



DEPARTMENT OF THE NAVY

NAVAL FACILITIES ENGINEERING COMMAND

200 STOVALL STREET

ALEXANDRIA, VA 22332

IN REPLY REFER TO
1121B/PAP

17 AUG 1982

From: Commander, Naval Facilities Engineering Command

Subj: Responsibilities and Fund Sources for Clean-up of Hazardous Waste (HW)
Disposal SitesRef: (a) OPNAVNOTE 6240 Ser 45/733503 of 11 Sep 80
(b) OPNAVINST 11010.20D of 8 Mar 79
(c) OPNAVINST 6240.3E of 5 Jun 77Encl: (1) CNO Ltr Ser 451/399355 of 17 Dec 81
(2) CNO Ltr Ser 925C4/331028 7040/EIP of 23 Jul 82

1. Enclosure (1) defines responsibilities and funding sources for clean-up of hazardous waste (HW) disposal sites. The purpose of this letter is to emphasize the role of the EFD and provide clarification and additional guidance concerning funding aspects of such clean-up actions.
2. Reference (a) established the Navy Assessment and Control of Installation Pollutants (NACIP) program to systematically investigate old sites resulting from disposal of HW or spills of hazardous material (HM). EFDs are tasked to provide support to the NACIP program. One specific task is to provide, on a continuing basis, information to this Headquarters and the Naval Energy and Environmental Support Activity (NAVENENVSA) concerning recommended priorities for Initial Assessment Studies (IASs) for Navy and Marine Corps shore activities in their geographic area. The IAS schedule may be revised at the recommendation of the EFD. However, if physical evidence of a problem becomes known at a site not programmed for near-term investigation through the NACIP program (e.g., contaminated leachate production visible at an old site), then remedial measures may be developed by the activity, with the active assistance of the EFD.
3. Paragraphs 4.b. and 5.a. of enclosure (1) state that centrally-managed Pollution Abatement (P/A) funds shall pay for clean-up of "old" HM spills or past HW disposal sites. This statement does not preclude the use of other funding sources for such clean-up efforts. Further, reference (b) states that Navy industrial funded (NIF) activities responsible for accomplishing clean-up shall fund the clean-up as a normal cost of operation. Therefore, NIF funds will be used for clean-up of an off-station site where the NIF activity contracted for disposal and the owner or operator of the site cannot be identified, or is financially incapable of clean-up, and for clean-up of disposal sites on property owned by a NIF activity. However, P/A funds are intended to be used for IAS investigations and Confirmation Studies at all activities, including NIF activities.

Subj: Responsibilities and Fund Sources for Clean-up of Hazardous Waste (HW) Disposal Sites

4. With respect to enclosure (1), the following guidance pertains:

a. It is not intended that P/A funds be used to initiate remedial actions at sites where in situ conditions pose no imminent and substantial danger to public health or the environment. The IAS will document these old disposal sites for EFD and activity planners and real estate specialists to assure that planning, programming, and real estate excessing/disposal actions assess the effects of special conditions at the site. Unusual site conditions documented during an IAS should be considered in the development of the scope of any projects proposed at such sites. Additional costs resulting should be identified in the project documentation.

b. Much of the effort associated with clean-up of old dump sites is of an operational nature, for which project documentation (Step I and Step II) and approval is not required. This would include almost all actions taken by and at the discretion of an activity or contractor charged with responsibility for clean-up of a site, so long as those actions do not constitute construction or improvement of a permanent Navy-owned real property facility or structure that must be maintained by the Navy on a permanent basis. Removal of contaminated earth, or excavating a temporary trench to collect contaminated ground water during either government or contractor clean-up efforts are also operational requirements.

c. Some judgment must be exercised in the determination of the intent of a particular clean-up action. In the near term, the installation of a fence around the site may be required to protect equipment and control access to the site during both the construction and operational phases of the site clean-up. This temporary requirement is an operational expense to the activity or contractor. However, upon completion of the clean-up effort, conditions may exist at the site which dictate the long term need for permanent security fencing. Whenever possible, this decision should be made in the initial scope development of the clean-up effort, and work associated with permanent facilities categorized as construction. Modification of existing facilities to provide measures for the correction of such problems are also considered construction.

d. Equipment (Class III Plant Property) installed for a clean-up operation will follow the rules for procurement and equipment installation. The installation of the equipment may require a project if the funding level exceeds the Commanding Officer's approval authority. Contractor or government-furnished equipment used for clean-up of a site is properly chargeable to the clean-up; no facility project is required.

5. Clean-up of such sites is a contingency requirement for which funds cannot readily be programmed in the budget. Reprogramming actions may become necessary during an execution year in order to provide adequate P/A funding. Therefore, NAVFACENCOMHQ (112) should be notified by the EFD and/or the activity as soon as a potential clean-up situation is known. A Pollution Control Report exhibit should be initiated and submitted for approval at the earliest possible time.

114
1143

Subj: Responsibilities and Fund Sources for Clean-up of Hazardous Waste (HW) Disposal Sites

6. The EFDs are tasked by CNO in reference (c) to provide technical advice and assistance to Navy installations in environmental engineering, including clean-up of spills and past disposal sites. EFDs (Code 114s) should aggressively pursue all aspects of clean-up solutions, including defining scope, evaluating alternative treatment, negotiating with regulatory agencies, assisting in cost estimating and contract bid package preparation, participating in A&E/contractor selection, and monitoring remedial construction to the maximum extent feasible, in order to assure cost-effective and timely clean-up in these sensitive cases.

E. R. Oscarson

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Deputy Commander for
Facilities Management

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08-117/82

IN REPLY REFER TO
Ser 451/399355
17 December 1981

From: Chief of Naval Operations
To: Distribution

Subj: Responsibilities and Fund Sources for Clean-up of Hazardous Waste (HW) Disposal Sites and Hazardous Material (HM) Spills

Encl: (1) HW Disposal Sites - Clean-up Scenarios and Funding Aspects
(2) Clean-up of HW Sites and HM Spills Responsibilities and Funding

Ref: (a) Resource Conservation and Recovery Act, 42 USC 6901
(b) Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("Superfund")

1. In the past, some Navy activities may have occasionally disposed of hazardous wastes (HW) by burial on Navy land, or contracted to have it disposed of off station. These were generally lawful practices at that time. Only recently have the potentially serious environmental effects of such practices been recognized. Similarly, the accidental spilling of hazardous materials (HM) can have serious environmental consequences.

2. Recently enacted laws have established very stringent requirements concerning current disposal practices (reference (a)) and clean-up responsibilities for HW disposal sites and HM spills (reference (b)). It is Navy policy to react responsibly and rapidly in HW/HM clean-up situations as public concern is very high and environmental damage is always a consideration. The purpose of this letter is to define clean-up responsibilities and the sources of funds for such actions.

3. HW Disposal Site Clean-up. There are two basic situations:

a. A Navy installation has, in the past, contracted for hazardous waste disposal at an off-station private or commercial disposal site. In the event of subsequent contamination, or imminent contamination, the operator and/or owner of the site is responsible for any clean-up actions. However, if the operator and/or owner cannot be identified, or is financially incapable of clean-up, the activity that contracted for the disposal may be liable for clean-up. This, of course, can be a legally complicated situation which, among other things, will involve a case-specific determination of Navy liability and identification of that portion of the wastes at the site that were generated by the Navy.

b. A Navy installation or a tenant on the installation has disposed of HW on land that is now owned by the Navy, and such

ENCLOSURE (1)

HW disposal is found to cause environmental contamination, or be an imminent danger to the environment.

4. Responsibilities for clean-up of HW disposal sites are as follows:

a. The activity that contracted for off-station disposal (paragraph 3a) has the basic responsibility for accomplishing clean-up if the owner or operator of the disposal site cannot be identified, or is financially incapable of clean-up. In the paragraph 3b on-station disposal situation, the installation that owns the disposal site area is responsible for any required clean-up. In all instances, technical assistance in arranging for the clean-up is available from Engineering Field Divisions (EFD) of the Naval Facilities Engineering Command (NAVFACENGCOM).

b. In cases involving the clean-up of past HW disposal sites, either on or off-station, funding shall be from centrally managed Pollution Abatement Resources administered by COMNAVFACENGCOM. Enclosure (1) provides the proper appropriation and limitations applicable to typical HW clean-up scenarios, and enclosure (2) tabulates clean-up and funding responsibilities.

5. HM Spills. The clean-up of HM spills typically involves the functions of removal of contamination, containerization and disposal of contaminated residue, and site restoration. Responsibilities are as follows:

a. Responsibility for all clean-up functions for "old" spills, (those that occurred before 1 January 1981) rests with the installation on whose property the contamination exists. Funding for clean-up of "old" spills, shall be from centrally managed pollution abatement funds administered by COMNAVFACENGCOM.

b. Responsibility for all clean-up functions for spills which occurred in the 1 January 1981 to 1 October 1982 time frame rests with the installation on whose property the contamination exists. Funding for the clean-up shall be by the spilling activity, whether Navy or non-Navy.

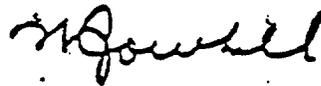
c. The Defense Logistics Agency (DLA) has been assigned to program for disposal of residues from HM spills that occur in FY83 and later. Thus, beginning 1 October 1982, responsibility for removal and containerization of contaminated residue and site restoration continues to rest with the installation on whose property the contamination exists; however, DLA has responsibility for final and proper disposal (including funding) of properly identified and containerized residue. Funding for the removal and containerization of contaminated residue and site restoration shall be by the spiller, whether Navy or Non-Navy.

d. Installation Commanders/Commanding Officers may delegate clean-up functions, as appropriate, e.g., delegation to the spiller who may be particularly expert in handling the spilled material.

08/17/82

6. Enclosure (2) provides a tabular description of HM spill clean-up and funding responsibilities.

7. It is imperative that funding requirements for those cases that are to be funded from the centrally managed pollution abatement program, as set forth in paragraphs 3, 4, and 5, be made known to COMNAVFACENGCOM as soon as the requirement for clean-up is known. Such requirements shall be forwarded to the appropriate NAVFACENGCOM EFD by message and copies provided to COMNAVFACENGCOM, the Chief of Naval Material, and the Chief of Naval Operations.



W. J. COWHILL
Deputy Chief of Naval
Operations (Logistics)

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HW DISPOSAL SITES - CLEANUP SCENARIOS
AND FUNDING ASPECTS

| <u>SCENARIO</u> | <u>APPROPRIATION</u> | <u>DOLLAR LIMITATION</u> | <u>RATIONALE</u> |
|--|----------------------|--------------------------|---|
| A. Navy hires contractor to: | | | |
| 1. Evaluate HW contamination, determine appropriate solution, design equipment, etc., for solution, and/or | O&M | None | Does not involve acquisition of new facilities |
| 2. Enter Navy owned site at which HW is buried, dig it up, categorize it, containerize it, have it hauled away to an approved disposal site and dispose of it therein, and/or | O&M | None | Does not involve acquisition of new facilities |
| 3. Bring in potable water treatment equipment and pumps, operate the equipment for several years to pump water from the soil, treat it to remove contaminants, and return it to the soil, and/or | O&M | None | Does not involve acquisition of new facilities |
| 4. Dig a trench and place a clay barrier in the trench to intercept contaminant-laden ground water, and/or | O&M | None | The clay barrier and the clay cap are not "real property improvements" |
| 5. Place a clay or asphalt cap over the HW site, and/or | O&M | None | |
| 6. Drill monitoring (test) wells to take groundwater samples and prove groundwater is/is not polluted, and/or | O&M | None | The test wells are not for water production and do not add to the capability of any facet of the activity. The fence also does not add to the capability of the activity. |
| 7. Build a fence around the contaminated site. | O&M | None | |

| <u>SCENARIO</u> | <u>APPROPRIATION</u> | <u>DOLLAR LIMITATION</u> | <u>RATIONALE</u> |
|--|----------------------|-------------------------------|--|
| B. Navy: | | | |
| 1. Builds utilities and roads to contractor facilities described above and/or | O&M or MILCON | O&M-\$100K MILCON- None | Minor construction (O&M) |
| 2. Builds a water treatment facility to pump water from the soil, treat it to remove contaminants, and return the water to the soil and or | | | |
| 3. Pays to a state HW control agency funds to cover the Navy share of a state clean up of an off-station site used by many other dumpers. The state clean up involves all features described in A1-A6. | O&M | None | Does not involve acquisition of new facilities |

CLEAN UP OF HW SITES AND HM SPILLS

RESPONSIBILITIES AND FUNDING

| <u>SITUATION</u> | <u>CLEAN UP RESPONSIBILITY</u> | <u>FUNDING RESPONSIBILITY</u> |
|---|--|--|
| Past Contracted off-installation Disposal (para 3.a.) | Activity which contracted for the disposal | NAVFACENGCOM Pollution Abatement |
| Past on-installation Disposal (para 3.b.) | Installation | NAVFACENGCOM Pollution Abatement |
| HM Spill on Navy installation prior to 1 Jan 81 | Installation | NAVFACENGCOM Pollution Abatement, if spill by Navy. If spill by others, funding by others. |
| HM Spill on Navy installation after 1 Jan 81 | *Installation | *Spilling activity, whether Navy, or non-Navy |

*See paragraph 5.c. Beginning 1 October 1982, DLA is responsible for final and proper disposal of residue.



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23 JUL 1982

From: Chief of Naval Operations
To: Distribution

Subj: Funding the Clean up of Hazardous Waste (HW) Disposal Sites and
Hazardous Material Spills

Ref: (a) CNO ltr Ser 451/399355 of 17 Dec 81

1. Clarification of the funding responsibilities established in reference (a) is required with respect to Navy industrial funded (NIF) activities.
2. The funding responsibilities given in paragraphs 4b and 5a of reference (a) are correct as given, except that where a NIF activity is responsible for accomplishing the clean up, such activity shall also be responsible for funding the clean up as a normal cost of operations.

R. A. MILLER
REAR ADMIRAL, USN
By direction

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