

VOLUME 6

“AIR QUALITY MANAGEMENT”

SUMMARY OF VOLUME 6 CHANGES

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VOLUME 6: AIR QUALITY MANAGEMENT

TABLE OF CONTENTS

REFERENCES.....REF-1

CHAPTER 1: SCOPE1-3

0101 PURPOSE1-3

0102 APPLICABILITY1-3

0103 BACKGROUND.....1-4

CHAPTER 2: AUTHORITY2-3

0201 FEDERAL STATUTES2-3

CHAPTER 3: REQUIREMENTS.....3-3

0301 GENERAL3-3

030101 AQCRs.....3-3

030102 NAAQS.....3-3

030103 SIPs AND FEDERAL IMPLMENTATION PLANS (FIPs).....3-4

030104 CONFORMITY RULE.....3-4

0302 STATIONARY SOURCE PROVISIONS3-6

030201 NEW SOURCE PERFORMANCE STANDSRDS (NSPS).....3-6

030202 NESHAPs3-6

030203 NSR.....3-7

030204 TITLE V OPERATING PERMITS3-10

030205 STATE AND LOCAL PERMIT AND REGULATORY PROGRAMS.....3-12

030206 FUEL STANDARDS.....3-12

0303 MOBILE SOURCE PROVISIONS3-12

030301 EMISSION CONTROL STANDARDS3-13

ENVIRONMENTAL COMPLIANCE AND PROTECTION PROGRAM

Volume 6

MCO 5090.2 – V6

11 JUN 2018

030302 TAMPERING WITH EMISSIONS CONTROLS.....3-13

030303 FUEL STANDARDS.....3-13

030304 NONROAD ENGINES.....3-14

030305 VEHICLE I/M3-14

030306 ALTERNATIVE FUEL VEHICLES (AFVs)3-15

030307 AIRCRAFT.....3-15

0304 MISCELLANEOUS PROVISIONS3-16

030401 VISIBILITY PROTECTION.....3-16

030402 ENFORCEMENT/CITIZEN SUIT PROVISIONS3-16

030403 JET ENGINE TEST CELLS.....3-17

030404 FEDERAL CONTRACTOR RESTRICTIONS3-17

030405 ACID RAIN3-18

030406 AEROSPACE AND MARINE COATINGS.....3-18

030407 TRAINING3-18

030408 PRESCRIBED BURNING/VEGETATION MANAGEMENT3-19

030409 ENVIRONMENTAL COMPLIANCE3-19

0305 OZONE DEPLETING SUBSTANCES (ODSs).....3-19

0306 GREENHOUSE GAS (GHG) EMISSIONS3-19

030601 GHG REPORTING PROGRAM (GHGRP).....3-20

030602 GHG EMISSION REPORTING AND REDUCTION REQUIREMENTS3-20

0307 RADON.....3-21

030701 TEST AND MITIGATE3-21

030702 MONITOR.....3-21

030703 PREVENT.....3-21

ENVIRONMENTAL COMPLIANCE AND PROTECTION PROGRAM

Volume 6

MCO 5090.2 – V6

11 JUN 2018

0308 EMISSION REDUCTION CREDITS (ERCs)3-22

0309 AIR POLLUTION EMERGENCY EPISODES3-23

0310 AIRBORNE RADIONUCLIDE EMISSIONS3-23

0311 ASBESTOS NATIONAL EMISSION STANDARD FOR HAZARDOUS AIR
POLLUTANT (NESHAP)3-23

TABLE 3-1. GENERAL CONFORMITY THRESHOLD RATES FOR CRITERIA
POLLUTANTS OR PRECURSORS IN NONATTAINMENT AND
MAINTENANCE AREAS3-4

TABLE 3-2. PRIMARY APPLICABLE REQUIREMENTS IN NONATTAINMENT AREAS ..3-8

CHAPTER 4: RESPONSIBILITIES4-3

0401 COMMANDANT OF THE MARINE CORPS (CMC) (LF)/COMMCICOM (GF).....4-3

0402 COMMANDING GENERAL (CG)/COMMANDING OFFICER (CO) MARINE CORPS
EAST, WEST, PACIFIC, AND NATIONAL CAPITAL REGION4-3

0403 MARINE CORPS REGIONAL ENVIRONMENTAL COORDINATORS (RECs)4-3

0404 COMMANDING GENERAL (CG)/COMMANDING OFFICER (CO) OF MARINE CORPS
INSTALLATIONS AND COMMARFORRES4-4

0405 COMMANDERS OPERATING ABOARD MARINE CORPS INSTALLATIONS4-6

APPENDICES

A FEDERAL STATUTES, FEDERAL REGULATIONS, EXECUTIVE ORDERS, AND
DEPARTMENT OF DEFENSE (DOD) POLICIESA-1

REFERENCES

- (a) Sections 7401 et seq. of Title 42, United States Code (42 U.S.C. 7401 et seq.) (also known as “Clean Air Act,” (CAA) as amended)
- (b) 42 U.S.C. 11001
- (c) Defense Logistics Agency (DLA), “DoD Ozone Depleting Substances: Turn-in Procedures,” June 2014
- (d) DLA, “DoD Ozone Depleting Substances: Requisitioning Procedures,” June 2015
- (e) MCO 5100.8
- (f) Part 61 of Title 40, Code of Federal Regulations (40 CFR 61)
- (g) Public Law 91-604, “1970 Clean Air Amendments,” December 31, 1970
- (h) Public Law 95-95, “1977 Clean Air Amendments,” November 16, 1977
- (i) Public Law 101-549, “1990 Clean Air Amendments,” November 15, 1990
- (j) 40 CFR 81
- (k) 40 CFR 50
- (l) U.S. Environmental Protection Agency (EPA), “The Green Book,” January 1994
- (m) 40 CFR 52
- (n) Environmental Protection Agency Memorandum, “Major Source Determinations for Military Installations under the Air Toxics, New Source Review, and Title V Operating Permit Programs of the CAA,” August 2, 1996
- (o) 40 CFR 60
- (p) 40 CFR 62
- (q) 40 CFR 63
- (r) 40 CFR 51
- (s) 40 CFR 70
- (t) 40 CFR 71
- (u) EPA, “White Paper for Streamlined Development of Part 70 Permit Applications,” July 10, 1995
- (v) EPA, “White Paper Number 2 for Improved Implementation of Part 70 Operating Permits Program,” March 5, 1996
- (w) EPA, “White Paper Number 3, Draft Guidance on Designing Flexible Permits,” August 7, 2000
- (x) Public Law 109-58, “Energy Policy Act of 2005,” August 8, 2005
- (y) Public Law 110-140, “Energy Independence and Security Act of 2007,” December 19, 2007
- (z) 66 FR 5002, January 18, 2001
- (aa) EPA 420-D-99-003, “Draft Interim Guidance for Federal Facilities Compliance with CAA sections 118(c) and 118(d) and Applicable Provisions of State Vehicle Inspection and Maintenance Programs,” December 1999
- (ab) 40 CFR 87
- (ac) Executive Order (E.O.) 13693, “Planning for Federal Sustainability in the Next Decade,” March 19, 2015
- (ad) DASN (EI&E) Memorandum, “Department of the Navy Process for Reviewing Potential Settlements of Penalties for Past Violations of the Clean Air Act,” May 14, 2012
- (ae) 40 CFR 22
- (af) 40 CFR 19

ENVIRONMENTAL COMPLIANCE AND PROTECTION PROGRAM

Volume 6

MCO 5090.2 – V6

11 JUN 2018

- (ag) 40 CFR 59
- (ah) 40 CFR 54
- (ai) Public Law 99-499, “Superfund Amendments and Reauthorization Act,” October 17, 1986
- (aj) 29 CFR 1910
- (ak) EPA, “Interim Air Quality Policy on Wildland and Prescribed Fires,” April 23, 1998
- (al) 40 CFR 82
- (am) United Nations Environment Programme, “Montreal Protocol on Substances that Deplete the Ozone Layer,” 2000
- (an) 40 CFR 98
- (ao) White House Council on Environmental Quality, “Federal Greenhouse Gas Accounting and Reporting Guidance: Technical Support Document,” June 4, 2012
- (ap) Office of the Assistant Secretary of Defense (Energy, Installations and Environment), “DoD Guidance for Greenhouse Gas Reporting Under E.O. 13693,” July 27, 2015
- (aq) “Navy Radon Assessment and Mitigation Program Guidebook for Naval Shore Installations,” June 2015
- (ar) 10 U.S.C. §2687
- (as) Public Law 101-510, “Defense Base Closure and Realignment Act,” November 5, 1990
- (at) DoD 4165.66-M, “Base Redevelopment and Realignment Manual,” March 2006
- (au) DASN (E) Memorandum, “Air Emission Rights at Department of Defense Installations,” July 12, 2012
- (av) 10 U.S.C. §2571
- (aw) MCO 5104.3B
- (ax) Page 8820 of Volume 38, Federal Register, April 6, 1973 (38 FR 8820)
- (ay) SECNAV M-5210.1

VOLUME 6: CHAPTER 1

“SCOPE”

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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CHAPTER 1

SCOPE

0101 PURPOSE

This Volume establishes Marine Corps policy and responsibilities for compliance with air quality and emissions requirements for stationary, mobile, and fugitive sources of emissions consistent with sections 7401 et seq. of Title 42, United States Code (42 U.S.C. 7401 et seq.) (also known and referred to in this order as “Clean Air Act,” (CAA) as amended) (Reference (a)), Department of Defense (DoD) and Department of the Navy (DON) policy, and Marine Corps policy and guidance.

0102 APPLICABILITY

010201. See Volume 1, paragraph 0102. Reference (a) applies to installations and activities throughout the United States, as well as within the territories and possessions of the United States to include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

010202. Volume 7 of this Order covers statutes, regulations, and policy applicable to emergency planning and response requirements, to include CAA section 112(r) requirements relating to prevention of accidental releases of hazardous and extremely hazardous substances (e.g., Risk Management Plans and the General Duty clause). In addition, it covers the annual air emissions reporting requirements in accordance with the Toxics Release Inventory provisions of 42 U.S.C. 11001 et seq. (also known and referred to in this order as “Emergency Planning and Community Right-to-Know Act” (EPCRA)) (Reference (b)) and release reporting requirements regarding extremely hazardous substances.

010203. DoD policy and guidance on turn-in and requisitioning procedures for ozone depleting substances (ODSs) and the ODS reserve are addressed in Defense Logistics Agency (DLA), “DoD Ozone Depleting Substances: Turn-in Procedures,” June 2014 (Reference (c)) and DLA, “DoD Ozone Depleting Substances: Requisitioning Procedures,” June 2015 (Reference (d)). The ODS emission reduction requirements of leak detection and repair or required replacement of refrigeration and comfort cooling equipment, recovery and reclamation, certification of recovery equipment and technicians, and recordkeeping and reporting appear in this volume.

010204. Radon policy, as specified in this volume, also applies to overseas installations.

010205. This Volume covers the requirements and policy regarding compliance with the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAPs) as described in subpart M of Part 61 of Title 40, Code of Federal Regulations (40 CFR 61) (Reference (f)). The Marine Corps Asbestos Safety Program and workplace policy to eliminate or limit potentially harmful exposure to asbestos is covered in MCO 5100.8 (Reference (e)).

0103 BACKGROUND

Early efforts to control air pollution were predominantly state and local actions taken in accordance with public nuisance laws and ordinances to reduce visible smoke emissions or abate noxious odors. While the early opacity and odor laws and regulations remain available for local governments, and in some cases private citizens, to take actions to abate air pollution under nuisance theories, the vast majority of air pollution control laws and regulations today are the result of requirements driven by Reference (a). The first federal air pollution law was passed in 1955, but its primary purpose was to provide financial assistance to the states to study the problem and develop local solutions. In 1963, Congress enacted Reference (a), which was the first federal air pollution control law with any type of enforcement mechanism, specifically, procedures to control interstate air pollution. Reference (a) was amended in 1967, 1970, 1977, and again in 1990. Public Law 91-604, “1970 Clean Air Amendments” (Reference (g)) laid the foundation for the modern version of Reference (a). Reference (g) together with Public Law 95-95, “1977 Clean Air Amendments” (Reference (h)) and, particularly Public Law 101-549, “1990 Clean Air Amendments” (Reference (i)), resulted in what is widely regarded as the most comprehensive, complex, stringent, and technology-forcing environmental law ever enacted by Congress. Reference (a) primarily regulates three major categories of pollutants: criteria pollutants, hazardous air pollutants (HAPs), and stratospheric ODSs. Reference (g) established a federal, State, and local partnership to control air pollution. The states were required to bear the primary implementation and enforcement responsibility for programs developed under the direction and oversight of the U.S. Environmental Protection Agency (EPA). Reference (a) divides the Nation into air quality control regions (AQCRs) and requires EPA to develop and monitor primary and secondary National Ambient Air Quality Standards (NAAQS) for criteria pollutants within those AQCRs to protect the public health and general welfare, respectively. Each state must achieve or maintain these standards by developing a State Implementation Plan (SIP) that outlines how each AQCR will attain or maintain the NAAQS for EPA. In turn, air emission sources are required to comply with the abatement and control measures set forth in the individual SIPs that are designed to achieve or maintain the standards. Reference (a) also requires EPA to develop and implement national uniform standards for HAPs and NESHAPs as described in Reference (f) to protect public health, to develop and implement national uniform emission standards for newly manufactured motor vehicles and non-road engines and vehicles, and to develop control programs for ODSs to protect the stratospheric ozone layer.

VOLUME 6: CHAPTER 2

“AUTHORITY”

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CHAPTER 2

AUTHORITY

0201 FEDERAL STATUTES

020101. Clean Air Act of 1963, as amended (42 United States Code (U.S.C.) 7401 et seq.).

020102. Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 et seq.).

020103. The Alternative Motor Fuels Act of 1988, as Amended (Public Law 100-494).

020104. The Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.).

020105. Toxic Substances Control Act of 1976 (15 U.S.C. 2601 et seq.).

020106. Energy Independence and Security Act of 2007 (Public Law 110-140).

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VOLUME 6: CHAPTER 3

“REQUIREMENTS”

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CHAPTER 3

REQUIREMENTS

0301 GENERAL

Marine Corps installations will comply with all applicable federal, state, and local air quality management laws, regulations, Executive Orders, Marine Corps, Navy, and DoD policies.

030101. Air Quality Control Regions (AQCRs)

The regulations in 40 CFR 81 (Reference (j)) contain the published designations of AQCRs and the attainment, unclassifiable, and nonattainment designations for each state. Installations should consult the regulations in Reference (j) to determine their AQCR and its applicable designation.

030102. National Ambient Air Quality Standards (NAAQS)

The regulations at 40 CFR 50 (Reference (k)) contain the primary and secondary NAAQS for each criteria pollutant. Some regulatory requirements are fundamental and apply to sources in all areas, regardless of their attainment status, while other requirements apply only to sources located in nonattainment and/or maintenance areas. Installations should consult the regulations in Reference (k) to determine the area status, the applicable NAAQS, and what to do to ensure that their action will not cause or contribute to an exceedance of the NAAQS or prevent reasonable progress towards attainment of the NAAQS for their designated area. Certain regulatory requirements are considered fundamental and apply to all areas, regardless of their attainment status, while other requirements apply only to nonattainment and maintenance areas, such as the General Conformity requirements. For help determining attainment, nonattainment, and maintenance area designations, refer to section 6104.1 of Reference (j); EPA “The Green Book,” January 1994 (Reference (l)), or contact the state or local air pollution control office or the appropriate EPA Regional Office. With respect to the NAAQS, EPA classifies all areas in the country as follows:

A. Unclassifiable

Any area that, on the basis of available information, cannot be classified as meeting or exceeding the NAAQS for a specific pollutant.

B. Attainment

Any area that meets the NAAQS for a specific pollutant.

C. Nonattainment

1. Any area that does not meet (or that contributes to ambient air quality in a nearby area which does not meet) the NAAQS for a specific pollutant.
2. A nonattainment area that achieves the NAAQS and becomes redesignated as an attainment area remains subject to maintenance plan requirements for a statutorily defined

period. These redesignated areas are referred to as maintenance areas. Maintenance areas are subject to the General Conformity requirements discussed below.

030103. State Implementation Plan (SIPs) and Federal Implementation Plans (FIPs)

A. EPA-approved SIP rules for each state are published in 40 CFR 52 (Reference (m)). States may require pollution control and prevention measures more stringent than EPA, but cannot allow measures that are less. Section 110(c) of Reference (a) requires EPA to issue a FIP when a state has failed to make a required SIP submission, when the SIP submission does not satisfy the minimum criteria, or when a SIP submission has been disapproved in whole or in part and the State has not corrected the deficiency in a timely manner. Typically, a SIP is disapproved because it does not contain sufficiently strict requirements to demonstrate attainment. A FIP generally will contain requirements that apply to more types of sources and that control emissions more stringently than did the SIP. States have the primary responsibility for implementing the CAA goals. Each state must develop a SIP that outlines the state’s strategy for achieving and maintaining the NAAQS. EPA oversees this process.

B. Marine Corps installations shall identify and take reasonable steps to quantify emissions growth planning requirements and coordinate them with the Regional Environmental Coordinator (REC) and regulatory agencies during SIP revision planning activities.

030104. Conformity Rule

Marine Corps commands located in nonattainment or maintenance areas shall comply with the requirements of the CAA General Conformity Rule by making a determination that an action conforms to the SIP or FIP before proceeding with the action. Conformity determinations typically will be conducted at the same time as National Environmental Policy Act of 1969 (NEPA) analysis and documentation procedures are done for the planned action (see NEPA procedures in Volume 12 of this Order).

A. Prohibition

Section 176(c) of Reference (a) prohibits any federal agency from engaging in, supporting, providing financial assistance for; or licensing, permitting, or approving any activity that does not conform to an applicable SIP or FIP. EPA outlines criteria and procedures for determining conformity for all federal agencies. USMC shall determine whether its action conforms to the SIP or FIP prior to implementing it. Conformity analysis is usually performed as part of the NEPA analysis for an action and included in the NEPA documentation. The General Conformity Rule applies only to federal actions estimated to exceed certain thresholds in areas designated as nonattainment or maintenance (defined in paragraph 030104). The nonattainment and maintenance area General Conformity thresholds are set out in Table 3-1.

Table 3-1.--General Conformity Threshold Rates for Criteria Pollutants or Precursors in Nonattainment and Maintenance Areas

	Tons per year
Ozone (Volatile Organic Compounds (VOCs) or Nitrogen Oxide (NO _x)):	

Table 3-1.--General Conformity Threshold Rates for Criteria Pollutants or Precursors in Nonattainment and Maintenance Areas

	Tons per year
Serious nonattainment areas	50
Severe nonattainment areas	25
Extreme nonattainment areas	10
Other ozone nonattainment areas outside an ozone transport region	100
Ozone (NO _x), Sulfur Dioxide (SO ₂), or Nitrogen Dioxide (NO ₂):	
All maintenance areas	100
Ozone (VOCs):	
Maintenance areas inside an ozone* transport region	50
Maintenance areas outside an ozone* transport region	100
Marginal and moderate nonattainment areas inside an ozone transport region:	
VOC	50
NO _x	100
Carbon monoxide:	
Moderate	100
Serious	50
All maintenance areas	100
SO ₂ or NO ₂ :	
All nonattainment areas	100
Particulate Matter of 10 microns or less (PM ₁₀):	
Moderate nonattainment areas	100
Serious nonattainment areas (NAAs)	70
All maintenance areas	100
Particulate Matter of 2.5 microns or less (PM _{2.5}) (and all precursors):	
Both nonattainment and maintenance areas	100
Lead:	
All nonattainment areas	100
All maintenance areas	25

B. SIP Revision

SIP conformity criteria and procedures may be more stringent than EPA rules, if the State adopts conformity requirements that are equally applicable to all nongovernmental sources. If this is the case, then installations shall comply with the provisions in the SIP.

0302 STATIONARY SOURCE PROVISIONS

It is Marine Corps policy to comply with all federal, state, and local emission control standards and all other provisions of Reference (a) and with specific air emission permit conditions for all stationary sources. Stationary sources are categorized as either major or minor based on their potential to emit regulated air pollutants. The determinations of “major” sources on military installations may be essentially the same as for non-military industrial and commercial facilities; however, some facilities may currently be inequitably characterized as a single stationary source of emissions fence-line to fence-line. EPA issued guidance to ensure equitable treatment for the regulation of military stationary sources, “Major Source Determinations for Military Installations under the Air Toxics, New Source Review, and Title V Operating Permit Programs of the CAA,” August 2, 1996 (Reference (n)). States are not required to apply the EPA guidance, but installations should consider the potential benefits of applying it to their facility operations and coordinate with their state or local regulatory agency for approval to apply it as appropriate.

030201. New Source Performance Standards (NSPS)

Installations are required to comply with applicable NSPS. The extensive regulations for the NSPS program, over 1,000 pages, are contained in 40 CFR 60 (Reference (o)). The NSPS require covered new or modified stationary sources to install “the best system of emissions reduction” that EPA has determined has been adequately demonstrated. The NSPS apply to a wide variety of stationary source categories, regardless of location and any applicable Prevention of Significant Deterioration (PSD) or nonattainment New Source Review (NSR) requirements. Installation of any new equipment/facilities that are legally required for emissions reduction should be done as environmental projects (CMP10 or MILCON), using the proper funding stream depending on funding thresholds and whether it is a repair or construction project. The provisions of this regulation apply to the owner or operator of any stationary source that contains an affected facility, the construction, reconstruction, or modification of which is commenced after the date of publication in Reference (o) of any standard (or, if earlier, the date of publication of any proposed standard) applicable to such facility. Examples of source categories with applicable NSPS requirements include, but are certainly not limited to, municipal waste combustors, fossil-fuel fired steam generators, incinerators, storage vessels for petroleum liquids, and volatile organic liquid storage vessels. Before constructing any new stationary source, modifying an existing stationary source, or operating any new or modified stationary source Marine Corps commands shall determine whether or not the stationary source is subject to the NSPS.

030202. National Emission Standard for Hazardous Air Pollutant (NESHAPs)

NESHAP regulations appear in Reference (f) and 40 CFR 62 (Reference (p)). NESHAP regulations contained in Reference (e), such as the asbestos NESHAP, are those promulgated by EPA prior to Reference (i) which amended Reference (a). Installations will consult Reference (p), which

contains all of the NESHAPs promulgated to date for the numerous source categories established for the 190 HAPs initially listed under section 112 of Reference (a) by Reference (i), to determine the applicable NESHAP source category and its compliance requirements.

A. Major Source

A major source of HAPs is any stationary source (or group of stationary sources) located within a contiguous area and under common control that emits or may emit, 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAPs.

B. Area Source

An area source of HAPs is any stationary source of HAPs that is not a major source. The term does not include motor vehicle or non-road vehicle sources.

C. Source Categories

Each source category and subcategory indicates whether the HAPs sources are considered to be “major” sources or “area” sources. EPA is required to establish and revise NESHAPs standards for each listed source category per prescribed schedule. NESHAPs applicability provisions are located in Reference (f) and 40 CFR 63 (Reference (q)).

D. Emission Standards

EPA must establish technology-based emission standards that achieve the maximum degree possible of emissions reductions for new and existing sources in the appropriate category, while giving consideration to cost, non-air quality health and environmental impacts, and energy requirements. Measures to achieve the desired emissions standards include: implementing process changes; material substitutions; and measures to treat or control emissions, generally through the application of Maximum Achievable Control Technology (MACT). EPA also must review the MACT standards within 8 years of promulgation to determine if any residual risk to public health remains. If so, EPA must develop and issue health-based standards in addition to the MACT that provide an ample safety margin to protect public health.

030203. New Source Review (NSR)

The CAA Preconstruction Permit Program is implemented under three types of preconstruction permitting programs: PSD, Nonattainment NSR, and Minor NSR. It is designed to ensure that no new or reconstructed source will have a significant adverse impact on air quality. Installations shall obtain required permits for air emission sources prior to project start and comply with federal, state, and local requirements, which vary with the local ambient air quality, project size, and potential emissions.

A. Prevention of Significant Deterioration (PSD)

PSD applies to pollutants from new major sources or major modifications at existing sources where the source is located in a NAAQS attainment or maintenance area. The PSD program

requires Best Available Control Technology (BACT), air quality analysis, additional impacts analysis, and public involvement. Before construction starts, installations shall determine the applicable PSD program permit requirements pursuant to section 166 of 40 CFR 51 (Reference (r)).

B. Nonattainment New Source Review (NSR)

Nonattainment NSR applies to pollutants from new major sources or major modifications at existing sources where the source is located in a NAAQS nonattainment area. The Nonattainment NSR program requires the installation of the lowest achievable emission rate (LAER), emission offsets, and opportunity for public involvement. Table 3-2 provides the major source thresholds established under the NSR program pursuant to section 165 of Reference (r). Installations shall comply with the applicable permit requirements pursuant to section 165 of Reference (r).

Table 3-2.-- Primary Applicable Requirements in Nonattainment Areas

Area Designation	Summary of Applicable Requirements ^{a,b}
Pollutant: Ozone	
Subpart 1c	State shall complete emissions inventory, to be updated every 3 years. Will obtain data from sources. NSR offset ratio for volatile organic compounds (VOCs) and nitrogen oxides (NOx) of 1 to 1.
Marginal	State shall complete emissions inventory, to be updated every 3 years. Will obtain data from sources. Specific requirements for VOC and NOx emissions. Basic motor vehicle inspection and maintenance (I/M) program. NSR offset ratio for VOCs and NOx of 1.1 to 1.
Moderate	Requirements of marginal areas plus: Reasonably available control technology (RACT) applies to all major stationary VOC and NOx sources. Stage II vapor recovery required. NSR offset ratio 1.15 to 1.
Serious	Requirements of moderate areas plus: Clean fuel fleet program. Enhanced I/M program enforced through denial of vehicle registration. NSR offset ratio 1.2 to 1. Major source threshold for VOCs and NOx is 50 tons per year (tpy).
Severe	Requirements of serious areas plus: NSR offset ratio 1.3 to 1. Reformulated gasoline required in metropolitan areas. Major source threshold for VOCs and NOx is 25 tpy.
Extreme	Requirements of severe areas plus:

Table 3-2.-- Primary Applicable Requirements in Nonattainment Areas

Area Designation	Summary of Applicable Requirements ^{a,b}
	NSR offset ratio 1.5 to 1. Major source threshold for VOCs and NOx is 10 tpy.
Pollutant: Carbon Monoxide	
Moderate	State shall complete emissions inventory, to be updated every 3 years. Will obtain data from sources. I/M program (type of program depends on ambient carbon monoxide level). Oxygenated fuel required in metropolitan areas during high carbon monoxide season.
Serious	Requirements of moderate areas plus: Transportation control measures. Where stationary sources are believed to contribute substantially to ambient carbon monoxide levels, major source threshold for carbon monoxide is 50 tpy.
Multi-State	Affected states shall coordinate the revision and implementation of the carbon monoxide SIPs as they apply to the affected areas.
Pollutant: Particulate Matter – PM10, 24-hour standard	
Moderate	State shall complete emissions inventory, to be updated every 3 years. Will obtain data from sources. Reasonably available control measures apply.
Serious	Meet requirements of moderate areas plus: Best available control measures apply. Major source threshold for PM10 is 70 tpy.
Pollutant: Particulate Matter – PM2.5, annual and 24-hour standard	
Moderate	State shall complete emissions inventory, to be updated every 3 years. Will obtain data from sources. Shall include both direct and PM2.5 precursor emissions. Reasonably available control measures apply.
Notes:	
<p>a. This table lists those requirements that will likely affect Marine Corps facilities. Details for these provisions are set by each state pursuant to Reference (r). States have additional requirements that shall be included in their SIPs but do not directly affect sources such as ambient monitoring plans.</p> <p>b. The major stationary source threshold under the NSR and Title V permit programs is 100 tpy except as noted in the table.</p> <p>c. The Subpart 1 category will no longer be used by EPA as it reconsiders the ozone NAAQS. Refer to final 2008 Ozone NAAQS Implementation Rule for details.</p>	

C. Minor Source New Source Review (NSR)

1. Minor source NSR may be required for pollutants from stationary sources that do not require PSD or a nonattainment NSR permit to prevent the construction of sources that would interfere with attainment or maintenance of a NAAQS or violate the control strategy in nonattainment areas. It may also contain permit conditions to limit the sources emissions to avoid PSD or nonattainment NSR.

2. As discussed above under federal requirements, NSR or preconstruction review shall be conducted for all new or modified major stationary sources. The requirements for the federal PSD program in attainment areas are contained in the regulations promulgated at section 21 in Reference (l). These federal PSD program regulations apply wherever a state lacks an EPA-approved program, either in whole or in part. The PSD program regulations for attainment area SIPs are contained in the regulations promulgated at section 166 in Reference (p). While state programs must meet the minimum requirements of the federal program, states are free to enact a more restrictive PSD program. In a nutshell, the PSD program requires, before construction or modification of a major stationary source occurs, that the project proponent applies for authority to construct the source. A modification occurs when an existing major source makes a physical or operational change that results in a potential significant increase of any regulated pollutant. Note that regulated pollutant covers more pollutants than criteria pollutants and includes ODSs. The application for authority to construct shall show that the new or modified source will comply with the NAAQS, the attainment area applicable PSD air quality increment, and will incorporate applicable BACT requirements. Before construction proceeds, ensure all necessary permits have been issued. Before constructing a stationary source in a listed source category or any other stationary source that may be a major stationary source as defined under the regulations, Marine Corps commands shall make a PSD applicability determination. At a minimum this requires determining the applicable regulations and whether the source is within a listed source category that will have a potential to emit equal to or greater than 100 tpy of a regulated pollutant or, if not listed, will have a potential to emit equal to or greater than 250 tpy of a regulated pollutant. EPA issued guidance to help ensure equitable treatment for the regulation of military stationary sources, Reference (q). States are not required to apply the EPA guidance, but installations should consider the potential benefits of applying it to their facility operations and coordinate with their state or local regulatory agency for approval to apply it as appropriate.

030204. Title V Operating Permits

Installations with stationary sources that exceed the major stationary source emission thresholds, as well as other non-major sources subject to existing requirements such as NSPS or NESHAPs are required to obtain a Title V permit. Installations that are subject to Title V permitting shall comply with the requirements of the permit, the Title V program, and any individual permits they hold. EPA regulations in 40 CFR 70 (Reference (s)) establish minimum requirements for state programs. EPA regulations in 40 CFR 71 (Reference (t)) establish the Title V Operating Permit requirements that apply in any state that has not obtained full approval from the EPA for its part 70 program by the applicable deadline, or in any state that has lost approval for its program pursuant to section 502(i)(4) of Reference (a). Additional guidance for development of state programs and source compliance with the regulatory requirements was issued in three EPA White Papers -- "White Paper for Streamlined Development of Part 70 Permit Applications," July 10, 1995 (Reference (u)),

“White Paper Number 2 for Improved Implementation of Part 70 Operating Permits Program,” March 5, 1996 (Reference (v)), and “White Paper Number 3, Draft Guidance on Designing Flexible Permits,” August 7, 2000 (Reference (w)). The EPA has also issued guidance to help ensure equitable treatment for the regulation of military stationary sources, Reference (n). States are not required to apply the EPA guidance, but installations should consider the potential benefits of applying it to their facility operations and coordinate with their state or local regulatory agency for approval to apply it as appropriate. Title V of Reference (a) requires that each state develop, implement, and enforce an operating permit program. However, the EPA retains significant authority to oversee state permit program implementation. The EPA must review and approve state permit programs, review proposed permits, veto improper permits, and, if a state fails to adopt or implement an approved program, develop and implement a federal permit program. The permit program attempts to clarify, in a single document, all of the requirements applicable to a source, including requirements from the SIP, the acid rain program, and the air toxics program. The permit program also requires that permit fees be used to finance state air programs. After the effective date of any permit program approved as defined by Title V, the law prohibits operating without a permit or operating in violation of any requirement of such a permit. The program applies to all existing and new major stationary sources of air pollution, including those operated on federal facilities, which are subject to regulation under Reference (a).

A. Permit Application

Applications for operating permits shall be “timely” and “complete.” An application is “timely” and “complete” if submitted according to the approved state program. Once a source is subject to a Title V permitting program, its emissions of all regulated air pollutants (except those which meet the permitting authority's criteria for “insignificant” emissions) shall be described in the permit application along with all emissions of pollutants for which the source is considered major. Similarly, applications shall describe all emissions units that emit regulated air pollutants, except for those emission units deemed insignificant. Regulated air pollutants include, but are not limited to, all criteria pollutants and precursors; any pollutant subject to a NSPS; any pollutant subject to Reference (f) or a case-by-case MACT determination; and Class I or II ODSs.

B. Certification

A responsible official (typically the installation commander) shall sign the Title V Operating permit application certifying its truth, accuracy, and completeness. The certification shall include the facility compliance status and the method used to determine this status. In addition, in accordance with Reference (a) section 503(b)(2), the responsible official shall also certify the facility's compliance or noncompliance regarding all of the permit's requirements from the previous 12 months, at least once a year. The Title V Compliance Certification shall be filed with the state or local permitting agency, as well as the EPA regional office. These certifications necessarily require a thorough periodic and systematic review of a facility's compliance status throughout the reporting year, due to the potential for individual liability for false reporting by the responsible official in any certification, as well as possible regulatory or citizen-suit enforcement against the facility for any reported noncompliance. The annual compliance certification shall be true, accurate, and complete, based on information and belief formed after a reasonable inquiry.

030205. State and Local Permit and Regulatory Programs

State or local air quality regulations typically require that all new or modified stationary sources of emissions obtain a permit, unless the source category is expressly exempted in the regulations. Typical state or local regulations list a handful of insignificant stationary source categories that are exempt from permitting requirements, such as small portable emergency backup generators. However, insignificant sources expressly exempt from preconstruction and operating permit requirements may be subject to periodic recordkeeping, reporting, and other requirements or limitations, such as operating records detailing hours of operation, fuel usage, or the type or grade of fuel used. For all nonexempt source categories usually a preconstruction application or an operating permit application, or both, are required before any new stationary source of emissions may be constructed or operated. These regulations also typically require an application before reconstruction or modification occurs to any existing source, and the operator usually shall obtain a new operating permit, or an amendment to an existing operating permit before operating the source after reconstruction or modification. Permits will usually include permit conditions under which a particular emission unit or group of emission units will be required to operate. The permit conditions will often be taken directly from federal and state regulations, although they may also be based on the specific air pollutant emitting situation at the facility. State and local regulatory agencies typically have enacted general air quality rules that are designed to control or abate pollution that may or may not, be included in permit conditions. These general rules address visible emissions (or opacity), odor, nuisance, and equipment breakdown provisions. The requirements from these rules are sometimes called facility-wide applicable requirements. Installations shall notify their RECs and HQMC (LFF)/MCICOM (GF) via their chain of command if the state or a local regulatory entity implements CAA regulatory requirements in a manner that is discriminatory per CAA Section 118(a).

030206. Fuel Standards

Marine Corps commands shall comply with Marine Corps and regulatory fuel composition requirements applicable to solid, liquid, and gaseous fuels for stationary fuel-burning equipment. For Marine Corps operations in California (or other applicable states), consult the Marine Corps local/regional environmental counsel for applicable requirements.

0303 MOBILE SOURCE PROVISIONS

For the most part mobile source programs do not have a direct impact on Marine Corps installations or activities. With the exception of California (and states that adopt regulations identical to California's), mobile source emission controls are predominantly implemented through nationwide programs promulgated by EPA. For Marine Corps operations in California (or other applicable states), consult the Marine Corps local/regional environmental counsel for applicable requirements. The typical regulations under subchapter II of Reference (a) target manufacturers of new motor vehicles and engines, nonroad vehicles and engines, and/or the fuels they operate on. These regulations typically contain an automatic national security exemption (NSE) for manufacturers to apply to engines for DoD weapon systems and armored vehicles. The regulations also typically contain provisions for case-by-case NSEs for engines that do not meet the criteria for an automatic exemption. Examples of potential applications of the automatic NSE by a manufacturer would include the Light Armored Vehicles and the M1-A1 Abrams Tank. An example of possible applications of a case-by-case NSE would be the outboard engines for Zodiac boats used by

reconnaissance or Special Forces. A few mobile source programs, however, do expressly target the activities of federal agencies, including the military, such as the centrally-fueled fleet program and fleet vehicle requirements under Public Law 109-58, “Energy Policy Act of 2005” (Reference (x)) and Public Law 110-140, “Energy Independence and Security Act of 2007” (Reference (y)). These programs, among other things, are briefly discussed below.

030301. The Marine Corps shall comply with all federal, state, and local emission control standards relevant to mobile sources.

030302. Tampering with Emission Controls

Marine Corps personnel shall not permanently remove or render inoperative any device or element of design in a government motor vehicle or engine which is installed to comply with air quality regulations.

030303. Fuel Standards

Marine Corps commands shall comply with Marine Corps and regulatory requirements for the composition of fuels used in motor vehicles. Marine Corps installations dispensing gasoline shall be equipped to dispense unleaded gasoline. The Marine Corps may not procure any gasoline-powered vehicle that cannot operate on unleaded gasoline.

A. Oxygenated Gasoline

States that include all or part of an area designated nonattainment for CO and having a design value of 9.5 ppm or higher are required to include in their SIP a provision for selling and dispensing oxygenated gasoline in metropolitan areas within the nonattainment area. EPA requires that this provision be in effect during high CO portions of the year (winter). EPA may waive the requirement for oxygenated fuel if a state can demonstrate satisfactorily that imposing such a provision interferes with the attainment of any other NAAQS.

B. Volatility

To reduce the substantial release of VOCs into the atmosphere, installations will comply with the federal guidelines that limit the volatility of gasoline marketed during the high ozone season (summer) in the United States.

C. Diesel Fuel Sulfur Content

Beginning with model year 2007, the sulfur content of highway diesel fuel cannot have a sulfur content higher than 15 ppm (66 FR 5002) (Reference (z))). This requirement applies to the fuel used in Marine Corps fleet vehicles and privately owned vehicles. Installations will comply with the applicable portions of Reference (z). However, the regulation provides an exemption for the use of higher sulfur JP-5 and JP-8 fuels in tactical vehicles used on highways if their engines have either the automatic NSE or a case-by-case NSE discussed above. Proposed rulemaking would also lower the sulfur content dramatically in heavy duty nonroad diesel engines and vehicles. It is

anticipated that the use of JP-5 and JP-8 in tactical ground support equipment will similarly be exempted from the low (and ultra-low) sulfur diesel fuel requirements.

030304. Nonroad Engines

EPA conducted and published a study of nonroad engine and vehicle emissions in November of 1991. On the basis of this study, EPA initiated actions to establish national standards for certain categories of nonroad engines. The nonroad rule contains an automatic exemption provisions for equipment with substantial combat features. If installations purchase a non-compliant engine for equipment without these features, they shall specifically request an exemption from EPA, state, or territorial regulatory authority.

030305. Vehicle I/M

Certain nonattainment areas require vehicle emissions testing. Section 118(c) in Reference (a) requires that federal government fleet vehicles comply with the provisions of an approved I/M program in ozone or CO nonattainment areas designated under subparts 2 or 3 of part D of subchapter I of Reference (a). Section 118(d) requires that federal agencies ensure that their employees operating their motor vehicles on federal facilities comply with the I/M requirements in those same areas designated as nonattainment for ozone and CO. To implement those requirements, the EPA promulgated requirements for states to include in their SIPs for those areas at Reference (r), subpart S. Marine Corps commands shall comply with local area vehicle emission I/M program requirements for fleet vehicles and shall furnish proof of compliance when required by the local regulatory authority. Commands are authorized to develop I/M procedures for their fleet vehicles as a part of normal preventive maintenance programs. Therefore, installations in these areas shall demonstrate compliance with state I/M programs for all motor vehicles operated on the installation even if the vehicle is not registered in that state, as long as the state's program is not discriminatory toward federal agencies or federally-owned or federal employee-owned vehicles. Military tactical vehicles are exempt from the I/M program requirements in those areas. However, in a July 29, 1998 letter, the Department of Justice, Environment and Natural Resources Division, advised EPA that the portion of its regulations relating to state I/M requirements for federal agency fleet and certain federal employee vehicles under Reference (a) sections 118(c) and (d), respectively, were invalid. In short, SIP rules (pursuant to Reference (r), subpart S) that target only federal fleet vehicles or federal employee vehicles for particular I/M related requirements based upon EPA's rule are probably invalid. On the other hand, SIP rules that apply to all fleet vehicle owners/operators in the state or employee vehicles of all employers within the state are probably valid requirements for which federal sovereign immunity has been waived under section 118(a) of Reference (a). The EPA is in the process of promulgating a rule to implement Reference (a) section 118(c) and (d) requirements for federal fleet and employee vehicles. The EPA has published draft guidance, EPA 420-D-99-003 (Reference (aa)). However, until the EPA promulgates a final rule, installations will either need to: comply with nondiscriminatory I/M programs (e.g., Washington State's fleet vehicle program); maintain the status quo (e.g., fleet and employee vehicle I/M requirements in California); or seek guidance from CMC (LF)/MCICOM (GF) or the advice of counsel whether any particular fleet or employee vehicle I/M requirements legally apply in the absence of the EPA rule. For installations currently complying with pre-existing state I/M requirements, including both fleet and employee vehicle programs, the DoD position is to maintain the status quo until EPA revokes existing invalid

SIP provisions under its own existing rule by promulgating a new federal rule and implementation program.

030306. Alternative Fuel Vehicles (AFVs)

Pursuant to Reference (a), Title II, Part C, installations with a covered vehicle fleet (i.e., ten or more vehicles centrally fueled) in a covered area shall ensure at least 70 percent of all new light-duty fleet vehicles acquired are clean fuel vehicles. For heavy-duty trucks above 8,500 pounds (lbs) and up to 26,000 lbs gross vehicle weight rating, that percentage shall be at least 50 percent. Reference (y), 40 CFR 87 (Reference (ab)), and E.O. 13693 (Reference (ac)) include certain requirements for federal fleet vehicles and purchasing/leasing AFVs. These requirements do not apply to police and emergency vehicles or vehicles used for military purposes that have been certified by the Secretary of Defense as exempt. In order to meet CAA requirements, the Marine Corps began acquiring AFVs (by both lease and new vehicle acquisitions) in 1993 and has been targeting the placement of these vehicles at those activities located within nonattainment and metropolitan statistical areas (areas with a population of 250,000 or more). The HQMC (LFS)/MCICOM (G-4) implements the Fleet vehicle and AFV requirements of References (x), (y), and (ac) in accordance with Department of Energy guidance. Pursuant to Reference (x), the Marine Corps shall incorporate light-duty (medium/heavy-duty trucks and buses are optional) AFVs into its Garrison Mobile Equipment vehicle fleet.

A. HQMC (LFS)/MCICOM (G-4) prescribes minimum AFV requirements for the quantity and type of vehicles to be used at Marine Corps activities that meet fleet criteria under Reference (x). Marine Corps installations may meet these requirements by requesting AFV replacements for Marine Corps-owned vehicles and by leasing vehicles. Leased AFVs may be acquired through General Service Administration Interagency Fleet Management System under the Headquarters, Marine Corps-funded Garrison Mobile Equipment vehicle leasing program and/or by using local Operations & Management, Marine Corps funds. Marine Corps activities that are not subject to Reference (x) fleet criteria are encouraged to participate in the AFV program.

B. The Marine Corps prefers original equipment manufacturer AFVs to AFV conversions. However, when converting vehicles, every effort should be made to meet - at a minimum - certification requirements of the state in which the vehicles are located, such as those of the California Air Resources Board.

C. Clean Fuel Fleet Vehicles. According to Reference (a), the clean fuel requirements impact the following owners/operators of centrally-fueled fleets of ten vehicles or more: those located in “serious,” “severe,” or “extreme” ozone nonattainment areas, and those located in “serious” CO nonattainment areas. Installations will comply with Reference (a), which mandates that any federal facility that dispenses clean alternative fuels to federal fleet vehicles shall offer such fuel for public sale during reasonable business hours, subject to national security concerns and the commercial availability of such fuels in the vicinity of the facility. Installations shall ensure at least 70 percent of all new light-duty fleet vehicles acquired are clean fuel vehicles.

030307. Aircraft

Reference (a) authorizes the EPA, in consultation with the Secretary of Transportation, to develop emission standards applicable to any air pollutant emission from any class or classes of aircraft engines. No state or local air quality region may adopt or attempt to enforce any standard respecting any air pollutant emission from any aircraft or engine unless such standard is identical to one developed by the EPA and the Secretary of Transportation. While limited regulation of emissions from aircraft engines is possible, such regulation applies only to uninstalled aircraft engines. Except for some commercial aircraft owned by the military, military aircraft are normally exempt from the regulatory standard. The regulations for control of air pollution from aircraft and aircraft engines are contained in Reference (ab).

0304 MISCELLANEOUS PROVISIONS

030401. Visibility Protection

The regulations in subpart P of Reference (r) contain the requirements for SIPs to protect visibility in federal Class I areas. To determine if an installation is within a Class I area, consult the regulations in subpart D of Reference (j).

030402. Enforcement/Citizen Suit Provisions

A. Sovereign Immunity

The broad waiver of sovereign immunity in Reference (a) subjects federal facilities to all federal, state, and local air pollution control requirements. These CAA requirements generally are enforced by the state or local air quality regulatory agency; however, EPA also has direct enforcement authority for federal rules and has authority to enforce approved SIP rules. Installations shall notify their RECs and HQMC (LFF)/MCICOM (GF) via their chain of command if EPA, state, or a local regulatory entity implements CAA regulatory requirements in a manner that is discriminatory per CAA Section 118(a).

B. State or Local Administrative Punitive Penalties

Marine Corps commands that are assessed punitive civil fines or penalties by state or local authorities for violations of air pollution control requirements shall consult with command or regional environmental counsel before entering into settlement negotiations or paying any penalty. Although installations are subject to CAA penalties assessed by EPA, the applicability of state and local air district penalties is not clear due to conflicting court opinions. Therefore, all penalty assessments should be coordinated pursuant to the provisions of this volume via the chain-of-command. Due to the uncertainty in the courts, CAA penalty provisions response letters to state agencies are also reviewed by the Department of Justice via the Navy Office of the General Counsel Litigation Office. DASN (EI&E) Memo, "Department of the Navy Process for Reviewing Potential Settlements of Penalties for Past Violations of the Clean Air Act," May 14, 2012 (Reference (ad)) formally established that process as a DON policy.

C. Environmental Protection Agency (EPA) Administrative Punitive Penalties

In 1997, the Department of Justice Office of Legal Counsel published an opinion that determined that EPA has authority in accordance with Reference (a) to assess punitive civil monetary penalties against federal facilities for violations of the Act. This authority includes penalties assessed by EPA inspectors under the Field Citation Program and administrative penalties under section 113 in Reference (a). The EPA Consolidated Rules of Procedure (CROP) for administrative penalty proceedings are published in 40 CFR 22 (Reference (ae)). Marine Corps activities that receive Administrative Complaints from their EPA Regional office under section 113 in Reference (a) and the CROP, shall immediately notify their command and regional counsel and their chain of command. Failure to properly submit a detailed answer responding to an Administrative Complaint to the Regional Hearing Clerk within 30 days of receipt of the complaint will be deemed an admission to all allegations contained in the complaint. The maximum penalty per violation under the Field Citation program, as adjusted for inflation in 40 CFR 19 (Reference (af)), is \$7,500. The procedures for issuance of field citations and for contesting them are published in 40 CFR 59 (Reference (ag)). The maximum penalty, as adjusted for inflation in Reference (ae) that EPA may assess is \$37,500 per day per violation up to a maximum total penalty of \$320,000; however, the \$320,000 maximum total penalty per proceeding may be increased by EPA, if the U.S. Attorney General concurs. Installations shall notify their RECs and HQMC (LFF)/MCICOM (GF) via their chain of command, if EPA implements a punitive civil monetary penalty under Reference (a).

D. Administrative Fees

Marine Corps commands shall pay administrative fees and assessments imposed by federal, state, or local authorities when imposed to defray the costs of the air pollution regulatory program, when the fees are imposed generally on all similarly situated regulated entities in the same manner and extent (i.e., nondiscriminatory against Marine Corps facilities), and when the fees are not dependent upon the detection or processing of alleged violations.

E. Citizen Suits

The regulations for the prerequisite notice for CAA citizen suits are published in 40 CFR 54 (Reference (ah)). Civil actions may be brought against any individual or governmental body (including the United States) for present or repeated CAA violations in the Federal District Court in the district where the source alleged to be in violation of Reference (a) is located. Installations shall notify their RECs and HQMC (LFF)/MCICOM (GF) via their chain of command if any civil action is brought against the installation and or person performing any act or duty on behalf of the installation.

030403. Jet Engine Test Cells

Installations will comply with the applicable regulations for control of air pollution from aircraft and aircraft engines that are contained in Reference (ac).

030404. Federal Contractor Restrictions

No federal agency may enter into a contract with any person who is convicted of a criminal offense under Reference (a). This restriction applies to the procurement of goods, materials, and

services to perform such contract at any facility which gave rise to the conviction if such facility is owned, leased, or supervised by such person.

030405. Acid Rain

In order to reduce the detrimental environmental effects of acid deposition, Title IV of Reference (a) mandates large-scale reductions in the emissions of SO₂ and NO_x through an innovative market-based approach aimed at electric utility plants. Installations who own electric utility plants, should consult Title IV of Reference (a) and follow where applicable.

030406. Aerospace and Marine Coatings

Reference (a) requires EPA to issue NESHAPs and Control Techniques Guidelines (CTG) to control emissions from aerospace manufacturing/rework and shipbuilding/repair. EPA has promulgated rules that establish technology based emission standards based on MACT and BACT for aircraft and ship activities (e.g., cleaning, painting, depainting, maskant application, and waste handling). Installations that perform aerospace manufacturing/rework and shipbuilding/repair shall comply with the emission standards in these rules. Generally, the emission reductions are achieved through the use of compliant materials or control devices. Other rule requirements include testing, recordkeeping, and reporting protocols, which have substantial cost and labor impacts that installations will have to account for in their program budget. References (f) and (p) address a specific source category under Reference (q), similar to the NESHAPs for gasoline terminals or halogenated solvent cleaning.

030407. Training

Personnel who prepare or supervise the preparation of air emissions inventories, air emissions permit requests, and air emissions reports will receive environmental overview training as specified in Volume 5 of this Order. They will receive specific comprehensive training in their assigned subject matter and shall be familiar with the provisions outlined in Volume 5 of this Order. In addition, Reference (a) requires the following:

A. Chemical Process Safety Management

Reference (a) requires the issuance of a chemical process safety standard to protect employees from the workplace dangers associated with accidental releases of highly hazardous chemicals. Employers shall train workers in operating procedures, emphasize hazards and safe practices, ensure that contractors and contracted employees have appropriate information and training, and train and educate employees and contractors in emergency response as comprehensively and effectively required by Public Law 99-499, “Superfund Amendments and Reauthorization Act” (Reference (ai)). The standard and a list of highly hazardous chemicals can be found in section 119 of 29 CFR 1910 (Reference (aj)).

B. Solid Waste Incineration

Reference (a) requires a program for the training and certification of operators of high capacity (greater than 250 tons per day) solid waste incineration units and high-capacity fossil fuel-

fired plants. To legally operate any such unit, each person with control over processes affecting emissions from such units shall satisfactorily complete a training program meeting EPA requirements.

030408. Prescribed Burning/Vegetation Management

EPA does not directly regulate prescribed burning. However, EPA encourages states to develop Smoke Management Plans to mitigate impacts to public health and welfare from such activities. For more detail, Installations should refer to EPA’s 1998 draft policy guidance for prescribed burning activities, EPA, “Interim Air Quality Policy on Wildland and Prescribed Fires,” April 23, 1998 (Reference (ak)), and any applicable state or local requirements.

030409. Environmental Compliance

See Volume 4 of this Order for information on overall policy, responsibility, and procedures for achieving compliance with applicable Executive Orders, and federal, state, interstate, and regional statutory and regulatory environmental requirements.

0305 OZONE DEPLETING SUBSTANCES (ODSs)

Regulations promulgated in 40 CFR 82 (Reference (al)) are enacted to implement United Nations Environment Programme, “Montreal Protocol on Substances that Deplete the Ozone Layer,” 2000 (Reference (am)) and sections 608 and 609 of Reference (a). These regulations, which ban the use of certain nonessential Class I and II substances and establish a myriad of requirements to promote responsible use, recovery, reclamation, reuse, and recycling of essential substances, apply to all Marine Corps installations. Installations with large refrigeration and air conditioning units (i.e., equipment containing more than 50 lbs of refrigerant) or those installations using ODSs in metal parts degreasing operations will have more requirements than activities with smaller ODS consumption. Appliances subject to regulation are those that use ODSs as a refrigerant and which are used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer. The regulations in Reference (al) establish requirements regarding the service, maintenance, repair, and/or disposal of a wide array of equipment containing ODSs for refrigeration purposes. The regulations establish requirements for record keeping, technician certification, leak detection and repair, periodic leak rate determination and replacement, and requirements pertaining to the disposal of small and large appliances common to most installations. Besides building air conditioning and food service refrigeration units, other ODS-containing sources commonly used at Marine Corps installations include refrigerated drinking fountains, ice machines, soft drink vending machines, antifreeze recycling units, halon-charged fire suppression systems, and vehicle air conditioning recycling units.

0306 GREENHOUSE GAS (GHG) EMISSIONS

The Supreme Court has determined that GHGs are air pollutants pursuant to Reference (a) and EPA may regulate GHGs under the existing authorities of Reference (a). EPA and some states are developing regulations to require reporting, permitting, or control/restrictions of GHG emissions and sources. Installations shall comply with applicable requirements.

030601. Greenhouse Gas (GHG) Reporting Program (GHGRP)

Installations that emit GHGs above established thresholds are required to comply with applicable annual reporting requirements of 40 CFR 98 (Reference (an)) (commonly known as the GHGRP). GHGs included under the GHGRP are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride, hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated gases as defined in section 98.6 of Reference (an). In general, for facilities that emit GHGs, the threshold for reporting is 25,000 metric tons or more of CO₂ equivalent (CO₂e) per year. This threshold is based on actual emissions. Facilities subject to the rule are required to report annual emissions of GHGs pursuant to Reference (an).

030602. Greenhouse Gas (GHG) Emissions Reporting and Reduction Requirements

Reference (ac) requires agencies to measure, report, and reduce their GHG emissions from direct and indirect activities. White House Council on Environmental Quality, “Federal Greenhouse Gas Accounting and Reporting Guidance: Technical Support Document,” June 4, 2012 (Reference (ao)) and Office of the Assistant Secretary of Defense (Energy, Installations and Environment), “DoD Guidance for Greenhouse Gas Reporting Under E.O. 13693,” July 27, 2015 (Reference (ap)) establish GHG accounting and reporting methodologies to be used by DoD in conducting a fiscal year (FY) 2008 baseline emissions inventory and any FY 2010 and subsequent years' annual inventories pursuant to Reference (ac). The Marine Corps inventory for reporting GHG pursuant to Reference (ac) is prepared by HQMC (LFF)/MCICOM (GF) in accordance with the responsibilities identified in Chapter 4 using a centralized approach primarily relying on data collected via existing reporting programs and corresponding automated data collection tools.

CMC (LF)/MCICOM (GF) submits the GHG Inventory/ Annual Energy Management Report (AEMR) to Under Secretary of Defense (Installations and Environment) (ODUSD(I&E)) by mid-November for the current FY. HQMC (LF)/MCICOM (GF) Section Heads enter the inventory data into the Federal Energy Management Program (FEMP) Workbook, an Excel spreadsheet designed by the Office of Management and Budget (OMB) and the White House Counsel on Environmental Quality (CEQ). ODUSD(I&E) submits the AEMR to Congress, the Department of Energy (DOE), and OMB; while GHG Inventories are reported to DOE, CEQ, and OMB. The data reported to ODUSD(I&E) is used in OSD and Service-specific GHG Inventories, Strategic Sustainability Performance Plans (SSPPs), and the AEMR to Congress. The Office of the Secretary of Defense has established FY 2020 GHG emissions reduction targets of 34 percent from a FY 2008 baseline for direct emissions (Scope 1 and 2) and 13.5 percent for indirect emissions (Scope 3). These reduction targets apply to facilities and non-tactical vehicles.

030603. Office of Management and Budget (OMB) Environmental/Energy Scorecard

Pursuant to E.O. 13693, the Scorecard is prepared by Office of Management and Budget (OMB) with information collected from the previous calendar year's GHG Inventory/AEMR data call. Released annually in January, the purpose of the Scorecard is to provide periodic evaluations of Federal agency performance in identifying and tracking opportunities to reduce pollution, improve efficiency, and cut costs. Marine Corps performance is measured using information collected through the reporting in paragraph 2 of this appendix. The Scorecard measures Federal agencies in seven categories:

- (1) Reduction in potable water.
- (2) Reduction in fleet petroleum use.
- (3) Scope 1 & 2 GHG emission reductions.
- (4) Scope 3 GHG emission reductions.
- (5) Use of renewable energy.
- (6) Reduction in energy intensity.
- (7) Sustainable green buildings.

0307 RADON

The Navy Radon Assessment and Mitigation Program (NAVRAMP) is the DON program to identify, mitigate, and prevent radon contamination in Navy/Marine Corps-occupied buildings. All Marine Corps installations shall participate in the NAVRAMP testing program to identify the level of indoor radon. Buildings determined to have indoor radon levels above 4 picoCuries per liter (pCi/L) will be mitigated to reduce levels. Appropriate radon reduction techniques will be incorporated into the design and construction phases of new structures where determined necessary because of regulatory requirements, historical data, or geological conditions. In accordance with NAVRAMP implementation protocols, including “Navy Radon Assessment and Mitigation Program Guidebook for Naval Shore Installations,” June 2015 (Reference (aq)), all Marine Corps installations shall:

030701. Test and Mitigate

Implement the NAVRAMP testing program to identify levels of indoor radon. In buildings with indoor radon levels above the EPA-recommended action level of 4 pCi/L (“elevated radon”), the Marine Corps shall implement mitigation measures to reduce radon to acceptable levels. Radon mitigation systems shall be periodically inspected and preventively maintained as required, and buildings shall be retested at a minimum of every two years to ensure radon mitigation systems are operating properly. All new buildings shall be tested prior to occupancy. All radon test data/results in support of the NAVRAMP shall be maintained.

030702. Monitor

For buildings previously tested and determined to be at an acceptable level, conduct monitoring to ensure radon levels are maintained below elevated levels by retesting radon levels at a minimum of every five years, or as warranted by conditions described in Reference (aq). Buildings which have been damaged, renovated or modified in a manner that could change the air flow dynamic of the building (i.e., upgrading or replacing the Heating, Ventilation, Air Conditioning, and Cooling system or windows, or expanding the building or envelope of such) should be retested.

030703. Prevent

Appropriate radon-reduction techniques shall be incorporated into the design and construction phases of new structures or into significant modifications to existing buildings where it has been determined necessary due to applicable regulatory requirements, historical data, or geological conditions.

0308 EMISSION REDUCTION CREDITS (ERCs)

Sections 110(a)(2)(A) and 172(c)(6) of Reference (a) authorize states, or their local Air Quality Districts (AQDs), to establish a trading system for ERCs. ERCs are created when pollution emitting equipment is removed from service or when emissions from in-service equipment are reduced, when the emission reductions are not otherwise required by Reference (a) or a current SIP, and when the owner applies under the AQD regulations for reduction credit. Marine Corps installations should obtain stationary and/or mobile source ERCs from any permanent quantifiable excess emission reductions in areas with emissions banking and trading programs. Each ERC constitutes permission from the AQD to emit a stated amount of a specific air pollutant. Following validation by the AQD, ERCs may be transferred by sale, lease, or other disposal method for use by other emission sources within the same AQD. Installations shall acquire and dispose of ERCs as if they were government personal property. Marine Corps installations and activities shall not dispose of ERCs, or forego the creation of ERCs, without first coordinating the proposed disposition with HQMC (LFF)/MCICOM (GF) and the Marine Corps/DoD RECs.

030801. Bases being closed or realigned under the process outlined in 10 U.S.C. §2687 (Reference (ar)) and Public Law 101-510, "Defense Base Closure and Realignment Act" (Reference (as)), or any subsequent base closure law, shall consider the use of ERCs and dispose of them in accordance with DoD and DON policy, DoD 4165.66-M (Reference (at)) and DASN(E) Memorandum, "Air Emission Rights at Department of Defense Installations," July 12, 2012 (Reference (au)).

030802. Operating installations shall use and dispose of ERCs in the following manner:

A. ERCs generated from a change in operations, removal from service of equipment, or any other action that results in emissions reduction may be banked, in the following order of priority, for:

1. Future use by that same installation.
2. Transfer to another Marine Corps installation within the same AQD or another AQD that will accept transfer of the credits.
3. Transfer to any DoD installation within the same AQD or another AQD that will accept the transfer of credits.
4. Transfer to any other federal agency within the same AQD or another AQD that will accept the transfer of credits.

B. Installations shall employ the environmental management hierarchy and assess P2 opportunities in considering the use of ERCs.

C. ERCs may be transferred between services under 10 U.S.C. §2571 (Reference (av)), with or without compensation.

D. Installations shall report ERCs determined to be federal government surplus for screening and disposal using the existing personal property disposal mechanisms. Installations requiring ERCs shall either:

1. Purchase ERCs from other sources.
2. Obtain offsets from on-installation sources.

3. Purchase ERCs when and if requirements necessitate their purchase after coordination with the HQMC (LFF)/MCICOM (GF). No ERCs may be disposed of, creation forgone, or traded to non-Marine Corps facilities, unless such action has been coordinated with the HQMC (LFF)/MCICOM (GF) and the appropriate USMC/DoD REC. In addition, Marine Corps installations shall take reasonable steps to quantify ERCs from creditable reductions under their control and obtain legal title to them under applicable regulations.

0309 AIR POLLUTION EMERGENCY EPISODES

Where required, Marine Corps facilities shall have an air pollution emergency episode contingency plan identifying all actions that can reasonably be taken without compromising essential services and mission responsibilities.

0310 AIRBORNE RADIONUCLIDE EMISSIONS

Marine Corps installations shall comply with MCO 5104.3A (Reference (aw)) regarding airborne radionuclide emissions into the environment. Within the Navy and Marine Corps, the Naval Nuclear Propulsion Program is responsible for all aspects of compliance with requirements pertaining to nuclear propulsion.

0311 ASBESTOS NATIONAL EMISSION STANDARD FOR HAZARDOUS AIR POLLUTANT (NESHAP)

The EPA NESHAP for asbestos (Page 8820 of Volume 38, Federal Register (38 FR 8820)) (Reference (ax)), codified at Reference (f)) remains the subject of frequent civil and criminal enforcement under Reference (a). Subpart M of Reference (p) applies to the demolition, removal, and disposal of regulated asbestos containing material. Subpart M of Reference (f) protects the public by minimizing the release of asbestos fibers during activities involving the processing, handling, and disposal of asbestos-containing material. Accordingly, subpart M of Reference (f) specifies work practices to be followed during demolitions and renovations of all structures, installations, and buildings. In addition, the regulations require the owner of the building and/or the contractor to notify applicable state and local agencies and/or EPA Regional Offices before all demolitions, or before renovations of buildings that contain a certain threshold amount of asbestos.

The regulated asbestos containing material removed shall be wetted and kept wet, properly containerized and marked, and is subject to land disposal restrictions (LDRs). Before undertaking demolition or renovations, Marine Corps installations and activities shall determine whether subpart M of Reference (f) applies and follow all applicable federal, state, or local requirements. Note that some state requirements are more stringent than the federal regulations (e.g., Asbestos is a hazardous waste in California and certain other states, but only a solid waste under federal regulations).

VOLUME 6: CHAPTER 4

“RESPONSIBILITIES”

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER 4

RESPONSIBILITIES

0401 CMC (LF)/COMMCICOM (GF)

CMC (LF)/COMMCICOM (GF) shall:

040101. Coordinate the overall implementation of CAA requirements. Ensure that all Marine Corps activities comply with current federal, state, and local air pollution control requirements.

040102. Coordinate the review of proposed and final CAA regulations.

040103. Coordinate the review of fines/penalties with the CMC (CL), Office of the Assistant General Counsel, Installations and Environment, and the Office of the DASN(E).

040104. Include requests for resources to meet air pollution control requirements in the Program Objectives Memorandum/budget submissions.

040105. Implement strategies to address ODSs, GHGs, and radon.

040106. Assist installations in resolving disputes with federal, state, local, and foreign regulatory agencies, as required.

040107. Conduct special environmental compliance and protection studies with regard to air quality management to assist in establishing policy or initiating actions.

040108. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps federal, state, and local air quality requirements.

040109. Track Marine Corps progress toward meeting established air quality goals.

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

CG/CO 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 Training & Education Command installations, Marine Aircraft Wings, Resident Officer In Charge of Construction offices, etc.) and the Region, and facilitating mutual support between installations as practicable.

0403 MARINE CORPS REGIONAL ENVIRONMENTAL COORDINATORS (RECs)

In addition to the responsibilities identified in Volume 2 of this Order, Marine Corps RECs shall:

040301. Coordinate input and comments to all applicable SIPs in their areas of responsibility.

040302. Coordinate ERC trading among Marine Corps facilities.

040303. Function as Marine Corps air pollution episode coordinator within the AQCRs, or portions thereof, under Marine Corps jurisdiction. Air pollution episode coordinators shall ensure that air episode plans and actions are consistent in degree and timing for all Marine Corps activities in the affected episode area and also that the plans and actions are as consistent as possible with plans and actions of other federal activities and state and local air pollution control authorities.

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

CG/CO of Marine Corps installations and COMMARFORRES shall:

040401. Identify and submit to the HQMC (LFF)/MCICOM (GF) project documentation and funding requests for air sources that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring are required to comply with air quality management requirements. Pay appropriate federal, state, and local fees. Ensure that the environmental management hierarchy is employed, P2 alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

040402. Ensure that all required federal, state, and local permits are applied for and obtained. Sign or approve for signature: compliance statements/certifications; emission inventory reports; construction and operation permit applications, as required, for construction of all air quality management projects; and applications for permits related to the demolition, preconstruction, and construction phases of projects, unless multi-installation permit applications will be signed by a higher authority. Assist in the preparation of permit applications and studies and sign applications and negotiate conditions with regulatory agencies for operating permits and variances to temporarily operate those sources out of compliance.

040403. Ensure that a base or station order is written to implement specifications set forth in this volume. This requirement can be accomplished either by writing an Environmental Compliance and Protection Standard Operating Procedure document to implement all environmental requirements or by writing a separate base order to implement specifications of this volume alone.

040404. Assure that CAA general conformity rule requirements are satisfied for all applicable Marine Corps actions on the installation.

040405. Survey emission sources to identify potential reductions, and where reductions are made, take reasonable steps to quantify them and acquire ERCs or comparable reduction credits/allowances in accordance with local regulations.

040406. Coordinate ERC requirements/trading/disposition actions in advance with the appropriate REC and CMC (LF)/MCICOM (GF).
040407. Submit, via the chain of command, to the CMC (LF)/MCICOM (GF) all instances in which compliance with fuel standards is impractical.
040408. Maintain current records of physical, operational, and emission characteristics of air emission sources per SECNAV M-5210.1 (Reference (ay)).
040409. Ensure that air episode plans are developed as required, and provide copies of such plans to the REC.
040410. Cooperate with the Marine Corps air pollution episode coordinator, EPA, and state and local air pollution control authorities in executing air episode plans as required for areas under the proclamation of an air pollution emergency.
040411. Ensure that motor vehicles and other mobile sources comply with applicable emission standards and other requirements.
040412. Develop and implement transportation control measures as required by the SIP.
040413. Identify and quantify emissions growth planning requirements, and coordinate them with the REC and regulatory agencies during SIP revision planning activities.
040414. Where applicable, furnish to the appropriate regulatory authority proof of compliance with applicable nondiscriminatory state and local motor vehicle I/M requirements for all vehicles operated on the installation.
040415. Implement and maintain proper adjustments in stationary heating and power plant operations to reduce total emissions and realize fuel savings.
040416. Ensure that CAA-required training and certification is provided to all applicable personnel to meet general awareness and billet-specific training requirements in accordance with Volume 5 of this Order.
040417. Ensure that coordination occurs with the Safety Office when conducting risk evaluations or risk management.
040418. Conduct a radon testing program for all regularly occupied buildings (includes existing and new structures), following NAVRAMP methodology for testing and quality assurance/quality control (Reference (aq)).
040419. Maintain information for each building location on the radon levels and physical characteristics of Marine Corps facilities.

040420. Identify compliance requirements for new construction and projects or modifications required for existing structures.

040421. Identify and submit environmental compliance projects required to bring buildings into compliance.

040422. Establish practices and procedures internally to reduce emissions of ODSs as much as possible.

040423. Provide resources (e.g., tuition, travel, per diem) for training refrigerant and halon technicians on ODS emission reduction, recovery and recycling equipment and ensure compliance with applicable technician certification requirements.

040424. Develop and implement a plan for checking ODS system leaks, tracking periodic leak rate and required equipment replacement, and recycling and reclamation of Class I and Class II ODSs.

040425. Ensure that all buildings are evaluated for the presence of asbestos and proper notifications are provided to regulatory agencies prior to demolition or renovation activities.

0405 COMMANDERS OPERATING ABOARD MARINE CORPS INSTALLATIONS

Commanders operating aboard Marine Corps installations shall:

040501. Comply with all applicable air quality regulations and coordinate with the installation environmental staff for compliance requirements, including the preparation of permit applications and environmental studies.

040502. In accordance with Volume 4 of this Order and existing tenant/host agreements, identify and submit environmental compliance projects that are necessary to bring air sources into compliance.

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VOLUME 6: 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

- a. Clean Air Act (CAA) of 1963, as amended, (42 U.S.C. 7401 et seq.)

The CAA's purpose is "to protect and enhance the quality of the nation's air resources so as to promote public health and welfare and the productive capacity of its population." CAA regulates air emissions from stationary and mobile sources. CAA establishes National Ambient Air Quality Standards (NAAQS) for six common air pollutants ("criteria pollutants") and requires states to institute controls with established air quality control regions to achieve the NAAQS. CAA requires U.S. Environmental Protection Agency (EPA) to establish necessary air quality control where states fail to do so; mandates EPA to regulate 188 identified hazardous air pollutants; and implements the Montreal Protocol on Ozone Depleting Sources (ODSs), mandating phase-out of ODS production, prohibiting intentional venting of ODS refrigerants during appliance servicing, and requiring technician certification. CAA requires federal agencies to comply with federal, state, interstate, and local air pollution requirements in the same manner, and to the same extent as any nongovernmental entity. Installations typically have numerous sources of air pollutant emissions that are regulated and may require permits for construction and or operation. In addition, emissions from facility operations are of special concern in areas that do not meet air quality standards. Maintaining clean air can consist of preventing new sources of pollution or reducing or eliminating pollutant emissions from existing sources.

- b. Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, 42 U.S.C. 11001 et seq.

This Act, also known as Title III of the Superfund Amendments and Reauthorization Act, focuses on the hazards associated with the release of hazardous substances (HS) into the environment. Most notably, specific sections of EPCRA require the immediate notification of releases of extremely HS and CERCLA-defined HS to state and local emergency response planners. EPCRA requires state and local coordination in planning response actions to chemical emergencies. The Act also requires certain industries to submit information on chemical inventories and fugitive emissions. See Volume 7 of this Order for detailed requirements.

- c. The Alternative Motor Fuels Act of 1988, as amended (Public Law 100-494)

Congress passed the Alternative Motor Fuels Act to achieve long-term energy security and to improve air quality. A portion of the new vehicles the federal government acquires each year shall be alternative fuel vehicles in order to encourage the production of these vehicles for consumer use under this Act.

- d. The Energy Policy Act (EPAct) of 2005, 42 U.S.C. 15801 et seq.

EPAct amends numerous provisions of the U.S.C., covering topics in the areas of energy and water conservation, alternative energy sources, reduction in fossil fuel use, and sustainable building design. It includes specific procurement requirements for energy efficient products and the increased use of cement and concrete with recovered mineral content. EPACT seeks to enhance the Nation's long-term energy security by reducing dependency on imported oil and by improving energy efficiency. EPACT establishes a federal leadership strategy that encourages automobile manufacturers and fuel suppliers to expand the commercial availability of alternative fuels and vehicles. Under EPACT, federal agencies shall acquire increasing numbers of AFVs.

e. Toxic Substances Control Act (TSCA) of 1976, 15 U.S.C. 2601 et seq.

This Act provides for the federal regulation of chemical substances that present a hazard to health or the environment. In TSCA, the section on Indoor Radon Abatement requires federal departments to conduct a study of radon levels in federal buildings and to provide results of the study to EPA. EPA has submitted to Congress a consolidated report on radon levels in federal buildings. Congress is considering new legislation for federal departments as part of a comprehensive radon abatement program.

f. Energy Independence and Security Act (EISA) of 2007, Public Law 110-140

This Act seeks to move the United States toward greater energy independence and security; to increase the production of clean renewable fuels; to protect consumers; to increase the efficiency of products, buildings, and vehicles; to promote research on and deploy greenhouse gas capture and storage options; and to improve the energy performance of the federal government. The Act requires federal agencies to: reduce petroleum consumption and increase alternative fuel consumption for federal fleet vehicles; increase energy and water efficiency in federal buildings; and promote high-performance green federal buildings, the procurement of energy efficient products, and their inherent environmental benefits.