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	Project Operations NAVIGATION AND DREDGING OPERATIONS AND MAINTENANCE POLICIES	
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Regulation
No. 1130-2-520

29 November 1996

Project Operations
NAVIGATION AND DREDGING OPERATIONS
AND MAINTENANCE POLICIES

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This regulation supersedes Engineer Regulations (ER) 15-2-6, dated 1 December 1990; 325-2-2, dated 1 November 1993; 670-2-2, dated 19 March 1987; 670-2-3, dated 20 April 1987; 1130-2-306, dated 8 May 1978; 1130-2-307, dated 31 October 1968; 1130-2-310, dated 15 July 1969; 1130-2-315, dated 15 January 1991; 1130-2-316, dated 15 January 1991; 1130-2-317, dated 10 May 1989; 1130-2-429, dated 1 January 1991; 1130-2-439, dated 22 December 1987; 1130-2-340, dated 15 August 1983; 1130-2-341, dated 1 February 1991; 1145-2-301, dated 1 July 1968; 1145-2-305, dated 1 June 1988; and 1145-2-308, 15 June 1992.

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CHAPTER 1 - INTRODUCTION

1-1. Purpose. This regulation establishes the policy for the operations and maintenance (O&M) of USACE navigation and dredging projects, as well as their related structures and equipment. If any conflict exists between this regulation and the Federal Acquisition System, the latter governs.

1-2. Applicability. This regulation applies to all USACE commands having responsibility for civil works functions.

1-3. References. See Appendix A.

1-4. Glossary.

a. Active CERF Fleet. Consists of those contractors' hopper dredge(s) which are currently performing under contracts of the U.S. Army Corps of Engineers (USACE) and those hopper dredges whose owners have completed a Basic Ordering Agreement (BOA) for Corps of Engineers Reserve Fleet (CERF), have not completed a notice of non-availability, and have not forwarded the notice to CECW-OD. These dredges are available, operational, and ready for use.

b. BOA Contracting Officer. The person executing the BOA on behalf of the government. Only this individual or their successor has the authority to modify the terms and conditions of the basic ordering agreement. The Commander of the New Orleans District is the designated Contracting Officer for executing the BOA for CERF.

c. CERF Basic Ordering Agreement (BOA). A BOA is a written instrument of understanding with a method for determining prices for service. The BOA provides an ensured response to emergency and national defense dredging requirements through the vehicle of delivery orders. A BOA is not a contract.

d. CERF Emergency. A determination by the Director of Civil Works (CECW-ZA) for CONUS dredging operations or the Commander, HQUSACE for OCONUS dredging operations that Federal dredges are not available or suitable, that regular contractual procedures are not practical, and that CERF dredges must be activated.

e. CONUS. The 48 contiguous states.

f. Hazardous Waters. For the purpose of this regulation, those waters in which turbulence and/or underlying currents create a potentially life-threatening environment.

g. Hydraulic Line. The line upstream and downstream from a structure established by hydraulic data and associated procedures.

h. OCONUS (Outside CONUS). Includes Alaska, Hawaii, Puerto Rico, the Virgin Islands, or U.S. Trust Territories.

i. Operational Considerations. Those aspects to be considered when determining if the Restricted Area boundary should be set farther from the structure than at the hydraulic line.

j. Physical Barriers. Barriers which are structural in nature and placed in a manner as not

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to allow entrance into a restricted area.

k. Restricted Area. For the purpose of this regulation, that area of water adjacent to civil works structures, as established by the hydraulic line plus operational considerations, that is off limits to the public.

CHAPTER 2 - AIDS TO NAVIGATION, NAVIGATION CHARTS, AND RELATED DATA

2-1. Purpose. This chapter establishes the policy on aids to navigation, chart data, and publication of information on related USACE civil works water resources activities.

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

a. Applicable elements shall cooperate in the communication of navigation-related information of specific interest to the recreational and commercial marine industries, users, and other related government entities. Specific guidance is provided in EP 1130-2-520.

(1) MSC/district commanders shall furnish direct to the appropriate U.S. Coast Guard (USCG) district commanders, for their immediate information, any facts which may come to their attention in connection with their duties which shall be of benefit to the USCG in maintaining its system of aids to navigation. This should include statements as to the displacement of or defects in any such aids to navigation.

(2) MSC/district commanders shall consult with the USCG district commander during design of channel and harbor improvement projects to discuss the aids to navigation requirements and all other facets of the projects that involve USCG responsibility. In all cases where permanent aids to navigation are installed by the USACE, MSC/district commanders shall provide charts showing aid locations, with X-Y coordinates, to the appropriate USCG district. MSC/district commanders shall coordinate this policy with the requirements of ER 1110-2-4401, Clearances for Power and Communication Lines Over Reservoirs, as appropriate.

b. USCG standards for aids to navigation shall be used for any aids installed or used by the USACE. These standards are consistent with the International Navigation Waterways Marking System. All USACE-installed temporary or permanent navigation lights, daymarks, or buoys, including dredging buoys, shall conform to the USCG and international standards for color, shape and light characteristics. Regulatory marks and information which are not considered aids to navigation shall conform to USCG standards where practical; however, USACE standards in the Sign Standards Manual (EP 310-1-6a&b) shall take precedence.

c. MSC/district commanders are responsible for preparing navigation charts for the inland waterways over which the MSC/district has responsibility, which are maintained by the Corps, and which are not charted by the National Ocean Service (NOS). MSC commanders may consolidate charting functions across district boundaries for efficiency. Specific guidance and samples are provided in Chapter 2 of EP 1130-2-520.

(1) Changes or corrections to a chart (e.g., new bridges or other structures extending over or into the waterway, new obstructions to navigation, change in the course of a river, change in permanent aids to navigation, etc.) shall be published by means of a Notice to Navigation Interests (NTNI). The NTNI shall provide sufficient detail to permit the chart users to correct the chart, or shall provide an overlay for correction of the affected area on the chart. A separate request shall be made for a USCG Local Notice to Mariners, advising mariners where they can obtain the chart correction. Existing charts shall be revised to conform with these standards when the maximum update interval has been reached (seven years since the last edition), or when the nature and extent of changes require republication in fewer than seven years.

(2) HQUSACE (CECW-OD) shall maintain a current listing of all USACE charts, and shall publish an annual catalog with information on cost, availability (source), and next planned update. (PL 85-480, approved 2 July 1958, authorizes the Commander, HQUSACE to publish information pamphlets, maps, brochures, and other material on river and harbor, flood control, and other civil works activities, including related public park and recreation facilities that may be of value to the general public.)

d. MSC/District commanders shall cooperate in dissemination of operational navigation notices and marine information to the marine industry, the public, and other government agencies, through notices and special reports/notifications.

(1) The principal mechanisms for disseminating operational navigation information to industry and to mariners shall be USCG broadcasts and publications (Broadcast and Local Notices to Mariners, Light List) and NOS publications (coastal navigation charts, U.S. Coast Pilot). In areas where these are appropriate, the USACE shall provide information to the responsible agencies and minimize redundant publication of separate navigation information.

(2) MSC/district commanders shall use bulletins or NTNI for corrections and updates to Corps charts, changes in USACE navigation regulations, proposed/planned changes to a navigation project, and in cases where Notices to Mariners or other publications may not be appropriate or adequate. The primary focus is information for industry/other-agency planning and operations management. While there may be cases where both USACE notices NTNI and USCG notices may be issued, NTNI shall generally not be issued for real-time operations information which is principally for use by the navigator (aids to navigation discrepancies, obstructions, etc.) Specific guidance is provided in Chapter 2 of EP 1130-2-520.

(3) District commanders are authorized to publish and to sell pamphlets, maps, brochures, and other material on river and harbor, flood control and other civil works activities, including related public park and recreation facilities that may be of value to the general public. Except for material specifically prepared for free distribution to the general public, the charges for such other published information will not be less than the cost of its reproduction.

(4) In the event of accidents or equipment failures at Corps locks and dams or along navigable waterways that will result in closure of the lock or waterway for 24 hours or more, or result in a significant impact to navigation, district commanders are to forward an incident report to HQUSACE (CECW-OD) through their MSC office as soon as possible following the incident. Reporting of navigation incidents to CECW-OD is required even though the districts may be sending situation reports to the HQ Emergency Operations Center during natural disasters (drought, flood, hurricane, typhoon, ice, earthquake, volcanic eruption, etc.) or more regional events (spills of hazardous materials, etc.). Timely reporting of navigation incidents to CECW-OD is necessary for preparation of navigation "Green Sheets" - the reporting fact sheet for HQ and ASA (CW).

CHAPTER 3 - PROTECTION OF PUBLIC HEALTH AND SAFETY AT JETTIES, GROINS, AND BREAKWATERS

3-1. Purpose. This chapter establishes the policy on the appropriate level of protection to be provided for public health and safety at Corps of Engineers maintained jetties, groins, and breakwaters in the absence of cost sharing for recreation.

3-2. Policy. It is the policy of the Corps of Engineers that:

a. District Commanders shall operate and maintain jetties, groins, and breakwaters for their functions as navigation aids and shoreline protection structures in a manner that does not enhance or encourage recreational or other public use unless a non-Federal entity has sponsored recreation. Specific guidance on development and execution of Project Cooperation Agreements is provided in ER 1130-2-500.

b. Where local interests do not choose to cost-share in recreation facilities at navigation projects, district commanders shall be authorized to provide "minimum facilities for public health and safety," under Public Law (PL) 89-72, Federal Water Recreational Act of 1965. Specific guidance on implementation of this regulation is provided in Chapter 3 of EP 1130-2-520. District commanders shall be responsible for determining minimum facilities for public health and safety," such as guardrails, barricades, fencing, and warning signs (see Chapter 6 of ER 1130-2-500, Sign Standards Program for Civil Works Projects) as required for public safety. Where negligible safety hazards exist or public access is not readily provided, facilities may not be required.

c. In accordance with Section 3(a) of PL 89-72, where there is no cost sharing agreement, no facilities or project modifications which furnish recreation or fish and wildlife enhancement shall be provided unless they serve other project purposes (e.g., walkways, handrails, sanitary facilities, etc.), or are required for public health and safety or project management.

CHAPTER 4 - REMOVAL OF WRECKS AND OTHER OBSTRUCTIONS

4-1. Purpose. This chapter establishes the policy on removing wrecks and other obstructions to navigation on waterways under the jurisdiction of the USACE.

4-2. Applicability. This chapter applies to all USACE commands having responsibility for civil works navigation functions and the removal of sunken vessels within the navigable waters of the United States. Wrecks which predate the Water Resources Development Act of 1986 (Public Law (PL) 99-662) are subject to the same policy, except where specifically noted otherwise. This chapter does not apply to obstructions other than vessels, which may be subject to removal under other statutory authorities and procedures.

4-3. Policy. It is the policy of the USACE that:

a. District commanders, in coordination with the appropriate USCG district, shall determine whether a sunken vessel constitutes a navigation hazard as defined in EP 1130-2-520. Specific guidance, criteria, and procedure for declaring an obstruction as a navigation hazard is described in that document. (Proper coordination between the USACE and USCG regarding marking and removal of sunken vessels and other obstructions to navigation is outlined in Appendix B, Memorandum of Agreement (MOA) Between the Department of Army and the U.S. Coast Guard, dated 1 June 1988.)

b. USACE removal of wrecks or other obstacles constituting a declared hazard to navigation under this authority shall be limited to removal of vessels -- including U.S. Public vessels -- but not including objects such as trucks, train cars, boulders, or debris. Cases which fall outside the scope of this jurisdiction may be covered under other authorities, but are outside the scope of this chapter. Authority is further limited to only those cases where navigation is affected or potentially may be affected by movement of the wreck. In all non-emergency cases involving a potential national-level interest by the public or media, or special interest groups, district commanders shall insure prompt notification to their MSC and CECW-OD by telephone or message, as appropriate. Where contract costs for removal are estimated to exceed \$100,000, requests shall be transmitted by letter through the MSC Commander for endorsement to CECW-OD, and shall include a copy of the existing case file documentation as outlined in EP 1130-2-520. Timely CECW-OD approval of requests for funding in excess of \$100,000 is dependent upon receipt of sufficient information on the proposed removal to make a reasoned conclusion and receipt of the MSC endorsement of the removal. Advance coordination by telephone, FAX, or E-mail is authorized and encouraged.

c. Marking and removal of wrecks and other obstructions is the legal responsibility of the owner/operator/lessee for every sunken vessel in U.S. navigable waters, bank-to-bank (the same scope as Section 10 permit authority).

(1) When such removal is not pursued diligently, removal by the local USACE district is discretionary (not mandatory) and is dependent on a hazard determination and an assessment of risk (as applicable) in the context of other alternative measures to reduce risk, as well as the relative cost of removal. Specific procedures and criteria for decisions on whether Federal funds and/or manpower shall be utilized in the removal of navigation hazards are described in EP 1130-2-520.

(2) Abandonment is an owner's giving up the exclusive right to salvage and an indication of no intent to claim the vessel. Abandonment DOES NOT relieve the owner of his/her legal obligation to remove the wreck or of liability for damages caused by the wreck (unless he or she is a non-negligent owner of a wreck which sank before enactment of PL 99-662, November 17, 1986).

(a) The lapse of 30 days with no action is sufficient legally to establish abandonment. However, USACE policy is to provide 30 days after notification to the owner of their legal obligation, except where precluded by the severity of the obstruction.

(b) After the USACE establishes abandonment (in cases where the USACE will undertake removal), a letter will be sent to the owner (or operator/lessee) as notification. Guidance on required legal communication with, obligations and responsibilities of, and abandonment of vessels by owners/operators/lessees of sunken vessels and other obstructions is provided in EP 1130-2-520.

(c) A declaration of abandonment from the owner is sufficient to establish abandonment in less than 30 days. A declaration from any other party does not constitute a valid abandonment, since abandonment relates to title in the vessel. Before establishing abandonment on the basis of a declaration, the district commander should ensure that the person being represented as the owner is in fact the legal owner.

(d) Any declaration or offer of abandonment shall be acknowledged in writing. The reply shall not indicate in any way that the USACE is "accepting" abandonment or accepting responsibility/liability for the wreck. The "Sample Letter: Bill for Reimbursement" in EP 1130-2-520 shall be used in such cases. If the letter was received from a party other than the legal owner, the reply should additionally recognize that fact.

(e) An abandonment, once established, generally cannot be retracted by the owner. The advice of counsel should be sought in such cases.

(f) Salvage by a third party (before or after abandonment) does not affect the obligation of the original owner to mark and remove the wreck.

d. Emergency removal authority under "Section 20" of the River and Harbor Act of 1899, as amended (33 United States Code (USC 409 and 411-415), shall be used only when an expedited removal is necessary for the protection of life or property, or when an obstruction seriously impedes navigation. Emergency removals may involve a taking of private property by the Federal government, with a potential for legal liability if not sufficiently justified by the circumstances. The exercise of this authority is always a special case, and therefore requires special notifications to HQUSACE when invoked. In all cases of emergency removal, district commanders shall ensure immediate telephone notification to their MSC and headquarters (CECW-OD), followed by message within 24 hours reporting the situation and actions taken/planned. Telephone notifications to HQUSACE after-hours shall be made through the Army Operations Center (703-695-2769), directed to a CECW-OD representative.

e. In cases involving substantial threat to the human environment from pollution, the USCG may exercise its own authority to remove or destroy a vessel. Some of these cases may also involve a hazard to navigation (triggering USACE jurisdiction) and some may not. When circumstances would permit removal by either agency, the decision as to which agency will take

the lead shall be made locally, if possible. The USCG will always make the final decision whether to invoke its authority for removal under 33 CFR 153 (Control of Pollution by Oil and Hazardous Substances Discharge Removal). However, the USACE may not invoke its emergency removal authority under Section 20 (33 USC 415) when the sole purpose of removal is for mitigating a pollution threat. Section 20 removal must always be tied to navigation impacts.

f. The District Commander may, upon request, provide assistance to the USCG in locating and/or marking a wreck. Assistance shall be provided if resources are available and if the USACE has a special capability in the particular case. Such assistance is normally not reimbursable from the USCG, unless the USCG recovers marking costs from the responsible party. In all cases, cost records shall be maintained for the possibility of later reimbursement (see 33 CFR 74). For more complete ownership information on U.S. documented vessels, the USCG documentation office shall be consulted for a copy of the Certificate of Ownership. When an owner or other responsible party undertakes removal, the USACE, or USCG if mutually agreed upon, shall monitor the operation, including the installation and maintenance of marking. The USACE shall not, however, enforce marking requirements. Marking problems shall be referred to the USCG for enforcement.

g. The USACE and the USCG shall consult to determine which agency will take the lead in notifying the owner (or other party) of their responsibility to mark and remove a wreck. This is a local decision, and may be made on a case-by-case basis or subject to a more general agreement. When the District Commander defers to the USCG for notification to the owner, the commander shall ensure that all the relevant elements of EP 1130-2-520 are addressed. Separate notifications may be made, but are discouraged as not reflecting well on Federal coordination.

h. District commanders shall keep the USCG district informed of status/progress of removal actions, any changes in status/situation regarding the factors which were considered in determining hazard and remedial actions, any problems with marking as observed by the USACE, any pollution observed, and any other circumstances which may impact on navigational safety. Copies of correspondence to the owner shall also be provided to the USCG district. Conversely, district commanders should expect reciprocal notifications and copies of correspondence from the USCG.

4-4. Funding.

a. The authority to undertake removal up to \$100,000 (contract cost) is delegated to district commanders (and MSC commanders for operating divisions). Further delegation is authorized, but must be in writing (either specifying individual name or job position). Delegation of emergency removal authority (Section 20 removals) may not be made below the level of the Chief, Construction-Operations Division (or Operations Division). Note: Emergency actions to prevent loss of life or significant property damage shall NEVER be delayed on the basis of estimated cost or lack of cost estimate.

b. Funding for all USACE removal efforts under \$100,000 shall initially be charged to the revolving fund. After completion of removal, the district shall submit a request through the MSC to CECW-OD for reimbursement from O&M, General. For cases over \$100,000, instructions for funding shall be provided with the approval from CECW-OD.

c. Reimbursable costs (those which are recoverable from the owner/operator/lessee) shall

be all "reasonable" costs associated with marking and removal, including:

- (1) investigation of obstruction
- (2) preparation of plans/specifications
- (3) contract preparation
- (4) contract administration (USACE personnel)
- (5) cost to locate the wreck
- (6) direct removal costs (by contractor or USACE)
- (7) cost to maintain site safety during removal
- (8) overhead (for all hired labor) and equipment
- (9) disposal; and,
- (10) marking and maintenance of marking.

d. Non-reimbursable costs shall be any which exceed the "reasonable" (i.e., necessary) removal cost in a given situation, and any of the agency's administrative costs not directly related to the removal including:

- (1) consultation with USCG
- (2) resolution of dispute with USCG; and,
- (3) internal USACE notifications and situation reports.

e. Cost recovery from the owner/operator/lessee shall be initiated by letter correspondence. Specific guidance on requests for reimbursement, liabilities, and legal actions involved is provided in EP 1130-2-520. Cost documentation shall be reviewed by counsel before submission to the responsible party for payment.

CHAPTER 5 - WATERBORNE COMMERCE STATISTICS

5-1. Purpose. This chapter establishes the policy on the collection, compilation, publication, and dissemination of USACE Waterborne Commerce Statistics and the collection, compilation, and reporting of data on waterway traffic through locks and regulated canals by the Navigation Data Center (NDC).

5-2. Policy. It is the policy of the Corps of Engineers that:

a. Waterborne commerce statistics pertaining to rivers, harbors, and waterways shall be collected, compiled, and published in accordance with the Rivers and Harbors Appropriation Act of 1922 (42 Stat. 1043) as amended and 33 CFR, Part 207.

b. A NDC has been established under the Director, Water Resources Support Center (WRSC). The specific groups of data for which the NDC is responsible are listed in Chapter 5 of EP 1130-2-520, including information on the Dredging Statistics Program data requirements and general data collection schedules. The USACE policies on the collection, editing, maintenance, and analysis of data collected at channelized waterways, regulated man-made canals, and all Corps-owned and operated locks is provided in Chapter 6 of this regulation, "The Lock Performance Monitoring System." The purposes of the NDC is:

(1) planning, developing, and evaluating navigation data collection and processing systems;

(2) ensuring that national and regional data bases are adequately integrated and efficiently operated and maintained; and

(3) assessing the efficiency of data dissemination technology and procedures.

c. The Waterborne Commerce Statistics Center has been established under the Director, Navigation Data Center, and is responsible for collecting, compiling, printing, and distributing all domestic waterborne commerce statistics for which the USACE has responsibility in accordance with policies approved by the USACE. Data coding, collection format requirements, publications produced, and all methods of data analysis are described fully in Chapter 5 of EP 1130-2-520.

d. Any data or information which has been furnished by vessel operators and others upon the understanding that it shall not be disclosed to the public shall be held in strictest confidence in accordance with 33 CFR 209. Release of any data to the public which shall identify specific individual firms or persons supplying these data to the USACE shall be considered disclosure.

e. Proposed changes to the area serving as the basis for each statistical table contained in the annual regional publications shall be submitted for prior approval to the Director, NDC, through the appropriate District and MSC commanders, together with a statement of justification, unless the change is prescribed by a River and Harbor Act. Inclusion in the publications of statistics for new areas other than those established by River and Harbor Acts shall require a similar approval. Specific guidance on requesting changes to port area definitions or other tables used in preparation of the Waterborne Commerce of the United States, Parts 1-5, are provided in Chapter 5 of EP 1130-2-520.

CHAPTER 6 - LOCK PERFORMANCE MONITORING SYSTEM

6-1. Purpose. This chapter establishes the policy for the collection, compilation, and reporting of relevant data on waterway traffic through locks and regulated canals for use with the USACE Lock Performance Monitoring System (LPMS).

6-2. Policy. It is the policy of the Corps of Engineers that:

a. A USACE Lock Performance Monitoring System shall be maintained to provide Corps planners and operations personnel with data and information needed for analysis of the operation of the inland and intracoastal navigation systems and to measure the service which the inland waterways provide to the navigation industry, recreational users, and the nation.

b. The users of waterways and canals which transit Federally-owned and operated locks shall furnish information on cargo, passengers, and related data for use in the LPMS. Lock Foremen or Lead Operators, or other assigned personnel, at individual lock installations shall collect information specified in Chapter 6 of EP 1130-2-550 (Visitor Assistance Program Procedures) using ENG Forms 3102b, c, and d (including volume of recreational traffic).

c. Release of LPMS data is subject to the rules of confidentiality which apply to Waterborne Commerce Statistics (see Chapter 5 of this regulation). Therefore, LPMS data provided in accordance with the 33 USC Parts 554-555 (commodity) shall not be released if it identifies any individual vessel owner providing such confidential information.

d. LPMS data shall be updated to the central database within 15 days following the end of the month of collection.

e. CECW-OD is assigned proponent office responsibilities. Water Resources Support Center, Navigation Data Center (CEWRC-NDC) shall provide operational support and management. Each MSC Commander is responsible for the proper functioning of the districts commands within regarding collection, verification, and submission of waterway traffic data to a central system.

CHAPTER 7 - OPERATIONS AND MAINTENANCE UNIFORM PROGRAM

7-1. Purpose. This chapter establishes the policy on uniforms for civilian USACE Lock Operations and Maintenance (O&M) personnel and Floating Plant personnel, and authorizes an initial uniform allowance and subsequent replacement allowances to personnel required to wear the uniforms. Uniform policy for Natural Resource Management Lake Maintenance Personnel and Lake Contract Maintenance Inspectors is specified in Chapter 14 of ER 1130-2-550.

7-2. Policy. It is the policy of the Corps of Engineers that:

a. Lock O&M Personnel. A standard uniform may be used for Corps personnel performing lock O&M functions. When authorized O&M personnel shall wear the uniform when on duty, under any of the following conditions:

(1) When the duties of the personnel include directing and informing operators of vessels during lockage for a substantial period of time during their work shift.

(2) When the personnel are responsible for ensuring compliance with regulations prescribed by the Secretary of the Army governing the lockage of vessels.

(3) When the duties of the personnel include performing routine or emergency maintenance at a lock project during a portion of their work shift (not including floating plant personnel).

(4) When ready identification of lock operation and maintenance personnel will facilitate the performance of their duties.

(5) When required to have frequent contact with the public and identification as a Corps employee is desirable.

b. Floating Plant Personnel. A standard uniform may be used for Corps personnel performing floating plant functions. When authorized, floating plant personnel shall wear the uniform when on duty, under any of the following conditions:

(1) When on duty aboard the vessel with dignitaries aboard.

(2) When on duty aboard the vessel during ceremonies being held aboard.

(3) When on duty aboard the vessel with the general public aboard.

(4) For official duty ashore where there is a need for ready identification as officers of a Corps-owned vessel.

(5) When on duty and required to have frequent contact with the public and identification as a Corps employee is desirable.

c. The following personnel may be authorized to wear the uniform, and personnel assigned to positions not included in the following list shall be prohibited from wearing all or any part of the uniform. All new employees required to wear uniforms prescribed by this

regulation shall obtain, or be furnished, the necessary uniform items as soon as practical after entering on duty. Applicants who are required to wear the uniform shall be made aware of the uniform requirements prior to hiring. (See Chapter 7 of EP 1130-2-520.)

- (1) Area Lockmasters, Lockmasters, Assistant Lockmasters, and Lock Clerks.
- (2) Head Lock Operators, Lock Operators, Equipment Mechanics, and Electricians.
- (3) Routine and Emergency Lock Maintenance/Repair Crew personnel. See subparagraph (5) below for Floating Plant personnel covered.
- (4) Other lock staff as determined by the MSC Commander.
- (5) Coast Guard licensed masters, mates, chief and assistant engineers, bosuns, and vessel operators, and all other floating plant employees.

d. Uniform classes shall be designated A, B, and C in accordance with the following descriptions. (See EP 1130-2-520 for examples and other information on each class.) The Maternity Uniform is optional for those who require it and wish to wear a uniform.

(1) Class A - Dress Uniform (Full).

(a) The Lock and Dam Class A Dress Uniform may be worn by Area Lockmasters, Lockmasters, lock Clerks and other lock staff as authorized at the discretion of the MSC Commander. The uniform may be worn in office-type situations as appropriate when identification as a Corps of Engineers employee is desirable.

(b) The Floating Plant Class A Dress Uniform may be worn by masters, pilots, mates, chief and assistant engineers, bosuns, and vessel operators, and others at the discretion of the MSC Commander.

(2) Class B - Duty Uniform (Full).

(a) The Class B Duty Uniform is the prescribed uniform to be worn by Head Lock Operators, Lock Operators, and other lock staff as determined by the MSC Commander. The uniform may be worn when the duties of these employees include directing and informing vessel operators during lockage, when ready identification of lock operating personnel facilitates performance of duties, and for ensuring compliance with regulations pertaining to vessel lockage.

(b) The Class B Duty Uniform may also be worn by floating plant personnel as determined by the MSC Commander.

(3) Class C - Work Uniform (Full). The Class C Work Uniform may be worn by emergency and routine maintenance and repair personnel and all other lock personnel not included in Uniform Class A and B working at a lock site or on USACE floating plant as determined by the MSC Commander.

(4) Temporary/Seasonal Employee Uniform. Temporary/seasonal employees may wear the class of uniform (A, B or C) that is appropriate for the primary work assignment.

(5) Maternity Uniform. This uniform may be worn while in a maternity status. Appropriate relief from regulations to wear uniforms during pregnancy shall be given upon request.

e. Procurement.

(1) Uniforms shall be supplied through a credit allowance system, per Section 164 of Public Law (PL) 98-63. This allowance may or may not be sufficient to defray all uniform-connected costs. District commanders may, at their discretion, require that personnel procure additional uniform items from an approved supplier at their own expense. The credit allowance system regulations, current allowance dollar values, and a listing of items covered and not covered by the allowance are documented in Chapter 7 of EP 1130-2-520.

(2) Uniform procurement shall be by means of a centralized uniform distribution contract which provides a single source of uniform supply. The uniform supply contract shall be reviewed annually and updated as necessary by CECW-OD. A change in contract scope requires readvertisement.

(3) Detailed guidelines on uniform procurement and accounting are contained in Chapter 7 of EP 1130-2-520 which includes the prescription of ENG Form 4891-R, Uniform Allowance, which shall be used to assess and authorize appropriate uniform allowances.

(4) Substitutions or deviations from the uniform specifications prescribed in Chapter 7 of EP 1130-2-520 require prior approval of HQUSACE (CECW-OD) WASH DC 20314-1000. Supervisors and managers may recommend specific substitutions or new uniform items through the district uniform coordinator. After proper review, the proposal may be forwarded to CDR, HQUSACE (CECW-OD) for consideration.

f. MSC Commanders may approve the wearing of uniforms for selected personnel while on duty, and shall have the discretionary authority to:

(1) Determine the specific projects at which personnel will be required to wear the uniform and determine what "class" uniform will be worn by each employee. However, to provide uniformity, all employees in like positions on the same project or site shall be required to wear the same class uniform.

(2) Determine additional O&M job functions which may be authorized to wear Class B and C uniforms when identification as a Corps employee is desirable.

(3) Redelegate this authority to the District Commander.

g. Supervisory personnel shall be responsible for the enforcement of appearance standards as prescribed by EP 1130-2-520. Individuals shall wear the uniform in a manner that commands respect for both themselves and the Corps of Engineers.

h. Nothing in this chapter shall be interpreted as overriding applicable Federal, state, and local safety regulations. When there is any question, the safety regulation shall take precedent. Safety shoes, high visibility vests, life jackets, hard hats, and other safety and protective gear are not provided as part of the uniform program. These items are to be provided and worn as stipulated in Engineer Manual (EM) 385-1-1, Corps Safety and Health Requirements Manual, and other applicable regulations.

CHAPTER 8 - DREDGING

8-1. Purpose. This chapter establishes the policy governing accomplishment of dredging at USACE projects.

8-2. Policy. It is the policy of the Corps of Engineers that:

a. Dredging Projects. Dredging shall be accomplished in an efficient, cost-effective, and environmentally acceptable manner to improve and maintain the Nation's waterways to make them suitable for navigation and other purposes consistent with Federal laws and regulations.

(1) The maximum practicable benefits will be obtained from materials dredged from authorized Federal navigation projects, after taking into consideration economics, engineering, and environmental requirements in accordance with applicable Federal laws and regulations (33 CFR Parts 335-338).

(2) Dredging of any and all navigation projects shall be justified to reflect the current level of navigation activity at the project, to provide rationale for the channel dimensions to be dredged, the frequency of dredging, and, as a minimum, the justification shall be in accordance with current budgetary guidance.

(3) Navigation channel depths in project authorization documents and on maps, charts or engineering site drawings shall be referred to a vertical datum in accordance with EM 1110-2-1003.

(4) In accordance with 33 USC 628, no funds appropriated for navigation projects shall be expended for dredging shoreward of harbor lines.

(5) Authorized navigation projects will be maintained to full constructed channel dimensions when feasible and justified.

(6) Allowable overdepth dredging (depth and/or width) outside the required prism is permitted to allow for inaccuracies in the dredging process. District commanders may dredge a maximum of two feet of allowable overdepth in coastal regions (to include the Great Lakes, Columbia & Lower Willamette Rivers, etc.), and in inland navigation channels. Allowable overdepth in excess of these allowances or the use of zero allowable overdepth requires the prior approval of the MSC commander.

(7) Advance maintenance dredging, to a specified depth and/or width, may be performed in critical and/or fast-shoaling areas to avoid frequent redredging and ensure the least overall cost of maintaining the project. MSC commanders are authorized to approve advance maintenance dredging for new work dredging and maintenance dredging of the project. Written justification is required. As a minimum, the justification for advance maintenance should describe historical shoaling rates, frequency of dredging, and cost analysis. Advance maintenance involving the removal of rock is not authorized under the Operation and Maintenance, General appropriation. Advance maintenance shall not be used to provide navigation channel dimensions for vessels that exceed the design limitations of the project. Before using advance maintenance, the integrity of structures adjacent to the channel and the possibility that the material in the advance maintenance portion of the channel is significantly different from maintenance material should be reviewed.

(8) Increases in navigation channel dimensions at entrances, bends, sidings, and turning places within a project to allow for free movement of boats shall be in accordance with the provisions of Section 5 of the River and Harbor Act of 14 March 1915 (33 USC 562), Section 117 of the River and Harbor Act of 13 August 1968, PL 90-483, (33 USC 562a), Section 3 of the River and Harbor Act of 1945 (33 USC 603a), or Section 224 of PL 102-580 (33 USC 2201), and shall be approved by HQUSACE.

(9) Unless otherwise provided in the project authorization documents, depths and widths provided in the project authorization will be construed as actual dredging limits and not the draft and width limits of any vessel to be accommodated. Where a width of navigation channel is specified it will be understood to mean width of bottom at project depth.

(10) Side Slopes. Side slopes may be dredged by:

(a) Dredging along the slope of the required dimension.

(b) Dredging an equivalent box cut at the base of the side slope for the required dimension. Material removed from the box cut is payable up to that amount of material above the side slope line. Before using a box cut, the integrity of structures adjacent to the channel should be reviewed.

b. Dredging Contracts. Unit price construction contracts are the preferred method of accomplishing dredging work within the Corps of Engineers. The cost effectiveness of multiple year and multiple site dredging contracts shall be analyzed in the planning of all dredging projects.

(1) The Contracting Officer shall require the contractor to remove any and all material from within the required prism as required by the contract specifications. However, at the discretion of the Contracting Officer, the contractor may be released from removing all the material in the required prism based on navigation requirements and other factors, such as: deviations from the maintained dimensions can be attributed to the inaccuracies in the surveying measurement process, material characteristics, extreme weather conditions, or when the government is at fault.

(2) EP 1130-2-520 describes allowable contract types.

c. Contract Documents. The development of contract documents is applicable to new work dredging, maintenance dredging, and dredging for other purposes such as beach nourishment, dike and levee construction, and other beneficial uses.

(1) Individuals responsible for preparation of construction contracts for dredging shall ensure that plans and specifications accurately describe the work to be accomplished, the conditions existing at the work site, the required dredging quantities for unit price contracts, the required prism, allowable overdepth, the limits of the work area, and any environmental considerations at the work site.

(2) The classification of material and the estimated quantities of material for unit price contracts to be removed from within the required prism shall be specified in the contract specifications. For unit price contracts, all quantities of material to be removed from within the required prism and any advance maintenance quantities (if applicable) shall be included in the

solicitation bid item for required dredging quantities.

(3) When provisions for allowable overdepth below the required prism are specified, the quantities shall be firmly established in the bidding documents. The removal of these quantities by the contractor are optional; however, the contractor will be paid for all material removed within the allowable overdepth prism. The required and allowable overdepth quantity of material should be included in the same bid item, and these quantities should be noted in the contract specifications. The contract specifications will state that no payment will be made for material removed outside the allowable overdepth prism.

(4) Mobilization (mob) and demobilization (demob) will normally be included as a separate bid item in dredging contract documents. If any bid reflects a disproportionate share of the total contract cost in the mob and demob item (commonly referred to as unbalanced bidding), DFARS 252.236-7004 prescribes the appropriate procedures for the contracting officer to follow.

(5) When zero allowable overdepth is specified, the documents shall clearly indicate that all material from within the required dredging prism must be removed. The contractor may dredge below the required depth to ensure that all material is removed from within the required prism; however, the contract documents will make clear that no payment will be made for yardage removed below the required prism.

(6) New work dredging plans and specifications, where hard materials exist (e.g., dense clays, rock, or manmade materials), shall have a required depth, required overdepth, and allowable overdepth, in order to ensure future maintenance of the project to the authorized dimensions.

d. Estimates of Dredging Costs. All estimates for dredging cost will be prepared in accordance with ER 1110-2-1302, Civil Works Cost Engineering, the Cost Engineer Dredge Estimating Program (CEDEP), and will contain a narrative documenting reasons for decisions and selections made by the cost engineer. It is the general policy of the U.S. Army Corps of Engineers that estimates for dredging costs will be performed by the cost engineer. Coordination between the cost engineer and the dredging program manager regarding dredging related issues or operational or maintenance procedures is recommended. Each MSC and district command that is involved in the preparation of plans and specifications for dredging solicitations, dredging cost estimates, and contract management for dredging projects should promote the development of expertise related to the dredging process within the planning, engineering, and construction-operations functions. For special cost engineering dredging problems or concerns, the use of the Corps' Regional dredge teams are recommended. The appropriate team is convened at the request of the district commander. A list of the regional geographical areas and office of the chairman for each team is referenced in Appendix H of ER 1110-2-1302.

e. Navigation Channel Conditions.

(1) Hydrographic Surveys (For Dredging Projects). The performance of hydrographic surveys in support of dredging shall be in accordance with EM 1110-2-1003, Hydrographic Surveying, and EP 1130-2-520, Chapter 8, Dredging.

(2) Channel Sweep Surveys. Sweep surveys shall be performed as necessary to locate underwater obstructions within the navigation channel limits or for final acceptance when dredging is performed in hard material (e.g., dense clays, rock, or manmade materials).

(3) Channel Clearing.

(a) ER 1105-2-100 provides the policy and procedure to perform emergency snagging and clearing work to benefit navigation, under authority of Section 3 of the River and Harbor Act approved 2 March 1945. For routine maintenance the project authorization document provides the authority for snagging and clearing for navigation.

(b) Chapter 4 of ER 1130-2-520 provides the policy and procedure for removal of wrecks and other obstructions to navigation.

f. Placement of Dredged Material. Corps of Engineer placement of dredged material policies and practices shall be in conformance with 33 CFR Parts 335-338 for operation and maintenance projects and ER 1105-2-100 for new work projects. When specifying a placement method, all alternatives including beneficial uses should be investigated in accordance with applicable laws and regulations.

g. Corps of Engineers Reserve Fleet (CERF).

(1) CERF provides for the response of private industry hopper dredges to support emergency and national defense dredging requirements. The CERF program is used to augment the Corps Minimum Fleet hopper dredges. When Corps Minimum Fleet hopper dredges are not available, and it is not feasible or practical to use routine contractual procedures for hopper dredges, then MSC/District Commanders shall seek authority from HQUSACE to activate CERF. The mechanism for implementing the CERF program is outlined in EP 1130-2-520.

(2) The CERF program shall ensure response of private industry hopper dredges without restricting a contractor's ability to compete for private dredging contracts. All contractor hopper dredges are subject to CERF activation while working under a Corps contract. CERF activation shall be used only when all other avenues to secure dredging have been exhausted.

(3) The contractor's dredge is subject to activation by the Director of Civil Works under the CERF for the remaining time on the existing contract plus 90 days for CONUS dredging. For OCONUS, the Commander, USACE, may activate a contractor's dredge for the remaining time on the existing contract plus 180 days. The actual period of the CERF contract can exceed these time limits if mutually agreeable.

(4) The contractor's hopper dredge must depart its current duty station within 72 hours of notification of CERF activation for CONUS and within ten days for OCONUS deployments. When the CERF contract is completed, the dredge shall be paid to return to the work from which it was activated (if the original contract is still in force) or to its homeport.

h. Corps of Engineers Minimum Dredge Fleet. In accordance with Public Law 95-269 (33 USC 622), the Corps of Engineers shall retain a minimum federally-owned fleet to carry out emergency and national defense work. In addition, the law requires that the minimum federally-owned fleet be kept fully operational, and maintained to technologically modern and efficient standards, including replacement as necessary. EM 1125-2-312 describes the operation of the Corps of Engineers Minimum Dredge Fleet.

i. Quality Control/Quality Assurance. Quality Control/ Quality Assurance procedures shall be established and implemented for all dredging projects in accordance with ER 1180-1-6.

j. Internal Controls. MSC and district commanders shall establish internal controls consistent with Army Regulations (AR) 11-7, Internal Review (HQUSACE Supplement 1).

k. Small Business Dredging Program. Small Business Dredging Program and the Small & Disadvantaged Business Program of the Congress, and the Small Business Administration shall be supported in compliance with Section 722 of PL 100-656, which specifies small dredging business and emerging small business dredging contract award goals. Engineer Federal Acquisition Regulation Supplement (EFARS), Subpart 19.10, provides specific guidance to facilitate meeting these goals.

l. Coordination with the Dredging Industry. It is the policy of the Corps of Engineers to provide the U.S. dredging industry with a schedule of proposed bid openings for dredging to promote increased competition for Corps dredging work. MSC commanders will hold an annual regional meeting to discuss the approaching fiscal year dredging contract schedule with Corps district representatives and representatives of the dredging industry. This meeting may be delayed until after work allowances are issued in the interest of providing accurate information. National dredging meetings will be held a minimum of once each year to allow the dredging industry the opportunity to review the national schedule of dredging contracts.

m. Local Sponsor Applicability.

(1) Title I of the Water Resources Development Act (WRDA) of 1986, PL 99-662, assigns non-Federal responsibility for project requirements. ER 1105-2-100 provides navigation project cost sharing guidance.

(2) This dredging policy shall serve as guidance for non-Federal interests to construct harbor improvements in accordance with Section 204 of WRDA of 1986. The application of Section 204 is contained in ER 1165-2-120 and ER 1165-2-124.

(3) Section 933 of WRDA of 1986, as amended by Section 35 of WRDA of 1988, and Section 207 of WRDA of 1992 provides authority for the Secretary of the Army, if requested by a state, to place beach quality sand dredged in constructing or maintaining navigation improvements on adjacent beaches if the work is deemed to be in the public interest and upon payment by such state of fifty percent of the increased cost. The Secretary is required to give consideration to a state's schedule for providing its share of funds for placement of such sand, and shall, to the maximum extent practicable, accommodate such schedule.

(4) In accordance with Section 1352, 31 USC, entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions", recipients of a Federal contract, grant, or cooperative agreement, must file a certification that funds will not be used for lobbying.

(5) Section 204, Water Resources Development Act of 1992, (PL 102-580), authorizes the Secretary of the Army to carry out projects for the protection, restorations, and creation of aquatic and ecologically related habitats, including wetlands, (hereinafter referred to as ecosystem restoration projects) in connection with dredging for construction, operation, or maintenance of an authorized Federal navigation project. Projects may be undertaken upon a finding by the Secretary that the environmental, economic, and social benefits of the project, both monetary and nonmonetary, justify the cost thereof and the project would not result in environmental degradation. Project implementation is conditioned on non-Federal interests

entering into a cooperative agreement in accordance with the requirements of Section 221 of the Flood Control Act of 1970 and providing 25 percent of the cost associated with the construction of the project including provision of all lands, easements, rights-of-way, and necessary relocations. The non-Federal sponsor must also agree to pay 100 percent of the operation, maintenance, replacement, and rehabilitation costs associated with the project. The project costs are limited to incremental construction costs in excess of those costs necessary to maintain the authorized navigation project in the most cost effective way, consistent with economic, engineering, and Federal environmental criteria. An annual appropriations limit of \$15,000,000 has been legislatively established for section 204 projects.

n. Inspection of Dredging Operations. The inspection of dredging operations shall be performed for both hired labor and contract work to ensure that the plans and specifications for the work are complied with fully. EP 1130-2-520 provides guidance for the inspection of dredging operations.

8-3. Reporting Requirements.

a. Extensive coordination between Major Subordinate Commands (MSC), District Commands, and HQUSACE (CECW-OD) is required. Reporting dredging information such as dredging advertising schedules, post-bid data, Minimum Dredge Fleet schedules and status, and Continuation of Analysis of Dredging Costs, to HQUSACE consistently and accurately is required.

b. MSC shall review each district command report for completeness and consistency with program budgets, schedules and cost factors. District Commands shall make any necessary revisions or modifications to reports requested by CECW-OD in a timely manner.

c. When the variation in estimated quantity clause of the contract is exercised, the contract shall be modified to reflect the new expenditures. The changes made as a result of the contract modification shall be reported in accordance with the requirements of DFARS 204.671 and 204.672.

d. An after action report on emergency or national defense assignments by a Minimum Fleet vessel will be prepared by the owning district. The report shall be submitted to HQUSACE (CECW-OD) within 30 days after completion of the work.

CHAPTER 9 - CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY
DUMPING OF WASTES AND OTHER MATTER - DREDGED MATERIAL OCEAN
DISPOSAL

9-1. Purpose. This chapter establishes the policy for the preparation and submission of USACE-prepared dredged material disposal reports to the London Dumping Convention (LDC).

9-2. Policy. It is the policy of the Corps of Engineers that:

a. The United States' report pertaining to the ocean disposal of dredged material shall be prepared and submitted by CECW-OD annually.

b. Each applicable command shall provide a report of its specific ocean disposal activities, in accordance with the LDC report format, to CECW-OD on floppy disk. Reports shall include, where required, separate information listings on:

- (1) Permitted ocean disposal for applicants;
- (2) Corps new work ocean disposal; and
- (3) Corps maintenance ocean disposal.

CHAPTER 10 - RESTRICTED AREAS FOR HAZARDOUS WATERS AT DAMS AND OTHER CIVIL WORKS STRUCTURES

10-1. Purpose. This chapter establishes the policy on restricted areas upstream and downstream of certain project structures, and establishes standard criteria for determining the extent of these restricted areas.

10-2. Policy. It is the policy of the Corps of Engineers that:

a. Restricted areas prohibiting public access shall be established for the hazardous waters immediately upstream and downstream of all Corps-owned locks and dams, flood control dams, multi-purpose dams, re-regulation structures, and any other structures with similar hazards to boating or visitor safety.

b. The extent of each restricted area shall be based on hydraulic criteria and operational considerations. The minimum size of a restricted area is fixed by the hydraulic line and a buffer zone beyond the line as specified in Chapter 10 of EP 1130-2-520, and in accordance with the following criteria:

(1) Upstream restricted areas must be sized (including necessary buffer zones) to allow a boater to reach shore before being carried by currents into the dam or intake area, or to allow a reasonable expectation of rescue in the event of a boating accident or motor failure.

(2) Downstream restricted areas must be sized (including necessary buffer zones) to prevent a boat that is without power or a swimmer from being drawn into the dam or discharge areas. The restricted zones must encompass areas containing turbulent waters caused by the operation of the project that creates significant risk of swamping or capsizing small boat that are either underway, moored, or adrift.

c. Restricted area boundaries shall ordinarily be established based on high flow condition, not variable with fluctuating flows, intermittent discharges, or seasonal variations.

d. Approval authority for defining boundaries of restricted areas is delegated to MSC commanders who may redelegate the authority to district commanders.


e. The District Commander will appoint an interdisciplinary team from Safety, Hydraulics, and Operations to evaluate all applicable sites and to recommend restricted area boundaries and associated control measures. The team will consult with the person in charge at each site, other Corps representatives, and other Federal, state, and local agencies (where necessary) who may have significant interest or input in the matter. The team will document its findings, including the calculation of the hydraulic line, operational considerations and views

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from other sources. The approving authority will sign the boundary determination.

FOR THE COMMANDER:

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OTIS WILLIAMS
Colonel, Corps of Engineers
Chief of Staff

APPENDIX A
REFERENCES

- a. Water Resources Development Act of 1986.
- b. Water Resources Development Act of 1988.
- c. Water Resources Development Act of 1992.
- d. 33 USC 409 and 411-415, Sections 15-20 of the River and Harbor Act of 1899, as amended.
- e. 33 USC Parts 554-555, Commodity.
- f. 33 USC 562, Section 5 of the River and Harbor Act of 14 March 1915, Channel Depths and Dimensions Defined.
- g. 33 USC 562a, (PL 90-483), Section 117 of the Rivers and Harbors Act of 13 August 1968.
- h. 33 USC 603a, Section 3 of the Rivers and Harbors Act of 2 March 1945.
- I. 33 USC 622, (PL 95-269), Rivers and Harbors, Improvements of 26 April 1978, (Corps of Engineers Minimum Dredge Fleet).
- j. 33 USC 628, Expenditure for Dredging Within Harbor Lines.
- k. 42 Stat. 1043, Rivers and Harbors Appropriation Act of 1922.
- l. PL 65-37, Section 7 of the River and Harbor Act of 8 August 1917, Regulation of Use of Navigable Waterways.
- m. PL 85-480.
- n. PL 85-500, as amended. Section 104 of the Rivers and Harbors Act of 1958.
- o. PL 89-72, Federal Water Recreational Act of 1965.
- p. PL 94-587, as amended.
- q. PL 98-63, U.S. Army Corps of Engineers Civilian Uniform Allowance.
- r. PL 100-656, Business Opportunity Development Reform Act of 1988.
- s. 29 CFR, Part 1910.1200, Hazard Communication.
- t. 33 CFR, Part 62.33, United States Aids to Navigation System, Information and Regulatory Marks.

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- u. 33 CFR, Parts 207 and 209, Navigation Regulations and Administrative Procedure, respectively.
- v. 33 CFR, Parts 335-338, Disposal of Dredged Material.
- w. 36 CFR, Chapter III, Part 327, Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers.
- x. EO 12372, Intergovernmental Review of Federal Programs.
- y. AR 11-7, Internal Review.
- z. Defense Federal Acquisition Regulation Supplement (DFARS).
- aa. Engineer Federal Acquisition Regulation Supplement (EFARS).
- ab. ER 5-7-1, Project Management.
- ac. ER 11-2-240, Civil Works Activities - Construction and Design.
- ad. ER 415-1-13, Design and Construction Evaluation.
- ae. ER 1105-2-100, Guidance for Conducting Civil Works Planning Studies.
- af. ER 1110-2-1302, Civil Works Cost Engineering.
- ag. ER 1110-2-4401, Clearances for Power and Communication Lines Over Reservoirs.
- ah. ER 1130-2-500, Work Management Policies.
- ai. ER 1165-2-120, Reimbursement for Advance Non-Federal Construction of Authorized Federal Harbor and Inland Harbor Improvements.
- aj. ER 1165-2-124, Construction of Harbor and Inland Harbor Projects by Non-Federal Interests.
- ak. ER 1165-2-131, Local Cooperation Agreements for New Start Construction Projects.
- al. ER 1180-1-6, Construction Quality Management.
- am. EP 310-1-6a and 6b, Graphic Signs Manual Volumes 1 and 2.
- an. EP 1130-2-310, Dredging Inspector's Guide.
- ao. EP 1130-2-520, Dredging and Navigation Operations and Maintenance Procedures.
- ap. EP 1130-2-550, Recreation Operation and Maintenance.
- aq. EP 1165-2-1, Digest of Water Resource Policies and Authorities.
- ar. EM 385-1-1, Safety and Health Requirements Manual.

- as. EM 1110-2-1003, Hydrographic Surveying.
- at. EM 1110-2-1604, Hydraulic Design of Navigation Locks.
- au. EM 1110-2-1605, Hydraulic Design of Navigation Dams.
- av. EM 1110-2-1606, Hydraulic Design-Surges in Canals.
- aw. EM 1110-2-1607, Tidal Hydraulics.
- ax. EM 1110-2-1611, Layout and Design of Shallow-Draft Waterways.
- ay. EM 1110-2-1613, Hydraulic Design of Deep Draft Navigation Projects.
- az. EM 1110-2-1614, Design of Coastal Revetments, Seawalls, and Bulkheads.
- ba. EM 1110-2-1615, Hydraulic Design of Small Boat Harbors.
- bb. EM 1125-2-312, Manual for Instructions - Hopper Dredge Operations and Standard Operating Procedures, ENG 2590.
- bc. HQUSACE Supplement to AR 11-7, Internal Review.
- bd. Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (also known as the London Dumping Convention or LDC), dated 29 April 1974.

APPENDIX B

MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY AND THE U.S. COAST GUARD

SUBJECT: Coast Guard and Department of Army Responses to Marking and Removal of Sunken Vessels and Other Obstructions to Navigation

1. Purpose. The purpose of this memorandum of agreement (MOA) is to improve the efficiency and effectiveness of the Coast Guard and the Department of Army responses under each agency's respective authorities for the marking and removal of sunken vessels and other obstructions to navigation.

2. Provision of Agreement. This agreement provides procedures on coordination to determine whether an obstruction is a hazard to navigation and procedures to determine the appropriate corrective actions to be taken by both agencies.

3. Definitions. For the purpose of this agreement, the following definitions apply:

a. Obstruction: Anything that restricts, endangers, or interferes with navigation. Obstructions can be authorized man-made structures such as bridges, pierheads, offshore towers, etc., or unexpected interferences which must be addressed as to their effect on navigation.

b. Hazard to Navigation: An obstruction, usually sunken, that presents sufficient danger to navigation so as to require expeditious, affirmative action such as marking, removal, or redefinition of a designated waterway to provide for navigational safety.

c. Responsible Field Officers Are:

(1) Department of Army:

(a) District Engineer, Army Corps of Engineers District, and

(b) Division Engineer, Army Corps of Engineers Pacific Ocean and New England Divisions.

(2) Coast Guard: Chief, Operations Division, Coast Guard District.

4. Objectives.

a. Promote close coordination and cooperation between the Department of Army and the Coast Guard leading to prompt and decisive action in marking or removal of obstructions declared to be hazards to navigation.

b. Provide guidance on the parameters and procedures for making multi-agency decisions for determining when an obstruction should be declared a hazard to navigation.

c. Provide the chain-of-command relationships for resolving differences of opinion

between the Department of Army and the Coast Guard as to the appropriate corrective action to initiate for hazards to navigation.

d. Assure timely and effective action to provide safe navigation to the maritime community.

5. Required Actions. Upon receiving reports of sunken vessels or other obstructions to navigation, each agency through its field office will take the following actions:

a. Assess the impact upon navigation of each reported obstruction and expeditiously identify appropriate corrective actions. In emergency situations, the agency first on the scene should initiate immediate actions to mitigate the hazardous situation.

b. Decide through joint consultation and agreement between agency field offices if an obstruction is a hazard to navigation, agree upon appropriate corrective action(s) to reduce the danger to navigation to an acceptable level, and decide which agency shall act as lead agency for contacting the owner, if one exists, of the obstruction and executing corrective actions.

(1) Personal contacts between agency field offices are encouraged to facilitate decision-making.

(2) Timely response dictates that decisions be made at the field office level whenever possible.

(3) Decisions concerning corrective actions shall be supported by records appropriate to the specific case.

(4) Marking Issues. In every case where an obstruction is declared to be a hazard to navigation, the location will be marked immediately by the owner. In the event that the owner cannot be identified, refuses to mark the obstruction, inadequately marks the obstruction, or is otherwise unable to properly mark it, the Coast Guard has authority under 14 USC 86 to take appropriate action. When necessary the Department of Army will assist the Coast Guard in locating and marking hazards to navigation. Marking of an obstruction determined to be a hazard to navigation does not by itself remove the "hazard to navigation" status of the obstruction; however, under some circumstances it can be an acceptable alternative to other corrective actions.

(5) Removal Issues.

(a) Where an obstruction is declared to be a hazard to navigation and removal is the agreed appropriate corrective action, the respective Army Corps of Engineers District Engineer may take the initiative in accordance with 33 CFR 209.190(h) wherein removal of an obstruction under the provisions of Section 19 of the River and Harbor Act of 1899 (33 USC 414) may be undertaken without prior approval of the Chief of Engineers if the obstruction has been in existence over 30 days or its abandonment by the owner can be legally established in a shorter period, the cost of removal will not exceed \$100,000 for each incident, and all reasonable efforts to require the owner to remove the wreck himself within a reasonable period have been exhausted. If an emergency condition exists, the district engineer may undertake removal under Section 20 of the River and Harbor Act of 1899 (33 USC 414) which eliminates the necessity to establish abandonment. The district engineers' authority under Section 20 is limited to those

removal incidents costing less than \$100,000. For all incidents costing more than \$100,000, prior approval from the Chief of Engineers must be obtained under either Section 19 or Section 20.

(b) The Coast Guard has authority for the alteration or removal of obstructive bridges under 33 CFR 114 and has authority to remove sunken vessels when they create a substantial pollution threat to the public health or welfare under 33 CFR 153.

c. The Coast Guard has authority to disseminate and maintain navigational safety information pertaining to obstructions and is the lead agency responsible for this type of information. This mission is complemented by related services offered by other sources, including the Army Corps of Engineers. Each agency's field offices will immediately notify their counterpart of any reported obstructions and will maintain close coordination to ensure that navigational safety information is disseminated in a timely and effective manner. Free exchange of information related to obstructions, including owner's name and address, will be made between agencies, subject to the requirements of the Privacy Act, 5 USC 522a.

d. Disagreements arising over the resolution of problems raised by hazards to navigation. The district engineer and the Chief of Operations will document the area(s) of disagreement and present them to each other for consideration at least 14 days before forwarding of the issue to higher authority. If resolution cannot be achieved, the problem should be forwarded to the next higher level of authority. At the next higher level, a similar exchange of views should be made in the same time frame. If resolution cannot be reached here, a similar referral process should be made until resolution is achieved or the highest referral possible is made. Paragraph 8 delineates the chain-of-command for the purposes of this agreement.

e. The Coast Guard and Department of Army shall develop individual agency instructions to implement the MOA.

f. Field level offices of both agencies shall periodically review the status of existing obstructions to determine the adequacy of corrective action(s), to determine if a resurvey of the obstruction's location is necessary, to revise appropriate records, and to update public notification records.

6. Applicability. This agreement applies to the navigable waters of the United States, as defined in Title 33 CFR 2.05-25.

7. Decision-making Guidance.

a. Options to consider in formulating appropriate action(s):

- (1) No action.
- (2) Charting.
- (3) Broadcasting and publication of navigational safety information.
- (4) Marking.

- (5) Redefinition of navigational area, e.g., channel fairway, anchorage, etc.
- (6) Removal.
- (7) Combination of the above.

b. Factors (not to be taken as all inclusive) to be considered in determining if a sunken vessel or other obstruction is a hazard to navigation and in determining which course of action(s) listed in paragraph 7.a. is appropriate to increase safety to an acceptable level:

- (1) The degree to which the obstruction restricts, endangers, or interferes with the navigability of a body of water.
 - (a) Location with respect to navigational traffic patterns.
 - (b) Navigational difficulty at the site of the obstruction.
 - (c) Clearance or depth of water over obstruction.
 - (d) Fluctuation of water level and other hydraulic characteristics.
- (2) Physical characteristics of the obstruction, including cargo (if any exists).
 - (3) Possible movement of the obstruction.
 - (4) Marine activity in the vicinity of the obstruction.
 - (a) Type of commercial and recreational vessel traffic.
 - (b) Density of commercial and recreational vessel traffic.
 - (c) Trends of waterway use.
- (5) Location of obstruction with respect to existing aids to navigation.
- (6) Prevailing and historical weather conditions.
- (7) Length of time the obstruction has been in existence.
- (8) History of vessel accidents involving obstruction.

8. Chain-of-command Relationships for Resolution of Differences.

a. Chief, Operations Division, Coast Guard District/ District Engineer, Army Corps of Engineers District.

b. District Commander, Coast Guard District/Division Engineer, Army Corps of Engineers Division.

c. Chief, Office of Navigation, Coast Guard/Director of Civil Works, Office, Chief of

Engineers.

9. Amendment, Duration, and Termination.

a. This MOA may be modified or amended by mutual consent of the signatories to this agreement of their designees. All such changes will be documented by written agreement.

b. This MOA is intended to remain in effect for as long as it continues to serve the purpose and objectives defined herein.

c. Either agency may terminate this MOA six months after giving formal written notice of intent to terminate.

10. Effective Date. This MOA is effective 90 days after execution by the Chief, Office of Navigation, U.S. Coast Guard, and the Director of Civil Works, Department of the Army.

/s/

T.J. Wojnar
Rear Admiral, U.S. Coast Guard
Chief, Office of Navigation

Oct 16 1985

(Date)

/s/

H.J. Hatch
Major General, USA
Director of Civil Works

10 Oct 1985

(Date)