

CHAPTER 1

ENVIRONMENTAL POLICY, ORGANIZATION AND FUNDING

1-1 Scope

1-1.1 Manual. This manual provides Navy policy, identifies key statutory and regulatory requirements, and assigns responsibility for management of Navy programs for:

- a. Cleanup of waste disposal sites
- b. Compliance with current laws and regulations for the protection of the environment, natural resources, and cultural and historic resources
- c. Conservation of natural resources
- d. Pollution prevention
- e. Technology.

These programs are listed neither in order of importance nor priority. Within the Department of Defense (DOD), these five program areas are referred to as C³P²+T.

1-1.2 Coordination. This manual has been coordinated with the Commandant of the Marine Corps, but does not apply to Marine Corps activities.

1-1.3 Applicability. The policies and procedures in this manual apply to shore activities within the United States, territories, commonwealths, and possessions. The policies in chapter 19 apply to ship operations worldwide. Other policies and procedures in this manual, including those regarding the National Environmental Policy Act (NEPA), are applicable to ships and Navy operations only within the territorial seas of the U.S. unless expressly stated otherwise. Navy policy for overseas shore activities is provided in chapter 18. This instruction describes the internal management of the Navy's environmental program, and is not

intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the Department of the Navy (DON), its officers, employees, or any person.

1-1.4 Precedence. This instruction is the primary guidance for Navy policies and procedures for managing environmental and natural resource programs, and any apparent conflict between this instruction and other Navy instructions, manuals and similar directives on environmental and natural resource programs will be resolved in favor of this instruction. This instruction is consistent with all applicable statutes, Executive Orders (E.O.s), DOD directives and DON instructions, and readers will so construe it.

1-1.5 References. References are:

- a. SECNAV INSTRUCTION 5510.30A, Department of the Navy Personnel Security Manual; (NOTAL)
- b. SECNAV INSTRUCTION 5510.36, Department of the Navy Information Security Program (ISP) Regulation; (NOTAL)
- c. OPNAVINST 5430.48D, Office of the Chief of Naval Operations (OPNAV) Organization Manual; (NOTAL)

1-2 Policy

1-2.1 General Requirements

a. The Chief of Naval Operations (CNO) has defined the environmental vision of the Navy: "Navy recognized as an environmental leader while effectively executing naval operations." The Navy's ability to accomplish its mission requires daily operations in the land, sea, and air environment. The Navy is committed to operating in a

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manner compatible with the environment. National defense and environmental protection are, and must be, compatible goals. The chain of command must provide leadership and personal *commitment to ensure that all Navy personnel develop and exhibit an environmental protection ethic.* Thus, an important part of the mission of the Navy is to prevent pollution, protect the environment, and protect natural, historic, and cultural resources.

b. All Navy personnel (civilian and military), tenants, and contractors working for the Navy shall comply with all applicable Federal, State, local, and internal environmental policies, regulations, and requirements. Navy personnel shall obtain all necessary Federal, State, and local environmental permits for construction and operation of facilities and comply with permit terms and conditions. When, in the interest of national defense and/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 shall be referred to the Deputy Chief of Naval Operations (DCNO (Logistics), CNO (N4)), via the chain of command. Presidential exceptions may be available under some statutes, but Navy policy is to achieve and maintain compliance with applicable laws and regulations. Activities shall seek compliance waivers only as a last resort, and CNO (N4) will not grant waivers if he or she considers compliance to be practicable. Commands seeking waivers must comply with environmental requirements while the request is pending.

1-2.2 Pollution Prevention. The preferred method of environmental protection is to eliminate or control, to the maximum extent feasible, the pollutant source per E.O. 12856. All Navy activities shall identify means and methods for the elimination or minimization of pollutants and, where possible, incorporate them at the earliest stages of planning, design, and procurement of facilities, ships, aircraft, weapon systems, equipment, and material. Commands shall strive to eliminate

or minimize use of hazardous materials (HM) and generation of hazardous waste (HW). chapter 3 describes these programs in detail.

1-2.3 Statutory Requirements. Federal agencies may have to comply with the requirements of a law either because Congress has waived sovereign immunity and made Federal agencies subject to its provisions or because the President has directed by E.O. that agencies of the Executive Branch comply with certain laws or portions of laws as a matter of policy. Most major environmental statutes contain waivers of sovereign immunity that require Federal agencies to comply with Federal, State and local environmental laws and provide for enforcement of Federal, State, and local substantive, procedural, and administrative requirements. Because the application of sovereign immunity waivers varies somewhat with specific situations, personnel should seek the advice of appropriate Navy legal counsel. Requirements for the payment of fees, fines, or taxes are discussed in paragraph 1-4.3.

1-2.4 Executive Requirements. E.O. 12088 requires the head of each Federal agency to comply with "applicable pollution control standards" defined as "the same substantive, procedural, and other requirements that would apply to a private person." It also requires Federal agencies to cooperate with the Environmental Protection Agency (EPA), State, and local environmental regulatory officials. Other E.O.s specific to each subject are referenced in subject chapters and in appendix A.

1-2.5 Information Security. Representatives of Federal, State, and local agencies, exercising their regulatory authorities under environmental laws and regulations, periodically visit Navy shore activities. Activities shall properly enforce Navy regulations and Federal statutes governing the control and protection of classified and sensitive unclassified information but shall not interfere with the legitimate regulatory purpose of these visits. Activities shall follow these guidelines:

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

b. Navy commands handle a considerable amount of sensitive unclassified information controlled under Navy security regulations, Federal Export Control regulations, and other government-wide requirements. While security clearances or access authorizations are not required for access to this information, a need-to-know determination shall be made as described above for classified information, and only U.S. citizens may be permitted access in most cases. The holder of the information shall ensure that the recipient understands and complies with applicable security regulations governing dissemination and protection of the information before permitting access.

c. Access to certain categories of classified and sensitive unclassified information requires special authority. Specifically, 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 of Naval Nuclear Propulsion Program CNO (N00N).

d. Because access to classified and sensitive unclassified information by regulatory personnel creates administrative burdens for both the Navy and the regulator, as described above, Navy commands are encouraged to satisfy the needs of regulatory personnel using information which is publicly releasable.

Subordinate commands shall ensure that these guidelines are reflected in instructions which they issue covering this area.

Chapter 19 discusses information security regarding ships.

1-2.6 GOCO Facilities. Navy offices or activities sponsoring government-owned-contractor-operated (GOCO) facilities shall exercise oversight through the facility's lease or management contracts to ensure that the operating contractor complies with applicable environmental regulations.

1-2.6.1 Facility Use Operations. Officially assigned major claimants for a GOCO plant shall exercise oversight through the facility's use or management contracts to ensure that the plant complies with environmental regulations. When a GOCO plant has no operating contractor or lessee, the major claimant for the GOCO plant shall comply with the requirements of this instruction. Officially assigned major claimant(s) for a leased property shall ensure that lease contract terms and conditions place full responsibility for environmental compliance on the lessee, and shall exercise appropriate oversight of the leased property to ensure lessee compliance with environmental regulations.

1-2.6.2 Operations, Facility Use, or Lease Agreements. These agreements shall require operation of all facilities and equipment under applicable substantive and procedural environmental requirements. Contractors shall obtain all necessary permits and sign the permits as operators unless otherwise directed by contract. Contractors shall advise the Navy of any permit, its conditions, and provide periodic compliance status reports as required by the managing Navy office. Each major claimant for assigned GOCO plants, non-excess GOCO plants, and non-excess military installations, and each Navy sponsor of a GOCO facility shall sign as owner for all environmental permits which each respective operating contractor or lessee of such assigned plant or facility is required to have per environmental regulations and laws. The

landlord command shall develop a schedule and document periodic review of the environmental compliance of its lease and license holders.

1-2.6.3 Facilities Leased or Rented by the Navy. Facility use contracts, rental agreements or leases shall require the owner of facilities leased or rented by the Navy to be responsible for ensuring that the facilities comply with all applicable environmental requirements. The Navy activity renting/leasing the facility shall operate all facilities and equipment under all applicable substantive and procedural environmental requirements, obtain all necessary permits, and sign as operator, unless otherwise directed by contract.

1-2.7 Real Estate Purchase. The purchasing activity shall conduct a pre-purchase environmental survey and a property transaction audit that includes a Preliminary Assessment (PA) for potential hazardous waste contaminated sites. If the seller did a PA, then the purchasing activity shall review documents for accuracy to determine the need for an on-site survey.

1-2.8 Regional/Community Programs. The Navy supports the participation of its employees and officers in regional and community programs to prevent pollution, address waste management issues, and to protect natural and cultural resources. Such participation may include advisory functions or planning of pollution control facilities where Navy shore activities can contribute to the subject to be addressed by that facility. When beneficial and authorized, the Navy may participate in funding of regional/community pollution control and solid waste management solutions. Before committing to participation, employees and commands shall seek the advice of Navy counsel.

R) **1-2.9 Reporting Noncompliance.** Immediately upon discovery of a failure to comply, or a potential failure to comply with environmental requirements, a Navy employee shall report it to the responsible command. If the responsible command is unknown, the noncompliance shall be reported

up the individual's chain of command until the responsible official is determined. If reprisal is of concern to the reporting individual, he or she may submit reports via the Navy Hotline, (800) 522-3451. Naval personnel shall report Notices of Violation (NOVs), Notices of Noncompliance (NONs), warning letters, warning notices, citizen suit notices, consent orders, or any other written or oral notice of deficiencies of Federal, State, interstate, or local environmental control laws or regulations per the procedures of appendix B. If necessary, personnel should seek assistance from the major claimant, the servicing Engineering Field Division (EFD), or the cognizant Regional Environmental Coordinator (REC). Navy policy is to promptly correct any areas not in compliance with applicable requirements. Such prompt attention is the best defense to possible criminal charges or individual penalties.

1-2.10 Facility Inspections. Navy shore facility commanders shall allow entry at reasonable times to Federal or State/local environmental regulators or representatives, upon presentation of proper credentials and subject to information security requirements of paragraph 1-2.5. to examine or copy records, inspect monitoring equipment, inspect work being performed in regard to environmental/regulatory compliance, or sample any wastes or substances which they have the authority to regulate. Further, such inspections shall comply with information and facility security requirements set forth in references (a) and (b) and paragraph 1-2.5. Activities shall notify the major claimant and the REC of all regulatory inspections and may request cognizant Naval Facilities Engineering Command (COMNAVFACENGCOM) organization or REC assistance at such inspections. Chapter 19 provides policy for inspections aboard ship.

1-2.11 Fleet/Shore Facility Relationship. When naval vessels or aircraft are present at a shore facility, commanding officers and personnel assigned to such vessels or aircraft shall comply with the host command's environmental protection policies developed under this instruction.

Compliance with local environmental requirements often requires specialized knowledge, expertise, or capability that afloat units may lack. To the maximum extent possible, shore commands and RECs shall provide to afloat units, upon request, such assistance as may be necessary to ensure environmental compliance by afloat units.

1-2.12 Consistency. Environmental regulations have increased exponentially in recent years. The regulations of a variety of Federal, State, regional and local agencies apply to Navy shore activities. Requirements and interpretations vary widely. To ensure consistent responses to various agencies and to avoid adverse precedents, all commands shall coordinate permit conditions, demands for payment of Navy funds, compliance agreements, settlements, negotiations and responses to NOV's from environmental agencies with their major claimant and REC. appendix B contains instructions for the processing of NOV's and associated chain of command responsibilities. Commands shall send all interpretations or agreements likely to set precedents to CNO (N45) immediately, via the chain of command, with copies to the REC and COMNAVFACENGCOM or applicable EFD or Engineering Field Activity (EFA).

1-2.13 Delegation. Navy personnel shall cooperate fully with Federal, State, and local officials and attempt to reach agreement on environmental compliance matters at the lowest level possible, keeping in mind the coordination requirements outlined above.

1-2.14 Host/Tenant Agreements. Commanding officers/officers in charge of host activities are responsible for all aspects of environmental, natural resources and cultural resource compliance on their bases. Commands cannot delegate this responsibility. All Navy hosts and tenants shall develop agreements, or include in existing agreements, roles and responsibilities with respect to environmental compliance. Such agreements shall include pollution prevention, environmental compliance evaluations (see chapter 20), NEPA documentation (see chapter 2), contact with regulatory

agencies, payment of fines/fees, permit signatures/duties, HW management, emergency planning and community right-to-know implementation, training, corrective and/or response actions, etc. Where appropriate, commands shall establish environmental compliance boards consisting of host and tenant management personnel. Commands may delegate authority for portions of environmental program management to senior managers consistent with "by direction" signature authority. Host commands may delegate authority to tenant commands, but overall responsibility shall remain with the host commanding officer.

1-2.15 Release of Information. Applicable law and information security requirements govern release of activity specific data and information to agencies outside the Navy. Persons outside the Navy shall forward requests for information to an activity for action by the commanding officer of the activity or cognizant major claimant.

1-2.16 Radioactive Material. Use and management of radioactive material shall comply with applicable rules, regulations, and requirements of the Department of Energy (DOE), Nuclear Regulatory Commission (NRC), Department of Transportation (DOT), and EPA, and shall comply with the Naval Nuclear Propulsion Program for matters pertaining to nuclear propulsion. Commands shall coordinate any matters affecting or involving naval nuclear propulsion plants or nuclear support facilities or their associated radioactivity with CNO (N00N). CNO (N00N) shall coordinate such matters as appropriate with the cognizant REC.

1-2.17 Environmental and Natural Resources Training

a. All naval commands afloat and ashore, shall provide adequate education and training to naval personnel to ensure they understand their role within the Navy's program and to enable them to comply with applicable Federal, State and local environmental laws and regulations. Commanders shall provide Navy personnel with environmental

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and natural resources training appropriate to their position or employment. At minimum, personnel must attain a general awareness of Navy environmental and natural resources policies, as well as an awareness of the effects that their actions can have on the environment (see chapter 24).

b. Commands shall ensure that counsel assigned to provide advice on environmental law issues comply with the training recommendations, including continuing legal education, established jointly by the General Counsel of the Navy (OGC) and the Judge Advocate General (NAVY JAG). Individuals should complete this initial training en route where possible. Commands shall also ensure that counsel assigned to provide advice on environmental law issues have access to reference material that complies with the joint recommendations of the OGC and NAVY JAG.

R) **1-2.18 Representation of Federal Employees**
If a legal entity or individual brings action against an employee or service member in a civil lawsuit, consult with the command counsel immediately to initiate the steps to obtain U.S. Department of Justice (DOJ) representation. DOJ determines availability of DOJ representation after favorable chain of command endorsement. Members and employees should direct any further question regarding representation to the command counsel.

1-2.18.1 Payment of Attorney Fees and Judgments. DOJ representation will be free of charge to the employee or service member. If a court finds the employee or service member personally liable, the employee or service member will be responsible for paying any judgment or penalty from personal funds, regardless of whether DOJ provided representation. There are no specific provisions for reimbursing an employee or service member for judgments incurred.

A) **1-2.19 Environmental Considerations During Celebrations/Events.** Large-scale celebrations/events held aboard naval ships or shore facilities may adversely affect the environment if not

planned carefully. Event organizers must consider factors such as solid waste source generation and reduction and wastewater collection and treatment when planning change of command ceremonies, commissioning and de-commissioning ceremonies, deployment homecoming celebrations, and other events that involve large gatherings of personnel and civilian guests.

1-2.19.1 Use of Balloons During Celebrations/Events. Helium-filled balloons travel significant distances from point of release and can harm marine mammals and other aquatic life if they deflate over water. Navy activities will not release helium-filled balloons during celebrations and other events regardless of distance from any coastline. (A

1-3 Organization

1-3.1 Area Environmental Coordinators (AECs). AECs are responsible for coordination of environmental issues within their designated EPA region. (See appendix C for the list of EPA regions.) AECs shall appoint RECs and Navy On-Scene Coordinators (NOSCs) within the AEC's area of responsibility (AOR). The Navy AECs are:

CINCLANTFLT:	EPA Regions I, II, III and IV
CNET:	EPA Regions V and VI
COMNAVRESFOR:	EPA Regions VII and VIII
CINCPACFLT:	EPA Regions IX and X

1-3.1.1 DOD Regional Environmental Coordination. The Department of Navy has been designated as the DOD Executive Agent (EA) for the regional environmental coordination in EPA regions I, III, and IX, and therefore serves as the DOD REC in these regions.

1-3.2 Navy On-Scene Coordinator (NOSC). The NOSC is the Navy official pre-designated to coordinate Navy oil and hazardous substances (OHS) pollution contingency planning and direct Navy OHS pollution response efforts in a pre-assigned area. Shoreside NOSCs are normally RECs pre-designated by the AECs (see chapter 10). CINCPACFLT, CINCLANTFLT and CINCUSNAVEUR will pre-designate fleet NOSCs for assigned ocean areas. The NOSC is the Federal On-Scene Coordinator (OSC) for Navy hazardous substance (HS) releases. The NOSC shall act as the Qualified Individual (QI) and incident commander for spills outside areas assigned to Facility Incident Commanders (FICs), and as incident commander for spills beyond the capability of a FIC.

1-3.3 RECs. RECs serve as the senior Navy officer in a local region to coordinate environmental matters and public affairs. AECs designate RECs, and may designate them as NOSCs for spill response as discussed in chapters 10 and 19.

1-3.4 Naval Environmental Protection Support Service (NEPSS). The NEPSS includes offices in various commands designated to provide environmental technical, legal, data management, and information exchange support to Navy and Marine Corps organizations. The NEPSS consists of the following:

- a. COMNAVFACENGCOM is the NEPSS manager.
- b. COMNAVFACENGCOM, its subordinate EFD/EFAs and the Naval Facilities Engineering Service Center (NFESC) provide expertise in environmental engineering and legal support, coordinate NEPSS actions, provide NEPSS Navy-wide data collection, and manage NEPSS specialty offices.
- c. Specialty offices include

(1) Ordnance Environmental Support Office (OESO) at the Naval Surface Warfare Center, Indian Head, MD, Division provides Navy-wide support relative to specialty chemical, ordnance, munitions, and ordnance activity environmental protection.

(2) Aircraft Environmental Support Office (AESO) at the Naval Aviation Depot, North Island, CA provides Navy-wide support relative to aircraft and aircraft facility environmental protection.

(3) Ships Environmental Support Office (SESO) at the Naval Surface Warfare Center, Carderock Division, Annapolis, MD, Detachment provides Navy-wide support relative to ships environmental protection.

(4) Marine Environmental Support Office (MESO) at the Naval Command, Control and Ocean Surveillance Center Research, Development, Test and Evaluation (RDT&E) Division, San Diego, CA, provides Navy-wide support relative to aquatic environmental protection.

1-3.5 Disputes. Activities having unresolved differences of opinion between themselves and/or with the REC relative to environmental policy issues, including new permit conditions, negotiating positions, payment of new fees, novel provisions in compliance agreements, etc. shall consult cognizant major claimants for resolution. If necessary, they shall take such issues to CNO (N45) through the cognizant major claimant. Activities shall refer legal questions, including interpretations of laws, regulations, permits, compliance agreements and similar legal documents to counsel for the REC for determination consistent with Article 0327 of Navy Regulations, 1990.

1-3.6 Environmental Quality and Natural Resources Conservation Awards. The Navy recognizes outstanding environmental protection or natural resources conservation achievements by Navy individuals and organizations. Secretary of

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the Navy (SECNAV) and the CNO annually present awards to installations, ships, and individuals for outstanding leadership and programs, innovation in problem solving, and exemplary approaches to incorporating environmental protection and natural resource concerns into training and day-to-day operations. The SECNAV and CNO awards are the basis for nomination for annual DOD awards. Details of awards and nomination requirements are located in appendix D. DOD publishes its requirements annually which may supercede appendix D.

1-4 Funding

- R) **1-4.1.1 Environmental Program Requirements (EPR):** All activities shall enter Navy environmental costs, no matter how funded, into the EPR system. The following requirements are applicable to costs associated with shore compliance, conservation and pollution prevention. Major claimants shall ensure their subordinate commands identify all environmental costs in the EPR system, and shall implement a reporting system that best meets their needs while satisfying reporting requirements.
- R) **1-4.1.1.1** All major claimants shall maintain an environmental database to support planning, programming, budgeting and reporting of the environmental program requirements of this instruction. Technical assistance is available from NAVFACENGCOM, its EFDs or EFAs.
- 1-4.1.1.2** Major claimants shall review environmental program elements in-house or with assistance from the NAVFACENGCOM, EFD or EFA. Major claimants must review program elements for technical adequacy, regulatory requirements, and adequacy of the cost estimate.
- R) **1-4.1.1.3** Major claimants shall forward approved environmental program elements from their consolidated claimant database to CNO (N45). Claimants may use NAVFACENGCOM, EFDs, EFAs or other support on a reimbursable basis to manage their environmental program database.
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1.4.2 Federal Anti-Deficiency Act. This Act provides that no Federal official or employee may obligate the government for the expenditure of funds unless Congress has authorized and appropriated funds for that purpose.

1-4.3 Fees and Taxes. As a rule, Federal facilities are subject to reasonable service charges or fees related to the administration of environmental enforcement programs imposed by Federal, State, and local agencies. Service charges related to the discharge of effluent into bodies of water, the discharge of air emissions into the atmosphere, underground storage tanks (USTs), and the storage, treatment, transportation, and disposal of solid waste are among the types of charges that may be billed to an installation. However, Congress has generally not provided for the payment of taxes by Federal installations and activities. It is therefore important to distinguish between those charges that are fees and those that, although not called taxes, have the character of taxes. Activities must make this distinction before payments are made. Disbursing authorities shall consult with command or REC counsel when an agency first presents a fee or service charge. Final determinations regarding the legality of new fees shall be formulated in consultation with DOJ at the headquarters level in appropriate cases.

1-4.3.1 In general, a command will 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; or
- b. The charge fairly approximates the cost to the State or local authority of making the services available; or
- c. The charge does not generate revenues over and above the cost of the relevant programs it supports.

Negative answers to any of these inquiries suggest that the charge is a tax rather than a fee or service charge, thus obliging the U.S. to determine whether to contest it. Commands should refer questions about these charges to command counsel or REC counsel.

Installations and activities questioning a charge shall make clear to the authority demanding payment that delay for review is not a reflection of Navy resistance to regulatory action, but is necessary because of legal issues that require resolution before payment may be made lawfully.

If a regulatory agency refuses to issue an environmental permit to an activity because the activity has not paid an assessment pending legal review, the activity shall immediately notify CNO (N45) via the chain of command, and their REC.

1-4.3.2 Citations and Fines. Commands shall report immediately any citation by a regulatory agency for an alleged violation of any substantive or administrative requirement or any attempt to levy a fine against a Navy facility. Commands shall process the citation by the procedures of appendix B.

1-4.4 Economic Analysis. When practical and appropriate, commands shall analyze the economic consequences before deciding among options for complying with environmental requirements. For example, it may be more efficient to contract out or transfer operations rather than fund pollution control projects. In other cases, it may be more economical to replace equipment as opposed to retrofitting to meet requirements. Long term pollution prevention options take precedence over short term controls wherever practical.

R) **1-4.5 EPA Compliance Requirements Categories.** Office of Management and Budget (OMB) and EPA require all Federal agencies to classify shoreside compliance projects (other than environmental restoration) into four categories:

(A) a. Class 0 projects are those necessary to cover the administrative, personnel and other costs associated with managing environmental programs that are necessary to meet applicable compliance requirements or which are in direct support of the military mission. Recurring class 0 costs consist of manpower; training; supplies; hazardous waste disposal; operating recycling activities; permit; fees; testing; and monitoring/sampling and analysis; reporting; record keeping; and compliance self assessments.

(R) b. Class I projects are those necessary to correct situations which are currently out of compliance with established regulatory deadlines. This class also includes projects necessary to correct situations not currently out of compliance but susceptible to noncompliance if projects remain not implemented within the current program year. This class includes overseas projects necessary to alleviate the human health threats, threats to ongoing operations or necessary to comply with applicable treaties and agreements.

c. Class II projects are those in which facilities will be out of compliance at a specific, impending published deadline if action is not taken. If not accomplished by the deadline, projects become Class I.

d. Class III projects are those needed to meet DOD, Assistant SECNAV (Installations & Environment) (ASN (I&E)), CNO and/or claimant goals related to environmental protection, pollution prevention, cost effectiveness, environmental quality, or enhancement initiatives. Law does not mandate these projects, but their accomplishment demonstrates Federal leadership and goodwill.

1-4.6 Budgeting for Environmental Compliance. Shore activities and afloat commands shall report Annual Environmental budget requirements on Assistant Secretary of the Navy (Financial Management and Comptroller (ASN(FM&C)) Exhibit PB-28, per (ASN(FM&C)) guidance.

1-4.6.1 Funding Base Operations. The cost of environmental, natural resources and cultural resources compliance shall be part of each activity's operating budget. Activities shall program, budget, and execute compliance requirements in the same manner as other traditional base support costs. Activities are encouraged to charge those commands which use facility services for the full cost of the service as it relates to assuring legally mandated environmental compliance for day-to-day work.

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1-4.7 Weapon Systems and Platforms. The Navy funds alterations to existing Navy ships, aircraft or weapon systems and platforms for the purpose of meeting environmental compliance requirements in the Fleet Modernization Program (FMP) or Engineering Change Proposal (ECP) program, and also uses funds programmed by the applicable CNO resource sponsors. The appropriate hardware systems command budgets for special studies, equipment, and research, development, test and evaluation (RDT&E) for new environmental compliance requirements.

1-4.8 Limit on Use of Environmental Funds. Naval activities shall use funds allocated for environmental and natural resources protection *only* for those purposes, consistent with applicable (ASN(FM&C)) regulations.

1-5 Responsibilities

1-5.1 DCNO (Logistics, CNO (N4)) or designee shall:

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

b. Establish and regularly update policy, direct, and monitor progress of the Navy environmental and natural resources programs.

c. Coordinate environmental policy and program matters with ASN (I&E), the Deputy Under Secretary of Defense (Environmental Security) (DUSD (ES)), other services, the EPA, and other Federal agencies.

d. Coordinate review and issuance of NEPA documents and documents prepared under E.O. 12114.

e. Serve as the CNO's assessment sponsor for the environmental and natural resources programs, and as the CNO's resource sponsor for shore activity environmental and natural resources protection requirements.

f. Coordinate with resource sponsors, CNO (N8), (ASN(FM&C)), Fiscal Management Bureau (FMB) and OMB in the reconciliation of environmental compliance requirements vs. budgeted resources.

1-5.2 The Director of Naval Nuclear Propulsion Program, CNO (N00N) shall fulfill all responsibilities prescribed in E.O. 12344 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.

1-5.3 Resource sponsors shall

a. Ensure environmental compliance by establishing requirements and providing resources, consistent with their missions and functions as assigned in reference (c).

b. Provide sufficient resources to major claimants for environmental compliance requirements at Navy activities.

c. Provide sufficient resources to major claimants for RDT&E, procurement of equipment,

installation, and alterations of weapons systems and platforms to ensure compliance with environmental requirements.

1-5.4 Chief of Information (CHINFO) shall

a. Provide guidelines for the release of information involving environmental and natural resources matters.

b. Provide guidance on the conduct of public affairs matters and public hearings required by environmental laws or regulations.

c. Establish and implement a program to gather and publicize Navy environmental program accomplishments.

1-5.5 Area Environmental Coordinators shall

a. Appoint a flag level Navy officer to serve as the Navy REC in each of the 10 EPA regions. Should the AEC chose to appoint more than one REC within an EPA region, the AEC must designate one REC to serve as the Navy's lead REC in the region.

b. In regions where the Navy is designated as the DOD EA for regional environmental coordination, assign Navy EA responsibilities to the lead REC.

c. Provide a semi-annual report to CNO (N45) regarding implementation of DOD policy in regions for which the Navy has been designated EA for Environmental Security.

d. Appoint NOSC's as required.

1-5.6 Regional Environmental Coordinators shall

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

b. Ensure consistent positions, agreements, permit conditions, and responses to regulatory agencies within the region, coordinating closely with affected shore activities, major claimants and COMNAVFACENGCOM EFD/EFAs. Coordinate with other military service RECs on issues that affect regional DOD activities as a whole. Where activities are taking inconsistent positions on similar environmental issues, the REC shall assist in reconciling the positions and developing a single Navy position within the region. If differences remain unresolved among affected shore activities, major claimants, or other military service RECs, the REC shall elevate the issue to CNO (N45) via the chain of command for resolution as discussed in paragraph 1-3.5.

c. Serve as the primary Navy interface with regional Federal and State regulatory agencies. RECs may designate activities within their region to serve as the primary interface with individual State and/or local regulatory agencies.

d. Coordinate exchange of environmental information among Navy shore activities in the region, including the distribution of State, local, and regional laws, rules, and regulations. Hold meetings and/or conferences, as necessary, for regional commands on environmental compliance issues.

e. Monitor environmental compliance at activities within their region.

f. Develop regional plans of action for specific environmental initiatives in coordination with commanding officers of Navy shore activities in the region and major claimants. Coordinate regional training initiatives among Navy activities and with other Federal, State, and local agencies to promote efficient use of training resources.

g. Review the NOSC spill contingency plans to ensure the NOSC clearly outlines responsibilities and provides procedures consistent with policies of the REC in cases where the REC is not

the NOSC for spill response. See chapter 10 for more detail on contingency planning.

h. Provide assistance to facilities in dealing with regulatory agencies as requested.

i. Act as the liaison between visiting foreign warships, environmental regulatory personnel, and port services on environmental requirements during ship visits. See paragraph 19-14.9.e.

j. Ensure that agreed upon Navy positions and concerns are articulated to State lawmakers and Federal, State, and local regulatory officials within their region by appropriate Navy officials.

k. Review and evaluate proposed State environmental legislation and regulations for potential impact on Navy operations, and keep appropriate major claimants and shore activities informed on the status of State legislative and regulatory proposals.

l. Refrain from entering into any compliance commitment or agreement for which it is not the permit holder; nor shall the REC sign any memorandum of understanding or similar document, if unresolved differences remain with any affected shore activities or commands.

m. Execute Navy EA responsibilities for DOD environmental coordination if designated by the cognizant AEC. Coordinate all DOD regional environmental issues via the chain of command.

1-5.7 COMNAVFACENGCOM shall:

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a. Provide environmental program management information as requested by naval activities and commands.

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b. Plan, program, budget and provide overall coordination and management for the Environmental Restoration, Navy (ER, N) Account and the NEPSS program.

c. Provide environmental engineering, environmental compliance, and contracting assistance to naval activities and commands upon request.

d. Prepare analyses of relevant operational, legal, and technical issues raised by proposed State environmental legislation as requested by the RECs.

e. Designate, in each EFD and specialty office, a single point of contact for major claimants and RECs.

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f. Perform designated tasks under the DON Strategic Environmental Quality RDT&E program.

1-5.8 Commander, Naval Sea Systems Command (COMNAVSEASYS COM) shall:

a. Endorse annual actions and levels of effort of the SESO and OESO to ensure these offices focus on key Navy environmental problems within their specialty area.

b. Manage the shipboard, ordnance and munitions environmental protection RDT&E program.

c. Maintain OHS pollution response equipment and expertise for Navy offshore and salvage related OHS spills or releases through the Supervisor of Salvage (SUPSALV).

1-5.9 Commander, Naval Air Systems Command (COMNAVAIRSYSCOM) shall:

a. Endorse annual actions and levels of effort of the AESO to ensure this office focuses on key Navy environmental problems within its specialty area.

b. Manage the naval aviation advanced development environmental protection RDT&E program.

1-5.10 Commander, Naval Space and Warfare Systems Command (COMNAVSPA-

WARSYSCOM) shall endorse annual actions and levels of effort of MESO to ensure this office is focused on key Navy environmental problems within its specialty area.

1-5.11 Chief, Bureau of Medicine and Surgery (CHBUMED) shall

- a. Determine, validate, and establish health-related criteria and standards that are not available through Federal, State, or local laws or regulations.
- b. Provide assistance to activities, offices, and commands concerning the health aspects of pollution sources or pollution control equipment, including development of medical monitoring programs.
- c. Provide industrial hygiene and medical expertise to activities during spill events and other environmental emergencies via Navy hospitals and clinics, Navy Environmental Preventive Medicine Units, Navy Disease Vector Ecology Control Centers, and the Navy Environmental Health Center.
- d. Coordinate with the Agency for Toxic Substances and Disease Registry (ATSDR) for the timely completion of public health assessments for National Priorities List (NPL) sites, toxicological profiles on any specific contaminants, health education, health consultations, and other activities provided in the DOD/ATSDR Annual Plan of Work.

1-5.12 Chief of Naval Education and Training (CNET) shall

- a. Ensure effective training programs on environmental compliance and natural resources management exist throughout the Navy.
- b. Update as required, budget for and implement the Navy Environmental and Natural Resources Program Training Plan.

1-5.13 Commander, Naval Legal Service Command shall:

- a. Review recommended training and reference resource standards for counsel providing legal advice on environmental law issues, in consultation with the OGC.
- b. Develop, budget for and conduct training courses sufficient to meet recommended training levels for Navy military and civilian attorneys providing legal advice on environmental law issues.

1-5.14 NAVY JAG and OGC attorneys shall provide advice and counsel on

- a. Interpretation of environmental laws and regulations and their effect on the operation of the Navy.
- b. Responses to NOVs or similar assertions of non-compliance and to demands for payment of Navy funds from any environmental agency.
- c. Provisions in contracts or agreements with respect to environmental matters.

JAG and GC attorneys within the chain of command are a command's primary legal resource. Counsel assigned to RECs, Naval Legal Service Offices, Public Works Centers and EFDs are available to provide additional legal support upon request. Counsel with environmental law expertise are also on the staffs of the major claimants. The litigation office of the OGC provides environmental litigation support. Finally, environmental legal advice is available from the Office of the Assistant General Counsel (Installations and Environment) (OAGC (I&E)).

1-5.15 Major claimants shall

- a. Ensure that subordinate commands adhere to the policies in this manual and comply with applicable environmental requirements.

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b. Plan, program, budget and allocate sufficient resources to fund environmental compliance requirements at their activities.

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

d. Ensure activities, including GOCOs, submit all environmental compliance requirements to major claimants as soon as such requirements are foreseen.

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e. Support CNO (N4) as program assessment sponsor by providing detailed information in support of program baseline assessments as requested.

f. Provide input on RDT&E requirements via the DON Strategic Environmental Quality RDT&E program, and direct the implementation of innovative solutions to environmental compliance, cost, and liability issues.

g. Review draft legislation and regulations and provide CNO (N45) with timely comments and assessments on the impact of draft legislation or regulations on their activities.

1-5.16 Commanding officers (COs) of shore activities shall

a. Comply with applicable substantive and procedural Federal, State, and local environmental laws and regulations and continuously strive for improvements in all areas of pollution prevention.

b. Cooperate with Federal, State, and local environmental regulatory officials.

c. Comply with the policies in this manual.

d. Coordinate environmental and natural resources matters (especially enforcement actions, agreements and permit conditions) with RECs,

NAVFACENCOM EFDs and EFAs, and major claimants.

e. Submit nominations for the Secretary of the Navy Environmental Quality and Natural Resources Awards, as appropriate.

f. Integrate environmental compliance requirements into all levels of activity management through the application of program management procedures (including oversight, inspection, and identification) and by requesting sufficient resources to support environmental and natural resources programs.

g. If CO of a host activity, apply for all Federal, State, and local permits, where appropriate, and coordinate permit conditions with all affected tenant commands. Include responsibilities for environmental and natural resources program, permits, fees and fines in all host/tenant agreements. In those States or regions where environmental regulatory agencies allow tenant commands to submit and hold their own environmental permits, COs of host commands may delegate authority to sign and hold permits to COs of tenant commands.

h. Along with COs and officers in charge (OICs) of tenant activities, comply with the policies of this manual and with written environmental and natural resources requirements established by the host commanding officer. Federal, State and local laws allocate responsibilities that intra-Navy agreements and command relationships cannot alter. Accordingly, COs and OICs of tenant activities shall coordinate all contacts with regulatory officials through the host activity.

i. Plan, program, budget, and allocate funds for environmental protection costs.

1-5.17 Commander, Military Sealift Command (MSC) shall:

a. *Ensure that MSC-owned vessels and MSC-chartered vessels, as public vessels, comply with the policies and procedures of this manual.*

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

1-5.18 COs and masters of naval vessels shall:

a. *Adhere to the policies of this manual, including chapters 3 and 19 on pollution prevention and afloat environmental compliance.*

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

c. *Ensure proper maintenance and operation of shipboard environmental protection systems to conform with applicable Federal, State, and local regulations.*

d. *Ensure proper training of ship's personnel whose actions could adversely affect the environment. Ensure they attend appropriate schools, and are fully aware of appropriate documentation.*

e. *Report to the chain of command any conditions or systems/equipment malfunctions or personnel errors that could result or have resulted in unlawful emissions or discharge.*

f. *Carry out the detailed responsibilities listed in paragraph 19-14.10 of this manual.*