

CECW-ON Regulation No. 1130-2-540	Department of the Army U.S. Army Corps of Engineers Washington, DC 20314-1000	ER 1130-2-540 15 Nov 96
	Project Operations ENVIRONMENTAL STEWARDSHIP OPERATIONS AND MAINTENANCE POLICIES	
	Distribution Restriction Statement Approved for public release; distribution is unlimited.	

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D.C. 20314-1000

ER 1130-2-540
Change 1

CECW-O

Pamphlet
No. 1130-2-540

4 November 2002

Project Operations
ENVIRONMENTAL STEWARDSHIP OPERATIONS AND MAINTENANCE
POLICIES

1. This change 1 to ER 1130-2-540, 15 Nov 96, adds Chapter 7 to current guidance. It provides the framework and policy for the Stewardship Support Program.
2. Substitute the attached pages as shown below:

Chapter	Remove page(s)	Insert page(s)
Table of Contents	ii	ii
7		7-1 and 7-2

3. File this change sheet in front of this publication for reference purposes.

FOR THE COMMANDER:


JOSEPH SCHROEDEL
Colonel, Corps of Engineers
Chief of Staff

CECW-CO

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D.C. 20314-1000

ER-1130-2-540
Change 2

Regulation
No. 1130-2-540

31 July 2005

Project Operations
ENVIRONMENTAL STEWARDSHIP OPERATIONS AND
MAINTENANCE GUIDANCE AND PROCEDURES

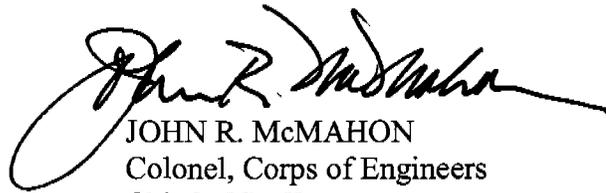
1. This change 2 to ER 1130-2-540, 15 November 1996, adds Chapter 8 to current guidance. It provides the guidance, framework, and policy for the development of a project Fire Management Program.

2. Substitute the attached pages as shown below:

Chapter	Remove page(s)	Insert page(s)
Table of Contents	ii	ii
8		8-1/3

3. File this reference sheet in front of this publication for reference purposes.

FOR THE COMMANDER:



JOHN R. McMAHON
Colonel, Corps of Engineers
Chief of Staff

CECW-CO

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D.C. 20314-1000

ER 1130-2-540
Change 3

Regulation
No. 1130-2-540

11 August, 2008

**Project Operations
ENVIRONMENTAL STEWARDSHIP OPERATIONS AND
MAINTENANCE GUIDANCE AND PROCEDURES**

1. This is change 3 to ER 1130-2-540, 15 November 1996 Revises Chapter 8. It provides the guidance, framework, and policy for the development of a project Fire Management Program and updates policy in accordance Section 2012 of the Water Resource Development Act of 2007.
2. Substitute the attached pages as shown below:

Chapter	Remove page(s)	Insert page(s)
8	8-1/3	8-1/3

3. File this reference sheet in front of this publication for reference purposes.

FOR THE COMMANDER:


STEPHEN L. HILL
Colonel, Corps of Engineers
Chief of Staff

Project Operations
ENVIRONMENTAL STEWARDSHIP OPERATIONS AND
MAINTENANCE GUIDANCE AND PROCEDURES

TABLE OF CONTENTS

	Paragraph	Page
CHAPTER 1 – Introduction		
Purpose	1-1	1-1
Policy	1-2	1-1
Applicability	1-3	1-1
References	1-4	1-1
CHAPTER 2 – Natural Resources Stewardship		
Purpose	2-1	2-1
Policy	2-2	2-1
CHAPTER 3 – Pest Control Program For Civil Works Projects		
Purpose	3-1	3-1
Glossary	3-2	3-1
Policy	3-3	3-1
Responsibilities	3-4	3-4
CHAPTER 4 – Forest Pest Suppression Assistance at Civil Works Water Resources Development Projects		
Purpose	4-1	4-1
Policy	4-2	4-1
Funding	4-3	4-2
CHAPTER 5 – Shoreline Management at Civil Works Projects		
Reserved		

This regulation supersedes Engineer Regulations (ER) 1130-2-400, dated 1 June 1986; 1130-2-413, dated 16 August 1989; 1130-2-433, dated 30 April 1991; and 1130-2-438, dated 26 October 1987.

	Paragraph	Page
CHAPTER 6 – Cultural Resources Management		
Purpose	6-1	6-1
Cultural Resources Management Policy	6-2	6-1
Cultural Resources Protection Policy	6-3	6-6
CHAPTER 7 – Stewardship Support Program		
Purpose	7-1	7-1
Policy	7-2	7-1
CHAPTER 8 – Fire Management Program		
Purpose	8-1	8-1
Glossary	8-2	8-1
Policy	8-3	8-2
APPENDIX A - References		

CHAPTER 1 - INTRODUCTION

1-1. Purpose. This regulation establishes land management policy for Corps administered project lands and water, based on various authorizing legislation and the principles of good environmental stewardship. The reader should also see ER 200-2-3 for additional guidance.

1-2. Policy. It is Corps policy to apply principles of good environmental stewardship to the natural and cultural resources occurring on Corps administered and/or managed lands and waters. For the Corps the term “steward” shall mean manager of those public resources. Environmental stewardship shall include both passive and proactive management to sustain healthy ecosystems and biodiversity, and conserve natural resources, such that Corps lands and waters are left in a condition equal to or better than their condition when acquired, and such that those natural and cultural resources are available to serve the needs of present and future generations. Management plans will be prepared for all Corps administered lands and waters.

1-3. Applicability. This regulation applies to all USACE commands having responsibility for civil works functions.

1-4. References. See Appendix A.

CHAPTER 2 - NATURAL RESOURCES STEWARDSHIP

2-1. Purpose. This chapter establishes the policy for the administration and management of natural resources activities at USACE civil works water resource projects.

2-2. Policy. It is the policy of the Corps of Engineers that:

a. Programs and activities related to environmental stewardship and the management of natural resources shall implement and be consistent with:

(1) the following mission statement:

" The Army Corps of Engineers is the steward of the lands and waters at Corps water resources projects. Its Natural Resources Management Mission is to manage and conserve those natural resources, consistent with ecosystem management principles, while providing quality public outdoor recreation experiences to serve the needs of present and future generations.

In all aspects of natural and cultural resources management, the Corps promotes awareness of environmental values and adheres to sound environmental stewardship, protection, compliance and restoration practices.

The Corps manages for long-term public access to, and use of, the natural resources in cooperation with other Federal, State, and local agencies as well as the private sector.

The Corps integrates the management of diverse natural resource components such as fish, wildlife, forests, wetlands, grasslands, soil, air, and water with the provision of public recreation opportunities. The Corps conserves natural resources and provides public recreation opportunities that contribute to the quality of American life."

(2) the following program objectives:

(a) To manage natural resources on Corps of Engineers administered land and water in accordance with ecosystem management principles, to ensure their continued availability.

(b) To provide a safe and healthful environment for project visitors.

b. Project personnel and the operations element, with the coordination of the planning, real estate and safety elements and the effected publics, shall develop and fully implement project Master Plans (MP) and Operational Management Plans (OMP) to accomplish the natural resources program objectives. Specific guidance on the Master Plan and OMP preparation and implementation processes is provided in Chapter 3 of ER 1130-2-550.

c. Natural Resource Management Activities.

(1) Operations Project Managers are responsible for the completion of natural resources inventories on Corps civil works projects. Natural resources inventories data shall be available on all project lands, including outgrants, at Corps civil works projects to provide quantitative and qualitative data for use in determining resource management needs. The inventory data may be in a form such that it may be used in information management systems such as the Natural Resources Management System (NRMS) or a Geographic Information System (GIS). There are

two types of inventories, Level One and Level Two.

(a) Level One inventories are of a general nature and will be conducted to provide baseline information for MP purposes. Level One inventory data will be used to support the resource objectives and land use classifications for the MP. In the absence of identified resource objectives and/or existing inventory data, a Level One inventory will be conducted. The Level One inventory shall be conducted in sufficient detail to determine general plant and animal composition, acreage of dominant vegetative types (such as grasslands, woodlands, and wetlands among others), soil types, land use capabilities, and the presence of "special status species" and/or their critical habitat occurring on project lands and waters. "Special status species" include any species which is listed, or proposed for listing, as threatened or endangered by the U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS), under the provisions of the Endangered Species Act; any species covered by the Migratory Bird Treaty; any species designated by the FWS as a "candidate" or "listing" species or "sensitive" species; and any species which is listed and protected by State statute in a category implying potential endangerment or extinction. The Level One inventory shall be in most cases accomplished using available existing information which is readily available from a variety of sources (e.g., U.S. Geological Survey maps, county soil surveys, U.S. Fish and Wildlife Service, aerial photography, Corps real estate maps, Corps project feasibility documents, State Heritage Offices, etc.).

(b) Level Two inventories are prepared in support of the resource objectives and/or land use classifications identified in the project MP and the OMP. Level Two inventories are required for the effective development, execution and evaluation of specific natural resources management prescriptions. Detailed inventories for "special status species" are Level Two, and these inventories shall be conducted at frequencies necessary to determine the existence of any new populations of "special status species" occurring on project lands, or to determine significant changes in the existing population levels of these species.

(2) "Special status species" and/or their critical habitats that occur on water resources development projects shall be protected and/or conserved in accordance with the Endangered Species Act, as amended, and with existing state statutes. Endangered species Recovery Plans prepared by the FWS and/or NMFS shall be followed in efforts to protect and conserve federally listed species or their critical habitat on Corps administered lands and waters. See Chapter 2 of EP 1130-2-540 for procedures on complying with Endangered Species Act. Corps personnel should cooperate in the management of state-listed and protected species where feasible.

(3) MPs shall be prepared and approved in accordance with Chapter 3 of ER 1130-2-550. The MP shall document and organize congressionally authorized natural resources management activities (i.e., established by project specific authorities, as well as general authorities for stewardship responsibilities) which are to be conducted on the project. MPs shall reference the legal authorities and responsibilities which guide the project's role within the region, watershed, and ecosystem. Natural resources related interpretive programs, such as Watchable Wildlife, shall be identified in MPs by either a specific resource objective and/or land use classification.

(4) OMPs shall be prepared and approved in accordance with Chapter 3 of EP 1130-2-550 to document: a summary of natural resources inventories and evaluations; the inventory methodologies used; resource objectives; and site specific prescriptions for the management of the resources. Specific (Level Two) inventories are developed and conducted to support approved resource objectives and determine the existence of any "special status species" occurring on project lands. General (Level One) inventories should be described in the OMP and

conducted in the absence of resource objectives and/or existing inventory information.

(5) General Plans shall be prepared and approved pursuant to the Fish and Wildlife Coordination Act, and in accordance with Chapter 2 of EP 1130-2-540. General Plans shall be prepared when existing project lands and waters are to be used for fish and wildlife purposes under the administration of other agencies, and for lands acquired specifically for wildlife mitigation whether managed by the Corps, or other agency. General Plans are not necessary for other lands and waters managed by the Corps in the interest of good stewardship and multipurpose use of natural resources. Specific guidance is provided in Chapter 2 of EP 1130-2-540 on the necessity for General Plans under different operation situations.

(6) Natural resources management activities shall be accomplished through the use of one or more of the following management concepts: stewardship, mitigation, or enhancement.

(a) Stewardship. Natural resources management through a stewardship concept ensures the conservation, preservation, or protection of those resources for present and future generations. Stewardship focuses on sustaining ecosystems. Stewardship shall be applied in a biological community context, thereby providing protection for the existing species populations, communities, habitat types and ecosystems. "Special status species" and their habitats shall be identified and accommodated in the MP and OMP. The application of the stewardship concept within ecosystems and their component biological communities (such as forests and woodlands, range and grasslands, and wetlands), including fish and wildlife and soils, is described in the following paragraphs.

- Ecosystem Management. An ecosystem is a dynamic community of biological organisms, including humans, and the physical environment in which they interact. Ecosystem management by the Corps shall be a proactive, goal-driven approach to sustaining ecosystems and their values. The Corps will manage communities to promote regional environmental values occurring on project lands toward sustaining ecosystems in which the project lands and waters occur. Such ecosystems and communities will be identified in resource objectives and/or land use classifications contained in the MP and the OMP. Preferential treatment will be given to the management of ecosystems, communities, and habitats identified as having special status species.

- Forest and Woodland Management. The Forest Cover Act provides a statutory mandate for multiple use forest management, or other vegetative cover management, on project lands and waters. Forest and woodland management will be applied to develop, maintain, protect, and/or improve vegetation conditions for timber, fish, wildlife, soils, recreation, water quality and other beneficial uses. The MP will provide for multiple use forest management wherever practicable and compatible with other uses of project land. Where applicable, OMPs shall provide for the continued production and harvest of forest products through sustained yield programs, reforestation, and accepted conservation practices. Where applicable, the OMP will provide site specific prescriptions for forest and woodland management.

- Fish and Wildlife Management. Section 2 of the Forest Cover Act provides authority for the Corps to manage project lands and waters for any or all conservation purposes, including fish and wildlife conservation. The Corps will conduct fish and wildlife management activities which seek to maintain populations of targeted wildlife species through the manipulation and management of habitat. The Corps will coordinate and conduct its program in conjunction with other Federal, state, and local agencies having fish and wildlife management responsibilities using a variety of techniques including the placement of artificial structures and other practices.

Where not managed by other Federal, state or local agencies, the Corps will conduct fish and wildlife management programs on all project lands and waters which are identified by land classification and/or resource objective for fish and wildlife management. The MP and OMP will identify and document the fish and wildlife species that inhabit project lands and waters. Those species that are to receive management emphasis will be special status species, and those species specified by laws and national focus plans/agreements such as the Endangered Species Act and the North American Waterfowl Management Plan. The OMP will include site-specific prescriptions for the management of fish and wildlife habitat, or for management of a specific species or species group.

- Grassland Management. Grassland (including range land) management is within the mandate of the Forest Cover Act. The Corps will provide for the protection and development of vegetative cover other than forests and woodlands as well as establish conservation measures for its maintenance. Grassland management techniques will be applied whenever the opportunity exists to protect native grasslands or prairie, and/or improve vegetative conditions as a soil conservation, watershed protection, fish and wildlife habitat, or range management practice. Livestock grazing, haying, crop production and other agricultural activities are tools that may be used in the manipulation of vegetation and should not be used, or discontinued, where they may be reasonably expected to destroy or significantly alter plant and animal communities that occupy a project. The range and grassland management program will comply with the resource objectives and/or land use classifications stated in the MP and OMP. Where applicable, the OMP will provide site specific prescriptions for range and grassland management.

- Wetlands Management. The Forest Cover Act provides for the development of other vegetative cover, such as wetlands, so as to yield maximum benefit and otherwise improve such areas. Wetlands are those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands will be assigned a resource objective or wetlands land classification in the Master Plan and the OMP. Existing wetlands will be protected, conserved, and maintained. On hydric soils (indicating previous wetland conditions) consideration and management emphasis should be given to returning, operating, and/or maintaining wetlands for wetland plant communities. Consideration should be given to buffering the wetland within an adequate amount of land to prevent abuse or loss from adjacent land uses. The development and maintenance of wetlands should integrate the needs of fish and wildlife and support national programs and efforts associated with the Endangered Species Act, Section 307 of PL 101-640, EO 11990, and the North American Waterfowl Management Plan. Wetlands management objectives and practices should be featured in the Master Plan and OMP.

- Soils Management. All land management prescriptions developed for use at water resources development projects will integrate the constraints and favorable characteristics associated with specific soil types and land use capabilities. Land uses and conservation practices recommended by the Natural Resources Conservation Service for each land use capability class should be carefully considered during the development of MP and OMPs. Where available, an inventory of soil survey maps will be maintained at project offices and referenced in management prescriptions contained in the OMPs. Constraints associated with the soils and land use capabilities of a particular site will be identified and incorporated into Master Plans and OMPs. The OMP will provide site specific prescriptions for soils management including erosion control, sediment management, and bank stabilization.

(b) Mitigation. Mitigation measures authorized by Congressional legislation or approved

by Headquarters compensate for ecological resources unavoidably and adversely affected by a Corps project. Mitigation includes stand-alone projects; work undertaken concurrently with project construction; and operation, maintenance, and management of mitigation measures. The species, habitat, and/or measures identified as mitigation are contained in feasibility reports and design memoranda submitted as supporting documentation for the project authorization and in other supporting documents such as special reports to Congress. Mitigation measures that are cost shared with a local sponsor shall have the appropriate ratio of shared costs identified in the above reports and documents. Approved mitigation plans and associated measures shall be incorporated into the MP and OMP.

(c) Enhancement. PL 89-72 provides for the consideration of fish and wildlife enhancement opportunities at Corps water resources development projects. Enhancement measures/activities are those measures/activities taken above a stewardship level (i.e. level required to sustain fish and wildlife resources for the life of the project), and those measures/activities which produce an increase or concentration of animal numbers for the purpose of recreational benefits. Enhancement measures/activities are subject to cost-sharing or total funding by others, in accordance with administrative guidance provided by the Assistant Secretary of the Army for Civil Works.

(7) Natural Resources Protection. Management activities designed to prevent destruction of, or to minimize the degradation of, natural resources due to harmful effects of soil erosion and resultant sedimentation, wildfire, insects, and disease shall be specified in the OMP.

(a) Management activities undertaken for the purpose of repairing or restoring the adverse impacts of improper or over utilization will be identified in the MP and OMP. Particular attention should be given to carrying capacities for domestic livestock and human use.

(b) To facilitate the protection of property from fire, the Corps may enter into reciprocal agreements with appropriate public organizations or agencies. Such agreements may provide for the reimbursement of any or all costs incurred in furnishing fire control on Corps lands. Such agreements shall include a waiver from claims for compensation of any loss, damage, personal injury or death resulting in the performance of the agreement. Authority to approve fire control agreements is delegated to district commanders.

(c) OMPs will provide for monitoring project lands to determine unacceptable pest populations. OMPs will reference the requirements in ER 1130-2-540 for annual pest control plans and for documentation of pesticide use. Specific guidance on the development of natural resources protection plans is provided in EP 1130-2-540. Where appropriate, districts and/or projects are encouraged to enter into cooperative monitoring and control arrangements with other agencies, such has been done with the U.S. Forest Service for monitoring the presence of gypsy moths (See Chapter 4 of this regulation).

(8) Natural Resources Disposal and Removal. Project natural resources typically disposed of include forest products, agricultural crops, minerals, sand, gravel and embedded stone. It is not appropriate to sell project natural resources where there is reason to believe that such a sale will lead to the destruction or significant degradation of project plant or animal populations, habitat type, natural or cultural features presently existing on, within or beneath project lands and waters.

(a) Forest Products. The operations element shall prepare the determination of availability for forest products to be sold on project lands. The sale of forest products shall be

administered by the real estate element, in accordance with ER 405-1-12. Minor sales may be accomplished by the operations project manager on water resources development projects under the general guidance (ER 405-1-12) issued by the real estate element. Project-wide salvage contracts may be used to dispose of forest products resulting from insect and storm damage or recurring activities which require small-scale removal of forest products. Determinations of availability will contain as a minimum:

- A statement of the purpose of the proposed sale.
- An estimate of the volume of the various products made available and the basis for the estimate.
- A statement on the accuracy of the estimate to serve as the basis for a lump sum sale (if forest products are intended to be sold on lump sum basis).
- A listing of voluntary Best Management Practices (BMP) published by State forestry agencies will be included in the sales contract. Examples of BMPs include seasonal harvesting requirements, riparian protection zones, maximum log lengths, and allowable equipment size.
- Provisions for a final joint operations element-real estate element compliance inspection before release of the contractor at completion of the contract, as required.

(b) Agricultural Crops and Activities. A determination of availability will be prepared by the operations element for hay, grazing, crops and other agricultural activities to be disposed of by sale or removed from lease. All hay, grazing, crops and other agricultural sales or leases will be administered in accordance with applicable sections in ER 405-1-12.

(c) Minerals. ER 405-1-12 sets out policy and procedures on mineral exploration and leasing. Instruments authorizing mineral exploration or production activities shall include requirements to protect natural resources identified in the resource objectives and/or land use classifications presented in MPs and OMPs.

(d) Sand, Gravel, Embedded Stone. Sand, gravel, and embedded stone, which are generally referred to as common variety minerals are defined as real property (41 CFR Part 101-47.103-12 (c)). The Secretary of the Army has authority to dispose of these items without disposing of the underlying Government-owned lands under Department of the Army control. Determinations of availability prepared by the operations element shall contain conditions to protect natural resources identified in the resources objectives and/or land use classifications presented in MPs and OMPs. Guidance for sale of such products is contained in ER 405-1-12.

d. Pollution Abatement Activities.

(1) Solid waste disposal shall be by contract with licensed off-project sanitary collectors when such a method is economically and administratively feasible. Where practical, arrangements shall be made for disposal of solid wastes off the project. Where this is not feasible, disposal shall be accomplished on the project in accordance with Federal, state and local laws.

(2) Continuous vigilance for sources of water, air, visual, and noise pollution in the reservoir, in stream tributaries thereto, and on project lands shall be maintained. Periodic real

estate compliance inspection reports of all outgrants require specific comments regarding the possibility of pollution as a result of activities of the grantee. Surveillance of industrial, agricultural, and other operations which are potentially harmful to reservoir waters shall also be maintained in cooperation with the Environmental Protection Agency (EPA) and other Federal, state or local interested agencies. Permits for shoreline use shall be issued in accordance with paragraph f. below and Chapter 5, of this regulation.

(3) Projects shall be operated in a non-polluting manner in accordance with ER 200-2-3.

e. Outgranting of Lands.

(1) Pest management on outgranted lands shall be implemented and managed in accordance with Chapter 3 of this regulation.

(2) The operations element shall make determinations of availability of project lands for all outgrants. The operations element shall also be afforded the opportunity to make recommendations as to conditions of the proposed outgrant and agreement reached on those conditions prior to the start of negotiation or issuance of a Notice of Availability for Leasing. (See also Chapter 5 of this regulation and ER 405-1-12.)

(3) The performance of compliance inspections on lands outgranted for road, street, power line, pipe line, and underground communication line rights-of ways, other uses covered by licenses and permits, and selected (as delegated by the Real Estate Division) agriculture and grazing lease areas normally shall be by project personnel. Immediate corrective action shall be taken at the project level if emergency health and safety is involved.

(4) Real estate personnel shall perform annual compliance inspections on all other outgranted lands including lands outgranted for commercial concession, public park and recreation, and fish and wildlife purposes, and selected areas outgranted for agricultural and grazing purposes.

(5) Areas Relinquished by Non-Federal Interests. See ER 1130-2-550, Chapter 2, paragraph 2-2.r.

(6) Hotel type accommodations are excluded from any limits on length of stay.

(7) The Corps shall not prohibit non-Federal public lessees from charging differential fees based on residency, in accordance with that lessee's established policy. The Corps will not, however, encourage these lessees to institute such fees.

(8) Human habitation or residency on project fee lands or waters shall not be allowed except as approved by the District Commander. Construction of facilities conducive to human habitation shall not be permitted below the top of the flood control pool plus a reasonable freeboard. Such activity, if permitted would place undue limitations on the proper operation of the project in view of the Corps responsibility for the safety of people in the area and the orderly public use of the lake. However, in view of the enactment of Section 320 of the Water Resources Development Act of 1990, which was intended to prohibit the removal of trailers at concessions and club sites, at Corps projects, actions to remove those trailers should be terminated unless the conditions set forth in Section 1134 (d) of Public Law 99-662 are not being met. Existing leases may be modified as needed to provide for continuation of trailer uses as long as there is compliance with the conditions of Section 1134 (d).

(9) Private Exclusive Use.

(a) The Corps policy prohibits the expansion or the development of new private exclusive use except that permitted under the shoreline management program. However, in some cases, or at specific projects, private exclusive use may serve as an interim means to optimize utilization of public lands. Such use will be considered a low priority and is subject to termination when lands are needed for a higher priority use.

(b) Time share development will not be allowed. If time shares of private exclusive use have been permitted at a project, action should be taken to phase them out, such as termination at the end of the current lease.

(c) If a state proposes a recreation development that will include residential development, the Corps will work with the state to develop legislation that would transfer lands above the operating pool to the state for residential development on that land.

(d) Regional plans for private exclusive use should be updated to provide for any changes which result.

f. EO 12512 Surveys. It is the policy of the Corps to efficiently manage those lands at water resource projects which would be acquired in accordance with the 1971 implementation of the 1962 Army/Interior Joint Acquisition Policy. EO 12512 surveys will be conducted pursuant to provisions of the Federal Property Management Regulations (FPMR) (41 CFR part 101-47.8) and Chapter 8 of ER 405-1-12. Detailed guidance for reviewing lands not encompassed by this acquisition policy is presented in EP 1130-2-540, as is guidance on excessing Corps lands.

g. Boundary Surveys and Marking.

(1) Permanent type survey markers shall be placed at all angle points of the project boundary except where the land is adjacent to other federal or state lands. At new projects, boundary lines shall be monumented and delineated on the ground during land acquisition and be completed as part of the initial project construction. District commanders shall ensure an ongoing program at each project where the boundary monumentation is not complete; funds required for surveys, monumentation, and boundary marking will be programmed from maintenance funds based on budget priorities. MSC commanders shall exercise approval authority for requested exceptions. Specific guidance on boundary monumentation procedures and techniques is provided in EP 1130-2-550.

(2) The policy concerning the monumenting of fee boundary lines shall also be applicable to perpetual flowage easements lands, where encroachments may reasonably be expected from private development on adjoining lands. Landowner permission is necessary to monument.

(3) Project personnel shall inspect boundaries at intervals sufficient to insure that boundary lines remain adequately marked and monumented. Inspectors shall identify and document unauthorized uses of project lands and encroachments. At a minimum, boundary lines should be inspected every two years. For easement lands, the frequency of inspection and amount of effort expended shall be a function of individual deed restrictions and the presence of easement in monumentation.

(4) Fencing shall be used as a management tool to delineate project boundaries where

alternative management practices are not sufficient to ensure the safety of project employees and visitors. Where economically justified, fencing may be used to prevent unauthorized use and trespass, to protect against environmental degradation, and to preserve desirable wildlife habitat. The extent and type of boundary fence to be used shall be determined on a project by project basis. Where fencing is used to delineate project boundaries, adequate provision for pedestrian access from adjacent land must be provided except where such pedestrian access from adjacent land will create user conflicts in developed areas, user fee areas, or where access is restricted by other management requirements.

h. Natural Resources Management Program Staff. (See ER 1130-2-550, Chapter 2, paragraph 2-2.e.)

CHAPTER 3 - PEST CONTROL PROGRAM FOR CIVIL WORKS PROJECTS

3-1. Purpose. This chapter establishes the policy for the management of pest control programs, including contracted services, at civil works projects.

3-2. Glossary.

a. Bug Bombs and Space Sprays and Other Pre-mixed Sprays. This includes all general use insecticides which are packaged by the manufacturer in aerosol or pump containers of small quantities (approximately 16 ounces or less per container), and are available for purchase over the counter by any person without regard to applicator certification status.

b. General Use Pesticide. Any pesticide that, when applied in accordance with its directions for use, warnings, and caution and for the uses for which it is registered, or for one or more of such uses, will not generally cause unreasonable adverse effects on the environment, as determined and classified by the Environmental Protection Agency (EPA).

c. Integrated Pest Management. A comprehensive approach to pest control or prevention in which a variety of pest control methods intended to prevent, destroy, or repel a pest are evaluated to determine their effectiveness, in combination with their degree of impact on the surrounding environment; and then selecting that management method, or combination of methods, which causes the least amount of environmental impact while at the same time accomplishing the specific pest control goals. Examples of these methods include non-chemical habitat manipulation, mechanical control, biological control, and chemical control.

d. Pest. The term 'pest' means any insect, rodent, nematode, fungus, weed; or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals), which the EPA declares to be a pest under section 25 (c)(1) of PL 92-516, The Federal Insecticide, Fungicide, and Rodenticide Act. State and local agencies may exercise their own jurisdictional authority and declare additional pests.

e. Pesticide. The term 'pesticide' means any substance or mixture of substances intended for preventing, destroying, repelling any pest; also any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. Pesticides include fungicides, herbicides, insecticides, larvicides, and rodenticides, avicides, molluscicides, piscicides, etc.

f. Restricted Use Pesticide. Any pesticide that, when applied in accordance with its directions for use, warnings, and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator, as determined and classified by the EPA.

3-3. Policy. It is the policy of the Corps of Engineers to perform integrated pest management on civil works projects in a manner which provides for the safety of the environment, the public, and the pesticide applicator.

a. All Corps personnel applying pesticides, either general-use (other than bug bombs, space sprays and other pre-mixed sprays, and no-pest strips) or restricted-use pesticides, shall be properly trained and/or certified in the safe methods of application and shall follow all

regulations referenced above pertaining to pesticides and their use. Records of such training and/or certification will be maintained in official personnel files. Retraining/re-certification of personnel shall occur within three years in accordance with state or Federal certification programs. See Chapter 3 of EP 1130-2-540 for additional guidance.

b. All general-use pesticides (other than bug bombs, space sprays and other pre-mixed sprays, and no-pest strips) applicators shall successfully complete state, or state approved, training in safe methods of application of general-use pesticides.

c. The use of general-use rather than restricted-use pesticides is encouraged. Under the provisions of Section 4, PL 92-516 and 40 CFR 171, the Environmental Protection Agency (EPA) is responsible for certification of Federal personnel applying restricted-use pesticides. To meet this requirement, the Department of Defense (DoD) has developed an Agency Plan which satisfies the training and certification required by EPA. Personnel applying restricted-use pesticides are required to complete restricted-use training and certification as given at Navy facilities at Jacksonville, Florida, or in Alameda, California; or at the U.S. Army Health Services Command, Fort Sam Houston, Texas. State training which results in state certification for restricted-use pesticides may be used in lieu of the above Navy provided training if the state training meets the DoD requirements as described in DOD 4150.7-M, Plan for Certification of Pesticide Applicators of Restricted Use Pesticides.

d. Where practicable pest control services should be accomplished through service contracts. The contractor shall be required to submit proof that contract pesticide applicators are certified in, or work under the direct supervision of personnel certified in, applying restricted-use pesticides in the specific state categories commensurate with the work to be performed. Furthermore, contract specifications will include the clause that an appropriately certified individual will be physically present at location where the application of restricted-use pesticide is being conducted. A trained and certified restricted-use pesticide applicator shall approve the use of restricted-use pesticides prior to their application. Reporting requirements for contracted pest control services shall be the same as those specified in sub-paragraph 3-3.e and paragraph 3-4.

e. Corps of Engineers policy on vector control is to respond whenever a duly authorized public health agency declares an emergency health hazard involving Corps managed property. Nuisance pest and mosquito programs shall only be performed on Corps managed public recreation areas, or lands adjacent to those areas, operation and maintenance areas, and certain dredge material disposal areas.

f. All pesticide spills shall be contained and reported in accordance with the District and Project Oil and Hazardous Materials Spill Plan (see ER 200-2-3), and the appropriate district element shall be notified as required by the situation. Information on pesticide spills (location, date, amount, type and cleanup action) shall be collected at the time of the spill. These records and reports as well as follow-up studies, maps, and inventories shall be maintained as part of the permanent project land record.

g. Districts shall review their pest control programs to ensure they do not impact endangered species and their designated critical habitat. (The Endangered Species Act (ESA) requires that all Federal agencies ensure their actions will not jeopardize endangered or threatened species and associated habitat.)

h. Personnel Requirements. Pest control duties shall be identified in applicable job descriptions, performance standards, and job hazard analyses whether they constitute a major duty

or not. Such job descriptions will also note the employees responsibility for using personal protective equipment and clothing provided, note the requirement for training and/or certification under PL 92-516 and 40 CFR 171; and for following established health and safety practices and procedures, including the requirement for periodic medical examinations. Specific guidance on medical surveillance and training and certification requirements for all personnel directly involved in pesticide applications is provided in EP 1130-2-540.

i. Pesticides shall be handled in accordance with Federal regulations (40 CFR 165). Personnel whose duties include supervision of pesticide applicators or administration of pesticide service contracts shall have a practical knowledge of Federal and state supervisory requirements, including labeling, record keeping, and application of pesticides. Personnel must adhere to basic health and safety practices and procedures, including personal protective equipment and clothing, work area layouts, storage, and application considerations. Specific guidance on the management of pest control personnel activities, use of pest control agents, and related safety issues is provided in EP 1130-2-540. Additional guidance is contained in Section II and Appendix A of the U. S. Army Environmental Hygiene Agency, "Guide for Medical Surveillance of Pest Controllers," Technical Information Manual (TIM) 21.

j. Storage of pest control agents shall be in accordance with applicable Federal and state regulations. Inspection of stored pesticides will be made on at least a quarterly basis. Certified applicator personnel and safety and fire prevention officers shall perform and record inspections in accordance with their criteria. Specific guidance on storage requirements is provided in EP 1130-2-540.

k. Data taken before and after each application of a pesticide shall be recorded at the time of each application, whether performed by hired labor or contract, and retained at the project office. Data requirements and retention regulations are provided in EP 1130-2-540.

l. Pesticide Disposal.

(1) Permissible disposal methods for excess pesticides will vary from one location to another based on availability of approved pesticide incinerators and specially designated landfills. Consultation on proper disposal procedures should be accomplished with the appropriate state and Federal agencies. Records shall be maintained permanently on any pesticide disposal. Refer to 40 CFR 165 Subpart C and TIM 21 for information on proper disposal methods. Project facilities will not accept storage or disposal of pesticides collected by the civilian community.

(2) Pesticides in deteriorated containers shall be transferred to approved clean containers which are lined to protect against chemical reaction. Different formulations of the same pesticide shall not be placed in the same container. Replacement containers will be labeled to include the name and strength of the pesticide formulation, the registration number, and other pertinent manufacturing data (e.g., log number, date of manufacture, and expiration date, and all hazard warning information including hazards, exposure symptoms, control measures, emergency medical procedures and the manufacturer's point of contact in case of an emergency) from the original label (see 40 CFR 165.10 and TIM 21).

m. In an effort to reduce the use of chemicals and assure effective use of appropriate control techniques, pest control managers shall keep abreast of current integrated pest management technology, and when prudent, efficient and effective, utilize options other than chemical control of pests, including mechanical vegetation control and biological pest control. Some sources of this type of information are the Waterways Experiment Station (WES), the

Aquatic Plant Control Operations Support Center (APCOSC), local extension offices, and universities.

3-4. Responsibilities.

a. The MSC Commander is responsible for providing guidance on Federal policies and regulations on pest control. This shall include close coordination with Environmental Protection Agency Regional Offices in order to comply with the regulatory requirements for operational uses of pesticides, or other control methods, and for the protection of endangered species.

b. The District Commander is responsible for implementation of the program and providing for the training and certification of pest control personnel, safe use of highly toxic materials, proper applications of pesticides, and compliance with all applicable Federal and state regulations regarding pest control. The District Commander shall designate a trained, single point of contact (POC) for the management of the District pest control program. District programs shall be reviewed for the selection of suitable pest control agents, up-to-date and economical methods of control, and the proper use and maintenance of pest control equipment. The District office is responsible for maintaining a current listing of suspended, canceled, and restricted-use pesticides.

c. Field offices shall prepare and submit to their district office, by 15 December of each year, Annual Pest Control Plans which detail descriptions of their anticipated use of pesticides during the upcoming calendar year for review and approval by the designated district POC. Field offices shall also prepare and submit to the designated district POC, by 30 January of each year, an accounting of the actual pesticide usage during the previous calendar year. In areas where there is minimal winter pest control activity, both annual reports may be submitted by 15 December. Districts may develop a list of certain chemical products which are widely and routinely available "over the counter" to the general public, and pre-approve these products thus making them exempt from the requirement to secure preapplication approval prior to their use. Such chemical control agents may include products such as ant and roach sprays, bee sprays, bug bombs, no-pest strips, rodent poisons, weed and feeds, and all other general use pre-mixed weed killers or insecticides sold in small, ready to use quantities. Pesticides approved in the annual plan must be applied according to the pesticide label. Pesticide uses which are different from the uses identified on the label must be approved by the EPA. The requirement for end of the year accounting of actual pesticide usage to the district office and post-application documentation will be retained for these products with the exception of bug bombs, space sprays, and no-pest strips.

d. Each new or renewed lease, license, easement, or permit shall contain a provision requiring the grantee to comply with all Federal, state and local laws, and rules and regulations relating to the use of pesticides. Information, records, and data on the proposed and actual use of pesticides by grantees or their designated representatives on outgranted areas during the year, shall be provided to Real Estate Division as a part of their annual management plan. In addition to the type and quantity of pesticide and the location of the proposed application, the grantee shall provide assurances that all applicators are appropriately licensed to apply the pesticides intended for use. Where an annual management plan is not required by the terms and conditions of the outgrant, the Real Estate Division shall notify the grantee on outgrants administered by Real Estate Division that authorization is required through the Real Estate Division before any pesticides are applied on the outgranted areas. Real Estate Division is responsible for providing the proposed and actual use of pesticides to the District Pesticide POC by 31 January of each year. Field offices shall be furnished a copy of the proposed and actual use pesticides by the district POC as information is received from Real Estate Division.

CHAPTER 4 - FOREST SERVICE PEST SUPPRESSION ASSISTANCE AT CIVIL WORKS WATER RESOURCES DEVELOPMENT PROJECTS

4-1. Purpose. This chapter establishes the policy for consistent USACE (civil works) involvement under the Memorandum of Agreement (MOA) between the U.S. Department of Agriculture (USDA) and U.S. Department of Defense (DoD) for assistance in the conduct of forest insect and disease suppression on lands administered by the U.S. Department of Defense.

4-2. Policy. It is the policy of the Corps of Engineers that:

a. The requirements of this chapter are mandatory for those districts seeking pest suppression funding support from the USDA Forest Service. Program participation remains, however, voluntary.

b. In accordance with the MOA, MSC and district commanders shall cooperate fully with the USDA to prevent and suppress damaging forest insect and disease outbreaks. Specific program implementation guidance, sample reports, Forest Service technical assistance points of contact (POC) and an abbreviated list of pests applicable under this program are located in Chapter 4 of EP 1130-2-540.

(1) During initial program implementation, each participating district shall designate a POC to address all matters relating to forest pest surveillance and suppression on civil works projects. All MOA reports associated with forest pest surveillance and suppression programs at civil works projects shall be prepared and submitted in accordance with the MOA and Forest Service Form FS-3400-2 guidelines, which are also found in EP 1130-2-540.

(2) The district POC shall request assistance in a timely manner from the nearest Forest Service Regional Forest Pest Management (FPM) Office, if the need for forest pest or disease suppression under this program is anticipated in the up-coming year. The criteria outlined in section 4.b.(4) of the MOA shall determine whether suppression activity is appropriate. Suppression may consist of biological, chemical, or mechanical treatments or techniques, or combinations of these. Procedures for developing a "Pest Management Project Plan," using Forest Service Form FS-3400-2 are presented in Chapter 4 of EP 1130-2-540.

c. Training. Under the terms of the MOA, the USDA Forest Service is responsible for providing training opportunities for DoD personnel in techniques for the prevention, detection and suppression of destructive forest insects and diseases. Participating district POCs shall determine training needs on an annual basis and recommend personnel involved in managing forest resources at civil works projects for training. The district POC shall request such training from the Regional FPM Office of the Forest Service far enough in advance that it may be included in the District Annual Training Needs Survey. Guidance on requesting and funding of training is provided in EP 1130-2-540; general pest management program guidance is provided in Chapter 3 of this regulation.

4-3. Funding. The Cooperative Forestry Assistance Act of 1978, PL 95-313 authorizes the USDA Forest Service to allocate funds to other Federal land management agencies for suppression of forest insect infestation and disease epidemics.

a. Requests for Forest Service funding assistance shall comply with the milestones for

ER 1130-2-540
15 Nov 96

forest pest suppression projects established by the Armed Forces Pest Management Board (AFPMB), as provided in Chapter 4 of EP 1130-2-540.

b. Lack of USDA Forest Service funding for a particular Corps suppression project does not prohibit Corps funding of the project using Operation and Maintenance, General funds if good stewardship practices dictate. An example would be a sudden forest insect infestation or outbreak of disease requiring immediate suppression. In such cases, Operation and Maintenance, General funds may be used in lieu of USDA Forest Service funds.

CHAPTER 5 - SHORELINE MANAGEMENT AT CIVIL WORKS PROJECTS

Reserved

CHAPTER 6 - CULTURAL RESOURCES STEWARDSHIP

6-1. Purpose. This chapter establishes the policy for the management and protection of cultural resources at operating civil works water resources projects for which the U. S. Army Corps of Engineers is responsible.

6-2. Policy.

a. Curation and Management of Archaeological Collections.

(1) Mandatory Center of Expertise (MCX). The Corps MCX for Curation and Management of Archaeological Collections at St. Louis District shall manage Corps-wide curation needs assessments and design services for the curation of archaeological collections. The MCX shall review the status of Corps-wide curation of collections and associated documents and ensure USACE compliance with the provisions of 36 CFR Part 79 (Curation of Federally-Owned and Administered Archaeological Collections). Costs for compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) will be handled through the annual budget request process established by the MCX. The MCX in coordination with the Curation Field Review Group (CFRG) will review these requests, prioritize them, and provide funding to districts based on the funding priorities established. The MCX has established standard operating procedures which detail its responsibilities.

(2) Data and Material. Data and material from historic properties (defined as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places) that could be impacted as a result of civil works undertakings shall be investigated, evaluated, recovered, and preserved. Specific guidance on collection management is provided in EP 1130-2-540.

(3) Collection Availability. District commanders shall ensure that collections are available for scientific and educational uses by qualified professionals, including access for study, loan, and use for such purposes as in-house and traveling exhibits, teaching, public interpretation, scientific analysis and scholarly research. Human skeletal material shall not be placed on display or exhibited for public viewing in any fashion. At the discretion of the Commander, collections may also be loaned for religious uses by interested groups with a demonstrated affiliation to the materials in the collection. District commanders are also responsible for consultation with Native Americans and repatriation of human remains and associated funerary objects to appropriate Indian tribes or Native Hawaiian organizations as required by NAGPRA.

(4) Cost Estimates. Line item cost estimates for collections management and curation shall be included in all cost estimates prepared for investigations that will result in collection of material remains and associated records.

(5) Tribal Consultation.

(a) Consistent with PL 95-341, American Indian Religious Freedom Act and PL 103-141, Religious Freedom Restoration Act of 1993, commanders shall consult with affected tribes, groups, or individuals regarding appropriate action for project effect upon sacred sites, important to the practice of traditional Native American religion. Native American consultation topics may

include, but not be limited to, access to sites, use and possession of sacred objects, freedom to worship unburdened except when there are compelling government interests, and suitable preservation measures.

(b) NAGPRA requires Federal agencies to compile documentation on specific materials in archaeological collections and consult with recognized Indian tribes on these efforts. Section 3 of the Act also requires tribal consultation when cultural items, as defined by the Act, are inadvertently discovered in federally controlled or owned lands.

(c) Tribal consultation pursuant to cultural resource law may require, but not be limited to, Native American and/or Native Hawaiian attendance at meetings, on-site visits, and the sharing of information akin to intellectual property. Commanders shall ensure that Native Americans/Hawaiians who are invited to participate, by the Corps, in consultation proceedings receive appropriate compensation for their activities. Existing authorities allow for the preparation of Invitational Travel Orders and the issuance of purchase orders, not exceeding \$2,500.00, for the purpose of sharing critical information important for the furtherance or completion of consultations required by Federal laws.

(6) Repatriation.

(a) Cultural items, as defined by NAGPRA, may be repatriated or provided for reinterment to recognized Indian tribes or Native Hawaiian Organizations. Prior to repatriation, commanders must meet the procedural requirements established by NAGPRA and repatriation claims must satisfy the conditions of authenticity established by the Act. At the request of a recognized Indian tribe or Native Hawaiian Organizations, the Corps of Engineers may assist in the reinterment of NAGPRA cultural items.

(b) Undertakings by the Corps which may result in the discovery of cultural items are subject to the provisions of Section 3 of NAGPRA, including the potential for repatriation and reinterment of specific items. Specific guidance on repatriation and reinterment of human remains and associated funerary objects is provided in EP 1130-2-540 and 43 CFR Part 10, Final Rule implementing NAGPRA.

(7) State of Origin. Except as may be required by special management purposes, every effort shall be made to curate and manage archaeological collections within their state of origin.

b. Cultural Resources Management Plans. In accordance with provisions of the Archaeological Resources Protection Act (ARPA) of 1979, as amended, and the National Historic Preservation Act (NHPA) of 1966, as amended, district commanders shall ensure that a Cultural Resources Management Plan (CRMP), where appropriate, is developed for USACE projects. Specific guidance on the content and format of the plan is presented in EP 1130-2-540.

(1) Lands Held In Fee Title. Consistent with the CRMP or other management requirements, the District Commander shall implement a program, upon availability of funds, to accomplish an inventory of historic properties and site evaluation at each civil works water resource project under his/her jurisdiction and administration to comply with Section 110(a)(2) of the NHPA. Historic properties located on civil works water resource project fee owned lands shall be managed and maintained in a way that considers the preservation of their historic, archaeological, architectural and cultural values in compliance with Section 106 of the NHPA and

gives special consideration to the preservation of such values when historic properties have significance.

(2) **Lands Held In Less Than Fee Ownership.** On lands held in less than fee by the Federal government, but under Corps of Engineers jurisdiction, the District Commander shall give full consideration in planning for the preservation of historic properties that may be potentially affected by Corps activities. If Corps action will impact the property, the Corps shall be empowered to acquire necessary real estate interests to enable it to carry out the intent of Congress in mitigating adverse impacts to historic properties resulting from Corps activities.

c. **Surveys on Corps Leased Lands.** The responsibility for compliance with ER 405-1-12 rests with the Corps when real estate grants are proposed for lands that have not been examined for historic properties. However, the District Commander may allow or require the grantee to conduct necessary surveys at his own convenience and expense. Where the grantee assumes responsibility for conducting such investigations, the proposed plan of action and choice of investigator shall be approved by the District Commander.

d. **Historic Properties FDM.** When the construction of new, or major modification of existing, civil works projects will result in major impacts on significant historic properties, a Feature Design Memorandum (FDM) shall be required. This FDM shall be a major management tool guiding the proper treatment of historic properties throughout the Construction and initial Operational phases. FDMs shall be fully coordinated with Construction, Operations, Real Estate, and other Divisions to ensure compatibility among these elements. It is expected that a Historic Properties FDM may be required only in the event of one or more of the following:

(1) the project will require mitigation of an unusually large number, or a number of unusually complex, historic properties beyond that previously anticipated; or

(2) a significant Post-Authorization Change (PAC) in the project which dramatically alters the anticipated number or type of historic properties to be affected; or dramatically increases the estimated cost or scope of the anticipated historic properties mitigation plan; or increases mitigation costs above the one percent limitation such that specific Congressional authorization or waiver of the one percent limitation is required.

6-3. Cultural Resources Protection Policy.

a. **Site Location Disclosure.** In accordance with Section 9 of the ARPA (16 USC 470 hh) and Section 304 of the NHPA (16 USC 470 w-3), commanders shall restrict access to associated records that contain information relating to the nature, location, or character of a prehistoric or historic resource unless the commander determines that such disclosure would not create a risk of harm, theft, or destruction to the resource or to the area or place where the resource is located.

b. **ARPA Permits.** Requests by other agencies or persons to conduct historic or archaeological investigations of any type on Corps managed or controlled lands, sites, or properties, shall be in accordance with the requirements of guidance which implements the permit requirements of ARPA. Procedures for the development of permit requests as well as review and approval of permits for these investigations can be found in ER 405-1-12.

(1) Although not subject to the civil or criminal penalties of ARPA, the collection of

arrowheads or other artifacts from the surface of the land for private purposes without a permit shall be prohibited.

(2) ARPA permits are not required by Corps personnel acting in an official capacity, or by Corps contractors pursuant to contract requirements.

c. Enforcement.

(1) Violators of protected properties shall be prosecuted under 36 CFR Part 327, 14(a), which provides protection for historic properties and public property, or ARPA.

(2) Enforcement under 36 CFR Part 327, Title 36, Part 327.14(a), provides protection for historic properties and public property, although the maximum fine for the offense, if convicted, is \$5000.00 and/or six months imprisonment. Since the value of historic properties and associated costs resulting from unauthorized activities sometimes exceed the maximum fine under Title 36, the enforcement actions necessary to investigate, prepare cases, and apprehend violators may be more appropriately handled by others under provisions of the Archaeological Resources Protection Act.

(3) ARPA provides for criminal penalties up to \$100,000 and/or five years imprisonment, and allows for forfeiture to the Federal government of equipment and vehicles used in unauthorized activities. In addition, civil penalties may be assessed to recover Federal costs in repairing or restoring historic properties, accomplishing research, and preparing reports. For ARPA enforcement actions and investigations, commanders shall follow procedures outlined in ER 190-1-50 to obtain services of the Criminal Investigation Command (CID). Commanders may also seek counsel and assistance from the appropriate U.S. Attorney and obtain services of the appropriate U.S. Marshal for immediate attention to suspected or known felony acts.

d. Use of Metal Detectors on Water Resource Projects. The use of metal detectors shall be allowed on beaches, or other previously disturbed areas, that do not contain or would not reasonably be expected to contain archaeological, historical, or paleontological resources. Digging shall be limited to hand tools that can be used by one hand only. Hand tools shall be limited to four (4) inches wide and twelve (12) inches long. District commanders are authorized to restrict metal detector use in these areas, until completion of a cultural resources survey. If upon completion of the survey, archaeological, historical, or paleontological resources are found, district commanders are authorized to restrict the use of metal detectors in these areas.

e. Found Items. Nonidentifiable items, such as coins (of nominal value less than \$25) that are found, with or without the aid of a metal detector, do not need to be deposited with the Operations Project Manager or a Ranger. All identifiable items, such as rings, watches, etc., or items of greater than nominal value (i.e., \$25 or greater) shall be deposited with the Operations Project Manager or a Ranger for disposition in accordance with 36 CFR Part 327.15, 36 CFR Part 327.16, and subsequent revisions. All archaeological, historical, or paleontological items found shall be deposited with the Operations Project Manager or a Ranger.

f. In addition to the requirements of ARPA, the Federal land manager should refer to the Native American Graves Protection and Repatriation Act (PL 101-601) and its implementing regulations (43 CFR Part 10) for the disposition of the lawful removal of human remains and the items (funerary objects, objects of cultural patrimony, and sacred objects) as defined in the Act

and for the procedures to follow those cases where human remains are discovered.

FOR THE COMMANDER:

A handwritten signature in black ink, appearing to read "Otis Williams". The signature is written in a cursive, flowing style with a large initial "O".

OTIS WILLIAMS
Colonel, Corps of Engineers
Chief of Staff

1 APPENDIX
See Table of Contents

CHAPTER 7 – STEWARDSHIP SUPPORT PROGRAM

7-1. Purpose. This chapter establishes policy for the administration and management of the U.S. Army Corps of Engineers (USACE) Stewardship Support Program (SSP).

7-2. Policy.

a. The Stewardship Support Program shall provide a strategic plan for identifying USACE national natural resources stewardship program priorities and addressing those priorities through management actions, policy, and research.

b. The SSP is designed to provide support for natural resources stewardship issues or initiatives that have a broad applicability to many USACE Civil Works projects. Reimbursable work is not normally within the scope of the SSP. However, issues or initiatives that are limited in applicability can be addressed on a reimbursable basis with funding provided by the local project. The three basic components of the SSP are:

(1) Management Actions. Management actions are any activities to implement a course of action or practice within field office activities, a region, or nationwide. Examples of management actions might include developing/ assembling an array of management practices for establishing riparian habitat, or creating a forum to share common experiences, build teams, and disseminate information.

(2) Policy. Policy is any activity relating to development and/ or implementation of guidance. Examples of policy actions might include recommending and formulating policy guidance to facilitate cooperative agreements with stewardship non-governmental organizations, or amending the annual Budget Engineer Circular to provide emphasis on conducting inventories of regionally or nationally significant resources.

(3) Research. Research is any activity necessary to determine new information of regional or national significance. Examples of such research might include the U.S. Fish and Wildlife Service Toxicology Lab research on Avian Vacuolar Myelinopathy, riparian corridors research being conducted by the U.S. Army Engineer Research and Development Center, or assembling studies on management of threatened and endangered species.

c. An eighteen member Stewardship Advisory Team (SAT) shall be established to provide oversight of the Stewardship Support Program. Voting members of the SAT will consist of representatives from Division (8), District (4) and Project (4) offices. Two non-voting members will represent Headquarters USACE (HQUSACE) and the U.S. Army Engineer Research and Development Center (ERDC). The SAT will evaluate all proposals for funding within the SSP and will recommend funding priorities to the HQUSACE, Natural Resources Management Branch (CECW-ON). The SAT will meet semi-annually during each fiscal year, preferably during the spring and fall. HQUSACE

and ERDC will participate in all SAT meetings. Specific information on the duties, organizational composition and nomination process is provided in Chapter 7 of EP 1130-2-540.

d. The SAT will support strategic planning for the USACE Environment-Stewardship Business Program and will serve in an active advisory role to the Chief, Natural Resources Management Branch in HQUSACE.

e. Duties of SAT members will be included as an element in each member's annual performance plan.

f. The Stewardship Support Program is funded by the O&M General appropriation. (Centralized funding for salary, travel and per diem will not normally be provided to SAT members.) HQUSACE will provide conceptual approval (subject to the availability of funds) for all new starts and other program funding adjustments by July of each year. The final approval of the actual work plan will be provided by HQUSACE following the fall SAT meeting.

g. The ERDC will provide program management support, although studies may be performed by other USACE elements, other agencies, or the private sector.

CHAPTER 8 – FIRE MANAGEMENT PROGRAM

8-1. Purpose. This chapter establishes the policy for fire management activities, including contracted services, at USACE Civil Works projects.

8-2. Glossary.

a. Debris Pile. An aggregation of any combustible material collected to concentrate fuel hazards and to facilitate disposal through removal or prescribed fire.

b. Fire Suppression. All work and activities connected with fire extinguishing operations, beginning with discovery and continuing until the fire is completely extinguished.

c. Fuels. All combustible material within wildlands and the wildland/urban interface including vegetation (living and dead) and structures.

d. Incipient Stage Fire. A fire in the initial or beginning stage which can be controlled or extinguished by portable fire extinguishers, shovel, a class II standpipe or small hose system without the need for protective clothing or breathing apparatus.

e. On-site Manager. The individual designated by the District Commander as his or her authorized representative for specific O&M field projects. This person is normally referred to as the Operations Project Manager but in the past may have been referred to as the Operations Manager or Facilities Manager.

f. Pre-suppression. Fire activities undertaken in advance of a fire to ensure more effective fire suppression, including overall planning; recruitment and training of fire personnel; procurement and maintenance of equipment and supplies; fuel treatment; and creation, maintenance, and improvement of a system of fuel breaks, roads, water sources, and control lines, etc.

g. Prescribed Fire. A fire applied in a knowledgeable manner to wildland fuels on a specific land under selected weather conditions to accomplish predetermined, well-defined, management objectives. Also referred to as prescribed burn, controlled burn/fire, or Rx burn/fire.

h. Vegetative Fuels. Natural fuels (duff, grasses, trees, etc), including live and dead materials, found in natural settings that are capable of burning. Also referred to as wildland fuels.

i. Wildfire. An unplanned and uncontrolled fire spreading through vegetative fuels, at times involving structures.

j. Wildland. An uncultivated, natural area, occupied by any variety of vegetation.

k. Wildland Fire. A term used to describe a type of non-structural fire that occurs in the wildland. This is an inclusive term that includes both wildfire and prescribed fires.

l. National Wildfire Coordinating Group (NWCG)

8-3. Policy. It is the policy of the Corps of Engineers to perform integrated fire management activities on Civil Works projects in a manner that provides for the safety of the environment, the public, and personnel. In addition to wildfire suppression another primary component of fire management is the use of fire to accomplish resource objectives identified in the Operational Management Plan (SEE APPENDIX Q, EP1130-2-540). Paragraphs a. and b. below describe options available for wildfire suppression and prescribed burns. Paragraph c. describes appropriate fire management activities that are acceptable for interagency agreements or contracts.

a. In accordance with The Water Resource Development Act of 2007, Section 2012 “Wildfire Fighting,” the Corps has the authority to contract and pay for wildfire suppression services on Corps project lands. The project on site manager can initiate an action for the Corps to enter into a contract for performance of these services subject to compliance with all applicable Federal procurement laws and regulations. The project on site manager can also use project personnel to suppress wildfires on Corps project lands provided these employees are appropriately trained and equipped as described in EP 1130-2-540, Section 8-4.

b. Prescribed fire management activities to protect and enhance forest and wildlife habitat will be identified in the OMP. Prior to implementing a prescribed fire, a prescribed burn plan shall be prepared (SEE APPENDIX R, EP 1130 –2-540). To accomplish wildland fire management for prescribed burns (to include debris piles) the project on-site manager has two options. The project on site manager can use project personnel to implement prescribed burns provided these employees are appropriately trained and equipped as described in EP 1130-2-540, Section 8-4. The project on site manager can also initiate an action for the Corps to enter into a contract for performance of these services subject to compliance with all applicable Federal procurement laws and regulations. In either of these options, fire management plans will provide for Corps personnel and public safety, include fire management strategies, tactics, and alternatives; address values to be protected and public health issues; and be consistent with resource management objectives, activities of the area, and environmental laws and regulations. A prescribed burn plan with required components identified in the OMP will be developed for each planned burn. The purpose of a prescribed fire management program is to enhance proficiency while reducing risk to Corps and contract personnel. While the on-site manager may maintain a small cadre of appropriately trained and equipped personnel, it is not an endorsement to organize into a national fire fighting team, nor is it an encouragement to participate on such teams at Corps expense. Personnel responsible for development and oversight of burn plan implementation will be properly trained in accordance with applicable state requirements or within standards established by the District Commander.

c. Fire management planning, preparedness, suppression, prevention, fire use, restoration and rehabilitation, and prescribed fire operations, monitoring, and research, and education will be conducted on an interagency basis with the involvement of other Federal, Tribal, and state land management agency partners whenever practicable. To facilitate the protection of property from fire, through planning and prevention activities or to accomplish wildland fire management activities, the Corps may enter into contracts with a recognized state, local or private organizations for performance of these services subject to compliance with all applicable Federal procurement laws and regulations. Wildland fire management activities conducted on outgranted lands will be governed by conditions contained within the relevant real estate instrument, or by separate agreements, which clearly define the Corps role.

d. Corps personnel and public safety is the first priority. All fire management plans and activities must reflect this commitment. All Corps personnel participating in fire suppression or prescribed burning activities shall be properly trained and/or certified, and have a Position Hazard Analysis (PHA) on file. An Activity Hazard Analysis (AHA) will be completed before beginning wildland fire activities involving a type of work presenting hazards not experienced in previous project operations or where a new group of project employees/contractor is scheduled to perform the work. In most instances the applicable state has prepared recommended training guidelines. Training sources at the state level include state fire management agencies, colleges and universities or other qualified private organizations within the applicable state boundaries. In those states where guidelines have not been established, the District Commander will establish standards applicable for Corps projects within the given state. Records of such training and/or certification will be maintained in official personnel files. Retraining/re-certification needs of personnel shall be determined on an annual basis, and training shall occur in accordance with state certification programs. See Chapter 8 of EP 1130-2-540 for additional guidance.

e. Implementation of a fire management program as contained in this regulation is voluntary. The policy focus is on giving on-site managers the discretion to become directly involved in wildland fire management. These guidelines are applicable to those projects that implement a wildland fire management program.

APPENDIX A
REFERENCES

- a. 16 USC 460d, Flood Control Act of 1944; Title 10 USC 2667; and 16 USC 4601-13. Leases: non excess property.
- b. 16 USC 470, PL 89-665, 80 Stat. 915, National Historic Preservation Act of 1966, as amended.
- c. 16 USC 469, PL 93-291, 88 Stat. 174, Archaeological and Historical Preservation Act of 1973.
- d. 16 USC. 470aa - 470mm, PL 100-588; 102 Stat. 2983, Archaeological Resources Protection Act (ARPA) of 1979, as amended.
- e. PL 46 (Chapter 105) S.1006 69 Stat 66. Authority to enter into reciprocal agreements; waiver of claims; reimbursement; ratification of prior agreements.
- f. PL 85-624, Fish and Wildlife Coordination Act, (72 Stat. 563, 16 U.S.C. 661).
- g. PL 86-532, Reservoir Salvage Act of 1960, as amended.
- h. PL 86-717, Forest Cover Act, (74 Stat. 817, 16 U.S.C. 580m et seq.), 6 September 1960.
- i. PL 89-72, as amended, Federal Water Project Recreation Act of 1965.
- j. PL 91-190, National Environmental Policy Act of 1969, as amended (42 USC 4231, et seq.), 1 January 1970.
- k. PL 92-516, Federal Insecticide, Fungicide, and Rodenticide Act of 1972, (86 Stat. 973), as amended.
- l. PL 93-205, Endangered Species Act of 1973, as amended (87 Stat 884, 16 USC 1531(b)),
- m. PL 95-313. Cooperative Forestry Assistance Act of 1978 (92 Stat. 365, 16 U.S.C. 2101), as amended by PL 101-624, the Food, Agriculture, Conservation and Trade Act of 1990.
- n. PL 95-341, American Indian Religious Freedom Act.
- o. PL 98-63. Supplemental Appropriations Act of 1983, ref. volunteers.
- p. PL 99-662, Water Resources Development Act (WRDA) of 1986, Section 1134, ref: Private Use Facilities; Section 1135, ref: Project Modification for Improvement of the Environment.

ER 1130-2-540
15 Nov 96

- q. PL 101-601, Native American Graves Protection and Repatriation Act (NAGPRA).
- r. PL 101-640, Water Resources Development Act (WRDA) of 1990, Section 307(a).
- s. PL 103-141, Religious Freedom Restoration Act of 1993.
- t. 33 CFR Part 328.3(b) U.S. Army Corps of Engineers 1987 Manual for Identifying and Delineating Jurisdictional Wetlands.
- u. 36 CFR Part 60. National Register of Historic Places.
- v. 36 CFR Part 79, Curation of Federally-Owned and Administered Archaeological Collections.
- w. 36 CFR Part 327, Rules and Regulations Governing Public Use of Water Resources Development Projects Administered by the Chief of Engineers.
- x. 36 CFR Part 800, Advisory Council on Historic Preservation, Protection of Historic Properties.
- y. 40 CFR Parts 150-189, reference to Pesticides.
- z. 40 CFR Parts 1500-1508. Council on Environmental Quality Procedures for Implementing the National Environmental Policy Act (42 U.S.C. 4331 et seq.)
- aa. 41 CFR Part 101 - 47.103-12, Federal Property Management Regulations.
- ab. 42 CFR 76.1 - 76.9, Performance Standards and Techniques of Measurement;" issued by the Department of Health and Human Services, to supplement Executive Order 11282.
- ac. EO 11990, Protection of Wetlands, 24 May 1977.
- ad. EO 12512, Utilization Surveys.
- ae. DOD 4150.7-M, Plan for Certification of Pesticide Applicators of Restricted-Use Pesticides, Armed Forces Pest Management Board, Defense Pest Management Analysis Center, Forest Glen Section, WRAMC, Washington, D.C. 20307-5001.
- af. Technical Information Manuals (TIM)21, "Pesticide Disposal Guide for Pest Control Shops," Armed Forces Pest Management Board (AFPMB), Aberdeen Proving Ground, MD 21010-5422, Tel. (301) 671-3773. U.S. Army Environmental Hygiene Agency, Guide for Medical Surveillance of Pest Controllers.
- ag. ER 190-1-50, Law Enforcement Policy, U.S. Army Corps of Engineers.
- ah. ER 200-2-2, Procedures for Implementing the National Environmental Policy Act.
- ai. ER 200-2-3, Environmental Compliance Operations and Maintenance Policies.

- aj. ER 385-1-90. Respiratory Prevention Program.
- ak. ER 405-1-12, Real Estate Handbook.
- al. ER 1105-2-100, Policy and Planning, Guidance for Conducting Civil Works Planning Studies.
- am. ER 1130-2-500, Work Management Policies.
- an. ER 1130-2-550, Recreation Operations and Maintenance Policies.
- ao. ER 1165-2-131, Water Resources Policies and Authorities: Local Cooperation Agreements for New Start Construction Projects.
- ap. EP 1130-2-540, Environmental Stewardship Procedures.
- aq. EM 385-1-1, Safety and Health Requirements Manual.
- ar. Multi-agency Memorandum of Understanding on Implementing the Endangered Species Act, dated 29 September 1994.
- as. Forest Service Form FS-3400-2, "Forest Pest Management Project Proposal."
- at. Policy Statement Regarding Treatment of Human Remains and Grave Goods, Advisory Council on Historic Preservation, 27 September 1988.
- au. Memorandum of Agreement between the U.S. Department of Agriculture and the U.S. Department of Defense for the Conduct of Forest Insect and Disease Suppression on Lands Administered by the Department of Defense, 11 December 1990.
- av. North American Waterfowl Management Plan, developed by the U.S. Fish and Wildlife Service and Canada in 1986.
- aw. Multi-Agency Memorandum of Understanding on Watchable Wildlife Program, dated Dec. 1990 (extended through Dec. 1998).