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NAS JACKSONVILLE  
5090.3a

MEMORANDUM ON LAND USE RESTRICTIONS AT ENVIRONMENTAL REMEDIATION  
SITES ON BOARD U S NAVY INSTALLATIONS NAS JACKSONVILLE FL  
05/23/1999  
DEPARTMENT OF THE NAVY



## DEPARTMENT OF THE NAVY

COMMANDER NAVY REGION SOUTHEAST  
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CNRSEINST 5090.2A  
N46E  
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### COMMANDER, NAVY REGION SOUTHEAST INSTRUCTION 5090.2A

Subj: LAND USE RESTRICTIONS (LURS) AT ENVIRONMENTAL REMEDIATION SITES ON BOARD U.S. NAVY INSTALLATIONS

Ref: (a) Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601 *et seq.*  
(b) Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 *et seq.*  
(c) OPNAVINST 5090.1B

1. Purpose. To establish a systematic program, protective of human health and the environment, governing land use at environmental remediation sites on board selected U.S. Navy installations in the Commander, Navy Region Southeast (COMNAVREG SE) Area of Responsibility (AOR).

2. Cancellation. CNBJJAXINST 5090.2

3. Applicability. This instruction applies to sites undergoing environmental remediation at Naval Air Station Jacksonville, FL, Naval Air Station Key West, FL, and Naval Station Mayport, FL.

4. Discussion. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (references (a) and (b)) are the two primary federal laws governing the remediation of sites contaminated with hazardous substances and hazardous wastes. The U.S. Navy created the environmental remediation program to oversee the clean-up of these sites on board Naval facilities. Per reference (c), the Naval Facilities Engineering Command (NAVFAC) has been assigned the responsibility for centralized management of the installation restoration program. Southern Division (SOUTHDIR) is the NAVFAC component responsible for administration of the environmental remediation program for the U.S. Navy installations in the COMNAVREG Southeast AOR. The Florida Department of Environmental Protection (FDEP) and the U.S. Environmental Protection Agency (EPA) Region IV (hereafter referred to as "the agencies") have oversight and coordinating responsibilities over NAVFAC remediation actions. Remediation standards for clean-up of contaminated sites are established to ensure protection for human health and the environment.

a. Environmental restoration is a very costly process. There are an estimated 3,300 sites nation-wide on board U.S. Navy and U.S. Marine Corps installations. Currently, the U.S. Navy's nationwide funding level is projected at just under \$300 million per year.

b. Tens to hundreds of millions of dollars can be saved through the selection of clean-up remedies which appropriately reflect the current and future land use. However, to be effective,

these future LURs must be strictly monitored and enforced. The agencies have expressed concern that the U.S. Navy lacks an effective mechanism to adequately ensure retention of identified LURs. This could allow the U.S. Navy to benefit from less stringent and thereby less costly remediation.

c. Consequently, the agencies are reluctant to accept final agreements (Records of Decision (ROD)) which do not include LURs (institutional controls). This has impacted the “close out” of action at remediation sites on several installations. This instruction establishes a mechanism through which each naval installation can enter into a Memorandum of Agreement (MOA) with the agencies, promulgate local instructions, develop a process to change land use where required, select optimum land use categories, optimize the use of scarce remediation funds, and ensure the maintenance of the identified land use category.

## 5. Action

a. Commanding Officers (COs): COs of installations conducting environmental remediation projects shall adopt local instructions which include, at a minimum, the following:

(1) A mechanism to enter into a MOA between the installation (including installation planners, Resident Officer-in-Charge of Construction (ROICC), installation environmental personnel and SOUTHDIV) and the agencies overseeing the present and anticipated land use category on a site-by-site basis. This will allow selection of clean-up standards that are protective of human health and the environment without unnecessary expenditure of limited fiscal resources. The local MOA can be supported and reinforced through RODs, closure permit restrictions (in the case of RCRA corrective actions) and environmental documentations performed under the National Environmental Policy Act (NEPA).

(2) Retention of the identified land use category throughout the specified remediation period. Restrictions on changes in land shall be accomplished through strict adherence to such vehicles as the base master planning process.

(3) A requirement for the installation environmental program manager to conduct routine LUR review of identified remediation sites, with incorporation of this responsibility into the environmental program manager’s position description.

(4) A requirement for the installation Environmental Compliance Board (ECB) (developed under paragraph 1-2.14 of reference (c)) to review on a quarterly basis the status of adherence to the LURs.

(5) A requirement to forward an annual report to the agencies (with a copy to SOUTHDIV) certifying retention of the specified LUR category for each affected site on the installation.

(6) The installation CO must follow identification of the proper procedures in order to obtain concurrence from the agencies to change a previously identified LUR for a site. Concurrence of the agencies must be obtained in writing prior to commencing any construction or other activity inconsistent with the previous LUR. Requests for review of a LUR change proposal will consider the degree of change proposed, the effectiveness of the remediation effort to date, any natural remediation which may have occurred since the original remedial actions, etc.

(7) A requirement to notify the agencies if, despite proper precautions, an unauthorized change in land use is discovered by the installation. The change in land use will be reported immediately to the agencies for collaborative determination of an appropriate remedy.

(8) A notation that any funding associated with additional remediation caused by a LUR change (whether approved or unauthorized) will be the responsibility of the installation CO.

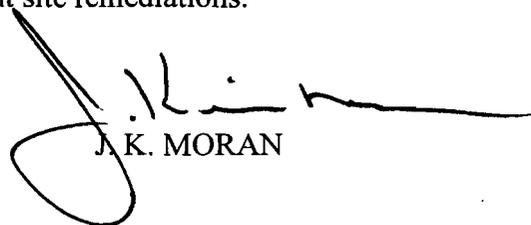
b. SOUTHDIV: As the agency responsible for the management of environmental remediation projects, SOUTHDIV shall accomplish the following:

(1) Take the lead in coordinating the drafting of a MOA to establish the specific agreement between each covered installation, the agencies and SOUTHDIV. At a minimum, the MOA will address real estate issues, LURs and remediation requirements.

(2) Support the installation CO, as required, during negotiations with the agencies.

(3) Review the installation's LUR instruction when conducting the tier two Environmental Compliance Evaluation (ECE) in support of the major claimant.

6. Special Note. The FDEP-EPA-U.S. Navy partnering team will view strong participation in this process to govern land use at environmental remediation sites positively, i.e., funding priority will be given to the most efficient site remediations.

  
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CNBJINST 5605.1

List IV: FA6a, FA6b, FA7a

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