

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 10

INSTALLATION RESTORATION PROGRAM

	<u>PARAGRAPH</u>	<u>PAGE</u>
SECTION 1: INTRODUCTION		
PURPOSE . . . . .	10100	10-5
APPLICABILITY . . . . .	10101	10-5
BACKGROUND . . . . .	10102	10-5
FEDERAL STATUTES . . . . .	10103	10-5
REQUIREMENTS . . . . .	10104	10-8
TERMS AND DEFINITIONS . . . . .	10105	10-18
SECTION 2: MARINE CORPS POLICY		
GENERAL . . . . .	10200	10-27
SITE DISCOVERY AND NOTIFICATION . . . . .	10201	10-27
REMOVAL ACTIONS . . . . .	10202	10-28
EMERGENCY RESPONSE . . . . .	10203	10-28
HAZARD RANKING SYSTEM (HRS) . . . . .	10204	10-28
PRELIMINARY ASSESSMENT/SITE INSPECTION (PA/SI) . . . . .	10205	10-29
REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS) . . . . .	10206	10-29
NO FURTHER RESPONSE ACTION PLANNED (NFRAP) . . . . .	10207	10-29

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

	<u>PARAGRAPH</u>	<u>PAGE</u>
ADMINISTRATIVE RECORD . . . . .	10208	10-30
TECHNICAL REVIEW COMMITTEE/RESTORATION ADVISORY BOARD (TRC/RAB) . . . . .	10209	10-30
FEDERAL FACILITY AGREEMENTS (FFA) . . . . .	10210	10-31
RECORD OF DECISION/DECISION DOCUMENT (ROD) . . . . .	10211	10-32
INTER-AGENCY AGREEMENT (IAG) . . . . .	10212	10-32
REMEDIAL DESIGN/REMEDIAL ACTION (RD/RA) . . . . .	10213	10-32
PUBLIC INFORMATION PROGRAM . . . . .	10214	10-32
LONG-TERM OPERATIONS (LTO) OR REMEDIAL ACTION OPERATION (RAO) . . . . .	10215	10-33
LONG-TERM MONITORING (LTM) . . . . .	10216	10-33
MARINE CORPS AS A POTENTIALLY RESPONSIBLE PARTY (PRP) . . . . .	10217	10-33
FORMERLY OWNED OR USED MARINE CORPS PROPERTY/FORMERLY USED DEFENSE SITES (FUDS) . . . . .	10218	10-34
NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) . . . . .	10219	10-34
STATE LAWS . . . . .	10220	10-34
CITIZEN SUITS . . . . .	10221	10-35
COORDINATION WITH OTHER ENVIRONMENTAL REGULATIONS . . . . .	10222	10-35
REAL PROPERTY TRANSFER . . . . .	10223	10-35
SITE CLOSE-OUT . . . . .	10224	10-36
CONSTRUCTION ON CONTAMINATED PROPERTY . . . . .	10225	10-36

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

	<u>PARAGRAPH</u>	<u>PAGE</u>
SECTION 3: RESPONSIBILITIES		
CMC (LF) . . . . .	10300	10-37
CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES) . . . . .		
	10301	10-38
COMMANDER OF NAVAL FACILITIES ENGINEERING COMMAND (COMNAVFACEGCOM) . . . . .		
	10302	10-40

FIGURE

10-1	INSTALLATION RESTORATION (IR) PROGRAM CERCLA PROCESS . . . . .	10-43
------	---	-------



ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 10

INSTALLATION RESTORATION PROGRAM

SECTION 1: INTRODUCTION

10100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with procedural and statutory requirements under the DON IR program.

10101. APPLICABILITY. See paragraph 1101.

10102. BACKGROUND. The IR program identifies, investigates, and cleans up or controls hazardous substance (HS) releases from past waste disposal operations and spills at Marine Corps installations. The IR program is designed to comply with procedural and substantive requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Superfund Amendments and Reauthorization Act (SARA), and with regulations promulgated under these Acts and relevant state laws. Although the IR program is intended primarily to clean up past HS releases, it may address the cleanup of past releases of any pollutant and/or contaminant that endangers public health, welfare, or the environment, including petroleum, oil, and lubricants. For additional information and guidance, refer to the most current version of the Navy/Marine Corps IR Manual.

10103. FEDERAL STATUTES

1. CERCLA of 1980, as Amended (42 U.S.C. 9601 et seq.). This Act, commonly referred to as "Superfund," authorizes Federal action to respond to the release or threatened release of HS from any source into the environment. CERCLA also authorized the creation of a trust fund to be used by the Environmental Protection Agency (EPA) to clean up emergency and long-term Hazardous Waste (HW) problems. The DoD is not covered by the trust fund; however, Congress set up special funding outside CERCLA, the Defense Environmental Restoration Account (DERA), to pay the cost of DoD responses to HW site remediation. In a memorandum issued on 3 May 1995, the Deputy Secretary of Defense devolved DERA to the Military Departments and defense agencies.

The account that funds Marine Corps requirements is now referred to as the Environmental Restoration, Navy (ER,N) account.

a. SARA of 1986 (Public Law 99-499). This Act reauthorized and amended the authorities and requirements of CERCLA. SARA provisions that are of primary importance to the IR program are set forth in section 120, which addresses response actions at Federal Facilities, and in section 211, which codifies the Defense Environmental Restoration Program (DERP) into law.

b. Community Environmental Response Facilitation Act (CERFA) of 1992 (Public Law 102-426). CERFA amends CERCLA, section 120(h), Property Transferred by Federal Agencies. CERFA requires the Federal Government, before the termination of Federal activities on any real property owned by the Government to identify real property where no HS or petroleum was released, or disposed of. CERFA further clarifies the meaning of "remedial action taken" in CERCLA, section 120(h)(3).

c. National Oil and Hazardous Substances Pollution Contingency Plan (NCP). NCP is the regulation that implements the statutory requirements of CERCLA, SARA, and section 311 of the Clean Water Act. The NCP defines responses to HS releases or threatened releases. When addressing the cleanup of HS releases, CERCLA requires each Federal agency to comply with the Act in the same manner and to the same extent as any nongovernmental entity.

2. Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. 6901 et seq.). Amended by the Hazardous and Solid Waste Amendments (HSWA), RCRA and CERCLA are closely associated with each other. Of particular note is section 3004(u) of RCRA (i.e., corrective action) by which the EPA or a state may require the cleanup or a schedule for investigation and cleanup of all inactive solid waste management units (SWMU) on an installation before issuing a RCRA Part B permit for current HW operations at the installation. Cleanup standards may be different under RCRA (e.g., timetables) than under CERCLA. Therefore, in instances in which an installation is required to comply with RCRA, both IR program cleanup schedules and standards may be impacted.

3. NEPA of 1969 (42 U.S.C. 4321 et seq.). The primary requirement of NEPA is to incorporate environmental considerations into decisionmaking processes of major Federal actions that significantly impact the quality of human health and the environment. NEPA is a procedural statute that requires a Federal decision maker to consider the environmental impacts of a proposed action, while also ensuring that the public is fully

informed of the proposal and its impacts and given adequate opportunity to comment. IR program actions that follow the NCP and fulfill public participation requirements are deemed to be in compliance with NEPA.

4. Base Realignment and Closure Act (BRAC) of 1988 (Public Law 100-526).

BRAC was enacted by Congress to select bases for realignment and closure as a part of overall military downsizing. BRAC selections were conducted in 1988, 1991, 1993, and 1995. Installations designated as realignments, receiving sites, or closing bases have special environmental considerations. These requirements form what is known as the BRAC Environmental Restoration program, which is discussed in this chapter. Although base closure legislation requires closing bases to cease operations and transfer property within a 6-year period following the enactment of legislation, environmental characterization and cleanups may continue for several years beyond this 6-year window. Ultimately, this cleanup process may prevent the transfer of cleaned parcels of land to the community in the 6-year time frame. However, the Marine Corps may initiate and execute lease agreements with interested parties before cleanup is complete. Upon completion of cleanup, transfer of land can occur.

5. Executive Orders (EO)

a. EO 12088, October 13, 1978, Federal Compliance with Pollution Control Standards, requires each Executive Agency to comply with applicable pollution control standards. Compliance with applicable pollution control standards means conforming to the same substantive, procedural, and other requirements that apply to private citizens.

b. EO 12580, January 23, 1987, Superfund Implementation, delegates the President's authority under CERCLA, as amended by SARA, to Federal agencies, including the DoD. Accordingly, DoD, not the EPA, has the lead agency authority to respond at DoD installations. The lead agency authority has been re-delegated by DoD to its individual departments.

6. State Laws. Many states have laws analogous to CERCLA. CERCLA does not enable delegation of the Superfund Program to states; however, under CERCLA, section 120(a)(4), state laws concerning removals, remedial action, and enforcement apply to Federal facilities not listed on the National Priorities List (NPL).

10104. REQUIREMENTS

1. IR Program Outline

a. The EPA is responsible for implementing CERCLA by developing and enforcing appropriate regulations. Regulations issued for CERCLA compliance are found in the NCP. General procedures are set forth under the NCP for initiating and carrying out the remedial action process at CERCLA sites (additional details can be found in the Navy/Marine Corps IR Manual) as follows:

- (1) Site Discovery and Notification;
- (2) PA/SI;
- (3) HRS;
- (4) RI/FS;
- (5) ROD;
- (6) RD/RA;
- (7) LTO or Remedial Action Operations (RAO);
- (8) LTM; and
- (9) Site Close-out, NFRAP, or Delisting.

b. Provisions throughout this process ensure close coordination with regulatory agencies and the public. The EPA and appropriate state and local officials must have adequate opportunity to review and comment on assessments/studies and proposals regarding RA. Figure 10-1 at the end of this chapter outlines the IR program and DON-responsible offices.

2. Site Discovery and Notification

a. Site discovery and notification is the first step in addressing uncontrolled or abandoned HS sites at Marine Corps installations. Other than a Federally permitted release, any HS release or threatened release, as defined in CERCLA section 101(22), from a facility in quantities equal to or greater than the reportable quantity established pursuant to CERCLA section 102 must be reported to the National Response Center (NRC). The NRC will convey the notification to all appropriate Government

agencies (e.g., state governor, the EPA, the appropriate state agency, and/or relevant local authorities) (CERCLA, section 103). Additionally, releases or threatened releases must be reported through the chain of command using the reporting format contained in appendix E, which is further described in chapter 7 of this Manual. Although notification duties may be delegated, the installation CG/CO ultimately is responsible to ensure proper and prompt notification. Upon request from the installation, the cognizant Naval Facilities Engineering Command (NAVFACENGCOM) Engineering Field Division/Activity (EFD/EFA) will take the lead to investigate the release. CERCLA makes no distinction between current or past releases under the reporting requirement. The requirement goes into effect upon discovery (i.e., as soon as the person in charge has knowledge of the release), which means that the installation must give prompt notice (CERCLA, sections 103(a) and (c)) of such information to the NRC by telephone. It is imperative that a follow-up confirming letter be sent to the appropriate agency in addition to the verbal telephone notice. An owner or operator who fails to notify the appropriate agency immediately upon discovery of such release, or who submits any information that is known to be false or misleading, can be prosecuted, fined, or imprisoned (up to \$10,000 and 3 years in jail) upon conviction (CERCLA, section 103(b)).

b. Under the IR program, notification of an unconfirmed past release is accomplished when the CG/CO forwards a PA/SI report to the EPA and state regulatory agencies. If an installation, in reviewing its records, discovers that a potential disposal site exists that was not previously investigated, the installation will report this information to the EFD/EFA for further review. The potential site does not need to be reported to the NRC at this time since it is only a potential site.

### 3. Federal Agency HW Compliance Docket

a. Congress has created measures to ensure that Federal agencies accomplish PA's at certain installations. It requires the EPA to establish a Federal Agency HW Compliance Docket, which lists those Federal facilities that have submitted the following:

(1) RCRA, section 3005: Permits for Treatment, Storage, and Disposal of HW's;

(2) RCRA, section 3010: Notification of HW Generation, Transport, Treatment, Storage, or Disposal Activities;

(3) RCRA, section 3016: Biennial Inventory of Federal HW Facilities; and

(4) CERCLA, section 103: Notice of HS Release.

b. The docket also lists any installation that has reported a release of an HS, has applied for a RCRA Part A or Part B permit, or has submitted IR program information to the EPA. A PA must be prepared for every site on the docket (CERCLA, section 120(d)). The EPA must make the docket available for public inspection by establishing repositories of docket information at EPA regional offices (CERCLA, section 120(c)(3)). In conjunction with the installations, the NAVFACENCOM EFD/EFA's will review and update the repository information and ensure that all sites are being addressed. The EPA may not remove sites from the docket, but must indicate as appropriate "No Further Action Required," "Site Evaluation Accomplished," or other status.

4. Removal Actions. Removal actions are part of the response process and follow the first response to a release or threatened release. Removals can be undertaken at any time during the remedial process. If a removal action does not fully address the threat posed by the release, then an orderly transition should be made from removal to another response. CERCLA, section 104, and EO 12580, January 23, 1987, grant the DoD the authority to carry out removal actions when the release is on a DoD installation, or when the sole source of the release is from a DoD installation. However, notice of removal actions must be given to the EPA and/or the state pursuant to SARA section 211.

#### 5. PA/SI

a. After site discovery and notification by an installation, within 12 months after an installation has been listed in the Federal Agency HW Compliance Docket or within 12 months of receiving a petition (unless the assessment is deemed inappropriate), a PA must be conducted (CERCLA, section 120(a)). A follow-up SI is accomplished where appropriate. The PA is developed from readily available existing information and includes the following:

- (1) A description of the release;
- (2) A description of the probable nature of the release; and

(3) A recommendation of whether further action is warranted and whether an SI or removal action or both should be undertaken.

b. The PA determines whether additional investigation of a site is required. The installation CG/CO reviews, signs, and forwards the PA to the EPA and cognizant state agency. If additional investigation is required, actual samples are collected and analyzed in an SI. At the conclusion of an SI, the CG/CO approves the total PA/SI package and sends it to the EPA and cognizant state agency.

c. An SI is required if the PA reveals that additional investigation is needed. An SI should:

(1) Eliminate from further consideration those releases that pose no threat or potential threat to public health or the environment;

(2) Determine the need for removal actions; and

(3) Collect data to characterize the release for the effective and rapid initiation of an RI/FS.

d. CERCLA also authorizes the public to petition installations directly to conduct a PA, if any person or organization believes that an HS release or threat of a release exists.

6. HRS and National Priorities List (NPL). Information from the PA/SI is used to score HS releases. Using the HRS, the EPA evaluates HS releases to determine their potential to affect human health, welfare, and the environment. Historically, a site is proposed for the NPL if the HRS score is 28.5 or higher. The NPL is a list of sites which have been identified as posing the greatest or most immediate threat to human health, thus warranting a priority response. (See appendix A of 40 CFR 300.)

#### 7. RI/FS

a. Sites identified in the PA/SI as potential threats to human health or the environment receive a comprehensive investigation called an RI/FS. Investigators will define all contaminants and their migration pathways, assess potential risks to public health and the environment, and carry out a comprehensive, quantitative risk assessment. The RI serves as the mechanism to collect data for site and waste characterization

that is necessary to evaluate the performance and cost of possible treatment technologies and to support the evaluation, selection, and design of remedies. The FS serves as the mechanism to develop, screen, and provide detailed evaluations of potential remedial alternatives. The RI/FS evaluates the threat to public health posed by the HS release, develops cleanup performance goals to compare the health risks of the remedial alternatives, and considers the cost of remedial alternatives.

b. CERCLA requires that an RI/FS be initiated no later than 6 months after a site is listed on the NPL. The RI/FS (at both NPL sites and non-NPL sites) is conducted in compliance with EPA guidelines.

#### 8. Administrative Record/Retention of Records

a. NCP, 40 CFR 300.800. The NCP requires that an Administrative Record, or Information Repository, be established for all CERCLA sites. The Administrative Record must be established and made available to the public at or near the installation at the start of the RI or at the time the Engineering Evaluation/Cost Analysis for removal actions is approved. In any judicial action under CERCLA, a court will look to the administrative record to determine whether the agency's decision in selecting a response action was made properly. The NAVFACENCOM EFD/EFA will establish and maintain the Administrative Record and send copies and updates to the installation, state, and EPA. The CG/CO must ensure that any new or additional information, such as correspondence with regulatory agencies and the public, is provided to the EFD/EFA for inclusion in the Administrative Record. Installations must ensure that the Administrative Record is available to the public. Therefore, an up-to-date duplicate of each item in the official EFD/EFA file must be established and maintained at the installation and at locations accessible for public review.

b. CERCLA, Section 103(d)(2). Any person responsible for providing notification of known, suspected, or likely releases should also retain records of the facility and HS releases for 50 years after the act was enacted (i.e., the year 2030), or for 50 years after the record was established, whichever is later (CERCLA, section 103(d)(2)). The records include information on the location, title, and condition of the facility and the identifying characteristics, quantity, origin, or condition (including containerization and previous treatment) of any HS contained or deposited on the facility. It is unlawful to destroy, mutilate, conceal, or falsify such records. The EPA may

promulgate rules and regulations covering records that should be retained, but it has not done so to date. Pending any such guidance, each installation should retain the appropriate records for at least the statutory time period or apply to the EPA for appropriate waivers.

9. Coordination with Regulatory Agencies and the Public

a. At this point in the IR program, initial investigation of a number of sites has been accomplished. CERCLA and EPA guidance require that regulatory agencies and the public be informed of these results and other studies and investigations as they occur. The installation CG/CO must, therefore, ensure that the EPA and appropriate state and local officials have adequate opportunity to review and comment on assessments, studies, and proposals for responses/RA's (SARA, section 211). Although assessments, studies, and recommendations for RA's normally are conducted for the Marine Corps installations by the cognizant NAVFACENGCOM EFD/EFA, the CG/CO remains ultimately responsible to ensure compliance by approving and forwarding documents to the appropriate regulatory agencies.

b. A proactive public information program must be implemented at each installation per SECNAVINST 5720.44 for all IR program sites, and a formal written Community Relations Plan (CRP) must be prepared by each installation that has a site listed on the NPL. The public information program must continue throughout the life of the IR program at the installation as follows:

(1) Inform the public (both on- and off-base) of investigations and cleanup alternatives. Team-building is an important element in IR program community relations implementation. Cleanup functions cannot be conducted separately from the CRP. Installation IR program Managers, Public Affairs Officers (PAO), and attorneys must work together to develop a cohesive CRP strategy. Conduct regular team meetings so that PAO's are well informed and project personnel do not face the public unprepared.

(2) Conduct community interviews both on and off the installation to identify the concerns of the local community and whether the community desires to participate in the site remediation process. These interviews should include the PAO and the IR program project managers. Training to conduct these interviews must be a priority. An installation representative should lead the interview team.

(3) If assistance is required in the CRP, contact the IR program manager at the CMC (LF).

10. TRC/RAB. SARA, section 211, requires that whenever possible and practical a TRC be established to review and comment on actions and proposed actions for releases or potential releases at the installation. TRC's should be converted to RAB's if there is sufficient, sustained community interest. Installation commanders will expand the function of the current TRC's and establish RAB's if 1) a local government requests that a RAB be formed, 2) 50 local residents sign a petition requesting that a RAB be formed, 3) an installation determines that a RAB is required, or 4) the installation is scheduled for base closure.

11. Public Health Assessment. The Agency for Toxic Substances and Disease Registry (ATSDR) must perform a health assessment for each facility listed or proposed for the NPL. A Public Health Assessment is the evaluation of data and information on HS releases into the environment to assess any current or future impact on public health, to develop health advisories or other recommendations, and to identify studies or actions needed to evaluate and mitigate or prevent human health effects. To the maximum extent possible, the ATSDR must complete a health assessment before completion of the RI/FS. ATSDR will perform the assessment using available information from IR program studies. The results of the ATSDR analysis will be used in the RI/FS, as appropriate.

12. ROD/Decision Document. The installation CG/CO must prepare a ROD or decision document to record the decisionmaking process whenever an RA or no-action alternative is selected at both NPL and non-NPL sites. The cognizant NAVFACENCOM EFD/EFA will prepare the ROD or decision document in coordination with the installation and forward the recommended ROD to the installation CG/CO. The CG/CO must review the proposed ROD and the Administrative Record carefully. Approval is indicated by the CG/CO's signature. As required by ERCLA, section 117(b), notice of the final ROD must be published, and the ROD must be made available to the public in the Administrative Record before adopting any RA. Any significant comments, criticisms, and new data submitted by the public requires a response and must be made available to the public before the commencement of any RA. For NPL sites, the ROD is forwarded to the EPA for concurrence. If agreement is not reached on the selection of an RA for NPL sites, then the EPA makes the selection. The Marine Corps has final decision authority for non-NPL sites per EO 12580, January 23, 1987, as long as all "applicable or relevant and appropriate

requirements (ARAR), " such as Federal, state, and local standards, are taken into account.

13. IAG

a. As required by CERCLA, section 120(e), Federal Agencies must enter into an IAG with the EPA for expeditious completion of all necessary RA's within 180 days after completion of each RI/FS for an NPL site. IAG's must be signed by the Assistant Secretary of the Navy for Installations and Environment (ASN(I&E)).

b. To expedite the cleanup process, where possible, the EPA and/or the state develop and sign an FFA as soon as possible after an installation is proposed for NPL listing. An FFA becomes an IAG for an Operable Unit (OU) or site cleanup at an installation once the ROD is signed and new schedules are negotiated for the actual remedial action. FFA's are not required by law; however, DoD and DON policy requires FFA's unless they are not advantageous to the Marine Corps.

c. There are also IAG's with states for cleanup at non-NPL installations related to the RCRA corrective action permit and section 3008(h) order process, Underground Storage Tank cleanup agreements, and RCRA closure.

14. RD/RA. Following the RI/FS and the ROD, a site enters the RD/RA phase. During the RD, detailed designs, plans, specifications, and bid documents are developed for implementation of the cleanup or RA phase. The RA phase cleanup is implemented with the award of a contract to begin construction of the selected alternative(s). After the ROD has been completed, the RD/RA will commence. For NPL sites, "substantial continuous physical on-site remedial action" must commence no later than 15 months after completion of the RI/FS (CERCLA, section 120(e)).

15. LTO also Referred to as RAQ. Many remedial technologies will require the operation and maintenance (O&M) of equipment after the RA is installed. Plans for O&M, including long-term monitoring, are identified in the FS, ROD, or decision document. Long-term O&M of the remedy begins with the initiation of the RA and continues until the remedy is no longer needed.

16. LTM. LTM is conducted by NAVFACENGCOM using ER,N funds for the first 5 years after the Response Complete (RC) is achieved. After that, the installation CG/CO funds and conducts the LTM.

17. Citizen Suits. CERCLA allows any citizen to sue any person or Government agency "who is alleged to be in violation of any standard, regulation, condition, requirement, or order that becomes effective pursuant to this Act (including any provision of an agreement under CERCLA, section 120, relating to Federal Facilities)." This process allows private citizens to ensure that Marine Corps installations are complying with CERCLA and with the terms of IAG's. To sue a Federal agency under these provisions, a citizen must give a Notice of Violation (NOV) to the President, to the state in which the violation occurs, and to the agency being sued. If diligent actions are taken within 60 days after receiving an NOV to comply with a CERCLA requirement, then the lawsuit can be prevented. To avoid lawsuits and potential court orders, Marine Corps installations, with assistance from their cognizant EFD/EFA, must comply with CERCLA and the terms of IAG's. Installation CG's/CO's and their staffs should be alert to citizen and citizen group correspondence that purports to be an NOV and would commence the 60-day time limitation. The CMC (LF) and the CMC (CL) must be consulted immediately if a Marine Corps installation receives a citizen suit letter.

18. PRP

a. The Marine Corps may be a PRP when there is an HW release or threat of a release generated by the Marine Corps. In the typical situation, it is a former HW disposal site that through mismanagement, bankruptcy, poor planning, or mere cessation of business operations on the part of the owner/operator requires a removal action or an RA under CERCLA. The EPA or state authorities may unilaterally or jointly undertake cleanup action with Superfund moneys (or similar state resources) and assess costs against all PRP's. Alternatively, the EPA and the state may arrange for cleanup by the PRP's. In either case, when Marine Corps HW is subject to corrective action at a disposal site, the Marine Corps is responsible for a portion of the cleanup costs.

b. Marine Corps involvement as a PRP begins when the EPA or state issues a general or special notice. A general notice is one announcing that the EPA is investigating a site and that the Marine Corps may be a PRP. A request for information about use of the site for HW disposal may precede or accompany the general notice. A special notice is one in which the EPA advises all known PRP's that it will initiate work at the site unless the PRP's commit to work within 60 days.

c. To capitalize on NAVFACENGCOM expertise and to have execution and funding uniformity throughout the DON, CMC (LF), and Headquarters (HQ) NAVFACENGCOM, these offices have agreed that the latter, through its EFD/EFA offices, will represent Marine Corps interests regarding PRP responsibilities. This arrangement authorizes the NAVFACENGCOM to act on behalf of the Marine Corps; it does not relieve Marine Corps commands of their legal obligations and responsibilities under CERCLA.

19. Site Close-Out. Conduct a site close-out when no further response actions under the IR program are considered appropriate for the site and when the site cleanup confirms that no significant threat to public health or the environment exists. When possible, seek EPA and state concurrence.

a. Pursuant to the NCP requirements, sites may be deleted from, or re-categorized on, the NPL provided that 1) all appropriate response actions have been implemented, 2) no further response action is appropriate, or 3) the RI shows no significant threat from the release to public health or the environment. The EPA, in consultation with the state/commonwealth, will determine whether any of these requirements have been met and, if so, will prepare a notice of intent to delete. The EPA will obtain state/commonwealth concurrence with the deletion notice prior to making the notice available to the public. The final deletion package will also be made available to the public and will contain the response to public comments received. To delist a Federal NPL installation, all individual sites on the installation must be closed out.

b. For non-NPL sites, the EPA and the state must be notified that appropriate response actions have been completed and that no further response actions are appropriate. The site(s) will be designated as NFRAP, with the supporting documentation placed in the information repository, and the public will be notified of these actions.

20. RCRA Corrective Action. Installations seeking or renewing a permit for a treatment, storage, and disposal facility (TSDF) are required by RCRA, section 3004(u), to take corrective action for past releases of HW constituents from any SWMU at the installation. Permits issued by the EPA or a state with RCRA authority will contain schedules of compliance for such correction (where such action cannot be completed before the permit is issued). ER,N funds can be used for corrective action for past releases of HW at TSDF's if the releases are associated

with past disposal practices. Additional RCRA corrective action requirements include:

a. Per section 3004(v) of RCRA, corrective action must be taken for releases of HW that have migrated beyond the installation's boundary.

b. Per section 3008(h) of RCRA, the EPA may issue an order requiring corrective action to address HW releases (constituents omitted), whether or not from a SWMU, at facilities authorized to operate under interim status.

21. Property Transfer. CERCLA, section 120(h), outlines procedures for property transfer by Federal agencies. Facilities must include in the transfer contract information regarding the type and quantity of an HS stored for 1 year or more, or an HS known to have been released or disposed of on site. The contract must include notice of the time at which such storage, release, or source disposal took place. The report must be based on available data from agency files. CERFA amended CERCLA, section 120(h), by requiring the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no HS and/or no petroleum products or their derivatives were released or disposed of. CERFA further clarifies the meaning of "remedial action taken" in CERCLA, section 120(h)(3). For bases subject to closure or realignment under a base closure law, the CERFA identification must be made, and concurrence must be obtained within either: 18 months of the CERFA enactment (October 19, 1992); 18 months of the date by which a joint resolution disapproving the closure or realignment must be enacted, when such a joint resolution has not been enacted; or 18 months of the date on which the real property is selected for closure or realignment.

22. Environmental Compliance. See chapter 4 of this Manual for more information on policy, responsibility, and procedures for achieving compliance with applicable EO's, and Federal, state, interstate, and regional statutory and regulatory environmental requirements.

#### 10105. TERMS AND DEFINITIONS

1. Administrative Record. Required by CERCLA, section 113(k), an Administrative Record is the documentation, formed by the combination of documents and other material, that provides the

basis for the Marine Corps installation's selection of a response action.

2. ARAR. Used for establishing the standards for cleanup based on the chemicals involved, the location, the suspected health impacts, or the response action technologies proposed at the site. ARAR's are required by CERCLA, section 121(d), which states that a requirement under other environmental laws may be either "applicable" or "relevant and appropriate" to an RA, but not both. The two-tier test first determines whether a given requirement is applicable; then, if it is not applicable, it determines whether it is nevertheless relevant and appropriate.

3. Applicable Requirements. The cleanup standards, standards of control, and other substantive environmental protection requirements, criteria, or limitations promulgated under Federal and state laws that specifically address an HS, pollutant, contaminant, RA, location, or other circumstances at a CERCLA site. "Applicability" implies that the RA and the circumstances at the site satisfy all of the jurisdictional prerequisites of a requirement.

4. BRAC Environmental Restoration Program. Environmental restoration activities at closing and realigning installations affected by BRAC, and funded by Marine Corps BRAC accounts. This program is analogous to DERP or IR and funds the same activities that are eligible under IR. It does not include building demolition/debris removal or ordnance and explosive waste activities. Closure-related environmental compliance requirements are not included in this program.

5. CRP. A formal written proactive public information program developed by each installation, whether listed on the NPL or not. The plan must take into account the public comment period that precedes final selection of remedial or corrective action. The plan will consist of background and history of community involvement at the site, IR program objectives, community relations activities to be used to reach the objectives, and a mailing list of involved persons. The plan must be based on discussions with state and local authorities, civic and community organizations, interested residents, and local news media representatives.

6. Defense and State Memorandum of Agreement (DSMOA). An agreement between the DoD and a state or territory whereby the state or territory can be compensated for providing technical support for environmental restoration activities at operational

installations, closing and realigning installations, and Formerly Used Defense Sites (FUDS).

7. DERA. A funding account established by SARA, section 211, to pay the cleanup costs of DoD HW sites. Funds from DERA are transferred to the services for uses consistent with DERP. Beginning in FY97, DERA was devolved to the military departments. The DON account is called the ER,N account.

8. ER,N Account. Department of the Navy account used to pay for cleanup of HW sites.

9. Facility. Any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, aircraft, or any site where an HS has been deposited, stored, disposed of, placed, or otherwise come to be located.

10. Fast-Track Cleanup (FTC). The program established under the President's five-point reinvestment plan to expedite the restoration and transfer of property at closing and realigning installations.

11. FFA. A formal, negotiated, legal agreement between the EPA and/or the state, and the DON that establishes objectives, responsibilities, procedures, and schedules for the RI/FS phases at NPL installations. FFA's are intended to outline the working relationship and to improve communications between all parties by allowing the EPA and state to review all work and ultimately to make the selection process of any RA's less argumentative.

12. HRS. The EPA must score HS releases by their potential to affect human health, welfare, and the environment. The HRS is a means of applying uniform technical judgment regarding the potential hazards presented by the feasibility, desirability, or degree of cleanup required. The HRS ranks sites by a mathematical rating scheme. Historically, the EPA has proposed sites with scores above 28.5 for the NPL.

13. HS. Any material which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may pose a substantial hazard to human health or the environment when released or spilled. In the IR program, an HS is defined in CERCLA, section 101(14), and designated under 40 CFR 302.

14. Health Assessment. Required of any facility proposed for the NPL and accomplished by the ATSDR using information obtained from IR program studies and site visits before the completion of the RI/FS. A health assessment is an analysis of information conducted to determine whether the HS present at a site poses a risk to human health, whether steps should be taken to reduce human exposure to the HS, and whether surveillance of the exposed population is warranted.
15. IAG. Necessary for any installation listed on the NPL. CERCLA, section 120(e), requires the EPA to review the results of the RI/FS, and it requires the Marine Corps to enter into an IAG with the EPA for the expeditious completion of all necessary RA's at the facility within 180 days after the EPA's review of the RI/FS. The IAG must include a review of alternative RA's, the selection of an RA by the Marine Corps and the EPA, a schedule for the completion of each RA, and arrangements for long-term operation and maintenance of the facility.
16. Interim Remedial Action (IRA). An IRA is a near-term action taken to address HS releases that require an expeditious response. IRA's are often the first response to a release or threatened release.
17. Lead Agency. The agency that provides the on-scene coordinator or Remedial Project Manager (RPM) to plan and implement response actions under the NCP. The DON is always the lead agency for response actions on DON real property.
18. LTM. LTM is the maintenance and monitoring initiated after the RA objectives have been met. LTM can only be programmed for sites that have achieved RC.
19. NPL. The EPA's list of priority sites located throughout the United States with known releases or threatened releases of HS's, pollutants, or contaminants. Historically, sites that have scored above 28.5 on the HRS have been proposed for the NPL. The list is revised at least annually.
20. NFRAP. Sites which do not warrant moving further in the site evaluation process are designated as NFRAP. The primary criterion for NFRAP is a determination that the site does not pose a significant threat to public health or the environment. A NFRAP decision can be made at several points in the IR process, but must be documented and may be reversed if future information reveals that additional remedial activities are warranted.

21. OU. A discrete action that comprises an incremental step toward addressing site problems comprehensively. This discrete portion of a remedial response manages migration or eliminates or mitigates a release, threat of a release, or pathway of exposure. The cleanup of a site can be divided into a number of OU's, depending on the complexity of the problems associated with the site. OU's may address geographical portions of a site, specific site problems, or initial phases of an action, or it may consist of any set of actions performed over time or any actions that are concurrent but located in different parts of a site.

22. PRP. A generator, transporter, or site owner or operator who may be responsible for an HW site. This term is usually used in connection with off-installation sites.

23. PA/SI. Identifies potentially contaminated sites. The PA consists of a review of available historic information (records search) concerning installation activities and land use. The SI is an on-site visit consisting of limited sampling and analysis designed to verify the preliminary findings of the PA. Results of the PA/SI will determine the need for further investigation and whether the sites merit placement on the NPL by the EPA.

24. ROD. A written record on the appropriate remedy selected for the cleanup at a site.

25. Release. As defined by CERCLA, section 101(22): any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any HS, pollutant, or contaminant). Excludes the following: any release that results in exposure to persons solely within a workplace, specifically a claim that such persons made; emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; release of source, byproduct, or special nuclear material from a nuclear incident or any processing site that meets the conditions specified in CERCLA; and the normal application of fertilizer. In the NCP, release also means threat of release.

26. Relative Risk. The evaluation of individual sites to determine high, medium, or low relative risk to human health and the environment, based on contaminant hazards, migration pathways, and receptors, in accordance with DoD's Risk-Based Site Evaluation Primer (1994). Risk reduction is the movement of any site from a higher to a lower risk category because of natural

attenuation or interim remedial, remedial, or removal actions taken.

27. Relevant and Appropriate Requirements. Those cleanup standards, standards of control, and other substantive environmental protection requirements, criteria, or limitations promulgated under Federal or state law. While not specifically "applicable" to an HS, pollutant, contaminant, RA, location, or other circumstance at a CERCLA site, relevant and appropriate requirements may address problems and situations sufficiently similar to those encountered at the CERCLA site, demonstrating that their use is well suited to the particular site.

28. Remedial Action Construction (RAC). RAC is the construction of the final remedy. RAC's may include final remedies such as a soil removal or landfill cap, in which case the site would be considered an RC at the end of the RAC phase, or the RAC may be the construction of an active remediation system (pump and treat, soil vapor, extraction, etc.), which will have to be operated for an extended period prior to meeting the remedial objectives. In the latter case, once construction of the system is complete, it is considered a Remedy in Place (RIP).

29. RAO. RAO's are O&M activities required after the RAC is completed and before RAC objectives have been met (i.e. before RC has been achieved).

30. RD/RA. Begins following the completion of the ROD. The RD is the translation of the selected RA of the FS into designs and specifications for site remediation. The RA is the physical implementation of site remediation including full-scale drilling, excavation, and construction. For NPL sites, the RD/RA must commence no later than 15 months after completion of the RI/FS. An RA should commence and be completed as expeditiously as possible whether at an NPL site or non-NPL site.

31. RI/FS. A comprehensive investigation required for sites identified in the SI that pose potential threats to human health or the environment. The RI/FS is an extensive technical study conducted to determine the nature and extent of the threat posed by the release and to determine what action, if any, should be taken to remediate the site.

32. RIP. RIP is that point in time when the RAC of a system is complete, but the remedial objectives have not been met. This term is only used when there is a period of RAO following the RAC.

33. Removal Action. A Removal Action (also known as an IRA) is a near-term action taken to address HS releases that require an expeditious response. Removal actions are often the first response to a release or threatened release.

34. Reportable Quantity. The threshold quantity of an HS that must be reported if released. CERCLA, section 102, requires that the EPA establish and revise a list of HS's and their associated reportable quantities; this list is contained in 40 CFR 302.4.

35. RC. RC is achieved when the remedial action objectives have been met. The CG/CO makes this decision with regulatory concurrence when required under a cleanup agreement (FFA for NPL sites, FFSRA for some non-NPL sites).

36. RAB. A group established, wherever possible and practical, to act as a forum for discussion, information exchange, and decision making on actions and proposed actions with respect to releases or threatened releases at installation restoration sites. Committee participants may include representation from the EPA, appropriate state and local authorities, community members, and Marine Corps participants from the involved command and the cognizant NAVFACENGCOM EFD/EFA. The RAB is intended to enhance public involvement by bringing into the resolution process community members who reflect the diverse interests within the local community, enabling the early and continued two-way flow of information, concerns, values, and needs between the community and the installation. RAB's will not make decisions on environmental restoration activities, but will provide information, suggestions, and community input to be used by the Marine Corps in making decisions on actions and proposed actions regarding releases or threatened releases. RAB's will not take the place of community outreach and participation activities required by law, regulation, or policy. All community relations requirements must still be met.

37. Site. A location on an installation's property where an HS has been deposited, stored, disposed, placed, or otherwise located. Such areas may include multiple sources and may include the area between sources. This condition should not be confused with the EPA listing an entire installation on the NPL. An NPL installation will generally have several discrete sites.

38. SWMU. In RCRA corrective action, any unit in which wastes have been placed at any time, regardless of whether the unit was designed to accept SW or HW. Such units could include old

landfills, wastewater treatment tanks, and leaking process or waste collection sewers.

39. TRC. SARA, section 211, requires that a TRC be established to facilitate review and comment on technical aspects of response actions and proposed actions that pertain to releases or threatened releases at DoD installations. Members of the TRC include the Marine Corps, EPA officials, appropriate state and local authorities, Federal and state natural resource trustees, and community representatives.

40. Third-Party Site. An off-station or third-party site is a contractor-owned and contractor-operated HS release site that received Marine Corps HW and now requires corrective action under CERCLA.



ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 10

INSTALLATION RESTORATION PROGRAM

SECTION 2: MARINE CORPS POLICY

10200. GENERAL

1. All actions carried out under the Marine Corps IR program must be accomplished in compliance with all applicable requirements of CERCLA/SARA, and all terminology used by the Marine Corps must be consistent with that used in CERCLA/SARA and RCRA/HSWA. The Marine Corps must not adopt any guidelines or rules that are inconsistent with EPA guidelines and rules. Congress provides IR program funding to the DON through the ER,N account.

2. The Marine Corps IR program goal is to clean up or control HS releases from past HW disposal operations and spills in an expedient and cost-effective manner. The Marine Corps requires full, continuous dialogue and open cooperation with regulatory agencies and the public.

3. The COMNAVFACENGCOM manages the fiscal and technical aspects of the IR program at Marine Corps Installations. However, the installation CG/CO is responsible for approving IR program actions. Installations will provide the lead on critical procedural aspects of the program with support from the NAVFACENGCOM EFD/EFA. Success requires close cooperation and teamwork between the NAVFACENGCOM EFD/EFA and each installation.

4. CERCLA, Sections 120 and 121, and SARA, Section 211. The DoD must provide the opportunity for appropriate state authorities to be involved in the IR program. The DSMOA process provides funds to state regulatory agencies for oversight costs. The United States Army Corps of Engineers (COE) has been designated by the DoD to be the executive agent of the DSMOA program. All fund transfers will occur between the COE and the individual state.

10201. SITE DISCOVERY AND NOTIFICATION. If a release is discovered and that release has not previously been reported, report it immediately to the appropriate agencies. If a potential disposal site exists, conduct a PA to determine whether

a release has occurred. If a release has occurred, forward the PA to the appropriate agencies as notification.

10202. REMOVAL ACTIONS. At any site (even if the site is included on the NPL) where the Marine Corps determines that there is a threat to human health or the environment, the Marine Corps must use any appropriate means to abate, minimize, stabilize, mitigate, or eliminate the release or threat of release. Alternatives that attain or exceed applicable, or relevant, and appropriate Federal public health and environmental requirements; Federal criteria, advisories, and guidance; and state standards must be considered in selecting the type of removal action. The cognizant NAVFACENCOM EFD/EFA, in coordination with the installation, must prepare an analysis of the removal alternatives for the site, make the analysis available to the public, and provide at least a 30-day comment period. A decision document developed in coordination with the installation also must be prepared to substantiate the need for the removal action, identify the selected action, explain the rationale for the removal, and respond to significant public comments. Removal action will then begin. If the Marine Corps determines that the removal action does not fully address the threat or potential threat posed by the release, the Marine Corps will ensure an orderly transition from removal to remedial response action.

10203. EMERGENCY RESPONSE. Under CERCLA (section 104), EO 12580, January 23, 1987, and the NCP, the DoD has the authority to respond to "emergency" situations (i.e., those circumstances that endanger human life, health, or the environment) in which the release or threatened release is on, or the sole source of the release is from, a Marine Corps installation. If an IR site appears to be causing an emergency situation, the Marine Corps is responsible for taking appropriate action to protect the public and the environment from the threat. The installation, in consultation with the cognizant NAVFACENCOM EFD/EFA, is responsible for responding to emergency situations using ER,N funds.

10204. HAZARD RANKING SYSTEM (HRS). Following completion of a PA, the cognizant NAVFACENCOM EFD/EFA, in coordination with the installation, should develop and forward a draft HRS scoring package to the EPA.

10205. PRELIMINARY ASSESSMENT/SITE INSPECTION (PA/SI)

1. The NAVFACENGCOCM EFD/EFA (or the Naval Facilities Engineering Service Center) will conduct all PA's within 12 months of site discovery or as required in an IAG or other regulatory agreement. The NAVFACENGCOCM EFD/EFA will conduct the PA in coordination with the installation after site discovery or listing on the Federal Agency HW Compliance Docket. Upon completion, NAVFACENGCOCM EFD/EFA will provide the PA information to the installation for review and then forward it to the cognizant EPA region and the state.

2. An SI is required if the PA reveals the need for additional investigation. An SI will eliminate those sites that prove no threat or determine the need for additional actions. The cognizant NAVFACENGCOCM EFD/EFA, in coordination with the installation, will conduct SI's at sites recommended by the PA for further investigation. The SI should be completed as expeditiously as possible.

10206. REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS)

1. Sites identified in the SI that pose potential threats to human health or the environment require a comprehensive investigation specified as an RI/FS. The RI/FS determines the nature and extent of the threat and what actions, if any, should be taken to remediate the site.

2. An RI/FS must be started within 6 months of a site being listed on the NPL. If the site is not listed, there is no regulatory time limit on initiating the RI/FS.

3. The NAVFACENGCOCM EFD/EFA or designee conducts the RI/FS in close coordination with the installation. The RI/FS should be accomplished as expeditiously as possible.

10207. NO FURTHER RESPONSE ACTION PLANNED (NFRAP). The Marine Corps should not expend resources on sites that pose little or no threat to human health or the environment. A no further action decision can be made at several points within the remedial process, but must be based on a defensible and properly documented "assessment of risk to human health and the environment." The Marine Corps may apply this procedure at both NPL and non-NPL installations to describe those locations where it has been determined that no further action is required, based

upon appropriate investigation. NFRAP decision documents must be prepared by COMNAVFACENGCOM or its designee and signed by the installation CG/CO. Upon signature, the installation must forward the NFRAP decision documentation to appropriate regulatory agencies for information and/or concurrence and must ensure that the public receives notification via RAB's, public meetings, or other appropriate methods. Remedial project managers must be alert to document

opportunities for a NFRAP decision.

10208. ADMINISTRATIVE RECORD. The NAVFACENGCOM initiates the Administrative Record as soon as the SI shows that the program will move into the RI/FS phase. The cognizant NAVFACENGCOM EFD/EFA establishes and maintains the Administrative Record and sends copies to the installation, the state, and the EPA as appropriate. Installations must ensure that a copy of the Administrative Record is available in an information repository. The repository must be available to the public at or near the site; notice of availability is part of the record. This record is the basis for actions taken by the Marine Corps and any future legal action concerning the site.

10209. TECHNICAL REVIEW COMMITTEE/RESTORATION ADVISORY BOARD  
(TRC/RAB)

1. Installations must establish a TRC as soon as the SI shows that the program will move into the RI/FS.
2. RAB's will be established at installations where there is sufficient, sustained community interest. Installation commanders will expand the function of TRC's and establish RAB's (or establish RAB's at non-TRC installations) if:
  - a. A local government requests that a RAB be formed;
  - b. Fifty local residents sign a petition requesting that a RAB be formed;
  - c. An installation determines that a RAB is required; or
  - d. The installation is scheduled for closure.
3. The conversion of TRC's to RAB's will be accomplished by:

- a. Expanding existing TRC's to include additional community representatives;
- b. Establishing co-chairs, one from the community members on the RAB and one from the DON; and
- c. Opening meetings to the public.

10210. FEDERAL FACILITY AGREEMENTS (FFA)

1. The Marine Corps must enter into an FFA at its NPL sites as early as possible after it becomes apparent that an RI/FS is required. These agreements are a high priority and are intended to improve communications between all parties by allowing the EPA and the state to review all work and ultimately to make the selection of an RA less controversial. FFA's at NPL sites must outline and clearly state mutual obligations regarding the working relationship between the states, the EPA, and the Marine Corps.
2. The Marine Corps may enter into agreements only if the provisions are realistically attainable and structured to avoid excessive reporting, duplication of effort, and other administrative practices that reduce the efficiency of the overall remedial response.
3. The Marine Corps must continue efforts to define problems at Marine Corps sites and move aggressively to determine what RA's are appropriate. Negotiations on an agreement must not impede the Marine Corps responsibility to protect the public from harmful exposures or halt efforts to obtain RA decisions to address problems at Marine Corps sites.
4. The Marine Corps must consult fully with the EPA and the states in the course of continuing IR program efforts while negotiating the terms of the FFA. The model language established by agreement between the DoD and the EPA must be used as the basis for negotiations.
5. The cognizant EFD/EFA, in coordination with the installation, will negotiate FFA's and State Remediation Agreements.
6. The ASN(I&E) will sign the FFA's and State Remediation Agreements. The EFD/EFA will prepare final agreements in coordination with the installation; before the ASN(I&E) can endorse the final agreements, signatures must be obtained from

the following: the installation CG/CO, COMNAVFACENGCOM, the CMC (CL), and the CMC (LF).

10211. RECORD OF DECISION/DECISION DOCUMENT (ROD). The cognizant NAVFACENGCOM EFD/EFA will provide a recommended ROD or decision document to the installation CG/CO at the conclusion of an RI/FS. The installation CG/CO must review carefully the proposed ROD/decision document and the Administrative Record. If the CG/CO concurs, then the ROD will be signed. If the CG/CO disagrees or has questions on the ROD, the issues must be resolved through consultation with the EFD/EFA and the CMC (LF). For NPL sites, the ROD is forwarded to the EPA regional office for concurrence. Although neither a ROD nor an IAG is required under CERCLA at non-NPL sites, state remediation laws may contain requirements for decision documentation. Where such requirements apply, the cognizant NAVFACENGCOM EFD/EFA must write a decision document that satisfies state law for submittal by the installation. If the state remediation law contains no specific requirements for decision documentation, the cognizant NAVFACENGCOM EFD/EFA must write a decision document that contains the elements of a ROD; and the installation must forward the document to the EPA and the state.

10212. INTER-AGENCY AGREEMENT (IAG). At the completion of an RI/FS at an NPL site, the law requires that an IAG be signed. After the ROD, the previously negotiated FFA becomes an IAG when the statutory requirements are incorporated.

10213. REMEDIAL DESIGN/REMEDIAL ACTION (RD/RA). An RD/RA must be completed as expeditiously as possible, whether at NPL or non-NPL sites. The RPM oversees coordination of the RD/RA with the installation, the EPA, the state and local officials; maintains the Administrative Record; participates in community Resident Officer in Charge of Construction assists the RPM and the installation, and manages the RA construction to ensure that the RA meets all specifications and is constructed in a manner that protects human health, welfare, and the environment.

10214. PUBLIC INFORMATION PROGRAM. All IR program sites must implement a proactive public information program. All sites must

develop and implement a written CRP as soon as the SI shows that the program will move into the RI/FS phase.

10215. LONG-TERM OPERATIONS (LTO) OR REMEDIAL ACTION OPERATION (RAO). LTO or RAO is the responsibility of the cognizant NAVFACENCOM EFD/EFA using ER,N funds. This includes the O&M costs of a remedy after RAC and before RC.

10216. LONG-TERM MONITORING (LTM). Where HS's, pollutants, or contaminants remain on a site after RC is achieved, and as required by the decision document, LTM is the responsibility of the cognizant NAVFACENCOM EFD/EFA using ER,N funds for 5 years after RC. The LTM ensures that the site or the OU remains protective of human health and the environment. During this 5-year period, the cognizant NAVFACENCOM EFD/EFA will develop and implement a maintenance and monitoring plan and provide cost data to the installation to allow the installation CG/CO to budget in a timely manner for funds required to continue the LTM.

10217. MARINE CORPS AS A POTENTIALLY RESPONSIBLE PARTY (PRP). Historically, the Marine Corps has contracted with private companies to transport and dispose of HW generated at its installations. Many of the third-party disposal sites selected by contractors are threatening or contaminating the environment and need to be cleaned up. Upon receipt from the EPA or state authorities of a formal notice that a Marine Corps installation is involved in a site as a PRP, the installation must:

1. Provide the salient contents of the notice by message to the EFD/EFA that serves the geographic area in which the PRP site is located. Message information addressees should include the CMC (LF), COMNAVFACENCOM, and the appropriate counsel office (e.g., Eastern Area Counsel Office, Western Area Counsel Office, and/or installation counsel).
2. By mail, provide copies of the EPA or state notice to the geographic EFD/EFA where the PRP is located, to the CMC (LF), COMNAVFACENCOM, and the CMC (CL) representative serving the command. Some circumstances might warrant overnight mail service to provide the notice to the EFD/EFA.
3. Initiate actions to determine the extent of Marine Corps HW disposal at the site. Research requirements often will be time-sensitive. Collected information, such as HW disposal

records or results of interviews with employees familiar with prior HW disposal practices, will be made available to the EFD/EFA.

10218. FORMERLY OWNED OR USED MARINE CORPS PROPERTY/FORMERLY USED DEFENSE SITES (FUDS). FUDS differ from PRP sites in that FUDS are not identified as part of the EPA Superfund and are located on property formerly owned or operated by the DoD. The COE is responsible for the FUDS program. The Marine Corps responsibility for FUDS that were formerly Marine Corps sites is informational only. Should local interest arise, questions regarding the status of FUDS should be passed to appropriate COE officials. In special circumstances, authority can be obtained from the COE to address FUDS located on property that had been owned or operated by the Marine Corps. If an installation becomes aware of possible contamination at these properties (e.g., receives inquiries), forward the inquiries to the COE.

10219. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA). IR program actions that follow the NCP and fulfill public participation requirements are deemed to be in compliance with NEPA.

10220. STATE LAWS. Marine Corps policy is to comply with all state laws consistent with CERCLA, SARA, and the NCP. If state laws meet the criteria above, the Marine Corps can enter into negotiations with the state representatives to develop an agreement outlining response actions at the Marine Corps site. The guidelines to be considered during negotiation are as follows:

1. All response actions must be consistent with CERCLA and the NCP.
2. The issue of state oversight costs must be based on the DSMOA principles.
3. A modified two-party agreement modeled after the FFA's must be proposed to the state. The DON has lead responsibility for ensuring cleanup of non-NPL sites. The dispute resolution clause must allow the Marine Corps final decision authority and must provide the state all of their legal rights to judicial review.

4. The cognizant EFD/EFA, in coordination with the installation, will negotiate FFA's and State Remediation Agreements. The ASN (I&E) will review and sign the final agreement.

10221. CITIZEN SUITS

1. All major environmental statutes include "citizen-suit" provisions to allow private plaintiffs to make Government officials comply with statutory duties or to enforce permits or requirements. Citizen-suit provisions vary from statute to statute, and numerous legal considerations apply in each case. On receipt of any indication that a citizen suit might be commenced, an installation must rapidly coordinate environmental management, technical, and legal resources.

2. Immediately forward notice of a citizen suit to the cognizant EFD/EFA, the CMC (LF), and the CMC (CL).

10222. COORDINATION WITH OTHER ENVIRONMENTAL REGULATIONS. Although IR program actions that are consistent with CERCLA, section 121, and those that occur entirely on site are exempt from obtaining Federal, state, or local permits, inter-agency coordination is often required to ensure consistency with ARAR's or other environmental laws. RPM's must solicit early involvement of other Marine Corps/Navy specialists, including natural and cultural resources personnel to ensure that the Endangered Species Act, section 7, the National Historic Preservation Act, section 106, and related requirements are identified and completed. These requirements may occur at any phase of an IR program investigation including PA/SI, RI/FS, removal action, or RA.

10223. REAL PROPERTY TRANSFER. Installations must, in consultation with their cognizant NAVFACENGCOM EFD/EFA, ensure that the IR program is considered prior to engaging in real property transactions and as part of all land management decisions. IR program requirements associated with property transfer must be conducted pursuant to CERCLA, SARA, CERFA, and the NCP. For properties being obtained by the Marine Corps, the condition of the property should be evaluated from an IR program perspective prior to completing the property acquisition.

10224. SITE CLOSE-OUT. The following actions must be taken when it is determined that no further response actions are appropriate for the site ("site," in this case, refers to the installation as a whole).

1. NPL Sites. The installation must notify the EPA regional office that appropriate response actions have been completed and must request that the site be deleted from the NPL. The EFD/EFA and the installation must support the EPA and the state in their determination of whether to delete the site by providing information and public notification, as appropriate.

2. Non-NPL Sites. The installation must notify the EPA regional office and the state that appropriate response actions have been completed. The cognizant EFD/EFA, in coordination with the installation, must prepare the site(s) as NFRAP. The installation must ensure public notification by placing the NFRAP documentation in the information repository and by publishing the documentation's availability.

10225. CONSTRUCTION ON CONTAMINATED PROPERTY. All efforts must be made to ensure that Marine Corps projects are not constructed on contaminated sites. However, there may be times when the project is being planned or is underway and contamination is discovered.

1. If contamination is discovered during the planning stage, the site can be investigated and cleaned up following IR procedures. In most cases, this action takes several years, and the site may not be available for the subject project. The site investigation/cleanup competes with other IR sites on the basis of risk management.

2. If contamination is discovered during construction, the site investigation/cleanup can be done using ER,N funds and must compete with other IR sites on the basis of risk management. If ER,N funding is not available, construction project funds must be used to investigate/cleanup the site. If neither IR nor construction project funding is available in time to meet the construction schedule, the project will have to be re-sited. Subsequent investigation/cleanup of the original site with ER,N funds must again compete with other IR sites on a risk management basis. The installation must not pay for ER,N-eligible work with installation O&M funds if the sole project goal is site cleanup.

ENVIRONMENTAL COMPLIANCE AND PROTECTION MANUAL

CHAPTER 10

INSTALLATION RESTORATION PROGRAM

SECTION 3: RESPONSIBILITIES

10300. CMC (LF)

1. Provide support to Marine Corps installations in interpreting Federal, state, and local environmental regulatory requirements and in uniformly applying Marine Corps policy as set forth in this Manual.
2. Assist installations with resolving disputes with Federal, state, and local regulatory agencies as required.
3. Coordinate with the Office of Chief Naval Operations (CNO (N-45)), COMNAVFACENGCOM, and the geographical EFD/EFA to ensure equitable and timely allocation of funding from the ER,N and BRAC cleanup accounts and to support remediation of HS releases at Marine Corps installations consistent with CERCLA, RCRA, and the NCP.
4. Provide oversight for the implementation of the IR program for active and BRAC Marine Corps installations worldwide, to include:
  - a. Ensuring that installations identify IR program requirements to NAVFACENGCOM EFD/EFA's;
  - b. Ensuring that program information and guidance are passed to their installations;
  - c. Ensuring that installations coordinate installation cleanup planning, programming, budgeting, and execution with their cognizant EFD/EFA;
  - d. Ensuring that installations fulfill their responsibilities under the Marine Corps IR program and appoint an IR Coordinator;
  - e. Ensuring that public participation and other legal requirements are met at installations with IR sites; and

f. Ensuring that installation budgets reflect resource requirements to support the IR program.

5. In conjunction with the Office of Legislative Affairs (OLA) and OASN(I&E), monitor proposed Federal environmental legislation for impact on Marine Corps operations and programs, and review the efforts of the Deputy Under the Secretary of Defense, Environmental Security to generate service input to congressional staff in the development of responsible and workable legislative proposals. Participate in the preparation of the DERP annual report to Congress.

6. After receiving and reviewing an endorsed FFA or state remediation agreement, provide the agreement to the OASN(I&E) for signature.

7. Ensure that coordination occurs, as appropriate, with the Safety Office in matters relating to HS releases and safety and health training.

8. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, state, and local regulatory agencies with regard to environmental regulations.

10301. CG/CO OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE (COMMARFORRES)

1. Develop base orders, or an environmental compliance and protection standard operating procedures document to implement the specifications set forth in this chapter.

2. Notify the NRC, as well as appropriate state and local authorities, as soon as there is knowledge of an HS release in excess of a reportable quantity at, or migrating from, the installation.

3. Ensure that all applicable statutory and regulatory requirements including safety and health training (for installation personnel) and natural resources are met during site assessment and response actions.

4. Provide necessary review and comment on IR action plans and reports to the cognizant EFD/EFA.

5. Forward appropriate IR documents to the EPA and state regulatory agencies. Forward all final primary documents to the EPA and state regulatory agencies prior to deadlines in either FFA's or state agreements or orders.
6. Budget for and conduct any operation and maintenance or long-term monitoring after these requirements are no longer eligible for ER,N funding, 5 years after RC.
7. Provide an IR coordinator and logistic support for IR projects at the installation.
8. Establish and conduct periodic meetings of the TRC or RAB, when appropriate.
9. Provide information as required for updating project exhibits to cognizant EFD/EFA's for IR program studies and RA's.
10. Provide information as required to the CMC (LF) for IR program salaries, support, travel, and training costs.
11. Prepare and implement a public participation program, including a CRP, for IR program sites.
12. In conjunction with the cognizant EFD/EFA, select the remedy and sign the ROD/decision documents for all IR program sites.
13. Participate in negotiations of FFA's and state agreements.
14. Notify appropriate commands of any EPA or state notice or PRP action, and support PRP response. Track actions by EFD/EFA's on behalf of the command regarding PRP suits.
15. Ensure that IR program site conditions are considered prior to land use planning, development, or operations, especially in reference to military construction.
16. Ensure that appropriate information is placed in the information repository.
17. Inform the public of the availability of technical assistance grants for installations on the NPL and other technical assistance programs designed to enhance public participation.
18. Endorse and forward FFA's or state remediation agreements to the CMC (LF).

19. Identify and submit to the CMC (LFL) and the CMC (LFF) project documentation and funding requests for IR that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with IR program requirements. Pay appropriate Federal, state, and local fees. Ensure that the environmental management hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

10302. COMMANDER OF NAVAL FACILITIES ENGINEERING COMMAND (COMNAVFACENGCOM)

1. Operate the routine aspects of the IR program for the Marine Corps, in coordination with the Marine Corps installation and the CMC (LF), including the necessary overall planning, programming, budgeting, and execution.
2. Provide contract services to support technical aspects of the IR program at Marine Corps installations. Facilitate the development and use of innovative remediation technologies.
3. Conduct BRAC IR activities at closing and realigning installations by:
  - a. Planning, programming, and executing activities that support property reuse, using the results of relative risk site evaluations, and other criteria to meet DPG program goals.
  - b. Measuring program progress through the reduction of relative risks at sites, the progression of sites through the restoration phases, the accomplishment of milestones leading to site completion, and the acres of land environmentally suitable for transfer.
4. Conduct the FTC program to expedite the restoration and transfer or lease of property at closing or realigning installations. This procedure includes improving the efficiency of the IR process, partnering with Federal, state, and local regulatory agencies, and working with local communities and other stakeholders.

5. Perform IR studies and RA projects and prepare NFRAP documentation by contract, in-house effort, or a combination thereof.
6. Coordinate, at all stages, with regulatory agencies and installation CG's/CO's prior to initiating projects through project completion.
7. Ensure that IR work plans and ecological risk assessments are reviewed by health and safety and natural resources professionals affiliated with the site.
8. Integrate the relative risk concept into IR program planning and execution in accordance with the DoD Risk-Based Site Evaluation Primer.
9. Provide support to the DSMOA program by reviewing work plans, documents, and progress reports, and by forwarding budgeting requirements.
10. Prepare project plans and reports in coordination with the installation; prepare contract documents; coordinate review and comments; distribute final documents to installations.
11. Track project progress to meet schedule requirements; provide technical and financial oversight during project performance.
12. Prepare the ROD document and forward it to the installation CG/CO with a recommended alternative for review and signature.
13. Ensure that the IR database is updated quarterly for Marine Corps installations. EFD/EFA's should provide the installation with a chance to review database information prior to quarterly update.
14. Support the installation in fulfilling its TRC/RAB responsibilities.
15. Maintain the Administrative Record and distribute copies to the installation and appropriate parties.
16. Provide IR study results to Marine Corps environmental planning, real estate, and natural resources personnel. Work with the Marine Corps chain-of-command to ensure that other Marine Corps programs and projects account for HS site conditions before irreversible decisions are made.

17. Provide site-specific technical, progress, and budgeting information to satisfy program reporting requirements and to provide semi-annual IR program execution plans to the CMC (LF).

18. Review and update, in coordination with the installation, the Federal Agency HW Compliance Docket and upgrade repository information.

19. Upon receipt of a notice, message, or documentation from the Marine Corps installations regarding notification of PRP action, the EFD/EFA's will:

a. Prepare and submit substantive responses to the EPA and state inquiries related to the HW site and subsequent cleanup.

b. Meet with other PRP's and the EPA and state representatives to plan for remediation.

c. Negotiate and, on behalf of the DON, executes agreements relating to PRP remediation. Prior to execution, forward proposed agreements to the CMC (LF) for review and to the involved Marine Corps command(s) for information.

d. Administer remediation agreements, to include payment of costs borne by the ER,N.

20. The EFD/EFA, in close coordination with the installation and the appropriate Marine Corps Counsel Office, will negotiate FFA's and state remediation agreements. The final draft will be endorsed by the CMC (LF), NAVFAC, and forwarded to the Marine Corps installation for endorsement and resubmittal to the CMC(LF).

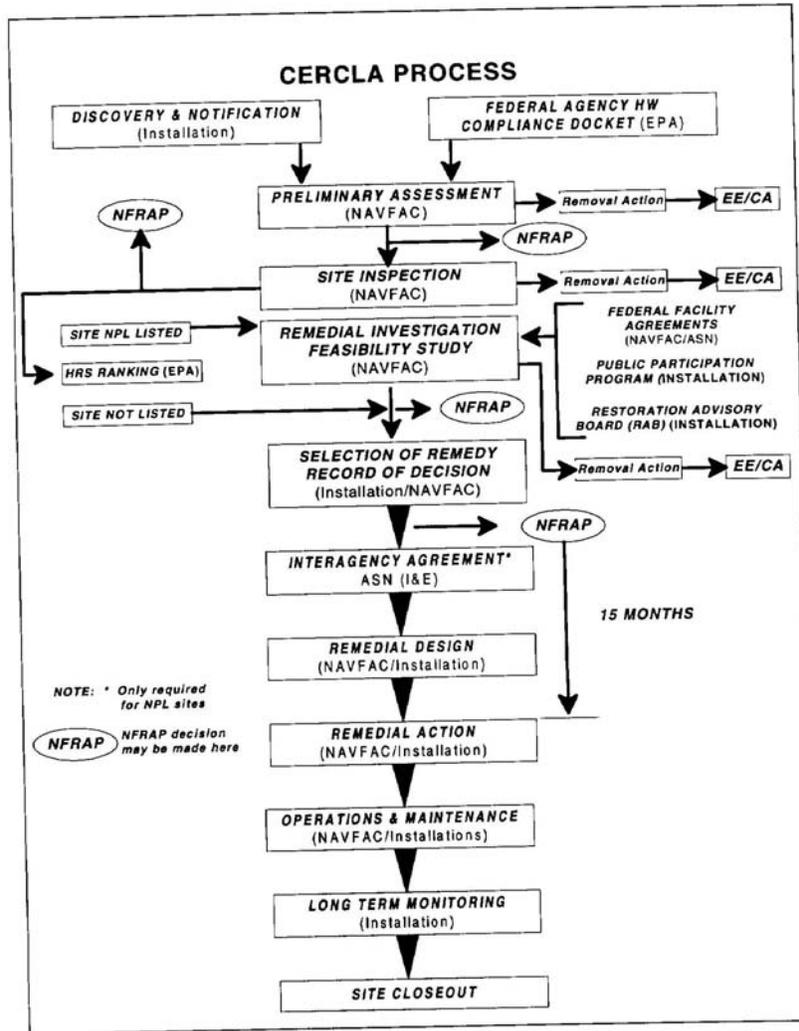


Figure 10-1. Installation Restoration (IR) Program CERCLA Process.