

VOLUME 10

“ENVIRONMENTAL RESTORATION (ER) PROGRAM”

SUMMARY OF VOLUME 10 CHANGES

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VOLUME 10: ENVIRONMENTAL RESTORATION (ER) PROGRAM

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REFERENCES

- (a) 42 U.S.C. 9601
- (b) Public Law 99-499, “Superfund Amendments and Reauthorization Act of 1986 (SARA),” October 17, 1986
- (c) 42 U.S.C. 6901
- (d) OPNAV Instruction 5090.1C, “Environmental Readiness Program Manual,” October 30, 2007
- (e) Department of the Navy, “Environmental Restoration Program (NERP) Manual,” August 2006
- (f) DoD Instruction 4715.07, “DERP,” May 21, 2013
- (g) DoD Manual 4715.20, “DERP Management,” March 9, 2012
- (h) Part 300 of Title 40, Code of Federal Regulations (40 CFR 300) (also known as “National Oil and Hazardous Substance Pollution Contingency Plan”)
- (i) 10 U.S.C. §2710
- (j) EPA, “CERCLA/Superfund Orientation Manual, EPA/542/R-92/005,” October 1992
- (k) DoD, “Risk-Based Site Evaluation Primer,” 1994
- (l) 29 CFR 1910
- (m) DoD Manual 6055.09, “DoD Ammunition and Explosives Safety Standards,” February 29, 2008
- (n) OPNAV Instruction 8020.14A, “Department of the Navy Explosives Safety Management Policy Manual,” February 15, 2013
- (o) MCO 8020.10
- (p) 32 CFR 179
- (q) 16 U.S.C. 1531
- (r) 54 U.S.C. 300101
- (s) EPA, “Risk Assessment Guidance for Superfund Volume I – Human Health Evaluation Manual Part B, Development of Risk-based Preliminary Remediation Goals” December 1991
- (t) DON, “Policy for Streamlining the Assessment, Documentation, and Disclosure of the Environmental Condition of Property for Non-BRAC Real Estate Transactions,” July 5, 2006
- (u) DoD Instruction 6055.16, “Explosives Safety Management Program,” July 29, 2008

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VOLUME 10: CHAPTER 1

“SCOPE”

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER 1

SCOPE

0101 PURPOSE

This Volume establishes Marine Corps policy and responsibilities for compliance with procedural and statutory requirements pursuant to the Defense Environmental Restoration Program (DERP) Military Munitions Response Program (MMRP) and the Department of the Navy (DON) MMRP.

0102 APPLICABILITY

See Volume 1 paragraph 0102.

0103 BACKGROUND

010301. The Environmental Restoration (ER) Program is comprised of two components, the Installation Restoration (IR) Program and the MMRP. Through the ER Program, the DON conducts restoration activities at environmental sites on installations.

010302. The IR Program identifies, investigates, and cleans up or controls hazardous substances and pollutants or contaminants released from past waste disposal operations and spills at Marine Corps installations. It is designed to comply with procedural and substantive requirements in accordance with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Sections 9601 et seq. of Title 42, United States Code (42 U.S.C. 9601 et seq.) (also known and referred to in this order as “Comprehensive Environmental Response, Compensation, and Liability Act,” (CERCLA) as amended) (Reference (a)) and Public Law 99-499, “Superfund Amendments and Reauthorization Act of 1986 (SARA)” (Reference (b)), and with regulations promulgated pursuant to these Acts and relevant state laws and Department of Defense (DoD) policies, including 42 U.S.C. 6901 et seq. (also known and referred to in this order as “Resource Conservation and Recovery Act,” (RCRA) as amended) (Reference (c)). Although the IR Program is intended primarily to clean up past hazardous substances and pollutants or contaminants, it may address the cleanup of past releases of any pollutant and/or contaminant that endangers public health, welfare, or the environment, including releases from petroleum, oil, or lubricants (POL). Cleanup of past contamination from underground storage tanks and corrective action for past contamination in accordance with Reference (c) sites may also be part of the IR Program.

010303. The MMRP investigates and cleans up munitions and explosives of concern (MEC) and munitions constituents (MC) used or released on Marine Corps sites from past operations and activities. The MMRP generally follows the same procedures and policies as the IR Program with some unique aspects, including the integration of explosives safety requirements. The MMRP applies to munitions response sites (MRSs) or areas of concern known or suspected to contain unexploded ordnance (UXO), discarded military munitions (DMM), or MC that are located at former ranges and disposal sites at active, base realignment and closure (BRAC), and non-BRAC closure installations. The DON Naval Facilities Engineering Command (NAVFAC) has the primary responsibility for executing the MMRP at Marine Corps active and BRAC installations. For

additional information and guidance on the IR Program and MMRP, refer to Office of the Chief of Naval Operations (OPNAV) Instruction 5090.1C (Reference (d)) and the most current versions of Department of the Navy, “Environmental Restoration Program (NERP) Manual” (Reference (e)), DoD Instruction 4715.07 (Reference (f)), and DoD Manual 4715.20 (Reference (g)).

010304. For additional information and guidance on identifying “other than operational” range areas and closing historical and operational ranges, refer to the policy contained in Appendix B.

VOLUME 10: CHAPTER 2

“AUTHORITY”

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER 2

AUTHORITY

0201 FEDERAL STATUTES

This chapter summarizes the primary federal statutes and Executive Orders (E.O.s) that govern the ER Program. See Volume 4 of this Order for more information on policy, responsibility, and procedures for achieving compliance with applicable E.O.s and federal, state, interstate, and regional statutory and regulatory environmental requirements.

020101. Comprehensive, Environmental Restoration, Compensation, and Liability Act (CERCLA) of 1980, as Amended (42 United States Code (U.S.C.) 9601 et seq.).

020102. Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499).

020103. Community Environmental Response Facilitation Act of 1992 (Public Law 102-426).

020104. National Oil and Hazardous Substance Pollution Contingency Plan (NCP) (Title 40 Code of Federal Regulations (CFR) Part 300).

020105. Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. 6901 et seq.).

020106. National Defense Authorization Act of 2002 (10 U.S.C. §2710).

020107. National Environmental Protection Act of 1969 (42 U.S.C. 4321 et seq.).

020108. Defense Authorization Amendments and Base Realignment and Closure Act (BRAC) of 1988 (PL 100-526) and Defense BRAC of 1990, as Amended (Public Law 100-510).

0202 EXECUTIVE ORDERS (E.O.)

020201. E.O. 12088, “Federal Compliance with Pollution Control Standards,” October 13, 1978.

020202. E.O. 12580, “Superfund Implementation,” January 23, 1987.

0203 STATE LAWS

Many states have laws analogous to Reference (a). Reference (a) does not enable delegation of the Superfund Program to states; however, in accordance with section 120(a)(4) of Reference (a), state laws concerning removals, remedial action, and enforcement apply to federal facilities not listed on the National Priorities List (NPL).

VOLUME 10: CHAPTER 3

“REQUIREMENTS”

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CHAPTER 3

REQUIREMENTS

0301 GENERAL

030101. All actions carried out under the Marine Corps ER Program shall be accomplished pursuant to References (a) and (b), applicable or relevant and appropriate requirements (ARARs) in accordance with Reference (c), and other environmental laws and their implementing regulations. As a matter of Marine Corps policy, Reference (a) is the preferred process for conducting cleanups. Federal Facility Agreements (FFAs) usually specify that cleanups be accomplished in accordance with Reference (a), with Reference (c) as a potential ARAR. The Marine Corps should attempt to incorporate the regulator's substantive requirements to the maximum extent possible within the Marine Corps' program in accordance with Reference (a) and arrive at compromises that respect both parties' claims of authority. The Marine Corps may not adopt any cleanup guidelines that are inconsistent with NCP, Part 300 of Title 40, Code of Federal Regulations (40 CFR 300) (also known and referred to in this order as "National Oil and Hazardous Substance Pollution Contingency Plan") (Reference (h)) or ARARs. Terminology used throughout the Marine Corps ER Program shall be in accordance References (a), (b), and (c). Marine Corps installations shall cleanup sites with higher risk before those with lower risk and follow applicable ER Program guidance, directives, instructions, and policies provided in Appendix A of Reference (e) and Reference (g).

030102. ER Program funding for active Marine Corps installations is provided exclusively through the Environmental Restoration, Navy (ER, N) account; whereas, ER Program funding for Marine Corps installations undergoing BRAC action is provided exclusively through a separate BRAC account. In most cases, other types of funding are not authorized in lieu of, or to supplement, ER, N or BRAC cleanup funds except where the work is within the scope of Military Construction (MILCON) or Operations and Maintenance, Navy (OM,N) funded construction projects.

030103. The Commander, NAVFAC manages the fiscal and technical aspects of the ER Program at Marine Corps installations; however, the installation Commanding General/Commanding Officer (CG/CO) shall approve ER Program actions. Installations should lead critical procedural aspects of the program with support from NAVFAC. Success requires close cooperation and teamwork between NAVFAC and each installation. The BRAC Project Management Office (PMO), with support from NAVFAC, administers the ER Program at Marine Corps BRAC installations. Generally, all policies that apply to active installation cleanups also apply to BRAC cleanups.

0302 DEFENSE ENVIRONMENTAL RESTORATION PROGRAM (DERP) ELIGIBILITY

DERP eligibility includes all Marine Corps ER activities pursuant to 10 U.S.C. §2710 (also known and referred to in this order as "National Defense Authorization Act" (NDAA)) (Reference (i)) and in accordance with eligible and ineligible activities included in Reference (g). The Office of the Secretary of Defense (OSD) provides more in-depth detail about DERP requirements and guidance on implementing DERP programs and policies (Reference (g)).

0303 ENVIRONMENTAL RESTORATION (ER) PROGRAM PHASES AND MILESTONES

General phases and milestones are set forth in accordance with References (e) and (g) for initiating and carrying out the remedial action process as defined by Reference (a). DON and the Marine Corps shall meet goals established by OSD. Ninety and ninety-five percent of installation restoration program sites, building demolition/debris removal sites, and MRSs at active installations and BRAC installations shall achieve response complete (RC) by the end of fiscal year (FY) 2018 and FY 2021, respectively. The ER process for meeting these goals is outlined in Figure 3-1 and summarized below:

030301. Site Discovery and Notification

Installations shall perform record searches and visual inspections to determine which sites may warrant further investigation. Marine Corps installations shall report any hazardous substance release or threat of a release to the U.S. Environmental Protection Agency (EPA), state, and other appropriate authorities. Installations shall also report releases or threats of releases to HQMC (LF)/MCICOM (GF) via the Spill Reporting module on the EM Portal. If the release exceeds the reportable quantity (RQ) as defined by Reference (a), the installation shall also notify the National Response Center (NRC) immediately at 1-800-424-8802 or 202-267-2675. If notification of the NRC is not practical, the installation should notify the regional EPA-designated on-scene coordinator or the Coast Guard.

030302. Removal Action

In situations where prompt action is required to address releases or threats of releases, Reference (h) allows for the implementation of a removal action to be performed in an expedited manner. There are three categories of removal actions based on the type of situation, the urgency of the threat of the release, and the subsequent time frame in which the action shall be initiated. A removal action could be either the final remedy or an interim action followed by a longer-term remedial action as the final remedy. The three categories of removal actions are:

- A. Emergency removal actions.
- B. Time critical removal actions.
- C. Non-time critical removal actions (EPA, "CERCLA/Superfund Orientation Manual, EPA/542/R-92/005," October 1992 (Reference (j))).

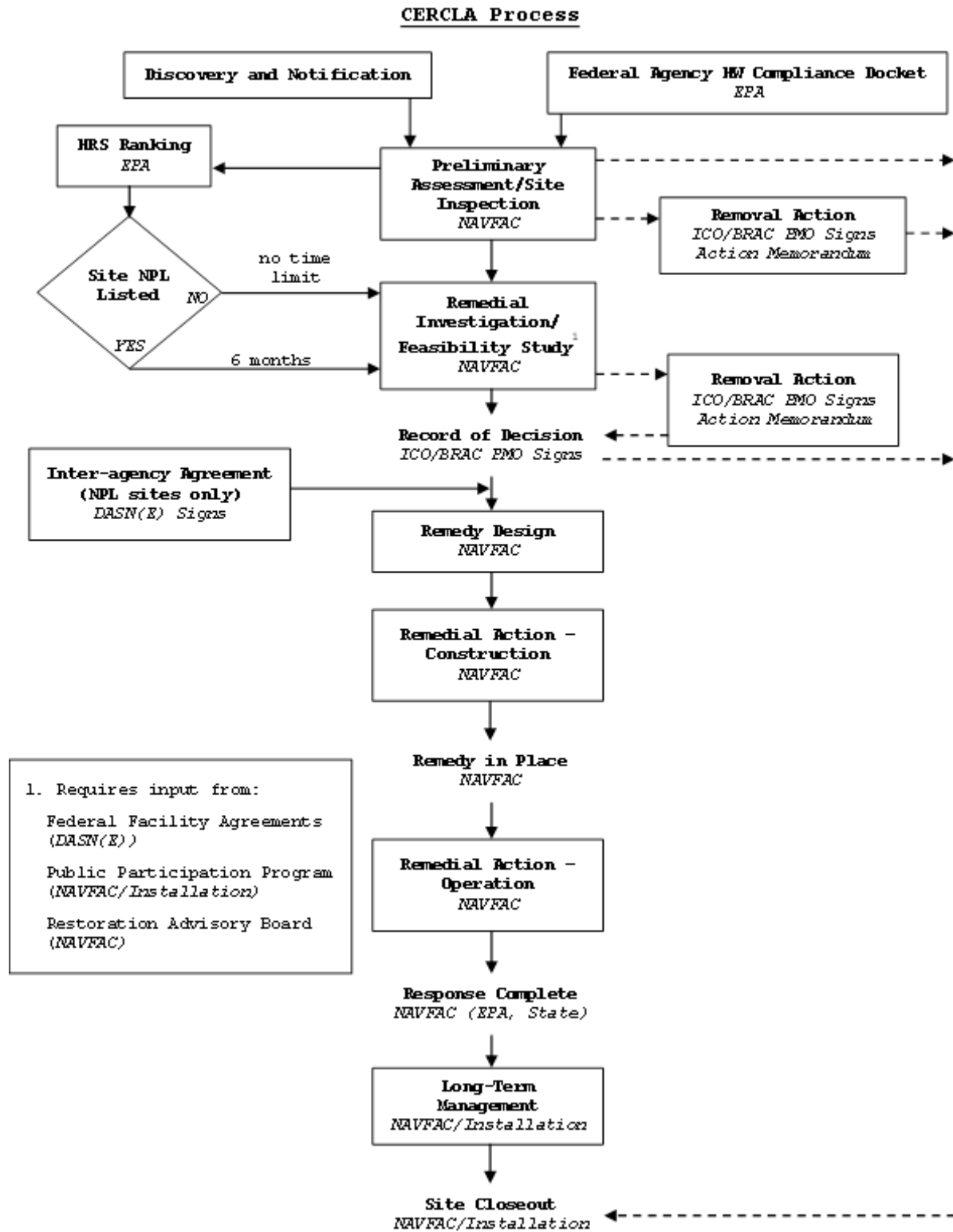


Figure 3-1.--ER Program CERCLA Process

030303. Preliminary Assessment/Site Inspection (PA/SI)

This phase identifies contaminated sites based mostly on the review of the existing information about hazardous waste disposal practices at an installation. Limited field data may be collected to determine the nature of any releases and potential threat to any receptors. Sites that do not pose an unacceptable risk to human health and the environment are designated as “no further action” (NFA) sites. The NFA designation is also referred to as “no further response action planned” (NFRAP). If PA/SI results indicate that a site requires prompt action, then a removal action is performed. Pursuant to subparts 300.410(a) and 300.415(a)(1) of Reference (h), a removal action requires a removal site evaluation. If a period of at least six months is available before the commencement of on-site removal actions, an Engineering Evaluation/Cost Analysis shall be completed. Otherwise, the site moves into the Remedial Investigation/Feasibility Study (RI/FS) phase.

030304. Remedial Investigation/Feasibility Study (RI/FS)

The purpose of the RI/FS is to determine the nature and extent of the threat presented by the hazardous substance release and to evaluate proposed remedies, as deemed necessary. The RI includes a sampling and analysis program and a baseline ecological and human health risk assessment. If it is determined that remedial action is necessary, the FS is conducted, which includes an initial screening of remediation alternatives followed by a detailed evaluation. The RI or FS also may recommend NFA sites. However, once NAVFAC and the installation initiate the FS phase, the site shall continue through the selection of the remedial option, the development of a proposed plan, and the signing of a decision document.

030305. Prioritization

The relative risk site evaluation (RRSE) framework shall be used to evaluate the relative risk posed by each site with ER requirements to prioritize sites for cleanup in accordance with DoD, “Risk-Based Site Evaluation Primer,” 1994 (Reference (k)). Evaluation will be performed regarding contaminants that are present, environmental migration pathways, and receptors to place sites into relative risk categories of “high,” “medium,” or “low”; these RRSE categories and primary site characteristics shall be used for determining sequencing for funding of ER activities. Consideration shall also be given to other factors (e.g., reuse needs, redevelopment plans, legal requirements, stakeholders’ concerns) as important factors in sequencing. To ensure consistency of the RRSE framework across all sites, implementation of quality assurance procedures shall be employed and RRSE records shall be developed and maintained for each site. Records shall contain references to all information and documents used for the evaluation (e.g., field logs, data from the PAs, SIs, RI/FSs, risk assessments, RRSE worksheets, and database records). Stakeholders shall have an opportunity to participate in the RRSE process.

030306. Record of Decision (ROD)

A. Following completion of the RI/FS phase, the preferred alternative shall be documented in a proposed ROD and made available for public comment. All required remedial actions for the site or operable unit (OU) are documented in the ROD. The ROD includes a summary of site conditions, selected remedy, remedial action objectives, and the rationale for selecting the

remedy. For non-NPL sites, instead of a ROD, a decision document (DD) may be prepared with similar scope as a ROD, but with the State as the lead regulatory agency.

B. NAVFAC shall provide a recommended ROD or DD to the installation CG/CO and BRAC PMO (for BRAC installations) at the conclusion of an RI/FS. The installation CG/CO shall review carefully the proposed ROD/DD and the administrative record (AR). If the CG/CO or BRAC PMO disagrees or has questions on the ROD, the issues shall be resolved through consultation with NAVFAC and the Commandant of the Marine Corps, Facilities and Services Division (CMC (LF))/Marine Corps Installation Command, Facilities Division (MCICOM (GF)). For NPL sites, the ROD shall be forwarded to the EPA regional office for concurrence. Although neither a ROD nor an Interagency Agreement (IAG) is required in accordance with Reference (a) at non-NPL sites, state remediation laws may contain requirements for decision documentation. Where such requirements apply, NAVFAC shall write a DD that satisfies state law for submittal by the installation. If the state remediation law contains no specific requirements for decision documentation, NAVFAC shall write a DD that contains the elements of a ROD and the installation CG/CO or BRAC PMO (in the case of BRAC installations) shall forward the document to EPA and the State.

030307. Remedial Design (RD)

This phase involves preparing the detailed design of the remedial action selected in the ROD. The RD may include a Land Use Control (LUC) Implementation Plan, if such LUCs are required as part of the remedy selected.

030308. Remedial Action-Construction (RA-C)

The designed remedial system is constructed at the site during this phase. This phase also may include any construction related to implementation of LUCs. NAVFAC shall ensure that the remedial action meets all specifications and is constructed in a manner that protects human health, welfare, and the environment.

030309. Remedy in Place (RIP)

This milestone is achieved when the construction of a long-term remedy is complete and the remedy is operating as planned to meet project remedial action objectives in the future, or a short-term remedy has been successfully implemented and the final documentation is being prepared. Determination of achieving the RIP milestone is a Marine Corps decision, and regulatory concurrence for this milestone is not needed.

030310. Remedial Action-Operation (RA-O)

A. This phase involves operation, maintenance, and monitoring actions for the remediation system and site. The RA-O phase may also include implementation and management/maintenance of LUCs, if these were part of the selected remedial action in the ROD or DD. Periodic monitoring reports are routinely prepared during this phase to document performance of remediation systems.

B. The Restoration Project Manager (RPM) shall oversee coordination of the RD/remedial action with the installation, EPA, and state and local officials, and shall ensure overall quality assurance/quality control. Remedy effectiveness should be evaluated at least annually to ensure efficient progress in meeting project goals. Optimization opportunities should also be identified and implemented. NAVFAC, in consultation with the RPM, installation, stakeholders, and other regulators, should consider and implement green and sustainable remediation opportunities in current and future remedial activities where feasible. The Marine Corps will not, with regard to green and sustainable remediation, under most circumstances, re-open DDs and agreements in place or under negotiation with environmental regulators.

030311. Response Complete (RC)

This milestone signifies that the remedial action objectives have been met and the RA-O phase, if required, has achieved cleanup goals specified in the ROD or DD. Formal documentation for the RC milestone is essential to ensure recognition of completion of cleanup goals at the site. Prior to claiming completion of the RC milestone, regulatory concurrence of this documentation is required.

030312. Long-Term Management (LTMgt)

A. Following the RC milestone, this phase may be required to monitor long-term protectiveness of the remedy. Actions during this phase may involve groundwater monitoring, implementation and management of LUCs, and preparation of five-year review reports. The LTMgt phase is also required when the cleanup goals do not allow unrestricted use of the site property.

B. Where hazardous substances or pollutants or contaminants remain on a site after RC is achieved, and as required by the DD, NAVFAC is responsible for LTMgt using ER, N funds. NAVFAC will develop and implement an LTMgt Plan that identifies the specific requirements for each site requiring LTMgt.

030313. Land Use Control (LUCs)

LUCs may be required while conducting ER investigations, during implementation of remedial actions, or after remedial actions are complete.

A. The Marine Corps shall put the appropriate mechanisms in place to manage LUCs that fall under their responsibility; incorporate LUCs into land use management plans/systems, as appropriate; and use a layering strategy or system for mutually reinforcing controls to implement LUCs effectively. The installation will develop a LUC Implementation Plan to explain how they will establish and document LUCs, and who will be responsible for maintaining and managing them. The LUC Implementation Plan shall also include the location of the land subject to the LUC, an explanation of the LUC and allowed uses, the duration of the LUC, reference to the location of pertinent LUC records, modifications to the LUC as site conditions change, and the frequency and requirements of LUC inspections and whether any of these inspections are part of the process for other environmental programs (e.g., internal or external environmental audits).

B. Before property is transferred, NAVFAC should assess whether LUCs are necessary to provide a finding of suitability to transfer, or a functionally equivalent document, to the property disposal agent to clearly describe property restrictions in property conveyance documents. NAVFAC and the Marine Corps shall work with the appropriate state and local agencies and potential transferee early in the disposal process to clearly delineate the responsibilities of all parties involved in implementing LUCs. More information on property transfer is available in Reference (g).

030314. Five-Year Review

The five-year review for the entire installation shall be conducted using ER, N funds. Five-year reviews are required where a selected remedial action results in hazardous substances or pollutants or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure. If a remedial action results in unlimited use/unlimited exposure (UU/UE) but will not achieve RC within 5 years, five-year reviews will be conducted during the RA-O phase, as appropriate. The first five-year review will be completed no later than 5 years after the initiation of the remedial action (e.g., on-site RA-C field work, or ROD when a LUC is the remedy) for the first IRP or MMRP site at the installation or BRAC location. Additional five-year reviews for sites will be rolled into the same schedule as the first.

030315. Site Closeout (SC)

A. This milestone signifies that active management and monitoring at a site is complete, the remedy is protective of human health and the environment, contaminant levels at the site allow for UU/UE (e.g., no further LTMgt, including a LUC, is required), and there is no expectation of expending additional ER,N or BRAC funds at the site. The SC milestone can occur at any stage during the response action (e.g., at the completion of the PA/SI, Removal Actions, RI/FS, RA-O, or LTMgt phases) and is dependent on the remediation requirements. However, there are some sites that will achieve protectiveness of human health and the environment while never achieving the SC milestone. These are sites where contaminants are left in place, such as a landfill, which require funds to ensure the protectiveness of the remedy.

B. The following actions shall be taken when it is determined that no further response actions are appropriate for the site and NAVFAC will not expend additional ER funds at the site ("site," in this case, refers to the installation as a whole).

1. National Priorities List (NPL) Sites. The installation shall notify the EPA regional office that appropriate response actions have been completed and shall request that the site be deleted from the NPL. NAVFAC and the installation shall provide information and public notification, as appropriate.

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

030316. National Priorities List (NPL) Delisting

EPA may delete or re-categorize a site on the NPL where no further response is appropriate in accordance with Reference (h). EPA, in consultation with the State, shall determine whether the NPL site has met the requirements and, if so, shall prepare a Notice of Intent to delete. The notice shall be made available to the public for comment. All sites within a federal installation shall achieve the RC milestone before delisting from the NPL, although partial delistings are possible.

0304 ENVIRONMENTAL RESTORATION (ER) PROGRAM PROCEDURAL REQUIREMENTS

030401. Federal Agency Hazardous Waste Compliance Docket

EPA maintains a Federal Agency Hazardous Waste Compliance Docket that contains information regarding federal facilities that manage hazardous substances, or from which hazardous substances may be or have been released, in accordance with Reference (a). A state governor may petition EPA to add a facility to the docket. The docket lists all installations that have submitted ER information to EPA.

030402. Interagency Agreement (IAG)/ Federal Facility Agreements (FFA)

A. Pursuant to section 120(e) of Reference (a), federal agencies shall enter into an IAG with EPA to facilitate the expeditious completion of all necessary remedial actions. IAGs are required within 180 days after completion of each RI/FS for an NPL site.

B. To expedite the cleanup process, where possible, the Marine Corps should enter into an FFA with EPA and/or the State soon after an installation is proposed for NPL listing. For purposes of meeting the IAG requirement, the FFA becomes an IAG once the ROD is signed and new schedules are negotiated for the actual remedial action.

C. The Marine Corps shall enter into an FFA at its NPL sites as early as possible after it becomes apparent that an RI/FS is required. FFAs at NPL sites shall outline and clearly state mutual obligations regarding the working relationship between states, EPA, and the Marine Corps.

D. NAVFAC, in coordination with the installation, shall negotiate FFAs and a Federal Facility State Remediation Agreement. The Assistant Secretary of the Navy for Energy, Installations, and Environment (ASN (E, I&E)) will sign the FFAs and state remediation agreements. NAVFAC shall prepare final agreements in coordination with the installation. Before the ASN (E, I&E) can endorse the final agreements, signatures shall be obtained from the installation CG/CO, NAVFAC, and the Counsel for the Commandant of the Marine Corps (CMC (CL)).

E. For purposes of meeting the IAG requirement, the FFA transitions into an IAG once the ROD is signed and new schedules are negotiated for the actual remedial action. There is no IAG requirement for a no-action ROD.

030403. Administrative Record (AR)/Retention of Records

A. The Marine Corps is required to establish an AR for all sites as defined by Reference (a) in accordance with Reference (h). The AR contains those documents which form the basis for selection of a response action and any future legal action concerning the site. The Marine Corps shall establish an AR at the start of the RI for remedial actions and at the time of the engineering evaluation/cost analysis for removal actions. The AR shall be made available to the public in an information repository located at or near the site. A notice of availability is part of the AR.

B. Any person responsible for providing notification of known, suspected, or likely releases should retain records of the facility and hazardous substance releases for 50 years after Reference (a) was enacted (i.e., the year 2030), or for 50 years after the record was established, whichever is later, in accordance with section 103(d)(2) of Reference (a).

C. NAVFAC shall initiate the AR as soon as the SI shows that the program will move into the RI/FS phase and at the time of the engineering evaluation/cost analysis for removal actions. NAVFAC shall establish and maintain the AR (using ER,N/BRAC funds as appropriate) and send copies to the installation, the State, and EPA as appropriate. NAVFAC shall also ensure that a copy of the AR is made available to the public in an information repository located at or near the site. A notice of availability is part of the AR. The AR contains the documents that form the basis for selection of response actions taken by DON and any future legal action concerning the site. NAVFAC shall maintain the AR for a minimum of 50 years after the last site on an installation achieves RC pursuant to Reference (a). Where DON conducts cleanup actions under corrective action authority pursuant to Reference (c), the AR is not required. More detail about the AR is included in Reference (g).

030404. Public Participation

A. Section 9617 of Reference (a) includes provisions to engage the public during the ER process. The lead agency (the Navy in this case) shall inform and involve the public during the removal and remedial action processes pursuant to sections 415, 430, and 435 of Reference (h). Lead agencies shall conduct interviews to solicit input from local officials, residents, public interest groups, or other interested/ affected parties; develop a formal Community Relations Plan (CRP) based on the public interviews; provide public opportunity for the review and comment of documents; and create an information repository for public availability in accordance with Reference (h). The lead agency shall also inform the community of the availability of technical assistance grants.

B. Navy/Marine Corps public involvement requirements are more comprehensive than NCP requirements. In accordance with DON policy, a CRP is required for all sites, regardless if the installation is on the NPL. NAVFAC is responsible for implementing public information programs at installations. The installation CG/CO shall appoint a contact or spokesperson (may be the RPM) for community involvement activities that shall be responsible for receiving all inquiries and releasing information concerning the ER Program.

030405. Restoration Advisory Board (RAB)

Regardless of the cleanup authority defined by References (a) or (c), each installation or BRAC location with cleanup programs shall establish a RAB where there is sufficient and sustained community interest. A RAB acts as a liaison between the community and the installation, and can help reduce potential communication problems that could result in delay. The establishment, operation, and adjournment/dissolution of RABs shall be done in accordance with Reference (g). RABs should not take the place of community outreach and participation activities required by law, regulation, or policy. Therefore, Marine Corps installations shall still meet all public participation requirements. Specifically, Marine Corps installations shall establish RABs if:

- A. A federal, state, or local government requests that a RAB be formed.
- B. 50 local residents sign a petition requesting that a RAB be formed.
- C. An installation determines that a RAB is necessary.
- D. The installation is scheduled for closure.

030406. Health and Safety

An installation's response actions shall comply with the provisions for the protection of the health and safety of workers engaged in hazardous waste operations in accordance with Section 120 of 29 CFR 1910 (Reference (l)). These provisions include requirements for developing a site health and safety plan, establishing site access control, enforcing standard operating safety procedures, implementing medical surveillance procedures, providing for environmental and personnel monitoring, providing appropriate personal protective equipment, and establishing emergency procedures. Detailed requirements for the protection of worker health and safety, proper personnel training, and safety requirements unique to MMRP sites are defined in Reference (e). NAVFAC shall ensure that a worker health and safety plan is prepared by each contractor and that the contractor complies with the plan.

030407. Public Health Assessment

- A. The Agency for Toxic Substances and Disease Registry (ATSDR) shall perform a health assessment for each facility listed or proposed for the NPL. The results of the ATSDR analysis are used in the RI/FS, as appropriate.
- B. The Navy Marine Corps Public Health Center (NMCPH) shall coordinate with ATSDR concerning public health assessments. NMCPH shall ensure that ATSDR is aware of new NPL listings and coordinate any ATSDR visits to installations with the installation and NAVFAC. NMCPH shall review public health assessments performed by ATSDR.

030408. Remedial Action Completion Report (RACR)

For sites on the NPL, Marine Corps installations shall prepare a RACR when all remedial action objectives have been met and no significant threat to public health or the environment exists. The Marine Corps shall seek written concurrence on this report from EPA and the State. The installation cannot claim achievement of the RC milestone at NPL sites without EPA review and

approval of the RACR. A final RACR shall be prepared once the remedial action objectives have been met at the last site or OU at an installation. The final RACR should provide a summary and reference for all the previous RACRs and for any NFA RODs for the installation. The individual RACRs or final RACR for an installation provides the basis for partial or full deletion from the NPL. If after a year, the Marine Corps is unable to obtain regulatory agreement for any reason, the installation shall develop a memorandum for the record to document that it has sought regulatory agreement on the RC determination. The memorandum for the record shall include the steps the Marine Corps followed to seek regulatory agreement, the reasons why the Marine Corps believes it did not obtain agreement, the reasons why the Marine Corps believes the site is at RC, any necessary documentation to support the RC determination, and the signature and date by a Marine Corps official. The Marine Corps shall provide a copy of the memorandum for the record to the appropriate regulator(s) for reference. For non-NPL sites, the Marine Corps shall formally document achieving the RC milestone and seek written regulatory agreement for its RC determination using the process outlined above. More information is available in Reference (g).

0305 MILITARY MUNITIONS RESPONSE PROGRAM (MMRP) PROCESS

DoD established the MMRP to address the contamination of sites known to contain or suspected of containing UXO, DMM, or MC. The MMRP cleanup process generally follows the cleanup process in accordance with Reference (a) outlined above. Additionally, the MMRP incorporates unique explosives safety requirements that may occur during the munitions response process as outlined in an explosive safety submission through Marine Corps Systems Command. The Marine Corps shall submit a Munitions Response Explosive Safety Submission (MRESS), a Munitions Response Chemical Safety Submission (MRCSS), or both to their explosives safety organizations and then to the Chair of the DoD Explosives Safety Board for approval prior to initiating munitions responses that involve intentional physical contact with MEC or chemical warfare material (CWM). If the Marine Corps determines that an emergency response is required, it may elevate the issue to the Deputy Under Secretary of Defense for Installations and Environment. Reference (a), DoD Manual 6055.09 (Reference (m)), OPNAV Instruction 8020.14A (Reference (n)), and MCO 8020.10 (Reference (o)) provide more information on explosives safety. More detailed information and additional requirements for the MMRP can be found in References (e), (i), and (g). For guidance on how to enter a site into MMRP, refer to Figures 3-2 and 3-3.

030501. Inventory

DoD and its Components are required to develop and maintain an inventory of sites known or suspected to contain UXO, DMM, or MC pursuant to References (i) and (h). This inventory of MRSs is updated annually, provided to the Office of the Under Secretary of Defense for Installation & Environment, and is shared with public stakeholders and regulators through the Defense Environmental Programs Annual Report to Congress to ensure that all MRS are identified.

030502. Munitions Response Site (MRSs)

The Marine Corps shall divide Munitions Response Areas (MRAs) into one or more MRSs. An MRA should include an area on a defense site that is known or suspected to contain UXO, DMM, or MC. An MRS should represent a discrete location within an MRA that is known or suspected to require a munitions response. DON may subdivide an MRA into one or more MRSs after the MRA

is investigated and the historic use and the locations where the munitions-related activities occurred are understood by DON or the installation. DON shall account for every acre of an MRA, including acreage that it determines is ineligible for the MMRP. The total acreage can be increased but never decreased.

MMRP Eligibility

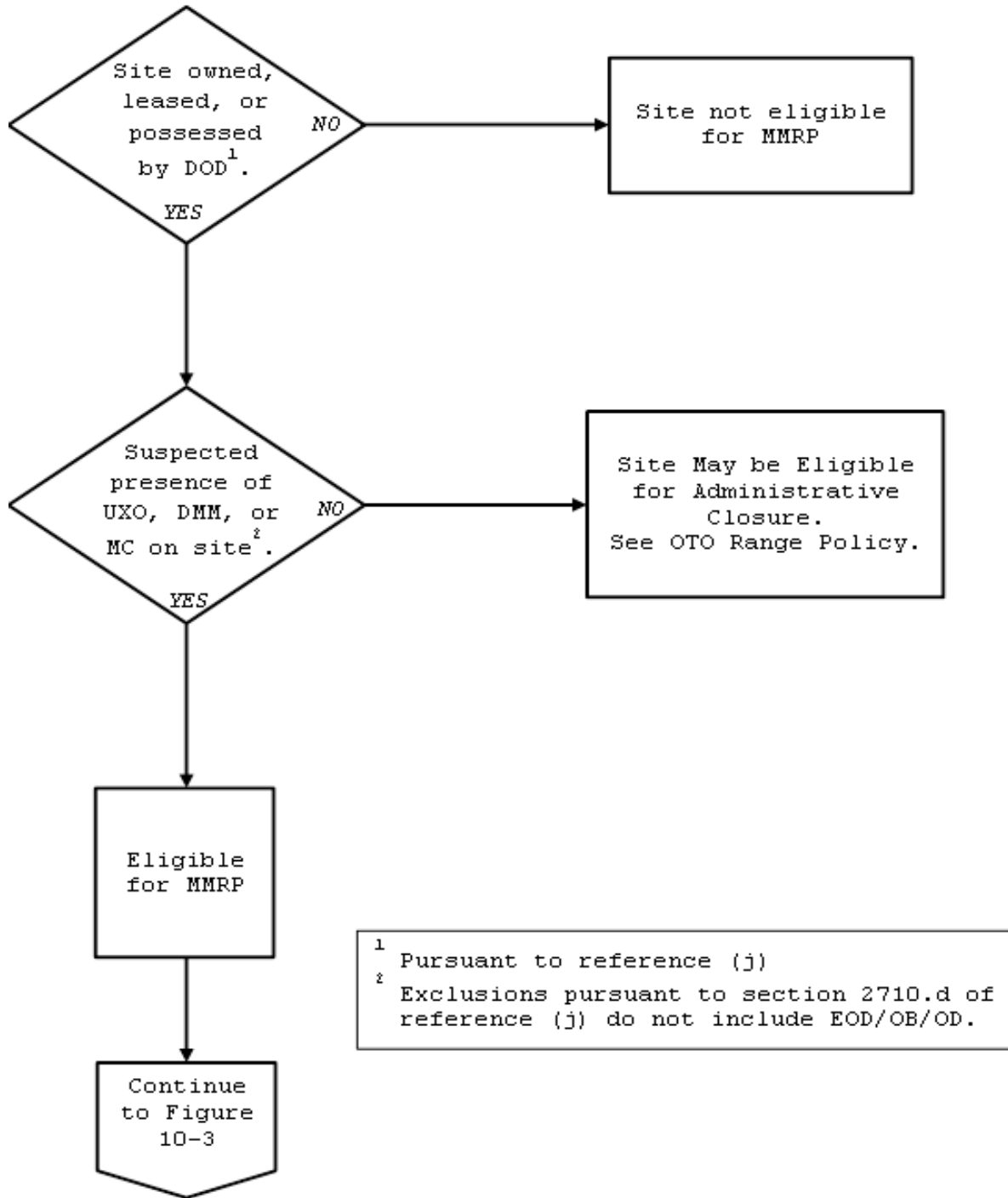


Figure 3-2.--Determining Eligibility for MMRP

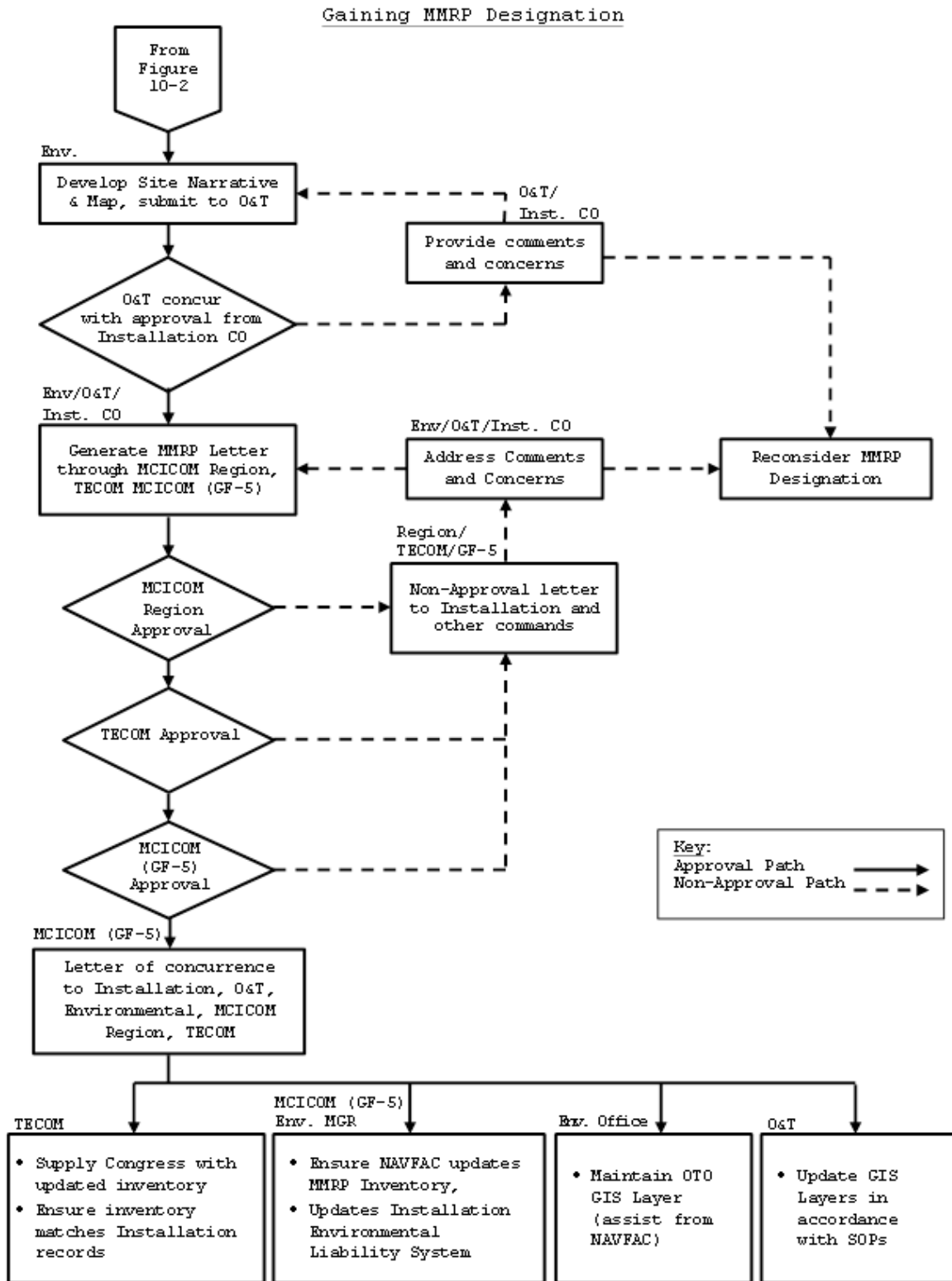


Figure 3-3.--Gaining MMRP Designation

030503. Site Priority

A relative priority shall be assigned to each MRS in the inventory pursuant to 32 CFR 179 (Reference (p)). The MRS prioritization protocol (MRSPP) requires consultation with federal agencies, Indian tribes, states, and public stakeholders. DON will review site priorities annually and update them based on new information that affects the MRS priority. DON will establish an independent quality assurance panel, led by the Chief of Naval Operations (CNO (N45)), to review all prioritization decisions to ensure consistent and appropriate application of the MRS prioritization protocol.

030504. Sequencing

DON shall sequence sites in consultation with appropriate regulators and stakeholders. Typically, DON will address higher priority sites before lower priority sites. However, the MRSPP allows the Navy to consider other factors (e.g., stakeholder concerns, economic considerations) when sequencing MRSs for action. If sequencing results in a lower priority site being addressed before a higher priority site, the Navy shall provide specific justification for this action. Information that influences the sequencing of a site shall be included in the AR and the Information Repository.

0306 EMERGENCY RESPONSE

The Marine Corps has the authority to respond to emergency situations (i.e., a release poses immediate endangerment to human health or the environment) where the release is on a Marine Corps facility or the Marine Corps is the sole source of the release in accordance with section 104 of Reference (a). NAVFAC is responsible for responding to emergency situations at Marine Corps ER sites. ER,N funds shall be used in emergency situations where ER sites are involved.

0307 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. An NFA decision can be made at several points within the remedial process but shall 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 NFA is required, based upon appropriate investigation. NFRAP DDs shall be prepared by NAVFAC or its designee and signed by the installation CG/CO. Upon signature, the installation shall forward the NFRAP DD to appropriate regulatory agencies for information and/or concurrence and shall ensure that the public receives notification via RABs, public meetings, or other appropriate methods. RPMs shall be alert to document opportunities for a NFRAP decision.

0308 REMEDY OPTIMIZATION

NAVFAC is responsible for identifying and implementing remedy optimizations using ER,N funds.

0309 MARINE CORPS AS A POTENTIALLY RESPONSIBLE PARTY (PRP)

Historically, the Marine Corps has contracted with private companies to transport and dispose of hazardous waste generated at its installations. Many of the third-party disposal sites selected by contractors are threatening or contaminating the environment and require cleanup. Upon receipt from EPA or state authorities of a formal notice that a Marine Corps installation is involved in a site as a PRP, the installation shall notify its chain of command, NAVFAC, Headquarters, Marine Corps, Facilities Division (HQMC (LF))/MCICOM (GF), CMC (CL), and the appropriate counsel office (e.g., Eastern Area Counsel Office, Western Area Counsel Office, and/or installation counsel). The notification shall describe the salient points of the notice. Simultaneously, the installation shall mail a copy of the notice and other appropriate documents to the same addressees. NAVFAC shall take the lead role in negotiating with EPA, the U.S. Attorney's Office, and the PRP Steering Committee. NAVFAC shall cooperate with the other parties involved in the site response and provide requested information.

0310 STATE LAWS

Marine Corps policy is to comply with all state laws consistent with References (a), (b), and (e). If appropriate, NAVFAC, in coordination with the installation, shall negotiate a Federal Facility State Remediation Agreement. The ASN (E, I&E) shall review and sign the final agreement. Cleanup of RCRA corrective action sites will follow state laws and regulations.

0311 COORDINATION WITH OTHER ENVIRONMENTAL REGULATIONS

Although ER Program actions in accordance with section 121 of Reference (a) and those that occur entirely onsite are exempt from obtaining federal, state, or local permits, inter-agency coordination may be required to ensure consistency with ARARs or other environmental laws. RPMs shall solicit early involvement of other DON/Marine Corps specialists, including natural and cultural resources personnel to ensure that section 7 of 16 U.S.C. 1531 et seq. (also known and referred to in this order as "The Endangered Species Act") (Reference (q)), section 106 of 54 U.S.C. 300101 et seq. (also known and referred to in this order as "National Historic Preservation Act," (NHPA) as amended) (Reference (r)), and related requirements are identified and completed. These requirements may occur at any phase of an ER Program investigation, including PA/SI, RI/FS, removal action, or remedial action.

0312 PERCHLORATE RELEASES

031201. In accordance with DoD, DON, and HQMC (LF)/MCICOM (GF), Environmental Management, perchlorate release management policies and perchlorate releases at ER sites shall be addressed in the same manner as other contaminants of concern. Marine Corps installations shall conduct site-specific risk assessments and any necessary response actions in accordance with References (a), (h), and (g) and other applicable laws, consistent with the DoD relative ranking system for DERP sites.

031202. Based on EPA's Interim Drinking Water Health Advisory for perchlorate, the recommended preliminary remediation goal is 15 parts per billion (ppb) where there is an actual or potential drinking water exposure pathway and where no ARARs exist under federal or state laws.

The preliminary remediation goal may be used for initial screening of remedial alternatives and project scoping as defined by Reference (h), the preamble to Reference (h), and EPA, “Risk Assessment Guidance for Superfund Volume I – Human Health Evaluation Manual Part B, Development of Risk-based Preliminary Remediation Goals,” December 1991 (Reference (s)). Unless modified by EPA in the Integrated Risk Information System database, the perchlorate reference dose of 0.0007 mg/kg/day is appropriate for use in determining risk in site-specific human health risk assessments developed in accordance with Reference (h).

0313 VAPOR INTRUSION

In accordance with References (e) and (g), the Marine Corps will evaluate whether contamination in the soil or groundwater poses a potential for unacceptable risk from vapor intrusion into overlying nearby or existing structures.

0314 EMERGING CONTAMINANTS

DoD addresses emerging contaminants the same way it addresses all other contaminants. In accordance with Reference (f), NAVFAC shall work with the Marine Corps to plan, program, and budget, as appropriate, for the implementation of risk management actions needed to mitigate emerging contaminants risks to human health, the environment, and DoD functions.

0315 FORMERLY USED DEFENSE SITES (FUDS)

FUDS property is a facility or site (property) that was under the jurisdiction of OSD and owned by, leased to, or otherwise possessed by the United States at the time of action leading to contamination by hazardous substances. The FUDS program is limited to those real properties that were transferred from DoD control prior to October 17, 1986. Properties shall be located within the United States. The U.S. Army Corps of Engineers (USACE) executes ER activities on behalf of the Army, the lead agent responsible for the FUDS Program. The Marine Corps responsibility for FUDS that were formerly Marine Corps sites is informational only. Marine Corps installations should pass any local interest or questions regarding the status of FUDS to appropriate USACE officials. In special circumstances, authority can be obtained from USACE 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 USACE.

0316 REAL PROPERTY TRANSACTIONS AND MANAGEMENT

The ER Program shall be considered before any real property transactions and as part of all land management decisions.

031601. Acquisition

The Marine Corps does not acquire known contaminated property without careful consideration of the cleanup liability involved. The Marine Corps should acquire contaminated property only in cases of the most critical operational necessity, and only with approval from HQMC (LF)/MCICOM (GF), to ensure insertion of incurred cleanup liabilities into the ER Program.

A. From Federal Agencies

Although DoD policy requires that a DoD Component acquiring known contaminated real property to normally assume the responsibility for managing restoration actions at the property, Marine Corps policy is to try to negotiate a transfer agreement that leaves the funding and management of restoration actions of the property with the transferring Component. In this situation, the Marine Corps shall have written approval from the Deputy Under Secretary of Defense for Installations & Environment for a transfer agreement that leaves the funding and management of restoration activities with the transferring DoD Component. In either case, transfer agreements shall clearly assign continuing responsibility for cleanup after the transfer. Where DON assumes the funding and management of restoration activities, the transferring Component is responsible for providing all reports and a history of restoration actions taken prior to the transfer of the property and, if appropriate, for transferring the cleanup funding as planned for the property in the Future Years Defense Program. The Marine Corps will not accept property from a non-DoD Federal agency unless the agency certifies it has met the requirements pursuant to section 120(h) of Reference (a) and provides supporting reports and documentation.

B. From Private Parties

Acquisition of contaminated property from private parties is discouraged. Where such acquisition is operationally necessary, DON should negotiate cleanup costs as an offset to the purchase price. The Marine Corps shall carefully balance operational requirements for the property against any cleanup liability that will come with it.

031602. Lease/Transfer/Disposal

For non-BRAC property, NAVFAC shall prepare an Environmental Condition of Property for all leases, easements, transfers, and disposals of Marine Corps real property in accordance with DON, "Policy for Streamlining the Assessment, Documentation, and Disclosure of the Environmental Condition of Property for Non-BRAC Real Estate Transactions," July 5, 2006 (Reference (t)). Where appropriate, an Environmental Condition of Property should be prepared for other actions involving the use of real property (e.g., licenses depending on such factors as proposed use, the term of the use, and the presence of any contaminants on the property). For BRAC property, the BRAC PMO shall prepare a Finding of Suitability for Transfer or Lease. In the preparation of these documents, the Marine Corps shall consult with federal, state, and local regulators as necessary and appropriate (e.g., EPA where the parcel involved is part of an NPL site).

031603. Contamination on Marine Corps Property Scheduled for Non-BRAC Disposal

The Marine Corps shall clean up contamination on Marine Corps property scheduled for non-BRAC disposal using ER, N funds following the normal ER,N prioritization process of worst-first/risk management. ER, N-funded cleanup activities will not be accelerated solely to accommodate the property disposal schedule.

0317 CONSTRUCTION ON CONTAMINATED PROPERTY

All efforts shall 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. Marine Corps installations should address construction on contaminated property in accordance with Reference (g).

031701. If contamination is discovered during the planning stage, NAVFAC may investigate and determine the need for clean up using ER, N funds and following ER procedures. However, the site investigation/clean-up shall compete with other ER sites based on risk management. In most cases, this will take several years and the site may not be available in time for the project.

031702. If contamination, including UXO, DMM, or MEC, is discovered during construction and it is DERP eligible, NAVFAC may carry out the site investigation/cleanup using ER, N funds. However, the site may have to compete with other ER sites based on risk management. If ER, N funding is not available in time to meet the construction schedule, the installation shall use project funds (i.e., MILCON) to investigate/clean up the portion of the site within the project footprint. If ER, N or project funding is not available in time to meet the construction schedule, the installation should stop the project until funding is available or re-site the location. An installation does not have an option to pay for any DERP-eligible work with installation OM, N funds except to accomplish DERP-eligible work within the scope of an OM, N-funded construction project.

031703. While all efforts should be made to avoid construction in a known ER site, the fiscal options in paragraph 031702 above may also be valid for projects that continue to be planned. Communication shall occur with NAVFAC and the appropriate site regulators regarding construction plans.

0318 MANAGEMENT OF BULK PETROLEUM PRODUCTS – SPILLS AND LEAKS

NAVFAC is responsible for funding ER on sites with POL contamination resulting from activities conducted prior to October 1, 1992 using the appropriate ER,N or BRAC funds. For POL contamination resulting from activities conducted after October 1, 1992 resulting from Defense Logistics Agency (DLA) Energy-managed bulk storage facilities and transportation systems, DLA Energy will fund the identification, assessment, and remediation costs of fuel spills and leaks. The Marine Corps shall work with NAVFAC to identify these sites and the estimated costs using procedures in accordance with Reference (g). NAVFAC may enter into a memorandum of understanding for a specific location or facility addressing how to divide responsibilities for ER. If the contamination is otherwise DERP-eligible, NAVFAC shall use the appropriate ER,N or BRAC account to fund the response action. For current releases, working capital is used for response actions to address spills associated with operational fuel distribution via DLA infrastructure transporting DLA Energy fuel. More information is included in Reference (g).

0319 GOVERNMENT-OWNED CONTRACTOR-OPERATED (GOCO) PLANTS

The Marine Corps' liability and responsibility for cleanup of sites at GOCO facilities flows from its status as owner of the facility. Past and present contractors share this liability since they are operators or generators at these facilities. GOCO contractors shall pay for all cleanup costs associated with their operation of Marine Corps facilities, unless contractual provisions state

otherwise. Marine Corps actions to fulfill its responsibilities pursuant to Reference (a) shall be consistent with its contractual requirements with the GOCO contractor. Failure to coordinate may result in a claim by the operating contractor under a Marine Corps contract or loss of potential claims by the Marine Corps against the operator. See Reference (d) for additional information.

0320 FINES AND PENALTIES

The installation CO shall not pay from installation operating accounts fines and penalties assessed concerning ER work that is currently ER, N-funded or planned for future ER, N funding. Upon receipt of a notice of violation or non-compliance that proposes to assess a fine or penalty relating to work that is ER, N-eligible, the installation shall immediately forward the notice to NAVFAC for action. Installations shall pay fines and penalties related to ongoing hazardous waste operations (actions that are not eligible for ER, N funding) from the installation's operating account. Where the Marine Corps agrees to pay any fines and penalties arising under ER,N-funded work, the Marine Corps shall submit these fines/penalties to Congress for authorization in the first available budget window. This is the case for ER, N work conducted in accordance with References (a) or (c). The funding source (i.e., ER, N) drives the notification requirement, not the particular law under which the work is performed.

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VOLUME 10: CHAPTER 4

“RESPONSIBILITIES”

SUMMARY OF SUBSTANTIVE CHANGES

Hyperlinks are denoted by *bold, italic, blue and underlined font*.

The original publication date of this Marine Corps Order (MCO) Volume (right header) will not change unless/until a full revision of the MCO has been conducted.

All Volume changes denoted in *blue font* will reset to black font upon a full revision of this Volume.

CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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CHAPTER 4

RESPONSIBILITIES

0401 COMMANDANT OF THE MARINE CORPS, FACILITIES AND SERVICES DIVISION (CMC) (LF)/COMMANDER MARINE CORPS INSTALLATION COMMAND, FACILITIES DIVISIONS (MCICOM) (GF)

CMC (LF)/Commander MCICOM (GF) shall:

040101. 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 Order.

040102. Assist installations with resolving disputes with federal, state, and local regulatory agencies as required.

040103. Coordinate with the CNO (N45), Commander, Naval Facilities Engineering Command, (COMNAVFACENGCOM), and the appropriate Facilities Engineering Command (FEC) to ensure equitable and timely allocation of funding from the ER,N cleanup accounts and to support remediation of hazardous substance releases at Marine Corps installations consistent with CERCLA, RCRA, and the NCP.

040104. Ensure installations comply with specific data reporting requirements, including an annual data call for inclusion into the DERP information system as well as additional information requested by NAVFAC and OSD.

040105. Provide oversight for the implementation of the ER Program for active Marine Corps installations worldwide, to include:

A. Ensuring that installations identify ER Program requirements to the cognizant FECs.

B. Ensuring that program information and guidance are passed to the installations.

040106. Ensure that installations develop and coordinate with NAVFAC a Management Action Plan (MAP) as a tool to assist in managing ER activities, including identifying and monitoring ER statutory requirements and schedules, and providing input into overall programming, planning, budgeting, and execution. The MAP should describe an integrated, coordinated approach for conducting ER and address all required actions, by year, through the estimated completion.

040107. Ensure that installations coordinate installation cleanup planning, programming, budgeting, and execution with their FEC.

040108. Ensure that installations fulfill their responsibilities as defined by the Marine Corps ER Program and appoint an ER Coordinator.

040109. Ensure that public involvement and other legal requirements are met at installations with ER sites.

040110. Ensure that installation budgets reflect resource requirements to support the ER Program.

040111. In conjunction with the Office of Legislative Affairs and the Office of the ASN (E, 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 to generate service input to Congressional staff in the development of responsible and workable legislative proposals. Participate in the preparation of the Defense Environmental Restoration Program Annual Report to Congress.

040112. After receiving and reviewing an endorsed FFA or State remediation agreement, provide the agreement to the Office of the ASN (E, I&E) for signature.

040113. Ensure that coordination occurs, as appropriate, with the Safety Office in matters relating to hazardous substance releases and safety and health training.

040114. 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.

0402 COMMANDING GENERAL (CG) MARINE CORPS EAST, WEST, PACIFIC, AND NATIONAL CAPITAL REGION

CG Marine Corps East, West, Pacific, and National Capital Region shall identify and promote opportunities for regional environmental initiatives and contracting support to gain efficiencies. Create environmental program efficiencies by collectively funding studies, coordinating common training programs, developing appropriate Memorandums of Agreement between stakeholders (e.g., Marine Corps TECOM installations, Marine Aircraft Wings, Resident Officer In Charge of Construction offices, etc.) and the Region, and facilitating mutual support between installations as practicable.

0403 COMMANDING GENERAL (CG)/COMMANDING OFFICER (CO) OF MARINE CORPS INSTALLATIONS AND COMMARFORRES

CG/CO of Marine Corps installations and COMMARFORRES shall:

040301. Develop installation orders or an environmental compliance and protection standard operating procedure to implement the specifications set forth in this volume.

040302. Notify the NRC, as well as appropriate state and local authorities, as soon as there is knowledge of a hazardous substances release in excess of an RQ at, or migrating from, the installation.

040303. 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.

040304. Advocate command requirements on high visibility and/or mission-critical issues related to ER sites.

040305. Provide necessary review and comment on ER action plans and reports to the cognizant FEC. Express command/regional perspective in remedy selections.

040306. Coordinate with other appropriate staff to determine current and future land uses at the site before and during the development of remedies.

040307. In conjunction with the FEC, select the remedy and sign the ROD/DDs for all ER Program sites.

040308. Forward appropriate ER documents to EPA and state regulatory agencies. Forward all final primary documents to EPA and state regulatory agencies prior to deadlines in either FFAs or state agreements or orders.

040309. Provide an ER coordinator and logistic support for ER projects at the installation.

040310. Prepare and implement a public involvement program, including a Community Involvement Program, for ER Program sites. Establish and conduct periodic meetings of the RAB when appropriate.

040311. Provide information as required for updating project exhibits to cognizant FECs for ER Program studies and remedial actions.

040312. Provide information as may be required to CMC (LF)/MCICOM (GF) for ER Program salaries, support, travel, and training costs.

040313. Participate in negotiations of FFAs and state agreements.

040314. Notify appropriate commands of any EPA or state notice or PRP action, and support PRP response.

040315. Ensure that ER Program site conditions are considered prior to land use planning, development, or operations, especially in reference to MILCON.

040316. Ensure that appropriate information is placed in the information repository.

040317. Endorse and forward FFAs or state remediation agreements to CMC (LF)/MCICOM (GF).

040318. Identify and submit to CMC (LF)/MCICOM (GF) project documentation and funding requests for ER 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 ER Program requirements. Pay appropriate federal, state, and local fees. Ensure that the environmental management hierarchy is employed, pollution prevention alternatives are evaluated, and life-cycle cost impacts are assessed in evaluating and selecting projects that address compliance requirements.

0404 COMMANDER, NAVAL FACILITIES ENGINEERING COMMAND
(COMNAVFACENGCOM)

COMNAVFACENGCOM shall:

040401. Operate the routine aspects of the ER Program for the Marine Corps, in coordination with the Marine Corps installation and CMC (LF)/MCICOM (GF), including the necessary overall planning, programming, budgeting, and execution.

040402. Provide contract services to support technical aspects of the ER Program at Marine Corps installations. Facilitate the development and use of innovative remediation technologies.

040403. Conduct BRAC ER activities at closing and realigning installations by:

A. Planning, programming, and executing activities that support property reuse, using the results of RRSEs and other criteria to meet Defense Planning Guidance 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.

040404. Perform ER studies and remedial action projects; and prepare NFRAP documentation by contract, in-house effort, or a combination thereof.

040405. Coordinate, at all stages, with regulatory agencies and installation CGs/COs prior to initiating projects through project completion.

040406. Ensure that ER work plans, human health risk assessments, and ecological risk assessments are reviewed by health and safety and natural resources professionals affiliated with the site, as appropriate.

040407. Prepare project plans and reports in coordination with the installation, prepare contract documents, coordinate review and comments, and distribute final documents to installations.

040408. Track project progress to meet schedule requirements, and provide technical and financial oversight during project performance.

040409. Prepare the ROD document and forward it to the installation CG/CO with a recommended alternative for review and signature.

040410. Ensure that the ER database (Naval Organization Request Management System and Navy Installation Restoration Information Solution) is updated regularly for Marine Corps installations. FECs should provide the installation an opportunity to review database information prior to the update.

040411. Support the installation in fulfilling its RAB responsibilities.

040412. Maintain the AR and distribute copies to the installation and appropriate parties.

040413. Provide site-specific technical, progress, and budgeting information to satisfy program reporting requirements and to provide semi-annual ER Program execution plans to CMC (LF)/MCICOM (GF).

040414. Review and update, in coordination with the installation, the Federal Agency Hazardous Waste Compliance Docket and upgrade repository information.

040415. Upon receipt of a notice, message, or documentation from the Marine Corps installations regarding notification of PRP action, the FECs will:

A. Prepare and submit substantive responses to EPA and state inquiries related to the hazardous waste site and subsequent cleanup.

B. Meet with other PRPs and EPA and state representatives to plan for remediation.

C. Negotiate and, on behalf of DON, execute agreements relating to PRP remediation. Prior to execution, forward proposed agreements to CMC (LF)/MCICOM (GF) for review and to the involved MCICOMs for information.

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

040416. The FEC, in close coordination with the installation and the appropriate Marine Corps Counsel Office, will negotiate FFAs and state remediation agreements. The final draft will be endorsed by CMC (LF)/MCICOM (GF) and NAVFAC, and forwarded to the Marine Corps installation for endorsement and resubmittal to CMC (LF)/MCICOM (GF).

VOLUME 10: APPENDIX A

“FEDERAL STATUTES, FEDERAL REGULATIONS, EXECUTIVE ORDERS, AND DOD POLICIES”

SUMMARY OF SUBSTANTIVE CHANGES

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APPENDIX A

**FEDERAL STATUTES, FEDERAL REGULATIONS, EXECUTIVE ORDERS, AND DOD
POLICIES**

1 FEDERAL STATUTES

a. Comprehensive, Environmental Restoration, Compensation, and Liability Act (CERCLA) of 1980, as Amended, 42 U.S.C. 9601 et seq.

CERCLA, commonly referred to as "Superfund," authorizes federal action to respond to the release or threatened release of hazardous substances from any source into the environment. CERCLA also authorized the creation of a trust fund to be used by the U.S. Environmental Protection Agency (EPA) to clean up emergency and long-term hazardous waste (HW) problems. Department of Defense (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. The ER,N account is used to execute both the Installation Restoration Program and the Military Munitions Response Program (MMRP).

b. Superfund Amendments and Reauthorization Act (SARA) of 1986, Public Law 99-499

This Act reauthorized and amended the authorities and requirements of CERCLA and requires federal facilities to comply with the same procedural and substantive requirements that nongovernmental entities are subject to. Additionally, SARA established the Defense Environmental Restoration Program (DERP), which has a substantially larger scope than CERCLA. Provisions of SARA that are of primary importance to the ER Program are set forth in section 120, which addresses response actions at federal facilities, and in section 211, which codifies the DERP into law.

c. Community Environmental Response Facilitation Act of 1992, Public Law 102-426

This Act amended the 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 stored, released, or disposed of. CERFA further clarifies "remedial action taken" in CERCLA section 120(h)(3). The provisions of CERFA require the federal government to rapidly identify and return to local communities, clean properties identified under the BRAC process. Thus, Marine Corps installations subject to base relocation and closure (BRAC) are required to identify real property on which HS or petroleum products (including their derivatives) were stored for one or more years or were known to have been released or disposed of. These real properties must be identified and regulatory concurrence obtained within either 18 months after the real property is selected for closure or realignment or 18 months after a joint resolution disapproving the closure or realignment must be enacted and such resolution was not enacted.

d. National Oil and Hazardous Substance Pollution Contingency Plan (NCP, 40 CFR 300)

NCP implements the statutory requirements of CERCLA, SARA, and section 311 of 33 U.S.C. §1321. Subpart E of NCP defines the procedural requirements for responding to releases or threats of releases from HS, pollutants, or contaminants. Subpart D of NCP addresses requirements for responding to oil discharges into U.S. navigable waters.

e. Resource Conservation and Recovery Act (RCRA) of 1976, as Amended, 42 U.S.C. 6901 et seq.

This Act gives the EPA and delegated states the authority to regulate the generation, transportation, treatment, storage, and disposal of HW ("cradle-to-grave" management). The most significant of the ten subtitles of RCRA is subtitle C, which establishes the national HW management program. The 1986 amendments to RCRA provide the EPA and delegated states with regulatory authority over USTs containing HS and petroleum. RCRA focuses only on active and future facilities. Of particular note is section 3004(u) (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 SWMUs on an installation before issuing a RCRA part B permit for current HW operations at the installation. Note that cleanup standards may be different under RCRA than under CERCLA. Therefore, in instances where an installation is required to comply with RCRA, both ER Program cleanup schedules and standards may be impacted. The interface between RCRA and CERCLA is explained in detail in the Navy Environment Program Manual. See Volumes 9 and 18 of this Order for relevant information on HW management and USTs.

f. National Defense Authorization Act (NDAA) of 2002, 10 U.S.C. §2710

As part of the NDAA, Congress mandated that DoD and its military components develop a program to address military munitions under DERP. DoD responded by developing a unique element under DERP, MMRP, to more thoroughly address potential hazards remaining from its past use of military munitions. The MMRP addresses the explosive safety hazards associated with munitions and explosives of concern and the human health and environmental risks associated with Military Constituents. The Marine Corps MMRP is fully executed by Naval Facilities Engineering Command (NAVFAC). Policy and guidance for the Marine Corps MMRP follow the Navy's MMRP (refer to OPNAVISNT 5090.1 series and Navy Environmental Restoration Program Manual).

g. National Environmental Protection Act of 1969, 42 U.S.C. 4321 et seq.

The primary requirement of NEPA is to incorporate environmental considerations into decision-making processes of major federal actions that may significantly impact the quality of human health and the environment. NEPA requires federal agencies to document the reasonably foreseeable environmental impacts of a proposed action while complying with public participation requirements. NEPA does not apply to ER Program actions performed in accordance with CERCLA and NCP.

h. Defense Authorization Amendments and Base Realignment and Closure Act (BRAC) of 1988 (PL 100-526) and Defense BRAC of 1990, as Amended, Public Law 100-510

This Act, as amended in 1990, was enacted by Congress to select bases for realignment and closure as a part of overall military downsizing. The Act contains provisions which provide for the BRAC Environmental Restoration Program. This program ensures that the property is not released for public use until all HW has been removed from the property. Ultimately, this cleanup process may prevent the transfer of cleaned parcels of land in the otherwise required six-year time frame. However, the Act does not prevent the Marine Corps from initiating and executing lease agreements with interested parties before cleanup is complete. These Acts were enacted by Congress to address excess capacities at military bases. The BRAC process allows DoD to reorganize installation infrastructure to more efficiently and effectively support military forces, increase operational readiness, and facilitate new ways of doing business. To date, there have been five rounds of BRAC conducted in 1988, 1991, 1993, 1995, and 2005. Before property closed under BRAC can be transferred to a public entity for reuse, it must be environmentally clean. To facilitate environmental cleanups at Navy and Marine Corps BRAC installations, a BRAC Cleanup Program was established under the Navy BRAC Program Management Office (PMO). The BRAC PMO, with support from NAVFAC, administers the ER Program at Marine Corps BRAC installations. A separate BRAC account is used to fund BRAC Cleanup Program activities at Marine Corps BRAC installations. Generally, all procedures and requirements that apply to active installation cleanups apply to BRAC cleanups.

2 EXECUTIVE ORDERS (E.O.)

a. E.O. 12088, “Federal Compliance with Pollution Control Standards,” October 13, 1978

This E.O. 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. The E.O. also states that each head of the Executive agency is responsible for ensuring all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to federal facilities and activities under the control of the agency.

b. E.O. 12580, “Superfund Implementation,” January 23, 1987

This E.O. delegates authority to federal agencies to investigate and respond to HS spills under CERCLA, as amended by SARA.

3 STATE LAWS

Many states have laws analogous to CERCLA. Although CERCLA does not enable delegation of the Superfund Program to states, in accordance with section 120(a)(4) of CERCLA, state laws concerning removals, remedial action, and enforcement apply to federal facilities not listed on the National Priorities List.

VOLUME 10: APPENDIX B

“IDENTIFICATION OF OTHER THAN OPERATIONAL (OTO) RANGES”

SUMMARY OF SUBSTANTIVE CHANGES

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APPENDIX B

IDENTIFICATION OF OTHER THAN OPERATIONAL (OTO) RANGES

1 GENERAL

a. This appendix provides guidance for the identification of OTO range areas aboard Marine Corps installations that may be closed in accordance with 10 U.S.C. §2710, 10 U.S.C. §101, and Deputy Under Secretary of Defense (DUSD) Policy letter of December 18, 2003 without adversely affecting the Marine Corps training and readiness missions. If an installation's training mission changes over time, areas closed under this guidance may be re-opened for operational range activities.

b. Prior to 2001, the DoD responded to OTO ranges known or suspected to contain unexploded ordinance (UXO), discarded military munitions (DMM), or munitions constituents (MC) through the Installation Restoration (IR) Program. In September 2001, DoD established the Military Munitions Response Program (MMRP) as a new Defense Environmental Restoration Program (DERP) to better protect human health and the environment and to better communicate response requirements for OTO ranges known or suspected to contain UXO, DMM, or MC.

c. To assist DoD in addressing munitions issues, Congress enacted 10 U.S.C. §2710 in the 2002 National Defense Authorization Act, directing DoD to develop an inventory of all OTO range sites known or suspected to contain UXO, DMM, or MC. Critical to fulfilling these requirements is the proper identification of operational ranges and, by default, OTO ranges.

d. Definitions pertinent to the range inventory, operational ranges, and the MMRP are provided in 10 U.S.C. §2710, 10 U.S.C. §101, and the DUSD Policy letter of December 18, 2003.

e. This appendix should be implemented as an effort coordinated by installation's environmental office with the support and input of the Operations and Training (O&T)/range control office.

f. The installation shall coordinate and submit a request for closure through the appropriate MCI Region to obtain concurrence from Headquarters, Marine Corps, Facilities Division (HQMC (LF))/Marine Corps Installations Command, Facilities Division, Environmental Management Section (MCICOM (GF-5)) and Training and Education Command (TECOM) prior to closing the range area and putting the site to another use.

2 CLOSING HISTORICAL AND CURRENT OPERATIONAL RANGES

a. Sites that have been put to an incompatible use shall be examined to determine if eligible for the MMRP or administrative closure. Areas that have been closed, either historical or current operational ranges, will be identified as OTO ranges throughout the rest of this appendix.

b. The guidelines below define the process to close OTO range areas via the MMRP or administrative closure procedures. The installation environmental manager is responsible for

initiating and leading this process for historical use areas or former range areas outside of the current operational inventory that have been put to a new use. If current operational range areas as defined in 10 U.S.C. §101 are to be closed, the environmental manager will work with O&T. O&T will determine the eligibility of the identified area for closure.

c. Figure H-1 is a flow diagram of the range closure process. The steps listed below correspond with the flow diagram and provide greater detail and clarification.

d. Other Than Operational (OTO) Range Identification

(1) Step 1

Identify operational range areas and OTO range areas by incorporating data from the installation Archive Search Report/Preliminary Range Assessment and current operational range boundary designations. Operational range areas, in accordance with 10 U.S.C. §101, are active ranges or areas designated as range areas that could potentially be used for training. Examples of OTO range areas include but are not limited to: former ranges, disposal areas, former training areas (and/or all locations that have historical documentation indicating the release of UXO or DMM), and current areas identified as incompatible use (e.g., residential buildings, utilities, daycare/schools, 24-hour access recreational areas, industrial complex, office buildings).

(2) Step 2

The OTO range areas are categorized into sites that are potentially eligible for the MMRP (i.e., sites having known current and/or historical military munitions use) and those requiring only administrative closure (i.e., sites with no documented munitions use). A site boundary should be established for any identified areas. The range designations identified herein are defined in section 4 of this appendix to aid in identifying OTO range areas.

(a) Administrative Closure

Identified OTO areas eligible for only administrative closure have had no known and/or documented military munitions use; and either no longer support operational range activities or are planned to support activities that are not compatible with range activities (e.g., parking lots, residential buildings, daycare/schools, non-live fire training areas).

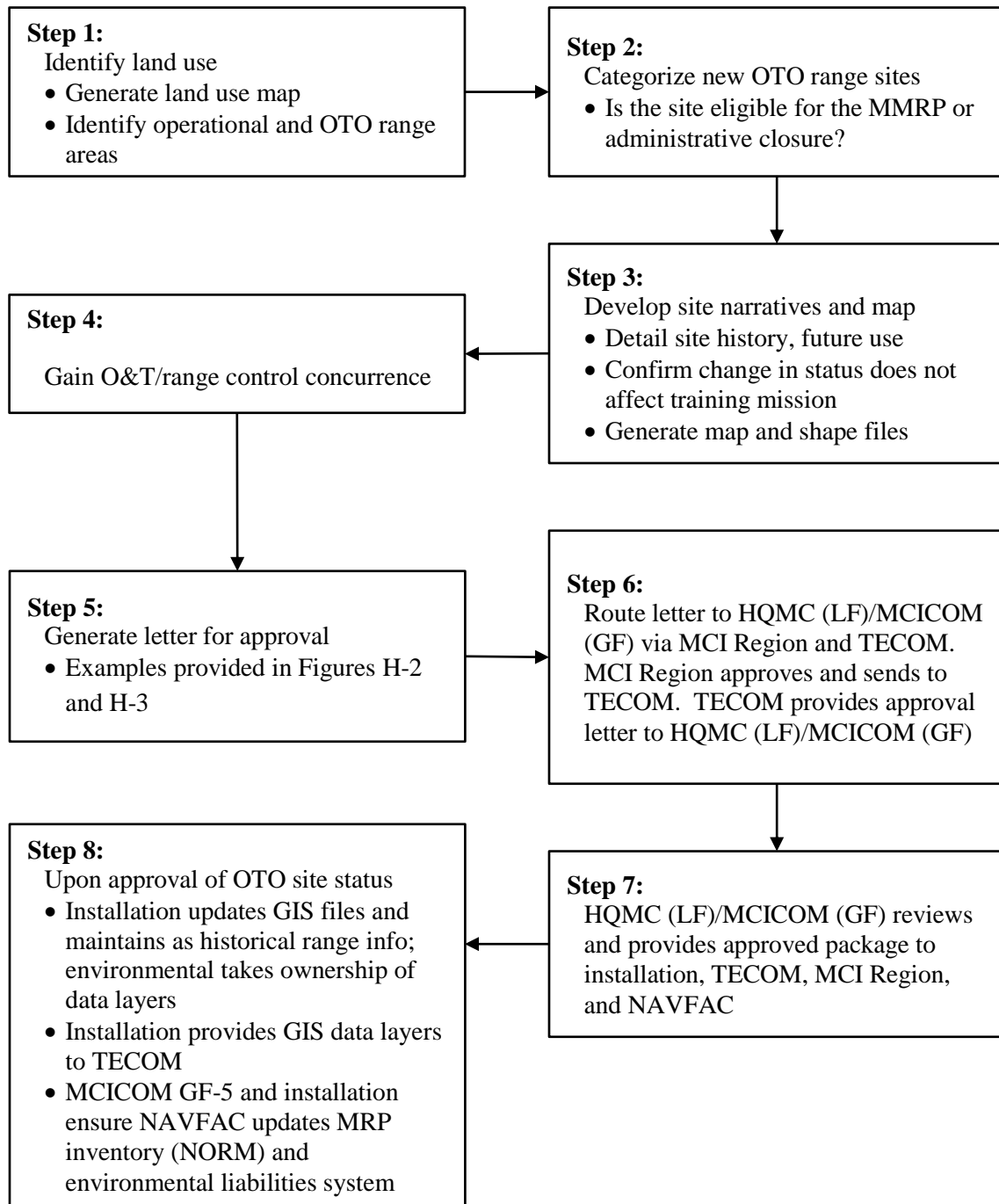


Figure H-1.--OTO Ranges Process Flow Diagram

(b) Military Munitions Response Program (MMRP) Eligibility

1. OTO areas eligible for the MMRP necessitate the initiation of the MMRP process. Such sites have current military munitions use, or are known to have historical military munitions use, resulting in a potential for UXO hazards or an explosive constituent release. The site shall not be an operational range or within an operational range and cannot be a permitted disposal facility.

2. Maneuver areas aboard Marine Corps installations may be restricted to non-live fire activities; however, some maneuver areas are live fire ranges. For purposes of this document, all maneuver areas are considered operational range areas. These non-live fire maneuver areas may have been previously used for live fire activities; therefore, upon closing these areas, extensive research should occur to determine if they can be administratively closed or if they need to be added to the MMRP. The environmental office should work with the O&T office to identify any historic live fire ranges on operational ranges.

e. Site Documentation: Step 3

(1) After identifying potential sites for either MMRP or administrative closure, the installation prepares site narratives and maps to support the recommendation. These documents shall demonstrate that the change in site status will not adversely impact the training mission of the installation. Site narratives shall address the following elements:

- (a) Facility name;
- (b) Historical uses of the site (historical activities and dates of usage, munitions use1 (type, dates of usage));
- (c) Current use of the site (dates of current use type);
- (d) Existing land use controls (LUCs) (engineering or institutional controls, or land use restrictions);
- (e) Anticipated future site use (as documented in range use plans, if available, or other installation planning documents);
- (f) Latitude and longitude;
- (g) Total acreage of the area to be closed;
- (h) Narrative indicating why the site is no longer considered operational range area; and
- (i) Narrative indicating the new designation as OTO range area will not affect the identified training mission.

(2) The installation shall create spatial data and maps in accordance with Marine Corps standards with support of installation GIS offices and O&T, obtaining the most recent operational range boundaries from the O&T office or the installation GIS office. Site maps shall include pertinent site information to allow decision-makers to make informed decisions regarding approval. Pertinent site information includes, but is not limited to:

- (a) Delineated boundaries for proposed OTO range area;
- (b) Delineated historical ranges (with associated safety fans) and/or training area boundaries (MMRP only);
- (c) Delineated adjacent operational range boundaries;
- (d) Current use structures; and
- (e) Incompatible use areas.

f. Installation Concurrence: Step 4

The installation O&T office shall review and provide concurrence with the suggested OTO range areas. The environmental manager shall coordinate with the O&T offices to address any comments or concerns. Identified site boundaries and/or site narratives may require modification based on these discussions.

g. Other Than Operational (OTO) Range Submittal and Approval

(1) Step 5

Upon O&T concurrence, a letter shall be drafted by the installation and the information contained in Step 3. Templates for sites closed under the MMRP or administrative closure are provided in Figures H-2 and H-3. This letter shall be authorized and signed by the installation's Commanding Officer or his/her designee identifying the new OTO range areas.



UNITED STATES MARINE CORPS
MARINE CORPS BASE
PSC BOX 20004
CAMP LEJEUNE, NORTH CAROLINA 28542-0004

IN REPLY REFER TO:
5090.21
BEMD

From: Commanding Officer, [Installation Name]
To: Commanding General, Marine Corps Installations Command
(Code GF-5, Room 2D153A), 3000 Marine Corps Pentagon, Washington, DC 20350-3000

Via: (1) Commanding General, MCI Region (as appropriate)
(2) Commanding General, Training and Education Command,
3300 Russell Road, Quantico, Virginia 22134

Subj: PROPOSED MILITARY RANGE CLOSURE FOR [INSTALLATION NAME]

Ref: (a) Headquarters Marine Corps (HQMC) Operational Range
Closure Policy

Encl: (1) [Proposed range closure area, e.g., Gun Positions 41A
and 41B] Map Figure 1
(2) [Proposed range closure area, e.g., Firing Position 2]
Map Figure 2

1. Due to the location of three Gun Positions located within the boundaries of two Military Construction (MILCON) projects, the Environmental Management Division at [installation name] is submitting for closure under the Military Munitions Response Program approximately 6.0 acres of training area. The following applies:

a. Enclosure (1): Historic Gun Positions 41A and 41B located in the X training area total of approximately 3.0 acres. These two Gun Positions are required to be assessed (and remediated), if necessary for Unexploded Ordnance and/or Munitions Constituents before the planned Marine Special Operations Command (MARSOC) complex begins construction at the installation.

b. Enclosure (2): Historic Firing Position 2, approximately 3.0 acres, is located in the previously permitted area for the Installation Municipal Solid Waste Landfill located off Green Road. This Firing Position was previously part of the Y training area before being transferred to the Installation Public Works Division in 1995 for use as part of the existing landfill facility. This Subj: PROPOSED MILITARY RANGE CLOSURE FOR [INSTALLATION NAME] firing Position is required to be assessed (and remediated), if necessary for Unexploded Ordnance and/or Munitions Constituents before subsequent Phases of the landfill facility can begin construction.

Figure H-2.--Proposed Military Range Closure Sample Letter.

2. All enclosures have been staffed through appropriate installation personnel (e.g., Training and Operations Department, Installations and Environment Department) for comments and all agree that these areas are no longer suitable for future use as range areas or gun positions. *[Installation Name]* therefore, requests that the Gun Positions submitted be considered for closure in accordance with the CERCLA process as indicated in range closure policy by HQMC (LF)/MCICOM (GF) and the Chief of Naval Operations.

3. It is requested that the Training and Education Command review and provide concurrence with these range closure proposals and notify HQMC (LF)/MCICOM (GF) of your decision as required by reference (a).

4. If you have questions or comments, please contact *[Installation Environmental POC]*, Environmental Management Division, Installations and Environment Department, at *[phone number]*.

[Name/Signature]

By direction

Copy to:

HQMC (LF)/MCICOM GF-5

T&O

Figure H-2.--Proposed Military Range Closure Sample Letter--Continued



UNITED STATES MARINE CORPS
MARINE CORPS BASE
PSC BOX 20004
CAMP LEJEUNE, NORTH CAROLINA 28542-0004

IN REPLY REFER TO:
5090.21
BEMD

From: Commanding Officer, *[Installation Name]*
To: Commanding General, Marine Corps Installations Command (Code GF-5,
Room 2D153A), 3000 Marine Corps Pentagon, Washington, DC 20350-3000

Via: (1) Commanding General, MCI Region (as appropriate)
(2) Commanding General, Training and Education Command,
3300 Russell Road, Quantico, Virginia 22134

Subj: PROPOSED OTHER THAN OPERATIONAL RANGE AREA *[INSTALLATION NAME]*

Ref: (a) Headquarters Marine Corps (HQMC) Operational Range
Closure Policy

Encl: (1) *[Administrative closure area, e.g., Child development
center]* Map Figure 1

1. Due to the location of the current Child Development Center located within the current operational range boundary, the Environmental Management Division at *[installation name]* is submitting for administrative closure of approximately 2.0 acres of operational range area. The following applies:

a. Enclosure (1): The CDC is located in the X training area total of approximately 2.0 acres. No use of military munitions have been documented at this location as it has historically been used as a child care facility since the establishment of *[installation name]*. *(Additional details identified in the Range OTO Policy memo to include in the site narrative are as follows: historical uses of the site (historical activities and dates of usage, current use of the site (dates of current use type), existing land use controls (engineering or institutional controls, or land use restrictions), anticipated future site use (as documented in range use plans, if available, or other installation planning documents), latitude and longitude, total acreage of the area to be closed, narrative indicating why the site is no longer considered operational range area, and narrative indicating the new designation as OTO range area will not affect the identified training mission.)*

Figure H-3.--Proposed Other than Operational Range Area Sample Letter

2. All enclosures have been staffed through appropriate installation personnel (e.g., Training and Operations Department, Installations and Environment Department) for comments and all agree that these areas are no longer suitable for future use as range areas or gun positions. *[Installation Name]* therefore, requests that the area submitted be considered for closure as indicated in range closure policy by HQMC (LF)/MCICOM (GF) and the Chief of Naval Operations.

3. It is requested that the Training and Education Command review and provide concurrence with these range closure proposals and notify HQMC (LF)/MCICOM (GF) of your decision as required by reference (a).

4. If you have questions or comments, please contact *[Installation Environmental POC]*, Environmental Management Division, Installations and Environment Department, at *[phone number]*.

[Name/Signature]

By direction

Copy to:
HQMC (LF)/MCICOM GF-5
T&O

Figure H-3.--Proposed Other than Operational Range Area Sample Letter--Continued

(2) Step 6

Upon MCI Regional review, the letter is sent to TECOM. Upon TECOM approval the letter is sent to HQMC (LF)/MCICOM (GF-5) for final approval. In the event that one of the Commands does not approve the proposed new site designations, a letter of non-approval will be sent to the installation and other Commands as appropriate. The letter shall contain detailed information on why the site closure was not approved. If the installation wishes to pursue the range closure, then it shall address these concerns and reroute the letter as appropriate.

(3) Step 7

Upon HQMC (LF)/MCICOM (GF-5) review and concurrence, HQMC (LF)/MCICOM (GF-5) submits a letter back to the installations, to include Commands letter of concurrence and original installation letter with a copy to the appropriate MCI Region, TECOM, O&T, and Environmental.

(4) Step 8

Upon total concurrence, for those OTO ranges eligible for the MMRP, HQMC (LF)/MCICOM (GF-5) and the installation environmental manager shall ensure that NAVFAC updates the MMRP inventory, as well as the installation's environmental liabilities system. The installation GIS offices serve as the data manager and repository for the data layers. Installation O&T shall update the GIS data layers to reflect the change in the range and training area from operational to OTO per the SOPs of the installation. TECOM will ensure the inventory is updated in the 366 Report to Congress and that the inventory matches the installation's records. The OTO data layer for sites entering the MMRP will then be maintained by the environmental office. The environmental office will ensure that NAVFAC has the updated GIS information.

3 RANGE RE-OPENING AND APPROVAL

a. Range areas that have been closed and have not been put to an incompatible use may be examined for re-opening should the installation identify a need for the former range area. If the decision is made to re-open a range, then the installation shall follow steps 3 through 8, with appropriate range information, to gain the appropriate MCI Region, TECOM, and HQMC (LF)/MCICOM (GF-5) concurrence.

b. Installations should be aware that if the re-opened range is closed again in the future, the site may no longer be eligible for environmental funding to conduct investigations and remediation related to munitions.

4 DEFINITIONS RELATED TO OPERATIONAL AND OTHER THAN OPERATIONAL (OTO) RANGES

a. Range

The term “range,” when used in a geographic sense, means a designated land or water area that is set aside, managed, and used for range activities of the DoD. The term includes firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, buffer zones with restricted access, and exclusionary areas. The term also includes air-space areas designated for military use in accordance with regulations and procedures prescribed by the Administrator of the Federal Aviation Administration (10 U.S.C. 101 (e)(1)(A) and (B)).

b. Operational Range

A range that is under the jurisdiction, custody, or control of the Secretary of Defense (SECDEF) and that is used for range activities; or although not currently being used for range activities, still considered by the SECDEF to be a range and has not been put to a new use that is incompatible with range activities (10 U.S.C. 101(e)(3)(A) and (B)).

c. Other Than Operational (OTO) Range

A range that is under the jurisdiction, custody, or control of the SECDEF and is no longer used for range activities; no longer considered by the SECDEF to be an operational range; or has been put to new use that is incompatible with range activities.

d. Military Munitions Response Program (MMRP) Eligibility

A release of UXO, DMM, or MC has occurred (the revised DoD guidance for DERP eligibility has lifted the year requirement that the release shall have occurred prior to Sept 2002), the site is not operational, and the site is not a permitted disposal facility.

e. Administrative Closure Eligibility

Documented no known munitions use and site has been or is planned to be developed or put to a new use (e.g., building already built, parking lot).

f. Historical Use Area

A historically used range area that lies within Title 10 designated operational range boundaries. The range area is no longer used for the historical use purpose.

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