.

14-3.7 Training Requirements

a. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental training courses. In addition to NERTP-sponsored courses, other specialty schools may also resource, develop and deliver environmental courses to meet their specific requirements. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the Civil Engineer Corps Officer School and Naval Safety and Environmental Training Center Web sites (refer to appendix E (Web Sites) of this manual for Web site addresses). Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental training requirements as well as training requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered.

b. Personnel who perform coastal zone management duties should take some or all of these courses as needed to build and maintain proficiency in performing their specific job duties:

(1) NEPA Application (A-4A-0077);

(2) Basic Environmental Law (A-4A-0058);

(3) Environmental Law (Oceans and Coastal Law) (A-4A-0068); and

(4) Natural Resources Management and Compliance (A-4A-0087).

14-4 Responsibilities

14-4.1. OPNAV N45 must:

a. Develop and implement OPNAV policy guidance regarding CZMA compliance;

b. Advise commands of the requirement for submitting consistency determinations or negative determinations;

c. Coordinate with the National Oceanic and Atmospheric Administration (NOAA), Office of the Secretary of Defense, Assistant Secretary of the Navy, Energy, Installations, and Environment (ASN(EI&E)), and other Department of Defense components and Federal agencies concerned with coastal zone matters;

d. Provide Navy representation, along with the budget submitting office (BSO), when NOAA has been asked to mediate differences between the Navy action proponent and State CMP agencies;

e. Coordinate with ASN(EI&E) should the action proponent elect to proceed over the State's objection to ensure the current ASN(EI&E) position is reflected; and

f. Coordinate with ASN(EI&E) for notification to the NOAA Office of Ocean and Coastal Resource Management.

14-4.2. BSOs, region commanders, commanding officers of shore installations, training and operations planners, weapon-system-acquisition program managers, and science and technology program managers must:

a. Ensure all appropriate instructions (including those requiring written justification for actions, collectively or separately); research, development, test, and evaluation; military construction; operations and maintenance; Navy working capital fund; urgent minor construction; land acquisitions; natural resources management; cultural resources management; weapons and support-system procurement; and special projects include the requirements for funding and scheduling for CZMA documentation, as necessary;

b. Participate in the formulation of, and ensure commitment to, any mitigation and monitoring requirements established in consistency determinations or negative determinations; and

c. Comply with the requirements outlined in paragraph 14-4.4 of this manual if acting as an action proponent.

14-4.3. RECs must:

a. Participate in the preparation of consistency determinations and negative determinations for proposed activities within the geographic boundaries of their regions and review these determinations prior to their submittal to the State agency;

b. Provide Navy representation, along with the action proponent, at any formal hearings or meetings of State CMP agencies where the proposed Navy action is on the agenda for discussion or approval;

c. Actively participate in the review process of proposed changes to State CMPs to ensure the Navy's interests are protected; and

d. Identify and negotiate *de minimis* and general consistency determinations for Navy activities with State CMP agencies.

14-4.4. Action proponents must:

a. Prepare and submit consistency determinations and negative determinations for Navy actions as provided in subparagraphs 14-3.1b and 14-3.1c of this manual;

b. Provide Navy representation, along with the AEC or REC, at any formal hearings or meetings of State CMP agencies where the proposed Navy action is on the agenda for discussion or approval; and

c. Provide notification to OPNAV N45 in the event of a serious disagreement between the Navy action proponent and a State agency regarding the consistency of a proposed Navy action or when the action proponent elects to proceed with an action over the objection of a State agency.

14-5 Definitions

14-5.1. Action Proponent. An action proponent is the commander, CO, or civilian director of a unit, activity, or organization responsible for initiating or carrying out a proposed action. In general, the action proponent should be at the lowest level in the chain of command that "owns" the entire action being proposed.

14-5.2. Any Coastal Use or Resource. Any coastal use or resource pertains to any land or water use, or natural or cultural resource of the coastal zone. Coastal uses include, but are not limited to: public access, recreation, fishing, historic or cultural preservation, development, hazards management, marinas and floodplain management, scenic and aesthetic enjoyment, and resource creation or restoration projects. Natural resources include biological or physical resources found permanently or cyclically within a State's coastal zone. Cultural resources include archaeological resources, sunken craft, and other historic properties within a State's coastal zone, as well as properties of traditional, cultural, and religious importance to Native American tribes, Alaska Natives, or Native Hawaiian organizations. Biological and physical resources include, but are not limited to: air, tidal and non-tidal wetlands, ocean waters, estuaries, rivers, streams, lakes, aquifers, submerged aquatic vegetation, land, plants, trees, minerals, fish, shellfish, invertebrates, amphibians, birds, mammals, reptiles, and coastal resources of national significance. Coastal uses and resources also include uses and resources described in the State's CMP.

14-5.3. Associated Facilities. Associated facilities are all proposed facilities specifically designed, located, constructed, operated, adapted, or otherwise used, in full or in major part, to meet the needs of a Navy action proponent (e.g., activity, development project, licensee,

permittee, assistance recipient) and without which the action, as proposed, could not be conducted.

14-5.4. Classified Action. A classified action is any action for which a Navy action proponent is required to protect from disclosure. This includes national security information concerning national defense or foreign policy, provided it has been properly classified per the substantive and procedural requirements of an executive order.

14-5.5. Coastal Management Program. A CMP is the program of a coastal State or territory that has been approved by NOAA pursuant to reference (b), Part 923 (Coastal Zone Management Program Regulations), and that includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the State, that sets forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

14-5.6. Coastal States. Coastal States are States of the United States bordering on the Atlantic, Pacific, or Arctic Oceans, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and American Samoa.

14-5.7. Coastal Zone. The coastal zone is the coastal waters (including lands lying in coastal waters and submerged there under and adjacent shore lands) within the meaning of reference (a), section 304(1), and as more fully defined and described in each coastal State's Federally approved CMP. Excluded from the coastal zone is any Navy facility or real estate owned, held in trust, or used by the Navy in performance of its mission.

14-5.8. Consistent to the Maximum Extent Practicable. The Navy is required by the CZMA to ensure its activities affecting any coastal use or resource are consistent to the "maximum extent practicable," as defined in reference (b), Part 930, section 32, paragraph (a)(1) as "fully consistent" with the enforceable policies of the CMP unless Navy compliance is prohibited by law.

14-5.9. *De minimis* Activities. *De minimis* activities are those activities expected to have insignificant direct or indirect (cumulative and secondary) effects and for which a mutual agreement exists between the Navy and a State agency that the action is not subject to further State agency review.

14-5.10. Effect on Any Coastal Use or Resource. An effect on any coastal use or resource is any reasonably foreseeable effect on coastal uses or resources resulting from a Navy action or activity. These reasonably foreseeable effects can take the form of:

a. Direct effects: Effects that occur at the same time or place as a Navy action; or

b. Indirect and cumulative effects: Secondary and cumulative effects that result from the action and are later in time or farther removed in distance, but are still reasonably foreseeable.

Indirect effects are effects resulting from the incremental impact of a Navy action when added to other past, present, and reasonably foreseeable actions, regardless of what agency or individual undertakes such actions. This definition is consistent with the Council on Environmental Quality's definition of cumulative effects per reference (c).

14-5.11. Effects Test. An effects test is the test by which the Navy action proponent factually determines compliance with the Federal consistency requirements of reference (a), section 307, and the implementing regulations set forth in reference (b), Part 930.

14-5.12. Enforceable Policies of a State Coastal Management Program. Enforceable policies of a State CMP are State policies legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses, and natural and cultural resources in the coastal zone and which are incorporated in a Federally approved State CMP. NOAA's Office for Coastal Management has informed States that enforceable policies are given legal effect by State law and do not apply to Federal lands, Federal waters, Federal agencies, or other areas or entities outside a State's jurisdiction, unless authorized by Federal law; the CZMA does not confer such authorization.

14-5.13. Land Use. Land use is a use or activity conducted in, or on, the shore lands within the coastal zone.

14-5.14. Listed Activities. Listed activities are activities or actions listed by State agencies in their CMPs that, in the opinion of the State agency, will have reasonably foreseeable coastal effects.

14-5.15. Navy Action or Activity. A Navy action or activity is any function performed by or on behalf of the Navy action proponent in the exercise of its statutory responsibilities (e.g., facilities development, tests, exercises). The term "action" is used interchangeably with the term "activity."

14-5.16. Navy Development Project. A Navy development project is a Navy action that: (a) involves the planning, construction, modification, or removal of public works facilities or other structures within the coastal zone or occurring outside the coastal zone but that could result in effects being felt within the coastal zone; and (b) includes the acquisition, use, or disposal of any coastal use or resource.

14-5.17. Thorough Consistency Assessment. A thorough consistency assessment is an assessment of coastal effects fully meeting the requirements of reference (a), section 307, and the implementing regulations set forth in reference (b), Part 930. Navy policy states that an EA or EIS (prepared by the Navy action proponent pursuant to the requirements of NEPA) constitutes a "thorough consistency assessment," if that document includes an analysis of effects on coastal uses or resources for which there are enforceable policies under the State's CMP.

14-5.18. Unlisted Activities. Unlisted activities are those activities or actions not specifically listed in a State's CMP, but which may have reasonably foreseeable coastal effects and for which a State may advise the Navy action proponent that a consistency review is required.

14-5.19. Water Use. Water use is a use or activity conducted in or on waters within the coastal zone.

CHAPTER 15

NAVY OPERATIONAL RANGE ENVIRONMENTAL SUSTAINMENT

Table of Contents

15-1 Scope 15-1
15-1.1. Related Chapters 15-1
15-1.2. References 15-1
15-1.3. Applicability 15-2

15-2 Legislation 15-2

15-3 Requirements 15-2
15-3.1. Navy Range Sustainability Environmental Program Assessment Program 15-2
15-3.2. Range Management Plans and Range Complex Management Plans 15-5
15-3.3. Navy Operational Range Clearance 15-6
15-3.4. Environmental Planning Documentation 15-6
15-3.5. Encroachment Management 15-6
15-3.6. Range Complex Sustainment Support 15-6
15-3.7. Qualification Requirements 15-6

15-4 Responsibilities 15-7

15-5 Definitions 15-9

15-1 Scope. The Navy has a responsibility to sustain the highest levels of readiness to meet its mission requirements while operating in an environmentally responsible manner that is protective of the public. To address environmental requirements effectively and proactively and to preserve the Navy's operational ranges, a systematic approach to the management of ranges in compliance with environmental requirements is essential. This chapter describes the environmental requirements.

15-1.1. Related Chapters. Related chapters in this manual include chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore), and chapter 28 (Solid Waste Management and Resource Recovery Ashore).

15-1.2. References

(a) DoD Instruction 4715.14 of November 2018, Operational Range Assessments;

(b) DoDD 4715.11 of May 2004, Environmental and Explosives Safety Management on Operational Ranges Within the United States;

(c) OPNAV N45 ltr 5090/N453/84158028 of 29 Aug 08, Navy Policy for Conducting Operational Water Range Sustainability Environmental Program Assessments;

(d) U.S. Navy Range Sustainability Environmental Program Assessment Manual, 17 January 2018;

(e) DoD Directive 3200.15 of December 2013, Sustaining Access to the Live Training and Test Domain;

(f) OPNAVINST 3571.4, Operational Range Clearance Policy for Navy Ranges;

(g) DoD Instruction 3200.16 of April 2015, Operational Range Clearance (ORC);

(h) NAVSEA OP 5, Volume 1 of 15 Jan 2001, Ammunition and Explosives Safety Ashore;

(i) DoD Manual 4715.26, DOD Military Munitions Rule (MR) Implementation Procedures, 25 April 2017; and

(j) OPNAVINST 11010.40, Encroachment Management Program.

15-1.3. Applicability. The environmental requirements described herein apply to all Navy operational ranges as defined in Title 10 of the U.S. Code within the United States and its territories. Small arms ranges should be addressed separately as part of the environmental system process described in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual.

15-2 Legislation

a. The following legislation contains provisions that pertain to the management and release of military munitions:

(1) E.O. 12580, Superfund Implementation; and

(2) Military Munitions Rule, 40 CFR Parts 260–266 and 270.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

15-3 Requirements

15-3.1. Navy Range Sustainability Environmental Program Assessment Program. The Navy's Range Sustainability Environmental Program Assessment (RSEPA) program ensures consistent Navy-wide compliance with references (a) and (b), and incorporation of the requirements of references (c) and (d) under one overarching program. RSEPA is conducted to: (1) evaluate the regulatory compliance status of each operational range including ways to maintain compliance; and (2) evaluate the potential for adverse impacts to human health and the environment from munitions constituents (MC), including identification and implementation of protective measures to minimize the risk. Reference (d) provides a detailed description of the assessment process for

both operational land and water ranges. The key components and requirements of the RSEPA program are provided in subparagraphs 15-3.1a through 15-3.1e of this manual.

a. Assessments. Only operational land and water ranges within the United States and territories where testing or training with military munitions occurs or has occurred are assessed. Ranges where operations occur without use of munitions (e.g., electronic warfare) are excluded from RSEPA. Small arms ranges are typically assessed as part of an existing environmental compliance program and are addressed separately (see chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual). The budget submitting office (BSO) in charge of each operational range determines whether an assessment is required. The assessment process consists of a range condition assessment (RCA) and, if required to evaluate a risk to human health and the environment, a comprehensive range evaluation (CRE). As each range has a unique mission and set of environmental conditions, the decision to conduct a CRE is determined on a case-by-case basis by the BSO and the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45).

(1) Range Condition Assessments. A baseline RCA is required for each Navy operational range, with a review or update required at a minimum of every 5 years. An RCA gathers and reviews existing environmental compliance and operational activity data for the range and includes a records review, site visit, and reporting. RCAs also include the development of an operational range site model (ORSM) to assess for potential source-receptor pathways (SRP) for MCs, should they migrate off-range.

(2) Comprehensive Range Evaluations. If additional data collection or sampling is required to evaluate risks to human health and the environment, a CRE may be conducted. CREs involve collection and analysis of environmental sampling data to fill data gaps from the RCA. If the results of a CRE indicate a significant risk to human health or the environment or that any promulgated regulatory criteria have been exceeded, sustainable range oversight (SRO) is executed.

b. Sustainable Range Oversight. The echelon 2 command must immediately notify OPNAV N45 of any discovery of a release or substantial threat of release of MCs from an operational land range to off-range areas, or actual SRP interaction on an operational water range, that creates an unacceptable risk to human health or the environment. OPNAV N45 will then notify the Secretary of the Navy (SECNAV), the Office of the Secretary of Defense (OSD), and applicable environmental regulators of the situation. The Navy will exercise its authority under Executive Order (E.O.) 12580 to take appropriate actions. Navy stakeholders should strive to eliminate or minimize environmental response actions that could have adverse effects on the long-term sustainability of range operations. OPNAV N45 will coordinate with the appropriate stakeholders in identifying and implementing a specific SRO strategy.

c. Protective Measures. Protective measures can be implemented at any point in the assessment process to maintain range sustainability and address specific environmental concerns. Protective measures are actions or management practices designed and implemented to prevent, minimize, stabilize, or eliminate a release or threat of release of MCs to off-range areas at land ranges and risks to human health or the environment at water ranges.

d. Recordkeeping and Reporting. The team that conducts the assessment will record findings, recommendations, and decisions in reports (a technical memorandum and a fact sheet, at a minimum). BSOs and OPNAV N45 will review these reports. BSOs will maintain final approved reports and place them in a range data folder (RDF).

(1) Range Data Folder. An RDF is created as an historical repository for each range assessed through the RSEPA program for use by the applicable BSO and range manager. Each RDF will include reference materials, results, outcomes, recommendations, copies of technical memoranda and fact sheets, and other documents generated through the RSEPA assessment process. RDFs may be used to assist range managers in developing range management plans (RMP) or to enhance or broaden existing plans.

(2) Technical Memorandum**.** A technical memorandum is a stand-alone, summary-level (fewer than 15 pages) document. The technical memorandum should include an analysis and summary of the significant findings and recommendations resulting from the assessment. The technical memorandum for periodic reviews or updates should focus on substantive changes that have occurred since the previous assessment was completed. Following resolution of comments among members of the RSEPA Assessment Team, the BSO will provide the technical memorandum to OPNAV N45 for review. After resolving potential comments and concerns from OPNAV N45, the BSO will send the final technical memorandum to OPNAV N45 via their chain of command. At a minimum, a technical memorandum should include:

(a) Summary of updated information and new records documenting changes in conditions at the range and surrounding area since the previous assessment was completed;

(b) Analysis of existing, updated, and newly obtained records (e.g., munitions expenditure data, modeling results, updated ORSMs, newly documented impacts to range operations);

(c) Confirmation of prior assessment findings or revisions of findings;

(d) Evaluation of the effectiveness of any implemented protective measures and recommendations to determine if they need to be continued, modified, or terminated; and

(e) Presentation of recommendations and conclusions based on data analysis.

(3) Fact Sheet. A fact sheet is a brief (1–2-page) document written to help a local community understand highly technical topics, concepts, and information. It contains essential information only. The team that conducts the assessment must ensure all information presented is factual, accurate, and current. The BSO will ensure the fact sheet is reviewed and approved by the command and public affairs officer (PAO) for viewing by a public audience. The BSO will provide the fact sheet to OPNAV N45 for review. After resolving potential comments and concerns from OPNAV N45, the BSO will send the final fact sheet to OPNAV N45 via their chain of command to upload the fact sheet onto the appropriate public-facing Web site, as required (e.g., Department of Defense (DoD) Environment, Safety, and Occupational Health Network and Information Exchange (DENIX) (refer to appendix E (Web Sites) of this manual

for Web site address)). No other information (e.g., public availability notices) will be disseminated outside the Navy. At a minimum, a fact sheet should include:

(a) Overview of the RSEPA program and historical range information excerpted from the technical memorandum and modified, if needed, for public audiences;

(b) Presentation of ORSM figures or descriptions and other supporting figures and tables;

(c) Summary of sampling and analysis results and conclusions, if applicable;

(d) Summary of results from the review of environmental compliance; and

(e) Contact information (e.g., telephone number, email address) for the appropriate PAO or designee to obtain additional information.

e. Periodic Review and Updates. Operational ranges must be assessed every 5 years or sooner if there is significant change in the operational range mission or munitions used compared to the previous assessment. Land and water ranges within a range complex should be assessed concurrently.

15-3.2. Range Management Plans and Range Complex Management Plans. A comprehensive planning and risk-management strategy is required for each operational range per reference (e). This multi-purpose strategic planning effort should identify mission requirements, range operations, encroachment management, and future planning efforts.

a. General Requirements. An RMP for an individual range, or a range complex management plan (RCMP) for multiple ranges managed as one complex, is required. Either type is acceptable as determined by the BSO. The RMP or RCMP describes missions; capabilities; current and future operations; geographical information such as range boundaries, airspace, and operating areas (OPAREA); environmental planning and compliance management; explosives safety management; community outreach; and sustainable range management practices. Additionally, the RMP or RCMP documents the contribution of the range to readiness, identifying necessary procedures to ensure the range and associated infrastructure are prepared to meet future operational readiness requirements. BSOs should review and update RMPs and RCMPs every 5 years at a minimum or as significant changes (e.g., changes in mission requirements, changes in encroachment impacts) dictate, using a 10-year planning horizon.

b. Environmental Requirements. The RMP and RCMP identify the environmental setting, weather and climate conditions, hydrology and hydrogeology, cultural and natural resources present (including a summary of survey efforts completed to date), and current and future land use management on and around ranges, as well as the area underlying the special use airspace associated with ranges. These plans describe environmental compliance requirements for at-sea and on-land operations, as applicable, and summarize requirements associated with environmental or operational permits and other formalized agreements with Federal, State, or local agencies (e.g., biological opinions, memoranda of agreement, programmatic agreements).

15-3.3. Navy Operational Range Clearance. Navy operational range clearance (ORC) supports sustainable range management by ensuring range personnel safety, maintaining target fidelity, managing specular hazards, and minimizing potential explosive hazards and harmful environmental impacts at land ranges. Navy ORC policy (reference (f)) implements the requirements of reference (g).

a. General Requirements. Per reference (f), an ORC plan is required for each Navy operational range that describes range clearance goals, objectives, criteria, and schedule.

b. Environmental Requirements

(1) Natural resources, cultural resources, and environmental compliance requirements should be considered and included as necessary when developing and implementing ORC plans.

(2) ORC activities curtail the accumulation of range debris, which supports recycling efforts and reduces the potential for off-range migration of MCs. Once cleared from the range, materials must be inspected and certified as safe, and stored, managed, and recycled following procedures described in chapter 28 (Solid Waste Management and Resource Recovery Ashore) of this manual and reference (h). Range-clearance activities conducted within the framework of the Military Munitions Rule are described in reference (i).

15-3.4. Environmental Planning Documentation. Environmental planning is the process of identifying and considering the effects of Navy activities on the human and natural environment. This includes Navy actions undertaken on operational ranges and training ranges. The Navy policy and guidance for conducting environmental planning per the National Environmental Policy Act and E.O. 12114 are found in chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual.

15-3.5. Encroachment Management. Changes in legislation, foreign investment, and competing interests for energy and natural resources are creating increasingly difficult encroachment challenges directly impacting Navy operational range sustainability. The Navy's ability to sustain operational readiness efficiently and effectively requires proactive engagement to prevent or mitigate both internal and external encroachment issues as early as possible. The Navy encroachment management policy and guidance is found in reference (j).

15-3.6. Range Complex Sustainment Support. The coordination effort required to support requirements identified in section 15-3 of this manual is called range complex sustainment support (RCSS) and includes data collection and range management to maintain Commander, U.S. Fleet Forces Command and Commander, U.S. Pacific Fleet range-sustainment program requirements.

15-3.7. Qualification Requirements. Personnel assigned to positions involving responsibilities for military-munitions-related activities such as range assessments and range clearance activities must have the appropriate, job-specific qualifications, experience, and explosives safety training per reference (h), appendix A.

15-4 Responsibilities

15-4.1. OPNAV N45 must:

a. Serve as the policy, assessment, and resource sponsor for the Navy RSEPA program;

b. Notify SECNAV, OSD, and applicable environmental regulators of any discovery of a release or substantial threat of release of MCs from an operational land range to off-range areas or actual SRP interaction on an operational water range that creates an unacceptable risk to human health or the environment;

c. Serve as the assessment and resource sponsor for the environmental requirements of Navy ORC;

d. Serve as the assessment and resource sponsor for the environmental requirements of the Navy RMP or RCMP program;

e. Serve as the assessment and resource sponsor for the environmental requirements of RCSS;

f. Advise the Navy in matters related to environmental range sustainment;

g. Coordinate with other Service headquarters, SECNAV, and OSD with respect to environmental issues on operational ranges; and

h. Provide additional guidance and support to echelon 2 commands, Navy regions, regional environmental coordinators, fleet commanders, and installation personnel as needed.

15-4.2. The Office of the Chief of Naval Operations, Shore Readiness Division (OPNAV N46) must:

a. Program, budget, and allocate funds to implement improvement in operational range real property; and

b. Provide support to OPNAV N45 in monitoring implementation of environmental range management initiatives.

15-4.3. OPNAV, Innovation, Technology Requirements, and Test and Evaluation Division (OPNAV N94) must:

a. Coordinate with OPNAV N45 on environmental range-sustainment efforts and initiatives for Major Range Test Facility Base and training ranges; and

b. Provide guidance and support and monitor implementation of the Navy’s ORC policy.

15-4.4. Commander, Navy Installations Command must:

a. Act as the resource and assessment sponsor to implement improvements in operational range real property; and

b. Provide support to OPNAV N45 in monitoring implementation of environmental range management initiatives.

15-4.5. Commander, Naval Facilities Engineering Command must provide technical support, as requested, in developing and implementing environmental range-sustainment initiatives.

15-4.6. BSOs with cognizance for operational ranges must:

a. Execute the RSEPA, ORC, RMP, RCMP, and RCSS programs as applicable;

b. Assign technical team leaders and ensure RSEPA operational range assessments comply with the requirements of this chapter;

c. Program, plan, budget, and allocate sufficient resources to ensure range operations maintain compliance with applicable Federal, State, and local environmental laws and regulations; and

d. Respond and report to OPNAV N45 any release or substantial threat of release of MCs from a land operational range to an off-range area when such a release poses an imminent and substantial threat to human health and the environment.

15-4.7. Naval Ordnance Safety and Security Activity, Ordnance Environmental Support Office must:

a. Serve as the delegated authority for ordnance range sustainment;

b. Provide explosives safety and ordnance environmental support to OPNAV N45 and echelon 2 commands, as requested, during implementation of environmental range-sustainment initiatives; and

c. Evaluate compliance with the requirements outlined in this chapter during the conduct of explosives safety inspections.

15-4.8. Installation commanding officers with operational range management responsibilities must implement relevant requirements as described in this chapter.

15-5 Definitions

15-5.1. Military Munitions

a. Military munitions are all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products under the control of the DoD, Coast Guard, Department of Energy (DOE), and National Guard. The term includes: confined gaseous, liquid, and solid propellants; explosives, pyrotechnics, chemical, and riot control agents; smokes; and incendiaries, including bulk explosives and chemical warfare agents; chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, and demolition charges; and devices and components of any item specified (section 101e(4) of Title 10, U.S. Code).

b. Military munitions do not include wholly inert items, improvised explosive devices, nuclear weapons, nuclear devices, and nuclear components, other than non-nuclear components of nuclear devices that are managed under the nuclear weapons program of the DOE after all required sanitization operations have been completed (section 101e(4) of Title 10, U.S. Code).

15-5.2. Military Range. A military range is a designated land or water area set aside, managed, and used to conduct research, development, testing, and evaluation of military munitions, other ordnance, or weapon systems, and to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas. This definition does not include airspace, water, or land areas underlying airspace used for training, testing, or research and development where military munitions have not been used (section 101e(1) of Title 10, U.S. Code).

15-5.3. Munitions Constituents. MCs are any materials originating from unexploded ordnance, discarded military munitions, or other military munitions, including explosive and non-explosive materials and emission, degradation, or breakdown products of such ordnance and munitions (section 2710e(3) of Title 10, U.S. Code).

15-5.4. Operational Range. An operational range is a military range that is used for range activities or is not currently being used but is still considered by OSD to be a range; is under the jurisdiction, custody, or control of DoD; and has not been put to a new use that is incompatible with range activities (section 101e(3) of Title 10, U.S. Code).

15-5.5. Operational Range Site Model. An ORSM is a description of a particular site and its environment that is based on existing knowledge. It describes potential sources of munitions constituents of concern and other potentially hazardous substances, transport pathways and mechanisms, and routes of exposure to off range receptors. It assists the Assessment Teams and BSOs in their planning, data interpretation, and communication. It is an iterative description that changes over time as more information becomes available.

15-5.6. Small Arms Range. A small arms range is a designated land or water area used for training or recreational use of small arms weapons (excluding high-explosive -filled or -loaded projectiles) including pistols, rifles, shotguns, and machine guns. This definition also includes skeet and trap ranges.

15-5.7. Source. A source is an area where MCs may have been deposited, disposed of, or placed (reference (a)).

15-5.8. Source-Receptor Pathway Interactions. SRP interactions are ways that receptors come into contact with a source. Interaction between the receptor and MCs has two components: access and activity. Access is the ability of a receptor to enter the area. Activity is any action by a receptor that may result in direct contact with MCs in the source area. The SRP interaction requires an exposure medium, such as surface water, and an exposure route, such as ingestion. A release mechanism and transport medium may also be present if exposure occurs at other than the source area.

15-5.9. Water Range. A water range is a designated water or water and land area set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. This definition does not include water or land areas underlying airspace used for training, testing, or research and development where military munitions have not been used.

CHAPTER 17
ENVIRONMENTAL MANAGEMENT SYSTEMS AND ENVIRONMENTAL COMPLIANCE AUDITS ASHORE

Table of Contents

17-1 Scope 17-1
17-1.1. Related Chapters 17-1
17-1.2. References 17-2
17-1.3. Applicability 17-2

17-2 Legislation 17-3

17-3 Requirements 17-3
17-3.1. Navy-Environmental-Management-Systems-Appropriate Facilities 17-3
17-3.2. Elements of an Environmental Management System 17-4
17-3.3. Environmental Management Systems and Environmental Compliance Audits 17-19
17-3.4. Navy Environmental Management Systems Declaration of Conformance Protocol 17-23

17-4 Responsibilities 17-23

17-5 Definitions 17-28

17-1 Scope. This chapter provides policy on environmental management systems (EMS) and outlines procedures and responsibilities for the assessment of environmental compliance and EMSs at Navy shore installations and activities. An EMS is a formal management framework that integrates environmental considerations into day-to-day activities and long-term planning processes across all levels and functions of the Navy enterprise. EMS and environmental compliance audit requirements have been incorporated into this chapter. A robust EMS is essential to:

(a) Support mission readiness and minimize risk;

(b) Sustain and improve regulatory compliance;

(c) Effectively use resources to prevent pollution, conserve resources, and reduce hazardous waste (HW) and solid waste (SW) generation; and

(d) Create environmental awareness.

17-1.1. Related Chapters. EMSs and properly conducted environmental audits are overarching topics related to all other chapters in this manual. Additional policy guidance and information on pollution prevention (P2) and green or sustainable procurement are found in chapter 22 (Clean Air Ashore), chapter 23 (Hazardous Materials Management Ashore), chapter 27 (Hazardous

Waste Management Ashore), and chapter 28 (Solid Waste Management and Resource Recovery Ashore) of this manual.

17-1.2. References. References (d) and (e) are copyrighted documents and cannot be accessed without an appropriate license. As of the date of this manual, the Naval Civil Engineer Corps Officers School (CECOS) has the license for the Navy. Navy personnel can access references (d) and (e) by enrolling in one of the CECOS EMS courses discussed in subparagraph 17-3.2g (Element 7) of this manual.

(a) E.O. 13834, Efficient Federal Operations;

(b) DoD Instruction 4715.06 of 4 May 2015, Environmental Compliance in the United States;

(c) DoD Instruction 4715.17 of 15 April 2009, Environmental Management Systems;

(d) ISO 14001:2015, Environmental Management Systems—Requirements with Guidance for Use [Copyrighted];

(e) ISO 19011:2018, Guidelines for Auditing Management Systems [Copyrighted];

(f) Department of Navy Green Procurement Program Implementation Guide, February 2009;

(g) DoD Directive 5405.2 of 23 July 1985, Release of Official Information in Litigation and Testimony by DoD Personnel as Witnesses;

(h) SECNAVINST 5820.8A, Release of Official Information for Litigation Purposes and Testimony by Department of the Navy (DON) Personnel;

(i) SECNAVINST 5720.42F, Department of the Navy Freedom of Information Act (FOIA) Program;

(j) ODUSD(ES) memo of 3 Feb 97, Invocation of State Audit Privilege Laws (NOTAL); and

(k) DASN(E) memo of 24 Mar 97, Invocation of State Audit Privilege Laws (NOTAL).

17-1.3. Applicability. Environmental compliance and EMS audits are required for Navy installations and activities worldwide. In addition, Navy installations and activities classified as EMS-appropriate facilities, unless specifically exempted, must continue to implement, maintain, and improve their EMSs. Installation EMS requirements will apply to all ship and vessel personnel when at Navy installations. Chief of Naval Operations Manual (OPNAV-M) 5090.1, Environmental Readiness Program Manual (this manual), and associated Navy policy and oversight will function in lieu of an overall Navy organizational EMS.

a. EMSs and Compliance Audits for Operational Deployments. EMS and compliance audit requirements do not apply to operational deployments (e.g., cases of hostilities, contingency

operations in hazardous areas and expeditionary bases, when U.S. forces are operating as part of a multinational force not under full control of the United States). Such excepted operations and deployments must be conducted per applicable international agreements, other Department of Defense (DoD) directives and instructions, and environmental annexes incorporated into operation plans or operations orders.

b. EMSs and Compliance Audits at Closed and Closing Bases. Closed and closing bases are in the process of resolving environmental permits and other requirements. These bases remain subject to environmental compliance requirements and must maintain an EMS, if currently classified as an EMS-appropriate facility, and be subject to environmental compliance audits until final property transfer has occurred.

c. Exemptions. Budget submitting offices (BSO) and commands that serve only administrative functions and pose little risk to the environment are exempt from EMS audit and compliance audit requirements. The BSO must document the exemptions in the external EMS audit schedule, and OPNAV N45 will keep a record of all exemptions.

17-2 Legislation

a. Legislation that contains provisions pertaining to P2, use of biobased products, and products containing recovered materials, which are discussed in subparagraph 17-3.2e (Element 5) of this manual, includes:

(1) Energy Policy Act of 2005, 42 U.S.C. §15801;

(2) Farm Security and Rural Investment Act, 7 U.S.C. §7901–8001;

(3) Pollution Prevention Act, 42 U.S.C. §13101–13109; and

(4) Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act), 42 U.S.C. §6901–6992k.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

17-3 Requirements. All Federal agencies must increase efficiency and improve their environmental performance per reference (a). Additionally, environmental readiness programs in DoD are required to achieve, maintain, and monitor compliance per reference (b) and implement EMSs at appropriate facilities to improve overall performance, achieve environmental goals, and enhance operational mission per references (a) and (c). The Navy-EMS-appropriate facility must implement, maintain, and continually improve its EMS, including the processes needed and their interactions, per the requirements of this chapter, to enhance its environmental performance. Navy-EMS-appropriate facilities may also fully conform to reference (d).

17-3.1. Navy-Environmental-Management-Systems-Appropriate Facilities. A Navy EMS-appropriate facility is any facility conducting activities or having environmental aspects,

products, and services that have or can have a significant impact on the environment, either directly or indirectly. Examples of environmental aspects include, but are not limited to air, water, wastewater, stormwater, and HW permits or HW generation. A Navy-EMS-appropriate facility is typically a host command and its tenants within the installation's fenceline. It also includes any satellite properties under direct control of the installation commanding officer (ICO) of the host command or the commanding officer (CO) of a tenant command. Alternatively, a Navy-EMS-appropriate facility may:

a. In Navy-concentrated areas, encompass multiple non-contiguous fencelines under direct control of a naval complex ICO or even the entire area of responsibility (AOR) of the Region Commander; or

b. Be defined as a major mission tenant such as a naval shipyard or naval hospital where the BSO elects to define its component commands' EMSs separate from, but in coordination with, its respective host command's EMS. An environmental memorandum of agreement should be in place in accordance with chapter 1 (Organization and Coordination), subparagraph 1-3.2f of this manual.

17-3.2. Elements of an Environmental Management System. To satisfy the requirements of references (a), (b), and (c), Navy-EMS-appropriate facilities must continue to implement, maintain, and improve their EMSs. Full conformance with the required elements in this paragraph must be achieved and validated with an external EMS audit at all Navy-EMS-appropriate facilities by the BSO no later than 3 years from the date of this manual. Environmental management procedures (EMP) must be developed and documented for each element (refer to table 17-1 of this manual for a list of required elements and the corresponding chapter(s) of this manual) that is not already addressed and described in an Internal Audit Plan (IAP) (refer to subparagraph 17-3.2n (Element 14)) of this manual. Where appropriate, EMPs may be combined to streamline documentation (see table 17-1, footnotes 2 and 3 of this manual).

Table 17-1. Required Elements of an EMS

Required Element[1]	**Corresponding OPNAVINST 5090.1E Chapter**
Element 1: General Requirements and Scope	Subparagraph 17-3.2a and chapter 1 (Organization and Coordination)
Element 2: Leadership Commitment and Environmental Policy	Subparagraph 17-3.2b and the Requirements section of each chapter
Element 3: Environmental Aspects, Risk, and Opportunities	Subparagraphs 17-3.2c, 17-3.2d, and 17-3.2e. In addition, the environmental aspects, risk, and opportunities; legal requirements and compliance obligations; and objectives, targets, and POA&Ms of applicable chapters
Element 4: Legal Requirements and Compliance Obligations	
Element 5: Environmental Objectives, Targets, and Plans of Action and Milestones (POA&M)	
Element 6: Resources, Roles, and Responsibilities	Subparagraph 17-3.2f and the Responsibilities section of each chapter

Required Element[1]	**Corresponding OPNAVINST 5090.1E Chapter**
Element 7: Competence, Training, and Awareness	Subparagraph 17-3.2g, chapter 3 (Environmental Readiness Training), and the training requirements in applicable chapters
Element 8: Communication	Subparagraph 17-3.2h and chapter 5 (Outreach and Communications)
Element 9: Documented Information[2]	Subparagraph 17-3.2i and the individual media chapters
Element 10: Document Control[2]	Subparagraph 17-3.2j and the individual media chapters
Element 11: Operational Planning and Control	Subparagraph 17-3.2k and the individual media chapters
Element 12: Emergency Preparedness and Response	Paragraph 17-3.2l, chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response), and the individual media chapters
Element 13: Performance Evaluation through Monitoring, Measurement, and Analysis	Subparagraph 17-3.2m, chapter 4 (Environmental Performance Reporting), and the individual media chapters
Element 14: Evaluation of Compliance[3]	Subparagraph 17-3.2n
Element 15: Nonconformity, Corrective Action, and Preventive Action	Subparagraph 17-3.2o and chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations)
Element 16: Control of Records[2]	Subparagraph 17-3.2p
Element 17: Internal Audit[3]	Subparagraph 17-3.2q
Element 18: Management Review and Continual Improvement	Subparagraph 17-3.2r
[1]Adapted from International Organization for Standardization (ISO) 14001:2015, Environmental Management Systems—Requirements with Guidance for Use. [2]Elements 9, 10, and 16 and may be a combined EMP at the EMS-appropriate-facility level. [3]Elements 14 and 17 may be combined as one integrated IAP at the EMS-appropriate-facility level.	

a. Element 1: General Requirements and Scope. Each Navy-EMS-appropriate facility must determine the boundaries and applicability of the EMS to establish its scope. Once the scope is defined, all activities, products, and services within that scope need to be included in the EMS. The scope must be maintained as documented information and be available to interested parties. Tenants, vendors, contractors, and suppliers must be coordinated with and included in the scope when their actions potentially affect environmental, transportation, or energy issues. Where Navy-EMS-appropriate facilities manage DoD real property on which private activities are permitted, licensed, authorized, or regulated, the Navy-EMS-appropriate facilities must consider the environmental impacts of such activities in the scope of their EMSs. When determining this scope, the Navy-EMS-appropriate facility must consider:

(1) External and internal issues that are relevant to the installation or activity mission and that affect its ability to achieve the intended outcome of the EMS, including environmental conditions capable of affecting or being affected by the Navy-EMS-appropriate facility;

(2) All relevant legal requirements and compliance obligations;

(3) Organizations, tenants, functions, and physical boundaries;

(4) Activities, products, and services; and

(5) Authority and ability to exercise control and influence.

b. Element 2: Leadership Commitment and Environmental Policy. The CO of each Navy-EMS-appropriate facility must demonstrate leadership and commitment with respect to the EMS by:

(1) Taking accountability for the effectiveness of the EMS;

(2) Ensuring that an environmental policy and environmental objectives are established, implemented, and maintained and are compatible with the strategic direction of the installation and the defined scope of its EMS. The environmental policy statement must be communicated within the Navy-EMS-appropriate facility and made available to interested parties. The policy must be reviewed at least annually and updated, as needed, to ensure it remains relevant to the installation or activity's mission, and must include commitments to:

(a) Protect the environment, including prevention of pollution;

(b) Conform to applicable legal requirements and compliance obligations; and

(c) Continually improve the EMS to enhance environmental performance.

(3) Ensure the integration of the EMS requirements into the Navy-EMS-appropriate facility's business processes;

(4) Ensure that the resources needed for the EMS are available;

(5) Communicate the importance of effective environmental management and of conforming to the EMS requirements;

(6) Ensure that the EMS achieves its intended outcome(s);

(7) Direct and support persons to contribute to the effectiveness of the EMS;

(8) Promote continual improvement; and

(9) Support other relevant management roles to demonstrate their leadership as it applies to their areas of responsibility.

c. Element 3: Environmental Aspects, Risks, and Opportunities

(1) Environmental Aspects

(a) Within the defined scope of the EMS, the Navy-EMS-appropriate facility must identify the environmental aspects of its operational practices, activities, products, and services that it can control and those that it can influence, considering a life-cycle perspective. When determining environmental aspects, the installation must consider:

1. Change, including planned or new developments, and new or modified activities, products and services; and

2. Abnormal conditions and reasonably foreseeable emergency situations.

(b) The Navy-EMS-appropriate facility must determine those aspects that have or can have a significant impact on the environment (i.e., significant environmental aspects). The Navy-EMS-appropriate facility must communicate its significant environmental aspects among the various levels and functions of the installation or activity. The Navy-EMS-appropriate facility must maintain documented information on:

1. Criteria used to determine its significant environmental aspects;

2. Environmental aspects; and

3. Significant environmental aspects.

(2) Risk Planning

(a) The Navy-EMS-appropriate facility must:

1. Determine the risks and opportunities associated with the mission that need to be addressed to give assurance that the environmental readiness program can achieve its intended outcome to prevent or reduce undesired effects, including the potential for external environmental conditions to affect the installation or activity;

2. Maintain documented information on risks and opportunities that need to be addressed; and

3. Plan to take actions to address risks and opportunities, significant environmental aspects, legal requirements, and compliance obligations; integrate and implement the actions into its EMS processes; and evaluate the effectiveness of these actions.

(b) Each media manager must identify the location of their environmental aspects and determine which locations present the highest risk. The media manager must maintain documented information to the extent necessary to have confidence that the environmental aspects and risks are being managed effectively.

d. Element 4: Legal Requirements and Compliance Obligations

(1) The Navy-EMS-appropriate facility must maintain documented information on its legal requirements and compliance obligations. Each Navy-EMS-appropriate facility must:

(a) Identify and have access to Federal, State, local, DoD, Department of the Navy, regional, and installation-level legal requirements and compliance obligations related to its environmental aspects; and

(b) Determine how these requirements apply to the installation or activity.

(2) Each media manager must identify the location of their environmental aspects and determine the compliance obligations at those locations. The media manager must maintain documented information to the extent necessary to have confidence that the compliance obligations are being managed effectively.

e. Element 5: Environmental Objectives, Targets, and POA&Ms

(1) General. Each Navy-EMS-appropriate facility must establish environmental objectives for the installation or activity and ensure that these objectives:

(a) Consider the Navy-EMS-appropriate facility's significant environmental aspects and its legal requirements and compliance obligations;

(b) Consider risks and opportunities associated with the mission;

(c) Are consistent with and supportive of the environmental policy statement;

(d) Are achievable within economic and technological restraints and meet operational and business requirements;

(e) Are measurable (if practicable);

(f) Are documented, monitored, and communicated; and

(g) Are reviewed and revised at least annually, according to a schedule established by the facility.

(2) Planning. When planning how to achieve its environmental objectives, the Navy-EMS-appropriate facility must determine what will be done; what resources will be required; who will be responsible; when it will be completed; and how the results will be evaluated, including indicators for monitoring progress toward achievement of measurable environmental objectives. The Navy-EMS-appropriate facility must consider how the actions to achieve environmental objectives can be integrated into the Navy-EMS-appropriate facility's mission processes.

(3) P2. P2 must be incorporated into EMS objectives as applicable to improve environmental performance. A separate P2 plan may be required by State or local regulations.

(4) Green or Sustainable Procurement. The Navy-EMS-appropriate facility must implement the DoD Sustainable Procurement Program using reference (f) as a guide. It requires that the Navy consider green products and services as the first choice in all procurement actions and use green products and services to the maximum extent practicable, consistent with Federal procurement preference programs.

f. Element 6: Roles, Responsibilities, and Authority

(1) The most significant resource for every organization is its senior leadership's commitment to EMS implementation and sustainability. General Navy environmental roles, responsibilities, and authority are outlined in chapter 1 (Organization and Coordination) of this manual. Funding resources and requirements are included in chapter 2 (Funding) of this manual. Top management must ensure that the responsibilities and authorities for relevant roles are assigned and communicated within the Navy-EMS-appropriate facility to facilitate effective environmental management. Top management must assign the responsibility and authority for:

(a) Ensuring that the EMS conforms to the requirements of this chapter; and

(b) Reporting on the performance of the EMS, including environmental performance, to senior leadership.

(2) Each media manager must identify the personnel, at each location where their environmental aspects occur, that can complete environmental management tasks on behalf of the Environmental Department. The media manager must maintain documented information to the extent necessary to have confidence that, at each location, assigned environmental tasks are known, understood and are completed effectively.

(3) Requirements must be included in contracts to ensure that the contractor's roles and responsibilities under the EMS are properly addressed.

(4) Responsibilities assigned within the scope of the EMS are further detailed in section 17-4 of this manual.

g. Element 7: Competence, Training, and Awareness. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental training courses. In addition to NERTP-sponsored courses, other specialty schools may also resource, develop, and deliver environmental courses to meet their specific requirements. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the CECOS and Naval Safety and Environmental Training Center Web sites (refer to appendix E (Web Sites) of

this manual for Web site addresses). Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental training requirements as well as training requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered.

(1) Navy-EMS-Appropriate Facility Training Determination Requirements. The Navy-EMS-appropriate facility must:

(a) Determine the necessary competence of person(s) doing work on the installation that affects environmental performance and the ability to fulfill legal requirements and compliance obligations;

(b) Determine training needs associated with their environmental aspects and the EMS; and

(c) Retain appropriate documented information as evidence of training needs analysis, conduct of the training, and competence.

(2) Environmental Awareness Training. All Navy military, civilian, and contractor personnel must receive initial and refresher environmental awareness training as soon as practical after reporting to an installation or activity and at least every 3 years. Both site-specific and general EMS training can be obtained through the Environmental Compliance Assessment Training and Tracking System (ECATTS) Web site, where available. (Refer to appendix E (Web Sites) of this manual for Web site address.) Completion of training must be documented. Personnel doing work under the Navy-EMS-appropriate facility's control must be aware of:

(a) The environmental policy;

(b) The significant environmental aspects and related actual or potential impacts associated with their work;

(c) The contribution to the effectiveness of the EMS, including the benefits of enhanced environmental performance; and

(d) The implications of not conforming to the EMS requirements, including legal requirements and compliance obligations.

(3) EMS Management Training. EMS management representatives and environmental staff responsible for implementation and maintenance of an EMS must receive EMS implementation, management, and sustainment training. Completion of the CECOS Advancing an Effective EMS (A-4A-0098) course will satisfy this requirement. EMS implementation and management personnel must be familiar with the provisions of this chapter.

(4) EMS and Environmental Compliance Auditor Training. Lead auditors, team members, and all media managers performing EMS and compliance audits, EMS managers, and

installation environmental program directors (IEPD) must complete the CECOS Integrated EMS and Compliance Auditing (A-4A-0079) course, be familiar with the provisions of this chapter, and receive training to perform their specific job duties. EMS auditor training is also recommended for other individuals with responsibility for implementation and maintenance of the EMS and environmental compliance, including major process owners, public works staff, and members of the installation cross-functional team. Refresher training should occur when there are significant changes to procedures or ISO standards to which the EMS is conforming. In some extenuating instances, the BSO may approve a waiver to these auditor training requirements.

h. Element 8: Communication. The Navy-EMS-appropriate facility must plan and implement a process for internal and external communications relevant to the environmental readiness program, including about what to communicate; when to communicate; with whom to communicate; and how to communicate. When planning its communications process, the Navy-EMS-appropriate facility must take into account legal requirements and compliance obligations and ensure that environmental information communicated is consistent with information generated within the EMS and is reliable. The Navy-EMS-appropriate facility also must respond to relevant communications on its EMS. The Navy-EMS-appropriate facility must retain documented information as evidence of its communications, as appropriate.

(1) Internal Communication. Internal communication within the Navy-EMS-appropriate facility may include the CO, executive officer (XO), public works officer (PWO), deputy PWO, IEPD, EMS management representative, EMS cross-functional team, environmental office, other program managers (e.g., facilities, safety, medical), all units and departments that own operations with environmental aspects, and others that may have an impact on the Navy-EMS-appropriate facility's environmental affairs. With regard to its EMS, the Navy-EMS-appropriate facility must:

(a) Communicate among the various tenants, vendors, contractors, and suppliers of the Navy-EMS-appropriate facility, including changes to the EMS, as appropriate; and

(b) Ensure its communication process enables any person doing work under the Navy-EMS-appropriate facility's control to contribute to continual improvement.

(2) External Communication. External communication may include communications from regulatory agencies, the public, and others outside the Navy who are interested in the Navy-EMS-appropriate facility's environmental readiness programs. Each Navy-EMS-appropriate facility must externally communicate information relevant to the EMS, as determined by its communication process, coordinated with the appropriate public affairs officer (PAO), and as required by legal requirements and compliance obligations.

(3) Release of Reports and Information. BSOs and Navy commands must consult legal counsel for advice on releasability and exemptions under the Freedom of Information Act (FOIA). If the request is made by a third party involved in litigation, references (g) and (h) also apply. Additional Navy outreach and communications guidance is included in chapter 5 (Outreach and Communications) of this manual.

i. Element 9: Documented Information

(1) Each Navy-EMS-appropriate facility must create, implement, and maintain all environmental documents appropriate to its environmental readiness programs and EMSs that demonstrate fulfillment of its legal requirements and compliance obligations. Each Navy-EMS-appropriate facility must create and update essential documents so they:

(a) Are easily identified with appropriate description (e.g., title, date, author, reference number) and location;

(b) Are in the appropriate format (e.g., language, software version, graphics) and media (e.g., paper, electronic); and

(c) Are reviewed and approved for suitability and adequacy prior to issue or reissue, and updated as necessary.

(2) Each media manager must create and implement environmental documents appropriate to their environmental program and EMS that demonstrate fulfilment of its legal requirements and compliance obligations.

j. Element 10: Document Control

(1) Each Navy-EMS-appropriate facility must inventory all documents appropriate to its environmental readiness programs and practices and identify other documents essential to the efficient operation of its EMS. Documented information of external origin determined by the Navy-EMS-appropriate facility to be necessary for the planning and operation of the EMS must be identified, as appropriate, and controlled. Each Navy-EMS-appropriate facility must control essential documents to ensure:

(a) The most current version is available and suitable for use, where and when it is needed, with older versions removed from circulation and destroyed or archived as appropriate; and

(b) It is adequately protected (from, e.g., loss of confidentiality, improper use, loss of integrity).

(2) Each media manager must inventory all documents appropriate to their environmental program and practices and identify other documents essential to the efficient operation of their program.

k. Element 11: Operational Planning and Control

(1) The installation must establish, implement, control and maintain the processes needed to meet EMS requirements, and to implement the actions identified in Element 3, by:

(a) Establishing operating criteria for the process(es) and practices; and

(b) Implementing control of the process(es), in accordance with the operating criteria.

(2) At multi-EMS installations, the host must coordinate the relevant parts of the EMS with the other organizations.

(3) Navy-EMS-appropriate facilities must ensure each practice with significant aspects is controlled, to minimize risk to mission and impacts to the environment and to comply with applicable legal requirements and compliance obligations.

(4) The installation must establish a process(es) for the implementation and control of planned temporary and permanent changes that impact environmental performance, including:

(a) New products, services and processes, or changes to existing products, services and processes;

(b) Changes to legal requirements and compliance obligations;

(c) Changes in knowledge or information about environmental aspects and risks; and

(d) Developments in knowledge and technology.

(5) The installation must review the consequences of unintended changes, taking action to mitigate any adverse effects, as necessary.

(6) The installation must establish, implement and maintain a process(es) to control the procurement of products and services in order to ensure their conformity to its EMS.

(7) The installation must coordinate its procurement process(es) with its contractors, in order to identify hazards and to assess and control the environmental risks arising from:

(a) Contractor activities and operations that impact the installation;

(b) Installation's activities and operations that impact the contractors' workers;

(c) Contractor activities and operations that impact other interested parties in the workplace.

(8) The installation must ensure that the requirements of its EMS are met by contractors and their workers. The installation's procurement process(es) must define and apply environmental criteria for the selection of contractors.

(9) The installation must ensure that outsourced functions and processes are controlled. The installation must ensure that its outsourcing arrangements are consistent with compliance obligations and with achieving the intended outcomes of the EMS. The type and degree of control to be applied to these functions and processes must be defined within the EMS.

(10) Consistent with a life-cycle perspective, the Navy-EMS-appropriate facility must:

(a) Determine environmental requirements for the procurement of products and services, as appropriate;

(b) Establish controls to ensure that environmental requirements are considered in the design process for the development, delivery, use, and end-of-life treatment of its products and services, as appropriate;

(c) Communicate relevant environmental requirement(s) to external providers, including contractors; and

(d) Consider the need to provide information about potential significant environmental impacts during the delivery of the products or services and during use and end-of-life treatment of the product.

(11) Each media manager will ensure that their media program plan and procedures take into account the requirements of Element 11 and that the media management plans are effectively implemented and maintained.

l. Element 12: Emergency Preparedness and Response

(1) The Navy-EMS-appropriate facility must establish and implement a procedure(s) or plan(s), if appropriate and applicable, specifying how it will respond to potential environmental emergency situations and potential accidents. Emergency preparedness and response procedures are detailed in chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual and in individual program- and media-specific chapters of this manual. The Navy-EMS-appropriate facility must:

(a) Respond to actual emergency situations and accidents;

(b) Take action to reduce the consequences of environmental emergency situations, appropriate to the magnitude of the emergency or accident and the potential environmental impact;

(c) Take action to prevent the occurrence of environmental emergency situations and accidents;

(d) Periodically conduct drills of the procedure(s) and plan(s) where practicable; and

(e) Periodically review, evaluate, and, where necessary, revise the procedure(s) and plan(s), in particular, after the occurrence of accidents, emergency situations, or tests.

(2) Each media manager will ensure that their media program plan specifies how it will respond to potential environmental emergency situations and potential accidents.

m. Element 13: Performance Evaluation through Monitoring, Measurement, and Analysis

(1) Navy-EMS-appropriate facilities must monitor overall environmental performance and progress towards the facility's environmental objectives. Program- and media-specific monitoring and measurement requirements are located in chapter 4 (Environmental Performance Reporting) of this manual and in the individual program- and media-specific chapters of this manual.

(a) The Navy-EMS-appropriate facility must determine:

1. What needs to be monitored and measured;

2. The methods for monitoring, measurement, and analysis, as applicable, to ensure valid results;

3. The criteria against which the Navy-EMS-appropriate facility must evaluate its environmental performance, using appropriate indicators;

4. When the monitoring and measuring must be performed; and

5. When the results from monitoring and measurement must be analyzed and evaluated.

(b) The Navy-EMS-appropriate facility must ensure that calibrated or verified monitoring and measurement equipment is used and maintained as appropriate. The Navy-EMS-appropriate facility must evaluate its environmental performance information and the effectiveness of the EMS. The Navy-EMS-appropriate facility must provide input to the management review for the evaluation of the effectiveness of the EMS. The Navy-EMS-appropriate facility must retain appropriate documented information as evidence of the monitoring, measurement, analysis, and evaluation results. In addition to the management reviews, reporting requirements for EMSs include, but are not limited to:

1. Navy EMS Metrics. Effective implementation and maintenance of EMSs for DoD facilities and organizations are necessary to achieve DoD environmental goals. Navy-EMS-appropriate facilities worldwide must report the status of the Navy EMS metrics on a fiscal-year basis by 1 November of each year.

2. Fully Conforming EMS In-Place Indicator. BSOs must maintain a roster of conforming Navy-EMS-appropriate facilities and report updates to the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45). The Navy-EMS-appropriate facility must communicate information relevant to its environmental performance both internally and externally, as determined by its communication process and as required by legal requirements and compliance obligations.

(2) Each media manager must evaluate the environmental performance of their program and the effectiveness of the EMS in managing the environmental aspect and risks associated with

the program. Each media manager will retain appropriate documented information as evidence of the monitoring, measurement, analysis, and evaluation results.

n. Element 14: Evaluation of Compliance

(1) Navy installations and activities worldwide must, in coordination between host and tenant commands, verify the environmental regulatory and policy compliance status of the facility on a 1-year internal cycle. The internal compliance audits may be conducted in combination with the internal EMS audits (subparagraph 17-3.2q (Element 17) of this manual), depending on the complexity, needs, and demonstrated compliance posture of the facility.

(a) IAP. The installation, activity, or facility must establish and implement an IAP to describe how the compliance audits will be accomplished over the course of the year. The Navy installation, activity, or facility must review the IAP annually and update it as necessary.

(b) Internal Audit Documentation (IAD). The installation, activity, or facility must retain IAD as evidence of completion for no less than 3 years. IAD must identify compliance deficiencies, deficiencies that have remained open from previous audit periods, assigned root cause codes, and POA&Ms. The results of the compliance audits must be submitted periodically to the CO of the installation or activity and tenant CO (if applicable) and must be reviewed annually to identify trends and outstanding compliance deficiencies. The BSO may request submittal of the IAD to the BSO or, at a minimum, the BSO must review the IAD during the external compliance audit site visit.

(2) Each media manager must verify the environmental regulatory and policy compliance status of their program on a 1-year internal cycle per the IAP and will retain IAD as evidence of completion for no less than 3 years. Results of the compliance audits will be submitted to the CO on a periodic basis as part of the management review and be reviewed annually to identify trends and outstanding compliance deficiencies.

o. Element 15: Nonconformity, Corrective Action, and Preventive Action. Problems are often identified through EMS and compliance audits, monitoring of EMS objectives and targets, and inspection of practices. When a compliance deficiency or EMS nonconformity occurs, the Navy-EMS-appropriate facility must follow a structured problem-solving process that takes immediate action to control, correct, and mitigate adverse environmental impacts. The process should also evaluate the need for preventive action to eliminate the causes, in order that it does not recur or occur elsewhere, by determining the root causes of the nonconformity and assigning a root cause code to every compliance deficiency. Corrective and preventive actions (CAPA) are typically the responsibility of the practice owner to resource and implement. The nonconformity, corrective action, and preventive action process must also include updating EMS documentation, such as instructions or training requirements and materials, to prevent recurrence. The Navy-EMS-appropriate facility must retain documentation as evidence of the nature of compliance deficiencies and EMS nonconformities, any subsequent actions taken, and the results of any corrective action.

p. Element 16: Control of Records

(1) Records are a form of documentation that provide evidence of results achieved.

(a) Each Navy-EMS-appropriate facility must inventory all records appropriate to its EMS, including, but not limited to records necessary to demonstrate compliance with applicable legal requirements and compliance obligations; the monitoring of practices and tracking of environmental objectives, targets, and POA&Ms; internal and external EMS and compliance audits (refer to subparagraphs 17-3.2n (Element 14) and 17-3.2q (Element 17) and paragraph 17-3.3 of this manual); and management reviews (refer to subparagraph 17-3.2r (Element 18) of this manual).

(b) Each Navy-EMS-appropriate facility must implement a system to maintain records so they:

1. Can be easily located;

2. Are protected from alterations or damage;

3. Are available when and where needed; and

4. Are removed from circulation when obsolete and destroyed or archived as appropriate.

(c) The policy on retention and disposition of records is located in chapter 1 (Organization and Coordination) of this manual and in individual program- and media-specific chapters of this manual.

(2) Each media manager must inventory all records appropriate to their environmental program and practices and identify other records essential to the efficient operation of their program.

q. Element 17: Internal EMS Audit

(1) Navy-EMS-appropriate facilities must complete an internal EMS audit of all processes, facilities, and practices within the scope of the EMS and document the findings at least once within a 12-month period. The internal EMS audit may be conducted in combination with the internal compliance audit (subparagraph 17-3.2n (Element 14) of this manual) to assist in determining if the EMS is effectively implemented and maintained and conforms to:

(a) The Navy-EMS-appropriate facility's own requirements for its EMS; and

(b) The requirements of this chapter and, if chosen, requirements of reference (d).

(2) The Navy-EMS-appropriate facilities must:

(a) Plan, establish, implement, and maintain audit program(s) that outline the frequency, methods, responsibilities, planning, and reporting requirements. The audit programs must take into consideration the environmental importance of the processes concerned, risks and opportunities, changes affecting the facility, and the results of previous audits;

(b) Define the audit criteria and scope for each audit;

(c) Document an IAP to describe how the internal audit will be accomplished over the course of the year. The Navy-EMS-appropriate facility must review the IAP annually and update it as necessary.

(d) Select auditors and conduct audits to ensure objectivity and the impartiality of the audit process; and

(e) Report results of the audits to relevant management.

(3) The Navy-EMS-appropriate facility must retain audit documentation as evidence of the implementation of the audit program and the audit results.

(4) Each media manager must complete an internal EMS audit, in accordance with the IAP, of all processes, facilities, and practices where their environmental aspect occurs and document the findings at least once within a 12-month period. The internal EMS audit may be conducted in combination with the internal compliance audit (subparagraph 17-3.2n (Element 14) of this manual) to provide information on whether their program is effectively implemented and maintained, and conforms to requirements. The results of the audits must be reported to relevant management and documented information retained as evidence of the implementation of the audit program and the audit results.

r. Element 18: Management Review and Continual Improvement. The CO, senior leadership, and applicable tenant management personnel of each Navy-EMS-appropriate facility must conduct a management review of the EMS, at least annually, to ensure its continuing suitability, adequacy, and effectiveness. The Navy-EMS-appropriate facility must continually improve the suitability, adequacy, and effectiveness of the EMS to enhance environmental performance.

(1) The management review must include, but is not limited to:

(a) The status of actions from previous management reviews;

(b) Changes in:

1. External and internal issues that are relevant to the EMS;

2. Legal requirements and compliance obligations; and

3. Its significant environmental aspects and risks and opportunities;

(c) The extent to which objectives have been met;

(d) Information on the Navy-EMS-appropriate facility's environmental performance, including trends in:

1. Internal compliance and EMS audit results, including compliance deficiencies, EMS nonconformities, and corrective actions;

2. Monitoring and measurement results; and

3. Conformity to its legal requirements and compliance obligations, including enforcement actions and notices of violation (NOV);

(e) Communication(s) from external interested parties;

(f) Opportunities for continual improvement; and

(g) The adequacy of resources required for maintaining an effective environmental compliance program and EMS.

(2) The outputs of the management review must include:

(a) Conclusions on the continuing suitability, adequacy, and effectiveness of the EMS;

(b) Decisions related to continual improvement opportunities;

(c) Needed changes to the EMS, including resource needs;

(d) Action items when objectives have not been met; and

(e) Any mission-related implications for the strategic direction of the Navy-EMS-appropriate facility.

(3) Management reviews and outputs must be documented.

17-3.3. Environmental Management Systems and Environmental Compliance Audits. As described in subparagraphs 17-3.2n (Element 14) and 17-3.2q (Element 17) of this manual, evaluation of compliance and internal EMS audits are essential elements of an EMS to accomplish the checking and evaluation of compliance and its ability to fulfill its legal requirements, compliance obligations, and EMS requirements as applicable. Navy installations and activities worldwide must verify the continuing EMS conformance and environmental regulatory compliance status, at a minimum of a 1-year internal and 3-year external cycle.

a. Internal EMSs and Environmental Compliance Audits. Internal EMS and environmental compliance audit requirements are provided in subparagraphs 17-3.2n (Element 14) and 17-3.2q (Element 17) of this manual.

b. External EMSs and Environmental Compliance Audits. External compliance audits must be conducted at all Navy installations or activities worldwide, at a minimum of every 3 years on a schedule determined by their BSO. They are generally conducted in conjunction with external EMS audits, where applicable. An external EMS audit is required at a minimum of every 3 years at EMS-appropriate facilities prior to self-declaration of conformance. External audits must evaluate compliance with all applicable DoD and Navy policies and legal and other compliance requirements for environmental media selected for auditing. Additional focus may be placed on specific environmental readiness programs based on previous external audits and the installation's or activity's compliance history and internal compliance audits.

(1) External Audit Schedule. External EMS and compliance audits must be conducted on a schedule determined by the BSO at intervals not longer than 3 years from the last external compliance audit. Installations or activities may also contact their BSO and request a compliance audit at any time. The schedule must also indicate those installations and activities that serve only administrative functions with minimal environmental requirements where exemptions are justifiable (refer to subparagraph 17-1.3c of this manual). BSOs must, annually, review this schedule, update it as necessary, and submit it to OPNAV N45.

(2) External Audit Plan. The external EMS and compliance audit plan describes the schedule and scope of oversight planned for the external EMS and compliance audit site visit at each of the BSO's installations or activities. The BSO of the installation or activity, in coordination with tenant commands, provides input on the schedule and scope of oversight based on the review of the IAP, IAD, and internal EMS audit documentation provided by each installation or activity; previous compliance audits; NOVs; and any additional information available on each installation's or activity's environmental performance. The plan must also indicate those organizations and special areas on the installation or activity that serve only administrative functions with minimal environmental requirements where exemptions are justifiable (refer to subparagraph 17-1.3c of this manual). The BSO must review and update the plan annually.

(3) Navy-Qualified EMS and Environmental Compliance Auditors. The BSO of the host installation or activity must conduct the external EMS and compliance audits and ensure coordination with tenant commands. External EMS and compliance audit teams must be led by a Navy-qualified auditor selected by the BSO. BSOs may delegate auditing responsibilities; however, auditors must be independent of the appropriate facility or installation being audited. Navy-qualified auditors may be staff, other DoD component personnel, another Federal agency (outside of DoD) personnel, or private consultants. EMS and environmental compliance auditors must be knowledgeable of the media they are assessing and of the auditing process, and understand EMS concepts contained within this chapter. Every person preparing for, conducting, reviewing, or approving external EMS and compliance audits must receive specific comprehensive training in the assigned subject matter. In addition, EMS and compliance

auditors must have completed the CECOS Integrated EMS and Compliance Auditing course (A-4A-0079) and must be familiar with the provisions of this chapter.

(4) Root Cause Analysis. BSOs must incorporate root cause analysis in their environmental compliance audit programs. Root causes of compliance deficiencies are generally associated with an EMS element. Once a compliance deficiency is identified, it should be investigated to determine the cause so corrective and preventive action can be taken. In developing a plan for addressing a compliance deficiency, installations should consider what actions need to be taken to address the problem, what changes need to be made to correct the situation, and what should be done to prevent the compliance deficiency from recurring. The character and timing of such actions should be appropriate to the nature and scale of the compliance deficiency and the environmental impact. Appendix C (Message Formats), table C-1 of this manual provides a list of standard Navy root causes. A root cause code must be assigned and for every identified compliance deficiency.

(5) Environmental Compliance Checklists. Checklists of regulations are available in several forms for use in evaluating compliance and may be tailored to include those requirements applicable to a particular installation or activity. Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) can assist with identifying and tailoring checklists. U.S. Navy ListBuilder (refer to appendix E (Web Sites) of this manual for Web site address) is a checklist creator that includes Federal, State, and Navy requirements, final governing standards (FGS), and the Overseas Environmental Baseline Guidance Document, and is updated on a regular basis.

(6) External EMS and Environmental Compliance Audit Out-Brief. The audit team must present its findings in an out-brief at the end of the site visit to the Navy installation, EMS-appropriate facility ICO, and other applicable installation leadership (e.g., XO, PWO, IEPD, EMS management representative), and provide a working draft audit report.

(7) External EMS and Environmental Compliance Audit Report. Results of the external EMS and environmental compliance audit must be documented in the external audit report. The audit report must include all identified EMS nonconformities; regulatory and policy compliance deficiencies; and recommendations for corrective actions, preventive actions, and process improvements.

(a) For EMS-appropriate facilities, the external report documentation must include the effectiveness of the EMS and its role in supporting environmental performance with respect to:

1. Conformance to this chapter and, if chosen, reference (d);

2. Compliance with environmental requirements;

3. Review of environmental aspects;

4. Status in meeting EMS objectives;

5. Strengths and weaknesses of EMS elements potentially resulting in nonconformities;

6. Potential underlying root causes of EMS nonconformities and environmental compliance deficiencies that correlate with weaknesses in the EMS; and

7. Recommendations for improvements to the EMS.

(b) The BSO must release the final report to the installation, activity, or Navy-EMS-appropriate facility within 90 days of completion of the external audit site visit. The EMS management representative of the appropriate facility must brief findings of the external EMS audit to senior leadership at the next management review (refer to subparagraph 17-3.2r (Element 18) of this manual).

(c) BSOs must consult legal counsel for advice on the releasability of EMS records and exemptions under the FOIA. Reference (j) applies to all FOIA requests. If the request is made by a third party involved in litigation, references (g) and (h) also apply.

(8) POA&M and Follow-Up. Within 30 calendar days of the audit out-brief (or sooner at the discretion of the BSO), the installation or appropriate facility must provide any comments on the working draft audit report; provide a POA&M via the BSO-approved POA&M submittal and review process; identify the root cause(s) of each EMS nonconformity and compliance deficiency; and detail how each deficiency has been or will be resolved. The installation or facility must provide evidence that EMS conformance and compliance deficiencies have been adequately resolved before the POA&M can be closed. The BSO has the authority to close out EMS nonconformity and noncompliance issues and may delegate this responsibility as appropriate. Until all EMS nonconformities and compliance findings are adequately resolved, the Navy installation, activity, or EMS-appropriate facility must submit an updated POA&M to the BSO on a quarterly basis, or as otherwise specified by the BSO.

(9) Electronic Reporting Systems. Commands are encouraged to input EMS and environmental compliance audit findings to electronic reporting systems. The Environmental Management System Web site (EMSWeb) is one system that is recommended for conducting internal and external EMS and compliance audits, developing and managing POA&Ms to address resolution of findings, and maintaining EMS and compliance documents (refer to appendix E (Web Sites) of this manual for Web site address).

(10) Third-Party Independent Reviews. BSOs must obtain third-party independent reviews of those Navy-EMS-appropriate facilities with third-party certification to confirm conformance to reference (d). Reviews must be conducted on a schedule to be determined by the BSO. BSOs must assess their third-party independent review schedule annually and update it as necessary. BSOs must provide the updated third-party independent review schedule to OPNAV N45 annually.

(11) State Audit Privilege Laws. Installations must not invoke the protections of any of the various State audit privilege or immunity laws without proper consultation with and approval

by the chain of command. References (j) and (k) provide the procedures for required consultation with the Office of the Deputy Assistant Secretary of the Navy, Environment, and the Assistant Deputy Under Secretary of Defense for Environment, Safety, and Occupational Health.

17-3.4. Navy Environmental Management Systems Declaration of Conformance Protocol. This protocol provides the Navy's procedure for declaring continued EMS conformance and ensures continual improvement in environmental performance. EMS conformance at all Navy-EMS-appropriate facilities must be formally re-declared at least once every 3 years. Mission-funded commands must not seek or fund third-party certification. The Navy-EMS-appropriate facility is required to resolve all major findings of nonconformity to the satisfaction of the BSO. Once resolved and approved by the BSO, the Navy-EMS-appropriate facility CO must sign an EMS Declaration of Conformance Memorandum to re-declare conformance formally every 3 years. Although an EMS can be considered conformant with minor nonconformities, it is necessary that a POA&M for each minor nonconformity be defined and planned and that senior management commit to correcting and preventing identified minor nonconformities. If the EMS external audit is integrated with the external compliance audit, compliance deficiencies noted during the external audit must be documented in the POA&M, clearly communicated and assigned to a specific person for action, and tracked on a regular basis by status updates to senior leaders. Compliance deficiencies noted during an external audit need not be corrected prior to the EMS conformance declaration. Copies of the memorandum must be provided to the Navy-EMS-appropriate facility's EMS management representative, BSO, OPNAV N45, and other interested parties. Navy-EMS-appropriate facilities with an externally registered EMS may use registration documents to meet the EMS conformance requirement. However, they will still be required to verify environmental compliance through the audit process.

17-4 Responsibilities

17-4.1. BSOs of Navy installations, activities, and EMS-appropriate facilities must:

a. Provide adequate resources, including staffing, to support the installation or activity under their cognizance. For EMS nonconformities and compliance deficiencies identified in internal and external EMS and environmental compliance audits, assist in identification and programming for funding of corrective actions and process improvements. For mission-funded commands, submit funding to correct Environmental Program Requirements Web (EPRWeb) Guidebook chapter (e.g., Clean Water Act (CWA) requirements, Clean Air Act (CAA) requirements, RCRA requirements). If necessary, submit funding requests as part of a mid-year review to address emergent requirements;

b. Maintain a roster of conforming Navy-EMS-appropriate facilities under their cognizance and report updates to OPNAV N45;

c. Advise OPNAV N45, the Region Commander, regional environmental coordinator, and appropriate facility CO if an EMS nonconformity, compliance deficiency, or problem may result in adverse public relations or require national coordination to solve;

d. In coordination with other affected host and tenant BSOs, coordinate a cost-effective EMS approach with the BSO of the host command that supports mission and operational requirements, achieves full compliance with legal requirements, and continually improves performance by reducing environmental risks and costs inherent to mission processes;

e. In coordination with other affected host and tenant BSOs, develop and execute an external EMS audit and environmental compliance audit schedule for external auditing of its Navy-EMS-appropriate facilities at intervals not longer than 3 years. Compliance audits are generally conducted in combination with the external EMS audit, where applicable. The BSO should release the final audit report to the Navy-EMS-appropriate facility within 90 days of completion of the external audit site visit. Review external audit schedules annually and update as appropriate. Provide the updated external EMS audit schedule to OPNAV N45;

f. Obtain third-party independent reviews of those Navy-EMS-appropriate facilities with third-party certification to confirm conformance to reference (d). Reviews must be conducted on a schedule to be determined by the BSO. BSOs must assess their third-party independent review schedule annually and update as necessary. BSOs must provide the updated third-party independent review schedule to OPNAV N45 annually;

g. Issue notification of upcoming external EMS and environmental compliance audits to the ICO of the Navy installation, activity, or EMS-appropriate facility in a timely manner; and

h. Release the final external EMS and environmental compliance audit reports to the installations and BSO headquarters within 90 days of the site visit.

17-4.2. BSOs of tenant commands included within a host installation or activity EMS must:

a. Ensure commands under their cognizance support and participate with the host Navy-EMS-appropriate facility in implementing an EMS to cover all the tenant's processes, facilities, and practices with environmental aspects;

b. For EMS nonconformities and compliance deficiencies identified in internal and external EMS audits and compliance audits, assist in identification and programming for funding of corrective actions and process improvements. For mission-funded commands, submit funding to correct nonconformities and deficiencies under the appropriate EPRWeb Guidebook chapter (e.g., CWA requirements, CAA requirements, RCRA requirements). If necessary, submit funding requests as part of a mid-year review to address emergent requirements;

c. Advise OPNAV N45, the host command, host BSO, and the tenant chain of command, if an EMS nonconformity, compliance deficiency, or problem identified may result in adverse public relations or require national coordination to solve;

d. Coordinate with the host BSO for any procurement that would affect environmental aspects or have environmental implications at the host command;

e. Coordinate with and support the BSOs of the host command in developing, documenting, and executing a schedule and plan to conduct internal and external EMS and environmental compliance audits as appropriate to cover processes, facilities, and practices on the installation or activity; and

f. Close out nonconformity issues or delegate this responsibility as appropriate.

17-4.3. COMNAVFACENGCOM must:

a. Provide support to BSOs, region commanders, and shore commands in the use of EMS software, such as selection and customization of automated checklists of Federal and State regulations, FGSs, overseas requirements, and Navy policy requirements;

b. Provide assistance in the development of the 3-year audit schedule as directed by the cognizant BSOs; and

c. Upon request, assist BSOs in conducting external EMS and compliance audits, preparing final audit reports, tracking corrective and preventive actions identified in the POA&Ms, and reporting implementation quarterly to the BSO.

d. Upon request, review results of annual internal EMS and compliance audits to identify EMS nonconformities, compliance deficiencies, and their root causes.

17-4.4. Commander, Naval Supply Systems Command must:

a. Serve as the overall manager for the GPP and the supply and inventory control aspects of the P2 program;

b. Provide green or sustainable procurement guidance and formal training to the acquisition community, contracting officers, purchasing agents, and customers holding government credit cards;

c. Ensure contracts include Federal Acquisition Regulation (FAR) and Defense FAR clauses citing EMS and green or sustainable procurement requirements; and

d. Ensure DoD Sustainable Procurement Program metrics electronic tracking capabilities exist to monitor and measure performance and audit effectiveness of program criteria specified in reference (i).

17-4.5. In those regions where the Navy-EMS-appropriate facility is defined as the region, the Region Commander must perform the responsibilities assigned to the COs of Navy-EMS-appropriate facilities. COs of the Navy-EMS-appropriate facilities must:

a. Comply with all policy requirements described in subparagraph 17-3.2b (Element 2) of this manual.

b. Maintain EMS conformance and declare conformance per the Navy EMS Declaration of Conformance Protocol at a minimum of every 3 years;

c. Sign and issue the Navy-EMS-appropriate facility environmental policy statement, review it at least annually, and update it as needed to ensure it remains relevant to the facility's mission;

d. Provide leadership and commitment to improve EMS by overseeing and conducting periodic EMS management reviews throughout the year (at least one per year) to coincide with the internal and external EMS and environmental compliance audit and the declaration of conformance cycle;

e. Review the status of existing objectives and establish new objectives as needed per this chapter;

f. In coordination with the affected commands, continually improve the EMS to cover all processes, facilities, and practices with environmental aspects within the scope of the Navy-EMS-appropriate facility;

g. Establish a means to communicate and coordinate the environmental aspects throughout the Navy-EMS-appropriate facility with all Navy and non-Navy tenants, to include environmental coordinator roles and responsibilities, where appropriate, for the purpose of planning and sustaining the EMS;

h. Establish and participate in forums, such as environmental compliance boards, executive management boards, and EMS cross-functional teams to ensure EMS policies are communicated throughout the Navy-EMS-appropriate facility and with all tenant commands;

i. Designate an EMS management representative in writing to establish, implement, and maintain the EMS and to report to senior management;

j. Conduct a documented management review with the EMS management representative and the IEPD on a regular basis, at least annually, to review EMS conformance status and receive updates on the status and progress of the EMS;

k. Review results of annual internal EMS and compliance audits to identify EMS nonconformities, compliance deficiencies, and their root causes. For EMS nonconformities and compliance deficiencies identified in internal or external EMS audits, develop and execute POA&Ms to document corrective actions and process improvements and address the root causes;

l. Within 30 calendar days of the external audit out-brief (or sooner at the discretion of the BSO), provide a POA&M to the BSO, identifying the root cause of each EMS nonconformity and detailing how each has been or will be resolved. If the EMS external audit is integrated with the external compliance audit, compliance deficiencies noted during the external audit also must be documented in POA&M, clearly communicated and assigned to a specific person for action, and tracked on a regular basis;

m. Advise the host BSO, affected tenant commands, and tenant BSOs of any EMS or compliance deficiencies found at the tenant command during a host installation or third-party audit, and if a nonconformity, compliance deficiency, or problem may result in adverse public relations or require regional coordination to solve;

n. In coordination with the affected commands, identify and fund corrective actions and process improvements to address compliance deficiencies and their root causes. For mission-funded facilities, submit funding requests to the BSO to correct EMS nonconformities and compliance deficiencies under the appropriate EPRWeb Guidebook chapter (e.g., CWA requirements, CAA requirements, RCRA HW requirements);

o. In coordination with the affected commands, maintain internal and external EMS audit and compliance audit documentation and present a summary of the results to the Navy-EMS-appropriate facility senior management during EMS management reviews;

p. Where EMS implementation staff and environmental functions are provided by a COMNAVFACENGCOM component command, coordinate support of EMS with the component's CO;

q. Where contractors' or concessionaires' tasks or actions could potentially impact an installation, evaluate those tasks and actions prior to contract award; and

r. Report the status of DoD EMS metrics by 1 November for the previous fiscal year.

17-4.6. Where a Navy command is a tenant on a non-Navy-EMS-appropriate facility, the Navy command may participate in the host's EMS and environmental compliance audit program per their inter-Service or intra-governmental support agreement. Alternatively, Navy commands may establish their own IAP and conduct EMS and compliance audits and provide appropriate information to the non-Navy host command. COs of tenants or senior managers of tenants with host-command significant environmental aspects must:

a. Support and participate with the host command in implementing and continually improving the EMS to cover all processes, facilities, and practices with environmental aspects;

b. Support and participate in annual reviews of the EMS and IAP and update as necessary;

c. Help the host commands re-declare EMS conformance at least every 3 years;

d. Support and participate with the host command in preparing EMS audit documentation as necessary;

e. For all EMS nonconformities and compliance deficiencies identified in internal and external EMS and compliance audits, identify root causes and develop, execute, and document POA&Ms with corrective actions and process improvements;

f. Coordinate identification and funding of corrective actions and process improvements to address deficiencies and their root causes. If necessary and appropriate, submit funding requests to the BSO to support projects required to correct the identified deficiencies and root causes;

g. Advise the host command and the BSO as soon as possible if an EMS nonconformity, compliance deficiency, or problem may result in adverse public relations or require regional coordination to solve; and

h. Coordinate with the host ICO for any procurement that would affect environmental aspects or have environmental implications at the host command.

17-5. Definitions

17-5.1. Compliance Deficiency. A compliance deficiency is a failure to comply with an environmental requirement. A regulatory compliance deficiency is non-compliance with a legal requirement; a policy compliance deficiency is non-compliance with a DoD or Navy policy requirement. A compliance deficiency is a type of finding.

17-5.2. Compliance Obligations. Compliance obligations are legal requirements and other requirements: legal requirements that an organization must comply with and other requirements with which an organization has to or chooses to comply. Compliance obligations are related to the EMS. They can arise from mandatory requirements, such as applicable laws and regulations, or voluntary commitments, such as organizational and industry standards, contractual relationships, codes of practice, and agreements with community groups or non-governmental organizations.

17-5.3. Continual Improvement. Continual improvement is recurring activity to enhance performance. Enhancing performance relates to the use of the EMS to enhance environmental performance consistent with the organization's environmental policy. The activity need not take place in all areas simultaneously, or without interruption.

17-5.4. Corrective and Preventive Actions. CAPAs are measures taken to correct and prevent future occurrences of an EMS nonconformity.

17-5.5. Effectiveness. Effectiveness is meeting the military mission while fully meeting executive, Federal, State, and local environmental regulations, as well as the environmental policies of DoD, the Navy, and the installation or regional complex.

17-5.6. EMS-Appropriate Facility. An EMS-appropriate facility is any Federal facility or organization that conducts activities that can have a significant impact on the environment, either directly or indirectly, individually or cumulatively, due to the operations of that facility's or organization's mission, processes, or functions.

17-5.7. EMS Cross-Functional Team. An EMS cross-functional team is a group of individual representation from various departments, divisions, branches, and tenant commands of the Navy-appropriate facility supporting the functional development, implementation, and maintenance of

the EMS. The cross-functional team must be chaired by an EMS management representative designated by the CO in writing. The cross-functional team may include, but not be limited to:

a. The Navy-EMS-appropriate facility CO (i.e., the major mission tenant CO or the ICO of the Navy host command or region command);

b. The XO and business manager;

c. The EMS management representative (appointed by the CO in writing) who will be responsible for implementing and maintaining the EMS;

d. Key staff members responsible for the planning, implementation, and review of the EMS, including heads of departments and tenant representatives whose practices may have significant environmental aspects. Senior management representation should be consistent with the scope and AOR of the EMS; and

e. Other key personnel, including, but not limited to mission units, procurement, logistics, legal, budget, facilities, energy, environmental management, health and safety, tenant command representatives, fire department or emergency response, public affairs office, contractor representatives (as appropriate), and technical support functional areas.

17-5.8. EMS Nonconformity. EMS nonconformity is non-fulfillment of an EMS requirement. A major nonconformity is the absence or total breakdown of an element to meet an EMS requirement, or a number of minor nonconformities against one requirement, that is likely to result in the failure of the EMS. A minor nonconformity is a failure in some part of the documented EMS or a single observed lapse in conforming to one requirement of the EMS that is not likely to result in failure of the EMS.

17-5.9. Environmental Aspects. An environmental aspect is a characteristic of a practice that can cause, in normal operation or upset mode, an impact to an environmental or other resource. Each practice may have several environmental aspects. Typical environmental aspects of practices operated on Navy installations include: potential spills and releases; air releases; hazardous materials use; HW generation; SW generation; medical waste generation; noise; electricity use; fuel use; physical presence (in environmentally sensitive locations); and cultural, historical, and natural resources.

17-5.10. Environmental Impact. An environmental impact is an effect of a practice's aspect on an environmental or other resource. Each practice may have several impacts. Typical impacts associated with practices operated on Navy installations or regional complexes include: personnel exposure, indoor air quality degradation, outdoor air quality degradation, surface water degradation, groundwater degradation, soil quality degradation, wildlife or plant population or habitat disturbance, other resource (e.g., landfill space) consumption, cost to mitigate risk, adverse regulatory exposure, negative public perception, real property damage, historic or cultural resource damage, natural resource disturbance, soil erosion, and human health effects.

17-5.11. Environmental Management System. An EMS is part of an installation's management system used to develop and implement its environmental policy and manage its environmental aspects. It is a formal management framework that provides a systematic way to review and improve operations, create awareness, and improve environmental performance. It reflects management principles based on a "plan-do-check-act" model using a standard process to identify current practices, aspects, and impacts; establish goals; implement plans to meet the goals; determine progress; and make continual improvement. It consists of a set of interrelated elements used to establish policy and achieve objectives. A management system includes organizational structure, planning activities, responsibilities, practices, procedures, and resources.

17-5.12. Environmental Performance. Environmental performance is performance related to the management of environmental aspects. For an EMS, results can be measured against the organization's environmental policy, environmental objectives, or other criteria, using indicators.

17-5.13. External EMS and Environmental Compliance Audit. An external compliance audit is a systematic, documented, objective review of an installation's environmental readiness program and management system conducted at a minimum of every 3 years by its BSO or delegate.

17-5.14. Finding. A finding is identification of a compliance deficiency against a regulation or policy, a major or minor EMS nonconformity, an observation of risk, a best practice recommendation, or a process or practice that is particularly effective (e.g., positive observation, noteworthy practice).

17-5.15. Green or Sustainable Procurement. Green or sustainable procurement is the purchase of environmentally preferable products and services per the Federally mandated DoD Sustainable Procurement Program. Such products and services have reduced impact on human health or 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.

17-5.16. Internal EMS and Environmental Compliance Audit. An internal compliance audit is a comprehensive environmental compliance review of installation, processes, facilities, and practices completed within a 12-month period. Internal audits entail a comprehensive management review of the EMS at EMS-appropriate facilities.

17-5.17. Interested Party. An interested party is a person or organization that can affect, be affected by, or perceive itself to be affected by a decision or activity. Examples include customers, communities, suppliers, regulators, non-governmental organizations, and employees.

17-5.18. Inventory. An inventory is a documented list of documents and records that the installation has deemed pertinent to the implementation of the EMS and demonstrate compliance with all legal and other requirements.

17-5.19. Life Cycle. A life cycle is the consecutive and interlinked stages of a product (or service) system, from raw material acquisition or generation from natural resources to final disposal. The life-cycle stages include acquisition of raw materials, design, production, transportation or delivery, use, end-of-life treatment, and final disposal.

17-5.20. Monitoring. Monitoring is determining the status of a system, process, or activity. To determine the status, there might be a need to check, supervise, or critically observe.

17-5.21. Measurement. A measurement is a process to determine a value.

17-5.22. Objective. An environmental objective is an overall environmental goal, consistent with the environmental policy that a command sets itself to achieve.

17-5.23. Performance. Performance is a measurable result. Performance can relate to either quantitative or qualitative findings. Performance can relate to the management of activities, processes, products (including services), systems, or organizations.

17-5.24. Plan of Action and Milestones. A POA&M provides proposed corrective and preventive actions, process improvements, and schedules to address an EMS nonconformity or compliance deficiency and its root cause(s). The documentation also serves as a record to verify problems are resolved.

17-5.25. Pollution Prevention. P2 is reducing or eliminating waste at the source by modifying production processes, promoting the use of non-toxic or less-toxic substances, implementing conservation techniques, and reusing materials rather than putting them into the waste stream.

17-5.26. Practice. A practice is a process, action, or function with environmental aspects that have and can have an impact on environmental resources. Practices may impact other resources as well. Practices include the unit processes used to complete mission functions (e.g., parts degreasing, oil and lubricant changes, battery recharging, refrigerant capture and replacement to support vehicle maintenance) and their associated physical controls (e.g., berms, oil/water separators, alarms). A practice often includes multiple processes, personnel, equipment, and materials.

17-5.27. Practice Owner. The practice owner is the command, department, work center, tenant, or contractor responsible for the day-to-day operation of a practice. Practice owners have the authority to accomplish their mission by conducting the practice, and thus, have responsibility for procedures necessary to control the practice.

17-5.28. Risk. A risk is an effect of uncertainty. An effect is a deviation from the expected—positive or negative. Uncertainty is the state, even partial, of deficiency of information related to understanding or knowledge of an event, its consequence, or its likelihood. Risk is often characterized by reference to potential “events” or a combination of these. It is often expressed in terms of a combination of the consequences of an event (including changes in circumstances) and the associated “likelihood” of occurrence.

17-5.29. Risks and Opportunities. Risks and opportunities are potential adverse effects (threats) and potential beneficial effects (opportunities).

17-5.30. Root Cause. A root cause is the cause of an occurrence that, if corrected, would prevent recurrence of that and similar occurrences. There may be a series of identifiable causes, one leading to another. Commands and practice owners should pursue that series of causes until identifying the fundamental correctable cause. The Navy standard list of root causes is found in appendix C (Message Formats), table C-1 of this manual.

17-5.31. Senior Management. Senior management is defined by the EMS-appropriate facility consistent with the scope and AOR of its EMS. It consists of the EMS-appropriate facility CO (i.e., major mission tenant CO, ICO, or Region Commander); an EMS management representative; and key staff members responsible for the planning, implementation, and review of the EMS, including heads of departments and tenant representatives whose practices may have significant environmental aspects and impacts.

17-5.32. Source Reduction

a. Any practice that:

(1) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, and disposal; or

(2) Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

b. The term 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.

17-5.33. Target. An environmental target is a measurable, detailed performance requirement that arises from the environmental objective and that needs to be set and met to achieve those objectives.

17-5.34. Third-Party Certification. Third-party certification involves an audit conducted by an accredited ISO-14001-certification body resulting in the facility or organization being fully certified to ISO 14001 and receiving a certificate stating conformance.

CHAPTER 19

PROCESSING NOTICES OF VIOLATION UNDER ENVIRONMENTAL LAWS AND REGULATIONS

Table of Contents

19-1 Scope 19-1
19-1.1. Related Chapters 19-1
19-1.2. References 19-1

19-2 Legislation 19-2

19-3 Requirements 19-2
19-3.1. Notices of Violation and Significant Non-Compliance 19-2
19-3.2. Reporting Requirements 19-3
19-3.3. Notice of Violation Inquiry 19-4
19-3.4. Payment of Fines and Penalties 19-4
19-3.5. Suggested Elements of a Penalty Analysis 19-5
19-3.6. Closing a Notice of Violation 19-7
19-3.7. Resolving Significant Non-Compliance Status 19-7

19-4 Responsibilities 19-8

19-5 Definitions 19-9

19-1 Scope. This chapter applies to the investigation and reporting of violations of, or noncompliance with, environmental laws and regulations by Navy installations, tenant commands, construction contractors, maintenance contractors, and operators; and the subsequent payment of fines or penalties, where warranted.

19-1.1. Related Chapters. This chapter is applicable to all other chapters in this manual relating to the reporting, recording, prevention, and correction of environmental violations, including chapter 1 (Organization and Coordination), chapter 2 (Funding), chapter 4 (Environmental Performance Reporting), and chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual.

19-1.2. References

(a) DoD 4715.05-G, DoD Overseas Environmental Baseline Guidance Document, May 2007;

(b) E.O. 12088, Federal Compliance with Pollution Control Standards;

(c) ASN(EI&E) memo of 14 May 12, Department of the Navy Process for Reviewing Potential Settlements of Penalties for Past Violations of the Clean Air Act (CAA); and

(d) DoD Instruction 4715.06 of 4 May 2015, Environmental Compliance in the United States.

19-2 Legislation

a. Legislation that contains provisions that pertain to permits, regulations, and penalties includes:

(1) Clean Air Act (CAA), 42 U.S.C. §7401–7671q;

(2) Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387;

(3) Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act (SWDA), 42 U.S.C. §6901–6992k; and

(4) Safe Drinking Water Act (SDWA) (Title XIV of the Public Health Service Act), 42 U.S.C. §300f–300j-26.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

19-3 Requirements. Navy installations and tenant commands must comply with applicable substantive and procedural requirements imposed by Federal, State, interstate, regional, and local authorities to achieve compliance with regulatory environmental requirements. Navy shore activities, facilities, and installations provided by the United States and under the jurisdiction of the Navy in foreign nations must comply with applicable final governing standards (FGS). Where FGSs have not been issued, Navy installations must comply with reference (a), host-nation substantive pollution control laws of general applicability as required by reference (b), U.S. law with extraterritorial effect, and applicable treaties (including the status of forces agreement and bilateral agreements). Reference (b) requires, in part, the head of each executive agency constructing or operating Federal facilities outside the United States ensure such construction or operation complies with environmental pollution control standards of general applicability in the host country or jurisdiction. When regulators detect violations of environmental requirements, they may issue a notice of violation (NOV). Violations of significant magnitude or duration may result in an installation or tenant command being placed in significant non-compliance (SNC) status by the Environmental Protection Agency (EPA) (commonly referred to as being "on the SNC list"). Note that the CAA uses the term "high-priority violation (HPV)" instead of "SNC."

19-3.1. Notices of Violation and Significant Non-Compliance. Navy installations and tenant commands must strive to fulfill regulatory requirements and thereby minimize receipt of NOVs and HPV/SNC status via implementation of a rigorous compliance program and environmental management system program. It is Navy policy to inform the chain of command upon receipt of an NOV, conduct an inquiry into the circumstance of the NOV (including obtaining legal advice), determine the applicability of fines and penalties, and promptly close NOVs upon completion of any corrective actions as required per paragraph 19-3.6 of this manual. In

addition, Navy installations and tenant commands must monitor compliance data posted on regulatory agency Web sites, databases, and tracking systems to ascertain their compliance posture, such as HPV/SNC status as reported in EPA's Enforcement and Compliance History Online (ECHO) (refer to appendix E (Web Sites) of this manual for Web site address). Navy installations and tenant commands responsible for NOVs and HPV/SNC status must make every effort to close the NOVs and resolve the HPV/SNC status as soon as possible to return to compliance and minimize the number of open violations.

19-3.2. Reporting Requirements

a. Upon Receipt of an NOV. Installations or tenant commands that receive an NOV addressed to them must immediately:

(1) Inform the chain of command, including the installation commanding officer (ICO), via an email message to NOV2@navy.mil, following the format in appendix C (Message Formats) of this manual and containing as much information as possible; and

(2) Enter all pertinent details into the NOV module of the U.S. Navy Environmental Portal (refer to appendix E (Web Sites) of this manual for Web site address). NOV class and root cause descriptions can be found in appendix C (Message Formats), paragraph C-1.4 and table C-1 of this manual.

b. Data Validation. Installations and tenant commands must review data in the NOV module to ensure that NOVs for which they are responsible are properly documented and closed out per paragraph 19-3.6 of this manual. Installations must review all open NOVs and follow up on all corrective actions not yet complete. Budget submitting offices (BSO) must ensure NOVs are entered into the NOV module, information is accurate and up-to-date, and corrective actions are completed. In addition, installations and tenant commands must monitor compliance data posted on regulatory agency Web sites, databases, and tracking systems that contain Navy compliance data such as HPV/SNC status as reported in the EPA ECHO system. At a minimum, installations and tenant commands must:

(1) Verify installation or tenant command address and permits associated with the installation or tenant;

(2) Verify all reported data associated with the permits; and

(3) Report any errors and follow up with EPA and State data stewards until errors are resolved.

c. Quarterly Updates for Open NOVs and HPV/SNC Status. On a quarterly basis, installations or tenant commands must update the NOV module for all open NOVs. The update should contain a remedial action plan or the status of pending actions. When an NOV is closed per paragraph 19-3.6 of this manual, no additional quarterly updates are required. BSOs must provide the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) a summary of new and open NOVs and HPVs/SNCs within 30 days

after the end of each quarter. The summary must include the description and plan of action and milestones (POA&M) for each NOV and HPV/SNC. The summary must also identify any trends and highlight any areas of concern that warrant guidance or specific attention.

19-3.3. Notice of Violation Inquiry. Installations or tenant commands must conduct a preliminary inquiry into the facts and circumstances of NOVs under their purview and obtain legal and technical support from the responsible environmental technical personnel and the assigned staff judge advocate or the Navy Office of the General Counsel (OGC). If no attorney is assigned, the ICO must seek advice from counsel advising the chain of command or the BSO and may request that attorneys with subject specific environmental law expertise provide support and representation to ensure the most favorable outcome where shutdown of operations is threatened, a significant penalty is possible, or the action involves a significant Department of the Navy (DON) legal precedent.

19-3.4. Payment of Fines and Penalties. Where applicable, the Federal Facilities Compliance Act (FFCA) authorizes EPA to seek monetary penalties from Federal installations for certain environmental media violations.

a. Responsible commands must seek the advice of legal counsel before honoring requests for payment of fines and penalties for violation of environmental laws and regulations. In addition, NOVs may trigger formal legal proceedings with specific deadlines, procedures, and consequences. Accordingly, the responsible command must seek early consultation with legal counsel in determining how to respond. Legal assistance is available from BSOs; Navy regional environmental coordinators; and Commander, Naval Facilities Engineering Command.

b. Upon request for payment of a fine or penalty, the ICO must prepare a written investigative report per procedures established by the BSO or delegated representative. Commands should consult with counsel to ensure the investigation is convened and structured in a manner that provides maximum benefit to the command's defense and is privileged from disclosure to regulators. The investigative report must include the facts and circumstances of the incident, documents, statements, photographs, claims for damage, notice of fine or penalty, and further data as may be required in the particular case. The report must be formatted as either a Judge Advocate General Manual investigation or letter report.

c. After consultation with onsite or command counsel and if no factual or legal defense exists, the installation must prepare a penalty analysis, develop a negotiation strategy, and negotiate the lowest achievable penalty. Suggested elements of the penalty analysis and negotiation strategy can be found in paragraph 19-3.5 of this manual.

d. The applicability of State and local penalties issued under the CAA is not clear due to conflicting court opinions amongst the Federal circuit courts. Due to this uncertainty in the courts, reference (c) has formally established a mandatory DON process to review settlement packages of State and local penalties issued under the CAA and coordinate them with the Department of Justice via the Navy OGC. Accordingly, any Navy installation proposing settlement of a CAA penalty received from a State or local governmental agency must proceed per the process established by reference (c).

19-3.5. Suggested Elements of a Penalty Analysis. Report of violation (assertion by the regulatory agency):

a. Background

(1) Applicable regulations;

(2) Responsible agency;

(3) Direct supervisor (if known);

(4) Specific circumstances;

(5) Date of corrective action; and

(6) Description of corrective action.

b. Facts

(1) Did the violation occur?

(a) Is this a repeat violation?

(b) Is the FFCA applicable?

(2) Liability of responsible agency or individual?

c. Fine or Penalty Analysis. Class of violation (as defined by regulatory agency).

d. Factors Associated with the Violation

(1) Determine the actual or potential harm associated with the violation. (Note: Use a classification such as major, moderate, or minor as defined by the regulatory agency's schedule of penalties.)

(a) Characteristics of the substance involved:

1. Hazardous material or hazardous waste (HW)?

2. Characteristics (i.e., corrosive, toxic, ignitable, reactive)? Listed or characteristic [waste]? Extremely hazardous? Carcinogenic?

3. Degree of hazard? (Note: Use a classification such as major, moderate, or minor as defined by the regulatory agency's schedule of penalties.)

(b) Amount of material involved: Based on the characteristics, does the regulatory agency consider the amount large or small?

(c) Specific situation information:

1. Was human life or health threatened? Extent?

2. Were natural resources threatened? Extent?

3. Was the environment threatened? Extent?

4. Were water supplies or resources threatened? Extent?

5. Can potential damage be minimized or prevented?

(2) Determine the extent of deviation from regulatory standards. (Note: Use a classification such as major, moderate, or minor as defined by the regulatory agency's schedule of penalties.)

(3) Calculate initial penalty or fine from the regulatory agency's schedule of penalties.

(4) Calculate multi-day penalties, if applicable.

(5) Calculate base total penalty.

(6) Adjust penalty for factors associated with the violator, for economic benefit of non-compliance, and all other adjustments allowed by the regulatory agency's schedule of penalties.

e. Recommendation

(1) If there is a legal defense, forward the investigative report to the BSO via the chain of command with a copy to the Navy Office of the Assistant General Counsel (Energy, Installations, and Environment) (OAGC(EI&E)) and recommend that the fine or penalty be contested.

(2) Recommend settlement amount.

(3) Recommend corrective action.

(4) ICOs may also recommend the use of supplemental environmental projects (SEP) when appropriate. SEPs are environmentally beneficial projects that an alleged violator agrees to undertake in full or partial settlement of an enforcement action, but that the alleged violator is not otherwise legally required to perform. SEPs can play a role in securing significant environmental benefits and protection of public health and the environment.

(5) Recommend disciplinary or personnel action. If there is a legal defense, forward the investigative report to the BSO via the chain of command with a copy to the Navy OAGC(EI&E) and recommend that the fine or penalty be contested.

19-3.6. Closing a Notice of Violation

a. Installations or tenant commands responsible for the NOV must contact the regulatory agency to discuss the corrective action taken, request regulator concurrence that the NOV is closed, and follow up with a memorandum to the regulator confirming the communication. Alternatively, installations may address a letter to the regulatory agency detailing the corrective action taken and requesting regulator concurrence by return-receipt mail. A statement such as "We will consider this matter closed and remove it from the active database if we do not receive a reply from you within the next 60 days" must be included. An installation may accept verbal confirmation from the regulatory agency that the action is closed. If the regulator responds by verbal communication, the installation representative must follow up with a memorandum to the regulator confirming the communication. In cases where the regulator acknowledges that no further action is required, installations must report the NOV as closed; additional coordination with the regulator is not necessary.

b. If the regulator requires further action, installations or tenant commands responsible for the NOV must negotiate and enter into a compliance agreement with the regulatory agency. A compliance agreement may be used as justification to close out associated NOVs or other notices. Installations must follow the closeout procedures described in this section for this subsequent compliance agreement. A violation received later for similar circumstances is considered a separate instance of non-compliance.

c. When the NOV is closed, installations or tenant commands must update the NOV module accordingly.

19-3.7. Resolving Significant Non-Compliance Status

a. Installations or tenant commands responsible for HPV/SNC status must contact the regulatory agency to determine the specific regulatory issues resulting in HPV/SNC status and develop a POA&M to eliminate the NOVs and any other criteria that resulted in the HPV/SNC listing. (Note: Once all regulatory issues are resolved, there may be a waiting period during which the installation or tenant command must demonstrate compliance before the regulator will rescind the HPV/SNC status.)

b. Upon meeting all conditions necessary for removal from the HPV/SNC list, the installation or tenant command must notify the regulator of the corrective action taken, request regulator concurrence that any related NOVs have been closed and any other criteria have been met, and follow up with a memorandum to the regulator confirming the communication. Alternatively, installations may address a letter to the regulatory agency detailing the corrective action taken and requesting regulator concurrence by return-receipt mail. An HPV/SNC is not resolved or closed until EPA removes the HPV/SNC status from its ECHO database.

19-4 Responsibilities

19-4.1. OPNAV N45 must:

a. Formulate policy guidance, allocate resources, and oversee compliance tracking and reporting requirements throughout the Navy; and

b. Analyze Navy compliance performance, identify trends, formulate guidance, and seek Navy-wide corrective solutions.

19-4.2. BSOs must:

a. Review NOVs, identify trends across regions, and notify OPNAV N45 if any areas of concern warrant guidance or specific attention;

b. Ensure NOVs are entered into the NOV module, information is accurate and up-to-date, and corrective actions are completed; and

c. Provide OPNAV N45 with a summary of new and open NOVs within 30 days of the end of each quarter.

d. Provide OPNAV N45 with a list of all their facilities on the HPV/SNC list, any changes since the prior update (additions and deletions from the HPV/SNC list), and a POA&M for removal from HPV/SNC status within 30 days of the end of each quarter.

19-4.3. Naval Facilities Engineering and Expeditionary Warfare Center must:

a. Maintain the NOV module and assist users, as requested; and

b. Provide data reports to OPNAV N45, as requested.

19-4.4. Commanding officers of Navy installations and tenant commands must:

a. Immediately report new NOVs per this chapter;

b. Conduct a preliminary inquiry into the facts and circumstances of the violation;

c. Negotiate payment of fines and penalties with the regulator, if applicable;

d. Review the NOV module and monitor the HPV/SNC status of their facilities as reported by EPA on its ECHO Web site as well as any other applicable regulatory Web sites to ensure information is accurate and current; and

e. Ensure violation corrective actions are programmed.

19-5 Definitions

19-5.1. Notice of Violation

a. United States and Territories. For U.S. and territory installations, NOVs are enforcement actions as defined in the reference (d) glossary. NOVs should cite the relevant standard or criteria to be met and request that the installation take corrective action. NOVs do not include warning letters that do not cite a violation of specific environmental law or regulation, informal notices of deficiencies, or notices of deficiencies to permit applications. Warning letters or similarly titled formal written notifications from authorized regulators that do cite violations with environmental laws and regulations are considered NOVs. One written notice, regardless of the number of individual violations, findings, or citations listed in it, counts as one NOV if all violations cited relate to a single statutory category. If the NOV cites violations of more than one statutory category (e.g., the CWA, the CAA, RCRA, SDWA), then it counts as multiple NOVs, one under each applicable statutory category. Items found to be out of compliance during any DoD internal review or audit are not to be counted as an NOV (i.e., are not included in the definition). RCRA corrective action and Comprehensive Environmental Response, Compensation, and Liability Act NOVs that will be corrected using Defense Environmental Restoration Account funds are to be excluded.

b. Overseas. For overseas installations, NOVs should cite the relevant standard or criteria to be met and request the installation take corrective action. An NOV does not include warning letters that do not cite a violation of specific environmental law or regulation, informal notices of deficiencies, or notices of deficiencies to permit applications. Warning letters or similarly titled formal written notifications from authorized regulators that do cite violations with environmental laws, standards, and regulations are considered NOVs. One written notice, regardless of the number of individual violations, findings, or citations listed in it, counts as one NOV if all violations cited relate to a single environmental medium. If the NOV cites violations in more than one environmental media area (e.g., air, water, HW, drinking water), then it must count as multiple NOVs, one under each of the applicable media areas. Items found to be out of compliance during an internal or other DoD component review, or a compliance review or audit, are not to be counted as an NOV (i.e., are not included in the definition).

19-5.2. Significant Non-Compliance. SNC is an EPA term that describes the status of facilities that have a violation of significant magnitude or duration warranting priority for review or response by an agency beyond that associated with ordinary NOVs. The air program uses the term “HPV” instead of “SNC.” For the purposes of this chapter, the definition of SNC includes HPVs. Media-specific definitions are developed by the EPA program offices, and a facility may be in SNC status for more than one media area at any one time. SNC status may or may not be associated with a single NOV, and in many instances is based solely on data routinely reported to EPA without issuance of a corresponding NOV.

19-5.3. Inspection. An inspection is any inspection conducted by State, Federal, or local regulators. An inspection that addresses more than one environmental medium must be counted as more than one inspection; these inspections are referred as multimedia inspections. For example, an inspection that reviews an air permit and a wastewater permit must be counted and

reported as two inspections. Self-audits or inspections by Navy personnel do not count as an inspection.

CHAPTER 20

CLEAN WATER ASHORE

Table of Contents

20-1 Scope 20-1
20-1.1. Related Chapters 20-1
20-1.2. References 20-2

20-2 Legislation 20-2

20-3 Requirements 20-3
20-3.1. Compliance 20-3
20-3.2. Surface Water Discharges 20-3
20-3.3. Subsurface Discharges 20-4
20-3.4. Land Application 20-5
20-3.5. Hazardous Pollutant Discharges 20-5
20-3.6. Sludge Disposal 20-5
20-3.7. Waste Disposal Sites 20-5
20-3.8. Dredge and Fill Operations 20-5
20-3.9. In-Water Construction 20-6
20-3.10. Watershed Management 20-7
20-3.11. Pretreatment Program 20-7
20-3.12. Water Reuse 20-7
20-3.13. Spills 20-7
20-3.14. Fines, Penalties, and Notices of Violation 20-7
20-3.15. Request to Board or Regulate Navy Vessels 20-8
20-3.16. Training Requirements 20-8
20-3.17. Payment of Reasonable Stormwater Service Charges 20-9

20-4 Responsibilities 20-10

20-5 Definitions 20-12

20-1 Scope. This chapter identifies requirements and responsibilities for the control and prevention of surface water pollution and ground water pollution related to underground injection control (UIC) at Navy shore facilities within the United States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

20-1.1. Related Chapters. Refer to chapter 2 (Funding) of this manual for information on resourcing, chapter 3 (Environmental Readiness Training) of this manual for information on Clean Water Act (CWA) training, chapter 4 (Environmental Performance Reporting) of this manual for reporting CWA metric data, chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) for information on processing notices of violation (NOV), chapter 34

(Overseas Environmental Compliance Ashore) of this manual for information on Navy activities in foreign countries, and chapter 35 (Environmental Compliance Afloat) of this manual for information on ship discharges.

20-1.2. References

(a) E.O. 12088, Federal Compliance with Pollution Control Standards;

(b) 40 CFR;

(c) 33 U.S.C.;

(d) 42 U.S.C.;

(e) OPNAVINST F3100.6J, Special Incident Reporting (OPREP-3 PINNACLE, OPREP-3 NAVY BLUE, and OPREP-3 NAVY UNIT SITREP) Procedures (NOTAL);

(f) Assistant DUSD(I&E) memo of 20 Apr 11, DoD Legal Guidance on Stormwater Charges Under Clean Water Act;

(g) Public Law 83–703, Atomic Energy Act of 1954;

(h) United Nations, Convention on the Law of the Sea, of December 1982; and

(i) 54 FR 777.

20-2 Legislation

a. Legislation that contains provisions that pertain to the restoration, maintenance, and protection of the nation's waters includes:

(1) Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387;

(2) Coastal Zone Management Act, 16 U.S.C. §1451–1466;

(3) Federal Facilities Compliance Act, 42 U.S.C. §6961;

(4) Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401–1445;

(5) Oil Pollution Act of 1990, 33 U.S.C. §2701–2762;

(6) Rivers and Harbors Appropriations Act (Rivers and Harbors Act), 33 U.S.C. §407; and

(7) Safe Drinking Water Act (SDWA) (Title XIV of the Public Health Service Act), 42 U.S.C. §300f–300j-26.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

20-3 Requirements

20-3.1. Compliance. As required by reference (a) and the CWA, Navy facilities must comply with all substantive and procedural requirements applicable to point and nonpoint sources of pollutants. These requirements include Federal, State, interstate, and local laws; executive orders (E.O.); and regulations respecting the control and abatement of water pollution such as load reduction requirements resulting from the development of total maximum daily loads (TMDL) for impaired water bodies (reference (b), part 130). Navy facilities must comply in the same manner and same extent as any nongovernmental entity, including paying reasonable service charges. The Navy does not, however, pay civil penalties or fines under the CWA. The discharge of any pollutant that does not comply with effluent standards or other procedural requirements is unlawful. The discharge of radiological, chemical, or biological warfare agents or low-level radioactive waste is prohibited.

20-3.2. Surface Water Discharges

a. Direct Discharges. National Pollutant Discharge Elimination System (NPDES) permits are required for all point-source discharges of pollutants to waters of the United States (reference (c), section 1342). For all discharge points in States with an Environmental Protection Agency (EPA)-approved NPDES program for Federal facilities, permits must be requested from the applicable State environmental agency. For all discharge points in States that do not have authority to issue NPDES permits for Federal facilities, permits must be requested from EPA. All permit-compliance records must be retained as required by Federal, State, and local regulations.

(1) Wastewater Discharges. Navy installations must explore opportunities for pollutant reduction or elimination in wastewater discharges through product substitution, wastewater reduction, water conservation, reuse, and recycling. Domestic and industrial wastewater treatment plant discharges as well as wastewater and cooling water discharges to waters of the United States from other processes from Navy installations must comply with all terms and conditions of EPA, State, or locally issued permits.

(2) Stormwater Discharges. Pollutants must be reduced or eliminated from stormwater discharges by control of pollutant sources through procedural and structural best management practices (BMP).

(a) Compliance. Stormwater discharges must meet all applicable Federal, State, and local permit requirements. Stormwater discharges are a major contributor to surface water quality impairment. The NPDES Stormwater Program regulates stormwater discharges from municipal separate storm sewer systems (MS4), construction activities, and industrial activities. These types of stormwater discharges are either regulated under Phase I or Phase II of the CWA Stormwater Program, included in reference (b), Part 122. Phase I regulations apply to MS4s serving a population of 100,000 or more, as well as stormwater discharges associated with regulated industrial activities as defined in the stormwater regulations, including construction activities

disturbing 5 acres of land or more. Phase II regulations apply to MS4s serving a population less than 100,000 that are located in an "urbanized area," and construction activities that disturb greater than or equal to 1 acre of land (including smaller sites in a larger common plan of development or sale), or as specified by an individual State. Federally operated storm sewer systems are defined as MS4s.

(b) Permit Application. Navy installations subject to stormwater regulations must apply for NPDES permit coverage under either an individual permit or a general permit. Installations applying for coverage under an individual or general stormwater NPDES permit will be required to prepare a stormwater pollution prevention plan (SWPPP). Reference (b), section 122.26, paragraph (a) includes information on the types of stormwater discharges that are regulated. Reference (b), section 122.34, paragraph (b)(3)(iii) includes information on non-stormwater discharges such as water line flushing, lawn watering, and firefighting activities that may be significant contributors of pollutants to an MS4.

(3) Pesticide Discharges. Installations must obtain an NPDES permit for all point-source discharges to waters of the United States of biological pesticides and chemical pesticides that leave a residue. In many cases, installations can be covered under an EPA- or State-issued general permit. Installations must ensure onsite contractors are covered under the permit or require that contractors obtain their own permit.

b. Indirect Discharges. Indirect discharges to Navy-owned treatment works (NOTW), publicly owned treatment works (POTW), and privately owned treatment works must meet all applicable Federal effluent guidelines (reference (b), Parts 403 and 405–471) and any State, county, and local permit requirements pursuant to the CWA. Industrial wastewater discharges from Navy facilities may be subject to Federal categorical treatment or pretreatment standards (reference (b), Parts 403 and 405–471) or other applicable standards as established by State, county, and local regulations.

c. Nonpoint-Source Control. Nonpoint source discharges must conform to best management practices and control measures as defined by Federal, State, or local requirements (reference (c), section 1329). Navy installations must comply with State and local laws and regulations regarding nonpoint-source pollution control.

20-3.3. Subsurface Discharges. Discharges to groundwater must meet applicable requirements of SDWA, State and local implementing requirements, and applicable permit conditions. Additional information on SDWA's Underground Injection and Wellhead Protection Program can be found in chapter 21 (Safe Drinking Water Compliance Ashore), paragraphs 21-3.5 and 21-3.6 of this manual. All owners or operators of Class I and V wells (as defined in reference (b), section 144.6) and all applicants for UIC permits must comply with applicable provisions of reference (b), section 147.1250, subpart Z, and sections 144, 146, and 148. Onsite wastewater treatments systems, commonly referred to as septic systems, can also be considered Class V underground injection wells. New large-capacity cesspools are banned nationwide as of 5 April 2000 (new large-capacity cesspools are those for which construction was started on or after 5 April 2000 (reference (b), section 144.88, paragraph (a)(2)). Large-capacity cesspools may no longer be constructed. Existing large-capacity cesspools should have been closed by 5 April 2005 (reference (b), section

144.88, paragraph (a)(1)(i)). The definition of large-capacity cesspool may vary from State to State.

20-3.4. Land Application. A permit may be required from the State for land application that includes the use and disposal of treated wastewater, biosolids (sewage sludge), industrial sludge, or septage. These systems may include spray fields, tile fields, rapid infiltration basins, percolation ponds, and evaporation basins.

20-3.5. Hazardous Pollutant Discharges. Hazardous waste (HW) may be introduced into a treatment facility only if the facility is specifically permitted to treat the type of waste introduced under a Resource Conservation and Recovery Act (RCRA) treatment, storage, and disposal permit or a "permit by rule" (reference (d), section 6901 et seq.). Reference (d), section 6939e provides Federally owned treatment works (FOTW) with the same domestic sewage exclusion provided to POTWs, provided no HW is introduced to the FOTW.

20-3.6. Sludge Disposal. The sewage sludge use and disposal regulation (reference (b), Part 503) sets national standards for management and disposal of biosolids (sewage sludge). The rule is designed to protect human health and the environment when biosolids (sewage sludge) is beneficially applied to the land, placed in a surface disposal site, or incinerated. Generally, NOTW biosolids (sewage sludge) disposal requirements are incorporated into NPDES permits. If they are not, reference (b), Part 503 is self-implementing in most cases. This means the rule will generally be fully enforceable, even in the absence of a permit. In addition, all installations must comply with applicable Federal, State, and local biosolids (sewage sludge) disposal requirements. Navy facilities must take all reasonable measures to beneficially dispose of sludge including land application methods and composting.

20-3.7. Waste Disposal Sites. Surface water runoff and leachate from waste disposal sites must conform to applicable requirements specified for disposal of HW (refer to chapter 27 (Hazardous Waste Management Ashore) of this manual) or solid waste (refer to chapter 28 (Solid Waste Management and Resource Recovery Ashore) of this manual).

20-3.8. Dredge and Fill Operations

a. Permit Application

(1) Permit applications must be made to the U.S. Army Corps of Engineers (USACE) for:

(a) A permit to construct a structure in, or to otherwise alter or modify, navigable waters or wetlands;

(b) Dredge operations, including maintenance dredging; and

(c) Dredge disposal, unless the disposal is permitted under a nationwide permit.

(2) In addition, applicants are required to obtain State certification that such actions comply with applicable State effluent limitations, water quality implementation plans, toxic effluent

limitations, and fish and wildlife protection plans. State certifications may be obtained either as a part of the USACE permit process or independently if no USACE permit is required because of a nationwide permit. Projects covered by a nation-wide permit require USACE notification even though no permit application is required.

b. Permit Renewal. Requests for renewal of permits for maintenance dredging from USACE must be filed with the cognizant district engineer at least 2 years before expiration.

c. Permit Exemptions. Projects for which environmental impact statements (EIS) have been written and submitted to Congress and that have specific Congressional authorization do not require USACE or State permits. Projects covered by a nationwide general permit require USACE notification, but do not require individual permits. On a case-by-case basis, however, some additional individual requirements may be applied by USACE or States, for example, to account for regional difference in aquatic resource functions and services.

d. Discharges of Dredged or Fill Material

(1) Early planning for dredge spoils disposal site selection, preparation, and use is essential. The CWA requires a permit for discharge of dredged or fill materials into waters of the United States. Refer to chapter 27 (Hazardous Waste Management Ashore), chapter 30 (Oil Management Ashore), chapter 31 (Storage Tanks), and chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual for information on oil and HW handling requirements. Discharges of dredged or fill material into waters under USACE jurisdiction must comply with Federal regulations. Discharges to waters of the United States under the regulatory jurisdiction of States must comply with applicable permits and discharge regulations, including State fee schedules. Disposal by ocean dumping requires a USACE permit and compliance with EPA requirements (refer to chapter 36 (Permitted Ocean Disposition) of this manual).

(2) Existing dredge spoil disposal sites, approved by USACE, must be used wherever possible. Proposed new dredge spoil disposal sites must be identified to the cognizant USACE district engineer for evaluation and approval from 2 to 2.5 years before project initiation. Disposal site selection may entail field sampling and analyses. Elutriate and bioassay testing may be required to determine if the proposed dredged materials should be classed as polluted or unpolluted. Other surveys, including site monitoring, may be required at disposal sites before, during, and after disposal (reference (b), Part 503).

e. Environmental Assessment (EA) or EIS. An EA or EIS must be prepared by the sponsoring Navy installation and reviewed under chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual for each project involving a change to the width or depth of a channel or other water body.

20-3.9. In-Water Construction. USACE and some States require a permit for any in-water construction. Installations proposing in-water construction must obtain applicable permits prior to award of construction contracts and comply with all permit conditions. Construction activities that will need permit coverage are construction of piers, wharfs, bulkheads, pilings, marinas, docks, ramps, floats, moorings, and like structures; construction of wires and cables over the water, and

pipes, cables, or tunnels under the water; dredging and excavation; any obstruction or alteration of navigable waters; depositing fill and dredged material; filling of wetlands adjacent or contiguous to waters of the United States; construction of riprap, revetments, groins, breakwaters, and levees; and transportation of dredged material for dumping into ocean waters.

20-3.10. Watershed Management

a. Installations should apply a watershed approach when evaluating the impact of their overall activities on the quality of area water resources and address water impacts by reducing pollutant discharges. A watershed approach is an integrated holistic management strategy that addresses the condition of land areas within the entire watershed. It ensures nonpoint sources as well as point sources of pollution are addressed. Navy water program managers should consult other media experts (e.g., natural resources; RCRA; Comprehensive Environmental Response, Compensation, and Liability Act; air) to fully implement the watershed approach.

b. Installations that discharge pollutants to or near impaired waters should get involved as early as possible in the State or local process that leads to the identification of impaired waters and the development of TMDLs. Even those installations with only a potential to discharge pollutants to an impaired water body should participate as stakeholders in the process. Participation should occur early in the TMDL process, including, when practicable, before the State or other authority approves or creates a schedule for establishing the applicable TMDL.

20-3.11. Pretreatment Program. NOTWs must develop, implement, and maintain pretreatment programs for all known industrial dischargers to the NOTW that could affect treatment processes or impact compliance with permit limits. Installations must periodically develop a list of all industrial waste discharges on the installation. This is to be accomplished no less than once every 5 years as part of an industrial wastewater management plan.

20-3.12. Water Reuse. To support water conservation efforts, Navy commands must ensure all activities implement water reuse practices to reclaim, recycle, and reuse wastewater to the maximum extent feasible, taking into account economic payback, process requirements, and the scarcity of water resources available to the primary water supplier for the installation. Reuse of water must be accomplished per all applicable Federal, State, and local laws; E.O.s; regulations; and requirements.

20-3.13. Spills. Spills of sewage or other substances that might be considered pollutants that endanger critical water areas, have the potential to generate public concern, become the focus of enforcement action, or pose a threat to public health or welfare must be reported by Operational Report (OPREP-3) Navy Blue or OPREP-3 Navy Unit Situation Report (SITREP) per reference (e). Spills of oil and hazardous substances must be reported per the requirements in chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual.

20-3.14. Fines, Penalties, and Notices of Violation. There is no waiver of sovereign immunity for fines and penalties in the CWA. This includes EPA-imposed penalties, State-imposed penalties, local penalties, or any penalties sought by citizens in a citizen's suit. Because the Navy cannot pay penalties, the Navy also cannot undertake supplemental environmental projects in lieu of

environmental penalties. Refer to chapter 19 (Processing Notices of Violation under Environmental Laws and Regulations) of this manual for more detailed and specific Navy policy guidance on what actions must be taken upon receipt of any NOV of Federal, State, interstate, or local environmental control laws, E.O.s, or regulations. This paragraph does not apply to payment of reasonable stormwater service charges, which are discussed in paragraph 20-3.17 of this manual.

20-3.15. Request to Board or Regulate Navy Vessels. Refer to chapter 35 (Environmental Compliance Afloat) of this manual if there is any request by Federal, State, or local regulators to board or regulate any Navy vessel.

20-3.16. Training Requirements. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental readiness training courses. In addition to NERTP-sponsored courses, other specialty schools may resource, develop, and deliver environmental courses to meet their specific requirements. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the Civil Engineer Corps Officer School and Naval Safety and Environmental Training Center Web sites (refer to appendix E (Web Sites) of this manual for Web site addresses). Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental readiness training requirements as well as requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered.

a. Personnel who manage water programs at Navy installations should take some or all of the following courses as needed to build and maintain proficiency in performing their specific job duties:

(1) Basic Environmental Law (A-4A-0058);

(2) Environmental Quality Sampling (A-4A-0026); and

(3) Water Quality Management (WENV 541).

b. Wastewater treatment plant operators must receive training and certification as required by applicable State and local water quality regulations. Where State or local regulations do not specify training, the operator training plan must include:

(1) Basic wastewater plant design;

(2) Wastewater plant operations;

(3) Basic maintenance and calibration of plant controls and equipment;

(4) Wastewater treatment principles;

(5) Wastewater sampling and analysis; and

(6) Wastewater plant and systems documentation and reporting requirements.

20-3.17. Payment of Reasonable Stormwater Service Charges

a. Reference (c), section 1323 requires Federal entities to pay to state or local authorities a "reasonable service charges," to include any reasonable, nondiscriminatory fee, charge, or assessment that is based on some fair approximation of the proportionate contribution of the facility to stormwater pollution and is used to pay or reimburse the costs of managing stormwater from the Federal property or facilities. The stormwater management costs that may be reimbursed include the full range of costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge. Any such reasonable fee, charge, or assessment must be paid regardless of whether it is denominated as a fee or a tax.

b. Determining whether a stormwater service charge is "reasonable" and therefore payable requires a fact-specific analysis of the circumstances. In reference (f), the Department of Defense provides guidance for conducting this analysis using seven criteria. To be payable by a Navy facility, a stormwater service charge:

(1) Must relate to the control and abatement of water pollution;

(2) Must be reasonable;

(3) Must be nondiscriminatory;

(4) Must be based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution;

(5) Must be measured in terms of quantities of pollutants, or volume or rate of stormwater discharge or runoff from the property or facility;

(6) Must be used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste); and

(7) May include the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge.

c. Navy installations receiving a new or revised demand for payment of stormwater service charges from a State or local entity must inform Facilities Engineering Command or Region Counsel of the demand for payment, and a coordinated review of the demand by both environmental technical and legal staff must be performed. Initial payment of a stormwater service charge must not be made without Region Counsel's advice that it is payable. Recurring charges may be paid without additional legal analysis provided that the justification for and method of calculating the amount payable remains unchanged.

(1) The coordinated review must consist of the following steps:

(a) Ensure that the charges are based on a reasonable assessment of the facility's stormwater profile using the criteria in subparagraph 20-3.17b of this manual. This includes, but is not limited to careful analysis of any assumption or algorithms used to estimate impervious surface area.

(b) Ensure that Region Counsel is given the opportunity to review all coordinated technical and legal reviews. Region Counsel will advise through documented analysis whether the demand to payment is payable under reference (f) and communicate the advice in writing to the Region Comptroller. Payment of a stormwater service charge must not be made without Region Counsel's advice that it is payable.

(2) If after review and negotiation it is determined that the stormwater service charges are valid and appropriate, payment must be made and cannot wait until the next program objective memorandum (POM). The project will be entered as an emergent project into the Environmental Readiness Program Requirements Web (EPRWeb) (refer to appendix E (Web Sites) of this manual for Web site address) under the guidebook for wastewater and stormwater fees along with all legal and cost documents that support the requirement. A legal memorandum or assessment supporting the decision to pay must be attached to the EPR project demonstrating how the seven criteria in subparagraph 20-3.18b of this manual have been met. This memorandum or assessment only needs to be resubmitted in subsequent EPRWeb projects if the original assessment changes.

(3) If Region Counsel determines that a stormwater service charge is not payable, Region Counsel must provide a legal opinion providing the reasons for determining why the bill is not payable, along with the bill itself through the chain of command to the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division, and Assistant Deputy Under Secretary of Defense for Installations and Environment prior to communication of the determination to the State or local government entity that presented the demand for payment. The Department of Justice has determined that no stormwater charge may be denied based on lack of specific appropriations act language.

20-4 Responsibilities

20-4.1. BSOs must:

a. Ensure activities covered within this chapter and under their command comply with current Federal, State, regional, and local laws, E.O.s, regulations, and permits; and

b. Plan, program, budget, and provide funding for current and future requirements under the CWA and revisions to the applicable regulations.

20-4.2. Commander, Naval Facilities Engineering Command must:

a. Prepare permit applications for construction and initial operation of military-construction-funded projects, pay related fees from the funds appropriated and budgeted for the projects, and provide permit applications for submittal to the applicable regulatory agency;

b. Assist commands, as requested, in identifying applicable effluent standards, appropriate control technologies, and BMPs, and in developing SWPPPs and industrial wastewater management plans;

c. Coordinate the review of all projects for the construction of new treatment works with the appropriate Federal, State, and local regulatory agencies;

d. Maintain liaisons with USACE to facilitate dredge and fill project planning, preparation of EAs and EISs, and disposal site approval; and

e. Operate and maintain NOTWs.

20-4.3. Region commanders and commanding officers (CO) of shore installations must:

a. Comply with applicable substantive and procedural Federal, State, local, and regional clean water laws; E.O.s; regulations; and permits;

b. Ensure all required permit applications are prepared and signed by a responsible official. The responsible official assumes responsibility for the accuracy and completeness of permit applications and could be subject to criminal sanctions if the application is deficient. The responsible official must also periodically certify ongoing compliance with all permit provisions once a permit is issued. The responsible official could be either the CO of the Navy installation or the Navy Region Commander having responsibility for the overall operation of the principal geographic unit where the installation is located. Region commanders and COs may delegate permits to tenant or mission commanders when requested for mission critical aspects. Tenant commands must follow the host and tenant relationship guidelines located in chapter 1 (Organization and Coordination) of this manual;

c. Designate a responsible official to sign all routine correspondence required by a permit, such as monthly discharge monitoring reports;

d. Identify and submit environmental compliance projects, per chapter 1 (Organization and Coordination) of this manual, required to bring wastewater sources into compliance with applicable requirements;

e. Identify, plan, program, budget, and implement requirements for all current and future requirements under CWA and State and local regulations, including maintenance and inspection requirements for stormwater management features;

f. Improve opportunities to recycle and reclaim and reuse wastewater and sludge;

g. Develop, implement, and maintain current SWPPPs;

h. Ensure environmental personnel are properly trained and certified, as applicable; and

i. Implement the instructions outlined in chapter 19 (Processing Notices of Violation under Environmental Laws and Regulations) of this manual upon receipt of a CWA violation.

20-4.4. COs or officers in charge of tenant commands that operate or use sewage and wastewater collection or treatment systems must:

a. Ensure compliance with all permit conditions for applicable Federal, State, and local permits;

b. Ensure compliance with the policies of this manual and with written sewage and wastewater collection and treatment requirements established by the BSO and commanders of relevant districts and regions; and

c. Advise their host command of any changes in process, materials, or procedures that may impact permit requirements.

20-5 Definitions

20-5.1. Contiguous Zone. The entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone. For the purposes of CWA jurisdiction, the Contiguous Zone is 12 nautical miles from the baseline from which the territorial sea is measured.

20-5.2. Direct Discharge. A direct discharge is a discharge of a pollutant directly into waters of the United States.

20-5.3. Discharge. Discharge includes, but is not limited to any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of any pollutant, but excludes certain cases under reference (g), section 402.

20-5.4 Discharge of a Pollutant

a. Discharge of a pollutant includes:

(1) Any addition of any pollutant or combination of pollutants to waters of the United States from any point source; or

(2) Any addition of any pollutant or combination of pollutants to waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft that is being used as a means of transportation.

b. This definition includes additions of pollutants into waters of the United States from:

(1) Surface runoff that is collected or channeled by man;

(2) Discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person that do not lead to a treatment work; and

(3) Discharges through pipes, sewers, or other conveyances leading into privately owned treatment works.

c. This term does not include an addition of pollutants by any indirect discharger.

20-5.5. Domestic Discharge. Domestic discharge is any wastewater discharge produced by ordinary living uses, including liquid waste containing animal or vegetable matter in suspension or solution; water-carried waste from the discharge of water closets, laundry tubs, washing machines, sinks, or dishwashers; or other source of water carried wastes of human origin.

20-5.6. Dredge and Fill Operations. Dredge and fill operations encompass construction or other work involving excavation or discharge of dredged or fill material in waters of the United States.

20-5.7. Federally Owned Treatment Works. An FOTW is a domestic sewage treatment works owned by the Federal government. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the FOTW. FOTWs that discharge treated effluent directly to waters of the United States are "treatment works." FOTWs that discharge pretreated effluent to another treatment works for final treatment and ultimate discharge to waters of the United States are "pretreatment works."

20-5.8. Indirect Discharge. An indirect discharge is a nondomestic discharge introducing pollutants to a POTW, FOTW, or NOTW.

20-5.9. Industrial Wastewater. Industrial wastewater is water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Examples of this type of wastewater on Navy installations includes, but is not limited to wastewater resulting from production of energetics and propellants, used oil and solvent handling operations, photo and X-ray processing, laboratories and clinics activities, and operation of large food services and large-scale laundries.

20-5.10. Industrial Wastewater Management Plan. An industrial wastewater management plan is a document that includes a list of all industrial discharges and treatment processes, a copy of the

applicable permit(s), and a description of how industrial wastewater will be managed to maintain compliance with the applicable permit(s).

20-5.11. Industrial Wastewater Treatment Plant. An industrial wastewater treatment plant is a facility that treats exclusively nondomestic wastewater. Treatment may be chemical or physical. An oily waste treatment facility is a type of industrial wastewater treatment plant.

20-5.12. Injection Well. An injection well is any excavation that is cored, bored, drilled, jetted, dug, or otherwise constructed, the depth of which is greater than its largest surface dimension used to inject fluids into the subsurface. An injection well may also be any dug hole with a depth that is greater than the largest surface dimension. Also included are improved sinkholes or subsurface fluid distribution systems.

20-5.13. Land Application. Land application is the use or disposal of treated wastewater, biosolids (sewage sludge), industrial sludge, or septage by application upon or incorporated into the soil with no resulting discharge to surface waters.

20-5.14. National Pollutant Discharge Elimination System. NPDES is a national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing CWA permits regulating discharges of pollutants from point sources, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, and 405 of the CWA. The term includes a State or interstate program that has been approved or authorized by EPA.

20-5.15. Navigable Waters. As defined in section 502.7 of the CWA, navigable waters means waters of the United States, including the territorial seas.

20-5.16. Navy-Owned Treatment Works. An NOTW is a type of FOTW that is owned by a Navy installation. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the NOTW. NOTWs that discharge treated effluent directly to waters of the United States are “treatment works.” NOTWs that discharge pretreated effluent to another treatment works for final treatment and ultimate discharge to waters of the United States are Navy-owned pretreatment works.

20-5.17. Nonpoint-Source Pollution. Nonpoint-source pollution is water pollution originating from diffuse, non-discrete sources. Nonpoint-source water pollution generally results from land runoff, percolation, atmospheric deposition, hydrologic modification, or precipitation.

20-5.18. Point Source. 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.

20-5.19. Pollutant. Pollutants include dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, biosolids (sewage sludge), munitions, chemical wastes, biological

material, radioactive materials (other than those regulated as source, by-product, or special nuclear material under reference (g)), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

20-5.20. Pretreatment. Pretreatment is 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 otherwise introducing such pollutants into a POTW, FOTW, or NOTW.

20-5.21. Privately Owned Treatment Works. A privately owned treatment works is any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature that is owned by a private entity or corporation. This definition includes sewers, pipes, and other conveyances only if they convey wastewater to a privately owned treatment works providing treatment.

20-5.22. Publicly Owned Treatment Works. A POTW is any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature that is owned by a State or a municipality. This definition includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW providing treatment.

20-5.23. Stormwater. Stormwater is the portion of precipitation that does not naturally percolate into the ground or evaporate but flows via overland flows, channels, or pipes into a defined surface water channel or stormwater system during and immediately following a storm event. Examples include stormwater runoff, surface water runoff, infiltration (other than infiltration contaminated by seepage from sanitary sewers or by other discharges), and drainage related to storm events or snowmelt.

20-5.24. Territorial Sea Baseline. The territorial sea baseline is the line defining the shoreward extent of the territorial sea of the United States drawn according to the principles, as recognized by the United States, of references (h) and (i). Normally, the territorial sea baseline is the mean lower low-water line along the coast of the United States, as shown on official U.S. nautical charts.

20-5.25. Territorial Seas of the United States. For the purpose of CWA jurisdiction, territorial seas of the United States are the belt of seas measured from the line of ordinary low water along that portion of the coast that 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 miles.

20-5.26. Total Maximum Daily Load. The TMDL is the amount of a specific pollutant that a water body can receive and assimilate and still meet water quality standards. The TMDL consists of the sum of waste load allocations from point sources, load allocations from nonpoint sources, and a margin of safety.

20-5.27. Treatment Works. A treatment works is any domestic or industrial wastewater treatment devices or systems, regardless of ownership (including Federal facilities, such as FOTWs and NOTWs), used in the storage, treatment, recycling, and reclamation of domestic and industrial wastewater (including land dedicated for the disposal of associated sludge).

20-5.28. Water Quality Standards. Water quality standards are the water quality goals of a water body (or a portion of the water body) designating the use or uses to be made of the water and establishing criteria necessary to protect those uses, including anti-degradation policies. Standards can be either State regulations or laws, or Federal regulations applied to a specific State.

20-5.29. Waters of the United States. The definition of waters of the United States has been intensively litigated and will likely remain in litigation for an indefinite period. Navy organizations with activities that require, or may require, a permit under section 402 of the CWA (NPDES) or section 404 of the CWA (dredged or fill material) should contact environmental counsel for the current state of litigation and definition of waters of the United States.

20-5.30. Watershed. A watershed is a drainage area or basin in which all precipitation and other waters drain or flow to a marsh, stream, river, lake, or groundwater.

CHAPTER 21

SAFE DRINKING WATER COMPLIANCE ASHORE

Table of Contents

21-1 Scope 21-1
21-1.1. Related Chapters 21-1
21-1.2. References 21-2

21-2 Legislation 21-3

21-3 Requirements 21-3
21-3.1. Executive Agent for Drinking Water Quality 21-3
21-3.2. Water System Classification 21-4
21-3.3. Consecutive Public Water Systems 21-4
21-3.4. Water System Monitoring 21-5
21-3.5. Consumer Confidence Reports 21-13
21-3.6. Underground Injection Control Program 21-14
21-3.7. Wellhead Protection Program 21-14
21-3.8. Surface Water Protection Program 21-14
21-3.9. Water Underground System Vulnerability Assessments and Emergency Response Plans 21-14
21-3.10. Cross-Connection and Backflow Prevention 21-15
21-3.11. Operation and Maintenance 21-15
21-3.12. Sanitary Surveys 21-16
21-3.13. Lead-Free Plumbing 21-18
21-3.14. Consumptive Use Permits 21-18
21-3-15. Exemption from Permitting 21-18
21-3.16. Recordkeeping 21-18
21-3.17. Sampling and Analysis 21-19
21-3.18. Fines and Penalties 21-19
21-3.19. Certification and Training 21-19

21-4 Responsibilities 21-20

21-5 Definitions 21-21

21-1 Scope. This chapter identifies requirements; establishes policy and guidance; and assigns responsibilities for the production, use, and protection of drinking water at shore installations in the United States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

21-1.1. Related Chapters. Drinking water performance reporting must be reported per chapter 4 (Environmental Performance Reporting) of this manual. Chapter 7 (Sampling and Laboratory Testing) of this manual provides Navy policy regarding sampling and testing protocols.

Violations of the Safe Drinking Water Act (SDWA) must be reported per chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual. Navy installations overseas must follow chapter 34 (Overseas Environmental Compliance Ashore) of this manual for drinking water requirements.

21-1.2. References

(a) 40 CFR;

(b) EPA Operator Certification Guidelines Implementation Guidance of January 2000;

(c) NAVMED P-5010-5, Manual of Naval Preventive Medicine, Water Supply Ashore, 23 June 2008;

(d) BUMEDINST 6240.10C, Department of the Navy Medical Drinking Water Program, 18 Sep 2018;

(e) EPA 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities: Revised Manual, October 2018;

(f) EPA 816-R-09-011, 2nd Revision, Preparing Your Drinking Water Consumer Confidence Report, Guidance for Water Suppliers, of April 2010;

(g) Department of Defense Consumer Confidence Report Guidance Document, of September 1999;

(h) Public Law 107–188, Public Health Security and Bioterrorism Preparedness and Response Act of 2002;

(i) USD(AT&L) memo of 3 Jul 03, DoD Policy on Drinking Water Vulnerability Assessments and Emergency Response Plans;

(j) Naval Facilities Engineering Command Business Management System, B-24.10 Cross-Connection Control and Backflow Prevention, of September 2017;

(k) EPA 816-R-03-002, Cross-Connection Control Manual, 1973, updated 2003;

(l) American Water Works Association Manual of Standard Practices, Emergency Planning for Water Utility Management, Fourth Edition, 2001;

(m) EPA 815-R-99-016, Guidance Manual for Conducting Sanitary Surveys of Public Water Systems; Surface Water and Ground Water Under the Direct Influence (GWUDI) of Surface Water on Sanitary Surveys, April 1999; and

(n) Public Law 104–182, Safe Drinking Water Act Amendments of 1996.

21-2 Legislation

a. Legislation and regulations that contain provisions that pertain to the regulation of the nation's public drinking water supply and its sources include:

(1) Safe Drinking Water Act (SDWA) (Title XIV of the Public Health Service Act), 42 U.S.C. §300f–300j-26;

(2) National Primary Drinking Water Regulations (NPDWR), 40 CFR Part 141 et seq.; and

(3) National Secondary Drinking Water Regulations, 40 CFR Part 143.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

21-3 Requirements. Safe drinking water must be provided to all personnel assigned to Navy shore facilities and installations. Navy water systems must comply with all applicable Federal, State, and local safe drinking water regulations, executive orders (E.O.), and Navy policy. In general, States are responsible for implementation of SDWA programs.

21-3.1. Executive Agent for Drinking Water Quality

a. Commander, Navy Installations Command (CNIC) is designated as executive agent for drinking water quality matters for all Navy shore facilities and installations worldwide, including government properties; leased facilities; non-contiguous facilities; and Naval Sea Systems Command, Bureau of Medicine and Surgery (BUMED), and other budget submitting office (BSO)-operated facilities. This responsibility extends to all property that is operated by or under the responsibility of an installation commanding officer (ICO).

b. As executive agent for drinking water quality at Navy shore facilities and installations, CNIC must serve as the single point of contact on all matters related to water systems that provide drinking water to Navy personnel. Executive agent responsibility must include oversight and ensure:

(1) Compliance testing and monitoring of drinking water supplied both by Navy-owned treatment works and non-Navy (off-installation) drinking water suppliers;

(2) Treatment and distribution of drinking water;

(3) Operation and maintenance of all aspects of drinking water systems;

(4) Training and certification of personnel who operate such systems;

(5) Preparation and submission of annual consumer confidence reports (CCR) where applicable; and

(6) Preparation and submission of applicable public notifications and contingency plans for alternative water supplies required in the event that a water system is unable to supply drinking water that meets public health standards.

c. By 15 February of each year CNIC must provide an annual report on the status of Navy shore facility and installation drinking water quality worldwide for the previous fiscal year (FY) to the Deputy Chief of Naval Operations for Fleet Readiness and Logistics (CNO N4), who will submit to the Vice Chief of Naval Operations (VCNO). This detailed report must include:

(1) An inventory of all water systems providing drinking water to Navy shore facilities and installations;

(2) An analysis of the quality of drinking water provided by each system;

(3) Identification of any outstanding maintenance or repair requirements;

(4) Identification of any operational and water quality deficiencies; and

(5) Any other significant discrepancies or problems and associated funding requirements. Discrepancies and problems to be identified include, but are not limited to violations of applicable standards, issuance of public notifications, delayed or deferred maintenance and repair, and any case in which an applicable water system outside the United States is providing Navy consumers with lower-quality drinking water than provided to Navy consumers within the United States as determined by the executive agent. Significant issues or discrepancies noted must be accompanied by a plan of action to address the matter expeditiously and must include contingency plans to provide alternate water supplies when necessary.

21-3.2. Water System Classification. Water systems are initially classified as public water systems (PWS) or non-PWSs. Federal, State, and local regulations for determining compliance with SDWA generally apply to PWSs and are not applicable to non-PWSs. Regulatory requirements for each PWS depend on the classification of the system (i.e., primary or consecutive; community water system (CWS) or non-community water system; transient, non-community water system (TNCWS) or non-transient, non-community water system (NTNCWS)); and the type of source water used (i.e., groundwater, surface water, or ground water under the direct influence (GWUDI) of surface water). Refer to section 21-5 and figure 21-1 of this manual to determine the type of water system in operation.

21-3.3. Consecutive Public Water Systems

a. Consecutive PWSs generally are not subject to the requirements of NPDWRs if they satisfy all of the criteria specified in reference (a), section 141.3:

(1) Consist only of distribution and storage facilities and do not have any collection and treatment facilities;

(2) Obtain all their water from, but are not owned or operated by, a PWS to which the regulations apply;

(3) Do not sell water to any persons; and

(4) Are not carriers that convey passengers in interstate commerce.

b. While there is no definition of "selling water" in SDWA, the Environmental Protection Agency (EPA) defines selling water in reference (b) as follows: "A distributor of water for human consumption 'sells' water within the meaning of the Act if it charges consumers for the water as a separate item or bills separately for the water it provides. (House Report No. 93-1185). Conversely, if the entity includes charges for water in the rental fee, then it is not selling water within the context of the Act." The Navy does not consider reimbursement for distribution-system maintenance costs and water from one Federal entity to another as selling water; this is merely an internal allocation of funds within the executive branch. This EPA definition would apply to non-Federal consumers including banks, credit unions, private companies, and restaurants to which the Navy distributes water.

c. When a PWS supplies water to one or more other PWSs, State regulatory authorities, with the concurrence of EPA, may modify monitoring requirements when the interconnection of the systems justifies treating them as a single system for monitoring purposes as provided in reference (a), section 141.29.

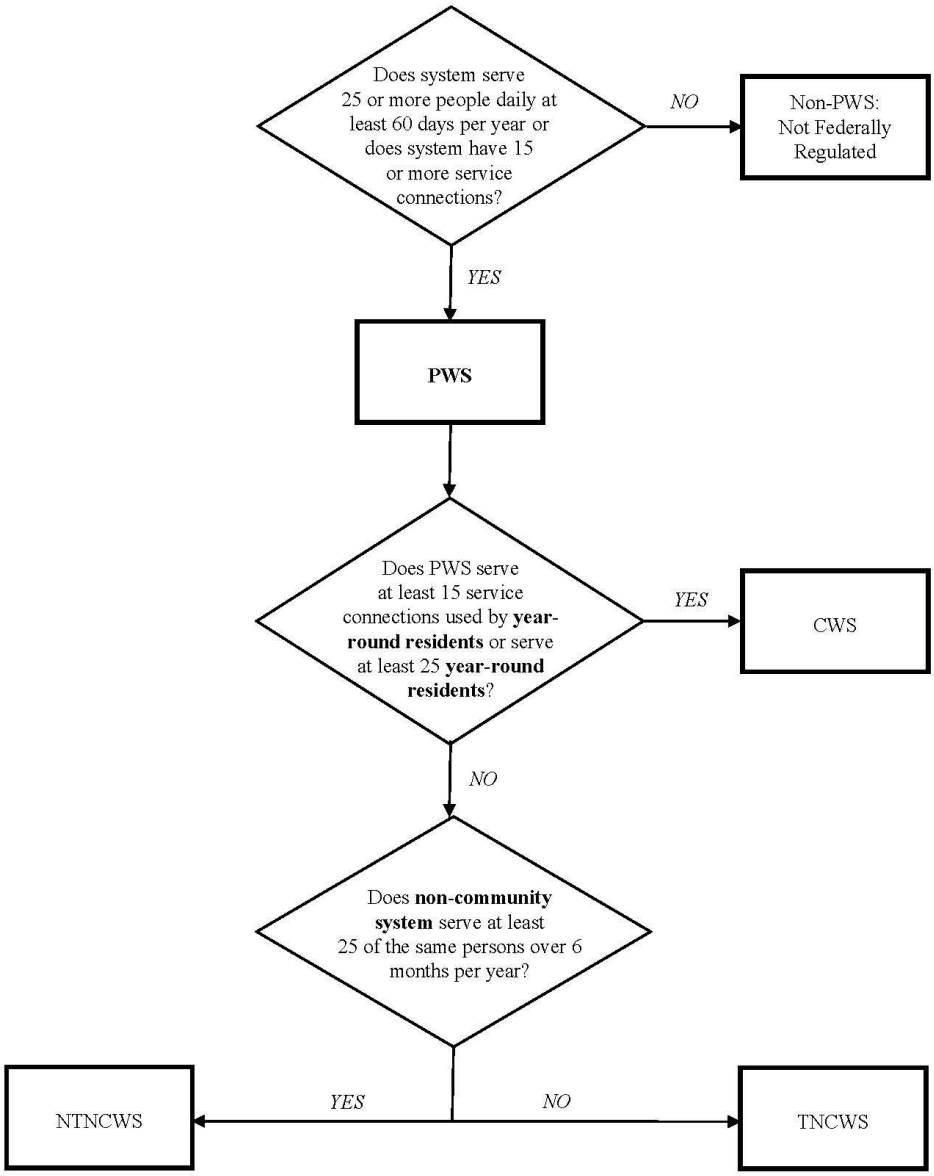
d. Consecutive PWSs that meet the exemption criteria in subparagraph 21-3.3a of this manual are required to comply with the monitoring in subparagraphs 21-3.4a, 21-3.4b, 21-3.4c, and 21.3.4d(3) of this manual.

21-3.4. Water System Monitoring. Navy PWSs must, at a minimum, accomplish the monitoring described in subparagraphs 21-3.4a through 21-3.4o of this manual. Consecutive PWSs that meet the exemption requirements in subparagraph 21-3.3a of this manual are required to meet the monitoring requirements in subparagraphs 21-3.4a, 21-3.4b, 21-3.4c, and 21.3.4d(3) of this manual. Installations must consult with BUMED for public health and preventive medicine guidance for Navy personnel concerned with medical surveillance of PWSs at shore installations per references (c) and (d).

a. Coliform Bacteria

(1) Navy PWSs must perform bacteriological monitoring as specified in the Total Coliform Rule in reference (a), section 141.21. This rule sets requirements for coliform levels in drinking water. Coliform bacteria in drinking water indicate the treatment system is not working or there are problems in the distribution system. Reference (a), section 141.21 outlines the minimum number of samples a system must take depending on system size and identifies required sampling and follow-up actions in the event of a positive sample. Beginning 1 April 2016, the Revised Total Coliform Rule established a maximum contaminant level (MCL) for *E. coli* and eliminated the MCL for total coliforms, replacing it with a treatment technique (TT) for coliforms that requires assessment and corrective action.

Figure 21-1. Water System Classification Flowchart



Notes:

1. Per Federal laws. State and local laws may be more stringent.
2. Does not address regulatory requirements of consecutive water systems. This is determined independently by each State.

(2) Navy consecutive PWSs that meet the exemption criteria in paragraph 21-3.3 of this manual are required to comply with the coliform sampling requirements in this subparagraph. Consecutive non-community water systems may request waivers from this requirement. Waivers must be submitted by BSOs to the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) for approval. The use of EPA-approved kits by trained personnel is acceptable for Navy policy total coliform analyses. If a sample tests positive, however, follow-up analysis must be accomplished using a certified laboratory.

b. Asbestos. Navy PWSs with asbestos cement pipes must monitor for asbestos. At a minimum, one sample must be taken during the first 3 years of every 9-year compliance period and must comply with EPA's limit of 7 million fibers per liter (longer than 10 micrometers). Navy consecutive PWSs with asbestos cement pipes that meet the exemption criteria in paragraph 21-3.3 of this manual are required to comply with the asbestos sampling requirements in this subparagraph, regardless of any State variances or waivers. In the event of an asbestos MCL exceedance, which may indicate corrosive water, the cognizant State may need to be consulted to evaluate the corrosivity of the water when supplied by a water purveyor to a Navy consecutive system, and to establish appropriate follow-up monitoring schedules.

c. Lead and Copper Rule. Navy PWSs must comply with all applicable requirements for the control of lead and copper, as stated in the Federal Lead and Copper Rule (reference (a), Part 141, subpart I), to ensure the levels of lead and copper remain below the levels associated with health risks in treated (finished) water and at the consumer's free-flowing tap. Per reference (a), Part 141, and if approved by the State regulatory agency or EPA (whichever has primacy), installations may combine their consecutive PWS monitoring plan as part of the supplier's plan, instead of treating each as a separate system.

(1) Lead Action Level

(a) The lead action level (AL) is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted per reference (a), Part 141 is greater than 0.015 milligrams per liter (mg/L) (i.e., if the 90th-percentile lead level is greater than 0.015 mg/L). The copper AL is exceeded if concentrations of copper in more than 10 percent of tap water samples collected during any monitoring period conducted per reference (a), Part 141 is greater than 1.3 mg/L (i.e., if the 90th-percentile copper level is greater than 1.3 mg/L).

(b) As specified in reference (a), Part 141, if an AL is exceeded, installation PWSs must collect additional water-quality parameter samples. Optimal corrosion-control treatment may also be required. Should prescribed treatment options fail to bring lead levels below the AL, lead service lines may have to be replaced. Water systems that meet the lead and copper ALs during specified monitoring periods may reduce the number and frequency of sampling per reference (a), Part 141.

(2) Lead and Copper in Family Housing. Navy consecutive PWSs that serve family housing and are not included in the primary system sampling pool (at the time the primary system performed Lead and Copper Rule monitoring) for lead and copper must sample for lead

and copper. Installations must ensure the number and location of samples are sufficient to be representative of the system and in conformance with Lead and Copper Rule procedures. This requirement can be waived if Navy installations operating consecutive PWSs document that their water supplier passed its Lead and Copper Rule monitoring and that the water being supplied to them is noncorrosive. A formal waiver does not need to be submitted, but documentation must be maintained in drinking water program records.

d. Disinfectant and Disinfection Byproducts

(1) Stage 1 Disinfectant and Disinfection Byproduct Rule. This rule applies to all CWSs and NTNCWSs that use a chemical disinfectant in any part of their system. It establishes maximum residual disinfectant levels for disinfection using chlorine, chloramine, and chlorine dioxide, and MCLs for disinfection byproducts (i.e., total trihalomethanes (TTHM), haloacetic acids, chlorite, and bromate).

(2) Stage 2 Disinfectant and Disinfection Byproduct Rule**.** This rule provides additional public health protection from disinfection byproducts and tightens compliance monitoring requirements for trihalomethanes and haloacetic acids.

(3) Navy Consecutive PWSs. Navy consecutive PWSs that meet the exemption criteria in paragraph 21-3.3 of this manual are required to comply with sampling requirements for disinfectant and disinfection byproducts:

(a) Sample for TTHMs and haloacetic acids, chlorite, and bromate once per year at a location in the distribution system reflecting the maximum residence time of water in the system. Water systems that exceed the applicable MCL must increase sampling to quarterly. After four consecutive quarters below the MCL, water systems may reduce sampling frequency to annually.

(b) Installations must follow the public notification procedures outlined in this subparagraph if an annual sample, or running annual average (for quarterly sampling) is above an applicable MCL.

e. Lead in Priority Areas Program. Sampling and testing under this program is in addition to, not in place of, sampling conducted to determine whether a water supply system meets system-wide regulations under the Lead and Copper Rule under reference (a), Part 141, subpart I.

(1) All Navy installations must meet EPA guidelines found in reference (e) for testing and sampling of drinking water fountains, faucets, and other outlets from which children may drink, including schools and childcare facilities. For the purposes of this policy, “priority areas” are identified as primary and secondary schools, Child Development Centers (CDC), School Age Care (SAC) programs, Navy-operated 24/7 Group Homes, and youth program facilities. This policy does not extend to recreational or seasonal camping areas or both, on- or off-base residences (e.g., Child Development Homes, Family Child Care Homes used for childcare purposes under the Navy’s Child Development Home program, or schools that are not owned or

managed by the Navy or the Department of Defense (DoD). Reference (e) provides program information including rationale and sampling protocols.

(2) Navy installations must meet EPA guidance through implementation of a three-step program for training, testing, and taking action to reduce lead in drinking water in priority areas following the guidance in reference (e) and any policy or guidance issued by CNIC as executive agent for drinking water matters.

(3) All installations performed sampling and testing at all of the water outlets in priority areas to establish a baseline. Those facilities existing and sampled in 2014 are the Navy baseline. Water outlets in priority areas include:

(a) Drinking fountains, both bubbler and water-cooler style, indoor and outdoor (e.g., playgrounds, sports fields);

(b) Kitchen sinks;

(c) Home economic rooms sinks;

(d) Teacher's lounge sinks;

(e) Nurse's office sinks;

(f) Classroom sinks;

(g) Bathroom faucets;

(h) Utility sinks, hose attachments, and outdoor outlets if used to fill water jugs (e.g., for sports-team practice); and

(i) Any sink known to be or visibly used for consumption (e.g., coffee maker, toothbrushes, or cups are nearby).

(4) If initial screening results exceed lead screening level of 15 parts per billion (ppb) (or lower value if codified by the State), installations must (1) immediately label the outlet as temporarily out of service; (2) use full protocol sampling on affected outlets (EPA's two-step sampling process identified in reference (e)) to determine if the fixture or plumbing is the lead source; and (3) institute permanent corrective actions on two-step sampling results per reference (e).

(5) The sampling and testing program includes sampling and testing water outlets in newly constructed or modified priority areas since the last regular sampling event. Installations must sample and test all water outlets identified in the baseline when Navy-owned water treatment processes or plumbing are added or modified in any way that has the potential to increase lead concentrations (e.g., system includes older plumbing lines and plumbing or solder is disturbed, replaced, or removed). The environmental office must query each priority area

annually to determine if any plumbing or treatment modifications have been made and if sampling needs to be completed. This includes resampling all impacted initial baseline outlets identified in newly constructed or modified priority areas prior to occupancy; however, if the installation can document that all plumbing materials are "lead-free" per section 1417 of SDWA and retain the documentation for future reference, the requirement to test new construction is waived.

(6) Periodic re-testing and sampling of all outlets must be accomplished every 5 years from the established baseline or per State requirements if more frequent.

(7) A copy of all test results must be made available to the local Preventive Medicine Service/Medical Treatment Facility for all schools, CDCs, SACs, Navy-operated 24/7 Group Homes, and youth program facilities where testing was conducted. At a minimum, availability of past testing results must be provided to the parents or legal guardians of children attending the schools, CDCs, SACs, Navy-operated 24/7 Group Homes, and youth program facilities. Direct notification of results must be conducted for any lead detection greater than 15 ppb during a sampling event. Notification requirements and procedures must be coordinated with public affairs staff, the local Navy Preventive Medicine Service/Medical Treatment Facility, and the legal department, and must be conducted in accordance with CNIC guidance. All records of sampling and testing of drinking water in priority areas must be retained for 12 years.

(8) Compliance with the lead in priority areas testing requirements must be verified during annual internal environmental compliance audits and triennial external environmental compliance audits.

f. Arsenic. Navy PWSs are required to comply with EPA's 10-ppb standard, including reporting on the CCR (refer to paragraph 21-3.5 of this manual). Navy consecutive PWSs (including those that are permitted and those that meet the exemption criteria in subparagraph 21-3.3a of this manual) are not required to sample for arsenic unless required by State or local regulations.

g. Radionuclides. Navy PWSs are required to comply with EPA's standards for radionuclides and uranium as follows: combined radium 226/228 (5 picocuries per liter (pCi/L)), beta emitters (4 millirems), gross alpha standard (15 pCi/L), and uranium (30 micrograms per liter). Navy consecutive PWSs (including those that are permitted and those that meet the exemption criteria in subparagraph 21-3.3a of this manual) are not required to sample for radionuclides unless required by State or local regulations.

h. Unregulated Contaminants. Large Navy PWSs and some small PWSs may be required to collect data on a selection of unregulated contaminants. Data from this monitoring will be used in future rulemaking.

i. Surface Water Treatment Rule. The objective of this rule is to reduce illnesses caused by pathogens. It establishes maximum contaminant level goals (MCLG) for viruses, bacteria, and *Giardia lamblia*. The rule requires water systems using surface-water sources or GWUDI of surface water to provide filtration and disinfection. The rule applies TT requirements for filtered

and unfiltered systems. Unfiltered systems must meet specific filter-avoidance criteria by performing source water monitoring and meet site-specific conditions that include a watershed control program to minimize the potential for contamination by disease-bearing pathogens.

(1) Interim Enhanced Surface Water Treatment Rule. This rule strengthens filter filtration and monitoring requirements to optimize treatment reliability. An overall goal of this rule is to minimize levels of *Cryptosporidium* in finished water. The rule applies to PWSs serving at least 10,000 people that use surface water or GWUDI of surface water. It requires States to conduct sanitary surveys for all surface water systems, regardless of size, establishes requirements for covers on new finished water storage facilities, turbidity monitoring and to calculate levels of microbial inactivation to address risk trade-offs with disinfection byproducts. Unfiltered systems must meet specific filter-avoidance criteria by performing source-water monitoring and meet site-specific conditions that include a watershed control program to minimize the potential for contamination by microbials, including control measures for *Cryptosporidium*.

(2) Filter Backwash Recycle Rule. This rule applies to all PWSs using surface water or GWUDI of surface water; using direct or conventional filtration processes; and recycling spent-filter backwash water, sludge thickener supernatant, or liquids from dewatering processes. Recycle systems will be required to return spent-filter backwash water, thickener supernatant, and liquids from dewatering process prior to the point of primary coagulant addition, unless the State specifies an alternative location.

(3) Long-Term 1 Enhanced Surface Water Treatment Rule. This rule applies to PWSs using surface water or GWUDI of surface water and extends protection against *Cryptosporidium* and other disease-causing microbes to water systems that serve fewer than 10,000 people annually. The rule requires turbidity monitoring, calculates levels of microbial inactivation to address risk trade-offs with disinfection byproducts, and establishes requirements for covers on new finished water reservoirs. Unfiltered systems must meet specific filter-avoidance criteria by performing source-water monitoring and meet site-specific conditions that include a watershed control program to minimize the potential for contamination by microbials, including control measures for *Cryptosporidium*.

(4) Long-Term 2 Enhanced Surface Water Treatment Rule. This rule increases monitoring and treatment requirements for water systems at high risk of outbreaks of *Cryptosporidium* and requires PWSs supplied by surface water sources to monitor for *Cryptosporidium*. Those water systems that measure higher levels of *Cryptosporidium* or do not filter their water must provide additional protection by using options from a "microbial toolbox" of treatment and management processes. The rule requires open reservoirs to either be covered or receive added treatment.

j. Groundwater Rule. This rule provides increased protection against microbial contamination of drinking water systems that use groundwater sources by requiring sanitary surveys to be conducted by the State every 3 years for CWSs and every 5 years for non-community water systems. The rule's additional requirements include hydrogeologic sensitivity

assessments and enhanced source water monitoring for certain systems. Monitoring of source water is also required if there is a detection of coliform in the distribution system.

k. Standardized Monitoring Framework (SMF). This rule standardizes, simplifies, and consolidates monitoring requirements for primary drinking water contaminants across contaminant groups. The SMF simplifies monitoring plans and synchronizes monitoring schedules leading to increased compliance with monitoring requirements. Under the SMF, all primary systems must monitor for nitrate and nitrite; CWSs and NTNCWSs must monitor for an additional 13 inorganic compounds (IOC), 51 synthetic organic compounds (SOC), and volatile organic compounds (VOC). Additionally, CWSs must monitor for four radionuclides. Monitoring frequencies range from monthly for contaminants that exceed MCLs to every 9 years for contaminants that have been demonstrated to be either non-detect or consistently below the MCL. For specific requirements for drinking water sources and contaminants, see the EPA Standardized Monitoring Framework: A Quick Reference Guide and reference (a), section 141.23 regarding IOCs, reference (a), section 141.24 regarding VOCs and SOCs, and reference (a), section 141.26 regarding radionuclides.

l. Public Notification and Violations. The owner or operator of a PWS, including consecutive PWSs that meet the exemption criteria in subparagraph 21-3.3a of this manual, that fails to comply with an applicable MCL, AL, or TT, or with the requirements of any schedule prescribed under a variance or exemption (refer to subparagraph 21-3.3n of this manual) must notify persons served by the system per reference (a), section 141.201–210. The notices must include specific language about the health effects of each contaminant, at-risk populations, and possible actions consumers should take to mitigate risks. The public notices must be reviewed by BUMED and any recommendations provided to the ICO. The PWS must publish notices by newspaper, mail delivery, hand delivery, radio, and television announcements, depending upon the type of violation or risk involved. Notices of violation must be reported per chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual.

m. Consultations. All Navy ICOs are required to consult with the local Preventive Medicine Authority (PMA), who will immediately consult with the Navy and Marine Corps Public Health Center (NMCPHC) in the event of an exceedance of an MCL, AL, health advisory (HA) level, or other promulgated drinking water standard. This is applicable to all public and non-public water systems, and primary or consecutive (purchased water) systems, including those where the Navy is notified by the supplier of an exceedance. The PMA will provide recommendations to the ICO on whether alternative water supplies should be provided. The ICO will also consider input from State or local regulators. If the ICO determines an alternative water supply is necessary, but desires continued limited other consumptive uses (e.g., hand washing), the ICO must request a public health risk assessment from the NMCPHC. The local PMA cannot override a regulatory requirement to provide alternative water but can advise more protective measures.

n. Exemptions. Navy installations that own and operate a consecutive PWS subject to full or partial exemption from regulatory monitoring requirements under reference (a), section 141.3 or section 141.29, respectively, must submit a letter to the State regulatory agency explaining the degree to which exemption criteria are applicable and request the exact requirements to be

imposed on the consecutive PWS. The State's response letter is to be retained permanently in the requesting installation's files.

o. Review of Primary PWS System Records. Navy consecutive PWSs must, at least once a year, review the monitoring reports of the primary PWS. Installations must use these reports and other sources of information to determine the risk of water quality deterioration within the distribution system and adjust sampling required by subparagraphs 21-3.4a through 21.3.4d of this manual, accordingly, to ensure water quality has not degraded above the MCL for parameters within the distribution system.

21-3.5. Consumer Confidence Reports

a. CCRs present the quality of the water delivered by the system. Each Navy PWS must develop an annual CCR to provide consumers access to information about the water in the system. The report must contain data collected during, or prior to, the previous calendar year. Requirements are outlined in reference (f) and in reference (a), sections 141.151 to 141.155. For exceedances, only data based on certified laboratory results must be reported.

b. Navy CWSs must mail or otherwise directly deliver one copy of the CCR to each of its customers by 1 July every year, that addresses the prior calendar year. Recommended methods of report delivery include mailing to each housing unit, publishing in the command newspaper, posting on a Web site, and posting in conspicuous locations in each building on the installation (reference (g)). States may waive the mailing requirement for CWSs serving fewer than 10,000 persons. In such cases, systems would be required to inform their customers that the report will not be mailed, make the report available on request to the public, and publish the report annually in one or more local newspapers serving the areas in which the systems' customers are located. Navy consecutive CWSs must obtain a copy of their water supplier's CCR and amend this report with information on any additional testing or exceedances.

c. A "good faith" effort must be made to ensure all customers are aware of the CCR and additional information. Alternative delivery methods should be used to make a "good faith" effort to reach customers who do not receive water bills, including a mix of methods appropriate to the particular system. In States with primary enforcement authority, utilities must mail a copy of the completed CCR to the State, followed, within 3 months, by a certification that the report has been distributed to customers and the information in the CCR is correct.

d. Certain electronic methods may be used to accomplish the required "direct delivery" of CCRs.

(1) Electronic delivery must provide the CCR in a manner that is "direct." This means CWSs can use paper or electronic communication with uniform resource locators (URL) to meet their CCR requirement if the URL provides a direct link to the CCR, and the communication prominently displays the URL and a notice explaining the nature of the link. The link must take the customer to the entire CCR so that navigation to another Web page to find the required CCR content is not necessary.

(2) Use of social media (e.g., Facebook, Twitter) directed at customers does not meet the requirement to "directly deliver," since these Internet outlets require a customer to join the Web site to read the CCR.

(3) Use of automated phone calls (e.g., emergency telephone notification systems) is not considered "direct delivery" because the entire contents of the CCR cannot be provided in a phone call.

(4) If a Navy CWS is aware of a customer's inability to receive a CCR by the chosen electronic means, it must provide the CCR by an alternative means allowed by the rule, including those discussed in subparagraph 21-3.5b of this manual.

e. Navy Non-Community Water Systems (NTNCWSs and TNCWSs). CCR "direct delivery" requirements do apply to these systems. NTNCWSs and TNCWSs must post their annual CCRs to the CNIC Web site, or otherwise make them available to consumers by 1 July every year.

21-3.6. Underground Injection Control Program. Reference (a), Parts 144–147 require each State to have an underground injection control (UIC) program to ensure underground injection does not endanger underground sources of drinking water. All groundwater injection systems must be permitted or authorized by rule. Under these requirements, installations must implement a program that establishes and maintains a UIC well inventory and procedures for proper well closure. The broadest category of UIC wells (i.e., Class V) includes stormwater drainage wells, aquifer remediation wells, and some septic systems.

21-3.7. Wellhead Protection Program. Installations that receive drinking water from wells must establish a wellhead protection program that meets applicable State or local wellhead protection requirements or adopt and comply with local wellhead protection program requirements to minimize contamination.

21-3.8. Surface Water Protection Program. Installations that receive drinking water from surface water or GWUDI must establish a surface water protection program that meets applicable Federal, State, or local requirements for drinking water obtained from these sources, or adopt and comply with local surface water protection program requirements to minimize contamination.

21-3.9. Water System Vulnerability Assessments and Emergency Response Plans

a. All Navy drinking water systems serving more than 25 consumers must complete a water system vulnerability assessment (WSVA) and emergency response plan (ERP) as required by reference (h) and DoD policy (reference (i)). Systems covered under this requirement include consecutive as well as small community and non-community PWSs in the United States and its possessions and territories.

b. Specific criteria to be addressed by the WSVA include, but are not limited to:

(1) Pipes and constructed conveyances;

(2) Physical barriers;

(3) Water collection, pretreatment, treatment, storage, and distribution facilities;

(4) Electronic, computer, or other automated systems used by the PWS;

(5) The use, storage, or handling of various chemicals; and

(6) The operation and maintenance of the system.

21-3.10. Cross-Connection and Backflow Prevention

a. Cross-connection control programs apply to building interior domestic plumbing systems, fire-protection plumbing systems, and exterior water distribution systems. These programs, overseen by States with SDWA primacy, ensure compliance with primary and secondary drinking water standards by establishing policy, procedures, and instructions for installing, repairing, maintaining, inspecting, and testing backflow preventers.

b. All installations must develop and implement a cross-connection control and backflow prevention program. At a minimum, this program must include procedures and mechanisms to:

(1) Find and eliminate existing cross-connections by conducting cross-connection control surveys of all facilities at least every 5 years, and prevent new cross-connections;

(2) Install, inspect, and test backflow preventers when cross-connections cannot be eliminated, or as required by State or local regulations;

(3) Keep an inventory of all existing backflow preventers, including the degree of hazard and hydraulic condition that the device protects against (back siphonage or back pressure);

(4) Certify all backflow preventers as required by the regulatory agency. If there is no regulatory requirement, then all backflow preventers should be certified at least once every 6 months for high hazards and once every 12 months for low hazards by a State or local water authority certified tester; and

(5) Promptly repair or replace defective backflow preventers, and retain cross-connection and backflow preventer inspection and maintenance records for at least 5 years.

c. Reference (j) provides guidance to Navy installations for complying with this requirement, and reference (k) provides EPA guidance on cross-connection control programs.

21-3.11. Operation and Maintenance. Installations that own or operate water systems (public and non-public, permitted and non-permitted) must develop and implement an operation and maintenance program applicable to the system. The program must meet the requirements of

reference (a), Part 141, in particular section 141.63, paragraph (d)(3), which stresses "proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, and continual maintenance of positive water pressure in all parts of the distribution system." The program must include the proper implementation and documentation of:

a. Emergency and preventive maintenance;

b. System disinfection after maintenance work is performed;

c. Scheduled flushing of the system;

d. Reduction of water quality problems (as needed);

e. Implementation and documentation of a valve exercise and maintenance program;

f. Proper operation and maintenance of storage tanks and reservoirs;

g. Maintenance of current water distribution maps;

h. Documentation of location and dates of water line breakage;

i. Documentation of emergency operations procedures required as a result of events such as earthquakes, hurricanes, chemical releases, and terrorist activities; and

j. Determination of response roles and responsibilities as well as contingency plans for providing water safe for human consumption to the Navy installation. Reference (l) provides information on emergency planning.

21-3.12. Sanitary Surveys. In many instances, a State may require treatment plants or PWSs experiencing compliance problems, particularly with microbial pathogens, to perform a sanitary survey. The State regulatory agency will usually perform the survey; if the State allows, however, the installation can use a service provider of choice to complete the survey. In the absence of a State requirement, all Navy PWSs must perform a sanitary survey every 5 years.

a. Treatment Plant Survey Requirements. For treatment plants, the survey should include:

(1) An evaluation of sampling and monitoring data for compliance with applicable water quality standards (MCLs);

(2) Verification and reevaluation of vulnerability assessments, watershed protection programs, and wellhead protection programs, as applicable;

(3) Examination of the source water physical components and condition;

(4) Schematic diagrams of the treatment process and examination and evaluation of the adequacy and appropriateness of all elements of the current treatment process, including an assessment of operational flows versus treatment process rated capacity and, where appropriate, CT assessment as defined in reference (a), section 141.2;

(5) Examination and evaluation of the operation and maintenance of the treatment facility, including the condition and reliability of equipment, operator qualifications, use of approved chemicals, recordkeeping, process control, and safety programs;

(6) Evaluation of the ability of the treatment plant to respond to changes in raw water fluctuations; and

(7) Evaluation of the treatment plant's emergency power supply and security measures.

b. Distribution System Sanitary Survey Review. For distribution systems, the survey should include:

(1) An evaluation of sampling and monitoring data for compliance with applicable water quality standards (i.e., MCLs);

(2) Concerning the distribution system, the sanitary survey should include a review of the operation and maintenance program to ensure attention to areas of concern, including:

(a) Elimination of unneeded or excess storage;

(b) Adequate turnover of storage tanks;

(c) Storage tank cleaning and maintenance;

(d) Adequate disinfection practices during all main repairs and replacements;

(e) Effective corrosion control program, if applicable;

(f) Comprehensive cross-connection control program;

(g) Aggressive valve and hydrant exercise program;

(h) Adequate water quality monitoring program that achieves compliance with the appropriate regulations and provides for effective water quality control;

(i) Adequate flushing program, preferably a unidirectional flushing program that is implemented yearly; and

(j) Review of location and dates of water line breakage and system failures to evaluate overall system reliability.

(3) Reference (m) includes more information on sanitary surveys.

21-3.13. Lead-Free Plumbing. The use of any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux in the installation or repair of (i) any PWS or (ii) any plumbing in a residential or non-residential facility providing water for human consumption that is not lead free, is prohibited.

21-3.14. Consumptive Use Permits. In coordination with legal counsel and technical staff at the BSO and appropriate region command, installations that withdraw groundwater must:

a. Document historical water use;

b. Determine reasonably foreseeable future water uses;

c. Evaluate water rights laws;

d. Determine on a case-by-case basis whether the installation should obtain a consumptive use permit; and

e. Ensure, if applying for a consumptive use permit, that restrictions will not impact mission requirements or existing water rights.

21-3.15. Exemption from Permitting. Navy installations that qualify for exemption from PWS permitting as in paragraph 21-3.3 of this manual or for other reasons must apply, in writing, to the regulatory agency with SDWA primacy for an exemption. In some cases, regulators issue a permit when it is not required.

21-3.16. Recordkeeping. In the absence of more stringent Federal, State, or local recordkeeping requirements, installations must maintain records listed in subparagraphs 21-3.16a through 21-3.16i of this manual:

a. Bacteriological results—5 years;

b. Chemical results—10 years;

c. Lead and copper testing results—12 years;

d. Actions taken to correct violations—3 years after acting on the particular violation involved;

e. Sanitary survey reports—10 years;

f. Variance or exemption records—5 years following the expiration of such variance or exemption;

g. Water treatment plant and distribution system operating records (including monthly reports)—5 years;

h. Cross-connection inspection records—5 years; and

i. CCRs—5 years.

21-3.17. Sampling and Analysis. Installations must use laboratories certified by EPA or the cognizant State to perform all PWS SDWA compliance sample analyses. Installations must collect water samples at points that represent the quality of water in the distribution system. Sampling and testing must comply with the requirements of chapter 7 (Sampling and Laboratory Testing) of this manual.

21-3.18. Fines and Penalties. Reference (n) waives sovereign immunity for the payment of fines and penalties imposed by Federal, State, or local agencies for violations. In addition, EPA may assess civil penalties of up to $37,500 per day per violation occurring after 6 December 2013. Note: EPA through regulation periodically adjusts the maximum amount of SDWA fines upward to account for inflation.

21-3.19. Certification and Training

a. All Navy personnel involved in the drinking water program must receive appropriate environmental readiness training (refer to chapter 3 (Environmental Readiness Training) of this manual for detailed information). Installations must ensure their water treatment and distribution system operators are trained and certified per applicable Federal, State, and local regulations. Training should include the following elements:

(1) Basic water plant and distribution system design and operation;

(2) Basic maintenance and calibration of plant controls and equipment;

(3) Water plant and distribution systems treatment principles, including chemical storage and handling;

(4) Water sampling and analysis;

(5) Water plant and distribution system documentation and reporting requirements; and

(6) Cross-connection control and backflow prevention.

b. Reference (n) requires States to develop operator certification programs that must specify minimum standards for operators of community and non-transient, non-community PWSs. Details include provisions for certification, recertification, and grandfathering.

21-4 Responsibilities

21-4.1. OPNAV N45 must:

a. Coordinate the overall implementation of SDWA requirements;

b. Issue policy guidance as needed;

c. Act as the assessment sponsor for SDWA projects; and

d. Approve or disapprove of monitoring waivers for bacteriological sampling by Navy consecutive non-community water systems.

21-4.2. CNIC must:

a. Serve as executive agent for drinking water quality matters for all Navy shore facilities and installations; and

b. Provide annually, by 15 February, a report on the status of Navy shore facility and installation drinking water quality for the previous FY as specified in subparagraph 21-3.1c of this manual.

21-4.3. Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) must support CNIC on all aspects of drinking water system management, including, but not limited to: operation, maintenance, repair, compliance testing results from U.S.-accredited and certified laboratories, and compliance with applicable drinking water quality standards.

21-4.4. BUMED must:

a. Formulate and disseminate Navy Medicine policy and guidance related to drinking water quality; and

b. Provide public health advice and consultative services to CNIC and Navy commands for drinking water quality to include: risk assessment and risk communication; review of drinking water sampling and compliance data; public health assistance on preparation of CCRs and public notifications; health-related recommendations when water does not meet U.S. water quality standards; consultations in the event of an exceedance of an MCL, AL, HA level, or other promulgated drinking water quality standard;

c. Following an exceedance of an MCL, AL, HA level, or other promulgated drinking water quality standard, immediately consult with the NMCPHC;

d. Advise when drinking water system issues or discrepancies warrant implementation of alternative water supplies and coordinate corrective action with CNIC and COMNAVFACENGCOM; and

e. Provide public health subject matter expert support for sanitary survey teams, as requested.

21-4.5. Regional environmental coordinators must:

a. Provide coordination and assistance to installations within the applicable region regarding implementation of this chapter; and

b. Assist BSOs with resolution of issues and communication with OPNAV N45 and Federal, State, and local regulators.

21-4.6. BSOs must:

a. Implement SDWA program requirements at their shore installations;

b. Plan, program, budget, and provide funding for current and future requirements of SDWA, State and local regulations, E.O.s, and Navy policy; and

c. Ensure activities under their command comply with current Federal, State, regional, and local laws; E.O.s; regulations; and permits.

d. Provide any information to CNIC as necessary for the annual drinking water quality report to the VCNO, as specified in subparagraph 21-3.1c of this manual.

21-4.7. ICOs or officers in charge of shore installations must:

a. Ensure the installation is in compliance with all Federal, State, and local regulations; E.O.s; and Navy policy pertaining to drinking water;

b. Identify, plan, program, budget, and implement current and future requirements under SDWA State and local regulations, E.O.s, and Navy policy;

c. Ensure contracts between the Navy and water suppliers require the suppliers to provide the results of all permit-required NPDWR monitoring performed on raw and treated water that serves the applicable Navy installation or command at least once a year;

d. Ensure all personnel involved in the drinking water program are properly trained;

e. Report noncompliance with any NPDWR; and

f. Consult with the local PMA in the event of an exceedance of a drinking water MCL, AL, HA level, or other promulgated drinking water quality standard.

21-5 Definitions

21-5.1. Action Level. The AL is the concentration of lead or copper in water that is used to

determine compliance with the Lead and Copper Rule. Under the Lead and Copper Rule, ALs have replaced lead and copper MCLs.

21-5.2. Backflow Preventer. A backflow preventer is an approved device, assembly, or piping arrangement (i.e., air gap) used to prevent backflow into a drinking water system.

21-5.3. Community Water System. A CWS is a PWS that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

21-5.4. Consecutive Public Water System. A consecutive PWS is a water system that has no water production or source facility of its own, obtains all of its water from another water system, and meets the definition of a PWS.

21-5.5. Consecutive Water System. A consecutive water system is a water system that has no water production or source facility of its own and obtains all of its water from another water system. A consecutive water system may be further classified as any of the water system types shown in figure 21-1.

21-5.6. Consumer. A consumer is any person served by a PWS.

21-5.7. Consumer Confidence Report. A CCR is an annual report that provides water quality information to consumers. The CCR must contain mandatory information and be delivered to customers annually by 1 July every year.

21-5.8. Consumptive Use Permit. A consumptive use permit regulates the withdrawal of groundwater.

21-5.9. Cross-Connection. A cross-connection is any physical arrangement whereby a water supply system is connected, directly or indirectly, with any other sewer, drain, plumbing fixture, or other device that contains or may contain contaminated water.

21-5.10. Customer. A customer is a billing unit or service connection to which water is delivered.

21-5.11. Disinfectant. A disinfectant is any oxidant including, but not limited to chlorine, chlorine dioxide, chloramines, and ozone added to any part of the treatment or distribution process for the purpose of killing or inactivating pathogenic microorganisms.

21-5.12. Disinfection Byproducts. Disinfection byproducts are compounds formed from the reaction of a disinfectant with organic and inorganic compounds in the source water during the disinfection process.

21-5.13. Emergency Response Plan. The ERP must include, but not be limited to plans, procedures, and identification of equipment that can be implemented and utilized in the event of a terrorist or other intentional attack on the PWS.

21-5.14. Lead-Free. Solders and flux are considered lead-free if they contain no more than 0.2 percent lead; wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures are considered lead-free if they contain not more than a weighted average of 0.25 percent lead.

21-5.15. Lead Service Line. A lead service line is a service line made of lead that connects the water main to the building inlet and any lead pigtail, gooseneck, or other fitting that is connected to such lead line.

21-5.16. Maximum Contaminant Level. The MCL is the maximum permissible level of a contaminant in water that is delivered to any user of a PWS.

21-5.17. Non-Community Water System. A non-community water system is a PWS that is not a CWS. There are two kinds of non-community water systems: transient and non-transient.

21-5.18. Non-Transient, Non-Community Water System. An NTNCWS is a PWS that is not a CWS and that regularly serves at least 25 of the same persons over 6 months per year.

21-5.19. Other Promulgated Drinking Water Quality Standard. Other promulgated drinking water quality standards include State or local regulatory requirements or standards set forth in the applicable final governing standards for overseas locations. They do not include secondary drinking water standards that are non-enforceable.

21-5.20. Permitted Public Water System. A permitted PWS is a PWS that has been issued a permit or other formal authorization to operate (i.e., has been issued a PWS identification number).

21-5.21. Public Water System

a. A PWS is a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, 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. Such term includes:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and

(2) Any collection or pretreatment storage facilities not under such control, used primarily in connection with such system.

b. A PWS is either a CWS or a non-community water system. Figure 21-1 helps installations determine which type of system they operate.

21-5.22. Sanitary Survey. A sanitary survey is an onsite review of the water sources, facilities, equipment, operation, and maintenance of a PWS for the purpose of evaluating the adequacy of such sources, facilities, equipment, operation, and maintenance for producing and distributing safe drinking water.

21-5.23. Selling Water. There is no definition of "selling water" in SDWA. Refer to discussion under paragraph 21-3.2 of this manual.

21-5.24. Service Connection. A service connection is the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

21-5.25. Source Water Assessment Program. Source water assessment programs delineate source water protection areas, inventory significant contaminants in these areas, and determine the susceptibility of each public water supply to contamination.

21-5.26. Source Water Protection Program. Source water protection programs are State efforts to manage identified sources of contamination in a manner that will protect drinking water supplies based on the source water assessment program.

21-5.27. Supplier of Water. A supplier of water is any person who owns or operates a PWS. Under SDWA, a person is defined as an individual; corporation; company; association; partnership; municipality; or Federal, State, or tribal agency.

21-5.28. Transient, Non-Community Water System. A TNCWS is a non-community water system that does not regularly serve at least 25 of the same persons over 6 months per year.

21-5.29. Treatment Technique. A TT is a required process intended to reduce the level of a contaminant in drinking water.

21-5.30. Underground Injection. Underground injection means well injection (i.e., the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well where the depth of the dug well is greater than the largest surface dimension (reference (a), Parts 144–147).

21-5.31. Water System Vulnerability Assessment. A WSVA is an assessment of the vulnerability of a PWS to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide safe and reliable supply of drinking water.

21-5.32. Well. A well is a bored, drilled, or driven shaft; or a dug hole whose depth is greater than the largest surface dimension.

21-5.33. Wellhead Protection Program. A wellhead protection program is a program to protect groundwater supply wells and well fields that contribute drinking water to public water supply systems.

CHAPTER 22

CLEAN AIR ASHORE

Table of Contents

22-1 Scope 22-1
22-1.1. Related Chapters 22-1
22-1.2. References 22-1
22-1.3. Applicability 22-3

22-2 Legislation 22-3

22-3 Requirements 22-3
22-3-1. National Ambient Air Quality Standards 22-3
22-3.2. General Conformity Analysis 22-5
22-3.3. Provisions for Stationary Sources 22-6
22-3.4. Provisions for Mobile Sources 22-11
22-3.5. Greenhouse Gas Emissions 22-13
22-3.6. Management of Ozone-Depleting Substances 22-14
22-3.7. Other Clean Air Act Requirements 22-20
22-3.8. Training Requirements 22-22

22-4 Responsibilities 22-23

22-5 Definitions 22-32

22-1 Scope. This chapter applies to air emissions from stationary and mobile sources at all shore facilities.

22-1.1. Related Chapters. Chapter 10 (Environmental Planning Under the National Environmental Protection Act and Executive Order 12114) of this manual provides general conformity analysis information. Chapter 25 (Toxic Substances Control Act) of this manual provides Navy policy guidance for asbestos-containing material (ACM). Chapter 34 (Overseas Environmental Compliance Ashore) of this manual provides Navy policy guidance with respect to installations in foreign countries. Chapter 35 (Environmental Compliance Afloat) of this manual provides Navy policy guidance with respect to Navy vessels and floating dry docks.

22-1.2. References

(a) 40 CFR;

(b) Navy Guidance for Compliance with the Clean Air Act General Conformity Rule, of 30 July 2013;

(c) EPA memo of 02 Aug 96, Major Source Determinations for Military Installations under the Air Toxics, New Source Review, and Title V Operating Permit Programs of the Clean Air Act (Act);

(d) Public Law 109–58, Energy Policy Act of 2005;

(e) E.O. 13834, Efficient Federal Operations;

(f) Federal Greenhouse Gas Accounting and Reporting Guidance and Technical Support Document, of 4 June 2012;

(g) Department of Defense Guidance for Executive Order 13693: Planning for Federal Sustainability in the Next Decade (revised annually) (NOTAL);

(h) SECNAV memo of 28 May 93, Elimination of Class I Ozone-Depleting Substances in Department of the Navy Contracts (NOTAL);

(i) SECNAVINST 5000.2E, Implementation and Operation of the Defense Acquisition System and the Joint Capabilities Integration and Development System;

(j) DFARS Subpart 223.8, Ozone-Depleting Substances, of 19 December 2006;

(k) ASN(RD&A) memo of 13 Nov 97, Equipment/Systems Requiring the Unplanned Use of Class I Ozone-Depleting Substances (ODS);

(l) Public Law 102–484, National Defense Authorization Act for Fiscal Year 1993;

(m) Unified Facilities Criteria 3-600-1: Fire Protection Engineering for Facilities;

(n) BUMEDINST 6270.8D, Health Hazard Assessments;

(o) DoD Manual 4160.21, Defense Materiel Disposition Manual, October 2015;

(p) ASN(EI&E) memo of 14 May 12, Department of the Navy Process for Reviewing Potential Settlements of Penalties for Past Violations of the Clean Air Act (CAA);

(q) DoD 4165.66-M, Base Redevelopment and Realignment Manual, March 2006;

(r) ADUSD(I&E) memo of 12 Jul 12, Air Emission Rights at Department of Defense Installations;

(s) 10 U.S.C. §2571; and

(t) 10 CFR Part 490.

22-1.3. Applicability. Requirements and policies in this chapter are derived from the Clean Air Act (CAA), other legislation, regulations, E.O.s, and instructions related to air emissions. They apply to Navy facilities within the United States and its territories. The requirements of subparagraph 22-3.5c of this manual apply to the Department of Defense (DoD) but cover all Navy ships, aircraft, vehicles, and shore activities worldwide. The requirements of paragraph 22-3.6 of this manual apply to all Navy ships, aircraft, vehicles, and shore activities worldwide except when the requirements in the Overseas Environmental Baseline Guidance Document (OEBGD) and final governing standards (FGS), set per chapter 34 (Overseas Environmental Compliance Ashore) of this manual, are more protective.

22-2 Legislation

a. Legislation and international treaties that contain provisions pertaining to clean air, protection of stratospheric ozone, mitigation of climate change, and energy conservation that are relevant to this chapter include:

(1) CAA, 42 U.S.C. §7401–7671q;

(2) Energy Policy Act of 2005, 42 U.S.C. §15801;

(3) Montreal Protocol on Substances that Deplete the Ozone Layer; and

(4) National Defense Authorization Act for Fiscal Year 1993, Section 326, 10 U.S.C. §2301.

b. A summary of this legislation and the Montreal Protocol is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

22-3 Requirements. Navy commands and installations must comply with applicable CAA requirements and related regulations promulgated by Federal, State, and local regulatory agencies in the same manner and to the same extent as a nongovernmental entity. Navy policy also requires all Navy installations to follow DoD- and Navy-specific guidance.

22-3.1. National Ambient Air Quality Standards

a. As directed by the CAA, the Environmental Protection Agency (EPA) sets primary and secondary National Ambient Air Quality Standards (NAAQS) for pollutants that are considered harmful to public health and welfare, and is required to review and, as needed, revise the standards every 5 years. NAAQS have been established for six criteria pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, sulfur dioxide, and particulate matter regulated as PM10 (10 microns or smaller) and PM2.5 (2.5 microns or smaller). To define air quality, EPA designates all areas in the country as unclassifiable, attainment, nonattainment, or maintenance with respect to the NAAQS for each criteria pollutant in reference (a), Part 81, subpart C. Some regulatory requirements are fundamental and apply to sources in all areas, regardless of their

attainment status, while other requirements are specific to attainment status of the area the source is located.

b. Achieving CAA NAAQSs is the primary responsibility of the States, which must develop State implementation plans (SIP) that outline to EPA how each State will achieve and maintain the NAAQSs and implement the CAA programs. States may require pollution control and prevention measures that are more stringent than those mandated by EPA, but may not allow measures that are less stringent. Table 22-1 of this manual summarizes the primary requirements applicable to Navy installations located in nonattainment areas.

Table 22-1. Primary Applicable Requirements in Nonattainment Areas

Area Designation	**Summary of Applicable Requirements[a,b]**
Pollutant: Ozone	
Subpart 1[c]	• State must complete emissions inventory, to be updated every 3 years. Will obtain data from sources. • New Source Review (NSR) offset ratio for volatile organic compounds (VOC) and nitrogen oxides (NOx) of 1 to 1.
Marginal	• State must complete emissions inventory, to be updated every 3 years. Will obtain data from sources. Specific requirements for VOC and NOx emissions. • Basic motor vehicle inspection and maintenance (I/M) program. • NSR offset ratio for VOCs and NOx of 1.1 to 1.
Moderate	Requirements of marginal areas plus: • Reasonably available control technology applies to all major stationary VOC and NOx sources. • Stage II vapor recovery required. • NSR offset ratio 1.15 to 1.
Serious	Requirements of moderate areas plus: • Clean fuel fleet program. • Enhanced I/M program enforced through denial of vehicle registration. • NSR offset ratio 1.2 to 1. • Major source threshold for VOCs and NOx is 50 tons per year (tpy).
Severe	Requirements of serious areas plus: • NSR offset ratio 1.3 to 1. • Reformulated gasoline required in metropolitan areas. • Major source threshold for VOCs and NOx is 25 tpy.
Extreme	Requirements of severe areas plus: • NSR offset ratio 1.5 to 1. • Major source threshold for VOCs and NOx is 10 tpy.

Area Designation	Summary of Applicable Requirements[a,b]
Pollutant: Carbon Monoxide	
Moderate	• State must complete emissions inventory, to be updated every 3 years. Will obtain data from sources. • I/M program (type of program depends on ambient carbon monoxide level). • Oxygenated fuel required in metropolitan areas during high carbon monoxide season.
Serious	Requirements of moderate areas plus: • Transportation control measures. • Where stationary sources are believed to contribute substantially to ambient carbon monoxide levels, major source threshold for carbon monoxide is 50 tpy.
Multi-State	Affected States must coordinate the revision and implementation of the carbon monoxide SIPs as they apply to the affected areas.
Pollutant: Particulate Matter—PM10, 24-Hour Standard	
Moderate	• State must complete emissions inventory, to be updated every 3 years. Will obtain data from sources. • Reasonably available control measures apply.
Serious	Meet requirements of moderate areas plus: • Best available control measures apply. • Major source threshold for PM10 is 70 tpy.
Pollutant: Particulate Matter—PM2.5, Annual and 24-Hour Standard	
	• State must complete emissions inventory, to be updated every 3 years. Will obtain data from sources. Must include both direct and PM2.5 precursor emissions. • Reasonably available control measures apply.
Notes: 1. This table lists those requirements that will likely affect Navy facilities. Details for these provisions are set by each State per reference (a), Part 51. States have additional requirements that must be included in their SIPs but do not directly affect sources such as ambient monitoring plans. 2. The major stationary source threshold under the NSR and Title V permit programs is 100 tpy, except as noted in the table. 3. The subpart 1 category will no longer be used by EPA as it reconsiders the ozone NAAQS. Refer to final 2008 Ozone NAAQS Implementation Rule for details.	

22-3.2. General Conformity Analysis. Section 176(c) of the CAA prohibits Federal agencies from engaging in, supporting, providing financial assistance for, licensing, permitting, or approving any activity that does not conform to an applicable SIP or Federal implementation plan (FIP). EPA criteria and procedures for determining conformity are found in reference (a), Part 93, subpart B. Navy installations located in nonattainment and maintenance areas must make a determination that an action conforms to the SIP or FIP before proceeding with the action. Conformity analyses typically will be completed as part of the National Environmental

Policy Act analysis and documentation procedures for the planned action, and must follow the procedures described in reference (b).

22-3.3. Provisions for Stationary Sources. The requirements of the CAA listed in subparagraphs 22-3.3a through 22-3.3c of this manual apply to stationary sources only. EPA issued guidance in 1996 specific to military installations for the CAA permit programs and hazardous air pollutant (HAP) regulations (reference (c)). This guidance provides details on how a military installation may determine its major source status under CAA regulations, subject to approval by the cognizant regulatory authority. Permitting authorities have the discretion to issue more than one Title V permit to each major source at a single installation when certain conditions related to command and control, industrial grouping, and interrelated support are met.

a. CAA Permit Programs. The two air permit programs under the CAA that apply to emission sources located on Navy installations are discussed in subparagraphs 22-3.3a(1) and 22-3.3a(2) of this manual. A facility may choose to implement legally and practically enforceable limits on the operation of an emission source (called a synthetic minor source permit) to reduce emissions below the threshold required to be subject to these permit programs, thus reducing the number and scope of applicable requirements. Greenhouse gases (GHG) are subject to permitting under the CAA. Refer to subparagraph 22-3.5b of this manual for additional information.

(1) NSR Permits

(a) The CAA preconstruction permit program is called NSR and is designed to ensure no new or modified emission source will have a significant adverse impact on air quality. The program is typically implemented by State or local regulatory agencies, which may impose stricter requirements than EPA's Federal program requirements. It is divided into two types of preconstruction permits based on the attainment status of the area.

(b) Navy facilities must apply for and obtain required permits for air emission sources prior to beginning construction. Navy installations must comply with Federal, State, and local requirements, which will vary with the local ambient air quality, size of the project, and potential emissions.

(c) The Prevention of Significant Deterioration (PSD) program applies to the criteria pollutants for which an area is in attainment or maintenance of the NAAQS. Under PSD, the major source threshold is a potential to emit 250 tpy or more of any single air pollutant, and 100 tpy for certain 28 source categories named in section 169(1) of the CAA. Navy installations must comply with applicable permit requirements under the PSD program per reference (a), section 51.166. The Nonattainment NSR (NNSR) permit program applies to the criteria pollutants for which an area is designated nonattainment. Major source thresholds under NNSR are shown in table 22-1 of this manual. Navy installations must comply with the applicable permit requirements under the NNSR program per reference (a), section 51.165. Minor source NSR permits may be required for projects that do not meet PSD or NNSR major source thresholds and ensure that the construction or modification of smaller emitting sources will not interfere with attainment or maintenance of the NAAQS.

(2) CAA Title V Operating Permits. The Title V operating permit program consolidates all CAA requirements applicable to the operation of a source, including requirements from the SIP, preconstruction permits, and the Air Toxics program. It applies to stationary sources of air pollution that exceed the major stationary source emission thresholds, as well as other non-major sources specified in a particular regulation. The program includes a requirement for payment of permit fees to finance the operating permit program, whether implemented by EPA, or State or local regulator. Navy installations subject to Title V permitting must comply with the requirements of the Title V operating permit program, which are detailed in reference (c), and all specific requirements contained in their individual permits.

b. HAPs Requirements

(1) Source Categories. EPA originally developed and issued pollutant-specific standards for individual HAPs (e.g., benzene, vinyl chloride, asbestos). Following this effort, the CAA Amendments of 1990 required EPA to publish and update a list of source categories and subcategories that emit one or more of the 189 HAPs listed in section 112(b)(1) of the CAA. For each listed source category, EPA indicates whether the sources are considered "major" sources or "area" sources. EPA sets standards for all major sources of air toxics (and some area sources that are of particular concern). "Major" sources are defined as sources that emit or have the potential to emit 10 tpy of any of the listed HAPs, or 25 tpy of a mixture of HAPs. The major source thresholds typically apply to the entire facility. "Area" sources consist of facilities that release less than major source threshold quantities of HAP pollutants into the air. If a facility is not a major HAP source, it is an area source.

(2) National Emission Standards for Hazardous Air Pollutants (NESHAP). EPA's standards for sources of HAPs are known as NESHAPs. For major sources of HAPs, EPA must initially establish technology-based standards for each listed source category and subcategory (as described in subparagraph 22-3.3b(1) of this manual), according to a prescribed schedule. Eight years after each technology-based standard is issued, EPA must assess residual health risk to the population exposed. If the risk is too high, EPA must incorporate additional requirements in the standards. For area sources of HAPs, the EPA administrator has the discretion to establish less stringent technology-based standards. General provisions applicable to all NESHAPs are available in reference (a), Part 63, subpart A. The specific characteristics of a source of HAPs that determine the applicability of a particular NESHAP are provided in each NESHAP. Table 22-2 of this manual shows the most common NESHAPs that apply to Navy installations. For additional requirements that affect ACM, refer to chapter 25 (Toxic Substances Control Act) of this manual.

Table 22-2. Commonly Applicable NESHAPs

Subpart	NESHAP Source Category	Affected HAP Sources
40 CFR Part 61 (Pollutant-Specific Standards)		
M	Asbestos	All
I	Radionuclide Emissions from Federal Facilities Other Than NRC Licensees and Not Covered by Subpart H	All

Subpart	NESHAP Source Category	Affected HAP Sources
40 CFR Part 63 (Source Category Standards)		
N	Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	All
DD	Off-Site Waste and Recovery Operations	Major
GG	Aerospace Manufacturing and Rework Facilities (Coating)	Major
II	Shipbuilding and Ship Repair (Coating)	Major
EEE	Hazardous Waste (HW) Combustion	All
JJ	Wood Furniture Manufacturing Operations	Major
DDDD	Industrial, Commercial, and Institutional Boilers and Process Heaters	Major
ZZZZ	Stationary Reciprocating Internal Combustion Engines	All
CCCCCC	Gasoline Dispensing Facilities	Area
JJJJJJ	Industrial, Commercial, and Institutional Boilers	Area
WWWWWW	Plating and Polishing Operations	Area
Notes: 1. Reference (a) Part 63 subpart ZZZZ contains provisions for requesting a National Security Exemption (NSE) for stationary engines under reference (a), Part 1068, subpart C (refer to subparagraph 22-3.4a of this manual for procedures to follow). 2. Other NESHAPs may affect Navy installations now or in the future due to changes in operations or publication of new or amended rules. Reference (a), Parts 61 and 63 include a complete list of NESHAPs and their particular requirements.		

(a) Ship Building and Ship Repair NESHAP. Navy facilities that are major sources of HAPs and use marine coatings in excess of 264 gallons per year must comply with the emission limitations, management practices, certification, and recordkeeping requirements in reference (a), Part 63, subpart II. Navy vessels that dock at these or commercial facilities must comply with Navy policy and only use materials that do not exceed permissible VOC limits per chapter 35 (Environmental Compliance Afloat), paragraph 35-3.13 of this manual. Affected facilities must compile records of certification of the as-applied volatile organic HAP (VOHAP) content or the VOC content as a surrogate for VOHAP of each batch of marine coating on a monthly basis and maintain those records for a minimum of 5 years. Affected facilities are prohibited from thinning marine coatings with anything except water unless authorized in writing and in advance by Commander, Naval Sea Systems Command (COMNAVSEASYSCOM) and the installation environmental office. Ship's forces are prohibited from thinning marine coatings with anything except water at all times per chapter 35 (Environmental Compliance Afloat) of this manual. Affected facilities authorized to thin a marine coating must not cause or allow the application of any coating to a ship or a part of a ship with an as applied VOHAP or VOC content exceeding the applicable emission limit. Reference (a), Part 63 exempts coatings used in volumes of less than 52.8 gallons per year, provided the total volume of coating exempt does not exceed 264 gallons per year at any facility. These exempt coatings must be clearly labeled as "low-usage exempt," and the volume of each such coating applied must be maintained in the facility's records. Accordingly, such coatings may be thinned in excess of the applicable

VOHAP limit if the as-applied volume is properly tracked and does not exceed the low-usage thresholds.

(b) Batch Certificates

1. DoD supply activities must implement procedures ensuring all marine coatings have batch certificates citing the content of VOHAP or VOC per the requirements of reference (a), Part 63, subpart II (refer to note in subparagraph 22-3.3b(2)(b)2 of this manual) prior to issue of marine coatings to affected sources. Batch certificates may be obtained:

a. Directly from the vendor or manufacturer;

b. From the Commander, Naval Supply Systems Command (COMNAVSUPSYSCOM) NESHAP Certificate Repository Web site (refer to appendix E (Web Sites) for Web site address); or

c. Locally, as prepared by an activity qualified to perform VOC content analysis per EPA Method 24.

2. Note: When using VOC as a surrogate for VOHAP, reference (a), Part 63, subpart II requires VOC-exempt compounds that are HAPs be included in the certified VOC content when preparing batch certifications, if present. As required in paragraph 22-4.5 of this manual, Defense Logistics Agency (DLA) must ensure contracts for marine coatings require manufacturers or suppliers to provide batch certifications that include all information and statements necessary to demonstrate compliance.

3. If a Navy shore activity or its contractor obtains a marine coating outside the DoD supply system, that activity is responsible for obtaining the batch certificate and submitting the certificate to the COMNAVSUPSYSCOM NESHAP Certificate Repository Web site (refer to appendix E (Web Sites) for Web site address). Per chapter 35 (Environmental Compliance Afloat) of this manual, if a ship's force obtains a marine coating outside of the DoD supply system, they must obtain the associated certificate, and submit it to COMNAVSUPSYSCOM NESHAP Certificate Repository Web site (refer to appendix E (Web Sites) for Web site address) for entry into the ship-NESHAP batch certification database.

(c) Solvents. All Navy facilities that are sources of HAPs must use HAP-free solvents (containing no more than 0.1 percent by mass of carcinogenic HAPs and no more than 1.0 percent by mass of other HAP) for substrate cleaning and thinning, unless either a regulation covering that process allows the use of a HAP-containing solvent or a military specification or manual for that process requires the use of a HAP-containing solvent. As required in subparagraph 22-4.2f of this manual, those who prepare and maintain such documents must eliminate requirements for the use of HAP-containing solvents where possible.

(3) Accidental Releases and Risk Management Plans (RMP). Owners and operators of stationary sources that manufacture, process, use, handle, or store EPA-regulated substances have a general duty to identify hazards from releases of such substances and to design and

maintain a safe facility to prevent releases and minimize the consequences of any accidental releases. Facilities that exceed threshold quantity limits for a regulated substance contained in a covered process must submit an RMP as required by reference (a), Part 68. Facilities are responsible for updating their RMPs at least once every 5 years or sooner if required per reference (a), sections 68.190(b) and 68.195.

c. New Source Performance Standards (NSPS) and Existing Source Emission Guidelines (EG). Section 111 of the CAA requires EPA to establish Federal emission standards for source categories that cause or contribute significantly to air pollution. Navy installations are required to comply with applicable NSPSs, which can be found in reference (a), Part 60. NSPSs apply to new and modified sources and reflect emission limits achievable through the application of the best system of emission reduction, taking into account the cost of such technology and any other non-air quality, health, environmental impact, and energy requirements. Generally, State and local air pollution control agencies are responsible for NSPS implementation, compliance assistance, and enforcement. The specific characteristics of an emissions source determine the applicability of a particular NSPS. Section 129 of the CAA requires EPA to establish both NSPSs and existing source EGs for solid waste combustion sources. EGs are model rules that States use to develop their own rules for existing sources. They have also been established for landfills and coal-fired electric steam-generating units. Table 22-3 of this manual shows the most common NSPSs and EGs that apply to Navy installations.

Table 22-3. Commonly Applicable NSPSs and EGs[a]

40 CFR Part 60 Subparts	NSPS or EG Source Category
Cc, WWW	Municipal Solid Waste Landfills EG and NSPS
Db, Dc	Industrial-Commercial-Institutional Steam-Generating Units NSPS
K, Ka	Storage Vessels for Petroleum Liquids
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) NSPS
O	Sewage Treatment Plants NSPS
GG, KKKK	Stationary Gas and Combustion Turbines NSPS
JJJ	Petroleum Dry Cleaners NSPS
EEEE, FFFF	Other Solid Waste Incinerators NSPS and EG[b]
IIII	Stationary Compression Ignition Internal Combustion Engines NSPS
JJJJ	Stationary Spark Ignition Internal Combustion Engines NSPS

Notes:
1. Reference (a), Part 60, subparts IIII and JJJJ contain provisions for requesting an NSE for stationary engines under reference (a), Part 1068, subpart C (refer to subparagraph 22-3.4a of this manual for procedures to follow).
2. Other NSPSs and EGs may affect Navy installations now or in the future due to changes in operations or publication of new or amended rules. Reference (a), Part 60 includes a complete list of NSPSs and EGs and their particular requirements.
3. Many NSPSs and EGs apply to incinerators. The Navy shut down most incinerators that would have been subject to emission limits. Any Navy incinerators still operating are likely exempt from the rules or covered by the Resource Conservation and Recovery Act

40 CFR Part 60 Subparts	NSPS or EG Source Category
regulations or the HW Combustion NESHAP. EPA is expected to remove some of the exemptions in subparts EEEE and FFFF and other incinerator rules in the future.	

22-3.4. Provisions for Mobile Sources. EPA has issued a series of rules that reduce emissions from a broad spectrum of mobile sources (e.g., vehicles, equipment). Table 22-4 of this manual lists requirements applicable to mobile sources commonly used by the Navy.

Table 22-4. Regulations Applicable to Engines and Fuels

Regulated Entity	CFR Citation
Aircraft	40 CFR Part 87
Clean fuel vehicles	40 CFR Part 88
Engine test procedures[a]	40 CFR Part 1065
Fuels and additives[b]	40 CFR Parts 79 and 80
Highway motor vehicles	40 CFR Part 86
Large spark-ignition (SI) engines	40 CFR Part 1048
Locomotive compression-ignition (CI) engines	40 CFR Parts 92 and 1033
Marine CI engines	40 CFR Parts 94 and 1042
Marine SI engines	40 CFR Part 91
Mobile source control: conversions, importation, preemption, exclusions	40 CFR Part 85
Non-road general compliance provisions	40 CFR Part 1068
Non-road diesel engines (other)	40 CFR Parts 89 and 1039
Recreational vehicles	40 CFR Part 1051
Small SI engines	40 CFR Part 90
Notes: 1. Applies to both mobile and stationary engines. 2. Reference (a), Part 80 includes additional details on requirements that apply to fuels and refueling.	

a. NSEs. The highway, non-road, locomotive, and marine engine rules promulgated under Title II of the CAA (Emission Standards for Mobile Sources) contain an automatic NSE for equipment with substantial combat features and for certain engines intended to be used outside the United States as well as provisions for requesting an NSE. In addition, stationary engine rules promulgated under 40 CFR Parts 60 and 63 refer to those Title II provisions. An automatic or requested NSE should only be used when the use of a compliant engine is not possible because of operational constraints. Before using or requesting an NSE, the Navy program manager (PM) should perform an analysis in coordination with legal, environmental, and other program stakeholders to validate the requirement for an NSE. The PM should document for the record their determination that equipment contains substantial combat features prior to any decision to purchase non-compliant engines using the automatic NSE. To obtain an NSE for equipment without substantial combat features, the engine manufacturer must submit an official request to EPA with an endorsement from a Federal agency responsible for national defense. Prior to submission of an NSE request or endorsement to EPA, all Navy NSE actions must be

coordinated with the CAA Services Steering Committee through the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45). The request typically describes the equipment, engines, application, quantity, and requirement for the NSE. Once the NSE is approved, the manufacturer may proceed with the production and sale of the engine and must affix a label indicating that it is exempt. Since there are some restrictions on entering non-compliant engines into commerce, non-compliant NSE engines that are declared as excess should be identified as such when turning them over to DLA Disposition Services. Any engines (stationary and mobile sources) acquired by a Navy organization from DLA Disposition Services should be fully compliant with Federal, State, or local air quality regulations.

b. California Emission Standards. The CAA granted the State of California exclusive authority to establish new engine and fuel standards. This authority does not cover aircraft or locomotive engines, nor does it cover construction or farm equipment with engines less than 175 horsepower. New California engine standards generally harmonize with Federal engine standards. California rules, however, are unlike Federal standards in that they require retrofit and replacement of existing engines to maintain compliance. For Navy operations in California, consult the regional environmental coordinator (REC) for applicable requirements.

c. Aircraft and Aircraft Engines. CAA regulations for aircraft and aircraft engines apply only to engines on an aircraft that has a valid airworthiness certificate or equivalent foreign airworthiness certificate. Except for some commercial aircraft owned by the military, military aircraft do not normally have airworthiness certificates and, therefore, are exempt from the regulatory standard. No State or local air quality regulator, including California, may adopt or attempt to enforce any standard respecting emission of any air pollutant from any aircraft or aircraft engine unless such standard is identical to an applicable standard developed by EPA and the Secretary of Transportation.

d. Vehicle Inspection and Maintenance. Vehicles located in ozone nonattainment areas with a marginal or higher classification or in carbon monoxide moderate or serious nonattainment areas are subject to periodic inspections of the vehicle's pollution control equipment and emissions testing. Navy installations in these areas must demonstrate compliance with State I/M programs for all motor vehicles operated on the installation even if the vehicle is not registered in that State, as long as the State's program is not discriminatory toward Federal agencies or Federally owned or Federal-employee-owned vehicles. This requirement applies to all employee-, military-, contractor-, and Federally owned or leased vehicles operated more than 60 days per year on the installation. Military tactical vehicles are exempt from the I/M program.

e. Tampering with Emission Controls. Navy personnel must not remove or render inoperative any device or element of design that is installed in a government motor vehicle or engine to comply with air quality regulations.

f. Alternative Fuel and Clean Fuel Fleet Vehicles

(1) Per Title II of the CAA, part C, Navy installations with a covered vehicle fleet (i.e., 10 or more vehicles centrally fueled in a covered area) must ensure at least 70 percent of all new light-duty fleet vehicles acquired are clean fuel vehicles. For heavy-duty trucks above 8,500

pounds (lb) and up to 26,000 lb gross vehicle weight rating, that percentage must be at least 50 percent. Additional and more stringent requirements under reference (d) must also be considered.

(2) Section 246(g) of the CAA mandates that any Federal facility that dispenses clean alternative fuels to Federal fleet vehicles must offer the fuel for sale to the public during reasonable business hours, subject to national security concerns and the commercial availability of such fuels in the vicinity of the facility.

22-3.5. Greenhouse Gas Emissions. Although GHGs are not criteria pollutants and are not specifically called out for regulation in the CAA, the U.S. Supreme Court determined that GHGs are air pollutants under the CAA, and EPA has the authority to regulate GHGs under the CAA (Massachusetts v. EPA, 549 U.S. 497 (2007)). Navy installations that emit GHGs above established thresholds are required to comply with applicable requirements of reference (a), Part 98 (commonly known as the GHG Reporting Program (GHGRP)), State rules, and EPA permitting requirements. In addition, the Navy reports its GHG emissions inventory annually to the Office of the Secretary of Defense (OSD) for the submission of a single DoD-consolidated GHG inventory to the Office of Management and Budget Director and the Council on Environmental Quality Chair, as required by reference (e).

a. GHGRP. GHGs included under the GHGRP are carbon dioxide (CO_2), methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons (HFC), perfluorocarbons (PFC), and other fluorinated gases as defined in reference (a), section 98.6. In general, for facilities that emit GHGs, the threshold for reporting is 25,000 metric tons or more of CO_2 equivalent (CO_2e) per year. This threshold is based on actual emissions. Facilities subject to the rule are required to report annual emissions of GHGs per reference (a), Part 98. Some State GHG reporting programs may be more stringent.

b. GHG Permitting Requirements. Under the PSD permit program, EPA can regulate GHG emissions from a major stationary source that is identified as major based on emissions of other pollutants, if the source has the potential to emit 75,000 tpy of CO_2e or more. Applicable GHG emission requirements issued in a PSD permit would be incorporated into the source's Title V permit.

c. GHG Emissions Reporting and Reduction Requirements under E.O. 13834. The requirements of this subparagraph apply to DoD but cover all Navy ships, aircraft, vehicles, and shore activities worldwide. Reference (e) requires agencies to measure, report, and reduce their GHG emissions from direct and indirect activities. References (f) and (g) provide GHG accounting and reporting methodologies to be used by the Navy in conducting a fiscal year (FY) 2008 baseline emissions inventory and subsequent years' annual inventories under reference (e). The Navy's inventory for reporting GHGs under reference (e) is prepared by the Chief of Naval Operations (CNO); Commander, Navy Installations Command (CNIC); and Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) per the responsibilities identified in paragraphs 22-4.1 and 22-4.6 of this manual, using a centralized approach primarily relying on data already collected via existing reporting programs. There is no requirement, therefore, for

individual installations to develop their own inventory for purposes of compliance with reference (e).

22-3.6. Management of Ozone-Depleting Substances. The requirements of this paragraph of this manual apply to all Navy ships, aircraft, vehicles, and shore activities worldwide except when the requirements in the OEBGD and FGSs, set per chapter 34 (Overseas Environmental Compliance Ashore) of this manual, are more protective. Regulations issued under sections 601 to 607 of the CAA phase out the production and import of ozone-depleting substances (ODS) consistent with the schedules developed under the Montreal Protocol. In the United States, ODSs are regulated as Class I or Class II controlled substances. Class I substances have a higher ozone-depleting potential (ODP). Class II substances are hydrochlorofluorocarbons (HCFC), which are transitional substitutes for many Class I substances and are also in the process of being phased out. Reference (g) establishes DoD policy on GHG emissions reporting and reduction per reference (e), which includes fluorinated substances that are GHGs (e.g., HFCs, PFCs) and are used by the Navy as substitutes for Class I and Class II ODSs in multiple applications (i.e., as refrigerants, solvents, and firefighting agents). Accordingly, Navy facilities must follow similar procedures for HFCs and PFCs as are required for ODSs in subparagraph 22-3.6e of this manual, including technician certification, recovery and recycling, and leak monitoring and repair to reduce emissions to help achieve GHG-emission reduction targets established by DoD per reference (e).

a. Class I and II ODS Phase-Out Schedule. Under the Montreal Protocol, Class I ODSs have been completely phased out in the United States, except for exemptions. All uses of Class I ODS solvents should have ceased by 1 January 2015, unless a waiver was granted by OPNAV N45 per subparagraph 22-3.6i of this manual. For Class II ODSs, the United States is obligated to limit HCFC consumption to a specific level and to reduce it in a step-wise fashion as detailed in reference (a), section 82.16.

b. Mission-Critical Applications

(1) The use of Class I and Class II ODSs must continue for mission-critical applications so as not to jeopardize or degrade the safety or operational requirements of the Navy until such time as the cognizant system command develops and approves, and echelon 2 commands implement, the use of safe alternative substances or systems, or until existing hardware is retired from service. Navy mission-critical applications are:

(a) Chlorofluorocarbon (CFC)-12 and CFC-114 used in legacy ship chilled-water air conditioning, ships stores and cargo refrigeration, and legacy aircraft environmental control systems;

(b) CFCs used in shore-based training applications where weapon system equipment is stationed at a shore facility responsible for training of personnel in the handling, operation, and maintenance of that equipment;

(c) HCFC-22 used in legacy ship air conditioning, stores and cargo refrigeration, shipboard oxygen and nitrogen producers (and oxygen and nitrogen producers at training facilities), and landing craft air cushion (LCAC) air-conditioning systems;

(d) Halon 1211 used in shipboard aircraft rescue and firefighting vehicles, LCAC fire suppression systems, and for fire suppression in aircraft;

(e) Halon 1301 used in legacy shipboard total flooding fire suppression applications and legacy aircraft explosion suppression and fire-protection applications;

(f) CFC-113 used in support of oxygen system cleaning; and

(g) Shore-based heating, ventilation, air conditioning, and refrigeration (HVAC&R) equipment and fire-protection systems as approved by OPNAV N45.

(2) ODS Procurement and Use in Acquisition

(a) Prohibitions

1. Per references (h) through (l), use of Class I ODSs in contracts is prohibited unless an appropriate technical representative (ATR) certifies that no suitable substitute is available and a senior acquisition official (SAO) approves the procurement. Substitutes must also be approved under EPA's Significant New Alternatives Policy (SNAP) program for the intended use and application.

2. Purchase and use of Class II ODS solvents (HCFCs) is prohibited per reference (a), Part 82.

3. Procurement of ODSs by Navy activities for transfer to Foreign Military Sales (FMS) customers is prohibited, since supply of such substances could be in violation of the provisions of reference (a), Part 82, the Montreal Protocol, and the laws of the foreign government. Navy activities that are designated as authorized users of the ODS reserve are also not authorized to transfer ODS reserve material to FMS customers for any reason. Non-ODS alternatives should be offered to FMS customers whenever possible. If alternatives are not available, the FMS customer should be advised to procure Class I ODSs directly, preferably from their own domestic sources.

(b) Requirements

1. The cognizant command must designate an ATR who will conduct a technical review and certify there are no suitable substitutes available;

2. Flag officer or member of the senior executive service designated by the requiring command to be the SAO for the procurement must approve the contract following technical certification. The SAO is the person who actually authorizes the purchase and should

be in the chain of command of the activity that owns or has cognizance over the equipment or facility requiring the use of a Class I ODS;

3. All Class I ODSs for mission-critical applications (planned use) must be obtained from the ODS reserve and not by contracting action;

(d) Unplanned use of Class I ODSs for mission-critical applications must be approved per the procedures in reference (k).

(3) Use of ODS Reserve. The ODS reserve must be used to support only mission-critical applications when no alternative is available or when interim support is required during retrofit or implementation of alternatives. Accordingly, these provisions apply:

(a) Requisition of ODS reserve material for non-mission-critical applications is not authorized;

(b) Oversight and control of access must be exercised through an authorized use list (AUL);

(c) DLA has established procedures for deposits to and requisitions from the ODS reserve. DLA publishes these procedures on the DLA Aviation Web site (refer to appendix E (Web Sites) for Web site address); and

(d) Upon approval of an unplanned use, OPNAV N45 may authorize access to the ODS reserve and COMNAVSEASYSCOM must update the AUL accordingly.

(e) Turn-in of unused excess Class I ODS solvent to the ODS reserve is mandatory. DLA procedures for deposits to the reserve are found on the DLA Aviation Web site (refer to appendix E (Web Sites) for Web site address).

c. Non-Mission-Critical Applications

(1) New Equipment

(a) All new shore-based, non-mission-critical HVAC&R equipment must use an EPA-SNAP-program-approved refrigerant with an ODP of zero;

(b) New HVAC&R equipment (both mission-critical and non-mission-critical) must not contain Class II substances;

(c) Outside continental U.S., activities should consult applicable FGS to determine if earlier HCFC production and or use phase-outs are applicable; and

(d) Installation of shore-based Halon 1301 fire-protection systems and procurement of non-mission-critical portable Halon fire extinguishers is prohibited.

(2) Procurement. Refer to subparagraph 22-3.6b(1) of this manual for procurement requirements for Class I ODSs.

(3) Use of ODS Reserve. Activities must not requisition ODSs from the ODS reserve for non-mission-critical applications such as shore-based HVAC&R equipment or shore-based fire-protection systems.

(4) Conversions. Shore facilities should have already converted or replaced all existing non-mission-critical HVAC&R equipment containing Class I ODSs based upon the policies in previous versions of this manual, unless a waiver was received from OPNAV N45 per subparagraph 22-3.6.i. of this manual. Equipment conversion does not apply to small appliances, air-conditioning equipment with 5 tons or less cooling capacity (60,000 British Thermal Units), and motor vehicle air conditioners (MVAC), but new equipment must meet the standards in subparagraph 22-3.c.1. In addition, the following requirements apply:

(a) If an accidental discharge or fire should occur in a shore facility space protected by Halon 1301, the system should not be refilled with Halon 1301. Reference (m) should be used to determine if water sprinklers provide adequate protection or if retrofit with an alternative agent is required; and

(b) All excess Class I ODS refrigerants, HCFC-22 refrigerant, and Halons should continue to be recovered and returned to the ODS reserve using procedures posted on the DLA Aviation Web site (refer to appendix E (Web Sites) for Web site address).

(5) Portable Halon Fire Extinguishers. As of 1 January 1996, activities are required to remove and locally redistribute all non-mission-critical Halon portable fire extinguishers to support mission-critical requirements or turn them in to the Navy portion of the ODS reserve.

(6) ODS Solvents. Use of Class I ODS solvents in non-mission-critical applications is prohibited except for essential laboratory or analytical uses as defined in reference (a), Part 82, subpart A, appendix G. Purchase and use of the Class II ODS solvent HCFC-141b is prohibited. Purchase and use of other Class II ODS solvents are prohibited effective 1 January 2015.

(7) ODS Solvent Alternatives. If an activity identifies an ODS solvent application for which it does not know of an alternative, the activity must consult with the cognizant engineering authority. If no alternative has been identified, the activity must forward this information via the chain of command to its cognizant echelon 2 command. The cognizant echelon 2 command is responsible for developing a plan of action to test and qualify an alternative.

(8) Existing Supplies of ODS Solvents. Existing stocks of ODS solvents may be used to provide interim support during the transition to non-ODS alternatives. Activities must turn in unopened containers of Class I ODS solvents that are not required for interim support to the ODS reserve. Activities were directed to cease all ODS solvent use (Class I and Class II) no later than 1 January 2015 unless a waiver has been granted by OPNAV N45 per subparagraph 22-3.6i of this manual.

(9) Shipboard Galley and Ancillary Refrigeration Equipment. Chapter 35 (Environmental Compliance Afloat), subparagraph 35-3.13c of this manual contains policies and procedures for support of shipboard galley and ancillary refrigeration equipment.

d. Criteria for Selection of ODS Alternative

(1) Navy activities must select alternatives that are EPA-SNAP-program-approved with an ODP of zero. Activities should also select low-global-warming-potential alternatives when feasible.

(2) Activities must contact their local industrial hygienist or occupational safety and health personnel to ensure proper identification of occupational safety and health hazards associated with ODS alternatives. Activities must ensure recommended health and safety hazard control measures are properly in place prior to implementing alternatives. Reference (n) details specific procedures for obtaining health hazard assessments pertaining to operational use of hazardous materials (HM).

e. Refrigerants Handling. In addition to the following requirements for ODS refrigerants contained in reference (a), Part 82, Navy facilities must follow similar procedures for HFC and PFC refrigerants to help reduce GHG emissions per reference (e). Refer to subparagraph 22-3.5c of this manual for additional details.

(1) Maintenance. Navy personnel must conduct maintenance, service, repair, disposal, leak monitoring, and recordkeeping on appliances and MVACs and MVAC-like appliances containing Class I or II ODSs and or substitutes for these refrigerants (e.g., HFCs, PFCs) per requirements detailed in reference (a), Part 82, subparts B and F.

(2) Refrigerant Recovery. Intentional release of ODS refrigerants and their substitutes (such as HFCs), while maintaining, servicing, repairing, or disposing of air-conditioning or refrigeration equipment is prohibited. Activities must use EPA-approved refrigerant recovery equipment and must certify to the appropriate EPA regional office, per reference (a), section 82.162, that they have acquired such equipment and are complying with reference (a), Part 82. Overseas activities and ships are not required to submit this certification. Overseas facilities must use EPA-approved refrigerant recovery equipment if available. If EPA-approved equipment is not available, then locally available recovery equipment that achieves performance comparable to EPA-approved recovery equipment must be used. For air-conditioning and refrigeration equipment designed and used solely by the military (military-unique systems), recovery equipment must be designed, to the extent practical, to achieve performance comparable to that required of commercial recovery equipment by EPA.

(3) Refrigerant Technician Certification. All Navy military and civilian refrigerant technicians, except for motor vehicle technicians, must be certified per reference (a), section 82.161. Proof of such certification must be readily available at the work place. Technicians may require additional State or local certifications if they are more stringent than Federal certification. Although technician certification requirements of reference (a), Part 82 do not apply to foreign nationals working on U.S. Navy equipment overseas, certification of foreign nationals may be

required by the host nation. The applicable FGS should be consulted to determine if the host nation has certification requirements for foreign nationals.

(4) Motor Vehicle Technician Certification. All Navy military and civilian motor vehicle technicians performing service and repair on MVACs must be certified as specified by reference (a), section 82.40. Certification requirements do not apply to foreign nationals working on U.S. Navy vehicles overseas. The applicable FGS should be consulted to determine if the host nation has certification requirements for foreign nationals.

(5) Refrigerants as HMs. ODS refrigerants are considered HMs and must be controlled and managed per this chapter and chapter 23 (Hazardous Materials Management Ashore) of this manual. Used Class I and Class II ODS refrigerants that are to be recycled for future use, however, are not considered HW under Federal HW regulations. Where they are more restrictive, however, State and local HW regulations apply to storage, transportation, and disposal of used ODS refrigerants.

f. Prohibition of Intentional Releases of Halon and Substitute Fire Suppressants. Navy personnel must not intentionally release Halon or substitute fire suppressants that are GHGs, such as HFCs, during the service, maintenance, repair, or disposal of any firefighting equipment. Technicians who test, maintain, service, repair, or dispose of Halon-containing equipment must be trained regarding Halon emission reduction as specified by reference (a), section 82.270.

g. Emerging Technology and Alternatives. Navy activities having any information regarding new emerging technologies and alternatives for the elimination of ODSs or substitutes that are GHGs should contact their budget submitting office (BSO) or COMNAVSEASYSCOM for incorporation into the Navy Shipboard Environmental Information Clearinghouse. In addition, activities may request information on ODS alternatives by contacting the clearinghouse through COMNAVSEASYSCOM.

h. Disposal of ODSs

(1) Sale of ODSs. No Navy activity must sell or otherwise transfer any Class I ODSs or HCFC-22 outside the Navy without written permission from their chain of command and OPNAV N45. Contract specifications and contractual actions must not include the transfer of Class I ODSs and HCFC-22 to contractors. Activities must deposit excess Class I ODSs and HCFC-22 into the Navy's portion of the ODS reserve.

(2) Turn-In of HVAC&R to DLA Disposition Services. Activities transferring HVAC&R equipment to DLA Disposition Services for reuse must label the equipment to indicate that it contains an ODS. Activities transferring HVAC&R equipment to DLA Disposition Services for disposal as scrap must recover the ODS prior to disposal and label the units as having had all refrigerants and oils removed per EPA regulations. Additional information on HVAC&R equipment disposal can be found in reference (o), chapter 10.

i. Waivers. Requests for waivers to the provisions of the ODS subparagraphs of this chapter must be submitted to OPNAV N45 via the chain of command. For such waivers, an activity

must demonstrate the application of the requirements of these subparagraphs is impractical or results in the expenditure of resources that are not commensurate with the resultant reduction in the potential for unintentional release of ODSs to the environment. Statutory requirements will not be waived.

(1) Content. At a minimum, waiver requests should contain:

(a) ODS involved and its intended use;

(b) Number of units affected;

(c) Quantity of ODS involved;

(d) Associated costs;

(e) Statement of environmental impact (e.g., annual leakage, average annual discharge of material);

(f) Safety and occupational health impact;

(g) Operational impact;

(h) Plan for meeting requirement; and

(i) Additional information as appropriate.

(2) Review and Approval Process. OPNAV N45 must review waivers on a case-by-case basis and provide responses by letter via the chain of command. All approved waivers must be granted for a finite period.

22-3.7. Other Clean Air Act Requirements. This paragraph lists several additional CAA sections that may impact Navy operations.

a. Enforcement

(1) Waiver of Sovereign Immunity. The broad waiver of Federal sovereign immunity in section 118(a) of the CAA subjects Federal facilities to all Federal, interstate, State, and local air pollution requirements to the same extent as any nongovernmental entity. States or local air districts generally enforce these CAA requirements; however, EPA also has enforcement authority for most CAA violations. Methods of enforcement include compliance orders, field citations, administrative assessment of civil penalties, civil judicial enforcement, and criminal enforcement. The CAA provides for penalties of up to $37,500 per day for each violation. Navy installations must notify their RECs and OPNAV N45 via their chain of command if EPA, the State, or a local regulatory entity implements CAA regulatory requirements in a manner that is discriminatory per section 118(a) of the CAA.

(2) State Civil Penalties. Although installations are subject to CAA penalties assessed by EPA, the applicability of State and local air district penalties is not clear due to conflicting court opinions. Therefore, all penalty assessments should be coordinated per the provisions of chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual and the additional policy provisions of this chapter. Due to the uncertainty in the courts, CAA penalty provisions response letters to State agencies are also reviewed by the Department of Justice via the Naval Litigation Office, Office of the General Counsel, Department of the Navy. Reference (p) formally established that process as a DON policy.

(3) Citizen Suits. Civil actions may be brought against any person (including the United States) for present or past (if repeated) CAA violations of an emission standard, limitation, or order issued by EPA or a State. In addition, actions may be brought against any person who constructs without a required permit. Navy installations must notify their RECs and OPNAV N45 via their chain of command if any civil action is brought against the installation or person performing any act or duty on behalf of the installation.

b. Emission Reduction Credits

(1) Sections 110(a)(2)(A) and 172(c)(6) of the CAA authorize States or their local air quality districts (AQD) to establish economic incentive programs (e.g., trading system for emission reduction credits (ERC)). ERCs are created when equipment that emits pollutants is removed from service or emissions from equipment remaining in service are reduced, provided the emissions reductions would not otherwise be required by the CAA or current SIP, and the owner applies under the AQD regulations for credit for the reduction.

(2) Navy installations located in areas where economic incentive programs have been established under the CAA can create and trade ERCs. ERCs must be acquired and disposed by a Navy entity as if they were personal property. No ERCs may be disposed of or traded to non-Navy facilities unless such action has been coordinated with the appropriate REC. For installations being closed or realigned, ERCs must be used and disposed of per reference (q). For operating installations, ERCs must be utilized and disposed of per reference (r) in this manner:

(a) ERCs generated from a change in operations, removal from service of equipment, or any other action that results in emissions reductions may be banked for:

1. Future use by that same installation;

2. Transfer to another Navy 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 transfer of the credits; or

4. Transfer to any other Federal agency within the same AQD or another AQD that will accept transfer of the credits.

(b) ERCs may be transferred between military services under reference (s), with or without compensation;

(c) ERCs determined to be surplus to the Federal government must be reported for screening and disposal using the existing personal property disposal mechanisms; or

(d) Installations requiring ERCs must either purchase ERCs from other sources or obtain emissions offsets from on-installation sources.

c. Air Pollution Emergency Episodes. Where required as part of a SIP approved by EPA per reference (a), Part 51, Navy shore facilities must develop, in coordination with the appropriate State authorities, an air pollution emergency episode contingency plan to reduce air emissions during emergency episodes, identifying all actions that can reasonably be taken without compromising essential services and mission responsibilities.

d. Exemptions for Certain Territories. Per section 325(a)(1) of the CAA, upon petition by the Governor of Guam, American Samoa, U.S. Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the EPA administrator may exempt any person or source in such territory from any CAA requirement other than those provisions concerning HAPs or implementation plans for the achievement of the NAAQS. This is also applicable to Navy entities located in American Samoa, U.S. Virgin Islands, or the Commonwealth of the Northern Mariana Islands. After being petitioned by the governor, EPA may grant such exemptions based on the finding that compliance is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors.

e. Federal Contractor Restrictions. No Navy entity may enter into a contract with any person 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 that gave rise to such conviction if such facility is owned, leased, or supervised by such person.

22-3.8. Training Requirements. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental readiness training courses. In addition to NERTP-sponsored courses, other specialty schools may also resource, develop, and deliver environmental readiness courses to meet their specific requirements.

a. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the Civil Engineer Corps Officer School and Naval Safety and Environmental Training Center Web sites (refer to appendix E (Web Sites) for Web site addresses).

b. Refer to chapter 3 (Environmental Readiness Training) of this manual, for information on general overall and billet-specific environmental readiness training requirements as well as

training requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered.

c. In addition to the training requirements contained in chapter 3 (Environmental Readiness Training) of this manual, personnel managing or operating certain sources or processes must obtain specific training where required to build and maintain proficiency in performing their job duties in compliance with applicable regulations and where explicitly required by the CAA, including:

(1) Prevention of accidental releases under section 112(r) of the CAA;

(2) Solid waste incineration under section 129(d) of the CAA; and

(3) ODSs under Title VI of the CAA.

d. CAA-compliance PMs, at the activity or installation level, must have training commensurate to their level of responsibilities consistent with the community management plan for the position if applicable.

22-4 Responsibilities

22-4.1. OPNAV N45 must:

a. Coordinate the overall implementation of CAA requirements and chair the Navy CAA Steering Committee;

b. Coordinate the review of proposed and final CAA regulations;

c. Issue policy and guidance as needed;

d. Coordinate the review of fines and penalties with the Navy Office of the Assistant General Counsel (Energy, Installations, and Environment);

e. Review all requests for waivers (refer to subparagraph 22-3.6i of this manual) to the requirements of ODS subparagraphs of this chapter and issue determinations as appropriate;

f. Provide oversight of the ODS reserve, control access through an AUL, and authorize any supportable unplanned use approved per reference (k);

g. Compile BSO data on ODS reserve requirements and identify any shortfalls;

h. Review, in coordination with the cognizant OPNAV organizations in charge of activities that emit reportable GHG per reference (e), activities such as personnel travel and commuting, emission of HFC gases, waste disposal, operational and shore energy usage, and the annual GHG

emissions inventories prepared by COMNAVFACENGCOM and CNIC per subparagraph 22-4.6k of this manual; and

i. Submit the annual Navy GHG Emissions Inventory in compliance with reference (e) to Deputy Assistant Secretary of the Navy (DASN) (Environment) (DASN(E)) and DASN (Energy).

22-4.2. BSOs must:

a. Implement the policies and procedures of this chapter;

b. Ensure activities under their command comply with current Federal, State, interstate, and local air pollution control requirements;

c. Include requests for resources to meet air pollution control requirements in program objective memorandum and budget submissions;

d. Ensure activities execute funds to meet mandatory requirements of the CAA;

e. Revise preventive and corrective maintenance procedures, for which they are the cognizant activity, to incorporate the use of ODS recovery and recycling units;

f. Revise military specifications and manuals, for which they are the cognizant activity, to reduce or eliminate references to the use of HAP-containing solvents and other HM as required in chapter 23 (Hazardous Materials Management Ashore), subparagraph 23-3.5c of this manual, closely coordinating with other BSOs and systems commands, as appropriate, for cross-cutting requirements.

g. Revise military specifications and manuals, for which they are the cognizant activity, to reduce or eliminate references to the use of ODSs, closely coordinating with other BSOs and systems commands, as appropriate, for cross-cutting requirements;

h. Ensure all field activities meet requirements for elimination of ODS equipment;

i. Review all requests from subordinate activities for waivers (refer to subparagraph 22-3.6i of this manual) to the requirements of the ODS subparagraphs of this chapter and forward recommendations to OPNAV N45; and

j. Assign a representative to the Navy CAA Steering Committee and participate in meetings and activities of the committee.

22-4.3. All Navy systems commands must:

a. Ensure procurement or leasing of non-tactical or non-deployable commercial vehicles, equipment, and vessels that are not covered under an NSE comply with applicable Federal and

State standards and regulations in effect at the location where the equipment will be placed into service;

b. Ensure all procured tactical or deployable vehicles, equipment, and vessels, when required, are appropriately covered under an NSE per subparagraph 22-3.4a of this manual and assigned the appropriate demilitarization code to prevent their sale to the public as a serviceable engine; and

c. Ensure all new acquisitions and or retrofitting of both mobile and stationary sources (e.g., facilities, equipment, engines, vehicles) are made to ensure compliance with all applicable emission standards and operational requirements under the CAA.

22-4.4. COMNAVSEASYSCOM must:

a. Maintain the Navy Shipboard Environmental Information Clearinghouse for use by all Navy activities;

b. Manage the conversion of Navy shipboard HVAC&R systems;

c. Monitor the drawdown of the Navy's reserve of ODSs and provide quarterly reports of the status of the ODS reserve to OPNAV N45. If the actual rate of drawdown varies from predicted rates, develop corrective action plans, fully coordinate them with the appropriate echelon 2 commands, and provide recommended corrective actions to OPNAV N45;

d. In coordination with the fleets, evaluate, on an annual basis, the ODS reserve requirements for cognizant mission-critical applications of ODSs and submit any changes to OPNAV N45;

e. Revise procurement guidance for shipboard galley equipment to include only equipment that meets the requirements of chapter 35 (Environmental Compliance Afloat), subparagraph 35-3.13c of this manual;

f. Ensure miscellaneous COMNAVSEASYSCOM-owned equipment and systems that use ODSs have material support plans or are converted or replaced to use non-ODS materials;

g. Review and approve requests for administrative additions, deletions, or changes to the AULs for the ODS reserve for all shipboard mission-critical applications;

h. Maintain the ODS reserve AUL/Ships Hazardous Material List (SHML) as directed by OPNAV N45 and ensure administrative changes to planned users are made as requested by Commander, Naval Air Systems Command (COMNAVAIRSYSCOM); Commander, Military Sealift Command (COMSC); and COMNAVSUPSYSCOM. If a request involves an unplanned use, ensure the requesting activity has complied with the procedures contained in reference (k); and

i. Review and approve requests from shore facilities for thinning marine coatings per subparagraph 22-3.3b(2)(a) of this manual.

22-4.5. COMNAVSUPSYSCOM must:

a. Serve as the Navy liaison with DLA on matters pertaining to marine coating procurement contracts and ensure suppliers provide a batch certification that demonstrates compliance with the applicable VOHAP limit given in reference (a), Part 63, subpart II, table 2;

b. Serve as the Navy liaison with DLA on matters pertaining to the establishment, maintenance, operation, and funding, as appropriate, of the ODS reserve;

c. Revise, as necessary, procurement instructions and guidance to include additional ODSs and ODS replacements as they are regulated by EPA;

d. Assist echelon 2 commands with the ODS recycling and reclamation program;

e. Incorporate refrigerant and Halon recovery and recycling equipment and appropriate spare parts into the Navy supply system as soon as possible after contract award and notification by other echelon 2 commands;

f. Provide monthly reports of ODS requisitions as compiled by COMNAVSUPSYSCOM, Weapon Systems Support to COMNAVSEASYSCOM for incorporation into the ODS reserve monitoring system; and

g. Review and approve requests for administrative additions, deletions, or changes to the ODS reserve AUL for all logistics distribution activities in support of mission-critical applications.

22-4.6. COMNAVSUPSYSCOM, in conjunction with COMNAVFACENGCOM and CNIC, must ensure the Navy Enterprise Resource Planning Single Supply Solution with Environmental Health and Safety functionality software used for HM management will facilitate data gathering for annual emissions reporting and Emergency Planning and Community Right-to-Know Act reporting for all applicable HAPs, toxic air pollutants, and VOCs.

22-4.7. COMNAVFACENGCOM, in coordination with CNIC, must:

a. Revise technical documents and manuals to reflect design, operation, monitoring, and testing parameters required by emission and performance standards and permit requirements for shore facilities;

b. Provide technical assistance to shore commands, as requested, to determine applicable permit requirements, obtain permit data, complete permit applications and renewals, and determine and implement requirements for mobile source controls;

c. Develop and provide to installation commanding officers (ICO) required air permit applications or renewals for all construction projects. For military-construction (MILCON)-funded air projects, pay related fees from the funds appropriated and budgeted for the projects, which include initial source testing for startup of facilities and initial operating permits;

d. Identify appropriate emissions offsets, where required for new construction, and prepare and coordinate projects to implement offset requirements;

e. Identify compliance requirements for new construction by coordinating new projects or modifications with appropriate State, local, and or EPA regional offices and the affected facility;

f. Provide Navy-wide coordination and technical support for compliance with CAA Title II requirements applicable to the Navy's vehicle fleets;

g. Assist Navy vehicle fleets in I/M testing;

h. Maintain Navy-wide information on the location and physical characteristics of Navy stationary sources, including key features of variances and delay compliance orders;

i. Develop and revise, as necessary, guidance for shore activities on ODS alternatives for HVAC&R equipment and fire protection systems;

j. Provide technical support to shore activities for replacement of ODS; and

k. Prepare annual Navy energy and GHG emissions inventories required by reference (e) and submit them to OPNAV N45 for review and subsequent submission to DASN(E) and DASN(Energy).

22-4.8. COMNAVAIRSYSCOM must:

a. Monitor the drawdown of the COMNAVAIRSYSCOM portion of the ODS reserve and develop any required corrective actions in cooperation with OPNAV N45, COMNAVSEASYSCOM, and the fleets;

b. In coordination with the fleets, evaluate, on an annual basis, the ODS reserve requirements for cognizant mission-critical applications of ODSs and submit any changes to OPNAV N45;

c. Identify and address ODS program, technical, and supportability issues related to naval aviation and coordinate solutions with appropriate aircraft PMs, echelon 2 commands, and OPNAV N45; and

d. Review and approve requests for administrative additions, deletions, or changes to the ODS reserve AUL for all aviation mission-critical applications.

22-4.9. COMSC must:

a. Monitor the drawdown of the COMSC portion of the ODS reserve and develop any required corrective actions in cooperation with OPNAV N45, COMNAVSEASYSCOM, and the fleets;

b. In coordination with other echelon 2 commands, as appropriate, evaluate, on an annual basis, the ODS reserve requirements for cognizant mission-critical applications of ODSs and submit any changes to OPNAV N45;

c. Identify and address ODS program, technical, and supportability issues related to COMSC operations and coordinate solutions with appropriate echelon 2 commands and OPNAV N45;

d. Revise procurement guidance for shipboard galley equipment to include only equipment that meets the requirements of chapter 35 (Environmental Compliance Afloat), subparagraph 35-3.13c of this manual;

e. Manage the conversion of shipboard HVAC&R systems on COMSC vessels;

f. Ensure miscellaneous COMSC-managed equipment and systems that use ODSs have material support plans or are converted or replaced to use non-ODS materials; and

g. Review and approve requests for administrative additions, deletions, or changes to the AUL for the ODS reserve for all sealift mission-critical applications.

22-4.10. Chief, Bureau of Medicine and Surgery (BUMED) must provide workplace hazard evaluations and health risk assessments for ODS substitutes that are proposed for use in industrial operations and Navy-unique working environments, as requested by other echelon 2 commands. Reference (n) provides guidance regarding procedures for requesting health hazard assessments.

22-4.11. The Naval Education and Training Command (NETC) must:

a. Develop alternate training procedures using safe alternatives to ODSs where consistent with operational requirements without degradation of mission effectiveness;

b. Incorporate ODS issues into HM control and management training as well as enlisted Class A and Class C schools and officer training courses, as appropriate;

c. Incorporate EPA-required training on the proper use of ODS recovery and recycling equipment into HVAC&R technician curriculums;

d. Ensure training in the proper use of ODS recovery and recycling equipment is incorporated into the NERTP Navy Training System Plan;

e. Ensure all graduates of NETC courses who teach maintenance on systems containing ODSs are Federally certified per reference (a), Part 82 as a condition for graduation; and

f. Manage the Navy's refrigerant technician training and certification program and ensure compliance with all reporting and recordkeeping requirements as specified in reference (a), Part 82, subpart F, appendix D, including the submission of semi-annual certification reports to EPA headquarters and maintenance of technician certification records to allow issuing of replacement certification cards to technicians whose cards have been lost or stolen.

22-4.12. Commander, U.S. Fleet Forces Command and fleet commanders must:

a. Coordinate with COMNAVSEASYSCOM, COMNAVAIRSYSCOM, and COMSC, as appropriate, to manage equipment and weapon system conversion programs and schedules to eliminate the use of ODSs;

b. In coordination with OPNAV N45, COMNAVSEASYSCOM, COMNAVAIRSYSCOM, and COMSC, monitor the drawdown of the ODS reserve and develop any required corrective actions;

c. In coordination with COMNAVAIRSYSCOM, COMNAVSEASYSCOM, and COMSC, as appropriate, evaluate, on an annual basis, the ODS reserve requirements for cognizant mission-critical applications of ODSs;

d. Develop and execute plans to meet Navy performance goals for shipboard HVAC&R equipment leakage rates as described in chapter 35 (Environmental Compliance Afloat), subparagraph 35-3.13a(5) of this manual; and

e. Ensure type commanders manage existing funds to replace shipboard galley equipment as described in chapter 35 (Environmental Compliance Afloat), subparagraph 35-3.13c of this manual.

22-4.13. RECs must:

a. Coordinate input and comments on all applicable CAA requirements in their area of responsibility;

b. Coordinate ERC trading among Navy or other service facilities;

c. Notify OPNAV N45 of any significant or precedent-setting State or local regulatory actions with the potential to impact Navy operations;

d. Perform the functions of the Navy air pollution episode coordinator within air quality control regions, or portions thereof, under their jurisdiction. Air pollution episode coordinators must ensure air episode plans and actions are consistent in degree and timing for all Navy activities in the affected episode area and are also as consistent as possible with plans and actions of other Federal activities and State and local air pollution control authorities; and

e. Assign a representative to the Navy CAA Steering Committee and participate in meetings and activities of the committee.

22-4.14. Region commanders and Navy shore ICOs must:

a. Comply with the applicable substantive and procedural Federal, State, local, and regional clean air laws, E.O.s, regulations, and permits;

b. Ensure all required permit applications for existing and planned air emission sources are prepared in a timely manner and reviewed and signed by a responsible official. The responsible official assumes responsibility for the accuracy and completeness of permit applications and could be subject to criminal sanctions if the application is deficient. The responsible official must also periodically certify ongoing compliance with all permit provisions once a permit is issued. The responsible official could be either the Navy ICO or the Navy Region Commander having responsibility for the overall operation of the principal geographic unit of the Navy where the installation is located;

c. Implement appropriate ODS procurement guidance as established by DLA, COMNAVSUPSYSCOM, COMNAVFACENGCOM, CNIC, and other echelon 2 commands; and establish requisition procedures to ensure DLA-managed ODS reserve material is used only for prescribed mission-critical applications;

d. Ensure ODSs are identified and included in the HM AUL ashore and SHML;

e. Establish practices and procedures internally to reduce emissions of ODSs as much as possible;

f. Provide resources (e.g., tuition, travel, per diem) for training refrigerant and Halon technicians on ODS emission reduction, recovery, and recycling equipment and ensure compliance with applicable technician certification requirements; and

g. Submit requests for waivers to any of the requirements of subparagraph 22-3.6i of this manual via the chain of command to OPNAV N45. Statutory requirements may not be waived.

22-4.15. ICOs ashore must:

a. Ensure all non-mission-critical ODS equipment is managed per subparagraph 22-3.6c of this manual and conversions and replacements are implemented per said subparagraph and CNO waivers where applicable;

b. Identify and submit environmental compliance projects, per chapter 1 (Organization and Coordination) and chapter 2 (Funding) of this manual, required to bring air sources into compliance;

c. Budget sufficient resources to maintain and demonstrate compliance, including all routine air monitoring and scheduled sampling or testing;

d. Assure CAA General Conformity Rule requirements are satisfied for all Navy actions on the installation;

e. Develop specific environmental memoranda of understanding between host commands and tenant commands per chapter 1 (Organization and Coordination) of this manual to ensure tenants comply with all CAA requirements;

f. Sign applications for permits related to demolition, preconstruction, construction, and operational phases of projects unless multi-installation permit applications are to be signed by a higher authority. Develop applications and pay related fees for non-MILCON projects. Similarly, sign applications and pay related fees associated with operating permits and variances to temporarily operate sources out of compliance with emission limitations;

g. Sign all compliance statements for operations conducted on the installation unless multi-installation permit compliance statements are to be signed by a higher authority;

h. Maintain current records of physical, operational, and emission characteristics of air sources, including the potential to emit and actual emissions of sources as required by applicable Federal, State, and local regulations;

i. Notify State and local authorities to conform with permit requirements of all instances of noncompliance;

j. Report all notices of violation and penalty assessments, and consult with counsel as appropriate, per the requirements of chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual;

k. As part of the environmental management system processes established in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual, survey emission sources to identify potential reductions of emissions;

l. Report potential ERC sources to the REC;

m. Submit, via the chain of command to OPNAV N45, all instances in which compliance with fuel standards are impractical, such as the use of ultralow sulfur fuels in deployable and or tactical equipment;

n. Ensure the development of air episode plans as required and provide copies of plans to the REC;

o. Cooperate with the Navy air pollution episode coordinator, EPA, and State and local air pollution control authorities in the execution of air episode plans while in episode areas;

p. Ensure motor vehicles and other mobile sources comply with applicable emission standards and other requirements;

q. Develop and implement transportation control measures as required by the SIP;

r. Where applicable, furnish, to the appropriate regulatory authority, proof of compliance with all State and local motor vehicle I/M requirements for all vehicles operated on the installation 60 or more days per year;

s. Ensure systems and adequate procedures are in place to ensure compliance with regulatory requirements for composition of fuels used in commercial motor vehicles, equipment, and vessels;

t. Implement and maintain proper adjustments in stationary heating and power plant operations to reduce total emissions and optimize energy efficiency. Substantial fuel savings can also result from proper combustion operations and combustion air monitoring;

u. Ensure personnel are properly trained as required by the CAA;

v. If required, develop, update, and submit an RMP to EPA per subparagraph 22-3.3b(3) of this manual and coordinate its development and or updates with the Navy on-scene coordinator (NOSC); and

w. Notify the NOSC of any accidental releases of EPA-regulated substances if required by chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual.

22-5 Definitions

22-5.1. Air Pollution Emergency Episodes. Air pollution emergency episodes exist when the accumulation of air pollutants in any place are attaining or has attained levels that could, if such levels are sustained or exceeded, lead to a substantial threat to the health of individuals.

22-5.2. Aircraft Engine. An aircraft engine is a propulsion engine that is installed in or that is manufactured for installation in an aircraft.

22-5.3. Alternative Fuels. Motor vehicle emission regulations (reference (a), section 86.000-2) define “alternative fuels” as any fuel other than gasoline and diesel fuels, such as methanol, ethanol, and gaseous fuels. “Alternative Fuel Transportation Program” (reference (t)) defines alternative fuels to include: methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more alcohol with the balance consisting of gasoline or other such fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived fuels; fuels (other than alcohol) derived from biological materials (including biodiesel); electricity; and other substantially non-petroleum-based fuels.

22-5.4. Appliance. An appliance is any device that contains and uses a refrigerant and that is used for household, industrial, or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

22-5.5. Appropriate Technical Representative. An ATR is an individual (also referred to as approved technical representative) who has sufficient technical experience and knowledge to provide a competent certification.

22-5.6. Attainment Area. An attainment area is an area that meets the NAAQS of a specified criteria pollutant.

22-5.7. Clean Alternative Fuels. Clean alternative fuels are any fuels (including methanol, ethanol, fuel blends containing 85 percent or more alcohol, reformulated gasoline, diesel, natural gas, liquefied petroleum gas, and hydrogen) or power source (including electricity) used in a clean fuel vehicle that meet the requirements and emission standards of the CAA.

22-5.8. Clean Fuel Vehicle. A clean fuel vehicle is any vehicle in a class or category of vehicles that has been certified to meet the clean fuel vehicle standards applicable under Title II of the CAA for that class or category.

22-5.9. Commercial Motor Vehicles, Equipment, or Vessels. Commercial motor vehicles, equipment, or vessels are vehicles, equipment, and vessels that are substantially similar to commercial products that are available for sale to the general public.

22-5.10. Covered Area. For the purposes of CAA clean fuel fleet requirements, a covered area is one designated as serious, severe, or extreme for ozone or serious for carbon monoxide, with a 1980 census population of 250,000 or more.

22-5.11. Criteria Pollutants. Criteria pollutants are the following six common air pollutants for which the CAA has established NAAQS: ozone, carbon monoxide, particulate matter regulated as PM10 (10 microns or smaller) and PM2.5 (2.5 microns or smaller), sulfur dioxide, nitrogen dioxide, and lead. EPA calls these pollutants “criteria” air pollutants because they are regulated by the development of human-health-based and or environmentally based criteria (science-based guidelines) for setting permissible levels.

22-5.12. Federal Implementation Plan. A FIP is a Federally imposed air quality plan that supersedes a SIP due to a State’s failure to develop an adequate plan to achieve and maintain the NAAQS.

22-5.13. Greenhouse Gases. GHGs are CO_2, methane, nitrous oxide, sulfur hexafluoride, HFCs, PFCs, nitrogen trifluoride, and other gases meeting the definition of fluorinated GHGs as defined in reference (a), section 98.6.

22-5.14. Maintenance Area. A maintenance area is an area previously designated as nonattainment that has attained the NAAQS for a particular pollutant and has been redesignated to attainment. These areas must submit and implement a maintenance plan per section 175A of the CAA to ensure continued attainment.

22-5.15. Major Source. A major source is any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to

emit, air pollutants in excess of specified threshold levels. The threshold amounts vary according to the attainment classification of the area in which the source is located, the pollutant(s) emitted, and the applicable section of the CAA. The term does not include motor vehicles or non-road vehicles subject to regulation under Title II of the CAA.

22-5.16. Marine Engine. A marine engine is a non-road engine installed or intended to be installed on a marine vessel. This definition does not include portable auxiliary engines for which the fueling, cooling, and exhaust systems are not integral parts of the vessel.

22-5.17. Mission-Critical Application. Mission-critical applications are uses of ODSs as determined by CNO and defined in subparagraph 22-3.6b of this manual.

22-5.18. Motor Vehicle. A motor vehicle is any self-propelled vehicle designed for transporting persons or property on a street or highway.

22-5.19. New Source Review. The NSR is a national preconstruction permitting program for new stationary sources and modifications to existing stationary sources. The program consists of NNSR for major stationary sources located in nonattainment areas, PSD for major stationary sources in attainment and maintenance areas, and minor NSR for non-major sources in all geographic areas. NSR programs are typically implemented by the States.

22-5.20. Nonattainment Area. A nonattainment area is an area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS for one or more of the criteria pollutants.

22-5.21. Non-Road Engine. A non-road engine is any internal combustion engine: (a) in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (e.g., garden tractors, off-highway mobile cranes, bulldozers); or (b) in or on a piece of equipment that is intended to be propelled while performing its function (e.g., lawnmowers, string trimmers); or (c) that, by itself, in, or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicators of transportability include, but are not limited to wheels, skids, carrying handles, dollies, trailers, or platforms. Non-road engines do not include engines in highway vehicles, aircraft, and those specifically excluded in a particular regulation.

22-5.22. Non-Road Vehicle. A non-road vehicle is a vehicle powered by a non-road engine that is not a motor vehicle or a vehicle used solely for competition.

22-5.23. Offsets. Offsets are emission reductions obtained from one source to compensate for increased emissions from another.

22-5.24. Oxygenated Gasoline. Oxygenated gasoline is gasoline blended with additives to increase the oxygen content.

22-5.25. Ozone. The major constituent of “smog,” ozone is formed when VOCs and nitrogen oxide react in sunlight. The atmosphere has two distinct layers of ozone. For air quality

purposes, interest rests in the formation and transport of ground level ozone. At ground level, ozone has been shown to adversely affect the respiratory system and has proven to be the primary criteria pollutant causing regions to be declared in nonattainment of the NAAQS. At altitudes above 7 miles, stratospheric ozone plays a vital role in blocking out dangerous ultraviolet radiation.

22-5.26. Ozone-Depleting Substance Reserve. The ODS reserve is a supply of selected Class I ODS substances and HCFC-22 to support mission-critical applications as defined in subparagraph 22-3.6b of this manual. The ODS reserve is located at DLA Aviation in Richmond, Virginia, and was sized to meet all known mission-critical applications when established.

22-5.27. Ozone-Depleting Substances. ODSs are any chemical listed as a Class I or Class II substance in section 602 of the CAA.

22-5.28. Particulate Matter. Particulate matter is criteria air pollutants that include dust, soot, and other small, solid materials that are released into and transported by the air. PM10 is that portion of the total suspended particulate matter with an aerodynamic diameter of 10 microns or less. PM2.5 is that portion of the particulate matter with an aerodynamic diameter of 2.5 microns or less.

22-5.29. Planned Use. Planned use is a mission-critical application as defined in subparagraph 22-3.6b of this manual that uses Class I ODSs and was identified and quantified to size the ODS reserve.

22-5.30. Prevention of Significant Deterioration Program. The PSD program is a national preconstruction permit program for reviewing new major stationary sources and major modifications to existing major stationary sources located in attainment and maintenance areas. The program is typically implemented by the States with Federal oversight.

22-5.31. Recovery. Recovery is the removal and containment (or capture) of any ODS in any condition from a system without testing or processing.

22-5.32. Recycling. Recycling is the reduction of contaminants in a used ODS by oil separation and single or multiple passes through devices that reduce moisture, acidity, and particulate matter.

22-5.33. Reformulated Gasoline. Reformulated gasoline is gasoline that has undergone special distillation processes to meet performance requirements for nitrogen oxide emissions, oxygen content, benzene, heavy metals, VOCs, and toxic air pollutants.

22-5.34. Refrigerant. A refrigerant is any substance consisting in part or whole of a Class I or Class II ODS used for heat-transfer purposes that provides a cooling effect.

22-5.35. Senior Acquisition Official. An SAO is an official at a level no lower than a general or flag officer or member of the senior executive service within the requiring activity or the requiring activity chain of command.

22-5.36. Small Appliance. A small appliance is any appliance that is fully manufactured, charged, and hermetically sealed in a factory with 5 lb or less of a Class I or Class II substance used as a refrigerant, including, but not limited to refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.

22-5.37. State Implementation Plan. A SIP is a plan developed by a State to implement, maintain, and enforce the NAAQS and other CAA requirements and goals within that State. EPA is responsible for reviewing and approving each State's SIP and any revision of a SIP.

22-5.38. Stationary Source. A stationary source is any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road engine or non-road vehicle. Uninstalled engines may be considered part of a stationary source when operated in a test cell or stand.

22-5.39. Substitute. A substitute is any chemical or product, whether existing or new, that is used as a replacement for a Class I or II ODS.

22-5.40. Synthetic Minor Source. A synthetic minor source is a major source that accepts legally and practically enforceable limits to keep its potential to emit to below the major source threshold. These limits generally are in the form of operational or production limits. Recordkeeping and reporting of emissions are typically required to demonstrate compliance.

22-5.41. Title V Operating Permit. A Title V operating permit is a Federally enforceable document issued by the States (or in certain situations by EPA) to major sources and certain non-major sources of air pollution that defines emission standards, operational procedures, and all obligations of the source under the CAA.

22-5.42. Unclassifiable Area. An unclassifiable area is an area that cannot be classified on the basis of available information as meeting or not meeting the NAAQS for the pollutant.

22-5.43. Unplanned Use. Unplanned use is the use of Class I ODSs from the ODS reserve that was not planned for when the reserve was established and sized to support those mission-critical applications as defined in subparagraph 22-3.6b of this manual.

22-5.44. Volatile Organic Compounds. VOCs are any compound of carbon that participates in atmospheric photochemical reactions unless specifically excluded in reference (a), Part 51. Some of the carbon compounds excluded from the definition of VOC are carbon monoxide, CO_2, carbonic acid, metallic carbides or carbonates, ammonium carbonate, methane, ethane, methyl formate, methylene chloride, 1,1,1-trichloroethane, acetone, and perchloroethylene. Some ODSs

and other refrigerant substitutes are also excluded. The current version of reference (a), Part 51 includes a complete list of exclusions.

CHAPTER 23

HAZARDOUS MATERIALS MANAGEMENT ASHORE

Table of Contents

23-1 Scope 23-1
23-1.1. Related Chapters 23-1
23-1.2. References 23-2

23-2 Legislation 23-3

23-3 Requirements 23-3
23-3.1. Safety Data Sheets 23-3
23-3.2. Safe Packaging, Labeling, Handling, Storage, Transportation, Issue, Tracking, Use, and Disposal of Hazardous Materials 23-3
23-3.3. Authorized Use Lists 23-3
23-3.4. Consolidated Hazardous Material Reutilization and Inventory Management Program 23-3
23-3.5. Other Hazardous Material Control and Management Policies 23-4
23-3.6. Training Requirements 23-5

23-4 Responsibilities 23-5

23-5 Definitions 23-8

23-1 Scope. This chapter identifies requirements and responsibilities for environmental aspects of hazardous material control and management (HMC&M) at Navy shore installations. Any other hazard-specific instructions or directives take precedence over this manual for control purposes of hazardous material (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 are hazardous, and exposure to personnel may occur during manufacture, storage, use, and demilitarization of these items.

23-1.1. Related Chapters. Chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual contains information on Green Procurement Program (GPP) initiatives that can reduce procurement of HM. Chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-Know Act) defines Emergency Planning and Community Right-to-Know Act (EPCRA) reporting requirements supported by data generated via HMC&M processes. Chapter 27 (Hazardous Waste Management Ashore) of this manual provides policy guidance for minimization of hazardous waste (HW) generation that includes effective HMC&M. Chapter 31 (Storage Tanks) of this manual provides policy guidance for the management of storage tanks, including those containing HM. Chapter 34 (Overseas Environmental Compliance Ashore) of this manual provides HMC&M policy guidance with

respect to Navy commands outside the United States. Chapter 35 (Environmental Compliance Afloat) of this manual defines requirements and responsibilities for the management of HM aboard Navy ships. Chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual covers procedures for oil and hazardous substance spills, including HM spills.

23-1.2. References

(a) 29 CFR 1910.1200;

(b) OPNAVINST 5100.23G, Navy Safety and Occupational Health Program Manual;

(c) NAVSUP Publication 722, Consolidated Hazardous Material Reutilization and Inventory Management Program (CHRIMP) Manual;

(d) Navy Enterprise Resource Planning (ERP) Program Operational Requirements Document (ORD) under Joint Requirements and Oversight Council (JROC) memo 152-04 of 12 Aug 04 (NOTAL);

(e) CNO ltr 5090 Ser N4/4U745710 of 4 Feb 04;

(f) National Aerospace Standard 411 of 30 September 2013;

(g) DoD Instruction 5000.02 of 7 January 2015, Operation of the Defense Acquisition System;

(h) Navy Safety and Occupational Health Navy Training System Plan (SOH NTSP), of May 2009;

(i) Navy Environmental Readiness Training Program Navy Training System Plan (N45-NTSP-X-10-10010B/A), April 2015;

(j) NAVSUP Publication 723, Navy Inventory Integrity Procedures;

(k) DoD 4140.27-M, Shelf-life Item Management Manual, 5 May 2003;

(l) NAVSUP Publication 573, Storage and Handling of Hazardous Materials;

(m) Department of Navy Green Procurement Program Implementation Guide, February 2009;

(n) 49 CFR Part 173; and

(o) 40 CFR Part 261.

23-2 Legislation

a. Legislation that contains provisions that pertain to HM labeling, disposal, training, reporting, and management includes:

(1) Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §11001–11050;

(2) Occupational Safety and Health Act, 29 U.S.C. §651–678; and

(3) Pollution Prevention Act, 42 U.S.C. §13101–13109.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual. In addition, the Clean Air Act (CAA); Clean Water Act; Federal Insecticide, Fungicide, and Rodenticide Act; Hazardous Materials Transportation Act; and Toxic Substances Control Act all contain provisions that impact HM management practices.

23-3 Requirements. HM required in support of the Navy's mission must be packaged, labeled, handled, stored, transported, issued, tracked, used, and disposed of in a manner compliant with Occupational Safety and Health Administration (OSHA) requirements and Department of Transportation (DOT), EPCRA, PPA, Resource Conservation and Recovery Act (RCRA), CAA, and other applicable laws, E.O.s, and regulations. Effective HMC&M is critical to achieving pollution prevention (P2) goals by minimizing HW generation and subsequent disposal costs. Navy policy is to employ a comprehensive HMC&M approach to support the various environmental requirements associated with the use of HM.

23-3.1. Safety Data Sheets. Installations and commands must implement the requirements of references (a) and (b) regarding management and availability of safety data sheets (SDS) and the Department of Defense (DoD)'s central repository for SDSs.

23-3.2. Safe Packaging, Labeling, Handling, Storage, Transportation, Issue, Tracking, Use, and Disposal of Hazardous Materials. See reference (b) for occupational safety and health requirements associated with HM.

23-3.3. Authorized Use Lists. Navy policy is to restrict HM procurement, storage, issue, and use via authorized use lists (AUL) based on validated need and trained and qualified users. This serves to promote personnel safety, reduce potential environmental impacts, and minimize costs associated with the use of HM and disposal of associated HW. AUL approval is required prior to acquiring or adding any new HM products to the installation. AULs must be managed and maintained per reference (b).

23-3.4. Consolidated Hazardous Material Reutilization and Inventory Management Program. The Consolidated Hazardous Material Reutilization and Inventory Management Program (CHRIMP) supports OSHA hazard communication (HAZCOM) and RCRA waste minimization requirements, and uses government-designated systems (GDS) as the primary source of data necessary to produce mandatory EPCRA and CAA reports. Under CHRIMP, all HM must be controlled

centrally via a tracking system and container serialization when issued to work centers on an as-needed basis per the AUL. Manufacturers' SDSs are provided at the time of issue. Units of issue must be modified to prevent excess HM disposal by the work center. Serviceable, partially used, or excess HM is returned for potential redistribution, reuse, recycling, or as a last resort for disposal. CHRIMP also supports shelf-life management and extension and transfer of unused new stock to other Navy work centers or DoD commands in lieu of disposal. In addition to its integral role supporting compliance with OSHA, the EPCRA, the CAA, and other applicable laws, CHRIMP is a key element of the Navy's P2 program that significantly reduces HW disposal costs. Navy policy is to:

a. Implement CHRIMP at all Navy shore installations and commands per guidance in reference (c);

b. Use GDSs developed with standardized software and data sets for CHRIMP operations. The Navy Enterprise Resource Planning Single Supply Solution (ERP SSS) with environmental health and safety (EHS) functionality is the logistics program of record for Navy HMC&M and the only authorized GDS for Navy-managed CHRIMP operations. Installations using previously authorized systems must convert to the Navy ERP SSS with EHS functionality per reference (d). Navy commands with externally managed HM operations (e.g., managed by the Defense Logistics Agency) must conform to CHRIMP business rules. Information technology systems serving these commands must support EHS data management equivalent to the Navy ERP SSS with EHS functionality; and

c. Regionalize CHRIMP operations per reference (e) so serviceable used or excess HM will be used to the maximum extent feasible.

23-3.5. Other Hazardous Material Control and Management Policies. The Navy has adopted additional HMC&M policies that support RCRA waste minimization requirements and PPA and GPP requirements. Navy policy is to:

a. Use, to the maximum extent practicable, "green" products first in all procurements per Department of the Navy GPP requirements detailed in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual;

b. Identify, reduce, and eliminate HM requirements associated with weapon systems via reference (f) as early as possible in the systems acquisition process per the requirements detailed in reference (g);

c. Reduce or eliminate requirements for HM in technical references consistent with safety and reliability requirements, including weapon system maintenance record cards, technical manuals, specifications, standards, and local process documents. HM citations in such reference documents must be screened during initial drafting of new documents and reviewed for potential reduction or elimination of HM during the routine revision of existing documents; and

d. Validate HM requirements before introducing new HM into the supply system. A valid requirement may be substantiated by the original equipment manufacturer documentation,

technical manual, or allowance parts list that specifies HM. An environment, safety, and occupational health review must be performed per reference (b) and the GPP requirements in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual to ensure the least hazardous, environmentally preferred, or "green" product is stocked for new applications.

23-3.6. Training Requirements. Personnel involved in HM management must receive appropriate, job-specific education, experience, and training to perform their assigned tasks per references (h) and (i). Depending on the specific job duties, this may include HAZCOM training, DOT 40 CFR Part 172 HM training, and Hazardous Waste Operations and Emergency Response (HAZWOPER) training. Additional Navy-specific training requirements are covered in reference (b), chapters 6 and 7.

23-4 Responsibilities

23-4.1. The Office of the Chief of Naval Operations, Energy and Environmental Readiness and Division (OPNAV N45) must actively participate with industry and other Services through joint initiatives to eliminate or reduce shared HM procurement, use, and requirements.

23-4.2. Budget submitting offices (BSO) must:

a. Ensure their commands and subordinate commands assist Commander, Naval Supply Systems Command (COMNAVSUPSYSCOM) in implementing HMC&M practices including SDS management, AUL management, product labeling, shelf-life management, regional CHRIMP implementation, and conversion to the Navy ERP SSS with EHS functionality;

b. Ensure their commands and subordinate commands comply with Navy HM reporting requirements and validate new HM requirements before requesting their addition to the supply system;

c. Manage technical reference documents under their cognizance to ensure new documents minimize HM requirements and existing documents are updated to reflect the least hazardous technically acceptable materials;

d. Ensure new systems, processes, and operations incorporate the least hazardous technically acceptable materials; and

e. Develop and implement HM elimination or substitution processes that replace HM in existing systems, processes, and operations with the least hazardous technically acceptable materials.

23-4.3. COMNAVSUPSYSCOM must:

a. Serve as:

(1) The Navy's lead organization with technical and management authority and accountability for all logistics-support functions associated with P2 and HMC&M programs including regional CHRIMP implementation and operations ashore;

(2) The logistics automatic identification technology and information technology functional area manager for HM tracking systems; and

(3) The BSO for planning, programming, budgeting, and allocation of funds to support HMC&M program requirements, including regional CHRIMP implementation and operation ashore;

b. Implement and sustain standardized regional CHRIMP procedures for total asset visibility and life-cycle management of HM products and services at all Navy installations ashore using the Navy ERP SSS with EHS functionality;

c. Develop and maintain metrics to assess the effectiveness of regional CHRIMPs using the criterion outlined in paragraph 23-3.4 of this manual. Monthly CHRIMP metrics reports must be provided to region commanders and commanding officers (CO) of Navy installations in support of environmental reporting requirements and environmental quality assessment audits;

d. In conjunction with Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM), ensure the Navy ERP SSS with EHS functionality provides sufficient product hazard data (PHD) to support the full spectrum of the EPCRA; the CAA; environmental, safety, and occupational health (ESOH); and Secretary of the Navy GPP metrics and reporting requirements;

e. Develop, maintain, and manage standardized DoD logistics procedures and EHS data associated with the Navy's HMC&M program. This includes the Navy ERP SSS with EHS functionality material master database, the master AUL that identifies and quantifies authorized HM and approved users by installation and work center, and GPP products available in lieu of HM;

f. Serve as the Navy's focal point for PHD associated with installation EPCRA and CAA reporting;

g. Coordinate periodic review of standard ESOH data elements with appropriate stakeholders in the environmental, safety, and technical communities;

h. Implement policy guidance and procedures established by references (j), (k), and (l) for storage and handling of HM and shelf-life management of all HM products to include receipt, storage, surveillance, inspection and testing, issue, and disposal. A reliable and accurate audit

trail must be maintained in the Navy ERP SSS with EHS functionality for all HM products including HM located in work centers;

i. Integrate GPP practices guided by reference (m) into the HMC&M program in collaboration with appropriate stakeholders in the environmental, safety, and technical communities;

j. Screen requests for addition of new HM to the supply system to ensure a valid requirement exists, an alternative GPP product is not available, and the new item is not duplicative of an existing catalogued national stock number (NSN) for HM products;

k. Support the Office of the Chief of Naval Operations, Special Assistant for Safety Matters Navy Safety and Occupational Health (SOH) Program requirements in reference (b) and serve as a member of the SOH Navy Training System Plan Working Group to develop and improve formal training capabilities for HMC&M-related functions; and

l. Coordinate with Naval Safety and Environmental Training Center, Naval Education and Training Command, and Navy Supply Corps School and Center for Service Support, Newport, RI, for development and remote or electronic delivery of computer-based training delivered via Navy Web-based training venues.

23-4.4. COMNAVFACENGCOM must:

a. Assist COMNAVSUPSYSCOM in implementing HMC&M practices to ensure the full spectrum of OSHA and environmental requirements associated with HM management are met; and

b. Coordinate with COMNAVSUPSYSCOM to ensure the Navy ERP SSS with EHS functionality is implemented in a manner that supports the full spectrum of EPCRA and CAA reporting requirements.

23-4.5. Region commanders and COs of Navy installations must:

a. Assist COMNAVSUPSYSCOM in implementing HMC&M program business practices including the minimum elements of regional CHRIMP compliance:

(1) A centralized regional CHRIMP center under the consolidated leadership and management of COMNAVSUPSYSCOM enterprise using Navy ERP SSS with EHS functionality to serve as the single point of entry for all HM requirements;

(2) Full participation by every command, department, work center, and tenant within the physical and jurisdictional boundaries of the Region Commander;

(3) Proactive chain-of-command support in the form of directives, instructions, training, staffing, and funding resources;

(4) Reduction of procurement, storage, and use of HM products by work-center personnel to the minimum quantity necessary to perform assigned tasks or 7-day supply, whichever is less; and

(5) Accountability for all HM and containers issued to work centers.

b. Ensure procedures are in place to restrict local purchases of HM to only those items unavailable from the Federal supply systems necessary to support mission requirements per the DoD Uniform Material Movement and Issue Priority System;

c. If an existing HM NSN item is not acceptable upon receipt, submit a product quality deficiency report to the regional CHRIMP center;

d. Develop, implement, and measure GPP plans to evaluate environmentally friendly products and services (including service contracts) as first-choice alternatives to products and services containing or using HM; and

e. Identify GPP alternative products to the regional CHRIMP center during the EHS review process to facilitate AUL revisions in the Navy ERP SSS with EHS functionality material master database.

23-5 Definitions

23-5.1. Authorized Use List. The AUL is the list of all HM products approved by ESOH representatives for use that are necessary to support the requirements of a region, command, facility, or installation.

23-5.2. Consolidated Hazardous Material Reutilization and Inventory Management Program. CHRIMP is the Navy's standardized methodology to achieve life-cycle HMC&M and total ownership cost reductions for HM products and services. CHRIMP establishes a centralized approach to HMC&M that facilitates compliance with the CAA, OSHA, the EPCRA, the PPA, RCRA, and other environmental laws, E.O.s, and regulations. CHRIMP also reduces total ownership cost by efficiently managing HM procured, stocked, distributed, and eventually disposed of as waste. CHRIMP is widely recognized for generating significant savings in HW-disposal cost avoidance.

23-5.3. Excess Hazardous Material. Excess HM is HM for which there is no further immediate requirement by the command or installation in possession of the material. Such materials must be returned to the regional CHRIMP center for redistribution to other naval commands or installations.

23-5.4. Green or Sustainable Procurement. Green or sustainable procurement is the purchase of environmentally preferable products and services per the Federally mandated DoD Sustainable Procurement Program and DoD Instruction 4105.72, Procurement of Sustainable Goods and Services. Such products and services have reduced impact on human health or 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.

23-5.5. Hazardous Material. An HM is any material that is regulated as HM per reference (n); that requires an SDS per reference (a); or that, 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 reference (o), subparts A, B, C, and D. In general, HM is any material that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may pose a hazard to human health or the environment. Included in this definition are all extremely hazardous substances, hazardous chemicals (HC), hazardous substances, and toxic chemicals as defined in EPCRA.

23-5.6. Safety Data Sheet. An SDS (formerly material safety data sheet) means written or printed material concerning an HC or product following the format specified in reference (a), appendix D. The SDS is used to communicate information on hazards to the downstream users.

CHAPTER 24

PESTICIDE COMPLIANCE ASHORE

Table of Contents

24-1 Scope 24-1
24-1.1. Related Chapters 24-1
24-1.2. References 24-2
24-1.3. Applicability 24-2

24-2 Legislation 24-2

24-3 Requirements 24-3
24-3.1. Aerial Application of Pesticides 24-3
24-3.2. Occupied Spaces 24-3
24-3.3. Paints and Coatings Containing Pesticides 24-3
24-3.4. Pesticide Approval, Records, and Recordkeeping 24-4
24-3.5. Pesticide Labels 24-4
24-3.6. Safety Data Sheet 24-4
24-3.7. Personal Protective Equipment 24-4
24-3.8. Integrated Pest Management and Pesticide Use Reduction 24-4
24-3.9. Integrated Pest Management Plans 24-5
24-3.10. Program Maintenance 24-5
24-3.11. Pesticide Storage and Facility Requirements 24-5
24-3.12. Pesticide Disposal and Spill Management 24-5
24-3.13. National Pollutant Discharge Elimination System Permits 24-6
24-3.14. Wastewater Discharges 24-6
24-3.15. State and Local Requirements 24-6
24-3.16. Pesticide Procurement 24-6
24-3.17. Government-Owned, Contractor-Operated Facilities 24-6
24-3.18. Notices of Violation 24-7
24-3.19. Training Requirements 24-7

24-4 Responsibilities 24-9

24-5 Definitions 24-12

24-1 Scope. This chapter provides policy guidance, safety, and compliance requirements relative to the procurement, storage, and use of pesticides at Navy shore installations.

24-1.1. Related Chapters. This chapter is applicable to other chapters in this manual that discuss topics pertinent to pesticides. Natural resources are discussed in chapter 12 (Natural Resources Conservation) of this manual, prevention of pollutants in wastewater is discussed in chapter 20 (Clean Water Ashore) of this manual, management of hazardous waste (HW) is discussed in chapter 27 (Hazardous Waste Management Ashore) of this manual, policy guidance with respect

to installations in foreign countries is discussed in chapter 34 (Overseas Environmental Compliance Ashore) of this manual, and spill prevention and management is discussed in chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual. Reference (a) describes Navy policy with respect to pest management aboard naval vessels.

24-1.2. References

(a) NAVMED P-5010, Manual of Naval Preventive Medicine;

(b) OPNAVINST 6250.4C, Navy Pest Management Programs;

(c) DoD Instruction 4150.07 of 29 May 2008, DoD Pest Management Program;

(d) OPNAVINST 5100.23G, Navy Safety and Occupational Health Program Manual;

(e) 29 CFR Part 1910;

(f) Technical Guide 17 Military Handbook of August 2009, Design of Pest Management Facilities;

(g) 40 CFR;

(h) EBUSOPSOFFINST 4200.1A, Department of Navy Policies and Procedures for the Operation and Management of the Government Commercial Purchase Card Program;

(i) CNO ltr 5090 Ser N456M/1U595820 of 10 Jan 2002;

(j) DoD Manual 4150.07, Volume 1, DoD Pest Management Training: The DoD Plan for Pesticide Applicators, May 2013;

(k) DoD Manual 4150.07, Volume 2, DoD Pest Management Training and Certification Program: The DoD Plan for Non-Federal Insecticide, Fungicide, and Rodenticide Act Pesticide Applicators, May 2013; and

(l) DoD Manual 4150.07, Volume 3, DoD Pest Management Training and Certification Program: The DoD Plan for Federal Insecticide, Fungicide, and Rodenticide Act Pesticide Applicators, May 2013.

24-1.3. Applicability. These requirements apply within the United States, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

24-2 Legislation

a. Legislation that contains provisions that pertain to pesticide procurement, distribution, and regulation includes:

(1) Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §136–136y;

(2) Federal Water Pollution Control Act, 33 U.S.C. §1251–1387; and

(3) Food Quality Protection Act, 7 U.S.C. §136–136y.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual. In addition, several laws including the Comprehensive Environmental Response, Compensation, and Liability Act; Emergency Planning and Community Right-to-Know Act; Endangered Species Act; Migratory Bird Treaty Act; Bald and Golden Eagle Protection Act; Sikes Act; Federal Facility Compliance Act; and Resource Conservation and Recovery Act all contain provisions that impact the release and disposal of pesticide products, notification of communities in the event of a release, protection of endangered or threatened species from pesticides, and sovereign immunity waivers.

24-3 Requirements**.** Reference (b) details requirements and responsibilities relative to the application and regulation of pesticides on property under Navy stewardship. Responsibility for Navy pest management program oversight is assigned jointly to Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) and the Bureau of Medicine and Surgery (BUMED), which is responsible for disease vector surveillance and control and safety matters. It is unlawful to procure, mix, apply, store, or dispose of any pesticide or container in any manner inconsistent with applicable Federal, State, and local regulations.

24-3.1. Aerial Application of Pesticides. Prior to execution, plans for aerial operations must be submitted to the appropriate BUMED (for vector control) or COMNAVFACENGCOM (for non-vector control) pest management consultant (PMC), who will validate the need for the aerial spray operation and provide technical assistance for National Environmental Policy Act documentation and quality assurance.

24-3.2. Occupied Spaces. Installations must not permit the application of liquid, dust, or aerosol pesticide formulations in any space occupied by personnel not wearing proper personal protective equipment (PPE). Pesticides contained in gel or paste bait formulations, however, may be applied in occupied spaces per the pesticide label directions.

24-3.3. Paints and Coatings Containing Pesticides. Paints containing insecticides must not be used on Navy property. This policy applies to both interior and 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. Installations using marine anti-fouling coatings registered by the Environmental Protection Agency (EPA) as pesticides must comply with State and Federal requirements for applicator certification, recordkeeping, management, and control of sandblasting residues and other applicable requirements.

24-3.4. Pesticide Approval, Records, and Recordkeeping

a. All pesticides must be approved by the COMNAVFACENGCOM PMC and included on the pesticide authorized use list prior to use on the installation.

b. Installations, including government-owned, contractor-operated (GOCO) facilities, must maintain daily, comprehensive pest management operation records indefinitely. Reference (c) describes the Department of Defense (DoD) computer recordkeeping and reporting requirements. All Navy installations must keep and submit records electronically using the COMNAVFACENGCOM-PMC-prescribed reporting system. Pest management operation records must be submitted to the COMNAVFACENGCOM PMC monthly, at a minimum. If no pesticides are applied, a negative report should be submitted.

c. All pest management operations performed on the installation must be recorded, including surveys and non-chemical-control operations, such as work performed on golf courses by non-appropriated-fund installations, contract services, and as part of outleases; land-management and forestry programs; morale, welfare, and recreation (MWR); privatization partners (outdoors); tenants; and work performed by installation pest management personnel. Records must include, at a minimum, the date and type of operation; site description; pest; size of area treated; pesticide applicator's name; and pesticide trade name, active ingredient(s), formulation, quantity of undiluted pesticide, and quantity of diluent (if used).

24-3.5. Pesticide Labels. Installations must ensure EPA-approved labels are on all pesticide containers. If required, items such as supply department labels must be placed so as not to obscure the pesticide label. Copies of pesticide labels must be maintained at a central location, made available to interested departments (e.g., fire, safety), and provided to the integrated pest management coordinator (IPMC). Legally, label instructions apply to all users.

24-3.6. Safety Data Sheet. A copy of the safety data sheet (SDS) for every pesticide product in the shop inventory must be available at all pesticide facilities and provided to the IPMC.

24-3.7. Personal Protective Equipment. All personnel who apply pesticides must be equipped with, trained on, and required to use appropriate PPE (e.g., face shields, respirators, eye protection, impermeable gloves, and protective clothing). Occupational safety and health standards in references (d) and (e), the SDS, and pesticide labels establish the requirements for PPE. Installations may obtain guidance for selection of PPE from the cognizant BUMED industrial hygienist, installation safety manager, or respiratory protection program manager. Contractors who apply pesticides as a part of their service agreements are responsible for providing their own PPE.

24-3.8. Integrated Pest Management and Pesticide Use Reduction. Installations must employ an Integrated Pest Management (IPM) program that minimizes pesticide use, per references (b) and (c). This policy also pertains to pesticide use by contractors. Per reference (c), paragraph 4.3, the Navy must "comply with all Executive orders and Federal, State, and local statutory and regulatory requirements that apply to IPM. Although Federal agencies maintain sovereignty under reference (d), section 136, the DoD voluntarily complies with the substantive portions of

State pesticide and pest management laws and regulations when such compliance does not adversely impact DoD missions." Pesticide reduction goals are also delineated in reference (c).

24-3.9. Integrated Pest Management Plans. Installations that conduct pest management operations, whether by in-house personnel or by contract, must fund, implement, and maintain written comprehensive IPM plans, incorporating elements delineated in reference (c), or be covered by the plan of another installation. IPM plans must be specific to the installation(s). The COMNAVFACENGCOM PMC writes or rewrites the plans on a reimbursable basis. Installations must include the applicable Navy region in the distribution of IPM plans. Because pest management is typically addressed in the integrated natural resources management plan (INRMP), IPM plans must reference and implement goals and objectives of the INRMP. IPM plans must be updated annually by the installation IPMC, approved by the responsible COMNAVFACENGCOM PMC, and revised at least every 5 years, including re-signing of the signature page.

24-3.10. Program Maintenance. Installations must maintain programs and plans through technical onsite reviews by COMNAVFACENGCOM, performed every 3 years. Program reviews will determine installation compliance with the plans and project sheets, evaluate effectiveness of management operations, identify deficiencies, and provide additional recommendations to keep the installation plan current. These reviews must confirm that installation programs comply with FIFRA and other applicable Federal, DoD, and State regulations. Technical assist visits may also be performed, upon request, by BUMED PMCs addressing technical matters relating to disease vectors and other pests.

24-3.11. Pesticide Storage and Facility Requirements. Installations must store all pesticides in an area with sufficient spill containment and in accordance with the label and Federal, State, and local regulations. Installations must install powered ventilation providing six changes of air per hour in pesticide storage areas containing pesticides that emit vapors, per reference (f). Pesticide applicators, both contractor and in-house personnel, must perform all pesticide mixing in an area with adequate spill containment. Contract pesticide applicators may only store or mix on base if allowed by the contract and if available facilities meet the requirements of reference (f). All new pesticide facilities must undergo installation environmental and safety review. The COMNAVFACENGCOM PMC should be requested during the review process to review plans and make recommendations for design changes to comply with pest control facility requirements. Reference (f) provides detailed information on the design and operation of pesticide facilities and workplace requirements.

24-3.12. Pesticide Disposal and Spill Management

a. Disposal. Stringent regulations govern the disposal of pesticides, their containers, and related wastes. General guidance for HW applies to pesticide waste per reference (g), Parts 262 and 273. Pesticide labels list general guidance on the disposal of pesticide containers. The cognizant PMC may provide guidance for disposal on a case-by-case basis per reference (b).

b. Spill Management. The installation IPM plan must include a plan for pesticide spill management, which is coordinated with the installation's hazardous material and HW programs,

and included in the installation's oil and hazardous substance spill contingency plans. Ready-to-use pesticide spill kits must be present in every storage and mixing facility and in vehicles used to transport or apply pesticides. Contractors who apply pesticides as a part of their service agreement must be responsible for providing their own spill kits.

24-3.13. National Pollutant Discharge Elimination System Permits. Installations may be required to obtain National Pollutant Discharge Elimination System (NPDES) permits for point-source discharges to waters of the United States of biological pesticides and chemical pesticides that leave a residue from mosquito and other flying-insect pest control, aquatic vegetation and algae control, aquatic nuisance animal control, or forest canopy or other area-wide pest control. Installations that conduct such activities on areas greater than thresholds listed in their respective EPA- or State-issued permit may be required to submit a notice of intent (NOI) to the State to obtain coverage. Installations will need to check their State NPDES permit to determine if an NOI is required. The facilities engineering command's drinking water or wastewater contact should be able to assist with this. Installations will need to ensure contractors are covered under the permit or obtain their own permit if so required by State or EPA regulations. In many cases, installations will be able to have coverage under an EPA- or State-issued general permit. Reference (g), Parts 122 and 123 describe the Federal EPA regulations for the NPDES program. Installations should also consult their State NPDES regulations, as applicable.

24-3.14. Wastewater Discharges. The discharge of any wastewater from any pesticide mixing or equipment-cleanup area is prohibited. Refer to environmental and HW personnel in the event that a discharge occurs. The FEC wastewater or HW contact should be able to assist with this. Rinsate from triple-rinsed containers must be applied to the application site per the pesticide label. HW and storage requirements apply per reference (g), Part 262.

24-3.15. State and Local Requirements. Voluntarily comply with State and local pesticide management laws to the greatest extent practicable when doing so does not adversely affect military operations and missions or homeland security.

24-3.16. Pesticide Procurement. All pesticides must be approved by a COMNAVFACENGCOM PMC prior to purchase, except those pesticides used by military family housing occupants for their own personal relief. This approval applies to pesticides used by DoD employees, commercial services, agricultural outleases, GOCO operations, base operating services management, non-appropriated fund instrumentalities (MWR services), purchase-card users, or any other pest management service provider. Purchase-card use must conform to policies in references (b), (c), and (h) regarding approval of contract scope and pesticide selection, application, and reporting.

24-3.17. Government-Owned, Contractor-Operated Facilities. Where pest management services are required as part of the maintenance management program on GOCO facilities, the Navy facility representative must:

a. Report all pesticide use;

b. Ensure commercial pest control contractors are properly licensed and certified by applicable State agencies; and

c. Review GOCO pest management programs every 3 years with the assistance of a COMNAVFACENGCOM PMC and with emphasis on the protection of real property and the environment.

24-3.18. Notices of Violation. Refer to chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual for specific Navy policy guidance on what actions should be taken upon receipt of any notice of violation (NOV) of Federal, State, or local environmental laws or regulations, or assessment of fines or penalties.

24-3.19. Training Requirements. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental training courses. In addition to NERTP-sponsored courses, other specialty schools may resource, develop, and deliver environmental courses to meet their specific requirements.

a. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the Civil Engineer Corps Officer School and Naval Safety and Environmental Training Center Web sites (refer to appendix E (Web Sites) for Web site addresses).

b. Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental training, approved Navy training resources, and personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides the NERTP formal training courses offered and the target audiences for each course.

c. Pest management personnel must receive the appropriate, job-specific education, experience, and training to perform their assigned tasks. COMNAVFACENGCOM-sponsored courses are listed on the Armed Forces Pest Management Board Web site (refer to appendix E (Web Sites) of this manual for the Web site addresses). These personnel should take some or all of the following courses as needed to build and maintain proficiency in their specific job duties: Initial Pest Management Performance Assessment Representative/Integrated Pest Management Coordinator; Initial DoD Pesticide Applicator Certification; and Pest Management Recertification.

(1) Pest Management Performance Assessment Representatives (PMPAR). PMPARs must be trained in contract performance, inspection, and pest management. PMPARs who oversee contracts containing pesticide application must receive, at a minimum:

(a) PMPARs must successfully pass an initial PMPAR training course within 1 year of appointment; and

(b) PMPARs must maintain this qualification by successfully passing refresher training every 3 years or repeating the initial PMPAR training course.

(2) IPMCs. IPMCs must receive, at a minimum:

(a) IPMCs must pass an initial PMPAR and IPMC training course within 1 year of appointment; and

(b) IPMCs must maintain this qualification by passing the refresher-training course sponsored by COMNAVFACENGCOM every 3 years or repeating the initial PMPAR and IPMC training course.

(3) Pesticide Applicators

(a) Pesticide applicators must receive, at a minimum:

1. DoD-certified pesticide applicators must successfully pass an initial DoD-certified pesticide applicator training course for the appropriate categories. All in-house pesticide applicators must be certified within 2 years of their employment;

2. DoD-certified pesticide applicators must maintain this certification by attending and successfully passing refresher training every 3 years through completion of a COMNAVFACENGCOM- or other appropriate military-Service-component-sponsored DoD recertification course. Army and Air Force recertification courses also meet this requirement. These alternate courses may be substituted with COMNAVFACENGCOM PMC approval; and

3. State-certified applicators must receive appropriate training for certification and recertification in the appropriate categories from the State where the installation is located.

(b) Federal or State commercial certification is required for all pesticide applicators per reference (g), Parts 150–186, with the exception of those applying ready-to-use pesticides under an approved self-help program, applying repellents for personal relief, or military family housing residents applying pesticides to their residences for personal relief. DoD- or State-certified pesticide applicators must perform all pesticide applications on Navy property (whether performed in-house or by contract) with the exception that:

1. DoD civilian and military personnel in training to become certified applicators may apply pesticides under the direct line-of-sight supervision of a DoD-certified applicator; and

2. Uncertified pesticide applicators may apply self-help and personal-relief pesticides once the installation IPMC and the regional COMNAVFACENGCOM PMC have approved the self-help program and proposed pesticides.

(4) Pest Management Professionals. Pest management professionals are also required to be DoD-certified if they:

(a) Work as PMCs and make recommendations for the use of pesticides or approve annual pesticide use proposals;

(b) Approve the aerial application of pesticides on DoD installations;

(c) Apply pesticides or directly supervise the application of pesticides;

(d) Conduct demonstrations on the proper use and techniques of pesticide application or supervise such demonstrations; and

(e) Conduct field research that includes using or supervising the use of pesticides.

24-4 Responsibilities

24-4.1. Commander, Navy Installations Command (CNIC) and Navy regional commanders must ensure adequate funding is available for the commanding officers (CO) of Navy shore installations to properly support their pest management programs.

24-4.2. COMNAVFACENGCOM, via its applied biology program, must:

a. Provide onsite program planning and assistance to Navy shore installations in developing and maintaining IPM programs;

b. Maintain regional training and recertification programs in cooperation with BUMED for civilian applicator personnel and training programs for PMPARs and IPMCs;

c. Maintain a generic performance work statement for pest control services;

d. Provide contractual assistance to shore installations outsourcing commercial pest control services;

e. Provide support, including participation on technical review committees for source selections, which is the preferred acquisition strategy for large or regional pest management contracts;

f. Prepare IPM plans for regions or installations on a reimbursable basis;

g. Ensure outdoor pesticide applications on DoD land by private commercial partners, such as public private venture housing, are in compliance with standards for oversight and reporting delineated in reference (b) and with the lease agreement;

h. Ensure installation pest management programs are reviewed every 3 years;

i. Cooperate with other organizations on applied research, development, testing, and evaluation (RDT&E) of pesticides; application equipment; and management procedures for applicability to shore installation programs;

j. Provide base realignment and closure support, including caretaker IPM plans and specifications for affected shore installations;

k. Coordinate applied biology and pest management oversight with appropriate Navy region commands;

l. Monitor homeland security aspects of pesticides and pesticide-dispersal equipment security;

m. Recommend programs, in compliance with reference (i), to remove feral cats and dogs from installations;

n. Help installations develop cooperative agreements with county or State mosquito-abatement districts and coordinate these services with BUMED. Cooperative agreements with county or State abatement districts are the preferred method for obtaining mosquito-control services, when practical; and

o. Provide installations with guidance on EPA notices canceling pesticides or pesticide uses.

24-4.3. BUMED must:

a. Provide technical guidance, recommendations, and onsite assistance to shore and afloat commands on all matters relating to disease vectors and other medically important pests. Local preventive medicine personnel must coordinate with the installation IPMC, as well as preventive medicine authorities;

b. Monitor and evaluate vector surveillance and control programs and provide technical guidance for disease-vector surveillance, vector control, safety, and occupational health issues;

c. Coordinate with the cognizant Army veterinarian on food inspections and vector-borne disease threats;

d. Conduct evaluation and testing studies in vector ecology, surveillance, prevention, and control, including ground and aerial dispersal methods, for contingency operations;

e. Provide training, certification, and recertification of vector-control specialists and other medical department personnel and provide initial training and certification of civilian applicator personnel and non-medical department personnel per COMNAVFACENGCOM and DoD standards;

f. Provide specialized, area-wide operational services including emergency vector-control plans, contingency response, medical entomology information, vector-borne disease assessments, and emergency disease vector control in the event of vector-borne disease outbreaks, disasters, or other situations where vector control is beyond the capability of local commands;

g. Define and coordinate RDT&E requirements for vector biology and control; and

h. When requested, thoroughly evaluate processes to accurately identify and quantify potential human health hazards due to pest management operations.

24-4.4. COs of Navy shore installations must:

a. Coordinate with CNIC and regions to budget for pest management program operations and facilities in compliance with legal and DoD requirements;

b. Officially designate, by letter, an IPMC to be responsible for maintaining the IPM plan and providing oversight of the installation program, including public works in-house and outsourced operations; non-appropriated fund activities such as golf operations and clubs; natural resources; agricultural, range, and forest outleasing; purchase-card use; self-help; tenant command contracts; retail outlets (Navy Exchange and commissary); and outdoor applications by privatization partners. The installation IPMC must work closely with preventive medicine authorities. The responsibilities of the IPMC do not overlap those of the PMPAR, whose responsibility is to oversee the pest management contract operations. The PMPAR coordinates with the IPMC if there is a problem or a new product or procedure is requested;

c. Fund, implement, and maintain a written IPM plan outlining IPM strategies and documenting pest management operations;

d. Maintain records of all pest management operations (excluding those used for personal relief) on the installation and electronically submit these data to a COMNAVFACENGCOM PMC at least monthly;

e. Obtain and comply with applicable permits (e.g., NPDES, ESA, and depredation permits);

f. Report and manage FIFRA and Clean Water Act NOVs consistent with chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual;

g. Maintain a pesticide authorized use list (AUL) containing pesticides approved by COMNAVFACENGCOM for use by pest management service providers on the installation. Submit requests to add pesticides to the AUL to the COMNAVFACENGCOM PMC. Ensure that only authorized pesticides are used on the installation;

h. Ensure contract specifications and agricultural lease agreements that include the use of pesticides are approved by a COMNAVFACENGCOM PMC prior to advertisement for bid;

i. Ensure an installation IPM plan and program, minimizing pesticide use, is implemented and in compliance with all applicable environmental protection and conservation statutes. Significant legislation is included in section 24-2 of this manual; and

j. Immediately report lost or stolen pesticide dispersal equipment through the chain of command, Federal Bureau of Investigation, and COMNAVFACENGCOM PMC.

24-5 Definitions

24-5.1. Applied Biology Program. The applied biology program is a network of COMNAVFACENGCOM PMCs in the environmental business line that assists Navy and Marine Corps installations with FIFRA and final-governing-standards-based compliance and provides IPM solutions that protect operations, warfighters, quality of life, property, materiel, and the environment from the adverse effects of living organisms.

24-5.2. Integrated Pest Management. IPM is a planned program incorporating education, continuous monitoring, 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 (e.g., effective, economical, environmentally sound) methods including habitat modification, biological, genetic, cultural, mechanical, physical, and regulatory controls, and, when necessary, the judicious use of the least-hazardous pesticides.

24-5.3. Integrated Pest Management Coordinator. The IPMC is the individual officially designated by the CO to coordinate and oversee the installation pest management program and installation IPM plan. IPMCs must be certified as pesticide applicators if their job responsibilities require them to apply or supervise the use of pesticides.

24-5.4. Integrated Pest Management Plan. An IPM plan is a long-range, well-defined planning and operational document that describes the installation IPM program. Written pest management plans are required as a means of establishing and implementing IPM.

24-5.5. Pest. A pest is any organism (except for microorganisms that cause human or animal diseases) that adversely affects operations, preparedness, the well-being of humans or animals, real property, materiel, equipment, or vegetation, or is otherwise undesirable.

24-5.6. Pest Management Consultant. PMCs are degreed technical specialists, such as COMNAVFACENGCOM civilian entomologists (applied biologists) and BUMED-commissioned medical entomologists, who have command program oversight responsibilities and provide guidance and information on the management of pest management programs for commands and installations.

24-5.7. Pest Management Performance Assessment Representatives. PMPARs are installation personnel trained in contract performance inspection or quality assurance and pest management, whose duties include surveillance of commercial pest management services to ensure performance complies with contract specifications and legal requirements.

24-5.8. Pesticide. A pesticide is any substance or mixture of substances, including biological-control agents, that may prevent, destroy, repel, or mitigate pests and is specifically labeled for use by EPA. It also includes any substance or mixture of substances used as a plant regulator, defoliant, desiccant, disinfectant, or biocide. On DoD installations, this does not include disinfectants or biocides.

24-5.9. Pesticide Applicator. Pesticide applicators are any individuals who apply pesticides.

a. DoD-Certified Pesticide Applicators. DoD-certified pesticide applicators are military or civilian personnel certified per reference (j), (k), and (l) in the pest management categories that are appropriate for their type of work.

b. State-Certified Commercial Pesticide Applicators. State-certified commercial pesticide applicators are personnel certified per FIFRA by a State (in which the work will be performed) with an EPA-approved certification plan and certified in the category in which a pesticide will be applied.

c. Uncertified Pesticide Applicators. Uncertified pesticide applicators are individuals who have not successfully completed certification training. Uncertified military and DoD civilian personnel who are in training to become certified pesticide applicators may apply pesticides when under the direct line-of-sight supervision of a DoD-certified pesticide applicator. Uncertified personnel may apply self-help or personal-relief pesticides when the operation has been approved by a command PMC.

24-5.10. Pesticide Facility. The pesticide facility is comprised of the building and areas designated for handling and storing pesticides, associated equipment, and machinery.

24-5.11. Safety Data Sheet. An SDS is an Occupational Safety and Health Administration form containing identical data elements used by manufacturers of chemical products to communicate to users the chemical, physical, and hazardous properties of their products.

CHAPTER 25

TOXIC SUBSTANCES CONTROL ACT

Table of Contents

25-1 Scope 25-1
25-1.1. Related Chapters 25-1
25-1.2. References 25-1
25-1.3. Applicability 25-2

25-2 Legislation 25-2

25-3 Requirements 25-2
25-3.1. Polychlorinated Biphenyls 25-2
25-3.2. Radon 25-4
25-3.3. Asbestos. 25-7
25-3.4. Lead-Based Paint 25-8
25-3.5. Training Requirements 25-10

25-4 Responsibilities 25-11

25-5 Definitions 25-14

25-1 Scope. This chapter identifies requirements and Navy responsibilities applicable to the protection of human health and the environment from polychlorinated biphenyls (PCB), radon, asbestos, and lead-based paint, which are all regulated under the Toxic Substances Control Act (TSCA).

25-1.1. Related Chapters. Chapter 22 (Clean Air Ashore) of this manual provides Navy policy guidance with respect to hazardous air pollutants (HAP), including asbestos. Chapter 34 (Overseas Environmental Compliance Ashore) provides Navy policy with respect to activities in foreign countries. Chapter 35 (Environmental Compliance Afloat) discusses PCB management aboard ships.

25-1.2. References

(a) 40 CFR;

(b) DoD Instruction 4140.01 of 14 December 2011, DoD Supply Chain Materiel Management Policy;

(c) Navy Radon Assessment and Mitigation Program Guidebook for Naval Shore Installations, of 30 September 2017;

(d) Occupational Safety and Health Administration Standard Interpretation memo of 16 Aug 89, The Ionizing Radiation Standard, 29 CFR 1910.1096;

(e) Occupational Safety and Health Administration Standard Interpretation memo of 23 Dec 02, Occupational Exposure Limits, Access Restrictions, and Posting Requirements for Airborne Radioactive Materials;

(f) 29 CFR;

(g) OPNAVINST 5100.23G, Navy Safety and Occupational Health Program Manual; and

(h) 42 U.S.C. §4852.

25-1.3. Applicability. The PCB, lead-based paint, radon, and asbestos management policies in this chapter are applicable to Navy shore facilities within the United States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands. The Navy Radon Assessment and Mitigation Program (NAVRAMP) applies to all Navy activities worldwide.

25-2 Legislation. TSCA addresses the production, importation, use, and disposal of specific chemicals including PCBs, asbestos, and lead-based paint, and the management of radon gas. Asbestos is also considered a HAP and, as such, is regulated under the Clean Air Act (CAA) National Emission Standards for Hazardous Air Pollutants (NESHAP). Amendments to TSCA by the Frank R. Lautenberg Chemical Safety for the 21st Century Act provide EPA with expanded authority, dedicated funding, and an accelerated schedule to evaluate and regulate new and existing chemicals based on potential harm to human health. A summary of TSCA, including the Lautenberg Act amendments, is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

25-3 Requirements

25-3.1. Polychlorinated Biphenyls. Navy activities must comply with the requirements of reference (a), Parts 750–761, and applicable State and local PCB management requirements.

a. Use. Except as authorized in reference (a), Parts 750–761, Environmental Protection Agency (EPA) regulations ban the use of PCBs in any manner other than in totally enclosed systems.

b. Materials. All items or materials containing PCBs or suspected of containing PCBs must be considered regulated unless exempt by regulation. PCBs may exist in older Navy electrical equipment and hydraulic and lubricating oils, subject to the restrictions in reference (a), Parts 750–761.

c. Spill Reporting. Federal regulations list PCBs as a hazardous substance (HS). A spill of a reportable quantity (RQ) of “pure PCB” must be immediately reported as required by regulation (refer to chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this

manual). Installations must use the PCB concentration of the spilled material, the amount of material spilled, and the density of the particular type of PCB (if unknown, assume 10 pounds (lb) per gallon) to calculate the quantity of "pure PCB" spilled. The National Oil and Hazardous Substances Contingency Plan requires the reporting of all spills involving 1 pound or more of PCBs to the U.S. Coast Guard National Response Center (NRC) at (800) 424-8802. Installations must report spills that directly contaminate surface water, sewers, drinking water supplies, grazing lands, or vegetable gardens to the appropriate EPA regional office within 24 hours. States, particularly those that regulate PCBs as a hazardous material (HM) or hazardous waste (HW), may have more stringent reporting requirements.

d. Spill Cleanup. All PCB spills must be cleaned up per reference (a), Parts 750–761. The Federal PCB Spill Cleanup Policy presented in reference (a), Parts 750–761 applies to spills of PCBs (50 parts per million (ppm) or greater) that have occurred since 4 May 1987. Spills that occurred before 4 May 1987 are subject to the self-implementing cleanup provisions of reference (a), Parts 750–761, or requirements established at the discretion of EPA or other authorized cleanup authority.

e. PCB Transformers in Commercial Buildings. PCB transformers in commercial buildings must be registered with the building owner, and PCB transformers in or near commercial buildings must be registered with owners of all buildings located within 30 meters of the PCB transformers. For Navy installations, however, compliance with the requirement is adequate if PCB transformers in or near commercial buildings are registered:

(1) For Navy tenants, with the organization that prepares fire evacuation plans;

(2) For non-Navy tenants, with the tenant's host; and

(3) For Navy host installations, with EPA per reference (a), Parts 750–761.

f. PCB Removal from Equipment. Navy policy is, to the maximum extent practicable, to eliminate PCBs and PCB-contaminated material from all transformers, capacitors, and associated electrical equipment; all Navy-owned electrical distribution systems and equipment; hydraulic and lubricating fluids; and cooling and lubricating oils. This requirement applies to all equipment or systems owned and operated by the Navy.

(1) Transformers. Navy activities must determine, by EPA-approved method, the PCB concentration for all pad-mounted and pole-mounted transformers. Transformers must be marked per reference (a), Parts 750–761, and activity records must note the PCB test results (in ppm) for each transformer.

(2) Capacitors. Navy activities must maintain an accurate inventory of high- and low-voltage capacitors based on manufacturing information and mark them per reference (a), Parts 750–761. Activity records must note the PCB classification of each large capacitor.

(3) PCB Elimination Plan. Any Navy activity that uses or possesses PCBs and PCB-contaminated equipment must prepare a PCB elimination plan that includes the proposed date of

removal and the requested source of funding for each PCB item. PCB elimination plans must be submitted to the budget submitting office (BSO) for review and approval via the cognizant facilities engineering command and updated as needed until all regulatory requirements and Navy goals concerning the elimination of PCBs are met.

(4) Procurement. New transformers and related equipment are no longer manufactured with PCBs and no longer require permanent labels stating they are PCB-free (i.e., no detectable PCBs). Activities may still find it useful to mark the items non-PCB for inventory purposes.

g. Navy and Defense Logistics Agency (DLA) Interface on PCBs. Reference (b) designates DLA Disposition Services as the responsible agency for worldwide disposal of all PCBs and PCB items. Navy installations must use the DLA Disposition Services PCB contract disposal services as much as economically and operationally feasible. However, when necessary to obtain the combination of quality, responsiveness, and cost that best satisfies installation requirements, Navy installations may use another appropriate contract authority to procure PCB disposal services. An installation using PCB disposal contract services other than DLA Disposition Services must ensure the contract requirements comply with Federal, State, and local PCB regulations; verify contract requirements and contract quality control procedures are at least as stringent as those used by DLA Disposition Services; and obtain concurrence by their BSO.

h. Contractors. Activities must ensure contractors performing work for the Navy on Navy property comply with all applicable PCB requirements while onsite, including Navy requirements.

i. Transboundary Shipments of PCBs for Disposal. In general, PCBs and PCB-containing items require an EPA exemption for importation to the United States or for exportation to other countries for disposal. Other treaties and international agreements may also apply to exportation. Retrograde of U.S.-manufactured PCBs from Navy activities outside the continental United States is not considered export or import of PCBs under TSCA.

25-3.2. Radon

a. NAVRAMP. NAVRAMP provides implementation guidance for compliance with the procedural requirements of TSCA related to radon. This includes the identification of the level of indoor radon in existing and new buildings; undertaking of mitigation measures in existing buildings; inspection and maintenance of radon mitigation systems; and incorporation of preventative measures in new buildings to prevent buildup of indoor radon levels greater than or equal to 4 picocuries per liter (pCi/L) in Navy-occupied or occupiable buildings. Reference (c) details all requirements of NAVRAMP for non-family housing facilities. Compliance with reference (c) is intended to assure compliance with NAVRAMP. Accordingly, Navy installations must follow NAVRAMP per reference (c) and institute provisions under NAVRAMP including:

(1) Identify activities where indoor concentration of radon in occupied buildings exceeds the EPA-recommended action level of 4 pCi/L;

(2) Maintain a central data management system containing results for radon testing conducted per the NAVRAMP implementation guidance, reference (c). Installations must keep

records of all NAVRAMP testing data and mitigation projects and must provide testing data to Naval Facilities Engineering and Expeditionary Warfare Center (NAVFAC EXWC) per developed guidance;

(3) Mitigate the indoor radon levels in buildings to below the EPA-recommended action level of 4 pCi/L;

(4) Perform periodic inspections and preventive maintenance as required on mitigation systems and periodic retesting of buildings with mitigation systems (at least every 2 years) per subparagraph 25-3.2b(1)(c) of this manual, to ensure subject systems are operating properly to reduce the building's radon levels below 4 pCi/L; and

(5) Ensure building designs include appropriate radon-preventive measures where necessary, such as sub-slab systems in new buildings to prevent buildup of indoor radon levels above 4 pCi/L, considering applicable regulatory requirements, historical radon monitoring data, and geological conditions at the location.

b. NAVRAMP Implementation. NAVRAMP implementation comprises testing, mitigation, monitoring, maintenance, and prevention as required by this section and per reference (c) established per subparagraph 25-3.2b(4) of this manual. The mitigation and prevention requirements in subparagraphs 25-3.2b(1) through 25-3.2b(4) do not apply to non-Navy-owned buildings. Refer to subparagraph 25-3.2c of this manual for additional information on how to proceed when dealing with Navy leases and overseas locations.

(1) Testing. Installations must test occupied and occupiable testable buildings to determine indoor levels of radon. Radon testing of buildings typically comprises the phases described in subparagraphs 25-3.2b(1)(a) through 25-3.2(c):

(a) Screening. Installations must select a statistically significant sample of structures (minimum 95 percent confidence that no more than one room has the potential for elevated radon), mainly family housing [see reference (c)]. Included in the selection of buildings will be all hospitals, bachelor quarters, schools, childcare centers, and brigs. A "screening" becomes an "assessment" if the minimum statistically significant number of buildings (31 buildings per installation or 31 housing units per housing area) is equal to or greater than the total number of occupied buildings. Radon testing within these selected structures must be conducted using the appropriate EPA testing protocols as described in reference (c). Under normal circumstances, screening is performed only once, and therefore should not be considered a recurring requirement.

(b) Assessment. If, during the screening process, an installation detects elevated radon levels and confirms the level is equal to or greater than the 4 pCi/L action level, then the installation must test all ground-contact family housing units and all occupied and occupiable testable buildings at the installation for radon using the appropriate testing protocol as described in the NAVRAMP implementation guidance, reference (c). This requirement applies even at buildings where initial screening showed the radon level was below the EPA-recommended action level.

(c) Monitoring. After screening or assessment has been completed, all installations must implement monitoring. At installations where elevated radon levels have been detected, radon testing must be performed every 5 years for all buildings, including those where mitigation systems have been installed. At installations where no elevated radon levels were found during screening, testing must be performed in all new construction and acquisitions, within all occupied and occupiable testable buildings constructed after 2003, and in all priority structures (e.g., hospitals, bachelor quarters, schools, childcare centers, brigs) if they were not tested previously.

(2) Mitigation. Activities must install and maintain a mitigation system in buildings determined to have indoor radon levels with validated monitoring results above the EPA-recommended action level of 4 pCi/L to reduce radon levels below 4 pCi/L and must schedule mitigation steps conforming to this priority scheme:

Category	Radon Level (pCi/L)	Action
1	0 < 4	No action required
2	4 < 20	Mitigation within 2 years
3	20 < 200	Mitigation within 6 months
4	≥ 200	Mitigation within 3 weeks

(3) Prevention. Installations must incorporate appropriate radon-resistant new construction (RRNC) techniques into the design and construction phases of new buildings or significant modifications to existing buildings (where necessary due to applicable regulatory requirements, historical data, and geological conditions at the location) to prevent indoor radon levels from exceeding the EPA-recommended action level of 4 pCi/L.

(4) Periodic Reevaluation and Revision of NAVRAMP Implementation Guidance. Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) must periodically complete a thorough reevaluation of the effectiveness of the NAVRAMP implementation guidance, taking into account return on investment and developments in practices, processes, technologies, and regulatory requirements; and request approval from the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) of necessary revisions to testing, mitigation, and prevention requirements of subparagraph 25-3.2b of this manual.

c. Navy Leases. Installations and activities responsible for leased space must evaluate all existing and new lease agreements (including buildings used at overseas facilities under international use agreements) to determine if it is clear who has the main responsibility to implement NAVRAMP requirements and to ensure Navy occupancy is, or will be, under similar radon-exposure protection obtained by implementing NAVRAMP in Navy-owned buildings. Navy tenant commands of leased buildings, including housing public private ventures (PPV) and buildings used at overseas facilities, in consultation with the appropriate Navy legal counsel, must determine the feasibility of mitigation under current lease or international use agreements or through its renegotiation. They must then initiate negotiations with the lessor (or appropriate

authority at overseas locations) to mitigate when radon concentrations in non-Navy-owned buildings exceed the action level of 4 pCi/L. Navy commands must adhere to the prevention requirements in subparagraph 25-3.2b(3) of this manual when considering the design and construction of new buildings for long-term leases (e.g., lease, limited partnerships, housing PPVs).

d. Occupational Exposure to Radon. Exposure to naturally occurring radon is not considered occupational exposure unless it results from artificially enhanced concentrations of radon in the workplace. The Occupational Safety and Health Administration (OSHA), per reference (d), considers the accumulation of naturally occurring radon in workplaces inside of buildings, or other types of enclosures constructed on or in the ground as artificially enhanced concentrations of radon. Per reference (e), OSHA has indicated that workplaces in buildings where the presence of artificially enhanced concentrations of radon exposes employees to hazardous concentrations of airborne radiation (above permissible exposure limits) are subject to the requirements of reference (f), section 1910.1096.

e. Funding Requirements. Sponsorship of funding requirements by OPNAV N45 is limited to screening, assessment, and monitoring at existing facilities, other than family housing, worldwide. Mitigation system installation (including mitigation diagnostics and design) and associated periodic monitoring and retesting at all locations as well as screening and assessment at family housing should be funded under the sponsorship of the Office of the Chief of Naval Operations, Shore Readiness Division or other applicable non-environmental funding. Radon testing of new buildings and incorporation of RRNC methods must be addressed during the design, construction, or acquisition process using project funding (e.g., military construction) and not under OPNAV N45 sponsorship.

25-3.3. Asbestos. Asbestos-containing materials (ACM) are commonly found in older building materials and related products such as building exterior surfaces; insulation in walls and ceilings; floor tiles and adhesives; furnace, boiler, and heater piping and insulation; and interior surface walls and ceilings. When disturbed, ACMs can become airborne, posing a significant risk to human health. Asbestos is regulated by EPA under TSCA regulations in reference (a), Part 763, and under the CAA NESHAP regulations in reference (a), Part 61. Worker exposure to asbestos is also regulated by OSHA under reference (f), sections 1910.1001 and 1910.1101. Navy commands must comply with the requirements of reference (a), Part 763, and applicable State and local asbestos management requirements. Navy policy for ACM use, handling, maintenance, and removal is contained in reference (g) to include:

a. Management. All Navy commands must establish an asbestos management program to implement standards for the periodic inspection, sampling, control, evaluation, maintenance, and abatement of ACMs. Installation commanding officers (ICO) must appoint an asbestos program manager (APM), who must be responsible for carrying out the asbestos management program ashore.

b. Removal and Abatement

(1) Commands must not remove installed ACMs that are in good condition for the sole purpose of eliminating asbestos. ACMs must be managed in place, provided that they are in good condition and will not be disturbed.

(2) A qualified asbestos inspector must conduct a facility asbestos survey prior to any renovation, alteration, and repair, or demolition project that will disturb building materials, irrespective of the building's age. Per reference (a), Part 61, this survey must identify all areas where asbestos will be disturbed. All asbestos-removal operations must be performed with adequate control measures and good housekeeping procedures to minimize, to the greatest extent feasible, the release of asbestos fibers to the environment.

(3) Installations must provide written notification to EPA or the cognizant State (or both) and local agencies per reference (a), Part 763.

c. Substitutes. Navy policy is to eliminate asbestos hazards by substitution with asbestos-free material or, where this is not possible, through the use of engineering, administrative controls, and respiratory protection. Commands must use only suitable asbestos-substitute materials approved through identification and testing. Commands must not use existing supplies of ACM whenever there are acceptable substitutes.

d. Cleanup. Commands must establish procedures to minimize the accumulation of asbestos-containing waste, dust, and scrap materials. Dry sweeping, shoveling, or other dry cleanup of asbestos-containing dust and debris is prohibited. ACMs must be adequately wetted and removed using a high-efficiency particulate air (HEPA) filter vacuum.

e. Disposal. Commands must promptly collect, seal in impermeable bags or containers, and dispose of asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing (consigned for disposal) that may produce airborne concentrations of asbestos fibers. In addition, asbestos waste must be properly labeled and sent to a disposal site that complies with reference (a), Part 61, subpart M, and be accompanied by a waste shipment record. Upon receipt of the waste shipment, the disposal site operator must sign and return a copy of the waste shipment record to the generator. Reference (a), Part 61, subpart M includes time limits and reporting requirements associated with the returned copies of waste shipment records. The generator must keep copies of waste shipment records for at least 2 years.

25-3.4. Lead-Based Paint. TSCA requires owners of target housing and child-occupied facilities to notify occupants regarding lead-based paint risks. TSCA also regulates renovation practices, maintenance practices, sampling practices, and abatement practices for lead-based paint in target housing and child-occupied facilities. Navy commands must comply with the requirements of reference (a), Part 745, and applicable State and local lead-based paint management requirements.

a. Lead-Based Paint Notification Requirements

(1) Installations providing target housing must notify prospective occupants about the presence of any known lead-based paint or lead-based paint hazards. Where PPV partners provide the housing, installations must ensure that the PPV contract includes provisions for occupant notification and that the notifications are taking place. If the installation does not know whether lead-based paint or lead-based paint hazards exist, the notification requirement does not impose a requirement to test for such hazards. Notification must be given prior to signature of a lease and comply with reference (a), Part 745 and reference (h).

(2) Occupants of target housing or child-occupied facilities in residential dwellings where renovations involving lead-based paint will occur must be notified of the renovation no more than 60 days before renovation activities begin. An adult occupant must provide a written acknowledgement of receipt of notification. Notification of renovation in lead-based paint areas must also be provided for renovations in common areas or target housing and child-occupied facilities. This notification requirement also applies to repair and maintenance that disrupt lead-based-painted surfaces in occupied units and common areas of multi-family dwellings.

b. Renovations. Renovations involving target housing or child-occupied facilities require posting warning signs; isolating the work area so no dust or debris leaves the work area while the renovation is being performed; maintaining the integrity of the containment by ensuring any plastic or other impermeable materials are not torn or displaced; and installing containment so that it does not interfere with occupant and worker egress in an emergency (reference (a), section 745.85).

c. Lead-Based Paint Abatement. EPA must be notified of any abatement projects in target housing or child-occupied facilities. Personnel involved in the abatement project must be trained and certified from accredited programs per reference (a), Part 745. Specific EPA-defined work practices in reference (a), Part 745 must be followed if personnel are performing an inspection, a lead-hazard screen, a risk assessment, or an abatement.

d. Disposal. Regions, installations, and commands must dispose of lead-based-paint-containing materials per applicable Federal, State, and local environmental requirements. Construction and demolition (C&D) debris with intact lead-based paint may be sent to a C&D landfill for disposal under Federal regulations, but State requirements may be more stringent. Lead-based paint waste containing primarily waste paint, strippers, paint chips, etc., is typically an HW. Disposal of such waste must be per the requirements in chapter 27 (Hazardous Waste Management Ashore) of this manual, including any exceptions or exemptions for residential waste that may apply. The environmental manager must determine environmental requirements relating to lead-based paint disposal.

e. Contracts and Contractors. Construction projects with the potential to impact lead-based paint must include appropriate references, clauses, or both necessary to ensure proper management, control (including dust control), abatement, and disposal of lead-based paint (reference (g)). PPV housing contractors may be responsible for lead-based paint notification, abatement, and disposal per the terms of their contract or lease. Workers performing maintenance, repair, remodeling, and

renovation in target housing and child-occupied facilities where lead-based paint may be disturbed need not be certified, unless the specific intent is to abate a hazard. OSHA requirements for worker protection still apply, however, and work practices that are protective of the occupants should be followed.

25-3.5. Training Requirements. Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental readiness training requirements as well as training requirements for personnel who have collateral environmental responsibilities. Table 3-1 provides Navy Environmental Readiness Training Program formal training courses and target audiences for each formal course offered. Personnel responsible for PCB, radon, asbestos, and lead-based paint management must receive the appropriate job-specific education, experience, and training to build and maintain proficiency in performing their specific job duties.

a. Environmental managers must receive, at a minimum, training in:

(1) Basic Environmental Law (A-4A-0058); and

(2) Introduction to HMs (Ashore) (A-493-0031).

b. PCB, radon, asbestos, and lead-based paint technicians and their supervisors must receive, at a minimum:

(1) Hazard communication training; and

(2) Job-specific training on marking, inventorying, reporting, inspection, spill reporting, and any applicable installation-specific requirements.

c. Personnel involved in asbestos management, removal, project design, project review, maintenance and housekeeping, laboratory analysis, abatement, and sampling must receive training per reference (g), appendix B.

d. Personnel and immediate supervisors who repair, maintain, replace, inventory, or test PCB, PCB-contaminated, or suspected PCB articles must receive job-specific training on marking, inventorying, reporting, inspection, spill reporting, and any applicable installation-specific requirements.

e. Other environmental readiness staff and legal counsel with responsibilities related to PCBs, asbestos, radon, and lead-based paint management must receive introductory or executive overview training commensurate with their job duties.

25-4 Responsibilities

25-4.1. OPNAV N45 must:

a. Assess the impact of proposed radon, PCB, asbestos, lead-based paint, and other Federal legislation and regulations under TSCA on the Navy; and

b. Issue PCB, asbestos, lead-based paint, and radon policy guidance as needed.

25-4.2. BSOs must:

a. Program, budget, and allocate funds for all identified TSCA requirements applicable to PCBs, radon, asbestos, and lead-based paint;

b. Identify and submit environmental compliance projects required to bring activities into compliance with applicable Federal, State, and local regulations and Navy policy for TSCA requirements;

c. Ensure compliance with TSCA requirements applicable to PCBs, radon, asbestos, and lead-based paint at government-owned, contractor-operated facilities; and

d. Ensure subordinate commands develop and implement PCB elimination plans and that funding is programmed to comply with all applicable regulations for elimination of PCBs.

25-4.3. COMNAVFACENGCOM must:

a. Provide technical assistance to commands in complying with applicable facilities-related Federal, State, and local TSCA requirements for PCBs, radon, asbestos, and lead-based paint;

b. Evaluate alternatives to the use of PCBs in existing PCB equipment and transformers and provide such information to appropriate commands;

c. Ensure facility design criteria and operating instructions include applicable PCB, radon, asbestos, and lead-based paint requirements;

d. Manage NAVRAMP and designate within the COMNAVFACENGCOM organization a radon center of expertise;

e. Develop and maintain a Navy-wide database for radon testing data;

f. Reevaluate and revise, if necessary, the NAVRAMP implementation guidance per subparagraph 25-3.2b(4) of this manual and help revise technical documents and manuals to reflect designs required to reduce indoor radon levels in buildings;

g. Provide technical assistance regarding radon testing within buildings, diagnostics for selection of mitigation practices, design of mitigation and prevention practices, construction of

mitigation and prevention practices, and operation and maintenance plans for mitigation equipment;

h. Assist in implementing NAVRAMP requirements at Navy installations including training on radon risks and management, as requested;

i. Help commands to ensure NAVRAMP is implemented per subparagraph 25-3.2b of this manual and testing data meet NAVRAMP requirements per reference (c) (i.e., quality control (QC) and quality assurance (QA);

j. Provide technical oversight of the facility asbestos management program ashore;

k. Maintain guide specifications per current regulations;

l. Provide advice and technical assistance concerning lead-based paint in Navy facilities, particularly housing, childcare facilities, hospitals, and any other child-occupied facilities; and

m. Ensure contracting officers and contracting officers' technical representatives receive the appropriate level of training to adequately plan, design, oversee, and review lead-based paint renovation and repair contracts.

25-4.4. Commander, Naval Supply Systems Command must include provisions in inter-service support agreements with DLA for DLA Disposition Services support of PCB requirements Navy-wide.

25-4.5. Region commanders and ICOs must:

a. Identify to the BSO funding needed to support all TSCA requirements applicable to PCBs, radon, asbestos, and lead-based paint;

b. Ensure the training of personnel involved in PCB, radon, and lead-based paint management operations;

c. Sign and submit, as appropriate, reports and other required data associated with TSCA requirements to EPA, State, or local agencies;

d. Transfer accountability and custody of PCBs and PCB items stored for disposal to DLA Disposition Services, insofar as possible;

e. Handle, store, mark, inspect, and assess risks of PCBs and PCB items according to applicable Federal, State, or local regulations;

f. With regard to PCB transformers and PCB-contaminated transformers, inspect for and repair all PCB leaks, maintain records, and provide notification to EPA;

g. Inventory or validate all PCBs and PCB items annually per procedures required by regulatory agencies;

h. Maintain records of testing for PCB concentrations in hydraulic systems, heat-transfer systems, and converted or reclassified transformers for the life of the equipment (through disposal);

i. Report PCB spills or incidents involving combustion as prescribed in chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual when the spill exceeds the RQs established in Federal regulations;

j. Report fire-related incidents involving PCB transformers immediately to the NRC, regardless of quantity;

k. Ensure all owners of PCB transformers, including those in storage for reuse, register their transformers with EPA per reference (a), Parts 750–761. Newly identified PCB transformers must be registered, in writing, with EPA no later than 30 days after they are identified as such. This requirement does not apply to transformer owners who have already registered PCB transformers and are located at the same address. Further, it is recommended that all PCB transformers and equipment be registered with the appropriate fire departments;

l. Develop, implement, and maintain a current PCB elimination plan to comply with Federal, State, and local PCB regulations and Navy policy on PCBs;

m. Apply control measures, monitoring procedures, and operations and maintenance plans to processes using asbestos or ACM;

n. Appoint an APM per reference (g);

o. Follow the notification, inspection, assessment, abatement, and work practices required by reference (a), Part 745 during management of lead-based paint in government-owned target housing and child-occupied facilities;

p. Ensure NAVRAMP is implemented per subparagraph 25-3.2b of this manual; and

q. Ensure installations and activities keep records of all NAVRAMP testing data and mitigation projects. A copy of records of NAVRAMP testing and mitigation must also be forwarded to NAVFAC EXWC per reference (c).

25-4.6. Chief, Bureau of Medicine and Surgery (BUMED) must:

a. Assist COMNAVFACENGCOM in areas of radon public health assessment and risk communication; and

b. Evaluate the appropriateness of radon action levels and mitigation schedules for Navy installations.

25-4.7. The Naval Education and Training Command must develop and provide training on the occupational safety and health aspects of PCBs, asbestos, radon, and lead-based paint to Navy personnel, as appropriate. Where possible, this training should be integrated into existing required curricula.

25-4.8. Echelon 2 commands must:

a. Ensure ACMs are not procured or specified when suitable substitutes exist per reference (g);

b. During regular update cycles, review current military specifications, technical manuals, contract guide specifications, and any other document or specification under Navy cognizance, and eliminate requirements for an ACM where a suitable non-asbestos substitute exists;

c. Provide advice and technical assistance, in coordination with BUMED, to define appropriate engineering and work practice controls, and identify acceptable non-asbestos-containing substitute materials and lead-free paint substitutes; and

d. Ensure program support by providing the resources required to meet the regulatory standards for the control of asbestos and lead-based paint.

25-5 Definitions

25-5.1. Asbestos-Containing Material. ACM is any material containing more than 1 percent asbestos as determined using polarized light microscopy according to the method specified in reference (a), Part 763, appendix A, subpart F.

25-5.2. Capacitor. A capacitor is a device for accumulating and holding a charge of electricity, consisting of conducting surfaces separated by a dielectric. Types of capacitors include:

a. Small capacitors that contain less than 1.36 kilograms (kg) (3 lb)) of dielectric fluid;

b. Large, high-voltage capacitors that contain 1.36 kg (3 lb) or more of dielectric fluid and operate at 2,000 volts (alternating capacitor (ac) or direct capacitor (dc)) or above; and

c. Large, low-voltage capacitors that contain 1.36 kg (3 lb) or more of dielectric fluid and operate below 2,000 volts (ac or dc).

25-5.3. Child-Occupied Facility. A child-occupied facility is a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on at least 2 different days within any week (Sunday through Saturday), provided that each day's visit lasts at least 3 hours, the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to daycare centers, preschools, and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age 6, such as

restrooms and cafeterias. Common areas that children under age 6 only pass through, such as hallways, stairways, and garages, are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age 6.

25-5.4. Exposure. Per reference (f), section 1910.102(c)8, exposure or exposed means "that an employee is subjected to a toxic substance or harmful physical agent in the course of employment … but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workspace in any manner different from typical non-occupational situations."

25-5.5. High-Efficiency Particulate Air Filter. HEPA filters are rated to trap at least 99.97 percent of all particles 0.3 microns in diameter or larger.

25-5.6. In or Near Commercial Buildings. In or near commercial buildings means 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 non-industrial, non-substation building. Commercial buildings include:

a. Civilian or Navy personnel assembly buildings;

b. Educational properties;

c. Institutional properties (e.g., museums, hospitals, clinics);

d. Residential properties (e.g., living quarters);

e. Stores;

f. Office buildings (including administrative buildings); and

g. Transportation centers (e.g., airport terminal buildings, bus stations, train stations).

25-5.7. Mitigation System. A mitigation system is any system or steps designed to reduce radon concentrations in the indoor air of a building.

25-5.8. Occupiable Building. For purposes of radon testing, mitigation, monitoring, maintenance, and prevention, an occupiable building is any building that is not currently occupied but that could be easily occupied. Examples are bachelor quarter rooms, vacant offices, or offices currently used as storage rooms that could easily be converted to office space. The term "building" includes both residential and non-residential structures.

25-5.9. Occupied Building. For purposes of radon testing, mitigation, monitoring, maintenance, and prevention, an occupied building is any building that is occupied more than 4 hours per day on average per year. The term "building" includes both residential and non-residential structures.

25-5.10. Polychlorinated Biphenyls. PCBs are any chemical substances, limited to the biphenyl molecule, that have been chlorinated to varying degrees or any combination of substances that contain such substances. Prior to stringent regulation of PCBs, PCBs were used in a variety of applications as a fire retardant, in paints, and for other purposes such as sound-insulating felt in submarines and electrical cables. Often, PCBs were added in these applications without being specified in material or equipment procurement specifications; thus, the presence of PCBs 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 hazardous substances and carry out the disposal accordingly.

25-5.11. PCB Article. A PCB article is any manufactured article, other than a PCB container, that contains PCBs and whose surface(s) has been in direct contact with PCBs. This includes capacitors, transformers, electric motors, pumps, pipes, and any other manufactured items.

25-5.12. PCB Equipment. PCB equipment is any manufactured item, other than a PCB container, that contains a PCB article or other PCB equipment. This may include appliances, electronic equipment, and fluorescent light ballasts and fixtures.

25-5.13. PCB Item. A PCB item is any PCB article, PCB-article container, PCB container, or PCB equipment that deliberately or unintentionally contains any PCB or PCBs at 50 ppm or greater.

25-5.14. PCB Leak. A PCB leak is any instance in which a PCB item has any PCB on any portion of its external surface or surroundings.

25-5.15. PCB Transformer. A PCB transformer is a transformer that contains 500 ppm or greater PCBs. The transformer classifications are:

a. Non-PCB transformer (<50 ppm);

b. PCB-contaminated transformer (50 to <500 ppm); and

c. PCB transformer (≥500 ppm).

25-5.16. Radon. Radon is a colorless, odorless, radioactive gas formed by the decay of radium. It exists in varying amounts in all soils and rocks, and some groundwater supplies worldwide. Under certain conditions, it can infiltrate into and concentrate to unacceptable levels in buildings.

25-5.17. Significantly Modified. A significantly modified building is one that is occupied or to be occupied, altered, or renovated by either changing mechanical systems (e.g., heating, ventilation, and air conditioning) or making modifications (e.g., changing the original number or type of windows, doors, ground slabs, or walls) in any manner that significantly changed the air change or flow into and within the building.

25-5.18. Target Housing. Target housing is any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides

or is expected to reside in such housing) or any zero-bedroom dwelling. Target housing has a high probability of the presence of lead-based paint that can endanger children.

25-5.19. Testable Building. For purposes of radon testing, mitigation, monitoring, maintenance, and prevention, a testable building is any building that is enclosed, occupied, or occupiable and in ground contact. The term "building" includes both residential and non-residential structures.

25-5.20. Validated Monitoring Results. Validated monitoring results are radon tests that meet the requirements of NAVRAMP (e.g., a type of radon detection device; sampling strategies, procedures, and intervals; QA and QC).

CHAPTER 26

PROCEDURES FOR IMPLEMENTING THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Table of Contents

26-1 Scope 26-1
26-1.1. Related Chapters 26-2
26-1.2. References 26-2
26-1.3. Applicability 26-2

26-2 Legislation 26-3

26-3 Requirements 26-3
26-3.1. Definition of Facility 26-3
26-3.2. Reporting Responsibilities 26-4
26-3.3. Classified Information 26-4
26-3.4. State and Local Requirements 26-5
26-3.5. Emergency Planning and Community Right-to-Know Act Fines and Penalties 26-5
26-3.6. Documentation 26-5
26-3.7. Sections 302 and 303 of the Emergency Planning and Community Right-to-Know Act: Emergency Planning Notification 26-5
26-3.8. Section 304 of the Emergency Planning and Community Right-to-Know Act: Emergency Release Notification 26-6
26-3.9. Section 311 of the Emergency Planning and Community Right-to-Know Act: Hazardous Chemical Safety Data Sheet Reporting 26-7
26-3.10. Section 312 of the Emergency Planning and Community Right-to-Know Act: Hazardous Chemical Inventory Reporting 26-8
26-3.11. Section 313 of the Emergency Planning and Community Right-to-Know Act: Toxic Chemical Release Reporting 26-9
26-3.12. Toxic Chemical Reduction Goals and Reporting 26-16
26-3.13. Training Requirements 26-16
26-3.14. Public Availability of Emergency Planning and Community Right-to-Know Act Information 26-16

26-4 Responsibilities 26-17

26-5 Definitions 26-18

26-1 Scope. This chapter implements the Emergency Planning and Community Right-to-Know Act (EPCRA), Title III of the Superfund Amendments and Reauthorization Act, and the requirements of references (a) and (b).

26-1.1. Related Chapters. Chapter 1 (Organization and Coordination) of this manual provides information on joint basing. Chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual provides information on facility pollution prevention planning. Chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual provides information on processing notices of violation (NOVs). Chapter 23 (Hazardous Materials Management Ashore) of this manual describes how incorporating materials into the installation authorized use list and reviewing non-hazardous and less hazardous substitutes improve EPCRA reporting efforts. Chapter 27 (Hazardous Waste Management Ashore) of this manual describes how hazardous wastes are managed and how information (e.g., manifests, waste profiles) can be useful in evaluation of EPCRA thresholds and preparation of required reports. Chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual describes Navy policy and planning in relation to an accidental release of a hazardous substance (HS). Appendix C (Message Formats) of this manual provides information on message formats.

26-1.2. References

(a) E.O. 13834, Efficient Federal Operations;

(b) USD memo of 21 Sep 06, Consolidated Emergency Planning and Community Right-to-Know Act (EPCRA) Policy for DoD Installations, Munitions Activities, and Ranges;

(c) OPNAV N45, Getting Started With the Emergency Planning and Community Right-to-Know Act (EPCRA), May 2009;

(d) USD memo of 15 Apr 08, Department of Defense Supplemental Guidance for Implementing and Operating a Joint Base;

(e) 40 CFR;

(f) DoD Instruction 6050.05 of 15 August 2006, Hazard Communication (HAZCOM) Program;

(g) OPNAVINST 5100.23G, Navy Safety and Occupational Health Program Manual;

(h) 29 CFR 1910.1200.

(i) 10 U.S.C. §101; and

(j) FAR Subpart 23.10, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements.

26-1.3. Applicability. This chapter provides EPCRA policies and procedures applicable to all Navy shore installation operations in any State of the United States, District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over

which the United States has jurisdiction. It does not impose any requirements on Navy shore installation operations in foreign countries or directly upon ships. Any extremely hazardous substance (EHS), hazardous chemical (HC), or toxic chemical (TC) stored or used aboard a ship while in port does not become part of the shore facility's threshold calculations and is not reported by the shore facility even if reporting is triggered. Material maintained under the ship's custody is not subject to any EPCRA reporting requirements. Where shore-based personnel perform maintenance or other activity on the ship and shore facility-owned materials are used, however, the materials must be considered for purposes of EPCRA-compliance efforts.

26-2 Legislation

a. Legislation that contains provisions for HS release reporting, emergency planning and response, and maintenance of safety data sheets (SDSs) includes:

(1) Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9601–9675;

(2) EPCRA, 42 U.S.C. §11001–11050; and

(3) Occupational Safety and Health Act (OSHA), 29 U.S.C. §651–678.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

26-3 Requirements. The primary purpose of emergency planning and release notifications is to protect public health, safety, and the environment; and to establish and coordinate the nation's chemical emergency planning activities. Navy installations must implement EPCRA per the policies in this chapter and executive orders (EO) (reference (a)), and Department of Defense (DoD) and Navy-specific guidance (references (b) and (c)) when implementing the EPCRA. Where DoD and Navy guidance differ from EPCRA guidance provided by the Environmental Protection Agency (EPA), Navy installations must follow DoD and Navy guidance.

26-3.1. Definition of Facility. All installations must identify their covered facility or facilities, their boundaries, and their processes subject to the EPCRA. A facility is defined as all buildings, equipment, structures, and other stationary items located on a single site or on adjacent or contiguous sites, owned or operated by the same person (i.e., under common control).

a. Fenceline Activities. All activities within the fenceline of the installation must be examined to determine if they are considered part of the facility for EPCRA compliance. The host installation, as the fenceline owner, is considered the owner or operator of the facility for reporting purposes. All DoD activities within the fenceline, including contractor activities, are part of the EPCRA facility and are included in all reporting assessments.

b. Geographically Separate Portions. The owner of geographically separated portions of an installation must treat each establishment it operates as a separate facility.

c. Non-DoD Activities. Non-DoD activities are not considered part of the facility.

d. Ships at Sea and Water Ranges. Ships at sea and water ranges (i.e., a water body that is not within the facility fenceline) are not considered a facility, and therefore, are not subject to the EPCRA.

e. Regionalized Areas. Regionalized areas may apply the definition of facility. For regionalized areas where components are adjacent and contiguous, components should be combined into a single regionalized facility for threshold calculations and reported under the name of the regionalized installation. For regionalized areas where components are not adjacent and contiguous (i.e., geographically separate), components should be considered as separate facilities for threshold calculations under the EPCRA. Where reporting is triggered, the name of the component should be reported as "Regionalized Installation Name—Component Name."

f. Joint Basing. Where joint basing has occurred, the joint base must define the facility for purposes of the EPCRA and determine and document reporting responsibility per reference (d).

g. Ranges. A range is either a stand-alone facility or part of another facility as detailed in subparagraph 26-3.11b of this manual.

26-3.2. Reporting Responsibilities. Each Navy installation must meet the reporting deadline requirement of EPCRA regulations. The fenceline owner must file the necessary reports for the entire facility for each section of the EPCRA requiring a report.

a. Agreements. Installations must update inter-Service support agreements (ISSA), as well as any other host-tenant agreements, to reflect the data-collection requirements of the tenants to the host installation.

b. Tenants. Navy tenants of non-DoD host installations are independently responsible for meeting Navy EPCRA reporting requirements.

c. Independent Owners and Contractors. Independent owners of contiguous or adjacent sites are individually responsible for complying with EPCRA requirements. For example, a Navy installation and an Army base that share a fenceline report as two separate facilities under the EPCRA, except in situations of joint basing where the joint base decides the approach, per reference (c). Private contract operations on Navy installations must be accounted for in the facility calculations for purposes of the EPCRA. Government-owned, contractor-operated (GOCO) facilities must comply with all provisions of the EPCRA to the extent that their operations meet threshold and other requirements of the statute and implementing regulations.

26-3.3. Classified Information. Prior to the submission of any reports to the State Emergency Response Commission (SERC), local emergency planning committee (LEPC) (or equivalent for its jurisdiction), non-Navy fire departments, or EPA, 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 installation must develop alternative procedures for protecting the installation and offsite personnel.

26-3.4 State and Local Requirements. Navy installations are not required to comply with State and local right-to-know requirements, such as lower thresholds or State-specific reporting forms. It is Navy policy to comply with State programs unless the program poses a significant burden on staff or resources and provided such compliance does not interfere with command mission accomplishments or other legal obligations.

a. Fees. Navy installations cannot pay State and local right-to-know fees and must forward all State and local right-to-know fee invoices and reimbursement requests to their legal office for review.

b. Adjacent Properties. Navy installations that have adjacent properties in multiple States or in multiple local emergency planning districts should report to all applicable State and local EPCRA reporting authorities (i.e., all SERCs and LEPCs), unless there is an agreement with applicable State and local EPCRA reporting authorities to the contrary.

26-3.5. Emergency Planning and Community Right-to-Know Act Fines and Penalties. EPA does not have the authority to penalize (e.g., fine) Navy installations for EPCRA noncompliance, but EPA may issue notices of noncompliance or violation for EPCRA violations (e.g., a failure to report TC releases, a failure to maintain TC release records). Refer to chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual for specific Navy policy guidance on what actions should be taken upon receipt of any NOV of Federal, State, or local environmental laws or regulations, or assessment of fines or penalties.

26-3.6. Documentation. Installations must ensure documentation (e.g., calculations for threshold and release estimates) is in place to support EPCRA reporting efforts and inquiries, including the decision not to report. Installations must maintain support documentation for a minimum of 5 years, unless a cross-governing regulation (e.g., Resource Conservation and Recovery Act) requires the installation to retain the records for a longer period. This documentation is required for all installations subject to the EPCRA and is not limited only to those installations that must submit a report.

26-3.7. Sections 302 and 303 of the Emergency Planning and Community Right-to-Know Act: Emergency Planning Notification. A Navy facility that meets or exceeds a threshold is subject to the reporting requirements of the EPCRA for emergency planning and for providing information to support emergency planning.

a. Threshold Requirements. All installations must determine whether they meet or exceed threshold requirements for any EHS present at the facility. Host installations (i.e., fenceline owners) must calculate thresholds using the entire facility. The installation may apply any of the exemptions available in reference (e), Part 355, and should document where and when they are applied. Munitions and munitions-related items containing EHSs must be included in all facility calculations for threshold requirements and must be reported as required.

b. Notification

(1) A facility that has any EHS onsite, including those in munitions and munitions-related items, in a quantity equal to or in excess of its applicable threshold planning quantity (TPQ) at any one time, must provide a one-time notification to the SERC and LEPC (or equivalent for its jurisdiction) that the facility is subject to the emergency planning requirements of the EPCRA. The facility name, facility point of contact (who will serve as the facility emergency coordinator per section 303 of the EPCRA), and phone numbers must be included.

(2) If any information in the original notification is no longer current and needs to be updated, the facility must amend the original notification to the SERC and LEPC (or equivalent for its jurisdiction) to include the updated information within 30 days after the changes have occurred. If no notification has been required to date because a TPQ for an EHS was not met or exceeded and then an EHS becomes present at the facility in excess of its TPQ for the first time, or the EHS list is revised and the facility has an EHS present in excess of the TPQ for the first time, the facility must submit the EPCRA section 302 notification within 60 days of determining reporting is required based on the new information to the SERC and LEPC (or equivalent for its jurisdiction).

c. Participation in Local Emergency Planning. A covered facility is required to provide any emergency planning information requested by the LEPC (or equivalent for its jurisdiction), to the extent practical, while taking into consideration national security issues. Each covered facility must identify an installation representative who will participate in the local emergency planning process as a facility emergency response coordinator.

26-3.8. Section 304 of the Emergency Planning and Community Right-to-Know Act: Emergency Release Notification. Installations must notify EPCRA authorities in the event of releases of EHSs (reference (e), Part 355), or HSs (reference (e), Part 302), including those from munitions and munitions-related items, in an amount equal to or in excess of the reportable quantity (RQ) in a 24-hour period for that substance into any environmental medium.

a. Verbal Notification. Immediate verbal notification and a written follow-up notice must be given as soon as practicable to the SERCs and LEPCs (or equivalent for its jurisdiction) for all areas likely to be affected by the release. To expedite the verbal notification process, the installation must prepare and use a checklist of required information to provide during the phone calls in the event of a reportable release.

b. Follow-Up Report. To expedite submission of the written follow-up report, the installation must prepare and use a standard form that includes all required information and an approval chain in the event of a reportable release.

c. Releases Within Facility Boundaries. The installation is not required to notify the SERC or LEPC (or equivalent for its jurisdiction) of releases that result in exposure to personnel solely within the boundaries of the facility regardless of whether the RQ for that substance was met or exceeded.

d. Exemptions. The installation must apply any of the exemptions available in reference (e), Part 355, and should document where and when they are applied. Notification to the SERC or LEPC (or equivalent for its jurisdiction) is not required for releases exempted per reference (e), Part 355.

e. Other Reporting Responsibilities. These reporting requirements do not relieve the installation of any notification requirements covered under other environmental regulations. For example, each Navy installation reporting a release of a CERCLA HS under section 304 of the EPCRA may also have reporting responsibilities under section 103 of CERCLA (i.e., notification to the U.S. Coast Guard National Response Center). The installation must also notify the cognizant budget submitting office (BSO) of the release in message form as soon as practicable after the release has occurred.

26-3.9. Section 311 of the Emergency Planning and Community Right-to-Know Act: Hazardous Chemical Safety Data Sheet Reporting. Installations are required to submit HC SDSs or a list of HCs grouped by hazard category to the SERC, LEPC (or equivalent for its jurisdiction), and the local fire department with jurisdiction over the facility if they meet or exceed threshold levels for any HCs requiring an SDS that is present onsite at any one time (reference (e), Part 370). State and local regulators cannot waive Navy installation EPCRA reporting requirements by allowing EPCRA section 312 annual HC inventory reporting to substitute for EPCRA section 311 SDS or list reporting.

a. Threshold Requirements. If the quantity of an HC is present at any one time in amounts equal to or greater than 10,000 pounds (lb), it is reportable. If the HC is an EHS and the amount present at any one time is equal to or greater than 500 lb or its TPQ, whichever is less, it is reportable. Navy installations must calculate thresholds using the entire facility.

b. Munitions. This section includes those HCs associated with munitions and munitions-related items. HC constituents of munitions and munitions-related items are subject to threshold calculations or reporting if they are stored in bulk form. Stored munitions end items, however, are considered to be a solid in any manufactured item; therefore, the chemicals contained in munitions end items are not included in the threshold calculation or reporting for this section.

c. SDS or List Submission

(1) For each reportable HC, installations must provide a one-time submission of a copy of the SDS or a list of reportable HCs, grouped by hazard category, to the SERC, LEPC (or equivalent for its jurisdiction), and the fire department with jurisdiction over the facility. Installations should contact local agencies to identify their preferred method of data submission. DoD maintains a central repository of SDSs via the Hazardous Material Information Resource System (HMIRS) that may be used to retrieve SDS copies when a manufacturer's original SDS is not available. Reference (f) includes information on obtaining SDSs, and reference (g) includes additional detail regarding the Navy's implementation and operation of HMIRS.

(2) If an installation submits a list, it must contain those HCs (by chemical or common name as given on the SDS) for which an SDS is required under OSHA regulations, grouped by

hazard category. Installation must only include those HCs (either in mixtures or in the pure form) that meet or exceed threshold levels.

d. Requests. Should the SERC, LEPC (or equivalent for its jurisdiction), or local fire department with jurisdiction over the facility request an SDS not previously submitted, the installation must submit the requested SDS within 30 days of receipt of the request. The minimum threshold for reporting in response to a request for submission is zero.

e. New or Revised Submissions. Should an HC not previously reported become present in an amount equal to or greater than established thresholds or should significant new information concerning the HCs (including a change in HC due to adoption of the Globally Harmonized System of Classification and Labeling of Chemicals) for which a submission was previously made become available, the installation must provide a new or revised submission within 3 months after discovery of this new information.

f. State Programs. Some States have adopted their own right-to-know provisions that may include lower thresholds or State-developed reporting forms. Navy installations must comply with State programs to the extent described in paragraph 26-3.4 of this manual.

26-3.10. Section 312 of the Emergency Planning and Community Right-to-Know Act: Hazardous Chemical Inventory Reporting. All installations must determine if they meet or exceed threshold levels for all HCs requiring an SDS present onsite at any one time during the reporting year (i.e., calendar year) (reference (e), Part 370).

a. Reporting Requirements. Installations must submit an annual Emergency and Hazardous Chemical Inventory Form, Tier I (EPA Form 8700-29) or Tier II (EPA Form 8700-30) (see appendix F (Forms and Reports) of this manual), to the SERC, LEPC (or equivalent for its jurisdiction), and the local fire department with jurisdiction over the facility for all HCs that meet or exceed the threshold. Any HC requiring an SDS under OSHA present onsite at any one time in amounts equal to or greater than 10,000 lb is reportable. If the HC is an EHS and the amount present at any one time is equal to or greater than 500 lb or its TPQ, whichever is less, it is reportable.

b. Thresholds. Navy installations must calculate thresholds using the entire facility. This section includes those HCs associated with munitions and munitions-related items. HC constituents of munitions and munitions-related items are subject to threshold calculation if stored in bulk form. Stored munitions end items, however, are considered to be a solid in any manufactured item; therefore, the chemicals contained in munitions end items are not included in the threshold calculation or reporting in this section.

c. Submission Deadline. The annual submission is due on or before 1 March for the previous calendar year's inventory.

d. Tier I and Tier II Submissions

(1) Installations may submit either the Tier I (EPA Form 8700-29) or Tier II (EPA Form 8700-30) reporting form (refer to appendix F (Forms and Reports) of this manual). Installations are not required, however, to comply with requests to use any form other than the Federal Tier I (EPA Form 8700-29) or Tier II (EPA Form 8700-30) forms. Most SERCs and LEPCs (or equivalent for its jurisdiction) prefer the Tier II (EPA Form 8700-30) or a State-developed form. Navy installations may file EPCRA section 312 inventory forms electronically using EPA's Tier2 Submit (or other EPA software), State-specific software, or other electronic means (e.g., a Web portal), where available. An installation must obtain Navy Marine Corps Intranet approval to download and use any EPA- or State-specific software. If approval is not granted or cannot be obtained in time for a reporting deadline, MS-Word- and Adobe-formatted Tier II (EPA Form 8700-30) form templates are available for download on EPA's EPCRA Web site (refer to appendix E (Web Sites) of this manual for Web site address).

(2) The SERC and LEPC (or equivalent for its jurisdiction) have the authority to request a Tier II form (EPA Form 8700-30) submission (refer to appendix F (Forms and Reports) of this manual) for HCs present at the facility below threshold levels if the requester provides a written statement of need. Should the SERC, LEPC (or equivalent for its jurisdiction), or local fire department with jurisdiction over the facility request a Tier II form (EPA Form 8700-30) not previously submitted, the installation must submit the requested form within 30 days of receipt of the request, provided the request includes a written statement of need. The minimum threshold for reporting in response to a request for submission is zero.

(3) The North American Industry Classification System (NAICS) code for Navy installations is "928110." No other or additional NAICS codes must be reported. If a State or local form includes the Standard Industrial Classification (SIC) code, the SIC code for the Navy installation is "9711." No other or additional SIC codes must be reported.

e. Signing Authority. The Navy installation commanding officer (ICO) is not required to sign the Tier II (EPA Form 8700-30) (refer to appendix F (Forms and Reports) of this manual) or State-equivalent reporting form for section 312 of the EPCRA. Any responsible management official may sign the report.

26-3.11. Section 313 of the Emergency Planning and Community Right-to-Know Act: Toxic Chemical Release Reporting. For purposes of section 313 of the EPCRA, installations must determine if they meet applicability criteria and exceed threshold levels for any TC that is manufactured, processed, or otherwise used at the facility during the reporting year (i.e., calendar year).

a. Reporting Requirements. Facilities must submit an EPA Toxics Release Inventory (TRI) Form 9350-1 (Form R) (refer to appendix F (Forms and Reports) of this manual) for each reportable TC that triggers reporting if the facility:

(1) Has 10 or more full-time employees; and

(2) Manufactures (defined to include imported) or processes any listed TC in quantities in excess of 25,000 lb in a calendar year; or

(3) Otherwise uses any listed TC in a quantity over 10,000 lb in a calendar year; or

(4) Manufactures, processes, or otherwise uses a persistent bioaccumulative and toxic (PBT) chemical in excess of the PBT chemical-specific threshold, given in reference (e), Part 372, in a calendar year.

b. Definition of Facility for Ranges

(1) Navy installations must treat an entire operational range as a facility, regardless of the presence of buildings, equipment, structures, or other stationary items, and determine EPCRA section 313 threshold calculations based on all manufacture, process, or otherwise use of TRI TCs on the range.

(2) All ranges (including small arms ranges) on, adjacent to, or contiguous with an installation are to be considered part of the installation and part of the facility as defined for EPCRA purposes. All assessments, including employee work-hour and TC thresholds, must be completed using the aggregate facility (i.e., installation plus adjacent or contiguous ranges).

(3) Where a range is not on, adjacent to, or contiguous to any other DoD property, the range itself is the facility for purposes of the EPCRA. In this case, all assessments, including employee work hours and TC thresholds, must be completed for the range alone.

c. Full-Time Employee Threshold. Employee threshold calculations for ranges must account for time spent physically on the range by personnel operating, maintaining, or managing the range. This assessment includes range operators and personnel, explosive ordnance disposal sweep and clearance personnel, target and maintenance crews, and environmental readiness staff, when appropriate, but not personnel using the range. This assessment does not include personnel physically located off range. For example, the employee threshold calculation must not account for time spent by schedulers and controllers not physically located on the range. Where a range is adjacent or contiguous to an installation, the calculation from the range is to be combined with the total installation calculation to determine whether the threshold is met. Where a range is geographically separate, the calculation is for the range only as its own facility.

d. TC Thresholds. Host installations must ensure all thresholds are calculated using the entire facility. These thresholds are TC- and activity-specific and do not include storage or the amount present at any one time. The EPA Form 9350-1 (Form R) (refer to appendix F (Forms and Reports) of this manual) must cover not only the triggering activity but also all non-exempt uses of the TC at the facility.

(1) Manufacturing Threshold. The manufacture, processing, or otherwise use of TCs for use in munitions-related items is covered under this section. The manufacturing threshold must include all TCs (including PBT chemicals) created at the facility, regardless of whether they are created intentionally (e.g., as a product) or unintentionally (e.g., coincidentally manufactured as a

byproduct of treatment or product of combustion). The creation of TCs as a result of using munitions is considered manufacturing and is covered by this section. TCs (including PBT chemicals) created as a result of exempt activities (e.g., burning fuel for personal comfort and sanitary wastewater treatment) (refer to subparagraph 26-3.11g of this manual for exemptions) will also be considered manufactured and must be included in a threshold determination.

(2) Processing or Otherwise Use Threshold. The processing or otherwise use of TCs from the production or use of munitions-related items is covered under this section. The demilitarization of munitions and munitions-related items, including disassembly, dismantling, recycling, recovery, reclamation, and reuse, is considered a processing activity and is covered under this section. Demilitarization activities (i.e., open burning and open detonation, incineration, chemical neutralization, and other methods of final treatment that alter the chemical composition of the munitions and its components) are considered otherwise use activities and are covered under this section. All munitions treated onsite must be counted. Applicable exemptions in reference (e), Part 372, as clarified by DoD and Navy guidance may be applied to munitions activities.

(3) Range Activities. The manufacture or otherwise use of TCs as part of range activities is covered under this section. The processing threshold activity does not apply to any activities performed on ranges. Munitions used in training (e.g., live-fire exercises, target practice, aerial bombing, obscurant and smoke training, burning of unused propellant) and destruction of munitions on a range (e.g., range sweep, clearance operations) are examples of covered activities. TCs in munitions items expended on a range for any activity are considered otherwise used. TCs created as a result of range activities are considered manufactured. Applicable exemptions in reference (h), Part 372, as clarified by DoD and Navy guidance, may be applied to range activities.

(4) Calculation of Threshold Quantities. To calculate TC threshold quantities, Navy installations must assume that all military munitions used in munitions or range activities will function as intended (i.e., the dud rate is zero) and all energetics will detonate or burn as designed. Navy installations should use the TRI–Data Delivery System (TRI-DDS) reporting tool for calculating TC threshold and release data from munitions and range activities.

(5) Transfer of TCs. The transfer of a TC to or from a Navy ship is not considered to be the manufacture, process, or otherwise use of a TC, and therefore, must not be used by an installation to calculate threshold requirements. If the TC has triggered the reporting requirement based on activities at the shore installation, then the installation must include transfers to ships as offsite transfers in the EPA Form 9350-1 (Form R) release calculations. Floating dry docks should be considered part of the shore installation and reported accordingly.

e. Submission Deadline. The annual submission deadline for EPA Form 9350-1 (Form R)s (refer to appendix F (Forms and Reports) of this manual) covering releases for the previous calendar year (i.e., reporting year) is 1 July. Installations are responsible for submitting EPA Form 9350-1 (Form R)s to EPA and the State in advance of the reporting deadline.

f. EPA Form 9350-1 (Form R) Submissions

(1) A separate and complete EPA Form 9350-1 (Form R) (refer to appendix F (Forms and Reports) of this manual) must be submitted electronically by the reporting installation to EPA and the State for each TC meeting threshold requirements. EPA will only accept electronic submissions of EPA Form 9350-1 (Form R) using the Web-based TRI Made Easy Web (TRI-MEweb) reporting tool. Navy installations must use TRI-MEweb to report EPA Form 9350-1 (Form R)s to EPA. Navy installations must not use the alternative threshold-certification-statement option, EPA Form 9350-2 (EPA TRI Form A).

(2) Most States participate in TRI-MEweb and will automatically receive the EPA Form 9350-1 (Form R) submission (refer to appendix F (Forms and Reports) of this manual) when it is submitted to EPA. A separate submission to the State is not required in this situation. Where a State is not participating in TRI-MEweb, TRI-MEweb will generate electronic files to be sent via compact disc or other method specified by the State, accompanied by the required certification letter and signature.

(3) Installations must provide their TRI-MEweb access key, TRI Facility Identification Designator (TRIFID) information (if it is new or changed from the previous year), and list of EPA Form 9350-1 (Form R)s submitted to the cognizant BSO by 15 July.

(4) The NAICS code for Navy installations is "928110." No other NAICS codes must be reported.

(5) Navy installations must not use range codes to report release estimates on EPA Form 9350-1 (Form R); numeric values must be entered.

(6) The ICO must sign the EPA Form 9350-1 (Form R) report(s) unless the ICO delegates this authority, in writing, to a subordinate.

(7) Where a range (or multiple ranges) is part of a Navy installation and reporting is required (i.e., an EPA Form 9350-1 (Form R) must be submitted), two EPA Form 9350-1 (Form R)s must be prepared and submitted such that operational range activities are reported separately (i.e., on a separate EPA Form 9350-1 (Form R)) from the installation non-range activities. One EPA Form 9350-1 (Form R) must be submitted for the installation accounting only for releases from the non-range activities, and a second EPA Form 9350-1 (Form R) must be submitted for the range (or ranges) accounting only for releases from the range. On EPA Form 9350-1 (Form R)s (see appendix F (Forms and Reports) of this manual), the installation must report the installation name and the range must report the installation name followed by "Range(s)." Both the installation and the range must report the same TRIFID number. In addition, each facility would check "(b) Part of a facility" and "(c) A Federal facility" under section 4.2 of EPA Form 9350-1 (Form R) to indicate they are two parts of a single facility.

(8) Navy installations must submit EPA Form 9350-1 (Form R)s (refer to appendix F (Forms and Reports) of this manual) to EPA covering GOCO information as required by this chapter. The installations must provide U.S. Navy GOCO information on a separate

government-submitted EPA Form 9350-1 (Form R). The government EPA Form 9350-1 (Form R) submission must list the U.S. DoD Navy as the "parent company" under section 5.1 of the form.

(9) When necessary to correct a prior submittal, Navy installations must submit revised EPA Form 9350-1 (Form R) report(s) to EPA and the State (as necessary) and the BSO. Revised EPA Form 9350-1 (Form R)s (see appendix F (Forms and Reports) of this manual) must not be submitted where a Navy installation is following DoD and Navy guidance that differs from EPA guidance.

g. Exemptions. EPCRA section 313 regulations provide several exemptions from both threshold and release calculations. The four primary categories under the exemptions are *de minimis*, article, activity-related (i.e., structural use, routine janitorial and grounds maintenance, personal use, motor vehicle maintenance, intake air and water), and facility-related (i.e., laboratory activities and property ownership). In general, use exemptions do not apply to TCs manufactured or processed.

(1) *De Minimis* Exemption

(a) Navy installations are not required to consider the quantity of the TC when making a threshold-quantity determination or calculating the amount of a release to be reported when a mixture contains:

1. A non-PBT TC at a concentration less than 1 percent by weight, or

2. A non-PBT TC that is an OSHA-defined carcinogen at a concentration less than 0.1 percent by weight carcinogen.

(b) This *de minimis* exemption only applies to mixtures as received and cannot be applied to a concentration of chemicals in diluted waste streams or to TCs that are manufactured. It does not apply to PBT TCs; any concentration of a PBT chemical must be considered in threshold-quantity calculations and release reports.

(2) Article Exemption. Navy installations may exempt TCs contained in an article from threshold-quantity determinations and release reporting under normal processing or otherwise use of that article. If the processing or otherwise use of a manufactured item generates fumes, dust, filings, or grindings that are released to the environment, however, that item does not meet the definition of article. For example, some sealed maintenance-free batteries do not release a TC (e.g., lead or sulfuric acid aerosol, mist) under normal conditions of use and may be exempted as articles. As another example, some components of military munitions items (e.g., casings, clips, pins) that are expended at the point of fire and do not travel down range can be considered articles. The TCs (e.g., copper) contained in them are exempt from threshold-quantity determinations and release reporting. If the installation shreds or crushes an article and changes its shape and design, however, the resulting scrap metal can no longer be considered an article, and the TCs contained in the metal must be considered in threshold-quantity calculations and release reports. The article exemption does not apply to article manufacture.

(3) Activity-Related Exemptions

(a) Structural Use Exemption

1. The structural component category exempts TCs that are:

a. Used as structural components of the facility (e.g., copper in copper piping used for the plumbing in the facility);

b. Used to ensure or improve structural or functional integrity;

c. Found in materials that are part of the facility's structure; or

d. Released from passive degradation that naturally occurs in structural components of a facility (e.g., small amounts of material passively abraded or corroded from pipes and other facility equipment).

2. Maintenance and repair activities (e.g., painting to maintain the physical integrity or function of the facility) performed by facility maintenance to the facility infrastructure (e.g., buildings, roads, runways, fencelines, utilities) are also consistent with the structural component exemption.

(b) Routine Janitorial and Grounds Maintenance Exemption. Navy installations may exempt the use of TCs contained in products for routine janitorial or other custodial maintenance and facility grounds maintenance such as cleaning supplies, fertilizers, pesticides, fungicides, herbicides, rodenticides, and insecticides similar in type and concentration to consumer products. For example, installations do not have to report the use of TCs for lawn maintenance, cleaning of kitchen areas or bathrooms, or pest control.

(c) Personal Use Exemption. Navy installations may exempt the personal use of listed TCs in products (e.g., foods, drugs, cosmetics, office supplies, other personal items including TCs in fuel and any other materials related to personal automobiles) used by employees or other persons at the facility. It also covers activities associated with facility-operated cafeterias; commissaries; DoD exchanges; hospitals and other installation medical facilities; facilities associated with morale, welfare, and recreation; and non-military weapons training and other non-military munitions use on operational ranges and recreational ranges (e.g., local law enforcement qualification testing, Rod and Gun Club events). The personal use exemption also covers TCs used strictly for reasons of personal comfort, necessity, or other such purposes (e.g., heating and air conditioning units, lighting fixtures).

(d) Motor Vehicle Maintenance Exemption

1. Navy installations are exempt from reporting the use of TCs contained in products used for the purpose of maintaining motor vehicles (e.g., aircraft, staff cars, installation maintenance and support vehicles) owned or operated by the installation.

2. Installations are not exempt from reporting the TCs used at the intermediate and depot levels for the maintenance of tactical vehicles, aircraft (including missiles), and other motor vehicles. In addition, large combined fleets of motor vehicles maintained at one central location and TCs used by shore-based maintenance in repairing and painting ships that are in port or in dry dock are not exempt.

3. Maintenance below intermediate- and depot-level (i.e., organizational-level) maintenance is exempt. For example, field- or organizational-level units are exempt from reporting TCs used in the maintenance of vehicles outside the intermediate- and depot-level maintenance shop. Similarly, personnel maintaining aircraft and vehicles under field conditions are exempt from reporting their use of TCs. TCs used on board by the ship's company for organizational-level maintenance are exempt.

4. TCs associated with fuel transfer from mobile fuel sources (e.g., tanker trucks) and vehicle fueling from stationary fuel sources and bulk fuel storage, including movable bulk storage tanks, are exempt. Specifically, refueling of motor vehicles owned or under operational or custodial control of a Navy installation remains exempt under the motor vehicle maintenance exemption. Similarly, releases from fuel transfer and fueling activities from both mobile and stationary sources remain exempt when the fuel is used for Navy installation motor vehicle refueling.

5. Navy installations cannot claim the motor vehicle maintenance exemption for refueling of motor vehicles that are not under the operational or custodial control of the Navy installation (i.e., transient vehicles). Transient vehicles are motor vehicles, including ships and aircraft, that only stop at a Navy installation for fuel or rest and have no other mission at the installation. Therefore, fueling of these transient vehicles should be included in the otherwise-use threshold and release calculations for TCs in these fuels. In addition, other products provided to transient motor vehicles are considered otherwise used and must be included in threshold and release calculations.

6. Emissions (i.e., exhaust) from all motor vehicles (both transient and non-transient) are exempt and include installation, military, and civilian motorized vehicles such as cars, trucks, cranes, forklifts, aircraft, ships, and locomotives.

(e) Intake Air and Water Exemption. Navy installations are exempt from reporting TCs present in process water or non-contact cooling water as drawn from the environment or from municipal sources. The exemption also covers TCs present in air used either as compressed air or as part of combustion.

(4) Facility-Related Exemptions

(a) Laboratory Exemption

1. The laboratory exemption applies to those listed TCs manufactured, processed, or otherwise used in a laboratory for quality control (QC), research and development (R&D), and other laboratory activities under the supervision of a technically qualified individual. The

manufacture, process, or otherwise use of TCs for the purpose of testing munitions and weapon systems, or qualifying munitions by personnel as part of the testing process, is considered part of this exemption.

2. This exemption is not intended as a blanket exemption for any facility that has the title "laboratory" in its name. To qualify, the listed TCs must be directly used in, or produced by, a laboratory activity at a Navy installation. Generally, bench-scale activities and the cleaning of equipment within a laboratory, as well as the standards and test samples that are necessary to set up and calibrate laboratory equipment, are considered exempt. Specialty chemical production, pilot plant scale activities, and activities that do not directly support R&D, sampling and analysis, or quality assurance and QC are not exempt.

3. The laboratory exemption applies to certain activities that occur on ranges. In many cases, DoD ranges are the only laboratories suitable for munitions or weapons research, development, test, and evaluation (RDT&E). DoD conducts RDT&E activities on DoD ranges under the direct supervision of technically qualified individuals. Therefore, range activities related to RDT&E of new or existing munitions, weapon systems, and platforms are exempt from threshold determinations and release reporting under this exemption.

(b) Property Ownership Exemption. The property ownership exemption excludes property owners from all EPCRA section 313 reporting responsibilities where there is only a real estate interest with no other value gained other than the real estate value. This exemption includes leases to any non-DoD entities, including commercial entities (e.g., privatization efforts, temporary leases).

26-3.12. Toxic Chemical Reduction Goals and Reporting. Installations must strive to meet any EPCRA-related toxic chemical reduction goals established by DoD or the Navy and report any metrics associated with such toxic chemical goals.

26-3.13. Training Requirements. Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental readiness training requirements as well as training requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides Navy Environmental Readiness Training Program formal training courses and target audiences for each formal course offered. EPCRA managers must ensure they have training commensurate with their level of responsibilities to ensure they build and maintain proficiency in performing their specific job duties. The EPCRA and TRI Reporting (A-4A-0082) course is recommended on an as-needed basis.

26-3.14. Public Availability of Emergency Planning and Community Right-to-Know Information. Navy policy is to make EPCRA submissions readily available to the public upon request without requiring Freedom of Information Act requests.

26-4 Responsibilities

26-4.1. BSOs must:

a. Program, budget, and allocate funds for all identified installation EPCRA requirements;

b. Ensure GOCO contracts include provisions for submission of EPCRA data per reference (i);

c. Notify the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) of any deficiencies cited by EPA inspectors during facility EPCRA reviews and inspections to provide appropriate lessons learned and required improvements to current policy and programs;

d. Review and forward these data collected from Navy installations to OPNAV N45 annually by 1 September:

(1) Electronic copies of EPA Form 9350-1 (Form R)s;

(2) Facility data regarding actual number and names of installations meeting reporting requirements under all sections of the EPCRA;

(3) For all installations, detailed information on the processes and activities that contribute to installation TC and threshold emissions and reasons for non-reporting; and

(4) TRI analysis including, but not limited to data discrepancies and actions, processes, efforts, or events driving emissions changes.

e. Compile and review all revised installation EPA Form 9350-1 (Form R)s and provide to OPNAV N45 as received.

26-4.2. Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) must:

a. Support EPCRA initiatives as tasked by BSOs;

b. Develop and implement standard procedures and guidance for collecting, managing, and analyzing EPCRA reports and related data required from Navy installations (refer to subparagraph 26-4.1c of this manual); and

c. Provide technical assistance to shore installations to implement EPCRA policy.

26-4.3. Commander, Naval Supply Systems Command, in conjunction with COMNAVFACENGCOM, must ensure the Navy Enterprise Resource Planning Single Supply Solution with Environmental Health and Safety functionality software used for hazardous material management will facilitate data gathering for the EPCRA, including TRI reporting.

26-4.4. The Naval Education and Training Command must incorporate EPCRA guidance and policies into Navy training (refer to chapter 3 (Environmental Readiness Training) of this manual). Appropriate training courses must include pollution prevention and source reduction initiatives as applicable to EPCRA requirements.

26-4.5. Region commands and ICOs of shore installations must:

a. Define the facility fenceline, including all tenants, to support EPCRA reporting requirements, and revise and update ISSAs to support these requirements;

b. Identify an installation representative who will participate in the local emergency planning process as a facility emergency response coordinator;

c. Calculate all thresholds using the entire facility inventory and meet all reporting requirements according to the EPCRA for that facility;

d. Review all publicly available data to prevent sensitive or classified information from being released;

e. Sign the EPCRA Section 313 EPA Form 9350-1 (Form R) reports as the validating official or designate in writing an alternate validating official;

f. Report annual EPCRA data per guidance provided by COMNAVFACENGCOM (refer to subparagraph 26-4.2b of this manual);

g. Provide the BSO with the reason and description for any EPA Form 9350-1 (Form R) revisions made to the most current or any prior-year EPA Form 9350-1 (Form R) by 1 August;

h. Provide the BSO with detailed information on the processes and activities that contribute to installation TC thresholds and emissions; events driving emissions changes; progress and accomplishments supporting any reduction goals established by EOs, Navy policy, or DoD policy; and reasons for non-reporting by 1 August;

i. Honor public requests for EPCRA information in a timely and informative manner and ensure the public affairs office is in agreement with and aware of information; and

j. Identify to the BSO funding needed to support all EPCRA requirements.

26-4.6. ICOs of tenants and commands must cooperate with and provide information to ICOs of host installations to satisfy EPCRA reporting requirements, as requested.

26-5 Definitions

26-5.1. Covered Facility. A covered facility is a Navy installation that meets one or more of the reporting requirements under any EPCRA section.

26-5.2. Depot-Level Maintenance. Depot-level maintenance is material maintenance requiring major overhaul or a complete rebuilding of parts, assemblies, subassemblies, and end items, including the manufacture of parts, modification, testing, and reclamation. It serves to support lower categories of maintenance by providing technical assistance, sometimes beyond their responsibility. Depot maintenance provides stock of serviceable equipment because it has more extensive facilities available for repair than are available in lower maintenance installations. It includes all aspects of software maintenance.

26-5.3. Extremely Hazardous Substance. An EHS is any substance listed in reference (e), Part 355, appendix A or B.

26-5.4. Facility. A facility is comprised of all buildings, equipment, structures, and other stationary items located on a single site or on contiguous or adjacent sites, owned or operated by the same person, otherwise known as the "host," "host installation," or "fenceline owner" for Navy installations. For the purposes of section 304 of the EPCRA, the term includes motor vehicles, rolling stock, and aircraft.

26-5.5. Hazardous Chemical. An HC is a chemical that is a physical or health hazard as defined in reference (e), Part 370, and in reference (j).

26-5.6. Hazardous Substance. For the purposes of this chapter, an HS is any substance listed in reference (e), section 302.4, table 302.4.

26-5.7. Intermediate-Level Maintenance. Intermediate-level maintenance is material maintenance that is the responsibility of, and performed by, designated maintenance installations in support of using organizations. The intermediate-level maintenance mission is to enhance and sustain the combat readiness and mission capability of supported installations providing quality and timely material support at the nearest location with the lowest practical resource expenditure. Intermediate-level maintenance includes: limited repair of commodity-oriented components and end-items; job shop, bay, and production line operations for special mission requirements; repair of printed circuit boards; software maintenance; and fabrication or manufacture of repair parts, assemblies, components, jigs, and fixtures, when approved by higher levels.

26-5.8. Organization-Level Maintenance. Organizational-level maintenance is maintenance normally performed by an operating unit on a day-to-day basis in support of its own operations. The organization-level maintenance mission is to maintain assigned equipment in full mission-capable status while continually improving the process. Group organizational-level maintenance falls under the categories of "inspections," "servicing," "handling," and "preventive maintenance."

26-5.9. Persistent Bioaccumulative and Toxic Chemicals. PBT chemicals are those listed by EPA under section 313 of the EPCRA. EPA has established a subset of the TC list for those chemicals identified as being PBT chemicals in the environment after being released. PBT chemicals have assigned threshold levels that range from 0.1 grams to 100 lb per year and the *de minimis* exemption may not be applied. PBT chemicals and their respective threshold levels for section 313 of the EPCRA are identified in the TC list in reference (e), Part 372.

26-5.10. Range. When used in a geographic sense, a range is a designated land or water area that is set aside, managed, and used for range activities of DoD. A range includes: (1) firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, buffer zones with restricted access, and exclusionary areas; and (2) airspace areas designated for military use per regulations and procedures prescribed by reference (h).

26-5.11. Release. Under the EPCRA, the term "release" means 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) of any HC, EHS, TC, or CERCLA HS.

26-5.12. Reportable Quantity. The RQ is the specified amount in pounds of any EHS or HS that, when released in a 24-hour period in excess of or equal to that amount to the environment, requires reporting under section 304 of the EPCRA. Reference (e), Part 302, appendices A and B; reference (e), section 302.4, table 302.4; and reference (e), Part 370, list RQs.

26-5.13. Threshold Planning Quantity. The TPQ is the established amount in pounds of an EHS, that when present onsite at a facility at any one time in quantities equal to or greater than the TPQ, requires notification under section 302 of the EPCRA. Reference (e), Part 355, appendices A and B, list TPQs.

26-5.14. Toxic Chemical. A TC is any substance listed in reference (e), Part 372.

26-5.15. Toxics Release Inventory-Data Delivery System. TRI-DDS is a Web-based reporting tool that supports threshold and release calculations for munitions and range activities in support of section 313 of the EPCRA. The tool provides the necessary information to calculate TC amounts for combinations with installation values or direct comparison with reporting threshold levels and to estimate releases associated with munitions and range activities.

CHAPTER 27

HAZARDOUS WASTE MANAGEMENT ASHORE

Table of Contents

27-1 Scope 27-1
27-1.1. Related Chapters 27-1
27-1.2. References 27-2
27-1.3. Applicability 27-3

27-2 Legislation 27-3

27-3 Requirements 27-3
27-3.1. Regulatory Compliance 27-3
27-3.2. Hazardous Waste Minimization 27-3
27-3.3. Hazardous Waste Generation 27-4
27-3.4. Hazardous Waste Management 27-9
27-3.5. Hazardous Waste Permitting, Transportation, and Manifesting 27-10
27-3.6. Reporting and Recordkeeping 27-12
27-3.7. Hazardous Waste Management Plans 27-14
27-3.8. Spill Reporting 27-15
27-3.9. Ship-to-Shore Interface 27-15
27-3.10. Retrograde 27-16
27-3.11. Military Munitions 27-16
27-3.12. Regulated Medical Waste and Pharmaceutical Waste Management 27-18
27-3.13. Electronic Waste 27-18
27-3.14. Universal Waste 27-18
27-3.15. Weapon Systems 27-19
27-3.16. Fees, Assessments, Fines, and Penalties 27-19
27-3.17. Training Requirements 27-19

27-4 Responsibilities 27-20

27-5 Definitions 27-26

27-1 Scope. This chapter identifies requirements and responsibilities for the management of hazardous waste (HW) at Navy shore facilities within the United States, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

27-1.1. Related Chapters. Chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual describes the Navy's environmental management system (EMS) implementation to include pollution prevention (P2) and green or sustainable procurement. Chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual includes information on processing notices of violation. Chapter 23

(Hazardous Materials Management Ashore) of this manual describes the Navy's integrated logistics approach for effective hazardous material (HM) control and management (HMC&M). Chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-Know Act) of this manual describes requirements for release reporting. Chapter 28 (Solid Waste Management and Resource Recovery Ashore) of this manual provides policy guidance for non-hazardous solid waste (SW). Chapter 29 (Low-Level Radioactive Waste Disposal Program) of this manual provides policy guidance for HW mixed with radioactive waste. Chapter 31 (Storage Tanks) of this manual provides policy guidance for HW storage tanks. Chapter 34 (Overseas Environmental Compliance Ashore) of this manual provides Navy policy guidance with respect to Navy commands in foreign countries. Chapter 35 (Environmental Compliance Afloat) of this manual defines responsibilities for the management of HM aboard Navy ships.

27-1.2. References

(a) DoD Instruction 4715.06 of 4 May 2015, Environmental Compliance in the United States;

(b) 40 CFR Parts 260–279;

(c) 29 CFR 1910.1200;

(d) OASD(Sustainment) memo of 10 Jul 19, Spent Blast Media (SBM) Management Policy;

(e) DoD Manual 4160.21, Volume 4, Defense Materiel Disposition Manual: Instructions for Hazardous Property and Other Special Processing Materiel, 22 October 2015;

(f) SECNAVINST 5090.8B, Policy for Environmental Protection, Natural Resources, and Cultural Resources Programs;

(g) Department of Defense Policy to Implement the EPA's Military Munitions Rule, 1 July 1998;

(h) NAVSEA OP 5, Volume 1 of 15 Jan 2001, Ammunition and Explosives Safety Ashore;

(i) BUMEDINST 6280.1C, Management of Regulated Medical Waste;

(j) 29 CFR 1910.120;

(k) BUMEDINST 6570.3A, Safe Handling and Disposal of Occupationally Hazardous Drugs and Environmentally Hazardous Drugs;

(l) 33 CFR Part 1342; and

(m) 42 U.S.C. §2011 et seq.

27-1.3. Applicability. The policies and procedures in this chapter apply to Navy installations in the United States and its possessions and territories. Although this chapter deals primarily with HW management, an effective overall HW management program must include HW and HM minimization and must integrate occupational safety and health policy.

27-2 Legislation

a. Legislation that contains provisions that pertain to HW management, recordkeeping, shipping, treatment, storage, disposal, cleanup, fees, assessments, fines, and penalties includes:

(1) Federal Facilities Compliance Act, 42 U.S.C. §6961; and

(2) Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act), 42 U.S.C. §6901–6992k.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual. In addition, several laws, including the Clean Air Act; Clean Water Act (CWA); Emergency Planning and Community Right-to-Know Act; Federal Insecticide, Fungicide, and Rodenticide Act; Hazardous Materials Transportation Act; Occupational Safety and Health Act; and Toxic Substances Control Act, also have provisions that impact HW management.

27-3 Requirements

27-3.1. Regulatory Compliance. Navy installations and shore commands must comply with all applicable Federal, State, and local HW laws, regulations, and permit requirements. Compliance with all aspects of an Environmental Protection Agency (EPA)-approved State HW management program is considered compliance with Federal requirements. If a State has a program that is not approved by EPA, Navy commands must comply with both State and Federal program requirements. Contracting officers must ensure contractors performing work for the Navy on Navy property comply with all applicable requirements while onsite.

27-3.2. Hazardous Waste Minimization

a. It is Navy policy to minimize HW generation for the protection of human health and the environment and to reduce the regulatory burden and cost associated with HW management per reference (a). HW minimization must be accomplished by incorporating HW into the installation EMS and applying the HW management hierarchy by:

(1) Eliminating or reducing the use of HM at the source by changing the process, equipment, requirement, or materials used;

(2) Substituting a less hazardous material into the process;

(3) Recycling or recovery and reuse of HM and HW (HW recycling may require a permit unless exemptions apply);

(4) Reducing or eliminating excess and expired shelf-life HM;

(5) Treating HW to reduce the volume or to reduce it to a less toxic or non-hazardous state (may require a permit);

(6) Destroying HW (may require a permit); and

(7) Disposal.

b. The Navy's long-term goal is to eliminate HW disposal to the maximum possible extent by eliminating the use of HM and by implementing best management practices (BMP).

27-3.3. Hazardous Waste Generation. In general, the amount of HW (or acute HW as defined in reference (b)) generated in a calendar month determines a generator's category with respect to the regulatory requirements that apply. Navy installations and shore commands must ensure their generator category is clearly identified in HW management plans (refer to paragraph 27-3.7 of this manual), abide by all regulatory requirements applicable to their generator category, and minimize waste generation to retain their status as non-permitted facilities, where applicable and feasible. The requirements stated in this section are based on Federal regulations; State and local requirements may differ.

a. Large-Quantity Generators (LQG). An LQG is a generator of 1,000 kilograms (kg) or more of non-acute HW or 1 kg or more of acute HW in a calendar month. LQGs may accumulate HW onsite for 90 days or less, provided certain notification, accumulation, contingency-planning, and employee-training requirements of reference (b) are met. An LQG that accumulates HW for more than 90 days becomes subject to RCRA permit requirements unless an exception has been approved by the appropriate Federal or State regulatory agency. Requirements applicable to LQGs are:

(1) Make HW determinations, including all applicable EPA HW numbers (EPA HW codes), and maintain supporting records;

(2) Obtain an EPA identification (ID) number; re-notify EPA by 1 March of each even-numbered year thereafter using EPA's RCRA Subtitle C Site ID form (EPA Form 8700-12) as part of the Biennial Report required under reference (b), section 262.41;

(3) Ensure all containers are in good condition, are compatible with the waste, remain closed except when adding or removing waste, and comply with air emission standards of reference (b), Part 265, subparts AA, BB, and CC;

(4) Implement additional measures such that incompatible wastes and materials are not placed in the same container, nor in an unwashed container that previously held an incompatible waste or material (see reference (b), Part 265, appendix V for examples). HW that is incompatible with any waste or material stored nearby must be separated from the other materials or protected from them by a dike, berm, wall, or other practical means;

(5) Locate ignitable and reactive waste accumulation containers at least 50 feet from the facility's property line (unless a waiver is obtained from the local fire code authority) and protect wastes from sources of ignition or reaction;

(6) For HW placed in tanks, comply with the applicable requirements of reference (b), Part 265, subpart J, as well as the applicable air emission standards of subparts AA, BB, and CC;

(7) Label each container and tank, in a manner that is clearly visible for inspection, with:

(a) "Hazardous Waste;"

(b) Hazards of the contents using any of several established methods (e.g., the applicable RCRA hazardous characteristic(s), hazard communication consistent with Department of Transportation (DOT) 49 CFR Part 172, subpart E (labeling) or subpart F (placarding), a hazard statement or pictogram consistent with the Occupational Safety and Health Administration (OSHA) hazard communication standard in reference (c), or a chemical hazard label consistent with National Fire Protection Association (NFPA) code 704). Note: Prior to offsite shipment, DOT-compliant labeling and marking requirements described in subparagraph 27-3.3a(13) of this manual must be met; and

(c) The date upon which each period of accumulation begins. Note that the date of accumulation begins (and must be placed on the container) when the container exceeds 55 gallons in the Satellite Accumulation Area (SAA), or when it arrives at a central accumulation area. For tanks, maintain inventory logs, monitoring equipment or other records to demonstrate waste is emptied within 90 days of first entering the tank.

(8) If treating HW in accumulation units, establish and follow a waste analysis plan;

(9) At least weekly, inspect central accumulation areas and take remedial action if deterioration or leaks are detected. Documentation of inspections is considered a BMP by EPA and is required by most States;

(10) For all areas where HW is generated or accumulated (both central and satellite accumulation areas), comply with reference (b), Part 262, subpart M ("Preparedness, Prevention, and Emergency Procedures" for LQGs), including coordination with local authorities and a quick reference guide to contingency plans for emergency responders;

(11) Ensure facility personnel successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with LQG requirements relevant to their position, including contingency plan implementation. Maintain training documents and records per reference (b), section 262.17(a)(7);

(12) Use transporters and treatment, storage, and disposal facilities (TSDF) with EPA ID numbers;

(13) Use the Uniform Hazardous Waste Manifest when shipping HW offsite;

(14) Follow Land Disposal Restriction (LDR) notification and recordkeeping requirements;

(15) Prior to shipping waste offsite, mark each container of 119 gallons or less (i.e., DOT non-bulk packaging) with these words and information:

(a) "HAZARDOUS WASTE: Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency;"

(b) Generator's name and address;

(c) Generator's EPA ID number;

(d) Manifest tracking number; and

(e) EPA HW number(s).

(16) Submit a Biennial Report by 1 March of each even-numbered year covering generator activities during the previous year. This reporting requirement applies to any generator who is an LQG for at least one month of an odd-numbered year (reporting year); and

(17) If closing an HW accumulation unit, place a notice in the facility records within 30 days after closure identifying the location of the unit or meet the closure performance standards required by reference (b), Part 262, and notify EPA. Coordinate any HW cleanup action with ongoing Navy restoration or corrective action program, as appropriate.

b. Small-Quantity Generators (SQG). An SQG is a generator of 100 to 1,000 kg of HW and less than 1 kg of acute HW in a calendar month. An SQG may accumulate HW onsite for 180 days or less, provided the quantity of waste accumulated onsite never exceeds 6,000 kg. If an SQG exceeds monthly generation limits or the total onsite accumulation limit, it will become subject to either LQG regulations or RCRA permit requirements, as appropriate. Requirements applicable to SQGs are:

(1) Make HW determinations, including all applicable EPA HW numbers (EPA HW codes), and maintain supporting records;

(2) An SQG must obtain an EPA ID number and re-notify EPA starting in the year 2021 and every 4 years thereafter using EPA Form 8700-12. Re-notification must be submitted by 1 September of each year in which re-notifications are required;

(3) Ensure all containers are in good condition, are compatible with the waste, remain closed except when adding or removing waste, and comply with air emission standards of reference (b), Part 265, subparts AA, BB, and CC;

(4) Implement additional measures such that incompatible wastes and materials are not placed in the same container, nor in an unwashed container that previously held an incompatible waste or material (see reference (b), Part 265, appendix V, for examples). HW that is incompatible with any waste or material stored nearby must be separated from the other materials or protected from them by a dike, berm, wall, or other practical means;

(5) For HW placed in tanks, comply with the applicable requirements of reference (b), Part 265, subpart J, as well as the applicable air emission standards of subparts AA, BB, and CC;

(6) Label each container and tank, in a manner that is clearly visible for inspection, with:

(a) "Hazardous Waste;"

(b) Hazards of the contents using any of several established methods (e.g., the applicable RCRA hazardous characteristic(s), hazard communication consistent with DOT 49 CFR Part 172, subpart E (labeling) or subpart F (placarding), a hazard statement or pictogram consistent with the OSHA hazard communication standard at reference (c), or a chemical hazard label consistent with NFPA code 704). Note: Prior to offsite shipment, DOT-compliant labeling and marking requirements described in subparagraph 27-3.3a(13) of this manual must be met; and

(c) The date upon which each period of accumulation begins. Note that the date of accumulation begins (and must be placed on the container) when the container exceeds 55 gallons in the SAA, or when it arrives at a central accumulation area. For tanks, maintain inventory logs, monitoring equipment, or other records to demonstrate waste is emptied within 180 days of first entering the tank.

(7) If treating HW in accumulation units, establish and follow a waste analysis plan;

(8) At least weekly, inspect central accumulation areas and take remedial action if deterioration or leaks are detected. Documentation of inspections is considered a BMP by EPA and is required by most States;

(9) For all areas where HW is generated or accumulated (both central and satellite accumulation areas): comply with reference (b), section 262.16, with respect to emergency preparedness and prevention, emergency procedures, and employee familiarity with proper waste handling and emergency procedures;

(10) Use transporters and TSDFs with EPA ID numbers;

(11) Use the Uniform Hazardous Waste Manifest when shipping HW off site;

(12) Follow LDR notification and recordkeeping requirements;

(13) Prior to shipping waste offsite, mark each container of 119 gallons or less (i.e., DOT non-bulk packaging) with these words and information:

(a) "HAZARDOUS WASTE: Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency;"

(b) Generator's name and address;

(c) Generator's EPA ID number;

(d) Manifest tracking number; and

(e) EPA HW number(s).

c. Very Small Quantity Generator (VSQG). A VSQG is a generator of less than 100 kg of HW and less than 1 kg of acute HW. There is no accumulation time limit for VSQGs; if a VSQG either exceeds the monthly generation limit or accumulates more than 1,000 kg of HW prior to disposal, it must comply with the more stringent requirements for SQGs or LQGs, as appropriate. At a minimum, Navy VSQGs must:

(1) Ensure staff is aware and properly trained to handle HM and HW;

(2) Make HW determinations and maintain monthly generation log and total quantity onsite (not to exceed 1,000 kg at any time) to qualify as a VSQG. If exceeded, appropriate SQG or LQG requirements apply;

(3) Label HW containers and keep closed when not in use;

(4) Ensure HW containers are in good condition, free of leaks, and made of materials that will not react with the HW. Do not mix incompatible wastes or place HW in an unwashed container that previously held an incompatible waste or material;

(5) Keep HW containers holding waste that is incompatible with other nearby wastes and materials separated by a dike, berm, wall, locker, or other means;

(6) Prepare containers for transportation by packaging, labeling, and marking them accordingly per reference (b), Part 262, subpart C; and

(7) Arrange for proper disposal at a facility properly permitted to manage HW as soon as practicable. This will normally be accomplished via Defense Logistics Agency (DLA) Disposition Services.

(8) Alternatively, VSQGs have the flexibility to ship their HW, without a manifest, to an LQG under the control of the same "person" as defined in reference (b), section 260.10, provided these conditions are met:

(a) The VSQG must mark and label the waste containers in the manner described in subparagraph 27-3.3a(7) of this manual and per reference (b), section 262.14(a)(5)(viii); and

(b) The receiving LQG must notify EPA 30 days prior to receiving the waste using EPA Form 8700-12; provide identifying information about the VSQG, maintain records of the shipment for 3 years; mark the container(s) with the date received; and manage the VSQG's waste per LQG requirements, including reporting as HW received from offsite on biennial reports per reference (b), section 262.17(f).

d. Episodic Generation. Federal regulations in reference (b), Part 262, subpart L allow a VSQG or an SQG, generating a quantity of HW that exceeds the usual category limits due to either a planned or unplanned event, to maintain its existing generator category, provided specific conditions for notification, labeling or marking, and recordkeeping are met and the episodic HW is manifested to a RCRA-permitted TSDF within 60 days from the start of the event. Generators are limited to one episodic event per calendar year unless a petition for a second is granted.

27-3.4. Hazardous Waste Management. It is the generator's responsibility to determine whether a waste is an HW subject to regulation under Federal RCRA requirements; applicable State and local laws; or a combination of Federal, State, and local requirements. Knowingly diluting an HW for the purposes of avoiding HW regulations is prohibited.

a. Waste Stream Identification and Determination

(1) HW either is listed (specifically named in reference (b), Part 261 or State regulations or both) or exhibits any of four characteristics: ignitability, corrosivity, reactivity, or toxicity. Mixtures of SW and a listed HW are also regulated as HW under RCRA, unless the listed HW was listed solely for the characteristic of ignitability, reactivity, or corrosivity. Such mixtures are not considered HW once they no longer exhibit a characteristic.

(2) Navy installations and commands must make an HW determination at the point of generation for all waste streams. Following the initial waste-stream determination, Navy installations and commands must review waste-stream characterizations periodically to ensure each is correctly identified. If the results of the periodic review indicate a significant change, testing or other analysis may be conducted to validate the waste-stream determination. Note: Generator knowledge of the waste-stream constituents can and should be used to minimize the need for laboratory testing for initial waste-stream determinations and subsequent validation.

(3) Any waste stream excluded or exempt from the full range of HW-management requirements in reference (b) must be documented. Records of all exclusions and exemptions must be maintained along with waste-stream determination documentation and periodically reviewed to ensure continued eligibility for exempt or excluded status. Note that Spent Blast Media must be tested to determine if it is hazardous, and if hazardous, is not eligible for HW exclusions or exemptions as a matter of Office of the Assistant Secretary of Defense for Sustainment policy (see reference (d)).

b. Satellite Accumulation. Per reference (b), section 262.15, SQGs and LQGs may accumulate up to 55 gallons of non-acute HW (or 1 quart of liquid acute HW or 1 kg of solid acute HW) at or near the point of generation and under the control of the operator of the process

generating the waste. Waste at an SAA must be dated on the day it exceeds 55 gallons and removed within 3 calendar days to a central accumulation area or to a TSDF. Navy installations and commands must clearly identify SAAs; strictly adhere to accumulation limits; and ensure all containers are in good condition, are compatible with the waste generated, remain closed except when adding or removing waste or temporarily venting the container, and are clearly labeled with "Hazardous Waste" as well as an indication of the hazards of the contents using any of several established methods (e.g., DOT hazard communication, OSHA hazard statement or pictogram, NFPA chemical hazard label, or RCRA characteristic). SAAs operated by an LQG must meet the preparedness, prevention, and emergency procedures in reference (b), Part 262, subpart M; SAAs operated by an SQG must meet the preparedness and prevention regulations and emergency procedures of reference (b), section 262.16.

c. HW Accumulation Time. LQGs may accumulate HW for up to 90 days. SQGs may accumulate HW for up to 180 days and up to 270 days if the requirements of reference (b), section 262.16(c) are met. Installations and commands with a RCRA permit must follow the provisions of the permit, which typically allow HW storage for up to 1 year. VSQGs are not subject to time limitations with respect to HW accumulation, but they may not accumulate more than 1,000 kg at any one time prior to disposal.

27-3.5. Hazardous Waste Permitting, Transportation, and Manifesting. LQGs and SQGs must obtain an EPA ID number and send their HW, accompanied by a manifest, to a permitted TSDF or obtain a permit allowing them to conduct onsite treatment, storage, or disposal of HW. VSQGs are exempt from requirements to obtain EPA ID numbers and manifesting requirements, as well as most other RCRA requirements per reference (b), Parts 262–279. If required by State regulations or the TSDF accepting their waste, however, VSQGs may need to obtain an EPA ID number and use HW manifests.

a. Permitting. RCRA permits contain detailed requirements for the operation of a TSDF including inspection, monitoring, corrective action, and closure and post-closure care of individual HW management units such as tanks, surface impoundments, container storage areas, and landfills. The need for a RCRA permit is usually dictated by the nature of the processes or wastes being generated and their subsequent handling. Navy installations must abide by all conditions of the applicable RCRA permit. Region commanders and Navy installation commanding officers (ICO) are authorized to sign RCRA permits for active installations and may delegate authority to sign RCRA permits to tenant commands when requested for mission-critical aspects.

b. Transportation. Prior to transport, a generator must mark each container of 119 gallons or less (i.e., DOT non-bulk packaging) per reference (b), section 262.32. Each container must include an HW statement, generator name and address, the generator's EPA ID number, the manifest tracking number, and the EPA waste number(s) as described in subparagraph 27-3.3a(15) of this manual. Transporters must have an EPA ID number to pick up and haul HW to a TSDF. DOT requirements for labeling, marking, placarding, using proper containers that are closed per manufacturer specifications, reporting spills, and training HM employees, also apply. Transport of HW over a public highway requires the vehicle operator to have a commercial driver's license with an HM endorsement. Some States may require additional training beyond

DOT requirements. Transportation of HW from SAAs to central accumulation areas must be by authorized personnel only and per reference (b), Parts 262–279, local instructions, and permit provisions.

c. Manifesting. Generators offering HW for transport offsite must prepare EPA's Uniform Hazardous Waste Manifest form (EPA Form 8700-22), which must accompany HW transported over public roads, or follow electronic manifesting procedures cited in reference (b). EPA Form 8700-22 must be purchased with the manifest tracking number pre-printed by an EPA-approved registrant. Several States have additional requirements regarding the use of EPA Form 8700-22. Some States require copies to be submitted to the State and may require State-specific waste codes in addition to Federal HW codes. EPA Form 8700-22 does not replace DLA Disposition Services Disposal Turn-in Document form (DD Form 1348-1A, Issue Release/Receipt Document). Any Navy TSDF that receives manifested waste must comply with the eManifest requirements of reference (b), to include payment of user fees.

(1) Manifest Preparation. The generator must certify to a statement on the manifest that there is a program in place to reduce the volume and toxicity of waste generated and the method selected for treatment, storage, or disposal is the best practicable method available to the generator that minimizes the present and future threat to human health and the environment. The manifest must also include a 24-hour manned-duty telephone number in the "generator" block. Further, the generator or designated representative must sign the manifest certifying the shipment has been prepared according to applicable EPA and DOT regulations. Whether Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM), DLA Disposition Services, a support contractor, or in-house staff prepares and signs the manifest, the generator, as the EPA ID holder, remains responsible for ensuring the manifest is correct and complete. The individual signing the paper or eManifest should have firsthand knowledge of the information listed in it. Each designated signatory must be qualified by appropriate DOT training to make such certifications and must be authorized in writing to sign HW manifests on behalf of the installation commander. Note that the DOT training satisfies the Defense Transportation Regulation (DTR) 4500.9-R, paragraph 204.D.1 training requirements for technical specialists. A generator who generates an HW subject to Federal LDRs must notify the receiving TSDF that the waste is a restricted waste or certify the waste meets the requirements for land disposal.

(2) Manifest Distribution. Sufficient copies of the manifest must be provided to allow the generator, each transporter, and the receiving TSDF operator to keep a copy for their records and to allow copies to be returned to the generator for recordkeeping and distribution to the appropriate State(s).

d. Navy and DLA Interface

(1) DLA Disposition Services is designated as the responsible agency for worldwide disposal of all DoD-generated HW. DLA Disposition Services is not, in most cases, the HW generator and assumes none of the HW generator's responsibility for ensuring that wastes are identified correctly and that manifests and all required documentation provided by the generator are accurate and complete. If HM is turned into DLA Disposition Services for resale and is later determined to be HW, DLA Disposition Services will fulfill the generator requirements.

(2) DLA Disposition Services must accept HM and HW per the turn-in requirements in reference (e), including, but not limited to providing safety data sheets (SDS) and OSHA-compliant labels per reference (c). HM that does not have an SDS or an OSHA-compliant label will be received as waste, and the generating command must provide enough information to DLA Disposition Services to properly store and manage the property.

(3) In the event DLA Disposition Services does not manage a particular HW stream, or when necessary to get the combination of quality, responsiveness, and cost that best meets mission requirements and maintains compliance, Navy installations may request authority from their budget submitting office (BSO) to obtain contracting services for HW disposal per reference (a). If DLA Disposition Services is not the HW disposal agent, the installation must ensure that contract requirements comply with Federal, State, and local HW regulations and that contract requirements and contract quality-control procedures are at least as stringent as those used by DLA Disposition Services. Generator liability and responsibilities are the same whether using DLA Disposition Services or any other HW contracting service.

(4) Navy personnel may perform contracting officer's representative (COR) functions or otherwise act as the government interface on behalf of DLA Disposition Services if:

(a) There is reasonable expectation that this arrangement will result in a lower overall cost to the government in executing HW management functions;

(b) The responsibilities assumed by Navy personnel are documented in writing with DLA Disposition Services; and

(c) If serving as COR, Navy personnel are qualified per Federal Acquisition Regulations, appointed in writing by the contracting officer, and adhere to their respective BSO acquisition policies.

27-3.6. Reporting and Recordkeeping. Many recordkeeping requirements are applicable to HW generators. Note that RCRA permits for TSDFs may specify recordkeeping requirements that vary from those outlined in this section. Installations and commands must comply with all applicable reporting and recordkeeping requirements. In addition, it is Navy policy to retain HW disposal records for a total of 50 years per reference (f). Once legally mandated record-retention requirements have been met, HW-disposal records may be archived offsite for the remainder of the 50-year period. The most common reporting and recordkeeping requirements are:

a. Biennial Reports. Generators and TSDFs must submit a biennial report to the appropriate EPA regional office or designated State agency by 1 March of each even-numbered year (some States require an annual report rather than or in addition to the biennial report). A copy of each biennial report must be maintained for at least 3 years from the due date of the report.

b. Manifests. Except as otherwise required by State law, the generator must maintain copies of manifests signed by the generator, transporter, and TSDF owner or operator for 3 years from the date the HW was accepted by the original transporter. If a TSDF accepts HW from an offsite

source without an accompanying manifest, the TSDF operator must submit a report to the EPA regional administrator or appropriate State office within 15 days after receiving the waste. Host installations that manage waste for tenants must make manifests available to tenants as needed to support audits and inspections.

(1) LQGs. LQGs that have not received a signed manifest within 35 days of the date the HW was shipped must contact the transporter or designated TSDF to determine the status of the waste. Generators who do not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated TSDF within 45 days of the date the HW was shipped must file an exception report with EPA or State, as appropriate. A copy of each exception report must be maintained for at least 3 years from the due date of the report.

(2) SQGs. SQGs that do not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days from the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication the generator has not received confirmation of delivery, to the EPA regional administrator for the region in which the generator is located.

c. LDR Notifications and Certifications

(1) Generators of HW must determine whether the waste meets LDR treatment standards, either by testing or using knowledge of the waste. With the initial shipment of waste, the generator must transmit a one-time written notice to each TSDF receiving the waste and place a copy in the generator's file. The notice should include the applicable notification and certifications per reference (b), Part 268. No further notification is necessary unless the waste or TSDF changes, in which case a new notification must be sent and a copy placed in the generator's file.

(2) Per reference (b), Part 268, generators must retain an onsite copy of all notices, certifications, waste analysis data, and other documentation related to the LDRs for at least 3 years from the date the waste was last sent to onsite or offsite treatment, storage, or disposal. The 3-year record-retention period is automatically extended during the course of any unresolved enforcement action.

d. Waste Determinations. Whether waste determinations are based on knowledge of the waste or analytical testing, generators must retain all supporting data used to make the determination in the onsite files.

e. Waste Analysis Plans. Generators managing and treating HW in less-than-90-day tanks or containers to meet applicable LDR treatment standards must develop and follow a written waste analysis plan that contains all information necessary to treat the waste(s) per the LDR requirements. The plan must be kept onsite in the generator's records. Generators managing HW in a CWA system must include a one-time note to the onsite file.

f. Training Documentation. Generators and operators of TSDFs must develop a training plan and maintain personnel training records of those engaged in HW management, as required

by Federal, State, and local regulation. Federal RCRA regulations require training records on current personnel be kept until closure of the facility. Training records on former employees must be kept for at least 3 years from the date the employee last worked at the facility. Training documentation requirements apply to:

(1) General awareness training;

(2) 40-hour initial training for facility operators;

(3) 24-hour supervisory operations for facility managers;

(4) 8-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) refresher annual training; and

(5) Annual spill response training.

g. HW Metric Reporting. All Navy installations that manifest HW offsite, treat HW onsite, or hold a RCRA permit must enter their annual calendar-year HW data into the U.S. Navy Environmental Portal (Portal) HW module (refer to appendix E (Web Sites) of this manual for Web site address). A completed annual report for the previous calendar year, prepared per guidance provided via COMNAVFACENGCOM, must be promoted to the next level within the Portal by 15 March. Host installation submittals must include all Navy tenants that generate HW. Refer to chapter 4 (Environmental Performance Reporting) of this manual for a discussion of other metric reporting.

h. Other Records. Installations must keep a written record of inspections such as that of waste accumulation and container storage areas to demonstrate compliance with reference (b), Parts 262–279 requirements. In addition, copies of correspondence with regulators, applications for permits and renewals, reports of releases, and documentation of response actions are all necessary records to have if questions arise.

27-3.7. Hazardous Waste Management Plans. Every Navy shore installation or command that generates HW must develop and implement an HW management plan. This requirement may be satisfied by a stand-alone document or incorporation of relevant requirements into other planning documents such as EMS documents. HW management plans may be developed and implemented on a regional basis, as long as each installation or command covered by the plan is addressed in sufficient detail. Plans must be updated as needed to stay abreast of regulatory and procedural changes affecting the installation or command and, at a minimum, must include:

a. Identification of applicable Federal, State, and local regulations pertaining to the generation and management of HW;

b. Identification of training requirements and procedures for obtaining training and maintenance of training records;

c. Assignment of responsibilities for the generation, designation, handling, storage, treatment, disposal, and all documentation of HW;

d. Description of all HW generation and management procedures including procedures for documenting any exemptions or exceptions;

e. HW minimization plans and goals;

f. Reference to applicable contingency plans and emergency response procedures; and

g. Management of explosive HW components and associated explosive wastes subject to reference (b), Part 266, subpart M. Include the management and disposition of any material potentially presenting an explosive hazard (MPPEH) generated. (MPPEH management and disposition guidance may reside in a stand-alone document that is referenced in the HW management plan.)

27-3.8. Spill Reporting. In the event of a fire, explosion, or other release that could threaten human health outside the facility or when a spill has reached surface water, the emergency coordinator must immediately notify the National Response Center (using the 24-hour toll-free number (800) 424–8802). Additional notification may be required by the facility spill response plan. Refer to chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) and chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-Know Act) of this manual for spill procedures and reporting requirements. Transporters must report any discharge of HW in transit as specified in reference (b), section 263.3, and any applicable State regulations.

27-3.9. Ship-to-Shore Interface. Shore commands must manage used or excess HM and SW transferred from a Navy ship in compliance with applicable HM, HW, and SW regulations. For all used or excess HM and SW determined by the shore command to be HW, the shore command must be the HW generator and must assume all responsibility for subsequent management of the HW except for funding. Ship or fleet accounts, as appropriate, must reimburse the receiving command for HW handling and disposal and for laboratory testing, if needed. Refer to chapter 35 (Environmental Compliance Afloat) of this manual for additional information on shipboard HM and SW management and offload procedures.

a. Segregation, Packaging, Handling, Safety, and Labeling. Ships' forces must follow the requirements and policy guidance in chapter 35 (Environmental Compliance Afloat) of this manual regarding segregation, packaging, handling, safety, and labeling of used or excess HM. If the ship does not provide adequate identification and labeling, the receiving shore command may designate ship's excess or used HM and SW as waste based on laboratory analysis and charge the ships' or fleet accounts for laboratory testing and any additional handling, documentation, administrative, and overhead costs.

b. Decommissioning. A ship scheduled for decommissioning must coordinate with the regional Consolidated Hazardous Material Reutilization and Inventory Management Program (CHRIMP) center to identify and offload reusable HM as early as possible, consistent with

operational requirements. All other used or excess HM and SW must be offloaded for management by the shore command prior to the date of decommissioning to the extent practicable and appropriate.

c. Ship-to-Ship Transfers. Refer to chapter 35 (Environmental Compliance Afloat), subparagraph 35-3.16c of this manual for requirements and policy governing transfer of used or excess HM from one ship to another.

d. HM and HW from Navy Ships in Private Shipyards. Refer to chapter 35 (Environmental Compliance Afloat) of this manual for requirements and policy regarding HW management under contracts, other than new construction, for work on board Navy ships in shipyards.

e. Application for EPA ID Numbers. Navy vessels must not be specified as the generating site by any entity applying for an EPA ID number. This applies to Navy commands as well as contractors at Navy commands or contractor-owned facilities. The Navy has not applied for, and ships have not been granted, EPA ID numbers for the transport of HW.

27-3.10. Retrograde. Military Sealift Command (MSC) ships, U.S. naval ships, and U.S. ships may transport retrograde HW from U.S. facilities located outside the United States into the United States. Retrograde materials transported on a U.S. ship are handled per paragraph 27-3.9 of this manual. Following proper arrangements, including any required notifications to the U.S. EPA, and State or local regulators; Navy commands must accept DoD shipments of retrograde HW from facilities outside the United States.

27-3.11. Military Munitions. Intentionally dumping or disposing of munitions at sea is prohibited except to safeguard life or safety of the ship (refer to chapter 36 (Permitted Ocean Disposition) of this manual). Reference (b), Part 266, subpart M, and reference (g) define when military munitions become wastes subject to RCRA HW management requirements and how these waste military munitions (WMM) will be managed. Per reference (b), Part 266, subpart M, munitions are waste when they are abandoned, removed from storage for disposal, damaged, deteriorated so badly they cannot be recycled or used for another purpose, or declared waste by the designated disposition authority. Military munitions are not a waste when used for their intended purpose and are not a waste when recycled following any required demilitarization, disposal, or treatment operations. Navy installations must comply with the provisions of reference (g) and reference (b), Part 266, subpart M, which include, but are not limited to:

a. Designation Decision. Assignment of munitions or ordnance to the Special Defense Property Account or Centralized Demilitarization Account does not, by itself, constitute a designation as an HW. These munitions are rather awaiting a final decision of use, reuse, reclamation, sale, or demilitarization.

b. Demilitarization of WMM. RCRA HW requirements are applicable to the demilitarization process at the point where a determination is made in writing by an authorized DoD-designated disposition authority that the munitions item must be disposed of rather than retained. Any resultant products generated by a demilitarization process such as ash, sludge, or other residues are subject to the full range of SW and HW regulation.

c. RCRA HW Permitting. Navy installations must comply with appropriate RCRA permitting requirements for demilitarization, disposal, and treatment operations for military munitions. Permits obtained must adhere to RCRA regulations and DoD procedures and provide for adequate protection of human health and the environment. They must avoid unnecessary administrative burdens or operational requirements that would limit DoD's flexibility in managing its demilitarization program.

d. RCRA Subpart X Permitting for Open Burning/Open Detonation (OB/OD). WMM and other explosive HW disposal is conducted by OB/OD under strict operating procedures at a RCRA subpart X permitted unit and must comply with all applicable Federal, State, and local environmental requirements. OB/OD is used to treat excess, obsolete, or unserviceable military munitions that are unsafe to disassemble further for recycling or cannot be destroyed safely onsite by other methods. OB/OD as a treatment method for HW is prohibited except for OB/OD of WMMs and explosive HW.

e. Explosive Ordnance Disposal (EOD) Emergency Response. EOD emergency response is a non-routine operation conducted to abate an imminent and substantial hazard to public health, safety, or property from explosives of any type, including munitions. Such operations are not subject to regulation or permitting under RCRA (reference (b), sections 264.1(g), 265.1(c)(11), and 270.1(c)(3)), but may result in residue and contamination subject to RCRA once the explosive hazard has been abated. RCRA subpart X treatment permit requirements do not apply to EOD sites used solely for training, for emergency operations, or both. If, however, the site is used for OB/OD to dispose of or destroy munitions or ordnance not related to training or emergency operations, then such sites are subject to HW treatment permit regulations under RCRA.

f. Training and Research, Development, Testing, and Evaluation (RDT&E). Military munitions used for training and RDT&E purposes must not be considered demilitarization or disposal operations. Further, RCRA regulations are not applicable to the associated firing tables or impact ranges (as long as such areas are not used for demilitarization or disposal purposes). Recovery, collection, and on-range destruction of military munitions (e.g., unexploded ordnance, munitions fragments, residue resulting from RDT&E operations) during range clearance activities on operational ranges are not subject to regulation under RCRA.

g. Off-Specification Munitions. Off-specification small-arms ammunition of calibers up to and including 50 calibers must not be considered reactive within the definition of RCRA unless they contain high explosives (i.e., hazard class division 1.1 or 1.2 material). They could, however, be HW for some other reason, such as toxicity.

h. MPPEH. MPPEH generated during training or RDT&E activities on operational ranges or during other munitions-related activities must comply with explosives safety and environmental requirements. MPPEH is assumed to present an explosive hazard until it is assessed and documented as safe per reference (h). After being documented as safe, metallic material is normally recycled as scrap metal. Scrap metal (reference (b), section 261.1, paragraph (c)(6)) and processed scrap metal (reference (b), section 261.1, paragraph (c)(10)) are exempt or excluded from RCRA regulatory HW management requirements (reference (b),

section 261.4, paragraph (a)(13) and section 261.6(a), paragraph (3)(ii)). If these materials are not properly managed and recycled, however, they may become HW. Applicable MPPEH explosives requirements, including mandatory training and the disposition of non-metallic material, are contained in reference (h).

27-3.12. Regulated Medical Waste and Pharmaceutical Waste Management. Regulated medical waste (RMW) is defined in reference (i), and "pharmaceutical" and "hazardous waste pharmaceutical" are defined in reference (b), Part 266, subpart P.

a. RMW. RMW sometimes includes an HW component regulated under RCRA, such as dental amalgam. Installations and commands managing RMW with an HW component must coordinate waste management requirements with DLA Disposition Services and State and local regulators to ensure both RMW and HW criteria are met when disposing of these wastes.

b. Pharmaceutical Wastes. Installations and commands in all generator categories must identify, segregate, contain, and appropriately label, store, transport, and dispose of hazardous waste pharmaceuticals in compliance with reference (b), Part 266, subpart P and are prohibited from disposing of them via flushing or sewering. Notably, over-the-counter nicotine replacement products are not considered HW under reference (b), Part 266, subpart P. For hazardous waste pharmaceuticals that are also RMW, installations and commands must coordinate waste-disposal requirements with DLA Disposition Services and State and local regulators to ensure all regulatory requirements are met.

27-3.13. Electronic Waste

a. It is Navy policy to practice environmentally sound management of electronic waste (e-waste). Refer to chapter 28 (Solid Waste Management and Resource Recovery Ashore) of this manual for more information regarding handling of e-waste. Typically, e-wastes consist of used electronic items or components and must be consigned to DLA Disposition Services as property for transfer, donation, or resale outside the Navy when the owner has no further use for them.

b. Used electronics that cannot be consigned to DLA Disposition Services because they are damaged, broken, or rejected by DLA Disposition Services are SW subject to the full range of RCRA SW and HW regulations. This includes any exemptions, exclusions, or universal waste (UW) provisions that may apply. Installations and commands must manage such e-waste as HW, and must assume responsibility as the HW generator for any e-waste that cannot be exempted or excluded from the full range of applicable HW regulations.

27-3.14. Universal Waste

a. Reference (b), Part 273 includes provisions that streamline Federal HW regulations applicable to batteries, pesticides, mercury-containing equipment, and bulbs (lamps).

b. States may adopt the Federal UW regulations or modify them to include other wastes via State legislation. The purpose of UW regulations is to promote recycling and resource recovery by easing the regulatory burden associated with common HW streams. UWs have less stringent

storage, accumulation, labeling, and tracking requirements than other HW. Navy installations and commands have the option of managing HW under UW provisions available and applicable in their State. Navy installations and commands may recycle UWs through qualified recycling programs (refer to chapter 28 (Solid Waste Management and Resource Recovery Ashore) of this manual), provided that all applicable regulatory requirements are met.

27-3.15. Weapon Systems. HM and HW considerations, especially those relating to environment, safety, and health, must be incorporated into the earliest stages of integrated logistics system planning and acquisition. When requirements in technical directives or weapon system operation and maintenance procedures drive the use of HM and generation of HW, affected commands must advise the cognizant echelon 2 command with ownership of the requirement that they need to take appropriate action to reduce or eliminate these drivers.

27-3.16. Fees, Assessments, Fines, and Penalties. The full range of available enforcement tools, including fees, assessments, civil fines, supplemental environmental projects, and penalties is available to EPA, States, and local governments in enforcing HW laws and regulations. Agents, employees, and officers of the United States are exempt from personal liability for any civil penalty arising from acts or omissions within the scope of their official duties. There is no exemption from personal liability for criminal acts and any associated penalties. The installation or command whose activities most directly led to a violation is responsible for payment of any penalties using its operating budget or other available sources of funds. Navy installations and commands must pay any non-discriminatory fees or service charges assessed in connection with a Federal, State, interstate, or local HW regulatory program, including assessments in connection with the processing and issuance of HW permits; amendments to permits; reviews of plans, studies, and other documents; and inspection and monitoring of facilities.

27-3.17. Training Requirements. Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general environmental awareness and billet-specific environmental readiness training requirements as well as training requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides Navy Environmental Readiness Training Program formal training courses and target audiences for each formal course offered.

a. Personnel involved in HW management must receive the appropriate job-specific education, experience, and training necessary to perform and maintain proficiency in assigned tasks and be familiar with the requirements of this chapter. Shore installations and commands that generate HW must include training requirements in their HW management plans per paragraph 27-3.7 of this manual and retain training records per subparagraph 27-3.6f of this manual.

b. Personnel who produce, package, handle, treat, or transport HW must receive applicable hazard communication training per reference (c), and must receive initial and refresher job-specific training regarding HW safety, packaging, labeling, handling, documentation, transportation, and turn-in procedures specific to their installation. Training curricula must be tailored to include State and local HW laws and regulations. Introduction to HW Generation and

Handling (A-493-0080) and RCRA HW Annual Review (A-493-0081) meet these requirements. In addition, as summarized in table 27-1 of this manual:

(1) Personnel with a role in emergency response must receive appropriate training per reference (j), section (q)(6). Note that emergency response roles range from simply witnessing and reporting an incident to participating in or supervising a response;

(2) Personnel with a role at HW cleanup sites must receive appropriate training per reference (j), section (c); and

(3) Personnel with a role at TSDFs must receive appropriate training per reference (j), section (p)(7).

c. Every person who directly affects HW transportation safety in commerce, to include those with signature authority for HW manifests, must receive initial and refresher training that meets the requirements of DOT 49 CFR 172.704. Note that personnel who sign HW manifests are "technical specialists" as defined in the DTR 4500.9-R, chapter 204, section D, paragraph 1(c), and the DOT training will satisfy the DTR 4500.9-R training requirements for those personnel.

d. Environmental professionals who have HW responsibilities must receive training commensurate with their level of responsibility and be familiar with the provisions of this chapter.

e. Personnel who manage HW and have responsibilities for incident response must also receive training as described in chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual.

f. All personnel involved in the management of WMMs must receive the environmental readiness training required by reference (b), section 264.16, and Munitions Rule training as required by reference (h), appendix D.

27-4 Responsibilities

27-4.1. BSOs must:

a. Ensure their commands comply with applicable Federal, State, and local HW laws and regulations, and Navy HW management and reporting requirements;

b. Ensure subordinate commands develop and use HW management plans or an HW management component of an EMS or P2 plan as required by paragraph 27-3.7 of this manual;

c. Budget and allocate sufficient resources to ensure shore commands manage HW per all applicable Federal, State, and local HW laws and regulations, including the assignment and training of operational and management personnel, operation and maintenance of equipment and facilities, and transport and disposal of waste; and

d. Where warranted, upon request from the ICO and in consultation with COMNAVFACENGCOM and Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45), provide written authorization for the installation to contract directly for HW disposal services in lieu of DLA Disposition Services.

Table 27-1. Health and Safety Training Requirements for HW and Emergency Response

HW Cleanup Sites

Staff		**Supervisors or managers of**	
• **Routine site employees**	40 hrs initial 24 hrs field 8 hrs annual refresher 24 hrs supervised field	• **Routine site employees**	40 hrs initial 24 hrs field 8 hrs HW management 8 hrs annual refresher 8 hrs command specific job site training
• **Routine site employees (minimal exposure)**	24 hrs initial 8 hrs field 8 hrs annual refresher	• **Routine site employees (minimal exposure)**	24 hrs initial 8 hrs field 8 hrs HW management 8 hrs annual refresher
• **Non-routine site employees**	24 hrs initial 8 hrs field 8 hrs annual refresher	• **Non-routine site employees**	24 hrs initial 8 hrs field 8 hrs HW management 8 hrs annual refresher

Other Emergency Response Staff

Level 1: First responder (awareness level)[1]	Sufficient training or proven experience in specific competencies	**Level 4: Hazardous material (HAZMAT) specialist[4]**	24 hrs of Level 3 and proven experience in specific competencies Annual refresher
Level 2: First responder (operations level)[2]	Level 1 competency and 8 hrs initial or proven experience in specific competencies; Annual refresher	**Level 5: On-scene incident commander[5]**	24 hrs of Level 2 and additional competencies Annual refresher
Level 3: HAZMAT technician[3]	24 hrs of Level 2 and proven experience in specific	**Note:** Reference (j), paragraph (q)(6) includes additional information.	

Table 27-1. Health and Safety Training Requirements for HW and Emergency Response		
	competencies Annual refresher	[1]Witnesses or discovers a release of HM and is trained to notify the proper authorities. [2]Responds to releases of HM in a defensive manner, without trying to stop the release. [3]Responds aggressively to stop the releases of hazardous substances. [4]Responds with and in support of HAZMAT technicians, but who has specific knowledge of various hazardous substances. [5]Assumes control of the incident scene beyond first-responder (awareness level).

Treatment, Storage, and Disposal Sites			
Staff			
• **General site employees**	24 hrs initial or equivalent 8 hrs annual refresher	• **Emergency response personnel**	Trained to a level of competency Annual refresher
Note: Reference (j), paragraphs (e) and (p)(7) include additional information.			

27-4.2. COMNAVFACENGCOM must:

a. As requested, provide technical assistance to BSOs and commands in complying with Federal, State, and local HW laws and regulations and in the preparation of command HW management plans, HW elements of EMS documents, and the HW section of P2 plans;

b. Collect and consolidate the Navy's annual HW metric data and other information as directed by OPNAV N45;

c. Assist ships, BSOs, and shore commands in reaching a long-range goal of eliminating HW disposal to the maximum extent possible;

d. Designate and supervise facilities engineering commands and public works departments in receiving, storing, and transferring HW to DLA Disposition Services;

e. Standardize COMNAVFACENGCOM HW operations including processes, procedures, metrics, software, budget formulation, and financial management; exceptions must be based on a defensible rationale and are contingent on consultation with OPNAV N45 and affected BSOs;

f. As requested, assist shore commands in preparing new applications as well as permit renewal applications for RCRA permits; and

g. Include fees for applications and permits for constructing military-construction-funded HW management facilities as part of the project cost.

27-4.3. Commander, Naval Supply Systems Command must:

a. Provide ship-to-shore offload assistance for excess and used HM products;

b. Make final disposition determination for all excess and used HM products received via the ship-to-shore offload process;

c. Facilitate all excess and used HM offload dispositions and documentation requirements to reduce operational forces workload;

d. Establish and maintain ship-to-shore offload performance metrics to monitor CHRIMP afloat effectiveness for achieving HW minimization goals; and

e. Maintain and update procedures and instructions to ensure ship-to-shore transfer of used HM is accomplished per requirements and policies for HCM&M detailed in chapter 23 (Hazardous Materials Management Ashore) of this manual.

27-4.4. The Naval Education and Training Command must develop and provide training on the occupational safety and health aspects of HW applicable to Navy personnel.

27-4.5. Chief, Bureau of Medicine and Surgery (BUMED) must ensure references (i) and (k) are consistent with this manual with respect to management of HW aspects of RMW and pharmaceutical waste.

27-4.6. ICOs of shore commands in coordination with the appropriate Region Commander must:

a. Develop and use an HW management plan or HW component of an EMS or P2 plan as required by paragraph 27-3.7 of this manual;

b. Budget, fund, and manage HW in full compliance with applicable Federal, State, and local HW laws and regulations;

c. Cooperate with Federal, State, and local HW regulatory officials;

d. Provide reports and other required data and information to Federal, State, and local HW regulatory agencies;

e. Enter annual calendar-year HW metric data into the Portal HW module and promote to the next level by 15 March of each year;

f. If the ICO of a host command serving as the HW generator for the site or facility as defined by the applicable regulatory agency, obtain and maintain applicable EPA ID number;

g. If the ICO or officer in charge of a tenant command, comply with the policies of this manual and with written HW management plans established by the host ICO;

h. Provide training for all personnel involved in HW management and operations under applicable Federal, State, and local requirements;

i. If in charge of port facilities, provide capability to receive HM from ships and process it for reuse or disposal per applicable Federal, State, and local regulations; and

j. If a generator of RMW or pharmaceutical waste, ensure that any RMW or pharmaceutical waste that is also an HW is managed in accordance with all applicable HW regulations in addition to RMW and pharmaceutical waste requirements.

27-4.7. ICOs of shore commands assigned to receive used or excess HM or SW from ships and HW from other shore commands must:

a. Receive ships' used or excess HM and SW and process it for reuse, recycling, or HW disposal per applicable Federal, State, and local environmental laws and regulations;

b. Provide accessible facilities to receive and store HW per applicable Federal, State, and local regulations until the material is disposed or transferred to DLA Disposition Services or other approved disposal contractor per subparagraph 27-3.5d of this manual;

27-4.8. Fleet commanders and type commanders, as appropriate, must reimburse Navy shore commands receiving ships' used or excess HM and SW for expenses incurred for laboratory analysis, HW handling, storing, and disposal.

27-5 Definitions

27-5.1. Facility. A facility is a contiguous piece of land with structures, other appurtenances, and improvements under common ownership or control.

27-5.2. Hazardous Waste. An HW is an SW, or combination of SW, that, 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; or

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

27-5.3. Hazardous Waste Generator. An HW generator is any person, by site, whose act or process produces HW or whose act first causes an HW to become subject to regulation.

27-5.4. Open Burning/Open Detonation. OB/OD is a unique explosive HW disposal technology regulated under reference (b), Part 264, subpart X and is used to treat excess, obsolete, or unserviceable military munitions that are unsafe to disassemble further for recycling or cannot be destroyed safely onsite by other methods.

27-5.5. Solid Waste. SW is any garbage; refuse; sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operation, and from community activities; but it does not include solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under reference (l)); or source, special nuclear, or byproduct material as defined by reference (m).

27-5.6. Universal Waste. UW is any of the following HW subject to the following UW requirements of reference (b), Part 273: (1) batteries as described in section 273.2; (2) pesticides as described in section 273.3; (3) mercury thermostats as described in section 273.4; and (4) lamps as described in section 273.5. Note that many States designate additional wastes subject to State UW regulations.

CHAPTER 28

SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY ASHORE

Table of Contents

28-1 Scope 28-1
28-1.1. Related Chapters 28-1
28-1.2. References 28-1
28-1.3. Applicability 28-2

28-2 Legislation 28-3

28-3 Requirements 28-3
28-3.1. Integrated Solid Waste Management 28-3
28-3.2. Qualified Recycling Programs 28-7
28-3.3. Electronic Waste 28-9
28-3.4. Construction and Demolition Waste 28-10
28-3.5. Operational Range Waste 28-10
28-3.6. Foreign-Source Garbage 28-10
28-3.7. Training Requirements 28-11

28-4 Responsibilities 28-11

28-5 Definitions 28-13

28-1 Scope. This chapter identifies solid waste (SW) and electronic waste (e-waste) management, waste prevention, and recycling policies applicable worldwide.

28-1.1. Related Chapters. This chapter is applicable to other chapters in this manual that discuss topics pertinent to SW, including pollution prevention (P2) and green or sustainable procurement (chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual), management of hazardous materials (chapter 23 (Hazardous Materials Management Ashore)), management of hazardous waste (HW) (chapter 27 (Hazardous Waste Management Ashore)), reclamation and recycling of used oils (chapter 30 (Oil Management Ashore)), Navy SW policy specific to overseas installations (chapter 34 (Overseas Environmental Compliance Ashore)), and handling of SW aboard ships (chapter 35 (Environmental Compliance Afloat) of this manual).

28-1.2. References

(a) NAVFAC UG-2084-ENV, Integrated Solid Waste Management Plan (ISWMP) Guide, of April 2009;

(b) 40 CFR;

(c) NAVMED P-5010-2, Manual of Naval Preventive Medicine, Sanitation of Living Spaces and Related Service Facilities, January 1995;

(d) DoD Manual 4160.21, Volume 3, Defense Materiel Disposition Manual: Reutilization, Transfer, and Sale of Property, October 2015;

(e) NAVFAC NFESC UG-2039-ENV, Qualified Recycling Program (QRP) Guide;

(f) 10 U.S.C. §2577;

(g) DoD Instruction 4715.23 of 24 October 2016, Integrated Recycling and Solid Waste Management;

(h) USD(AT&L) memo of 23 Jun 11, DoD Implementation Guidance for Commercial Sale of Expended Small Arms Cartridge Cases (ESACC);

(i) 32 CFR Part 172;

(j) 40 U.S.C. §571;

(k) 41 CFR Parts 102–38;

(l) DoD 7000.14-R, Department of Defense Financial Management Regulation (FMR), Volume 11A, November 2014;

(m) Department of Defense Electronics Stewardship Implementation Plan, 27 February 2008;

(n) Navy Energy Efficiency and Electronic Stewardship of Information Technology (Green IT) Implementation Plan, of 31 July 2009;

(o) USACE UFGS-017492, Construction and Demolition Waste Management;

(p) NAVSEA OP 5, Volume 1 of 15 Jan 2001, Ammunition and Explosives Safety Ashore;

(q) 9 CFR 94.5;

(r) 42 U.S.C. §2011 et seq.;

(s) 33 U.S.C. §1342; and

(t) Public Law 83–703, Atomic Energy Act of 1954, as amended (68 Stat. 923).

28-1.3. Applicability. Requirements and policies in this chapter derived from the Resource Conservation and Recovery Act (RCRA) and similar statutes apply to installations within the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Policies regarding integrated

solid waste management (ISWM), green or sustainable procurement, and recycling apply to all installations worldwide.

28-2 Legislation. RCRA (the Solid Waste Disposal Act (SWDA)), 42 U.S.C. §6901–6992k, requires Federal facilities to comply with all Federal, State, interstate, and local requirements concerning the disposal and management of SW, including permitting, licensing, and reporting. The SWDA encourages beneficial reuse of wastes through recycling and incineration for energy recovery. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

28-3 Requirements. All Navy installations worldwide must follow an ISWM hierarchy of source reduction, sustainable procurement, reuse, donation, recycling, composting and mulching, waste to energy recovery, and as a last resort, incineration or landfill disposal of SW generated in support of the Navy's mission. Those installations generating 1 ton or more of SW per day must prepare written integrated solid waste management plans (ISWMP) and report ISWM metrics as outlined in this chapter.

28-3.1. Integrated Solid Waste Management. Installations must use the guidance in reference (a) when developing and implementing written ISWMPs. They may satisfy this requirement by participation in a regional ISWM program with a written plan that specifically addresses the installation's ISWM requirements. It is Navy policy to use ISWM to pursue Department of Defense (DoD) diversion goals established by executive order (E.O.) or DoD and Navy policy. Navy ISWM programs must implement:

a. Compliance with Federal, State, and Local Requirements. Navy installations and commands must comply with all applicable Federal, State, and local regulatory requirements concerning collection, storage, handling, recycling, and disposal of SW (reference (b), Parts 240, 243, 257, 258, and 268, and section 262.11; reference (c), chapter 2; and reference (d)) and ensure any SW that is also an HW is managed as required under reference (b), section 262.11, and chapter 27 (Hazardous Waste Management Ashore) of this manual. SW generated by Navy operations and actions on a Navy installation is government property for purposes of disposal. Non-government-owned SW may not be brought aboard Navy installations for disposal at government expense except when officially sanctioned events or programs exist for this purpose. Examples include pharmaceutical and sharps take-back events and programs and certain recycling events and programs. Contractors, including public-private venture housing contractors, must manage SW generated on a Navy installation as specified in their contracts. Refer to chapter 34 (Overseas Environmental Compliance Ashore) of this manual for regulatory requirements applicable to installations located outside the United States.

b. Source Reduction. Source reduction through P2 and green or sustainable procurement must be practiced as required under chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual to reduce generation of SW. RCRA amendments require Federal agencies to procure Environmental Protection Agency guideline products containing recovered materials to the maximum extent possible (refer to chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual and reference (b), Part 247). Examples of source reduction include using electronic

documents in lieu of printed materials; dual-sided printing; take-back provisions for packing materials; and purchasing items that are reusable, have extended service life, reduced packaging, or recyclable packaging materials.

c. Diversion. It is Navy policy to reuse or donate unneeded but usable property and to recycle or compost SW to minimize the amount of material sent to landfills and incinerators. Navy installations must strive to meet any diversion goals established by E.O. or DoD and Navy policy. If existing reuse, donation, recycling, and composting practices are not sufficient to attain diversion goals, the installation must plan, program, and budget necessary resources to achieve those goals in a cost-effective manner. Installations must implement:

(1) Reuse and Donation. Property no longer needed may be internally reassigned from one Navy command to another. If there is no potential Navy recipient for such property, it must be consigned to the Defense Logistics Agency (DLA) Disposition Services for other DoD reutilization, transfer to other Federal agencies, donation to State or local agencies, or sale to the public, as required under reference (d). Installations and activities anticipating large quantities of unneeded property (e.g., furniture during a building renovation) must coordinate with DLA Disposition Services as early as possible to arrange for a reuse customer. Navy installations and commands must take reasonable steps to provide interim storage for such items to be held in place until DLA Disposition Services can take custody or arrange for customer pick up. DLA Disposition Services may elect to issue a certificate of abandonment and destruction (A/D) per reference (d) for property with little or no value. Items covered by a certificate of A/D must be recycled for their scrap value or disposed of as SW. Navy installations and commands are not authorized to transfer, sell, or donate usable property outside the Navy except through DLA Disposition Services as described in this paragraph. Scrap sold via the qualified recycling program (QRP) or otherwise recycled or diverted is not considered usable property.

(2) Recycling. All Navy installations must incorporate recycling into their ISWM program. Tenants, except for commissaries, exchanges, or working capital fund (WCF) activities, are not authorized to operate their own recycling program and must participate in the host's recycling program and reimburse the cost, if any, associated with any legally mandated recycling requirements. Commissaries and exchanges have the option of participating in the installation's recycling program, operating a program of their own, or both. WCF activities may not conduct direct sale of scrap and must instead operate their own recycling programs for WCF scrap turned into DLA Disposition Services. WCF activities must participate in installation recycling programs for municipal waste streams. Recycling programs may operate on a regional basis in conjunction with regional ISWM programs. Where regional programs are in effect, the Region Commander may require installations to participate in the regional program. Recycling programs may consign scrap materials to DLA Disposition Services for recycling, but DLA will not return proceeds from the sale of recyclables to installations or QRPs. It is Navy policy to:

(a) Recycle all commodities in the SW stream for which Federal, State, or local regulations require recycling, regardless of the cost relative to the revenue obtained from recycling or economics of other disposal options. Note: Reference (b), Part 246 makes the recycling of certain paper and cardboard products (including high-grade office paper and corrugated containers) mandatory at most Navy installations;

(b) In addition to any legally mandated recycling requirements, recycle all commodities in the SW stream for which the cost of recycling is less than or equal to the cost of disposal;

(c) Establish QRPs (refer to paragraph 28-3.2 of this manual), where economically beneficial to retain the proceeds from the sale of recyclable materials as required under the guidance in reference (e). QRPs are the only authorized mechanism for an installation to receive funds from the sale of recyclable materials and augment overall recycling efforts. They are not intended to be the sole means of achieving compliance with regulatory mandates or diversion goals;

(d) Participate in external recycling programs. Where warranted, Navy installations may participate in existing or planned civilian community or commercial resource recovery facilities or systems. Such participation may include funding a *pro rata* share of a community facility; and

(e) Limit recycling to authorized materials only. Scrap paper, office paper, cardboard, wood, glass, and other obvious scrap may be recycled by the installation. QRPs (refer to paragraph 28-3.2 of this manual) are prohibited from recycling excluded items as defined in references (f) and (g). Usable items are not to be recycled unless the item has no value aside from its inherent material content. In such cases, the item(s) may be downgraded to scrap and recycled (but not transferred outside the Navy, donated, or sold as a usable item). Installations may not accept non-government-owned property for recycling.

(3) Composting, Chipping, and Mulching. Navy installations must compost, chip, or mulch landscaping cuttings, yard and green waste, limbs, branches, and other suitable organic materials at an installation, municipal, or private facility. Installations or regions may establish their own facilities for these processes if municipal composting facilities are not available or feasible. Note: Some State and local regulations may require permitting of composting facilities. Incineration or landfill disposal must only be used if allowed or required by State and local regulations; and composting, chipping, or mulching are not available, cost-effective, or feasible at the installation. Note: Many jurisdictions prohibit yard waste from landfills.

d. Disposal. Navy installations must follow all Federal, State, and local regulations for the protection of human health and the environment when disposing of SW. Incineration with energy recovery is preferred over landfill disposal, but still impacts the environment. Burn pits and open burning are prohibited except in very limited circumstances as defined in subparagraph 28-3.1d(3) of this manual. Navy installations must construct new SW facilities such as transfer stations, incinerators, and landfills only when there is a clear and compelling need that cannot be met with existing DoD, Navy, or public infrastructure.

(1) Incineration with Energy Recovery. Incineration with energy recovery at municipal or Navy-owned facilities may be used for disposal of SW that cannot be diverted from the waste stream. When disposing of SW via incineration, installations must use only appropriately permitted, designed, constructed, and operated facilities. Incinerators must be operated in conjunction with a final land disposal facility for residues from the incineration operation and

those non-hazardous wastes that cannot be incinerated for reasons of health, safety, or technological limitation as required under reference (b), Part 240. Navy-owned incinerators must be designed, constructed, and operated as required by the most stringent of Federal, State, or local regulations.

(2) Landfill Disposal. Landfill disposal at municipal or Navy-owned facilities may be used for disposal of SW that cannot be diverted from the waste stream. When disposing of SW via landfill, installations must use only appropriately permitted, designed, and constructed landfills. Navy-owned landfills must be designed, constructed, and operated as required by the most stringent Federal, State, or local regulations.

(3) Burn Pits and Open Burning. Disposal of SW via burn pits and open burning is prohibited worldwide except in emergencies for health or safety considerations. In the United States, approval from cognizant State and local regulators is required for every instance of burn pit and open burning. Outside the United States, installations must seek a waiver of applicable requirements via the process described in chapter 34 (Overseas Environmental Compliance Ashore), paragraph 34-3.5 of this manual.

e. Recordkeeping and Reporting. Installations must keep records of SW generation, diversion, and disposal by actual waste measurement including weight (in tons), type of waste, and method of diversion or disposal. Installation reporting must include all tenant commands, including commissaries and exchanges. Tenant commands must support the host command's ISWM data-collection efforts.

(1) Recycling, Reuse, Transfer, and Donation Accomplished via DLA Disposition Services. Installations must keep records of the total weight of materials diverted through recycling, reuse, transfer, sale, or donation.

(2) Diversion. Installations must keep records of all diversion activities whether by QRP (refer to paragraph 28-3.2 of this manual) or other recycling operation, disposal contracts or other contracts generating SW, WCF operation, consignment to DLA Disposition Services, or any other method. Commissaries, exchanges, and WCF activities operating recycling programs independent of the host installation must report SW and diversion data to the host.

(3) Construction and Demolition. Installations must maintain records of all construction and demolition (C&D) waste generated and diversion via recycling, reuse, or other methods (refer to paragraph 28-3.4 of this manual).

(4) Reporting. All Navy shore installations worldwide that generate more than 1 ton of SW per day must prepare an annual report following the fiscal year (FY) end using guidance provided by Naval Facilities Engineering and Expeditionary Warfare Center (NAVFAC EXWC). Each year, detailed guidance for installation SW reporting is provided in a data-call package from NAVFAC EXWC. Information obtained from the installation SW annual report is used to track diversion rates and prepare Navy-wide reports to Congress and the Office of the Federal Environmental Executive.

28-3.2. Qualified Recycling Programs. References (f) and (g) authorize installations to establish QRPs to receive proceeds from the sale of recyclable materials. An installation may not retain proceeds from the sale of recyclable materials via contract, direct sales, or any other means unless it first establishes a QRP. In the absence of a QRP, any proceeds from recycling must be deposited to the U.S. Treasury.

a. Establishment. Installations must request authorization from their budget submitting office (BSO), via letter, to establish and operate a QRP. There will be only one QRP per installation. All or part of a region's QRP operations may be conducted on a regional basis to reduce costs or improve efficiency. Installations or regions that generate 1 ton or more of SW per day and operate a QRP must include a written QRP business plan as part of their ISWMP (refer to paragraph 28-3.1 of this manual). Reference (e) includes detailed guidance on establishing and operating QRPs.

b. Administration. While the host usually administers the QRP, administration may be delegated to a tenant command at the installation. Installations and regions must charter and establish QRPs via directive or instruction. QRP charters must include provisions for a QRP committee to make recommendations regarding capital expenditures for equipment and recycling infrastructure; improvements and corrective actions based on financial and environmental compliance audits; and disposition of excess recycling funds, if any. Region commanders and installation commanding officers (ICO) of Navy installations must appoint QRP managers, in writing, who will oversee day-to-day operation of the QRP.

c. Operation. QRPs must operate in compliance with all applicable environmental and occupational safety and health regulations.

(1) Authorized Recyclable Materials. In general, only obvious scrap materials may be recycled by the QRP. There are strict prohibitions against the sale of excluded materials via QRPs (refer to subparagraph 28-3.2c(2) of this manual). QRP-recyclable materials can include, but are not limited to:

(a) High-quality paper and paper products, mixed paper, newspaper, cardboard, plastic, metal cans, glass, used oil, batteries, tires, and other obvious scrap;

(b) Universal waste (subject to oversight by installation environmental personnel);

(c) Scrap metal (ferrous and non-ferrous scrap), excluding precious metals; and

(d) Expended small arms cartridge cases (ESACC) and mixed metal scrap gleaned from ranges. Generally only unrecognizable range scrap will be eligible for QRP recycling per exclusions cited in references (f) and (g). ESACCs and range scrap must be certified safe prior to acceptance by the QRP (refer to paragraph 28-3.5 of this manual). Reference (h) includes DoD guidance for QRP sale of ESACCs.

(2) Excluded Materials. QRPs are prohibited from selling excluded materials as defined in references (f) and (g). QRP managers must consult with DLA Disposition Services regarding

any questionable item or waste stream considered for recycling. QRP authority may be restricted, suspended, or revoked by the BSO for selling excluded materials.

(3) Sales. All QRP sales must be conducted as required under references (d), (f), (g), (i), (j), and (k), and under reference (l), chapter 5. QRPs may sell recyclable materials via any combination of these strategies:

(a) Direct sales of recyclable materials by competitively selling materials to a vendor. Note: BSO authorization to operate a QRP confers direct sales authority; and

(b) Indirect sales through contractors or partners, with net proceeds allocated to the QRP.

(4) Financial Management. All QRP financial operations are subject to audits, inspections, and other oversight. QRPs must account for all financial transactions as required under reference (l) and retain copies of all records pertaining to financial transactions including, but not limited to receipts, weight tickets, invoices, and sales agreements. QRPs must deposit all proceeds from the sale of recyclable materials to **F3875 "Budget Clearing Account" or other authorized account.

(5) Reimbursement of Recycling Operations. QRPs may be used to recycle commodities that have a net cost to recycle (the cost of recycling exceeds the revenue obtained from recycling) when there is a regulatory requirement for recycling or the cost of recycling is less than the cost of disposal. Installations may reimburse QRPs for recycling commodities that have a net cost to recycle. Reimbursement is limited to the difference between the cost of recycling and the revenue from the sale of the commodity or waste stream (Reimbursement = Recycling Cost − Recycling Revenue). Reimbursement is prohibited when the proceeds from recycling equal or exceed the cost of recycling.

(6) Recordkeeping and Reporting. QRPs must maintain accountable, auditable financial records and records of SW diversion to substantiate reporting requirements identified in subparagraph 28-3.1e of this manual.

(7) Recycling Proceeds. As FY end does not affect the accumulation of funds in the **F3875 "Budget Clearing Account (suspense)," balances may carry forward up to the statutory limit of $2M at the end of each FY. Per references (f) and (g), disposition of proceeds from the sale of recycled materials must be as stated in subparagraphs 28-3.2c(7)(a) through 28-3.2c(7)(c) of this manual:

(a) Navy installations and regions must first use sales proceeds to cover the costs directly attributable to QRP operations, including, but not limited to manpower, facilities, collection, transportation, equipment, overhead, and other capital investments. In addition, sufficient proceeds must be held in reserve to sustain fiscal viability of the QRP, based on historic and projected income and loss;

(b) After QRP costs are recovered, installation commanders may use up to 50 percent of the remaining proceeds for pollution abatement, P2 (including other recycling efforts), composting, alternative-fueled vehicle infrastructure support and vehicle conversion, energy conservation, or occupational safety and health projects. All such projects must be reviewed by the same chain of command that would normally review such projects if funded from normal appropriations. Installations not meeting established diversion goals must give first consideration to P2 projects designed to improve diversion rates; and

(c) Installations may transfer any remaining proceeds to the non-appropriated morale, welfare, and recreation account for any approved programs, or hold them in reserve to sustain fiscal viability of the QRP (subject to the $2M limit in reference (f)).

28-3.3. Electronic Waste. It is Navy policy to practice environmentally sound management (ESM) of e-wastes. Landfill disposal and incineration of e-waste are prohibited due to potentially hazardous constituents that may be released to the environment by these disposal methods. E-waste must be handled as required by references (d) and (m). The Navy's goal is to maximize reuse, donation, transfer, sale, and recycling of e-wastes. As required by reference (m), DLA Disposition Services is the primary agent for ESM of e-waste generated by DoD components.

a. Enterprise and Leased Electronics. As required by reference (n), ESM and disposal costs, if any, for enterprise (i.e., Navy Marine Corps Intranet or Next Generation Enterprise Network) assets are the responsibility of the respective enterprise program. Leased electronic equipment is the responsibility of the contractor or vendor providing the equipment as required by the provisions of the lease or contract. If the lease or contract transfers ownership to the Navy, the items must be handled as Navy-owned electronics.

b. Navy-Owned Electronics

(1) Usable Electronics. Most e-waste consists of usable electronics that must be handled as required by the property management regulations under references (d) and (m). Note: Usable electronics may not be in working condition, but may still be candidates for reuse, donation, transfer, sale, or recycling. Navy-owned usable electronics may be reassigned to new owners within the Navy or consigned to DLA Disposition Services for reuse, transfer, donation, sale, or disposal. DLA Disposition Services assumes responsibility for ESM of e-waste upon turn-in.

(2) Non-Usable Electronics. E-waste items that cannot be consigned to DLA Disposition Services must be handled in an environmentally sound manner. Because e-waste typically includes hazardous constituents such as lead, cadmium, mercury, and other metals, non-usable electronics must be handled as required by the HW management requirements in chapter 27 (Hazardous Waste Management Ashore) of this manual, including a preference for reuse or recycling where feasible.

c. Non-Government-Owned Electronics. Installations must prohibit landfill disposal of personally owned electronics generated on Navy property by personnel assigned to Navy housing or quartered aboard Navy vessels. The provisions of subparagraph 28-3.1c(2)(e) of this

manual notwithstanding, installations must facilitate cost-effective certified, e-waste recycling opportunities via e-waste turn-in events, regularly scheduled collections, partnering with local recyclers, or other mechanisms to prevent landfill disposal of e-waste. QRPs may participate in or facilitate such events, including actual recycling of personally owned electronic items, at the discretion of the installation integrated SW manager. Shore installations must support afloat units as needed per chapter 35 (Environmental Compliance Afloat), paragraph 35-3.2 of this manual. Navy military members and civilian employees may use the U.S. Postal Service BlueEarth program to recycle certain personally owned electronics. This program allows eligible persons (military members and civilian employees) to print a prepaid mailing label from the Federal Recycling Program Web site (refer to appendix E (Web Sites) of this manual for Web site address) and give the item to a postal carrier. The item will be shipped free of charge to a certified recycler. Note: This service is strictly limited to personally owned electronics.

28-3.4. Construction and Demolition Waste. All C&D projects awarded to contractors at Navy installations must include a construction waste management plan for C&D debris, per reference (o), to support E.O. or DoD and Navy diversion goals. Recyclable C&D waste may be processed through installation QRPs for in-house projects or contracted projects if appropriate provisions are included in the contract and coordinated with the QRP.

28-3.5. Operational Range Waste. Waste generated from operational range clearance, including ordnance, munitions, ESACCs, scrap metal, wood, plastic, and all other firing range scrap, is material potentially presenting an explosive hazard (MPPEH) and must be processed and handled as required by reference (p).

(a) Ordnance, munitions, and any other items requiring demilitarization, trade security controls, or both must be processed accordingly, then recycled or disposed of by the range clearance contractor; or transferred to DLA Disposition Services for recycling or disposal.

(b) ESACCs and mixed metals gleaned from range clearance, once certified as safe, may be transferred to QRPs for recycling. QRPs may conduct direct sales of ESACCs that are shredded, crushed, or mutilated to accomplish demilitarization. As an alternative, QRPs may offer ESACCs for sale with demilitarization as a condition of sale (i.e., performed by the buyer), provided that the demilitarization takes place onsite and all the pre-sale requirements of reference (d), enclosure (3), paragraph 6.a.(5)(a) are met.

(c) Some waste generated from operational ranges may be HW subject to the munitions rule requirements in chapter 27 (Hazardous Waste Management Ashore), subparagraph 27-3.11h of this manual.

(d) Navy commands responsible for range clearance must ensure reporting requirements for diversion data are incorporated into range-clearance contracts and provided to the host installation as required by subparagraph 28-3.1e of this manual.

28-3.6. Foreign-Source Garbage. Foreign-source garbage includes goods, food wastes, wrappers, containers, and disposable materials originating outside the United States and Canada. Navy installations in the United States that receive foreign-source garbage from ships, aircraft, or

any other source must maintain appropriate U.S. Department of Agriculture compliance agreements and process and dispose of foreign-source garbage as required by reference (q). Refer to chapter 35 (Environmental Compliance Afloat) of this manual for shipboard procedures to minimize foreign-source garbage transferred from U.S. Navy vessels to shore installations.

28-3.7. Training Requirements. Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental readiness training requirements as well as that for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides Navy Environmental Readiness Training Program formal training courses and target audiences for each formal course offered. Environmental personnel involved in the SW program must receive the appropriate, job-specific education, experience, and training to perform their assigned tasks. SW media managers and QRP managers must receive, at a minimum, recycling program management training within 1 year of appointment to their positions. Completion of the Air Force Institute of Technology Qualified Recycling Program Management course (WENV 160) will satisfy this requirement.

28-4 Responsibilities

28-4.1. Commander, Navy Installations Command (CNIC) must:

a. As program manager (PM) for ISWM, ensure regions and installations comply with applicable Federal, State, and local regulatory requirements concerning collection, storage, handling, recycling, and disposal of SW via an ISWM approach;

b. Monitor regions and installations for progress toward any SW diversion goals established by E.O. or DoD and Navy policy;

c. Ensure underperforming regions and installations develop and implement plans to improve diversion rates;

d. Upon request, authorize regions and installations to establish QRPs for the receipt of proceeds from the sale of recyclable materials;

e. Establish procedures to restrict, suspend, or revoke QRP authority in the event of mismanagement of recycling proceeds or recycling of excluded materials;

f. Establish detailed guidance for installations and regions to use when evaluating the cost of recycling versus disposal, identifying and calculating the costs attributable to QRP operations, assessing overall cost-effectiveness of ISWM programs, reimbursing QRPs as required by subparagraph 28-3.2c(5) of this manual, and determining reserve proceeds required to sustain future QRP operations;

g. Ensure regions and installations periodically audit ISWM programs, including QRPs, for both fiscal and regulatory compliance with applicable requirements. Fiscal audits must reconcile financial transactions and verify that ISWM programs including QRPs are operated in a cost-

effective manner. Regulatory audits must include evaluation of progress toward any diversion goals established by E.O. or DoD and Navy policy; and

h. Ensure that regions provide both facilities management and environmental representatives to participate in meetings and activities of the Navy ISWM Working Group.

28-4.2. Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) must:

a. Execute regional and installation-level ISWM programs and serve as the technical focal point for ISWM issues;

b. Maintain appropriate technical directives, design manuals, and operation manuals concerning ISWM;

c. Develop and maintain ISWM reporting and information collection systems;

d. Collect and consolidate the Navy's annual ISWM data from installations and other information as directed by the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division;

e. Include ISWM considerations in execution of Green Procurement Program (GPP) responsibilities outlined in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual;

f. Incorporate ISWM diversion goals into environmental management system and environmental quality audit programs;

g. Incorporate diversion requirements into contracts that generate C&D waste and contracts for collection and disposal of non-C&D waste; and

h. Maintain ISWM cost data for both in-house and contract actions in sufficient detail to support business-case analyses using guidance developed by CNIC under subparagraph 28-4.1f of this manual.

28-4.3. Commander, Naval Supply Systems Command must:

a. Investigate and develop methods to reduce packaging of materials supplied to the Navy;

b. When developing specifications for the purchase of packaging materials, include ISWM considerations such as recyclable content and recyclability; and

c. Include ISWM considerations in execution of GPP responsibilities outlined in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual.

28-4.4. Region commanders and ICOs of shore installations must:

a. Comply with all applicable Federal, State, and local regulatory requirements concerning collection, storage, handling, recycling, and disposal of SW;

b. Appoint ISWM PMs and QRP managers;

c. Develop ISWMPs and programs that maintain regulatory compliance and meet diversion goals in a cost-effective manner;

d. Include recycling as part of all ISWM programs, including QRPs when cost-effective to retain proceeds from the sale of recyclable materials;

e. Recycle or otherwise divert all materials for which the cost of disposal (via landfill or incineration) equals or exceeds the cost of diversion;

f. Strive to meet any SW diversion goals established by E.O. or DoD and Navy policy and develop and implement plans to achieve these goals if they have not yet been met;

g. Cooperate with the designated metropolitan statistical area (MSA) lead agency, if in a listed MSA. (Note: MSAs are defined by the U.S. Office of Management and Budget and used by the U.S. Census Bureau and other U.S. government agencies for statistical purposes);

h. Report annual ISWM information as required by the guidance provided by NAVFAC EXWC, including C&D data from local contracts;

i. Include ISWM considerations in execution of GPP responsibilities outlined in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual; and

j. Comply with MPPEH criteria as required by reference (p), including operational risk assessment, written procedures and personnel training requirements, at all QRPs receiving ESACCs or mixed metals gleaned from range clearance.

28-4.5. Commanding officers (CO) of tenant commands must cooperate with the installation, host, or lessor providing ISWM services, report required ISWM data, and reimburse the cost of those services, including recycling costs if any, as required by host-tenant agreements.

28-4.6. COs of fleet activities must cooperate with the host command while in port and comply with the command's ISWM requirements.

28-5 Definitions

28-5.1. Diversion Rate. The diversion rate is the rate at which non-hazardous SW is diverted from disposal via landfill or incineration. Reuse, donation, composting, mulching, and recycling

are generally accepted waste diversion methods. Diversion rates are tracked for both C&D debris and non-C&D SW. Refer to reference (e) for calculation details.

28-5.2. Electronic Waste. E-waste consists of electronic items and components, not requiring demilitarization, that have reached the end of their service life. E-waste typically consists of commercial off-the-shelf electronic items or consumer grade electronics that are still usable and suitable for transfer, donation, or sale through DLA Disposition Services. E-waste sometimes includes non-usable items that are damaged, broken, or inoperable items and must be handled as HW due to constituents regulated under subpart C of RCRA.

28-5.3. Environmentally Sound Management. ESM ensures e-waste is managed in a manner that conserves natural resources and is protective of human health and the environment. This includes a prohibition on landfill disposal of e-waste, prevention of e-waste export to third world countries, and requirements that resellers and refurbishers include take-back provisions for their products.

28-5.4. Excluded Items. Excluded items are materials that may not be sold through a QRP. These materials are listed in reference (g).

28-5.5. Integrated Solid Waste Management Plan. An ISWMP is a comprehensive study and plan for SW management and diversion.

28-5.6. Material Potentially Presenting an Explosive Hazard. MPPEH is material owned or controlled by DoD that, prior to determination of its explosives safety status, potentially contains explosives or munitions (for example, munitions containers and packaging material; munitions debris remaining after munitions use, demilitarization, or disposal; and range-related debris) or potentially contains a high enough concentration of explosives that the material presents an explosive hazard (e.g., equipment; drainage systems; holding tanks; piping; or ventilation ducts that were associated with munitions production, demilitarization, or disposal operations). Excluded from MPPEH are military munitions within DoD's established munitions management system and other hazardous items that may present explosion hazards (e.g., gasoline cans, compressed gas cylinders) that are not munitions and are not intended for use as munitions.

28-5.7. Qualified Recycling Program. A QRP is a recycling operation authorized to retain proceeds from the sale of recyclable materials originally obtained with appropriated funds.

28-5.8. Qualified Recycling Program Committee. A QRP committee is a committee established by the Navy ICO that makes recommendations regarding approval of the QRP FY budget, capital expenditures for equipment, and recycling infrastructure; improvements and corrective actions based on financial and environmental compliance audits and internal monitoring and reviews; and disposition of excess recycling funds, if any. Membership includes, but is not limited to, the installation QRP manager, installation executive officer, and representatives from the comptroller's office; major installation commands and units; facilities and public works; environmental; safety; and morale, welfare, and recreation.

28-5.9. Recyclable Material. A recyclable material is a material that can be transformed into a new, usable product through the process of recycling.

28-5.10. Recycling. Recycling is the result of a series of activities by which materials that would become or otherwise remain waste, are diverted from the solid waste stream by collection, separation, and processing, and are used as raw materials in the manufacture of goods sold or distributed in commerce; or the reuse of such materials as substitutes for goods made of virgin materials. For purposes of a QRP, scrap metal is a recyclable material.

28-5.11. Resource Recovery. Resource recovery is the recovery of materials or energy from SW.

28-5.12. Solid Waste. Per reference (r), SW is any garbage, refuse, or sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but not including solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under reference (s), or source, special nuclear, or byproduct material as defined by reference (t).

28-5.13. Source Reduction. Source reduction is reducing, at the point of introduction into the process, the volume or weight of material used before the products are purchased, used, or discarded. This includes reuse, sale, transfer, or donation of materials, items, or products prior to recycling or disposal.

CHAPTER 29

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL PROGRAM

Table of Contents

29-1 Scope 29-1
29-1.1. Related Chapters 29-1
29-1.2. References 29-1
29-1.3. Applicability 29-2

29-2 Legislation 29-2

29-3 Requirements 29-2
29-3.1. Department of the Navy Low-Level Radioactive Waste Disposal Program 29-2
29-3.2. Naval Radiation Safety Committee 29-3
29-3.3. Training Requirements 29-3

29-4 Responsibilities 29-3

29-5 Definitions 29-5

29-1 Scope. This chapter establishes policy guidance and procedures for the Navy and Marine Corps Low-Level Radioactive Waste (LLRW) Disposal Program.

29-1.1. Related Chapters. There are no related chapters.

29-1.2. References

(a) E.O. 12344, Naval Nuclear Propulsion Program;

(b) 42 U.S.C.;

(c) OPNAVINST 5100.23G, Navy Safety and Occupational Health Program Manual;

(d) OPNAVINST 6470.2D, Occupational Ionizing Radiation Protection Program;

(e) DoD 4715.6-R, Low-Level Radioactive Waste Disposal Program, 17 January 2001;

(f) OPNAVINST 6470.3B, Naval Radiation Safety Committee; and

(g) SECNAVINST 5100.10K, Department of the Navy Safety Program.

29-1.3. Applicability

a. The policies of the Department of the Navy (DON) LLRW Disposal Program apply to all DON commands that generate radioactive waste and dispose of:

(1) LLRW, which includes naturally occurring radioactive material (NORM) waste, naturally occurring and accelerator-produced radioactive material (NARM) waste, technologically enhanced naturally occurring radioactive material (TENORM) waste, and mixed waste;

(2) Nuclear Regulatory Commission (NRC) regulated and non-regulated materials; and

(3) Unwanted items containing or contaminated with radioactive materials (RAM).

b. It does not apply to LLRW generated by the Naval Nuclear Propulsion Program under the authority of reference (a) and reference (b), §7158 et seq.

29-2 Legislation

a. Legislation that contains provisions that pertain to the generation and disposal of LLRW includes:

(1) Atomic Energy Act, 42 U.S.C. §2011–2259;

(2) Low-Level Radioactive Waste Policy Act, 42 U.S.C. §2021b; and

(3) Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act (SWDA)), 42 U.S.C. §6901–6992k.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

29-3 Requirements

29-3.1. Department of the Navy Low-Level Radioactive Waste Disposal Program

a. The DON LLRW Disposal Program provides a means to minimize the storage of unwanted DON RAM worldwide, reduce the potential for radioactive contamination and personnel radiation exposure, and ensure proper disposal of LLRW. All DON commands are required to dispose of LLRW through the DON LLRW Disposal Program.

b. Commander, Naval Sea Systems Command (COMNAVSEASYSCOM) has specific program management for ionizing radiation, including LLRW, per references (c) and (d), and has delegated program management of the DON LLRW Disposal Program to the Naval Sea Systems Command, Director of Radiological Controls (NAVSEA 04N). The Naval Sea Systems Command Detachment, Radiological Affairs Support Office (NAVSEADET RASO) provides

day-to-day management of the DON LLRW Disposal Program. DON commands must submit requests for LLRW disposal to NAVSEADET RASO, which must then coordinate all disposals through the Department of Defense LLRW Executive Agency (DoDEA) in full compliance with Federal and State regulations, as well as the LLRW compact regulations of reference (b), section 2021, subchapter 1. Reference (e) establishes the LLRW disposal policies and procedures for all applicable Department of Defense (DoD) activities.

29-3.2. Naval Radiation Safety Committee. Reference (f) establishes the Naval Radiation Safety Committee (NRSC), chaired by the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45), to manage the safe use of RAM within DON, including disposal of LLRW.

29-3.3. Training Requirements. Personnel involved in the LLRW Disposal Program must receive the appropriate, job-specific education, experience, and training to perform their assigned tasks. Any questions regarding training should be referred to NAVSEADET RASO.

29-4 Responsibilities

29-4.1. OPNAV N45 must:

a. Provide policy guidance, oversight, and guidance for the DON LLRW Disposal Program;

b. Be the routine point of contact between DON and NRC concerning the disposal of NRC-licensed material;

c. Assign a member to represent DON on the DoD LLRW Disposition Advisory Committee;

d. Serve as the chair to NRSC; and

e. Issue appropriate directives, in coordination with the Commandant of the Marine Corps, in support of the Secretary of the Navy's safety and occupational health programs, and ensure implementation of the directives by all commands and personnel (reference (g)).

29-4.2. NAVSEA 04N, the DON LLRW Disposal Program manager, must:

a. Provide management oversight of the operation of the DON LLRW Disposal Program;

b. Provide funding to DoDEA for management and disposal of routine DON LLRW;

c. Establish an inter-Service support agreement (ISSA) with DoDEA for disposal of DON LLRW; and

d. Provide resources for day-to-day management of the DON LLRW Disposal Program by NAVSEADET RASO.

29-4.3. NAVSEADET RASO must:

a. Act as the technical support center for OPNAV N45 and NAVSEA 04N;

b. Be responsible for execution of the DON LLRW Disposal Program;

c. Manage the day-to-day operation of the DON LLRW Disposal Program;

d. Dispose of DON LLRW through DoDEA;

e. Act as the liaison between DON commands and DoDEA and its contractors;

f. Develop and maintain current operating procedures for the management and disposal of DON LLRW;

g. Execute the ISSA between NAVSEA 04N and DoDEA;

h. Provide information to DoDEA on the types, quantity, and locations of DON LLRW awaiting disposal;

i. Ensure DoDEA maintains permanent records of each DON LLRW disposal transaction;

j. Ensure funding for emergent non-programmatic DON LLRW is transferred to DoDEA from the DON command responsible for generating the LLRW; and

k. Provide information to DoDEA as needed to operate and support the DON LLRW Disposal Program.

29-4.4. DON commands must:

a. Dispose of LLRW only through the DON LLRW Disposal Program unless NRSC and DoDEA authorize an alternate method;

b. Submit formal requests for disposal of DON LLRW inventories to NAVSEADET RASO and provide quarterly updates of LLRW inventories until a disposal action is completed by DoDEA or its contractors (inventories only need updating if the inventory changes);

c. Comply with instructions and guidance issued by NAVSEA 04N, NAVSEADET RASO, or DoDEA for LLRW disposal activities, particularly NAVSEA S0420-AA-RAD-010, section 16;

d. Be fiscally responsible for disposal of emergent DON LLRW;

e. Manage activities to limit the amount of radioactive waste produced;

f. Accept no LLRW from other DON commands, outside agencies, or the public sector;

g. Upon approval from NAVSEA 04N or NAVSEADET RASO, only transfer or return RAM to the manufacturer or another command or facility that has a use for it and is authorized to possess the material;

h. Contact NAVSEADET RASO at (757) 887–4692 for handling and disposal instructions if an orphan source is discovered or delivered to the command;

i. Ship no LLRW to OPNAV N45, NAVSEA 04N, or NAVSEADET RASO; and

j. Not use RAM or conduct any demilitarization or decontamination operations in such a manner that LLRW is generated without the specific authority of NAVSEADET RASO.

29-5 Definitions

29-5.1. Low-Level Radioactive Waste. LLRW is RAM that is not high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in reference (b), section 2014, paragraph (e)(2), and that NRC, consistent with existing law and per reference (b), sections 2011–2259, classifies as LLRW.

a. Types of LLRW include, but are not limited to:

(1) Any NORM waste, NARM waste, TENORM waste, and mixed waste;

(2) Any materials, including orphan sources, containing or contaminated with LLRW;

(3) Surplus, unwanted, or unserviceable devices, commodities, instruments, and articles readily identifiable as containing RAM (e.g., exit signs, electron and vacuum tubes, compasses, smoke detectors, ice detectors, radium dials and gauges, welding rods, chemical-agent detectors, and some gun sights);

(4) RAM for which there is no longer a useful purpose;

(5) Property contaminated with RAM to the extent that decontamination is economically unfeasible;

(6) Radioactive residue from decontamination activities; and

(7) Animal tissue contaminated with RAM.

b. LLRW does not include:

(1) Byproduct material as defined in reference (b), section 2014, paragraph (e)(2);

(2) 0.05 microcurie, or less, of hydrogen-3 or carbon-14 per gram of medium used for liquid scintillation counting;

(3) 0.05 microcurie, or less, of hydrogen-3 or carbon-14 per gram of animal tissue, averaged over the weight of the entire animal;

(4) Excreta from individuals undergoing medical diagnosis or therapy with RAM; and

(5) RAM that is held for disposal by decay-in-storage or transferred to a commercial contractor authorized to receive the material for disposal by decay-in-storage.

29-5.2. Low-Level Radioactive Waste Disposal. LLRW disposal involves the storage, packaging, handling, manifesting, transportation, treatment, recycling, or disposition of LLRW.

29-5.3. Mixed Waste. RCRA hazardous waste sometimes becomes mixed with radioactive waste, creating a combination that is regulated under both RCRA and the Atomic Energy Act. The Director, Naval Nuclear Propulsion Program is responsible for all policy and other matters pertaining to radioactive mixed waste resulting from naval nuclear propulsion work, and the Deputy Chief of Naval Operations for Fleet Readiness and Logistics is responsible for all other Navy mixed waste. RCRA generator requirements apply to mixed waste.

29-5.4. Naturally Occurring and Accelerator-Produced Radioactive Material. NARMs include materials produced by a sub-atomic particle accelerator as well as NORMs.

29-5.5. Naturally Occurring Radioactive Material. NORM is material whose natural radioactivity has been enhanced by some human process or activity. NORM waste is a subset of NARM waste.

29-5.6. Orphan Source. An orphan source is a source of RAM or radioactively contaminated material that is contained in a small volume and meets one or more of these conditions:

a. In an uncontrolled condition that requires removal to protect public health and safety from a radiological threat;

b. Controlled or uncontrolled, but for which a responsible party cannot be readily identified;

c. Controlled, but the material's continued security cannot be assured. If held by a licensee, the licensee has few or no options for, or is incapable of providing for, the safe disposition of the material;

d. In the possession of a person, not licensed to possess the material, who did not seek to possess the material; or

e. In the possession of a State radiological protection program for the sole purpose of mitigating a radiological threat because the orphan source is in one of the conditions described in subparagraphs 29-5.6a through 29-5.6d and for which the State does not have a means to provide for the material's appropriate disposition.

29-5.7. Technologically Enhanced Naturally Occurring Radioactive Material. TENORM is produced when radionuclides that occur naturally in ores, soils, water, or other natural materials are concentrated or exposed to the environment by activities such as uranium mining or sewage treatment.

CHAPTER 30

OIL MANAGEMENT ASHORE

Table of Contents

30-1 Scope 30-1
30-1.1. Related Chapters 30-1
30-1.2. References 30-2
30-1.3. Applicability 30-2

30-2 Legislation 30-2

30-3 Requirements 30-2
30-3.1. Oil Storage Facilities 30-2
30-3.2. Operations Manuals 30-3
30-3.3. Spill Prevention, Control, and Countermeasure Plans 30-3
30-3.4. Used Oil Recycling 30-5
30-3.5. Used Oil Fuels Burned for Energy Recovery 30-5
30-3.6. Prohibited Uses of Used Oil 30-6
30-3.7. Oily Waste and Waste Oil Management 30-6
30-3.8. Training Requirements 30-7

30-4 Responsibilities 30-8

30-5 Definitions 30-9

30-1 Scope. This chapter identifies requirements and responsibilities applicable to the prevention of oil pollution and the collection, reclamation, and disposal of oily wastes and used oils ashore.

30-1.1. Related Chapters. Chapter 27 (Hazardous Waste Management Ashore) of this manual identifies requirements and responsibilities for the management of hazardous waste (HW). Chapter 31 (Storage Tanks) of this manual describes management of storage tanks. Chapter 34 (Overseas Environmental Compliance Ashore) of this manual provides Navy policy guidance with respect to activities in foreign countries. Chapter 35 (Environmental Compliance Afloat) of this manual addresses shipboard oil pollution abatement and the requirements for ships, including the handling of oil and associated waste products. Chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual describes the Navy's response to oil and hazardous substance spills under reference (a), Part 300, and includes compliance requirements under reference (b), section 2701 et seq., including facility response plans.

30-1.2. References

(a) 40 CFR;

(b) 33 U.S.C. §2701 et seq., Oil Pollution Act of 1990;

(c) 33 CFR; and

(d) 49 CFR Part 194.

30-1.3. Applicability. This chapter primarily addresses policy related to shore facilities. Requirements apply in all areas within the United States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other U.S. territory or possession.

30-2 Legislation

a. Legislation that contains provisions that pertain to oil discharge and spill prevention, and used oil recycling includes:

(1) Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387; and

(2) Oil Pollution Act of 1990 (OPA 90), 33 U.S.C. §2701–2762.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

30-3 Requirements

30-3.1. Oil Storage Facilities

a. Transportation-Related Facilities. Transportation-related facilities serving vessels are subject to current U.S. Coast Guard (USCG) regulations under reference (c), Parts 154 and 156. These regulations, which apply to facilities capable of transferring oil or hazardous material (HM) (in bulk) and to all Department of Defense (DoD) components, address aspects of the design and operation of onshore and offshore facilities engaged in the transfer of bulk oil to and from vessels. They require facilities to develop operations manuals and spill contingency plans, provide personnel training, and conduct testing of transfer equipment.

b. Non-Transportation-Related Facilities. Reference (a), Part 112, promulgated by the Environmental Protection Agency (EPA) to comply with OPA 90 for non-transportation-related facilities, requires the preparation of spill prevention, control, and countermeasure (SPCC) plans and contains specific guidelines for the design and management of bulk storage containers. The guidelines include preventative measures such as requirements for secondary containment; control of drainage from containment areas; corrosion protection of buried metallic tanks and

piping; inspection and integrity testing of aboveground storage tanks (AST) and piping; requirements for spill-prevention devices such as high-level alarms; security requirements for oil storage areas; and personnel training requirements. It also contains specific requirements for responding to releases of oil.

30-3.2. Operations Manuals

a. USCG regulations in reference (c), Part 154, require facilities capable of transferring oil or HMs in bulk, to or from a vessel, to prepare and maintain operations manuals for their facilities. Navy shore installations that conduct bulk oil transfers to or from a vessel and meet the requirements in reference (c), Part 156, are required to prepare and implement operations manuals per USCG regulations in reference (c), Part 156, EPA regulations in reference (a), Part 112 and any applicable State regulations. These operations manuals must be submitted to USCG for approval and amended whenever a change in operations occurs. In some States, operations manuals are also subject to review and approval by the local or State authority.

b. USCG regulations prescribe the required contents of the operations manual. The manual must describe how the facility will comply with the operating rules and equipment requirements of reference (c), Parts 154 and 156. Additionally, specifics of the facility's transfer operations and personnel responsibilities should be discussed. Examples of facility transfer operations and personnel responsibilities that must be included in the manual are types and hazards of fuel transferred, descriptions of communications systems, descriptions of emergency shutdown systems, personnel training requirements, and maximum allowable working pressure.

c. USCG will periodically inspect regulated facilities to ensure operations manuals, equipment, and personnel meet all regulatory requirements. Facilities need to ensure any deficiencies are corrected and documentation is provided to the regulatory agency. USCG has the authority to suspend operations at any facility that does not comply with these requirements. Facilities need to be cognizant of all applicable requirements and ensure they are in compliance.

30-3.3. Spill Prevention, Control, and Countermeasure Plans

a. Plan Preparation

(1) EPA, through reference (a), Part 112, requires spill prevention plans for applicable onshore non-transportation-related facilities. Non-transportation-related facilities that meet the applicability requirements of reference (a), section 112.1 must prepare an SPCC plan meeting the requirement provided in reference (a), Part 112 that establishes procedures, methods, equipment, and other requirements to prevent the discharge of oil into or upon navigable waters of the United States. The plans must also comply with appropriate State and local regulations that may have more stringent requirements.

(2) Per reference (a), section 112.1, SPCC plans are required for facilities that could reasonably be expected to discharge oil into or upon navigable waters of the United States or adjoining shorelines because of facility location. In addition, EPA requires facilities with the potential to affect certain natural resources to prepare an SPCC plan. These plans are not

required if the facility has an aggregate aboveground oil-storage capacity (ASTs and other aboveground bulk storage containers) of 1,320 gallons or less, and if the total storage capacity of completely buried storage containers is 42,000 gallons or less (excluding the capacity of an underground storage tank (UST) that is subject to all requirements of reference (a), Part 280). Only bulk storage containers and operating equipment with an oil-storage capacity of 55 gallons or greater are included in these aggregate storage calculations. Construction contractors who intend to use and store temporary fuel storage tanks on Navy facilities must comply with applicable SPCC regulations and must provide secondary containment and overfill protection. If the contractor's oil storage exceeds 1,320 gallons, the contract must require the contractor to develop and implement a SPCC plan. If a facility determines that they could not reasonably discharge oil into or upon navigable waters of the United States, but otherwise meet the requirements to prepare an SPCC plan, they must document the rationale for their decision in a memorandum to file.

b. Plan Approval and Content. Plans must be approved by the installation commanding officer (ICO). Plans must assess the potential for discharge of oil, as well as existing containment procedures and equipment to prevent oil spills into or upon a navigable waterway or shoreline of the United States.

c. Plan Certification. A licensed professional engineer (PE) must initially review and certify the SPCC plan and any technical amendments. Qualified facilities (oil storage facilities that have a total of 10,000 gallons or less of aggregate aboveground storage that meet the requirements set forth in reference (a), section 112.3, paragraph (g), and that meet the qualified facilities criteria of reference (a), section 112.6) can self-certify without a PE.

d. Plan Amendments. Per reference (a), section 112.5, facilities must amend their SPCC plans when there is a change in the facility design, construction, operation, or maintenance that materially affects its potential for a discharge. This amendment must be prepared, certified, and implemented within 6 months of its preparation.

e. Plan Revisions. Notwithstanding compliance with the requirement in subparagraph 30-3.3e of this manual, facilities must review and evaluate their SPCC plans at least once every 5 years. Based on the review and evaluation, facilities must revise their SPCC plans within 6 months and implement any amendment within 6 months of its preparation. PE certification is required if there are technical amendments to the SPCC plan as an outcome of review. Administrative changes to the plan do not need to be certified.

f. Documentation of Review. Facilities must also document completion of the review and evaluation and must sign a statement as to whether the facility will amend the plan. The plan should, preferably, follow regulatory sequence. If the specified sequence is not followed, an equivalent plan must be prepared and supplemented with a section cross-referencing the location where each element of the SPCC regulation has been addressed and discussing how it is met. Additional details, such as procedures, methods, or equipment not yet fully operational, must be discussed in separate paragraphs.

g. Plan Availability. Facilities must maintain a complete copy of the SPCC plan at the site if the facility is normally attended at least 4 hours per day or at the nearest office if the facility is not so attended. Facilities must have the plan available to the EPA regional administrator or designated representatives and State and local agencies for onsite review during normal working hours.

30-3.4. Used Oil Recycling. Oil must be recycled and reused within the Navy whenever technically feasible and environmentally acceptable. Navy policy is to recycle used oil per Federal (reference (a), Part 279), State, and local regulations.

30-3.5. Used Oil Fuels Burned for Energy Recovery

a. If recycling of used lubricating oil is not feasible for economic reasons, the lubricating oil may be burned as a fuel or fuel supplement, provided appropriate chemical and economic analyses are made to determine suitability of burning as well as compliance with air pollution control requirements (refer to chapter 22 (Clean Air Ashore) of this manual) and HW regulations (refer to chapter 27 (Hazardous Waste Management Ashore) of this manual).

b. Reference (a), Part 279 includes standards for used oil generators, transporters, transfer facilities, processors, marketers, and burners burning off-specification used oil for energy recovery. It also includes specific spill prevention and contingency planning requirements for used oil storage, transfer, and processing facilities. Facilities burning used oil for energy recovery must test it. Used oil is subject to regulation under reference (a), Part 279, unless the constituents and properties of the used oil do not exceed the allowable limits specified in reference (a), section 279.11.

c. Mixtures of used oil and HW listed in reference (a), Part 261, subpart D are potentially subject to regulation as HW. Mixtures of used oil and HW listed solely for the characteristics of ignitability, reactivity, or corrosivity, or that exhibit a characteristic hazard as defined in reference (a), Part 261, subpart C are only subject to regulation as HW if the mixtures exhibit the characteristic hazard. Reference (a), Part 279 prescribes specific provisions regarding the applicability of Resource Conservation and Recovery Act (RCRA) regulations to the management and use of used oil. Burning used oil that is an HW solely because it exhibits a characteristic of HW is subject to standards. The management and use of used oil, whether or not the used oil exhibits any characteristics of an HW, are regulated under reference (a), Part 279. Synthetic oils, fluids, and lubricants must be segregated from the crude-oil-derived used oil.

d. Persons marketing or burning HW fuel must notify EPA regarding their used oil activity per reference (a), section 279.73 (marketing) or section 279.62 (burning). The sale of regulated fuels by the Defense Logistics Agency (DLA) Disposition Services is considered marketing, while the transfer of regulated fuels between various DoD components and activities is not considered marketing.

30-3.6. Prohibited Uses of Used Oil. Used oils must not be used for environmentally unacceptable purposes such as weed control, insect control, road surfacing, dust control, or open-pit burning.

30-3.7. Oily Waste and Waste Oil Management. The cost and potential environmental compliance problems associated with oily waste and waste oil management both ashore and afloat necessitate a comprehensive approach that maximizes opportunities for recovery and recycling of usable products. This approach should be cost-effective, provide necessary support to ships and submarines, and consider circumstances unique to specific ports, including State and local regulations.

a. Use of Oil/Water Separators (OWS) by Ships in Port. Navy policy is to maximize segregation, recycling, and reuse of fuel and oil. Shoreside collection of oily waste and waste oil, followed by recovery of recyclable product, is therefore the preferred method of dealing with oily waste and waste oil from ships. Ships equipped with OWSs and oil content monitors may discharge to surface waters via those systems in port, provided certain requirements are met. Discharged effluent may not exceed 15 parts per million of oil in water, cause a sheen, or violate any other applicable water quality standard, local law, or regulation. Before discharging via an OWS, chapter 35 (Environmental Compliance Afloat) of this manual requires ships to consult with the supporting shore facility host command for discharge requirements.

b. Collection, Treatment, and Disposal of Oily Waste and Waste Oil. Commands should examine all options to maximize the use of current facilities to manage oily waste and waste oil, including transfer of facilities that accept oily waste and waste oil, to achieve the most economical yet environmentally sound method of oily waste and waste oil management.

c. Oily Waste and Waste Oil as HW

(1) Under normal circumstances, bilge water or oily waste and waste oil does not exhibit the characteristics of an HW and does not typically contain listed HW. Under certain circumstances, however, such as when an event or a source introduces an HW identified under reference (a), Parts 260–266, bilge water discharged to shore reception facilities can become HW. Also, some States define bilge water as HW, even though it may not be contaminated with a listed HW. Therefore, State regulations must also be consulted prior to determining whether bilge water is an HW or not. Chapter 35 (Environmental Compliance Afloat) of this manual requires ships to notify shore receiving facilities before offloading bilge water or any other oily waste and waste oil if the oily waste is contaminated from other than routine sources, such as aqueous film-forming foam, solvents, antifreeze, or other HM. Shore installations must handle, store, transport, treat, and dispose of such oily waste and waste oil per applicable HW regulations as described in chapter 27 (Hazardous Waste Management Ashore) of this manual.

(2) Wastes on board Navy vessels are not regulated as HW under RCRA until offloaded, received, and determined to be HW by the shore installation. The shore installation becomes the generator and ultimately has the responsibility of designating the ship's waste as hazardous or not. This does not relieve the ship of its responsibility to inform the receiving shore facility of any HM or hazardous contaminants within the materials being offloaded. Designation is based

upon information supplied by the ship and sampling and testing of the bilge water or other oily waste and waste oil. Sampling and testing should be done periodically to see if the waste is a "characteristic" HW under reference (a), section 261.24, meets the toxicity criteria of reference (a), section 261.11, or exceeds State HW limits. Installations must determine the frequency of testing by considering characteristics of historical samples and the level of confidence in sampling results.

d. Compensating Fuel Ballast Water Systems and Oily Waste and Waste Oil. Under normal circumstances, compensating fuel ballast water is neither oily waste and waste oil nor HW. Chapter 35 (Environmental Compliance Afloat) of this manual requires ships to comply strictly with fuel transfer and ballasting procedures to ensure ballast water does not become contaminated with oil or any other material. Ships using self-compensating fuel tanks are required to prevent inadvertent discharges of oil with the compensating water. Some State regulations require supporting shore activities to collect and process compensating fuel ballast water.

30-3.8. Training Requirements. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental training courses. In addition to NERTP-sponsored courses, other specialty schools may also resource, develop, and deliver environmental courses to meet their specific requirements. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the Civil Engineer Corps Officer School and Naval Safety and Environmental Training Center Web sites (refer to appendix E (Web Sites) for Web site addresses). Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental training requirements as well as personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered. Training courses recommended for this chapter include:

a. All facility oil-handling personnel must be given initial SPCC training as well as annual SPCC briefings as specified in reference (a), section 112.7, paragraph (f). Initial training can be provided via the Environmental Compliance Assessment Training and Tracking System, which is discussed in detail in chapter 3 (Environmental Readiness Training), paragraph 3-3.10 of this manual. Training should include, at a minimum:

(1) Procedures to respond to discharges of oil;

(2) Operation and maintenance of equipment to prevent the discharge of oil; and

(3) Applicable pollution control and oil spill response laws, rules, and regulations.

b. Annual briefings should ensure adequate understanding of general facility operations and the contents of the SPCC plan.

30-4 Responsibilities

30-4.1. Budget submitting offices must:

a. Ensure shore activities meet Federal, State, and local requirements related to the prevention of oil spills and the preparation and review of SPCC plans;

b. Ensure shore activities meet USCG requirements related to the preparation and implementation of operations manuals; and

c. Ensure subordinate commands update applicable area or regional instructions.

30-4.2. Type commanders and immediate superiors in command must:

a. Ensure subordinate commands are familiar with the requirements of paragraph 30-3.7 of this manual; and

b. Ensure subordinate units consult with the supporting shore facility host command for discharge requirements prior to performing operations that may release material into the environment.

30-4.3. Commander, Naval Facilities Engineering Command must:

a. Provide technical advice to assist shore activities in the preparation of SPCC plans;

b. Provide technical and administrative guidance associated with the collection, segregation, and disposal of used lubricating oil and used contaminated fuels;

c. Provide technical advice and prepare appropriate manuals or other forms of guidance for used oil management;

d. Provide input in updating the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) and the Office of the Chief of Naval Operations, Shore Readiness Division (OPNAV N46) instructions and policies related to oil management requirements;

e. Provide technical advice and assistance to shore installations and regional environmental coordinators in the preparation of environmental program requirements (EPR) and required program objective memorandum (POM) exhibits for all compliance projects and requirements and in the preparation of operations manuals; and

f. Ensure staff prepares EPR and required POM exhibits for shore installations without access to the EPR database. Note: Submissions for environmental compliance at defense fuel

support points (DFSP) use the DLA environmental compliance system and not the EPR or POM system.

30-4.4. ICOs of shore activities must:

a. Prepare activity SPCC plans per Federal, State, and local requirements and implement and review the plans within prescribed periods;

b. Ensure training specified in the operations manuals and SPCC plan is conducted for the appropriate personnel and at the appropriate frequency and training records are maintained;

c. For activities with access to the EPR database, ensure staff prepares EPR and required POM exhibits. Note: Submissions for environmental compliance at DFSPs use the DLA environmental compliance system and not the EPR or POM system;

d. Comply with Federal, State, and local requirements concerning oil pollution and used oil fuels for energy recovery;

e. Establish and maintain a used oil recycling program;

f. Comply with USCG, PHMSA, and State regulations for transportation-related oil storage facilities and with EPA regulations for non-transportation-related facilities; and

g. Ensure operations manuals are prepared, implemented, maintained, approved, and submitted to meet reference (c), Part 156 requirements.

30-5 Definitions

30-5.1. Aboveground Storage Tank. ASTs are bulk storage containers or storage tanks not clearly identified as USTs and that are normally placed on or above the surface of the ground. Containers in vaults, bunkered tanks, or partially buried tanks are considered ASTs or aboveground storage containers. Due to the distinct and separate regulatory definitions, a tank defined as a UST in reference (a), Part 280 may also be defined as an "aboveground storage container" as defined in reference (a), Part 112.

30-5.2. Completely Buried Tank. A completely buried tank is any container completely below grade and covered with earth, sand, gravel, asphalt, or other material. Containers in vaults, bunkered tanks, or partially buried tanks are considered aboveground storage containers in part 112 of reference (a). Bunkered tanks and partially buried tanks are typically considered USTs under reference (a), Part 280.

30-5.3. Lubricating Oil. Lubricating oil includes crankcase oil, cutting oil, gear lubricant, metalworking lubricant, hydraulic oil, and transmission fluid.

30-5.4. Navigable Waters. See chapter 20 (Clean Water Ashore) of this manual for complete definition.

30-5.5. Off-Specification Used Oil. Off-specification used oil is used oil that is not mixed with HW and that has constituents and properties, as determined by tests, that exceed the specified limits set in reference (a), section 279.11, table 1.

30-5.6. Oil. Per reference (a), section 112.2, oil is defined as oil of any kind or in any form, including, but not limited to fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil.

30-5.7. Oil-Filled Operating Equipment. Oil-filled operating equipment contains oil that is used "operationally." Examples of oil-filled operational equipment covered by SPCC regulations may include oil-filled electrical transformers, switches, constant current regulators, lathes, mills, metalworking machines, or hydraulic lifts (e.g., elevators). Only oil-filled operating equipment containing 55 gallons or more of oil is regulated under reference (a), Part 112.

30-5.8. Oily Waste. Oily waste is oil mixed with water or other fluids such that the mixture is no longer useful.

30-5.9. Partially Buried Tanks. A partially buried tank is a storage container that is partially inserted or constructed in the ground, but not entirely below grade, and not completely covered with earth, sand, gravel, asphalt, or other material.

30-5.10. Processing. Processing is any chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to blending used oil with virgin petroleum products, blending used oil to meet the fuel specification, filtration, simple distillation, and chemical or physical separation.

30-5.11. Reclaimed. A material is reclaimed if it is processed to recover a usable product, or if it is regenerated.

30-5.12. Recycled. A material is recycled if it is used, reused, or reclaimed.

30-5.13. Transportation- or Non-Transportation-Related Oil Storage Facilities. Per reference (a), Part 112, appendix A, shore activities with oil storage facilities are classified as either transportation-related or non-transportation-related. Transportation-related facilities are primarily involved with bulk oil transfer. Bulk oil transfer includes transferring oil from stationary storage tanks to tanker ships, highway tankers, and railroad tank cars for transport to offsite locations. Non-transportation-related facilities are primarily involved in fuel storage for onsite use.

30-5.14. Used Oil. Used oil is any oil that has been refined from crude oil or any synthetic oil that has been used and, because of such use, is contaminated by physical or chemical impurities.

30-5.15. Used Oil Generator. Per reference (a), section 279.1, a used oil generator is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

30-5.16. Waste Oil. Waste oil is oil having characteristics that have changed markedly since being originally refined, has become unsuitable for further use, and is not considered economically recyclable.

CHAPTER 31

STORAGE TANKS

Table of Contents

31-1 Scope 31-1
31-1.1. Related Chapters 31-1
31-1.2. References 31-1
31-1.3. Applicability 31-2

31-2 Legislation 31-2

31-3 Requirements 31-2
31-3.1. Tank Management Plans 31-3
31-3.2. General Operation and Maintenance 31-3
31-3.3. Petroleum, Alternative Fuels, and Hazardous Substance Aboveground Storage Tanks 31-4
31-3.4. Petroleum, Alternative Fuels, and Hazardous Substance Underground Storage Tanks 31-5
31-3.5. Hazardous Waste Storage Tanks 31-8
31-3.6. Spill Prevention, Control, and Countermeasure Plans 31-9
31-3.7. Training Requirements 31-9

31-4 Responsibilities 31-10

31-5 Definitions 31-12

31-1 Scope. This chapter provides information and guidance applicable to the regulation of both underground storage tanks (UST) and aboveground storage tanks (AST) containing petroleum products, hazardous substances (HS), or hazardous waste (HW).

31-1.1. Related Chapters. This chapter should be read in conjunction with all other chapters in this manual involving storage tanks, including chapter 27 (Hazardous Waste Management Ashore) for responsibilities and requirements pertaining to the management of HW; chapter 30 (Oil Management Ashore) for information on spill prevention, control, and countermeasure (SPCC) plan requirements; chapter 34 (Overseas Environmental Compliance Ashore) for overseas environmental compliance ashore; and chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) for spill reporting and notification requirements.

31-1.2. References

(a) DoD 4140.25-M, Volume 2, DoD Management of Bulk Petroleum Products, Natural Gas, and Coal, June 1994;

(b) 40 CFR;

(c) OPNAVINST 5100.23G, Navy Occupational Safety and Health Program Manual; and

(d) 42 U.S.C.

31-1.3. Applicability. This chapter covers USTs and ASTs containing petroleum products, HSs, or HW at Navy shore facilities within the United States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Chapter 34 (Overseas Environmental Compliance Ashore) of this manual describes responsibilities and requirements pertaining to Navy installations in foreign countries.

31-2 Legislation

a. Legislation that contains provisions that pertain to the design, operation, inspection, and monitoring of storage tanks includes:

(1) Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387;

(2) Energy Policy Act of 2005, 42 U.S.C. §15801;

(3) Federal Facilities Compliance Act, 42 U.S.C. §6961;

(4) Oil Pollution Act of 1990 (OPA 90), 33 U.S.C. §2701–2762; and

(5) Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act (SWDA)), 42 U.S.C. §6901–6992k.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

31-3 Requirements

a. The Navy's storage tank program policy is to comply with all applicable Federal, State, and local regulations pertaining to the management of ASTs and USTs. Aboveground or underground bulk petroleum tanks on Navy installations are generally part of the Department of Defense (DoD)'s bulk petroleum distribution system, which provides fuel in support of worldwide DoD fuel requirements and, in some cases, other Federal agency requirements. Fuel storage facilities on Navy installations are designated as government-owned, government-operated (GOGO) defense fuel support points (DFSP) when Defense Logistics Agency (DLA) fuel is stocked for distribution to multiple military end user operations and maintenance accounts.

b. Per DoD policy established in reference (a), Navy, DLA Energy, and DLA have interrelated responsibilities for the operation, maintenance, military construction, repair, and environmental compliance of GOGO DFSPs on Navy installations. For GOGO DFSPs operated by the Navy, DLA Energy retains responsibility for planning, programming, budgeting, and

funding projects related to maintenance, repair, minor construction, and environmental compliance. Navy installations retain complete responsibility for all aspects of programming, designing, budgeting, and funding all operations, maintenance, repair, environmental compliance, and construction for petroleum storage facilities on Navy installations that are not part of the DLA system. Installation and regional environmental personnel must work closely with DLA Energy personnel to ensure clear and unambiguous understanding of environmental compliance responsibilities assigned to the installation, DLA Energy, and DLA for GOGO DFSPs on Navy installations.

c. Most fuel storage tanks on Navy installations are utility tanks used for heating, emergency power, or Navy Exchange (NEX) service stations. Installations and regional personnel must work closely with NEX, tenant commands, and Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) utility personnel to ensure clear and unambiguous understanding of environmental compliance responsibilities, as assigned, for the fuel storage tank program.

31-3.1. Tank Management Plans. Navy installations with storage tanks must have a tank management plan. Installations may use a spreadsheet, database, or other tool to manage this information in lieu of a formal plan if these relevant data are captured:

a. A listing of all storage tanks at the installation, including USTs, ASTs, integral emergency generator tanks, mobile tanks, and oil-filled operational equipment tanks that have an oil capacity of at least 55 gallons. All fixed-position tanks should be labeled with a unique facility identification number that matches the SPCC plan tank inventory. This does not apply to 55-gallon drums or mobile tanks;

b. Regulatory requirements applicable to each storage tank;

c. A plan of action for achieving and maintaining compliance through monitoring, testing, inspection, removal, repair, retrofit, and replacement of storage tank systems;

d. Testing, inspection, maintenance, and repair schedules for storage tanks; and

e. Inclusion or reference to compliance inspection records of storage tanks.

31-3.2. General Operation and Maintenance. Navy installations must observe the operation and maintenance requirements for storage tank systems:

a. Ensure procedures are in place so spilling or overflowing does not occur;

b. Use systems made of or lined with materials that are compatible with the substance stored in the tank system;

c. Maintain overfill protection equipment to prevent releases;

d. Ensure continuous operation of corrosion-protection systems for tanks that routinely contain product;

e. Maintain and inspect corrosion-protection measures, including coatings and cathodic protection systems. Cathodic protection systems must be tested by qualified technicians within 6 months of installation or repair and at least every 3 years thereafter, according to Federal, State, and local laws and regulations;

f. Inspect impressed current cathodic protection systems (the rectifier) every 60 days to ensure the equipment is working properly;

g. Install storage tank systems and make repairs to existing storage tank systems according to Federal, State, and local requirements. Storage tanks must be installed per the latest Navy or unified guidance and criteria (i.e., Unified Facilities Criteria and Unified Facilities Guide Specification);

h. Conduct temporary or permanent closure of storage tanks in a manner ensuring protection of soil, surface water, and groundwater and per requirements in Federal, State, and local regulations;

i. Maintain written records documenting inspections and demonstrating compliance with operational and closure requirements;

j. Operate, monitor, and test release-detection systems according to Federal, State, and local laws and regulations;

k. Replace, wherever practicable, older, unprotected steel tanks with state-of-the-art ASTs or state-of-the-art UST systems (tank and piping) with continuous interstitial monitoring; and

l. Label any bulk storage tanks, piping, vats, or similar vessels using the DD Form 2521, Hazardous Chemical Warning Label (8-1/2 X 11) and DD Form 2522, Hazardous Chemical Warning Label (4 X 6) when other means, such as placards, are not available or adequate to meet hazardous communication requirements, which are discussed in reference (c).

31-3.3. Petroleum, Alternative Fuels, and Hazardous Substance Aboveground Storage Tanks. The Navy's ASTs must comply with all requirements in reference (b), Part 112, as well as other applicable Federal, State, and local regulations. Per reference (a), DLA Energy must, upon request, provide support in interpreting applicable environmental regulations and developing projects to bring GOGO DFSPs into compliance and, upon request and approval, provide funding and support.

a. Spill Prevention, Inspection, and Reporting. ASTs must have overfill-prevention devices or operating procedures in place that prevent overfilling the tank. To prevent a discharge, appropriate containment or diversionary structures or equipment should be provided for each petroleum storage tank or container of 55 gallons or greater capacity. Spill-prevention devices

and secondary containment must be inspected routinely to ensure they are operating properly and are in good condition. Inspection reports must be kept for at least 3 years.

b. Release Detection, Testing, and Inspection. Whenever possible, installations must install release-detection systems on ASTs containing petroleum systems per reference (b), Parts 110 and 112. Such release-detection devices, storage tank supports, and alarms must be inspected routinely to ensure they are operating properly and are in good condition. Inspections must be documented and inspection records kept for at least 3 years.

c. Release Reporting, Investigation, and Confirmation. Installations must report releases of petroleum or HSs from ASTs according to the guidance in chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual and must immediately investigate suspected releases from ASTs by reviewing storage records, conducting integrity testing, or by performing a subsurface investigation. If regulated substances are found in adjacent properties not previously known to be contaminated, then installations must conduct a release investigation of suspect ASTs.

d. Out-of-Service and Closure. Installations must maintain ASTs and other tanks regulated by reference (b), Part 112, unless they have been permanently closed per reference (b), section 112.2.

31-3.4. Petroleum, Alternative Fuels, and Hazardous Substance Underground Storage Tanks. The Navy's USTs must comply with all applicable Federal requirements in reference (b), Part 280, as well as applicable State and local regulations.

a. General Operating Requirements. Installations may be required to replace or upgrade existing USTs per the installation's SPCC plan or best management practices (BMP), or as required by State regulators in an EPA-approved State UST program. Historically, UST systems with field-constructed tanks (FCT) and airport hydrant systems (AHS) were deferred from most Federal UST regulations. Effective 13 October 2015, reference (b), Part 280 was updated to no longer exempt FCTs and AHSs.

b. Release Detection, Testing, and Inspection

(1) Installations must install release-detection systems on petroleum and HS UST systems as required by reference (b), Part 280, subpart D and applicable State or local regulations. Installations must also install release-detection systems on non-regulated USTs whenever possible.

(2) All USTs storing fuel blends with alternative fuel content in excess of 10 percent must be constructed of compatible materials, engineered to ensure system reliability and integrity for the life of the system assuming continued recommended preventive maintenance, and certified by the component manufacturer or nationally recognized third-party independent test laboratory.

(3) Installations must ensure all UST systems have corrosion protection, spill and overfill prevention equipment, and an approved form of containment or method of release detection. These systems must meet applicable Federal and State regulations and be installed per nationally recognized standards. Underground piping associated with UST systems that move regulated substances must be properly designed and constructed to ensure protection from corrosion. Installations must provide automatic leak detection on pressurized piping and some types of suction piping and must conduct either annual tightness testing or monthly monitoring. After any repair, the system must be tested for tightness, and records of all repairs must be maintained for at least 5 years. Installations must maintain records demonstrating compliance with release-detection, testing, and inspection requirements.

(4) Installations must ensure that all previously deferred FCTs and AHSs have corrosion protection and spill- and overfill-prevention equipment, and an approved form of containment or method of release detection as defined in reference (b), Part 280, subpart D.

(5) Per reference (b), Part 280, installations must conduct operation and maintenance walkthrough inspections, perform testing of spill-prevention equipment and containment sumps used for interstitial monitoring of piping, and conduct inspections of overfill-prevention equipment.

c. Release Reporting, Investigation, and Confirmation. Installations must report releases and suspected releases from USTs to EPA or the appropriate State agency within 24 hours of discovery and must report petroleum and HS releases into surface waters from USTs according to guidance in chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual. Installations must immediately investigate suspected releases from USTs by reviewing storage records, conducting integrity testing, or performing a subsurface investigation. If regulated substances are found in adjacent properties, then EPA or the State agency can require an installation to conduct a release investigation of suspect storage tanks.

d. Release Response and Corrective Action

(1) The installation must stop further releases from the UST; mitigate fire, explosion, and vapor hazards through the emptying of the UST system; and take steps to prevent further migration of any aboveground or exposed below-ground releases. If the source of an underground release is not known, the installation must conduct subsurface sampling to determine the source, investigate the possible presence of free product, and recover free product as soon as practicable. Surface-water releases require installations to take the response actions described in chapter 23 (Hazardous Waste Management Ashore) or chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual, as appropriate, in addition to the requirements described in this section.

(2) UST releases require an initial abatement report, initial site characterization report, and free-product recovery report to be submitted to EPA per reference (b), sections 280.63 and 280.64 or to the State agency per its regulations. In addition, a release investigation report or corrective action plan may be required. Installations must clean up soil and groundwater contamination resulting from UST releases per approved corrective action plan or as otherwise

authorized or requested by EPA or the State agency. Prior to any cleanup, the installation must notify EPA or the State agency. Installations must remove free-floating product to the maximum extent practicable. If the fuel is provided or sponsored by DLA, the site must also report a spill to the DLA Environmental Management Office, which will trigger the appropriate action by DLA. DLA action may include reimbursement for sampling, performance of the initial assessment, or cleanup of the contaminated area.

e. Out-of-Service UST Systems and Closure. Navy installations must comply with the requirements for out-of-service UST systems and closure:

(1) During temporary closure of UST systems, installations must maintain corrosion protection and continue to operate release-detection systems per Federal, State, and local regulations. Installations must comply with these requirements even if the tank is empty. If a tank system is empty, measurement of tank inventory as an approved leak-detection method is suspended during temporary closure;

(2) When temporarily closing USTs for 3 months or more, installations must leave vent lines open and functioning and cap all other lines, pumps, man-ways, and ancillary equipment;

(3) Installations must either meet UST standards by upgrading or replacing them or permanently close USTs that do not meet the standards within 12 months of temporary closure unless EPA or the State agency grants an extension;

(4) The preferred method of permanent UST system closure is removal from the ground with removal of associated piping and ancillary equipment, which some States require. Per reference (b), section 280.71, installations must notify EPA or the State agency at least 30 days in advance of UST permanent closure. Installations must leave a UST system in the ground only when extenuating circumstances preclude the removal of the UST and must follow the approved close-in-place procedure. All USTs taken out of service must be empty, clean, and filled with a solid inert material such as sand. Associated piping and ancillary equipment must be emptied, capped, and blank-flanged.

(5) The installation must conduct a site assessment at the time of permanent closure per Federal, State, and local regulations. If contamination is encountered during closure, the installation must initiate corrective action. Completely buried tanks regulated under reference (b), Part 112 cannot be considered “permanently closed” until all product and sludge have been removed from the tank and associated lines, all connecting lines and piping have been disconnected from the container and blanked off, all valves (except ventilation valves) have been closed and locked, and conspicuous signs have been posted on each container stating that it is a permanently closed container and the closure date;

(6) Converting a regulated UST system to store a non-regulated substance is considered a change-in-service. Per reference (b), section 280.71, a change-in-service requires the installation to empty and clean out the UST, perform a site assessment, and notify the EPA or the State agency 30 days in advance of a change-in-service;

(7) EPA or the State agency can require investigation and cleanup of USTs that were permanently closed prior to 22 December 1988 and for previously deferred FCTs and AHSs closed prior to 13 October 2015 if the UST site poses a threat to human health or the environment; and

(8) Installations must retain permanent closure, site assessment, site characterization, and corrective action records for at least 50 years to protect the Navy from potential liability.

31-3.5. Hazardous Waste Storage Tanks

a. General Operating Requirements. HW is generated at nearly every Navy facility (refer to chapter 27 (Hazardous Waste Management Ashore) of this manual for requirements and policy guidance on HW management). An HW storage tank may be either aboveground or underground. The Navy's HW storage tanks must comply with all applicable Federal, State, and local regulations. Contracting offices must ensure contractors performing work for the Navy on Navy property comply with all applicable requirements while onsite. Reference (b), Part 264, subpart J covers the Federal requirements for HW tank systems.

b. Spill Prevention, Inspection, and Reporting. HW storage tanks must be operated following appropriate controls and practices to prevent spills and overflows. HW may not be placed into a tank if it will cause the tank or its secondary containment system to rupture, leak, corrode, or otherwise fail. Special precautions are taken for ignitable, incompatible, or reactive wastes. Periodic inspections should be conducted to detect spills, corrosion, leaks, and operator error. A secondary containment system that meets the Federal (reference (b), Part 264), State, and local requirements must be in place for each HW storage tank. Spill prevention devices and secondary containment must be routinely inspected to ensure they are operating properly and are in good condition. Inspection reports must be kept for at least 3 years.

c. Release Detection, Testing, and Inspection. Whenever possible and as required by reference (b), Parts 260–279, subpart J, installations must install release-detection systems on HW storage tanks. Data gathered from monitoring and leak-detection equipment must be inspected at least once each operating day to ensure the storage tanks are operating properly and are in good condition. Inspections must be documented and inspection records kept for at least 3 years. Navy facilities must control air emissions from HW storage tanks per standards specified in reference (b), Part 264, subpart CC and applicable State and local regulations.

d. Release Reporting, Investigation, and Confirmation. Response requirements for HW tank systems differ from other storage tank systems. Installations must ensure compliance with reference (b), section 264.196. In the event of a fire, explosion, or other release that could threaten human health outside the facility or when a spill has reached surface water, the release must be immediately reported to the National Response Center (using its 24-hour toll-free number, (800) 424–8802). Additional notification may be required by the facility spill response plan. Installations must immediately investigate suspected releases from HW storage tanks by reviewing storage records. A tank system or secondary containment system from which there has been a leak or spill or that is unfit for use must be removed from service immediately. The

flow of HW must be immediately stopped and the tank must be immediately inspected to determine the cause of the release.

e. Out-of-Service and Closure. At closure, all HW and residues, contaminated containment system components (e.g., liners), contaminated soils, and structures and equipment contaminated with waste tank system residues must be removed or decontaminated and, when required, managed as HW. Installations must conduct permanent closure of HW storage tanks per reference (b), section 264.197, and applicable State or local regulations.

31-3.6. Spill Prevention, Control, and Countermeasure Plans. Installations that determine an SPCC plan is required must ensure a plan is in place that complies with EPA SPCC regulations (refer to chapter 30 (Oil Management Ashore) of this manual).

31-3.7. Training Requirements. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental readiness training courses. In addition to NERTP-sponsored courses, other specialty schools may resource, develop, and deliver environmental courses to meet their specific requirements. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the Civil Engineer Corps Officer School and Naval Safety and Environmental Training Center Web sites (refer to appendix E (Web Sites) of this manual for Web site addresses). Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general environmental awareness and billet-specific environmental readiness training requirements, as well as training requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered. Commanders of shore installations must ensure all personnel involved in design, construction, installation, management, and operation of storage tanks receive appropriate storage tank training on an as-needed basis to build and maintain proficiency in performing their specific job duties. This training includes:

a. Training on the Contents of the Installation SPCC Plan. SPCC plans are discussed in chapter 30 (Oil Management Ashore) of this manual. Training on SPCC plans should include Federal, State, and local regulations pertaining to storage tank inspection and maintenance requirements; spill response procedures; and other training per all Federal, State, and local requirements; standard operating procedures for transfers of oil or filling tanks; corrosion-protection measures; compliance records; and release-detection reporting, investigation, and confirmation. Training on SPCC plans is provided via the Environmental Compliance Assessment Training and Tracking System (ECATTS). See chapter 3 (Environmental Readiness Training) of this manual for information on ECATTS. (Refer to appendix E (Web Sites) of this manual for Web site address.)

b. General Awareness Training. See chapter 3 (Environmental Readiness Training) of this manual.

c. Class A, B, and C UST Operator Training, as Applicable. All personnel performing duties as UST operators must follow State-specific training requirements. Class A and B certification training may be provided in ECATTS (refer to appendix E (Web Sites) of this manual for site address). Installations must designate at least one individual for A and B operator classes, and all personnel performing duties as UST operators must meet Class C operator definition. Retraining may be needed if UST systems are found to be not in compliance.

d. Training in Leak Detection, Product Inventory, Recordkeeping, and Operation of Monitoring Systems. The Tank Manager course (CIN A-493-0217) meets these requirements.

e. Personnel who manage HW storage tanks must obtain training as described in chapter 27 (Hazardous Waste Management Ashore) of this manual as well as tank management and certification training as it applies to their specific job duties and assigned level of responsibility.

f. Personnel who manage tanks and participate in spill response must obtain training as described in chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual, as well as tank management and certification training as it applies to their specific job duties and assigned level of responsibility.

31-4 Responsibilities

31-4.1. Budget submitting offices and subordinate commands must include requests for resources to meet storage tank compliance requirements in program objective memorandum (POM) budget submittals.

31-4.2. Commander, Navy Installations Command must:

a. Establish policies and guidance for, and provide oversight of, environmental compliance of USTs and ASTs containing petroleum products, HSs, or HW located on Navy shore installations;

b. Ensure funding is available to train personnel involved with storage tanks;

c. Plan, program, budget, and fund environmental compliance for USTs and ASTs, with the exception of environmental compliance for GOGO DFSPs located on Navy installations that, as noted in reference (a), are funded by DLA Energy; and

d. Coordinate all requests for assistance in interpreting applicable environmental regulations and developing projects to bring GOGO DFSP terminals into compliance through Commander, Naval Supply Systems Command (COMNAVSUPSYSCOM) Energy Office and DLA Energy. DLA is responsible for planning, programming, budgeting, and funding the environmental compliance of its GOGO DSPSs.

31-4.3. COMNAVFACENGCOM must:

a. Assist Navy installations in the preparation of storage tank management plans, SPCC plans, and environmental program requirement (EPR) reports;

b. Provide technical advice and assistance to Navy installations for leak-detection requirements;

c. Update technical directives and design manuals to reflect the latest regulatory requirements for storage tanks, including underground piping, leak-detection devices, and other ancillary equipment;

d. Provide assistance to major commands and their installations for estimation of resource requirements;

e. Provide funding and execution of storage tank corrective actions that qualify for Environmental Restoration, Navy funding and is within current priorities (see chapter 42 (Environmental Restoration), paragraph 42-3.2 of this manual for what is and is not eligible); and

f. Provide input in updating the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) and the Office of the Chief of Naval Operations, Shore Readiness Division (OPNAV N46) instructions and policies related to storage tank requirements.

31-4.4. COMNAVSUPSYSCOM must:

a. Provide technical input and assistance to COMNAVFACENGCOM concerning leak detection, installation of sustainment, and disposal of storage tanks; disposition of petroleum recovered during site restoration; and environmental compliance and restoration;

b. Maintain and update procedures and instructions to ensure that transportation, storage, and handling of HSs and HW fully comply with applicable regulations; and

c. Maintain an energy office to serve as a liaison between DLA Energy and fuel storage sites to determine requirements and seek DLA funds.

31-4.5. Commanding officers of shore installations must:

a. Assemble and maintain storage tank data including volume, type, installation date, monitoring system, and tank contents for achieving and maintaining compliance with all applicable Federal, State, and local laws and regulations;

b. Ensure notification forms are completed for regulated storage tanks and submitted to the appropriate Federal, State, or local agency;

c. Prepare and maintain storage tank management plans and SPCC plans if required with assistance from COMNAVFACENGCOM. The storage tank management plan must include at a minimum, the requirements identified in paragraph 31-3.1 of this manual;

d. Comply with leak-detection, inspection, maintenance, and product-inventory requirements; recordkeeping; and operation of monitoring systems required by Federal, State, and local storage tank laws and regulations;

e. Request sufficient resources to replace or repair storage tanks, including monitoring systems, as required by applicable Federal, State, and local laws and regulations or by BMPs;

f. Comply with applicable Federal, State, and local laws and regulations concerning the installation and closure of storage tank systems;

g. Except for GOGO DFSPs, prepare EPR and required POM exhibits for all storage tank compliance projects mandated by Navy policy. DLA Energy retains responsibility for planning, programming, budgeting, and funding projects related to maintenance, repair, minor construction, and environmental compliance for GOGO DFSPs on Navy installations;

h. Ensure actions involving upgrading, repairing, removing, and replacing tanks comply with health and safety requirements per reference (c). Whether government personnel or contractors remove the tanks, they must plan and conduct associated activities to preclude injury to personnel and accidental damage to the environment;

i. Ensure that operations, maintenance, and repair of USTs and ASTs, including GOGO DFSPs located on the installation, comply with applicable environmental regulations and DoD and Navy policy; and

j. Review the need for the temporarily out-of-service tanks and ensure proper closure if no longer needed.

31-5 Definitions

31-5.1. Aboveground Storage Tanks. ASTs are bulk storage containers or storage tanks not clearly identified as USTs and normally placed on or above the surface of the ground. Containers in vaults, bunkered tanks, or partially buried tanks are considered ASTs. A tank defined as a UST in reference (b), section 260.10 may also be defined as an AST in reference (b), section 112.2.

31-5.2. Airport Hydrant System. As defined in reference (b), Part 280, subpart K, an AHS is a UST system that fuels aircraft and operates under high pressure with large piping that typically terminates into one or more hydrants (fill stands). The AHS begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor-fuel carrier.

31-5.3. Alternative Fuel. Alternative fuel as defined in reference (d), section 13211 means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or

such other percentage, but not less than 70 percent, as determined by the Secretary of Energy, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas, including liquid fuels domestically produced from natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

31-5.4. Ancillary Equipment. Ancillary equipment is any device including, but not limited to such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from a UST.

31-5.5. Bulk Oil Storage Containers. Bulk oil storage containers are any containers used to store oil. These containers are used for purposes including, but not limited to the storage of oil prior to use, while being used, or prior to further distribution. Oil/water separators (OWS) and grease traps used for wastewater treatment are exempted from all requirements of reference (b), Part 112. OWSs used to provide secondary containment required by reference (b), Part 112 must meet relevant design standards such as capacity and permeability. Under reference (b), Part 112, only bulk storage containers of 55 gallons or more in capacity are regulated. Oil-filled electrical, operating, or manufacturing equipment is not considered to be a bulk storage container; however, operating equipment with onboard petroleum storage capacity of greater than 55 gallons is subject to the general secondary containment requirements.

31-5.6. Cathodic Protection. Cathodic protection is 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 galvanic anodes, an impressed current system, or a combination of both.

31-5.7. Class A Operator. Per reference (b), section 280.12, a Class A operator is an individual who has primary responsibility to operate and maintain the UST system in accordance with applicable requirements.

31.5.8. Class B Operator. Per reference (b), section 280.12, a Class B operator is an individual who has day-to-day responsibility for implementing applicable regulatory requirements.

31.5.9. Class C Operator. Per reference (b), section 280.12, a Class C operator is an individual responsible for initially addressing emergencies presented by a spill or release from a UST system.

31-5.10. Defense Fuel Support Points. Storage facilities are designated GOGO DFSPs wherein DLA-owned fuel is stocked for distribution to multiple military end user operation and maintenance, Navy (O&M,N) accounts (e.g., aircraft, vehicles, ships, or tanks for which fuel is purchased through multiple O&M,N accounts). GOGO DFSPs range in size and scope from a single tank to a pipeline system with a network of multiple terminals.

31-5.11. Field-Constructed Tank. As defined in reference (b), Part 280, subpart K, an FCT is any tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field, is considered field-constructed.

31-5.12. Hazardous Substance

a. HS is defined as:

(1) Any substance so designated by the CWA;

(2) Any element, compound, mixture, solution, or substance so designated by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The CERCLA list of HSs can be found in reference (b), section 302.4;

(3) Any solid waste (SW) having the characteristics identified under or listed pursuant to RCRA. This does not include any waste suspended by an act of Congress;

(4) Any hazardous air pollutant listed under the Clean Air Act; or

(5) Any imminently hazardous chemical substance or mixture upon which the EPA administrator has acted under the Toxic Substances Control Act.

b. The term does not include substances regulated as HW under reference (d), section 6921; petroleum, including crude oil or any fraction thereof, which is not otherwise specifically listed or designated as an HS under CERCLA, the CWA, or the SWDA; and natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel.

31-5.13. Hazardous Waste

a. Per reference (b), Part 261, an HW is an SW, or combination of SWs, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality, or an increase in serious irreversible or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

b. State regulations may be more stringent and take precedence over Federal regulations.

31-5.14. Heating Oil. Heating oil is petroleum that is No. 1, No. 2, No. 4 (light or heavy), No. 5 (light or heavy), and No. 6 technical grades of fuel oil; 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.

31-5.15. Motor Fuel. Motor fuel is a complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 and No. 2 diesel fuel, or any blend containing one or more of these substances.

31-5.16. Oil. Per reference (b), section 112.2, oil is defined as oil of any kind or in any form, including, but not limited to fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil.

31-5.17. Permanently Closed. Permanently closed means any container or facility for which (1) all liquid and sludge has been removed from each container and connecting line; and (2) all connecting lines and piping have been disconnected from the container and blanked off, all valves (except ventilation valves) have been closed and locked, and signs have been posted conspicuously on each container stating that it is a permanently closed container and noting the date of closure.

31-5.18. Petroleum Oil. Per reference (b), section 112.2, petroleum oil means petroleum in any form, including but not limited to crude oil, fuel oil, mineral oil, sludge, oil refuse, and refined products.

31-5.19. Regulated Substance. A regulated substance is any substance defined in section 101(14) of CERCLA (but not including any substance regulated as a HW under RCRA-C) and petroleum. Some States exclude certain types of petroleum products; therefore, installations should refer to their respective State regulations.

31-5.20. Release. Per reference (b), Part 280, release means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into ground water, surface water, or subsurface soils.

31-5.21. Secondary Containment. A secondary containment is a release-prevention and release-detection system for a tank or piping. This system has an inner and outer barrier with an interstitial space that is monitored for leaks. This term includes containment sumps when used for interstitial monitoring of piping.

31-5.22. Storage Tanks. Storage tanks are all tanks and bulk storage containers (both aboveground and underground) containing HW, petroleum products, or HSs that are regulated under reference (b), either Part 112 or Part 280.

31-5.23. Tank Management Plan. A tank management plan is a document, for installation-level use, containing data and information that support AST and UST spill prevention, planning, regulatory compliance, and recordkeeping. Installations may use a spreadsheet, database, or other tool to manage these data and information in lieu of a formal plan if all relevant data and information are captured.

31-5.24. Underground Storage Tanks. As defined in reference (b), section 280.12, UST means any tank or combination of tanks (including underground pipes connected thereto) used to contain an accumulation of regulated substances, the volume of which (including the volume of the underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. The regulations exclude:

a. Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for non-commercial purposes;

b. Tanks used for storing heating oil for consumptive use on the premises where stored;

c. Septic tanks;

d. Pipeline facility (including gathering lines) that is:

(1) Regulated under chapter 601 of Title 49, U.S. Code; or

(2) An intrastate pipeline facility regulated under State laws as provided in chapter 601 of Title 49, U.S. Code, and that is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

e. Surface impoundments, pits, ponds, or lagoons;

f. Stormwater or wastewater collection systems;

g. Flow-through process tanks;

h. Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; and

i. Storage tanks situated in an underground area (such as a basement, cellar, mine, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

CHAPTER 34

OVERSEAS ENVIRONMENTAL COMPLIANCE ASHORE

Table of Contents

34-1 Scope 34-2
34-1.1. Related Chapters 34-2
34-1.2. References 34-2
34-1.3. Applicability 34-3

34-2 Legislation 34-3

34-3 Requirements 34-3
34-3.1. Funding of Capital Improvements for Environmental Compliance at Overseas Installations 34-3
34-3.2. Facility Visits and Inspections 34-4
34-3.3. Notices of Violation 34-5
34-3.4. Mobile Sources 34-5
34-3.5. Waivers of Overseas Environmental Standards at Naval Installations 34-6
34-3.6. Environmental Planning 34-6
34-3.7. Environmental Management Systems 34-7
34-3.8. Emergency Planning and Community Right-to-Know Act 34-7
34-3.9. Hazardous Materials Management 34-7
34-3.10. Hazardous Waste Management Ashore 34-7
34-3.11. Clean Air Ashore 34-7
34-3.12. Ozone-Depleting Substances 34-7
34-3.13. Polychlorinated Biphenyls Management Ashore 34-7
34-3.14. Radon 34-8
34-3.15. Water Programs Ashore 34-8
34-3.16. Drinking Water 34-8
34-3.17. Oil Management 34-9
34-3.18. Oil and Hazardous Substance Spills and Contingency Planning 34-9
34-3.19. Pesticide Compliance Ashore 34-9
34-3.20. Solid Waste Management and Resource Recovery Ashore 34-9
34-3.21. Low-Level Radioactive Waste 34-10
34-3.22. Cleanup and Restoration 34-10
34-3.23. Storage Tanks 34-10
34-3.24. Environmental Compliance Audits Ashore 34-10
34-3.25. Natural Resources Management 34-10
34-3.26. Cultural Resources Management 34-11
34-3.27. Training Requirements 34-11
34-3.28. Lead Environmental Components 34-11

34-4 Responsibilities 34-11

34-5 Definitions 34-14

34-1 Scope. This chapter provides environmental guidance for Navy installations outside the United States and its territories, trusts, and possessions, but not to ships, aircraft, and operational and training deployments outside the United States.

34-1.1. Related Chapters. Several related chapters are identified in section 34-3 of this manual. Chapters referenced are chapter 3 (Environmental Readiness Training), chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), chapter 12 (Natural Resources Conservation), chapter 13 (Cultural Resources Compliance and Management), chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore), chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations), chapter 20 (Clean Water Ashore), chapter 21 (Safe Drinking Water Compliance Ashore), chapter 23 (Hazardous Materials Management Ashore), chapter 24 (Pesticide Compliance Ashore), chapter 25 (Toxic Substances Control Act), chapter 26 (Procedures for Implementing the Environmental Planning and Community Right-to-Know Act), chapter 27 (Hazardous Waste Management Ashore), chapter 28 (Solid Waste Management and Resource Recovery Ashore), chapter 29 (Low-Level Radioactive Waste Disposal Program), chapter 30 (Oil Management Ashore), chapter 31 (Storage Tanks), chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response), and chapter 42 (Environmental Restoration) of this manual.

34-1.2. References

(a) DoD Instruction 4715.05 of 1 November 2013, Environmental Compliance at Installations Outside the United States;

(b) E.O. 12344, Naval Nuclear Propulsion Program;

(c) 42 U.S.C. §7158;

(d) Final Governing Standards (FGSs) for each country where the Undersecretary of Defense, Acquisition, Technology and Logistics (USD(AT&L)) has directed FGS establishment (NOTAL);

(e) DoD 4715.05-G, Overseas Environmental Baseline Guidance Document, May 2007;

(f) E.O. 12088, Federal Compliance with Pollution Control Standards;

(g) Department of the Navy Foreign Disclosure Manual, September 2007;

(h) E.O. 12114, Environmental Effects Abroad of Major Federal Actions;

(i) USD(AT&L) memo of 03 Jul 03, DoD Policy on Drinking Water Vulnerability Assessments and Emergency Response Plans; and

(j) DoD Instruction 4715.08 of 1 November 2013, Remediation of Environmental Contamination Outside the United States.

34-1.3. Applicability

a. The policies and procedures in this chapter apply to Navy shore activities, facilities, and installations located outside the United States and its territories, trusts, and possessions. Applicability is limited to shore activities, facilities, and installations provided by the United States and under the jurisdiction of the Navy.

b. The policies and procedures in this manual do not apply where excluded under reference (a), paragraph 2.a(2), or to U.S. military ship and aircraft operations governed by other Department of Defense (DoD) policies and directives and applicable international agreements; facilities and activities covered under reference (b) and the Naval Nuclear Propulsion Program and conducted under reference (c); or facilities located in Antarctica.

34-2 Legislation

a. Legislation that contains provisions that pertain to overseas Navy commands as detailed in the scope includes:

(1) National Historic Preservation Act (NHPA), 54 U.S.C. §300101 et seq.; and

(2) Toxic Substances Control Act (TSCA), 15 U.S.C. §2601–2697.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

34-3 Requirements. Navy shore activities, facilities, and installations provided by the United States and under the jurisdiction of the Navy in foreign nations must comply with applicable country-specific final governing standards (FGS) (reference (d)). Where FGSs have not been issued, Navy installations must comply with reference (e), host-nation substantive pollution control laws of general applicability (as required by reference (f)), U.S. law with extraterritorial effect, and applicable treaties (including the status of forces agreement (SOFA) and bilateral agreements). Reference (f) requires, in part, the head of each executive agency constructing or operating Federal facilities outside the United States ensure such construction or operation complies with environmental pollution control standards of general applicability in the host nation or jurisdiction.

34-3.1. Funding of Capital Improvements for Environmental Compliance at Overseas Installations. When capital improvements are required at overseas installations or facilities to comply with either the FGS (reference (d)) or references (e) and (f), as applicable, funding decisions must be based on several considerations. These include which country provided the facilities in question and the provisions of the pertinent SOFA and bilateral agreements. Unless otherwise provided in the pertinent SOFA and bilateral agreements, the host nation is expected to

fund environmental compliance projects at facilities the host nation provides. After consultation or negotiation with the host nation, funding questions may be resolved in several ways:

a. Pollution abatement improvements may be accomplished as a result of inclusion in bilateral or multilateral negotiations on programs not directly involving environmental compliance;

b. In some cases, host-nation-provided facilities have been significantly modified by the United States to meet operational requirements. When capital improvements are required to meet the environmental standards of general applicability in the host nation or jurisdiction, the Navy may negotiate shared contributions for such improvements. Shared contributions may be done, after consultation with the ambassador, when it is in the best interest of the Navy and does not establish a precedent. The contribution should normally be no more than the proportion of modification attributable to the United States. Project funding request documents must indicate the results of negotiations, to include the basis for determination of the U.S. share; or

c. If the host nation declines to provide funds for required capital improvements, or if negotiations with the host country for shared contributions are unsuccessful, the Navy may program for required pollution control capital improvement projects when it is in the best interest of the Navy and does not establish a precedent. Project funding request documents must indicate the circumstances under which the projects are submitted.

34-3.2. Facility Visits and Inspections. Federal law and executive orders (E.O.) on information and physical security matters, as implemented in Navy regulations, SOFAs, and bilateral agreements, will govern access of host-nation environmental officials to U.S.-controlled fixed facilities.

a. Sovereign Immunity Policy. U.S. military aircraft, warships, and naval auxiliaries (including Navy vessels and afloat prepositioned force ships) enjoy sovereign immunity from interference by foreign governmental authorities. Foreign officials must not be allowed access to military aircraft, warships, or naval auxiliaries for purposes of environmental inspections or examination. Commanding officers (CO), masters, and aircraft commanders may certify compliance with host-nation environmental requirements, which may include a general description of measures taken to comply with environmental requirements. At the discretion of the CO, master, or aircraft commander, foreign authorities may be received aboard for the purpose of accepting the certification of compliance, but under no circumstances may they be permitted to exercise governmental authority, nor may they inspect military aircraft, warships, or naval auxiliaries or act as an observer while U.S. personnel conduct such inspections.

b. Pre-Establishment of Procedures for Access to Navy Facilities and Installations. U.S. region, installation, and facility commanders must consult with legal counsel, U.S. embassy officials, the DoD lead environmental component (LEC) for the host nation, or the combatant commander where no LEC has been appointed, to pre-establish procedures for access by host-nation officials to Navy facilities and installations. These procedures must comply with the applicable SOFA and bilateral agreements. Since most U.S. facilities are tenants of host-nation military installations, host-nation authorities must control access to the host-nation installation

with COs of U.S. tenant facilities controlling access to U.S. facilities. Commanders of U.S. facilities must comply with access procedures so established.

c. Additional Access Requests. Where the host-nation official's access request is not covered by the facility or installation's pre-established access procedures, the U.S. installation or facility commander must immediately notify the Navy component commander in theater, the LEC (if applicable), and the Deputy Chief of Naval Operations for Fleet Readiness and Logistics (CNO N4). The notice must include: the identity of the host-nation authority needing access; the extent to which the host-nation authority requesting access is delegated national authority for environmental regulation; the extent of access requested; the date for which access is requested; an explanation for why established access procedures (if applicable) are insufficient; the extent to which granting the request would establish precedent; and the commander's recommendation whether providing access would be in the best interest of the United States. Unless otherwise directed, the installation commander may permit access after completing consultation with the LEC, component commander, and CNO N4, or 3 working days after providing notification, whichever is earlier. If access is denied, the U.S. installation commander must notify the same parties and must ensure the chief of mission with the U.S. ambassador to the host nation has been notified as well.

d. Access to Propulsion Plant Spaces or Nuclear Propulsion Information. Access by foreign officials to propulsion plant spaces of nuclear-powered ships or to naval nuclear propulsion information is governed by reference (g) and is not authorized without endorsement of the Director, Naval Nuclear Propulsion Program and personal approval of the CNO or VCNO.

34-3.3. Notices of Violation. For Navy installations outside the United States and its territories, trusts, and possessions, a notice from regulatory authorities that the installation has violated an applicable environmental standard may take several different forms. To be considered a notice of violation (NOV), the notice should cite the relevant standard or criteria to be met and request the installation take corrective action. An NOV does not include warning letters that do not cite a violation of specific environmental law or regulation, informal notices of deficiencies, or notices of deficiencies to permit applications. Warning letters or similarly titled formal written notifications from authorized regulators that do cite violations with environmental laws, standards, and regulations are considered NOVs. One written notice, regardless of the number of individual violations, findings, or citations listed in it, counts as one NOV if all violations cited relate to a single environmental medium. If the NOV cites violations in more than one environmental media area (e.g., air, water, hazardous waste, drinking water), then it counts as multiple NOVs, one under each of the applicable media areas. Items found to be out of compliance during an internal or other DoD component review, or a compliance review or audit, are not NOVs (i.e., are not included in the definition of NOV). Upon receipt of an NOV as defined in this section, installations must follow the procedures set forth in chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual.

34-3.4. Mobile Sources. Reference (d) governs the operation and maintenance of mobile sources based in a host nation where such provisions have been issued, except for vessels and aircraft. If no FGS has been issued, the operation and maintenance of mobile sources, with the exception of aircraft and vessels based in a host country, will be governed by applicable

provisions of the SOFA and bilateral agreements, and references (e) and (f) under reference (a). In particular, reference (f) requires compliance with substantive host-nation pollution control laws of general applicability. In most instances, the relevant host-nation pollution control laws will be the pollution control standards observed by the host nation's military forces for similar vehicles. Except for sovereign immune vessels and aircraft, and unless otherwise provided in the SOFA and bilateral agreements, transient mobile sources or those sources temporarily within a foreign jurisdiction are subject to the host country's standards for the terms and conditions set forth in the visit clearance. Although not subject to enforcement by the host nation, sovereign immune vessels and aircraft must operate under the environmental protection provisions of their visit clearance. Where no specific environmental protection provisions are included in the visit clearance, sovereign immune vessels and aircraft must follow environmental protection standards used by the host nation's military forces to the extent practical.

34-3.5. Waivers of Overseas Environmental Standards at Naval Installations

a. A U.S. installation commander should seek a waiver from standards in reference (d), or when reference (d) has not been issued, from reference (e), host-nation laws of general applicability (as required by reference (f)), and applicable treaties (including SOFAs and bilateral agreements) if compliance with that particular standard would:

(1) Seriously impair its mission;

(2) Adversely affect relations with the host nation;

(3) Require substantial expenditure of funds for physical improvements at an installation for which public notification for return has been made; or

(4) Apply to an installation that has been identified for closure or realignment and will no longer be subject to the FGS requirement upon closure or realignment.

b. Waiver requests must include a budget submitting office (BSO) endorsement prior to processing via procedures outlined in reference (a). Navy policy is to minimize requests for waivers and limit the duration of waivers. Requests for waivers are appropriate, for example, where the cost of the project to achieve compliance at an installation slated for closure is grossly disproportionate to the period during which environmental benefits would be derived from the project. Where this manual or instructions by Navy component commanders require measures more protective than the applicable FGS, COs must request a waiver from the LEC before requesting project funding.

c. Waiver requests will not be granted if the waiver would result in a breach of applicable U.S. law with extraterritorial effect or breach of an applicable international agreement.

34-3.6. Environmental Planning. The National Environmental Policy Act does not apply overseas. Navy activities must comply with the applicable requirements of reference (h) that address environmental effects abroad of major Federal actions. Refer to chapter 10

(Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual for applicable environmental planning requirements.

34-3.7. Environmental Management Systems. Navy environmental-management-system-(EMS)-appropriate facilities must implement a comprehensive EMS, including pollution prevention and green or sustainable procurement elements, as required under chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual.

34-3.8. Emergency Planning and Community Right-to-Know Act. EPCRA does not impose any requirements on Navy shore installation operations in foreign countries or directly upon ships or aircraft.

34-3.9. Hazardous Materials Management. Navy activities must manage hazardous materials as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements). In addition, activities must implement the Consolidated Hazardous Material Reutilization and Inventory Management Program in the same manner and to the same extent as delineated in chapter 23 (Hazardous Materials Management Ashore) of this manual.

34-3.10. Hazardous Waste Management Ashore. Navy activities must manage their hazardous waste (HW) per reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements). Refer to chapter 29 (Low-Level Radioactive Waste Disposal Program) of this manual for policy on mixed waste. Waste that is considered hazardous under reference (d) or reference (e) must not be disposed of in the host nation without an agreement as described in reference (a), enclosure (3).

34-3.11. Clean Air Ashore. Navy activities must manage their air programs as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements).

34-3.12. Ozone-Depleting Substances. Navy activities must manage their ozone-depleting substances as directed in chapter 22 (Clean Air Ashore) of this manual and as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements).

34-3.13. Polychlorinated Biphenyls Management Ashore. Navy activities must manage their polychlorinated biphenyls (PCB) as required under reference (d). When reference (d) has not

been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements).

34-3.14. Radon. Navy activities must manage their radon programs as required under the Navy Radon Assessment and Mitigation Program as outlined in chapter 25 (Toxic Substances Control Act) of this manual.

34-3.15. Water Programs Ashore

a. Navy activities must manage their water programs as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements).

b. Navy activities should explore opportunities for pollutant reduction or elimination in wastewater discharges through product substitution; wastewater reduction; and water conservation, reuse, and recycling.

c. Navy activities must take steps to reduce or eliminate pollutants from stormwater through control of pollutant sources via procedural and structural best management practices.

d. Spills of sewage or other substances that might be considered pollutants that endanger critical water areas have the potential to generate public concern, become the focus of enforcement action, or pose a threat to public health or welfare must be reported per the reporting requirements of chapter 20 (Clean Water Ashore) of this manual.

34-3.16. Drinking Water

a. Navy activities must manage their drinking water systems as defined in chapter 21 (Safe Drinking Water Compliance Ashore) of this manual under reference (d) and provide drinking water that meets or exceeds U.S. water quality standards. When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements). In addition, Navy activities must monitor for lead in priority areas as specified in chapter 21 (Safe Drinking Water Compliance Ashore), subparagraph 21-3.4c(2) of this manual. All non-continental U.S. water systems serving greater than 25 DoD consumers must develop a water system vulnerability assessment (WSVA) and emergency response plan (ERP) update (if required; for internal use only (reference (i)).

b. The Commander, Navy Installations Command (CNIC) serves as executive agent for drinking water quality matters for all Navy facilities and installations worldwide. The executive agent responsibilities are outlined in chapter 21 (Safe Drinking Water Compliance Ashore), paragraph 21-3.1 of this manual, and are applicable worldwide.

c. U.S. Navy overseas installation drinking water systems, including leased facilities (such as Navy housing) or under a U.S. Navy base operating support contract, will be subject to oversight by installation water quality boards (IWQB) and regional water quality boards (RWQB) and must receive a certificate to operate (CTO) per requirements established by the executive agent for drinking water and the Navy Water Quality Oversight Council (WQOC). All drinking water treatment and distribution system operators must be trained as required under references (d) or (e), as appropriate.

d. All Navy installations including outlying facilities and leased government properties (such as Navy housing) must develop and provide a copy of their water quality consumer confidence reports to the RWQB. Copies of public notification reports must also be provided when applicable.

34-3.17. Oil Management. Navy activities must manage their oily wastes and waste oils as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements).

34-3.18. Oil and Hazardous Substance Spills and Contingency Planning. Navy activities must manage oil and hazardous substance spills and contingency planning as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements). Navy shore commands must implement the requirements of chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual regarding internal reporting, drills, and exercises.

34-3.19. Pesticide Compliance Ashore. Navy activities must manage their pesticides as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements). Activities responsible for pesticide application must develop integrated pest management plans and ensure the program addresses pesticide applicator certification and re-certification training, pesticide storage, handling and disposal practices, and pest management operations recordkeeping and reporting.

34-3.20. Solid Waste Management and Resource Recovery Ashore. Navy activities must ensure compliance with solid waste standards as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements). In addition, integrated solid waste management requirements, including those pertaining to recycling and qualified recycling programs in chapter 28 (Solid Waste Management and Resource Recovery Ashore) of this manual, apply worldwide.

34-3.21. Low-Level Radioactive Waste. Navy activities must manage their low-level radioactive waste as required under chapter 29 (Low-Level Radioactive Waste Disposal Program) of this manual.

34-3.22. Cleanup and Restoration. The Installation Restoration Program is limited to the United States and its territories, trusts, and possessions, and does not apply to foreign countries. Current and past DoD activities, however, can result in the need for emergent environmental cleanup and restoration overseas. The decision to conduct and execute cleanup actions must comply with the provisions of reference (j).

34-3.23. Storage Tanks. Navy activities must manage their aboveground and underground storage tanks as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements).

34-3.24. Environmental Compliance Audits Ashore. Overseas installations must implement an internal compliance assessment program and be subject to external compliance assessments as required under chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual and reference (a). Internal and external environmental audit checklists must be derived from the applicable FGS. Checklists are required to be developed into official forms. Prior to the establishment of the FGS, audit criteria must be based on reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, applicable treaties (including SOFAs and bilateral agreements), and applicable provisions of this manual.

34-3.25. Natural Resources Management

a. Navy activities must program, budget for, and ensure compliance with reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements).

b. Natural resources managers may use applicable elements from chapter 12 (Natural Resources Conservation) of this manual as a framework for natural resources management, subject to concurrence by the DoD LEC.

c. Integrated natural resource management plans at installations outside the United States are not typically subject to E.O. 12114 analyses because they do not result in significant harm to the host nation. The decision not to perform E.O. 12114 analysis must be documented in a record of negative decision as required under chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual.

d. Natural resources managers must conduct an annual assessment of the installation's NRC program by completing the NRC Metrics using the Navy Conservation Web site (refer to appendix E (Web Sites) of this manual for Web site address).

34-3.26. Cultural Resources Management. Navy activities must manage their historic and archeological resource management program as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements).

34-3.27. Training Requirements. Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental training requirements as well as training for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual provides NERTP formal training courses and target audiences for each formal course offered. In addition, Navy commands must comply with the training requirements as required under reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements).

34-3.28. Lead Environmental Components. LECs are responsible for environmental matters in foreign countries where DoD installations are located and where the Undersecretary of Defense, Acquisition, Technology and Logistics determines that DoD presence justifies establishment of FGSs. Specific LEC responsibilities are delineated in reference (a). Heads of military departments designated as LECs normally delegate LEC authority to the theater component commanders after coordination with the relevant combatant commander. Note that due to the unique construct and influence of the European Union (EU), the Commander, USEUCOM, is designated as the DoD Theater Environmental Coordinator (TEC) for Europe. As such, the Commander provides specific oversight to ensure consistent application of this manual at installations in host-nation countries within the EU and geographically located within the USEUCOM area of responsibility.

34-4 Responsibilities

34-4.1. The Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) must:

a. Ensure BSOs allocate the resources required to achieve and maintain compliance with reference (d). When reference (d) has not been issued, Navy facilities and installations must comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements). Where the Navy has been delegated by DoD as the LEC as required under references (a) and (i), ensure BSOs allocate the resources required to execute these responsibilities; and

b. Provide policy guidance needed to establish and maintain a program for the management of environmental concerns overseas.

34-4.2. CNIC must serve as executive agent for drinking water quality matters for all Navy shore facilities and installations worldwide as required under chapter 21 (Safe Drinking Water Compliance Ashore), paragraphs 21-3.1 and 21-4.2 of this manual.

34-4.3. BSOs must:

a. Ensure compliance with reference (d). When reference (d) has not been issued, ensure compliance with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements);

b. Conduct (or oversee the conduct of) environmental compliance audits at overseas installations to ensure compliance with reference (d). When reference (d) has not been issued, conduct environmental quality assessments (EQA) to ensure compliance with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements). EQAs must be conducted as required under the requirements of reference (a) and chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual;

c. Program and budget for environmental compliance projects;

d. Ensure contracts for services or construction where performance takes place outside the United States and DoD contracts for the disposal of HW include provisions requiring contractors to comply with reference (d). When reference (d) has not been issued, contractors must be required to comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements). The BSO must also ensure contracts are administered to enforce such compliance;

e. Ensure host-tenant agreements are as required under, and address compliance with, reference (d). When reference (d) has not been issued, host-tenant agreements must address compliance with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements);

f. Communicate with LECs regarding the compliance status of activities or installations, waiver requests, proposed host-nation regulations, and environmental issues impacting their installations and commands; and

g. In consultation with Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) and OPNAV N45, endorse waiver requests from Navy activities or installations as required under paragraph 34-3.4 of this manual.

h. Provide to CNIC any information needed for the annual drinking water quality report to the Vice CNO as required by chapter 21 (Safe Drinking Water Compliance Ashore), paragraphs 21-3.1 and 21-4.2 of this manual.

34-4.4. COMNAVFACENGCOM must:

a. Support CNIC on all aspects of drinking water system management as required under chapter 21 (Safe Drinking Water Compliance Ashore), paragraph 21-4.3 of this manual;

b. Develop standard processes for issuance of consumer confidence reports to Navy personnel at overseas installations; and

c. In consultation with the Chief, Bureau of Medicine and Surgery (BUMED), provide independent oversight of RWQBs.

34-4.5. Navy components, when delegated authority to act as LECs, must execute the LEC responsibilities assigned in reference (a) for their assigned area of responsibility. Note: In the absence of formal diplomatic relations (e.g., Cuba), the requirement to consult with the host nation in development of FGSs is waived.

34-4.6. Region commanders and installation and facility COs must:

a. Comply with reference (d). When reference (d) has not been issued, comply with reference (e), host-nation laws of general applicability (as required by reference (f)), U.S. laws with extraterritorial effect, and applicable treaties (including SOFAs and bilateral agreements);

b. Develop and conduct training and education programs to instruct required personnel in the environmental aspects of their job;

c. Perform and document internal installation environmental compliance audits annually to determine the overall compliance assessment status of the installation or facility, and support the performance of, and corrective actions required by, external environmental compliance audits;

d. Communicate following the Navy chain of command with the Navy Region Commander, if present, on the LEC's environmental issues; and

e. Ensure their installations provide drinking water that meets or exceeds U.S. water quality standards and sign and issue a CTO for each installation drinking water system in their area of responsibility.

f. Establish IWQBs and RWQBs.

34-4.7 BUMED must:

a. Formulate and disseminate Navy Medicine policy and guidance related to drinking water quality;

b. Provide consultative services to CNIC and Navy commands for drinking water quality as required under chapter 21 (Safe Drinking Water Compliance Ashore), subparagraphs 21-4.4b through 21-4.4e of this manual;

c. Provide public health advice to Navy shore installations and facilities outside the United States in carrying out their responsibilities for drinking water quality and distribution;

d. Appoint representative(s) to the Navy WQOC executive body and staff body to serve as public health advisor and consultant;

e. Appoint representative(s) to serve on the RWQBs and IWQBs as public health advisor and consultant. These representatives, in consultation with COMNAVFACENGCOM, must provide independent oversight of RWQBs and IWQBs; and

f. Provide a formal training course for preventive medicine authorities in collaboration with the Navy and Marine Corps Public Health Center.

34-5 Definitions

34-5.1. Department of Defense Lead Environmental Component. The DoD LEC is the secretary of a military department, combatant commander, or subunified commander specifically designated as described in reference (a). The DoD LEC executes responsibilities prescribed in reference (a), enclosure (2), associated with DoD installations within a specified foreign nation. LECs are responsible for environmental matters in foreign countries where DoD installations are located and where the Office of the Assistant Secretary of Defense for Sustainment (OASD(Sustainment)) determines that DoD presence justifies establishment of FGSs. Secretaries of military departments designated as LECs may delegate LEC responsibilities through the chain of command to an appropriate general-level or flag-level commander. The LEC establishes FGSs for DoD installations within its geographic area of responsibility and performs other functions as required under reference (a).

34-5.2. Drinking Water System. An assemblage of natural and or man-made infrastructure by which water is captured, collected, stored, treated, and delivered to end users. Components of drinking water systems include raw water supplies (e.g., reservoirs, lakes, rivers, groundwater), water-purification facilities, water storage facilities, water pressurization components, and distribution piping networks.

34-5.3. Environment. Environment refers to the natural and physical environment and excludes social, economic, or other environments.

34-5.4. Final Governing Standards. FGSs are a comprehensive set of country-specific substantive environmental provisions; typically technical limitations on effluent, discharges, etc., or specific management practices developed per reference (a). FGSs are developed using the Overseas Environmental Baseline Guidance Document (OEBGD) 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 the case of inconsistency, the more protective standard is normally used to establish the FGS unless a specific international agreement with the host nation establishes a different standard applicable to U.S. installations and commands.

OASD(Sustainment) maintains a list of countries requiring FGSs. (See reference (a), enclosure (3), appendix for the list of countries requiring FGSs and the corresponding LECs).

34-5.5. Foreign Nation. A foreign nation is a geographic area (i.e., land, water, airspace) under the territorial jurisdiction of a government other than the United States, or a geographic area under the territorial jurisdiction of the United States alone, or jointly with any other government, by virtue of military occupation.

34-5.6. Navy Facilities and Installations. For determining overseas environmental compliance requirements, naval facilities and installations are real property under the control of or used by the U.S. Navy, including tenant facilities and installations on host-nation installations, non-contiguous leased portions such as military housing and family support activities, and non-contiguous installations, piers, and ports operated under the auspices of the North Atlantic Treaty Organization by the host nation.

34-5.7. Overseas Environmental Baseline Guidance Document. The OEBGD is a current compendium of criteria based on consideration of laws generally applicable to similarly situated DoD installations within the United States but designated to protect the environment at DoD installations outside U.S. territory.

34-5.8. United States. The United States is comprised of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, and any other territory or possession over which the United States has jurisdiction.

CHAPTER 35

ENVIRONMENTAL COMPLIANCE AFLOAT

Table of Contents

35-1 Scope 35-2
35-1.1. Related Chapters 35-2
35-1.2. References 35-2
35-1.3. Applicability 35-3

35-2 Legislation 35-3

35-3 Requirements 35-4
35-3.1. Environmentally Sound Ships 35-4
35-3.2. Shoreside Support to Ships 35-4
35-3.3. Training Requirements 35-4
35-3.4. Environmental Inspection of Navy Ships Within the United States 35-5
35-3.5. Environmental Inspection of Navy Ships Outside the United States 35-8
35-3.6. Notices of Violation 35-8
35-3.7. Afloat Environmental Compliance Inspections and Assessments by Navy Inspectors 35-9
35-3.8. Afloat Environmental Protection Coordinator 35-9
35-3.9. Operation Within Foreign Nation Waters 35-10
35-3.10. Exclusion of Vessel Discharges from National Pollutant Discharge Elimination System Permitting 35-10
35-3.11. Prohibited Discharge Zones for U.S. Navy Shipboard Wastes 35-12
35-3.12. Sewage, Graywater, and Industrial Wastewater 35-17
35-3.13. Air Emissions 35-20
35-3.14. Oil and Oily Waste 35-25
35-3.15. Oil and Hazardous Substance Spills 35-33
35-3.16. Hazardous Material Control and Management 35-36
35-3.17. Solid Waste 35-40
35-3.18. Medical Waste 35-46
35-3.19. Surface Ship Ballast Water, Welldeck, and Sediment Management 35-47
35-3.20. Environmental Compliance During Routine Training and Testing at Sea 35-51
35-3.21. Marine Mammal Active Sonar Reports 35-53
35-3.22. Floating Dry Docks 35-55
35-3.23. Noise 35-55

35-4 Responsibilities 35-56

35-5 Definitions 35-66

35-1 Scope. This chapter defines environmental compliance policies and procedures applicable to shipboard operations. The chapter is organized according to the various environmental media potentially affected by the operation of Navy and Military Sealift Command (MSC) ships.

35-1.1. Related Chapters. Ships generally need only refer to this chapter and chapter 36 (Permitted Ocean Disposition) of this manual for environmental compliance. If differences in policy guidance exist between this chapter and any other chapter in this manual, this chapter takes precedence. Chapter 3 (Environmental Readiness Training) of this manual includes additional training requirements.

35-1.2. References

(a) DoD Manual 4715.06 Volumes 1-3, Regulations on Vessels Owned or Operated by the Department of Defense, June 2017;

(b) Naval Ships' Technical Manual (NSTM);

(c) NAVSEA S9510-AB-ATM-010/(U), Nuclear Powered Submarine Atmosphere Control Manual (NOTAL);

(d) OPNAVINST 5100.19E, Navy Safety and Occupational Health (SOH) Program Manual for Forces Afloat;

(e) DoD Ozone Depleting Substances Reserve Requisition and Turn-in Procedures, June 2014;

(f) NAVSEA Catalog S6161-Q5-CAT-010;

(g) 40 CFR Part 63;

(h) NAVFACENGCOM MO 909, Oil Ship Waste Offload Barge (NOTAL);

(i) NAVSEA S9593-FF-MMA-010, U.S. Navy Shipboard Oil and Hazardous Substance Spill Contingency Plan Guide;

(j) NAVSEA S9593-FA-MMA-010, Technical Manual for U.S. Navy Submarine Oil Spill and Hazardous Substance Spill Contingency Plan Guide (NOTAL);

(k) OPNAVINST F3100.6J, Special Incident Reporting (OPREP-3 PINNACLE, OPREP-3 NAVY BLUE, and OPREP-3 NAVY UNIT SITREP) Procedures (NOTAL);

(l) NAVSEA PCB Advisories (NOTAL);

(m) NAVSUP Publication 485, Naval Supply Procedures, Afloat Supply;

(n) NAVSUP Publication 486, Food Service Management, General Messes;

(o) USDA, Manual for Agricultural Clearance;

(p) BUMEDINST 6280.1C, Management of Regulated Medical Waste;

(q) BUMEDINST 6570.3A, Safe Handling and Disposal of Occupationally Hazardous Drugs and Environmentally Hazardous Drugs;

(r) DoD Instruction S-2005.01 of 20 October 2014, Freedom of Navigation (FON) Program (U); and

(s) NAVMED P-5010-7, Manual for Naval Preventative Medicine, Wastewater Treatment and Disposal, Ashore and Afloat, January 1995.

35-1.3. Applicability. This chapter applies to U.S. Navy ships and floating dry docks worldwide and, as appropriate, to submarines, boats, and other small craft. This chapter also applies to U.S. naval ship (USNS) vessels operated by Commander, Military Sealift Command (COMSC) and vessels chartered by COMSC, except for time- and voyage-chartered vessels. Unless otherwise specified, "commanding officer" (CO) as used in this chapter includes officers in charge (OIC) and masters of public vessels owned or operated by COMSC, as well as coxswains and craftmasters of small craft, as applicable.

35-2 Legislation

a. Legislation that contains provisions that pertain to environmental compliance policies and procedures applicable to shipboard operations includes:

(1) Act to Prevent Pollution from Ships (APPS), 33 U.S.C. §1901–1915;

(2) Clean Air Act (CAA), 42 U.S.C. §7401–7671q;

(3) Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387;

(4) Endangered Species Act (ESA), 16 U.S.C. §1531–1544;

(5) International Convention for the Prevention of Pollution from Ships (MARPOL);

(6) Marine Mammal Protection Act (MMPA), 16 U.S.C. §1361, 1362, 1371–1389, 1401–1407, 1411–1418, 1421–1423h;

(7) National Emission Standards for Hazardous Air Pollutants (NESHAP) for Shipbuilding and Ship Repair, 40 CFR Part 63, Subpart II;

(8) Noise Control Act, 42 U.S.C. §4901–4918;

(9) Ocean Dumping Act;

(10) Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act (SWDA)), 42 U.S.C. §6901–6992k;

(11) Toxic Substances Control Act (TSCA), 15 U.S.C. §2601–2697;

(12) U.S. Public Vessel Medical Waste Anti-Dumping Act, 33 U.S.C. §2501–2504; and

(13) National Invasive Species Act, 16 U.S.C. §4701.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual. In addition, various other statutes authorize the U.S. Department of Agriculture (USDA) to regulate the handling of foreign food and foreign source garbage entering the United States via ship and aircraft. Refer to subparagraph 35-3.17g of this manual for requirements applicable to U.S. Navy ships.

35-3 Requirements. Navy policy is to comply fully with all applicable Federal, State, local, and international requirements.

35-3.1. Environmentally Sound Ships. Protection of the marine environment is mission-essential. Navy ships must conduct operations, in port and at sea, in a manner that minimizes or eliminates any adverse impact on the marine environment and its resources.

35-3.2. Shoreside Support to Ships. Compliance with local environmental requirements often requires specialized knowledge, expertise, or capability that afloat units may not possess. To the maximum extent possible, shore commands, Navy regional environmental coordinators (REC), and Commander, Navy Installations Command (CNIC) must provide assistance to afloat units to ensure environmental compliance.

35-3.3. Training Requirements

a. All hands must receive environmental readiness training upon reporting aboard (I Division or School of the Boat) and annually thereafter. This training must include:

(1) The Navy's commitment to environmental protection;

(2) The command environmental readiness program. This training should include a summary of the ship's policies and practices established to ensure pollution prevention (P2); solid waste (SW) handling and minimization; plastic management; protection of marine mammals and endangered marine species; recycling; air pollution (including ozone-depleting substances (ODS)); water pollution; and oil and hazardous substance (OHS) management, handling, minimization, and spill response; and

(3) The individual's responsibility with regard to this program.

b. Ships may accomplish this training with videos for general subject matter and by command instructors or other third-party subject matter experts for command-specific topics.

c. All hands are required to complete all modules identified in their career-path training plan. The U.S. Navy Afloat Environmental Compliance Training Series contains four interactive multimedia training modules, all accessible on Navy e-Learning (NeL) at My Navy Portal (refer to appendix E (Web Sites) of this manual for Web site address).

d. Watch officers responsible for authorizing the overboard disposal of shipboard wastes must receive training on the discharge restrictions for shipboard wastes as part of their watch qualification procedures.

e. Billet- and job-specific environmental training requirements are listed in paragraphs 35-3.8 and 35-3.12 through 35-3.21 of this manual.

35-3.4. Environmental Inspection of Navy Ships Within the United States. Navy ships must be available for inspection by U.S. environmental officials, subject to the requirements to protect national security information, provided the inspector demonstrates a legitimate basis for requesting access.

a. Access to Ships and Release of Information During Navy OHS Spills. Effective OHS spill planning and response is an important issue for the Navy, regulatory agencies, and the public. Navy ships may receive requests from non-Navy entities for access or information pertaining to Navy OHS spill planning and response. COs must consider several factors in responding to these requests. First, they must quickly provide officials and agencies responsible under laws and regulations for responding to an actual spill with the necessary access or information to minimize environmental damage and Navy liability. Second, they must ensure all access granted and information disseminated is consistent with Navy information security requirements. Third, they must ensure initial information released about OHS spills is as accurate as possible and is characterized as preliminary and subject to later verification. Refer to chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual for a comprehensive overview of the Navy's shore planning and response requirements and ship support in the event of an OHS release.

(1) OHS Spill Response Emergencies. During OHS spill response emergencies, although not mandated by law, COs and masters should allow Federal on-scene coordinator (FOSC) representatives access to their ships if requested, consistent with information security requirements. The U.S. Coast Guard (USCG) Captain of the Port (COTP) is designated as the FOSC for oil spills in the coastal regions of the United States.

(2) Non-Emergency Situations. During non-emergency situations, Navy ships are not subject to inspection by USCG, State, or local officials in connection with OHS spill planning. However, COs must cooperate with USCG and civilian authorities regarding OHS spill planning and prevention consistent with information security requirements without impeding mission accomplishment. COs, at their discretion, may invite USCG, State, and local officials aboard their ships for assist visits or other discussions. They must coordinate requests for such access with the cognizant Navy on-scene coordinator (NOSC), who, in most cases, is the Navy REC.

(3) Requests for Information

(a) Subject to the requirement to protect national security information, ships must promptly and accurately respond to Federal, State, and local government requests for information necessary to coordinate spill response and cleanup efforts or to prevent or reduce environmental damage. Ship COs providing initial information should indicate the information provided is preliminary and subject to verification or change during subsequent investigation. Responses should be provided promptly to requests regarding preliminary information about Navy OHS spills:

1. Whether an OHS spill has occurred;

2. The specific source of the spill;

3. The type of substance spilled;

4. When and where the spill occurred;

5. The initial indication as to the general nature of the cause of the incident (e.g., whether due to equipment failure, operator error, undetermined origin); and

6. A preliminary estimate of how much OHS was spilled.

(b) Ships receiving requests for investigation reports must inform requestors they will forward any Navy investigation reports generated in connection with the spill to the Office of the Judge Advocate General (OJAG). OJAG will control the release of investigation reports.

(c) When claims by or against the Navy have been filed or are reasonably anticipated, requests for information pertaining to oil spills must be referred to the Navy attorney representing the cognizant NOSC.

(d) The CO will refer any media requests for information to the public affairs officer on the cognizant NOSC staff.

b. Access Procedures

(1) If a State or local inspector requests access to inspect a Navy ship, the parties involved must follow these procedures:

(a) The CO must confirm the inspector's credentials;

(b) The inspector must identify specific equipment, operations, spaces, or work sites to which he or she requests access;

(c) The inspector must make known the nature of the activity to be examined and its relationship to regulations. The CO should consult counsel and the Navy REC if there is any question on the applicability of the law or regulation to ships;

(d) If the request for access or information is a result of contractor actions aboard ship, a representative of the contractor must accompany the inspector and ship representative;

(e) If practical, the CO must suggest off-ship alternatives that involve similar operations or training demonstrations conducted ashore; and

(f) If off-ship alternatives are not practical, COs must approve inspections that do not involve access by inspectors to classified or restricted information, equipment, technology, or operations.

(2) Shipboard air conditioning and refrigeration (AC&R) equipment designed or constructed to general or military specification requirements aboard Navy ships or vessels owned, operated, or bareboat chartered by the Navy or COMSC is not subject to the requirements of CAA regulations on refrigerants. Federal, State, and local regulatory personnel have no authority to inspect Navy ships or ship records to enforce these requirements. If regulatory personnel request to board Navy ships for this purpose, do not grant access. Follow the procedures of subparagraph 35-3.4d of this manual and notify the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) by routine message with information copies to the chain of command should this occur.

c. Environmental Inspector Security Clearances

(1) If the inspector requests access to sensitive areas such as spaces containing cryptographic equipment, sonar systems, or naval nuclear propulsion plant spaces (NNPS) or to naval nuclear propulsion information (NNPI), and the CO concludes that a legitimate requirement exists for such access, he or she must forward a message request for access. The message request must be forwarded to OPNAV N45 with information copies to the Fleet Commander and type commander (TYCOM) for spaces that would involve access to classified information or to the Director, Naval Nuclear Propulsion Program (CNO N00N) for NNPS or NNPI. The message must identify:

(a) The space(s) to which the inspector wants access;

(b) The nature of the activity the inspector wants to examine;

(c) The classified or restricted information, equipment, or operation to which the inspector would have access during the proposed inspection;

(d) The proposed alternatives that do not involve such access;

(e) Reasons why the inspector finds the proposed alternatives unsatisfactory; and

(f) Security clearance information, including the name of inspecting official(s); date of visit; name of agency the official(s) represent(s); and level, basis, and date of security clearance.

(2) The CO must inform State or local inspector(s) that the security implications of their request require consideration at Navy headquarters.

d. Dispute Resolution. If the CO determines the inspector does not require access to the space(s) or information cited in subparagraph 35-3.4c(1) of this manual, but the inspector does not agree with that determination, the CO must promptly refer the matter up the chain of command for resolution by OPNAV N45 or CNO N00N as described in subparagraph 35-3.4c(1) of this manual.

35-3.5. Environmental Inspection of Navy Ships Outside the United States. Navy ships are not subject to inspection by foreign authorities or enforcement of environmental requirements, even when the ship is located within areas subject to the jurisdiction of foreign countries (i.e., internal waters, ports, and ocean waters within 12 nautical miles (NM) of land) or in foreign nation exclusive economic zones (EEZ). They must operate with due regard, however, for foreign nations' resource-related laws and regulations. Additionally, Navy ships must comply with any environmental regulations established in port visit clearances and the local status of forces agreements (SOFA).

a. Access Procedures. Environmental officials representing the foreign country or local authority do not have the authority to inspect U.S. Navy ships to determine compliance with the country's laws. If a Navy ship is approached by representatives of a foreign country while in foreign waters with a request to inspect the ship regarding a possible environmental violation, the CO must refuse to permit the inspection and must notify the U.S. Embassy, OPNAV N45, or CNO N00N, and the chain of command of the request, the alleged violation, and any amplifying information.

b. Violation or Perceived Violation Procedures. If the ship has violated or is perceived to be in violation of a foreign country's environmental laws or regulations, the country may request the ship to leave port or the ocean area under its jurisdiction. This does not include denial of the right of innocent passage through foreign territorial seas per international law. In the case of a request for a Navy ship to depart from a port or internal waters, the CO must comply with the request and notify the U.S. Embassy, OPNAV N45, and the chain of command of this action.

35-3.6. Notices of Violation. A small number of MSC ships have been issued Environmental Protection Agency (EPA) permits related to hazardous waste (HW) management. Ships that have been issued permits must comply with the provisions of chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations) of this manual regarding notices of violation (NOV) or other expressions of environmental regulatory concern. All other Navy ships have not been issued permits and will not be subject to NOVs from regulatory agencies for permit violations.

35-3.7. Afloat Environmental Compliance Inspections and Assessments by Navy Inspectors

a. The afloat environmental compliance inspection process must consist of oversight inspections by the Board of Inspection and Survey (INSURV). INSURV must conduct environmental compliance oversight inspections for forces afloat as a part of the regular INSURV inspection process using the Afloat Environmental Checklists (appendix D of this manual) and other Technical Authority environmental system checklists to the maximum extent practicable. These inspections must include equipment operation, program compliance and effectiveness, and training. The President, Board of Inspection and Survey (PRESINSURV) must report the status of afloat environmental compliance, effectiveness, and issues requiring Chief of Naval Operations (CNO) attention as a part of the periodic briefings to CNO.

b. INSURV will maintain data collected during final contract trials and underway material inspection in the INSURV database for use by TYCOMs, OPNAV N45, Naval Safety Center, and other Navy environmental protection organizations.

c. For USNS vessels operated by COMSC, the afloat environmental compliance inspection program consists of a combination of periodic regulatory body inspections (American Bureau of Shipping (ABS) or USCG), internal assessments, and Ship Material Assessment and Readiness Testing (SMART) inspections (in lieu of INSURV). The results of SMART inspections are reported to INSURV.

d. COs must, at a minimum, annually evaluate environmental compliance practices using the Afloat Environmental Checklists (appendix D of this manual) and the INSURV checklist (refer to appendix E (Web Sites) of this manual for INSURV checklist Web site address).

35-3.8. Afloat Environmental Protection Coordinator. COs of ships must designate a person as the afloat environmental protection coordinator (AEPC). The person assigned to this position will be the CO's advisor on the shipboard environmental protection program and must be at the rank of E-6 or higher.

a. Personnel assigned as the AEPC must attend the Naval Safety and Environmental Training Center (NAVSAFENVTRACEN)-offered AEPC course (A-4J-0021).

b. If unable to attend classroom training, a self-paced online course is available through the Naval Postgraduate School Web portal (refer to appendix E (Web Sites) of this manual for Web site address). Students may obtain a quota and login instructions by contacting NAVSAFENVTRACEN by email (refer to appendix E (Web Sites) of this manual for email address).

c. The assigned AEPC must normally receive the training and liaise with the outgoing AEPC prior to turnover of the program; the assigned AEPC, however, must ensure completion of all requirements in subparagraphs 35-3.8a and 35-3.8b of this manual within 6 months of assignment.

d. For MSC ships, COMSC must specify AEPC training requirements.

35-3.9. Operation Within Foreign Nation Waters. Navy ships are not legally subject to enforcement of environmental requirements by foreign coastal or port States. When operating in foreign territorial seas or visiting foreign ports, Navy ships must abide by environmental provisions contained in port visit clearances or in SOFAs (refer to tables 35-1a, 35-1b, and 35-1c of this manual). Such conditions will normally be communicated to visiting ships in the port guide or the logistics request (LOGREQ) reply. The U.S. government has agreed to these conditions in advance. Navy ship compliance with such requirements is in no way an inappropriate relinquishment of U.S. sovereignty. When port visit clearances and SOFAs either do not exist or do not provide sufficient guidance, Navy ships should attempt to abide by the corresponding requirement for U.S. waters or ports, as delineated in this chapter. In some cases, compliance with the corresponding U.S. requirements will not be feasible overseas due to lack of offload facilities or environmental services or other reasons. Where compliance with U.S. requirements is not feasible, Navy ships should operate in a manner consistent with the environmental practices of host-nation warships.

35-3.10. Exclusion of Vessel Discharges from National Pollutant Discharge Elimination System Permitting

a. Incidental Discharges

(1) Discharges incidental to the normal operation of a vessel of the Armed Forces are subject to the Uniform National Discharge Standards (UNDS) Program, which is different from CWA requirements under the CWA National Pollutant Discharge Elimination System (NPDES) Program Vessel General Permit applicable to commercial vessels. Navy vessels, MSC vessels, and vessels chartered by COMSC (except for time- and voyage-chartered vessels) are vessels of the Armed Forces that do not require a permit under the NPDES Program. For these vessels, EPA and the Department of Defense (DoD) have jointly determined that these incidental discharges will require control under the UNDS Program:

(a) Aqueous film-forming foam (AFFF);

(b) Catapult water brake tank and post-launch retraction exhaust;

(c) Chain locker effluent;

(d) Clean ballast;

(e) Compensated fuel ballast;

(f) Controllable pitch propeller hydraulic fluid;

(g) Deck runoff;

(h) Dirty ballast;

(i) Distillation and reverse osmosis brine;

(j) Elevator pit effluent;

(k) Firemain systems;

(l) Gas turbine water wash;

(m) Graywater;

(n) Hull coating leachate;

(o) Motor gasoline compensating discharge;

(p) Non-oily machinery wastewater;

(q) Photographic laboratory drains;

(r) Seawater cooling overboard discharge;

(s) Seawater piping biofouling prevention;

(t) Small boat engine wet exhaust;

(u) Sonar dome discharge;

(v) Submarine bilge water;

(w) Surface vessel bilge water and oil/water separator (OWS) effluent;

(x) Underwater ship husbandry; and

(y) Welldeck discharges.

(2) Regulations are under development for the 25 discharges listed in subparagraphs 35-3.10a(1)(a) through 35-3.10a(1)(y) of this manual. Revised policies will be developed and promulgated once the regulations are finalized. In the interim, follow the policies in this chapter for the discharges listed in subparagraphs 35-3.10a(1)(a) through 35-3.10a(1)(y) of this manual.

(3) EPA and DoD also determined that these discharges are incidental to the normal operation of a vessel of the Armed Forces, but do not require control under the UNDS Program:

(a) Boiler blowdown;

(b) Catapult wet accumulator discharge;

(c) Cathodic protection;

(d) Freshwater lay-up;

(e) Mine countermeasures equipment lubrication;

(f) Portable damage control drain pump discharge;

(g) Portable damage control drain pump wet exhaust;

(h) Refrigeration or air-conditioning condensate;

(i) Rudder bearing lubrication;

(j) Steam condensate;

(k) Stern tube seals and underwater bearing lubrication;

(l) Submarine acoustic countermeasures launcher discharge;

(m) Submarine emergency diesel engine wet exhaust; and

(n) Submarine outboard equipment grease and external hydraulics.

(4) The 14 discharges listed in subparagraphs 35-3.10a(3)(a) through 35-3.10a(3)(n) of this manual may not be regulated by any local, State, or other Federal agency.

b. Additional Requirements. To promote uniformity in the treatment of naval vessel discharges nationwide, OPNAV N45 and fleet commanders closely monitor local or State attempts to impose requirements on ships beyond those specifically provided for by U.S. Federal law or EPA regulation. COs or masters must report any interest expressed by environmental regulators in discharges from U.S. Navy ships or COMSC public vessels, by message to OPNAV N45 with information copies to the chain of command and the REC. Navy vessels must not enter into agreements with environmental agencies regarding ship discharges without prior OPNAV N45 approval.

35-3.11. Prohibited Discharge Zones for U.S. Navy Shipboard Wastes. While transiting national marine sanctuaries, ships and submarines must avoid any adverse impacts on sanctuary resources and qualities. Ships and submarines must minimize, to the maximum extent practicable, any SW, sewage, or bilge water discharges, and ships must minimize ballast water discharges.

a. Cordell Bank National Marine Sanctuary Discharge Prohibitions. Stringent discharge requirements apply to all vessels, including military vessels engaged in routine exercises and vessel operations, in the Cordell Bank National Marine Sanctuary. The Cordell Bank National Marine Sanctuary is a 529-square-mile marine protected area located 6 miles (at its closest point) off the coast of northern California, just north of the Gulf of the Farallones. For vessels (including military vessels engaged in transit of, or routine exercises within, Sanctuary waters) permissible discharges from vessel sanitation systems are limited to “clean effluent” generated

incidental to vessel use by an operable Type I or II marine sanitation device (MSD). Untreated sewage (black water) from collection, holding, and transfer (CHT) systems may not be discharged within Sanctuary boundaries, including from military vessels engaged in routine exercises within, or transits of, the Sanctuary. These discharge prohibitions do not apply to vessels engaged in major exercises or when conducting military activities within the Sanctuary other than for routine training purposes (e.g., search and rescue).

b. California Coastal Waters No Discharge Zone. All waters within 3 NM of the California coast have been designated by EPA as a no discharge zone (NDZ). In this NDZ, vessels equipped with Type II MSDs and that have available holding capacity may not discharge treated sewage. Navy vessels equipped with Type II MSDs that have available holding capacity must refrain from discharging effluent from Type II MSDs unless one or more conditions of subparagraph 35-3.12c of this manual are met. If one or more conditions of subparagraph 35-3.12c of this manual are met, discharge is permitted per subparagraph 35-3.12c of this manual. Ships must use Type II MSDs, if operable, to discharge treated sewage to minimize environmental impact and discharge volume to comply with the requirements of subparagraph 35-3.12c of this manual.

c. Summary of Pollution Control Discharge Restrictions for Ships. Tables 35-1a, 35-1b, and 35-1c of this manual provide a summary of pollution control discharge restrictions for ships. Detailed guidance and restrictions are provided in appropriate sections of this chapter. Ships must report equipment casualties that either threaten or result in a discharge violating the restrictions in tables 35-1a, 35-1b, and 35-1c of this manual in the casualty report (CASREP) system. As outlined in table 35-1a of this manual, if such a discharge is determined necessary by the CO for safety of ship and crew, record and report to operational commander, TYCOM, Fleet Commander, and OPNAV N45, as provided in this chapter.

Table 35-1a. Summary of Navy Pollution Control Discharge Restrictions

Area	**Hazardous Materials**	**Solid Regulated Medical Wastes and Sharps[1]**
0–3 NM	No discharge	Sterilize or disinfect, store, and transfer ashore. No discharges.
3–12 NM	No discharge	Sterilize or disinfect, store, and transfer ashore. No discharges.
>12 NM	No discharge, except as permitted by table 35-3 of this manual	Sterilize or disinfect, store, and transfer ashore. No discharges.[2]
MARPOL special areas (SA) in effect	No discharge, except as permitted by table 35-3 of this manual	Sterilize or disinfect, store, and transfer ashore. No discharges.[2]

Area	Hazardous Materials	Solid Regulated Medical Wastes and Sharps[1]
Foreign countries (<12 NM)	No discharge	The packaging, handling, storage, transport, treatment, and disposal of infectious waste must be as prescribed by applicable visit clearance, SOFA, senior officer present afloat (SOPA) regulations, and port guides.
Comments		Dispose of all sharps ashore. Other non-regulated medical waste may be disposed of as garbage and does not require steam sterilization or disinfection.

[1] Liquid regulated medical waste may be discharged to the sanitary system at sea and in port per local regulations.

[2] If health and safety are threatened, sterilize or disinfect waste, package and weigh for negative buoyancy, record, and report to operational commander, TYCOM, Fleet Commander, OPNAV N45, then discharge >50 NM. No discharge of sharps permitted.

Table 35-1b. Summary of Navy Pollution Control Discharge Restrictions

Area	Sewage ("Black Water")	Graywater	Oily Waste
0–3 NM	• In port, discharge to pierside collection facilities • Underway, direct discharge of treated sewage from Type II MSD permitted outside NDZs • No discharge of untreated sewage	• In port, discharge to pierside collection facilities if available, otherwise, direct discharge permitted • Underway, direct discharge permitted	• In port, discharge to pierside collection facilities if available, otherwise, ≤15 parts per million (ppm) oil. No sheen. [3, 4, 5] • Underway, discharge ≤15 ppm oil. No sheen. [3, 4, 5]
3–12 NM	Direct discharge permitted	Direct discharge permitted	Discharge ≤15 ppm oil. No sheen.[3, 4, 5]
>12 NM	Direct discharge permitted	Direct discharge permitted	Discharge ≤15 ppm oil[3, 4, 5]
MARPOL SAs in effect	Direct discharge permitted >3 NM from nearest land	Direct discharge permitted	Refrain from discharging any oil or oily waste to the extent practicable without endangering ship or impairing operations. When discharge is determined necessary,

Area	Sewage ("Black Water")	Graywater	Oily Waste
			discharge ≤15 ppm oil. No sheen.[3, 4, 5].
Foreign countries (<12 NM)	Within foreign territorial seas, refer to visit clearance or SOFA (as delineated in the port guide or LOGREQ reply). If sufficient guidance is not available, follow guidance in table 35-1a of this manual. If not feasible, follow standards observed by host-nation warships.		
Comments		Collection to CHT tank inside 3 NM prior to pierside connection may result in the unnecessary overboard discharge of sewage before reaching pier facilities or unrestricted waters	State and local rules may vary; check SOPA or Navy port regulations

[3] Vessels with no or inoperable oil content monitor must process oily wastewater through OWS/BWPT outside 12 NM prior to discharge.

[4] Surface ships with an inoperable OWS must retain oily waste for shore disposal. If operating conditions require at sea disposal (safety of ship/crew), then minimal discharge is permitted beyond 50 NM from nearest land. Each instance of a discharge must be determined by the CO and must be recorded.

[5] Submarines without BWPTs: After allowing adequate separation time, pump non-oily water phase outside 50 NM.

MARPOL Annex I (Oily Waste) SAs in Effect: Mediterranean Sea, Baltic Sea, Black Sea, North-West European Waters, Antarctic Area, Gulfs Area (Arabian Gulf and Gulf of Oman), and Southern South Africa Waters.

Table 35-1c. Summary of Navy Pollution Control Discharge Restrictions

Area	Garbage (Non-Plastics) Discharge of unprocessed garbage prohibited	Garbage (Plastics)
0–3 NM	No discharge	No discharge
3–12 NM	• Pulped or comminuted food • Pulped paper and cardboard	No discharge

Area	**Garbage (Non-Plastics)** Discharge of unprocessed garbage prohibited	**Garbage (Plastics)**
>12 NM	Surface Ships: • Pulped or comminuted food[6] • Pulped paper and cardboard[6] • Ash from incinerated garbage[8] • Shredded metal and glass placed in burlap bags[6] Submarines: • Compacted, non-plastic, sinkable garbage discharge permitted, provided depth of water is greater than 1,000 fathoms[9]	No discharge[7,8]
MARPOL SAs in effect	• Discharge pulped or comminuted food >3 NM from nearest land • Discharge shredded glass and metal waste placed in burlap bags >12 NM • No other discharge of garbage/solid waste	No discharge
Foreign countries (<12 NM)	• Discharge pulped or comminuted food and pulped paper and cardboard >3 NM from nearest land • Discharge shredded glass and metal waste placed in burlap bags >12 NM	No discharge
Comments	• Retain surplus material (damaged equipment, office furniture, pallets, dunnage, mattresses, textiles, bailed cardboard, etc.) for shore disposal	

[6] If the ship is not equipped with pulpers or shredders, direct discharge of unprocessed garbage is permitted when >25 NM. If the ship's equipped pulpers or shredders are inoperable and CASREPed, when determined necessary by the CO, minimal direct discharge of unprocessed garbage is permitted when >25 NM. In all instances, discharges must be made negatively buoyant.

[7] Minimal discharges authorized when >50 NM if plastics waste processor is inoperable and determined necessary by the CO for safety of ship or health of ship's personnel. Discharge must be reported to appropriate operational commander, TYCOM, Fleet Commander, and OPNAV N45.

[8] Ships equipped with thermal destruction equipment may burn specified garbage per procedures. Ash containing unburned plastics, heavy metals, or incomplete incinerated materials must be retained for shore reception facilities for disposal. See restrictions covered under subparagraph 35-3.17i of this manual.

[9] Submarines can discharge compacted, non-plastic, sinkable garbage >25 NM in any depth of water.

MARPOL Annex V (Garbage) SAs In Effect: Baltic Sea, North Sea, Antarctic Area, Gulfs Area (Arabian Gulf and Gulf of Oman), Mediterranean Sea, and Wider Caribbean Region.

35-3.12. Sewage, Graywater, and Industrial Wastewater

a. Shipboard Equipment

(1) MSDs. Navy ships, with installed toilets, must be equipped with MSDs designed to prevent the discharge of untreated or inadequately treated sewage, or of any waste derived from sewage (e.g., sludge), within 0 to 3 NM of the United States. Ships must have the capability to collect and transfer graywater to shore while pierside. DoD regulations governing the design, construction, installation, and operation of MSDs aboard vessels owned and operated by DoD are contained in reference (a).

(2) MSD Types. The Navy must equip all new ships with Type II or Type III MSDs certified by the technical authority (Commander, Naval Sea Systems Command (COMNAVSEASYSCOM)). New public vessels operated under the direction of COMSC may be equipped with USCG-approved Type II MSDs. Existing ships equipped with Type I or Type II MSDs installed on or before 1 April 1979 are in compliance so long as the device remains satisfactorily operable. Type I or Type II MSDs that become inoperable and require removal must be replaced with technical-authority (COMNAVSEASYSCOM)-certified Type II or Type III MSDs. Public vessels operating under the direction of COMSC may replace inoperable MSDs with USCG-approved Type II MSDs.

(3) MSD Operation and Maintenance. Ships must properly operate and maintain MSDs installed aboard Navy ships to prevent the overboard discharge of untreated or inadequately treated sewage, or any waste derived from sewage (e.g., sludge), within 0 to 3 NM of the U.S. shore.

(4) MSD Pumping Capability. MSD installations must include pumps, piping risers, and weather-deck connections to allow safe and convenient ship-to-shore transfer of collected sewage and graywater.

(a) Cam-Lock Sewage Discharge Connections. Surface ships, submarines, and service craft must be fitted with cam-lock sewage discharge connections in 4-inch (MS 27025 18), 2 1/2-inch (MS 27025 14), and 1 1/2-inch (MS 27025 10) sizes, respectively. Such fittings must allow quick connection and disconnection with shoreside offloading hoses.

(b) Other Connections. Ships must also be equipped with North Atlantic Treaty Organization Standardization Agreement 4167-compliant fittings and International Maritime Organization (IMO) standard flanges per reference (a).

b. Collection, Disposal, and Discharge Procedures

(1) Industrial Wastewater Disposal. Ships must not dispose of industrial wastewater through ships' sewage or graywater collection and transfer systems. Following use, ships must deliver shipboard industrial wastewater to a shore activity for processing to determine if it has further use and, if not, for disposal as waste.

(2) Solvent and Industrial Waste Disposal. Ships must not dispose of used solvents or other industrial wastes to MSDs or graywater collection systems or dump them down sinks or deck drains. They must containerize used solvents and industrial wastes for disposal ashore.

(3) In Port

(a) Graywater. Ships must collect graywater in installed MSDs or graywater collection systems while in port and transfer to shore facilities, if so equipped.

(b) Food Service Garbage. When in port, food waste disposers must be diverted to the MSD system or a segregated food waste tank for discharge ashore.

(c) Navy Ports. While visiting Navy ports, all ships must pump their collected sewage and graywater to shoreside reception facilities, if available. The shore activity must provide the transfer hoses and associated fittings to connect the ship discharge line with the shore equipment.

(d) Non-Navy Ports. While visiting non-Navy ports, ships must request sewage reception facilities in LOGREQs or other pertinent documentation. Ships must use pier sewers when available for sewage and graywater. If fixed sewers are not available, ships must discharge sewage from a Type III MSD or effluent from Type I or II MSDs to other sewage collection facilities such as barges or tank trucks unless it is impractical to do so, or if the CO or master determines the safety of the crew or ship is at risk. If pier sewers are not available and barge or tank truck reception facilities are unavailable, impractical, or unsafe, ships may discharge graywater and sewage from a Type III MSD or effluent from Type I or Type II MSDs unless prohibited by law, regulation, or condition of port entry.

(4) Underway

(a) For MSDs not specifically designed to handle both sewage and graywater, holding or treatment of graywater in addition to sewage would significantly reduce MSD holding capacity or MSD treatment effectiveness and might result in the unnecessary overboard discharge of untreated or inadequately treated sewage before reaching pier facilities or unrestricted waters. Unless the MSDs aboard have been specifically designed and constructed to hold or treat both sewage and graywater, Navy ships must ensure MSD piping is configured to collect and hold (Type III MSD) or treat (Type I or II MSD) only sewage while operating or transiting within 3 NM of shore and must discharge graywater directly overboard. Navy vessels may discharge treated effluent from properly functioning USCG-approved Type II MSDs except if prohibited by law, regulation, or condition of port entry. While operating beyond 3 NM from shore, Navy ships may discharge all sewage and graywater directly overboard.

(b) Navy ships must not discharge any treated or untreated sewage into freshwater lakes (excluding the Great Lakes), freshwater reservoirs, or other freshwater impoundments, or into rivers not capable of interstate navigation. Navy ships that operate in such waters must be modified to preclude accidental discharge. Ships operating in or transiting the Great Lakes must follow the procedures described in subparagraph 35-3.12b(4)(a) of this manual.

c. Untreated Sewage Discharge Exceptions

(1) Navy ships may discharge minimal quantities of untreated sewage within 0 to 3 NM of shore under the conditions in subparagraphs 35-3.12c(1)(a) through 35-3.12c(1)(e) of this manual and with due consideration for environmental effects. Because certain State or local water quality authorities may require notification of sewage discharges, ships must report any untreated sewage discharges made within 3 NM of the United States to appropriate State or local authorities through the appropriate fleets, TYCOMs, and port environmental coordinators.

(a) The ship's holding capacity is insufficient because transit time through the zone 0 to 3 NM from shore is of long time duration. The ship must minimize any necessary sewage discharge and must pump out as far as possible from land;

(b) The ship is conducting or participating in military operations or exercises (including training or readiness evolutions) within the zone 0 to 3 NM from shore, and terminating these activities to offload sewage pierside or beyond 3 NM from shore would impair the operation or mission, or holding sewage would pose a threat to the health, safety, or welfare of the crew;

(c) The ship is at anchor or moored where sewage-reception facilities or services are not reasonably available or where use of such services or facilities is not feasible because of foul weather, poor visibility, or unsafe conditions, and onboard retention of sewage is not practicable;

(d) The ship is anchored, moored, or pierside and the use of sewage reception facilities would not allow the ship to maintain its anti-terrorism/force-protection posture; or

(e) The ship's MSD is inoperable because of equipment malfunction or maintenance, its use would interfere with an overhaul or repair effort, or its use would pose a hazard to the health or welfare of the crew. Ships must minimize those periods prompting use of this exemption. Ships must report inoperable MSDs that either threaten or result in discharge through the CASREP system. The initial CASREP must note the potential for discharge. All subsequent reports must report the frequency and approximate amount of actual discharges.

(2) Ships must discharge any sewage under these exceptions as far as possible from shore. If in port, the ship must obtain the concurrence of the shore activity environmental manager before the overboard discharge of sewage.

d. Training Requirements. Ships must train personnel who operate or maintain sewage and graywater disposal or transfer equipment on the proper procedures for sewage or graywater disposal, including hookup and transfer of sewage or graywater to shore facilities and at-sea discharge restrictions. Personnel assigned to supervise sewage or graywater disposal operations must complete the Shipboard Sewage CHT course (K 652-2141) found on the Naval Education and Training Command (NETC) Shipboard Training Enhancement Program compact discs prior to assuming these duties. All personnel who operate or maintain sewage or graywater disposal equipment must complete the Shipboard Sewage CHT and Treatment Personnel Qualification Standard (PQS) (Naval Education and Training (NAVEDTRA) 43199-F) prior to assignment to

those duties. COMSC must specify training requirements for personnel on ships owned or operated by MSC.

35-3.13. Air Emissions. Navy ships must comply with applicable Federal, State, and local regulations governing air pollution emissions.

a. Shipboard Procedures

(1) Stack Emissions Pierside. Navy ships at pierside must implement operation and maintenance procedures, identified by the Navy REC or CNIC, to prevent stack emissions in violation of State and local regulations. Specifically, Navy ships must comply with regulations on the opacity of smoke during normal operation of boilers and special periods, such as lighting off, securing, baking out, or testing of boilers.

(2) Stack Emissions in Port. In port, Navy ships must minimize operation of boilers and diesel engines by using shore-provided "hotel" services whenever operational requirements permit. Ships must limit blowing of boiler tubes in port to the minimum necessary to conform to provisions of reference (b), chapter 221.

(3) Approved Material Usage. Ships must use only approved solvents, paints, fuels, lubricants, and chemicals on board. The Ships Hazardous Material List (SHML) or the Submarine Material Control List (SMCL) contains a list of hazardous material (HM) approved for use aboard ship. For submarines, additional restrictions may apply to solvents, paints, fuels, lubricants, and other chemicals per reference (c).

(4) Asbestos Insulation Repairs and Disposal. Only properly trained personnel equipped with appropriate personal protective equipment must perform shipboard emergency or operational readiness repairs on thermal insulation containing asbestos (reference (d), chapter B1). This reference also discusses other asbestos work, including the removal of asbestos-containing deck tiles, replacement of asbestos-containing gasket or packing material, and preventive maintenance on asbestos-containing brake assemblies. Ships must properly containerize any asbestos material removed during shipboard repair actions performed by ship's force and dispose of it without release of asbestos fibers into the environment (reference (d), chapter B1). In preparation for disposal ashore, repair personnel must adequately wet asbestos residue before double bagging it in heavy-duty (6-mm thickness) plastic bags or other suitable impermeable containers. Repair personnel must provide standard asbestos danger labels on all bags or containers containing asbestos material. Other applicable laws, regulations, and contract requirements govern asbestos removal by Navy shore facilities or contractors.

(5) ODS Performance Goals. Navy ships, including COMSC ships with AC&R systems with an installed refrigerant charge of 50 pounds or more that contain ODSs such as chlorofluorocarbon (CFC)-12 or CFC-114 or ODS substitute material such as hydrofluorocarbon (HFC)-134a, HFC-236fa, or R-404A (a blend of HFC-143a, HFC-125, and HFC-134a), must meet these annual performance goals:

(a) Maintain maximum annual leakage rate of no more than 30 percent of total installed refrigerant charge of air conditioning equipment; and

(b) Maintain maximum annual leakage rate of no more than 30 percent of total installed refrigerant charge of ship stores and cargo refrigeration.

(6) ODS Recovery. Ships must recover ODSs and ODS-substitute materials, including refrigerants and firefighting agents, prior to maintenance on AC&R systems and fire-protection systems. Navy personnel must not intentionally release CFCs or Halons during the servicing, maintenance, repair, and disposal of any AC&R or firefighting equipment. Only maintenance personnel trained per subparagraph 35-3.13f of this manual will perform maintenance on equipment containing such substances. Maintenance personnel must use only approved procedures for minimizing loss of ODSs, regardless of the ship's location.

(7) AC&R Maintenance Records. Navy personnel who perform maintenance on shipboard AC&R systems must keep records of maintenance actions, names of technicians performing work, pounds of refrigerant removed, and pounds of refrigerant added. Ships must keep records to calculate annual equipment leakage rates addressed in subparagraph 35-3.13a(5) of this manual and retain them for 3 years.

(8) Ozone-Depleting Solvents Use. Ships must use only those ODS-containing solvents as authorized by the SHML or SMCL and must restrict their use to those maintenance procedures specifically required.

b. ODS Reserve. The Navy established the ODS reserve to support mission-critical ODS requirements. Shipboard CFCs for use in AC&R systems and Halons for use in firefighting systems are mission-critical designated. The ODS reserve material is set aside for these shipboard systems. Reference (e), produced by Defense Logistics Agency Aviation, provides procedures for deposits to and requisitions from the reserve. OPNAV N45; COMNAVSEASYSCOM; Commander, Naval Air Systems Command; COMSC; and fleet commanders monitor requisitions from the ODS reserve.

c. Shipboard Galley and Other Ancillary Refrigeration Equipment. Class I ODS refrigerants used in shipboard galley and other ancillary refrigeration equipment such as air dehydrators, drinking water fountains, and medical refrigerators were phased out of production on 31 December 1995. While existing supplies are limited; ships are authorized to use material from the ODS reserve to support galley and other ancillary refrigeration equipment until the year 2020. Ships must replace existing equipment with new equipment at the end of its normal life cycle or when it is no longer usable or repairable. Replacement equipment must be EPA-approved (complying with their Significant New Alternatives Policy Program) and must use only those refrigerants approved by COMNAVSEASYSCOM with an ozone-depletion potential of zero. Reference (f) lists approved food service replacement equipment for shipboard use.

d. Recordkeeping and Reporting Requirements

(1) Waivers. EPA headquarters has recommended that EPA regional offices grant waivers to relieve Navy activities classified as affected source sites of the requirement to record and report ship's force marine coating use on operational ships. Operational ships are all ships other than those in an overhaul availability. Overhaul is a depot-level maintenance availability that occurs at Navy or commercial shipyards. EPA will not automatically grant waivers; the Navy must apply to EPA regional offices to obtain them. Recordkeeping and reporting requirements, therefore, will be administered and enforced on a variable basis by EPA regions and State and local environmental agencies.

(2) Marine Coating Use Record Keeping. When requested by the Navy activity or Supervisor of Shipbuilding (SUPSHIP), ships must record and report marine coating use each day. Hazardous Material Inventory Control System for Windows (HICSWIN) or Submarine Hazardous Material Inventory and Management System (SHIMS), as appropriate, may be used to track this information. Records must be provided by the seventh day of the month for the previous month, or prior to departure, and must include:

(a) Coating type (e.g., general use, non-skid, special marking);

(b) Color;

(c) National stock number;

(d) Manufacturer name or commercial and government entity code;

(e) Manufacturer product name and part number;

(f) Volume of coating used;

(g) Volatile organic compound (VOC) content of coating;

(h) Non-naval stock number coating certification (when available); and

(i) Date used.

(3) Commercial Affected Source Site Record Keeping. Ship's force must record and report coating use when located at commercial affected source sites (e.g., private shipyards or maintenance facilities) regardless of availability type or operational status.

(4) Ships in an Operational Status

(a) EPA has made the determination that routine, incidental preservation and maintenance painting conducted by ship's force aboard vessels in an operational status may be exempted from recordkeeping and reporting requirements of the shipbuilding and ship repair (surface coating or painting operations) NESHAP. However, Navy shore activities designated as

"EPA affected sources" must apply to the local EPA region for this exemption. At some locations, State, regional, or local regulations may be applicable to ship's force pierside use of marine coatings in addition to any NESHAP requirements.

(b) Fleet commanders must direct Navy activities at affected sources to work with Navy RECs to request NESHAP recordkeeping waivers from EPA regional offices for ships in operational status. In addition, waivers to any State, regional, or local regulations should also be sought for ships in an operational status. If regional EPA offices grant appropriate waivers, operational ships located at Navy affected source sites will not be required to maintain records of ship's force marine coating use.

(c) Affected activities unable to secure waivers for ship's force painting recordkeeping and reporting during operational availabilities are required to comply with reference (g), subpart II or local permit requirements. Navy activities and SUPSHIPs must notify ships of their permit or reporting responsibilities prior to entering the activity.

(5) Ships in a Non-Operational Status. Ships in an overhaul availability at Navy NESHAP affected source sites must maintain records of ship's force marine coating use for coatings distributed from ships' stores. Surface ships may use the installed COMNAVSEASYSCOM-approved management software (HICSWIN) to maintain these records. Submarines may use SHIMS to maintain these records.

e. Shipboard Marine Coating Use

(1) Restrictions. Ships are required to use materials that do not exceed permissible VOC limits for applications as listed in table 35-2 of this manual (the information is obtained from the VOC certificate issued by the manufacturer and can also be found on the coating can). The SHML, or the SMCL for submarines, contains a listing of those marine coatings authorized for shipboard use by ship's force. If ship's force cannot obtain materials meeting these standards through the Navy's supply system, they should contact COMNAVSEASYSCOM, Director of Ship Integrity and Performance Engineering (NAVSEA 05P) for a compliant substitute. If ship's force obtains marine coatings outside the Navy supply system, ship's force is responsible for obtaining the VOC certificate and submitting the certificate to Commander, Naval Supply Systems Command (COMNAVSUPSYSCOM) for entry into the Ship-NESHAP batch certification database.

(2) Restrictions on Thinners Use. Ship's forces are prohibited from thinning marine coatings with anything other than water. Ships must label paint lockers with a placard stating, "Thinning of marine coatings or paints is prohibited." Supervisors of the paint locker and those personnel designated to apply paint must ensure no thinning of paints with any material, other than water, occurs.

Table 35-2. Permissible VOC Limits for Applications

Application	**EPA VOC Limit (Metric)**	**Conversion (U.S.)**
Air flask	(340 grams/liter (g/L))	(2.83 pounds/gallon (lb/gal))
Antenna	(530 g/L)	(4.42 lb/gal)
Antifoulant	(400 g/L)	(3.33 lb/gal)
Heat resistant	(420 g/L)	(3.50 lb/gal)
High gloss	(420 g/L)	(3.50 lb/gal)
High-temperature	(500 g/L)	(4.17 lb/gal)
Inorganic zinc high-build primer	(340 g/L)	(2.83 lb/gal)
Military exterior	(340 g/L)	(2.83 lb/gal)
Mist	(610 g/L)	(5.08 lb/gal)
Navigational aids	(550 g/L)	(4.58 lb/gal)
Nonskid	(340 g/L)	(2.83 lb/gal)
Nuclear	(420 g/L)	(3.50 lb/gal)
Organic zinc	(360 g/L)	(3.00 lb/gal)
Pre-treatment wash primer	(780 g/L)	(6.50 lb/gal)
Repair and maintenance of thermoplastic coating	(550 g/L)	(4.58 lb/gal)
Rubber camouflage	(340 g/L)	(2.83 lb/gal)
Sealant coat for thermal spray aluminum	(610 g/L)	(5.08 lb/gal)
Special marking	(490 g/L)	(4.08 lb/gal)
Specialty interior	(340 g/L)	(2.83 lb/gal)
Tack coat	(610 g/L)	(5.08 lb/gal)
Undersea weapon systems	(340 g/L)	(2.83 lb/gal)
Weld-through shop primer	(650 g/L)	(5.42 lb/gal)
General use*	(340 g/L)	(2.83 lb/gal)
*General use coating is defined as “any coating not defined as a specialty coating.”		

(3) Certification. Navy supply activities including fleet industrial supply centers have implemented procedures ensuring all marine coatings have batch VOC certificates complying with the requirements of reference (g), subpart II prior to issue of marine coatings to affected sources. VOC certificates may be obtained:

(a) Directly from the vendor or manufacturer;

(b) From Commander, COMNAVSUPSYSCOM Ship-NESHAP batch certification database; or

(c) Locally prepared by an activity qualified to perform VOC content analysis per EPA Method 24.

(4) Work Practices. Ships must implement these marine coating work practices:

(a) Minimize spills of marine coatings;

(b) Ensure marine coating containers are intact and leak-free; and

(c) Ensure marine coating containers are closed when not in use.

f. Training Requirements

(1) Ships must train personnel whose watch duties may result in air emissions (e.g., diesel engine operators, boiler operators, gas turbine operators) in the minimization of air pollution as a part of their watch qualification. Ships must train personnel whose task assignments may result in air emissions (e.g., topside painters or users of volatile solvents) on the proper use of the material prior to performing the task, to minimize the release of pollutants.

(2) All Navy AC&R technicians who perform maintenance on AC&R equipment must be certified under an EPA-approved technician certification program appropriate for the type of equipment they maintain. Ships must provide these personnel with training on ODS regulations as well as spent or recyclable ODS labeling prior to assigning them to perform these duties. Ships must train personnel who work with other ODSs (e.g., Halons, solvents) or perform maintenance on equipment containing such substances on methods to prevent release prior to assigning them to such work.

(3) Personnel assigned to operate incinerators or other thermal destruction equipment must complete all PQS appropriate for the type of equipment, including NAVEDTRA 43074, prior to assignment.

(4) For MSC ships, COMSC must prescribe environmental protection training requirements.

35-3.14. Oil and Oily Waste. Ship COs will comply with applicable oil discharge regulations and the operational requirements contained in this chapter.

a. Minimizing Oil Spill Risks

(1) COs will make every effort to minimize oil spill risks across all Navy operations through application of aggressive spill prevention measures. All ships should strive to reduce oil spills continuously through proper preparation, rigid adherence to published procedures, and application of the full measure of command attention to any operation involving movement of oil and oily waste.

(2) Preventing oil spills is one of the Navy's top priorities; in the event of a discharge of oil or oily waste, however, COs must ensure minimal amounts of oil or oily waste are discharged and duly note the details in the ship's engineering log. Recordkeeping must include the date, time of occurrence, ship location at the beginning and end of the incident, substance discharged, quantity discharged, and the cause of the discharge. If such a discharge occurs within 12 NM of the coastline of the United States and its territories and a sheen is created, the discharge must be treated as an OHS spill and immediately reported to the USCG National Response Center (NRC) and military authorities per requirements set forth in subparagraph 35-3.15b(2) of this manual.

b. Surface Ships with OWSs and OCMs. Navy ships equipped with OWSs and OCMs must process all machinery-space bilge water through OWSs and OCMs in a manner designed to limit oil and oily discharges to 15 ppm oil worldwide. OWSs will generally operate more effectively if the processed oily waste does not contain mechanical emulsions generated by shipboard equipment, chemical emulsions produced by detergents or other emulsifying agents, or particulates that could clog the OWS.

c. Surface Ships with OWSs but with Inoperable OCMs and Submarines with BWPTs. Navy ships equipped with an OWS or submarines equipped with BWPTs must process all machinery-space bilge water through an OWS or BWPT before discharge.

d. Surface Ships Without an Operating OWS but with an Oily Waste Holding Tank (OWHT). Navy ships without an operating OWS but with an OWHT must, to the maximum extent possible, hold tank contents for shore disposal. If operating conditions require the disposal of oily bilge water at sea, CO approval must be obtained and the discharge must be made at least 50 NM from the nearest land and only while the ship is making way. The discharge may be conducted only after a concerted effort has been expended to repair the equipment malfunction. Ships must report equipment casualties that either threaten or result in a discharge of oily water through the CASREP system. The initial report must note the potential for discharge of untreated oily bilge water. COs or ship masters must minimize discharge volume and environmental impact by discharging only the water portion of the holding tank. Details of the discharge must be noted in the ship's engineering log. Recordkeeping must include the date, time of occurrence, ship location at the beginning and end of the incident, substance discharged, quantity discharged, and the cause of the discharge. If such a discharge is conducted within 12 NM of the coastline of the United States and its territories and a sheen is created, the discharge must be treated as an OHS spill and immediately reported to the USCG NRC and military authorities per requirements set forth in subparagraph 35-3.15b(2) of this manual.

e. Surface Ships Without an Operating OWS and Without an OWHT. Navy ships without an operating OWS and without an OWHT must retain all oily bilge water for shore disposal to the maximum extent possible, without endangering the ship or impairing its operations or operational effectiveness. If operating conditions require the disposal of oily bilge water at sea, CO approval must be obtained and the discharge must be made at least 50 NM from the nearest land, outside of MARPOL Annex I SAs as mission limits allow, and only while the ship is making way. The discharge may be conducted only after a concerted effort has been expended to repair the equipment malfunction. Ships must report equipment casualties that either threaten or result in a discharge of oily water through the CASREP system. The initial report must note the potential for discharge of untreated oily bilge water. COs or ship masters must minimize discharge volume and environmental impact by discharging only the water portion of the holding tank. Details of the discharge must be noted in the ship's engineering log. Recordkeeping must include the date, time of occurrence, ship location at the beginning and end of the incident, substance discharged, quantity discharged, and the cause of the discharge. If such a discharge is conducted within 12 NM of the coastline of the United States and its territories and a sheen is created, the discharge must be treated as an OHS spill and immediately reported to the USCG NRC and military authorities per requirements set forth in subparagraph 35-3.15b(2) of this manual.

f. Submarines Without BWPTs. When bilge water is to be discharged, after allowing for adequate separation time, submarines must pump the bottom, non-oily, water phase of bilge water overboard. The non-oily water phase of bilge water must not be pumped overboard within 50 NM except when the operations or operational capabilities of the submarine would be impaired by this requirement. In this case, the non-oily water phase should be pumped as far from shore as practicable and the oily phase must be held aboard and pumped to a shore collection facility. Submarines must ensure this policy is met by written procedure.

g. Foreign Countries. Within foreign territorial seas (12 NM), refer to the visit clearance or SOFA as delineated in the LOGREQ reply. If sufficient guidance is not available, follow the procedures in subparagraphs 35-3.14b through 35-3.14f of this manual. If these procedures are not feasible, U.S. Navy ships must operate in a manner consistent with the host nation's warships.

h. Shipboard Equipment

(1) The Navy must equip ships with oil pollution abatement equipment certified by the technical authority (COMNAVSEASYSCOM). The Navy must install the equipment or systems on ships in subparagraphs 35-3.14h(1)(a) through 35-3.14h(1)(h), as applicable, to allow proper segregation, collection, processing, and monitoring of shipboard oily waste and collection of waste oil:

(a) OWSs, OCMs, OWHTs, and waste oil tanks (WOT) to allow adequate processing of shipboard oily waste prior to its discharge overboard and to allow proper segregation and collection of shipboard waste oil;

(b) Bilge pumps (oily waste transfer pumps), piping risers, and weather deck connections to allow safe and convenient ship-to-shore transfer of oily waste and waste oil;

(c) Cam-lock discharge connections, 2 1/2 inch (MS 27023 14), for oily waste and waste oil discharge to allow quick connect or disconnect with shoreside offloading hoses;

(d) Oily waste and waste oil adapters to accommodate hoses with standard IMO flanges for use by Navy ships visiting foreign or non-Navy ports;

(e) Mechanical seals on appropriate shipboard pumps to minimize the quantity of oily wastewater collected in ship bilges;

(f) Tank-level indicators to reduce the potential for overboard spills during fueling and oil and oily waste handling and transfer operations;

(g) Contaminated fuel settling tanks (CFST) to receive and assist reclamation of fuel tank strippings that might otherwise be discharged overboard; and

(h) Oil and water interface detectors, cargo tank cleaning systems, and where appropriate, segregated ballast tanks on oilers and oil tankers.

(2) All oil pollution abatement equipment or systems must be inspected prior to the issuance of a user's certificate to verify proper installation and operation per COMNAVSEASYSCOM's inspection and certification process. Inspections are required before ships are placed into service, after major oily waste equipment modification, and every 5 years per reference (a), volume 2. Uncertified equipment may be used so long as no safety issues or risk of inadvertent discharge is present.

(3) The installation and operation of oil pollution abatement equipment or systems on MSC vessels must be inspected and certified to commercial standards by USCG or ABS.

i. Operational and Management Requirements. Shipboard operational and management requirements for bilge water, oil, oily waste, and shipboard oil pollution abatement are described in subparagraphs 35-3.14i(1) through 35-3.14i(10) of this manual. Reference (b), chapter 593, section 3 provides detailed procedural instructions implementing these requirements.

(1) Bilge Water and Oily Waste Minimization. Ships must minimize oil contamination of bilge water. Mechanical seals in oil and water pumps and proper segregation of oily and non-oily wastewater must be required and will greatly reduce the generation of oily waste.

(2) Contaminated Bilge Water and Oily Waste

(a) Ships must use bilge cleaners or chemical agents that are OWS-compatible and do not promote stable chemical emulsions (i.e., detergents and surfactants) for machinery space cleaning. Navy ships must not procure bilge cleaners or chemical agents that have not been approved for use by COMNAVSEASYSCOM. Use of unapproved bilge cleaners will prevent oil and water separation, cause OCM malfunction, and force recirculation of the OWS effluent until the OWHT is full. COMNAVSEASYSCOM-approved short-lived or non-emulsifying detergents for bilge cleaning are listed in reference (b), chapter 593.

(b) In port, ships must offload oily waste containing chemical emulsion agents or contaminants from sources of bilge water that cannot be processed by the OWS to shore receiving facilities. If oily waste has become contaminated from other than routine sources (e.g., AFFF, solvents, anti-freeze, other HM), ships must advise the receiving shore facility prior to offload. Since some States may consider bilge water to be contaminated or have varying oil discharge requirements, ships in those States must consult with the shore receiving facility for collection and discharge requirements.

(c) At sea, ships must not attempt to process oily bilge water containing chemical emulsion agents or contaminants that are not compatible with the OWS. If bilges have become contaminated from other than routine sources (e.g., AFFF, solvents, anti-freeze, other HM), ships must educt the contaminated bilge water and follow the requirements of subparagraph 35-3.14i(4) of this manual. Ships must not pump any of the contaminated oily waste to the OWHT or WOT. If planning for drills or exercises involving the use of AFFF, all bilges containing oily waste must be pumped to the OWHT prior to the use of AFFF. If the OWHT has already been contaminated with emulsion agents or contaminants, the OWS may be unable to adequately separate the bilge water. In this situation, the ship must keep processing oily waste and retain all oily wastewater to the maximum extent practical.

(3) Bilge Water and Oily Waste Disposal in Port. Navy policy is to maximize separation, recycling, and reuse of oil. While in a Navy port, ships must comply with shore-activity-established bilge water and oily waste sampling requirements and must dispose of bilge water and oily waste per supporting activity guidance using one or more of these approaches:

(a) Permanent Shore Reception Facilities. In Navy ports that provide adequate shore oily waste collection, shoreside collection of bilge water and oily waste followed by recovery of recyclable products is the preferred method of dealing with these shipboard wastes.

(b) OWS OCM Systems. Ships equipped with OWS and OCM systems may use them, provided the overboard discharge does not exceed 15 ppm, cause a sheen, or violate any other applicable water quality standard, local law, or regulation. Prior to discharging in a Navy port via an OWS, ships must consult with the supporting shore facility host command for discharge requirements. In non-Navy ports, use of the OWS in conjunction with the OCM is the preferred method of dealing with bilge water.

(c) Ship Waste Offload Barges. Supporting shore activities must operate ship waste offload barges (SWOB) per reference (h). Ships not equipped with an operable OWS must use oily waste and waste oil collection lines ashore, if available, or must discharge to a SWOB.

(4) Emergency Dewatering. Ships must not use eductors to dewater bilges containing oily waste (e.g., all machinery space bilges), except in emergency situations when OWS systems (including OWHTs) are inoperable or are not of sufficient capacity to handle the immediate flow requirements. If a ship must use an eductor, it must make every effort to discharge beyond 50 NM from land and while underway. The ship must make an engineering log entry (e.g., nature, quantity, geographic location) concerning eductor use to discharge bilge waste overboard. If such a discharge occurs within 12 NM of the coastline of the United States and its territories and a sheen

is created, the discharge must be treated as an OHS spill and immediately reported to the USCG NRC and military authorities per requirements set forth in subparagraph 35-3.15b(2) of this manual.

(5) Waste or Used Oil. Shipboard personnel must make maximum use of available port facilities for disposal of all waste or used oil products prior to departing from and upon returning to port. Port facilities include SWOBs, pierside collection tanks, tank trucks, bowsers, and contaminated fuel barges. Required actions include:

(a) Shipboard personnel must collect, store separately, and label used lubricating oils for eventual shore reclamation;

(b) Shipboard personnel must not discharge lubricating oils into the bilge, OWHTs, or WOTs;

(c) Shipboard personnel must collect synthetic lube oils and hydraulic oils separately from other used or waste oils;

(d) Ships that do not have a system dedicated to collect used synthetic oils must use 5- or 55-gallon steel containers, properly labeled for eventual shore recycling;

(e) All personnel handling synthetic oil must wear protective clothing, as specified in safety data sheets (SDS); and

(f) Ships must retain containers (e.g., drums, cans) in which oil products were originally packaged and properly label them for storing and transferring oil ashore.

(6) Fuel Transfer. Ships must fuel, defuel, transfer fuel internally, and offload oil during normal daylight working hours, when operating schedules permit. They must conduct these evolutions with trained personnel (refer to subparagraph 35-3.14k of this manual). They must observe these precautions to minimize oil spills:

(a) Maintain topside watches at all locations of possible spills and rig direct communication to fuel transfer pump stations;

(b) Ensure continuous communications among all personnel involved in the fuel transfer;

(c) Establish check-off lists and procedures for valve alignment and transfer operations;

(d) Double-check alignment of all transfer system valves;

(e) Use only qualified personnel to perform the detailed transfer procedures;

(f) Continuously monitor each tank level while fueling;

(g) Use remote tank-level indicators as the primary method of obtaining tank levels;

(h) Prior to actual fuel transfer, transfer personnel must inform the responsible ship's officer (i.e., CO, command duty officer, or officer of the deck) and the fuel supplier the ship is ready to commence fueling operations; and

(i) Stop all fuel transfers at the end of work shifts. Restart when the next shift begins.

(7) Fuel Tank Stripping. Ships must not use eductors to strip fuel or cargo tanks. On ships equipped with fuel tank stripping systems, ships must discharge the strippings to CFSTs for reuse. Ships must not discharge fuel tank strippings overboard. CFSTs are for strippings from fuel storage and service tanks only. Ships must not discharge bilge water and waste or other wastewater into CFSTs.

(8) Compensated Fuel Ballast Water Systems and Oily Waste/Waste Oil. Under normal circumstances, compensated fuel ballast water is neither oily waste nor waste oil nor HW. Ships with compensated fuel ballast systems must comply strictly with fuel transfer and ballasting procedures to ensure ballast water does not become contaminated with oil or any other waste. Ships using self-compensating fuel tanks must ensure an adequate margin is preserved in tanks to prevent inadvertent discharges of oil with the compensating water. Because some State regulations require supporting shore activities to collect and process compensated fuel ballast water prior to discharge to the environment, ships must consult with the shore facility for local requirements.

(9) Oil-Contaminated SW

(a) Surface ships must containerize oil and fuel filters and other items coated or soaked with oil for shore disposal in closed steel 55-gallon drums.

(b) If necessary for the safety of ship or health of the crew they may weigh these items for negative buoyancy and jettison them beyond 50 NM of shore.

(c) Surface ships equipped with COMNAVSEASYSCOM-approved thermal destruction equipment must not burn heavily soaked oily rags or rags contaminated with HM.

(d) Ships may only dispose of rags that are lightly soaked (i.e., less than 50 percent of the rag surface area wetted and not dripping without wringing) with petroleum products or other non-hazardous liquids ashore or via thermal destruction equipment beyond 12 NM from shore per paragraph 35-3.17 of this manual.

(e) Ships, other than MSC vessels, must use the shop towels instead of baled rags to the maximum extent practicable.

(f) Ships should store all rags that are not incinerated aboard in suitable closed containers designed to contain flammable or combustible materials in a space fitted with adequate ventilation and fire-suppression systems per reference (d).

(g) Submarines may weigh oil-contaminated SW (including oily rags or sorbents) for negative buoyancy and jettison beyond 50 NM from shore, or as necessary for the safety of the submarine and crew.

(10) Vegetable and Other Cooking Oils. Ships may dispose of small quantities of cooking oils and cleaning solutions (i.e., wash or rinse water) containing these oils outside of 12 NM from land without restriction. Inside of 12 NM, ships must not dispose of such material. Ships must containerize larger quantities (e.g., the content of a deep fat fryer) for disposal or recycling ashore. Ships and submarines must not dispose of quantities of cooking oil via the sanitary or graywater systems as this has the potential to clog piping and associated system components. Rags, paper towels, and other materials used to absorb cooking oil should be disposed of per SW processing requirements for the material.

j. Exemption from Oily Waste Requirements. Exemption from oily waste requirements may be necessary at certain times and under certain circumstances. Instances of specifically authorized exemptions include:

(1) A Navy ship may discharge oily waste to the sea in any situation in which a CO decides that a discharge of such wastes is required to ensure crew or ship safety, or to prevent machinery damage. For example, the ship must not allow oily bilge water to reach levels that threaten chloride contamination of shipboard condensate systems. COs must minimize such discharges and ensure the recording of details of the discharge (e.g., nature, quantity, geographic location) in the engineering log. Where a ship has no installed OWS/OWHT equipment, or its installed equipment is inoperable, such discharges must, to the extent practicable, occur at least 50 NM from nearest land, outside of MARPOL Annex I SAs, while the ship is underway and only if all reasonable efforts have been made to repair any equipment malfunction. If such a discharge is conducted within 12 NM from the United States or its territories' shore and creates a sheen, ships must treat the discharge as an OHS spill and immediately report to the USCG NRC and military authorities per requirements set forth in subparagraph 35-3.15b(2) of this manual.

(2) While operating in waters beyond 50 NM from land, a Navy ship may discharge directly overboard oily waste from isolated spaces, such as JP-5 pump rooms, if the ship does not have the capability to collect and transfer such waste for processing through the OWS system. Such discharges must contain only distillate (non-persistent) oils and must result in discharges of minimal quantities of oily waste.

k. Training Requirements. Ships must train personnel who operate or maintain oil, waste oil, and oily waste holding, processing, disposal, or transfer equipment on the proper procedures for oily waste processing and disposal, including hookup and transfer of waste oil and oily waste to shore facilities. These personnel must also be trained on in-port and at-sea discharge restrictions. Personnel assigned to supervise and perform oily waste processing and disposal operations must complete the Oil Pollution Abatement Equipment Operation and Maintenance course (K 652-2196) prior to assuming these duties. All personnel who operate or maintain oil processing, transfer, or disposal equipment must complete the On Water, Oil Spill Response, Containment, and Recovery PQS (NAVEDTRA 43195-D) prior to assignment to those duties. For MSC ships, COMSC must specify applicable training requirements.

35-3.15. Oil and Hazardous Substance Spills. CWA prohibits OHS discharges in harmful quantities into or upon navigable waters of the United States, including the contiguous zone, EEZ, and adjoining shorelines.

a. Navy Spill Response Capability

(1) Shore-Based Facility Response Teams. Facility response teams (FRT) maintain trained personnel and specialized equipment to contain and recover OHS spilled into harbor waters. The primary functions of the FRTs are to respond to port spills and spills that can be readily contained and recovered using local facility equipment.

(2) Supervisor of Salvage and Diving Spill Response Capability

(a) Supervisor of Salvage and Diving (SUPSALV) maintains an extensive inventory of salvage and large-scale oil spill response equipment to support pre-designated NOSCs in offshore- and salvage-related spill control operations. SUPSALV's salvage inventory includes all equipment needed to remove oil and repair and salvage a stranded or damaged vessel. The spill response inventory includes booms; skimmers; tow vessels; pumps for offloading petroleum, oil, and lubricants; portable storage; and related equipment. These inventories are located in response centers in Williamsburg, VA; Port Hueneme, CA; Pearl Harbor, HI; Anchorage, AK; and Bahrain, and are designed for rapid mobilization to spill sites worldwide. Salvage equipment is also maintained in Livorno, Italy; Sasebo, Japan; and Singapore.

(b) Trained operators, mechanics, and supervisory personnel deploy from U.S. response centers with the equipment. SUPSALV, headquartered in Washington, DC, also maintains access to a full range of technical experts and advisors as well as specialty equipment from other government agencies, industry, and academic institutions.

(3) Ship Spill Response Capability

(a) Oil Spill and HM Spill Response Kits. Each surface ship must maintain a minimum of one oil spill response kit—Allowance Equipage List (AEL) serial number 2-550024006—for overboard oil spill response. Small craft may maintain an appropriately sized spill kit for overboard oil spill response. Each surface ship must maintain a minimum of one HM spill response kit—AEL 2-550024007 (for surface ships), 2-550024008 (for small craft), or 2-550024009 (for MCM vessels)—discussed in reference (b) for hazardous substance (HS) spills that occur on board the ship.

(b) Otto Fuel Spill Cleanup Kit. Each submarine must maintain an Otto fuel spill cleanup kit (AEL 0006350027) for TORP Otto fuel and HM spill response.

(c) Shipboard Spill Contingency Plan (SCP). Each Navy and MSC ship must develop a shipboard SCP to respond to onboard and overboard OHS spills. COMNAVSEASYSCOM developed a surface ship (reference (i)) and a submarine (reference (j)) OHS SCP guide to assist the fleet in preparing a ship-specific, comprehensive OHS SCP for both onboard and overboard spills. The plan(s) must contain procedures for reporting, containment, control, recovery, and

disposal of spilled material, protective clothing, and spill cleanup materials; information sources for oil and HM; and telephone numbers of the fleet Maritime Operations Center (MOC), shore Regional Operations Center (ROC), and NOSCs. The plan(s) must be reviewed and updated annually, and after any significant OHS spill, to ensure consistency with current ship conditions and policies and must contain up-to-date MOC, ROC, and NOSC contact information to ensure appropriate notification of spills. Although neither USCG nor State officials have authority to require preparation of public vessel OHS SCPs, the Navy will provide Navy ship SCPs to USCG and State officials upon request to promote strong, cooperative relationships with the local community.

b. Ship Spill Response. For spills into the water, ship's personnel must initiate immediate actions to mitigate the effects of the spill. If the response to Navy ship spills is considered beyond the ship's limited capability, the cognizant shore activity CO, shore NOSC, or fleet NOSC will provide appropriate assistance and direct response efforts.

(1) Initial Spill Reporting. While mitigating the spill, in all cases of spills, the CO must immediately report the incident to the cognizant shore activity CO, ROC or fleet MOC, and other officials as required by the ship's SCP.

(2) Response Within 12 NM of the United States. In Navy or non-Navy ports and when the ship is within 12 NM of the U.S. coastline, the CO must:

(a) Initiate immediate action to mitigate the effects of the spill. Rapid action by the ship's crew can result in containment and collection of the spill. Shipboard personnel must use available means to clean up minor spills before requesting assistance from shore-based personnel;

(b) Notify the cognizant shore ROC by the most expeditious means possible;

(c) Ensure the USCG NRC is notified by telephone at (800) 424–8802;

(d) Follow up by submitting a naval message. Appendix C (Message Formats) of this manual provides formats for OHS spill reports. For environmentally significant spills, refer to subparagraph 35-3.15c of this manual; and

(e) Coordinate with the appropriate shoreside NOSC to implement the applicable NOSC OHS regional response plan (NOSC plan).

(3) Response Outside 12 NM from the United States. For OHS spills in these areas, the CO must:

(a) Initiate immediate action to mitigate the effects of the spill;

(b) Notify the fleet MOC by the most expeditious means possible;

(c) Follow up by submitting a naval message. Appendix C (Message Formats) of this manual provides formats for OHS spill reports. For environmentally significant spills, refer to subparagraph 35-3.15c of this manual; and

(d) Coordinate with the appropriate fleet NOSC to implement the applicable NOSC plan.

(4) Response in Foreign Ports. For OHS spills in these areas, the CO must:

(a) Initiate immediate action to mitigate the effects of the spill;

(b) Notify the appropriate ROC, pre-designated shoreside NOSC, or fleet MOC/NOSC (as defined in governing contingency plans) by the most expeditious means possible;

(c) Follow up by submitting a naval message. Appendix C (Message Formats) of this manual provides formats for OHS spill reports. For environmentally significant spills, refer to subparagraph 35-3.15c of this manual; and

(d) Coordinate with the appropriate shoreside or fleet MOC/NOSC to implement the applicable NOSC plan.

c. Environmentally Significant Spills. For spills anywhere resulting from catastrophic events, causing significant adverse public reaction, or having geopolitical implications—or for other causes warranting Operational Report (OPREP-3) special incident reports per reference (k)—COs must make the initial report by the OPREP-3 system. Following the OPREP-3 report, the cognizant fleet or shoreside NOSC must forward an amplifying report in the format prescribed in appendix C (Message Formats) of this manual.

d. Training Requirements

(1) Ships must conduct and document at least one overboard OHS spill response drill for each duty section annually. These drills must include deployment of the oil spill response kit or HM spill response kit (not applicable for submarines) and exercising notification practices, including simulated telephone calls and the drafting of “do not release” messages to higher authority. Ships may take credit for responding to actual spills when such spills meet drill objectives. Where possible, the ship must include OHS spill response requirements into other routine shipboard emergency drills. Responsible officers must incorporate lessons learned during these drills into the ship’s SCP. Ships are encouraged to participate in local area OHS spill exercises and in NOSC or USCG-sponsored triennial “area exercises” designed to test worst-case spill response capabilities. The ship must train in-port watchstanders and command-duty officers on in-port OHS spill response procedures, the ship’s SCP, and local notification requirements prior to assignment.

(2) One petty officer in each in-port fire party and each repair party must qualify as oil spill cleanup supervisor within 6 months of assignment (Watchstation 324 in NAVEDTRA 43704, PQS for engineering collaterals and qualifications). For submarines and commands operating small

craft, TYCOMs must specify requirements so appropriately qualified individuals are present at the scene of any OHS spill.

35-3.16. Hazardous Material Control and Management. Reference (d) establishes policy for the management of new and virgin HM. HM will be selected, used, and managed over its life cycle to achieve the lowest cost required to protect human health and the environment. Additionally, State and local regulations prescribe requirements for the proper storage, packaging, labeling, transportation, and disposal of HM.

a. Shipboard Procedures. Ships must follow these procedures in the management of used or excess HM:

(1) Surface ships and submarines must implement the Consolidated Hazardous Material Reutilization and Inventory Management Program (CHRIMP) by following policies and requirements in subparagraphs 35-3.16a through 35-3.16f of this manual; reference (b), chapters 593 and 670; and reference (d). Elements that are essential for effective CHRIMP implementation are (the requirements associated with these elements are described in reference (d)):

(a) Centralized inventory management and tracking;

(b) Requisitioning and receiving authorized HM;

(c) HM container labeling;

(d) Storage of HM;

(e) Controlling HM issue, re-issue, and return;

(f) HM container compatibility;

(g) Consolidation of used HM and empty HM containers;

(h) Offload or disposal of used or excess HM and empty HM containers;

(i) HM use and handling requirements; and

(j) Training requirements.

(2) Navy ships and submarines must not commingle different HM for the purpose of disposal. Consolidation of HM with identical stock numbers is permitted. Consolidation of HM with identical composition but different stock numbers is permitted only if the different stock numbers represent different units of issue. When this requirement cannot be met, HMs must be sorted by compatibility and a list of HM commingled in each container must be maintained and provided to the shore receiving activity.

(3) Except for MSC vessels, submarines, and small surface ship types such as mine countermeasures (MCM), patrol craft (PC), and littoral combat ship (LCS), all HM containers must be managed by the ship's HM minimization centers (HAZMINCEN). HM containers aboard MSC vessels must be managed by the supply officer. HM aboard submarines must be centrally managed by the supply department using SHIMS. HM on small surface ship types such as MCM, PC, and LCS must be managed by the supply department.

(4) HAZMINCEN personnel must determine if HM containers meet the definition of an empty HM container and can be declared "empty." Guidance is provided in reference (c), chapter 670.

(a) When underway, empty HM containers meeting these requirements are no longer considered hazardous and may be disposed of as shipboard SW per the procedures in paragraph 35-3.17 of this manual.

(b) When pierside, empty HM containers meeting these requirements are no longer considered hazardous and must be consolidated separately for review by the shore-based Enhanced CHRIMP Afloat Program (ECAP) technician prior to being treated as SW.

(5) Ships must retain used or excess HM aboard for shore disposal. Navy ships must not discharge overboard used or excess HM generated aboard unless specifically allowed by table 35-3 of this manual or if necessary for crew or ship safety. Table 35-3 of this manual provides detailed guidance for authorized HM discharges. If HM discharge is necessary for crew or ship safety, every effort will be made to discharge greater than 200 NM from land. In the event of HM discharge for crew or ship safety, the CO must note the details of such a discharge (i.e., date, time, and location of discharge; nature of the material discharged; and reason for discharge) in the ship's deck log.

(6) Under no circumstance may a ship collect used or excess HM from other ships or HW from shore facilities and transport it to sea for the purpose of disposal.

(7) References (b) and (d) govern shipboard labeling, handling, and storing of HM.

(8) References (b), (d), and (l) govern shipboard labeling, handling, and storing of polychlorinated biphenyls (PCB) and items containing PCBs. Ships must implement the PCB requirements of reference (l).

(9) Certain specific HM instructions are contained in other sections of this chapter:

(a) Asbestos: Refer to subparagraph 35-3.13a(4) of this manual.

(b) Shipboard Marine Coatings: Refer to subparagraph 35-3.13e of this manual.

(c) Waste or Used Oil: Refer to subparagraph 35-3.14i(5) of this manual.

(d) Oil-Contaminated SW: Refer to subparagraph 35-3.14i(9) of this manual.

(e) Fluorescent Light Bulbs: Refer to subparagraph 35-3.17f(6) of this manual.

(f) Aerosol Cans: Refer to subparagraph 35-3.17f(7) of this manual.

(10) Ships must turn over used HM received from another ship within 12 NM of the United States to a supporting shore activity for processing within 90 days of receipt.

(11) To the maximum extent practicable, ships must remove all HM from a ship before decommissioning, but in no case later than 90 days after decommissioning or removal from service. Any HW created by shipboard operations, preservation, or maintenance after decommissioning must be removed within 30 days of the time it is created.

b. Ship-to-Shore Transfer. Ships must transfer used or excess HM to a shore activity for determination of disposition. If the shore activity determines that used or excess HM has no further use, it will declare the material to be waste and process it per RCRA requirements governing generation of HW. Under no circumstance will a Navy vessel be listed as a "generating site" by a shore facility or contractor when applying for EPA HW identification (ID) numbers.

(1) Prior to transfer ashore, ships must segregate, containerize, and label used HM per reference (d), chapter B3. Ships must fill containers with only one type of HM (i.e., all the used HM in a container must normally be of only one stock number (except where different stock numbers are issued to specify different-sized containers)). When this requirement cannot be met, a list of HM commingled in each container must be maintained and provided to the shore receiving activity. Failure to do so may result in a charge to the fleet or ship for laboratory analyses if it is determined that the material will be disposed of as HW. If the contents of the container are unknown, the label must state so, and the cost of chemical analysis to determine specific content must be paid out of fleet accounts.

(2) HAZMINCEN personnel aboard Navy and MSC ships must contact the local COMNAVSUPSYSCOM Fleet Logistics Center (FLC) CHRIMP center or, if at a non-Navy port, the local COMNAVSUPSYSCOM-contracted husbanding agent for ship-to-shore HM offload support. The FLC CHRIMP technician will assist HAZMINCEN personnel with excess HM offload planning and facilitate document preparation, staging, and transportation to the CHRIMP center. HAZMINCEN personnel will coordinate with the local COMNAVFACENGCOM environmental department for used or excess HM offload support per chapter 27 (Hazardous Waste Management Ashore), paragraph 27-3.9 of this manual. HAZMINCEN personnel must ensure original containers with manufacturer's original label affixed, if available, are used to turn in used and excess HM. Otherwise, a container specified in reference (d), chapter B3 must be used. In the absence of manufacturer's original label, a "Used HAZMAT" label *and* either Directives Division Form 2521 Hazardous Chemical Warning Label (8-1/2 by 11 inches) or Directives Division Form 2522 Hazardous Chemical Warning Label (4 by 6 inches) must be attached to the container prior to turn-in ashore. Additionally, a copy of the manufacturer's SDS and Directives Division Form 1348-1A Issue Release/Receipt Document, prepared per reference (m), paragraph 5105, citing TYCOM expenditure number and fund code, must accompany the used and excess HM container(s) being transferred to the receiving activity ashore.

(3) When visiting non-Navy ports and foreign ports, Navy ships must offload used HM only when necessary and feasible. The ship must identify in the LOGREQ the types and amount of used HM to be offloaded. If unable to find adequate facilities at non-Navy ports, the ship must hold HM for offloading at a Navy port. All HM must be properly labeled and containerized. If offload is necessary in foreign ports, COs must consult with their TYCOM staffs to ensure they are in a port authorized for HM offload and to ensure compliance with applicable customs laws and SOFA.

(4) Prior to entering a private shipyard for an availability, naval vessels (except contractor-operated vessels) must:

(a) To the maximum extent feasible, offload HM not anticipated for use by ship's force during the availability and used or excess HM at a Navy or other public facility;

(b) Identify to the SUPSHIP regional maintenance center (RMC) or port engineer responsible for the private shipyard a ship HM coordinator for the availability. Give this individual authority and resources to ensure shipboard compliance with HM and HW management procedures and site-specific management practices established by the SUPSHIP or port engineer;

(c) Identify to the SUPSHIP RMC or port engineer during pre-availability planning conferences the types and amounts of HW anticipated by ship's force during the availability; and

(d) Comply with all established HW and HM management practices and those site-specific procedures delineated by the SUPSHIP RMC or port engineer.

(5) TYCOMs responsible for ships in private shipyards for availabilities must monitor ship compliance with established procedures.

c. Ship-to-Ship Transfer

(1) Except where used or excess HM is transferred from a tended unit to a tender, ships must only transfer used HM to another ship during operations that preclude the ship entering a port in which normal offloads may occur. Transfers of HM must be for the sole purpose of returning the material to a supporting shore activity. Ships must offload all used HM within 5 working days of arrival at a U.S. Navy port.

(2) Prior to transfer to the receiving ship, ships and submarines must properly segregate, containerize, and label used HM per reference (d), chapters B3, C23, and D15. Responsibility for packaging, documentation, and labeling must rest with the originating ship. After receiving used HM from another ship for eventual shore processing, the receiving ship must offload the material to a shore facility within 90 days of receipt. This includes transfer from another ship while in port.

d. Transporting Shore-Generated HW Aboard Ship. Navy ships must not accept HW from shore facilities in the United States for transportation to another location. Navy ships may accept HW from a shore activity outside the United States for transportation to the United States or to a foreign country only when specifically tasked by competent authority. The authority must include

specific instructions on procedures to be used to ensure proper notice to the receiving authorities and compliance with applicable laws and regulations at the destination. For information on shore activity requirements, refer to paragraph 27-3.9 of this manual.

e. Electronic Waste (E-Waste). All e-waste must be handled through the HAZMINCEN or supply department. E-waste includes personal devices such as cell phones, laptops, computers, and electronic tablets. E-waste must not be disposed of as SW.

f. Training Requirements. Reference (d), chapter B3 provides training requirements for personnel handling, storing, and disposing of HM.

35-3.17. Solid Waste. Requirements applicable to garbage discharge at sea include both legal requirements and Navy requirements adopted as a matter of policy to enhance protection of the marine environment. Although the at-sea disposal of ship-generated garbage by Navy ships is permissible as indicated in subparagraphs 35-3.17b through 35-3.17j of this manual, international guidelines encourage the use of port reception facilities as the primary means of shipboard garbage disposal whenever practical. For all Navy ships, surplus materials that can be safely stored on board, including items such as damaged equipment, office furniture, pallets, dunnage, and textiles, must be retained on board for shore disposal. Ships must establish and promulgate policies to prevent at-sea disposal of material not specifically addressed in subparagraphs 35-3.17a through 35-3.17j of this manual, unless CO authorization is granted.

a. Plastic Materials. All Navy vessels will minimize the volume of plastic material taken to sea that may become waste while at sea. They must replace plastic disposable items with non-plastic items where possible. If appropriate, plastic wrapping and shipping materials will be removed from supply items before bringing them aboard.

b. Surface Ship Plastic Discharge

(1) Discharge of plastic waste to the marine environment from Navy surface ships is prohibited unless necessary to ensure ship safety, protect the health of ship's personnel, or save a life at sea. In the event of such a discharge, the ship must report the date of discharge, location of discharge, and estimated amount of plastic discharged, via message, to OPNAV N45 and provide information copies to the chain of command. Plastics waste processors will normally be used to manage plastic waste. Ships without plastics waste processor equipment installed must use specifically designed self-sealing odor barrier bags (OBB). Ships with inoperable plastics waste processor(s) must use remaining processor(s) to their maximum extent. If the generation rate exceeds processing capacity, plastic must be sorted and stored until processor(s) are repaired or waste can be offloaded. Ships must report equipment casualties that either threaten or result in a discharge of plastic through the CASREP system. The initial CASREP must note the potential for discharge.

(2) If plastic waste interferes with normal operation of the ship or poses a potential health problem to ship's personnel, surface ships should use combat logistics force ships (including COMSC ships) to transfer plastic waste ashore rather than disposing of it overboard. If

transferring processed or non-food-contaminated plastic waste to another ship, ships must observe these practices:

(a) The sending ship must contact the receiving ship to determine if space is available to accommodate the plastic waste. The sending ship must not transfer waste without the receiving ship's concurrence;

(b) The sending ship must transfer only processed or non-food-contaminated plastic. Ships must develop procedures to ensure packages for transfer do not contain articles such as food-contaminated plastic, other trash, garbage, and HM;

(c) The sending ship must package the plastic waste to permit safe handling by both the sending and receiving ships. Securely banded triwalls are the preferred method of transferring processed or non-food-contaminated plastic waste. If compactors are installed aboard, ships should compact plastic waste prior to packaging; and

(d) Ships must clearly mark the content of processed or non-food-contaminated plastic waste packages on the outside.

(3) If the plastic waste storage capacity of the ship is exhausted and operational considerations require the discharge of plastic, then as a last resort, plastic overboard discharge is authorized. Such discharges may only be made beyond 50 NM from the nearest land. COs must minimize the amount of plastics discharged under these circumstances. The ship must make such discharges in weighted bags to ensure negative buoyancy. The CO must note the details of such a discharge (i.e., date, time, and location of discharge; approximate weight and cubic volume of the discharge; and nature of the material discharged) in the ship's deck log and report the commencement of plastics discharges to the appropriate operational commander, who will report the discharge to OPNAV N45.

c. Submarine Plastic Discharge

(1) Discharge of plastic waste to the marine environment from Navy submarines is prohibited unless necessary to ensure boat safety, protect the health of the crew, or save a life at sea. In the event of such a discharge, the submarine must report the date of discharge, location of discharge, and estimated amount of plastic discharged via message to OPNAV N45 and provide information copies to the chain of command. The submarine plastic waste management process and related equipment will normally be used to manage plastic waste. Submarines with inoperable plastic waste management equipment must continue using the process to the maximum extent possible. Submarines must report equipment casualties that either threaten or result in a discharge of plastic through the CASREP system. The initial CASREP must note the potential for discharge.

(2) If the plastic waste storage capacity of the submarine is exhausted and operational considerations require the discharge of plastic, then as a last resort, plastic overboard discharge is authorized. Such discharges may only be made beyond 50 NM from the nearest land. COs must minimize the amount of plastics discharged under these circumstances. The submarine must ensure such discharges are negatively buoyant. The CO must note the details of such a discharge

(i.e., date, time, and location of discharge; approximate weight and cubic volume of the discharge; and nature of the material discharged) in the boat's deck log and report the commencement of plastics discharges to the appropriate operational commander, who will report the discharge to OPNAV N45.

d. Release of Military Equipment Containing Plastic. The plastic-retention requirements apply only to disposal of plastic waste. These requirements do not apply to normal use of expendable military equipment that contains plastic (e.g., targets, weather balloons, sonobuoys) because the plastic in these items is not considered "waste" when normal use of the items results in their release into the ocean. However, in keeping with Navy policy to protect the marine environment, expendable items that can be retrieved after use, particularly targets, should be retrieved if safe and practicable to do so. Once collected after use, plastic components of such items should be regarded and managed as plastic waste.

e. Accidental Release of Expended Munitions. Empty shell casings and duds that go overboard during gun-firing exercises are not considered "waste." However, ships should take all reasonable precautions to prevent overboard discharge and collect empty shell casings and duds for appropriate shore disposal or recycling.

f. Non-Plastic Garbage Discharge. All references to "garbage" within this section refer to non-plastic garbage discharge. Garbage discharge must not occur within 3 NM of land. Alternative methods or equipment for processing garbage must not be used.

(1) Pulpers, Food Waste Disposers, and Shredders

(a) Ships equipped with a pulper must use it worldwide. Ships must limit the discharge of pulped food products, paper, and cardboard to beyond 3 NM from land.

(b) Ships must limit the discharge from food waste disposers to beyond 3 NM from land. Ships must not use food waste disposers within 3 NM of land to maximize necessary sewage holding capacity and thus reduce the risk of inadvertent overboard discharges of sewage. Ships may discharge processed food waste from food waste disposers into shipboard MSDs only when a ship is docked and the MSDs are discharging to pier facilities.

(c) Ships equipped with a metal and glass shredder must use it worldwide. Ships must limit the discharge of shredded glass and metal products that are contained in a sinkable, burlap bag to beyond 12 NM from land.

(d) The 3-NM and 12-NM restrictions described in subparagraphs 35-3.17f(1)(a) through 35-3.17f(1)(c) of this manual do not apply when discharge of non-plastic garbage is necessary to ensure ship safety, protect the health of ship's personnel, or save a life at sea. In the event of such a discharge, the ship must report the date of the discharge, location of the discharge, and estimated amount and types of non-plastic garbage discharged to OPNAV N45, with information copies to the chain of command.

(2) Operating Outside MARPOL Annex V SAs in Effect

(a) Ships Without Installed Pulpers or Shredders. When operating outside SAs in effect, if a ship does not have pulper or shredder equipment or if this equipment is inoperable, the ship may discharge unprocessed garbage beyond 25 NM from land. Surface ships must use available means to cause unprocessed garbage to sink as rapidly as possible.

(b) Ships With Inoperable Pulpers or Shredders. When operating outside SAs in effect, ships with inoperable pulpers or shredders may not discharge unprocessed garbage into the sea unless such discharge is authorized by the CO.

1. On the occasions in which a discharge of unprocessed garbage may be necessary outside a SA in effect, Navy ships must discharge the garbage greater than 25 NM from land and must use all available means to cause unprocessed garbage to sink as rapidly as possible. The CO must note the details of such a discharge (e.g., date of discharge, geographic location of the discharge, nature and amount of discharge) in the ship's deck log.

2. Ships with inoperable installed pulpers or shredders must report equipment casualties that either threaten or result in a discharge of unprocessed garbage through the CASREP system. The initial CASREP must note the potential for discharge.

(3) Operating Within MARPOL Annex V SAs in Effect. Current MARPOL Annex V SAs in effect are: Baltic Sea, North Sea, Gulfs Area (Arabian Gulf and Gulf of Oman), Mediterranean Sea, Wider Caribbean Region, and Antarctic Area (south of 60 degrees south latitude). When operating within SAs in effect, surface ships that do not have Navy SW equipment installed or surface ships with inoperable equipment must, to the maximum extent practicable, without impairing the operational capabilities of the ship, operate in this manner:

(a) Prior to entering into a MARPOL Annex V SA in effect, these ships will identify essential logistics requirements needed to facilitate offload and disposal of shipboard garbage. This may be accomplished via either port reception facilities or supply ships that have the capacity to receive and store other ship's garbage for transfer and disposal ashore.

(b) These ships may not discharge unprocessed garbage into SAs in effect unless such discharge is in compliance with these exceptions:

1. The disposal of garbage is necessary for the purpose of securing the safety of the ship and those aboard, the health of ship's personnel, or for saving life at sea; or

2. The escape of garbage results from damage to the ship or its equipment, provided all reasonable precautions have been taken before and after the occurrence of the damage for the purpose of preventing or minimizing the escape.

(c) On the unusual occasions in which a discharge may be necessary in an SA in effect, per the exceptions noted in subparagraphs 35-3.17f(3)(b)1 and 35-3.17f(3)(b)2 of this manual, surface ships must discharge unprocessed garbage as far from land as possible and use all available

means to cause unprocessed garbage to sink as rapidly as possible. The CO must note the details of such a discharge (e.g., date of discharge, SA involved, nature and amount of discharge) in the ship's deck log. Ships with inoperable installed equipment must report equipment casualties that either threaten or result in a discharge of unprocessed garbage to an SA in effect through the CASREP system. The initial CASREP must note the potential for discharge.

(d) Upon completion of operations in an SA in which a garbage discharge was necessary, Navy surface ships must report the information in subparagraphs 35-3.17f(3)(d)1 through 35-3.17f(3)(d)4 of this manual to OPNAV N45—and provide information copies to the chain of command—regarding all discharges of other than food waste, pulped garbage, and shredded and bagged metal and glass:

1. Date and time of discharge;

2. SA involved;

3. Latitude and longitude in the SA; and

4. Nature and amount of discharge (e.g., estimated pounds of unshredded metal and glass, unpulped paper and cardboard, wood, ceramic, or other non-food material).

(4) Submarines

(a) Submarines equipped with a Navy-approved submarine food waste disposer must use it worldwide. Submarines must limit discharges of ground food waste processed by Navy-approved food waste disposers to beyond 3 NM from land.

(b) Submarines may discharge compacted, sinkable, non-plastic garbage between 12 NM and 25 NM from land, provided the depth of water is greater than 1,000 fathoms. When greater than 25 NM from land, compacted, sinkable, non-plastic garbage direct discharge is permitted.

(c) The 3-NM, 12-NM, and 25-NM restrictions described in subparagraphs 35-3.17f(4)(a) and 35-3.17f(4)(b) of this manual do not apply when discharge of non-plastic garbage is necessary to ensure submarine safety, protect the health of submarine personnel, or save a life at sea. In the event of such a discharge, the submarine must report the date of the discharge, location of the discharge, and estimated amount and types of non-plastic garbage discharged to OPNAV N45, with information copies to the chain of command.

(5) Transporting Material for Sea Disposal. Transporting any material to sea for the purpose of dumping requires a permit from EPA. Obtaining a permit is a complex undertaking and beyond the capability of afloat units. To ensure compliance with the Ocean Dumping Act, Navy ships are prohibited from taking on any material in port for the purpose of dumping it at sea unless permission has been obtained from OPNAV N45.

(6) Fluorescent Light Bulbs. Fluorescent light bulbs contain a small amount of mercury and must not be processed but must be retained, intact, for shore disposal (refer to table 35-3 of this manual).

(7) Aerosol Cans

(a) All aerosol cans, processed or unprocessed, must be retained for shore disposal or recycling due to plastic content.

(b) When underway, aerosol cans reasonably believed to be empty may be punctured, drained, or crushed and only with a COMNAVSEASYSCOM-approved aerosol can puncturing or draining, or puncturing, draining, and crushing device and installed per COMNAVSEASYSCOM requirements.

(c) An aerosol can is considered "empty" if its contents have been emptied to the extent possible using the can's propellant and very little of the original amount remains inside. If the aerosol can is not empty under this definition (e.g., spray nozzle is broken off or clogged, can feels or sounds as though more than "very little" of the original amount remains), or if the ship is not equipped with the COMNAVSEASYSCOM-approved device(s), the aerosol can must not be punctured, drained, or crushed but must be retained for disposal ashore.

(d) When pierside, ships must follow local Navy region policies on aerosol can crushing and disposal.

g. Foreign Food and Garbage. Navy ships must comply with USDA regulations pertaining to ship introduction of foreign-source garbage into the United States and its territories. If practicable, ships must totally consume all regulated foreign food stores, transfer it to an outbound vessel prior to docking, or otherwise dispose of it as waste beyond 25 NM from U.S. shores. Garbage that is not disposed of beyond 25 NM from U.S. shores will be retained on board, treated as foreign-source garbage, and disposed of ashore by USDA-approved methods provided in references (n) and (o). Plastic disks from plastics waste processors or plastic waste from ships or submarines, contaminated with foreign-source food and garbage will be retained on board, treated as foreign-source garbage, and also disposed of ashore by the USDA-approved methods provided in references (n) and (o). These instructions do not preclude discharge of any SW in an emergency when failure to do so would clearly endanger the health or safety of shipboard personnel.

h. Miscellaneous Wastes. Pilot urine bags and feminine hygiene products are not considered medical waste. These products should be placed into OBBs and adhesive-sealed or heat-sealed closed for shore disposal.

i. Thermal Destruction

(a) Ships equipped with COMNAVSEASYSCOM-approved thermal destruction equipment may incinerate non-plastic, non-hazardous garbage outside of 12 NM from the nearest land.

(b) Ships equipped with thermal destruction equipment for high thermal content wastes may burn specific items outside of 12 NM from the nearest land as approved by COMNAVSEASYSCOM and only per specified procedures. Such items can include one or more of these wastes: textiles, dunnage, plastics, pilot urine bags, feminine hygiene products, lightly soaked oily rags (i.e., less than 50 percent of the rag surface area is wetted and not dripping without wringing), and other non-hazardous material.

(c) Ash from incinerators not containing incompletely burned plastics or heavy metals may be disposed of at sea by direct discharge outside of 12 NM from the nearest land. Ash containing unburned plastics or heavy metals must be retained and transferred to appropriate shore reception facilities for disposal.

(d) Incinerators installed on MSC vessels must be USCG-certified.

j. Training Requirements. Ships must train personnel responsible for handling ship's garbage on the discharge restrictions applicable to the waste before assignment to those duties. Such training must include the proper collection, treatment, and disposal of plastic waste. Ships must train personnel responsible for the supervision and approval of overboard disposal of SW on the legal requirements applicable to this waste category. All personnel assigned to operate and maintain SW processing equipment (e.g., plastics waste processors, shredders, pulpers, incinerators), must complete the applicable computer-based training interactive courseware or appropriate SW-processing equipment sections of PQS (NAVEDTRA 43704) within 7 working days of assignment. For MSC ships, COMSC must specify applicable training requirements.

35-3.18. Medical Waste. References (p) and (q) provide guidance on the labeling, handling, and storage of regulated medical waste and pharmaceuticals. While references (p) and (q) are intended for shore medical treatment facilities, the guidance they contain can be applied to medical waste generated on ships and submarines until the Afloat Medical Waste Management Guide has been updated and published.

a. Pharmaceuticals. All expired or excess prescription and over-the-counter pharmaceuticals (liquid and solid) must be held for proper disposal ashore. Pharmaceuticals must not be disposed of through the ship's sanitary (black water) system or as SW.

b. Liquid Medical Wastes. Ships may dispose of all liquid medical wastes (regulated and non-regulated) by discharging them into the sanitary (black water) system, at sea, and in port per local wastewater regulations.

c. Solid Non-Regulated Medical Waste. Ships may dispose of solid non-regulated medical waste as garbage. Ships must process and dispose of this material in the same method as prescribed for similar material in paragraph 35-3.17 of this manual (e.g., plastic will be sent to the plastics waste processor; paper and cardboard will be pulped; glass and metal (excluding sharps) will be shredded).

d. Solid Regulated Medical Waste

(1) Surface ships must steam or chemically sterilize or disinfect solid regulated medical waste, which is also referred to as "infectious waste." The resultant sterilized or disinfected solid regulated medical waste must be suitably packaged and stored for ultimate disposal ashore or incinerated in COMNAVSEASYSCOM-approved thermal destruction equipment (refer to subparagraph 35-3.17i of this manual). The requirement for steam sterilization does not apply to ships with installed autoclaves smaller than 16 inches by 26 inches by 16 inches. Wastes that have been processed through a properly functioning COMNAVSEASYSCOM-approved medical waste processor are not medical wastes and may be disposed of as SW (refer to paragraph 35-3.17 of this manual).

(2) If retention of solid regulated medical wastes would threaten the health or safety of personnel aboard, overboard discharge (excluding sharps) is authorized (using the methods prescribed for similar material in paragraph 35-3.17 of this manual) beyond 50 NM, provided such waste has been sterilized or disinfected and packaged for negative buoyancy. Ships must record in the deck log the overboard discharge of solid regulated medical wastes, including time and location of the discharge, approximate weight and volume, and nature of the discharged material. The requirement to steam sterilize before disposal at sea does not apply to submarines.

(3) Ships must establish a system of tracking storage and disposal of solid regulated medical waste.

e. Sharps. Ships must collect sharps in approved sharps containers. They must never recap, clip, cut, bend, or otherwise mutilate needles or syringes to avoid causing accidental puncture wounds and infectious aerosols. Ships must retain all sharps aboard for proper disposal ashore. They must dispose of unused sharps ashore in the same manner as solid regulated medical waste. Ships equipped with COMNAVSEASYSCOM-approved medical waste processors that use shredding and chemical disinfection must process sharps per equipment instructions.

f. Training Requirements. Ships must train personnel responsible for processing and disposing of shipboard medical waste to ensure actions comply with the requirements governing this waste. Submarine independent duty corpsmen (IDC) receive their training as part of the Submarine IDC School. For MSC ships, COMSC must specify applicable training requirements.

35-3.19. Surface Ship Ballast Water, Welldeck, and Sediment Management

a. Surface Ship Ballast Water Exchange Requirements. These requirements apply to surface ships not equipped with operational ballast water treatment systems that meet the performance requirements of subparagraphs 35-3.19e(1)(a) through 35-3.19e(1)(c) of this manual:

(1) Ballast Water Exchange Procedures. Ships that have taken on ballast water within 12 NM of land (including residual ballast water remaining in rapid ballast tanks after amphibious operations are concluded) must perform one of these ballast water exchange procedures prior to discharging ballast water within 12 NM of land:

(a) Single Exchange in Waters Greater than 200 NM from Nearest Land. A single exchange (a complete empty, a complete refill, and a complete empty of each tank that took on ballast water within 12 NM of land) must be conducted in mid-ocean waters that are greater than 200 NM from the nearest land. A ship that took on ballast water while operating within 12 NM from the nearest land while operating in foreign waters must perform a single exchange in mid-ocean waters that are greater than 200 NM from the nearest land prior to entering within 12 NM of U.S. waters.

(b) Single Exchange in Waters Greater than 50 NM from Nearest Land and in Water Depths Greater than 200 Meters. If the single exchange in ocean waters greater than 200 NM from the nearest land is not possible, then conduct a single exchange in ocean waters that are greater than 50 NM from the nearest land and in water depths greater than 200 meters.

(c) Double Exchange in Waters Greater than 12 NM from Nearest Land. If the single exchange in water 50 NM or greater from the nearest land and in water depths greater than 200 meters is not possible, then conduct a double exchange (a complete empty, a complete refill, a second complete empty, a second complete refill, and a final complete empty of each tank that took on ballast water within 12 NM of land). The double exchange must be conducted in ocean waters that are greater than 12 NM from the nearest land.

(2) Ballast Water Discharged Prior to Exiting 12 NM from Nearest Land. Ships must perform one of the ballast water exchange procedures described in subparagraphs 35-3.19a(1)(a) through 35-3.19a(1)(c) of this manual, even if some or all the ballast water was discharged prior to exiting 12 NM from nearest land, as residual water and sediments remaining in a tank may still contain unwanted organisms, which could be transferred during the next ballasting evolution.

(3) Recordkeeping. Surface ships' engineering logs must record the amount of ballast water uptake within 12 NM from land, the geographic location of the uptake, and any ballast water exchange procedures that are conducted, including the geographic location of the exchange.

b. Surface Ship Ballast Water Treatment Requirements

(1) Ballast Water Treatment. Ships equipped with operational ballast water treatment systems that meet the performance requirements of subparagraphs 35-3.19e(1)(a) through 35-3.19e(1)(c) of this manual must treat ballast water through the treatment system before discharge.

(a) Ships with ballast water treatment systems are not required to treat ballast water from rapid ballast tanks used to raise and lower the ship draft to facilitate loading and unloading of the welldeck.

(b) After welldeck loading and unloading operations are completed, however, any residual water in the rapid ballast tanks must be treated prior to discharging within 12 NM of land or prior to the next set of welldeck operations in a different location, as residual water remaining in a rapid ballast tank may still contain unwanted organisms, which could be transferred during the next ballasting evolution.

(2) Non-Operational Ballast Water Treatment Systems. If the installed ballast water treatment system is not operational, a ship must not discharge untreated ballast water within 12 NM of land or must follow one of the three ballast water exchange procedures and recordkeeping described in subparagraph 35-3.19a of this manual.

c. Ballast Water Exchange or Treatment Exceptions. Exchange or treatment of ballast water prior to discharge is not required:

(1) During local operations or when re-entering within 12 NM in the same locale as the ballast water was initially loaded. "Local operations," for this section only, are defined as an underway period of short duration (less than 5 days), during which the ship operates exclusively within a 50-mile radius of the port of departure or within Navy operating areas associated with the port (e.g., Southern California Range Complex for Naval Station (NAVSTA) San Diego, Hawaii Range Complex for NAVSTA Pearl Harbor), does not make any intermediate stops or port calls, and returns to the port of departure. "Same locale" is defined as water taken from within 12 NM of the same geographical position, or of the mouth of the same harbor, port, river, estuary, or bay, or from the same landlocked water body.

(2) If the ship is equipped to use potable water for ballast, as long as the ballast water is not mixed with seawater. If the ballast system becomes mixed with seawater the ship must clean all tanks and supply lines that used seawater to remove any residual water and sediments prior to discharging ballast water within 12 NM of land.

(3) If the ship offloads ballast water to port facilities for treatment or disposal.

d. Compensated Fuel Ballast Systems. The ballast water requirements described in subparagraphs 35-3.19a and 35-3.19b of this manual do not apply to discharges from a compensated fuel ballast system. Such discharges must be conducted per the requirements listed in subparagraph 35-3.14i(8) of this manual.

e. Ship Ballast Water Management Design Requirements

(1) Ships with keels laid on or after 1 October 2020, that require a clean ballast system must be designed to treat ballast water, use potable water as ballast water, offload ballast water ashore, or have no ballast water. Such ships must also be designed to manage ballast water discharges to minimize the risk of introducing nonindigenous species from releases of ballast water through use of a COMNAVSEASYCOM-approved, or, in the case of MSC ships, a USCG-approved ballast water treatment system that meets the performance standards listed in subparagraphs 35-3.19e(1)(a) through 35-3.19e(1)(c) of this manual:

(a) For organisms greater than or equal to 50 micrometers (μm) in minimum dimension, discharge must include fewer than 10 living organisms per cubic meter of ballast water;

(b) For organisms less than 50 μm and greater than or equal to 10 μm, discharge must include fewer than 10 living organisms per milliliter (mL) of ballast water;

(c) Indicator microorganisms must not exceed:

1. For toxicogenic Vibrio cholerae (serotypes O1 and O139), a concentration of less than 1 colony forming unit (cfu) per 100 mL;

2. For Escherichia coli, a concentration of fewer than 250 cfu per 100 mL; and

3. For intestinal enterococci, a concentration of fewer than 100 cfu per 100 mL.

(2) Additional Requirements for Ships that Use Potable Water as Ballast Water. Ships' clean ballast systems will be designed and equipped to use only potable water filled pier side or generated onboard. If a ship's clean ballast system is designed for seawater fire main fill, the ship will be designed either to hold for offload ashore or to treat in accordance with the performance requirements listed in subparagraph 35-3.19e(1)(a) through 35-3.19e(1)(c) of this manual.

(3) Additional Requirements for Ships that Offload Ballast Water and Sediments. The piping and pumps of ships' clean ballast systems must be adequate for the volumes of ballast water and sediments necessary to connect and offload to a shore facility.

(4) Additional Requirements for Ships with Treatment Systems. Ships' clean ballast systems will be designed and equipped to use ballast water pumps (instead of gravity draining) to discharge ballast water when required to facilitate the treatment process.

f. Welldecks

(1) All welldeck discharges must be free from garbage.

(2) Welldeck discharges that contain washdown from stowed landing craft gas turbine engines must be discharged beyond 3 NM from nearest land, and when possible discharged beyond 12 NM from nearest land.

(3) Welldeck discharges that contain graywater from stowed landing craft or amphibious vehicles must be discharged beyond 12 NM from nearest land.

(4) Ships launching and recovering landing craft or amphibious vehicles must ensure those craft or vehicles, including their treads, are washed down after completion of operations. Ships must dispose of wash water beyond 12 NM from the nearest land.

(5) Welldecks must be washed down with clean seawater when beyond 12 NM from the nearest land and the washwater and entrained sediments discharged overboard. Any remaining sediments will be collected and offloaded ashore for treatment in coordination with port authorities.

g. Anchor Chains and Anchor-Chain Lockers

(1) Surface ships must wash down anchors, chains, and appendages with seawater when retrieving them to prevent onboard collection of sediment, mud, and silt. Where possible following anchor retrieval, surface ships must also rinse and pump chain lockers outside 12 NM from the nearest land to flush out sediment, mud, or silt. If the ship does not sail outside 12 NM from the nearest land, rinse and pump chain lockers at the greatest distance possible from the nearest land.

(2) Surface ship anchor-chain lockers must be inspected and cleaned, at a minimum, during drydockings to eliminate accumulated sediments and any potential accompanying pollutants.

(3) Ship engineers will record in the engineering log the dates of all anchor-chain locker inspections and cleanings.

h. Exemption. The discharge requirements of subparagraphs 35-3.19a through 35-3.19c, 35-3.19f, and 35-3.19g of this manual are not required, when in the judgment of the CO or ship master, following these requirements would pose a threat to the safety of the ship or the health, safety, or welfare of the crew or other personnel aboard. Any discharges made for this reason must be recorded in the engineering logs. The record must include: the amount discharged within 12 NM from land, the geographic location of the discharge, and the reason for not following the requirements.

35-3.20. Environmental Compliance During Training and Testing at Sea

a. Environmental Compliance Policy. In conducting training and testing at sea, Navy commands must comply with applicable statutes, regulations, and executive orders (E.O.) and will strive to protect the environment, prevent pollution, and protect natural, historic, and cultural resources. Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual identifies environmental planning and compliance requirements under E.O. 12114 for major Navy actions, including U.S. joint and combined exercises and training at sea. Navy policy is to comply with environmental requirements in a consistent and efficient manner that minimizes administrative burdens on commanders of operating units. For the purposes of this policy, training and testing does not include combat operations, operations in direct support of combat, or other activities conducted primarily for purposes other than training. In addition, this section does *not* provide guidance for exercises conducted under an Operations Order.

b. Protection of Marine Mammals and Threatened and Endangered Marine Species

(1) Marine Mammal Protection. Marine mammals are protected under the MMPA. Therefore, Navy vessels or personnel must not deliberately harass a marine mammal. COs must plan and act to protect marine mammals during operations and training. Navy personnel must conduct the required training associated with their career path, which may include Marine Species Awareness Training (MSAT) and Protective Measures Assessment Protocol (PMAP) training.

PMAP is to be used by all Navy assets prior to conducting training or testing events to determine the applicable mitigation requirements for that activity.

(2) Threatened and Endangered Marine Species Protection. Threatened and endangered marine species enjoy protection under the ESA. Therefore, Navy vessels must not deliberately harass any threatened or endangered marine species. COs must plan and act to protect threatened or endangered marine species, including sea turtles and their eggs, during operations and training. Navy personnel must conduct the required training associated with their career path, which may include MSAT and PMAP training. PMAP is to be used by all Navy assets prior to conducting training or testing events to determine the applicable mitigation requirements for that activity.

c. Mitigation Measures for Training and Testing. This guidance applies to the implementation of mitigation measures during training and testing conducted worldwide.

(1) Within the U.S. EEZ and High Seas

(a) Unit or squadron COs conducting training and testing must ensure the use of the Protective Measures Assessment Protocol (PMAP).

(b) PMAP is updated regularly to ensure that it contains all mitigation measures developed through environmental impact statements or regulatory processes or imposed by court order. There may be more restrictive mitigation measures in certain geographic regions as a result of consultations or litigation.

(2) Within Foreign Nation EEZs and Foreign Nation Territorial Seas, as Defined by Reference (r). The protective measures contained in the PMAP must form the minimum requirements absent definitive guidance from the applicable SOFA (or other bilateral agreement(s)), U.S. Fleet Commander, or U.S. operational commander. Routine training and testing within a foreign nation territorial sea, however, is only conducted with the concurrence of the host nation. In the event of conflict between the protective measures contained in the PMAP and those provided by the applicable SOFA (or other bilateral agreement(s)), U.S. Fleet Commander, or U.S. operational commander, the more stringent protective measures must apply.

d. Training. Appropriate personnel (including civilian personnel) involved in mitigation and reporting requirements associated with training and testing activities will complete one or more modules of the U.S. Navy Afloat Compliance Training Series, as identified in their career path training plan. Modules include:

(1) Introduction to the U.S. Navy Afloat Environmental Compliance Training Series. All personnel will take this training. The introductory module provides information on environmental laws (e.g., the ESA, the MMPA) and the corresponding responsibilities that are relevant to Navy training and testing activities. The material explains why environmental compliance is important in supporting the Navy's commitment to environmental stewardship.

(2) MSAT. All bridge watch personnel, COs, executive officers (XO), maritime patrol aircraft crews, anti-submarine warfare (ASW) and mine warfare rotary-wing crews, lookouts,

and equivalent civilian personnel must successfully complete the MSAT prior to standing watch or serving as a lookout. The MSAT provides information on sighting cues, visual observation tools and techniques, and sighting notification procedures. Navy biologists developed the MSAT to improve the effectiveness of visual observations for biological resources, focusing on marine mammals and sea turtles, and including floating vegetation, jellyfish aggregations, and flocks of seabirds.

(3) U.S. Navy PMAP. All personnel who use PMAP or plan events that will use PMAP will take this training. This module provides the necessary instruction for accessing mitigation requirements during the event-planning phase using the PMAP software tool. PMAP training is available at the My Navy Portal Web site under the NeL tab in the DON training category, environmental and safety subcategory, or on the PMAP Web site (refer to appendix E (Web Sites) of this manual for Web site address).

35-3.21. Marine Mammal Active Sonar Reports

a. Marine Mammal Reports. Whale strikes and strandings must be reported as OPREP-3 NAVY BLUE per reference (k). Reports are intended to assist the Navy in assessing compliance status only. Ships are not expected to report to outside agencies unless special circumstances apply and guidance has been provided through the chain of command. Other direct interactions with whales, such as instances where naval units assist responsible agency personnel (National Marine Fisheries Service or U.S. Fish and Wildlife Service) in freeing whales entangled in nets, must be reported as an OPREP-3 UNIT Situation Report (SITREP) in the format prescribed in reference (k).

b. Active Sonar Reporting. Prudent environmental stewardship requires enhancing the Navy's ability to determine quickly and accurately if active sonar training, testing, or maintenance had been conducted in proximity to a specific marine mammal event. SPORTS has been developed to support the reporting requirements under some of the Navy's environmental compliance permits and as a tool in support of assessing the potential effects of active sonar on the marine environment. All units must submit a daily SPORTS report when any active sonar source in the 0 hertz (Hz)–200 kilohertz (kHz) frequency range is used during training, testing, or maintenance activities (either in port or at sea). Subparagraphs 35-3.21d(1)(a) through 35-3.21d(1)(n) of this manual provide descriptions of commonly used (but not all-inclusive) sources that are required to be reported in SPORTS. This requirement applies to all units (e.g., surface, submarine, aviation, and other platforms) that employ active sonar or other acoustic devices.

(1) Sound sources required to be reported in SPORTS are:

(a) Low-frequency (LF): Sources that produce signals less than 1 kHz.

(b) Mid-frequency (MF): Tactical and non-tactical sources that produce signals between 1 and 10 kHz.

(c) High-frequency (HF): Tactical and non-tactical sources that produce signals between 10 and 100 kHz.

(d) Very high-frequency (VHF): Non-tactical sources that produce signals between 100 and 200 kHz.

(e) ASW: Tactical sources (e.g., active sonobuoys and acoustic counter-measures systems) used during ASW training and testing activities.

(f) Torpedoes (TORP): Source classes associated with the active acoustic signals produced by torpedoes.

(g) Forward-looking sonars (FLS): Forward- or upward-looking object avoidance sonars used for ship navigation and safety.

(h) Acoustic modems (M): Systems used to transmit data through the water.

(i) Swimmer detection (SD) sonars: Systems used to detect divers and submerged swimmers.

(j) Synthetic aperture sonars (SAS): Sonars in which active acoustic signals are post-processed to form high-resolution images of the seafloor.

(k) Broadband (BB) sound sources: Sonar systems with large frequency spectra, used for various purposes.

(2) SPORTS reports must be submitted as of 2359Z (Note: This is a change from previous requirement) covering the previous 24 hours and within 4 hours of the end of the reporting period, or for aircraft within 4 hours of landing. Aircrews must submit a single report for each flight when any of the sources listed in subparagraph 35-3.21d(1) of this manual were used. Reports must be submitted using the SPORTS WebForm reporting tool (primary method) or via Record Message Traffic (alternate method) and can be submitted prior to 2359Z if sonar use is completed for that day (e.g., arriving in port, FINEX ASW event). The SPORTS WebForm reporting tool can be accessed directly from the SPORTS SIPRNET Web site (refer to appendix E (Web Sites) of this manual for Web site address). A login account is not needed for access to the SPORTS WebForm reporting tool or the user's guides and tutorials.

(3) All units should use the SPORTS WebForm reporting tool as the primary method of reporting if sufficient bandwidth and accessibility to the SIPRNET Web site exists (refer to appendix E (Web Sites) of this manual for Web site address). If unable to submit a SPORTS report via the SPORTS WebForm reporting tool, a "Daily SPORTS Report" message must be transmitted to Naval Undersea Warfare Center Division (NAVUNSEAWARCENDIV) NEWPORT RI, information to CNO WASHINGTON DC/N45, Commander, U.S. Fleet Forces Command (COMUSFLTFORCOM) NORFOLK VA/N46, Commander, U.S. Pacific Fleet (COMUSPACFLT) PEARL HARBOR HI/CDO/N465, and Naval Undersea Warfighting Development Center (UNSEAWARDEVCEN SAN DIEGO CA and UNSEAWARDEVCEN NORFOLK VA) with the subject line "Daily SPORTS Report" as an alternate reporting method as of 2359Z, for the previous 24 hours on days when any of the sources listed in subparagraph 35-3.21d(1) of this manual were used for training, testing, or maintenance purposes. Use of this

subject line is imperative as it serves as the sorting mechanism for the database. An incorrect subject line will prevent data from being parsed into the SPORTS database. The message must be marked at the appropriate classification level, at a minimum CONFIDENTIAL. If a SPORTS report fails to automatically process the sending command will receive a message or email indicating the errors and directing resubmission of the SPORTS reports. Submarines unable to meet the 2359Z reporting requirement due to operational constraints (i.e., unable to establish communications) must report by either method at the next available communications window.

(4) To better track active sonar usage per Navy environmental permits, in each SPORTS report units must report a time and position (TMPOS) every hour or every 10 NM of linear distance traveled while sonar is being used. (Note: This is a change from previous requirements.) Units should use multiple active lines to report individual periods of sonar use, rather than one long period where sonar was only used intermittently.

c. Training. All personnel tasked with preparing and approving SPORTS reports must receive SPORTS training upon reporting aboard and annually thereafter. This module provides instruction on the procedures and activity reporting requirements for SPORTS and marine mammal incident reporting.

35-3.22. Floating Dry Docks

a. Industrial Wastes

(1) Using vacuum methods, dry docks must periodically remove and send to shore facilities for disposal spent sand, metals, wood, liquid wastes, SW, and all other industrial waste from the floor of the dry dock. Dry docks must prevent those wastes from entering the air or surrounding waters. Prior to flooding the dock, all loose materials and floors must be removed, and chainways vacuum-cleaned.

(2) Floating dry docks equipped with industrial waste collection systems must use the systems to the maximum possible extent for processing waste from hull blasting, anti-fouling paints, or other industrial processes. Dry-dock discharges from the industrial waste collection system to treatment systems ashore, the sewer system, or directly into surface waters must comply with applicable Federal, State, and local regulations.

b. Sewage and Graywater. Where possible, dry docks and hosted vessels must transfer all sewage and graywater ashore for proper disposal.

35-3.23. Noise. The use of powered tools, machinery, outboard loudspeakers, or any other devices that emit excessive noise, either directly or indirectly through re-radiation, must be restricted to normal daylight working hours to the maximum possible extent.

35-4 Responsibilities

35-4.1. COMNAVSEASYSCOM must:

a. Designate the technical authority responsible for approving environmental systems and equipment for installation on vessels and administering certification requirements;

b. Develop, test, evaluate, procure, and install the necessary shipboard sewage systems, SW processing equipment, oil pollution abatement equipment, and associated logistics support designed to minimize health and safety hazards and to comply with applicable standards;

c. Develop, test, evaluate, procure, and install the necessary pollution abatement equipment and associated logistic support to allow Navy floating dry docks to operate in full compliance with guidelines and standards;

d. Manage the inspection and certification program to ensure shipboard oil pollution abatement systems and sewage systems are properly designed and installed and have adequate technical documentation and spare parts support. Provide system inspection results to the respective TYCOM. Provide technical guidance to training teams and training developers to ensure accurate information is provided in support of crew indoctrination;

e. Provide engineering and technical assistance and material support to the fleet, as required, to ensure the safe and effective operation of shipboard pollution abatement systems and equipment, the proper management of HM, and the meeting of air pollution control requirements;

f. Establish procedures for safe and effective ballast water and sediment control per paragraph 35-3.19 of this manual. Ensure that future ship designs or alteration plans include processes for ballast water and sediment control per reference (a);

g. Provide support and hardware for shipboard environmental training programs established by NETC;

h. Set the requirements for and provide appropriate technical support for disposal systems, containers, labels, handling equipment, cleanup materials, and protective clothing to allow safe and effective control of HM aboard Navy ships;

i. Ensure associated funding requirements are properly identified, budgeted, and programmed;

j. Develop improvements to shipboard processes to reduce the use of HM and the generation of shipboard used HM;

k. Provide assistance and guidance to fleet and shoreside NOSCs in the preparation of oil spill and HS release response plans;

l. Provide general shipboard OHS SCPs to Navy ships for use in preparation of ship-specific OHS SCPs;

m. Develop shipboard overboard oil spill kits and onboard HS spill kits containing appropriate equipment for personnel use in responding to OHS spills;

n. Provide specialized equipment and trained personnel to assist NOSCs or COs in responding to offshore, salvage-related, and major inland oil-spill and HS-release response operations;

o. Provide proper reception capabilities at COMNAVSEASYSCOM facilities for receipt of ship-generated oily waste and waste oil, sewage and graywater, SW, and used HM. This includes transfer hoses, associated fittings, and adequate tank holding capacity at each COMNAVSEASYSCOM facility for all visiting ships, Navy and non-Navy;

p. Ensure operating forces have available to them adequate system documentation with particular emphasis on ensuring the documentation contains health, sanitation, and safety guidance. Documentation must include:

(1) Equipment technical manuals for all installed pollution abatement equipment and systems;

(2) Maintenance requirements cards covering a comprehensive preventive maintenance program and certification criteria for all installed pollution abatement equipment;

(3) Operational procedures that consist of systematic and detailed written procedures using charts, instructions, and diagrams developed for the operation of all installed pollution abatement equipment;

(4) Reference (b), chapter 593; and

(5) PCB Advisories;

q. Develop contract requirements for ship availabilities in private shipyards to process ship-generated waste in compliance with the law;

r. Apply for required EPA ID numbers required to manage Navy-generated and co-generated HW at private shipyards;

s. Develop and issue to the fleet site-specific HW management procedures for private shipyards;

t. Provide onsite coordination from the SUPSHIP office with the identified ship HM coordinator;

u. Identify to the TYCOM or TYCOM representative any unresolved issues of ship noncompliance with SUPSHIP-generated procedures; and

v. Monitor requisitions from the ODS reserve.

35-4.2. NETC must:

a. Establish formal training programs on the operation, maintenance, sanitation, and safety of all shipboard sewage systems. Monitor and update training programs as required;

b. Develop shipboard indoctrination programs on sanitation, safety, and basic operation of all sewage systems. Review and revise indoctrination programs as necessary;

c. Establish formal training programs at appropriate facilities on the operation and maintenance of shipboard oil pollution abatement systems and equipment. Monitor and update training programs as required;

d. Provide shipboard indoctrination programs on oil spill control, oil reclamation, and the basic operation of all oil pollution abatement systems and equipment. Review and revise indoctrination programs as necessary;

e. Establish formal training programs on the planning documents, reporting, equipment, and cleanup actions associated with shipboard OHS. Monitor and update training programs as required; and

f. Incorporate environmental protection training, including protection of marine mammals and endangered species and use of the PMAP, into relevant curricula.

35-4.3. COMNAVSUPSYSCOM must:

a. Implement programs for source reduction of plastic aboard ship by identifying non-plastic packaging products and non-plastic consumables for shipboard use; and

b. Ensure ECAP services are provided to all Navy ships and submarines in Navy ports to maximize reutilization of HM and ensure proper training and system updates occur on Navy ships and submarines.

35-4.4. Commander, Naval Legal Service Command, in conjunction with NETC, must establish training courses on environmental compliance afloat for military lawyers assigned to afloat billets, fleet staffs, and shore stations providing support to afloat units.

35-4.5. Chief, Bureau of Medicine and Surgery must:

a. Issue guidance for shipboard medical department personnel concerning health and sanitation aspects of shipboard sewage systems; and

b. In conjunction with NETC, ensure training programs for shipboard medical personnel include all aspects of health and sanitation associated with shipboard sewage systems;

c. Provide, at Navy ports, the required services for disposal of medical waste generated by ships and ensure disposal ashore complies with applicable Federal, State, and local laws or regulations and SOFAs or international agreements.

35-4.6. PRESINSURV must:

a. Conduct environmental compliance oversight inspections as a part of the regular ship inspection process including review of equipment operation, program compliance, and training;

b. Train assigned inspectors on the requirements of this chapter; and

c. Report to CNO the status of afloat environmental compliance and issues requiring CNO attention as a part of the periodic brief.

35-4.7. CNIC must provide, at Navy ports under their command, proper facilities for receipt of ship-generated SW, industrial waste, sewage and wastewater, HM and oily waste, and waste oil. Such facilities will include appropriate discharge hoses, fittings, and holding capacity for wastes.

35-4.8. RECs must:

a. Coordinate with the cognizant port clearance authority to ensure LOGREQ replies fully apprise arriving ships of local environmental requirements and port practices;

b. Notify the cognizant area environmental coordinator (AEC) and OPNAV N45 in advance when anticipating regulatory concern over arriving ship environmental compliance and recommend a course of action to resolve the issue;

c. Maintain close liaison with SUPSHIP and RMC offices and naval shipyards to ensure proper resolution of environmental issues regarding ships in overhaul;

d. Report to CNO N00N and COMNAVSEASYSCOM (Director, Nuclear Propulsion Program (NAVSEA 08)) any regulatory attempt to assert authority over radioactive or non-radioactive discharges from naval nuclear propulsion plants;

e. Upon request, assist both U.S. and foreign Navy ships in resolving environmental issues, including, but not limited to inspection of ships, air emissions, water discharges, oil spill planning, and response and natural resource damage assessments following oil spills;

f. Provide information on Federal, State, and local environmental regulations that apply to ships in port. Such information must describe necessary actions by ship COs to comply with the requirements of this manual and all other Federal, State, and local regulations applicable to the port;

g. Inform ship COs of reference (g), subpart II compliance requirements for marine coatings at Navy and commercial affected source sites activities; and

h. Direct Navy activities, at affected sources, to work with RECs to request recordkeeping waivers from regional offices for ships in "operational status."

35-4.9. Fleet commanders must:

a. Ensure ships under their command are equipped with appropriate sewage systems, air emission and oil pollution abatement equipment, SW treatment and disposal systems, and low-noise emission equipment;

b. Ensure ships under their command possess appropriate disposal or treatment systems, containers, labels, handling equipment, cleanup materials, spill kits, and protective clothing to allow safe and effective control of shipboard HM;

c. Ensure ships operate their sewage systems; air, oil, and SW control systems; and other pollution abatement systems per the requirements of this manual;

d. Provide for repair and maintenance of air, oil, sewage, and SW pollution abatement systems that are beyond the capability of ship's force to accomplish;

e. Issue operational guidelines and reporting procedures for compliance with the policies set forth in this manual for ship-generated plastic waste;

f. Perform duties as the fleet NOSC when assigned and provide the names and addresses of NOSC representatives to fleet units;

g. Fund the cleanup of OHS spills from Navy vessels under their command;

h. Ensure assigned Navy floating dry docks possess appropriate pollution abatement systems and equipment;

i. Ensure assigned floating dry docks operate their pollution abatement systems per paragraph 35-3.22 of this manual;

j. Provide for repair and maintenance of pollution abatement systems beyond the capability of assigned floating dry dock's force;

k. Establish procedures to ensure, to the maximum extent feasible, used and excess HM is offloaded at a Navy or other public facility prior to a ship entering a private shipyard for an availability. Such procedures must include the offloading of HM not anticipated for use by ship's force during the availability;

l. Ensure ships identify a shipboard HM coordinator to the RMC for each ship's availability at a private shipyard. Ensure this individual has the authority and resources commensurate with the assigned responsibility to ensure shipboard compliance with HM and HW management procedures and site-specific management practices established by the RMC;

m. Ensure ships identify, in pre-availability planning conferences, the types and amounts of used HM anticipated by ship's force during the availabilities;

n. Direct ships to comply with all established HM and HW management practices and those site-specific procedures delineated by the RMC;

o. Ensure TYCOMs provide:

(1) Oversight of environmental-equipment-related ship maintenance and use of installed sewage, oil pollution abatement, SW treatment and disposal equipment;

(2) Oversight of CASREP management and other reports that impact the use or operation of installed environmental equipment;

(3) Oversight to ensure ship management of HM and used/excess HM are in accordance with requirements specified herein as well as local guidance provided by the regional commander; and

(4) Oversight to ensure adherence to shipboard training requirements associated with environmental compliance or equipment maintenance/operation that support compliance.

p. Develop, manage, support, and implement PMAP;

q. Incorporate the protection of marine mammals and endangered marine species by directing subordinate commands to use PMAP for training and testing at sea and ensuring compliance with the PMAP requirement through a comprehensive assessment mechanism;

r. In conjunction with COMNAVSEASYSCOM, monitor requisitions from the ODS reserve;

s. Establish, resource, and maintain a SPORTS to collect and store data on when and where active sonar is used for training, testing, or maintenance;

t. Ensure all units under their command implement and execute active sonar reporting via SPORTS per this manual; and

u. Ensure all data generated or obtained in support of SPORTS are provided in electronic format meeting the standards set by Federal, DoD, and Navy policies.

35-4.10. COMSC must:

a. Properly equip assigned ships with appropriate sewage systems, air emission and oil pollution abatement equipment, SW treatment or disposal systems, and low-noise emission equipment;

b. Equip assigned ships with appropriate disposal or treatment systems, containers, labels, handling equipment, cleanup materials, spill kits, and protective clothing to allow safe and effective control of shipboard HM;

c. Ensure assigned ships operate installed sewage systems; air, oil, and SW control systems; and other pollution abatement systems per the requirements of this manual;

d. Provide for repair and maintenance of air, oil, sewage, and SW pollution abatement systems that are beyond the capability of ship's force to accomplish;

e. Issue operational guidelines and reporting procedures for compliance with the policies set forth in this manual for ship-generated plastic waste;

f. Fund the cleanup of OHS spills from assigned Navy and contract ships;

g. Establish procedures to ensure, to the maximum extent feasible, used HM is offloaded from assigned ships at a Navy or other public facility before entering a private shipyard for an availability. Such procedures must include the offloading of HM not anticipated for use by ship's force during the availability;

h. Ensure ships identify, in pre-availability planning conferences, the types and amounts of HW anticipated by ship's force during the availabilities;

i. Direct ships to comply with all established HM and HW management practices and those site-specific procedures delineated for the private shipyard;

j. Monitor ship compliance with established HM and HW procedures while in private shipyards;

k. In conjunction with COMNAVSEASYSCOM, monitor requisitions from the ODS reserve; and

l. Direct ships to employ PMAP to ensure the appropriate measures are implemented, consistent with the activity being conducted, to protect marine mammals, sea turtles, and other endangered species during ship operations and planning.

35-4.11. COs of Navy ships and masters of MSC vessels must:

a. Ensure ships comply with the guidelines, standards, and procedures of this manual;

b. Complete and document training of shipboard personnel as prescribed in paragraph 35-3.3 of this manual;

c. Report to the chain of command, cognizant REC, AEC, and OPNAV N45 any request by a regulatory agency that the Navy apply for permits involving ship discharges or implement measures regarding ship discharges beyond the requirements contained in this chapter. Do not

enter into agreements with environmental agencies regarding ship discharges without OPNAV N45 approval;

d. Assign and ensure training of a crewmember as the AEPC per paragraph 35-3.8 of this manual;

e. Obtain certification and recertification, and properly operate, periodically inspect, and properly maintain the ship's sewage and oil pollution abatement systems;

f. Carry out ship-to-shore transfers of sewage and graywater in a safe and effective manner;

g. Specific to COs of Navy ships: Schedule periodic inspections (at least quarterly) per reference (s) by senior medical department personnel to maintain sanitary and hygienic conditions of MSD systems and operational practices. Sanitation and hygiene inspections should also be made of SW processing equipment (when installed and operating). Specific to masters of MSC vessels: COMSC must specify inspection requirements for MSD systems and SW processing equipment;

h. Post appropriate health and sanitation precautions as required by reference (b), chapter 593, and by references (d) and (s);

i. Report, as required and established by the chain of command, sewage discharge within 3 NM from U.S. shores;

j. Operate and maintain his or her ship to conform to applicable State and local air pollution emission regulations and HM regulations;

k. Maintain records of ship force's marine coating use for coatings distributed from ship's stores for domestic Navy and commercial affected source sites, as appropriate. Deliver a monthly report of daily coating use by the seventh day of the month following use or before departure, if departing before the end of the month or after a short visit (i.e., several days). Deliver the report to the affected source site Navy shore activity or, when located at a commercial affected source site, to the appropriate SUPSHIP RMC office;

l. Use only marine coatings that meet VOC content standards of reference (b), chapter 631, table 3-7. These coatings are compliant with reference (g), subpart II. When approved marine coatings are not available or there is uncertainty whether a material is regulated under reference (g), subpart II, contact COMNAVSEASYSCOM (Naval Systems Engineering (NAVSEA 05)) for information on compliant substitutes. Remove non-compliant coatings from shipboard stores and return them to the supply system as excess HM as soon as possible;

m. Prohibit the thinning of marine coatings and label paint lockers per subparagraph 35-3.13e(2) of this manual;

n. Implement the marine coating work practices identified in subparagraph 35-3.13e(4) of this manual;

o. Report to the chain of command any conditions or equipment malfunctions that:

(1) Could result in unlawful air pollutant emissions;

(2) Would necessitate oily waste, HM, or SW discharge into waters in which discharge is restricted;

p. Ensure the engineering log or equivalent oil record book records any oily waste discharge that causes a sheen. When a sheen-producing discharge occurs, determine the cause. Recordkeeping must consist of the date, time of occurrence, ship location at the beginning and end of the incident, substance discharged, quantity discharged, and the cause of the discharge;

q. Ensure that crew understands that by-passing the oil pollution abatement system to manage oily wastewater is prohibited unless directly approved by the CO or if it is required to abate an emergency that could impact the safety of the crew, ship, or equipment;

r. Prepare shipboard OHS SCPs and coordinate with the cognizant NOSC plan and provide these plans, via the chain of command, to USCG and State officials for information, upon request;

s. Properly train shipboard personnel and make them fully aware of the OHS SCPs. Conduct required OHS spill drills;

t. Report all OHS spills as prescribed in subparagraphs 35-3.15b and 35-3.15c of this manual;

u. Take immediate actions to contain, control, and mitigate all spills caused by the ship;

v. Consider the factors outlined in subparagraph 35-3.4a of this manual when responding to an OHS spill;

w. Ensure the requirements of references (d) and (l) are followed for all activities associated with PCBs, PCB-containing materials, or systems potentially contaminated with PCBs (e.g., ventilation systems that employ PCB-containing felt gaskets);

x. Offload used and excess HM, to the maximum extent feasible, to a Navy or other public facility prior to entering a private shipyard for an availability. Also offload HM not anticipated for use by ship's force during the availability before entering the private shipyard;

y. Identify to the SUPSHIP RMC or port engineer responsible for a private shipyard the ship's HM coordinator for the availability. Provide that individual the authority and resources to ensure shipboard compliance with HW management procedures and site-specific management practices established by the SUPSHIP;

z. Identify to the SUPSHIP or port engineer, in pre-availability planning conferences, the types and amounts of used HW anticipated by ship's force during the availability;

aa. Comply with all established HM and HW management practices and those site-specific procedures delineated by the RMC;

bb. Designate an officer as HM coordinator to ensure all shipboard personnel comply with reference (d) requirements for HM handling, packaging, storage, labeling, treatment, and disposal. Prior to the ship leaving port, the HM coordinator or HAZMINCEN supervisor must request used or excess HM pickup by the cognizant shore activity representative;

cc. During paint-removal operations, to the maximum extent feasible, collect the debris, dust, and residual materials from the paint-removal operation and properly package them for disposal ashore;

dd. Follow the requirements of subparagraph 35-3.16c of this manual when transferring or receiving used HM from another ship while at sea;

ee. Personally approve any plastic discharges and properly enter reports of all plastic discharges by surface ships in the deck log;

ff. Prior to getting underway from port, ensure all trash and garbage is collected and offloaded, ensure no HM is left on the pier, and include this requirement in the ship's sea detail checklist;

gg. Dispose of no medical materials in a manner that poses a risk or perception of a risk to the public health and welfare or to the marine environment;

hh. Ensure that ballast water and sediments are controlled per paragraph 35-3.19 of this manual that are applicable to the ship;

ii. Record in the ship's engineering log the geographical position of ballast water uptake within 12 NM from the nearest land and during exchange procedures;

jj. Avoid deliberately harassing marine mammals and sea turtles or other endangered species. Employ PMAP to ensure the appropriate measures are implemented, consistent with the activity being conducted, to protect marine mammals, sea turtles, and other endangered species during ship operations and planning. Ensure the PMAP requirement is included in appropriate ships' instructions, bills, and checklists and maintain documentation per Fleet Commander and TYCOM requirements;

kk. Ensure personnel serving as lookouts, and responsible for carrying out mitigation and reporting requirements have conducted the requisite training from the modules contained within the U.S. Navy Afloat Compliance Training Series (i.e., MSAT, PMAP, SPORTS); and

ll. All units employing active sonar must preferably report via the SPORTS WebForm reporting tool (refer to appendix E (Web Sites) of this manual for Web site address) or alternatively via naval message with a subject line of "Daily SPORTS Report" as of 2359Z on days when active sonar has been used for training, testing, or maintenance purposes. Submarines unable

to meet the 2359Z reporting requirement due to operational constraints must report by either method at the next scheduled communications window.

35-4.12. COs of floating dry docks must:

a. Appoint an officer or petty officer to ensure that dry-dock personnel properly operate and maintain oil and oily waste collection and treatment systems and that they safely and effectively handle ship-to-shore transfers of the waste;

b. Properly train dry-dock personnel working with oil pollution systems, send them to appropriate schools, and fully document this training;

c. Coordinate with the shore activity CO to ensure compliance with State or local regulatory requirements;

d. Report to the Fleet Commander any conditions or equipment malfunctions that would necessitate SW discharge upon or into restricted waters;

e. Properly operate dry-dock systems for the collection and transfer of sewage and wastewater from the ship in dry dock to shoreside receiving facilities. Periodically inspect and properly maintain the systems. Handle transfers of sewage and wastewater in a safe and effective manner. Reference (b), chapters 593 and 670, and reference (s) provide guidance concerning CHT systems; and

f. Ensure discharges from floating dry docks are permitted as required.

35-5 Definitions

35-5.1. Affected Source. An affected source is a major source of hazardous air pollutants (HAP) that emits at least 25 tons per year of HAPs aggregate or at least 10 tons per year of any single HAP and uses at least 264 gallons of marine coating per year.

35-5.2. At Sea. For the purposes of this chapter, “at sea” is the area from the U.S. high water mark seaward to the recognized EEZs or fishing zones as set out in reference (r). Nothing in this chapter, however, is meant to expand the area where any particular legal requirement applies. “At sea” also includes the airspace above this area.

35-5.3. Bilge Water. Bilge water is a mix consisting primarily of water, some oil (normally less than 5 percent), and other unspecified substances, resulting from the normal operation of a vessel. Bilge water is considered an oily waste. Under normal circumstances, bilge water does not contain HM or other constituents that would classify it as an HW.

35-5.4. Bilge Water Processing Tank. A BWPT is a tank used to separate the oil part from an oil water mixture.

35-5.5. Coating. A coating is any material that can be applied as a thin layer to a substrate and that cures to form a continuous solid film. Coatings include paints, primers, varnishes, and lacquers. Marine coatings meeting this definition are regulated under reference (g), subpart II.

35-5.6. Consolidated Hazardous Material Reutilization Inventory Management Program. CHRIMP is an HMC&M program that requires all HM (including used and excess HM and all empty HM containers) to be centrally controlled aboard ships and submarines. CHRIMP requires the establishment or installation of HAZMINCENs. CHRIMP includes centralized inventory management; procurement; storage; issue, receipt, and reissue; and collection, consolidation, and offload of HM.

35-5.7. Domestic. The term "domestic" refers to areas within the United States and its territories.

35-5.8. Empty Hazardous Material Container. An HM container must be considered empty if there is no liquid in the container and there is less than 1 inch of solid residue (hardened product) in the container.

35-5.9. Endangered Marine Species. Endangered marine species include any listed endangered marine species, including all six species of sea turtles, in the United States. It is illegal to harm, harass, or in any way interfere with a sea turtle or its eggs.

35-5.10. Facility Response Team. The FRT is comprised of the emergency response personnel (formerly known as on-scene operations teams) who are designated, trained, and equipped to provide rapid response to OHS releases that occur on or from their facility.

35-5.11. Floating Dry Dock. A floating dry dock is a mobile dock, floating in water, capable of lifting a host ship for repairs to its underwater hull.

35-5.12. Food Waste. Food waste is spoiled or unspoiled victual substances, such as fruits, vegetables, dairy products, meat products, food scraps, and food particles.

35-5.13. Foreign-Source Garbage. Foreign-source garbage includes goods, food wastes, wrappers, containers, and disposable materials originating in any foreign country (excluding Canada) or Hawaii, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

35-5.14. Garbage. For consistency with international law, this chapter adopts the MARPOL Annex V definition of garbage, which defines garbage as "All kinds of victuals and domestic and operational waste generated during the normal operation of the ship." The MARPOL term "garbage" therefore encompasses shipboard SW, including plastics; food waste; and dry waste such as paper, cardboard, and wood, traditionally referred to as "trash."

35-5.15. General Use Coating. A general use coating is any coating that is not a specialty coating. Marine coatings meeting this definition are regulated under reference (g), subpart II.

35-5.16. Graywater. Graywater is discarded water from deck drains, lavatories, showers, dishwashers, and laundries, as well as discarded water from shipboard medical facilities. It does not include industrial wastes, infectious wastes, and human body wastes.

35-5.17. Graywater Collection and Transfer System. A graywater collection and transfer system is an independent, auxiliary graywater collection and transfer system designed to collect graywater and pump the waste to shore facilities in port or direct water overboard at sea. Graywater collection and transfer systems are typically installed on ships with Type III-A MSDs that may lack the capability to collect and transfer graywater.

35-5.18. Hazardous Material

a. An HM is any material that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial hazard to human health or the environment when incorrectly used, purposefully released, or accidentally spilled. This definition includes:

(1) Flammable or combustible materials;

(2) Toxic materials;

(3) Corrosive materials (including acids and bases);

(4) Oxidizing materials;

(5) Aerosol containers; and

(6) Compressed gases.

b. For this manual, the definition does not include ammunition, weapons, explosives, explosive actuated devices, propellants, pyrotechnics, chemical and biological warfare materials, medical and pharmaceutical supplies, medical waste and infectious materials, bulk furls, and radioactive materials.

c. Asbestos and lead require special guidance for handling and control, which are addressed in reference (d).

35-5.19. Hazardous-Material-Contaminated Rags. HM-contaminated rags are cleaning rags or other sorbents contaminated with solvents, adhesives, paint, or other HM as identified in the HM definition.

35-5.20. Hazardous Material Minimization Center. HAZMINCEN is the facilities, equipment, and procedures used to execute CHRIMP. HAZMINCEN designs can vary greatly, depending on the size of the ship, mission, and requirements for HM.

35-5.21. Hazardous Substance. A HS is an HM or HW.

35-5.22. Hazardous Waste

a. An HW is an SW or combination of SW that because of its quantity; concentration; or physical, chemical, or infectious characteristics; may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

b. The term "SW" includes liquid, semi-solid, or contained gaseous material.

35-5.23. Industrial Wastewater. Industrial wastewater is wastewater or semi-solid material generated in shipboard processes such as manufacturing, production, and maintenance (e.g., metal plating, acid cleaning, photo processing, solvent cleaning, painting materials).

35-5.24. Marine Mammal. A marine mammal is any ocean-dwelling mammal (e.g., sea otters, manatees, dugongs, sea cows, sea lions, seals, walruses, whales, dolphins, porpoises) or mammal that primarily inhabits the marine environment (e.g., polar bears).

35-5.25. Marine Sanitation Device. An MSD is any equipment aboard a ship or craft designed to receive and treat sewage or a combined sewage and graywater waste stream to a level acceptable for overboard discharge or which receives or retains sewage aboard for later discharge ashore or in waters where discharge is permissible. Within the generic term MSD, the Navy uses these terms to identify general types:

a. Type I. "Flow through" and "discharge" device designed to receive and treat sewage aboard ship and produce an overboard effluent with a fecal coliform count of not more than 1,000 per 100 mL and no visible floating solids (Type I MSDs are no longer applicable to new construction);

b. Type II. "Flow through" and "discharge" device that produces an overboard effluent with a fecal coliform count of not more than 200 per 100 mL and total suspended solids of not more than 150 milligrams per liter, which meets 33 CFR Part 159 requirements;

c. Type III A. "Non flow through" device designed to collect shipboard sewage by means of vacuum or other reduced flush systems and to hold the sewage while transiting within 0 to 3 NM from shore. This type may include equipment for shipboard evaporation or incineration of collected sewage; and

d. Type III B. Collection, holding, and transfer system designed to collect both sewage and graywater while in port; to offload sewage and graywater to suitable shore receiving facilities; to hold sewage while transiting within 0 to 3 NM from shore; and to discharge both sewage and graywater overboard while operating beyond 3 NM from shore.

35-5.26. Medical Waste. Medical waste is any waste generated during patient diagnosis, treatment, or immunization, and consists of two categories: regulated medical waste and non-

regulated medical waste. The waste matter remaining after medical wastes have been processed through a properly functioning medical waste processor is not medical waste.

35-5.27. Medical Waste Processor. A medical waste processor is a device that uses shredding and chemical disinfection to disinfect infectious medical wastes, including sharps, and render them unrecognizable.

35-5.28. Navy On-Scene Coordinator. The NOSC is the Navy official pre-designated to coordinate Navy OHS spill contingency planning and direct Navy OHS spill response efforts in a pre-assigned area. NOSCs are pre-designated by the cognizant AEC. The NOSC is the FOSC for all Navy HS releases. The NOSC also acts as the incident commander for spills that exceed the response capability of a facility located within the NOSC area of responsibility. The NOSC may designate a "qualified individual" who meets the qualifications identified in the definition to implement a NOSC OHS regional response plan and manage an oil spill incident.

35-5.29. Non-Regulated Medical Waste. Non-regulated medical waste includes disposable medical supplies and materials that are generated in the health-care setting but that are not potentially infectious and thus require no additional treatment before disposal.

35-5.30. Oil. For the purposes of compliance with MARPOL Annex I and APPS, the term "oil" refers to any petroleum-based fluid or semisolid, including crude oil, liquid fuels (like gasoline, kerosene, and diesel), lubricating oil, waste oil, oil sludge, and oil refuse. Oil also includes synthetic-based lubricating and transmission products. MARPOL Annex II classifies non-petroleum-based oils, such as vegetable oils, as noxious liquid substances. For the purposes of CWA compliance, the term "oil" refers to oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, vegetable oil, and oil mixed with waste other than dredge spoils.

35-5.31. Oil Content Monitor. An OCM is an analytical instrument that measures and displays the oil content (in ppm) of the effluent of the OWS and automatically stops the effluent from discharging overboard if the oil content exceeds the equipment's alarm set point.

3-5.32. Oil Water Separator. An OWS is water-treatment equipment that removes the oil part from an oil-and-water mixture. Oil-and-water separation involves several techniques that use parallel-plate separators, coalescing filters, centrifugal separators, and various polishing technologies. The OWS's output, during normal operation, should be less than 15 ppm of oil remaining in the water.

35-5.33. Oily Rags. Oily rags are cleaning rags or other sorbents contaminated with oil as defined in the definition of oil. The term does not include sorbents contaminated with vegetable oils, liquid or solid shortening, or animal fat or lard used in food preparation.

35-5.34. Oily Waste. Oily waste is oil mixed with water or other fluids such that the mixture is no longer useful.

35-5.35. Plastics Waste Processor. A plastics waste processor is a device that melts and compresses plastic waste so that it can be efficiently and safely stored aboard ship for shore disposal.

35-5.36. Protective Measures Assessment Protocol. PMAP is an IT-21-certified tool designed to assist units in identifying applicable environmental mitigation requirements during training and testing activities at sea. The measures in PMAP may change periodically based on revised permit requirements or new natural resource information. Affected training and testing activities are typically those that involve the firing of weapons, the dropping/launching/deploying of ordnance, underwater detonations, the transmission of in-water acoustic energy (sonar, mine detection), the towing of mine warfare equipment, and anchoring. See the PMAP Web site (refer to appendix E (Web Sites) of this manual for Web site address) for specific protective measures to PMAP activities.

35-5.37. Pulped Garbage. Pulped, ground, or comminuted garbage capable of passing through a screen with openings no greater than 12 millimeters (0.47 inch).

35-5.38. Reclamation. Reclamation is the processing of used oil to recover useful oil products.

35-5.39. Regulated Medical Waste. Regulated medical waste, also referred to as "infectious medical waste," has the potential to contain pathogens in sufficient numbers and with sufficient virulence to cause infectious disease in susceptible hosts exposed to the waste.

35-5.40. Sewage. Sewage is human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

35-5.41. Sheen. Sheen is an iridescent appearance on the surface of the water.

35-5.42. Short-Lived Detergent. A short-lived detergent is a cleaner or degreaser that produces a brief emulsion period to effectively remove oil during the cleaning process and, over a short period of settling time, breaks to release the oil for subsequent separation from water.

35-5.43. Special Area. An SA is a sea area where, for recognized technical reasons in relation to its oceanographic and ecological condition and to the particular character of its traffic, enhanced efforts are required to minimize pollution from ships. The IMO designates SAs under MARPOL Annexes I and V. The MARPOL Annex I SAs in effect as of publication date of this manual are Mediterranean Sea, Baltic Sea, Black Sea, North-West European Waters, Gulfs Area (Arabian Gulf and Gulf of Oman), Southern South Africa Waters, and Antarctic Area. The Annex V SAs in effect as of publication date of this manual are Baltic Sea, North Sea, Gulfs Area (Arabian Gulf and Gulf of Oman), Mediterranean Sea, Wider Caribbean Region, and Antarctic Area (south of 60 degrees south latitude). Other MARPOL Annex V SAs designated but not yet in effect are the Black Sea and the Red Sea SAs.

35-5.44. Spill. A spill is an accidental or not permitted discharge of oil and HS into or upon the water. In this chapter, this definition does not apply to spills aboard ships that do not go over the side.

35-5.45. Stranding. For the purposes of this chapter, a marine mammal stranding includes animals found alive or dead on beaches or floating dead in open water.

35-5.46. Submarine Plastic Waste Management Process. The submarine plastic waste management process is a process that consists of using high-strength OBBs, cable ties, and heat sealers in conjunction with the submarine trash compaction process to compact, package, and store plastic waste on submarines for shore disposal.

35-5.47. Supervisor of Salvage and Diving Spill Response Team. The SUPSALV spill response team is a specially trained and equipped mobile spill response team maintained by COMNAVSEASYSCOM Supervisor of Salvage (NAVSEA 00C). COMNAVSEASYSCOM maintains the team and an extensive inventory of offshore and large-scale spill response equipment to support NOSCs and COs for offshore, salvage-related, or major inland oil spills and HS releases.

35-5.48. Technical Authority. An acquisition official in a technical oversight office responsible for approving systems and equipment for installation on vessels and administering certification requirements has technical authority.

35-5.49. United States. For the purposes of this chapter, the United States includes the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

35-5.50. Used Oil. Used oil is oil whose characteristics have changed since being originally refined but that may be suitable for future use and is economically reclaimable. Used oil excludes synthetic-based lubricating and transmission products.

35-5.51. Used or Excess HM. Used or excess HM includes HM for which there is no further, immediate use aboard the ship possessing the material. Such material may ultimately be used on another ship or within the shore establishment for the same purpose or a purpose other than initially manufactured or by commercial industry. Used HM is material that has been used in a shipboard process. Excess HM is unused material in full, properly sealed containers. Ships are required to transfer used or excess HM to a Navy shore activity for determination of suitability for further use. Navy shore activities possess trained personnel who can determine, working with ships' personnel, whether shipboard HM is usable or reusable or should be disposed of as HW. The shore activity will act as the HW generator if it determines that the material has no further use, and dispose of it as required by Federal, State, and local regulations.

35-5.52. Volatile Organic Compounds. VOCs are photochemically reactive organic compounds that evaporate readily under normal temperature and pressure conditions. As a result of the tendency to evaporate readily, VOCs are primary contributors to the formation of ground-level ozone.

35-5.53. Waste Oil. Waste oil is oil whose characteristics have changed markedly since being originally refined, has become unsuitable for further use, and is not considered economically recyclable.

Table 35-3. Disposal of Shipboard HM

The HMs listed in this table are representative of materials used during conduct of normal shipboard operations and in performance of planned maintenance and general housekeeping procedures. If disposal guidance is sought for a material not listed in the table, contact your ship's HM coordinator.

Shipboard HM Type	**Examples of Generation Sources**	**Examples of Associated HMs**	**Authorized Disposal Methods**
Acid, spent	Cleaning	Acetic, citric, hydrochloric, sulfuric, and sulfamic acids	Containerize for shore disposal.
Aerosol cans	Empty paint, lubricant, deodorant, and shaving cream cans	Flammable products, flammable propellants (propane, butane), oxidizer (nitrous oxide)	If the ship is equipped with a COMNAVSEASYSCOM-approved aerosol puncturing or draining device and installed per COMNAVSEASYSCOM requirements, puncture and drain the exhausted aerosol container. The container must be marked "empty" and treated as an empty HM container. If the ship is **not** equipped with a COMNAVSEASYSCOM-approved and installed aerosol puncturing or draining device, containerize for shore disposal. Aerosol cans, whether punctured, drained or crushed or not, must be containerized for shore disposal. Aerosol cans contain plastic, which is prohibited for overboard discharge.
Alkali, spent	Cleaning, deoxidizing	Sodium hydroxide, potassium hydroxide	Containerize for shore disposal.

Shipboard HM Type	**Examples of Generation Sources**	**Examples of Associated HMs**	**Authorized Disposal Methods**
Asbestos-containing materials *(to be removed by properly trained personnel equipped with appropriate personal protective equipment only)*	Thermal insulation, pipe lagging, flooring tile, safety curtains, gasket and packing materials	Asbestos	Dispose per requirements set forth in reference (d), chapter B1.
Batteries			
Lead-acid batteries	Propulsion systems auxiliary lighting, communication, and power systems	Lead, lead sulfate, lead dioxide, antimony, sulfuric acid electrolyte	Containerize for shore disposal. Do not empty electrolyte from battery.
Rechargeable batteries: Nickel-cadmium Silver-zinc Nickel-iron Silver-cadmium Nickel-zinc Nickel metal hydride	Auxiliary power systems, power supply for portable equipment	Nickel, silver, zinc, cadmium, potassium hydroxide electrolyte	Containerize for shore disposal. Do not empty electrolyte from battery.
Dry cell batteries: Lelanche cells Mercury cells Low-temperature cells	Power supply for portable equipment	Manganese dioxide, mercuric oxide, zinc	Containerize for shore disposal.
Lithium batteries	Power supply for portable equipment	Lithium, acetonitrile	Containerize for shore disposal.
Biocides	Water from MK41 vertical launch deluge system	Polyhexamethalene biguanide hydrochloride, sodium hypochlorite	Overboard discharge permitted beyond 25 NM of shore. In port, containerize for shore disposal.

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
Boiler wastewater	Boiler blowdown, boiler water, continuous boiler water treatment tank	Trisodium and disodium phosphate, carbohydrazide, ethylenediamine-tetraacetic acid (EDTA), sodium sulfite	Overboard discharge of blowdown effluents and boiler water permitted** inside 12 NM. Continuous boiler feedwater treatment tank contents or diluted carbohydrazide solution may be discharged outside 50 NM of shore. Carbohydrazide stock solution must be disposed of ashore.
	Boiler treatment chemicals	Anhydrous disodium phosphate, trisodium phosphate dodecahydrate, trisodium EDTA, carbohydrazide, caustic soda	Containerize excess boiler water treatment chemicals for shore disposal. Carbohydrazide stock solution must be disposed of ashore.
	Boiler water or feedwater test chemicals	Nitric acid, EDTA, mercuric nitrate, potassium chloride, phenolphthalein, methyl purple, chloride indicator, carbohydrazide test reagents, caustic soda, oxygen ampoules, molybdate reagents, hardness indicator, hardness buffer, dimethylglyoxime	Containerize excess reagents (including oxygen ampoules) and samples containing mercuric contaminated wastewater for shore disposal. If available, process mercuric samples through ion exchange cartridge. Overboard discharge of cartridge effluent permitted. Containerized exhausted cartridges for shore disposal. Boiler water or feedwater samples, except samples containing mercuric compounds, discharge overboard permitted outside 12 NM of shore.
	Boiler waterside cleaning solutions	EDTA, citric acid, sulfamic acid	Overboard discharge permitted beyond 50 NM of shore. In port, offload to tank, barge, or truck.* Offloading to bilge and shore bilge water collection system is not permitted.

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
	Boiler layup solutions	Carbohydrazide, morpholine, sodium nitrate	Overboard discharge permitted beyond 50 NM of shore. In port, offload to tank, barge, or truck. Offloading to bilge and shore bilge water collection system is not permitted.* For carbohydrazide layup, boiler light-off with subsequent steaming direct from layup permitted (reference (b), chapter 220, volume 2).
	Acid cleaning solutions	Hydrochloric, sulfamic acid, citric acid	Overboard discharge not permitted. In port, offload to tank, barge, or truck. Offloading to bilge and shore bilge water collection system is not permitted.*
	Passivator solutions	Sodium nitrite	Overboard discharge not permitted. In port, offload to tank, barge or truck. Offloading to bilge and shore bilge water collection system is not permitted.*
	Boilout and degreasing solutions	Trisodium phosphate, sodium metasilicate, nonionic wetting agent, degreaser	In port, offload to tank, barge, or truck. Offloading to bilge and shore bilge water collection system is not permitted.*
	Waterjet wastewater	Sodium nitrite	Overboard discharge permitted outside 50 NM of shore. In port, offload to tank, barge or truck. Offloading to bilge and shore bilge water collection system is not permitted.*
	Feedwater and mercuric sample demineralizer resins	Ion exchange resin with absorbed metal ions (including mercury)	Containerize for shore disposal as used HM.

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
Canisters			
Battery water purification canister	Cation exchanger, mixed bed exchanger	Ion exchange resin with adsorbed metal ions	Containerize for shore disposal.
Used or expired oxygen breathing apparatus canisters	Damage control operations	Potassium superoxide, sodium chlorate	Label and containerize for shore disposal. **Contact with oil, grease, or water during storage is prohibited.** Follow guidelines within reference (b), chapter 077.
Chemical light sticks	Underway replenishment operations	Tert-butyl alcohol, dimethylphtalate, dibutyl phthalate, hydrogen peroxide	Containerize for shore disposal.
Distilling plant cleaning wastes	Offline distilling plant chemical cleaning	Citric acid, sulfamic acid, disodium EDTA, tetrasodium EDTA, trisodium phosphate	In port, offload to tank, truck, or barge. Offloading to bilge and shore bilge water collection system is not permitted.*
	On-line distilling plant chemical cleaning	Citric acid, sulfamic acid, disodium EDTA, tetrasodium EDTA, trisodium phosphate	Overboard discharge permitted beyond 50 NM of shore. In port, offload to tank, truck, or barge. Offloading to bilge and shore bilge water collection system is not permitted.*
Film-processing wastes			
Color film	Continuous processor effluent, small quantities of processing liquids	Hydroquinone, sodium thiosulfate	Containerize for shore disposal**.**
	Excess film; batch quantities of developer, fixer, and intensifier solutions	Hydroquinone, sodium thiosulfate, cellulose acetate	Containerize for shore disposal**.**

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
Black and white film	Continuous processor effluent, stop bath, photo-flo, detergents, and hardener solutions	Acetic and sulfuric acids, potassium chrome alum	Containerize for shore disposal**.**
	Excess film; batch quantities of developer and intensifier solution	Hydroquinone, ethanolamine, diethylene glycol, cellulose acetate	Containerize for shore disposal.
	Fixer solutions	Sodium thiosulfate, silver, halides	Containerize for shore disposal. **For submarines:** Containerize fixer solutions for shore disposal at all times.
Emergency escape breathing devices (EEBD)	Emergency escape operations	Sodium chlorate, barium peroxide, iron, lithium hydroxide, potassium perchlorate	Label and containerize for shore disposal. Contact with oil, grease, or water during storage is prohibited. Follow guidelines within reference (b), chapter 077.
Firefighting materials	Firefighting, testing of fire-fighting equipment	AFFF (perfluorocarbon compounds mixed with polyoxyethylene compound)	Overboard discharge permitted beyond 12 NM of shore, while ship is underway. In port and within 12 NM of shore, containerize for shore disposal.
Fluorescent light bulbs, other light bulbs containing mercury	Normal shipboard operation	Mercury	Retain for shore disposal. **Do not crush.**
Greases	Machine maintenance, motors, roller bearings	Greases and antisieze compounds such as: MIL-G-18458, MIL-G-21164, MIL-G-24139, MIL-L-15719, and DOD-G-24508	Containerize for shore disposal.

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
HM-contaminated items			
Contaminated sorbents, rags, unrecoverable personal protective clothing	Normal ship maintenance operations, spill response operations	Items contaminated with HMs that must be containerized for shore disposal (find specific contaminants in this table to learn if containerization is required)	Containerize for shore disposal.
	Normal ship maintenance operations, spill response operations	Items contaminated with HMs that may be discharged overboard (find specific contaminants in this table to learn if overboard discharge is permitted)	Jettison beyond 25 NM or specified disposal distance in this table, whichever is greater. Discharged material must be negatively buoyant. Containerize for shore disposal if within 25 NM or disposal restriction distance of land.
Empty HM containers	Cleaning operations	Containers with residual HM	Empty HM containers that are metal or glass may be disposed of as SW per paragraph 35-3.17 of this manual. Empty HM containers that are plastic or contain plastic must be handled as plastic SW.
Hydraulic fluids			
Petroleum-based hydraulic fluids	Machinery, heavy lift elevators, trucks	Fluids per MIL-H-17672, MIL-L-17331, MIL-F-17111, MIL-H-5606	Hold for shore disposal. Keep separate from synthetic hydraulic fluids.
Synthetic hydraulic fluids	Aircraft elevators, weapons-handling systems, some ballast valve operating systems and replenishment-at-sea systems	Fluids per MIL-H-19457 contain tertiary butylated triphenyl phosphate	Hold for shore disposal. Keep separate from petroleum hydraulic fluids.

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
	Catapult retracting engines, jet blast deflectors, weapons elevators	Fluids per MIL-H-22072 contain 30–60 percent ethylene glycol, 10–30 percent polyoxypropylene glycol, and 30–60 percent water	Hold for shore disposal. Keep separate from petroleum hydraulic fluids.
	Weapon and combat systems	Synthetic fluids such as MIL-S-81087 and MIL-H-83282	Hold for shore disposal. Keep separate from petroleum hydraulic fluids.
Insecticides, pesticides	Pest control operations	Diazinon, Baygon, Dyrethrin, Resmethrin, Dursban, Malathion	Containerize for shore disposal.
Lubricants, dry-film	Machine maintenance, motors, roller bearings	Dry lube, molybdenum disulfide, graphite, talc	Containerize for shore disposal.
Medical or dental lab chemicals and materials	Dental amalgam used as filling material, thermometers, mercury from broken thermometers	Silver, silver nitrate, mercuric nitrate, mercury	Containerize for shore disposal.
	Expired pharmaceuticals (prescription and over the counter)	Prescription medications, aspirin, cold and fever medication, nicotine gum, etc.	Containerize for shore disposal.
	Antiseptics, disinfectants	Isopropyl alcohol	Overboard discharge permitted beyond 12 NM of shore. In port, containerize for shore disposal.
X-ray film processing wastes	X-ray film processing	X-ray film processing chemicals	Containerize for shore disposal.
Oils			
Waste oils	Non-PCB containing capacitors, coils	Mineral, silicone, paraffin-based oils	Containerize for shore disposal.

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
	Cutting fluids	Chlorinated and sulfurized minerals oils, MIL-C-47220	Containerize for shore disposal.
	Damping fluids	Silicone-based oils, dimethylpolysiloxane	Containerize for shore disposal.
	Lubricating oils from machinery, turbines, engines, and motors	Lubricating oils such as MIL-L-9000, MIL-L-15019, MIL-L-17331, and MIL-L-23699	Containerize for shore disposal.
Oily sludge	Residue from OWSs, fuel tanks, degreasing operations	Oil mixed with lead, zinc, chromium, copper, or tin residues	Containerize for shore disposal.
Oily SW	Normal ship maintenance, spill response	Heavily oiled sorbents or rags, oil and fuel filters	Containerize for shore disposal. Submarines, refer to subparagraph 35-3.14i(9)(g) of this manual.
	Normal ship maintenance, spill response	Lightly oiled rags (less than 50% soaked and not dripping without wringing)	Incinerate outside of 12 NM. Containerize for shore disposal if within 12 NM or not equipped with an incinerator.
Paint wastes from painting, resurfacing operations	Paints, enamels, varnishes, lacquers, paint chips and debris	Unusable paint; paint contaminated solvents, strippers, application and cleanup materials	Containerize for shore disposal.
Personal items			
Disposable butane lighters	Lighters no longer usable	Butane, plastics	Containerize for shore disposal.

Shipboard HM Type	**Examples of Generation Sources**	**Examples of Associated HMs**	**Authorized Disposal Methods**
PCB-contaminated components	Capacitors, coils (usually with radar systems) (a listing of components containing PCBs has been provided to each ship), electrical cables, felt gaskets	PCBs	Containerize for shore disposal.
Propellants	TORP overhaul	Otto Fuel II, substituted hydrazine	Containerize for shore disposal.
Solvents			
Chlorinated solvents	Cleaning operations	Perchloroethylene, trichloroethylene, trichloromethane, trichloroethane, Freon™	Containerize for shore disposal. Keep separate from non-chlorinated solvents.
Non-chlorinated solvents	Cleaning operations	Ethyl acetate, acetone, morpholine, methyl ethyl ketone, toluene, xylene, kerosene, petroleum naphtha, petroleum ether, petroleum distillates	Containerize for shore disposal. Keep separate from chlorinated solvents.
		Ethylene and propylene glycols; methyl, ethyl, isopropyl, and butyl alcohols	Containerize for shore disposal. Keep separate from chlorinated solvents.
Vitreous fibers, materials containing man-made fibers	Thermal insulation, pipe lagging	Man-made vitreous fibers	Dispose per requirements set forth in reference (d), chapter B1.

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
Water, waste			
Water with corrosion inhibitors	Diesel generator cooling water, diesel engine cooling water, electronic cooling water, closed loop cooling water, locked-in ballast, fuel ballast, central fresh water, chillwater	A-A-52624, Paxcool, Catcool, Shell Rotella ELC (glycol-based antifreezes)	Overboard discharge permitted beyond 12 NM of shore. In port and within 12 NM, containerize for shore disposal. Containerize excess stock chemicals for shore disposal.
		MIL-A-53009 (sodium metaborate, potassium silicate, mercaptobenzothiazole)	Overboard discharge permitted beyond 12 NM of shore. In port and within 12 NM, containerize for shore disposal. Containerize excess stock chemicals for shore disposal.
		Nalcool 2000, Nalfleet 9-111 (nitrite-based corrosion inhibitors)	Overboard discharge permitted beyond 12 NM of shore. In port and within 12 NM, containerize for shore disposal. Containerize excess stock chemicals for shore disposal.
	Diesel generator cooling water, diesel engine cooling water, electronic cooling water, closed loop cooling water, locked-in ballast, fuel ballast, central fresh water, chillwater	Loopguard 278, CCI-A216, Glysacorr G-93 (organic acid-based inhibitors)	Overboard discharge permitted beyond 12 NM of shore. In port and within 12 NM, containerize for shore disposal. Containerize excess stock chemicals for shore disposal.

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
	Residue from diesel engine coolant testing	Chloride test residues; copper sulfate mixed with A-A-52624, Paxcool, Catcool, MIL-A-53009, Nalcool 2000, or Nalfleet 9-111	Overboard discharge permitted beyond 12 NM of shore. In port and within 12 NM, containerize for shore disposal. Containerize excess stock chemicals for shore disposal.
		Sodium chromate solution mixed with residual fuel or soluble oil	Containerize for shore disposal. Containerize excess stock chemicals for shore disposal.
	Detergent flush of engine cooling systems	MIL-D-16791 detergent	Overboard discharge permitted beyond 12 NM of shore. In port and within 12 NM, containerize for shore disposal. Containerize excess stock chemicals for shore disposal.
	Acid cleaning of engine cooling systems	Diammonium citrate, diethylthiourea (DETU), MIL-D-16791 detergent	Beyond 12 NM of shore, overboard discharge permitted after neutralizing with sodium bicarbonate. In port and within 12 NM, containerize for shore disposal. Containerize excess stock chemicals for shore disposal.
	Acid cleaning of diesel engine cooler cores	Sulfamic acid, MIL-D-16791 detergent	Beyond 12 NM of shore, overboard discharge permitted after neutralizing with sodium bicarbonate. In port and within 12 NM, containerize for shore disposal. Containerize excess stock chemicals for shore disposal.

Shipboard HM Type	Examples of Generation Sources	Examples of Associated HMs	Authorized Disposal Methods
Aircraft engine washdown wastewater	Water solutions with detergents, solvents, marine salts, and engine corrosion products	Glycols, triethanolamine, naphtha, 2-butoxyethanol, cadmium, chromium	Overboard discharge permitted beyond 12 NM of shore. Inside 12 NM and in port, collect and containerize for shore disposal.*
Marine gas turbine water wash wastewater	Cleaning of shipboard gas turbine propulsion power systems	Naphthalene, naval distillate fuel, gas turbine fuel, synthetic lube oil, copper, cadmium, nickel	Collect and hold in gas turbine water wash collection tank. Pump ashore or containerize for shore disposal. If collection tank capacity is exceeded, overboard discharge permitted beyond 12 NM of shore. Effluent that flows up the stack need not be collected.
Carbon dioxide (CO_2) scrubber waste monoethanolamine (MEA) and acid flush waste solutions	Normal submarine CO_2 scrubber maintenance	MEA, citric acid	Overboard discharge permitted beyond 12 NM of shore. Inside 12 NM and in port, collect and containerize for shore disposal.*
Submarine missile tube post-launch wastewater	Submarine missile tubes	Heavy metals, cyanide	Overboard discharge permitted beyond 12 NM of shore. Inside 12 NM and in port, collect and containerize for shore disposal.*

* Contact local public works center or public works department for authorized procedures.
** Except when a State has a no-discharge zone applicable to this discharge.

CHAPTER 36

PERMITTED OCEAN DISPOSITION

Table of Contents

36-1 Scope 36-1
36-1.1. Related Chapters 36-1
36-1.2. References 36-1

36-2 Legislation 36-2

36-3 Requirements 36-2
36-3.1. Ocean Dumping and Emergency Jettison or Discharge of Material to Safeguard Life at Sea 36-2
36-3.2. Transport of Target Vessels 36-2
36-3.3. Burial at Sea 36-4

36-4 Responsibilities 36-5

36-5 Definitions 36-7

36-1 Scope. This chapter identifies requirements and responsibilities for ocean disposal of material, other than dredged or fill material (refer to chapter 20 (Clean Water Ashore) of this manual), and the discharges covered in chapter 35 (Environmental Compliance Afloat) of this manual.

36-1.1. Related Chapters. Chapter 20 (Clean Water Ashore) of this manual provides information on clean water ashore, and chapter 35 (Environmental Compliance Afloat) of this manual provides information on environmental compliance afloat.

36-1.2. References

(a) 40 CFR Parts 220–225 and 227–229;

(b) NAVSEA OP 4 of 1 Jul 2015, Ammunition and Explosives Safety Afloat;

(c) OPNAVINST 1541.5, General Policy for Sinking Exercise Approval;

(d) United Nations, Treaty Series, vol. 516, p. 205, UN Convention on the Law of the Sea: Territorial Sea and Contiguous Zone; and

(e) NAVMEDCOMINST 5360.1, Decedent Affairs Manual.

36-2 Legislation

a. Legislation containing provisions that pertain to permitted ocean disposition includes:

(1) Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401–1445; and

(2) Ocean Dumping Act.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

36-3 Requirements

36-3.1. Ocean Dumping and Emergency Jettison or Discharge of Material to Safeguard Life at Sea.

a. Ocean Dumping. Ocean dumping may only be authorized on a case-by-case basis by the Office of the Chief of Naval Operations (OPNAV), Energy and Environmental Readiness Division (OPNAV N45). Except in emergency conditions, requests for such authorization must be accompanied by documentation per the criteria established in reference (a). Following OPNAV N45 approval, full compliance with Environmental Protection Agency (EPA) permitting procedures is required.

b. Emergency Jettison or Discharge of Material in Emergencies to Safeguard Life at Sea. Any material may be jettisoned or discharged from ships and aircraft in an emergency to safeguard life at sea. See chapter 35 (Environmental Compliance Afloat) of this manual, paragraphs 35-3.12 through 35-3.18, for specific instructions and any reporting requirements for specific materials jettisoned or discharged in emergency circumstances. Requirements specific to the emergency jettison of ordnance at sea are found in reference (b), section 2-20.

36-3.2. Transport of Target Vessels

a. The transportation of naval ships and craft from the United States or from any other location for conducting a sinking exercise (SINKEX) concerning training or tests and evaluations of conventional ammunition and weapon systems is subject to EPA permit requirements established in reference (a), section 229.2. The permit requirements relating to SINKEX are periodically clarified and updated through written agreements between the Navy and EPA, copies of which are maintained by OPNAV N45. The requirements from the current Navy-and-EPA written agreement are reflected in subparagraph 36-3.2b through 36-3.2g and 36-3.2i of this manual. Sinking vessels for other than SINKEX purposes, such as creation of an artificial reef, are covered by different regulations and are not addressed in this section.

b. Not more than 90 days after an inactive Navy ship has been designated as a SINKEX asset through the processes established in reference (c), OPNAV N45 must provide notice of SINKEX vessel selection to EPA.

c. Before a SINKEX target vessel may be employed in an exercise, a polychlorinated biphenyls (PCB) survey and sampling plan must be created and employed to ascertain the possible presence of PCBs in shipboard materials, as well as the presence of liquid PCBs. Appropriate measures must be taken by qualified personnel at a Navy command or other appropriate facility to remove, to the maximum extent practicable, all materials that may degrade the marine environment, including, but not limited to:

(1) Emptying of all fuel tanks and lines to the lowest point practicable, flushing of such tanks and lines with water, and again emptying such tanks and lines to the lowest point practicable so tanks and lines are essentially free of petroleum;

(2) Removing other pollutants and all readily detachable material capable of creating debris or contributing to chemical pollution from the hulls;

(3) Removing all transformers containing 3 pounds (lb) or more of dielectric fluid and all capacitors containing 3 lb or more of dielectric fluid and to drain and flush hydraulic equipment, heat transfer equipment, high- and low-pressure systems, cutting power machinery that uses cooling or cutting oil, and containers containing liquid PCBs, regardless of concentration. In addition, such personnel must make reasonable efforts to remove capacitors and transformers containing less than 3 lb of dielectric fluid;

(4) Removing all readily detachable shipboard materials that deliberately or unintentionally contain any PCBs capable of creating debris or contributing to chemical pollution; and

(5) Leaving on board and in place shipboard materials containing PCBs that cannot be practicably removed without threatening the structural integrity of the vessels so as to impede the SINKEX (e.g., removal of materials mounted under heavy equipment). If removal of shipboard materials containing PCBs would require heat, chemical stripping, or abrasive blasting, or if removal would endanger human safety or health, even when conducted with protective equipment and reasonable safety measures, the Navy may leave these shipboard materials in place.

d. Vessels used as SINKEX target vessels must not contain PCBs in amounts that exceed 100 lb of PCBs remaining on board. If a vessel is needed for a critical test or exercise and the amount of PCBs remaining on board cannot be reduced below the 100-lb threshold without damaging its structural integrity, the general permit under reference (a), section 229.2, is not applicable, and the major claimant that requested the SINKEX assets must apply for a special permit under the Marine Protection, Research, and Sanctuaries Act to conduct the SINKEX;

e. Not later than 45 days prior to a SINKEX, OPNAV N45 must provide electronic notification of the event to EPA's Director of Oceans and Coastal Protection Division containing:

(1) SINKEX target vessel name;

(2) SINKEX target vessel class;

(3) SINKEX target vessel tonnage;

(4) Location of SINKEX vessel;

(5) Estimated weight of PCBs to remain on board the SINKEX target vessel; and

(6) Estimated number and types of shipboard materials that may contain PCBs to be removed and estimated weight of PCBs in these materials, if known.

f. EPA must be granted access to records, reports, data, schedules, and other documents establishing permit compliance; and EPA personnel must be granted access to SINKEX target vessels and supporting areas for the purpose of conducting walkthroughs.

g. A SINKEX operation must be conducted only after the Chief of Naval Operations approves it and the target is prepared per specific OPNAV directions and the EPA permit as clarified by any Navy-and-EPA written agreement in effect. Requests for conducting SINKEX exercises must be prepared per reference (c).

h. Prior to conducting a SINKEX, Navy commands must also comply with the mitigation measures provided in the Protective Measures Assessment Protocol (PMAP) (refer to appendix E (Web Sites) for Web site address). The PMAP identifies mitigation measures that are required for a SINKEX.

i. During a SINKEX, necessary measures must be taken to ensure that the vessel sinks to the bottom rapidly and permanently and that marine navigation is not impaired by the sunken vessel. All such vessel sinkings must be conducted in water of at least 1,000 fathoms (6,000 feet) and at least 50 nautical miles (NM) from land, as measured from that portion of the baseline from which any territorial sea is measured (as provided for in reference (d)) that is in the closest proximity to the proposed SINKEX site.

j. After a SINKEX, the Fleet Commander or other major claimant that requested the SINKEX assets will submit an After Action Report to Commander, Naval Sea Systems Command (COMNAVSEASYSCOM), Navy Inactive Ships Program (copies to OPNAV, Fleet Readiness Division; OPNAV N45; OPNAV, Integrated Warfare Division; Naval History and Heritage Command (NHHC); and appropriate fleet and force commanders) that includes the name of each vessel sunk, approximate tonnage, location, water depth, and date of sinking.

36-3.3. Burial at Sea. Transporting human remains from any location for the purpose of burial at sea and burying such remains at sea are subject to EPA permit requirements established in reference (a), section 229.1. Human remains must be prepared for burial at sea and be buried per reference (e), chapter 8.

a. For non-cremated human remains, burial at sea must take place no closer than 3 NM from U.S. land and 12 NM from foreign land and in water of no less than 100 fathoms (600 feet) depth. The Military Medical Support Office must provide certification that remains are in a metal casket and are properly prepared per reference (e). If the casket does not submerge upon impact with the water the commanding officer (CO) must retrieve the casket and provide additional weight or additional holes prior to returning the casket to the sea. For purposes of this paragraph, "land" means that portion of the baseline from which any territorial sea is measured (as provided for in reference (d)) that is in closest proximity to the proposed disposal site.

b. Cremated remains disposition from ships:

(1) Scattering. If the cremated remains are to be scattered at the time of committal, then the cremated remains must be in an urn or a plastic or metal container to prevent spillage.

(2) Sea Committal. Urns or other containers used for at sea committal must not be made of plastic.

(3) Cremated remains must be buried in or on ocean waters without regard to the depth limitations specified in subparagraph 36-3.3a of this manual, provided that such burial takes place no closer than 3 NM from U.S. land and 12 NM from foreign land.

c. Placement of plastics (such as plastic flowers and wreaths) or other materials that are not readily decomposable in the marine environment must not be permitted.

36-4 Responsibilities

36-4.1. OPNAV N45 must:

a. Not more than 90 days after selection of a SINKEX asset through the Supply Discrepancy Reporting process, provide notice of SINKEX target vessel selection to EPA and respond to requests for follow-up information within 30 days.

b. Not later than 45 days prior to a SINKEX, provide electronic notification of the event to EPA's Director of Oceans and Coastal Protection Division containing the information required in subparagraph 36-3.2e of this manual.

c. Submit an annual report to the EPA administrator prepared by COMNAVSEASYSCOM on or about 1 February of each year.

36-4.2. COMNAVSEASYSCOM must:

a. Establish procedures to ensure that all SINKEX target vessels are prepared in full compliance with reference (a), section 229.2, as clarified by any Navy-and-EPA agreement in effect, and the requirements of this manual.

b. Establish procedures to provide EPA with access to records, reports, data, schedules, and other documents establishing permit compliance; and to grant EPA personnel access to SINKEX target vessels and supporting areas for the purpose of conducting walkthroughs.

c. Provide all information required in subparagraph 36-3.2e of this manual to OPNAV N45, no later than 60 days prior to a SINKEX.

d. Prepare an annual report for submission by OPNAV N45 to the EPA administrator (forward this report to OPNAV N45 for review no later than 15 January of each year), setting forth:

(1) Documentation regarding efforts taken to clean each vessel prior to a SINKEX activity, including any amendments to documentation previously provided to EPA in conjunction with SINKEXs conducted in the previous 12 months;

(2) Documentation regarding estimates of the weight of PCBs based on potential PCB-containing materials remaining on board at the time of sinking, including any amendments to documentation previously provided to EPA in conjunction with SINKEXs conducted in the previous 12 months;

(3) Estimated number and types of shipboard materials that may contain PCBs removed and calculations with supporting information (including the results of the PCB sampling conducted) used to estimate the total weight of PCBs in these materials, if known. This estimate will clearly identify any amendments to documentation previously provided to EPA in conjunction with SINKEXs conducted in the previous 12 months;

(4) Calculations and supporting information (including the results of the PCB sampling conducted) used to estimate the total weight of non-liquid PCBs remaining on board the SINKEX vessel;

(5) Location of all SINKEX target vessels sunk that year, presented as the vessels' location on the bottom within 500 yards; and

(6) Water depth at which the vessel rests.

36-4.3. COs of a vessel or aircraft conducting burials at sea must, within 20 days of conducting the burial, report the date, longitude and latitude, number, and type of burial (whole body or cremated remains) to the Fleet Commander, with copies to the type commander and the regional environmental coordinator (REC).

36-4.4. RECs must submit a report to the appropriate EPA regional office detailing the burial at sea within 30 days of conducting the burial.

36-5 Definitions

36-5.1. Dumping. Dumping refers to the intentional disposition of wastes generated ashore or materials on-loaded in port for the express purpose of disposal at sea. Dumping does not include routine discharge of materials or wastes generated aboard ship or effluent incidental to the propulsion or operation of motor driver equipment on vessels (i.e., those discharges covered in chapter 35 (Environmental Compliance Afloat) of this manual). It does, however, include the discharge of contaminated material, including bilge water received from another ship or shore source.

36-5.2. Material. In this context, material is matter of any kind or description, including, but not limited to solid waste, incinerator residue, garbage, sewage, sewage sludge, munitions, discarded equipment, and radiological, chemical, and biological warfare agents.

36-5.3. Ocean Waters. Ocean waters are those seaward of the baseline from which the boundary of the territorial sea is measured.

CHAPTER 39

OIL AND HAZARDOUS SUBSTANCE SPILL PREPAREDNESS AND RESPONSE

Table of Contents

39-1 Scope 39-1
39-1.1. Related Chapters 39-1
39-1.2. References 39-2
39-1.3. Applicability 39-2

39-2 Legislation 39-3

39-3 Requirements 39-3
39-3.1. Response Personnel 39-4
39-3.2. Planning 39-4
39-3.3. Training Requirements 39-10
39-3.4. Exercises 39-12
39-3.5. Spill Response 39-15
39-3.6. Reporting 39-17
39-3.7. Natural Resource Trusteeship 39-20
39-3.8. Health and Safety 39-20
39-3.9. Navy Web Site Reporting 39-20

39-4 Responsibilities 39-21

39-5 Definitions 39-30

39-1 Scope. This chapter identifies requirements to prepare for and respond to oil and hazardous substance (OHS) spills from Navy vessels and shore facilities worldwide and summarizes Navy planning and response requirements for both Navy and non-Navy OHS spills.

39-1.1. Related Chapters. Chapter 20 (Clean Water Ashore) of this manual identifies the requirements and responsibilities for the control and prevention of water pollution. Chapter 23 (Hazardous Materials Management Ashore) of this manual describes the comprehensive management of hazardous material (HM). Chapter 27 (Hazardous Waste Management Ashore) of this manual describes the comprehensive management of hazardous waste (HW). Chapter 30 (Oil Management Ashore) of this manual discusses oil management at shore facilities. Chapters 31 (Storage Tanks) and 35 (Environmental Compliance Afloat) of this manual discuss the prevention and minimization of OHS pollution from storage tanks at shore facilities and OHS management aboard ships, respectively. Chapter 34 (Overseas Environmental Compliance Ashore) of this manual covers Navy policy for overseas activities, and chapter 41 (Natural Resource Damage) of this manual identifies Navy responsibility with respect to natural resource damage (NRD) after an OHS spill incident.

39-1.2. References

(a) 33 U.S.C.;

(b) Department of Homeland Security, National Response Framework, June 2016;

(c) 40 CFR;

(d) 33 CFR Part 154;

(e) 30 CFR Part 254;

(f) 49 CFR;

(g) 29 CFR;

(h) 61 FR 28642;

(i) DoD 4715.05-G, Overseas Environmental Baseline Guidance Document, of May 2007;

(j) Commander, Naval Sea Systems Command, S9593-FF-MMA-010, U.S. Navy Shipboard Oil and Hazardous Substance Spill Contingency Plan Guide;

(k) OPNAVINST 3440.17A, Navy Installation Emergency Management Program;

(l) Memorandum of Agreement Between Department of Defense and Department of Transportation on the Administration of the Ready Reserve Force, 28 Jan 09 (NOTAL);

(m) OPNAVINST F3100.6J, Special Incident Reporting (OPREP-3 PINNACLE, OPREP-3 NAVY BLUE, and OPREP-3 NAVY UNIT SITREP) Procedures (NOTAL);

(n) OPNAVINST 5100.19E, Navy Safety and Occupational Health (SOH) Program Manual for Forces Afloat;

(o) OPNAVINST 5100.23G, Navy Safety and Occupational Health Program Manual;

(p) Homeland Security Presidential Directive 5 of 23 February 2003;

(q) Public Law 95–604, Uranium Mill Tailings Radiation Control Act of 1978; and

(r) 10 U.S.C. §113 et seq.

39-1.3. Applicability. Navy vessels and shore facilities, both in the continental United States and overseas, are subject to a wide array of OHS planning, training, exercise, reporting, and response requirements. The specific Federal, State, and local laws and regulations that apply are dependent on factors such as facility's location, nature of operations, and whether certain criteria

and threshold requirements are met. Federal laws applicable to OHS preparedness and response include the Clean Water Act (CWA) and Oil Pollution Act of 1990 (OPA 90). This chapter explains Navy-specific shipboard preparedness and response requirements applicable to Navy vessels, which are exempt from corresponding provisions of OPA 90 because the definition of vessel in reference (a), section 2701, paragraph 29 specifically excludes public vessels.

39-2 Legislation

a. Legislation containing provisions that pertain to OHS spill preparedness and response includes:

(1) Clean Air Act (CAA), 42 U.S.C. §7401–7671q;

(2) Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9601–9675;

(3) Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387;

(4) Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. §11001–11050;

(5) Occupational Safety and Health Act, 29 U.S.C. §651–678;

(6) Oil Pollution Act of 1990 (OPA 90) 33 U.S.C. §2701–2762; and

(7) Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act (SWDA)), 42 U.S.C. §6901–6992k.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

39-3 Requirements

a. The Environmental Protection Agency (EPA); Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA); U.S. Coast Guard (USCG); Bureau of Ocean Energy Management, Regulation and Enforcement (BOEM, R&E); and Occupational Safety and Health Administration (OSHA) all regulate portions of OHS preparedness and response. Navy facilities typically fall under EPA or USCG or both jurisdictions, but all facilities should carefully evaluate their responsibilities to meet other regulatory requirements.

b. In addition, State programs requiring OHS spill prevention, preparedness, and response vary widely. All States require notification of State and local authorities of OHS spills. Certain States, and coastal States in particular, have stringent requirements for vessel and facility spill response plans and prevention measures that exceed Federal standards. Department of Defense

(DoD) facilities, including Navy facilities, are subject to State and local facility prevention and response planning requirements. Public vessels, including military vessels, are exempt from most State requirements. Some facilities are required to develop and submit to EPA a risk management plan (RMP) for the EPA's regulated substances under the CAA. Refer to chapter 22 (Clean Air Ashore), subparagraph 22-3.3b(3) of this manual, for RMP requirements under CAA regulations.

39-3.1. Response Personnel

a. Reference (b) defines the role of the response personnel.

b. The Federal on-scene coordinator (FOSC) is the Federal official pre-designated by EPA or USCG to coordinate and direct Federal responses under reference (c), Part 300. In the case of Navy hazardous substance (HS) releases on or solely from Navy facilities, the Navy on-scene coordinator (NOSC) has been pre-designated to serve as the FOSC. The NOSC coordinates Navy OHS spill contingency planning and directs Navy OHS spill response efforts in a pre-assigned area. NOSCs are pre-designated by the cognizant naval forces commanders or Commander, Navy Installations Command (CNIC). The naval forces commanders are U.S. Fleet Forces Command, U.S. Pacific Fleet, U.S. Naval Forces Europe, U.S. Naval Forces Africa, U.S. Naval Forces Southern Command, and U.S. Naval Forces Central Command. The NOSC also acts as the incident commander for spills that exceed the response capability or extend beyond the fenceline of a facility located within the NOSC area of responsibility (AOR). The NOSC may designate a qualified individual (QI) who meets the qualifications of paragraph 39-5.15 of this manual to implement a NOSC OHS regional response plan (NOSC plan) and manage an oil spill incident.

c. The facility incident commander (FIC) is responsible for all aspects of the response, including developing incident objectives and managing all incident operations. The FIC designations are based on OHS spill risk and response capability of the command to ensure rapid, effective response to OHS spills within the assigned area. The FIC may designate a QI to develop and implement the facility response plan (FRP) and manage an oil spill incident (reference (c), Part 112). The FIC also has authority to appoint appropriate staff to serve as incident commander during a response. The title of FIC is retained by the installation commanding officer (ICO) and may not be delegated.

39-3.2. Planning. All Navy facilities must maintain contingency plans to combat releases of HSs or discharges of oil and minimize hazards to human health and the environment. These plans must provide information on facility emergency equipment, evacuation, and coordination (reference (c), Parts 264 and 300). Depending on a facility's size and the nature of its operations, it may come under the jurisdiction of several Federal, State, and local contingency planning laws and regulations. Under some of these laws and regulations, contingency plans require regulatory approval. Facilities must review appropriate regulations to determine if they meet the criteria to prepare and submit plans. Activities must submit a copy of these plans to all local police and fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services. At a minimum, each plan must be reviewed and updated annually. Depending on personnel turnover rate, the responsibility and notification sections must be

updated at least quarterly. Each plan must be updated and resubmitted as required by regulations or, at a minimum, every 5 years or after any major spill event. Facilities should coordinate with tenant commands to ensure host-tenant agreements or commercial leases identify the appropriate spill response actions are taken.

a. Facility Plans. All Navy facilities must develop either an FRP or spill contingency plan (SCP), depending upon the regulatory requirements, size, and location of the facility. Facilities must report, via the NOSC, the status of their plans through the use of a Web-based database maintained by COMNAVSEASYSCOM to CNIC annually (refer to appendix E (Web Sites) of this manual for Web site address). To ensure a coordinated response, installation commands must ensure all tenant commands coordinate their respective plans with the applicable facility plans.

(1) FRPs. Facilities that store, transport, or handle oil and meet the specific threshold requirements of any of the OPA 90 regulations (reference (c), Part 112; references (d) and (e); and reference (f), Parts 194 and 195) must submit an FRP to the appropriate regulatory agency (i.e., EPA; USCG; BOEM, R&E; or PHMSA). Each agency has established criteria that define which facilities fit this description. Table 39-1 of this manual provides a brief description of these criteria. The actual regulations must be reviewed to determine applicability.

Table 39-1. Facilities Criteria

Facility Type	**FRP Threshold Requirement**	**Regulatory Agency**	**Citation**
Non-transportation-related onshore facilities	(1) The facility, because of its location, could be reasonably expected to cause "substantial harm" to the environment; (2) The facility transfers oil over water to or from vessels and has a total oil storage capacity greater than or equal to 42,000 gallons; or (3) The facility's total oil storage capacity is greater than or equal to 1 million gallons, and one of these is true: (a) The facility does not have secondary containment for each aboveground storage area sufficiently large to contain the capacity of the largest aboveground oil storage tank within each storage area plus sufficient freeboard to allow for precipitation; (b) The facility is located at a distance such that a discharge from the facility could	EPA	Reference (c), Part 112, subpart A

Facility Type	FRP Threshold Requirement	Regulatory Agency	Citation
	cause injury to fish and wildlife and sensitive environments; (c) The facility is located at a distance such that a discharge from the facility would shut down a public drinking water intake; or (d) The facility has had a reportable oil spill in an amount greater than or equal to 10,000 gallons within the last 5 years.		
Marine-transportation-related (MTR) facilities	(1) The facility, because of its location, could be reasonably expected to cause "substantial harm" to the environment; (2) Fixed MTR onshore facilities capable of transferring oil to or from a vessel with a capacity of 250 barrels or more; (3) Mobile MTR facilities used or intended to be used to transfer oil to or from a vessel with a capacity of 250 barrels or more; and (4) Those MTR facilities specifically designated as substantial harm facilities by the captain of the port.	USCG	Reference (d), subpart F
Non-transportation-related facilities; offshore platforms and pipelines	Each owner or operator of an oil handling, storage, or transportation facility, located seaward of the coastline, must submit a spill response plan to BOEM, R&E for approval.	BOEM	Reference (e), subpart B
Onshore pipelines	Each operator of an onshore pipeline facility must prepare a response plan and submit it to PHMSA. Note: PHMSA allows numerous exceptions to this rule based on factors such as pipe size, operating pressure, age, and construction type. Consult reference (f), Part 194 for specific criteria.	PHMSA*	Reference (f), Part 194, subpart B
*Navy facilities with pipelines that leave the facility or with mobile sources may fall under PHMSA's jurisdiction. Pipelines that transport fuel off facility grounds must comply with the safety standards and reporting requirements of reference (f), Part 195.			

(a) Facilities meeting the criteria for more than one type of facility are considered "complex facilities" and must submit the FRP to each Federal agency with jurisdiction. While the requirements for the FRP vary widely depending on the type of facility, certain essential elements are common to all plans, including:

1. Designation of an individual who can be reached on a 24-hour basis and has the authority to take necessary response action;

2. An emergency section of the plan that provides concise response direction;

3. Extensive drills and exercises with specified documentation and recordkeeping;

4. A provision for regular update and review of FRPs; and

5. Provisions for responding to spills up to and including worst-case discharges (WCD).

(b) "Substantial harm" facilities must submit FRPs to the relevant regulatory agency for information; "significant and substantial harm" facilities must submit FRPs to the appropriate regulatory agency for review and approval.

(c) Facilities owning barges that are used only at that facility to store, transfer, or handle oil for that facility should include these barges in their response plans.

(d) Facilities may rely on their NOSC for WCD response, and FRPs submitted to regulators may reflect this fact. A facility's FRP must include the NOSC as part of the spill management team (SMT) for WCDs for the facility to receive Preparedness for Response Exercise Program (PREP) credit when the NOSC responds to a facility incident or conducts WCD exercises.

(2) SCPs. Navy facilities storing petroleum or HS and triggering Federal requirements for preparing an FRP must maintain an SCP. SCPs should be tailored to the specific size and operations of the facility. The SCP must, at a minimum, be sufficient to protect employee safety and allow the facility to quickly contact external spill responders, the NOSC, and the facility's chain of command. At facilities using their own personnel for emergency spill responders, SCPs must address all of the emergency response plan elements of OSHA's Hazardous Waste Operations and Emergency Response (HAZWOPER) regulations in reference (g), Part (q), section 1910.120. In most cases, SCPs do not need to be submitted for agency approval; such plans, however, should be readily available for agency review if requested.

b. Integrated Contingency Plan (ICP)

(1) A facility may choose to develop an ICP per reference (h). This is not an additional plan. The guidance was intended for facilities that wanted to combine different FRP requirements found in various EPA, DOT, USCG, and OSHA regulations into a single response

document. ICP development may be beneficial for those facilities that need to meet multiple spill contingency regulatory requirements from various Federal agencies. ICPs may also be used in locations where facilities share response resources or that are in close proximity. Areas with a high concentration of Navy facilities may benefit from having a single plan with appendices that cover each facility.

(2) An ICP is not a suitable solution for all cases. The added complexity and potential cost of maintenance should be considered when evaluating the appropriateness of this option. Consultation with regulators regarding acceptance of such an arrangement must be conducted prior to combining plans into a single plan.

c. NOSC Plan. NOSC plans, in combination with facility FRPs, must provide sufficient detail to ensure the Navy can respond to oil spills up to the WCD and to spills beyond facility boundaries. For spills beyond their capability, facilities may rely on the NOSC for additional resources. Delineation of responsibility between fleet and shoreside NOSCs must be clear. NOSC plans must be signed by the NOSC (typically a flag officer) to ensure management endorsement and awareness, and reviewed and maintained for currency annually, with notification sections validated quarterly. They must receive a thorough review and update, including a new signature, every 5 years. Status of shoreside NOSC plans must be forwarded by assigned NOSCs annually to CNIC and status of fleet NOSC plans must be forwarded by assigned NOSCs annually to COMNAVSEASYSCOM through the use of a Web-based database maintained by COMNAVSEASYSCOM (see appendix E (Web Sites) of this manual for Web site address).

(1) Shoreside NOSC Plans

(a) The shoreside NOSC plan must be a comprehensive response plan, similar to an FRP, but more general in nature. It must cover notifications, responsibilities, initial actions, resources, sensitive area prioritization, disposal, or NRDs, and address WCD scenarios and the WCD support required by the facility within the NOSC's AOR, as well as scenarios that occur beyond facility boundaries.

(b) These plans must be consistent and aligned with area contingency plans (ACP) and NOSC plans for adjacent AORs (shoreside and fleetside). Delineation of responsibility between shoreside and fleet NOSCs must be clear. Overseas shoreside NOSC plans must also include information regarding host-nation assistance and requirements.

(2) Fleet NOSC Plans. Fleet NOSCs are required to develop contingency plans to combat Navy ship OHS spills that occur outside the AORs of shoreside NOSCs. As fleet units typically have minimal response assets, fleet NOSC plans must focus on assigned responsibilities, notifications, and initial actions. Information regarding foreign nations within an assigned AOR that may be affected by Navy spills must be included. Plan coverage must provide for all Navy vessels (including Commander, Military Sealift Command (COMSC) and U.S. Maritime Administration (MARAD)) regardless of fleet operational control within their AOR. Supervisor of Salvage and Diving (SUPSALV) must provide assistance to fleet

commanders or their designees in preparing the plans. These plans must be consistent and aligned with shoreside NOSC plans within the AOR.

d. Spill Prevention, Control, and Reporting (SPCR) Plans. Overseas facilities are governed by both DoD guidance and applicable local laws and regulations and must develop and maintain an SPCR plan per the final governing standard (FGS) for the country where the facility is located (see chapter 34 (Overseas Environmental Compliance Ashore) of this manual). If an FGS does not exist for a particular country, the plan must be developed per reference (i). The plan must contain information on necessary notifications, emergency procedures, response assets, and sensitive areas.

e. Shipboard SCP. Each Navy and COMSC ship must develop a contingency plan to respond to onboard and overboard oil spills. COMNAVSEASYSCOM developed OHS SCP guides (reference (j)) to assist the fleet in preparing specific and comprehensive OHS SCPs for both onboard and overboard spills. The plan(s) must contain procedures for reporting, containment, control, recovery, and disposal of spilled material, protective clothing, and spill cleanup materials; information sources for oil and HM; and telephone numbers of the fleet Maritime Operations Center (MOC), shore Regional Operations Center (ROC), and NOSCs. The plan(s) must be reviewed and updated annually to ensure they are consistent with current ship conditions and policies and must contain up-to-date MOC or ROC and NOSC contact information to ensure appropriate notification of spills. Although neither USCG nor State officials have authority to require preparation of public vessel OHS SCPs, the Navy must provide Navy ship SCPs to USCG and State officials upon request to promote strong, cooperative relationships with the local community. Shipboard OHS spill response policy guidance is found in chapter 35 (Environmental Compliance Afloat) of this manual.

f. Non-Navy Ports Planning. Navy vessels (including COMSC vessels regardless of operating condition (OPCON) and MARAD vessels as assigned) calling on non-Navy ports must arrange through logistics requirements, contract, or other means for necessary spill preparedness; these must be consistent with generally accepted industry standards and practices for operating within the port in question. NOSCs must provide assistance as needed to determine necessary preparedness measures for situations which could potentially arise during vessel operations in a non-Navy port called upon by the U.S. Navy, U.S. Naval Ship (USNS), or MARAD vessels in their respective AORs. Preparedness measures must address all accepted operations (e.g., fueling) and must include meeting all criteria set forth in the Overseas Environmental Baseline Guidance Document (OEBGD), FGS, and respective NOSC plans.

g. Emergency Management (EM) Plans. Facility commanders and NOSCs must coordinate planning activities' EM functions as appropriate. OHS plan information should be either incorporated or referenced in EM plans as part of the national policy outlined in reference (c), Part 300, reference (b), and the Navy's overall EM approach (reference (k)) to ensure efficient use of resources, minimal duplication of effort, and maximum readiness.

h. Other Planning Considerations. Facilities may be subject to additional HS contingency planning laws and regulations including RCRA, the EPCRA, and the CAA. Additionally, State

and local jurisdictions may have planning requirements. Facilities must review the requirements for the area in which they are located and develop and submit plans accordingly.

(1) SUPSALV is designated as the Navy's corporate oil spill response organization and must maintain and operate oil discharge containment and recovery equipment with the requisite knowledge and expertise to support large spill response operations. Facilities must consider these assets when planning WCD response. SUPSALV oil spill response equipment is procured, maintained, and exercised to comply with USCG oil spill response organization guidelines and meets WCD requirements for most facility and ship scenarios, especially in the United States. Planners should contact SUPSALV directly for specifics on capabilities and response timelines.

(2) In addition to response assets available from local Navy activities, commercial oil pollution response assets, available through basic ordering agreements (BOA) pre-negotiated by USCG, may be a CO's best means of meeting the response requirements of more significant spill scenarios by augmenting a facility's equipment and personnel resources. Planning efforts should consider these assets and, where appropriate, include them in response plans. NOSCs should validate that USCG BOAs can be implemented within their respective regions under existing USCG BOA contracts prior to an emergency. Access to BOAs is managed by Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM).

(3) Membership in oil spill cooperatives potentially exposes the Navy to the risk of significant liability. Accordingly, Navy activities considering membership in an oil spill cooperative must forward a request to participate to the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) via their chain of command.

(4) Protective booming strategies must be developed where feasible and implemented for petroleum, oils, and lubricant transfer operations when any of these conditions exist:

(a) Protective booming is required by law or regulation;

(b) The nature or volumes of fuels to be transferred is of sufficient magnitude that prudent operational risk management indicates protective booming is required;

(c) Environmentally sensitive areas are likely to be negatively impacted in the event of a spill; or

(d) Potential spills could generate significant negative public perception or so adversely affect political relations with a host nation or local jurisdiction that continued port access may be jeopardized.

39-3.3. Training Requirements. The Navy's goal is to implement efficient and effective training that provides the right training to the right people at the right time in support of the Navy's mission. The Navy Environmental Readiness Training Program (NERTP) supports this goal by identifying and resourcing the development and delivery of quality environmental training courses.

a. In addition to NERTP-sponsored courses, other specialty schools may resource, develop, and deliver environmental courses to meet their specific requirements. All personnel (i.e., civilian, active-duty military, and reserve military) must receive training as applicable to their specific job assignments and levels of responsibility. NERTP course descriptions, target audiences, and schedules are available on the Civil Engineer Corps Officer School (CECOS) and Naval Safety and Environmental Training Center (NAVSAFENVTRACEN) Web sites (refer to appendix E (Web Sites) of this manual for Web site addresses).

b. All Navy facilities that store oil or HSs in regulated quantities must ensure personnel are trained to combat discharges of HS or oil and perform response duties as defined in the facility's plans, while maintaining safety as the number one priority. ICOs and NOSCs must coordinate training activities with EM and other training as much as possible. OHS training elements should be incorporated into EM training and OHS personnel must, where possible, take advantage of applicable courses under the EM program. NAVSAFENVTRACEN and CECOS manage a number of courses applicable to environmental regulations, including spill response techniques, spill management, and response worker health and safety. For a full listing of courses offered by NAVSAFENVTRACEN and CECOS, see appendix E (Web Sites) of this manual. Training recommended for this chapter includes:

(1) FRP Training

(a) EPA; USCG; BOEM, R&E; and PHMSA (reference (c), Part 112; references (d) and (e); and reference (f), Parts 194 and 195) require applicable facilities to conduct training as part of their FRP requirements. While the training requirements are very general and do not include specific performance targets, frequency, or other measurable criteria, personnel must be trained on an as-needed basis to build and maintain proficiency in performing their specific job duties.

(b) Navy facilities owning and maintaining spill response equipment must act as the first responder to a Navy oil spill, per reference (c), Part 112, subpart D. As such, Navy personnel must be trained on the safe use of this equipment and effective response techniques. Typically, this training should be received annually, but depending on the level of expertise of the facility response team (FRT), the amount of personnel turnover, the number of actual deployments, and other factors, training may be received at an interval not to exceed once every 2 years. NAVSAFENVTRACEN offers these courses in FRT operations:

1. FRT Five Day (A-493-0012); and

2. FRT Three Day (A-493-0013).

(2) OSHA Training. OSHA requires HAZWOPER training including identification of hazards, use of personal protective equipment, and other safety-related measures for all emergency response personnel before they are permitted to engage in emergency response operations. Training must be completed prior to a spill event to avoid any delays in response. Reference (f), section 1910.120, paragraphs (e)(3) and (4) identify required training but are written for uncontrolled HW sites. Additional guidance is available from OSHA that addresses

the applicability of these regulations to oil spill response training in more detail. OSHA requires HAZWOPER training to be updated annually. Depending on the nature of the position or expected responsibilities of the individual, incident management training may also be required. Navy-personnel assigned response duties must receive training commensurate with the level of responsibilities to build and maintain proficiency. Some or all of these courses may apply:

(a) HS Incident Response Management (A-493-0077) (for controlled sites);

(b) HS Incident Response Management Refresher (A-493-0083) (for controlled and uncontrolled HW site workers); and

(c) HAZWOPER for Uncontrolled Hazardous Waste Site Workers, Initial 40-Hour Training (A-4A-0075).

(3) National Incident Management System Training

(a) It is Navy policy to comply with reference (k) regarding National Incident Management System (NIMS) training and incident command system (ICS) training. NIMS designates the requirement for hazard incident preparedness activities, including implementing an ICS for managing incident response. ICS is an effective crisis management system and has been proven for OHS spill response. Training defines NIMS operations and ICS roles and responsibilities. Various levels of training are required, depending on assigned responsibilities (reference (c), Part 300, and references (i) and (j)).

(b) All personnel assigned to an SMT must receive an appropriate level of ICS training. Facility commanders and NOSCs must determine the expected level of participation of SMT members and provide an appropriate level of ICS training. NAVSAFENVTRACEN offers these ICS courses:

1. ICS 300 (A-493-2300); and

2. ICS 300 Refresher (A-493-2301).

(4) General Training. It is imperative NOSC management has an understanding of environmental issues beyond OHS response and OSHA concerns. Awareness training, such as general environmental and spill management, is necessary to ensure NOSCs fully understand the issues and problems that may arise surrounding OHS spill, response, mitigation, and management. Refer to chapter 3 (Environmental Readiness Training) of this manual for information on general overall and billet-specific environmental training requirements as well as training requirements for personnel who have collateral environmental responsibilities. Chapter 3 (Environmental Readiness Training), table 3-1 of this manual, provides NERTP formal training courses and target audiences for each formal course offered.

39-3.4. Exercises. Reference (c), Part 112, subpart D requires facilities to train and exercise to be prepared to respond to oil spills. NAVSAFENVTRACEN offers tabletop exercise courses that meet OPA 90 requirements.

a. National PREP. National PREP is an exercise program that meets the requirements of reference (a), section 1321, paragraph 311(j). PREP describes various types of exercises and the frequency of performance for each type. Exercises are conducted so all plan components are tested at least once every 3 years. OPA 90 and its implementing regulations require that employees responsible for conducting spill response receive proper training to accomplish these tasks. Four Federal agencies (USCG, EPA, the Bureau of Safety and Environmental Enforcement, and PHMSA) have developed exercise guidelines to establish a workable exercise program that meets the intent of OPA 90. Complex facilities using PREP to meet OPA 90 exercise requirements need only to conduct one exercise to fully meet the requirements of all regulating agencies for that particular type of exercise. PREP outlines these exercises:

(1) QI notification exercises are conducted to ensure the QI can be reached in an emergency to carry out his or her required duties. Each facility must conduct one of these exercises each calendar quarter;

(2) Emergency procedure exercises are performed to ensure personnel are capable of conducting the initial actions necessary to mitigate the effects of a spill. This type of exercise is considered by regulators to be optional for facilities. These exercises, however, should be conducted as necessary to ensure personnel are capable of performing these tasks. Additionally, these exercises can be performed to satisfy the requirements for an unannounced exercise (see subparagraph 39-3.4a(5) of this manual);

(3) SMT tabletop exercises are conducted to ensure SMTs are familiar with the contingency plan and individual responsibilities assigned by the plan and able to use it effectively to conduct a spill response. Facilities must conduct one tabletop exercise annually;

(4) Equipment deployment exercises ensure personnel who would normally deploy and operate or supervise the operation of response equipment are capable of doing so. They also ensure equipment is in good working order. Facilities that maintain response equipment must conduct this type of exercise semi-annually;

(5) Unannounced exercises require one of the emergency procedure exercises, tabletop exercises, or equipment-deployment exercises be conducted without providing the participants with prior knowledge of the exercise. Facilities must conduct one emergency procedure, tabletop exercise, or equipment-deployment exercise unannounced each calendar year;

(6) WCD exercises should be conducted annually in each 3-year cycle in the facility's SMT tabletop exercise schedule. This is not an additional exercise, but it serves as the SMT tabletop for that year; and

(7) Area exercises are designed to test the entire response community and may be led by regulators or plan holders. Navy facilities that participate in area exercises must document their participation in their spill response plans to receive proper credit.

b. Facility Requirements. Facility commanders and SPCC and FRP planholders of both OPA-90 and non-OPA-90 SPCC-regulated facilities must forward an annual report to the NOSC

indicating intended 3-year exercise schedule and previous-year accomplishments through the use of the Web-based database maintained by COMNAVSEASYSCOM (refer to appendix E (Web Sites) of this manual for Web site address) on a near-real-time basis. As much as possible, facility SMT personnel must participate in NOSC or area exercises. Navy facilities that participate in these exercises must document their participation to receive proper credit. NOSCs must review the annual reports and forward to CNIC.

(1) OPA-90 Facilities. OPA-90-regulated facilities must follow the PREP guidelines to accomplish exercise requirements. Facilities must document exercise accomplishments per PREP guidelines and the appropriate regulating agency or agencies to ensure exercise credit is received. Where possible, credit should be taken for actual spill responses conducted and for operations conducted during training evolutions. Facilities may take PREP credit for completing a WCD exercise when a NOSC conducts an exercise of this type. The facility's FRP, however, must name the NOSC as part of the WCD SMT, and the exercise must be similar in scope to the facility's FRP WCD requirements. Navy facilities should coordinate these exercises with the NOSC and participate when possible to minimize cost. Additionally, facility commanders and NOSCs must coordinate exercises with EM exercises as much as possible. OHS information should be incorporated into EM exercise scenarios, and OHS personnel must participate in EM exercises where applicable. Prior to any EM exercise involving an OHS incident, EM personnel must receive proper training (Incident Command Post or Emergency Operations Center) to understand their role under NIMS ICS and understand the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

(2) Non-OPA-90 Facilities. Non-OPA-90-regulated facilities must develop an exercise program commensurate with facility complexity and risk that ensures planning documents are adequate for response and personnel assigned have the necessary skills to respond. These programs must follow the principles of the PREP guidelines in terms of exercise type and frequency. Exercise scope must be appropriate for the level of complexity and risk at the facility. Exercise accomplishments must be documented. Actual spill responses and training evolutions may serve to meet the intent of exercises, and the exercise schedule should be adjusted to reflect these evolutions. To minimize cost, facilities should coordinate with neighboring installations, NOSCs, and the community when possible.

c. NOSC Exercise Requirements

(1) Shoreside NOSCs. The Navy's tiered response system may use the NOSC SMTs for response to WCDs. While NOSCs in themselves are not regulated under OPA 90, some FRPs must rely on the NOSC for WCD support. Therefore, NOSCs must conduct an SMT tabletop exercise annually. Once every 3 years, the tabletop exercise must include a WCD scenario. NOSCs must ensure familiarity with the spill scenarios of Navy vessels, all FRPs, SCPs, and SPCRs within their AOR. Where possible, NOSC SMT personnel should be included in facility SMTs to assist the NOSC in providing WCD SMT support for the regulatory requirements of the FRP. NOSCs must ensure the WCD scenario involves core components of fleet units, FRPs, SCPs, and SPCRs and includes interaction between the NOSC and FIC SMTs. NOSCs must forward an annual report to CNIC indicating intended 3-year exercise schedule and previous-year accomplishments for all facilities in the assigned AOR, as well as for NOSC exercises.

(2) Fleet NOSCs. Fleet NOSCs must conduct annual SMT exercises to ensure planning documents are adequate for response and personnel assigned have the necessary skills to respond. As much as possible, fleet NOSCs must coordinate exercises with shoreside NOSCs to minimize costs. NOSCs must forward an annual report to COMNAVSEASYSCOM indicating intended 3-year exercise schedule and previous-year accomplishments through the use of the Web-based database maintained by COMNAVSEASYSCOM (refer to appendix E (Web Sites) of this manual for Web site address) on a near-real-time basis.

d. Equipment. Navy spill response equipment must be drilled and exercised per the designated exercise program (PREP or otherwise) to allow activities listing Navy spill response equipment in their plans to take credit accordingly.

39-3.5. Spill Response. The Navy must respond to Navy OHS spill incidents in such a manner as to retain control of the response and undertake immediate, direct action to minimize the effect of a Navy OHS spill upon the environment. The Navy's OHS Pollution Contingency Planning and Response Organization executes this policy. This organization uses existing chains of command and regional coordination authorities to satisfy the requirements and intent of applicable statutes and regulations.

a. OHS Spill Response. Reference (c), Part 300 describes DoD's roles and responsibilities in responding to DoD OHS spills:

(1) In the event of an OHS spill from a Navy facility or vessel, the Navy must always assume initial responsibility for cleanup;

(2) In cases where an HS release is on, or the sole source of the release is from, any facility or vessel under the Navy's control, the NOSC assumes the role of the FOSC. As the FOSC, the NOSC must direct the Federal response effort, including coordination with the area coordinators and other Federal, State, and local authorities; and

(3) Depending upon the location of the oil spill, EPA or USCG assumes the role of the FOSC. Typically, EPA or the USCG FOSC must monitor the Navy's response effort and advise on the appropriate action if necessary. The FIC or NOSC must take all appropriate measures to ensure they maintain control of the OHS incident. If EPA or the USCG FOSC determines the Navy's response is inadequate or inappropriate, then the FOSC has the authority to assume command of response efforts. In cases where EPA or USCG assumes command of response efforts, COs and masters of public vessels remain in command of their vessels and personnel.

b. Salvage-Related Spills. The Navy must direct response efforts to pollution incidents resulting from Navy vessel casualties such as grounding and collision. Fleet salvage forces must take all reasonable precautions to reduce the threat of OHS pollution during salvage operations.

c. Collision Spills. The Navy must provide immediate spill response assistance, regardless of fault, where a collision between a Navy vessel and non-Navy vessel or structure results in an OHS spill from the non-Navy vessel. In such situations, the numbered Fleet Commander must report the spill, monitor the situation, and offer appropriate support to the stricken vessel.

d. Sunken Military Craft Oil Spills. The Navy retains title to a number of sunken craft lost while in Navy service due to armed conflicts, acts of God, or other reasons. Navy response to oil spills from such craft or oil spills that are reported to be from such craft must be conducted per the procedures in chapter 40 (Sunken Military Craft) of this manual.

e. COMSC Spills. The Navy must manage response to OHS spills from vessels owned, operated, or chartered by COMSC:

(1) Any vessel carrying the designation of USNS is a public vessel of the United States. The NOSC and other Navy shore facilities must respond to an OHS spill from a USNS vessel just as it would a spill from any other Navy vessel;

(2) Vessels of the DOT's MARAD Ready Reserve Force (RRF) may be activated to meet sealift requirements identified by the U.S. Transportation Command. Operation of MARAD RRF vessels is governed by reference (l). RRF vessels are managed by various commercial ship managers. Administrative control of RRF vessels remains a MARAD responsibility at all times, including activation, crewing, training, logistical support, maintenance, and repair. OPCON of activated vessels tendered to DoD must be exercised by COMSC. MARAD must provide oil spill liability insurance coverage for RRF vessels under COMSC OPCON and manage oil spill response for those vessels while under COMSC OPCON. MARAD must pay any deductibles for its insurance policy. COMSC, or the NOSC for oil spill response, reserves the right to manage the spill response as incident (or unified) commanders, provided they expressly relieve the MARAD of management and liability responsibility during a spill incident. In such cases, MARAD must continue its insurance coverage as a potential financial and management resource;

(3) Vessels under bareboat charter (or long-term build-to-charter lease) to COMSC and operated by COMSC exclusively for the benefit of the United States are public vessels of the United States for the purposes of this manual. The NOSC and other Navy shore activities must respond to an OHS spill from such a vessel, just as it would a spill from any other Navy vessel; and

(4) Commercial vessels under time or voyage charter to COMSC are not considered public vessels under applicable U.S. law, and are subject to Federal pollution prevention and control regulations that derive their authority from reference (a), section 2701, and CWA OHS provisions. Such time- and voyage-chartered vessels must manage their own spill response per their OHS SCPs. Under international law, such vessels are entitled to sovereign immunity and are not subject to regulation by foreign nations.

f. Non-Navy Spills (Other DoD). The FOSC may request Navy response assistance for non-Navy spills. The Navy must respond to such requests under the terms and conditions of reference (c), Part 300, reference (k), and the Navy's SUPSALV and USCG Interagency Agreement for Pollution Response. In the case of large marine oil discharges, requests for Navy assistance from the Defense Logistics Agency, Marine Corps, or other DoD components are particularly likely. Navy response to such requests must be consistent with procedures established by DoD and any applicable inter-Service agreement.

g. Non-DoD Spills. As one of 16 Federal agencies comprising the National Response Team, the Federal response organization tasked with coordinating OHS spill response and contingency planning efforts, DoD and its component services must, upon request of the FOSC, provide any response assistance they can for non-DoD spills, insofar as such assistance would not impair DoD mission readiness. SUPSALV is listed as a "Special Team" in the NCP. As such, SUPSALV resources are available to USCG and EPA.

h. SUPSALV Assistance. In the case of a large or salvage-related pollution incident or an OHS spill that exceeds local capabilities, the NOSC must consider activating SUPSALV personnel, equipment, and expertise. SUPSALV is one of several national special teams named in the NCP as available to provide assistance to the FOSC (reference (c), Part 300).

i. BOAs. If a spill exceeds a facility's response capabilities and BOA resources are needed, the ICO should request assistance from the NOSC, and the NOSC should contact COMNAVFACENGCOM to request BOA activation. When engaging commercial spill response assets, Navy commands must carefully assess and monitor legal, financial, and technical factors.

39-3.6. Reporting. Navy vessels within 12 nautical miles (NM) of the United States and shore activities in the United States must report OHS spills immediately upon discovery per subparagraph 39-3.6a of this manual to the National Response Center (NRC) at (800) 424–8802 or (202) 267–2675. NRC is the 24-hour OHS spill notification center, located at USCG headquarters in Washington, DC. It is the single Federal notification point (outside the Navy chain of command) for emergency spill response and is responsible for notifying the pre-designated FOSC of reported OHS pollution incidents. Activities must not delay NRC notification to obtain more detailed information about the incident. Immediate voice notification to the NRC fulfills all Federal notification requirements. If reporting activities cannot reach the NRC by voice on the first attempt, they must immediately notify the nearest EPA office or USCG station. Reporting to EPA or USCG does not relieve the spiller of the responsibility to report to NRC.

a. Reporting Requirements

(1) NRC

(a) Navy commands must report any spills or discharges to NRC that meet one or more of these criteria:

1. Any discharge of oil in quantities that may be harmful to the environment; defined by CWA regulations as a discharge that causes a film or sheen upon, or discoloration of, the surface of navigable water or adjoining shorelines; or causes a sludge or emulsion to be deposited beneath the surface of navigable water or upon adjoining shorelines;

2. Any discharge of oil that threatens to reach navigable waters of the United States; and

3. Any release of an HS in the United States or its territories, possessions, or navigable waters in excess of quantities proscribed by reference (c), Parts 117, 302, and 355.

(b) No report is needed for discharges from properly functioning vessel engines, or discharges verified by monitoring equipment to contain less than 15 parts per million (ppm) oil (regardless of the presence of sheen). These discharges have been determined not to be harmful and therefore are exempted from the reporting requirements;

(c) When in doubt, Navy personnel must be mindful of environmental stewardship responsibilities and report to NRC any discharge that they suspect presents a significant harm to the environment.

(2) Vessels. While public vessels are generally exempt from State and Federal reporting requirements, commanding officers (CO) and masters of Navy vessels must immediately report the fact and nature of an OHS spill from their vessels per chapter 35 (Environmental Compliance Afloat) of this manual and ensure naval messages are sent per appendix C (Message Formats) of this manual. COs and masters of Navy vessels must:

(a) For spills in port or between 0 and 12 NM from the U.S. coast, report the spills to NRC and the chain of command, and notify the nearest ROC or other office established by the Region Commander to receive such reports by the most expeditious means possible, and they must implement the applicable NOSC plan;

(b) For spills outside 12 NM from the U.S. coast, report the spills to the chain of command and notify by the most expeditious means possible the appropriate MOC responsible for the AOR in which the spill occurred. The appropriate MOC must report spills beyond 12 NM to within 200 NM of the U.S. coast to the NRC as soon as possible after receiving the initial report from the spilling vessel and implement the applicable fleet NOSC plan; and

(c) For spills in foreign ports, immediately notify the chain of command and the appropriate ROC or MOC or both, as appropriate, and by the most expeditious means possible.

(3) Hazardous and Extremely Hazardous Substances. In addition to the reporting requirements set forth in subparagraphs 39-3.6a(1) and 39-3.6a(2) of this manual, the EPCRA, and chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-Know Act) of this manual require all activities to report to the State emergency response commission and local emergency planning committee any release of a reportable quantity of an HS or an extremely hazardous substance (EHS) that crosses the facility boundary or escapes into the atmosphere.

(4) Internal Navy. COs must immediately report the fact and nature of an OHS spill from Navy vessels or facilities in any location worldwide that meets these criteria:

(a) Any OHS spill reported to the NRC, State, or local authorities;

(b) Any discharge of oil in quantities that may be harmful to the environment; defined by CWA regulations as a discharge that causes a film or sheen upon, or discoloration of, the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of navigable water or upon adjoining shorelines; and

(c) Any OHS spill that may endanger critical water areas, have the potential to generate public concern, become the focus of an enforcement action, or pose a threat to public health or welfare that warrants an Operational Report (OPREP-3) as prescribed by reference (m).

(d) No report is needed for discharges from properly functioning vessel engines, or discharges verified by monitoring equipment to contain less than 15 ppm oil, regardless of the presence of sheen. These discharges have been determined not to be harmful and therefore are exempted from the reporting requirements.

b. Reporting Procedures

(1) Reports must be made through the chain of command and NOSC by:

(a) Voice immediately upon discovering the spill;

(b) Official Navy message in the format provided in appendix C (Message Formats) of this manual as soon as practicable; and

(c) Updated message as soon as the reporting activity becomes aware of new information concerning the origin, quantity, type, operation under way, root cause, or lessons learned of the spill. Similarly, if the final estimate of the amount released differs substantially from the amount initially reported, the reporting activity must send an updated message to all action and information addresses on the original spill message.

(2) Note: If NRC or State or local authorities are called, or if in doubt, send a Navy message. Sending an OPREP 3, Situation Report, or other message does not substitute for the requirement to submit the OHS message detailed in appendix C (Message Formats) of this manual.

c. Message Formats for Oil Spill and HS Release Reports. Appendix C (Message Formats) of this manual outlines a format for reporting oil discharges and HS releases to the Navy chain of command.

d. Excess Navy Property. Caretakers must continue to report OHS spills from excess Navy property until management and control is passed to local reuse authorities.

e. Sheen Sightings. Responsible environmental stewardship and longstanding maritime tradition require COs report to proper authorities any oil on the water's surface discovered in the course of daily operation whether at sea or in port and whether attributable to Navy sources or not. Accordingly, COs must submit voice and Navy message reports to appropriate Federal, State, local, and military authorities for any oil sheen discovered by naval personnel, even if the

cause or source of the spill is unknown. Such reports, however, should not speculate as to cause or source and clearly indicate a responsible party cannot be identified from currently available information. No report is needed for discharges from properly functioning vessel engines, or discharges verified by monitoring equipment to contain less than 15 ppm oil, regardless of the presence of sheen. These discharges have been determined not to be harmful and therefore are exempted from the reporting requirements.

f. Penalties. Federal law provides criminal penalties for failure to report OHS spills. In addition, State and local jurisdictions may impose reporting requirements that differ from Federal requirements. Facilities must be aware of the reporting thresholds for the State and local area. This may be particularly true for oil spills that do not reach or threaten to reach navigable waterways.

g. Reporting OHS Spills Outside the United States. When reporting OHS spills outside the United States, facility commanders must refer to the appropriate NOSC plans, FGSs, and subsequent SPCR plans for host-nation reporting requirements. COs and masters of Navy vessels must follow policy as described in chapter 35 (Environmental Compliance Afloat) of this manual.

39-3.7. Natural Resource Trusteeship. NCP regulations assign roles and responsibilities to certain Federal and State agencies to provide for efficient, coordinated, and effective action to minimize damage from oil discharges and HS releases and protect natural resources held in trust for the public (reference (c), Part 300). These trustees act on behalf of the public to assess damages and to develop and implement a plan for restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources injured, lost, or destroyed as a result of a discharge of oil. After an OHS spill incident, the Secretary of Defense is responsible for protecting natural resources within Navy management and control. For additional discussions of trustee responsibilities and NRD assessment procedures, refer to chapter 41 (Natural Resource Damage) of this manual.

39-3.8. Health and Safety. The health and safety of Navy personnel and the public must be the highest priority of all Navy OHS spill response operations. Responders must comply with all requirements of reference (g), sections 1910.119 and 1910.120, and of references (n) and (o), including establishment of a process safety management program to prevent or mitigate catastrophic chemical workplace emergencies and the requirement for employers to have an emergency action plan. In addition, Navy facilities may incorporate HS planning into FRPs or SCPs. Regardless of whether HS planning is included in these plans or a separate planning document, Navy facilities must ensure HS planning is accomplished.

39-3.9. Navy Web Site Reporting. COMNAVSEASYSCOM maintains a Web site to coordinate the NOSC review of OHS spill messages for spills within its AOR. NOSCs should validate the reported data on the OHS spill database Web site (refer to appendix E (Web Sites) of this manual for Web site address).

39-4 Responsibilities

39-4.1. Naval forces commanders must:

a. Develop and periodically update an area-wide OHS spill contingency planning instruction specifying NOSC responsibilities for OHS spill contingency planning and response in the AOR and request technical assistance from COMNAVSEASYSCOM and COMNAVFACENGCOM, as needed;

b. Establish contingency planning and response policies in their areas consistent with this manual;

c. Establish a spill response training program consistent with this chapter and regulatory requirements and request assistance from COMNAVSEASYSCOM and COMNAVFACENGCOM, as needed; and

d. Pre-designate NOSCs to plan for and direct response efforts to OHS spills throughout their AORs.

39-4.2. Budget submitting offices (BSO) must:

a. Fund OHS spill response expenditures beyond the capability of the Navy subordinate activity ultimately responsible for the cost of spill cleanup from existing funds;

b. Ensure all staff personnel under their command who have responsibilities in this chapter (including, but not limited to safety, public affairs, logistics, legal, comptroller, security, communications, and transportation) receive the general overview spill response training per section 39-3.3 of this manual and introductory or executive overview training in emergency response management and become familiar with the provisions of this chapter; and

c. Ensure facilities fully comply with Federal, State, international, and foreign laws and regulations for spill prevention, preparedness, and response.

39-4.3. CNIC must:

a. Identify and fund shoreside oil spill preparedness and response preparedness requirements;

b. Provide oversight of shoreside NOSCs ensuring all required training, drill, and exercise requirements are met and appropriately documented;

c. Provide oversight of shore installation and facility OHS contingency planning and response requirements ensuring all required training, drill, and exercise requirements are met and appropriately documented;

d. Obtain status of shoreside NOSC and facility plans, exercise accomplishments and requirements, and equipment readiness and provide information to OPNAV N45 and COMNAVSEASYSCOM with an assessment of overall shoreside Navy preparedness to respond to OHS spills worldwide;

e. Integrate OHS spill preparedness and response program requirements into the Navy Installation EM Program; and

f. Develop and establish a spill response training program policy guidance ensuring all assigned staff personnel who have responsibilities under this chapter (including, but not limited to safety, public affairs, logistics, legal, comptroller, security, communications, and transportation) receive general overview spill response training per paragraph 39-3.3 of this manual and introductory or executive overview training in emergency response management and become familiar with the provisions of this chapter and request technical assistance from COMNAVSEASYSCOM and COMNAVFACENGCOM, as needed.

g. Develop, maintain, and promulgate contact information, including telephone numbers, email addresses, and Web sites for ROCs or other organizations designated to receive OHS spill reports in the Region Commander's AOR. Provide this information to COMNAVSEASYSCOM for inclusion in COMNAVSEASYSCOM's list of current NOSC contact information.

39-4.4. COMNAVSEASYSCOM must:

a. As requested by naval forces commanders, provide technical assistance in the development and update of the area-wide OHS spill contingency planning and response instructions;

b. Assist fleet NOSCs in developing and updating NOSC plans with guidance about current worldwide regulatory compliance and in worst-case spill scenario planning;

c. Assist COMNAVFACENGCOM in developing and updating shoreside NOSC plans to include vessel spills and worst-case spill scenario planning;

d. Develop, issue, and maintain an OHS SCP guide;

e. Maintain a list of current NOSC contact information and provide to ships and other Navy activities upon request;

f. Collect status of fleet and shore NOSC plans, exercise accomplishments and requirements, and equipment readiness via a Web-based reporting system (NOSCnet) (refer to appendix E (Web Sites) of this manual for Web site address);

g. Provide OPNAV N45 with an annual readiness status of the Navy's spill response program based upon fleet NOSC contingency plans, shoreside NOSC input, results of training exercises, and OHS spill reports;

h. Determine requirements for, budget for, and obtain investment category equipment for, major and salvage-related spill response;

i. Ensure sufficient expertise exists to operate the Navy's equipment inventory for major and offshore spill events and that equipment is available for immediate response;

j. As requested, support COMNAVFACENGCOM by providing technical advice to OPNAV N45 in review of requests by Navy shore commands to participate in spill cooperatives;

k. Provide a Web-based mechanism for the reporting of lessons learned from major drills, exercises, and spill events;

l. As requested, assist NAVSAFENVTRACEN in developing technical content of associated training courses;

m. Upon request and as resources allow, assist NOSCs in meeting WCD exercise requirements for testing and exercising Navy capabilities to respond up to worst-case spill scenarios;

n. Upon request and as resources allow, assist fleet NOSCs in meeting exercise requirements;

o. Upon request and as resources allow, support fleet commanders in execution of various OHS exercises and drills under the overall requirements of the fleet NOSC plans;

p. Ensure the Navy's equipment inventory is used for major offshore spill event drills and exercises;

q. Notify all Navy regions within the United States indicating the status of these drills and exercises so the regions may take credit for readiness, when appropriate;

r. Maintain a Navy-wide OHS spill report database and provide Navy periodic and annual reports of OHS release to OPNAV N45;

s. Assist NOSCs in major OHS pollution response issues as they arise and in decision-making for major or offshore and salvage-related response operations;

t. Provide expertise and equipment at the request of the NOSC for spills exceeding local capability including WCD, offshore, or salvage-related OHS pollution incidents;

u. Provide advice, personnel, and equipment, as appropriate, for joint salvage and pollution operations; and

v. Coordinate with the Navy's EM program while carrying out responsibilities under this chapter.

39-4.5. COMNAVFACENGCOM must:

a. Provide primary support to CNIC to prepare response planning guidance covering the determination and evaluation of response resources for FRPs, spill response equipment planning levels and criteria, and a standardized methodology for calculating equipment requirements and converting plan recovery requirements into spill response equipment types and quantities;

b. Maintain technical, legal, and logistic expertise in the OHS Spill Response Regulatory Program arena and stay abreast of planning developments and changing guidance to provide facilities with accurate up-to-date OHS spill response planning compliance guidance;

c. Assist ICOs in developing OHS spill contingency and response plans by preparing and maintaining guidance that includes minimum content requirements and essential elements for compliance with current regulations;

d. Assist shoreside NOSCs in developing and updating shoreside NOSC plans to include coordinating with COMNAVSEASYSCOM for vessel spills and worst-case spill scenario planning;

e. Determine requirements for, as well as budget for and obtain, investment category equipment for inland water and harbor oil discharge control;

f. As requested, provide technical advice to OPNAV N45 in review of requests by Navy shore commands to participate in spill cooperatives;

g. Provide technical assistance and advise CNIC and other BSOs, as requested;

h. As requested, assist NOSCs in the determination of emergency response training needs;

i. As requested by NAVSAFENVTRACEN, provide assistance in the development of technical content for training curricula and courses;

j. Assist shoreside NOSCs and facilities in meeting exercise requirements;

k. Coordinate Navy access to USCG BOAs for response to spills beyond the capability of the facility; and

l. Coordinate with the Navy's EM program while carrying out responsibilities under this chapter.

39-4.6. NAVSAFENVTRACEN must:

a. Develop curricula and delivery mechanisms for comprehensive courses of instruction that meet training requirements as referenced in chapter 3 (Environmental Readiness Training) of this manual and request assistance from COMNAVFACENGCOM and COMNAVSEASYSCOM in developing technical content of associated training and courses, as applicable; and

b. Deliver training necessary to meet the requirements of this chapter or as negotiated with sponsors of environmental training.

39-4.7. Fleet NOSCs must:

a. Develop area-wide fleet NOSC plans per the naval forces commander's instructions, coordinate these plans with adjacent shoreside NOSCs, and request assistance from COMNAVSEASYSCOM as needed;

b. Coordinate fleet planning and operations and ensure Navy senior officer present afloat (SOPA) instructions contain guidance for fleet OHS spill response consistent with the shoreside NOSC plans;

c. Ensure response plans are reviewed, approved and signed;

d. Review NOSC plans at least annually, make necessary changes, validate notifications quarterly, conduct a complete review, and submit for signature at least every 5 years;

e. Ensure all staff with OHS response responsibilities are properly trained and maintain their competencies;

f. Conduct spill response exercises to test the validity and effectiveness of the NOSC plan;

g. Promptly notify Federal, State, regional, local, or foreign governments when required. For a vessel spill that produces a visible sheen between 12 NM and 200 NM from the United States, the NOSC or MOC or both, as appropriate, must report the spill to NRC at (800) 424–8802 or (202) 267–2675 as soon as possible and should submit the spill message within 24 hours of receiving the initial report from the spilling vessel;

h. Coordinate review of OHS spill messages for spills within the AOR, and validate reported data on the COMNAVSEASYSCOM-maintained OHS spill database Web site (refer to appendix E (Web Sites) of this manual for Web site address);

i. At least annually, provide COMNAVSEASYSCOM with a status of the NOSC plans and exercises, including accomplishments, upcoming exercises, or plan reviews or revisions through the use of a Web-based database maintained by COMNAVSEASYSCOM (refer to appendix E (Web Sites) of this manual for Web site address) on a near-real-time basis;

j. Ensure operations orders and instructions containing guidance or policy for fleet OHS pollution response are consistent with fleet NOSC plans and SOPA instructions;

k. Direct response operations and coordinate closely with ongoing fleet salvage operations and request support from COMNAVSEASYSCOM, as needed;

l. Ensure the health and safety of response personnel at any point during on-scene response;

m. Provide coordination and direction for the cleanup of OHS spills from Navy ships outside 12 NM unless otherwise directed by the naval forces commander; and

n. Coordinate with the Navy's EM program while carrying out responsibilities under this chapter.

39-4.8. Shoreside NOSCs (in U.S. areas) must:

a. Ensure Navy facilities within their assigned AOR can control, contain, and clean up OHS spills, and evaluate impacts to natural resources;

b. Serve as the FOSC under part reference (c), Part 300 for HS releases when the release is on, or the sole source of the release is from, Navy facilities or vessels within assigned geographic boundaries;

c. Consistent with the cognizant naval forces commander's instructions, develop area-wide NOSC plans and coordinate the development of the plans with the applicable regional contingency plans (RCP) and ACPs;

d. Ensure an appropriate plan(s) covers all facilities and vessels within their AOR and request assistance from COMNAVFACENGCOM, as needed;

e. Coordinate with other DoD component oil spill contingency (OSC) plans, including Marine Corps plans, to the extent specified by DoD or as required by any Navy or DoD component inter-Service agreement;

f. Maintain the NOSC plan for currency on an annual basis, validate notifications quarterly, conduct a complete review and update of the NOSC plan (including any changes resulting from a review of SPCR plan changes within the AOR), and submit it for signature at least every 5 years;

g. Coordinate shoreside NOSC plans with fleet planning and operations;

h. Establish a spill response training program consistent with this chapter and regulatory requirements and ensure all staff with OHS response responsibilities are properly trained and maintain their competencies;

i. Coordinate planning efforts for WCD exercises at facilities within the assigned AOR;

j. Thoroughly review and approve Annual Allowance Requirements Requests (A2R2) from each facility within the assigned AOR, forward a consolidated and prioritized request list to COMNAVFACENGCOM, and coordinate an exercise schedule for all facilities in the NOSC's AOR to affect cost savings and ensure uniformity and effectiveness of the exercises;

k. Accomplish all required exercises and conduct combined exercises, whenever appropriate, to reduce costs and document exercise credit for SMT partnership training conducted jointly or as a single SMT within and serving a specific geographic area;

l. Coordinate with COMNAVSEASYSCOM to ensure facilities within the NOSC's AOR receive credit for oil spill removal organization drills and exercises conducted within the response area;

m. Promptly notify Federal, State, regional, and local authorities of spills in their AOR, per all Navy, Federal, State, and local OHS spill notification procedures;

n. Coordinate review of OHS spill messages, NRC reports, and local reports for spills within their AOR and validate reported data on the COMNAVSEASYSCOM-maintained OHS spill database Web site (refer to appendix E (Web Sites) of this manual for Web site address);

o. At least annually, provide CNIC with a status of plans and exercises for all facilities within assigned AOR including accomplishments and upcoming exercises or plan reviews or revisions through the use of a Web-based database maintained by COMNAVSEASYSCOM (refer to appendix E (Web Sites) of this manual for Web site address) on a near-real-time basis;

p. Coordinate response operations with adjacent NOSCs, including fleet NOSCs, for Navy OHS spills that may have an impact on more than one NOSC region;

q. Ensure the health and safety of response personnel at any point during on-scene response;

r. Coordinate response operations with the DoD representative to the regional response team (RRT);

s. Direct and coordinate response operations closely with ongoing fleet salvage operations;

t. As needed, coordinate SUPSALV response assistance for spills beyond local capability including incorporation of WCD response into the NOSC plans;

u. Direct all major response efforts for Navy OHS spills within assigned shoreside boundaries, including coastal areas out to the 12 NM zone unless otherwise instructed by the naval forces commander;

v. Coordinate with the Navy's EM program while carrying out responsibilities under this chapter;

w. At least annually, provide COMNAVSEASYSCOM with a status of the NOSC plans and exercises, including accomplishments, upcoming exercises, or plan reviews or revisions; and

x. Review RMPs developed per chapter 22 (Clean Air Ashore) of this manual for accidental releases of EPA HS regulated under the CAA.

39-4.9. Shoreside NOSCs (in foreign areas) must:

a. Ensure Navy facilities within assigned AOR can control, contain, and clean up OHS spills and evaluate impacts to natural resources;

b. Develop overseas NOSC plans, consistent with the cognizant naval forces commander's instructions, FGS, and OEBGD, and coordinate the development of these plans with applicable host nations;

c. Ensure an appropriate NOSC plan(s) covers all facilities and vessels within their AOR and request assistance from COMNAVFACENGCOM, as needed;

d. Coordinate with other DoD component OSC plans, including Marine Corps plans, to the extent specified by DoD, or as required by any Navy or DoD component inter-Service agreement;

e. Maintain the NOSC plan for currency annually, validate notifications quarterly, conduct a complete review, update the NOSC plan (including any changes resulting from a review of such changes within the AOR), and submit for signature at least every 5 years;

f. Coordinate shoreside NOSC plans with fleet planning and operations;

g. Establish a spill response training program consistent with this chapter and regulatory requirements and ensure all staff with OHS response responsibilities are properly trained and maintain their competencies;

h. Coordinate planning efforts for WCD exercises for facilities within assigned AOR;

i. Thoroughly review and approve A2R2s from facilities within assigned AOR and forward a consolidated and prioritized request list to COMNAVFACENGCOM;

j. Coordinate an exercise schedule for all facilities under the NOSC's AOR to effect cost savings and ensure uniformity and effectiveness of the exercises;

k. Accomplish all required exercises and conduct combined exercises whenever appropriate to reduce costs;

l. Promptly notify foreign country authorities of spills per foreign country notification requirements and within the guidelines established by the OEBGD and applicable FGS;

m. Coordinate review of OHS spill messages for spills within their AOR and validate reported data on the COMNAVSEASYSCOM-maintained OHS spill database Web site (refer to appendix E (Web Sites) of this manual for Web site address);

n. At least annually, provide CNIC with a status of plans and exercises for all facilities within their AOR including accomplishments and upcoming exercises or plan reviews or revisions of NOSC plans and exercises through the use of a Web-based database maintained by COMNAVSEASYSCOM (refer to appendix E (Web Sites) of this manual for Web site address) on a near-real-time basis;

o. Oversee response operations for Navy OHS spills within assigned areas and coordinate response operations with adjacent NOSCs and with applicable foreign nation agencies;

p. Ensure the health and safety of response personnel at any point during on-scene responses;

q. Pre-assign geographic areas for response by Navy shore facilities;

r. As appropriate with host-nation agreements, mitigate OHS spills from Navy vessels and activities and reimburse other commands that provide assistance;

s. As needed, coordinate SUPSALV response assistance for spills beyond local capability including incorporation of WCD response into the NOSC plans;

t. Direct all major response efforts for Navy OHS spills within assigned shoreside boundaries, including coastal areas out to the 12 NM zone, unless otherwise instructed by the naval forces commander; and

u. Coordinate with the Navy's EM program while carrying out responsibilities under this chapter.

39-4.10. ICOs must:

a. Develop, annually review, and periodically update FRPs, SCPs, or SPCR plans per this chapter, OEBGD, or applicable FGS, and coordinate these plans with the NOSC plans;

b. Review FRPs or SCPs for consistency with appropriate State and local environmental and emergency planning authorities;

c. Provide the NOSC with WCD scenarios from completed FRPs or SCPs so they may be incorporated into the NOSC plans;

d. At least annually, provide the NOSC with the status of plans and exercises, including accomplishments and upcoming exercises or plan reviews or revisions;

e. Maintain the readiness of the Navy spill response personnel and equipment assigned to the facility;

f. Forward completed A2R2s to the NOSC;

g. Properly train assigned staff responsible for OHS response;

h. Tailor training curricula to include State and local emergency response laws and regulations;

i. Maintain training records and documentation as required by Federal, State, and local regulations;

j. Accomplish all required exercises and support the regional SMT when requested by the NOSC;

k. Incorporate drill and exercise requirements into routine business or other emergency drills wherever practicable;

l. Make all required Federal, State, and local notifications for Navy OHS spills and make Navy chain-of-command notifications up to the NOSC level;

m. Oversee response efforts for Navy OHS spills as the FIC within pre-assigned areas until response is completed or relieved by the NOSC. If requested by the NOSC, oversee response efforts outside the facility's boundaries until relieved by the NOSC;

n. Mitigate OHS spills from vessels and activities and reimburse other commands that provide assistance when appropriate; and

o. Coordinate with the Navy's EM program while carrying out responsibilities under this chapter.

39-5 Definitions

39-5.1. Area Committees. Area committees are the Federal, State, and local agencies that cooperate to prepare an area contingency plan and work with Federal, State, and local officials to pre-plan joint response efforts.

39-5.2. Area Contingency Plan. An ACP is a plan prepared by the area committee to respond to worst-case OHS spill scenarios that identifies equipment and personnel available for such response activities. The ACP also identifies and prioritizes sensitive areas and natural resources, identifies strategies for their protection, and pre-approves specific countermeasures and removal actions within the planning area.

39-5.3. Complex Facility. A complex facility is a facility that possesses a combination of transportation-related and non-transportation-related components subject to the jurisdiction of more than one Federal agency under reference (c), Part 311, paragraph (j).

39-5.4. Discharge. Discharge includes any spilling, substantial threat of spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil or HS. It excludes:

a. Discharges permitted under the CWA;

b. Discharges resulting from circumstances identified, reviewed, and made a part of the public record regarding a permit issued or modified under 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 the CWA and caused by events occurring within the scope of a relevant operating or treatment system.

39-5.5. Facility. A facility is any structure, group of structures, equipment, or device (other than a vessel) used for one or more of these purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting OHS. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes.

39-5.6. Facility Response Plan. An FRP is a plan of action for facility spill scenarios required for facilities that meet the threshold requirements of the OPA 90 regulations. These plans, which should be coordinated with the local ACP and NOSC plan, identify notification procedures, response and cleanup capabilities, response management organization, environmentally sensitive areas, natural resource protection strategies, and measures to protect human health and safety.

39-5.7. Final Governing Standards. An FGS is a comprehensive set of country-specific substantive environmental provisions containing environmental compliance criteria applicable at DoD installations overseas. FGSs are generally based on the more protective requirements of the OEBGD, host-nation or European Union environmental laws and regulations, and applicable international agreements.

39-5.8. Hazardous Substance. An HS is:

a. Any substance so designated by the CWA;

b. Any element, compound, mixture, solution, or substance so designated by CERCLA;

c. Any solid waste having the characteristics identified under or listed pursuant to the Solid Waste Disposal Act but not including any waste suspended by an Act of Congress;

d. Any hazardous air pollutant listed under the CAA;

e. Any imminently hazardous chemical substance or mixture upon which EPA has regulated under the Toxic Substances Control Act; however;

f. The term does not include:

(1) Petroleum, crude oil, any refined product (such as gasoline, diesel, or fuel oil), or synthetic oil not otherwise specifically listed or designated as an HS under CERCLA, the CWA, or the Safe Drinking Water Act;

(2) Natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures thereof);

(3) Sewage or sewage and water mix, aqueous film-forming foam; or

(4) Other substances not specifically designated by the laws cited in subparagraph 39-5.8f(1) of this manual.

39-5.9. Incident Command System. An ICS is an emergency response structure that defines roles and responsibilities to be used during crisis response or planning. The ICS consists of an individual in charge of the incident and four functional groups (operations, logistics, planning, and finance and administration) that support the incident. During major incidents, including OHS spills, Federal agencies establish an ICS under the National Response System. State agencies may also establish an ICS. An ICS becomes a "unified command system" when the party responsible for the spill works jointly with State and Federal agencies. Where the Navy is potentially responsible, the Navy's designated incident commander, the State on-scene coordinators, and the FOSC make up the unified command. Reference (p) mandates the use of NIMS for all Federal crisis response. ICS forms a part of the NIMS.

39-5.10. National Incident Management System. NIMS is a standardized approach to all hazards incident management and response, which includes OHS spills. Implemented by the Department of Homeland Security in March 2004, it provides a consistent nationwide approach for Federal, State, local, and tribal governments to work effectively and efficiently together to prepare for, prevent, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.

39-5.11. National Oil and Hazardous Substances Pollution Contingency Plan. Per reference (c), Part 300, the NCP is the legal framework for Federal government OHS pollution contingency planning and response above the facility level. The NCP describes the RRT and the NRC and designates the roles and responsibilities of DoD in national OHS spill response planning.

39-5.12. Navigable Waters. Refer to reference (a), section 2701(21), and chapter 20 (Clean Water Ashore), paragraph 20-5.29 of this manual for the complete definition.

39-5.13. Oil. Oil is any animal, vegetable, synthetic, or petroleum-based oil of any kind or in any form, including, but not limited to: fuel oil; sludge; oil refuse; oil mixed with wastes other than dredged spoil; refined products such as gasoline; diesel; jet fuel; cooking oil; and synthetic, hydraulic, and lube oils.

39-5.14. Public Vessel. A public vessel is owned (or bareboat-chartered) and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

39-5.15. Qualified Individual

a. A QI is the individual identified in spill response plans (such as the FRP or NOSC plan) who:

(1) Is available on a 24-hour basis and able to arrive at the facility in a reasonable time;

(2) Is familiar with the implementation of the plan;

(3) Is trained in the responsibilities of the QI under the plan;

(4) Has authority to activate the OHS spill response organization;

(5) Has authority to direct the obligation of funds required to carry out response activities; and

(6) Will act as a liaison with the pre-designated FOSC.

b. NOSCs and facility commanders are assigned these responsibilities but may delegate QI responsibility to trained personnel in their respective plans.

39-5.16. Regional Contingency Plans. RCPs are developed by the RRT to assist the FOSC in the event that an incident exceeds the response capabilities identified in the ACP. Among other things, the RCP sets forth criteria for issues such as the use of alternative response techniques (such as dispersants and in-situ burning).

39-5.17. Regional Response Team. The RRT is the Federal response network under the National Response Team, consisting of representatives from regional, Federal, and State agencies. There are 13 RRTs, one for each of the 10 standard Federal regions and one each for Alaska, Oceania (Hawaii and the U.S. Pacific Islands), and the U.S. Caribbean Islands. DoD is a member of each RRT and assigns an executive agent from one of the Services to each RRT. The Navy represents DoD at RRT regions I, III, and IX.

39-5.18. Release. A release is any spilling or substantial threat of spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of any HS (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any HS, pollutant, or contaminant). The term “release” excludes:

a. Any spilling, leaking, etc. that results in exposure to persons solely within a work place;

b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

c. Spilling, leaking, etc., of source, byproduct, or special nuclear material from a nuclear incident subject to the jurisdiction of the Nuclear Regulatory Commission, or any spilling, leaking, etc., of source, byproduct, or special nuclear material from any processing site designated under reference (q); and

d. The normal application of fertilizer or insecticides, herbicides, rodenticides, fungicides, biocides, and other pesticide products whose registration and use is managed by the Federal Insecticide Fungicide and Rodenticide Act.

39-5.19. Reportable Quantity. A reportable quantity is a release of a CERCLA- or EPCRA-listed HS or EHS exceeding the threshold planning quantity (TPQ) for reporting the substance

(reference (c), Parts 117, 302, and 355). HS or EHS releases that equal or exceed these TPQs must be reported to Federal, State, and local authorities immediately upon discovery.

39-5.20. Responsible Party. The responsible party is the person or persons who have caused, or could potentially cause, an HS release or oil discharge, including these categories:

a. Vessels. Any person owning, operating, or bareboat-chartering a vessel, other than a public vessel;

b. Onshore Facilities (Other Than a Pipeline). Any person owning or operating the facility, except where possession and right to use the property has been transferred to another person by lease, assignment, or permit; and

c. Offshore Facilities (Other Than a Pipeline or a Deepwater Port Licensed Under Reference (a), Section 1501 et seq.). The lessee or permit holder of the area in which the facility is located or the holder of a right of use or easement granted under applicable State law.

39-5.21. Significant and Substantial Harm. Under OPA 90 regulations, EPA; USCG, Minerals Management Service; and PHMSA can identify certain facilities as being able to cause "significant and substantial" harm to the environment upon a release of oil. Regulators base their determinations on factors similar to the criteria to determine "substantial harm" as well as the age of tanks, proximity to navigable waters, and spill frequency. Facilities identified as being able to cause "significant and substantial harm" must have their FRP submitted to the applicable regulators.

39-5.22. Spill. The term "spill" is used to include both releases of HS and discharges of oil.

39-5.23. Spill Contingency Plan. An SCP is a plan of action for facility spill scenarios that identifies, among other items, notification and response procedures. An SCP is used by facilities that are not required to meet the OPA 90 threshold requirements for FRP development. The magnitude and scope of the SCP is commensurate with storage capacity, facility operations, and spill risks. It should address OHS issues. Installation commands must ensure that tenant commands coordinate their respective SCPs with the installation SCP.

39-5.24. Substantial Harm. A "substantial harm" facility is one that could reasonably be expected to cause harm to the environment by discharging oil into or on navigable waters.

39-5.25. Sunken Military Craft. All or any portion of a sunken warship, naval auxiliary, or other vessel that was owned or operated by a government or military non-commercial Service when it sank; any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and the associated contents of a craft, if title thereto has not been abandoned or transferred by the government concerned (reference (r)).

39-5.26. Territorial Sea. Refer to chapter 20 (Clean Water Ashore), paragraph 20-5.25 of this manual for the complete definition.

39-5.27. United States. The United States is comprised of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, and any other territory or possession over which the United States has jurisdiction.

39-5.28. Vessel. A vessel is every type of watercraft or other artificial conveyance used, or capable of being used, as a means of transportation on water.

39-5.29. Worst-Case Discharge. A WCD is the largest foreseeable discharge in adverse weather conditions. For specific information on calculating WCD, consult reference (c), Part 112; references (d) and (e); or reference (f), Parts 194 and 195.

CHAPTER 40

SUNKEN MILITARY CRAFT

Table of Contents

40-1 Scope 40-1
40-1.1. Related Chapters 40-1
40-1.2. References 40-1

40-2 Legislation 40-1

40-3 Requirements 40-2
40-3.1. Review Panel 40-2
40-3.2. Navy Actions 40-3
40-3.3. Coordination with Other Agencies 40-3
40-3.4. Funding 40-3

40-4 Responsibilities 40-4

40-5 Definitions 40-5

40-1 Scope. This chapter outlines environmental response procedures for releases of oil or other hazardous substances (HS) from sources that have been reported to be, or may be identified as, U.S. Navy sunken military craft. This chapter in no way implies or creates any legal liability on behalf of the Navy not otherwise provided by existing U.S. law. Under no circumstances do the procedures described in this chapter obligate the Navy to perform any action on any vessel, constitute tacit admission of fault, imply legal liability, or grant authority to obligate funds to carry out preemptive response actions on U.S. Navy sunken military craft. Further, this chapter does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the U.S. Navy, the United States, its agencies, its officers, or any person.

40-1.1. Related Chapters. Chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual describes the plans and procedures to be used if a response is determined to be necessary.

40-1.2. References

(a) OPNAVINST 4740.2G, Salvage and Recovery Program.

40-2 Legislation. A summary of the Sunken Military Craft Act is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

40-3 Requirements

a. U.S. Navy sunken military craft have been lost around the world because of armed conflict, acts of God, or other reasons. As these vessels age, corrosion or other natural processes may result in a failure in hull integrity or associated systems, leading to potential releases of oil or other HSs into the sea. Such situations can present difficult questions of national sovereignty, jurisdiction, political sensitivity, and legal responsibility. Because each situation is unique, the appropriate U.S. response to potential releases of oil or other HSs from U.S. Navy sunken military craft can only be determined on a case-by-case basis.

b. Upon receipt of a report alleging release of oil or other HSs from a U.S. Navy sunken military craft, the Navy must evaluate the incident and implement steps that facilitate an appropriate response under the circumstances. These steps must include a review or decision panel composed of subject matter experts from pertinent commands; the allocation of responsibilities; and recommendations for appropriate responses, if any, based on the existing circumstances presented by the release incident on a case-by-case basis.

40-3.1. Review Panel. Upon notification or discovery of a release of oil or other HSs that may be attributed to a U.S. Navy sunken military craft, a review panel, convened by the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45), must meet to address issues, coordinate actions, and make recommendations to the Deputy Assistant Secretary of the Navy (Environment) (DASN(E)) concerning the Navy's response to the event. At a minimum, the review panel should include a representative from each of the commands shown in table 40-1 of this manual.

Table 40-1. Minimum Review Panel Representation

Command	**Functions**
Office of the Chief of Naval Operations, Ashore and Afloat Environmental Compliance Branch (OPNAV N452) and Deputy Chief of Naval Operations (DCNO) for Fleet Readiness and Logistics (CNO N4) Legal Counsel	Policy guidance, resources, legal, environmental planning, public affairs (in coordination with Navy Office of Information)
DCNO for Operations, Plans, and Strategy (CNO N3/N5)	Fleet coordination and operational tasking
Navy Judge Advocate General Admiralty (OJAG Code 11)	Legal
Office of Legislative Affairs (OLA), Legislative Division	Congressional inquiries
Naval History and Heritage Command (NHHC)	Preservation and protection of DON sunken military craft
Commander, Naval Sea Systems Command (COMNAVSEASYSCOM), Supervisor of Salvage (NAVSEA 00C), and COMNAVSEASYSCOM,	Technical support, response actions, and environmental planning

Command	Functions
Environmental Management and Policy Division (NAVSEA 04RE)	
Commander, U.S. Pacific Fleet, Environmental Readiness (COMUSPACFLT N465) or Commander, U.S. Fleet Forces Command, Environmental Readiness (COMUSFLTFORCOM N465) (as appropriate)	Local support (e.g., assets, media)

40-3.2. Navy Actions. Table 40-2 of this manual presents an outline of procedures the review panel may follow when notified of a potential release of oil or other HSs from a U.S. Navy sunken military craft. This is a general outline, and the actual process used may vary based on the nature of the release, the resources at risk, and other factors.

Table 40-2. Review Panel Procedures After Notification of Potential Release

A. Determine Title
(1) Evaluate location and probability of vessel being Navy-owned
(2) Investigate any transfers and chain of custody
B. Determine Risk
(1) Conduct literature and document research on sinking
(2) Determine ship condition
(3) Determine expected quantity of fuel aboard
(4) Evaluate need for a physical survey
(5) Evaluate feasibility of conducting surveys (including technical approach and cost)
(6) Evaluate applicable law, if any
C. Determine Appropriate Response
(1) Assess and survey the scene, as needed
(2) Determine options and alternatives
(3) Provide recommendations to the chain of command
D. Respond if Appropriate for the Circumstances

40-3.3. Coordination with Other Agencies. The review panel must assist the DASN(E) in coordinating with other Federal and State agencies that may have jurisdiction over property or resources that may be affected by operations on U.S. Navy sunken military craft, or with delegating authority to coordinate with other agencies. The Federal agencies involved may include such entities as the Department of State, Department of the Interior, U.S. Coast Guard, Environmental Protection Agency, and National Oceanic and Atmospheric Administration. The level of assistance required will vary depending on the nature of the actions considered or taken.

40-3.4. Funding. Advance programming for funds is not an available option in the case of unspecified future release response actions. If the review panel determines site surveys are needed to assess the risk or response fully, or follow-on remediation operations are warranted for a specific incident, coordination with the Assistant Secretary of the Navy, Financial Management

and Comptroller, Office of Budget must be initiated to identify potential funding options for each incident on a case-by-case basis. When advance planning is possible, claimants must use the program objective memorandum and program review process to identify necessary funding requirements.

40-4 Responsibilities. The review panel must make recommendations to DASN(E) concerning the Navy's appropriate response for each vessel on a case-by-case basis. Pertinent factors to be considered when addressing releases from U.S. Navy sunken military craft include ownership, legal liability, political implications, technical feasibility of response, magnitude of the release, historical significance of the vessel, whether the sunken military craft may contain human remains, environmental impacts, interest by foreign governments, and interest from other U.S. government agencies. Release of information and decisions from review-panel deliberations must be carefully managed. DASN(E) or a designee must approve any release to outside agencies of information developed or decisions reached by the review panel. OPNAV N45 and DASN(E) must approve the distribution to the media of any information developed or decisions reached. Responsibilities to be assigned for other actions include:

40-4.1. OPNAV N45 must:

a. Convene and chair a review panel as required after receipt of a report alleging release of oil or other HSs from a sunken Navy vessel; and

b. Provide policy guidance, resources, legal, environmental planning, and public affairs information and guidance.

40-4.2. CNO N4 Legal Counsel must coordinate any legal issues that arise with OJAG Code 11 and Office of the General Counsel (Energy, Installations, and Environment), as well as legal representatives from other commands represented on the review panel.

40-4.3. CNO N3/N5 must provide fleet coordination and operational tasking information and guidance for all identified survey and salvage requirements.

40-4.4. OJAG Code 11 must provide legal advice and information relating to admiralty and salvage issues. If there are any questions surrounding ownership or title, OJAG Code 11 must provide support to resolve such issues prior to conducting a risk assessment. Only where the vessel in question is determined to be a U.S. Navy vessel must the review panel determine the appropriate response, if any.

40-4.5. Navy OLA must perform duties relating to receiving and responding to Congressional inquiries about sunken vessel issues.

40-4.6. NHHC must conduct archival, management, field, or other research on the subject military craft considered to be the potential source of the release and summarize its findings.

40-4.7. NAVSEA 00C and NAVSEA 04RE must, per reference (a), work with the applicable fleet staff in developing risk assessments including ship information, alternative response

actions, and potentially affected resources. NAVSEA 00C and fleet staff representatives must summarize the information and present options for action to the review panel for consideration. If DASN(E) determines on-scene response actions are appropriate, NAVSEA 00C must assume technical lead and work with the appropriate fleet to ensure effective use of Navy resources. Environmental planning, if required for proposed actions, must be coordinated through the Office of the Chief of Naval Operations, Operational Environmental Readiness and Planning Branch (OPNAV N454) and NAVSEA 04RE.

40-4.8. COMUSFLTFORCOM or COMUSPACFLT must provide local support (e.g., assets, media) as needed.

40-5 Definitions

40-5.1. Sunken Military Craft. All or any portion of any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial Service when it sank; any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and the associated contents of a craft, if title thereto has not been abandoned or transferred by the government concerned.

CHAPTER 41

NATURAL RESOURCE DAMAGE

Table of Contents

41-1 Scope 41-1
41-1.1. Related Chapters 41-1
41-1.2. References 41-2
41-1.3. Applicability 41-2

41-2 Legislation 41-3

41-3 Requirements 41-3
41-3.1. Navy Roles as Trustee and Potentially Responsible Party 41-3
41-3.2. Natural Resource Injury or Potential Natural Resource Injury Resulting from a Sudden or Current Release of Oil or Hazardous Substances 41-6
41-3.3. Natural Resource Injury and Response Alternative(s) Conducted from Historical Contamination 41-11
41-3.4. Damage Assessment 41-11
41-3.5. Funding 41-16
41-3.6. Potentially Responsible Party Funding 41-18

41-4 Responsibilities 41-18

41-5 Definitions 41-21

41-1 Scope. This chapter establishes Chief of Naval Operations (CNO) requirements, guidelines, and standards for the assessment of damages arising from the sudden or current release of oil and hazardous substances (OHS) and historical contamination that injures or threatens to injure the natural resources of the United States. This chapter also describes the responsibilities and conduct of the Navy regional environmental coordinator (REC) when acting as the Federal trustee for natural resources on behalf of the Assistant Secretary of the Navy (Energy, Installations, and Environment) (ASN(EI&E)).

41-1.1. Related Chapters. Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual provides guidance on National Environmental Policy Act (NEPA) regulations, chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual identifies requirements to prepare for and respond to OHS spills, chapter 42 (Environmental Restoration) of this manual provides information regarding the restoration process under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA) for past releases of OHS, and appendix C (Message Formats) of this manual provides message formats.

41-1.2. References

(a) DoD Instruction 4715.06 of 4 May 2015, Environmental Compliance in the United States;

(b) 33 U.S.C. §2701–2762 (§2706 is the natural resource damage assessment (NRDA) section);

(c) 15 CFR Part 990;

(d) E.O. 12777, Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as amended, and the Oil Pollution Act of 1990;

(e) 40 CFR;

(f) USD(AT&L) memo of 18 Feb 11, Delegation of DoD Trustee Responsibilities for Future Natural Resources Damage Assessment Issues;

(g) SECNAV memo of 13 Jun 11, Delegation of Natural Resources Trustee Authorities under The Oil Pollution Act of 1990;

(h) PDASN(E,I&E) memo of 11 Mar 13, Delegation of Natural Resources Trustee Authorities Under the Oil Pollution Act of 1990;

(i) 42 U.S.C. §9601–9675 (§9607 is the natural resource trustee (NRT) section);

(j) 43 CFR Part 11;

(k) E.O. 12580, Superfund Implementation;

(l) DoD Instruction 4715.07 of 21 May 2013, Defense Environmental Restoration Program (DERP);

(m) CNO ltr 5090 Ser N453E/1U595846 of 21 Dec 01;

(n) 43 U.S.C. §1651;

(o) U.S. Coast Guard, NPFC User Reference Guide, July 2002; and

(p) USACE Wetlands Research Program Technical Report Y-87-1, Corps of Engineers Wetlands Delineation Manual, January 1987.

41-1.3. Applicability. This chapter applies to OHS releases (sudden or current release and historical contamination) from any source that injure or threaten to injure natural resources of the United States within Navy management or control. This chapter also applies to OHS releases originating from Navy sources (including public vessels) that injure or threaten to injure the natural resources of the United States wherever found.

41-2 Legislation

a. Legislation containing provisions that assign trustee responsibilities for the protection of natural resources and the assessment of damages caused by OHS releases includes:

(1) Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387;

(2) Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9601–9675;

(3) Federal Water Pollution Control Act;

(4) Oil Pollution Act of 1990 (OPA 90), 33 U.S.C. §2701–2762; and

(5) National Environmental Policy Act (NEPA), 42 U.S.C. §4321–4370h through OPA 90.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

41-3 Requirements

a. The Navy is committed to the restoration, rehabilitation, or replacement of natural resources and services, within its management or control, injured by OHS releases to the environment. Reference (a) states that it is Department of Defense (DoD) policy to comply with applicable Federal, State, and local environmental requirements. If natural resources under DoD control are damaged by oil or hazardous substance (HS) releases by another party, that party is potentially liable.

b. This manual maintains a distinction between physical injury to natural resources (natural resource injury (NRI)) and monetary damages arising by law from such injury (natural resource damage (NRD)). Additionally, there is a distinction between response to a sudden or current release of OHS and remediated historical release from past Navy activities that cause or potentially cause NRI to natural resources under Navy management and control.

41-3.1. Navy Roles as Trustee and Potentially Responsible Party

a. Trusteeship. Natural resource trustees (NRT) are Federal, State, and Indian tribe officials authorized to act on behalf of the public for natural resources under their respective trusteeship. Additionally, foreign entities can be trustees under OPA 90.

(1) In the Case of an Oil Discharge

(a) Reference (b) provides for the designation of Federal, State, Indian tribe, and foreign NRTs empowered to determine if injury to natural resources and services under their

trusteeship has resulted from a discharge, or substantial threat of discharge, of oil into or upon the navigable waters or adjoining shorelines of the United States. Trustees are responsible for the assessment of NRD resulting from those injuries; the presentation of claims for damages; the recovery of damages; and the development and implementation of a plan for the restoration, rehabilitation, replacement, or acquisition of equivalent natural resources or services.

(b) Reference (b) provides that the President, acting through the Department of Commerce or the National Oceanic and Atmospheric Administration (NOAA), must issue regulations for the assessment of NRD resulting from a discharge of oil. Assessments performed by Federal, State, or tribal trustees under these regulations are accorded a rebuttable presumption of reasonableness.

(c) Reference (c) provides for the use of authorized trustees in executing such assessments.

(d) Reference (d) designates the Office of the Secretary of Defense (OSD) as an authorized Federal trustee for natural resources and directs trustees to exercise the duties defined in reference (e), Part 300. It also designates the secretaries of Interior, Agriculture, Commerce, and Energy as Federal trustees for natural resources.

(e) Per reference (f), OSD has permanently delegated trustee authority under OPA 90 to the secretaries of the military departments, and, per reference (g), the Secretary of the Navy has permanently delegated trustee authority under OPA 90 to ASN(EI&E). ASN(EI&E) has delegated trustee authority under OPA 90 to the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) in reference (h). The delegation requires that OPNAV N45 obtain prior approval from the Deputy Assistant Secretary of the Navy (Environment) before pursuing any affirmative monetary claim against a private party. The delegated NRT authority may be further delegated to appropriate senior executive service civilians or flag or general officers. Accordingly, Navy RECs should ask OPNAV N45 for assistance in securing authority to proceed as an NRT when required.

(2) <u>In the Case of HS Releases</u>

(a) Reference (i) provides for the designation of Federal and State NRTs who assess damages for injury to, destruction of, loss of, or loss of use of natural resources under their trusteeship as a result of the release of an HS. Reference (i) also recognizes the authority of Indian tribes to commence actions as NRTs. Damages recovered by Federal and State trustees are available for use only to restore, replace, or acquire the equivalent of the natural resources impacted by the release.

(b) Reference (i) requires the issuance of two types of procedures for the assessment of these NRDs. Assessments performed by Federal and State trustees under either regulation are accorded a rebuttable presumption of reasonableness.

(c) The Department of the Interior (DOI) has issued reference (j), establishing two types of natural resource damage assessment (NRDA) regulations: A and B. The Type A

procedure sets forth standard procedures for simplified assessments requiring minimal field observation and relies upon a computer model to measure injury to the natural resources using historical data or reference data from appropriate literature. Type A is only applicable to minor spills in coastal and marine environments or the Great Lakes. The Type B procedure establishes alternative protocols for calculating NRD based upon the cost of restoring, rehabilitating, replacing, or acquiring equivalent resources and is used when Type A is not applicable. Type B also allows for the assessment of all uses lost to the public pending restoration or rehabilitation of the injured resource.

(d) Reference (k) also designates the secretaries of Defense, Interior, Agriculture, Commerce, and Energy as Federal trustees for natural resources under CERCLA. Reference (k), in turn, delegates that authority from OSD to the secretaries of the military departments.

(e) At the time of the publication of this manual, ASN(EI&E) has not delegated standing trustee authority under CERCLA to CNO.

(3) Sudden or Current Release. In the event of a sudden or current release to, or historical contamination of, property under Navy management and control, the Navy, in its role as NRT, is to seek compensation or financial participation from parties responsible for injuries to natural resources within Navy management or control.

(a) Potentially Responsible Party (PRP)

1. PRP for HS or Historical Contamination Releases. Reference (i), section 9607 provides the circumstances under which a person (defined to include the United States) may be a PRP for HS or historical contamination releases. As a PRP for sudden or current HS releases, the Navy must participate in NRDA and restoration processes instituted by lawfully directed NRTs. In the case of historical contamination due to past releases for which the Navy has been identified as a PRP, the Environmental Restoration (ER) Program discussed in chapter 42 (Environmental Restoration) of this manual provides policy guidance. If there are natural resources potentially impacted by Navy historical contamination releases, the impacted resources must be investigated during the ecological risk assessment (ERA) process in the remedial investigation (RI) phase. During the ERA process the remedial project manager (RPM) must involve appropriate NRTs during the selection of the screening benchmarks, the assessment and measurement endpoints, and the problem formulation. Endangered species (Federal- or State-listed) must not be selected as assessment or measurement endpoints. Although NRT involvement is encouraged in the cleanup program, the Navy is the lead response agency, and the Navy and appropriate parties (i.e., CERCLA regulators only) must make all final decisions. In most cases, the evaluation of NRI will be conducted during the ERA, but some injuries may be human-health-based (for example, exceeding drinking water standards) and thus require evaluation during the human health risk assessment process. If an NRT is performing an NRDA, documentation collected during the ERA can be provided to the NRT. Under the ER Program, Navy participation in the process to ascertain monetary damages for NRI is constrained by budgetary considerations. According to reference (m), ER, Navy (ER,N) funds may not be used to determine monetary damages resulting from NRI, whether the resource is owned by the Navy

or another party. Refer to chapter 42 (Environmental Restoration) of this manual for a full discussion of ER matters.

2. The Navy as a PRP for NRDA Claims under the CWA or OPA 90. There is no clear and unequivocal waiver of sovereign immunity for natural resource damages under the CWA or OPA 90. Responses to demands for natural resource damages resulting from oil spills should be immediately coordinated with REC counsel and OPNAV N45 as necessary.

(b) The Navy as Both an NRT and a PRP. There may be circumstances where the Navy is both an NRT and a PRP. In such circumstances there may be other PRPs that share responsibility for the NRI, and other State or tribal trustees with whom the Navy acts as co-trustee. In such cases, the role of the NRT and PRP is inherently in conflict. Navy RECs who have been delegated responsibility as NRTs when the Navy is also a PRP must seek guidance from the REC counsel, who must coordinate with OPNAV N45 and the Secretariat, as necessary, to determine the appropriate course of action.

41-3.2. Natural Resource Injury or Potential Natural Resource Injury Resulting from a Sudden or Current Release of Oil or Hazardous Substances. For an incident resulting from a sudden or current release of oil by a party that injures, or threatens to injure, natural resources under Navy management and control, the Navy REC may be delegated responsibility from OPNAV N45 to act as NRT. For HS releases, ASN(EI&E) has not delegated standing trustee authority under CERCLA to CNO, and any delegation would need to come from ASN(EI&E). As the on-scene officer with oversight over natural resources under Navy management and control, and if designated as NRT subsequent to a release, the Navy REC is responsible for executing certain actions before, during, and after a sudden or current release of oil or HS incident.

a. Prior to the Incident. As a trustee of resources under the Navy's management and control, the Secretary is responsible for conducting pre-incident planning to help ensure any assessment results in technically sound and cost-effective restoration and to restore to baseline the resources injured by OHS releases.

(1) Pre-Incident Planning. In anticipation of being called upon to act as NRT for natural resources under its management or control, the Navy REC must coordinate with OHS-response organizations and other trustees in its area of responsibility (AOR) to identify:

(a) NRDA teams;

(b) Trustee notification systems;

(c) Support services;

(d) Natural resources and services at risk;

(e) Area and regional response agencies and officials;

(f) Available baseline information;

(g) Data management systems;

(h) Assessment funding issues and options;

(i) State trustee NRDA methodologies with reduced procedural requirements for small-scale restoration plans; and

(j) ERA information, if applicable for historical contamination releases.

(2) Regional and Area Contingency Planning. The Navy REC must represent the interests of the Navy in regional and area contingency planning activities including, but not limited to contingency plan development, drills, and exercises. The Navy REC must ensure that Navy on-scene coordinator (NOSC) OHS regional response plans (NOSC plans) incorporate Navy natural resource expertise into the management of spill response, both real-time and on-scene, to evaluate and mitigate potential NRI. NOSC plans should be seamlessly integrated with regional and area contingency plans and provide for coordination between DoD and non-DoD NRTs.

(3) Baseline Assessment. The collection and maintenance of ecological information required by chapter 35 (Environmental Compliance Afloat) of this manual are essential to pre-incident planning on behalf of the Navy REC. Baseline data may include, but should not be limited to:

(a) U.S. Coast Guard (USCG) shoreline assessment maps;

(b) NOAA environmental sensitivity index maps;

(c) Studies conducted by and reports issued by regional educational institutions or governmental agencies that describe natural resources within Navy management or control;

(d) Integrated natural resource management plans (INRMP); and

(e) Navy studies and reports including those conducted for purposes other than natural resource management describing natural resources within Navy management or control (such as environmental assessments and impact statements).

b. During the Incident

(1) Pre-Assessment Phase. Upon notification of an OHS-release incident, the trustees must first determine whether certain threshold criteria have been met to authorize commencement of the damage assessment process and to establish which assessment procedure, if any, may be applicable. Each Navy activity facility response team (FRT) must execute Office of the Chief of Naval Operations (OPNAV) Form 5090/4 Preliminary Impact and Exposure Report (PIER) (refer to appendix F (Forms and Reports) of this manual) within 6 hours of release notification. The PIER records observable NRI and services by an OHS release. The FRT must, by close of business the next business day, deliver the PIER to the Navy REC. When, in the

view of the Navy REC, the PIER warrants a more detailed survey of NRIs, the Navy REC must activate facilities engineering commands (FEC), regional counsel, and comptrollers to execute the responsibilities outlined in section 41-4 of this manual. The Navy REC staff must, in turn, maintain a record of all command PIERs for at least 3 years.

(2) Mitigation of Damages. Upon notification or discovery of an injury or threat of NRI within Navy management or control, the Navy REC must take appropriate action to mitigate such injury both during and after spill-response activities.

(3) Coordination with the Federal On-Scene Coordinator (FOSC). Some damage assessment activities, such as data collection and analysis, will require coordination with the FOSC in charge of the spill response. The FOSC will also require advice from the trustees regarding potentially affected resources, environmental sensitivities, and environmentally prudent response alternatives. Trustees should communicate requirements and advice to the FOSC via the government liaison official in the FOSC's unified command.

(4) Coordination with Other Trustees

(a) Trustee responsibilities for natural resources may overlap between various agencies depending upon the resource threatened and the extent to which trustee authority has been vested in a particular agency. The Secretary of Commerce acts as the Federal trustee for natural resources found in, under, or using navigable waters of the United States, its exclusive economic zone (EEZ), and outer continental shelf. These resources include marine fisheries, anadromous (migrating) fish, endangered species, marine mammals, and the resources of national marine sanctuaries and national estuarine research reserves. The Secretary of the Interior acts as the Federal trustee for natural resources managed or controlled by DOI. These resources include migratory birds, anadromous fish, endangered species, marine mammals, Federally owned minerals, certain Federally owned lands, and certain Federally managed water resources. These agencies have broad authority over the resources within their management or control, as well as over resources within the management or control of other Federal agencies.

(b) States and Indian tribes may exercise trustee roles. For example, ASN(EI&E) may share trustee responsibilities with the governor of the State of Alaska and the Secretary of the Interior for the same migratory birds located on property managed by the U.S. Navy in Alaska. The coordination of damage assessment, mitigation, and restoration activities with non-DoD trustees is an important part of the Navy REC's responsibilities and should be among his or her primary and immediate concerns when notified of potential NRI.

(c) Foreign entities may exercise trustee roles. The head of any foreign government may designate the trustee who must act on behalf of that government as trustee for natural resources under reference (b).

(5) Coordination with the PRP

(a) The trustees are required to invite the party or parties responsible for NRD to participate in the damage assessment and restoration planning process. Reference (c) requires

delivery of such invitations in writing to the PRP not later than the notice of intent (NOI) to conduct restoration planning. Reference (j) requires delivery of written invitations to the PRP before preparation of an assessment plan.

(b) To mitigate the adversarial nature of the damage assessment process, the Navy REC must endeavor to include the PRP in trustee activity at the earliest possible opportunity to promote a climate of cooperation and mutual trust. To facilitate cost-effective cooperation, the Navy REC must negotiate with the PRP and endeavor to enter into a memorandum of understanding (MOU) that provides, among other things, for:

1. Funding of Navy assessment and restoration activities;

2. Consolidation of technical expertise;

3. Review of relevant data;

4. Assessment, planning, implementation, and monitoring milestones; and

5. Dispute-resolution procedures.

c. After the Incident. The trustees are responsible for the assessment of damages to natural resources, presentation of claims for damages to the PRP, recovery of damages, and development and implementation of a plan for restoring the injured natural resources or services.

(1) Formal Assessment. The trustees must quantify the degree and extent of injuries to natural resources and must determine the source of exposure, pathway, and adverse change to natural resources or services because of an OHS-release incident. They must also assess injuries to a natural resource caused by spill response and cleanup activities.

(2) Restoration Planning Phase. Reference (c), section 990.23, paragraph (b) requires that the restoration planning by Federal trustees be subject to NEPA. Restoration actions required by reference (j) are not subject to NEPA because these actions occur under CERCLA authority, which has procedures and public involvement requirements that are "functionally equivalent" to NEPA.

(a) Evaluation and Selection of Restoration Alternatives. The trustees must evaluate the restoration alternatives developed based upon the criteria listed in references (c) or (j), as appropriate.

(b) Draft Restoration Plan. The trustees may use a regional restoration plan or existing restoration project where such a plan or project is determined to be the best alternative among a range of feasible restoration alternatives considered. The draft restoration plan must be able to meet the trustees' obligation to restore the injured natural resources and services and endeavor to compensate the public for interim loss of use. Because Federal agencies have adopted differing NEPA procedures, trustees must agree upon the NEPA procedures to use when assessing NRD for a particular spill. Where the Navy is a trustee, the Navy REC should promote

the Navy's NEPA procedures found in chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual and must consult with OPNAV N45 on relevant NEPA requirements before initiating negotiations with co-trustees.

(c) Public Review and Comment. Once the trustees have decided to proceed with restoration, they must publish a written NOI to conduct restoration or make available to the public an administrative record (AR) documenting the basis for the trustees' decision to proceed with restoration. The notice must give the public a reasonable opportunity to review and comment upon the record and draft restoration plan.

(d) Final Restoration Plan. Once trustees have taken public comment on the draft restoration plan, they must develop a final restoration plan.

(3) Damage Claims

(a) Oil. Under reference (c), the trustees may settle claims for NRD, with or without completing the damage assessment process, provided that the settlement is fair, reasonable, and in the best interest of the public. In the judgment of the trustees, the settlement must satisfy the goals of OPA 90 with particular consideration for the ability of the settlement to restore injured natural resources or services. Funds recovered in the settlement of such claims may be expended only per the restoration plan. Costs incurred by the trustees in the assessment, planning, and implementation process may be reimbursed from these funds.

(b) HSs. Under reference (j), the trustees may settle claims for NRD, with or without completing the damage assessment process, provided the settlement is fair, reasonable, and in the best interest of the public. Funds recovered in the settlement of such claims may be expended only to restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources or services per the final restoration plan. Costs incurred by the trustees in the assessment, planning, and implementation process may also be reimbursed from these funds.

(4) Restoration Implementation. At the conclusion of damage assessment and restoration planning activities, as described by references (c) and (j), the trustees:

(a) Must open an AR to document restoration implementation phase decisions, actions, and expenditures, as well as modifications to the final restoration plan;

(b) Must present the PRP with a written demand for the damages determined per references (c) and (j) by certified mail or such other means to establish the date of receipt by the PRP. The demand must also include:

1. Identification of the incident from which the claims arise;

2. Identification of the trustees asserting the claims and a statement of the statutory basis for trusteeship;

3. A brief description of the injuries for which the claim is being sought;

4. An index to the AR;

5. A final restoration plan or NOI to use a regional restoration plan or existing restoration project; and

6. A request for reimbursement of reasonable assessment costs, the costs of emergency restoration, and interest on the amounts so claimed.

(c) Must open an account for recovered damages per references (c) and (j). Joint trustee recoveries may be deposited in a joint account under the registry of the applicable Federal court where an enforceable agreement is established to govern management of such an account.

(5) Restoration Monitoring. The trustees must assess the success of restoration implementation under the monitoring provisions of the final restoration plan.

41-3.3. Natural Resource Injury and Response Alternative(s) Conducted from Historical Contamination. If there are natural resources injured or potentially injured by historical contamination due to Navy OHS releases, the provisions of chapter 42 (Environmental Restoration) of this manual apply to the response and removal actions. In summary, a preliminary assessment or site inspection is conducted, followed by an RI or feasibility study (FS). Reference (m) provides details of the NRI policy for ER. Potential NRIs must be investigated during the ERA process in the RI phase. NRTs must be consulted as appropriate during the ERA. To the extent practicable, a response alternative that addresses and minimizes the NRI must be selected during the FS. Paying NRDs and conducting NRDAs may not be done with ER,N or base realignment and closure (BRAC) funding. Damages are assessed based on the injury to the natural resource by the NRT(s). NRD can only be recovered by the NRTs, and must be obtained using the legal system. Under Navy policy, NRD claims should only be brought after all remediation at a site is complete. At that time, Navy should share the ERA with claimants upon request. NRD claims generally must be brought within 3 years of completion of all remediation at a site. If an NRD claim is filed, consult with OPNAV N45. While there is no prohibition against engaging in or participating in NRDA in ER of historical contamination, ER,N and BRAC funding must not be used to conduct NRDAs whether the resource is owned by the Navy or another party. If the cleanup response action selected has an element that addresses the injury to the natural resource it must specifically be stated in the record of decision. This provides documentation of the Department of the Navy (DON) attempt to restore the natural resource in the event that an NRD claim is filed against DON. The response action documentation should be reviewed to determine if the natural resource has been restored beyond what is required by the remediation.

41-3.4. Damage Assessment

a. NRD for Oil Spills. The three phases of the NRDA process for a discharge of oil as detailed in reference (c) are pre-assessment, restoration planning, and restoration implementation. Navy policy calls for these procedures regardless of the location of the spill, the provisions of OPA 90 notwithstanding. Where an oil spill, regardless of source or physical location, injures or threatens to injure natural resources within Navy management or control,

reference (c) must serve as guidance to Navy activities in the mitigation, assessment, and collection of NRD occasioned by such spill. Where oil spills from Navy vessels or facilities result in NRI not within Navy control, the Navy must encourage trustees conducting NRDA to use the procedures in reference (c).

(1) Pre-Assessment Phase. The pre-assessment phase is a preliminary fact-finding exercise that provides the information necessary to determine whether the trustee has jurisdiction over a particular incident and if restoration planning is necessary.

(a) Determining Jurisdiction under OPA 90. Upon notification of a spill or release incident, the trustees must first determine whether an incident has occurred as defined by reference (c), subpart (c), and whether natural resources within Navy management or control have been, or may be, injured as a result of the incident. If the conditions of reference (c), subpart (c) are met, the trustees may assume jurisdiction and pursue restoration under OPA 90, provided the release is not:

1. Permitted under a permit issued by Federal, State, or local authority;

2. From a public vessel; or

3. From an onshore facility subject to reference (n).

(b) Determining Need to Conduct Restoration Planning. If jurisdiction under OPA 90 is satisfied, trustees must decide whether to conduct restoration planning. Criteria to determine whether restoration planning may be appropriate include whether:

1. NRI has resulted from or is likely to result from the incident;

2. Response actions have adequately addressed or are expected to address the injury; and

3. Feasible primary and compensatory restoration alternatives exist to address potential injury.

(c) Threshold Requirements. If the criteria of subparagraphs 41-3.4a(1)(a) or (b) of this manual are not met, the trustees may not take additional action to pursue restoration under OPA 90. The trustees may take additional action, however, to finalize these determinations and to recover from the PRP all reasonable assessment costs.

(d) NOI to Conduct Restoration. If the criteria of subparagraphs 41-3.4a(1)(a) and (b) of this manual have been met and the trustees decide to proceed with damage assessment, they must prepare a NOI to conduct restoration planning. Trustees must make this notice available to the public and deliver it to the PRP (reference (c), section 990.44).

(e) Public Record. If restoration planning is to proceed, the trustees are required to make available to the public an AR documenting the basis for all decisions pertaining to the restoration plan (reference (c), section 990.45).

(2) Restoration Planning Phase. If restoration planning is justified, the trustees must conduct injury determination, injury quantification, and restoration selection.

(a) Injury Determination

1. The trustees must determine whether:

a. The definition of injury has been met; and

b. The injured resource has been exposed to the oil, a pathway can be established from the discharge to the injured resource, and the injury resulted from the discharge; or

c. An injury to a resource or an impairment of a natural resource service has occurred as a result of response actions or a substantial threat of discharge of oil.

2. When selecting the potential injuries to assess, factors the trustees should consider include:

a. Natural resources and services of concern;

b. Procedures available to evaluate and quantify injury including time and cost requirements;

c. Evidence indicating exposure;

d. Pathway from the incident to the natural resource or service of concern;

e. Adverse change or impairment constituting injury;

f. Evidence indicating injury;

g. Mechanism by which injury occurred;

h. Potential degree, spatial, and temporal extent of the injury;

i. Potential natural recovery period; and

j. Kinds of primary and compensatory restoration actions that are feasible.

(b) Injury Quantification. Upon determining that injury has occurred, the trustees must quantify the extent of injury relative to the baseline by estimating, quantitatively or

qualitatively, the time for natural recovery without restoration through consideration of these factors:

1. Nature, degree, and spatial and temporal extent of injury;

2. Sensitivity and vulnerability of the injured resource or service;

3. Reproductive and recruitment potential;

4. Resistance and resilience of the affected environment;

5. Natural variability; and

6. Physical and chemical processes of the affected environment.

(c) Primary Restoration. Primary restoration is the action of returning injured natural resources and services to baseline.

1. Natural Recovery. The trustees must consider a natural recovery option in which no human intervention would be taken directly to restore injured natural resources and services to baseline.

2. Active Primary Restoration. The trustees should also consider whether accelerated recovery due to direct human intervention may be preferable to natural recovery to restore natural resources and services to baseline.

(d) Compensatory Restoration. For each alternative, the trustees must consider compensatory restoration actions to compensate for the interim loss of natural resources and services pending recovery. When evaluating compensatory restoration actions, the trustees must consider if the actions provide services of a comparable type, quality, and value to those injured and scale the actions accordingly.

(e) Draft Restoration Plan. The draft restoration plan is generally subject to the requirements of NEPA and reference (e), Part 6. Trustees should make the plan available for public review and comment. Where appropriate, the trustees may propose a regional restoration plan or existing restoration project as a feasible restoration alternative. These plans or projects must satisfy the trustees' obligation to "restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources and services and compensate for interim losses." At a minimum, the draft restoration plan must include:

1. Summary of injury assessment procedures used;

2. Description of the nature, degree, spatial extent, and temporal extent of injuries resulting from the incident;

3. Goals and objectives of restoration;

4. Range of restoration alternatives considered and a discussion of how they were developed and evaluated under reference (c);

5. Trustees' tentative preferred alternatives;

6. Description of the past and proposed involvement of the PRPs in the assessment; and

7. Description of the monitoring procedures required to document the effectiveness of the restoration action taken, including performance criteria used to determine the success of restoration or the need for interim corrective action.

(f) Final Restoration Plan. Following an opportunity for public review and comment, the trustees should develop a final restoration plan that will include responses to public comments, indicating where changes were made to the draft restoration plan, if any. The trustees must then present a written demand to the PRP per reference (c), section 990.62.

(3) Restoration Implementation Phase. The trustees should give the PRP a reasonable opportunity (90 days per reference (p)) to either implement the final restoration plan or fund the trustees' implementation of the plan. While PRP implementation and management of the restoration project is probably in the best interest of the public, the guiding principle should be the settlement of damage claims without litigation. Should the PRP decline to settle the claim, the trustees should refer the claim to the Environment and Natural Resources Division of the Department of Justice (DOJ) for collection and civil action in Federal court if required.

(4) Restoration Monitoring. Per the monitoring component of the final restoration plan, the trustees should gauge the success of restoration implementation by monitoring both reference and control sites reasonably calculated to assess the progress and performance of the action taken.

b. NRD for HSs. The four phases of the NRDA process for HSs per reference (j) are pre-assessment, assessment planning, assessment, and post-assessment. Where the release of HSs, regardless of source, injures or threatens to injure natural resources within Navy management or control, reference (j) must serve as guidance to Navy activities in the assessment and collection of NRD occasioned by such release. Where HS releases from Navy vessels or facilities may be responsible for NRI not within Navy control, the Navy must encourage trustees conducting NRDAs to use the procedures in reference (j).

(1) Pre-Assessment Phase. The first phase of NRDA conducted under reference (j) involves a pre-assessment screen to determine if further assessment actions are warranted and to determine the procedures most appropriate to assessment planning in the instant circumstances. The pre-assessment screen evaluates whether:

(a) An HS release has occurred;

(b) Natural resources have been, or are likely to be, adversely affected by the release;

(c) Quantity or concentration of HSs is sufficient to cause injury;

(d) Assessment data are readily obtainable or likely to be obtained at reasonable cost; and

(e) Response actions will sufficiently remedy the NRI without further action.

(2) Assessment Planning Phase. The goal of this phase is to draft an assessment plan that adequately describes the methods that the trustees intend to use to conduct NRDA in the most cost-effective manner. Trustees must make the assessment plan available for public review and comment. The assessment plan must include a description of the natural resources and geographic area involved, a statement of the authority for asserting trusteeship, and a description of the procedures the trustees intend to use to conduct injury determination, quantification, and damage determination. During the planning phase, the trustees must choose between Type A and B procedures. The methodology chosen must facilitate the execution of the assessment plan. If applicable for historical contamination releases, a response alternative that minimizes the damage must be included.

(3) Assessment Phase. During this phase, the trustees execute the protocol described in the assessment plan determining injury and quantifying damages under Type A or B assessment procedures, issued per reference (j).

(a) Type A Procedures. In a Type A procedure, the trustees perform injury determination and quantification and damage determination using standardized procedures involving minimal fieldwork. Typically, Type A involves the use of a computer model to assess damages and measure injury to the natural resources using historical data or reference data from appropriate literature on small HS releases in coastal and marine environments or the Great Lakes.

(b) Type B Procedures. In a Type B procedure, the trustees perform the same determinations using a range of alternative scientific and economic methodologies to calculate the cost of restoring, rehabilitating, replacing, or acquiring equivalent resources. Type B procedures are more labor-intensive in the collection and analysis of available data and, consequently, significantly more expensive and time-consuming, and allow for the assessment of all uses lost to the public pending restoration or rehabilitation of the injured resource.

(4) Post-Assessment Phase. Whether the trustees elect Type A or Type B procedures, reference (j) requires the post-assessment preparation of a report of assessment, the establishment of an escrow account to receive damage payments, and the development of a restoration plan.

41-3.5. Funding

a. Oil Spill Liability Trust Fund (OSLTF). OPA 90 states funds must be made available from the OSLTF for the payment of costs incurred by the trustees in assessing NRD and in developing and implementing plans for the restoration, rehabilitation, replacement, or acquisition

of equivalent natural resources. The National Pollution Funds Center (NPFC) administers the OSLTF.

(1) Assessment Costs. Federal trustees have access to the OSLTF to fund the cost of:

(a) Notification of and coordination with other trustees and the FOSC;

(b) Pre-assessment determination;

(c) Damage assessment determination;

(d) Data collection and analysis; and

(e) Report preparation.

(2) Damage Claims. Under a 1997 interagency ruling, the NPFC may pay uncompensated NRD claims from the OSLTF funds without seeking further appropriation.

(3) Requests for Funds. The trustees should first seek funding from the PRP for both the costs of assessment and NRD claims. If the PRP is unknown, unable, or unwilling to cooperate with the reasonable requests of the trustees, the trustees may petition the NPFC for funding from the OSLTF.

(a) Interagency Agreement. To access the fund, the lead administrative trustee (LAT) must conclude an interagency agreement with the NPFC for each OPA 90 incident requiring OSLTF funds. The LAT must submit the request on behalf of all of the affected trustees to the cognizant NPFC regional manager. The request for OSLTF funds must provide the information specified in reference (o), chapter 2, "Procedures for Accessing the Funds."

(b) Reimbursement and Cost Recovery. According to the interagency agreement, the NPFC will review the trustees' request and advise them whether funding will be available for assessment costs and damage claims. To trigger access to OSLTF funds, the trustees must submit to the NPFC and USCG SF-180 or equivalent together with cost documentation.

(4) Recordkeeping

(a) Cost Documentation. The LAT and each participating trustee are required to establish a system to record and to document costs, including the cost of personnel, equipment, and services.

(b) Content of Documentation. While the NPFC does not specify a format that cost documentation must take, Navy RECs are advised to follow the format identified in the OPA claims section of reference (o).

(c) Trustee Reports. Where the OSLTF advances funds, trustees are required to submit a final report of costs to the NPFC within 60 days of completing the funded activity. The

LAT should review the cost documentation submitted by each of the trustees and certify that the expenses were both reasonable and necessary. A narrative summary in layman's language describing the activity and the rationale for it must accompany the cost documentation.

b. CERCLA Superfund. Section 111 of CERCLA establishes a Hazardous Substance Response Trust Fund (the "Superfund"). Section 112 of CERCLA directs the President to establish forms and procedures for the filing of claims against the Superfund. Congressional appropriations language expressly prohibits the payment of NRD claims or assessment costs from the Superfund.

41-3.6. Potentially Responsible Party Funding

a. MOU Accounts. Where an MOU between the trustees and PRP so provides, the PRP may establish an account from which funds may be drawn to cover the cost of pre-assessment and damage assessment activities. Trustees may ultimately be required to invoke the statutory funding mechanisms described in paragraph 41-3.5 of this manual. Accordingly, trustees may be well advised to establish a cost accounting system similar to that described in subparagraph 41-3.5a(4) of this manual.

b. Revolving Escrow Accounts. DOI and NOAA have secured, via special legislation, Congressional authorization to establish a revolving escrow account for the receipt of funds from non-Federal sources in the settlement of NRD claims. DOI also has used its account to receive funds in settlement of claims interposed by Federal trustees other than DOI where DOI served as co-trustee in the same action. Whether the DOI or NOAA account would be available to receive funds in settlement of claims interposed by the Navy RECs acting on behalf of ASN(EI&E) as Federal trustee for natural resources has yet to be determined by interagency agreement.

41-4 Responsibilities

41-4.1. OPNAV N45 must:

a. Develop, issue, review, and provide execution oversight of Navy policy on natural resource trusteeship, and NRDA and restoration procedures; and

b. Provide assistance to the Navy REC in securing authority to proceed as an NRT when appropriate.

41-4.2. The Navy REC must:

a. Act on behalf of CNO as Federal trustee for natural resources within Navy management or control when so authorized;

b. Establish procedures consistent with the provisions of this chapter and references (c) and (j) to assess damages resulting from OHS releases into or upon natural resources within the Navy REC's management or control;

c. Provide executive oversight to the regional counsel, regional comptrollers, facility commanders, and FEC representatives;

d. Ensure that activities within the REC's AOR incorporate a PIER into the standard operating procedure of the local FRT;

e. Document all Navy costs related to NRDA and restoration activities, including but not limited to pre-assessment, restoration planning, plan execution, and monitoring costs (reference (c), section 990.30, and reference (j), section 11.15);

f. Report these costs in writing to OPNAV N45 each year that NRDA or restoration activities are pending in the REC's AOR;

g. Provide support and work with the Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) FEC on NRD claims against the ER National Priorities List (NPL) and non-NPL sites that have met the within-3-year completion of the remedy standard.

h. Conduct annual exercises for local FEC representatives, regional counsel, comptrollers, and FRTs in the execution of NRT responsibilities. Annual exercises may take the form of comprehensive tabletop drills or RECs may conduct them in combination with area spill response exercises, including National Preparedness for Response Exercise Program events. Contracted support personnel relied upon in local contingency plans should also be invited to participate in these exercises.

41-4.3. The Navy REC counsel must:

a. Coordinate the Navy REC's communications and negotiations with the PRP and non-Navy trustees having jurisdiction over natural resources affected or threatened by the release;

b. Negotiate with the PRP and trustees an MOU regarding the funding of and procedures to be used in NRDA and restoration planning;

c. Attend relevant trustee meetings and report the status of trustee negotiations in writing to the Admiralty Claims Division of the Navy Judge Advocate General and OPNAV N45 biannually;

d. Periodically advise the DOJ's Environment and Natural Resources Division on the status of NRD claim negotiations and refer such claims to DOJ when negotiations with the PRP have reached an impasse or have otherwise failed to implement the trustees' restoration plan within a reasonable period of time;

e. Assist the Navy REC in the planning and execution of NRDA and restoration activities within the REC's AOR; and

f. Annually exercise the responsibilities identified in subparagraphs 41-4.3a through 41-4.3e of this manual.

41-4.4. COMNAVFACENGOM must:

a. Act as natural resource technical consultant to Navy, providing technical support in the planning and execution of NRDA and restoration activities; and

b. Coordinate with the FECs to develop expertise in NRD mitigation, assessment, and restoration.

41-4.5. FECs must, upon request:

a. Act as the Navy REC's primary point of contact for the planning and execution of NRDA and restoration activities within the REC's AOR;

b. Act as the Navy REC's primary repository of natural resource baseline information until the REC determines local activities in his or her AOR have sufficient resources and training to assume this function;

c. Help the REC develop local area guidance on NRDA and restoration procedures in consonance with the provisions of this chapter and references (c) and (j), and coordinate the development of this guidance with installation and facilities where they have knowledge concerning onsite resources;

d. Act as the Navy REC's primary contracting authority in retaining technical assistance from the private sector to facilitate the planning and execution of NRDA and restoration activities within the REC's AOR;

e. Assist the Navy REC in the planning and execution of NRDA and restoration activities within the REC's AOR; and

f. Annually exercise the responsibilities identified in subparagraphs 41-4.5a through 41-4.5e of this manual.

41-4.6. FRTs must:

a. Report whether and the extent to which natural resources have been exposed to an OHS release;

b. Compile and sign a PIER, the form of which is OPNAV 5090/4 (July 2012) (refer to appendix F (Forms and Reports) of this manual), within 6 hours of being notified of an OHS release in their AOR;

c. Deliver the PIERs to the Navy REC no later than the close of business on the next business day following notification of an OHS release in their AOR; and

d. Annually exercise the responsibilities identified in subparagraphs 41-4.6a through 41-4.6c of this manual.

41-4.7. When a Navy vessel or facility is deemed the PRP for a sudden or current HS release, the cognizant Navy command must:

a. Cooperate with the trustees in the NRDA planning, restoration, and monitoring process;

b. Enter into an MOU with the trustees to fund the reasonable cost of pre-assessment activities and to meet the other objectives of subparagraph 41-3.2b(5) of this manual; and

c. Pay to the trustees the reasonable cost of NRDA planning, restoration, and monitoring activities as may be negotiated between the PRP and the trustees.

41-5 Definitions. In some cases, references (c) and (j) define identical terms differently. In those cases, the definitions provided combine elements of each reference to best accommodate Navy policy. In any case, the definitions are provided only for the purpose of issuing Navy policy guidance.

41-5.1. Baseline

a. Baseline is the condition of the natural resources and services that would have existed had the OHS release not occurred. Baseline data may be estimated using historical data, reference data, control data, or data on incremental changes, alone, or in combination, as appropriate.

b. Types of information that may be useful in evaluating baseline include information that: is collected regularly for a period prior to the incident; identifies historical patterns or trends; is collected from areas unaffected by an incident that are similar to the affected area; and is from the area of the incident after particular natural resources or services have recovered. This information may be obtained from INRMPs, base master plans, natural resource management plans, NEPA documents, special studies, and other such documents.

41-5.2. Cost-Effective. Cost-effective means the least costly activity among two or more activities that, in the judgment of the trustee, provides the same or comparable level of benefit.

41-5.3. Damages. Damages are each party's responsibility for the release or threatened release of OHS affecting the natural resources of the United States including liability for monetary compensation for injury to, destruction of, loss of, or loss of use of natural resources, including the reasonable assessment costs.

41-5.4. Discharge (Spill). A discharge (spill) is any emission (other than natural seepage), intentional or unintentional, including but not limited to leaking, pumping, pouring, emitting, emptying, or dumping.

41-5.5. Exclusive Economic Zone. The EEZ is the zone extending 200 nautical miles (NM) from the territorial sea baseline, unless a maritime boundary with another country is closer than 200 NM.

41-5.6. Exposure. Exposure is the direct or indirect contact with the released OHS, including indirect injury as a result of disruption within an organism's food web. Exposure does not apply to response-related injuries and injuries resulting from a substantial threat of an OHS release.

41-5.7. Facility. A facility is any structure, group of structures, equipment, or device (other than a vessel) that is used for to explore for, drill for, produce, store, handle, transfer, process, or transport OHS. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes.

41-5.8. Facility Response Team. The FRT is those emergency response personnel who are designated, trained, and equipped to provide rapid response to OHS releases that occur on or from their facility.

41-5.9. Federal On-Scene Coordinator. The FOSC is the U.S. government official pre-designated by the Environmental Protection Agency (EPA) or USCG to coordinate and direct the Federal response under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). In the case of HS releases from Navy facilities or vessels, the NOSC is the FOSC.

41-5.10. Federal Trustees for Natural Resources. OPA 90 and CERCLA designate the President as the trustee for Federally protected or managed natural resources on behalf of the public. Executive orders in turn designate the heads of specified departments, including OSD, as NRTs.

41-5.11. Hazardous Substance. An HS is:

a. Any substance so designated by CWA;

b. Any element, compound, mixture, solution, or substance so designated by CERCLA;

c. Any solid waste having the characteristics of or listed as, a hazardous waste as defined under RCRA (but not including any waste that has been exempted by an act of Congress);

d. Any toxic pollutant listed under the Clean Air Act; or

e. Any imminently hazardous chemical substance or mixture for which the EPA administrator has taken action under the Toxic Substances Control Act; however, the term does not include:

(1) Crude oil or any refined petroleum product (such as gasoline or fuel oil) that is not otherwise specifically listed or designated as an HS; and

(2) Natural gas, natural gas liquids, liquefied natural gas, or synthetic gas useable for fuel (or mixtures of natural gas and synthetic gas), unless otherwise defined by State regulations.

41-5.12. Historical Contamination. Historical contamination refers to natural resources impacted by a release or releases of OHS resulting from past activities in which the Navy is no longer engaged at the affected location.

41-5.13. Incident. An incident is any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, resulting in the release or substantial threat of release of OHS.

41-5.14. Injury. An injury is an observable or measurable adverse change in a natural resource or the impairment of its services. Injury includes the destruction, loss, or loss of use of a natural resource or service resulting from an OHS release or the threat of such release. Injury may be found to have occurred directly or indirectly so long as a pathway from the release to the injury can be established.

41-5.15. Lead Administrative Trustee. The LAT is the trustee selected by mutual agreement among trustees having jurisdiction over the natural resources affected by an OHS release to coordinate joint assessments, avoid duplicate damage claims, and serve as the trustees' primary point of contact with response agencies, the PRP, and the public. The LAT provides general administrative support to the restoration process, unless the trustees decide otherwise.

41-5.16. National Oil and Hazardous Substances Pollution Contingency Plan. The NCP addresses the identification, investigation, and study of, as well as response to, OHS-release incidents.

41-5.17. Natural Resource Damage Assessment. NRDA is the process of collecting and evaluating information to determine the nature and extent of NRI resulting from an incident, determining whether and which restoration measures may be necessary to bring the injured resources and services back to baseline, and seeking to make the public whole for interim lost use of those resources and services.

41-5.18. Natural Resources. Natural resources include land, fish, wildlife, biota, air, surface water, groundwater, drinking water, and other such resources belonging to, managed by, held in trust by, or otherwise controlled by the United States (including the resources of the EEZ).

41-5.19. Navigable Waters. As defined in section 502.7 of the CWA, navigable waters means waters of the United States, including the territorial seas. Also refer to reference (p).

41-5.20. Navy On-Scene Coordinator. The NOSC is the Navy official pre-designated to coordinate Navy OHS pollution contingency planning and direct Navy OHS pollution response efforts in a pre-assigned area. U.S. shoreside NOSCs are normally RECs pre-designated by the area environmental coordinators.

41-5.21. Oil. Oil is any animal, vegetable, or petroleum-based oil of any kind or in any form, including, but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. In practice, this includes refined products such as gasoline, diesel, jet fuel, and cooking oil.

41-5.22. Potentially Responsible Party. A PRP is any person (legal or natural) who, in the view of the trustees, may ultimately be found liable for damages resulting from the actual or threatened release of OHS affecting natural resources under their trusteeship, including:

a. Vessels, including the owner, operator, or bare-boat charter of such vessel;

b. Onshore facilities, including the owner or operator of such facilities;

c. Offshore facilities, including the owner or operator of such facility, the lessee or permit holder of the area in which the facility is located, or the holder of a right of use and easement within such area;

d. Pipelines, including the owners or operators; and

e. Any person who owns or operates an HS disposal facility; arranges for the disposal, treatment or transportation of HS; or accepts HS for transport to a disposal or treatment facility may also be deemed a PRP under CERCLA.

41-5.23. Preliminary Impact and Exposure Report. A PIER is a rapid "first-order" report made onsite by the FRT to determine whether and to what extent natural resources have been exposed to an OHS release.

41-5.24. Reasonable Assessment Costs. Generally, reasonable assessment costs are the costs of assessments conducted under the NOAA, Department of Commerce, NRDA procedures; and DOI NRDA procedures. Trustees may recover their reasonable assessment costs, even absent restoration, provided that assessment actions undertaken were premised on the reasonable likelihood of injury and need for restoration. Reasonable assessment costs also include administrative and some legal costs necessary to restoration planning, implementation, and monitoring as well as the costs associated with public participation in these processes.

41-5.25. Rebuttable Presumption. Rebuttable presumption is an evidentiary rule of law that presumes without further proof that damages assessed by the trustees using the procedures specified in either the NOAA, Department of Commerce NRDA procedures or the DOI NRDA procedures are reasonable, shifting the burden of proof to the PRP to demonstrate that the damages so assessed are not reasonable.

41-5.26. Recovery. Recovery is the return of injured natural resources and services to baseline.

41-5.27. Release. A release is any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of OHS into the environment; the abandonment or discarding of barrels, containers, or other closed receptacles containing OHS. The term "release" does not include:

a. Activities that result in exposure to persons solely within a workspace;

b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

c. The release of nuclear material; or

d. The normal application of fertilizer and herbicides that are applied per the manufacturer's labeled directions.

41-5.28. Response. Response is the containment or removal of OHS released into the natural environment; and the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to injuries to fish, shellfish, wildlife, and public or private property.

41-5.29. Restoration. Restoration is any action (or alternative) or combination of actions (or alternatives) intended to restore, rehabilitate, replace, or acquire the equivalent of injured natural resources and services.

41-5.30. Services or Natural Resource Services and Functions. Services or natural resource services and functions are the physical or biological functions performed by a natural resource that benefit another natural resource or the public. For example, the delivery of oxygen and nutrients to aquatic life would be a "natural resource service" provided by a healthy river. Similarly, recreational fishing at the river would be a "natural resource service" to the public.

41-5.31. Sudden or Current Release. A sudden or current release is a release of OHS requiring response that is recognized upon occurrence or a release that is associated with ongoing Navy activity.

41-5.32. Trustees (Natural Resource Trustees). NRTs are resource agencies designated by the President, State governors, and American Indian tribes who prosecute claims for damages and act on behalf of the public to protect and restore natural resources within their jurisdiction.

41-5.33. Value. Value is the maximum amount of goods, services, or money an individual is willing to forgo to obtain other goods or services. It can also be minimum amount of goods, services, or money an individual is willing to accept to forgo other goods or services. It is a measure of the public's willingness to pay for a service.

CHAPTER 42

ENVIRONMENTAL RESTORATION

Table of Contents

42-1 Scope 42-2
42-1.1. Related Chapters 42-2
42-1.2. References 42-2
42-1.3. Applicability 42-4

42-2 Legislation 42-4

42-3 Requirements 42-4
42-3.1. Environmental Restoration Process 42-4
42-3.2. Funding 42-5
42-3.3. Cleanup Process 42-7
42-3.4. Vapor Intrusion 42-11
42-3.5. Emerging Contaminants 42-12
42-3.6. Natural Resource Injury, Natural Resource Damage, and Natural Resource Damage Assessment 42-13
42-3.7. Emergency Response 42-14
42-3.8. Interagency Agreement and Federal Facility Agreement 42-14
42-3.9. National Priorities List Delisting 42-14
42-3.10. Administrative Record 42-14
42-3.11. Retention of Records 42-15
42-3.12. Protection of Health and Safety 42-15
42-3.13. Five-Year Reviews 42-15
42-3.14. Public Health Assessment 42-15
42-3.15. Fines and Penalties 42-16
42-3.16. Public Participation 42-16
42-3.17. Restoration Advisory Board 42-16
42-3.18. Technical Assistance for Public Participation 42-16
42-3.19. Regulatory Coordination 42-17
42-3.20. Environmental Management Review Cleanup 42-17
42-3.21. Construction Projects on Contaminated Sites 42-17
42-3.22. Radiological Concerns 42-18
42-3.23. Formerly Used Defense Sites 42-18
42-3.24. Training Requirements 42-18
42-3.25. Remedy Optimization and Green and Sustainable Remediation 42-20
42-3.26. The Navy as Potentially Responsible Party 42-20
42-3.27. Government-Owned, Contractor-Operated Facilities 42-21
42-3.28. Real Property Transactions and Management 42-21
42-3.29. Munitions-Response-Program-Specific Requirements 42-23
42-3.30. Program Goals 42-26

42-4 Responsibilities.....42-26

42-5 Definitions.....42-33

42-1 Scope. This chapter discusses the Navy's Environmental Restoration (ER) Program, which includes two components: the Installation Restoration Program (IRP) and the Munitions Response Program (MRP). Additionally, Building Demolition and Debris Removal (BD/DR) is a part of the ER Program. The purpose of the ER Program is to protect human health and safety and the environment at Navy installations. The purpose of the IRP is to identify, investigate, and clean up or control releases of hazardous substances (HS), pollutants, and contaminants from past waste-disposal operations and activities at Navy commands. The purpose of the MRP is to address environmental and safety hazards from munitions and explosives of concern (MEC) and munitions constituents (MC) used or released onsite from past operations and activities. All IRP requirements identified in this chapter also apply to the MRP. Some MRP requirements, however, do not apply to installation restoration (IR). These MRP-unique requirements are identified in paragraph 42-3.29 of this manual. The BD/DR category is based on the statutory authority in section 2701(b)(3) of Title 10, U.S. Code. Building Removal of Unsafe Buildings under the jurisdiction of the Secretary of Navy are subject to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in some cases. The demolition and removal of unsafe buildings and structures are not subject to CERCLA unless they involve the need for, or are an integral part of, a response action to address releases to the environment of CERCLA HSs or pollutants or contaminants that pose an imminent threat to the public health or welfare or the environment. While the Department of the Navy (DON) conducted these in the past, it has no current or projected funds budgeted for this category. The Office of the Assistant Secretary of Defense for Sustainment approval is required prior to proceeding in this BD/DR category.

42-1.1. Related Chapters. Chapter 15 (Navy Operational Range Environmental Sustainment), chapter 20 (Clean Water Ashore), chapter 21 (Safe Drinking Water Compliance Ashore), chapter 29 (Low-Level Radioactive Waste Disposal Program), and chapter 27 (Hazardous Waste Management Ashore) of this manual provide information relevant to the ER Program.

42-1.2. References

(a) DoD Manual 4715.20, Defense Environmental Restoration Program (DERP) Management, 9 March 2012;

(b) DoD Instruction 4715.07 of 21 May 2013, Defense Environmental Restoration Program (DERP);

(c) 40 CFR Part 300;

(d) 42 U.S.C. §9601–9675;

(e) E.O. 12580, Superfund Implementation, as amended;

(f) Department of the Navy Environmental Restoration Program Manual of August 2006;

(g) ASN(I&E) memo of 26 Oct 95, Guidance for Environmental Restoration Program at Active Bases;

(h) U.S. Environmental Protection Agency EPA-505-B-04-900A/DTIC ADA 427785, "Uniform Federal Policy for Quality Assurance Project Plans: Evaluating, Assessing, and Documenting Environmental Data Collection and Use Programs," of March 2005;

(i) U.S. Environmental Protection Agency EPA-505-F-03-001/DTIC ADA 39530, "Uniform Federal Policy for Implementing Environmental Quality Systems: Evaluating, Assessing, and Documenting Environmental Data Collection/Use and Technology Programs," of March 2005;

(j) CNO ltr 5090 Ser N453E/1U595846 of 21 Dec 01;

(k) CNO ltr 5090 Ser N453/SU158104 of 29 Apr 08;

(l) CNO ltr 5090 Ser N45C/N4U732212 of 30 Jan 04;

(m) DoD Instruction 4715.18 of 11 June 2009, Emerging Contaminants;

(n) 29 CFR 1910.120;

(o) NAVSEA OP 5, Volume 1 of 15 Jan 2001, Ammunition and Explosives Safety Ashore;

(p) CNO ltr 5090 Ser N453/11U158119 of 07 Jun 11;

(q) CNO ltr 5090 Ser 453C/4U596021 of 09 Feb 94;

(r) 10 U.S.C. §2705e;

(s) ASN(EI&E) memo of 28 Jan 02, Department of the Navy Environmental Policy Memorandum 02-101; Third Party Sites and Affirmative CERCLA Claims;

(t) DON memo 06-06 of 05 Jul 06, Streamlined Environmental Procedures Applicable to Non-BRAC Real Estate Action;

(u) NOSSAINST 8020.15C, Explosives Safety Review, Oversight, and Verification of Munitions Responses;

(v) 10 U.S.C. §2710;

(w) 32 CFR Part 179; and

(x) CNO ltr 5090 Ser N45C/6U838171 of 03 Aug 06.

42-1.3. Applicability. Reference (a) describes ER Program eligibility requirements and eliminates certain eligibility cutoff dates previously in effect. Therefore, IR sites where releases occurred after 17 October 1986 and munitions response sites (MRS) where releases occurred after 30 September 2000 are eligible for inclusion in the ER Program. Per reference (b), the ER Program is limited to installations within the United States and its territories and possessions and does not apply in foreign countries.

42-2 Legislation

a. Legislation that contains provisions that pertain to restoration of Department of Defense (DoD) facilities includes:

(1) Community Environmental Response Facilitation Act (CERFA) 42 U.S.C. §9601–9675;

(2) CERCLA, 42 U.S.C. §9601–9675;

(3) Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act (SWDA)), 42 U.S.C. §6901–6992k; and

(4) Superfund Amendments and Reauthorization Act (SARA) of 1986, 42 U.S.C. §9601–9675.

b. A summary of this legislation is included in appendix A (Summary of Major Legislation, Regulations, Executive Orders, and International Agreements) of this manual.

42-3 Requirements

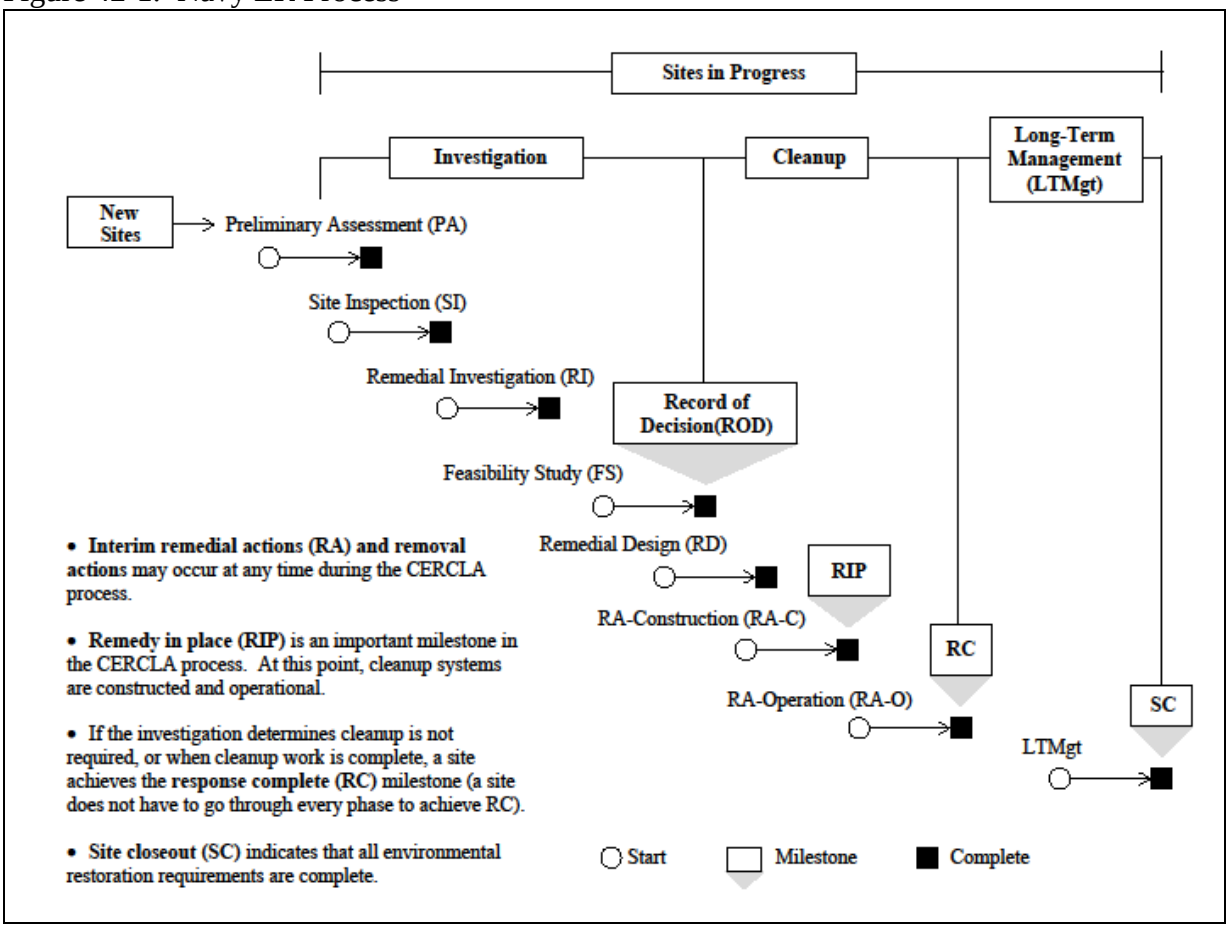
42-3.1. Environmental Restoration Process

a. DON is the lead agency for conducting response actions at Navy IR and munitions response (MR) sites following the provisions of references (c), (d), and (e). Although CERCLA is the preferred process for conducting response actions, the Environmental Protection Agency (EPA) and States also have authority to impose corrective action under RCRA. During all phases of the CERCLA program, the Navy should attempt to incorporate the regulator's substantive requirements to the maximum extent practicable and resolve any issues in a manner consistent with both parties' delegated authorities. Additional information is provided in reference (f).

b. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) established by reference (c) sets forth general procedures for initiating and carrying out the remedial process under the ER Program. The Navy must follow EPA guidance in determining reasonable interpretation and application of NCP regulations. The phases and milestones for implementing the cleanup process are shown in figure 42-1 of this manual and described in subparagraphs 42-3.3a through 42-3.3q of this manual. Additional information on the cleanup process can be found in reference (f).

c. The Navy must comply with all applicable requirements of CERCLA, SARA, and RCRA in carrying out actions under its ER Program using terminology consistent with that used in the relevant legislation. The Navy must not adopt any guidelines or rules inconsistent with EPA's guidelines and rules.

Figure 42-1. Navy ER Process



d. The Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) Base Realignment and Closure (BRAC) Program Management Office (PMO) administers the BRAC ER Program. Generally, all policies that apply to active installation sites also apply to BRAC response actions.

42-3.2. Funding. Congress provides funding for ER Program response actions through an Environmental Restoration, Navy (ER,N) account for active installations and the BRAC account for installations designated for closure. Per reference (g), it is DON policy to use ER,N or BRAC accounts as the exclusive source of funding for ER Program execution. Other types of funding are not authorized as a substitute or supplement for ER,N and BRAC funds except where the work is within the scope of the military construction (MILCON)- or operation and maintenance, Navy (O&M,N)-funded construction projects. ER is a prioritized environmental restoration program based on risk to health, including safety, and the environment. To the extent that a construction project (MILCON or non-MILCON) generates actions to address

contamination, or a need to change ER-generated timing actions to address contamination, the costs of such actions are not ER,N eligible and shall be funded as part of the construction project. This includes the handling, mitigation, and disposal or other disposition of contamination discovered before or during the construction activity.

a. ER,N funds can be used for RCRA corrective action for past releases of hazardous waste (HW) at permitted facilities, or facilities seeking permits, if these are the same types of releases covered by the ER Program (reference (g)). Although CERCLA contains a petroleum exclusion, releases of petroleum, oils, and lubricants (POL) are eligible for ER,N funding under RCRA or other applicable authorities consistent with the Defense Environmental Restoration Program (DERP). Removal of operational aboveground storage tanks (AST) and associated piping, or USTs and associated piping for tanks at an installation other than a BRAC location are ineligible. Removal of newly discovered, previously abandoned tanks may be eligible for ER,N or BRAC funding. Tanks are typically removed by the installation Public Works Department or as part of a MILCON project. The cost of tank removal is the responsibility of the operator that holds the tank maintenance User Identification Code. This is related to the requirement that removal or disposal of debris, and investigation and cleanup of contamination without documented evidence of HS release, is ineligible for ER,N or BRAC funding.

b. The DoD Management of Bulk Petroleum Products, Natural Gas, and Coal Manual provides guidance on responding to spills and leaks from Defense-Logistics-Agency-(DLA)-Energy-managed bulk storage facilities and transportation systems, including USTs. DLA will fund the identification, assessment, and remediation costs of fuel spills and leaks from their bulk storage facilities and transportation systems that occur after 1 October 1992. The DON installation must identify these sites and the estimated costs. POL-contaminated sites resulting from activities conducted prior to 1 October 1992 will remain an ER,N-funded responsibility. In some cases, the DON installation and DLA may enter into a memorandum of understanding that divides ER responsibilities for a specific location or facility differently from the breakdown described in paragraph 42-3.2 and subparagraph 42-3.2a of this manual. If the contamination is otherwise DON ER Program eligible, the ER,N or BRAC account should be used to fund the DON portion of the response action. DLA Energy must fund remediation costs associated with MILCON projects for POL facilities on Navy installations.

c. Per reference (a), section 4.4, immediate or short-term response actions required to limit or mitigate a spill or release caused by current operations are not addressed by the ER Program and must be funded by installation O&M,N accounts. Any required long-term remedial actions (RA) to address spill residuals, however, are covered by the ER Program.

d. DON uses the Defense and State Memorandum of Agreement Program or Navy Cost Reimbursement Cooperative Agreement Program to provide funds to State regulatory agencies for ER Program oversight costs. Reference (f) includes additional information on these programs.

e. In exceptional circumstances, certain other issues, such as off-base contamination at third-party sites, may be eligible for funding after consultation with the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45).

42-3.3. Cleanup Process

a. General Procedures. The NCP sets forth general procedures for initiating and carrying out the remedial process under the ER Program. The phases and milestones for implementing the cleanup process are shown in figure 42-1 of this manual and described in subparagraphs 42-3.3b through 42-3.3r of this manual. Additional information on the cleanup process can be found in reference (f).

b. Review and Negotiation. EPA, appropriate State and local officials, and the public in accordance with CERCLA have an opportunity to review and comment on assessments, studies, and proposals for removal or RAs. In addition, the Navy must negotiate schedules and procedures with State and Federal regulators early in the study process. For National Priorities List (NPL) sites, EPA is the lead regulator while the State is the lead regulator for non-NPL sites. Failure to meet approved regulatory schedules under both scenarios could lead to fines and penalties.

c. MRP Response Actions. MRP response actions also follow the CERCLA process. In most cases, sites known or suspected to contain MECs or material potentially presenting an explosive hazard (MPPEH) should not be released from Navy control until MR actions consistent with the reasonably anticipated land use are completed per a DoD Explosive Safety Board (DDESB)-approved explosives safety submission (ESS). Any MC not present in a high enough concentration to present an explosive hazard should be managed according to the hazard the chemical presents.

d. Radiological Concerns. Radiological contamination also follows the CERCLA process at ER sites. In most cases, sites known or suspected to contain Radiological Affairs Support Program radioactive material (RASP-RAM) or general radioactive material (G-RAM) must not be released from Navy control until radiological cleanup actions consistent with the reasonably anticipated land use are completed with Naval Sea Systems Command Detachment, Radiological Affairs Support Office (NAVSEADET RASO) assistance.

e. Knowledge of a Release. The Navy installation commanding officer (ICO) must immediately report a release of a reportable quantity of HSs to the National Response Center (NRC) at 800-424-8802 per section 103(a) of CERCLA, the reportable quantities codified at Part 302 of Title 40, CFR. If notification to the NRC is not practical, the U.S. Coast Guard (USCG) on-scene coordinator (OSC) or EPA regional OSC should be notified. The appropriate Federal, State, and local regulatory agencies must also be notified of the release.

f. Discovery and Notification. Reference (c), section 300.405 requires the immediate notification to regulatory agencies upon the discovery of HSs, hazardous constituents, MEC, or MC that have been released to the environment.

g. Federal Agency HW Compliance Docket. In reference (d), section 9620(c), EPA established a Federal Agency HW Compliance Docket that contains information on Federal facilities that manage HW or from which a reportable quantity of HSs has been released. A list of the facilities is published in the Federal Register. The docket is updated every 6 months

through a process that involves collaboration between EPA, the lead Federal agency, States, and tribes as necessary to ensure sites are properly listed. The Navy must submit a preliminary assessment (PA) or site inspection (SI), as appropriate, including sufficient information on preparing a hazard-ranking-system-scoring package to EPA for each listed site within a reasonable timeframe.

h. PA and SI

(1) Reference (c), section 300.420 describes the requirements for the PA and SI in remedial site evaluation. Reference (d), section 9620(d), also contains evaluation and listing criteria for facilities. The PA phase identifies potentially contaminated sites based mostly on a review of existing information on disposal practices on the installation. The SI phase must include limited field data. At the conclusion of the PA or SI phase, sites either are determined to have no further action (NFA) or will move forward in the cleanup process. The site-designated NFA may be included in a record of decision (ROD) if acceptable to all stakeholders.

(2) An NFA determination is appropriate when, based on the historical and physical evidence collected, it is determined that either no HSs, pollutants, or contaminants that are the responsibility of DON are present at the site, or no releases of HSs, pollutants, or contaminants that are the responsibility of DON are present at the site at concentrations that pose a significant threat to public health or the environment.

i. Remedial Investigation (RI) and Feasibility Study (FS)

(1) Reference (c), section 300.430, the RI phase, includes a sampling and analysis program that is adequate to determine the nature and extent of contamination and baseline human health and ecological risk assessments (ERA). If information exists to support sampling, a field sampling and analysis plan with agreed-upon data quality objectives must be developed. The quality assurance (QA) project plan (QAPP) for such efforts should comply with EPA's uniform Federal policies for QAPPs and for implementing environmental quality systems (references (h) and (i)). Among other things, the plan should identify an approved analytical method that meets the required detection limits for the constituents being investigated. In the event that the sample quantification limit (SQL) is insufficient to analyze at the levels necessary to determine whether an unacceptable risk exists, other options such as analytic surrogates may be explored. If an analytical method with a sufficiently sensitive SQL is not available, the issue generally should be brought to the attention of the COMNAVSEASYSCOM Laboratory Quality and Accreditation Office (LQAO). Also refer to reference (d), section 9620(e), for possible NPL timeframe requirements. If it is determined that an RA is necessary, an FS is conducted that includes an initial screening and a detailed evaluation of remedial alternatives. Sites may also be designated as NFA at the RI/FS phase if it is determined that they do not pose an unacceptable risk to human health and the environment. The NFA must be documented in a ROD.

(2) Per reference (j), if any natural resources are potentially impacted by Navy releases of HSs, the injury to natural resources must be investigated during the ERA process in the RI phase. Natural resource trustees (NRT) must be consulted as appropriate during the ERA. To the extent practicable, a response alternative that addresses and minimizes the natural resource injury (NRI)

must be selected during the FS. NRI, the actual harm or injury to a natural resource, is separate and distinct from natural resource damage (NRD). NRD, the monetary value assessed for the injury, is addressed in paragraph 42-3.6 of this manual.

j. Proposed Plan. At the conclusion of the RI/FS phase, the preferred alternative is identified in a proposed plan (reference (c), section 300.430(f)(2)). To be consistent with the NCP, the selected remedy must be protective of human health and the environment, attain all State and Federal applicable or relevant and appropriate requirements (ARAR) for that site, be cost-effective, and use permanent treatment technologies or resource recovery technologies to the maximum extent practicable. This document is made available for public and regulatory review. DON then prepares a responsiveness summary addressing all stakeholder issues at the end of the comment period.

k. ROD or Other Decision Document

(1) Per reference (c), section 300.430, the ROD or other decision document is a formal decision document that describes the remedy selection process and the pertinent features of the RA. A ROD is prepared for NPL sites, while a decision document is prepared for non-NPL sites. The ROD must document any significant changes from the proposed plan and respond to all comments, written and oral, received during the comment period.

(2) COMNAVFACENGCOM must provide a draft ROD or decision document and a recommendation of action to the Navy ICO or COMNAVFACENGCOM BRAC PMO, as appropriate. If the ICO or COMNAVFACENGCOM BRAC PMO concurs with the proposed ROD or decision document, then he or she must sign it. If the ICO or COMNAVFACENGCOM BRAC PMO disagrees or has questions on the document, he or she must present the issues to COMNAVFACENGCOM for discussion and resolution. For NPL sites, the ICO or COMNAVFACENGCOM BRAC PMO forwards the ROD to the EPA regional office for concurrence. As required under section 117(b) of CERCLA, the Navy must publish a notice of the final ROD and make it available to the public in the administrative record (AR) before adopting any plan for RA.

(3) Although a ROD is not required under reference (d) at non-NPL sites, a decision document must still be prepared and submitted for regulatory agency review. Where such requirements apply, COMNAVFACENGCOM must prepare a decision document for submittal by the installation. If the State remediation law contains no specific requirements for decision documentation, COMNAVFACENGCOM must prepare a decision document that contains the elements of a ROD. If the ICO or COMNAVFACENGCOM BRAC PMO concurs with the decision document, he or she must sign and forward the decision document to the State with a copy to EPA. If the ICO or COMNAVFACENGCOM BRAC PMO disagrees or has questions on the document, he or she must present the issues to COMNAVFACENGCOM for discussion and resolution.

l. Remedial Design (RD). After the ROD is signed, the Navy must initiate the RD for the selected remedy. This phase involves the preparation of detailed design of the proposed RA selected in the ROD or decision document.

m. RA-Construction (RA-C). The designated remedial system is constructed at the site during this phase. The RA commences after completion of the RD with the execution of the RD by in-house forces or the award of a contract to construct or implement the selected alternative.

n. Remedy in Place (RIP). This milestone in the cleanup process is achieved when the construction of the long-term remedy is complete and the remedy is operating as planned. Determination of achieving the RIP milestone is a Navy decision and regulatory concurrence for this milestone is not needed.

o. RA-Operation (RA-O). This phase involves the operation, maintenance, and monitoring actions for the remediation system and site. Periodic monitoring reports are prepared during this phase to document the performance of the remediation system.

p. Response Complete (RC). This milestone signifies that the cleanup objectives have been met per the ROD or decision document. The Navy must prepare an RA completion report (RACR) when the RA objectives and actions at a specific site, group of sites, or an entire installation or BRAC location have been met and is protective of human health and the environment. Per reference (a), the Navy should seek EPA review and written approval of the RACR for RCs at NPL sites. The Navy must formally document achieving the RC milestone at non-NPL sites. The Navy must seek regulatory agreement for its RC determinations at non-NPL sites. If the Navy is unable to obtain regulatory agreement for NPL or non-NPL sites for any reason, the Navy must document that it sought regulatory agreement on RC determinations. The Navy will begin the process to obtain and document regulatory agreement once a site achieves remedial action objectives. If, within 1 year of making a reasonable number of attempts to obtain regulatory agreement, the Navy is unsuccessful, the Navy must develop a memorandum for the record (MFR) to document the RC determination. A final RACR should be prepared once the RA objectives have been met at the last site or operable unit (OU) of an installation. The final RACR should provide a summary and reference for all the previous RACRs and for any NFA ROD(s) for the installation. The individual RACRs or final RACR for an installation provides the basis for partial or full deletion from the NPL. See reference (a) for more RACR requirements.

q. Long-Term Management (LTM). Following RC, this phase might be required to monitor the long-term effectiveness of the remedy. LTM is required at sites where HSs, pollutants, contaminants, MECs, or MCs remain on a site after RC and are above levels that allow for unlimited use or unrestricted exposure. Activities conducted during this phase may include long-term monitoring, implementing, or managing land-use controls (LUC), maintaining a containment cap, and preparing 5-year review reports. The start of construction acts as the trigger date for the 5-year review process for sites that require an RA-C phase. For remedies that require an RA-O phase (e.g., monitored natural attenuation or institutional controls), the remedy start date or trigger date is the ROD signature date.

r. Site Closeout (SC). This milestone signifies the Navy has completed active management and monitoring, the remedy is protective of human health and the environment, no restrictions on future land use are needed, and no additional ER,N or BRAC funds are expected to be expended at the site. Some sites, however, will achieve protectiveness of human health and the

environment while never achieving the SC milestone. These include sites where contaminants are left in place, such as landfills, and require future funding to ensure the protectiveness of the remedy. The SC milestone can occur at any stage of the restoration process, including the PA, SI, removal actions, RI/FS, RA-O, or LTM phase.

42-3.4. Vapor Intrusion

a. The vapor intrusion (VI) pathway must be evaluated at Navy ER-Program-eligible sites contaminated with a chemical compound(s) that is or are sufficiently volatile to pose an unacceptable VI risk into overlying or nearby existing structures and that meet certain conditions specified in reference (a), section 6c(1). The VI pathway evaluation can be made at any point in the response process (e.g., investigations, remediation, 5-year reviews) and must be conducted per references (a) and (k). For additional policies refer to the DoD Environment, Safety, and Occupational Health Network and Information Exchange Web site (refer to appendix E (Web Sites) of this manual for Web site address).

b. All VI pathway investigations and response actions must be consistent with the Navy's policy on background chemical levels (reference (l)) to include establishing and eliminating background chemicals as contaminants of potential concern during the screening steps of an investigation. ER,N or BRAC funds must not be used to address indoor air contamination due to background or operational sources.

c. Screening tools such as mathematical models may be used to indicate whether a detailed VI pathway investigation and site-specific risk assessment are warranted. When a site-specific risk assessment indicates an unacceptable risk to human health due to a release to the environment that is the responsibility of the Navy, appropriate response actions must be conducted in any impacted existing structures. Risk-based methodologies, including the use of site-specific exposure scenarios, must be used to evaluate the VI pathway for all residential and commercial settings. When applicable, Occupational Safety and Health Administration (OSHA) standards and workplace requirements must be considered and appropriately incorporated when evaluating potential exposures related to the VI pathway for industrial settings. When there are no existing structures overlying or near a potential VI pathway, the potential VI risk must be documented and the appropriate notices provided per reference (a), section 6c(4).

d. When response actions are warranted, the selected remedy must be protective of human health in existing buildings and allow for continued land use at active installations. To the extent practicable, the remedy should also be appropriate for the reasonably anticipated future land use at BRAC installations.

e. Pursuant to section 120(h) of CERCLA, in cases where the Navy has conveyed property, the Navy must only become re-involved at the site if the current landowner or regulatory agency demonstrates the existence of a complete VI pathway from a former Navy ER source area. For the Navy to become re-involved at the site and take action, the incremental risk must be above risk-based levels, or OSHA standards where appropriate, based either upon existing Navy land use at the time of transfer or according to Navy-imposed LUCs on the property.

42-3.5. Emerging Contaminants. OSD developed DoD's instruction on emerging contaminants (EC) (reference (m)), which establishes policy for the identification, assessment, and risk management of EC that have the potential to impact DoD. The instruction contains guidance on the use of a three-tiered hierarchy for selection of toxicity values, including the use of provisional values. The working DoD definition of an EC is "a chemical or material that is characterized by a perceived or real threat to human health or the environment with no published health standard, or an evolving standard." ECs may also have insufficient or limited health and science data necessary to fully address them. There may also be new detection limits or contaminant migration pathways associated with ECs. Since standards, toxicity values, and science are continually evolving, so is the list of chemicals currently considered ECs. ECs should be considered when they have health-based toxicity values or established standards (e.g., MCLs). When ECs are lacking health-based toxicity values or established standards (e.g., MCLs), it is less clear what concentration may trigger site characterization or cleanup and if action should be taken requiring the use of funds. If this is the case, the site and concern should be elevated up the chain of command. Two ECs that are currently gaining more visibility are:

a. Per- and Polyfluoroalkyl Substances (PFAS). DON is implementing a comprehensive strategy to manage and address PFAS issues. A DON PFAS Web site (refer to appendix E (Web Sites) of this manual for Web site address) includes policy, general information, and resources. PFASs are a class of ECs that with regard to DoD activities are primarily associated with the historic use and release of aqueous film-forming foams and potentially associated with other industrial processes (e.g., hard chrome plating). There are a number of acronyms referring to chemicals identified within the PFAS family. Perfluorinated compounds (PFC) are a subset of PFASs. The best known and most studied PFASs are the perfluorocarboxylic acids, which include perfluorooctanoic acid (PFOA), and the perfluorosulfonates, which include perfluorooctane sulfonate (PFOS), and perfluorobutane sulfonate (PFBS). On 19 May 2016 EPA released lifetime health advisories (HA) for PFOA and PFOS. DON will apply the lifetime HAs to drinking water sample results only to determine if there is complete exposure. Other media, such as groundwater and soil, should be addressed on a site-specific basis. Consideration should also be given to other PFASs if there are promulgated State values. If results confirm the presence of PFASs in environmental media, then subsequent investigations and remedial decisions should focus on PFASs for which EPA-vetted toxicity values are available. Per DON policy on PFASs for on-base drinking water, off-base drinking water, and groundwater requirements to determine ER,N and BRAC funding eligibility, actions for PFASs are eligible for ER,N and BRAC funding include:

(1) On-base investigation and remediation:

(a) Additional groundwater sampling to determine plume; and

(b) Any necessary ER,N eligible remediation;

(2) Off-base drinking water sampling: Investigative sampling where there is potential exposure from a DON source;

(3) Off-base bottled or alternate water: Water filling stations and bottled water where there is confirmed unacceptable exposure from a DON source; and

(4) Off-base investigation and remediation: All investigative sampling and necessary remediation where there is a release from a DON source.

(5) Actions for PFASs are ineligible for ER,N funding include:

(a) On-base drinking water sampling;

(b) On-base bottled water; and

(c) On-base installation of drinking water treatment.

b. 1,4-Dioxane**.** 1,4-dioxane is an emerging issue because it was not included in many historical investigations. Similar to PFASs, 1,4-dioxane was used as a component in other chemical formulations and therefore it may not have been included historically in analyte lists. In industrial applications, 1,4-dioxane was added to stabilize chlorinated solvents, primarily 1,1,1-trichloroethane. Since 1,4-dioxane is a listed CERCLA HS, it should be included in investigations when supported by the conceptual site model.

42-3.6. Natural Resource Injury, Natural Resource Damage, and Natural Resource Damage Assessment. Per reference (j), ER,N and BRAC funds are used to evaluate and remediate sites that have been contaminated by past Navy releases of CERCLA HSs. If there are natural resources injured or potentially injured by historical contamination due to Navy HS releases, the provisions of chapter 41 (Natural Resource Damage) of this manual apply. In summary, a PA or SI is conducted, followed by an RI or FS. Potential NRIs must be investigated during the ERA process in the RI phase. NRTs must be consulted as appropriate during the ERA. To the extent practicable, a response alternative that addresses and minimizes the NRI must be selected during the FS. If the cleanup response action selected has an element that addresses the injury to the natural resource it shall specifically be stated in the ROD. This provides documentation of the DON attempt to restore the natural resource in the event that an NRD is filed against DON. The response action documentation should be reviewed to determine if the natural resource has been restored beyond what is required by the remediation. Paying NRD and conducting NRD assessments (NRDA) are not ER,N- or BRAC-funding eligible. Damages are assessed on the injury to the natural resource by the NRTs. NRD can only be recovered by the NRTs and must be obtained using the legal system. For Navy purposes, NRD is a claim against the U.S. government for natural resources injured by the Navy. The Department of Justice (DOJ) Judgment Fund typically represents the Navy in the defense of such NRD claims. Under Navy policy, NRD claims should only be brought after all remediation at a site is complete. At that time, the Navy should share the ERA with claimants upon request. NRD claims generally must be brought within 3 years of completion of all remediation at a site. If an NRD claim is filed, consult OPNAV N45. For further information on NRD and NRDA, refer to chapter 41 (Natural Resource Damage) of this manual.

42-3.7. Emergency Response

a. Under references (c) and (e) and section 104 of CERCLA, DON has the authority to respond to emergency situations (i.e., those circumstances that may immediately endanger human life, health, or the environment) where the release or threatened release is on, or the sole source of the release is from, a Navy facility. If a site appears to be causing an emergency situation, the Navy is responsible for taking appropriate action to protect the public and the environment from the threat.

b. In situations where prompt action is required to address releases or threatened release, the NCP allows for the implementation of a removal action to be performed in an expedited manner. EPA categorizes removal actions in three ways: emergency, time-critical, and non-time-critical removal actions. These categories are based on the type of situation, the urgency of the threat of the release, and the subsequent timeframe in which the action must be initiated. A removal action could be either the final remedy or an interim action, followed by a longer-term RA as the final remedy.

42-3.8. Interagency Agreement and Federal Facility Agreement. CERCLA requires Federal agencies to enter into an interagency agreement (IAG) with EPA within 180 days after completion of each RI/FS for an NPL site. The IAG addresses the expeditious completion of all necessary RAs. To expedite the entire cleanup process, DON must enter into a Federal Facility Agreement (FFA) with EPA at NPL sites as early as possible after identifying the requirement for an RI/FS. The purpose of an FFA is to define the procedural framework and schedule for developing, implementing, and monitoring response actions at the site earlier in the process than an IAG. An FFA becomes an IAG for an OU or site cleanup at an installation once the ROD is signed and new schedules are negotiated for the actual RA. After negotiations with the regulators, FFAs must be forwarded with appropriate endorsements via the chain of command and OPNAV N45 to the Deputy Assistant Secretary of the Navy (Environment) (DASN(E)) for signature. For non-NPL sites, a Federal facility site remediation agreement (FFSRA) may be signed but is not required.

42-3.9. National Priorities List Delisting. EPA may delete a site or re-categorize it on the NPL where no further response is appropriate. EPA, in consultation with the State, will determine whether the NPL site has met the requirements and, if it has, will prepare a notice of intent to delete. Usually, all sites within a Federal installation must have achieved RC before delisting from the NPL, although partial delisting is possible.

42-3.10. Administrative Record

a. The NCP requires the establishment of an AR for all cleanup sites under the authority of the NCP. The AR contains those documents that form the basis for selection of a response action. The Navy must establish an AR and make it available to the public at the start of the RI for RAs, or at the time of the engineering evaluation and cost analysis for removal actions. The AR must be initiated as soon as the SI shows the program will move into the RI/FS phase. Pursuant to reference (d), section 9603(d)(2), the AR must be retained for a minimum of 50 years. The records should be kept indefinitely in an electronic format, where the remedy in place

involves a land use control to respond authoritatively to future inquiries about these activities, protect human health and safety and the environment, and protect the interests of the United States.

b. A copy of the AR must be placed in an information repository that is available to the public at or near the site. The information repository is a location where current information, technical reports, and reference materials including site-related documents that may or may not be suitable for inclusion in the AR file are housed. A notice of the availability is part of the record. The AR is a CERCLA requirement. Although not required where the Navy conducts cleanup actions under RCRA corrective action authority, an AR must be maintained at all cleanup sites, including RCRA sites. Reference (b), Subpart I, and reference (f), chapter 15 (Records, Reporting, and Information Management Systems) include additional information on recordkeeping on documents.

42-3.11. Retention of Records. CERCLA requires that any person responsible for providing notification of known, suspected, or likely releases retain records of the facility and the HS release for 50 years. For DON the records should be kept indefinitely electronically where the remedy in place involves an LUC to respond authoritatively to future inquiries about these activities, protect human health and safety and the environment, and protect the interests of the United States. For installations on the NPL, the start date for record-retention requirements is the date the installation NPL de-listing announcement appears in the Federal Register. For non-NPL installations, the start date is the date the NFA or facility closeout document is finalized. The records include information on the location, title, and condition of the facility and the identity, 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.

42-3.12. Protection of Health and Safety. Response actions under the NCP must comply with the provisions for health and safety protection for workers engaged in HW operations, found in reference (n). Additional safety concerns are required under the MRP and for any incidental MECs, MPPEHs, or MCs found at IR sites, per reference (o).

42-3.13. Five-Year Reviews

a. If an RA results in HSs, pollutants, or contaminants, including MECs, MPPEHs, and MCs, remaining at the site above levels that allow for unlimited use and unrestricted exposure, the remedy must be reviewed no less than every 5 years thereafter, per reference (p).

b. With respect to MEC, MPPEH, or MC possible contamination, the Navy must evaluate MRSs that cannot achieve unrestricted land use. The continued protectiveness of the remedy must be verified, and the efficacy and cost-benefit of new technology application must be evaluated. This evaluation includes a determination whether the new technology will reduce life-cycle management costs sufficiently to justify additional MR actions.

42-3.14. Public Health Assessment. Per reference (d), the Agency for Toxic Substances and Disease Registry (ATSDR) must perform a public health assessment for each facility listed or

proposed for inclusion on the NPL. ATSDR must perform the assessment using available information from IR studies and from site visits. The Navy must coordinate with ATSDR concerning public health assessments by ensuring ATSDR is aware of new NPL listings.

42-3.15. Fines and Penalties. The installation must not pay fines and penalties assessed concerning ER work that is currently ER,N funded, or planned for future ER,N funding, out of installation operating accounts. Upon receipt of a notice of violation or non-compliance that proposes to assess a fine or penalty relating to work that is ER,N eligible, and thus under the cognizance of COMNAVFACENGCOM, the installation must immediately forward the notice to COMNAVFACENGCOM for action. Installations must pay fines and penalties related to ongoing HW operations (actions that are not eligible for ER,N funding) from the installation's operating account. Any fines or penalties assessed against BRAC sites must immediately be forwarded to the COMNAVFACENGCOM BRAC PMO for action.

42-3.16. Public Participation. The function of public participation activities is to inform the community of planned and ongoing activities, give them an opportunity to comment on and provide input on technical decisions, and allow them to address environmental concerns as early as possible during the remedial process. Opportunities for public participation begin at initiation of the ER process and continue through cleanup. Navy public participation requirements, described in detail in reference (f), are more comprehensive than the NCP.

42-3.17. Restoration Advisory Board

a. Navy policy, per references (a) and (q), is to have a restoration advisory board (RAB) at all installations with cleanup programs. Community interest, however, is a condition to establish and maintain a RAB. If the community does not display an interest in establishing or maintaining a RAB, the Navy must note this and re-investigate community interest in the RAB every 5 years until SC per reference (a).

b. By increasing the diversity and number of community representatives, establishing a community co-chair, and opening meetings to the public, RABs must ensure all stakeholders have an increased opportunity to actively participate in the timely review of ER documents and plans and to present various points of view for careful consideration. At base-closure installations, RABs serve to help facilitate accelerated cleanup and property transfer. RABs must not make decisions on ER activities as a group, but must provide information, suggestions, and community input for use by the Navy in making decisions on actions concerning releases or threatened releases. ER,N or BRAC funding, as appropriate, is used for RAB support.

42-3.18. Technical Assistance for Public Participation. Opportunities for technical assistance through DoD's Technical Assistance for Public Participation (TAPP) Program are made available to community members of RABs per reference (r). TAPP provides funding for RABs to buy independent (third-party) technical expertise that may assist them in understanding or evaluating technical documents, concepts, or other information related to the restoration activity. Community members of a RAB may ask the ICO or appropriate DoD official for assistance. All TAPP requests are approved by the ICO for eligibility. Reference (f) contains additional information on the TAPP Program.

42-3.19. Regulatory Coordination. CERCLA exempts actions occurring entirely onsite that are consistent with section 121 of CERCLA from obtaining Federal, State, or local permits. As substantive requirements must be followed, however, interagency coordination is often required to ensure consistency with ARARs or other environmental laws. To assist in this interaction, early involvement of other Navy specialists, including natural and cultural resources personnel, is required to ensure identification and completion of the Endangered Species Act section 7 consultations, National Historic Preservation Act section 106 consultations, and related requirements. These requirements may occur at any phase of an ER Program investigation, including PA, SI, RI/FS, removal action, interim action, or RA. ER Program actions that follow the NCP and fulfill public participation requirements are deemed to have complied with the National Environmental Policy Act.

42-3.20. Environmental Management Review Cleanup. The cleanup management review is conducted annually by the Deputy Under Secretary of Defense (Installations and Environment) (DUSD(I&E)). DUSD(I&E) reviews the entire environmental restoration program data each year, which include: site investigations, any site re-openers, cost sent, removal and remedial actions, site response complete, site closeout, any fines and penalties, etc. The purpose of the review is to provide oversight, share information, and conduct a detailed assessment of DoD component efforts to implement the DERP. This review is a critical mechanism to ensure the cleanup program is moving toward completion per departmental policy, guidance, and program goals.

42-3.21. Construction Projects on Contaminated Sites. Installations must make every effort to avoid construction projects on contaminated sites. There may be times, however, during planning for a project or after the project commences, when contamination is discovered. In such instances:

a. If an installation discovers contamination during the planning stage, COMNAVFACENGCOM may investigate to determine if the site can be cleaned up following ER procedures using ER,N funds. The SI and cleanup actions, however, must compete with other ER sites based on relative risk ranking. In most cases, this will take several years and the site may not be available in time for the project; and

b. If contamination is discovered during construction and it is ER eligible, COMNAVFACENGCOM can carry out the SI and cleanup actions using ER,N funds. The site will compete with other sites, however, based on relative risk ranking. If funding is not available in time to meet the construction schedule, the installation may use project funds to investigate and cleanup the site. If neither ER,N nor project funding is available in time to meet the construction schedule, the installation must stop the project altogether or re-site it. An installation does not have an option to pay for any ER-eligible work with installation O&M,N funds except to accomplish ER-eligible work within the scope of an O&M,N-funded construction project. Therefore, only ER funds can be spent on ER sites.

42-3.22. Radiological Concerns

a. The radioactivity present at DON installations may be broadly characterized as Naval Nuclear Propulsion Program (NNPP) radioactive material (NRAM) or RASP-RAM. NRAM refers to radioactive material used by or under the cognizance of the NNPP and is not addressed in this manual. RASP-RAM, also known as G-RAM, is DON radioactive material that is not used by, controlled by, or associated with the NNPP. For the purposes of the ER Program, only RASP-RAM or G-RAM, not NRAM, are investigated or remediated.

b. Investigation and cleanup of RASP-RAM or G-RAM is technically challenging and requires specialized knowledge and expertise. There are special complexities because the management of RASP-RAM entails overlapping Federal and State regulatory authority, including some exercised by DON itself. Additional information on activities involving RASP-RAM or G-RAM on ER Program sites can be found in reference (f).

42-3.23. Formerly Used Defense Sites. The U.S. Army Corps of Engineers (USACE) is responsible for the Formerly Used Defense Sites (FUDS) Program. The Navy's responsibility for FUDS that were formerly Navy sites is informational only. Should local interest arise, Navy installations, in consultation with COMNAVFACENGCOM, should pass questions regarding the status of FUDS to appropriate USACE officials. In special circumstances, the USACE can grant authority for the Navy to address (spend ER,N funds on) FUDS located on property formerly owned or operated by the Navy. There are cases where the Navy has already started the cleanup (investigation and removal) process, not knowing that the site is FUDS eligible. Once this is determined, there may be a transition period to turn over the cleanup process to USACE. This requires OPNAV N45 concurrence. USACE should reimburse Navy for funds executed.

42-3.24. Training Requirements

a. Personnel involved in the ER Program must obtain the appropriate, job-specific training to perform their assigned tasks effectively. ER Program staff must acquire knowledge and skills in several categories including health and safety, technical, regulatory, and contract administration to ensure effective ER Program implementation.

b. OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER) rules (reference (n)) require HW site training. All Navy and contractor employees working onsite exposed to HSs and health or safety hazards, and supervisors and management personnel responsible for the site, must receive training before they are permitted to engage in cleanup operations. These requirements include:

(1) All employees exposed to HW, health hazards, or safety hazards must have 40 hours of offsite instruction and 3 days of field experience. Training must be as practical as possible and include hands-on use of equipment and exercises designed to demonstrate and practice classroom instruction;

(2) Onsite management personnel and supervisors of personnel engaged in HW operations must receive training equal to that of subparagraph 42-3.24b(1) of this manual, plus 8 additional hours on managing such operations;

(3) The Navy must provide employees and managers with 8 hours of refresher training annually; and

(4) All personnel authorized for access to MRSs must be appropriately trained on MEC, MPPEH, and MC health risks and explosives safety hazards.

c. The Naval Civil Engineer Corps Officers School (CECOS) Web site (refer to appendix E (Web Sites) of this manual for Web site address) is the primary source for Navy ER Program training and provides course descriptions and registration information. The 8-hour HAZWOPER course is available through CECOS and, although the Navy no longer offers the 40-hour HAZWOPER course, the 40-hour course and 8-hour course are available through EPA via the Training Exchange Web site (refer to appendix E (Web Sites) of this manual for Web site address) or through various private vendors:

(1) 40-hour HAZWOPER (HAZWOPER 40 HR) (A-4A-0075); and

(2) 8-hour HAZWOPER for Uncontrolled Hazardous Waste Site Workers–Refresher (A-4A-0074).

d. Although each COMNAVFACENGCOM field engineering command is responsible for establishing specific training plans for its remedial project managers (RPM) and technical support staff, CECOS and non-Navy Inter-Service Environmental Education Review Board courses are recommended to fulfill technical and regulatory competencies needed in the ER Program:

(1) Basic Environmental Law (A-4A-0058);

(2) Navy Environmental Restoration Program (A-4A-0069);

(3) Environmental Background Analysis (A-4A-0092);

(4) Human Health Risk Assessment (A-4A-0078);

(5) Munitions Response Site Management (A-4A-0093);

(6) Uniform Federal Policy for Quality Assurance Project Plans (A-4A-0095);

(7) Ecological Risk Assessment (A-4A-0081);

(8) Environmental Negotiation Workshop (A-4A-0067);

(9) Health and Environmental Risk Communication Workshop (A-4A-0072);

(10) Environmental Sampling Design and Data Quality Assurance (Air Force Institute of Technology) (WENV 441); and

(11) Optimizing Remedy Selection and the Site Closeout Process (A-4A-0089).

e. Additional courses may be required for personnel working in the ER Program, depending on duties and responsibilities. CECOS courses are also available for supplemental training:

(1) Advanced Environmental Law (A-4A-0068);

(2) Advanced Health and Environmental Risk Communication Workshop (A-4A-0072);

(3) Environmental Protection (A-4A-0036);

(4) Environmental Quality Sampling (A-4A-0026); and

(5) Introduction to Hazardous Waste Generation and Handling (A-493-0080).

f. In addition to the technical training described subparagraphs 42-3.24b through 42-3.24e of this manual, ER personnel must have a strong foundation in contract administration. The Naval Facilities Acquisition Center for Training provides procurement training relevant to the acquisition process for the ER Program:

(1) Contracting Officer Representative (CTC-342);

(2) Architect-Engineer Fixed Price Contracting (CTC-466); and

(3) Environmental Contracting (CTC-423).

g. ER Program personnel should have an individual training plan that is directly related to their current duties and needed competencies. Further training information, including other organizations that provide training relevant to the Navy ER Program, is available in reference (f).

42-3.25. Remedy Optimization and Green and Sustainable Remediation. The Navy must continue to identify and implement remedy optimizations and green and sustainable remediation practices using ER,N funds at sites that require future funding per reference (a). Once a response action at the ER site has been completed to the level agreed to in the ROD and the current remedy remains protective, the Navy must not fund or conduct additional ER actions, including remedy optimization and green and sustainable remediation activities, solely to accommodate a change in land use not reasonably anticipated at the time of remedy selection.

42-3.26. The Navy as Potentially Responsible Party

a. The Navy has historically contracted with private companies to transport and dispose of HW generated at its installations. There may be instances where the disposal sites selected by contractors are themselves threatening or contaminating the environment and need to be

investigated and subsequently remediated. Because such sites were never owned or controlled by the Navy, they are referred to as "third-party" sites, for which specific funding and liability resolution policies apply. Reference (s) provides that ER,N funding is not available for remediation expenses, settlements, or judgments at third-party sites. Remediation expenses are to be provided through settlements negotiated by DOJ and paid through the Judgment Fund. The Navy may use ER,N funding, however, for specified expenses prior to determination or acknowledgement of liability such as attendance at potentially responsible party (PRP) meetings and pre-litigation case evaluation expenses.

b. Upon receipt of a formal notice from EPA or State or local authorities that a Navy installation is involved in a site as a PRP, the installation must notify, by message, its chain of command; the regional environmental coordinator; COMNAVFACENGCOM headquarters; cognizant COMNAVFACENGCOM Facilities Engineering Command (FEC); Office of the Assistant General Counsel (Energy, Installations, and Environment) (OAGC)(EI&E)); Office of the General Counsel (OGC) Litigation Office; and OPNAV N45. The message must describe the salient points of the formal notice. Simultaneously, the installation must mail a copy of the formal notice and other appropriate documents to the same addressees. COMNAVFACENGCOM must take the lead role in negotiations. Any communication acknowledging possible Navy involvement in a particular site must be coordinated with the OGC Litigation Office.

42-3.27. Government-Owned, Contractor-Operated Facilities. The Navy's liability and responsibility for cleanup of sites at government-owned, contractor-operated (GOCO) facilities arise from its status as owner of the facility. Past and present contractors share this liability since they are operators or generators at these facilities. Absent special contractual provisions to the contrary, Navy policy is to require GOCO contractors to pay for all cleanup costs associated with their operation of Navy facilities.

42-3.28. Real Property Transactions and Management. ER issues in Navy property transfers including BRAC and non-BRAC transfers to both Federal and non-Federal entities must be conducted per reference (a). Prior to the transfer of any property known or suspected to contain explosive hazards, DDESB approval must be obtained as detailed in paragraph 42-3.29 of this manual.

a. BRAC Installations

(1) As Navy installations are closed and realigned, ER Program efforts must continue. The Navy must identify ER Program requirements and complete them per CERCLA, SARA, CERFA, and the NCP. Congress has established guidelines for funding the necessary investigations and cleanups and has similarly established a specific fund account for ER Program work at BRAC installations.

(2) CERFA requires that all Federal agencies entering into a contract for the sale or other transfer of real property include a notice that identifies whether HSs were released or disposed of on the property. This notice must identify the type and quantity of such HSs and the time at which such storage, release, or disposal took place.

(3) CERFA expanded section 120(h) of CERCLA to require that, before termination of Federal activities on any real property owned by the government and subject to base closure, the head of the agency with jurisdiction over the property must identify the real property on which no HS and no petroleum products or their derivatives were known to have been released or disposed of. The Navy must prepare an environmental condition of property (ECP) for all leases, easements, transfers, and disposals of real property per reference (t). The Navy must identify uncontaminated property based on an investigation of the real property, available records, and other sources of information about the property, as well as preparation of an ECP report. Where appropriate, an ECP should be prepared for other actions involving the use of real property, depending on such factors as proposed use, the term of use, and presence of any contaminants on the property. In preparing these documents, the Navy must consult with Federal, State, and local regulators as necessary and appropriate. It must obtain concurrence with the identification from EPA for NPL sites. For non-NPL sites, the Navy must provide the State 90 days for review and comment. If the Navy receives no comments, it may deem concurrence.

b. Non-BRAC Installations or Property. The Navy must consider ER Program ramifications before any real property transactions and as part of all land-management decisions.

(1) Acquisition. The Navy acquires no known contaminated property without careful consideration of the cleanup liability involved. The Navy should acquire contaminated property only in cases of the most critical operational necessity, and only with OPNAV N45 approval to ensure insertion of incurred cleanup liabilities into the ER Program.

(a) From Other DoD Services or Federal Agencies. For inter-Service transfers of property, DoD policy requires that a Service acquiring known contaminated real property must normally assume the responsibility for managing restoration actions at the property. Navy policy, however, is to try to negotiate a transfer agreement that leaves funding and management of restoration actions of the property with the transferring Service. In either case, transfer agreements must clearly assign continuing responsibility for cleanup after the transfer. Where the Navy assumes funding and management of restoration activities, the transferring Service is responsible for providing the Navy with all reports and a history of restoration actions taken prior to property transfer. If appropriate, the transferring Service must also be responsible for transferring the cleanup funding as planned for the property in the Future Years Defense Program. For transfers of property from another Federal agency, the Navy must not accept property from a non-DoD Federal agency unless the agency certifies it has met the requirements of section 120(h) of CERCLA and provides supporting reports and documentation.

(b) From Private Parties. Acquisition of contaminated property from private parties is not encouraged. Where such acquisition is operationally necessary, the Navy should negotiate cleanup costs as an offset to the purchase price. The Navy must carefully balance operational requirements for the property against any associated cleanup liability.

(2) Lease, Transfer, or Disposal of Property. For non-BRAC property, the Navy must prepare an ECP for all leases, easements, transfers, and disposals of real property per reference (t). Where appropriate, an ECP should be prepared for other actions involving the use of real

property depending on such factors as proposed use, the term of use, and presence of any contaminants on the property. In preparing these documents, the Navy must consult with Federal, State, and local regulators as necessary and appropriate (e.g., EPA should be consulted if the parcel involved is part of an NPL site). The Navy must clean up contamination on Navy property scheduled for non-BRAC disposal using ER,N funds following the normal ER,N prioritization process of worst-first risk management. ER,N-funded cleanup activities must not be accelerated solely to accommodate the property-disposal schedule.

42-3.29. Munitions-Response-Program-Specific Requirements. The requirements and policy guidance that apply only to the MRP (reference (f) includes a discussion of the distinction between MR and IR sites) are:

a. Explosives Safety and Chemical Warfare Material (CWM) Hazards. Because MR sites present the potential for explosives hazards, explosives safety procedures and requirements must be followed during all phases of site response activities. In addition, unique hazards from CWMs may be present on some sites. The Army is the executive agent for handling chemical warfare responses and should be consulted for technical assistance. Sites known or suspected to contain CWMs should be immediately reported to the Naval Ordnance Safety and Security Activity (NOSSA), which must coordinate Army assistance, as required.

(1) Reference (u) requires NOSSA be notified when MECs or MPPEHs are first encountered at a site where neither MECs nor MPPEHs were known or suspected to be present. An ESS (or a request for determination that an ESS is not required) must be prepared for review and approval by NOSSA prior to conducting any MR actions that include explosive storage, intentional physical contact with MEC, or any intrusive or ground disturbing activities in the areas known or suspected to contain MEC or MPPEH. An After Action Report (AAR) documenting the actions taken and the MEC or MPPEH recovered at the site must be submitted to NOSSA within 6 months after actions taken under the ESS are completed.

(2) Installations must prohibit and prevent unauthorized access as well as limit access to MRSs by authorizing personnel entry to Navy property only after full consideration of the type, amount, and location of MEC or MPPEH present and the MRP planned activities.

(3) Prior to transferring or leasing any property known or suspected to contain explosive hazards out of DoD control (other than to USCG), DDESB must approve the Navy measures that ensure the property recipient is fully informed of both the actual and potential hazards relating to the presence or possible presence of explosives, and restrictions or conditions placed on the use of the property to avoid harm to users due to the presence of explosives. See references (o) and (u) for more details, including the applicable notice, restriction, and condition requirements for property transfer.

b. Inventory. Reference (v) requires DoD and its components to develop and maintain an inventory of sites known or suspected to contain unexploded ordnance, discarded military munitions, and MCs. This inventory of MRSs is updated annually, provided to DUSD(I&E), and shared with public stakeholders and regulators to ensure all MRSs are identified.

c. Eligibility Considerations

(1) Eligible Response Activities. Activities (i.e., identification, investigation, removal actions, RAs, or a combination of removal actions and RAs) to address MECs and MCs under the MRP can be conducted where sites or areas of concern (AOC) are known or suspected to contain MECs and MCs located at:

(a) Former ranges and disposal sites at active, BRAC, and non-BRAC closure installations; and

(b) Shallow water areas where munitions releases are known or suspected to have occurred, where Navy actions were responsible for the release, and where the site or AOC is not:

1. Part of, or associated with, a designated operational range;

2. A designated water disposal site;

3. A FUDS;

4. A result of combat operations;

5. A maritime wreck; or

6. An artificial reef.

(c) If an eligible MRS encompasses water, the MRS-specific evaluation of explosive hazards and human health risk associated with munitions underwater should consider munitions at depths greater than 120 feet (the maximum depth to which most recreational divers may descend) to have a physical constraint equivalent to a barrier that prevents direct access and to be beyond potential human exposure.

(2) Ineligible Response Activities. Activities not eligible for inclusion in the MRP include:

(a) Operational ranges, which are covered by the Range Sustainability Environmental Program Assessment Implementation Policy;

(b) An active munitions demilitarization facility;

(c) A site that is currently being addressed as part of the IRP;

(d) Indoor firing ranges;

(e) MEC and MC sources that are incidental to an IRP cleanup; or

(f) Responses to address releases that are solely the result of an act of war. When the act-of-war ineligibility provision pursuant to section 9607(b)(2) of CERCLA is being considered, the issue must be elevated to DUSD(I&E) for approval before proceeding with the exclusion per reference (a).

(3) Military Munitions Burial Sites. Although reference (a) prohibits burial of unused munitions as a means of disposal, OPNAV N45 should be consulted for specific guidance on any past military munitions burial sites located on an operational range.

d. Site Priority Considerations

(1) Using reference (w), the Navy must assign a priority to each MRS in the inventory. The MRS prioritization protocol (MRSPP) process requires consultation with Federal agencies, Indian tribes, States, and public stakeholders. Site priorities must be reviewed annually and updated based on new information and site conditions. An independent QA panel must be established to review all prioritization decisions to ensure consistent and appropriate application of the MRSPP.

(2) In consultation with appropriate regulators and public stakeholders, the Navy must apply the MRSPP to all MRSs to determine a priority for each site in the inventory. Sufficient data to apply one or more of the three MRSPP hazard evaluation modules may not be available until after completion of a PA or SI. An MRS, however, must be prioritized as soon as sufficient information is available to evaluate at least one of the three modules that comprise the MRSPP. The module producing the highest hazard ranking will determine the overall site priority. The site priority may change when additional data are collected and all three modules are evaluated. Module(s) for which there are insufficient data will be assigned a status of "evaluation pending." Documentation of scores and any adjustments must be included in the AR.

(3) The MRSPP should be applied as MRP sites are added to the inventory. Each site priority must be reviewed at least annually and the protocol reapplied as necessary to reflect new information. Circumstances under which reapplication of the protocol is required include:

(a) Upon completion of a response action that changes MRS conditions in a manner that could affect the evaluation under the protocol;

(b) To update or validate a previous evaluation at an MRS when new information is available;

(c) To update or validate the priority assigned where that priority has been previously assigned based on evaluation of only one or two of the three evaluation modules; or

(d) To categorize an MRS previously classified as "evaluation pending."

e. QA. An independent MRSPP QA panel must be established per reference (x). The panel must review all prioritization decisions to ensure appropriate and consistent application of the MRSPP. While the MRSPP QA panel may adjust an MRS priority, it must provide rationale for

the change with feedback to the RPM. The RPM must solicit comments on any changes to the site priority from appropriate regulators and public stakeholders involved in determining the original priority, include all comments in the AR, and provide changes in priority to DUSD(I&E).

f. Sequencing. Sequencing of sites must be developed in consultation with appropriate regulators and stakeholders. Typically, higher-priority sites are addressed before lower-priority sites. If sequencing results in a lower-priority site being addressed before a higher-priority site, the Navy must provide specific justification for this action. Information that influences the sequencing of a site must be included in the AR and the information repository.

42-3.30. Program Goals. The Office of the Secretary of Defense (OSD), per reference (a), has established specific program goals to enable each DoD component to properly plan, program, and budget for future-year execution and to ensure all legal requirements are fulfilled. RC goals established by reference (a) for the IR and MR programs, including any newly qualified sites that resulted from rescinding prior program eligibility cutoff dates as described in reference (a), are:

a. Ninety percent of all IRP sites, BD/DR sites, and MRSs at active installations and BRAC locations achieve RC by the end of FY 2018; and

b. Ninety-five percent of all IRP sites, BD/DR sites, and MRSs at active installations and BRAC locations achieve RC by the end of FY 2021.

42-4 Responsibilities

42-4.1. OPNAV N45 serves as the ER resource and assessment sponsor, overall Navy program manager, and Navy advisor in matters related to the ER Program, including, but not limited to:

a. Developing overarching programmatic ER policy guidance;

b. Providing oversight of COMNAVFACENGCOM for the execution of the ER Program;

c. Coordinating the ER Program requirements with, and providing support to DASN(E);

d. Coordinating all docket listings with the appropriate EPA headquarters and regional docket coordinators with the assistance of COMNAVFACENGCOM and installation personnel;

e. Reviewing and forwarding FFAs to DASN(E) for signature;

f. Reviewing and signing FFSRAs;

g. Coordinating with other military Service headquarters and OSD with respect to the ER Program;

h. Serving as chair of the MRSPP QA panel;

i. Serving as the advisor for DON in matters related to the ER Program cleanup of G-RAM; and

j. Reviewing waiver requests to TAPP funding limits.

42-4.2. Budget submitting offices (BSO) other than COMNAVFACENGCOM must:

a. Pass ER Program information and guidance to their installations;

b. Ensure installations with ER Program sites meet public participation and other legal requirements;

c. Ensure subordinate installations fulfill their responsibilities under the Navy's ER Program and appoint an ER coordinator, as necessary;

d. Ensure subordinate commands review all facility site proposals against the requirements of the ER Program, especially where an ER decision document has identified or put in place land-use restrictions; and

e. Obtain OPNAV N45 approval before acquiring known contaminated property from another DoD component, other Federal agency, or private party.

42-4.3. COMNAVFACENGCOM must:

a. Manage and execute the ER Program for OPNAV N45;

b. Develop the ER Program's technically oriented guidance as directed by OPNAV N45. Also provide site-specific technical, progress, and budgeting information to satisfy program reporting requirements;

c. Develop and support ER,N resource requests and manage funds allocated for program execution;

d. Resolve issues and problems associated with ER Program conduct and raise issues and problems to OPNAV N45 where clarification of policy is necessary;

e. Provide technical and financial oversight during project performance;

f. Respond to emergency situations at ER sites through the geographical FEC using ER,N or BRAC funds as appropriate;

g. Assist the coordination of all docket listings;

h. Update the ER database at least semi-annually;

i. Track project progress to meet schedule requirements;

j. Assist the Navy ICO in establishing a proactive public information program, including a formal community relations plan (CRP) for both NPL and non-NPL installations;

k. Be responsible for implementing the RAB;

l. Develop and implement an LTM plan that identifies the specific requirements for each site;

m. Ensure the requirements for protecting site worker health and safety are developed and enforced;

n. Ensure COMNAVFACENGCOM FECs coordinate the ER Program with ICOs and the BRAC PMO, as necessary;

o. Perform ER studies and RA projects and prepare SC documentation by contract, in-house effort, or combination;

p. Prepare and submit ESSs and other explosives safety documentation;

q. Coordinate with NOSSA to schedule explosives safety audits of MR projects;

r. Identify and train ER Program staff;

s. Negotiate FFAs or FFSRAs on behalf of DON. Forward draft final FFAs to OPNAV N45 for review and submission to DASN(E) for signature. Forward draft final FFSRAs to OPNAV N45 for signature. When substantial changes to model language or policy are contemplated, the changes should be referred to OAGC(EI&E) and OPNAV N45 as early as possible;

t. With respect to PRPs, participate in remediation planning meetings with other PRPs and agencies, forward proposed remediation agreements to OPNAV N45 and OGC for review and comment, sign and administer the agreements, and disseminate information to all interested parties at all stages of the process;

u. Represent the Navy in matters relating to the assessment of fines or penalties associated with ER programs;

v. Develop and perform site-specific projects to assess and control contamination from past HW-disposal and MEC and MC sites;

w. Ensure ER work plans and ERAs are reviewed by health and safety and natural resources professionals familiar with the site;

x. Coordinate, at all stages, with ICOs, BRAC PMOs, and regulatory agencies;

y. Prepare project plans, reports, and contract documents; coordinate review and comments; and distribute final documents to the appropriate installation for ICO signature, as necessary;

z. Prepare the ROD or decision document and forward to the Navy ICO with a recommended alternative;

aa. Maintain AR files and distribute copies as required;

bb. Provide ER study results to installation planning, real estate, and natural resources personnel;

cc. Work with acquisition project managers to ensure HS, MEC, and MC site conditions are taken into account before project decisions are finalized;

dd. Validate installation facility planning proposals against ER Program site installation or land-use restrictions;

ee. Participate as a member of the MRSPP QA panel;

ff. Ensure ER-response actions addressing CERCLA-listed RASP-RAM and G-RAM at active installations and BRAC sites are appropriately addressed. Work with NAVSEADET RASO to evaluate and select appropriate response actions. Also consult with NAVSEADET RASO for all RASP-RAM and G-RAM investigations, remedial and removal actions, and DON interaction and communication with Federal and State regulatory agencies;

gg. Prepare 5-year reviews of completed remedies for Navy ICOs, FEC commanding officers, or BRAC environmental coordinator signature, as appropriate;

hh. Develop ER Program cost and budget estimates to establish funding requirements for the DON planning, programming, and budgeting process; and

ii. Prepare and issue ER Program manuals and procedures (e.g., Navy Environmental Restoration Program (NERP) Manual, optimization procedures) as necessary and required to enable effective implementation of DoD or DON policy by COMNAVFACENGCOM FECs. The NERP Manual must be prepared for OPNAV N45 and Marine Corps headquarters signatures.

42-4.4. Chief, Bureau of Medicine and Surgery (BUMED) (through the Navy and Marine Corps Public Health Center) must:

a. Coordinate with ATSDR concerning ATSDR's legally mandated health related activities, including public health assessments, public health consultations, health surveys and investigations, toxicology databases, emergency response, and health education;

b. Review public health assessments, consultations, surveys, and DoD-specific toxicological profiles;

c. Provide health- and medical-related support to the DON ER Program for risk assessments and other cleanup program documents, including: work plans, sampling plans, RI/FS

documents, QA plans, health and safety plans, and EC reviews relevant to pollution-related activities as requested by COMNAVFACENGCOM. The EC reviews may include technological reviews of draft toxicological evaluations or regulations by Federal and State agencies;

d. Provide technical support for risk communication, risk assessment, health and safety, MR, and other health-related training courses;

e. Conduct human health risk assessments, as required;

f. Provide assistance in developing ARARs for cleanup program activities; and

g. Help COMNAVFACENGCOM and installations prepare for public meetings and respond to community concerns regarding health and safety aspects of projects.

42-4.5. ICOs of active Navy installations must:

a. Notify Federal, State, and local officials and the chain of command upon discovery of a release of HW, MECs, or MCs;

b. Assist in coordinating all docket listings;

c. Provide logistical support for ER projects at their installation including support for periodic meetings with the RAB on ER Program sites;

d. Provide necessary review and comment on ER plans of action, reports, etc., to the cognizant COMNAVFACENGCOM FEC;

e. Prepare and implement a public participation program, including a CRP, for ER sites. Consult with COMNAVFACENGCOM. Place appropriate information in the information repository;

f. Appoint a contact or spokesperson for community-relations activities that must be responsible for receiving all inquiries and releasing information concerning the installation's ER Program. This may be the DON public affairs officer or RPM;

g. Forward, or authorize COMNAVFACENGCOM to forward, all final primary documents to EPA and State regulatory agencies prior to deadlines in either FFAs or State agreements and orders;

h. In conjunction with the COMNAVFACENGCOM FEC, select the remedy and sign the decision documents for all ER Program sites;

i. Ensure installation OM,N funds are not used to perform work eligible for ER,N funding;

j. Notify appropriate commands of any EPA or State notice of PRP action and support PRP response;

k. Consider ER Program site conditions or land-use restrictions before land-use planning, development, or operation, especially for MILCON and special projects;

l. Ensure the shore facilities planning process incorporates a review of the ER efforts at the installation;

m. Establish, in coordination with affected parties (e.g., the current owner or tenant; in the case of BRAC property, the prospective transferee), clearly defined and enforceable LUCs when appropriate;

n. Implement LUCs through established real estate and land use management mechanisms and ensure LUCs remain effective; and

o. Review and sign 5-year review reports prepared by COMNAVFACENGCOM.

42-4.6. NOSSA must:

a. Provide an explosives safety oversight role in the MRP and at any IRP sites where MECs or MCs have been identified;

b. Maintain an archive of MRS-related documents;

c. Review MR notification reports;

d. Review and endorse ESSs prepared by COMNAVFACENGCOM FEC or BRAC PMO to the DDESB for approval;

e. Review AARs and submit to DDESB, as appropriate;

f. Review and endorse to the DDESB for approval real property transfer packages prepared by COMNAVFACENGCOM FEC or BRAC PMO that detail actual and potential hazards relating to the presence or possible presence of explosives and any restrictions or conditions placed on the proposed recipient's use of the property;

g. Review explosive mishaps reports and explosive ordnance disposal incident reports;

h. Conduct audits to ensure compliance with explosives safety requirements at MRSs;

i. Provide formal verification that the final response action was completed per approved explosives-safety-related requirements;

j. Provide explosives safety oversight for all MR actions with BSOs, COMNAVFACENGCOM, BRAC PMO, installations, and activities; and

k. Review proposed language for deeds, activity master plans, or other LUCs in collaboration with BSOs, COMNAVFACENGCOM, installations, and activities, with respect to explosives safety requirements.

42-4.7. NAVSEADET RASO must:

a. Support Navy personnel (COMNAVFACENGCOM RPMs at active installations and BRAC PMO environmental coordinators at BRAC installations) with CERCLA response actions addressing CERCLA-listed RASP-RAM and G-RAM;

b. Provide technical and policy assistance and support to Navy personnel (COMNAVFACENGCOM RPMs at active installations and BRAC PMO environmental coordinators at BRAC installations) authorized to select CERCLA response actions addressing CERCLA-listed RASP-RAM and G-RAM;

c. Assist COMNAVFACENGCOM and BRAC PMO in the evaluation and selection of appropriate ER-response actions for addressing CERCLA-listed RASP-RAM and G-RAM;

d. Perform onsite evaluations of work efforts and make available written notification of significant findings to the RPM to assess technical compliance with work documents; Federal, State, and local regulations; radiological controls; and health physics practices. During these evaluations, NAVSEADET RASO personnel may take confirmatory surveys or samples, and observe fieldwork, but must not participate in field activities;

e. Recommend work stoppages to BRAC PMO or COMNAVFACENGCOM resulting from unsafe work practices in the field or unsatisfactory findings during evaluations of G-RAM work practices. Should work stoppages occur, review and concur on corrective actions prior to resumption of field activities;

f. Participate in the drafting and technical review process for documents involving RASP-RAM and G-RAM issues or radiologically impacted sites. These documents include but are not limited to CERCLA and RCRA documents, historical radiological assessments, contractor field work documents, and presentations pertinent to G-RAM aspects of the ER Program; and

g. Investigate radiological incidents involving RASP-RAM and G-RAM in the ER Program upon notification;

h. Provide performance criteria to COMNAVFACENGCOM and BRAC PMO for selecting the contractors for work on RASP-RAM and G-RAM; and

i. Assist COMNAVFACENGCOM and BRAC PMO with the project scoping of sites that may be contaminated with RASP-RAM and G-RAM.

42-5 Definitions

42-5.1. After Action Report. The AAR is a document required to be submitted to NOSSA within 6 months of completion of an MR. It documents that the explosives safety aspects of the response have been completed as outlined in the approved ESS and addresses the MECs found, effectiveness of the response techniques, any LUCs, LTM provisions for the residual risk, and other pertinent information.

42-5.2. Discarded Military Munitions. Discarded military munitions have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance, military munitions being held for future use or planned disposal, or military munitions that have been properly disposed of consistent with applicable environmental law and regulations.

42-5.3. Ecological Risk Assessment. An ERA evaluates the likelihood that adverse ecological effects could result from exposure to one or more stressors.

42-5.4. Environmental Restoration, Navy. Section 211 of SARA, codified at section 2703 of Title 10, U.S. Code, established the Defense Environmental Restoration Account (DERA) to pay the cost of DoD responses to clean up HS sites. Funds from DERA were transferred to the ER,N account for uses consistent with DERP.

42-5.5. Federal Facility Agreement. An FFA is a negotiated legal agreement between DON and EPA governing CERCLA and RCRA administrative process for cleanup at NPL sites. The provisions of these agreements are factors in setting project execution priorities through risk management and are tools for formalizing commitments, making selection of RA less adversarial. States may participate in the FFA at their discretion. FFAs and IAGs refer to the same type of document.

42-5.6. Federal Facility Site Remediation Agreement. An FFSRA is a negotiated agreement governing the CERCLA and RCRA administrative process for cleanup at non-NPL sites. As with FFAs, provisions of FFSRAs are factors in setting project execution priorities through risk management and are tools for formalizing commitments, making selection of RA less adversarial.

42-5.7. General Radioactive Material. G-RAM is Navy radioactive material (e.g., byproduct, source, and special nuclear materials; naturally occurring radioactive materials; technologically enhanced naturally occurring radioactive materials; and naturally occurring and accelerator-produced radioactive materials) not used by, controlled by, or associated with the NNPP.

42-5.8. Hazardous Substance. For purposes of the IRP, HS is as defined in section 101(14) of CERCLA. This includes materials that, because of their quantity, concentration, or physical, or chemical characteristics, may pose a hazard to human health or the environment when released or spilled.

42-5.9. Historical Radiological Assessment. A historical radiological assessment is a document prepared to describe the radiological history of a site and designate radiologically impacted areas.

42-5.10. Human Health Risk Assessment. A human health risk assessment is a technical assessment of the likelihood of undesirable effects from exposure to a stressor.

42-5.11 Industrial Settings. Industrial settings are facilities where one or more chemical compounds are used or stored as part of the business operation of the facility, such as plating facilities, maintenance shops, manufacturing facilities, hangars, and welding shops. An office within an industrial setting, such as a foreman's office in a plating shop, is also considered to be part of the industrial setting.

42-5.12. Installation. An installation is the real property owned, formerly owned, or leased by the Navy, including a main base and any associated contiguous real properties identified by the same real property number.

42-5.13. Land-Use Controls. LUCs include engineering controls and institutional controls. Engineering controls are remedies to contain or reduce contamination, or physical barriers intended to limit access to property. Engineering controls may include fences, signs, guards, landfill caps, provision of potable water, slurry walls, sheet pile, and monitoring wells. Institutional controls are actions, such as legal controls, that help minimize the potential for human exposure to contamination by ensuring appropriate land or resource use. Institutional controls include easements, deed restrictions, zoning, and permits.

42-5.14. Long-Term Management. LTM is the period of site management (e.g., maintenance, monitoring, recordkeeping, 5-year reviews) initiated after the RA objectives have been met, but HSs, pollutants, or contaminants, including MECs and MCs, remain onsite and are above levels that would allow for unlimited use and unrestricted exposure.

42-5.15. Material Potentially Presenting an Explosive Hazard. MPPEH is material owned or controlled by DoD that, prior to determination of its explosives safety status, potentially contains explosives or munitions (for example, munitions containers and packaging material; munitions debris remaining after munitions use, demilitarization, or disposal; and range-related debris) or potentially contains a high enough concentration of explosives that the material presents an explosive hazard (e.g., equipment; drainage systems; holding tanks; piping; or ventilation ducts that were associated with munitions production, demilitarization, or disposal operations). Excluded from MPPEH are military munitions within DoD's established munitions management system and other hazardous items that may present explosion hazards (e.g., gasoline cans, compressed gas cylinders) that are not munitions and are not intended for use as munitions.

42-5.16. Military Munitions. Military munitions are all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of DoD, USCG, Department of Energy (DOE), and National Guard. The term includes confined gaseous, liquid, and solid propellants; explosives, pyrotechnics, chemical and riot-control agents; smokes and incendiaries, including

bulk explosives and chemical warfare agents; chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges; and devices and components thereof. The term does not include wholly inert items, improvised explosive devices, nuclear weapons, nuclear devices, and nuclear components, except the term does include non-nuclear components of nuclear devices that are managed under the nuclear weapons program of the DOE after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

42-5.17. Military Munitions Burial Site. A military munitions burial site is a site where military munitions were intentionally buried, with the intent to abandon or discard. This term includes burial sites used to dispose of military munitions in a manner consistent with applicable environmental laws and regulations or the national practice at the time of burial. It does not include sites where munitions were intentionally covered with earth during authorized destruction by detonation, or where in-situ capping is implemented as an engineered remedy under an authorized response action.

42-5.18. Munitions and Explosives of Concern. MECs include unexploded ordnance, discarded military munitions, and MCs in high enough concentrations as to present an explosive hazard.

42-5.19. Munitions Constituents. MCs are any materials originating from unexploded ordnance; discarded military munitions; or other military munitions, including explosive and non-explosive materials and emission, degradation, or breakdown elements of such ordnance or munitions.

42-5.20. Munitions Response. MR actions include investigation, removal, and RAs to address the explosives safety, human health, or environmental risks presented by unexploded ordnance, discarded military munitions, or MCs.

42-5.21. Munitions Response Site. An MRS is a discrete location known or suspected to contain unexploded ordnance, discarded military munitions, or MCs. Examples include former ranges, munitions burial areas, and explosive processing facilities. The term does not include any operational range, operating storage or manufacturing facility, or facility that is used for or was permitted for the treatment or disposal of military munitions.

42-5.22. National Priorities List. The NPL is EPA's list of the nation's highest-priority sites that need to be cleaned up. EPA bases a site's inclusion on the list on its threat to public health or welfare or the environment using the hazard ranking system (HRS). Sites receiving HRS scores at or above 28.5 are eligible to be added to the NPL.

42-5.23. Natural Resource Damage. NRD is the amount of money sought by the NRT as compensation for injury, destruction, or loss of natural resources as set forth in section 107(a) or 111(b) of CERCLA.

42-5.24. Natural Resource Damage Assessment. NRDA is the process of collecting, compiling, and analyzing information, statistics, or data through prescribed methodologies to determine damages for injuries to natural resources.

42-5.25. Natural Resource Injury. NRI is a measurable adverse change, either long- or short-term, in the chemical or physical quality of the viability of a natural resource resulting either directly or indirectly from exposure to a discharge of oil or release of an HS. The aspects of injury could be determined during the site's ERA.

42-5.26. Natural Resource Trustee. An NRT is any Federal natural resources management agency designated in the NCP and any State agency designated by the governor of each State pursuant to section 107(f)(2)(B) of CERCLA.

42-5.27. Naval Nuclear Propulsion Program Radioactive Material. NRAM is radioactive material used by, controlled by, or associated with the NNPP.

42-5.28. Preliminary Assessment. A PA is a review of existing site information to determine if a release may require additional investigation or action; it may include onsite reconnaissance, if appropriate.

42-5.29. Public Health Assessment. A public health assessment is the evaluation of data and information on the release of HSs into the environment to assess any current or future impact on public health, develop HAs or other recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects. A public health assessment is only required for NPL sites.

42-5.30. Radiologically Impacted Site. A radiologically impacted site is an outdoor area, building, or underground system (e.g., sewer) that has a potential of being affected by use of G-RAM or has been determined to be contaminated by G-RAM.

42-5.31. Record of Decision. A ROD is the official term used by CERCLA and the NCP for the documentation of a final remedial response action decision at a NPL site. It describes the remedy selection process and the remedy method selected. For non-NPL sites, the term "decision document" is used. The decision document is developed in the same manner as a ROD.

42-5.32. Release. As defined by section 101(22) of CERCLA, release means 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 or pollutant or contaminant). The term excludes any release that results in exposure to persons solely within a workplace, or with respect to a claim that such persons may assert against the employer of such persons, 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, under conditions specified in reference (c); and the normal application of fertilizer. For purposes of the NCP, release also means threat of release.

42-5.33. Remedial Action. An RA is an action consistent with permanent remedy taken instead of, or in addition to, removal actions to prevent or minimize the release of HSs. RA covers two periods of activity at the site:

a. Remedial Action-Construction. During RA-C, the designed remedial system is constructed at the site. This phase also may include any construction related to the implementation of LUCs.

b. Remedial Action-Operation. RA-O (formerly Long-Term Operation) is that period of operation and maintenance required after the RA-C is completed but the RA objectives have not yet been met (RC has not been achieved). During the RA-O phase, the remediation system is operated or chemical or biological processes are occurring leading to the cleanup objective identified in the ROD or decision document. Monitoring programs on a site during the RA-O phase are part of the RA-O; they are not LTM.

42-5.34. Remedial Action Objectives. RA objectives are site-specific goals based on the contaminants of concern, the impacted media, fate and transport of the contaminants of concern, and those potential exposure routes, receptors, and preliminary remediation goals identified in the conceptual site model.

42-5.35. Remedial Design. RD includes preparation of technical work plans, drawings, and specifications to convert the conceptual design for the remedy selected for a site from the FS into a full-scale detailed design for implementation.

42-5.36. Remedial Investigation and Feasibility Study. An RI/FS is an extensive technical study conducted to determine the nature and extent of the threat presented by a release and, where appropriate, to evaluate proposed remedies. The FS serves as the mechanism for the development, screening, and detailed evaluation of potential remedial alternatives, including NFA.

42-5.37. Remedy in Place. The RIP milestone is achieved when the construction of a long-term remedy is complete and the remedy is operating as planned to meet project RA goals in the future, or a short-term remedy has been successfully implemented and the final documentation is being prepared.

42-5.38. Removal Action. A removal action is a response implemented in an expedited manner to address releases or threatened releases of HSs or MECs that require prompt action.

42-5.39. Reportable Quantity. The reportable quantity is the amount of an HS that must be reported if released. Section 102 of CERCLA requires EPA to establish and revise a list of HSs and their associated reportable quantities.

42-5.40. Residential and Commercial Settings. Residential and commercial settings are housing units and businesses that do not use substantial amounts of chemical compounds as part of the business operation such as single-family homes, condominiums, apartments, hospitals, nursing homes, offices, stores, banks, and exchanges.

42-5.41. Response Complete. The RC milestone signifies the RA objectives have been met and the RA-O phase has achieved cleanup goals specified in the ROD or decision document. Formal documentation for the RC milestone is essential to ensure recognition of completion of cleanup

goals at the site. Prior to claiming completion of the RC milestone, regulatory concurrence of this documentation is required.

42-5.42. Restoration Advisory Board. The RAB is a group established to serve as a focal point for the exchange of cleanup information between the Navy, regulators, and an installation's local community. Members of the RAB include Navy, EPA officials, appropriate State and local authorities, Federal and State natural resource trustees, and representatives of the affected community.

42-5.43. Site. A site is a location on or off an installation's property where an HS or MEC has been deposited, stored, disposed, or placed, or has otherwise come to be located. Such areas may include multiple sources and may include the area between sources. This should not be confused with EPA's practice of listing an entire installation on the NPL. An NPL installation will generally have several discrete sites.

42-5.44. Site Closeout. The SC milestone signifies the Navy has completed active management and monitoring at a site, the remedy is protective of human health and the environment, no restrictions on future land use are needed for the site, and no additional ER,N or BRAC funds are expected to be expended at the site.

42-5.45. Site Inspection. An SI is an onsite inspection to determine whether there is a release or potential release and the nature of the associated threats.

42-5.46. Stakeholder. Stakeholders include interested parties such as individual residents who live on or near the installation; representatives of citizen, environmental, and public interest groups whose members live in the vicinity of the installation; workers involved or affected by installation operations; elected and appointed local government officials; and representatives of Federal and State regulatory agencies. This chapter uses the term stakeholder in the context of RABs.

42-5.47. Unexploded Ordnance. Unexploded ordnance is military munitions that:

a. Have been primed, fused, armed, or otherwise prepared for action;

b. Have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and

c. Remain unexploded either by malfunction, design, or any other cause.

42-5.48. Vapor Intrusion. VI is the migration of vapor of sufficiently volatile chemical compounds from the subsurface environment into the indoor air of overlying buildings.

APPENDIX A

SUMMARY OF MAJOR LEGISLATION, REGULATIONS, EXECUTIVE ORDERS, AND INTERNATIONAL AGREEMENTS

A-1 Act to Prevent Pollution from Ships, 33 U.S.C. §1901–1915

A-1.1. Description. The Act to Prevent Pollution from Ships (APPS) applies to U.S. vessels worldwide and implements the requirements of annexes I (Oil Pollution), II (Noxious Liquid Substances Carried in Bulk), V (Ship-Generated Garbage), and VI (Air Pollution) of the International Convention for the Prevention of Pollution from Ships (MARPOL) for the United States. APPS excludes warships and naval auxiliaries from the preventive measures in annexes I, II, and VI. For Annex V, APPS requires Navy ships and submarines to comply fully with discharge restrictions applicable outside of "special areas" designated under Annex V and places limitations on Navy ship discharges within Annex V special areas.

A-1.2. Related Chapters. Chapter 35 (Environmental Compliance Afloat) of this manual.

A-2 American Indian Religious Freedom Act, 42 U.S.C. §1996–1996a

A-2.1. Description. The American Indian Religious Freedom Act protects and preserves American Indians' rights to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians. Such protection and preservation includes access to sites, allowing the use and possession of sacred objects, and preserving freedom to worship through ceremonial and traditional rites.

A-2.2. Related Chapters. Chapter 13 (Cultural Resources Compliance and Management) of this manual.

A-3 Anti-Deficiency Act, 31 U.S.C. §1341

A-3.1. Description. The Anti-Deficiency Act provides that government officials may not make payments or commit the United States to make payments at some future time for goods or services unless there is enough money in the available appropriation.

A-3.2. Related Chapters. Chapter 12 (Natural Resources Conservation) of this manual.

A-4 Antiquities Act of 1906, 16 U.S.C. §431–433

A-4.1. Description. The Antiquities Act of 1906 concerns national monuments, marine national monuments, reservation of lands, and relinquishment of private claims; and requires the issuance of permits for study, removal, or excavation of any ruins, sites, structures, or objects of historical or scientific interest. Guidance regarding implementation of this statute can be found in 43 CFR Part 3.

A-4.2. Related Chapters. Chapter 13 (Cultural Resources Compliance and Management) of this manual.

A-5 Archaeological and Historic Preservation Act, 16 U.S.C. §469–469c

A-5.1. Description. The Archaeological and Historic Preservation Act, also known as the Reservoir Salvage Act, requires all Federal agencies to notify the Secretary of the Interior when a dam construction project threatens to irreparably harm or destroy significant scientific, prehistoric, historic, or archeological data, including paleontological resources. Additionally, the Act requires Federal agencies that determine, or are notified, its activities in connection with any Federal construction project or Federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, to notify the Secretary of the Interior, who is given authority to act to survey and preserve the data.

A-5.2. Related Chapters. Chapter 13 (Cultural Resources Compliance and Management) of this manual.

A-6 Archaeological Resources Protection Act, 16 U.S.C. §470aa–470mm

A-6.1. Description. The Archeological Resources Protection Act authorizes Federal land managers to protect archaeological resources through permits authorizing excavation or removal of archaeological resources; civil and criminal penalties for unauthorized excavation or removal, damage, alteration, or defacement of archaeological resources or attempts to perform such unauthorized acts; provisions for the preservation of archaeological resource collections and data; and provisions for ensuring confidentiality of information about archaeological resources when disclosure would threaten the resource. It also requires Federal agencies to create programs to promote public awareness of archaeological resources and authorizes criminal and civil penalties against any person who violates any prohibition of the Act.

A-6.2. Related Chapters. Chapter 13 (Cultural Resources Compliance and Management) of this manual.

A-7 Atomic Energy Act, 42 U.S.C. §2011–2059

A-7.1. Description. The Atomic Energy Act assures the proper management of source, special nuclear, and byproduct material. The Atomic Energy Act and the statutes that amended it delegate the regulation of radioactive materials to the Department of Energy (DOE) and Nuclear Regulatory Commission (NRC), while the Environmental Protection Agency (EPA) is tasked in establishing standards. The Atomic Energy Act covers both civilian and military uses and disposal of nuclear materials. DOE controls material used for the production of nuclear fuel and weapons for national defense and NRC controls the rest.

A-7.2. Related Chapters. Chapter 29 (Low-Level Radioactive Waste Disposal Program) of this manual.

A-8 Bald and Golden Eagle Protection Act, 16 U.S.C. §668–668d

A-8.1. Description. The Bald and Golden Eagle Protection Act provides for the protection of the bald eagle and the golden eagle by prohibiting, except under certain specified conditions, the taking, possession, and commerce of such birds.

A-8.2. Related Chapters. Chapter 12 (Natural Resources Conservation) of this manual.

A-9 Clean Air Act, 42 U.S.C. §7401–7671q

A-9.1. Description

a. The purpose of the Clean Air Act (CAA) is "to protect and enhance the quality of the nation's air resources so as to promote public health and welfare and the productive capacity of its population." The CAA regulates air emissions from stationary and mobile sources. The CAA establishes National Ambient Air Quality Standards (NAAQS) for six common air pollutants ("criteria pollutants") and requires States to institute controls with established air quality control regions to achieve the NAAQS. The CAA requires EPA to establish necessary air quality control where States fail to do so; mandates EPA to regulate 188 identified hazardous air pollutants; and implements the Montreal Protocol on ozone-depleting substances (ODS), mandating phase-out of ODS production, prohibiting intentional venting of ODS refrigerants during appliance servicing, and requiring technician certification.

b. The CAA requires Federal agencies to comply with Federal, State, interstate, and local air pollution requirements in the same manner and to the same extent as any nongovernmental entity. Although most air pollution regulations address shoreside sources, Navy ships operating within the United States may also be subject to certain regulations. Navy shore facilities typically have numerous sources of air pollutant emissions that are regulated and may require permits for construction and or operation. In addition, emissions from facility operations are of special concern in areas that do not meet air quality standards. Maintaining clean air can consist of preventing new sources of pollution or reducing or eliminating pollutant emissions from existing sources.

A-9.2. Related Chapters. Chapter 3 (Environmental Readiness Training), chapter 7 (Sampling and Laboratory Testing), chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations), chapter 22 (Clean Air Ashore), chapter 23 (Hazardous Materials Management Ashore), chapter 25 (Toxic Substances Control Act), chapter 27 (Hazardous Waste Management Ashore), chapter 35 (Environmental Compliance Afloat), and chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual.

A-10 Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387

A-10.1. Description

a. The Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), regulates the discharge of pollutants from both point- and nonpoint-source discharges to surface waters. Nonpoint sources of pollution are managed through State or local controls.

b. Section 402 of the CWA establishes the National Pollutant Discharge Elimination System (NPDES) program, which requires permits to discharge pollutants into waters of the United States. Sampling and laboratory testing are required to demonstrate compliance with NPDES permits. Discharges incidental to the normal operation of a vessel of the Armed Forces are not subject to the NPDES Program but are subject to the Uniform National Discharge Standards (UNDS) program. A list of Armed Forces vessel discharges regulated under the UNDS program may be found in 40 CFR Part 1700. In addition, section 312 of the CWA authorizes the Department of Defense (DoD) to issue regulations governing the design, construction, installation, and operation of marine sanitation devices aboard vessels owned and operated by DoD.

c. Section 404 of the CWA provisions require permits to dispose of dredged and fill materials into navigable waters, which is important for wildlife protection purposes. Section 319 of the CWA describes guidelines for the control of nonpoint-source pollution. Federal consistency provisions also authorize States to review Federal activities for consistency with State nonpoint-source programs. In addition, section 303(d) of the CWA requires each State to develop total maximum daily loads for impaired water bodies.

d. The CWA also regulates the discharge of oil and hazardous substances (OHS) and pollutants into or upon navigable waters including the contiguous zone, exclusive economic zone (EEZ), and adjoining shorelines. It provides for the establishment of the National Response Team, National Response Center, and National Oil and Hazardous Substances Pollution Contingency Plan. For additional information, see the Oil Pollution Act of 1990.

A-10.2. Related Chapters. Chapter 3 (Environmental Readiness Training), chapter 7 (Sampling and Laboratory Testing), chapter 12 (Natural Resources Conservation), chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations), chapter 23 (Hazardous Materials Management Ashore), chapter 27 (Hazardous Waste Management Ashore), chapter 30 (Oil Management Ashore), chapter 31 (Storage Tanks), chapter 35 (Environmental Compliance Afloat), chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response), and chapter 41 (Natural Resource Damage) of this manual.

A-11 Coastal Barrier Resources Act, 16 U.S.C. §3501–3510

A-11.1. Description. The Coastal Barrier Resources Act restricts Federally subsidized development of undeveloped coastal barriers along the Atlantic and Gulf of Mexico coasts.

A-11.2. Related Chapters. Chapter 12 (Natural Resources Conservation) of this manual.

A-12 Coastal Zone Management Act, 16 U.S.C. §1451–1466

A-12.1. Description

a. The Coastal Zone Management Act (CZMA) establishes a voluntary national program to encourage coastal States to properly manage the use of their coasts and coastal resources, prepare and implement coastal management programs, and provide for public and governmental participation in decisions affecting the coastal zone. The CZMA provides incentives for coastal States to develop and implement coastal area management programs, which frequently incorporate flood control, sediment control, grading control, and stormwater runoff control statutes.

b. Federal actions must be conducted in a manner consistent with a Federally approved State plan. To this end, Federal actions that affect any land or water use or natural resource of the coastal zone must be consistent with the State program to the maximum extent practicable.

A-12.2. Related Chapters. Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), chapter 12 (Natural Resources Conservation), chapter 14 (Coastal Zone Management), and chapter 20 (Clean Water Ashore) of this manual.

A-13 Community Environmental Response Facilitation Act, 42 U.S.C. §9601–9675

A-13.1. Description. The Community Environmental Response Facilitation Act (CERFA) amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provisions relating to Federal activities on real property owned by the Federal government. CERFA requires the Federal government, before termination of Federal activities on any real property owned by the government, to identify uncontaminated real property (where no hazardous substance (HS) was stored, released, or disposed of). It amends section 120(h) of CERCLA to allow expedition of reuse and redevelopment of Federal facilities being closed. CERFA recognized that the closure of certain Federal facilities was having adverse effects on the economies of local communities by eliminating jobs associated with such facilities, and delay in remediation of environmental contamination of real property at such facilities was preventing transfer and private development of such property.

A-13.2. Related Chapters. Chapter 42 (Environmental Restoration) of this manual.

A-14 Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601–9675

A-14.1. Description

a. CERCLA establishes requirements concerning closed and abandoned hazardous waste (HW) sites, provides for liability of responsible parties, and establishes a trust fund to provide for cleanups when responsible parties cannot be found. CERCLA establishes the planning and response framework for HS releases and authorizes natural resource trustees (Federal and State

officials and Indian tribes) to recover damages for injury to, destruction of, or loss of natural resources resulting from the release of a HS. It requires releases of covered HS meeting or exceeding thresholds to be reported to NRC. It also requires sampling and testing at CERCLA sites to characterize the nature and extent of contamination, estimate risks to human health and the environment, select remedial alternatives, and evaluate the effectiveness of selected remedies.

b. CERCLA gives EPA (for inland zones) and the U.S. Coast Guard (for coastal zones) authority to designate a Federal on-scene coordinator (FOSC) to direct emergency response and HS removal activities. The FOSC has the administrative and enforcement authority to implement the provisions of CERCLA. Under 40 CFR Part 300, DoD is required to designate the FOSC for HS releases when the release is on, or the sole source of the release is from, DoD facilities or vessels. Additionally, CERCLA enables FOSCs to conduct cleanup.

A-14.2. Related Chapters. Chapter 3 (Environmental Readiness Training), chapter 7 (Sampling and Laboratory Testing), chapter 24 (Pesticide Compliance Ashore), chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-Know Act), chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response), chapter 41 (Natural Resource Damage), and chapter 42 (Environmental Restoration) of this manual.

A-15 Data Quality Act, 44 U.S.C. §3504d(1) and 3516

A-15.1. Description. The Data Quality Act, also known as the Information Quality Act, was part of the Treasury and General Government Appropriations Act for Fiscal Year 2001. Section 515 directs the Office of Management and Budget to issue government-wide guidelines to ensure and maximize "the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." It requires influential scientific information, including environmental data, to be capable of being substantially reproduced.

A-15.2. Related Chapters. Chapter 7 (Sampling and Laboratory Testing) of this manual.

A-16 Defense Appropriations Act of 1991 Legacy Program, 10 U.S.C. §2301

A-16.1. Description. This Act establishes the Legacy Resource Management Program, which provides financial assistance to DoD for efforts to preserve our natural and cultural heritage.

A-16.2. Related Chapters. Chapter 12 (Natural Resources Conservation) and chapter 13 (Cultural Resources Compliance and Management) of this manual.

A-17 Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §11001–11050

A-17.1. Description. The Emergency Planning and Community Right-to-Know Act (EPCRA) supports emergency planning and provides information to the public about the hazards associated with chemicals present at facilities and toxic chemical releases. Under the EPCRA, covered facilities must provide timely and comprehensive information about the storage, use, and release of certain hazardous chemicals. The EPCRA also requires immediate notification of releases of

extremely hazardous substances, as defined under the EPCRA, and HSs, as defined under CERCLA, to State and local emergency response planners. Most notably, the EPCRA requires all submissions be made publicly available by State and local EPCRA authorities.

A-17.2. Related Chapters. Chapter 23 (Hazardous Materials Management Ashore) and chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-Know Act) of this manual.

A-18 Endangered Species Act, 16 U.S.C. §1531–1544

A-18.1. Description

a. The Endangered Species Act (ESA) protects listed endangered species by prohibiting unauthorized taking of listed species in the United States or on the high seas. Section 7 of the ESA requires Federal agencies to consult with the U.S Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to ensure their actions will not jeopardize the continued existence of a listed species. This is done through the preparation of a biological assessment, which is submitted to the resource agency (USFWS or NMFS). The resource agency conducts an assessment of the potential effects of the proposed action in the context of the status of the listed species and issues an opinion to the requesting Federal agency. The majority of the conclusions that are reached for Navy actions will be one of two conclusions: (1) may affect, but not likely to adversely affect, or (2) may affect, but not likely to jeopardize the continued existence of the listed species.

b. The ESA also requires the designation of "critical habitat" for listed species when it is judged to be "prudent and determinable." Critical habitat includes geographic areas that contain the physical or biological features essential to the conservation of the species and that may need special management or protection. Critical habitat designations affect only Federal agency actions or Federally funded or permitted activities. Federal agencies are required to avoid "adverse modification" of designated critical habitat. Critical habitat may include areas not occupied by the species at the time of listing but that are essential to its conservation. Per National Defense Authorization Act for Fiscal Year 2004 (NDAA 2004) provisions, the resource agency (USFWS or NMFS) cannot designate critical habitat on an installation with an integrated natural resources management plan (INRMP) (see Sikes Act) that the secretary of the resource agency finds has a benefit to the listed species. Additionally, the resource agency must consider national security impacts when designating critical habitat.

A-18.2. Related Chapters. Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), chapter 12 (Natural Resources Conservation), chapter 24 (Pesticide Compliance Ashore), and chapter 35 (Environmental Compliance Afloat) of this manual.

A-19 Energy Policy Act of 2005, 42 U.S.C. §15801

A-19.1. Description

a. The Energy Policy Act (EPAct) amends numerous provisions of the U.S. Code, covering topics in the areas of energy and water conservation, alternative energy sources, reduction in fossil fuel use, and sustainable building design. It includes specific procurement requirements for energy-efficient products and the increased use of cement and concrete with recovered mineral content.

b. Subtitle B of the EPAct (also known as the Underground Storage Tank Compliance Act of 2005) focuses on preventing underground storage tank (UST) releases and includes provisions regarding inspections, operator training, delivery prohibition, secondary containment, financial responsibility, and cleanup of releases that contain oxygenated fuel additives.

c. Section 15228 of the EPAct waived sovereign immunity for reasonable nondiscriminatory user fees; inspection fees; monitoring fees; civil sanctions; civil fines; and criminal acts in owning, managing, and oversight of USTs.

d. Title I, subtitle A of the EPAct establishes energy and water management requirements for Federal facilities, building performance standards, and requirements for procurement of energy-efficient products.

e. Title II, subtitle A of the EPAct establishes requirements for use of renewable energy in Federal facilities.

A-19.2. Related Chapters. Chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore), chapter 22 (Clean Air Ashore), and chapter 31 (Storage Tanks).

A-20 Executive Order 12580, Superfund Implementation

A-20.1. Description. Executive Order (E.O.) 12580 delegates responsibilities to DoD for implementing CERCLA. Under E.O. 12580, the Navy will exercise its authority to address off-range releases of military munitions and munitions constituents in a manner consistent with CERCLA.

A-20.2. Related Chapters. Chapter 15 (Navy Operational Range Environmental Sustainment) of this manual.

A-21 Farm Security and Rural Investment Act, 7 U.S.C. §7901–8001

A-21.1. Description. The Farm Security and Rural Investment Act, also known as the 2002 Farm Bill, establishes the U.S. Department of Agriculture biobased product procurement program, which designates biobased items for Federal agencies to purchase, and provides recommendations for agencies purchasing these items with biobased content.

A-21.2. Related Chapters. Chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) of this manual.

A-22 Federal Facilities Compliance Act, 42 U.S.C. §6961

A-22.1. Description

a. The Federal Facilities Compliance Act (FFCA) amended the Resource Conservation and Recovery Act (RCRA) and subjects Federal facilities to all provisions of Federal, State, interstate, and local HW laws and regulations (to include fees, assessments, fines, and penalties). FFCA exempts agents, employees, and officers from personal liability for any civil penalty arising from acts or omissions within the scope of their official duties. The installation or command whose activities most directly led to the violation(s) is responsible for payment of possible penalties with its operating budget or other available sources of funds. FFCA also requires payment of any non-discriminatory fees, including assessments in connection with the processing and issuance of HW permits; amendments to permits; reviews of plans, studies, and other documents; and the inspection and monitoring of facilities.

b. RCRA, as modified by the FFCA, provides that HW generated on public vessels is not subject to storage, manifest, inspection, or recordkeeping requirements until the ship transfers such waste ashore or transfers it to another public vessel within 12 nautical miles of the United States and then only after the receiving vessel stores it aboard for more than 90 days after the date of transfer.

A-22.2. Related Chapters. Chapter 20 (Clean Water Ashore), chapter 24 (Pesticide Compliance Ashore), chapter 27 (Hazardous Waste Management Ashore), and chapter 31 (Storage Tanks) of this manual.

A-23 Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136–136y

A-23.1. Description. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) provides the principal means for preventing adverse effects from pesticides through product registration (which results in label instructions on each container for use, storage, and disposal) and applicator certification. It is unlawful to purchase, distribute, or use any pesticide that does not have an EPA registration number or for which registration has been cancelled or suspended. EPA approves Federal and State agency plans for training and certification of pesticide applicators.

A-23.2. Related Chapters. Chapter 23 (Hazardous Materials Management Ashore) and chapter 24 (Pesticide Compliance Ashore) of this manual.

A-24 Federal Water Pollution Control Act

A-24.1. Description. Refer to section A-11 (Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. §1251–1387) of this manual.

A-24.2. Related Chapters. Chapter 24 (Pesticide Compliance Ashore) and chapter 41 (Natural Resource Damage) of this manual.

A-25 Fish and Wildlife Conservation Act, 16 U.S.C. §2901–2911

A-25.1. Description. The Fish and Wildlife Conservation Act, commonly known as the Nongame Act, encourages States to develop conservation plans for nongame fish and wildlife of ecological, educational, aesthetic, cultural, recreational, economic, or scientific value.

A-25.2. Related Chapters. Chapter 12 (Natural Resources Conservation) of this manual.

A-26 Fish and Wildlife Coordination Act, 16 U.S.C. §661–667e

A-26.1. Description. A primary function of the Fish and Wildlife Coordination Act is to ensure wildlife conservation receives equal consideration and is coordinated with other features of water-resources development programs. Federal agencies must consult with USFWS and the appropriate State wildlife agency when a body of water is proposed to be modified, or a Federal permit is proposed to be issued to modify a body of water, to identify potential impacts to wildlife resources and means by which those impacts can be prevented. Such impacts and mitigations must be an integral part of an any report prepared by a Federal agency to authorize the water-resource development project. The project proponent must give full consideration to the recommendations provided by USFWS and the State wildlife agency and include in the project those recommendations that should be adopted to obtain maximum overall project benefits, although project cost limitations apply. This requirement does not apply to impoundment of surface water of less than ten acres or for land management programs on Federal land by Federal agencies. Further, modified water bodies must provide for the conservation of wildlife resources in ways that are consistent with the purpose of the modification.

A-26.2. Related Chapters. Chapter 12 (Natural Resources Conservation) of this manual.

A-27 Food Quality Protection Act, 7 U.S.C. §136–136y

A-27.1. Description. The Food Quality Protection Act amends FIFRA, adding language directly applicable to the DoD Pest Management Program by defining “maintenance applicator,” “vector and public health pesticide,” and “integrated pest management (IPM);” establishing a requirement for minimum training; and promoting IPM through procurement and regulatory policies.

A-27.2. Related Chapters. Chapter 24 (Pesticide Compliance Ashore) of this manual.

A-28 Forest Resource Conservation and Shortage Relief Act of 1990, 16 U.S.C. §620

A-28.1. Description. This Act generally prohibits exporting from the United States unprocessed timber originating from Federal lands west of the 100th meridian in the 48 contiguous States. It also directs the Secretary of Commerce to issue orders containing a similar prohibition for State

and other public lands. Procedures for monitoring and restrictions on sales and transfers of unprocessed timber are established for both types of land.

A-28.2. Related Chapters. Chapter 12 (Natural Resources Conservation) of this manual.

A-29 Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §6901

A-29.1. Description. The Hazardous and Solid Waste Amendments of 1984 amended RCRA to include provisions addressing waste minimization, restrictions on the land disposal of HW, corrective action for releases, and USTs. The amendments provide for the development and implementation of a comprehensive regulatory program for USTs containing regulated substances and releases of these substances to the environment. They also require Federal facilities to comply with all Federal, State, and local requirements regarding USTs, including payment of registration fees or permit fees when such fees are not taxes. States with approved UST programs or memoranda of understanding with EPA have primary enforcement responsibility regarding UST program requirements. Federal facilities must comply with all applicable provisions of approved State UST programs.

A-29.2. Related Chapters. Chapter 31 (Storage Tanks) of this manual.

A-30 Hazardous Materials Transportation Act, 49 U.S.C. §5101–5127

A-30.1. Description. The Hazardous Materials Transportation Act regulates the marking, manifesting, labeling, packaging, placarding, and spill reporting provisions for hazardous materials (HM) in transit.

A-30.2. Related Chapters. Chapter 3 (Environmental Readiness Training), chapter 23 (Hazardous Materials Management Ashore), and chapter 27 (Hazardous Waste Management Ashore) of this manual.

A-31 International Convention for the Prevention of Pollution From Ships

A-31.1. Description

a. MARPOL is an international agreement designed to minimize pollution of the seas from commercial vessels. While the requirements and standards established by MARPOL do not apply directly to warships, auxiliaries, and other government-owned vessels, parties to MARPOL have an obligation to ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships, they act in a manner consistent with the agreement, so far as is reasonable and practicable.

b. MARPOL currently has six annexes addressing various shipboard pollution sources:

(1) Annex I: Oil Pollution;

(2) Annex II: Noxious Liquid Substances Carried in Bulk;

(3) Annex III: Harmful Substances Carried in Packaged Form;

(4) Annex IV: Sewage;

(5) Annex V: Ship-Generated Garbage; and

(6) Annex VI: Air Pollution.

c. The United States is not party to Annex IV.

d. For additional information on a particular MARPOL annex, refer to the International Maritime Organization Web site (refer to appendix E (Web Sites) for Web site address).

A-31.2. Related Chapters. Chapter 35 (Environmental Compliance Afloat) of this manual.

A-32 Low-Level Radioactive Waste Policy Act, 42 U.S.C. §2021b–2021j

A-32.1. Description. The Low-Level Radioactive Waste Policy Act (LLRWPA) gives each U.S. State the responsibility of developing a method for disposing of low-level radioactive waste (LLRW) generated within its borders. It leaves to the States' discretion whether such methods consist of establishing a site within their territory or joining an interstate LLRW compact. LLRWPA also applies to LLRW produced by the Federal government, making agencies under Federal authority responsible for the disposal of their waste.

A-32.2. Related Chapters. Chapter 29 (Low-Level Radioactive Waste Disposal Program) of this manual.

A-33 Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §1801–1884

A-33.1. Description. The Magnuson-Stevens Fishery Conservation and Management Act provides for the conservation and management of the fisheries and other purposes, including a requirement to designate essential fish habitat.

A-33.2. Related Chapters. Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) and chapter 12 (Natural Resources Conservation) of this manual.

A-34 Marine Mammal Protection Act, 16 U.S.C. §1361, 1362, 1371–1389, 1401–1407, 1411–1418, 1421–1423h

A-34.1. Description

a. The Marine Mammal Protection Act (MMPA) established a Federal responsibility to conserve marine mammals. Subject to limited exceptions, the MMPA protects marine mammals by prohibiting unauthorized "taking" of marine mammals in the United States or on the high seas unless exempted or authorized by NMFS, the regulating agency. "Taking" is defined by NDAA

2004 as "to harass, hunt, capture, or kill or attempt to harass, hunt capture or kill any marine mammal."

b. Permission may be granted to "take" marine mammal(s) incidental to Navy activities if the regulatory agency secretary determines the Navy action will: (1) have a negligible impact on the species or stock(s) so the taking is not likely to reduce annual rates of adult survival or annual recruitment; and (2) the activity affects "small numbers" of species or stock so the taking will be small relative to the estimated population size and relevant to the behavioral, physiological, and life history characteristics of the species.

A-34.2. Related Chapters. Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), chapter 12 (Natural Resources Conservation), and chapter 35 (Environmental Compliance Afloat).

A-35 Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401–1445

A-35.1. Description. The Marine Protection, Research, and Sanctuaries Act (MPRSA), also referred to as the Ocean Dumping Act, regulates the dumping of material from outside the United States into a territorial sea or the contiguous zone of the United States and transportation of material from the United States for dumping into ocean waters; implements for the United States the London Dumping Convention; and requires an EPA permit for transportation from the United States, or from elsewhere in the world, of any "material" for the purpose of disposing of it in the ocean. The U.S. Navy holds two general permits from EPA for use of target vessels and for burial at sea. The Act does not apply to waste generated aboard ships while underway. In practical terms, it requires trash and garbage generated in port to be offloaded for shore disposal before getting underway. Also, wastes generated during exercises ashore cannot be loaded aboard ships for subsequent ocean disposal.

A-35.2. Related Chapters. Chapter 20 (Clean Water Ashore) and chapter 36 (Permitted Ocean Disposition).

A-36 Migratory Bird Treaty Act of 1918, 16 U.S.C. §703–712

A-36.1. Description. The Migratory Bird Treaty Act (MBTA) prohibits the taking, possessing, or killing of migratory birds. The statute also grants full protection to any bird parts, including feathers, eggs, and nests. In addition, the Act makes it illegal to disturb the nests of any native birds without a permit from USFWS or to incubate wild bird eggs.

A-36.2. Related Chapters. Chapter 12 (Natural Resources Conservation).

A-37 Migratory Bird Treaty Reform Act of 2004

A-37.1. Description. The Migratory Bird Treaty Reform Act amends MBTA to exclude non-native migratory bird species from the application of that Act, and for other purposes.

A-37.2. Related Chapters. Chapter 12 (Natural Resources Conservation) of this manual.

A-38 Military Construction Codification Act, Section 6, 10 U.S.C. §2577

A-38.1. Description. The Military Construction Codification Act, section 6, amends Title 10, U.S. Code to add a provision that allows net proceeds from the sale of recyclable materials (including used oil) to be used by military activities for certain purposes.

A-38.2. Related Chapters. Chapter 30 (Oil Management Ashore) of this manual.

A-39 Military Munitions Rule, 40 CFR Parts 260–266 and 270

A-39.1. Description. The Military Munitions Rule (MMR) defines special requirements for the management of waste military munitions that differ from how other solid waste (SW) and HW are managed under RCRA. MMR defines when military munitions are classified as an SW, and therefore, potentially subject to RCRA regulations.

A-39.2. Related Chapters. Chapter 15 (Navy Operational Range Environmental Sustainment) of this manual.

A-40 Montreal Protocol on Substances that Deplete the Ozone Layer

A-40.1. Description. The Montreal Protocol, an international treaty ratified by the United States and 195 other nations, requires the production phase-out of ODSs.

A-40.2. Related Chapters. Chapter 22 (Clean Air Ashore) of this manual.

A-41 National Defense Authorization Act of Fiscal Year 1993, Section 326, 10 U.S.C. §2301

A-41.1. Description. This provision restricts the purchase of Class I ODSs. It also requires that no Class I ODS contracts be issued unless an appropriate technical representative determines and provides a written technical certification that no suitable substitute is available for an application and a senior acquisition official approves the procurement.

A-41.2. Related Chapters. Chapter 22 (Clean Air Ashore) of this manual.

A-42 National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair, 40 CFR Part 63, Subpart II

A-42.1. Description. The National Emission Standards for Hazardous Air Pollutants are stationary source standards for hazardous air pollutants. Subpart II imposes limits on the volatile organic hazardous air pollutant (VOHAP) content of 23 types of coatings used at shipyards and establishes requirements for handling and transfer of VOHAP-containing materials.

A-42.2. Related Chapters. Chapter 35 (Environmental Compliance Afloat) of this manual.

A-43 National Environmental Policy Act, 42 U.S.C. §4321–4370h

A-43.1. Description. The National Environmental Policy Act (NEPA) mandates Federal agencies incorporate environmental considerations in their planning and decision-making through a systematic interdisciplinary approach. Specifically, all Federal agencies are to prepare detailed statements assessing the impact of major Federal actions that may significantly affect the quality of the human environment of the United States, its territories, and possessions. The analyses must consider reasonable alternatives to a proposed action to mitigate potential adverse environmental effects. NEPA requires consideration of cultural resources consistent with the National Historic Preservation Act (NHPA) and other applicable statutes.

A-43.2. Related Chapters. Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), chapter 13 (Cultural Resources Compliance and Management), and chapter 41 (Natural Resource Damage) of this manual.

A-44 National Historic Preservation Act, 54 U.S.C. §300101 et seq.

A-44.1. Description

a. The NHPA requires Federal agencies to provide professionally qualified historic preservation management programs to identify and protect historic properties, to designate a Federal preservation officer to coordinate agency activities under the Act, and to take into account the effects of their undertakings on historic properties. Under section 106 of the NHPA, Federal agencies must afford the Advisory Council on Historic Preservation an opportunity to comment whenever agency undertakings may affect historic properties or resources eligible for listing on the National Register (refer to 36 CFR Part 800, Protection of Historic Properties), and, to the maximum extent possible, undertake planning and actions necessary to minimize harm to national historic landmarks.

b. With respect to overseas activities, the NHPA requires that prior to the approval of any Federal undertaking outside the United States that may directly and adversely affect a property on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking will take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

A-44.2. Related Chapters. Chapter 13 (Cultural Resources Compliance and Management) and chapter 34 (Overseas Environmental Compliance Ashore) of this manual.

A-45 National Invasive Species Act, 16 U.S.C. §4701

A-45.1. Description. The National Invasive Species Act authorizes the Federal government to produce guidelines for how to guard against the introduction and dispersal of invasive species, regulations for vessel operations and crew safety, and education and training programs to promote compliance.

A-45.2. Related Chapters. Chapter 35 (Environmental Compliance Afloat) of this manual.

A-46 National Marine Sanctuaries Act, 33 U.S.C. §1431–1445

A-46.1. Description. Title III of MPRSA is known as the National Marine Sanctuaries Act (NMSA). The NMSA establishes the National Marine Sanctuary Program, under which the National Oceanic and Atmospheric Administration designates and establishes specific regulations pertaining to activities and uses allowed within each designated national marine sanctuary.

A-46.2. Related Chapters. Chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114) of this manual.

A-47 National Primary Drinking Water Regulations, 40 CFR Part 141 et seq.

A-47.1. Description. The National Primary Drinking Water Regulations (NPDWR) or primary standards are legally enforceable standards that apply to public water systems (PWS). Primary standards protect drinking water quality by limiting the levels of specific contaminants that can adversely affect public health and are known or anticipated to occur in water. There are set standards for inorganics, organics, total coliform, disinfectants and disinfection byproducts, and radionuclides. For each contaminant identified, EPA establishes a maximum contaminant level (MCL), treatment technique, or action level that, where feasible, has been used to establish NPDWRs for the contaminant. Once issued, NPDWRs are mandatory for all PWSs.

A-47.2. Related Chapters. Chapter 21 (Safe Drinking Water Compliance Ashore) of this manual.

A-48 National Secondary Drinking Water Regulations, 40 CFR Part 143

A-48.1. Description. For contaminants that may cause drinking water to become aesthetically unpleasing, the Safe Drinking Water Act (SDWA) requires EPA to specify the MCL requisite to protect the public welfare. These contaminants are regulated under the National Secondary Drinking Water Regulations (NSDWR). Although they are not Federally enforceable, several State SDWA programs provide for enforcement of NSDWRs. If the State enforces NSDWRs, then Navy activities must comply.

A-48.2. Related Chapters. Chapter 21 (Safe Drinking Water Compliance Ashore) of this manual.

A-49 Native American Graves Protection and Repatriation Act, 25 U.S.C. §3001–3013

A-49.1. Description. The Native American Graves Protection and Repatriation Act (NAGPRA) requires each Federal Agency to complete an item-by-item inventory of human remains and associated funerary objects in the possession or control of the Agency. The agency is also required to complete a summary of the unassociated funerary objects, sacred objects, and objects of cultural patrimony in the Agency's possession or control, providing general information about

the kinds of objects held by the agency. Each agency has an ongoing obligation under NAGPRA to consult with Federally recognized Indian tribes and Native Hawaiian organizations (NHO) about these objects and to resolve their disposition through repatriation or other means to lineal descendants or culturally affiliated Federally recognized tribes and NHOs. NAGPRA also includes notification and consultation provisions for intentional and inadvertent discoveries as well as penalties for noncompliance.

A-49.2. Related Chapters. Chapter 13 (Cultural Resources Compliance and Management) of this manual.

A-50 Noise Control Act, 42 U.S.C. §4901–4918

A-50.1. Description. The Noise Control Act provides for Federal performance standards for environmental noise, which the Navy must incorporate into the design of new ship systems and equipment to reduce noise emissions. Retrofit modifications are not prescribed for existing noise sources. Military aircraft, combat equipment, and weapon systems are exempt from new product design standards. Workplace noise is not environmental noise.

A-50.2. Related Chapters. Chapter 35 (Environmental Compliance Afloat) of this manual.

A-51 Occupational Safety and Health Act, 29 U.S.C. §651–678

A-51.1. Description

a. The Occupational Safety and Health Act directs employers to establish and maintain comprehensive and effective occupational safety and health programs. It covers emergency response planning for facilities that handle, store, or transport HS to protect facility employees and emergency responders. It is made applicable to Federal employees through E.O. 12196. Employers must implement a program that includes a written safety and health program, site evaluation and control, training, personal protective equipment, monitoring, medical surveillance, decontamination procedures, and an emergency response program. Sampling and testing are required to evaluate workplace exposure to harmful substances and to demonstrate compliance with permissible exposure limits established under the Act.

b. The Act also governs when a safety data sheet (SDS) is required. Requirements for SDSs, product labeling, and workplace training on HMs are established under 29 CFR 1910.1200. In addition, 29 CFR 1910.119 includes provisions to clean up uncontrolled HW sites, implement corrective action, and establish routine and emergency HW operations.

A-51.2. Related Chapters. Chapter 7 (Sampling and Laboratory Testing), chapter 23 (Hazardous Materials Management Ashore), chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-Know Act), chapter 27 (Hazardous Waste Management Ashore), and chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response) of this manual.

A-52 Ocean Dumping Act

A-52.1. Description. Refer to MPRSA.

A-52.2. Related Chapters. Chapter 35 (Environmental Compliance Afloat) and chapter 36 (Permitted Ocean Disposition) of this manual.

A-53 Oil Pollution Act of 1990, 33 U.S.C. §2701–2762

A-53.1. Description. The Oil Pollution Act of 1990 (OPA 90) amended the CWA to expand oil spill prevention activities, improve preparedness and response capabilities, and ensure companies are responsible for damages from spills. It provides for the prevention of, liability for, removal of, and compensation for the discharge, or substantial threat of discharge, of oil into or upon the navigable waters, adjoining shorelines, or the U.S. EEZ. It also provides for the designation of resource trustees, who determine whether injury to, destruction of, or loss of use of natural resources has resulted from such a discharge. OPA 90 authorizes trustees to present claims for damages (including the reasonable cost of assessing damages), to collect such damages, and to restore, rehabilitate, or replace natural resources under their trusteeship.

A-53.2. Related Chapters. Chapter 20 (Clean Water Ashore), chapter 30 (Oil Management Ashore), chapter 31 (Storage Tanks), chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response), and chapter 41 (Natural Resource Damage) of this manual.

A-54 Pollution Prevention Act, 42 U.S.C. §13101–13109

A-54.1. Description. The Pollution Prevention Act of 1990 establishes the national policy to prevent or reduce pollution at the source whenever feasible. For pollution that cannot be prevented, this hierarchy applies: pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be 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 conducted in an environmentally safe manner.

A-54.2. Related Chapters. Chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore) and chapter 23 (Hazardous Materials Management Ashore) of this manual.

A-55 Resource Conservation and Recovery Act (Solid Waste Disposal Act), 42 U.S.C. §6901–6992k

A-55.1. Description. RCRA, which amended the Solid Waste Disposal Act of 1965, regulates the management of SW and HW. RCRA requires cradle-to-grave management of HW through a recordkeeping system that tracks shipments of HW, from the point of generation to ultimate disposal, using a manifest. HW treatment, storage, and disposal facilities are regulated through the issuance of operating permits. EPA may delegate authority to States to regulate HW under State law in lieu of RCRA. Irrespective of EPA-delegated HW authority, State HW substantive and

procedural requirements, including the requirement to obtain State permits, are applicable to Navy facilities under the FFCA. RCRA also requires contingency plans designed to minimize hazards to human health and the environment. The plans require information on facility emergency equipment, evacuation, and coordination.

A-55.2. Related Chapters. Chapter 7 (Sampling and Laboratory Testing), chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore), chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations), chapter 24 (Pesticide Compliance Ashore), chapter 27 (Hazardous Waste Management Ashore), chapter 29 (Low-Level Radioactive Waste Disposal Program), chapter 31 (Storage Tanks), chapter 35 (Environmental Compliance Afloat), chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response), and chapter 42 (Environmental Restoration) of this manual.

A-56 Rivers and Harbors Appropriation Act, 33 U.S.C. §407

A-56.1. Description. This law, generally referred to as the Rivers and Harbors Act, regulates the disposal of refuse and debris into U.S. rivers and harbors and makes it illegal to create any obstruction to navigable waters without the approval of the U.S. Army Corps of Engineers (USACE). EPA, USACE, and States regulate dredge and fill operations and material disposal. Specifically, EPA establishes criteria and guidelines to protect the nation's waters from contamination by dredged or fill material. USACE and some States administer permit programs for dredge-and-fill operations in waterways and wetlands and for construction activities in navigable waters.

A-56.2. Related Chapters. Chapter 20 (Clean Water Ashore) of this manual.

A-57 Safe Drinking Water Act (Title XIV of the Public Health Service Act), 42 U.S.C. §300f–300j-26

A-57.1. Description

a. SDWA creates a system for the protection of drinking water supplies through the establishment of contaminant limitations and enforcement procedures. SDWA requires EPA to issue primary drinking water standards to protect public health. It allows EPA to designate sole source aquifers as the principal source of drinking water for communities. It also requires each State to adopt a wellhead protection program to prevent contamination of surface and subsurface areas that surround wells within their jurisdiction from contamination. States have primary responsibility to enforce compliance with national primary drinking water standards and sampling, monitoring, and notice requirements.

b. SDWA also requires EPA to identify MCL goals (MCLG), which are non-enforceable goals for contaminants that may have an adverse effect on human health and are known or anticipated to occur in PWSs. The goal of SDWA is to move toward implementing these MCLGs when possible. A table listing all contaminants and standards can be found on the EPA Web site (refer to appendix E (Web Sites) for Web site address).

A-57.2. Related Chapters. Chapter 21 (Safe Drinking Water Compliance Ashore) and chapter 28 (Solid Waste Management and Resource Recovery Ashore) of this manual.

A-58 Sikes Act (Conservation Programs on Military Installations), 16 U.S.C. §670a–670o

A-58.1. Description

a. The Sikes Act requires the Secretary of Defense (through each military department) to carry out a program to provide for the conservation and rehabilitation of natural resources on military installations. The Secretary of each military department must prepare and implement an INRMP for each installation in the United States, unless the Secretary determines that the absence of significant natural resources on a particular installation makes the preparation of such a plan inappropriate.

b. The INRMP must be prepared in cooperation with USFWS and the appropriate State fish and wildlife agency. The Act requires INRMPs reflect mutual agreement of the parties concerning the conservation, protection, and management of fish and wildlife resources. The plan should also provide for the sustainable multipurpose use of the resources and public access to military installations, subject to safety and security requirements. Furthermore, the Act requires that, to the extent practicable, the INRMP provide for no net loss in the capability of the installation to support the military mission, and the Secretary ensure sufficient numbers of professionally trained natural resources management personnel are available to implement the plan. Each INRMP must be reviewed annually as to the plan's effectiveness.

A-58.2. Related Chapters. Chapter 12 (Natural Resources Conservation) of this manual.

A-59 Soil Conservation and Domestic Allotment Act, 74 Public Law 461

A-59.1. Description. Also called the Soil Conservation Act, the Act provides for permanent control and prevention of soil erosion, and other purposes.

A-59.2. Related Chapters. Chapter 12 (Natural Resources Conservation) of this manual.

A-60 Solid Waste Disposal Act

A-60.1. Description. Refer to RCRA.

A-60.2. Related Chapters. Chapter 28 (Solid Waste Management and Resource Recovery Ashore) of this manual.

A-61 Sunken Military Craft Act, 10 U.S.C. §113

A-61.1. Description. The Sunken Military Craft Act (SMCA) establishes the United States' right, title, and interest in any U.S. sunken military craft. The SMCA also specifies that the right, title, and interest of the United States in and to any U.S. sunken military craft and its associated contents will not be extinguished except by express divestiture of title, and is not

affected by the passage of time. It further provides that no person will engage in any salvage or other activity directed at sunken military craft that disturbs, removes, or injures any sunken military craft unless authorized by law or regulation or at the direction of the United States. Civil penalties may be assessed for violating the Act and violators may also be held liable for damages to any sunken military aircraft.

A-61.2. Related Chapters. Chapter 13 (Cultural Resources Compliance and Management) and chapter 40 (Sunken Military Craft) of this manual.

A-62 Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601–9675

A-62.1. Description. The Superfund Amendments and Reauthorization Act (SARA) amended CERCLA and requires that Federal facilities "shall be subject to, and comply with, this Act in the manner and to the same extent, both procedurally and substantively, as any non-government entity." SARA also established the Defense Environmental Restoration Program (DERP). Through DERP, DoD conducts environmental restoration activities at sites on active installations, installations undergoing base realignment and closure, and Formerly Used Defense Sites.

A-62.2. Related Chapters. Chapter 42 (Environmental Restoration) of this manual.

A-63 Toxic Substances Control Act, 15 U.S.C. §2601–2697

A-63.1. Description

a. The Toxic Substance Control Act (TSCA) authorizes EPA to require reporting, recordkeeping, testing, and restrictions related to toxic substances. It specifically addresses the production, importation, use, and disposal of polychlorinated biphenyls, asbestos, and lead-based paint and the assessment and management of naturally occurring radon inside buildings. It also provides EPA with authority to place restrictions on the use of new or existing chemicals in commerce. Amendments to TSCA by the Frank R. Lautenberg Chemical Safety for the 21st Act provide EPA with expanded authority, dedicated funding, and an accelerated schedule to evaluate and regulate new and existing chemicals based on potential harm to human health. Sampling and testing are required to characterize potential releases of toxic substances and to evaluate compliance with limits established by EPA.

b. Overseas installations that export from or import to the United States may be subject to sections 12 and 13 of TSCA. DoD dependents' schools overseas are subject to the asbestos hazard emergency response requirements in subchapter II of TSCA. Section 12 of TSCA contains export notification obligations and export exemptions. Section 13 of TSCA discusses importer regulations, definitions, and exclusions.

A-63.2. Related Chapters. Chapter 7 (Sampling and Laboratory Testing), chapter 23 (Hazardous Materials Management Ashore), chapter 25 (Toxic Substances Control Act), chapter 27 (Hazardous Waste Management Ashore), chapter 34 (Overseas Environmental Compliance Ashore), and chapter 35 (Environmental Compliance Afloat) of this manual.

A-64 U.S. Public Vessel Medical Waste Anti-Dumping Act, 33 U.S.C. §2501–2504

A-64.1. Description. The U.S. Public Vessel Medical Waste Anti-Dumping Act prohibits public vessel dumping of infectious medical waste into ocean waters during peacetime, except under emergency conditions.

A-64.2. Related Chapters. Chapter 35 (Environmental Compliance Afloat) of this manual.

APPENDIX B

ACRONYMS

A/D	abandonment and destruction
A2R2	Annual Allowance Requirements Request
AAR	After Action Report
ABS	American Bureau of Shipping
ac	alternating capacitor
AC&R	air conditioning and refrigeration
ACM	asbestos-containing material
ACP	area contingency plan
ADC	Acoustic Device Countermeasure
AEC	area environmental coordinator
AEL	Allowance Equipage List
AEPC	afloat environmental protection coordinator
AESO	Aircraft Environmental Support Office
AFFF	aqueous film-forming foam
AFIT	Air Force Institute of Technology
AHS	airport hydrant system
AICUZ	air installations compatible use zones
AIRFA	American Indian Religious Freedom Act
AL	action level (chapter 21 (Safe Drinking Water Compliance Ashore))
AL	Alabama (chapter 1 (Organization and Coordination))
ALNAV	All Navy
ANSI/ASQ	American National Standards Institute/American Society for Quality
AOC	area of concern
AOR	area of responsibility
APM	asbestos program manager
APPS	Act to Prevent Pollution from Ships
AQD	air quality district
AR	administrative record
ARAR	applicable or relevant and appropriate requirement
ARPA	Archeological Resources Protection Act
ASD(ISA)	Assistant Secretary of Defense for International Security Affairs
ASN	Assistant Secretary of the Navy
ASN(EI&E)	Assistant Secretary of the Navy (Energy, Installations, and Environment)
ASN(I&E)	Assistant Secretary of the Navy (Installations and Environment)
ASN(RD&A)	Assistant Secretary of the Navy (Research, Development, and Acquisition)

AST	aboveground storage tank
ASW	anti-submarine warfare
ATR	appropriate technical representative
ATSDR	Agency for Toxic Substances and Disease Registry
AUL	authorized use list
BA	biological assessment
BASH	bird/animal aircraft strike hazard
BB	broadband
BD/DR	Building Demolition and Debris Removal
BE	biological evaluation
BEC	base realignment and closure environmental coordinators
BMP	best management practice
BO	biological opinion
BOA	basic ordering agreement
BOEM,R&E	Bureau of Ocean Energy Management, Regulation and Enforcement
BRAC	base realignment and closure
BSO	budget submitting office
BUMED	Bureau of Medicine and Surgery
BUMEDINST	Bureau of Medicine and Surgery Instruction
BWPT	bilge water processing tank
C&D	construction and demolition
CAA	Clean Air Act
CAC	Common Access Card
CAPA	corrective and preventive action
CASREP	casualty report
CATEX	categorical exclusion
CBA	capabilities-based assessment
CCA	candidate conservation agreement
CCR	consumer confidence report
CDC	Child Development Center
CDD	capability development document
CEC	Civil Engineer Corps
CECOS	Naval Civil Engineer Corps Officers School
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERFA	Community Environmental Response Facilitation Act
CFC	chlorofluorocarbon
CFIUS	Committee on Foreign Investment in the United States

CFR	Code of Federal Regulations
CFST	contaminated fuel settling tank
CG	cruiser
CHINFO	Chief of Information
CHRIMP	Consolidated Hazardous Material Reutilization and Inventory Management Program
CHT	collection, holding, and transfer
CI	compression ignition
CLEP	Conservation Law Enforcement Program
cm	centimeter(s)
CMP	coastal management program
CNIC	Commander, Navy Installations Command
CNO	Chief of Naval Operations
CNO N00N	Director, Naval Nuclear Propulsion Program
CNO N2/N6	Deputy Chief of Naval Operations for Information Dominance
CNO N3/N5	Deputy Chief of Naval Operations for Operations, Plans, and Strategy
CNO N4	Deputy Chief of Naval Operations for Fleet Readiness and Logistics
CNO N8	Deputy Chief of Naval Operations for Integration of Capabilities and Resources
CO	commanding officer
CO_2	carbon dioxide
CO_2e	CO_2 equivalent
COMJTREG MARIANAS GU	Commander, Navy Region Marianas
COMNAVAIRSYSCOM	Commander, Naval Air Systems Command
COMNAVFACENGCOM	Commander, Naval Facilities Engineering Command
COMNAVREG MIDLANT	Commander, Navy Region Mid-Atlantic
COMNAVREG MIDWEST	Commander, Navy Region Midwest
COMNAVREG NW	Commander, Navy Region Northwest
COMNAVREG PEARL HARBOR HI	Commander, Navy Region Hawaii
COMNAVREG SE	Commander, Navy Region Southeast
COMNAVREG SW	Commander, Navy Region Southwest
COMNAVSAFCEN	Naval Safety Center
COMNAVSEASYSCOM	Commander, Naval Sea Systems Command
COMNAVSPECWARCOM	Commander, Naval Special Warfare Command
COMNAVSUPSYSCOM	Commander, Naval Supply Systems Command
COMNAVSPAWARSYSCOM	Commander, Space and Naval Warfare Systems Command
COMSC	Commander, Military Sealift Command
COMUSFLTFORCOM	Commander, U.S. Fleet Forces Command
COMUSFLTFORCOM (N465)	Commander, U.S. Fleet Forces Command, Environmental Readiness
COMUSPACFLT	Commander, U.S. Pacific Fleet

COMUSPACFLT (N465)	Commander, U.S. Pacific Fleet, Environmental Readiness
CONOPS	concept of operations
CONUS	continental United States
COR	contracting officer's representative
COTP	Captain of the Port
CPD	capability production document
CPLO	Community Planning and Liaison Officer
CRE	comprehensive range evaluation
CRM	cultural resources manager
CRP	community relations plan
CTC	cost-to-complete
CTF	Commander, Task Force
CTO	certificate to operate
CVN	aircraft carrier
CWA	Clean Water Act
CWM	chemical warfare material
CWS	community water system
CZMA	Coastal Zone Management Act
DADMS	Department of the Navy Database Management System
DASN(E)	Deputy Assistant Secretary of the Navy (Environment)
DASN(Energy)	Deputy Assistant Secretary of the Navy (Energy)
dc	direct capacitor
DC	District of Columbia
DCNO	Deputy Chief of Naval Operations
DDESB	Department of Defense Explosives Safety Board
DDG	destroyer
DEIS	draft environmental impact statement
DENIX	Department of Defense Environment, Safety, and Occupational Health Network and Information Exchange
DEPSECDEF	Deputy Secretary of Defense
DERA	Defense Environmental Restoration Account
DERP	Defense Environmental Restoration Program
DESC	Defense Energy Support Center
DETU	diethylthiourea
DFARS	Defense Acquisition Regulations System
DFPO	Deputy Federal Preservation Officer
DFSP	defense fuel support point
DITPR	Department of Defense Information Technology Portfolio Repository
DLA	Defense Logistics Agency
DoD	Department of Defense

DoDD	Department of Defense Directive
DoDEA	Department of Defense LLRW Executive Agency
DoDM	Department of Defense Manual
DoDSC	Department of Defense Siting Clearinghouse
DOE	Department of Energy
DOI	Department of the Interior
DOJ	Department of Justice
DON	Department of the Navy
DOPAA	description of proposed action and alternatives
DOS	Department of State
DOT	Department of Transportation
DRPM	direct reporting program manager
DSCR	Defense Supply Center Richmond
DSN	Defense Switched Network
DTIC	Defense Technical Information Center
DTR	Defense Transportation Regulation
DUSD(I&E)	Deputy Under Secretary of Defense (Installations and Environment)
e-waste	electronic waste
EA	environmental assessment
EBUSOPSOFFINST	eBusiness Operations Office Instruction
EC	emerging contaminant
ECAP	Enhanced CHRIMP Afloat Program
ECATTS	Environmental Compliance Assessment Training and Tracking System
ECHO	Enforcement and Compliance History Online
ECP	environmental condition of property
EDTA	ethylenediamine-tetraacetic acid
EEBD	emergency escape breathing device
EEZ	exclusive economic zone
EFH	essential fish habitat
EG	emission guideline
EHS	environmental health and safety (chapter 21 (Safe Drinking Water Compliance Ashore))
EHS	extremely hazardous substance (chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-Know Act); chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response))
EIC	engineer in charge
EIS	environmental impact statement
EL	environmental liability

eLearning	electronic learning
EMI	electromagnetic interference
EMP	environmental management procedure
EMR	environmental management review
EMS	environmental management system
EMSWeb	Environmental Management System Web Site
E.O.	executive order
EOD	explosive ordnance disposal
EPA	Environmental Protection Agency
EPAct	Energy Policy Act
EPCRA	Emergency Planning and Community Right-to-Know Act
EPR	environmental program requirement
EPRWeb	Environmental Readiness Program Requirements Web
EQA	environmental quality assessment
ER	environmental restoration (chapter 42 (Environmental Restoration))
ER	environmental review (chapter 10 (Environmental Planning under the National Environmental Policy Act and Executive Order 12114))
ERA	ecological risk assessment
ERC	emission reduction credit
ERL	environmental readiness level
ER,N	Environmental Restoration, Navy
ERP	emergency response plan (chapter 21 (Safe Drinking Water Compliance Ashore); chapter 34 (Overseas Environmental Compliance Ashore))
ERP	Enterprise Resource Planning (chapter 23 (Hazardous Materials Management Ashore))
ERP SSS	Enterprise Resource Planning Single Supply Solution
ES	environmental study
ESA	Endangered Species Act
ESACC	expended small arms cartridge case
ESG	Executive Steering Group
ESM	environmentally sound management
ESOH	environment, safety, and occupational health
ESQD	explosive safety quantity distance
ESS	explosives safety submission
EU	European Union
F&ES	Fire and Emergency Services
FAA	Federal Aviation Administration
FAR	Federal Acquisition Regulation
FCT	field-constructed tank

FEAD	facility engineering and acquisition division
FEC	facilities engineering command
FEEZ	foreign nation exclusive economic zone
FEIS	final environmental impact statement
FFA	Federal Facility Agreement
FFCA	Federal Facilities Compliance Act
FFSRA	Federal facility site remediation agreement
FFG	frigate
FGS	final governing standard
FIC	facility incident commander
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FINEX	stop time for anti-submarine warfare action
FIP	Federal implementation plan
FLC	Fleet Logistics Center
FLS	forward-looking sonar
FMR	Financial Management Regulation
FMS	Foreign Military Sales
FOD	foreign object damage
FOIA	Freedom of Information Act
FON	Freedom of Navigation
FONSH	finding of no significant harm
FONSI	finding of no significant impact
FOSC	Federal on-scene coordinator
FOST	Finding of Suitability for Transfer
FOTW	Federally owned treatment works
FPO	Federal Preservation Officer
FR	Federal Register
FRP	facility response plan
FRP DR	full rate production decision review
FRT	facility response team
FS	feasibility study
ft	feet
FUDS	Formerly Used Defense Sites
FY	fiscal year
g/L	grams per liter
G-RAM	general radioactive material
gal	gallon(s)
GDS	government-designated system
GHG	greenhouse gas

GHGRP	Greenhouse Gas Reporting Program
GIS	geographic information system
GOCO	government-owned, contractor-operated
GOGO	government-owned, government-operated
GPP	Green Procurement Program
GS	General Schedule
GWUDI	groundwater under the direct influence
HA	health advisory
HAP	hazardous air pollutant
HAZCOM	hazard communication
HAZMAT	hazardous material
HAZMINCEN	hazardous material minimization center
HAZWOPER	Hazardous Waste Operations and Emergency Response
HC	hazardous chemical
HCFC	hydrochlorofluorocarbon
HEPA	high-efficiency particulate air
HF	high-frequency
HFC	hydrofluorocarbon
HICSWIN	Hazardous Material Inventory Control System for Windows
HM	hazardous material
HMC&M	hazardous material control and management
HMIRS	Hazardous Material Information Resource System
HMTA	Hazardous Materials Transportation Act
HPV	high-priority violation
hr	hour
hrs	hours
HS	hazardous substance
HSIRM	Hazardous Substance Incident Response Management
HVAC	heating, ventilation, and air conditioning
HVAC&R	heating, ventilation, air conditioning, and refrigeration
HW	hazardous waste
Hz	hertz
I/M	inspection and maintenance
IAD	internal audit documentation
IAG	interagency agreement
IAP	Internal Audit Plan
IBR	integrated baseline review
ICD	initial capabilities document

ICO	installation commanding officer
ICP	integrated contingency plan
ICRMP	integrated cultural resources management plan
ICS	incident command system
ID	identification
IDC	independent duty corpsmen
IEC	International Electrotechnical Commission
IEER	Improved Extended Echo Ranging
IEPD	installation environmental program director
IHA	incidental harassment authorization
IMO	International Maritime Organization
iNFADS	Internet Naval Facilities Assets Data Store
INRMP	integrated natural resources management plan
INSURV	Board of Inspection and Survey
IOC	inorganic compound
IPM	integrated pest management
IPMC	integrated pest management coordinator
IR	installation restoration
IRP	Installation Restoration Program
ISEERB	Inter-Service Environmental Education Review Board
ISO	International Organization for Standardization
ISR	in-service review
ISSA	inter-Service support agreement
ISWM	integrated solid waste management
ISWMP	integrated solid waste management plan
IT	information technology
IWQB	installation water quality board
JAG	U.S. Navy Judge Advocate General's Corps
JHSV	joint high-speed vessel
JROC	Joint Requirements and Oversight Council
kg	kilogram(s)
kHz	kilohertz
L	liter(s)
LAT	lead administrative trustee
lb	pound(s)
LCAC	landing craft air cushion
LCC	amphibious command ship

LCS	littoral combat ship
LDR	land-disposal restriction
LEC	lead environmental component
LEPC	local emergency planning committee
LF	low-frequency
LHA	Tarawa-class amphibious assault ship
LHD	Wasp-class amphibious assault ship
LLRW	low-level radioactive waste
LLRWPA	Low-Level Radioactive Waste Policy Act
LMR	Living Marine Resources
LOA	letter of authorization
LOGREQ	logistics request
LPD	amphibious transport dock
LQAO	Laboratory Quality and Accreditation Office
LQG	large-quantity generator
LSD	dock landing ship
LTM	long-term management
LTMgt	long-term management
LUC	land-use control
m	meter(s)
M	modem
MAC	multi-static active coherent
MARAD	Maritime Administration
MARPOL	International Convention for the Prevention of Pollution from Ships
MBTA	Migratory Bird Treaty Act
MC	munitions constituent
MCL	maximum contaminant level
MCLG	maximum contaminant level goal
MCM	mine countermeasure
MDD	Materiel Development Decision
MEA	monoethanolamine
MEC	munitions and explosives of concern
MEM	military-expended material
MEMC	military-expended material constituent
MEMCC	military-expended material constituent of concern
MF	mid-frequency
MFR	memorandum for the record
mg/L	milligrams per liter
MILCON	military construction

MIW	mine warfare
mm	millimeter(s)
MMPA	Marine Mammal Protection Act
MMR	Military Munitions Rule
mo	month
MOA	memorandum of agreement
MOC	Maritime Operations Center
MOU	memorandum of understanding
MPA	marine protected area
MPPEH	material potentially presenting an explosive hazard
MPRSA	Marine Protection Research and Sanctuaries Act
MR	munitions response
MR	Munitions Rule (chapter 15 (Navy Operational Range Environmental Sustainment))
MRP	Munitions Response Program
MRS	munitions response site
MRSPP	munitions response site prioritization protocol
MRT	mitigation response team
MS	milestone
MS4	municipal separate storm sewer system
MSA	metropolitan statistical area
MSAT	marine species awareness training
MSC	Military Sealift Command
MSD	marine sanitation device
MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act
MTE	Major Training Exercise
MTP	maintenance and treatment plan
MTR	marine-transportation-related
MVAC	motor vehicle air conditioner
MWR	morale, welfare, and recreation
NAAQS	National Ambient Air Quality Standards
NAE	Naval Acoustic Electromechanical
NAGPRA	Native American Graves Protection and Repatriation Act
NAICS	North American Industry Classification System
NARM	naturally occurring and accelerator-produced radioactive material
NARW	North Atlantic Right Whale
NAS	naval air station
NAVCO	Navy Office of Community Outreach
NAVCOMPT	Navy Comptroller
NAVEDTRA	Naval Education and Training

NAVFACENGCOM MO	Naval Facilities Engineering Command Maintenance and Operation Publication
NAVFAC EXWC	Naval Facilities Engineering and Expeditionary Warfare Center
NAVMED	Navy Medicine
NAVMEDCOMINST	Navy Medical Command Instruction
NAVOSH	Navy Occupational Safety and Health
NAVRAMP	Navy Radon Assessment and Mitigation Program
NAVSAFENVTRACEN	Naval Safety and Environmental Training Center
NAVSEA	Commander, Naval Sea Systems Command
NAVSEA 00C	Commander, Naval Sea Systems Command, Supervisor of Salvage
NAVSEA 04N	Naval Sea Systems Command, Director of Radiological Controls
NAVSEA 05	Naval Sea Systems Command, Naval Systems Engineering
NAVSEA 05P	Naval Sea Systems Command, Director of Ship Integrity and Performance Engineering
NAVSEA 04RE	Commander, Naval Sea Systems Command, Environmental Management and Policy Division
NAVSEA 08	Director, Naval Sea Systems Command, Nuclear Propulsion Program
NAVSEA 21	Commander, Naval Sea Systems Command, Navy Inactive Ships Program
NAVSEADET RASO	Naval Sea Systems Command Detachment, Radiological Affairs Support Office
NAVSTA	Naval Station
NAVSUP	Commander, Naval Supply Systems Command
NAVSURFWARCEN	Naval Special Warfare Center
NAVUNSEAWARCENDIV	Naval Undersea Warfare Center Division
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NCSP	Navy Community Service Program
NDAA	National Defense Authorization Act
NDAA 2004	NDAA for Fiscal Year 2004
NDZ	no discharge zone
NeL	Navy eLearning
NEPA	National Environmental Policy Act
NERP	Navy Environmental Restoration Program
NERTP	Navy Environmental Readiness Training Program
NESDI	Navy Environmental Sustainability Development to Integration
NESHAP	National Emission Standards for Hazardous Air Pollutants
NETC	Naval Education and Training Command
NEX	Navy Exchange
NFA	no further action
NFOL	Navy Forms Online
NFPA	National Fire Protection Association
NHHC	Naval History and Heritage Command

NHL	National Historic Landmark
NHO	Native Hawaiian organization
NHPA	National Historic Preservation Act
NIMS	National Incident Management System
NM	nautical mile
NMAWC	Naval Mine and Anti-Submarine Warfare Command
NMCI	Navy Marine Corps Intranet
NMCPHC	Navy and Marine Corps Public Health Center
NMFS	National Marine Fisheries Service
NMSA	National Marine Sanctuaries Act
NNPI	naval nuclear propulsion information
NNPP	Naval Nuclear Propulsion Program
NNPS	naval nuclear propulsion plant spaces
NNSR	Nonattainment New Source Review
NOA	notice of availability
NOAA	National Oceanic and Atmospheric Administration
NOC	National Ocean Council
NOI	notice of intent
NOPH	notice of public hearing
NOPM	notice of public meeting
NORM	naturally occurring radioactive material
NOSC	Navy on-scene coordinator
NOSC plan	NOSC oil and hazardous substance regional response plan
NOSSA	Naval Ordnance Safety and Security Activity
NOSSAINST	NOSSA Instruction
NOTAL	Not to All
NOTW	Navy-owned treatment works
NOV	notice of violation
NO_x	nitrogen oxide
NPDES	National Pollutant Discharge Elimination System
NPDWR	National Primary Drinking Water Regulation
NPFC	National Pollution Funds Center
NPL	National Priorities List
NPS	National Park Service
NRAM	Naval Nuclear Propulsion Program radioactive material
NRC	natural resources conservation (chapter 12 (Natural Resources Conservation))
NRC	National Response Center (chapter 25 (Toxic Substances Control Act); chapter 26 (Procedures for Implementing the Emergency Planning and Community Right-to-Know Act); chapter 35 (Environmental Compliance Afloat); chapter 39 (Oil and

	Hazardous Substance Spill Preparedness and Response); chapter 42 (Environmental Restoration); appendix C (Message Formats))
NRC	Nuclear Regulatory Commission (chapter 29 (Low-Level Radioactive Waste Disposal Program))
NRD	natural resource damage
NRDA	natural resource damage assessment
NRHP	National Register of Historic Places
NRI	natural resource injury
NRSC	Naval Radiation Safety Committee
NRT	natural resource trustee
NSDWR	National Secondary Drinking Water Regulation
NSE	National Security Exemption
NSN	national stock number
NSPS	new source performance standards
NSR	New Source Review
NSTM	Naval Ships' Technical Manual
NTNCWS	non-transient, non-community water system
NTSP	Navy Training System Plan
O&M,N	operation and maintenance, Navy
O&S	operations and support
OAGC(EI&E)	Office of the Assistant General Counsel (Energy, Installations, and Environment)
OASD(Sustainment)	Office of the Assistant Secretary of Defense for Sustainment
OB/OD	open burning/open detonation
OBB	odor barrier bags
OCE	officer conducting exercises
OCM	oil content monitor
OCONUS	outside the continental United States
OCS	Outer Continental Shelf
ODP	ozone-depleting potential
ODS	ozone-depleting substance
ODUSD(ES)	Office of the Deputy Under Secretary of Defense, Environmental Security
ODUSD(I&E)	Office of the Deputy Under Secretary of Defense, Installations and Environment
OEA	overseas environmental assessment
OEBGD	Overseas Environmental Baseline Guidance Document
OEIS	overseas environmental impact statement
OEL	other accrued environmental liability
OESO	Ordnance Environmental Support Office

OEWG	Office of the Chief of Naval Operations Encroachment Working Group
OGC	Office of the General Counsel
OHS	oil and hazardous substance
OHSTTX	Oil and Hazardous Substance Spill Response Tabletop Exercise
OIC	officer in charge
OJAG	Office of the Judge Advocate General
OJAG Code 11	Navy Judge Advocate General Admiralty
OLA	Office of Legislative Affairs
OMB	Office of Management and Budget
OOS	Ocean Observing System
OP	Ordnance Pamphlet
OPA 90	Oil Pollution Act of 1990
OPAREA	operating area
OPCON	operating condition
OPN	Other Procurement, Navy
OPNAV	Office of the Chief of Naval Operations
OPNAV N4	Office of the Chief of Naval Operations, Fleet Readiness and Logistics
OPNAV N41	Office of the Chief of Naval Operations, Logistics Programs and Business Operations Division
OPNAV N42	Office of the Chief of Naval Operations, Strategic Mobility and Combat Logistics Division
OPNAV N45	Office of the Chief of Naval Operations, Energy and Environmental Readiness Division
OPNAV N452	Office of the Chief of Naval Operations, Ashore and Afloat Environmental Compliance Branch
OPNAV N453	Office of the Chief of Naval Operations, Readiness Sustainment and Compatibility Branch
OPNAV N454	Office of the Chief of Naval Operations, Operational Environmental Readiness and Planning Branch
OPNAV N455	Office of the Chief of Naval Operations, Navy Energy and Foreign Direct Investment Branch
OPNAV N46	Office of the Chief of Naval Operations, Shore Readiness Division
OPNAV N86	Office of the Chief of Naval Operations, Surface Warfare Division
OPNAV N9I	Office of the Chief of Naval Operations, Integrated Warfare Division
OPNAV N94	Office of the Chief of Naval Operations, Innovation, Technology Requirements, and Test and Evaluation Division
OPNAV N95	Office of the Chief of Naval Operations, Expeditionary Warfare Division
OPNAV N96	Office of the Chief of Naval Operations, Surface Warfare Division
OPNAV N97	Office of the Chief of Naval Operations, Undersea Warfare Division
OPNAV N98	Office of the Chief of Naval Operations, Air Warfare Division

OPNAVINST	Chief of Naval Operations Instruction
OPNAV M	Chief of Naval Operations Manual
OPREP-3	Operational Report
ORC	Operational Range Clearance
ORD	Operational Requirements Document
ORSM	operational range site model
OSC	on-scene coordinator (chapter 42 (Environmental Restoration))
OSC	oil spill contingency (chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response))
OSCCM	On-Scene Coordinator Crisis Management
OSD	Office of the Secretary of Defense
OSD-P	Office of the Secretary of Defense for Policy
OSHA	Occupational Safety and Health Administration
OSLTF	Oil Spill Liability Trust Fund
OTIS	Online Targeting Information System
OU	operable unit
OWHT	oily waste holding tank
OWS	oil/water separator
P2	pollution prevention
P&D	production and deployment
PA	preliminary assessment (chapter 1 (Organization and Coordination); chapter 42 (Environmental Restoration))
PA	Programmatic Agreement (chapter 10 (Environmental Planning under the National Environmental Policy Act and Executive Order 12114))
PAO	public affairs officer
PBT	persistent bioaccumulative and toxic
PC	patrol craft
PCB	polychlorinated biphenyl
pCi/L	picocuries per liter
PDASN(E,I&E)	Principle Deputy Assistant Secretary of the Navy (Energy, Installations, and Environment)
PE	professional engineer
PEO	program executive office(r)
PESHE	programmatic environment, safety, and occupational health evaluation
PFAS	per- and polyfluoroalkyl substance
PFC	perfluorocarbon
PHD	product hazard data
PHMSA	Pipeline and Hazardous Materials Safety Administration
PIER	Preliminary Impact and Exposure Report

PM	program manager
PMA	Preventative Medicine Authority
PMAP	Protective Measures Assessment Protocol
PMC	pest management consultant
PMO	Program Management Office
PMPAR	pest management performance assessment representative
POA&M	plan of action and milestones
POL	petroleum, oils, and lubricants
POM	program objective memorandum
Portal	U.S. Navy Environmental Portal
POTW	publicly owned treatment works
PPA	Pollution Prevention Act
ppb	parts per billion
PPBE	planning, programming, budgeting, and execution
PPE	personal protective equipment
ppm	parts per million
PPV	public private venture
PQS	personal qualification standard
PREP	Preparedness for Response Exercise Program
PRESINSURV	President, Board of Inspection and Survey
PRP	potentially responsible party
PSD	Prevention of Significant Deterioration
PT	proficiency testing
PWO	public works officer
PWS	public water system
QA	quality assurance
QAM	quality assurance manager
QAPP	quality assurance project plan
QC	quality control
QI	qualified individual
QRP	qualified recycling program
QSM	Quality Systems Manual
R&D	research and development
RA	remedial action
RA-C	remedial action—construction
RA-O	remedial action—operation
RAB	restoration advisory board
RACR	remedial action completion report

RADIAC	Radiation Detection, Indication, and Computation
RAICUZ	range air installations compatible use zones
RAM	radioactive material
RASP	Radiological Affairs Support Program
RC	response complete
RCA	range condition assessment
RCMP	Range Complex Management Plan
RCP	regional contingency plan
RCRA	Resource Conservation and Recovery Act
RCS	report control symbol
RCSS	range complex sustainment support
RCT	regional coordination team
RD	remedial design
RDF	range data folder
RDT&E	research, development, test, and evaluation
REC	regional environmental coordinator
REPI	readiness and environmental protection integration
RFP	request for proposal
RI	remedial investigation
RIP	remedy in place
RMC	regional maintenance center
RMP	Range Management Plan (chapter 15 (Navy Operational Range Environmental Sustainment))
RMP	risk management plan (chapter 22 (Clean Air Ashore); chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response))
RMW	regulated medical waste
ROC	Regional Operations Center
ROD	record of decision
ROICC	resident officers in charge of construction
RPB	regional planning body
RPM	remedial project manager
RQ	reportable quantity
RRF	Ready Reserve Force
RRT	regional response team
RS	resource sponsor
RSC	readiness sustainment and compatibility
RSEPA	Range Sustainability Environmental Program Assessment
RTM	remedial technical manager
RWQB	regional water quality board

SA	Special Area
SAA	Satellite Accumulation Area
SAC	School Age Care
SAO	senior acquisition official
SARA	Superfund Amendments and Reauthorization Act
SAS	synthetic aperture sonar
SBM	Spent Blast Media
SC	site closeout
SCP	spill contingency plan
SD	swimmer detection
SDR	Supply Discrepancy Reporting
SDS	safety data sheet
SDWA	Safe Drinking Water Act
SECNAV	Secretary of the Navy
SECNAVINST	Secretary of the Navy Instruction
SEP	supplemental environmental project
SERC	State Emergency Response Commission
SHIMS	Submarine Hazardous Material Inventory and Management System
SHML	Ships Hazardous Material List
SHPO	State Historic Preservation Officer
SI	site inspection (chapter 42 (Environmental Restoration))
SI	spark ignition (chapter 22 (Clean Air Ashore))
SIC	Standard Industrial Classification
SINKEX	sinking exercise
SIP	State implementation plan (chapter 22 (Clean Air Ashore))
SIPRNet	Secret Internet Protocol Router Network
SITREP	Situation Report
SJA	staff judge advocate
SMART	Ship Material Assessment and Readiness Testing
SMCA	Sunken Military Craft Act
SMCL	Submarine Material Control List
SME	subject matter expert
SMF	Standardized Monitoring Framework
SMT	spill management team
SNAP	Significant New Alternatives Policy
SNC	significant non-compliance
SOC	synthetic organic compound
SOFA	status of forces agreement
SOH	safety and occupational health
SOH NTSP	Safety and Occupational Health Navy Training System Plan
SOP	standard operating procedure

SOPA	senior officer present afloat
SPCC	spill prevention, control, and countermeasure
SPCR	spill prevention, control, and reporting
SPEAR	Strategic Planning for Execution: Assessment and Risk
SPORTS	Sonar Positional Reporting System
SQG	small-quantity generator
SQL	sample quantification limit
SRO	sustainable range oversight
SRP	source-receptor pathway
SRT	spill response team
SSBN	ballistic missile submarine
SSGN	guided missile submarine
SSN	attack submarine
SUPSALV	Supervisor of Salvage and Diving
SUPSHIP	Supervisor of Shipbuilding
SUS	sound, underwater source
SW	solid waste
SWDA	Solid Waste Disposal Act
SWOB	ship waste offload barge
SWPPP	stormwater pollution prevention plan
SYSCOM	systems command
TAPP	Technical Assistance for Public Participation
TC	toxic chemical
TEC	Theater Environmental Coordinator
TENORM	technologically enhanced naturally occurring radioactive material
THPO	Tribal Historic Preservation Officer
TMDL	total maximum daily load
TMPOS	time and position
TNCWS	transient, non-community water system
TORP	torpedo
TPQ	threshold planning quantity
tpy	tons per year
TRI	Toxics Release Inventory
TRI-DDS	Toxics Release Inventory–Data Delivery System
TRIFID	Toxics Release Inventory Facility Identification Designator
TRI-MEweb	Toxics Release Inventory Made Easy Web
TSCA	Toxic Substances Control Act
TSDF	treatment, storage, and disposal facility
TT	treatment technique

TTHM	total trihalomethane
TYCOM	type commander
U.S.	United States
U.S.C.	United States Code
U.S.T.	United States Treaty
UFGS	Unified Facilities Guide Specification
UFP	Uniform Federal Policy
UIC	underground injection control (chapter 20 (Clean Water Ashore); chapter 21 (Safe Drinking Water Compliance Ashore))
UIC	unit identification code (appendix C (Message Formats))
UN	United Nations
UNDERSECNAV	Under Secretary of the Navy
UNDS	Uniform National Discharge Standards
UNSEAWARDEVCEN	Undersea Warfighting Development Center
URL	uniform resource locator
USACE	United States Army Corps of Engineers
USCG	United States Coast Guard
USD	Under Secretary of Defense
USDA	United States Department of Agriculture
USD(AT&L)	Under Secretary of Defense, Acquisition, Technology, and Logistics
USEUCOM	United States European Command
USFS	United States Forest Service
USFWS	United States Fish and Wildlife Service
USNS	United States Naval Ship
USSOCOM	U.S. Special Operations Command
UST	underground storage tank
UW	universal waste
V.1	Version 1
V.2	Version 2
V.3	Version 3
V.4	Version 4
VCNO	Vice Chief of Naval Operations
VDS	Variable Depth Sonar
VHF	very high-frequency
VI	vapor intrusion
VOC	volatile organic compound
VOHAP	volatile organic hazardous air pollutant
VSQG	very small quantity generator

WCD	worst-case discharge
WCF	working capital fund
wk	week
WMM	waste military munitions
WOT	waste oil tank
WQOC	Water Quality Oversight Council
WSVA	water system vulnerability assessment
XO	executive officer
yr	year

APPENDIX C

MESSAGE FORMATS

Table of Contents

C-1 Notices of Violation C-1

C-2 Hazardous Substance Release Report C-4

C-3 Oil Spill Report C-8

C-1 Notices of Violation

C-1.1. One written notice, regardless of the number of individual violations, findings, or citations, counts as one notice of violation (NOV), unless more than one environmental medium is cited. Do not include items found to be out of compliance by a regulator but not set forth in writing.

C-1.2. If the NOV cites violations in more than one environmental medium, it will be counted as multiple NOVs, one under each of the applicable media categories. While only one email message is required, include specific information in the message separately for each environmental medium. As outlined in paragraph C-1.3 of this manual, make steps 1 through 9 of this email message the same for each of the different media violations that result from a multimedia inspection. Repeat steps 10 through 25 with detailed information for each different environmental medium cited.

C-1.3. General Guidelines

a. If the line item is a question, do not answer simply "Yes" or "No." Provide a response with the assumption that the reader does not have access to this document. For example, if item 14 of the closeout message asks, "Was a fine assessed or requested?" the response in line 14 of the email message would then read, "No fine was assessed" instead of "No."

b. If the line item is a phrase, repeat or paraphrase the phrase followed by the response. For example, if item 12 of the email message reads, "Date of inspection (mm/dd/yy)," the response in line 12 of the message would then read, "Date of inspection: 03/05/11" instead of "03/05/11."

C-1.4. Required Initial Email Information for NOVs

From: Installation Environmental Staff or Other Locally Authorized Designee

To: NOV2@navy.mil; chain of command (including the installation commanding officer); regional environmental coordinator;
Cc: Others as appropriate

Subj: Receipt of Notice of Environmental Violation

1. Installation name in violation.

2. Navy unit identification code (UIC) number.

3. State (use two-letter State abbreviations).

4. Point of contact for additional information.

5. Point of contact telephone number.

6. Point of contact email address.

7. Budget submitting office (BSO).

8. Environmental Protection Agency (EPA) region.

9. Name of issuing agency and violation number(s).

10. Environmental media cited in the violation notice. This refers to the law under which the violation was issued. If a State or local violation is received, report under the applicable Federal statutes from which the State law or local regulation was derived.

11. Date of notification (mm/dd/yy). The date the regulatory agency initiated the NOV (preferably the date on the letterhead).

12. Date of inspection (mm/dd/yy). The date of the inspection during which the violation was detected. If the inspection took place over several days use the date noted on the NOV or the date the inspection started.

13. Was the NOV a result of a self-inspection or reporting? Y or N

14. Description of NOV.

15. Classification of violation cited (use one of the following categories). Note: For multiple violations cited under an NOV, use the category that applies to the highest threat. Descriptions and examples are included in section C-1.4.

a. Class A: Release to the environment

b. Class B: Potential to cause release or damage to the environment

c. Class C: Administrative

16. Root cause. Choose one of the root causes listed in table C-1 at the end of this appendix. Note: For multiple root causes, select the largest contributor and cite the remainder in the Comments section.

17. Was a fine assessed or requested? Y or N

18. Dollar amount of fines assessed. Total dollar amount of the fine assessed.

19. Dollar amount of fines paid to regulatory agency.

20. Nature of response required and date due (mm/dd/yy) to the regulatory authority (e.g., regulator requests answer to complaint by 09/25/20).

21. Date installation corrected all violations (mm/dd/yy).

22. Is the NOV resolved? Y or N

23. Date of NOV resolution (mm/dd/yy).

24. Has the issuing agency closed the NOV? Y or N

25. Date of concurrence by the regulator (mm/dd/yy).

26. Date of last annual installation inspection and BSO inspection. Was the discrepancy noted during these inspections?

27. Comments (i.e., additional information; unusual circumstances or events leading to the NOV).

Note: If the NOV is closed within 3 months of the NOV issue date, then no quarterly status message is required.

C-1.5. NOV Class Code Descriptions

a. Class A: Release to the Environment. The NOV resulted from spills, overflows, or other unauthorized discharges or releases. This category includes NOVs that resulted from wastewater or stormwater discharges that exceeded effluent limits, air emissions that exceeded emission standards, or potable water samples that exceeded primary drinking water standards.

b. Class B: Potential to Cause Release or Damage to the Environment. This category includes NOVs resulting from inspections that note conditions with potential for release or damage to the environment such as improper storage or handling of waste or regulated substances (e.g., oil, hazardous materials).

c. Class C: Administrative. The NOV resulted from administrative errors such as failure to submit or update, complete in a timely manner, or properly prepare required permit applications,

monitoring or compliance reports, and plans. This category also includes improper or incomplete documentation of waste storage and disposal and notifications required in advance of taking action.

C-2 Hazardous Substance Release Report

C-2.1. Precedence (for Messages Only). Provided that prior voice reports have been made both to the U.S. Coast Guard (USCG) National Response Center (NRC) and the reporting command's chain of command, use "Routine" precedence for Hazardous Substance (HS) Release Report messages not classified as an extremely hazardous substance (EHS). If either voice report has not been made, use "Priority" precedence. If it is an EHS, always use "Priority" precedence.

C-2.2. Classification or Special Handling Marks. HS Release Report messages are unclassified and do not warrant special handling marks unless classified or sensitive business information must be incorporated. Avoid inclusion of such information to the maximum extent possible to allow HS Release Report messages to be handled on a solely unclassified basis.

C-2.3. Correcting HS Release Report Messages. HS Release Report messages should be updated with a follow-up message as soon as the reporting activity becomes aware of new information concerning the origin, amount, and nature of the substance; type of operation at source or root cause; or lessons learned of the release. Similarly, if the final estimate of the amount released differs substantially from the amount initially reported, the reporting activity must send an update message to all action and information addressees on the original message.

C-2.4. Action and Information Addressees

FROM: Navy activity/ship responsible for or discovering spill

TO: Navy On-Scene Coordinator
Chain of Command

INFO: Area Environmental Coordinator
Host Activity
CNO WASHINGTON DC//N45//
CNIC WASHINGTON DC//N45//
CHINFO WASHINGTON DC//JJJ//
COMNAVSEASYSCOM WASHINGTON DC//00C//
NAVFAC EXWC PORT HUENEME CA//424//
NAVJAG WASHINGTON DC//11//
[Add NRC for releases into or upon navigable waters of the United States, its contiguous zone (within 12 nautical miles (NM) of U.S. shores), and adjoining shorelines.]
COAST GUARD NATIONAL RESPONSE CENTER WASHINGTON DC//JJJ//
[For spills from ships add appropriate fleet and type commander (TYCOM)]

C-2.5. Body of Report. Use the following format for the body of all HS Release Report messages. It is important for data-management purposes that the format be followed.

UNCLAS//N05090//
SUBJ: HAZARDOUS SUBSTANCE RELEASE REPORT (MIN: CONSIDERED)
MSGID/GENADMIN/ORIGINATOR//
RMKS/

1. LOCAL TIME AND DATE RELEASE [OCCURRED/DISCOVERED]

2. [FACILITY/VESSEL] ORIGINATING RELEASE:

a. For Navy ships, list ship name and hull number.

b. For Navy shore facilities, list facility name.

c. For release occurring during transportation, list name of activity responsible for shipment.

d. For non-Navy spills, list name of the responsible party, if known.

e. For organizations under contract to the Navy, list firm name and contracting Navy activity.

f. If the source is unknown at time of this report, list only “Unknown” until such time as definitively established.

3. RELEASE LOCATION:

a. For release at sea, list latitude, longitude, and distance to nearest land.

b. For release in port, list port name, host naval command (Naval Station (NAVSTA), shipyard), and specific location.

c. For release ashore, list city, State, facility name, and specific location (building designation).

d. For release during transportation, give exact location (highway mile marker or street number and city).

4. AMOUNT RELEASED:

a. Use convenient units of weight or volume (e.g., kilograms (kg), pounds (lb), gallons (gal), liters (L)).

b. For continuous release, estimate rate of release and amount left in container.

c. Estimates should be made by examining loss at source (e.g., checking the sounding tank, calculating flow rate of spill).

d. Unreliable estimates of volume using visual observation of HS on water may not be reported here.

e. If amount unknown at time of this report, list only "Unknown" until such time as definitively established.

5. HAZARDOUS SUBSTANCE RELEASED:

a. If EHS, headline this paragraph "EXTREMELY HAZARDOUS SUBSTANCE RELEASED:" For additional notification requirements refer to chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response), subparagraph 39-3.6a of this manual.

b. Consult container labels, user directions, reference books, and experts for advice.

c. Provide chemical and product names, formula, synonym, physical and chemical characteristics, and inherent hazards. For example, "Container label identifies substance as acrylonitrile. Synonyms: cyansethylene, vintleyanide. Characteristics and hazards: poisonous liquid and vapor, skin irritant, highly reactive or flammable."

d. Describe appearance, physical and chemical characteristics, and actual or potential hazards observed. For example, "Substance released is colorless to light yellow unidentified liquid; highly irritating to eyes and nose; smells like kernels of peach pits; vaporizing quickly, posing ignition problem."

6. TYPE OF OPERATION AT SOURCE: Examples include plating shop, painting shop, hazardous waste (HW) facility, truck, ship, pipeline, ship rebuilding, and entomology shop.

7. CAUSE OF RELEASE:

a. Provide narrative description of specific cause of release.

b. Account for personnel error, equipment failure, etc., directly contributing to release. For example: "Railing supporting 55-gal drums on a flatbed truck gave way because it was not securely fastened, causing seven drums to fall and rupture."

c. If cause unknown at time of this report, list only "Unknown" until such time as definitively established.

8. TYPE OF CONTAINER FROM WHICH SUBSTANCE ESCAPED:

a. Examples include 55-gal drums, 5-lb bags, tank truck, storage tank, and can.

b. Estimate number of containers damaged or dangerously exposed.

9. RELEASE ENVIRONMENT:

a. Describe scene of release.

b. Include information on physical characteristics, size and complexity of release, and weather conditions. For example: "Solvent released formed shallow pool covering area about 30 ft by 45 ft of bare concrete. Solvent slowly running into storm drain. Pool emitting highly toxic, flammable vapors. Dark clouds threatening rain. Light wind drifting vapors northbound to residential area about 30 ft above ground."

10. AREAS DAMAGED OR THREATENED:

a. Describe actual and potential danger or damage to surrounding environment.

b. Identify body of water, area, or resources threatened or affected.

c. Describe nature and extent of damage to property, wildlife, or other natural resources (if any).

11. NOTIFICATIONS MADE AND ASSISTANCE REQUESTED:

a. List all organizations informed of release within and beyond Navy jurisdiction. Include Navy, Federal, State, and local authorities, response teams, fire departments, hospitals, etc.

b. Specify type of assistance requested from these organizations.

c. If telephonic report to NRC made, list: date, time, group of telephonic report; NRC report and case number; name of NRC official taking report; quantity of HS released; and Navy command making telephonic report.

12. FIELD TESTING: Indicate findings and conclusions as to concentration, pH, etc.

13. CONTROL AND CONTAINMENT ACTIONS [PLANNED/TAKEN]:

a. If none, explain why.

b. Specify method used to control and contain release. For example: "Gas barriers used to control and contain vapor emissions. Runoff contained by excavating ditch circumscribing affected area."

14. CLEANUP ACTIONS [PLANNED/TAKEN]:

a. If none, explain why.

b. Identify onsite or offsite treatment, method used, parties involved in cleanup and removal, and disposal area. For example: "No cleanup action taken. Toxic vapors present, potential

danger to cleanup crew. Contaminated soil will be excavated and shipped by NAS personnel to Class I HW disposal site in Portstown, CA, when conditions allow."

15. AMOUNT OF SUBSTANCE RECOVERED [VOLUME/WEIGHT] (Pure Product)

16. PARTIES PERFORMING [CONTAINMENT/CLEANUP] ACTIVITIES:

a. Identify lead organization in charge (e.g., Navy command, USCG, EPA).

b. Identify all other parties involved: Commercial firms, supporting Navy activities, and State or local agencies.

17. FEDERAL, STATE, OR LOCAL REGULATORY ACTIVITY DURING THIS INCIDENT:

a. Identify by name and agency any regulatory official attending on-scene or making telephonic inquiry.

b. Note whether officials boarded vessel and include date, time, and spaces inspected.

18. ASSISTANCE REQUIRED/ADDITIONAL COMMENTS

19. LESSONS LEARNED: How could this release have been avoided?

20. ACTIVITY CONTACT FOR ADDITIONAL INFORMATION: List name, rank and rate, command, code, DSN, email address, and commercial telephone numbers.//

C-3 Oil Spill Report

C-3.1. Precedence (for Messages Only). Provided that prior voice reports have been made both to the USCG NRC and the reporting command's chain of command, use "Routine" precedence for Oil Spill Report messages. If either voice report has not been made, use "Priority" precedence.

C-3.2. Classification or Special Handling Marks. Oil Spill Report messages are unclassified and do not warrant special handling marks unless classified or sensitive business information must be incorporated. Avoid inclusion of such information to the maximum extent possible to allow Oil Spill Report messages to be handled on a solely unclassified basis.

C-3.3. Spill Volume Classification. To better advise the Navy on-scene coordinator and Navy leadership of the magnitude of each oil spill, the subject line of an Oil Spill Report message should bear a volume estimate of the spill, if known, in the following format:

a. OIL SPILL REPORT, X GALLONS, [ACTIVITY NAME] (MINIMIZE CONSIDERED);

b. OIL SPILL REPORT, UNKNOWN VOLUME, [ACTIVITY NAME] (MINIMIZE CONSIDERED); or

c. OIL SPILL REPORT, SHEEN SIGHTING (MINIMIZE CONSIDERED).

C-3.4. Updating Oil Spill Report Messages. Oil Spill Report messages must be updated with a follow-up message as soon as the reporting activity becomes aware of new information concerning the origin, quantity, type, operation under way, root cause, or lessons learned of the spill. Similarly, if the final estimate of the amount spilled differs substantially from the amount initially reported**,** the reporting activity must send an update message to all action and information addressees on the original spill message.

C-3.5. Action and Information Addressees

FROM: Navy activity/ship responsible for or discovering spill

TO: Navy On-Scene Coordinator
Chain of Command

INFO: Area Environmental Coordinator
Host Activity
OPNAV WASHINGTON DC//N45//
CNIC WASHINGTON DC//N45//
CHINFO WASHINGTON DC//JJJ//
COMNAVSEASYSCOM WASHINGTON DC//00C//
NAVFAC EXWC PORT HUENEME CA//424//
NOLSC DC FT BELVOIR VA//JJJ//
NAVJAG WASHINGTON DC//11//
NAVSURFWARCEN SHIPSYSENGSTA PHILADELPHIA PA//90//
[Add NRC for spills into or upon navigable waters of the United States, its contiguous zone (within 12 NM of U.S. shores), and adjoining shorelines.]
COAST GUARD NATIONAL RESPONSE CENTER WASHINGTON DC//JJJ//
[For spills from ships add appropriate fleet and TYCOM]

C-3.6. Body of Report. Use the following format for the body of all Oil Spill Report messages. It is important for data management purposes that this format be followed.

UNCLAS//NO5090//
SUBJ: OIL SPILL REPORT, X GALLONS, [ACTIVITY NAME] (MINIMIZE CONSIDERED) or OIL SPILL REPORT, UNKNOWN VOLUME, [ACTIVITY NAME] (MINIMIZE CONSIDERED) or OIL SPILL SHEEN SIGHTING, (MINIMIZE CONSIDERED)
MSGID/GENADMIN/ORIGINATOR//
RMKS/

1. LOCAL TIME AND DATE SPILL [OCCURRED/DISCOVERED]
2. [FACILITY/VESSEL] ORIGINATING SPILL:

a. For Navy ships, list ship name and hull number.

b. For Navy shore facilities, list facility name.

c. For non-Navy spills, list name of responsible party, if known.

d. For organizations under contract to the Navy, list firm name and contracting Navy activity.

e. If the facility or vessel of spill is unknown at time of this report, list only “Unknown” until such time as definitively established.

3. SPILL LOCATION:

a. For spills at sea, list latitude, longitude, and distance to nearest land.

b. For spills in port, list port name, host naval command (NAVSTA, shipyard), and specific location (pier or mooring designation).

c. For spills ashore, list city, State, facility name, and specific location (building designation).

4. VOLUME SPILLED IN GALLONS:

a. Estimates must be made by examining loss at source (e.g., checking the sounding tank, calculating flow rate of spill).

b. If amount is unknown at time of this report, list only “Unknown” until such time as definitively established.

c. Estimating volume by visual observation of oil on water can be very unreliable.

d. If volume estimate can only be made by visual observation of oil on water, do not report estimate here.

e. If oil-and-water mixture, indicate percent oil.

5. TYPE OF OIL SPILLED:

a. List whether marine gas oil, naval distillate (F-76), jet fuel (JP-4 or -5), aviation or automotive gasoline, automotive diesel, heating fuels (e.g., grade 1 or 2, kerosene), residual burner fuel (e.g., grade 4, 5, or 6), lubricating oil; hydraulic oil, oil/oil mixture (including slops and waste oil), or oil/water mixture (including bilge waste).

b. If type unknown at time of this report, list only “Unknown” until such time as definitively established.

6. OPERATION UNDERWAY WHEN SPILL [OCCURRED/DISCOVERED]:

a. If fueling or defueling, list whether underway or in port by pipeline, truck, or barge.

b. Specify whether conducting internal fuel oil transfer operations (including movement from one storage tank to another), pumping bilges, conducting salvage operations, aircraft operations, or "Other" (specify).

c. Include any evolution or operation that had been conducted within 4 hours of spill discovery that may have resulted in oil discharge.

d. If operation unknown or if no evolution can be attributable at time of this report, list only "Operation Not Known" or "To Be Determined" until such time as definitively established.

7. SPILL CAUSE:

a. Classify the spill cause by citing one or more of the following categories and then provide a narrative description of the specific spill cause: structural; electrical; hose; valve or fitting; tank level indicator; oil/water separator and oil content monitor; other equipment (specify component that failed); collision, grounding, or sinking; valve misalignment; monitoring error; procedural and communications error; chronic or recurring; or weather related. This information will be used by Commander, Naval Sea Systems Command for causal analysis and spill prevention.

b. If the spill resulted from a mechanical or equipment failure, identify failed equipment or suspected failed equipment by system, nomenclature, allowance part list, service, part number, and location.

c. If cause unknown or undetermined at time of this report, list only "To Be Determined" or "Under Investigation" until such time as definitively established.

8. SLICK DESCRIPTION AND MOVEMENT:

a. Size: Length and width (yards or NM) and percentage of that area covered.

b. Color: Silver transparent, gray, rainbow, blue, dull brown, dark brown, black, brown-orange mousse.

c. Odor: Noxious, light, undetectable.

d. Slick movement: Set (degrees true toward) and drift (knots).

9. SPILL ENVIRONMENT:

a. Weather: Clear, overcast, partly cloudy, rain, snow, etc.

b. Prevailing wind at scene: Direction (degrees true from), speed (knots), and fetch (yards or NM).

c. Air and water temperature: Indicate ice cover.

d. Sea state: Beaufort Force number.

e. Tide: High, low, ebb, flood, or slack or current: Set (degrees true toward) and drift (knots).

10. AREAS DAMAGED OR THREATENED:

a. Body of water, area, or resources threatened or affected.

b. Nature and extent of damage to property, wildlife, or other natural resources (if any).

11. TELEPHONIC REPORT TO NATIONAL RESPONSE CENTER [WAS/WAS NOT] MADE:

a. If made, list:

(1) Time and date of telephonic report.

(2) NRC report and case number.

(3) Name of NRC official taking report and quantity of oil reported.

b. If not made, provide reason why: Beyond 12 NM from U.S. shores, no threat to navigable water, etc.

c. Navy command making telephonic report.

12. SAMPLES [WERE/WERE NOT] TAKEN: If taken, identify location(s) from which taken (e.g., tanks, hoses, piping, slip, jetty) and collecting officer by name, rank, and agency.

13. CONTAINMENT METHOD [PLANNED/USED]:

a. If none, state reason.

b. Otherwise, indicate equipment used (e.g., boom, ship’s hull, camel, water spray, chemical agent).

14. SPILL REMOVAL METHOD [PLANNED/USED]:

a. If none, state reason.

b. List equipment planned and used (e.g., Rapid Response or Dip 3001 skimmer, portable skimmer, absorbent materials (oil-absorbent pads, chips, etc.), dispersants, vacuum trucks or pumps, other (specify)).

15. VOLUME OF OIL RECOVERED IN GALLONS (Decanted Pure Product)

16. PARTIES PERFORMING SPILL REMOVAL:

a. Identify lead organization in charge (e.g., Navy command, USCG, EPA).

b. Identify all other parties involved (e.g., commercial firms, supporting Navy activities, State or local agencies).

17. FEDERAL, STATE, OR LOCAL REGULATORY ACTIVITY DURING THIS INCIDENT:

a. Identify by name and agency any official attending on-scene or making telephonic inquiry.

b. Note whether officials boarded vessel and include date, time, and spaces inspected.

18. ASSISTANCE REQUIRED OR ADDITIONAL COMMENTS

19. LESSONS LEARNED: How could this spill have been avoided?

20. COST OF RECOVERY: Probably not known for initial report. Include in follow-up report to the extent known.

21. ACTIVITY CONTACT FOR ADDITIONAL INFORMATION: List name, rank and rate, command, code, email address, and DSN and commercial telephone numbers.//

Table C-1. Navy Root Cause Analysis Codes

Root Cause Code		**International Organization for Standardization 14001:2004(E)**
	PLAN (Environmental Policy/Planning)	
	Leadership/Policy/Organizational Management	**4.1–4.3**
LPM01	Leadership lacks commitment or sufficient organizational framework, stature, independence, and authority.	4.1/4.2
LPM02	Formal policies are not appropriate to the nature, scale, and environmental impacts of the activities, products, and services.	4.2

Root Cause Code		International Organization for Standardization 14001:2004(E)
LPM03	Environmental requirements and significant aspects are not adequately considered.	4.3.1
LPM04	Procedure is not in place for updating applicable legal requirements.	4.3.2
	DO (Implementation)	
	Resources/Roles/Responsibility and Authority	**4.4.1**
RRA01	Programmatic roles, responsibilities, and authorities are not clearly defined, assigned, documented, or communicated.	4.4.1
RRA02	Specific management representatives (e.g., line-management supervisors, practice owners) do not show commitment or responsibility for the performance of the environmental management system (EMS).	4.4.1
RRA03	Funds for program-related activities are not sufficient.	4.4.1
RRA04	Staffing levels are not sufficient to manage all program-related activities or requirements.	4.4.1
RRA05	Resources for controlling or improving daily operations including the procurement of appropriate materials or equipment, technology, or services are absent or inadequate.	4.4.1
RRA06	Lack of proper or adequate materials, equipment, or contract deliverables**.**	4.4.1
RRA07	Lack of adequate maintenance caused failure or discrepancy.	4.4.1
RRA08	Inadequate design of facility or selection of material or equipment caused failure or discrepancy.	4.4.1
	Competence/Training and Awareness	**4.4.2**
CTA01	No training is conducted.	4.4.2
CTA02	Training is inadequate or ineffective**.**	4.4.2
CTA03	Personnel do not perform duties as trained**.**	4.4.2
	Communication	**4.4.3**
COM01	Internal communication is missing or ineffective.	4.4.3
COM02	External communication is missing or ineffective.	4.4.3
	Documentation/Control of Documents	**4.4.4/4.4.5**
DOC01	Necessary details within documents and records are absent or are inadequate.	4.4.4
DOC02	Procedure(s) to approve, review and update, and retain relevant versions of information is not established or is not adequately implemented.	4.4.5

Root Cause Code		International Organization for Standardization 14001:2004(E)
	Operational Control/Emergency Preparedness and Response	**4.4.6/4.4.7**
OCP01	Documented plans or procedures are inadequate**.**	4.4.6
OCP02	Documented plans or procedures not properly implemented to control activities.	4.4.6
OCP03	Appropriate contingency planning for emergency preparedness and response is missing or ineffective.	4.4.7
	CHECK (Checking and Corrective Action)	
	Monitoring and Measurement/Evaluation of Compliance	**4.5.1/4.5.2**
MMC01	Calibrated and verified monitoring or measurement equipment is not used or maintained.	4.5.1
MMC02	Internal compliance evaluation is not effective.	4.5.2
	Nonconformity, Corrective Action and Preventive Action/Control of Records/Internal Audit	**4.5.3/4.5.4/4.5.5**
NCA01	The corrective action and preventive action process is not effective.	4.5.3
NCA02	Control and tracking procedure(s) for documents and records is absent or inadequate.	4.5.4
NCA03	Internal audit program is not implemented or is ineffective.	4.5.5
	IMPROVE (Management Review)	
	Management Review	**4.6**
MRV01	Documented procedure describing the management review process is inadequate.	4.6
MRV02	Roles, responsibilities, and authorities are not clearly defined, documented, or communicated.	4.6
MRV03	Management review process or procedure is **not** implemented effectively.	4.6
MRV04	Management review process is **insufficient to** create change, provide leadership, or effectively improve the EMS.	4.6

APPENDIX D

AFLOAT ENVIRONMENTAL CHECKLISTS

D-1 Scope. The two checklists in this appendix are provided to evaluate command environmental compliance requirements at sea. The President, Board of Inspection and Survey will use these two checklists when conducting environmental compliance oversight inspections as part of regular INSURV inspections.

Indicate the answer to each of the questions with an X. If a question is not applicable to the command, put NA in the YES block. Explain or describe the conditions warranting any NO answer in the space at the end of the checklist or on additional sheets, if necessary.

D-2 Afloat Pollution Prevention and Waste Management Compliance Checklist. This checklist is provided to guide afloat commands in the evaluation of command pollution prevention and waste management compliance procedures, practices, and training. An underlined question does not apply to all ships, but only to the category indicated. The chapter 35 (Environmental Compliance Afloat) reference of this manual is in parentheses at the end of the question.

	YES	NO
TRAINING 1. Are all hands trained in environmental protection in I Division or School of the Boat? (35-3.3a)		
2. Are ship watch officers responsible for authorizing overboard disposal of shipboard wastes trained on discharge restrictions for shipboard wastes as part of their watch qualification procedures? (35-3.3d)		
3. Is there a designated afloat environmental protection coordinator who is trained and knowledgeable? (35-3.8)		
4. Are personnel who operate or maintain sewage and graywater disposal or transfer equipment trained on the proper procedures for sewage or graywater disposal, including hookup and transfer of sewage or graywater to shore facilities and at-sea discharge restrictions? (35-3.12d)		
5. Have personnel assigned to supervise sewage or graywater disposal operations completed the Shipboard Sewage Collection, Holding, and Transfer (CHT) course (K 652-2141)? (35-3.12d)		
6. Have all personnel who operate or maintain sewage or graywater disposal equipment completed the Shipboard Sewage CHT and Treatment Personal Qualification Standard (PQS), Naval Education and Training (NAVEDTRA) 43199-F, prior to assignment to those duties? (35-3.12d)		
7. Are personnel whose watch duties may result in air emissions (e.g., diesel engine operators, boiler operators, gas turbine operators) trained on the minimization of air pollution as a part of their watch qualification? (35-3.13f)		
8. Are personnel whose task assignments may result in air emissions (e.g., topside painters, users of volatile solvents) trained on the proper use of the material prior to performing the task to minimize the release of pollutants? (35-3.13f)		

	YES	NO
9. Have the air conditioning and refrigeration (AC&R) technicians who perform maintenance on AC&R equipment received Environmental Protection Agency (EPA) technician certification and training on ozone-depleting substance (ODS) regulations and spent or recyclable ODS labeling, prior to assignment? (35-3.13f)		
10. Are personnel who work with other ODSs (e.g., Halons, solvents) or perform maintenance on equipment containing such substances trained on methods to prevent release, prior to assignment? (35-3.13f)		
11. Have personnel assigned to operate the incinerator or other thermal destruction equipment completed all PQSs appropriate for the type of equipment, prior to assignment, including NAVEDTRA 43704? (35-3.13f)		
12. Are personnel who operate or maintain oil, waste oil, and oily waste holding, processing, disposal, or transfer equipment trained on the proper procedures for oily waste processing and disposal, including hookup and transfer of waste oil and oily waste to shore facilities and on in-port and at-sea discharge restrictions: a. Have personnel assigned to supervise and perform oily waste processing and disposal operations completed the Oil Pollution Abatement Equipment Operation and Maintenance course, K 652-2196, prior to assignment? b. Have all personnel who operate or maintain oil processing, transfer, or disposal equipment completed the On Water, Oil Spill Response, Containment, and Recovery PQS, NAVEDTRA 43195-D, before assignment to those duties? (35-3.14k)		
13. Has at least one overboard oil and hazardous substance (OHS) spill response drill for each duty section been held annually? (35-3.15d)		
14. Has the ship trained in port watchstanders and command duty officers on in port OHS spill response procedures, the ship's spill contingency plan (SCP), and local notification requirements prior to assignment? (35-3.15d)		
15. Is at least one petty officer in each in port fire party and each repair party qualified in oil spill cleanup supervisor duties within 6 months of assignment? (35-3.15d)		
16. <u>For submarines and small craft only</u>. Are type commander requirements followed so that appropriately qualified individuals are present at the scene of hazardous material (HM) or oil spill? (35-3.15d)		
17. Are personnel who handle, store, or dispose of HM trained per Chief of Naval Operations Instruction (OPNAVINST) 5100.19E, Navy Occupational Safety and Occupational Health (SOH) Program Manual for Forces Afloat, chapter B3? (35-3.16f)		
18. Are personnel responsible for handling ship's garbage trained on the discharge restrictions applicable to the waste? (35-3.17j)		
19. Are personnel responsible for the supervision and approval of overboard disposal of solid waste (SW) trained on the legal requirements for this waste category? (35-3.17j)		
20. Have personnel assigned to operate and maintain SW processing equipment (e.g., plastics waste processors, shredders, pulpers, incinerators), completed the computer-based training interactive courseware or appropriate SW processing equipment sections of PQS (NAVEDTRA 43704)? (35-3.17j)		

	YES	NO
21. Are personnel responsible for processing and disposing of shipboard medical waste trained to ensure such actions comply with the requirements governing this waste? (35-3.18f)		
EQUIPMENT OPERATION 22. Does the ship have a marine sanitation device (MSD) of the type appropriate to its status and year of construction? Is the MSD certified by Commander, Naval Sea Systems Command (COMNAVSEASYSCOM) and is it operable? (35-3.12a)		
23. Does the ship observe these procedures: a. Does the ship operate and maintain the installed MSD to prevent the improper overboard discharge of untreated or inadequately treated sewage, or any waste derived from sewage (e.g., sludge), within 0 to 3 nautical miles (NM) of the U.S. shore? b. Unless the MSD on board has been specifically designed and constructed to hold or treat both sewage and graywater, does the ship operate the MSD to collect only sewage and not graywater while operating or transiting within 3 NM of shore? c. In port, does the ship collect graywater in the installed MSDs or graywater collection systems (if so fitted) and pump the waste ashore? d. When in ports and connected to pier sewers, does the ship divert food waste disposers to a segregated food waste tank or to the MSD system for discharge ashore? e. If the ship operates in fresh water other than the Great Lakes, does it refrain from discharging treated or untreated sewage into freshwater lakes, freshwater reservoirs, or other freshwater impoundment, or into rivers not capable of interstate navigation? f. With reference to item 23e of this table, is the ship modified to preclude accidental discharge? g. Are used solvents or other industrial wastes prohibited from being discharged to MSDs or graywater collection systems for dumped down sinks or deck drains? (35-3.12a and 35-3.12b)		
24. While visiting non-Navy ports, does the ship request sewage reception facilities (barge or installed sewage hookups) in logistics requirements or other pertinent documentation? (35-3.12b)		
25. Are only solvents, paints, fuels, lubricants, and chemicals approved on the Ships Hazardous Material List (SHML) or the Submarine Material Control List (SMCL) ordered or used? (35-3.13a)		
26. Are only properly trained personnel equipped with appropriate personal protective equipment permitted to perform shipboard emergency or operational readiness repairs on thermal insulation containing asbestos? (35-3.13a(4))		
27. Is asbestos material removed during shipboard repair actions performed by ship's force properly containerized and disposed of without release of asbestos fibers into the environment? (35-3.13a(4))		
28. For Navy and Commander, Military Sealift Command ships with AC&R systems with an installed refrigerant charge of 50 pounds or more that contain		

	YES	NO
ODSs such as chlorofluorocarbon (CFC)-11, CFC-12, or CFC-114 or ODS-substitute material such as hydrofluorocarbon (HFC)-134a, HFC-236fa, or R-404A (a blend of HFC-143a, HFC-125, and HFC-134a), does the ship meet the annual performance goals: a. Maintain a maximum annual leakage rate of no more than 15 percent of total installed refrigerant charge of air conditioning equipment? b. Maintain a maximum annual leakage rate of no more than 35 percent of total installed refrigerant charge of ship stores and cargo refrigeration? (35-3.13a(5))		
29. Are ODSs and ODS-substitute materials including refrigerants and firefighting agents recovered prior to maintenance on AC&R systems and fire-protection systems? (35-3.13a(6))		
30. Do personnel who perform maintenance on AC&R systems keep records of maintenance actions, names of technicians performing work, pounds of refrigerant removed, and pounds of refrigerant added and retain them for 3 years? (35-3.13a(7))		
31. When replacing inoperable galley refrigeration equipment, is new equipment EPA-approved (complying with their Significant New Alternatives Policy Program), and COMNAVSEASYSCOM-approved, using refrigerant with an ozone-depletion potential of zero? (35-3.13c)		
32. If the ship has had an overhaul availability at Navy National Emission Standards for Hazardous Air Pollutants (NESHAP)-affected source sites, were records of ship's force marine coating use maintained for coatings distributed from ships' stores? (Note: The Hazardous Material Inventory Control System for Windows or the Submarine Hazardous Material Inventory and Management System may be used to keep these records.) (35-3.13d)		
33. If the ship has had an overhaul availability at a commercial NESHAP-affected source site, was the use of paint recorded and reported regardless of availability type or operational status? (35-3.13d)		
34. Are the paint work practices observed, including: a. Are marine coatings or paint spills minimized? b. Are only intact and leak-free coating containers stored? c. Are coating containers closed when not in use? (35-3.13e)		
35. Is a monthly report of daily coating use delivered by the seventh day of the month following use or before departure, if departing before the end of the month, or after a short visit (i.e., several days) to the affected source site (Navy shore activity) or, when located at a commercial affected source site, to the appropriate Supervisor of Shipbuilding office? (35-4.12hh)		
36. Are paint lockers labeled with placards stating, "Thinning of marine coatings/paints is prohibited"? (35-3.13e)		
37. Is an installed oil/water separator (OWS) and oil content monitor (OCM) fully operable and used to process all machinery space bilge water? Is the oil pollution abatement equipment certified by COMNAVSEASYSCOM? (35-3.14b and 35-3.14h)		

	YES	NO
38. For a ship equipped with an OWS and an OCM, are oil and oily discharges limited to 15 parts per million (ppm) oil worldwide? (35-3.14b)		
39. For surface ships equipped with an OWS but with an inoperable OCM and submarines with a bilge water processing tank (BWPT), is all machinery space bilge water processed through an OWS or BWPT before discharge? (35-3.14c)		
40. For a ship without an operating OWS but with an oily waste holding tank (OWHT): a. To the maximum extent possible, without endangering the ship or impairing its operations or operational effectiveness, is all oily bilge water directed to the OWHT for shore disposal? b. Is discharge volume and environmental impact minimized by discharging only the water portion of the holding tank overboard? c. Are such discharges of oily bilge water made at least 50 NM from the nearest land, only while the ship is making way, and noted in the engineering log? (35-3.14d)		
41. For a ship equipped with neither an operating OWS nor an operating OWHT, is oily bilge water retained for shore disposal to the maximum extent possible, without endangering the ship or impairing its operations or operational effectiveness? (35-3.14e)		
42. For submarines without BWPTs: a. Is bilge water discharged, after allowing for adequate separation time? b. Is only the bottom, non-oily water phase of bilge water pumped overboard? (35-3.14f)		
43. Is oil contamination of bilge water minimized? (35-3.14i)		
44. Does the ship refrain from use of bilge cleaners that have not been approved by COMNAVSEASYSCOM? (35-3.14i)		
45. While in port, does the ship dispose of bilge water only by pumping to a permanent shore reception facility, using its installed OWS, or pumping to a ship waste offload barge, and use eductors only in an emergency? (35-3.14i)		
46. Is waste or used oil disposed of in port and not at sea, and collected and stored separately for eventual shore reclamation? Are hydraulic and synthetic oils kept separate from other lubricants? (35-3.14i)		
47. Does the ship conduct fuel operations: a. In port or restricted waters during daylight hours only? b. With trained personnel? c. Using topside watches in communication with pumping stations? d. Using check-off lists? e. Continuously monitoring each tank level while filling it? f. Only after informing the commanding officer (CO), command duty officer, or officer of the deck, as appropriate? (35-3.14i)		
48. Does the ship refrain from the use of eductors to strip fuel or cargo tanks? Does the ship avoid stripping tanks overboard, but instead strip to contaminated fuel settling tanks? (35-3.14i)		
49. Does the ship properly dispose of oil-contaminated SW? (35-3.14i)		

	YES	NO
50. Does the ship maintain a minimum of one oil spill response kit—Allowance Equipage List serial number 2-550024006—for overboard OHS spill response? (35-3.15a(3))		
51. Does each ship listed maintain a minimum of one HM response kit, including: Surface Ships: AEL 2-550024007? Small Craft: AEL 2-550024008? Mine Countermeasures Vessels: AEL 2-550024009? (35-3.15a(3))		
52. Submarines: Does each submarine maintain an Otto fuel spill cleanup kit (AEL 0006350027) for torpedo Otto fuel and HM spill response? (35-3.15a(3))		
53. Has each ship and submarine developed and maintain an SCP that is coordinated with the cognizant NOSC plan? (35-3.15a(3))		
54. Does the ship manage HM following table 35-3? (Table 35-3)		
55. Is paragraph 35-3.16 pertaining to ship-to-shore transfers and ship-to-ship transfers of excess HM or used HM followed? (35-3.16b and 35-3.16c)		
56. Are the ship's plastics waste processor, pulper, and metal/glass shredder properly operated worldwide and is processed material handled per paragraph 35-3.17? (35-3.17)		
57. Do all ships and submarines minimize the volume of plastic material taken to sea that may become waste while at sea? (35-3.17a)		
58. Surface Ships: If inoperable plastics waste processor(s) either threatens or results in the discharge of plastics, has a casualty report been submitted? (35-3.17b)		
59. Submarines: If inoperable plastics waste management equipment either threatens or results in the discharge of plastics, has a casualty report been submitted? (35-3.17c)		
60. Are responsible personnel aware of the requirement to report discharges of unprocessed non-food SW into "in effect" International Convention for the Prevention of Pollution from Ships Annex V Special Areas? (35-3.17f(4))		
61. For ships equipped with COMNAVSEASYSCOM-approved thermal destruction equipment, are rags burned only if lightly petroleum-soiled and when beyond 12 NM from shore? (35-3.17i)		
62. Is the autoclave functional so that medical personnel may sterilize and disinfect medical waste? (35-3.18d)		
63. Does the medical department representative understand medical waste management requirements? (35-3.18)		
64. Surface Ships: Are ships that took on ballast water within 12 NM of land performing and logging ballast water exchanges? (35-3.19a)		

	YES	NO
PROGRAM COMPLIANCE AND EFFECTIVENESS 65. Is the ship aware of the requirement to report by message to the Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) with information copies to the chain of command, any interest expressed by regulators in discharges from U.S. Navy ships? Do responsible officers understand they should make no agreements with environmental agencies about ship discharges without OPNAV N45 approval? (35-3.10b and 35-4.12y)		
66. Is the ship operated and maintained to conform to applicable Federal, State, and local air pollution emission regulations? (35-3.13)		
67. On floating dry docks, are industrial wastes periodically removed from the floor of the dry dock and sent to shore facilities for disposal? Are there processes in place to ensure that all discharges from industrial waste collection systems to shore treatment facilities, sewer systems, or surface waters are in compliance with applicable Federal, State, and local regulations? Is an officer or petty officer appointed to ensure dry dock personnel properly operate and maintain oil and oily waste collection and treatment systems and they safely and effectively handle ship-to-shore transfers of the waste? (35-3.22 and 35-4.13)		
68. Are periodic inspections (at least quarterly) by senior medical department personnel conducted to maintain sanitary and hygienic conditions of MSD systems and operational practices? Are periodic sanitation and hygiene inspections of SW processing equipment conducted? (35-4.11g)		
69. Are appropriate health and sanitation precautions posted as required by OPNAVINST 5100.19E, Navy Occupational Safety and Occupational Health (SOH) Program Manual for Forces Afloat; Naval Ships' Technical Manual (NSTM), chapter 593; and Navy Medicine (NAVMED) P-5010-7, Manual for Naval Preventative Medicine, Wastewater Treatment and Disposal, Ashore and Afloat? (35-4.11h)		
70. Are sewage discharges within 0 to 3 NM from U.S. shores permitted under 35-3.12c reported as required and established by the chain of command? (35-4.11i)		
71. Are only marine coatings used that meet volatile organic compound content standards of the NSTM, chapter 631, table 3-7? (35-4.12l)		
72. Are non-compliant coatings removed from shipboard stores and returned to the supply system as excess HM as soon as possible? (35-4.12l)		
73. If there are any conditions or equipment malfunctions that could necessitate oily waste, HM, or SW discharge into waters in which discharge is restricted, are they reported to the chain of command? (35-4.11o)		
74. Are the date, time of occurrence, ship location at the beginning and end of the incident, substance discharged, quantity discharged, and cause of the discharge for any oily waste discharge that causes a sheen recorded in the engineering log or equivalent oil record book? (35-4.11p)		
75. Are personnel aware of and do they understand the oil or OHS SCPs? (35-4.11s)		

	YES	NO
76. Are all OHS spills reported as prescribed in subparagraphs 35-3.15b and 35-3.15c? (35-4.11t)		
77. Is immediate action taken to contain, control, and mitigate any spills caused by the ship? (35-4.11q)		
78. Are the requirements of OPNAVINST 5100.19E, Navy Occupational Safety and Occupational Health (SOH) Program Manual for Forces Afloat, and COMNAVSEASYSCOM PCB Advisories followed for all activities associated with polychlorinated biphenyls (PCB), PCB-containing materials, or systems potentially contaminated with PCBs (e.g., ventilation systems that employ PCB-containing felt gaskets)? (35-4.12w)		
79. Is used and excess HM offloaded, to the maximum extent feasible, to a Navy or other public facility prior to entering a private shipyard for an availability? Does the ship also offload HM not anticipated for use by ship's force during the availability before entering the private shipyard? (35-4.11x)		
80. Do personnel comply with OPNAVINST 5100.19E, Navy Occupational Safety and Occupational Health (SOH) Program Manual for Forces Afloat requirements for HM handling, packaging, storage, labeling, treatment, and disposal? Is an HM coordinator appointed by the CO? (35-4.11bb)		
81. Does the ship collect the debris, dust, and residual materials from the paint removal, to the maximum extent feasible, and properly package these materials for dispose ashore? (35-4.11cc)		
82. If plastic discharges have occurred, are they properly recorded in the ship's deck log? Are plastic discharges personally approved by the CO? (35-4.12ee)		

D-3 At-Sea Marine Mammal and Endangered Species Permit Compliance Checklist. This checklist is provided as a self-evaluation tool for commands conducting training, testing, or acoustic active sonar maintenance activities at sea. The checklist covers training, mitigation, and reporting requirements under the Navy's Marine Mammal Protection Act and Endangered Species Act permits. The chapter 35 (Environmental Compliance Afloat) reference of this manual is in parentheses at the end of the question, where applicable. Those items without a chapter 35 reference can be found on the Protective Measures Assessment Protocol (PMAP) Web site (refer to appendix E (Web Sites) for Web site address).

	YES	NO
TRAINING 1. Do all hands receive, upon reporting aboard and annually thereafter, marine mammal and endangered species compliance training? (35-3.3a)		
2. Do all personnel tasked with running the PMAP program receive training on its use upon reporting aboard and annually thereafter? (35-3.20d)		
3. Do all lookouts, COs, executive officers, bridge watch personnel, Maritime Patrol Aircraft aircrews, anti-submarine warfare (ASW) and mine warfare (MIW) helicopter crews, and civilian equivalents complete marine species awareness training upon reporting aboard and annually thereafter? (35-3.21e)		

	YES	NO
4. Do all personnel tasked with preparing and approving Sonar Positional Reporting System (SPORTS) reports receive SPORTS training upon reporting aboard and annually thereafter? (35-3.21e)		
MITIGATION 5. Does the ship use PMAP in planning for training, testing, and acoustic active sonar maintenance events at sea? (35-3.20c)		
6. Are the mandatory mitigation measures contained in PMAP implemented and adhered to for training, testing, and acoustic active sonar maintenance events at sea? (35-3.20c)		
7. Is the latest version of PMAP being used?		
8. Are PMAP records signed by the CO?		
9. Are PMAP records retained for 2 years?		
10. Does ship's crew avoid deliberately harassing marine mammals and threatened or endangered species and consider marine mammal and threatened or endangered species protection during ship operations and training? (35-3.21a)		
11. Are all time-specific mitigation measures (e.g., North Atlantic Right Whale (NARW) Calving Season announcement messages) and area-specific (e.g., northeastern U.S. NARW sighting reporting requirements) mitigation measures promulgated by COMUSFLTFORCOM and COMUSPACFLT complied with?		
12. Are the detailed mitigation and reporting requirements specific to Major Training Exercises (MTE), required by fleet commanders or officers conducting exercises (OCE) complied with?		
13. When using active sonar, are two lookouts positioned in the forward position of the ship (e.g., Bridgewings)?		
14. Do the CO's standing orders address marine mammal mitigation measures?		
REPORTING 15. If so equipped, does the ship report the use of active acoustic sources for training exercises, testing, and maintenance via SPORTS? (35-3.21d)		
16. Are whale strikes and strandings reported in accordance with OPNAVINST F3100.6J? (35-3.21c)		
17. In the Commander, Task Force 80 Area of Operations, is ordnance expended for training, testing, or maintenance being reported via unclassified email to Fleet Forces Atlantic Exercise Coordination Center at afecc@navy.mil and the Fleet Forces Range Complex Support Team at usffrcst@navy.mil?		
18. Are MTE mitigation after action reports, required by fleet commanders or the OCE, submitted within the period specified?		

APPENDIX E

WEB SITES

Web Site	**Web Site Link**
Air Force Institute of Technology (AFIT) Courses	http://www.afit.edu/cess
Armed Forces Pest Management Board	http://www.afpmb.org/
Army Logistics University Web Site for Training Courses	http://www.alu.army.mil/
Board of Inspection and Survey	http://www.public.navy.mil/fltfor/insurv/Pages/default.aspx
Commander, Naval Sea Systems Command (COMNAVSEASYSCOM) Oil and Hazardous Substance (OHS) Spill Database (Common Access Card (CAC) enabled) (NOSCnet)	https://secure.supsalv.org
Contaminants and standards related to the Safe Drinking Water Act	http://www.epa.gov/safewater/mcl.html
Council on Environmental Quality	https://ceq.doe.gov/
Defense Logistics Agency (DLA) Aviation	http://www.aviation.dla.mil/
DLA Courses	http://www.hr.dla.mil/dtc/courses.asp
Defense Supply Center Richmond (DSCR)	http://www.aviation.dla.mil/
Department of Defense (DoD) Conservation	http://denix.osd.mil/index.cfm
DoD Natural Resources Instructions, Policies, and Guidance	http://denix.osd.mil/nr/otherlinks.cfm http://www.dodnaturalresources.net/Resources.html http://www.denix.osd.mil/nr/LegislationandPolicy/PolicyandGuidance/dodinstructions.cfm

Web Site	Web Site Link
DoD Installation Restoration Cleanup Tools: Vapor Intrusion	https://www.denix.osd.mil/irp/vaporintrusion/?
Department of the Navy (DON) Applications and Database Management System (DADMS) (CAC enabled)	https://www.dadms.navy.mil/
DON Chief of Information	http://www.doncio.navy.mil/Main.aspx
DON Perfluorinated Compounds (PFC)/Perfluoroalkyl Substances (PFAS)	http://www.secnav.navy.mil/eie/pages/pfc-pfas.aspx
Environmental Compliance Assessment Training and Tracking System (ECATTS)	https://environmentaltraining.ecatts.com
Environmental Information Management System	https://eims3.sscno.nmci.navy.mil/
Environmental Management System Web Site (EMSWeb)	https://eprportal.cnic.navy.mil/
Environmental Readiness Program Requirements Web (EPRWeb) (requires CAC and login)	https://eprweb.cnic.navy.mil/
Federal Recycling Program	www.fedrecycling.com
Incentivized Shipboard Energy Conservation	http://www.i-encon.com
Incidental Take Authorizations, Office of Protected Resource, National Oceanic and Atmospheric Administration (NOAA) Fisheries	http://www.nmfs.noaa.gov/pr/permits/incidental.htm
Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs	http://www.loc.gov/catdir/cpso/biaind.html
International Maritime Organization (IMO)	http://www.imo.org
National Park Service	http://www.nps.gov/history/laws.htm

Web Site	Web Site Link
Naval Civil Engineer Corps Officers School (CECOS)	https://www.netc.navy.mil/centers/csfe/cecos/
Naval Forms OnLine (NFOL)	https://navalforms.documentservices.dla.mil/web/public/home
Naval Postgraduate School Collaborative Learning and Research Portal	https://cle.nps.edu/xsl-portal
Naval Safety and Environmental Training Center (NAVSAFENVTRACEN)	http://www.public.navy.mil/navsafecen/navsafenvtracen/Pages/default.aspx
Naval Safety Center (COMNAVSAFECEN)	http://safetycenter.navy.mil
Naval Sea Systems Command Detachment, Radiological Affairs Support Office (NAVSEADET RASO)	http://nsscnavsearasoadmin@navy.mil
Navy Community Service Program	http://www.cnic.navy.mil/
Navy Conservation Web Site (CAC and login)	https://eprweb.cnic.navy.mil/
Navy Office of Community Outreach (NAVCO)	http://www.navy.mil/navco
Navy's Energy, Environment, and Climate Change Web Site	http://navysustainability.dodlive.mil/
Navy Facility Engineering Command (COMNAVFACENGCOM) Air Installation Compatible Use Zone training information	https://hub.navfac.navy.mil/webcenter/portal/am?_afrLoop=77518475097665
Navy and Marine Corps Public Health Center	https://www.med.navy.mil/sites/nmcphc/Pages/Home.aspx
National Emission Standards for Hazardous Air Pollutants (NESHAP) Certificate Repository	https://my.navsup.navy.mil/apps/ops$neshap.html_home_page

Web Site	Web Site Link
Office of the Chief of Naval Operations, Energy and Environmental Readiness Division (OPNAV N45) Environmental Planning and Compliance Library	https://epl.navfac.navy.mil
OPNAV N45 Functional Email Account	N456EnvPlanning.opnav@navy.mil
Protective Measures Assessment Protocol (PMAP) (CAC enabled)	https://eims.dc3n.navy.mil/pmap or https://pmap.nola.navy.smil.mil
Sonar Positional Reporting System (SPORTS) (NOTAL)	https://sports.navy.smil.mil
Training Exchange Web Site	http://www.trainex.org
Toxic Release Inventory (TRI) Made Easy Web	http://www.trimeweb
U.S. Army Corps of Engineers Training Courses	http://ulc.usace.army.mil
U.S. Coast Guard On-Scene Coordinator Crisis Management (OSCCM-MS-523)	http://uscg.mil/tcyorktown/info/contact.asp
U.S. Code	https://www.gpo.gov/fdsys/browse/collectionUScode.action?collectionCode=USCODE
U.S. Environmental Protection Agency (EPA)	http://www.epa.gov/
U.S. EPA's Enforcement and Compliance History Online (ECHO)	https://echo.epa.gov/
U.S. EPA's Online Targeting Information System (OTIS)	http://www.epa-otis.gov/
U.S. EPA's Resource Conservation and Recovery Act (RCRA) Public Participation Manual	http://www3.epa.gov/epawaste/hazard/tsd/permit/pubpart/
U.S. EPA's Initial HAZWOPER Training	https://trainex.org/hazwoper.cfm

Web Site	**Web Site Link**
U.S. Navy Environmental Portal (CAC enabled)	https://eprportal.cnic.navy.mil
U.S. Navy List Builder	https://listbuilder.erdc.dren.mil/listbuilder/index.cfm?page=main.naHome

APPENDIX F

FORMS AND REPORTS

PART 1. FORMS

Directives Division

DD Form 448, Military Interdepartmental Purchase Request	http://www.dtic.mil/whs/directives/forms/eforms/dd0448.pdf
DD Form 1348-1A, Issue Release/Receipt Document	http://www.dtic.mil/whs/directives/forms/eforms/dd13481a.pdf
DD Form 2521, Hazardous Chemical Warning Label (8x11)	http://www.dtic.mil/whs/directives/forms/eforms/dd2521.pdf
DD Form 2522, Hazardous Chemical Warning Label (4x6)	http://www.dtic.mil/whs/directives/forms/eforms/dd2522.pdf

Environmental Protection Agency (EPA)

EPA Form 8700-29, Tier I Emergency and Hazardous Chemical Inventory Form	https://www.epa.gov/sites/production/files/2013-08/documents/t1-form2012-1.pdf (Instructions can be found at: https://www.epa.gov/sites/production/files/2013-08/documents/t1-instr2012-1.pdf)
EPA Form 8700-30, Tier II Emergency and Hazardous Chemical Inventory Form	https://www.epa.gov/sites/production/files/2016-01/documents/t2form2012_2016.pdf (Instructions can be found at: https://www.epa.gov/sites/production/files/2013-08/documents/t2-instr2012-1.pdf)
EPA Form 8700-22, Uniform Hazardous Waste Manifest Form	https://www.epa.gov/sites/production/files/2015-06/documents/newform.pdf (Instructions can be found at: https://www.epa.gov/sites/production/files/2015-06/documents/man-inst.pdf)
EPA Form 9350-1, Toxics Release Inventory (TRI) Form R	https://www.epa.gov/sites/production/files/2016-01/documents/ry_2015_form_r.pdf

	(Instructions can be found at: https://www.epa.gov/sites/production/files/2016-01/documents/ry_2015_tri_reporting_forms_and_instructions.pdf)
EPA Form 9350-2, TRI Form A	https://www.epa.gov/sites/production/files/2016-01/documents/ry_2015_form_a.pdf (Instructions can be found at: https://www.epa.gov/sites/production/files/2016-01/documents/ry_2015_tri_reporting_forms_and_instructions.pdf)
EPA Form 9350-3, TRI Form R, Schedule 1	https://www.epa.gov/sites/production/files/2016-01/documents/ry_2015_form_r_schedule_1.pdf (Instructions can be found at: https://www.epa.gov/sites/production/files/2016-01/documents/ry_2015_tri_reporting_forms_and_instructions.pdf)
EPA State Tier II Reporting Requirements	http://www2.epa.gov/epcra/state-tier-ii-reporting-requirements-and-procedures

Office of the Chief of Naval Operations (OPNAV)

OPNAV Form 5090/3, Statement of Technical Review for NEPA/E.O. 12114 Documents	https://navalforms.documentservices.dla.mil/formsDir/_OPNAV_5090_3_6448.pdf
OPNAV Form 5090/4, Preliminary Impact and Exposure Report (PIER)	https://navalforms.documentservices.dla.mil/formsDir/_OPNAV_5090_4_10838.pdf

Occupational Safety and Health Administration (OSHA)

OSHA Safety Data Sheet	https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=10103 (Instructions can be found at: https://www.osha.gov/Publications/OSHA3514.html)

PART 2. REPORT CONTROL SYMBOLS

SECNAV RCS 5090-1, NEPA Action Proponent Periodic Status Report, assigned to data collection in chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), subparagraph 10-3.4c(2)(c) of this manual.

OPNAV RCS 5090-2, NOSC Annual Report and Navy Spill Response Program and Report Database (formerly known as Oil Spill Report), assigned to data collection in chapter 39 (Oil and Hazardous Substance Spill Preparedness and Response), subparagraphs 39-3.4c(1); 39-3.4c(2); 39-4.4g; 39-4.4r; 39-4.7i; 39-4.8o; 39-4.8w; and 39-4.9n of this manual.

OPNAV RCS 5090-4, Reporting Requirement for Environmental Notices of Violation (NOV) and Significant Non-Compliance (SNC), assigned to data collection in chapter 19 (Processing Notices of Violation Under Environmental Laws and Regulations), subparagraph 19-3.2c of this manual.

OPNAV RCS 5090-5, Environmental Compliance Audit Reports, Schedules and Documentation of Corrective Action and Report of Compliance Deficiencies, assigned to data collection in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore), subparagraphs 17-3.2c, 17-3.2d, 17-3.2f, 17-3.2i, 17-4.1e, and 17-4.1h of this manual.

OPNAV RCS 5090-8, Ozone-Depleting Substance (ODS) Reserve Requirements, assigned to data collection in chapter 22 (Clean Air Ashore), subparagraph 22-4.4d of this manual.

OPNAV RCS 5090-9, Burial at Sea Report, assigned to data collection in chapter 36 (Permitted Ocean Disposition), paragraph 36-4.4 of this manual.

OPNAV RCS 5090-12, Target Vessel Sinking Report, assigned to data collection in chapter 36 (Permitted Ocean Disposition), subparagraph 36-3.2j of this manual.

OPNAV RCS 5090-15, Preliminary Impact and Exposure Report (PIER), assigned to data collection in chapter 41 (Natural Resource Damage), subparagraph 41-3.2b(1) of this manual.

OPNAV RCS 5090-16, Cooperating Agency Status Reporting Requirements, assigned to data collection in chapter 10 (Environmental Planning Under the National Environmental Policy Act and Executive Order 12114), subparagraphs 10-3.5b(3) and 10-3.5b(5) of this manual.

OPNAV RCS 5090-19, CNIC Cultural Resources Metrics, assigned to data collection in chapter 13 (Cultural Resources Compliance and Management), subparagraph 13-4.4e of this manual.

OPNAV RCS 5090-20, Environmental Management Systems (EMS) Third-Party Independent Review Schedule, assigned to data collection in chapter 17 (Environmental Management Systems and Environmental Compliance Audits Ashore), subparagraph 17-4.1f of this manual.

OPNAV 5090-21, Annual Status Report on Navy Shore Facility and Installation Drinking Water Quality Worldwide, assigned to data collection in chapter 21 (Safe Drinking Water Compliance Ashore), subparagraph 21-3.1c of this manual.

OPNAV RCS 5090-22, Board of Inspection and Survey (INSURV) Environmental Compliance Oversight Inspections for Naval Forces Afloat, assigned to data collection in chapter 35 (Environmental Compliance Afloat), subparagraphs 35-3.7a and 35-4.6c of this manual.

OPNAV RCS 5090-23, Discharges from Naval Vessels, assigned to data collection in chapter 35 (Environmental Compliance Afloat), subparagraphs 35-3.10b; 35-3.13d(2); 35-3.14d; 35-3.15b(2)(d); 35-3.15b(3)(c); 35-3.15b(4)(c); 35-3.17b; 35-3.17b.(3); 35-3.17c; 35-3.17c(2); 35-4.11i; 35-4.11o; 35-4.11t; and 35-4.12d of this manual.

OPNAV RCS 5090-24, Monthly Report of Daily Coating Use, assigned to data collection in chapter 35 (Environmental Compliance Afloat), subparagraph 35-4.11k of this manual.

OPNAV RCS 5090-25, Annual Solid Waste Data Call, assigned to data collection in chapter 28 (Solid Waste Management and Resource Recovery Ashore), subparagraph 28-4.2d of this manual.