

CHAPTER 20

ENVIRONMENTAL COMPLIANCE EVALUATION ASHORE

20-1 Scope

This chapter outlines procedures and responsibilities to monitor, achieve, and maintain environmental compliance ashore, primarily through the Environmental Compliance Evaluation (ECE) Program.

20-1.1 References. Relevant references are:

- a. DoDINST 5405.2 of 13 July 1985, Release of Official Information in Litigation and Testimony by DoD Personnel as Witnesses; (NOTAL)
- b. DoD Directive 6050.16 of 20 September 1991, Establishment and implementation of environmental standards at overseas installations; (NOTAL)
- c. SECNAVINST 5720.42E; Department of the Navy Freedom of Information Act (FOIA) Program; (NOTAL)
- d. SECNAVINST 5820.8A; Release of Official Information for Litigation Purposes and Testimony by DON Personnel; (NOTAL)
- e. Environmental Protection Agency (EPA), Environmental Auditing Policy Statement, published in the Federal Register, Vol. 51, No. 131, July 9, 1986 (NOTAL).

20-2 Legislation

20-2.1 Freedom of Information Act (FOIA).

This act provides for release of government documents to the general public upon request, unless the documents are specifically exempted from release.

20-3 Terms and Definitions

20-3.1 Activity Self Environmental Compliance Evaluation (ECE). Evaluation conducted by a Navy activity of its environmental and natural resources compliance posture and overall environmental management resulting in a report to the commanding officer (CO).

20-3.2 Major Claimant Environmental Compliance Evaluation (ECE). A detailed assessment of the environmental and natural resources compliance posture and overall environmental management program performed by the major claimants for each of their shore activities.

20-3.3 Navy Inspector General. The senior investigating official in the Department of the Navy (DON) and the principal advisor to the Secretary of the Navy, Chief of Naval Operations (CNO), and Commandant of the Marine Corps on all matters concerning inspections, investigations, and audit follow up.

20-4 Requirements

Federal regulations and EPA policy on Federal facility compliance recommends environmental audits as a tool to ensure compliance. Reference (b) as implemented by the Overseas Environmental Baseline Guidance Document (OEBGD), requires an ongoing program to evaluate environmental compliance at overseas installations.

20-5 Navy Policy

20-5.1 Purpose. The ECE program provides a means to monitor, achieve, and maintain compliance with environmental and natural resources regulations. ECEs in the U.S. and territories shall address Federal, State, local, DoD, and Navy environmental and natural resources requirements, as well as the management of environmental and natural resources pro-

grams. The program is intended to accomplish the following:

- a. Verify whether Navy environmental and natural resources program management practices are in place, functional, and adequate.
- b. Identify actual and potential areas of non-compliance, or areas likely to be in noncompliance as a result of projected statutory/regulatory changes.
- c. Recommend corrective actions, including funding source, for achieving compliance.
- d. Provide immediate assistance to shore activities in the implementation of easily accomplished corrective actions.
- e. Determine cause(s) of potential environmental non-compliance.

20-5.2 Program Structure. The program is three tiered, using existing organizations and procedures to the maximum extent possible. The evaluation tiers stress action at the activity level and provide for management oversight. The tiers are as follows:

- a. Tier 1 - Activity self ECEs
- b. Tier 2 - Major claimant conducted ECEs
- c. Tier 3 - Navy Inspector General (IG) environmental compliance inspections.

20-5.3 Frequency. ECEs shall be performed by the major claimants at each of their shore activities, including Government-Owned-Contractor-Operated (GOCO), at least every 3 years. Activity self-ECEs shall be performed annually.

20-5.4 Host/Tenant Relationships. At shore activities with tenants, the host shall include, in the Tier 1 self ECE, tenants for which the host provides environmental support. If the host does not provide environmental support for a tenant, the tenant shall perform the Tier 1 ECE. The host major claimant

shall include in the Tier 2 ECE tenants for which the host provides environmental support. The tenant's major claimant shall perform the Tier 2 ECE for tenant activities where the host does not provide environmental support. Results of the tenant's Tier 2 ECE must be forwarded to the host major claimant for information and coordination. The major claimants of both the host and tenant may coordinate to hold a joint Tier 2 ECE.

20-5.5 Tier 2 ECE Report Format. Due to the number of regulations and the need to summarize the results of ECEs for annual assessments, the ECE shall use a standard format and checklists. Checklists shall address all Federal, State, and local environmental and natural resources requirements. Checklists for overseas installations shall be coordinated with the responsible environmental Executive Agent and shall address all requirements under the Final Governing Standards (FGS), Status of Force Agreements (SOFA), OEBGD, and EO 12088 where no FGS have been issued. COMNAVFACENGCOM shall update checklists and provide detailed guidelines for report formats.

a. **Tier 2 ECE Report.** This report shall include an executive summary, a list of team members, their reporting activity and programs evaluated.

b. **Draft Report.** A working draft report shall be given to the activity CO at the end of the ECE.

c. **Final Report.** The final report shall be released to the activity within 60 days of the ECE completion. A major claimant legal counsel review of the ECE report prior to release is recommended.

d. **Plan Of Action and Milestones (POA&M).** Activities shall develop and implement a POA&M to correct findings of fact from both Tier 1 and Tier 2 ECEs. The activity shall submit the POA&M from the Tier 2 ECE to their major claimant within 45 days of release of the final Tier 1 ECE.

e. **Level of Out Brief Attendance.** The out brief shall be directed to the activity commanding

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officer/executive officer (CO/XO) and major claimants shall attend the out-brief. Major tenants are strongly encouraged to attend at the host activity CO's discretion.

20-5.6 Environmental Compliance Evaluation Releasability. Consult either command or Engineering Field Division (EFD) legal counsel for advice on the releasability and exemptions under the Freedom of Information Act (FOIA). Reference (c) applies to all FOIA requests. If the request is made by a third party involved in litigation, reference (a) and reference (d) also apply.

20-5.7 ECEs at Closing Bases. Major claimants shall continue to conduct Tier 2 ECEs, and the activities shall continue to conduct Tier 1 self ECEs at closing bases until operations have ceased and the property reassigned or placed in a caretaker status pending reassignment or reuse.

20-5.8 Exemption Procedures. The Navy has numerous shore activities that serve only administrative functions. Those shore activities typically have minimal environmental and natural resources management requirements and as a result pose little risk to the environment. Major claimants that have those types of facilities may elect to exempt them from ECEs so that they can concentrate their resources on shore activities with significant environmental or natural resources responsibilities.

20-5.9 Training and Awareness. Every person conducting, reviewing, or approving ECEs shall receive general environmental awareness training specified in Chapter 24 of this instruction and specific comprehensive training in their assigned subject matter or environmental media, and shall be familiar with the provisions of this chapter.

20-6 Responsibilities

20-6.1 COMNAVFACENGCOM shall:

a. Maintain a system for tracking Federal, State, and local regulations and producing ECE checklists and updating checklist semiannually.

b. When requested by a major claimant, provide ECE support to the claimants via the EFDs/EFAs as part of the NAVFACENGCOM mission.

c. Provide CNO (N45) with an annual executive summary of overall Navy compliance in conjunction with the Defense Environmental Management Information System (DEMIS) and other environmental information collected. Include trends, major claimant summaries, problem areas, and recommended actions.

d. Provide guidance and training in conducting ECEs for shore activities, EFAs, EFDs, major claimants and other commands, and applicable overseas requirements, as needed.

20-6.2 Major claimants shall:

a. Implement the major claimant ECE program. Implementation responsibility may be delegated to a lower echelon claimant. Letters informing shore activities of an upcoming ECE and the final report from an ECE shall be issued by the major claimant. In host/tenant situations, the host major claimant shall perform the Tier 2 ECE for the entire installation including all tenant activities where the host provides environmental support to the tenant. The host major claimant should coordinate with the tenant's major claimant to ensure Tier 2 ECEs are performed for all tenants.

b. Ensure that their shore activities conduct annual self ECEs.

c. Conduct an ECE at each assigned shore activity at least every 3 years as discussed in section 20-5.3. Obtain assistance, as needed, from NAVFACENGCOM field activity and specialty offices. Major claimant personnel, at a minimum, shall be present at each activity for the final out-brief.

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d. Develop a summary assessment of the overall compliance posture at the end of each fiscal year and list all activities where Tier 2 ECEs were performed.

e. Provide an annual briefing to CNO (N45), using the summary assessment, on the compliance posture of all claimant activities and discuss any compliance problems or environmental issues affecting operations, facilities, vessels, aircraft, and equipment.

f. Forward copies of all ECE executive summaries to NAVFACENGCOM, the appropriate EFD or Engineering Field Activity (EFA), and the REC.

20-6.3 Regional environmental coordinators shall review the results of ECEs in their regions and take any required coordinating actions, consistent with Chapter 1 of this manual.

20-6.4 Commanding officers of shore activities shall:

a. Perform annual self ECEs. Self ECE reports shall be made available to major claimant and IG teams, upon request.

b. Develop and execute plans of action for achieving compliance for all findings noted on Tier 2 and self ECEs. Submit requests for funding to the major claimant for projects requiring corrective actions.

c. Advise the regional environmental coordinator if a finding of fact or problem identified may result in significant adverse public relations and/or require regional coordination to solve.

d. Ensure environmental compliance is a factor in the performance evaluations of appropriate personnel.

e. Participate, if a tenant, in the host activity's Tier 1 and Tier 2 ECEs. If a host, include tenants in

the host Tier 1 ECE, or delegate ECE authority to the tenant.

f. Submit funding requests to support projects requiring corrective actions for the deficiencies identified.