

VOLUME 3

“FUNDING ENVIRONMENTAL COMPLIANCE AND PROTECTION”

SUMMARY OF VOLUME 3 CHANGES

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VOLUME 3: FUNDING ENVIRONMENTAL COMPLIANCE AND PROTECTION

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- (a) Executive Order (E.O.) 12088, "Federal Compliance with Pollution Control Standards," October 13, 1978
- (b) MCO 11000.5
- (c) Naval Facilities Engineering Command (NAVFAC) P-422, "Economic Analysis Handbook," June 1997
- (d) Office of Management and Budget (OMB) Circular A-94 Appendix C, "Discount Rates for Cost-Effectiveness, Lease Purchase, and Related Analyses," November 2016
- (e) Naval Engineering Training and Operating Procedure and Standard (NETOPS) #18 v.3, "Special Project 1391 Development and Funding Document Acceptance for Projects Over \$500K"
- (f) 10 U.S.C. §2667
- (g) Conservation Reimbursable Program Guide
- (h) 10 U.S.C. §2665
- (i) 16 U.S.C. §670a-670o (also known as "Sikes Act")
- (j) 10 U.S.C. §2577
- (k) Part 172 of Title 32, Code of Federal Regulations (32 CFR 172)
- (l) DoD 4140.25-M, "DoD Management of Bulk Petroleum Products, Natural Gas, and Coal," Volumes I-III, dates vary
- (m) Sections 101-307 of Public Law 101-576, "Chief Financial Officers Act of 1990," November 15, 1990
- (n) Sections 1-11 of Public Law 103-62, "Government Performance and Results Act of 1993," August 3, 1993
- (o) Sections 403-405 of Public Law 103-356, "Government Management Reform Act of 1994," October 13, 1994
- (p) Sections 801-808 of Public Law 104-208, "Federal Financial Management Improvement Act of 1996," September 30, 1996
- (q) DoD Manual 4715.20, "Defense Environmental Restoration Program (DERP) Management," March 9, 2012
- (r) 42 U.S.C §§4321-4347 (also known as "National Environmental Policy Act" (NEPA))
- (s) 42 U.S.C. §2021b-2021j
- (t) MARADMIN 375/11, "Information Technology (IT) Funding, Approval, and Procurement," R 061806Z, July 6, 2011
- (u) DoD 7000.14-R, "Department of Defense Financial Management Regulations (FMRS)," Volumes 1-15, dates vary by volume

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VOLUME 3: 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 funding environmental compliance and protection requirements.

0102 APPLICABILITY

See Volume 1 paragraph 0102.

0103 BACKGROUND

This Volume describes funding sources and mechanisms for planning, programming, budgeting, and executing environmental requirements. It also outlines the means for securing the funds needed to manage an effective environmental program. Funding of Marine Corps environmental requirements is provided primarily from the Operation and Maintenance, Marine Corps (O&M MC) account for active duty installations and from the Operation and Maintenance, Marine Corps Reserves (O&M MCR) account for Reserve Centers. Other environmental funding may be provided from the Naval Working Capital Fund (NWCF); Military Construction (MILCON); Procurement, Marine Corps (PMC); reimbursable Agricultural Outlease, Forestry, and Fish and Wildlife Access Fees; Qualified Recycling Program (QRP) revenues; and the Defense Logistics Agency (DLA) Energy funds (see paragraph 030207). For information on funding the Environmental Restoration Program, see Volume 10 of this Order.

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VOLUME 3: CHAPTER 2

“AUTHORITY”

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER 2

AUTHORITY

0201 FEDERAL STATUTES

Congressional waivers from federal sovereign immunity in most environmental laws require federal agencies to pay reasonable service charges to reimburse states for their environmental regulatory oversight. Reasonable service charges related to state implementation of the Clean Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act requirements are among the types of fees that may be billed to an installation.

0202 EXECUTIVE ORDERS

Executive Order (E.O.) 12088, “Federal Compliance with Pollution Control Standards”.

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VOLUME 3: CHAPTER 3

“REQUIREMENTS”

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER 3

REQUIREMENTS

0301 FUNDING ENVIRONMENTAL COMPLIANCE AND PROTECTION

E.O. 12088 (reference (a)) requires that the Marine Corps adequately plan, program, and budget for compliance with applicable pollution control standards. Once funds are appropriated and apportioned for the prevention, control, and abatement of environmental pollution, they may not be used for any other purpose unless permitted by law or specifically approved by the Office of Management and Budget.

0302 ENVIRONMENTAL FUNDS

030201. Naval Working Capital Fund (NWCF)

Marine Corps installations are encouraged to charge their NWCF tenant commands for installation services that ensure their compliance with environmental requirements. Installations shall track these costs and report them to Commandant of the Marine Corps, Facilities and Services Division, Facilities Branch (CMC (LFF))/ Marine Corps Installations Command, Facilities Directorate (MCICOM (GF)) for subsequent reporting to the Department of the Navy (DON) Secretariat, Department of Defense (DoD), and Congress.

030202. Military Construction (MILCON)

Marine Corps installations shall develop and forward requests for environmentally-driven MILCON projects through their local and regional MILCON planning and programming processes to the CMC (LFF)/MCICOM (GF). CMC (LFF)/MCICOM (GF) validates all MILCON projects requiring Congressional approval, tracks, and reports the costs of Congressionally-authorized MILCON projects required for environmental compliance.

030203. Procurement, Marine Corps (PMC)

Marine Corps installations shall develop and forward requests for environmentally-driven PMC requirements through their local and regional PMC planning and programming processes.

030204. Operation and Maintenance, Marine Corps Reserve (O&M, MC)

A. Operation and Maintenance, Marine Corps Reserve (O&M,MC Funds)

CMC (LF)/MCICOM (GF) distributes O&M MC funds via base operating support (BOS) and Centrally-Managed Environmental Program (CMP) funds. To obtain BOS and CMP funds for environmental requirements, installations shall identify and continually verify requirements through the planning, programming, budget and execution (PPBE) process via the environmental program database. CMC (LFF)/MCICOM (GF) tracks and reports requirements to the DON Secretariat, DoD, and Congress. Both BOS and CMP funds are apportioned from the O&M MC appropriation and shall be obligated within the fiscal year (FY) in which they are available.

B. Base Operating Support (BOS) Funds

Installations shall identify all environmental BOS requirements, and document and track these requirements in the environmental program database. Environmental BOS requirements are recurring requirements funded through the Operating Budget (OPBUD) Program. Typical BOS requirements include, but are not limited to, salaries; permits and fees; hazardous waste (HW) disposal; sampling, monitoring, and analysis; training, travel, and education; maintenance; and supplies and equipment. Installations shall obligate BOS funds using the appropriate Standard Accounting, Budgeting and Reporting System (SABRS) environmental accounting codes.

C. Commandant of the Marine Corps (CMC) (LF)/MCICOM (GF) Centrally-Managed Environmental Program (CMP)

Installations shall identify all CMP requirements, and document and track these requirements in the environmental program database. Installations shall obligate CMP funds using the appropriate SABRS environmental accounting codes.

1. The Environmental Management Program (CMP22). CMP22 requirements are one-time or emergent environmental management (non-construction or repair project) requirements. Installations shall identify and develop CMP22 funding requirements as early as possible and document these requirements in the environmental program database utility during the annual budget review (BR).

2. The Environmental Projects Program (CMP10). CMP10 requirements are environmentally-driven minor construction or major repair projects.

a. Contract Advertisement Forecast (CAF) Submission. Each installation shall provide a CAF annually. The submissions will be used by Headquarters, Marine Corps, Facilities Directorate (HQMC (LFF)/MCICOM(GF) to plan funding for the Straddle Program and to develop the funding plan for the next FY. The CAF submission will be via the CAF module of the United States Marine Corps (USMC) Facilities Integration (FI) website. In submitting the forecast, installations shall provide the current working estimate (CWE), when the project is available for advertisement, the relative priority of each project, and any associated unfunded costs (refer to MCO P11000.5G Ch. 2 (reference (b)) for more information on unfunded costs). Each program (M2, R2, and individual special programs) shall be prioritized and listed separately. If the project's CWE is greater than 10 percent of the approved CWE in the FI website, a new DD Form 1391 will be required before the project can be listed on the CAF. Regional Commands will provide a relative priority for all submissions by their supported installations and submit a Regional CAF within one month of the Installations' CAF submission.

b. Commitment of Funds. CMC (LFF)/MCICOM (GF) will use the CAF submission to determine which projects will receive authority to advertise and will commit funds in the amount of the government estimate. The committed amount may not exceed 10 percent of the original government estimate without additional approval from CMC (LF)/MCICOM (GF). Requests for approval of increased amounts will be submitted via the Project Update Module of the FI website and include a revised DD Form 1391 detailing the new government estimate and

addressing any change in scope. Additionally, a justification for the cost increase and a detailed cost estimate or an economic analysis may be required on a project-by-project basis.

c. Economic Analysis. A formal net present value life-cycle economic analysis is required for:

(1) All repair projects with an estimated per facility cost greater than \$5 million.

(2) Guidelines and formats for preparing economic analyses are contained in NAVFAC P-422 (reference (c)). Discount factors are updated annually and published in Office of Management and Budget Circular A-94 Appendix C (reference (d)). Results of analysis are to be submitted with other required documentation.

d. Anti-Deficiency Act Compliance. All projects exceeding \$1,000,000 require additional review prior to CAF submission, certifying that the project is properly documented and has a valid scope of work. Review requirements are described in Naval Engineering Training and Operating Procedure and Standard #18 v.3 (reference (e)).

e. Environmental Projects (CMP10) and FSRM projects are separate programs with unique funding sources (Table 3-1). Although environmental projects (CMP10) are loaded into the FSRM FI Website, these two programs shall be managed as separate entities.

030205. Operation and Maintenance, Marine Corps Reserve (O&M MCR)

Marine Corps Forces Reserve (MARFORRES) identifies and manages environmental O&M, MCR funds through the PPBE process via an environmental program database. MARFORRES shall track these costs and report them to CMC (LFF)/MCICOM (GF) in the environmental program database for subsequent reporting to the DON Secretariat, DoD, and Congress.

Table 3-1.-- Facilities Sustainment, Restoration and Modernization (FSRM) and Environmental Projects (CMP10) Funding Thresholds

Category of Work	Cost Limits	Approval Request To	Approval Authority
Repair (M1/M2)	\$0 - \$300K (M1)	None	CO
	\$300,001 - \$7.5M (M2)	CMC (LF)/MCICOM (GF)	CMC (LF)/ MCICOM (GF)
	Over \$7.5M	CMC (LF)/MCICOM (GF)	ASN (E,I&E) & Congress
Construction (R1/R2/MILCON)	\$0 - \$100K (R1)	None	CO
	\$100,001 - \$1M (R2)	CMC (LF)/MCICOM (GF)	CMC (LF)/ MCICOM (GF)
	Over \$1M (MILCON)	CMC (LF)/MCICOM (GF)	Congress
M2, R2, MILCON	Over \$1M	Certification by NAVFAC-designated Subject Matter Expert for compliance with Anti-Deficiency Act	

M1/R1 = Locally-Managed Funds for Environmental Minor Repair and Construction

M2/R2 = Centrally-Managed Funds for Environmental Major Repair and Minor Construction

030206. Reimbursable Programs

CMC (LFF)/MCICOM (GF) manages three specific revenue-generating programs. Funds collected by these programs may be authorized to support natural resource conservation on the installation where the funds were collected. These programs include:

A. Agricultural Outleases

1. Leasing Marine Corps land for agriculture or other purposes generates rental proceeds (see Volume 11 of this Order for details). The Naval Facilities Engineering Command (NAVFAC) field activity servicing the lease agreement shall deposit these proceeds into a special account. For general lease proceeds, CMC (LFF)/MCICOM (GF) makes portions of the proceeds available to installations where the proceeds were derived to cover expenses associated with maintaining the leases and for other purposes, as authorized by Section 2667 of Title 10, United States Code (10 U.S.C. §2667) (reference (f)). Agricultural or grazing lease proceeds are managed apart from general lease proceeds, and CMC (LFF)/MCICOM (GF) may authorize the use of these proceeds to installations to cover the administrative expenses of agricultural or grazing leasing, and fund requirements to support the Natural Resources Management Program. Agricultural or grazing lease proceeds do not expire at the end of the FY, and are non-appropriated, reimbursable funds.

2. For further information on program requirements, see Volume 11 of this Order. For detailed information regarding accounting requirements and requesting authority to use lease proceeds, see Conservation Reimbursable Program Guide (reference (g)).

B. Forestry

1. The sale of forest products (e.g., timber) from Marine Corps-owned land generates forestry proceeds. Installations or the NAVFAC field activity personnel servicing timber sales contracts shall deposit these proceeds into the Marine Corps forestry account (part of a DoD-administered reserve account established in the Department of the Treasury). CMC (LFF)/MCICOM (GF) provides authority to installations with forestry programs to utilize funds collected within the current FY to reimburse direct expenses associated with forest management (i.e., forestry personnel salaries, forestry equipment, reforestation, timber management, fire and forest pest control, and forest access road maintenance). Forestry proceeds may only be made available during the FY in which they are collected and cannot exceed the total amount collected. Forestry proceeds expire at the end of the FY and are non-appropriated, reimbursable funds.

2. Net revenue at the end of the FY is the total revenue collected from sale of forest products less reimbursed expenses associated with forest management. Pursuant to reference (f) and 10 U.S.C. §2665 (reference (h)), the state in which an installation is located from which forest products are sold is entitled to 40 percent of the net revenue of forest product sales at the end of each FY. Sixty percent of the net revenue from installation forest product sales shall be deposited in the DoD Forestry Reserve Account (FRA).

3. FRA funds are separate from installation revenue collected during the FY. FRA funds may be made available to improve forest lands, to pay for unanticipated contingencies in the administration of forest lands, and for natural resources management that implements approved plans and agreements. Installation requests for FRA funds are submitted to CMC (LFF)/MCICOM (GF) via annual data calls. Unanticipated or emergency costs may be submitted to CMC (LFF)/MCICOM (GF) at any time. FRA funds do not expire at the end of the FY and are non-appropriated, reimbursable funds.

4. For further information on program requirements, see Volume 11 of this Order. For detailed information regarding accounting requirements and requesting authority for forestry proceeds, see reference (g).

C Hunting, Fishing, and Trapping

1. Installations may establish access fees for hunting, fishing, and trapping in accordance with 16 U.S.C. §670a-670o (also known and referred to in this order as “Sikes Act”) (reference (i)). Each installation shall deposit proceeds from access fees into an installation Hunting, Fishing, and Trapping Access Fee account. CMC (LFF)/MCICOM (GF) authorizes the use of these proceeds only for the protection, conservation, and management of installation wildlife habitats and the hunting, fishing, and trapping programs. Access fee proceeds within Hunting, Fishing, and Trapping Access Fee accounts do not expire at the end of the FY and are non-appropriated, reimbursable funds.

2. For further information on program requirements, see Volume 11 of this Order. For detailed information regarding accounting requirements and requesting authority for hunting, fishing and trapping proceeds, see reference (g).

D. Qualified Recycling Program (QRP) Revenues

QRP operating costs shall be budgeted as real property services instead of environmental costs. The distribution of installation QRP proceeds shall comply with the requirements of 10 U.S.C. §2577 (reference (j)) and Part 172 of Title 32, Code of Federal Regulations (32 CFR 172) (reference (k)). These requirements mandate that proceeds from the sale of recyclable materials be credited to funds available for operations and maintenance at the installation and be used to cover the installation's costs of operations, maintenance, and overhead for processing recyclable materials at the installation. After reimbursement of these costs, installations may use up to 50 percent of the remaining proceeds on projects for environmental compliance, energy conservation, and occupational safety and health activities with first consideration given to projects included in the installation's Pollution Prevention plan. However, no project shall cost more than 50 percent of the amount established by law for a minor construction project. Any remaining proceeds may be transferred to the non-appropriated morale and welfare account of the installation to be used for any installation morale or welfare activities. See Volume 17 of this Order for more details on QRP and related issues.

030207. Defense Logistics Agency (DLA) Energy Funds

A. DoD bulk petroleum management policy authorizes DLA Energy to fund certain recurring environmental compliance costs involving DLA Energy-owned product. DoD 4140.25-M (reference (l)) broadens this policy to fund non-recurring environmental compliance projects, including maintenance and repair and minor construction for facilities storing DLA Energy-owned product.

B. Environmental Compliance

Installation commanders are ultimately responsible for compliant DLA Energy-owned product storage on their installations. DLA Energy, however, shall fund the following recurring environmental compliance costs:

1. Environmental Compliance Document Revisions. DLA Energy will fund the cost of legally-required revisions of environmental compliance documents (e.g., Spill Prevention, Control, and Countermeasures Plans) that are directly related to the storage of DLA Energy-owned product.

2. Sampling and Testing. DLA Energy will fund sampling and testing of emissions and discharges if the cost of both sampling and testing involves DLA Energy-owned product.

3. Waste Removal and Disposal. DLA Energy will fund removal and disposal of HW as an environmental compliance cost if the cost is directly linked to facilities containing Defense Energy Support Center-owned product. However, DLA Energy will not fund disposal costs for absorbent pads, contaminated rags, and other consumable items commonly used for small spill cleanups.

4. The Design and Construction of Environmental Compliance Projects.

DLA Energy will fund projects that upgrade petroleum, oil, and lubricant (POL) facilities in order to control emissions and discharges, enabling installations to meet environmental regulatory standards. Also funded are projects needed for POL facilities to achieve regulatory compliance in order to continue operations.

5. Operational Permit Fees. Accepted annual recurring costs for permits are

those involving DLA Energy-owned product that may affect the environmental quality of air and/or water. Examples include permits for the following: fill stands, fuel storage tanks, oil-water separators, pipelines, and hydrant systems.

6. Fines and Penalties. DLA Energy will review fines and penalties incurred

on a case-by-case basis for reimbursement. DLA Energy will not reimburse fines and penalties incurred due to the negligence of the operating activity.

C. Installations with eligible requirements are encouraged to plan, program, and submit their funding requests to DLA Energy by completing applicable Defense Energy Support Center forms and worksheets. Installations shall provide CMC (LFF)/MCICOM (GF) a copy of all documents submitted to DLA Energy.

D. Installations may submit requests for reimbursement for DLA Energy-owned product spills.

0303 FUNDING PRIORITIES

HQMC (LFF)/MCICOM (GF) established Common Output Levels of Service (COLS) to characterize program health and degree of risk associated with varying funding levels. COLS level assignments shall be used to prioritize funding of environmental requirements. COLS level definitions are presented in Table 3-2.

Table 3-2.-- Common Output Levels Of Service (COLS) Level Descriptions

Level	Description
COLS 1	<ol style="list-style-type: none"> 1. Provides 100% compliance with applicable, explicit federal, state or local law, regulation, E.O., or Final Governing Standard, DoD, DON, and Marine Corps policy, such that primary installation mission and readiness are supported. 2. Meets official Marine Corps commitments made to Congress, regulatory agencies, and the public. 3. Provides recurring administrative, personnel and other support associated with managing environmental programs that are specifically necessary to meet mandated requirements as described in this COLS level. 4. Provides ability to address 100% of anticipated emerging mandated requirements based on historical execution, such as new laws, regulations, and incident response. 5. Provides 100% future planning capability. Includes management or planning activities that are prerequisites for future year mandated requirements or improve or enhance capabilities. 6. Provides ability to proactively address mandated requirements with no established deadlines. 7. Provides 100% compliance with DoD, DON, and Marine Corps policy. 8. Provides investments in land or infrastructure that demonstrate Marine Corps environmental leadership and proactive environmental stewardship.
COLS 2	<ol style="list-style-type: none"> 1. Provides 100% compliance with all known, applicable, and explicit federal, state or local laws, regulations, E.O.s, and Final Governing Standards (“mandated requirements”) by established deadlines, such that primary installation mission and readiness are supported. 2. Meets official Marine Corps commitments made to Congress, regulatory agencies, and the public. 3. Provides recurring administrative, personnel and other support associated with managing environmental programs that are specifically necessary to meet mandated requirements as described in this COLS level. 4. Provides ability to address 100% of anticipated emerging mandated requirements based on historical execution, such as new laws, regulations, and incident response. 5. Provides management and planning activities that are explicit prerequisites to meet future year mandated requirements. 6. Provides limited ability to address mandated requirements with no established deadlines that are directly related to protection of Marine Corps operational readiness and human health. 7. Provides 100% compliance with DoD, DON, and Marine Corps policy that are directly related to protection of Marine Corps operational readiness and human health.

Table 3-2.-- Common Output Levels Of Service (COLS) Level Descriptions

Level	Description
COLS 3/COLS 3 Minimum	<ol style="list-style-type: none"> 1. Provides 100% compliance with all known, applicable, and explicit federal, state or local laws, regulations, E.O.s, and Final Governing Standards (“mandated requirements”) by established deadlines, such that primary installation mission and readiness are supported. 2. Meets official Marine Corps commitments made to Congress, regulatory agencies, and the public. 3. Provides recurring administrative, personnel and other support associated with managing environmental programs that are specifically necessary to meet mandated requirements by established deadlines. 4. Provides ability to address 50% of anticipated emerging mandated requirements (based on historical execution), such as new laws, regulations, and incident response. 5. Provides management and planning activities that are explicit prerequisites just in time to meet future year mandated requirements.

0304 MARINE CORPS ENVIRONMENTAL PROGRAM DATABASE

030401. Background

Reporting to Congress through the Office of the Secretary of the Navy and OSD requires recording and tracking of all Marine Corps environmental requirements and costs. The Marine Corps uses the Status Tool for the Environmental Program as the environmental program database to meet this need. All Marine Corps environmental requirements shall be entered into the environmental program database as soon as they are identified, and records shall be updated and validated regularly throughout the lifecycle of the requirement. All Marine Corps environmental requirements, regardless of funding source (e.g., reimbursable funds or NWCF) or appropriation, shall be identified and reported.

030402. Identifying Requirements for Environmentally-Driven BOS Requirements

As soon as a BOS project requirement is identified, the requirement shall be entered into the environmental program database. BOS requirements are typically entered into the environmental program database as OPBUD Program requirements. HQMC (LFF)/MCICOM (GF) serves as the advocate for installations’ environmental OPBUD funding levels throughout the PPBE process. However, installation environmental staff shall work closely with their local comptrollers to communicate environmental BOS requirements and to ensure environmental installation operations are prioritized and fully funded. Execution of the environmental OPBUD Program shall be recorded in SABRS and the environmental program database.

030403. Identifying Requirements for Environmental Projects (CMP10)

As soon as an environmentally-driven FSRM project requirement is identified, the requirement shall be entered into the environmental program database. Ensure that the same project

number and title is used in all related documents and databases. Place the same project number on DD Form 1391 using the naming procedure for the Environmental Maintenance and Repair Program, described in reference (b). All environmentally-driven FSRM M2/R2 projects shall be entered into the environmental program database with a completed DD Form 1391 attached before they will be reviewed by CMC (LFL)/MCICOM (GF). Execution of the environmental CMP10 Program shall be recorded in SABRS and the environmental program database.

030404. Requesting Funds for Environmental Projects (CMP10)

Requests for the funding of environmental FSRM projects previously identified through the process in paragraph 030204.C.2 are to be submitted to CMC (LFF)/MCICOM (GF) pursuant to reference (b), as amended or superseded. The CAF will be used to select the Regular Program and the Straddle Program approximately one year prior to the year of execution. Projects shall be listed on the CAF as well as in the environmental program database for funding consideration. Once a confirmed technically accurate prospective bid has been determined, an installation may request funds for contract award using the Request for Funds Module of the USMC FI Website.

030405. Identifying Requirements and Requesting Funds for CMP22 Projects

As soon as a CMP22 project requirement is identified, the requirement shall be entered into the environmental program database. HQMC (LFF)/MCICOM (GF) serves as the advocate for environmental CMP funding levels throughout the PPBE process and manages funding priorities and funds distribution in the year of execution. Installations shall work closely with HQMC (LFF)/MCICOM (GF) to communicate environmental CMP requirements and to ensure CMP requirements are prioritized and funded. Execution of the environmental OPBUD Program shall be recorded in SABRS and the environmental program database.

0305 BUDGET, EXECUTION, AND STANDARD ACCOUNTING, BUDGETING AND REPORTING SYSTEM (SABRS)

Marine Corps environmental funding generates a high level of interest within the Marine Corps, as well as with the Comptroller of the Navy, OSD, and Congress, and shall be tracked through its lifecycle. Due to unique fund flow structures at each installation and unit, environmental funds provided in an installation or unit's BOS funding is at risk of losing its environmental earmark once released from HQMC (LF)/MCICOM (GF). This risk requires each installation or unit executing environmental funds to use SABRS environmental accounting codes and standard document numbers (SDNs) to accurately track these funds in the environmental program database and SABRS. These accounting codes are available in the environmental program database and shall be used to support Program Objectives Memorandum (POM) submissions, data calls, and requests for CMP funding for emergent requirements. Environmental staff should coordinate with installation comptrollers to determine appropriate SDNs.

0306 REPORTING REQUIREMENTS

CMC (LFF)/MCICOM (GF) has established the following reporting requirements to support the PPBE process:

030601. Annual Budget Review (BR)

Using the environmental program database utility, each installation, unit, and MARFORRES shall prepare and submit all environmental program budget requirements for the next two FYs and POM requirements for the next five years after, for a total of seven years of program requirements. Installations and units shall report requirements by funding source (i.e., CMP or OPBUD) and multiple environmental metrics data. To facilitate this process, CMC (LFF)/MCICOM (GF) environmental program sponsors will distribute BR guidance and offer training to installation and unit environmental managers and comptrollers. CMC (LFF)/MCICOM (GF) environmental program sponsors will use the environmental program database to validate installation and unit projects.

030602. Standard Accounting, Budgeting and Reporting System (SABRS)

During the year of execution, CMC (LFF)/MCICOM (GF) will use SABRS execution data to compare with data in the environmental program database.

030603. Environmental Liabilities

The Office of Management and Budget requires DoD to report environmental liabilities (Defense Environmental Restoration Program (DERP) and non-DERP) in annual financial statements in accordance with Note 14, Environmental Liabilities and Disposal Liabilities. Several laws require that financial statements are complete, accurate, and auditable, including Sections 101-307 of Public Law 101-576 (reference (m)), Sections 1-11 of Public Law 103-62 (reference (n)), Sections 403-405 of Public Law 103-356 (reference (o)), and Sections 801-808 of Public Law 104-208 (reference (p)). As part of this requirement, Marine Corps installations shall accurately identify, estimate, and report all environmental liabilities, ensuring that all cost estimates are auditable. Enclosure 3 of DoD Manual 4715.20 (reference (q)) establishes procedures for reporting environmental liabilities.

0307 FUNDING ENVIRONMENTAL PLANNING REQUIREMENTS (SEE VOLUME 12 OF THIS ORDER)

Pursuant to 42 U.S.C. §§4321-4347 (also known and referred to in this order as “National Environmental Policy Act” (NEPA)) (reference (r)), estimated costs associated with compliance documents shall be identified early in the planning phase of a proposed action. Preparing a NEPA or E.O. 12114 decision document is not considered an environmental compliance requirement; therefore, the costs of preparing appropriate NEPA decision documentation, to include all supporting studies, shall be borne by the proposed action sponsor. For example, installations or units with training operations that trigger preparation of decision documents shall pay the costs of preparing the documents. When a proposed action is an environmental compliance project and the action sponsor is Environmental Services, environmental compliance funds may fund NEPA or E.O. 12114 decision documents. In certain instances, environmental impact mitigation costs associated with a selected action may be considered environmental compliance costs and shall be programmed in the PPBE process. See paragraph 0308.

0308 FUNDING START-UP COMPLIANCE ACTIVITIES ASSOCIATED WITH PROPOSED ACTIONS

Environmental compliance costs associated with a proposed action (e.g., construction, maintenance, or repair projects) shall be identified early in the planning phase of the proposed action. The one-time, start-up environmental compliance planning, permitting, or mitigation costs that are triggered as a result of the proposed action shall be borne by the project sponsor. Any new operational or long-term environmental impact mitigation costs associated with a selected action may be transferred to the environmental program when these operational or mitigation costs are programmed for in the PPBE process.

0309 FEES AND TAXES

030901. The Constitution generally prohibits states from directly taxing agencies of the federal government. Marine Corps installations and units, therefore, are not authorized, absent specific Congressional authority, to pay direct taxes to state or local agencies. Marine Corps installations and units shall pay reasonable permit fees and other reasonable service charges to the extent permitted by law. Before an unprecedented fee payment is made, it is necessary to evaluate, in part, whether the fee is a reasonable service charge or a non-payable tax. All installation and unit environmental compliance fee-tax questions shall be referred to Counsel for the Commandant of the Marine Corps (CMC (CL)) or its area or installation offices for analysis and the Regional Environmental Coordinator for inter-service coordination. The disposition of an unprecedented fee payment shall also be made in coordination with CMC (LFF)/MCICOM (GF).

030902. 42 U.S.C. §2021b-2021j (reference (s)) permits states to directly tax federal installations and units for low-level radioactive waste disposal in the same manner and to the same extent as any low-level radioactive waste not generated by the federal government.

030903. For payment of stormwater fees, see Volume 20 of this Order.

0310 ECONOMIC ANALYSES

Installations and units shall conduct economic alternatives analyses before making final decisions on major (MILCON or repair > \$5 million) environmental compliance project alternatives. Each major environmental compliance project funding request shall certify that an economic analysis of environmental compliance alternatives was conducted and include the economic analysis results. When assessing economic alternatives to environmental compliance requirements, installations and units shall consider the environmental management hierarchy, discussed in Volume 2 of this Order.

0311 ENFORCEMENT ACTIONS AND FINES

Any fines assessed by a regulatory authority to an installation for an alleged violation of environmental requirements should be referred to local/regional USMC environmental counsel for coordinating an appropriate response. See Appendix B for additional details on processing enforcement actions.

0312 THE COSTS OF HAZARDOUS WASTE (SEE VOLUME 9 OF THIS ORDER)

The costs associated with the management of hazardous material (HM) and HW will be paid in accordance with the following:

031201. Installation Commanders

Installation Commanders shall pay the disposal costs of installation-generated HWs. Routine operating expenses (e.g., containers, labels, personal protective equipment (PPE), and spill contingency supplies) shall be borne by the original generator.

031202. Marine Corps and Non-Marine Corps Units and Commands in Garrison

Marine Corps and non-Marine Corps units and commands in garrison shall pay the costs associated with the generation (e.g., drums, labels, and PPE), containment (e.g., absorbent materials and overpack drums), preparation for transportation, transportation, and disposal of tenant-generated HWs associated with garrison-related, day-to-day activities and training not incidental to exercises with specific funding responsibilities identified in an Inter-Service Support Agreement or other appropriate agreement with the host installation. The host installation will pay the disposal costs associated with installation organizations. Non-Marine Corps tenant activities will abide by their current inter and intra service/agency support agreements. If an agreement is not currently in place, then one shall be developed stating that each non-Marine Corps tenant is responsible for reimbursing the host Marine Corps installation for any cost associated with HW disposal.

031203. Exercises with Unique Funding/Budgeting

Units and commands shall fund the costs associated with the containment, preparation for transportation, transportation, and disposal of HWs that are generated coincident to an exercise that has unique funding. The cost of HW disposal should be managed the same as the cost for disposal of municipal solid wastes, portable toilets, fuels, food, and other consumable supplies resulting from an exercise. The host installation commander shall not add any overhead or handling costs.

031204. Disposal of Hazardous Material (HMs) as Hazardous Waste (HWs)

Historically, over one-third of HW disposal costs for the Marine Corps result from the disposal of expired HMs or from HMs contaminated by poor supply- and maintenance-handling procedures. Commanders who mismanage HM which then results in its disposal as HW shall bear the costs of containment, preparation for transportation, transportation, and disposal of the HW. The host installation commander shall not add any overhead or handling costs to these costs. Such costs might be avoided by the unit if they contact DLA Disposition Services to request extension of the expiration dates.

031205. Hazardous Material (HM) and Hazardous Waste (HW) Spills

The command or unit responsible for a release, discharge, or spill of HM or HW into the environment shall pay the costs associated with the cleanup and disposal of spill debris. Any long-term site investigation, remediation, or monitoring of the spill site shall be programmed for and funded by the Environmental Program.

031206. Procurement of Reused Hazardous Material (HMs)

Reuse shall be the first source of supply for HM. New HM shall not be purchased if HM is available to units through HM reuse programs. Volume 9 of this Order describes HM Reuse Program requirements in more detail.

031207. Defense Logistics Agency (DLA) Energy Oil Spill Cost Reimbursement

Installations may submit oil spill remediation costs of spills from DLA Energy-owned fuel stocks to DLA Energy for reimbursement.

0313 ON-INSTALLATION MISHAPS

Mishaps (e.g., aircraft or vehicle accidents) are unplanned events or a series of events, which interfere with or interrupt a process or procedure and may result in environmental damages. Any initial spill response should be a part of the overall first responder costs and shall be covered according to the installation memorandum of agreement/interservice support agreements with applicable base tenants. Any additional clean up or long-term remediation shall be paid for by the unit responsible for the mishap.

0314 UTILITIES

The costs associated with utilities shall be assessed on a case-by-case basis and require coordination between installation environmental and facilities operations offices. Typically, routine sampling and testing costs associated with operating facilities regulated by the Clean Water Act, Safe Drinking Water Act, or Resource Conservation and Recovery Act are paid by installation facilities operations offices.

0315 INFORMATION TECHNOLOGY (IT)

Historically, IT resources have been acquired and managed as stand-alone systems rather than integral parts of a net-centric capability, resulting in duplicative IT spending, redundant capabilities, and an inability to realize intended benefits, efficiencies, and cost savings. To more effectively manage IT investments, stakeholders for environmental business systems, including functional sponsors, program managers, and system owners, shall make informed decisions while ensuring IT capabilities are appropriately aligned to the environmental mission.

031501. Information Technology (IT) Portfolio Governance

CMC (LFF)/MCICOM (GF) developed an Installations, Facilities and Environment (IF&E) IT Governance Process that facilitates an effective IT investment decision-making process across the IF&E Portfolio. A new environmental IT capability or any modification to an existing capability shall be approved through the Governance Process before any environmental funds are expended on the requirement.

031502. Information Technology (IT) Funding, Approval and Procurement

Marine Administrative Message (MARADMIN) 375/11 (reference (t)) describes the Marine Corp IT Procurement Request/Review and Approval System (ITPRAS) process. This process ensures effective and efficient expenditure of funding to acquire IT capabilities; safeguards against duplicative investments; aligns IT procurements and purchases to mission goals and objectives; complies with DoD, DON, and Marine Corps policies; and provides visibility of all Marine Corps fiscal expenditures related to IT. All IT procurement requests for environmental IT capabilities (including contract services for IT support services) resourced with Marine Corps appropriated and/or non-appropriated funds shall be processed, reviewed, and approved using the ITPRAS.

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VOLUME 3: CHAPTER 4

“RESPONSIBILITIES”

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER 4

RESPONSIBILITIES

0401 COMMANDANT OF THE MARINE CORPS (CMC) (LF)/COMMCICOM

CMC (LF)/COMMCICOM shall:

040101. Via MCICOM G8, advise Commandant of the Marine Corps, Programs & Resources (CMC (P&R)) on environmental services program goals, initiatives, and costs; and associated funding requirements.

040102. Advise Office of the Assistant Secretary of Defense, Energy, Installations & Environment (OASD (EI&E)) in preparing environmental funding policy.

040103. Serve as the environmental services program sponsor. Oversee Marine Corps environmental compliance and protection program requirements throughout the PPBE process, to include reviewing, validating, and prioritizing Marine Corps environmental services program goals and objectives.

040104. Coordinate, consolidate, and, via HQMC (P&R), Fiscal Division, submit Marine Corps environmental compliance and protection financial metrics to the DON Secretariat, DoD, and Congress.

040105. Using information from the environmental program database, review, validate, and prioritize installation and unit environmental funding requests and distribute O&M MC funds.

040106. Ensure that officials with responsibility for environmental compliance and protection are adequately trained in the execution of those responsibilities, and that they possess adequate authority and resources to ensure that their recommendations are followed.

040107. Develop and update budget guidance to support installations with programming and budgeting requirements and obtaining necessary funding to comply with environmental requirements. Prioritize and fund high-risk environmental priorities, as identified by Regions and installations. Notify leadership of unacceptable risks due to lack of funds.

0402 Commander, U.S. Marine Corps Forces Reserve (COMMARFORRES)

COMMARFORRES shall:

040201. Via CMC (LF)/MCICOM (GF), advise CMC (P&R) on environmental services program goals, initiatives, and costs; and associated funding requirements.

040202. Coordinate and validate Marine Forces Reserve installation and activity environmental requirements.

040203. As applicable, ensure that adequate funding is planned, programmed, budgeted, and executed to meet force, installation, and unit environmental requirements.

040204. Ensure that force, installation, and unit environmental requirements are entered into an environmental program database and kept current.

040205. Coordinate BR submissions through CMC (LFF)/MCICOM (GF).

040206. Ensure that force, installation and units use SABRS environmental accounting codes, and coordinate with the comptroller.

040207. Ensure that officials with responsibility for environmental compliance and protection are adequately trained in the execution of those responsibilities, and that they possess adequate authority and resources to ensure that their recommendations are followed.

0403 COMMANDING GENERAL (CG) MARINE CORPS EAST, WEST, PACIFIC, AND NATIONAL CAPITAL REGION

CG Marine Corps East, West, Pacific, and National Capital Region shall:

040301. As applicable, create and submit funding requests for regional environmental requirements that address the needs of several installations.

040302. As applicable, review and validate environmental requirements within installation and unit POM proposals and Operational Plan Submission submittals.

040303. As applicable, ensure that adequate funding is planned, programmed, budgeted, and when available, executed to meet installation and unit environmental requirements.

040304. Ensure that all installation and unit environmental requirements are entered into the environmental program database and kept current.

040305. Coordinate POM initiatives and current year deficiencies (CYDs) through CMC (LFF)/MCICOM (GF).

040306. Ensure that installation and unit use SABRS environmental accounting codes.

040307. Ensure that officials with responsibility for environmental compliance and protection are adequately trained in the execution of those responsibilities, and that they possess adequate authority and resources to ensure that their recommendations are followed.

0404 COMMANDING GENERAL/COMMANDING OFFICER (CG/CO) OF MARINE CORPS INSTALLATIONS

CG/CO of Marine Corps installations shall:

040401. Ensure that BOS funding appropriated for local environmental services through the PPBE process is used for its intended purpose in the year of execution.

040402. Provide CMC (LFF)/MCICOM (GF) installation budget data calls and BR submissions via the chain of command.

040403. Ensure that adequate funding is planned, programmed, budgeted, and executed to meet installation environmental requirements.

040404. Ensure that all installation environmental requirements and funding data are entered into the environmental program database and are kept current.

040405. Ensure proper use of SABRS environmental accounting codes, and coordinate with the comptroller.

040406. Request permission from CMC (LFF)/MCICOM (GF) to reprogram CMP funds, noting that reprogramming of CMP funding is only from one environmental requirement to another environmental requirement.

040407. Ensure that officials with responsibility for environmental compliance and protection are adequately trained in the execution of those environmental funding responsibilities, and that they possess adequate authority and resources to ensure that their recommendations are followed.

0405 UNIT COMMANDERS

Unit Commanders shall:

040501. Ensure that adequate funding is planned, programmed, budgeted, and, when available, executed to meet unit environmental requirements.

040502. As applicable, enter or forward unit environmental requirements to Commander, U.S. Marine Corps Forces Command, Commander, US Marine Corps Forces, Pacific, or Commander, US Marine Corps Forces, Reserve for entry into the environmental program database utility.

040503. Ensure proper use of SABRS environmental accounting codes, and coordination with the comptroller.

040504. Ensure that officials with responsibility for environmental compliance and protection are adequately trained in the execution of those environmental funding responsibilities, and that they possess adequate authority and resources to ensure that their recommendations are followed.

040505. Direct units to pay all environmental fines.

VOLUME 3: APPENDIX A

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

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APPENDIX A

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

1 **FEDERAL STATUTES**

Congressional waivers from federal sovereign immunity in most environmental laws require federal agencies to pay reasonable service charges to reimburse states for their environmental regulatory oversight. Reasonable service charges related to state implementation of the Clean Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act requirements are among the types of fees that may be billed to an installation.

2 **EXECUTIVE ORDERS**

E.O. 12088, “Federal Compliance with Pollution Control Standards,” October 13, 1978, requires the head of each Executive Agency to ensure that:

a. “Sufficient funds for compliance with applicable pollution control standards are requested in the agency budget.”

b. “Funds appropriated and apportioned for the prevention, control, and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget.”

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VOLUME 3: APPENDIX B

“PROCESSING ENFORCEMENT ACTIONS”

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APPENDIX B

PROCESSING ENFORCEMENT ACTIONS

1 **GENERAL**

An enforcement action (EA) is an action taken by an environmental regulatory agency to enforce statutory and/or regulatory environmental compliance requirements. Nomenclature of EAs may include warning order, notice of deficiency, notice of violation (NOV), citation, administrative complaint, notice of non-compliance, administrative order, corrective action order, immediate compliance order, delayed compliance order, or emergency power order. The relative gravity of an NOV or other EA, to include the possibility of monetary penalties, largely depends upon the frequency, severity, and duration of the environmental compliance violation(s) alleged as well as the degree of cooperation demonstrated after learning of the violations. When an installation or unit receives an EA, prompt and complete action shall be taken to protect human health and the environment and minimize further adverse administrative, civil, or criminal EA against the installation or unit and the individual(s) responsible for receiving the EA.

2 **DEFINITION OF ENFORCEMENT ACTION**

a. **United States and Territories**

A formal, written notification by the Environmental Protection Agency (EPA) or other Federal, state, inter-state, regional, or local environmental regulatory agency of violation of any applicable statutory or regulatory requirement. It should cite the relevant standard or criteria to be met and request the installation take corrective action. An EA does not include warning letters that do not cite a violation of specific environmental law or regulation, informal notices of deficiencies, or notices of deficiencies to permit applications. (Note: Warning letters or similarly titled formal written notifications from authorized regulators that do cite violations with environmental laws and regulations, are considered EAs.)

b. **Overseas**

An EA is a formal, written notification by the appropriate host nation environmental regulatory authority of any applicable environmental standard (as defined in the FGS). It should cite the relevant standard or criteria to be met and request the installation take corrective action. An EA does not include warning letters that do not cite a violation of specific environmental law or regulation, informal notices of deficiencies, or notices of deficiencies to permit applications.

3 **SIGNIFICANT NONCOMPLIANCE (SNC)**

An EPA term describing facilities that have a violation of significant magnitude and/or duration that warrants priority for review and/or response by an agency. Currently, EPA only tracks Federal facilities that are identified as “major” under 42 U.S.C. 6901-6992k, 33 U.S.C. 1251-1387, and 42 U.S.C. 7401-7671. The definition of “major” and “significant noncompliance” varies by media. The

air program uses the term High Priority Violation (HPV) instead of SNC, but for the purposes of this appendix, SNC includes HPV. EPA Program offices are the source of media specific definitions.

4 SETTLEMENT AGREEMENTS

If the installation or unit does not contest the NOV or other EA, the environmental regulatory agency may demand the execution of a settlement agreement. Settlement agreement terms vary significantly and are negotiated by counsel. Basic settlement agreement terms may include a statement of facts and conclusions of law, penalty assessment and payment provisions, a list and description of environmental compliance projects, and an environmental compliance schedule.

5 REPORTING OF ENVIRONMENTAL ASSESSMENTS (EAS)

a. Informal Indication of an Environmental Assessment (EA)

Each installation and unit, upon receipt of any informal (e.g., oral) indication of an NOV or other EA (hereinafter collectively referred to as “EA”), shall:

(1) Consult with counsel. The CMC (CL) offices have environmental compliance counsel to advise installations and units on how to prepare for the EA.

(2) When significant natural resources damage occurs, and/or when immediate, adverse publicity is anticipated, notify CMC (LF)/MCICOM (GF) by telephone or electronic mail on the same day of receiving the informal EA indication, unless serious incident reporting is required by Marine Corps Order (MCO) 3504.2, “Operations Event/Incident Report (OPREP-3) Reporting”.

(3) Make appropriate entries into the EA/NOV module of the Environmental Management Review (EMR) database on the EM Portal (<https://em.usmc.mil/>).

b. Formal Receipt of an Environmental Assessment (EA)

(1) Upon receipt of any EA, regardless of whether a response is required, the cited commander shall ensure the installation or unit reports the EA.

(2) Within five working days after the installation’s or unit’s receipt of the EA, the installation or unit shall make appropriate entries into the EA/NOV module of the EMR database on the EM Portal (<https://em.usmc.mil/>).

(3) The cited commander shall also ensure the installation or unit makes the appropriate EMR and Marine Corps environmental program database utility follow-on entries. Any changes to the status of the EA shall be promptly recorded in the EA/NOV module of the EMR database on the EM Portal.

6 ENVIRONMENTAL ASSESSMENT (EA) CLOSURE

a. An EA is closed when any one of the following conditions exists:

(1) The regulatory agency states, in writing, that it is satisfied with the installation or unit compliance actions and no further regulatory actions will be taken regarding the violations alleged within the EA. Note that certain statutory/regulatory schemes provide for shared or delegated enforcement authority between state and Federal agencies. In the event the installation receives an NOV, installation compliance officials should ensure that all regulatory authorities possessing enforcement power are satisfied with the installation's compliance actions. For example, even if a state regulatory agency deems compliance actions satisfactory, Federal authorities may still commence an EA. This is known as 'overfiling.' Thus, it is necessary to ensure that all potential EAs are resolved.

(2) The regulatory agency, in writing, rescinds the EA.

(3) The regulatory agency supersedes the EA with another action.

(4) A settlement agreement is executed regarding the violations alleged within the EA.

b. When the installation or unit commander cannot close an EA with a regulatory agency after compliance actions are complete, the installation or unit shall:

(1) Informally contact the regulatory agency to request written confirmation of compliance action completion and EA closure.

(2) If the regulatory agency does not provide a confirmation of compliance action completion and EA closure, the installation or unit shall send a letter to the regulatory agency explaining its compliance actions and requesting EA closure. A copy of the EA shall be enclosed with the letter, and the letter shall state that the installation or unit commander will consider the EA closed if the regulatory agency does not confirm the EA's closure within 60 days following receipt of the letter. The letter shall be sent via United States certified mail with return receipt requested or via another delivery method documenting the letter's receipt.

(3) If the regulatory agency does not respond to the letter within 60 days after its receipt, the installation or unit shall send a follow-up letter. The follow-up letter shall reference the previous letter and state that the regulatory agency's response has not been received and the EA is now considered closed. The follow-up letter shall be sent via United States certified mail with return receipt requested or via another delivery method documenting the letter's receipt. Bear in mind that these letters do not legally preclude the regulatory agency from engaging in any further activity regarding the NOV which is authorized by law. Rather, they serve as a catalyst to inspire the regulatory agency to take final action and to memorialize that the installation commander scrupulously complied with all known requirements.

(4) Finally, within five working days after regulatory agency receipt of the second letter without response, the installation or unit shall update EMR and the Marine Corps environmental program database tool to record the EA's closure.