



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY

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SECNAVINST 5090.7

ASN (I&E)

11 AUG 1998

SECNAV INSTRUCTION 5090.7

From: Secretary of the Navy
To: All Ships and Stations

Subj: ACCESS TO SHIPS AND SHORE FACILITIES, AND RELEASE
OF INFORMATION REGARDING NAVY OIL SPILLS

Ref: (a) OPNAVINST 5090.1B of 1 Nov 94; Subj: ENVIRONMENTAL
AND NATURAL RESOURCES PROGRAM MANUAL (NOTAL)
(b) MCO P5090.2A of 1 Jul 98; Subj: ENVIRONMENTAL
COMPLIANCE AND PROTECTION MANUAL (NOTAL)
(c) SECNAVINST 5720.42E; Department of the Navy
Freedom of Information Act (FOIA) Program
(d) JAGINST 5800.7C; Manual of the Judge
Advocate General
(e) SECNAVINST 5820.8A; Release of Official
Information for Litigation Purposes and
Testimony by Department of the Navy (DON)
Personnel

1. Purpose. To issue policy regarding access by Federal, State and local officials to Department of the Navy ships and shore facilities in connection with oil spill planning and response, and to issue policy regarding the release of information concerning oil spills from Department of the Navy ships and shore facilities.

2. Discussion

a. Effective oil spill planning and response is an important issue for the Navy, for regulatory agencies, and for the public. Navy ships and shore installations periodically receive requests from non-Navy entities for access and/or for information pertaining to Navy oil spill planning and response. Several factors must be considered in responding to such requests. First, officials and agencies responsible under law and regulation for responding to an actual spill must quickly be provided with the necessary access and/or information, in order to minimize environmental damage and potential Navy liability. Second, all access granted and all information disseminated must be consistent with Navy information security requirements. Third, inaccurate information about Navy oil spills, if disseminated outside the Navy, could prejudice the Navy's defense against claims for damages resulting from the spill. Commands must ensure that initial information released about oil spills is

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as accurate as possible, and that it is characterized as preliminary, and subject to later verification.

b. The paragraphs below provide guidance to ships and shore facilities in responding to requests for access or information relating to Navy oil spills. This guidance should be read in conjunction with chapter 10 of reference (a) and chapter 11 of reference (b) which outline, respectively, the Navy and Marine Corps oil spill planning and response organizations, and the roles and responsibilities of Federal, State and local officials.

3. Action

a. Access to Ships and Shore Facilities

(1) Access to Navy Ships During Oil Spill Response Emergencies. The U.S. Coast Guard is designated the Federal On-Scene Coordinator (FOSC) for oil spills in the coastal regions of the United States. Federal statutes require the FOSC to ensure prompt and effective response to oil spills and to coordinate the actions of all Federal agencies engaged in oil spill response. Although not mandated by law, vessel commanding officers should allow FOSC representatives access to naval vessels, consistent with information security requirements, if requested during actual oil spill response emergencies.

(2) Access to Navy Ships in Non-Emergency Situations. Public vessels such as Navy ships are not subject to inspection by Coast Guard, State, or local officials in connection with oil spill planning. It is Navy policy, however, to cooperate with the Coast Guard and civilian authorities regarding oil spill planning and prevention, consistent with information security, and provided mission accomplishment is not impeded. Accordingly, Coast Guard, State and local officials may be invited aboard Navy ships for assist visits or other discussions, in the discretion of the commanding officer. Request for such access should be coordinated with the cognizant Navy On-Scene Coordinator (NOSC), who in most cases is also the cognizant Navy Regional Environmental Coordinator.

(3) Access to Navy and Marine Corps Shore Installations. While the Coast Guard is the FOSC for oil spills in coastal regions, the U.S. Environmental Protection Agency (EPA) is the FOSC for oil spills occurring in inland areas of the United States. Shore installation commanding officers shall allow access during oil spill response emergencies to Coast Guard, EPA and other Federal, State and local officials involved in spill response and cleanup. Per references (a) and (b), other requests by such officials for access at reasonable times to Navy and Marine Corps shore installations for purposes related to the subject of this notice shall also be granted, subject to

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information security requirements, the presentation of proper credentials, and any station-specific security requirements. For those areas in which they have regulatory authority, properly credentialed and admitted inspectors aboard shore installations are authorized to observe work, examine or copy records, inspect equipment and/or sample substances.

(4) This instruction does not authorize access to Department of the Navy ships for any purposes other than those specified in paragraphs 3a(1) and 3a(2), respectively.

b. Information Dissemination

(1) Dissemination of Information Required to Conduct Actual Response and Cleanup. Ships and shore installations shall promptly and accurately respond to Federal, State, and local government requests for information that is necessary to coordinate spill response and cleanup efforts or to prevent or reduce environmental damage. Commands providing initial information should indicate that the information being provided is only preliminary, and is subject to verification or change during subsequent investigation.

(2) Dissemination of Navy Oil Spill Reports and Related Documents. Per references (a) and (b), ships and shore installations must report oil spills to various Navy and Marine Corps activities and to the National Response Center via naval message. Unless properly classified, the initial oil spill message and any subsequent follow-up messages are generally releasable in accordance with reference (c).

(3) Dissemination of Preliminary Information About Navy Oil Spills. Ships and shore installations should promptly respond to Federal, State and local government requests for the following information: whether an oil spill has occurred, the specific source of the spill, the type of substance spilled, when the spill occurred, where the spill occurred, the initial indication as to the general nature of the cause of the incident, e.g., whether due to equipment failure, operator error, or undetermined origin, a preliminary estimate of how much oil was spilled, and a description of the Navy's response efforts. Commands providing initial information should indicate that the information being provided is only preliminary, and is subject to verification or change during subsequent investigation. Should commands receive inquiries regarding the availability of investigative reports, the requestors should be informed that any Navy investigation conducted in connection with the spill will be forwarded to the Office of the Judge Advocate General, which will control release of the investigative report, per sections 0220 and 0255 of reference (d).

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(4) Information Relating to Actual or Anticipated Litigation. Per reference (e), either the Judge Advocate General of the Navy or the Navy General Counsel controls the release of information pertinent to existing or reasonably anticipated judicial or administrative actions in which the Navy may be involved. Accordingly, when claims by or against the Department of the Navy in connection with oil spills have been filed or are reasonably anticipated, requests for information pertaining to such matters shall be coordinated with the Navy or Marine Corps attorney representing the cognizant NOSC or Marine Corps On-Scene Coordinator (MCOSC), as appropriate. The NOSC or MCOSC attorney will ensure appropriate coordination with appropriate JAG and/or General Counsel Offices.

(5) Media Requests for Information. Media requests for information shall be referred to the command's public affairs office for action. The public affairs officer should coordinate such requests with the public affairs officer on the cognizant NOSC or MCOSC staff. Information deemed to be properly releasable to the media shall be consistent with paragraph 3b(3).



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