



DEPARTMENT OF THE NAVY  
OFFICE OF THE CHIEF OF NAVAL OPERATIONS  
2000 NAVY PENTAGON  
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

5090

Ser N453/5U597821

16 Jan 96

From: Chief of Naval Operations

Subj: ENVIRONMENTAL RESTORATION

Ref: (a) DUSD(ES) memo of 14 Apr 1994

Encl: (1) DON Environmental Restoration Policy Memo 95-04,  
26 Oct 95  
(2) CNO Environmental Restoration Guidance, January 1996

1. In a 3 May 1995 Deputy Secretary of Defense memorandum, the Environmental Restoration program was devolved to the Services beginning in FY 1997. This shifts programming responsibility to the individual Departments and as such, DON cleanup efforts will be reviewed along with all DON requirements in programming and budgeting. The current practice of Navy executing the cleanup program for both the Navy and the Marine Corps remains unchanged. Enclosure (1) provides new Department of the Navy policy and philosophy concerning cleanup at active Navy and Marine Corps bases.

2. The purpose of this letter is to expand on the DON policy and provide specific environmental restoration tasking for the Navy. The cleanup program is facing continued funding pressure. It is imperative that the cleanup program move toward stable funding with risk management instead of legal agreements as the primary program prioritization philosophy. Enclosure (2) specifies new guidance that will drive the cleanup program in the future. Enclosures (1) and (2) supplement and supersede reference (a).

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3. The DON cleanup program has continued to improve over the last three years. With funding stabilizing at about 25% less than FY1995, we must all work hard to sustain cleanup progress as we move towards a risk management philosophy. My point of contact for the cleanup program is Mr. Dave Olson, N453, (703) 602-2571.



L. F. SCHRIEFER  
Rear Admiral, U.S. Navy  
Director, Environmental Protection,  
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DEPARTMENT OF THE NAVY  
THE ASSISTANT SECRETARY OF THE NAVY  
(INSTALLATIONS AND ENVIRONMENT)  
1000 NAVY PENTAGON  
WASHINGTON, D.C. 20350-1000

26 October 1995

MEMORANDUM FOR THE CHIEF OF NAVAL OPERATIONS (N4)  
COMMANDANT OF THE MARINE CORPS (L)

Subj: DEPARTMENT OF THE NAVY ENVIRONMENTAL POLICY MEMORANDUM 95-04;  
GUIDANCE FOR ENVIRONMENTAL RESTORATION PROGRAM AT ACTIVE BASES

Background. Since FY-1984, the Defense Environmental Restoration Account (DERA) has been a DoD account that DoD allocated to the Military Departments and Defense Agencies during the execution year. In FY-93, FY-94 and FY-95, Congress cut DoD's request for DERA funding. This downward budget pressure can be expected to continue as Congress attempts to reduce the budget deficit.

In a 3 May 1995 memorandum, the Deputy Secretary of Defense (DEPSECDEF) devolved the DERA to the Military Departments and Defense Agencies, beginning in FY-97. This shifts programming responsibility to the Army, Navy, and the Air Force with the exception of Formerly Used Defense Sites (FUDS) and Defense Agencies, which will be programmed by OSD. We have been directed to request funds in an Environmental Restoration, Navy (ER,N) appropriation for cleanup efforts at all Navy and Marine Corps bases in FY-97 and beyond. The creation of these new restoration appropriations still is subject to Congressional authorization and appropriation committee approval as part of the FY-97 budget submission in January, 1996. The DEPSECDEF also endorsed stabilized funding and the use of relative risk in determining program priorities. As part of the Department of the Navy Total Obligational Authority, cleanup efforts will be reviewed in all internal program and budget processes. The guidance below addresses the need to maintain an effective cleanup program in this new environment, making use of relative risk evaluations and renegotiation of agreements to remain within funding controls.

Applicability. For purposes of this memorandum, the term environmental restoration includes site assessments, investigations, characterizations, cleanups and related management activities at active bases. It relates to cleanup activities involving both petroleum (past releases only) and hazardous substances performed under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), and applicable state laws. It does not include clearance of unexploded ordnance or building demolition and debris removal which are authorized under the Defense Environmental Restoration Program (DERP).

Principles. The DoN is committed to assessing and, where necessary, reducing the risk and cleaning up contamination caused by past activities on Navy and Marine Corps bases. The DoN environmental restoration program is based on the following principles: (1) We will evaluate, and ultimately close out all sites in the program; (2) We will use relative risk evaluations and risk management to determine priorities for action within available funding; (3) We will seek to establish and maintain a stable funding profile at a level that protects human health and the environment, and

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makes progress toward fulfilling our legal obligation to address and reach decisions at all sites; (4) We will plan, prioritize and execute the program in open dialogue with regulators and public stakeholders, and ensure meaningful involvement of affected communities; and (5) We will expedite cleanups by using formal partnering and the flexibilities and lead agency responsibilities described in Executive Order 12580 and the National Contingency Plan for Oil and Hazardous Substances Spills.

Risk Management. The DoN is committed to programming, budgeting, and executing an environmental restoration program using the tools of risk management. Relative risk, as described in the DoD Relative Risk Site Evaluation Primer, is an important factor in risk management that will be used by DoN. DoD standards will be followed for evaluating and assigning relative risk. Within the next three years, the DoN will invest the necessary funds to rank those sites that are presently not evaluated under the DoD Relative Risk Site Evaluation Primer. Priority will be given to those sites most likely to rank as high risk. In general, funds will be invested in the cleanups that bring us the most relative risk reduction. Other risk management factors that must be considered include legal agreements, military readiness, stakeholders' concerns, packaging sites for cost-effective contracting, regional distribution of workload, and use of innovative cleanup technologies. We must effectively educate stakeholders about the use of the DoD relative risk evaluation procedure. Stakeholders and regulators will participate in the relative risk ranking and in considering other risk management factors to determine the order and timing of project execution. Sites should be periodically rescored based on new sampling information or if there is evidence that a removal, interim remedial action, or natural attenuation has reduced the relative risk of a site.

Negotiated Legal Agreements. The provisions of negotiated legal agreements are both a factor in setting project execution priorities through risk management, and a tool for formalizing our commitments. The DoN continues to support the use of negotiated legal agreements as a way of setting project milestones. However, new negotiated legal agreements must reflect relative risk evaluations and DoN environmental restoration funding controls. Simply put, enforceable milestones in negotiated legal agreements must fit within budget and FYDP controls. All new negotiated legal agreements will include provisions for "rolling milestones" established in the light of relative risk and budget considerations. Rolling milestones link specific cleanup actions to the availability of funds in a given budget year. Only after Congressional action do the milestones become enforceable. Milestones beyond the budget year are planned, but are not enforceable. Existing negotiated legal agreements should be revisited with regulatory agencies and, if legally possible, amended to reflect funding controls and risk management factors.

Source of Funding. Congress authorizes and appropriates DERA funds for the DERP per Title 10 USC 2703. It is DON policy to use DERA, or ER,N if authorized, as the exclusive source of funding for environmental restoration at active installations as defined in the DERP. Other types of funding are not authorized to be used in lieu of, or to supplement DERA or ER,N funds. This does not preclude the use of other funding to clean up current spills or conduct activities that are not eligible for the DERP.

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Programming, Budgeting and Execution Accountability. The Department of the Navy must give careful attention to the formulation of its cleanup program budget, and execute that budget with a minimum number of changes. Where changes are required between budget submissions, they must be fully documented and explained. Such accountability will enhance program credibility and maintain execution flexibility. Acceptable changes during execution include, but are not limited to, those driven by the discovery of major new sources, or sampling information indicating a previously unknown high risk. All scheduled ASN (I&E) program reviews will include a report of and explanation for the following deviations from the execution plan provided as backup to the budget submission (1) emerging requirements that were not identified in conjunction with the budget submission; (2) planned projects that are not executed; (3) projects with significant deviations in cost, and (4) overall progress on site closeouts, risk reduction, and other established measures of merit. Our community stakeholders must be made aware of fiscal realities, and as partners, should be involved early in the program development process. Restoration Advisory Board members should be involved early in formulating installation cleanup programs within established fiscal controls, in order that the members may better understand the process and the ramifications of changes once the budget is set. Relative risk should be used as the primary tool to accommodate any Congressional budget reductions. If time permits, DoN officials will consult with stakeholders prior to determining which specific projects will be cut. When time does not allow stakeholder participation, they will be advised as soon as possible on what actions were taken and why they were taken. Where budget cuts require renegotiation of work schedules or milestones, out year milestones should also be revised to reflect realistic projections within available resources.

Program Execution. Budgets and execution plans should continue to maintain a structure that invests at least 60% of the DoN DERA cleanup budget in actual cleanups. Additionally, 80% of the DoN DERA budget should be invested in projects with high relative risk. Operation and maintenance of in-place remedial systems, such as groundwater pumping and treatment systems, should be separately identified from new remedial actions. We expect the cumulative number of remedial actions underway and completed to continue to grow across the FYDP. Identification, characterization, analysis, and design phases should be held to 30%. Similarly, management costs should be held to no more than 10%. Defense State Memorandum of Agreement (DSMOA) costs will be determined state-by-state based on projected workload in each state and any percentage "caps" as established by Congress or OSD. I encourage management initiatives to reduce cleanup program costs. As discussed above, the renegotiation of legal agreements provides an opportunity to develop and implement cost saving initiatives in partnership with regulators. I would like to review such initiatives during regular ASN (I&E) program reviews.

Remedial Technology. DERA funding may be used to demonstrate new or innovative detection or cleanup technologies that offer the potential to markedly reduce time (if costs are comparable to current methods), or cost. I support the use of Navy Environmental Leadership activities as cleanup technology demonstration sites. As part of POM-98, the Deputy Chief of Naval Operations (Logistics) should evaluate the projected types of cleanups remaining in the program and identify technology gaps or areas offering high payback for investments in alternate technologies. Cleanup research and demonstration investments should be limited to those offering the potential for a cost or time savings specifically for the categories of sites remaining in the DoN inventory. The use of DoN DERA funds for multi-agency demonstration projects must be approved by my office.

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I believe that the Department of the Navy has made outstanding progress toward our cleanup goals in a difficult regulatory and fiscal climate. I have directed my staff to work closely with you to eliminate barriers to improvements and continued success. The points of contact in OASN (I&E) are Mr. Paul Yaroschak, 614-1282, for environmental restoration policy matters, and Mr. Roger Normand, 695-3457, for programming and budgeting matters.



ROBERT B. PIRIE, JR.

Copy to:  
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COMNAVFACENGCOM (40)

CHIEF OF NAVAL OPERATIONS  
ENVIRONMENTAL RESTORATION GUIDANCE  
JANUARY 1996

As a follow-on to the Department of the Navy Environmental Restoration Policy Memo 95-04, the following guidance, clarification, and tasking are provided. Specific tasking are highlighted in the text.

1. The cleanup program is moving away from legal agreements and toward risk management as the primary philosophy in programming, budgeting, and executing the program. By the end of FY1997, **NAVFACENGCOM** will complete a relative risk evaluation of all currently known sites in the program using the DOD Relative Risk Site Evaluation Primer. **NAVFACENGCOM** will ensure that at the end of each fiscal year, the relative risk data elements for each site are updated to reflect changes to relative risk site evaluations resulting from additional sampling/study information or interim/final remedial actions.

2. DON will continue to use negotiated legal agreements as a tool for formalizing commitments. However, any new legal agreements signed with EPA or the States must incorporate the following principles:

(a) recognize the reality of limited funding, prioritizes work using risk management, and fits the work within DON fiscal controls. The DON must maintain control of pace and timing of all work based on protection of human health and the environment and fiscal responsibility;

(b) recognize the use of relative risk site evaluations and risk management as important criteria for programming, budgeting, and executing cleanup actions;

(c) include Site Management Plans (SMPs) for setting enforceable and target milestones. SMPs will include rolling milestones which recognize cleanup funding controls established by the DON.

Specifically, proposed enforceable milestones may be established for two years beyond the current fiscal year. Proposed enforceable milestones should be included only to the extent that they are executable within budget and outyear controls and will become enforceable only after the corresponding budget process and Congressional appropriation. Target milestones should be established for the life of the project and must also reflect outyear fiscal controls.

For example, a SMP updated by 30 May 1996 would include a review of the enforceable FY1996 milestones and adjusted per any Congressional action. It would also review and establish proposed enforceable milestones for the following two fiscal years (FY1997 and FY1998). The FY1997 proposed enforceable milestones would reflect the DON FY1997 budget request submitted to the Congress by the President in January 1996. The FY1998 proposed enforceable milestones would reflect the current DON FY1998 fiscal controls. The FY1997 proposed enforceable milestones would become enforceable after the FY1997 Congressional appropriation, and adjusted to reflect any Congressional reductions or program directions.

Each year this process is repeated. The 30 May 1997 updated SMP would review the FY1997 enforceable milestones and the FY1998 proposed enforceable milestones and make adjustments to these milestones depending on the outcome of the FY1998 budget process and FY1997 Congressional appropriation. At the same time, the target milestones for FY1999 would be "rolled" forward and become proposed enforceable milestones. The process repeats each spring in preparation of the new budget.

The initial draft SMP will be submitted as part of the signature package for the agreement. By 30 May of each year, **NAVFACENGCOM** will ensure that the SMP has been reviewed and updated as necessary by all parties to the agreement and the Restoration Advisory Board where applicable. **NAVFACENGCOM** will actively seek to revise existing agreements to reflect the above principles.

In addition to the above discussion, agreements that reflect partnered responsibilities in the preparation and review of deliverables are encouraged. For example, a work plan could be concurrently prepared and reviewed by "the parties" and not just prepared by the Navy for delivery to the regulators for their review. As has been learned from the BRAC Fast Track process, a deliverable developed jointly by the Navy and the regulators achieves buy-in by all parties. When a partnered deliverable due date is established, parties are accepting responsibility for getting the deliverable drafted, reviewed, and finalized. All parties have equal responsibilities in the process. Funding and staffing realities should be part of the partnering deliberations when setting dates.

**3. Installations will not** use their O&M funds to supplement Defense Environmental Restoration Account (DERA) or Environmental Restoration, Navy (ER,N) funds for Environmental Restoration program requirements. Congress has determined that DERA (or ER,N) is the sole source of cleanup funds and when they approve

the budget each year, they are determining the cleanup level for that year. **Installations** are not precluded from using their O&M funds for management review and oversight of the cleanup program, cleanups incidental to construction, or to fund activities that are not eligible for DERA funding.

4. DON policy memo 95-04 emphasized the need for increased program stability and a reduction in the number of program execution changes once a budget has been prepared and sent to Congress. In reporting the FY1996 execution changes, **NAVFACENGCOM** will use the FY1996 column of the FY1997 Presidents' Budget submit as the baseline. **NAVFACENGCOM** will report deviations that are (1) greater than \$3M or (2) greater than 100% and greater than \$500K when viewed on an installation level by phase. This information should be provided to CNO in the first quarter of FY1997. Each deviation should be explained and the impact of the change noted.

5. Some remedial actions result in an infrastructure that will have a significant annual long term monitoring (LTM) or long term operation (LTO) costs. **NAVFACENGCOM** will separately identify LTM/LTO costs and report in the first quarter of FY1997 on the trends and potential future costs.

6. In April of each year, **NAVFACENGCOM** will report on the estimated cost-to-complete requirements of the DON cleanup program. Significant changes from the previous year should be identified and discussed. The discussion should include changes that are the result of revised treatment trains, added or deleted sites, and streamlined management procedures. These changes should be developed by individual site and be reflected in the cleanup data base.

7. **NAVFACENGCOM** is encouraged to demonstrate new or innovative cleanup technologies as sites are cleaned up. Under the Navy Environmental Leadership Program and the National Hydrocarbon Test Site, DERA (or ER,N) funds can be used for demonstrations without the expectation that the entire site will be cleaned. If DERA (or ER,N) funds are being considered for multi-agency demonstrations, request CNO be informed by letter describing the effort, projected benefits, and the role of each agency. We will provide this information to ASN(I&E). ASN(I&E) has also requested an evaluation of the cleanup sites remaining and any technology gaps that may offer high paybacks. Request **NAVFACENGCOM** report on this by 30 March 1996.

8. The cleanup program has moved forward in the last three years, in part, because of outreach and partnering. We must aggressively continue our efforts in this area. I especially want installations to work closely with the Restoration Advisory

Boards and the public. **Installations, supported by NAVFACENGCOM,** shall explain risk ranking, stable funding, and the budget process to the stakeholders. Specifically, **installations, supported by NAVFACENGCOM,** shall review and discuss the relative risk ranking with all RABS by 30 June 1996. By involving all the stakeholders, not just the regulators, in the programming and budget development process, we hope to accomplish the cleanup objectives quicker, less expensively and with community support. The role of community involvement is one of informing and consulting with affected stakeholders, but ultimately, programming and execution decisions are a Navy responsibility. Request that the **Regional Environmental Coordinators** review the outreach efforts at installations within their area of cognizance.