

CHAPTER 15

INSTALLATION RESTORATION

15-1 Scope

This chapter discusses the Navy's Installation Restoration (IR) Program, including requirements, procedures, and responsibilities. The purpose of the IR Program is to identify, investigate and clean up or control releases of hazardous substances (HS) from past waste disposal operations and hazardous material (HM) spills at Navy activities.

The IR Program provides for compliance with the procedural and substantive requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, commonly referred to as Superfund), as amended by the Superfund Amendments and Reauthorization Act (SARA), as well as regulations issued under these acts or by State law. Although the IR Program is primarily intended to clean up past releases of HS, it may address the cleanup of past releases of any pollutant and/or contaminant that endangers public health, welfare or the environment, including petroleum, oil, and lubricant products. Cleanup of past contamination from underground storage tanks (USTs) and corrective action for past contamination at Resource Conservation and Recovery Act (RCRA) sites may be part of the IR Program.

This chapter provides guidance on the investigation and cleanup of past hazardous waste disposal activities located within Navy installations, sites that have been contaminated by the migration of HS from Navy installations, and non-government-owned sites that have been contaminated by the disposal of Navy-generated waste and other HS for which the Navy is a potentially responsible party (PRP). In general, past hazardous waste disposal activities are those that occurred prior to October, 1986 when SARA was enacted.

The IR Program is limited to the United States, its territories and possessions, and does not apply in foreign countries.

DOD has provided additional specific guidance for cleanup at Base Realignment and Closure (BRAC) installations, in the DOD BRAC Cleanup Plan Guidebook of Fall 1995 (NOTAL) and by Deputy Under Secretary of Defense (Environmental Security) memorandum of 18 May 1996 (NOTAL).

This chapter implements two Executive Orders (E.O.s):

a. E.O. 12088 of 13 October 1978, Federal Compliance with Pollution Control Standards, requires each Executive Agency to comply with applicable pollution control standards. Compliance with applicable pollution control standards means conforming to the same substantive, procedural, and other requirements that would apply to a private person.

b. E.O. 12580, Superfund Implementation, reference (a), delegates the President's authority under CERCLA and SARA to various Federal agencies, including DOD.

15-1.1 References. The Navy/Marine Corps Installation Restoration Manual of February 1997 provides detailed guidance on the execution of the IR Program at Navy installations. Other references are:

a. E.O. 12580 of 23 Jan 1987; 52 FR 2923, Delegation of Presidential CERCLA Authority to Certain Federal Departments and Agencies;

b. 40 CFR 302, EPA Designation, Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA;

c. 40 CFR 300, National Oil and Hazardous Substances Pollution Contingency Plan (NCP) The NCP provides the organizational structure and procedures for responding to discharges of oil and releases of HS, pollutants, and contaminants. This regulation guides the CERCLA program;

d. CNO ltr of 9 February 1994, Establishment of Restoration Advisory Boards (RABs); (NOTAL);

A) e. DON Environmental Policy Memorandum 98-04 of 29 Apr 98, Implementation Guidance For Technical Assistance For Public Participation (TAPP) For Community Members of Restoration Advisory Boards (RABs) And Technical Review Committees (TRCs) (NOTAL);

f. 29 CFR 1910.120, Occupational Safety and Health Administration (OSHA) Regulations on Hazardous Waste Operations and Emergency Response;

g. 40 CFR 373, EPA Regulations for Real Property Transactions under CERCLA;

h. Department of the Navy Environmental Policy Memorandum 95-04, Guidance for Environmental Restoration Program at Active Bases, of 26 Oct 95 (NOTAL);

i. Under Secretary of Defense Memorandum of 27 Feb 98, Policy Concerning Cost-Recovery/Cost Sharing Activities Under the Defense Environmental Restoration Program (DERP) (NOTAL).

15-2 Legislation

15-1.2 Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). CERCLA authorizes Federal action to respond to the release, or substantial threat of release, into the environment of HS, pollutants, or contaminants that may present an imminent and substantial danger to public health or welfare.

CERCLA's emphasis is on the cleaning up of old/inactive HS sites and does not include spills of petroleum, oil and lubricants, although the Navy IR Program does include these contaminants.

15-2.2 Superfund Amendments and Reauthorization Act of 1986 (SARA). Congress passed SARA as Public Law 99-499 on 17 October 1986 to amend the authorities and requirements of CERCLA and associated laws. The SARA provisions of primary importance to the IR program are CERCLA section 120, that addresses response actions at Federal facilities, and section 211, that codifies the Defense Environmental Restoration Program (DERP) into law.

15-2.3 Community Environmental Response Facilitation Act of 1992 (CERFA). Congress created CERFA to expedite reuse and redevelopment of Federal facilities that are closing. It amends CERCLA section 120(h) by adding subsection (4) which requires the Federal government to identify excess real property at bases being closed where no HS or petroleum was stored, released, or disposed.

15-2.4 Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments (HSWA). RCRA establishes a national strategy for the management of current solid waste and Hazardous Waste (HW) operations. RCRA requires corrective action for releases of HW and hazardous constituents at facilities that manage HW. COMNAVFACENG-COM may take corrective action for past contamination of RCRA solid waste management units under the IR Program. (See 15-3.2)

15-2.5 State Laws. Many States have laws that are analogous to CERCLA. Although CERCLA does not enable delegation of the Superfund program to the States, under CERCLA section 120-(a)(4), State laws concerning removal, remedial action, and enforcement apply to Federal facilities not listed on the National Priorities List (NPL). State laws must be consistent with CERCLA in

9 September 1999

order to apply to Federal facilities under section 120(a)(4). To be consistent, State laws must: set out a comprehensive scheme for remedial enforcement; establish health-based standards through an objective process such as applicable or relevant and appropriate requirements; include cost effectiveness as an element; and be free of discriminatory application to Federal facilities.

15-3 Terms and Definitions

15-3.1 Defense Environmental Restoration Account (DERA)/ Environmental Restoration, Navy (ER,N). Section 211 of SARA established DERA to pay the cost of DOD responses to clean up HS sites. Funds from DERA were transferred to the services for uses consistent with the Defense Environmental Restoration Program (DERP). The ER,N account was established by DON in 1996 to support DOD's decision to devolve the DERA to the services in the FY1997 execution year and thereafter.

R)

15-3.2 Discharge. For purposes of the NCP, discharge, as defined by section 311(a)(2) of the Clean Water Act (CWA), includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil, not covered by a permit under section 402 of the CWA. For purposes of the NCP, discharge also means threat of discharge.

15-3.3 Environment. The environment, as defined under CERCLA section 101(8), includes the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson Fishery Conservation and Management Act; and any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

15-3.4 Facility. As defined under CERCLA section 101(9), any building, structure, installation, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or any site or area where a HS has been deposited, stored, disposed of, placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

15-3.5 Federal Facility Agreement (FFA). A negotiated legal agreement between the Navy and the EPA governing the 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 remedial action less adversarial. States may participate in the FFA at their discretion.

15-3.6 Federal Facility State Remediation Agreement (FFSRA). A negotiated non-regulatory legal agreement governing the CERCLA and RCRA administrative process for cleanup at certain non-NPL sites. As with FFAs, provisions of FFSRAs are factors in setting project execution priorities through risk management, and are also tools for formalizing commitments making selection of remedial action less adversarial.

15-3.7 Five-Year Review. If an installation selects a remedial action resulting in hazardous substances, pollutants, or contaminants remaining at the site above levels allowing unlimited use and unrestricted exposure, it must review that remedy not less often than every 5 years thereafter. Five-year reviews continue after response complete (RC) as long as contamination remains at the site above levels that allow for unlimited use and unrestricted exposure. (See 15-3.27.)

(A

R)

15-3.8 Hazardous Substance. For purposes of the IR Program, HS is as defined in CERCLA section 101(14) and designated under reference (b). This includes materials that, because of its quantity, concentration, or physical, chemical or infectious characteristics, may pose a substantial hazard to human health or the environment when released or spilled.

15-3.9 Imminent Threat. A threat posed by a site greater than applicable human health or environmental criteria before implementation of an effective remedial action or an operable unit thereof.

15-3.10 Installation. 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.

R)

15-3.11 Interim Remedial Action (IRA) An IRA is a near-term action taken to address releases of HS that require expedited response. IRAs are often the first response to a release or threatened release and include Emergency, Time Critical and Non-Time Critical Removal Actions.

15-3.12 Lead Agency. The agency that provides the on-scene coordinator (OSC)/remedial project manager (RPM). The OSC/RPM is the person responsible for planning and implementing response action under the NCP. As delegated by E.O. 12580, the Department of the Navy is always the lead agency for response actions on Navy and Marine Corps real property.

15-3.13 Long Term Management (LTMgt). LTMgt is the period of site management (maintenance, monitoring, record keeping, Five-year reviews, etc.) initiated after the remedial action objectives have been met. COMNAVFACENGCOM can only program LTMgt for sites that have achieved RC.

15-3.14 National Priorities List (NPL). The EPA's list of the nation's highest priority sites that need to be cleaned up. The EPA bases this list on a site's threat to the public health, welfare, or the environment using the Hazard Ranking System (HRS). Sites receiving scores above 28.5 (and having the highest potential for affecting public health, welfare, and the environment) are put on the NPL.

15-3.15 No Further Response Action Planned (NFRAP). This term designates sites that do not warrant further action in the site evaluation process. The primary criterion for NFRAP is a determination that the site does not pose a significant threat to public health or the environment. An installation can make an NFRAP decision at several points in the IR process, but must document the reasons for the decision. If future information reveals the need for additional remedial activities, the installation may reverse this decision.

15-3.16 Operable Unit (OU). A discrete action that comprises an incremental step toward comprehensively addressing site problems. This discrete portion of a remedial response manages migration, or eliminates or mitigates a release, threat of a release, or pathway of exposure. The EFD/A can divide the cleanup of a site into a number of operable units, depending on the complexity of the problems associated with the site. Operable units may address geographical portions of a site, specific site problems, or initial phases of an action, or may consist of any set of actions performed over time or any actions that are concurrent but located in different parts of a site.

15-3.17 Pollutant. As defined by section 101(33) of CERCLA, pollutant includes, but is not limited to, any element, substance, compound or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism either directly from the environment or indirectly by ingestion through food chains, will or

may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformation, in such organisms or their offspring. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under section 101(14) (A) through (F) of CERCLA, nor does it include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas). For purposes of the National Contingency Plan (NCP), the term pollutant or contaminant means any pollutant or contaminant that may present an imminent and substantial danger to public health or welfare.

15-3.18 Preliminary Assessment (PA). The NCP defines a PA as a "...review of existing information and an off-site reconnaissance, if appropriate, to determine if a release may require additional investigation or action. A PA may include an on-site reconnaissance if appropriate.

A) **15-3.19 Public Health Assessment.** A public health assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, develop health advisories or other recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects.

A) **15-3.20 Record of Decision (ROD)** ROD is the official term used by CERCLA and the NCP for the documentation of a final remedial response action decision at an NPL site. It describes the remedy selection process and the remedy method selected. The installation commanding officer must sign the ROD before initiation of remedial action. The term "Decision Document" for a non-NPL site is similar to a ROD for an NPL site.

15-3.21 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), but 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 CERCLA, and the normal application of fertilizer. For purposes of the NCP, release also means threat of release.

15-3.22 Remedial Action (RA). Actions consistent with permanent remedy taken instead of, or in addition to, removal actions in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. RA covers two periods of activity at the site:

15-3.22.1 Remedial Action Construction (RA-C). RA-C is the period during which the EFD/A puts the final remedy in place. RA-Cs may include final remedies such as a soil removal or landfill cap, in which case the site would be considered Response Complete (RC) at the end of the RA-C phase. Alternatively, RA-C may be the construction of a pump and treat system that will have to operate for an extended period before the remedial objectives are met. In the latter case, once construction of the system is complete, the site can be considered a Remedy in Place (RIP). RA-C is a subset of RA and the term is not in the NCP.

(R)

9 September 1999

15-3.22.2 Remedial Action Operations (RA-O). RA-O (formerly Long Term Operation (LTO)) is that period of Operation and Maintenance (O&M) required after the Remedial Action Construction (RAC) is completed (Remedy in Place (RIP)) but the remedial action objectives have not yet been met (RC has not been achieved). Monitoring programs on a site during the RA-O phase are part of the RA-O. They are not Long Term Management (LTMgt).

15-3.23 Remedial Investigation/ Feasibility Study (RI/FS). The 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.

15.3.24 Remedy in Place (RIP). RIP is that point in time when Remedial Action Construction (RAC) of a system is complete, all testing has been accomplished, and the remedy will function properly but the remedial objectives have not been met. This term applies only when there is a period of Remedial Action Operations (RAO) following Remedial Action Construction (RAC).

15-3.25 Removal Action. A removal action (also known as an Interim Remedial action (IRA)) is a near-term action taken to address releases of HS that require expedited response. Removal actions are often the first response to a release or threatened release.

15-3.26 Reportable Quantity (RQ). The quantity of an HS that must be reported if released. CERCLA section 102 requires EPA to establish and revise a list of HS and their associated reportable quantities. Reference (b) contains this list.

15-3.27 Response Complete (RC). A site achieves RC when it meets the remedial action objectives. This is a Navy determination with regulatory concurrence where a cleanup agreement (FFA for

NPL sites, FFSRA for some non-NPL sites) requires it.

15-3.28 Restoration Advisory Board (RAB). A group established to serve as a focal point for the exchange of cleanup information between an installation and the local community. Navy policy is to establish a RAB at every installation with an IR program, including at bases subject to closure under base closure law. Members of the RAB include the Navy, EPA officials, appropriate State and local authorities, Federal and State natural resources trustees, and representatives of the affected community.

15-3.29 Site. A location on or off an installation's property where HS has been deposited, stored, disposed, or placed, or has otherwise come to be located, due to installation activities before October 1986, the date Congress enacted SARA. Such areas may include multiple sources and may include the area between sources. One should not confuse this with the EPA practice of listing an entire installation on the NPL. An NPL installation will generally have several discrete sites.

15-3.30 Site Closeout. This is the final step for IR sites. A site reaches Site Closeout when no further response actions under the IR Program are appropriate or anticipated and the regulatory agencies concur. For NPL sites, this step will include following the proper procedure for deletion from the NPL according to the NCP. Actual NPL site closeout date is the day the deletion appears in the Federal Register. Only under unusual circumstances will a site that has been closed out be reopened.

15-3.31 Site Inspection (SI). An SI is an on-site inspection to determine whether there is a release or potential release and the nature of the associated threats.

15-3.32 Solid Waste Management Unit (SWMU). For the purposes of RCRA corrective action, any unit in which an installation has placed

(R

wastes at any time, regardless of whether the unit was designed to accept solid waste or HW. Such units could include old landfills, wastewater treatment tanks and leaking process or waste collection sewers.

15-3.33 Stakeholder. Interested parties including 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.

15-3.34 Technical Review Committee (TRC). SARA (211) requires an installation to establish a TRC to facilitate community involvement in the review and comment on technical aspects of response actions and proposed actions with respect to releases or threatened releases at Navy installations. Members of the TRC include the Navy, EPA officials, appropriate State and local authorities, Federal and State natural resources trustees, and representatives of the community. Navy policy is to convert all TRCs to RABs.

15-3.35 Uncontrolled Hazardous Waste Site. An area identified as such by a governmental body, whether Federal, State, local or other, where an accumulation of HS creates a threat to the health and safety of individuals or the environment or both. Examples of uncontrolled HW sites include, but are not limited to, surface impoundments, landfills, dumps, and tank or drum farms. This definition does not cover normal operations at treatment, storage and disposal (TSD) sites.

15-4 Requirements

R) **15-4.1 The Installation Restoration Process.** An installation can cleanup a site where hazardous wastes have been improperly disposed of, technically, under either the Comprehensive

Environmental Response, Compensation and Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA). However, the President has charged the Navy by E.O.12580, section 2d, to perform such cleanups under CERCLA, using EPA regulations and guidance. Therefore, the Navy should conduct hazardous waste site cleanup activities using the CERCLA authority. On occasion, a Federal or State regulator may insist on cleaning a given hazardous waste site by using the regulator's authority under RCRA. When they make such requests, Navy installations should attempt to incorporate the regulator's substantive requirements to the maximum extent possible within the Navy's CERCLA program, and attempt to arrive at compromises that respect both parties' claims of authority. Cleanup agreements, that attempt to spell out how the parties will interact with each other, may be an appropriate vehicle to achieve these necessary compromises.

15-4.1.1 The CERCLA Process. The following general procedures are set forth under the NCP for initiating and carrying out the remedial process under the IR Program. (The IR Manual discusses requirements for these procedures in detail):

- a. Site discovery and notification
- b. Preliminary Assessment (PA)
- c. Site Inspection (SI)
- d. Hazard Ranking System (HRS)
- e. Remedial Investigation/Feasibility Study (RI/FS)
- f. Record of Decision (ROD)
- g. Remedial Design/Remedial Action (RD/-RA)

CERCLA PROCESS

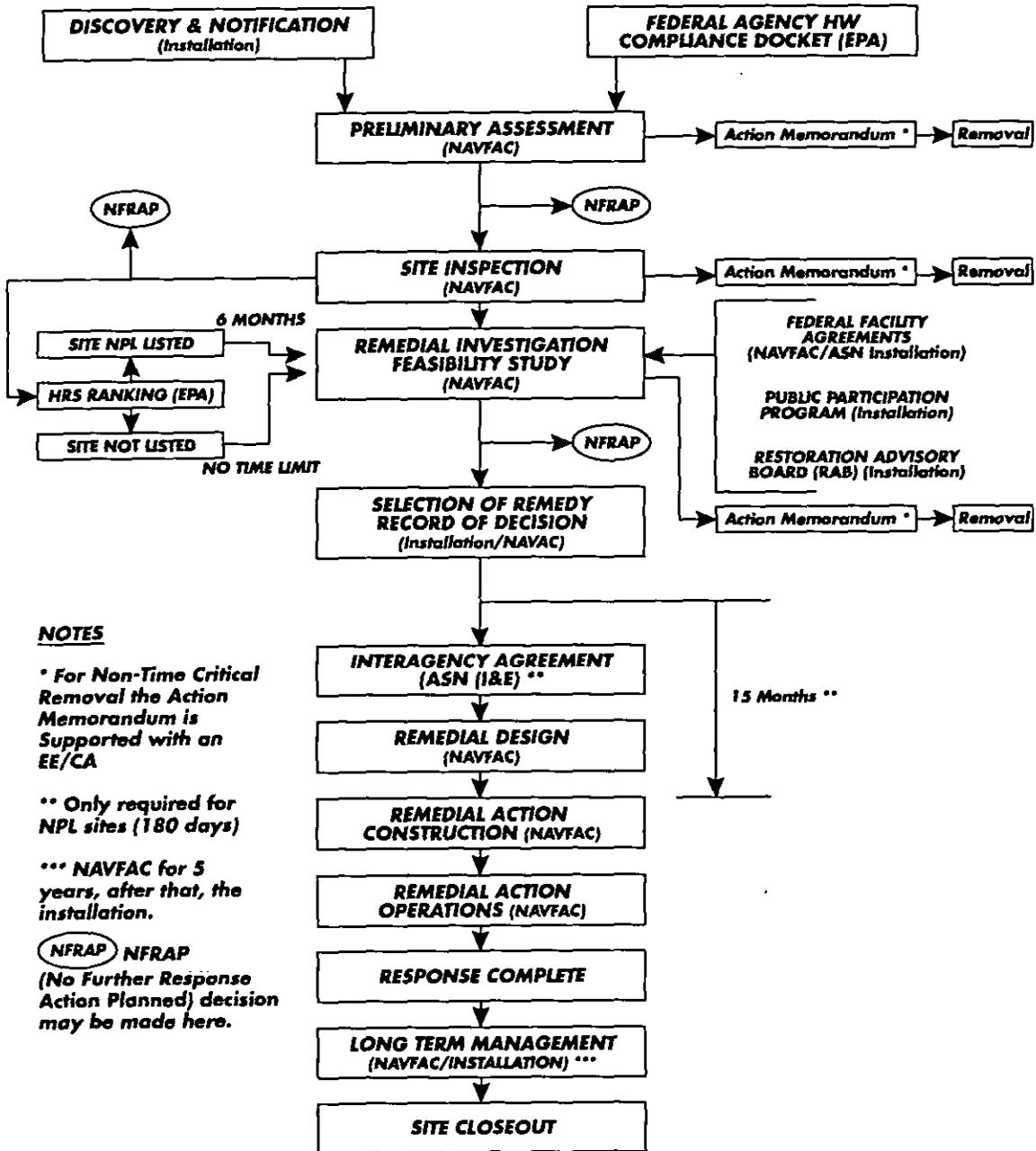


Figure 15-1

- h. Remedial Action Operation (RAO)
- i. Long-term management (LTMgt)
- j. Site Closeout (NFRAP or De-listing).

EPA and appropriate State and local officials and the public must have opportunity to review and comment on assessments/studies and proposals for removal/remedial actions. In addition, installations on the NPL negotiate Federal Facility Agreements (FFAs) with State and Federal regulators early in the study process. (See 15-5.11). Also, see figure 15.1 which outlines the IR Program.

R) **15-4.1.2 Knowledge of a Release.** An installation must report any release or threatened release of a hazardous substance to EPA, the State, and appropriate local authorities. Installations must also report releases, or threatened releases, to the chain of command and the Regional Environmental Coordinator (REC) using the reporting format contained in Appendix I. In addition, if the release exceeds the reportable quantity (RQ) as defined under CERCLA, the installation must also notify the National Response Center (NRC) immediately at 1-800-424-8802 or 202-267-2675. If notification of the NRC is not practical, the installation should notify the regional EPA-designated OSC or the Coast Guard.

R) **15-4.1.3 Federal Agency Hazardous Waste Compliance Docket.** CERCLA requires that EPA maintain a Federal Agency Hazardous Waste Compliance Docket that contains information regarding Federal facilities that manage HS or from which HS may be or have been released. A State governor may petition EPA to add a facility to the docket. The docket lists all installations that have submitted IR information to EPA.

15-4.1.4 Administrative Record. The NCP requires the establishment of an administrative record for all CERCLA sites, (reference (c)). The lead agency must establish an administrative record and make it available to the public at the start of

the remedial investigation for remedial actions, and at the time of engineering evaluation/cost analysis for removal actions.

15-4.1.5 Public Participation. The function of public participation activities is to inform the community of planned and ongoing activities, give it an opportunity to comment on and provide input to technical decisions, and allow it to address environmental concerns as early as possible during the remedial process. Navy policy requires opportunities for public participation to begin at initiation of the IR process and continue through cleanup. SARA, section 211, requires that whenever possible and practical, a Technical Review Committee (TRC) will be established for the purpose of enhancing community participation in the review and comment on actions and proposed actions respecting releases or threatened releases at the installation. To expand public involvement beyond that required by section 211, Navy policy, reference (d), is to convert all TRCs to RABs including those at bases subject to closure under base closure law. The provision of Technical Assistance for Public Participation (TAPP) funding may enhance the effectiveness of RABs. Department of the Navy guidance on TAPP is provided at reference (e).

15-4.1.6 Protection of Health and Safety. Response actions under the NCP must comply with the provisions for the protection of the health and safety of workers engaged in HW operations found in reference (f). These provisions include requirements for: developing a site health and safety plan; establishing site access control; enforcing standard operating safety procedures; implementing medical surveillance procedures; providing for environmental and personnel monitoring; providing appropriate personal protective equipment (PPE); and establishing emergency procedures. The IR Manual provides detailed requirements for the protection of worker health and safety and proper personnel training.

9 September 1999

R) **15-4.1.7 Public Health Assessment.** 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 will perform the assessment using available information from IR studies and from site visits. To the maximum extent possible, ATSDR will attempt to complete a public health assessment before the completion of the RI/FS.

15-4.1.8 Record of Decision (ROD)/Decision Document. The purpose of a ROD, or decision document is to document the selection of a site-specific remedy. 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 for that site, be cost-effective, and use permanent treatment technologies or resource recovery technologies to the maximum extent practicable.

As required under CERCLA, section 117(b), an installation must publish notice of the final ROD and make it available to the public in the administrative record before adopting any plan for remedial action. The ROD must document any significant changes from the proposed plan and respond to all comments, written and oral, received during the comment period. The commanding officer of the installation signs the ROD after closure of the public comment period and after addressing all significant comments or issues. The commanding officer signs a decision document for non-NPL sites. At non-NPL sites, an installation follows all procedures for the ROD except that EPA's signature is not required.

15-4.1.9 Interagency Agreement (IAG)/ Federal Facility Agreement (FFA). CERCLA 120(e), requires Federal agencies to enter into an 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 remedial actions. To expedite the cleanup process, DON policy requires entering into an FFA with EPA, and

the State where possible, soon after an installation is listed on the NPL. The purpose of an FFA is to define the procedural framework and schedule for developing, implementing, and monitoring response actions at the site earlier than does an IAG. An FFA becomes an IAG for an operable unit or site cleanup at an installation once the ROD is signed and new schedules are negotiated for the actual Remedial Action (RA). The law does not require an FFA. However, DOD and Navy policy requires them unless they are not advantageous to the Navy.

15-4.1.10 Remedial Design Or Remedial Action (RD/RA). After the commanding officer signs the ROD, the EFD/A will initiate the RD/RA for the selected remedy. The RD converts the conceptual design for the selected remedy into a final design for implementation. The RA commences after completion of the RD with the award of a contract to construct or implement the selected alternative. For NPL sites at Federal activities, CERCLA §120(e)(2) requires that substantial continuous physical on-site remedial action will commence not later than 15 months after completion of the RI/FS. (See figure 15.1.)

15-4.1.11 Site Closeout. The EFD/A should conduct a site closeout when no further response actions under the IR Program are appropriate for the site and when site cleanup confirms that no significant threat to public health or the environment exists. Wherever possible, an installation should seek EPA and State concurrence.

a. **NPL Site Closeout.** The NCP, reference (c), part 425(e), states that the EPA may delete a site or recategorize it on the NPL where no further response is appropriate. The EPA, in consultation with the State, will determine whether the installation has met the requirements, and if it has, will prepare a notice of intent to delete. The EPA will obtain State concurrence with the deletion notice before making the notice available to the public. The EPA will also make the final deletion

(D

(R

(R

9 September 1999

package available to the public, which will contain the response to public comments received.

A Federal installation must close out all sites *within it for de-listing from the NPL*.

b. Non-NPL Site Closeout. For non-NPL sites, the installation must notify EPA and the State that it has completed appropriate response actions and no further response action is appropriate. The installation will designate the site (or sites) as NFRAP, placing supporting documentation in the information repository, and will notify the public of these actions.

A)

15-4.1.12 Five-year review. Five-year reviews are required where a selected remedial action results in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure. The clock for when the first 5-year review is due for a site starts running with initiation of the selected remedial action for that site.

15-4.1.12 Real Property Transactions and Management. As Navy installations are closed and realigned, IR Program efforts must continue. COMNAVFACENGCOM shall identify IR Program requirements and complete them in accordance with 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 IR Program work at BRAC installations.

Reference (g) requires, per CERCLA section 120(h)(1), that all Federal agencies entering into a contract for the sale or other transfer of real property include a notice that identifies whether HS were stored on the property for 1 year or more, or were released or disposed of on the property. This notice must identify the type and quantity of such HS and the time at which such storage, release, or disposal took place.

CERFA expanded CERCLA section 120(h) 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 stored for 1 year or more, known to have been released, or disposed of. An installation will identify uncontaminated property based on an investigation of the real property. It must obtain concurrence with the identification from EPA for NPL sites. For non-NPL sites, an installation must provide the State 60 days for review and comment. If the installation receives no comments, it may deem concurrence.

For bases subject to closure or realignment under a base closure law, the CERFA identification must be made, and concurrence must be obtained, within either: 18 months of the CERFA enactment (October 19, 1992); 18 months of the date by which a joint resolution disapproving the closure or realignment must be enacted and such a joint resolution has not been enacted; or 18 months of the date on which the real property is selected for closure or realignment.

15-4.1.13 Retention of Records. CERCLA section 103(d)(2) requires that any person responsible for providing notification of known, suspected, or likely releases should also retain records of the facility and the HS release for 50 years. 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. It is possible, under some circumstances, to obtain a waiver from these requirements by applying to EPA.

15-4.2.1 The RCRA Process. RCRA section 3004(u) requires installations seeking or renewing a permit for a Treatment, Storage or Disposal Facility to take corrective action for past releases

of HW or constituents from any SWMU at the facility. Permits issued by EPA or a State with RCRA authority will contain schedules of compliance for such correction (where it issues a permit before an installation can complete corrective action).

Additional RCRA corrective action requirements include:

a. Section 3004(v), requires corrective action be taken for releases of HW that have migrated beyond the facility's border

b. Section 3008(h), permits EPA to issue an order requiring corrective action to address releases of HW (constituents omitted), whether or not from a SWMU, at facilities authorized to operate under interim status.

The following general procedures are set forth under the Corrective Action (CA) provisions of RCRA. The IR Manual discusses requirements for these procedures in further detail:

a. RCRA Facility Assessment (RFA). The RFA is similar to the CERCLA PA/SI.

b. Interim Measures. Interim Measures are similar to Removal Actions under CERCLA.

c. RCRA Facility Inspection (RFI). The RFI is similar to the CERCLA RI.

d. Corrective Measures Study (CMS). The CMS is similar to the CERCLA FS.

e. Remedy Selection. Remedy Selection under RCRA is essentially the same as Remedy Selection under CERCLA.

f. Corrective Measures Implementation (CMI). The CMI is similar to RD/RA under CERCLA.

An installation must give State and local

officials and the public opportunity to review and comment on assessments/studies and proposals for removal/remedial actions. In addition, the installation may negotiate Federal Facility Site Remediation Agreements (FFSRAs) with State regulators early in the study installation restoration process.

15-5 Navy Policy

15-5.1 General. CERCLA is the preferred process for conducting the installation restoration program. An installation shall comply with all applicable requirements of CERCLA/SARA in carrying out actions under the Navy IR program. All terminology used by the Navy IR Program shall be consistent with that used in CERCLA/SARA and RCRA/HSWA. Installations shall accomplish all IR response actions per the NCP, following EPA guidance in determining reasonable interpretation and application of the regulations. The Navy shall not adopt any guidelines or rules inconsistent with EPA's guidelines and rules. The Navy strives to clean up sites with higher risk before those with lower risk. The Navy should continually remind regulators and the public of this concept, especially when funding is constrained.

Congress provides funding through ER,N. It is DON policy to use ER,N as the exclusive source of funding for environmental restoration at active installations. Per reference (h), other types of funding are not authorized instead of, or to supplement, ER,N funds except where the work is within the scope of MILCON or O&MN funded construction projects as discussed in subsection 15-5.19. The Navy shall maintain an open and continuous dialogue with regulatory agencies and the public on all IR activities. The Navy shall use the Defense/State Memorandum of Agreement (DSMOA) process to provide funds to State regulatory agencies for oversight costs.

ER,N funds can be used for RCRA corrective action as described above for past releases of HW at permitted facilities, or facilities seeking permits

(R)

if these are the same types of releases covered by the IR program.

COMCOMNAVFACENGCOM is the DON agent for executing the ER,N funded IRP with program oversight by CNO N45. COMNAVFACENGCOM has delegated the day-to-day operation of the IRP to the COMNAVFACENGCOM Engineering Field Divisions/Activities (EFD/EFA).

R) **15-5.2 Emergency Response.** Under CERCLA section 104, E.O. 12580 and the NCP, the Navy 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 an IR 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. The responsibility for responding to emergency situations at IR sites belongs to COMNAVFACENGCOM through the geographical EFD/EFA using ER,N funds.

15-5.3 HRS. Following completion of a PA/SI, the cognizant COMNAVFACENGCOM EFD/EFA shall prepare a package that includes available information necessary for HRS scoring, and the installation shall forward the package to the EPA.

R) **15-5.4 No Further Response Action Planned (NFRAP).** The Navy should not expend resources on sites that pose little or no threat to humans or the environment. An installation can make "no further action" decisions at several points within the remedial process, but must base this on a defensible and properly documented "assessment of risk to human health and the environment." The Navy may apply this procedure at both NPL and non-NPL installations to describe those locations where it determines that no further action is required, based upon appropriate investigation. COMCOMNAVFACENGCOM or its designee shall prepare NFRAP decision documents for

signature by the installation commander. Upon signature, the installation shall forward the NFRAP decision documentation to appropriate regulatory agencies for information and/or concurrence. Remedial project managers shall be alert to identify opportunities for NFRAP decisions.

15-5.5 Administrative Record. CERCLA section 113(k) requires the establishment of an administrative record which will form the basis for the remedy selection. The administrative record shall be initiated as soon as the SI shows that the program will move into the RI/FS phase. The cognizant COMNAVFACENGCOM EFD/EFA shall establish and maintain the administrative record using ER,N funds and in close coordination with the installation. COMNAVFACENGCOM shall provide copies of the Administrative Record to the installation, State, and EPA as appropriate. Installations shall ensure that a copy of the administrative record is available in an information repository. The repository shall be available to the public at or near the site and notice of the availability is part of the record. The Administrative Record is the basis for actions taken by the Navy and any future legal action concerning the site.

The administrative record is a CERCLA requirement and is not required where an installation conducts cleanup actions under RCRA corrective action authority.

15-5.6 Public Participation. Navy public participation requirements, described in detail in the Navy/Marine Corps IR Manual, are more comprehensive than the NCP. Installations, with assistance from the cognizant COMNAVFACENGCOM EFD/EFA, are responsible for implementing proactive public information programs that shall include formal Community Relations Plans (CRPs) for all IR sites, whether or not the installations are on the NPL. In addition, the installation shall appoint a contact or spokesperson for community relations activities who shall be responsible for receiving all

9 September 1999

inquiries and releasing information concerning the installation's restoration program.

formation of RABs instead of TRCs. DON policy converted all TRCs to RABs.

(D)

- R) **15-5.7 Restoration Advisory Board (RAB).** DON policy is to have a RAB at all installations with ER,N funded cleanup programs, regardless of the cleanup authority (CERCLA or RCRA) under which the cleanup is taking place. By increasing the diversity and number of community representatives, establishing a Community Co-Chair, and opening the meetings to the public, the RABs shall ensure that all stakeholders have an increased opportunity to actively participate in the timely review of installation restoration 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 shall not make decisions on environmental restoration activities as a group, but shall provide information, suggestions, and community input for use by the Navy in making decisions on actions and proposed actions concerning releases or threatened releases. The Navy does not intend that Federal Advisory Committee Act (FACA) requirements shall apply. RABs shall not take the place of community outreach and participation activities required by law, regulation or policy. The installation must still meet all community relations requirements. The installation shall be responsible for implementing the RAB. Installations should schedule meetings in facilities convenient for public attendance. Installations may adjourn the RAB in consultation with the community when there is no longer any need for it, i.e., when the IRP at the installation is either complete or all remedies are in-place and operating properly, or, if there is no longer sufficient, sustained community interest in the RAB. The installation should use ER,N funding for RAB support. Reference (d) provides DON RAB policy.

15-5.9 Health and Safety. The NAVFAC-ENGCOM RPM and installation restoration coordinator shall be responsible for ensuring that the requirements for protecting site worker health and safety are being enforced.

15-5.10 Public Health Assessment. The Navy Environmental Health Center (NAVENVIR-HLTHCEN) shall coordinate with ATSDR concerning public health assessments. NAVENVIRHLTHCEN shall ensure that ATSDR is aware of new NPL listings and coordinate any ATSDR visits to installations with the installation and cognizant NAVFAC-ENGCOM EFD/EFA. NAVENVIRHLTHCEN shall review public health assessments performed by ATSDR.

- A) **15-5.8 Technical Review Team (TRC).** The DERP mandated that whenever possible and practical, all installations with IR programs form TRCs. A subsequent revision permitted the

15-5.11 Federal Facility Agreements (FFAs) under CERCLA Section 120. The Navy shall enter into FFAs at its NPL sites as early as possible after identifying the requirement for a RI/FS. These agreements have high priority and function to establish roles and responsibilities and improve communications between all parties by allowing EPA and the State to review all work in support of remedy selection. FFAs also establish the procedural framework and establish schedules for the parties involved. FFAs at NPL sites shall outline the working relationship between the States, EPA, and the Navy. COMNAVFACENGCOM is responsible for negotiating all FFAs on behalf of and in close coordination with the installation. In developing the Navy's negotiating position, COMNAVFACENGCOM shall seek the input of the installation, the cognizant major claimant(s), the Regional Environmental Coordinator (REC), and CNO (N45). After coordination, FFAs shall be forwarded with appropriate endorsements via the Chain of Command and CNO (N45) to the Deputy Assistant Secretary of the Navy (Environment and Safety) (DASN (E&S)) for signature.

(R)

15-5.12 ROD/Decision Document. The cognizant COMNAVFACENGCOM EFD/EFA shall prepare a ROD/decision document at the conclusion of a RI/FS and provide the ROD/decision document and a recommendation of action to the installation CO with a copy to the major claimants. The installation CO shall carefully review the proposed ROD/decision document and administrative record. If the CO concurs with the proposed ROD/decision document, then he/she shall sign it. *If the CO disagrees or has questions on the ROD/decision document, he/she shall present the issues to the cognizant COMNAVFACENGCOM EFD/EFA and the major claimant for discussion and resolution.*

For NPL sites, the installation forwards the ROD to the EPA regional office for concurrence. Although neither a ROD nor an IAG is required under CERCLA at non-NPL sites, State remediation laws may contain requirements for decision documentation. Where such requirements apply, the cognizant COMNAVFACENGCOM EFD/EFA shall prepare a decision document for submittal by the installation. If the State remediation law contains no specific requirements for decision documentation, the cognizant COMNAVFAC-ENGCOM EFD/EFA shall prepare a decision document that contains the elements of a ROD. If the installation CO concurs with the decision document, he/she shall sign and forward the decision document to EPA and the State.

15-5.13 IAGs. At the completion of an RI/FS at an NPL site, the law requires signing the IAG. The previously negotiated FFA shall become an IAG upon incorporation of the statutory requirements after the ROD. There is no IAG requirement for a No Action ROD.

15-5.14 RD/RA. The RPM shall oversee coordination of the RD/RA with the installation, EPA, the State, and local officials; maintain the administrative record; participate in community relations; and ensure overall quality assurance/quality control. The Navy Resident Officer in Charge of

Construction (ROICC) shall manage construction for the RA and shall ensure that the RA meets all specifications and is constructed in a manner that protects human health, welfare, and the environment.

15-5.15 LTMgt. Where HS, pollutants, or contaminants remain on a site after RC, and as required by the decision document, planning for and conduct of LTMgt is the responsibility of the cognizant COMNAVFACENGCOM EFD/EFA using ER,N funds for a period of five years after RC. The purpose of LTMgt is to ensure the site or the OU remains protective of human health and the environment. During the first two years of this five-year period, the cognizant NAVFAC-ENGCOM EFD/EFA will develop and implement a maintenance, monitoring, and management plan (LTMgt Plan). The NAVFAC-ENGCOM EFD/EFA will provide the LTMgt Plan and cost data to the installation to allow the commanding officer to budget in a timely manner for funds required to continue the LTMgt after the first five year period, if needed. The LTMgt Plan will include requirements for five-year reviews after turnover of IRP responsibilities to the installation commanding officer.

15-5.16 Five-year review. COMNAVFAC-ENGCOM conducts Five-Year Reviews using ER,N funds.

Although LTMgt responsibility for a site devolves to the installation five years after RC, in general, five-year review responsibility for the whole installation will remain with NAVFAC using ER,N funds until five years after the LAST site at the installation achieves RC. The installation becomes responsible for conducting and funding five-year reviews using installation O&MN funds commencing five years after the last site achieves RC .

Within the five-year span following final site RC, COMNAVFACENGCOM will include the schedule and cost estimates for conducting

(R)

(A)

subsequent five-year reviews in the maintenance, monitoring and management plan (LTMgt Plan) provided to the installation commanding officer.

- A) **15-5.17 Remedy Optimization.** NAVFAC-ENGCOM is responsible for identifying and implementing remedy optimizations during the RA-O phase and for the first five years after RC, using ER,N funds. Once the commanding officer becomes responsible for the LTMgt, the installation must use O&MN funds for opportunities to reduce remaining costs.

15-5.18 Fines and Penalties. The installation shall not pay fines and penalties assessed concerning environmental restoration 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 the Naval Facilities Engineering Command (NAVFACENGCOM), the installation shall immediately forward the notice to the cognizant COMNAVFACENGCOM EFD/ EFA for action. Installations shall pay fines and penalties related to ongoing hazardous waste operations (actions that are not eligible for ER,N funding) from the installation's operating account. See Appendix B for additional information pertaining to the reporting of all notices of violation.

Where the Navy agrees to pay any fines and penalties arising under ER,N funded work, the Navy will submit these fines/penalties to Congress for authorization in the first available budget window. This is the case for ER,N work conducted under either CERCLA or RCRA. The funding source (i.e. ER,N) drives the notification requirement, not the particular law under which the work is performed.

- R) **15-5.19 Construction Projects on Contaminated Sites.** Installations shall make every effort to avoid construction projects on contaminated sites.

However, there may be times during planning for a project, or after it starts, when an installation discovers contamination. In such instances, the following applies:

a. If an installation discovers contamination during the planning stage, it may investigate to determine if the site can be cleaned up following IR procedures using ER,N funds. However, the site investigation/clean up must compete with other IR sites based on risk management. In most cases, this will take several years and the site may not be available in time for the project.

b. If an installation discovers contamination during construction, it can carry out the site investigation/cleanup using ER,N funds. However, the site will compete with other IR sites based on risk management. If IR funding is not available in time to meet the construction schedule, the installation must use project funds to investigate/clean up the site. If neither IR 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 DERP eligible work with installation O&MN funds except to accomplish DERP eligible work within the scope of an O&MN funded construction project.

15-5.20 Contamination on Navy property scheduled for non-BRAC disposal: Installations shall 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 will not be accelerated solely to accommodate the claimant's property disposal schedule.

15-5.21 Navy as Potentially Responsible Party (PRP). Historically, the Navy has contracted with private companies to transport and dispose of HW generated at its installations. Many of the disposal sites selected by contractors are themselves threatening/contaminating the environment and

need to be cleaned up. Upon receipt of formal notice from the EPA, State or local authorities that a Navy installation is involved in a site as a PRP, the installation shall notify, by message, its chain of command, the REC, COMCOMNAVFAECENGCOM, cognizant COMNAVFAECENGCOM EFD/A, Judge Advocate General, Office of Assistant General Counsel (Installation and Environment) (OAGC (I&E)), Office of General Counsel (Litigation Office) (OGC (Litigation Office)) and CNO (N45). The message shall describe the salient points of the notice. Simultaneously, the installation will mail a copy of the notice and other appropriate documents to the same addressees. Cognizant COMNAVFAECENGCOM activities shall take the lead role in negotiating with EPA, the U.S. Attorney's Office, and the PRP Steering Committee. Cognizant COMNAVFAECENGCOM EFD/EFA personnel shall cooperate with the other parties involved in the site response and provide requested information regarding the Navy's HW sent to that site. COMNAVFAECENGCOM shall report semiannually to CNO on the status of Navy involvement in off-station CERCLA sites. The cognizant COMNAVFAECENGCOM EFD/EFA shall keep the REC apprised of site status.

- R) **15-5.22 Formerly Used Defense Sites (FUDS).** The Army Corps of Engineers is responsible for the FUDS Program. The Navy's responsibility for FUDS sites that were formerly Navy sites is informational only. Should local interest arise, naval activities should pass questions regarding the status of FUDS sites to appropriate Corps of Engineers officials. In special circumstances, the Corps can grant authority for the Navy to address FUDS located on property formerly owned or operated by the Navy.

15-5.23 Real Property Transactions and Management. The cognizant COMNAVFAECENGCOM EFD/EFA shall consider the IR Program before real property transactions and as part of all land management decisions.

15-5.23.1 Acquisition. The Navy does not acquire 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 CNO approval to ensure insertion of incurred cleanup liabilities into the IRP.

a. From Federal Agencies. Although DOD policy requires that a Component acquiring known contaminated real property will normally assume the responsibility for managing restoration actions at the property, Navy policy is to try to negotiate a transfer agreement that leaves the funding and management of restoration actions of the property with the transferring Component. In either case, transfer agreements must clearly assign continuing responsibility for cleanup after the transfer. Where Navy assumes the funding and management of restoration activities, the transferring Component is responsible for providing the Navy with all reports and a history of restoration actions taken prior to the transfer of the property and for transferring the cleanup funding as planned for the property in the Future Years Defense Program (FYDP). The Navy will not accept property from a non-DOD Federal agency unless the agency certifies it has met the requirements of CERCLA section 120(h) 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 acquiring installation should negotiate cleanup costs as an offset to the purchase price. The acquiring installation must carefully balance operational requirement for the property against any cleanup liability that will come with it.

15-5.23.2 Lease/Transfer/Disposal. An Environmental Baseline Survey (EBS) shall be prepared for all leases, easements and transfers of Navy real property. Where appropriate, an EBS should be prepared for other actions involving the

use of real property, e.g., licenses, depending on such factors as proposed use, the term of the use, and the presence of any contaminants on the property

A Finding of Suitability for Transfer (FOST) or Lease (FOSL) shall be prepared for each EBS. The Commander/Commanding Officer of the geographical COMNAVFACENGCOM EFD/EFA shall execute the FOST or FOSL.

In the preparation of an EBS and the associated FOST/FOSL, an installation shall consult with Federal, State, and local regulators as necessary and appropriate, e.g., EPA where parcel involved is part of an NPL site.

15-5.24 National Environmental Policy Act (NEPA). IR Program actions that follow the NCP and fulfill public participation requirements are deemed to have complied with NEPA.

15-5.25 Government-Owned/Contractor-Operated (GOCO) Plants. The Navy's liability and responsibility for cleanup of sites at GOCO facilities flows 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 shall be to require GOCO contractors to pay for all cleanup costs associated with their operation of Navy facilities.

Navy actions to fulfill its CERCLA responsibilities shall be consistent with its contractual requirements with the GOCO contractor. Failure to coordinate may result in a claim by the operating contractor under a Navy contract or loss of potential claims by the Navy against the operator.

The following policy applies to implementation of the IR program at GOCOs:

a. A PA/SI shall be done by COMNAVFACENGCOM at Navy GOCOs using ER,N funds. COMNAVFACENGCOM shall coordinate

with the corresponding Echelon 2 Command before starting the study.

b. Once the EFD/A has completed the PA/SI, it should provide the results to the Echelon 2 Command, via the installation, for action. If the PA/SI recommends additional follow-up work, the Echelon 2 Command shall immediately initiate and document discussions with the contractor pertaining to contractor responsibility for and participation in any cleanup efforts. It is Navy policy, reference (i), to identify, investigate and pursue cost-recovery/cost-sharing activities from DOD contractors or other parties that contribute to environmental contamination at DOD sites. Since the contractor may be liable for the cleanup, the Echelon 2 command shall offer the contractor the opportunity to conduct any follow-up studies. To ensure that any work done by the contractor is consistent with the requirements of CERCLA, the NCP and the IR Program, COMNAVFACENGCOM or its designee shall serve as the Echelon 2 Command's technical representative and shall review and approve all phases of the work, including submittals.

c. If the contractor declines to perform the follow-up studies, the Echelon 2 Command shall document that response and request COMNAVFACENGCOM to conduct the work under the IR Program. COMNAVFACENGCOM shall use ER,N funds and identify all costs associated with the follow-up studies for cost sharing or future cost-recovery actions, if such action is appropriate.

d. Navy commands shall follow similar scenarios as described above for any RD/RAs, including removal actions and interim RAs. The Navy shall pursue Cost-sharing/cost-recovery actions against the contractor where appropriate.

e. All actions (i.e., studies and cleanups) done at GOCOs on Navy property shall be consistent with CERCLA and the NCP. Administrative records and CRPs shall be prepared at all the

GOCOs. RABs are recommended but not mandatory unless an installation is using ER,N funding to conduct the studies and cleanup. If EPA places a GOCO on the NPL, all timetables associated with CERCLA section 120 apply and the Navy shall conform. COMCOMNAVFAC-ENGCOC shall handle negotiations concerning necessary FFAs.

15-5.26 State Laws. Navy policy is to comply with all State laws that are consistent with the CERCLA, SARA and the NCP. In States with a mini-superfund law, installations may find it advantageous to negotiate a Federal Facility/State Remediation Agreement (FFSRA) for non-NPL sites, which spells out the responsibilities of each party to the cleanup. When cleaning up sites under the RCRA corrective action program, the Navy will follow laws and regulations for States that have received primacy.

15-5.27 Coordination with Other Environmental Regulations. Although CERCLA section 121(e) exempts IR Program actions occurring entirely on-site that are consistent with CERCLA section 121 from obtaining Federal, State, or local permits, interagency coordination is often required to ensure consistency with applicable or relevant and appropriate requirements (ARARs) or other environmental laws. RPMs shall solicit early involvement of other Navy specialists including natural and cultural resources personnel 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 IR Program investigation including PA/SI, RI/FS, removal action, interim action, or RA.

15-5.28 Training. SARA requires HW site training. The government issued requirements in reference (f). An installation must train all Navy and contractor employees working on-site exposed to HS, health hazards or safety hazards, and the supervisors and management personnel responsible

for the site, meeting the requirements summarized below, before they are permitted to engage in cleanup operations.

a. All employees exposed to HS, health hazards, or safety hazards shall have 40 hours of off-site instruction and 3 days of field experience. Training shall be as practical as possible and include hands-on use of equipment and exercises designed to demonstrate and practice classroom instruction.

b. Installations shall train on-site management and supervisors of personnel engaged in HM operations equal to the above, plus eight additional hours on managing such operations.

c. Installations shall train trainers at a level higher than, and including, the subject matter they are teaching.

d. Installations shall provide employees and managers with eight hours of refresher training annually.

The Navy/Marine Corps IR Manual provides additional details of required and recommended IR training for staff and visitors to IR sites.

15-6 Responsibilities

15-6.1 Echelon 2 Commands/Major Claimants shall:

a. Ensure that subordinate installations identify and forward IR Program requirements to CNO. (R

b. Pass program information and guidance to their installations.

c. Ensure that subordinate installations coordinate base cleanup planning, programming, budgeting, and execution with their cognizant COMNAVFACENGCOC EFD/EFA.

d. Ensure that subordinate installations fulfill their responsibilities under the Navy IR Program and appoint an IR coordinator.

e. Ensure that installations with sites meet public participation and other legal requirements.

f. Ensure that installation budgets reflect resource requirements to support the IR Program, especially any LTMgt requirements five years after RC.

g. Ensure that subordinate commands review all facility siting proposals against the requirements of the IRP, especially where an IRP decision document has identified or put in place land-use restrictions.

A) h. Obtain CNO approval before acquiring known contaminated property from another DOD Component or other federal agency.

15-6.2 COMCOMNAVFACENGCOM shall:

a. Execute the IR Program for CNO.

R) b. Update the IR database semi-annually.

c. Ensure cognizant COMNAVFACENGCOM EFDs/EFAs coordinate overall IR Program with installation commanders.

d. Provide program and technical support as directed by CNO; also provide site specific technical, progress, and budgeting information to satisfy program reporting requirements.

e. Develop and support ER,N resource requests and manage funds allocated for program execution.

f. Resolve issues and problems associated with conduct of the IR Program, and raise the issues to CNO where necessary.

g. Perform IR studies and RA projects and

prepare NFRAP documentation by contract, in-house effort, or combination.

h. Identify and train RPMs.

i. Consistent with coordination requirements of paragraph 15-5.12, negotiate FFAs and State remediation agreements on behalf of and in close coordination with Navy installations. Forward draft final proposed FFAs and State agreements to CNO for review and submission to Office of Deputy Assistant Secretary of the Navy (Environment and Safety) (DASN (E&S)) for signature. When substantial changes to model language or policy are contemplated, these should be referred to OAGC (I&E) and CNO (N45) as early as possible after they are identified.

(R

j. Participate in remediation planning meetings with other PRPs and agencies, forward proposed remediation agreements to CNO and OGC (Litigation Office) for review and comment, sign and administer the agreements and disseminate information to all interested parties at all stages of the process.

k. Represent the Navy in matters relating to the assessment of fines and/or penalties associated with IR program.

l. Develop and perform site-specific projects to assess and control contamination in conjunction with installations.

m. Ensure that IR work plans and ecological risk assessments are reviewed by health and safety and natural resources professionals familiar with the site.

n. Track project progress to meet schedule requirements.

o. Coordinate, at all stages, with installation COs and regulatory agencies before initiating projects and through project completion and the first five years of LTMgt.

- A) p. Support the installation in fulfilling public participation responsibilities as requested, including RAB and CRP actions, and installation specific Community Relations Plans (CRP).
- q. Support installations in fulfilling their RAB and CRP responsibilities.
- r. Prepare the ROD and/or decision document and forward to the installation CO with a *recommended alternative*.
- s. Maintain administrative record files and distribute copies as required.
- t. Prepare project plans, reports, and contract documents; coordinate review and comments; and distribute final documents to the appropriate installation and Echelon 2 Command.
- u. Provide technical and financial oversight during project performance.
- v. Provide IR study results to planning, real estate and natural resources personnel and work with acquisition project managers to ensure that HS site conditions are taken into account by other Navy programs and projects before irreversible decisions are made.
- w. Validate installation facility planning proposals against IRP site installation or land-use restrictions.
- c. Provide health/medical evaluation of risk assessments and other IR and BRAC cleanup program documents including work plans, sampling plans, remedial investigation documents, feasibility study documents, quality assurance plans, and health and safety plans as requested by COMNAVFACENGCOCOM EFDs/EFAs.
- d. Provide technical support for risk communications and other health related training courses.
- e. Conduct risk assessments as required.
- f. Provide assistance in developing applicable, relevant and appropriate requirements (ARARs) for IR and BRAC cleanup program activities.
- g. Assist COMNAVFACENGCOCOM and installations to prepare for public meetings and respond to community concerns regarding program health and safety.

15-6.3 BUMED shall:

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.

15-6.4 Commanding officers of shore activities shall:

a. Notify Federal, State and local officials and the chain of command upon discovery of a release.

b. Meet all applicable statutory and regulatory requirements including, but not limited to, safety and health, training (for installation personnel), and natural resources during site assessment and response actions.

c. Provide necessary review and comment on IR plans of action, reports, etc. to the cognizant COMNAVFACENGCOCOM EFD/EFA.

d. Forward, or authorize cognizant COMNAVFACENGCOCOM EFD/EFA to forward, all final primary documents to the EPA and State regulatory agencies prior to deadlines in either FFAs or State agreements/orders.

e. Be responsible for any required O&M funding and support for long-term monitoring and operation and maintenance of sites commencing five years after the site has reached RC.

f. Fund ER,N eligible work with ER,N funds only, since installations are specifically forbidden to use installation O&M funds to perform work that is eligible for ER,N funding.

g. Provide an IR coordinator and logistic support for IR projects at their installation.

h. Establish and conduct periodic meetings of the RAB for IR Program sites.

i. Provide information as required for updating project exhibits to cognizant COMNAVFACENGCOM EFDs/EFAs for IR Program studies and RAs (i.e., studies, RAs, salaries, support costs).

j. Provide information as required for updating project exhibits to cognizant Echelon 2 for IR Program salaries, support, travel and training costs.

k. Prepare and implement a public participation program, including a CRP, for IR Program sites.

l. In conjunction with the cognizant COMNAVFACENGCOM EFD/EFA, select the remedy and sign the decision documents for all IR Program sites.

m. Participate in negotiations of FFAs and State agreements.

n. Notify appropriate commands of any EPA or State notice of PRP action, and support PRP response.

o. Consider IR Program site conditions or land-use restrictions before land use planning, development, or operation, especially for Military Construction (MILCON) and special project development. Incorporate IR program review into the shore facilities planning process.

p. Place appropriate information in the information repository(s).

q. Inform the public of the availability of Navy funding for Technical Assistance for Public Participation (TAPP).

(A