

CHAPTER 18

OVERSEAS ENVIRONMENTAL COMPLIANCE ASHORE

18-1 Scope

This chapter provides environmental guidance for Navy installations outside the United States, (U.S.) its territories, and possessions, but not to ships, aircraft, and operational and training deployments outside the U.S. Specifically, this chapter does not apply to:

- a. U.S. military ship and aircraft operations governed by other DoD policies and directives and applicable international agreements.
- b. Facilities and activities covered under Executive Order (EO) 12344, Naval Nuclear Propulsion Program, and conducted under 42 U.S.C. 7158.
- c. Facilities located in Antarctica.

Since this chapter applies only to overseas installations, the format is different than the majority of the remaining chapters. Each section covers the appropriate legislation, requirements, policy, and training while the Navy policy subsection is divided by environmental media. Responsibilities are summarized by command at the end of the chapter.

18-1.1 Executive Orders (EOs). This chapter incorporates the following Executive Orders:

- a. EO 12088 of October 13, 1978, which requires Federal compliance with substantive pollution control standards of general applicability.
- b. EO 12114 of January 4, 1979, which requires an environmental analysis of major Federal actions overseas having potentially significant environmental effects.

18-1.2 References

- a. DoD Directive 6050.16 of 20 September 1991, Establishment and implementation of environmental standards at overseas installations; (NOTAL)

- b. DoD Overseas Environmental Baseline Guidance Document (OEBGD) of October 1992; (NOTAL)

- c. OPNAVINST 5510.1H, Security Requirements; (NOTAL)

- d. OPNAVINST 5510.155C, Classified Supplement to the Manual for Disclosure of Classified Military Information to Foreign Governments and International Organizations; (NOTAL)

- e. Final Governing Standards (FGSs) as developed by Executive Agents for each country with significant DoD installations (NOTAL).

18-2 Legislation

18-2.1 National Historic Preservation Act (NHPA). With respect to overseas activities, the NHPA requires Federal agencies undertaking actions that may directly and adversely affect property on the World Heritage List or the applicable country's equivalent of the National Register to consider the effect and try to avoid or mitigate any adverse effects.

18-2.2 Toxic Substances Control Act (TSCA). Provides for the Federal regulation of the manufacture, use, distribution in commerce, and disposal of chemical substances that present a hazard to health or the environment. Overseas installations that export from or import to the U.S. may be subject to TSCA Sections 12 and 13. DoD dependents' schools overseas are subject to the asbestos hazard emergency response requirements in TSCA Subchapter II. Section 12 contains export notification obligations, and export exemptions. Section 13 discusses importer regulations, definitions, and exclusions.

18-3 Terms and Definitions

18-3.1 Environment. The natural and physical environment. It excludes social, economic and/or other environments.

18-3.2 Executive Agent (EA). A military service, military command or sub-unified command designated by the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)) after receiving the recommendations from the Joint Chiefs of Staff (JCOS) and coordinating with the Military Departments. Establishes reference (e) for DoD installations within its geographic area of responsibility. The EA consults with host nation authorities on environmental issues of concern to the DoD components. The following is a list of EAs for different countries:

COMMAND	COUNTRY
CINCUSNAVEUR	Spain, Italy, Greece
CINCLANTFLT	Iceland, Bermuda, Caribbean (including Cuba), and all other Atlantic locations)
CINCPACFLT	Diego Garcia
U.S. Forces Japan	Japan
U.S. Forces Korea	Korea
CINCUSAFE	United Kingdom, Turkey
USAF Space Command	Ascension Islands, Greenland
USAF Air Mobility Command	Azores
CINCAREUR	Germany, Belgium, Netherlands

CINCARSO Panama and all other countries in U.S. Southern Command

CINCCENT All countries in area of responsibility (AOR), including Egypt and Bahrain

EAs establish reference (e) for DoD installations within their region under reference (a).

18-3.3 Final Governing Standards (FGS). Country-specific substantive provisions, typically technical limitations on effluent, discharges, etc., or specific management practices with which installations must comply. Reference (e) are derived from reference (b), host nation substantive pollution control laws of general applicability, applicable treaties and U.S. law with extraterritorial application.

18-3.4 Foreign Nation. A geographic area (land, water, and airspace) that is under the territorial jurisdiction of a foreign government or that is under military occupation by the U.S. alone or jointly with any other foreign government.

18-3.5 Overseas Environmental Baseline Guidance Document. A current compendium of criteria, based on consideration of laws generally applicable to similarity-situated DoD installations within the U.S., that is designated to protect the environment at DoD installations outside U.S. territory.

18-3.6 United States. All States, territories, and possessions of the U.S. and all waters and airspace subject to the territorial jurisdiction of the U.S.

18-4 Requirements

Navy shore activities in foreign nations will comply with applicable reference (e). Where reference (e) have not been issued, Navy shore activities will comply with reference (b), host nation substantive pollution control laws of general applicability (as

required by EO 12088), U.S. law with extraterritorial effect and applicable treaties (including the SOFA).

18-5 Navy Policy

18-5.1 Fixed Facilities Provided by the U.S. and Operated by the Navy. In nations where there is a reference (e), all Navy facilities and operations shall comply with reference (e). Where reference (e) have not been issued, Navy shore activities will comply with reference (b), host nation substantive pollution control laws of general applicability (as required by EO 12088), U.S. law with extraterritorial effect and applicable treaties (including the SOFA).

18-5.2 Funding of Capital Improvements for Environmental Compliance at Overseas Installations. When capital improvements are required at overseas installations to comply with either the reference (e) or reference (b) and EO 12088, as applicable, funding decisions shall be based on a number of considerations including which country provided the facilities in question and provisions of the pertinent Status of Forces Agreement (SOFA). Navy policy is that unless otherwise provided in the pertinent SOFA, the host nation is expected to fund environmental compliance projects at facilities that the host nation provides. After consultation or negotiation with the host nation, funding questions may be resolved in a number of ways including the following:

a. Pollution abatement improvements may be accomplished as a result of inclusion in bilateral or multilateral negotiations on programs not directly involving environmental compliance.

b. In some cases host country-provided facilities have been significantly modified by the U.S. to meet operational requirements. When capital improvements are required to meet the environmental standards of general applicability in the host country or jurisdiction, the Navy may negotiate shared contributions for such improvements. It may be done, after consultation with the ambassador, when it is in the best interest of the Navy and does not establish a

precedent. The contribution should normally be no more than the proportion of modification attributable to the U.S. Project funding request documents shall indicate the results of negotiations to include the basis for determination of the U.S. share.

c. If the host country declines to provide funds for required capital improvements or if negotiations with the host country for shared contributions are unsuccessful, the Navy may, when in the best interests of the Navy and without establishment of precedent, program for required pollution control capital improvement projects. Project funding request documents shall indicate the circumstances under which the projects are submitted.

18-5.3 Facility Visits and Inspections. Federal law and EOs on information and physical security matters, as implemented in Navy regulations and the SOFA, shall govern access of host country environmental officials to U.S. controlled fixed facilities. Foreign environmental officials shall not be allowed access to Navy vessels for purposes of environmental inspections or examination. Access by foreign officials to propulsion plant spaces of U.S. naval nuclear powered ships, or to naval nuclear propulsion information, is not authorized as established in reference (c) and reference (d) without CNO approval (NOON lead). If there are no provisions governing access, the senior U.S. commander of U.S. forces in the host country shall determine if access is in the best interest of the U.S. If access is recommended, Deputy Chief of Naval Operations (Logistics) (DCNO (Logistics)) shall be notified at least 3 working days before the visit. Notification shall include confirmation that the intended access shall not set any adverse precedents for other commands. Access may then be granted to host country environmental officials responsible for national pollution control matters. If access is denied, CNO (N4) shall be notified immediately. The U.S. ambassador to the country shall also be advised if access is denied.

a. Installation commanders shall consult with the Environmental EA for the host nation, or with the commander in chief (CINC) where no EA has been

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appointed, to pre-establish procedures for access by host nation officials. Procedures shall comply with the applicable SOFA and established practices implementing the SOFA. Installation commanders shall comply with access procedures so established.

b. Where host nation officials request access in addition to those established through the CINC, the installation commander shall immediately notify the Navy component commander in theater, the environmental EA (if applicable) and CNO (N4). The notice shall include the identity of the host nation authority needing access, the extent to which the host nation authority requesting access is delegated national authority for pollution control, the extent of access requested, the date for which access is requested, an explanation why established access procedures (if applicable) are insufficient, the extent to which granting the request would establish precedent and the commander's recommendation whether providing access would be in the best interest of the U.S. Unless otherwise directed, the installation commander may permit access after completing consultation with the environmental EA, component commander and CNO (N4) or 3 working days after providing notification, whichever is earlier. If access is denied, the installation commander shall notify the same parties and shall ensure that the Chief of Mission with the U.S. ambassador to the country has been notified as well.

c. Access by foreign officials to propulsion plant spaces of nuclear powered ships, or to naval nuclear propulsion information is governed by reference (d) and is not authorized without approval by CNO (N00N).

18-5.4 Mobile Sources. Military vessels, aircraft, and vehicles that are operated in a host country and manufactured in the U.S. shall be designed to comply with applicable U.S. or international environmental standards. Reference (e) shall govern the operation and maintenance of mobile sources, other than vessels and aircraft, that are based in a host country where such provisions have been issued. If no reference (e) have been issued, the operation and maintenance of

mobile sources, other than aircraft and vessels, based in the host country, shall be governed by applicable provisions of the SOFA, reference (b) and EO 12088. In particular, EO 12088 requires compliance with substantive host nation pollution control laws of general applicability. In most instances, these shall be the pollution control standards observed by the host nation's military forces for similar vehicles. Except for sovereign immune vessels and aircraft and unless otherwise provided in the SOFA, transient mobile sources or those sources temporarily within a foreign jurisdiction are subject to that country's standards for the terms and conditions set forth in the clearance for the visit. Although not subject to enforcement by the host nation, sovereign immune vessels and aircraft shall operate under the environmental protection provisions of their visit clearance. Where no specific environmental protection provisions are included in the visit clearance, sovereign immune vessels and aircraft shall comply with the environmental protection standards used by the host nation's military forces to the extent practical.

18-5.5 If an installation commander believes that compliance with a particular reference (e) would seriously impair the installation's operation, adversely affect relations with the host nation or require substantial expenditure of funds not available for such purpose, he or she may request that the DON, through the chain of command, ask the EA to waive or authorize deviation from the particular standards or guidelines under the procedures set out in reference (b). Navy policy is to minimize requests for waivers and to limit the duration of waivers where requested. Requests for waivers are appropriate, for example, where the cost of the project to achieve compliance at a base slated for closure is grossly disproportionate to the period during which environmental benefits would be derived from the project. Where this instruction or instructions by Navy component commanders require measure that are more protective the applicable reference (e), installation commanders shall request a waiver from the EA before requesting funding for the project.

18-5.6 National Environmental Policy Act (NEPA). NEPA does not apply overseas; however, EO 12144 addresses environmental effects abroad of major Federal actions. See Appendix E.

18-5.7 Pollution Prevention Ashore. EO 12856, which requires Federal facility compliance with the Pollution Prevention Act, does not apply to facilities outside the customs territory of the U.S. (Although Guam is generally treated as part of the U.S. for environmental laws, it is outside the customs territory. Despite this, as a matter of policy, Navy activities in Guam shall comply with EO 12856). Navy activities shall prepare pollution prevention plans as outlined in Chapter 3.

18-5.8 Emergency Planning and Community Right to Know Act. EO 12856, which requires Federal facility compliance with the Emergency Planning and Community Right to Know Act, does not apply to facilities outside the customs territory of the U.S. (Although Guam is generally treated as part of the U.S. for environmental laws, it is outside the customs territory. Despite this, as a matter of policy, Navy activities in Guam shall comply with EO 12856).

18-5.9 Clean Air Ashore. Navy activities shall manage their air programs under reference (e). In addition, activities shall encourage the use of unleaded fuels.

18-5.10 Ozone Depleting Substances (ODS). Navy activities shall manage their use of ODS under Chapter 6 and reference (e).

18-5.11 Water Programs Ashore. Navy activities shall manage their water programs under reference (e). Commanding officers (COs) shall ensure that overseas Navy treatment plant and collection system operators receive equivalent training and certification as discussed in Chapter 7.

18-5.12 Drinking Water Systems and Water Conservation. Navy activities shall manage their drinking water under reference (e).

COs shall ensure that overseas water system operators receive equivalent water system operator training as discussed in paragraph 8-5.2.

18-5.13 Oil Management. Navy activities shall manage their oily wastes and waste oils under reference (e). Use Chapter 9 as a guide in the development of spill plans, ensuring equivalent personnel training, testing of fuels, meeting specifications, and designating certain waste oils as hazardous wastes.

18-5.14 Oil and Hazardous Substances (OHS) Contingency Planning. Navy activities shall manage OHS planning under reference (e).

18-5.15 Polychlorinated Biphenyls (PCB) Management Ashore. Navy activities shall manage their PCBs under reference (e). This includes the development of management plans, ensuring personnel training, labeling, spill planning/response, and Navy reporting. Navy policy shall be to minimize the use of PCBs and PCB items in foreign countries without degrading mission performance. PCBs manufactured outside the U.S. ordinarily cannot be imported into the U.S., even for disposal. Accordingly, Navy activities shall not purchase or otherwise take control of PCBs or PCB items manufactured outside the U.S. without express permission of CNO (N4). As part of ongoing management programs, Navy activities shall identify those PCBs and PCB items manufactured outside the U.S. to avoid inadvertent importation into the U.S.

18-5.16 Hazardous Waste (HW) Management Ashore. Navy activities shall manage their HW under reference (e). This includes the development of management plans, ensuring equivalent training, labeling, spill planning/response, Navy reporting, and implementing HW minimization.

18-5.17 Pesticide Compliance Ashore. Navy activities shall manage their pesticides under reference (e).

18-5.18 Solid Waste Management and Resource Recovery Ashore. Navy activities shall ensure compliance with solid waste standards under reference

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(e). Reference (a), as implemented by reference (b), requires an ongoing program to evaluate environmental compliance at overseas installations.

18-5.19 Cleanup and Restoration. The Installation Restoration (IR) program is limited to the U.S., its territories, and possessions, and does not apply to foreign countries. However, past DoD activities have caused the need for environmental cleanup and restoration. International agreements, SOFA, and U.S. government policy shall be used to decide whether cleanup action should be coordinated with the EA.

18-5.20 Storage Tanks. Navy activities shall manage their above and underground storage tanks under reference (e). Use Chapter 16 as a guide in managing storage tanks.

18-5.21 Noise Prevention Ashore. Navy activities shall ensure compliance with the noise abatement measures of reference (e).

18-5.22 Environmental Compliance Evaluation Ashore. Overseas installations shall use checklists developed from reference (e). Prior to the establishment of reference (e), the installation shall use reference (b) and Environmental Compliance Evaluation (ECE) program checklists as guidance in developing appropriate checklists and performing environmental compliance evaluations.

18-5.23 Natural Resources Management. Navy activities shall program and budget for compliance and ensure compliance with reference (e).

18-5.24 Historic and Archeological Resources Protection. Navy activities shall ensure compliance with the historic and archeological resources of reference (e).

18-5.25 Training. Navy activities shall comply with the training measures outlined in Chapter 24 of this instruction. In addition, Navy components delegated authority to act as EAs shall carry out the training responsibilities established by reference (b)

within the host nations for which they are responsible. Such Navy components shall also develop environmental audit checklists for the nations for which they are responsible.

18-6 Responsibilities

18-6.1 CNO (N45) shall ensure major claimants allocate the resources required to achieve and maintain compliance with reference (e).

18-6.2 Major claimants and subordinate commands shall:

a. Ensure compliance with reference (e) established by the EA.

b. Conduct environmental compliance evaluations at overseas installations at least once every 3 years or when directed by the Unified Commander.

c. Program and budget for environmental compliance projects.

d. Ensure that contracts for services or construction, where performance takes place at an overseas activity, and DoD contracts for the disposal of HW, include provisions requiring a contractor to comply with reference (e). The major claimant shall also ensure that contracts are administered to enforce such compliance.

e. Ensure host-tenant agreements address compliance with reference (e).

f. Communicate with EAs on environmental issues.

g. Endorse activity waiver requests from reference (e) or reference (b).

18-6.3 Commanding officers of overseas shore activities shall:

a. Comply with reference (e).

b. Develop and conduct training/education programs to instruct required personnel in the environmental aspects of their job.

c. Perform and document annually (except when external audits are conducted) internal installation environmental compliance evaluations (ECE). The purpose of the internal ECE is to provide an overall compliance assessment status of the installation.

d. Communicate with the EA on environmental issues.