

## 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 C<sup>3</sup>P<sup>2</sup>+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 was designed to be and will be construed to be consistent with all applicable statutes, Executive Orders (EOs), Department of Defense (DoD) directives and Department of Navy (DON) instructions.

**1-1.5 References.** Relevant references are:

- a. 32 CFR 97, Release of Classified Information;
- b. DoD Directive 4700.2 of 15 July 1988, Secretary of Defense Awards for Natural Resources and Environmental Management; (NOTAL)
- c. DoD Directive 5405.2 of 23 July 1985, Release of Information and Litigation in Testimony by DoD Personnel as Witnesses; (NOTAL)
- d. OPNAVINST 5400.2D, Jurisdiction of Area Coordinators; (NOTAL)
- e. OPNAVINST 5430.48D, Office of the Chief of Naval Operations (OPNAV) Organization Manual; (NOTAL)
- f. OPNAVINST 5510.1H, Department of the Navy Information and Personnel Security Program Regulation; (NOTAL)

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

## **1-2 Policy**

### **1-2.1 General Requirements**

a. The Chief of Naval Operations (CNO) has defined the Navy's environmental vision to be "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 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 Navy's mission 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) (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. Compliance waivers shall be sought only as a last resort, and waivers will not be sought if DCNO (Logistics) considers compliance to be practicable. Compliance

with environmental requirements is not waived while the request is pending.

**1-2.2 Pollution Prevention.** The preferred method of environmental protection shall be to eliminate or control, to the maximum extent feasible, the pollutant source per EO 12856. Means and methods for the elimination or minimization of pollutants shall be identified and, where possible, incorporated at the earliest stages of planning, design, and procurement of facilities, ships, aircraft, weapon systems, equipment, and material. Dedicated efforts shall be made to eliminate or minimize the use of hazardous materials (HM) and generation of hazardous waste (HW). Chapter 3 describes these programs in greater 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 EO that agencies of the Executive Branch must 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 applicable Navy legal counsel. Requirements for the payment of fees, fines, or taxes are discussed in paragraph 1-4.3.

**1-2.4 Executive Requirements.** EO 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 EOs specific to each subject are referenced in subject chapters and in Appendix A.

**1-2.5 Information Security.** Navy shore activities are periodically visited by representatives of Federal, State, and local agencies who are exercising their regulatory authorities under environmental laws and regulations. Activities shall ensure that Navy regulations and Federal statutes governing the control and protection of classified and sensitive unclassified information are properly enforced while not interfering with the legitimate regulatory purpose being served. The following guidelines shall be used:

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 access is permitted, arrangements must be worked out under reference (f) 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, Naval Nuclear Propulsion (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.

Information security regarding ships is addressed in Chapter 19.

**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

1 November 1994

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 which includes a Preliminary Assessment (PA) for potential hazardous waste contaminated sites. If a PA was done by the seller, then the purchasing activity shall review documents for accuracy to determine if an on-site survey is needed.

**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.

**1-2.9 Reporting Noncompliance.** Immediately upon discovery, all Navy personnel shall report to the responsible command those matters which have the potential to fail, or do fail, to comply with environmental requirements. 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, reports may be submitted to the Navy Hotline, (800) 522-3451. 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 shall be reported per the procedures of Appendix B. If necessary, assistance should be sought from the major claimant, the servicing Engineering Field Division (EFD), or the cognizant Regional Environmental Coordinator (REC). Navy policy is to effect prompt attention regarding 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.** Authorized Federal or State/local environmental regulators or representatives, upon presentation of proper credentials and subject to information security requirements of paragraph 1-2.5, shall be allowed to enter a Navy shore facility at reasonable times 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 reference (f) 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 (NAVFAC-ENGCOM) organization or REC assistance at such inspections. Policy for inspections aboard ship is provided in Chapter 19.

**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 Regional Environmental Coordinators (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. Navy shore activities are regulated by a wide variety of Federal, State, regional and local agencies. Requirements and interpretations vary widely. To ensure consistent responses to various agencies and to avoid adverse precedents, all commands shall ensure coordination of permit conditions, demands for payment of Navy funds compliance agreements, settlements, negotiations and responses to NOVs from environmental agencies with their major claimant and REC. Instructions for the processing of NOVs and associated chain of command responsibilities can be found in Appendix B. Interpretations or agreements likely to set precedents shall be immediately sent to CNO (N45) via the chain of command with copies to the REC and COMNAVFAECENGCOM 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. This responsibility cannot be delegated. 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, environmental compliance boards of host and tenant management personnel shall be established. Authority for portions of environmental program management may be delegated to senior managers consistent with "by direction" signature authority, and authority may be delegated to tenant commands, but overall responsibility shall remain with the host commanding officer.

**1-2.15 Release of Information.** Release of activity specific data and information to agencies outside the Navy is governed by applicable law and information security requirements. Information requests shall be forwarded to the activity for release of the information 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 the 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. Any matters affecting or involving naval nuclear propulsion plants or nuclear support facilities or their associated radioactivity shall be coordinated with N00N. The Director, Naval Nuclear Propulsion shall coordinate such matters as appropriate with the cognizant REC.

**1-2.17 Environmental and Natural Resources Training**

a. All naval personnel, afloat and ashore, shall receive adequate education and training 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. Navy personnel shall receive environmental and natural resources training appropriate to their position or employment. At minimum, personnel must have 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 (GC) and the Judge Advocate General (JAG). Initial training should be completed enroute 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 GC and the JAG.

#### **1-2.18 Representation of Federal Employees**

a. If an employee or service member is named in a civil lawsuit in his or her official capacity, U.S. Department Of Justice (DOJ) representation will be provided.

b. If an employee or service member is named in a civil lawsuit in his or her personal capacity, DOJ representation may be requested and may be provided if DOJ determines that it reasonably appears that the employee or service member was acting within the scope of his or her official duties and that representation is in the best interests of the United States. DOJ will consider the Navy's recommendation in making such a determination. Consult with the local command counsel or Legal Officer on the proper procedures to request representation.

c. An employee or service member prosecuted for criminal violations of environmental laws in a Federal court will not normally be provided with

representation by a DOJ or Navy attorney. Representation by a DOJ or Navy attorney may be available for a Federal employee or service member prosecuted for criminal violations in a State court if DOJ determines the actions that gave rise to the charges reasonably appear to have occurred in the performance of official Federal duties and such representation is in the best interests of the United States. Representation by a military attorney is available for service members prosecuted by court-martial.

**1-2.19 Payment of Attorney Fees and Judgments.** DOJ representation will be free of charge to the employee or service member. If the employee or service member is found personally liable, the employee or service member will be responsible for paying any judgment or penalty out of personal funds, regardless of whether DOJ provided representation. There are no specific provisions for reimbursing an employee or service member for judgments incurred.

### **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 November 1994

**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.

**1-3.2 Navy On-Scene Coordinator (NOSC).** The NOSC is the Navy official predesignated to coordinate Navy oil and hazardous substances (OHS) pollution contingency planning and direct Navy OHS pollution response efforts in a preassigned area. Shoreside NOSCs are normally RECs predesignated by the AECs (see Chapter 10). Fleet NOSCs are normally the numbered fleet commanders who direct fleet operations within assigned ocean areas. The NOSC is the Federal On-Scene Coordinator (OSC) for Navy hazardous substances (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 Regional Environmental Coordinators (RECs).** RECs serve as the senior Navy officer in a local region to coordinate environmental matters and public affairs. RECs are designated by AECs, and may be designated 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.** Unresolved differences in opinion between activities and/or the REC relative to environmental policy issues, including new permit conditions, negotiating positions, payment of new fees, novel provisions in compliance agreements, etc. shall be raised to cognizant major claimants for resolution. If necessary, such issues shall be raised to CNO (N45) via the cognizant major claimant. Legal questions, including interpretations of laws, regulations, permits, compliance agreements and similar legal documents shall be referred to counsel for the REC for determination consistent with Article 0327 of Navy regulations.

**1-3.6 Environmental Quality and Natural Resources Conservation Awards.** The Navy recog-

1 November 1994

nizes outstanding environmental protection or natural resources conservation achievements by Navy individuals and organizations. Secretary of the Navy annually presents 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 Secretary of the Navy awards are the basis for submittal for annual DoD awards. Details of awards and nomination requirements are located in Appendix D.

## **1-4 Funding**

**1-4.1 Office of Management and Budget (OMB) Circular A-106 Report.** OMB Circular A-106 requires all Federal agencies to report environmental compliance requirements semi-annually in a standard format, to the EPA. EPA comments to agencies on environmental program priorities and provides an overall assessment of the adequacy of agency funding for environmental compliance to OMB. If necessary, OMB may request changes in an agency's budget for environmental compliance.

**1-4.1.1 A-106 Reporting Requirements.** All Navy environmental costs, no matter how funded, shall be entered into the A-106 system. The following requirements are applicable to costs associated with both ship and shore compliance and pollution prevention. Major claimants shall ensure all environmental costs are identified in the A-106 system, and shall implement a reporting system that best meets their needs while satisfying reporting requirements.

**1-4.1.1.1** All major claimants shall establish 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. Program elements must be reviewed for technical adequacy, regulatory requirements, and adequacy of the cost estimate.

**1-4.1.1.3** Major claimants shall forward approved environmental program elements from their consolidated claimant database to NFESC. Claimants may use NAVFACENGCOM, EFDs, EFAs or other support on a reimbursable basis to manage their environmental program database.

**1-4.1.1.4** NFESC shall consolidate environmental program submissions from all claimants and forward consolidated A-106 submittal to CNO (N45) for forwarding to EPA.

**1-4.1.1.5** Environmental costs associated with ships and aircraft shall also be entered into the A-106 system. Accordingly, major claimants shall ensure that all environmental issues relative to ships and aircraft are submitted for inclusion in the A-106.

**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 funds have been authorized and appropriated by Congress for that purpose.

**1-4.3 Fees and Taxes.** As a general rule, Federal facilities are subject to reasonable service charges or fees related to the administration of environmental enforcement programs that are 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 which, although not called taxes, have the



character of taxes. This distinction must be made before payments are made. Disbursing authorities shall consult with command or REC counsel when a fee or service charge is first presented. 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, charges presented to a command as fees or for services shall be examined 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. Any questions relative to these charges should be referred to activity level 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 must be resolved before payment may be lawfully made.

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.** 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 shall be reported immediately and processed per the procedures of Appendix B.

**1-4.4 Economic Analysis.** When practical and appropriate, economic analyses shall be conducted prior to making decisions 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 retro-fitting to meet requirements. Long term pollution prevention options take precedence over short term controls wherever practical.

**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 three categories:

- a. Class I projects are those in which facilities are currently out of compliance with established regulatory deadlines.

- b. 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.

- c. Class III projects are those needed to meet DoD, Assistant Secretary of the Navy (Installations & Environment) (ASN(I&E)), CNO and/or claimant goals related to environmental protection, pollution prevention, cost effectiveness, environmental quality, or enhancement initiatives. These requirements are not mandated by law, but demonstrate Federal leadership and goodwill.

**1-4.6 Budgeting for Environmental Compliance.** Shore activities and afloat commands shall report Annual Environmental budget requirements on

1 November 1994

Navy Comptroller (NAVCOMPT)  
ENV32A/B/C/D/E per NAVCOMPT 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. Compliance requirements shall be programmed, budgeted, and executed 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.

**1-4.7 Weapon Systems and Platforms.** Alterations to existing Navy ships, aircraft or weapon systems and platforms performed to meet environmental compliance requirements shall be included in the Fleet Modernization Program (FMP) or Engineering Change Proposal (ECP) program, and funds programmed by the applicable Office of the Chief of Navy Operations (OPNAV) resource sponsors. Special studies, equipment, and RDT&E for new environmental compliance requirements shall be budgeted by the cognizant hardware systems command as appropriate, and reported through the A-106 process.

**1-4.8 Limit on Use of Environmental Funds.** Funds allocated for environmental and natural resources protection shall be used only for those purposes consistent with applicable NAVCOMPT regulations.

## **1-5 Responsibilities**

### **1-5.1 DCNO (Logistics) 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 EO 12114.

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

f. Coordinate with resource sponsors, Deputy Chief of Naval Operations (N8), NAVCOMPT, DoD, and OMB in the reconciliation of environmental compliance requirements vs. budgeted resources.

**1-5.2 The Director, Naval Nuclear Propulsion (N00N)** shall fulfill all responsibilities prescribed in EO 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 (e).

b. Ensure sufficient resources are made available to major claimants for environmental compliance requirements at Navy activities.

c. Ensure sufficient resources are made available 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 cannot be resolved 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. Ensure that the NOSC spill contingency plans are reviewed, responsibilities are clearly out-

lined, and procedures are 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. Not enter 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. If designated by the cognizant AEC, execute Navy EA responsibilities for DoD environmental coordination. Coordinate all DoD regional environmental issues via the chain of command.

#### **1-5.7 COMNAVFACENGCOM shall:**

a. Manage the Navy A-106 report, issue related operating instructions, and ensure accuracy.

b. Develop semiannual reports of updates and new environmental program elements for the semiannual A-106 report; provide the semiannual A-106 report to CNO (N45).

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

d. Plan, program, budget and provide overall coordination and management for Defense Environmental Restoration Account (DERA) and the NEPSS program.

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

f. Maintain the Defense Environmental Management Information System (DEMIS), analyze data, and prepare required reports and briefings as requested.

g. As requested by the RECs, prepare analyses of relevant operational, legal, and technical issues raised by proposed State environmental legislation.

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

i. 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 are focused 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 is focused 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 (COMNAVSPAWAR-SYSCOM) 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. In consultation with the General Counsel, review recommended training and reference resource standards for counsel providing legal advice on environmental law issues.
- 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 JAG and GC 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 NOV's 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 the 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. Environmental litigation support is provided by the litigation office

1 November 1994

of the General Counsel. 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.

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.

e. Provide necessary information for completion of the required OMB A-106 reports to COMNAVFACENGCOM upon request.

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

g. 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.

h. Review draft legislation and regulations and provide CNO (N45) with timely comments and assessments of 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, NAVFACENGCOM 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 a 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. Responsibilities under Federal, State and local laws are allocated by those laws and may not be affected by intra-Navy agreements and command relationships. Accordingly, COs and OICs

of tenant activities shall coordinate all contacts with regulatory officials through the host activity.

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

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 shall 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 Commanding officers 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 that shipboard environmental protection systems are properly maintained and operated to conform with applicable Federal, State, and local regulations.

d. Ensure that ship's personnel whose actions could adversely affect the environment are properly trained, 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.