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OPNAV INSTRUCTION 11010.40

From: Chief of Naval Operations

Subj: ENCROACHMENT MANAGEMENT PROGRAM

Ref: (a) National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, Section 2811 as amended, codified at 10 U.S.C. 2684a
(b) ASN (I&E) memo of 23 Jan 03 (NOTAL)
(c) CNO memo 11000 Ser N4/3U575979 of 14 Nov 03 (NOTAL)
(d) National Defense Authorization Act For Fiscal Year 2004, Pub. L. No. 108-12, Section 320, codified at 10 U.S.C. 113 note
(e) DOD Directive 3200.15 of 10 Jan 03

Encl: (1) CNO Encroachment Management Program Procedures and Guidelines

1. Purpose. To establish the Chief of Naval Operations (CNO) Encroachment Management program to ensure operational sustainment for all Navy installations, test and training ranges, air and water operating areas (OPAREAs), special use airspace, and military training routes (MTRs).

This Encroachment Management program also includes additional guidance for executing the Encroachment Partnering (EP) program established by reference (a), and by previous Navy guidance, references (b) and (c). The EP program provides the Navy with a tool to preserve the Navy's mission capability by preventing incompatible development and/or protecting natural habitats outside the installation.

2. Background. The Navy needs a proactive strategy to address all types of encroachment at our installations, ranges, and operating areas to preserve the ability to meet existing and future mission requirements and to provide effective test and training capabilities. Encroachment pressures (e.g., private development adjacent to an installation, range, or OPAREA, certain environmental restrictions, or growing competition for resources such as waterfront, airspace and frequency spectrum)

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are increasingly impeding the ability to conduct operations, and training or testing in realistic environments. Encroachment pressures can limit low-altitude flight training, over-the-beach operations, night and all-weather training, live-fire training, and the application of new weapon technologies. Reference (d) requires DOD to report to Congress on certain types of encroachment impacts at its installations and ranges, as well as the DOD's plan to address encroachment impacts. Reference (e) establishes requirements for comprehensive and integrated planning for the sustainment of range complexes and operating areas. The Navy's Tactical Training Theater Assessment and Planning (TAP) program addresses training range sustainment challenges. As a part of TAP, the Navy is developing a proactive engagement/outreach strategy conveying the Navy's environmental stewardship initiatives in balance with the need to train at its ranges.

3. Responsibilities. Chief of Naval Operations (CNO (N4) Fleet Readiness and Logistics) plans and programs for afloat/ashore readiness and logistics programs; and ensures the effective and efficient employment of resources in meeting validated requirements. CNO (N4) is responsible for managing encroachment issues for the Navy through CNO (N43) (Fleet Readiness), CNO (N45) (Environmental Readiness) and CNO (N46) (Ashore Readiness). CNO (N46) is assigned the overall lead for Encroachment Management within OPNAV and will coordinate with all CNO codes on their respective encroachment responsibilities. CNO (N4) will execute its Encroachment Management through the Commander, Navy Installations Command (CNIC).

a. CNO (N46) establishes policy for shore installation management, planning and real estate, and facilities support. CNO (N46) plans and programs resources for an Encroachment Challenges database, Encroachment Action Plans (EAP), and the Encroachment Partnering program.

b. CNO (N43) plans and programs resources to sustain, upgrade, modernize, & transform training ranges, Major Range & Test Facility Base (MRTFB) ranges, and operating areas. CNO (N43) funds the development of Range Complex Management Plans (RCMP) that analyzes range information, including encroachment analysis and makes recommendations for encroachment prevention on training ranges. Commander, Fleet Forces Command (FFC) and Commander, United States Pacific Fleet (CPF) manage the TAP program for CNO (N43) and (N45). CNO (N43) will continue to

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coordinate special use airspace and MTR issues with CNO (N885) (Deputy Chief of Naval Operations Air Warfare).

c. CNO (N45) establishes policy for shipboard, ashore, and marine environmental and natural resources programs. CNO (N45) also establishes National Environmental Policy Act (NEPA) and compliance requirements for testing and training ranges, major exercises & unit level training; N45 collects marine mammal density data and sets requirements for Navy Installation Natural Resource Management Plans (INRMPS). Environmental concerns are a major focus area for encroachment management.

4. Discussion. The foundation of the Encroachment Management Program is identification and assessment by Mission Component Commands, Installation Commanding Officers (ICOs), Range Complex Commanders (RCCs), Range Commanding Officers (RCOs), and Regional Commands of all encroachment impacts to installations, ranges, OPAREAs, special use airspace, and MTRs to ensure operational sustainment. Moreover, the program requires active engagement with local, State, other Federal agencies, and community leaders to prevent encroachment impacts and promote compatible development of lands adjacent to and near our installations, ranges, special use airspace, and MTRs, and maintain unfettered access to and within our OPAREAs. The Navy is particularly susceptible to encroachment with many of its installations, ranges, special use airspace, and MTRs located in high growth areas and coastal regions. Many of the Navy's OPAREAs are located in areas subject to recreational boating, commercial fishing, and commercial shipping pressures. Additionally, Navy must balance the need to train with protection of marine resources such as marine mammals, turtles, coral reefs, etc. The Encroachment Management program envisions a multi-faceted process to include:

a. Establishment of regional teams consisting of diverse operational, planning, real estate, environmental, legal, and public affairs disciplines to become the focal point to address and resolve encroachment issues working in support of Mission Component Commands.

b. Establishment and maintenance of a Navy-wide encroachment database to identify and quantify encroachment challenges.

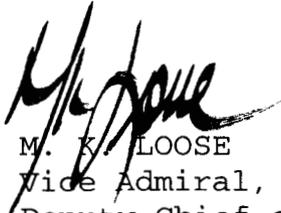
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c. Development of installation and range Encroachment Action Plans (EAP) to provide short, mid, and long-term encroachment management strategies.

d. Development of Encroachment Partnering projects to acquire minimal real property interests in lands, adjacent to or near installations, range complexes, and airspace: (1) where local planning and zoning initiatives are insufficient to protect the long-term viability of an installation, range, MTR, and special use airspace; and (2) preserve off-base habitat to relieve current or avoid future environmental restrictions on operations.

5. Applicability. These procedures apply only to all Navy installations and training and test ranges within the United States, its territories, trusts and possessions or where Navy manages, controls or otherwise operates ranges or OPAREAs.

6. Action. Addressees shall comply with the procedures outlined herein.



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ENCROACHMENT MANAGEMENT
PROGRAM PROCEDURES
AND
GUIDELINES

Enclosure (1)

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SECTION IDEFINITIONS, RESPONSIBILITIES, AND DISCUSSION1. Definitions

1.1. Encroachment is primarily any non-Navy action planned or executed which inhibits, curtails, or possesses the potential to impede the performance of Navy activities. Additionally, the lack of action by the Navy to work with local communities and to monitor development plans, or to adequately manage our facilities and real property can also impact the Navy's ability to meet its mission requirements and result in encroachment. There are various DOD, Navy, and other Services documents that have identified and defined various types of encroachment challenges. These encroachment challenges are summarized and defined in Section II.

1.2. Encroachment Management is a program that focuses on systematic encroachment identification, quantification, mitigation, and prevention. Encroachment Management is a coordinated effort between Mission Component Commands with responsibility to identify test and training requirements and to assess impacts to readiness, and Installation Commanding Officers, Range Complex Commanders, Range Commanding Officers, and Navy Regions with responsibility to sustain operational assurance at installations, ranges, special use airspace (SUA), military training routes (MTRs), and operating areas (OPAREAs). Early identification and quantification of potential encroachment challenges (as defined in Section II) will enable Mission Component Commands, Navy Regions, installations and ranges to proactively assess the impacts (as defined in Section III) to training readiness and test requirements.

1.3. Enhanced Readiness Teams (ERTs) can facilitate planning, coordinating and executing a proactive Encroachment Management program. Regional Commanders, at their discretion, may designate an established or a newly created ERT as the regional entity to address encroachment challenges or create a regional entity separate from an ERT. ERT membership generally includes Mission Component Commands, Regions, installations, ranges, range users from Numbered Fleets and Type Commanders, facilities managers, planning, environmental, real estate, public affairs, security officers, and legal professionals.

1.4. An Encroachment Action Plan (EAP) is the blueprint for an installation or range's Encroachment Management program. Defined in Section IV, an EAP is organized as follows:

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- 1.4.1. Identification of encroachment challenges that negatively impact military activities at an installation and associated land training or test areas;
- 1.4.2. Nature and degree of degradation to those activities;
- 1.4.3. Effectiveness of current Navy management, planning, or outreach activities to minimize negative mission impacts and associated additional costs;
- 1.4.4. Current or projected future impacts to mission and installation readiness, if applicable;
- 1.4.5. Regulatory and community frameworks that support or exacerbate the encroachment challenges; and
- 1.4.6. Short, mid, and long-term strategies to address and correct or prevent encroachment impacts.

Regional Commanders, in coordination with Installation Commanding Officers, Range Complex Commanders or Range Commanding Officers, and Mission Component Commands, are responsible for identifying the need for an EAP, developing a regional EAP IPL, and submitting a prioritized request to CNIC for those EAPs that may need additional funding.

1.5. Range Complex Management Plans (RCMPs) contain data, analysis, and project recommendations to sustain & optimize naval range complex capabilities in support of mission essential training & research, development, test and evaluation (RDT&E). The RCMP develops the operational baseline, capabilities assessment, encroachment and environmental coverage analysis, and strategic vision needed to perform subsequent environmental planning. The RCMP outlines the range complex planning and management organization, outreach strategy, and investment plan. RCMPs identify existing (short-term) encroachment challenges on the range complexes, discuss their training impacts, and recommend mitigation measures. RCMPs identify mid- and long-term encroachment challenges, particularly where introduction of new platforms, weapon systems and mission areas will exacerbate existing encroachment pressures. RCMPs do not address regional (i.e. beyond the bounds of a specific range complex) encroachment issues, nor do they quantify costs associated with encroachment.

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1.6. Encroachment Partnering (EP) is a land acquisition authority specifically enacted to address encroachment challenges. In conjunction with other land acquisition authorities, EP can be used to reduce or eliminate current or potential encroachment that is likely to restrict military activities. Reference (a) authorizes the military departments to execute agreements with public and private partners to acquire real property interests from willing sellers adjacent to or near military installations and military airspace to: (1) acquire buffer zones to prevent incompatible land use from impacting military missions; and (2) preserve off-base habitat to relieve current or avoid future environmental restrictions on operations. This statute authorizes the Military Departments to enter into "encroachment partnering" agreements with states, political subdivisions thereof, and private land conservation entities. Specifically, private conservation organizations specialize in identifying and acquiring private land for conservation purposes and can respond more quickly than the Navy to purchase opportunities. Both public agencies and conservation organizations offer valuable resources to leverage Navy's encroachment prevention efforts. Navy's Encroachment Partnering program is outlined in Section V.

2. Responsibilities

2.1. CNO (N4) will coordinate the Encroachment Management Program for the Navy. CNO (N4) has tasked CNO (N46) to oversee implementation of a Navy-wide encroachment management program. CNO N46 will actively coordinate encroachment program management with CNO N43 and CNO N45 to ensure comprehensive resourcing of encroachment actions. CNO N4 executes its responsibility for overall program management and coordination through Commander, Navy Installations Command (CNIC). CNIC will coordinate the Encroachment Management program with all Mission Component Commands. CNO N4 has additionally assigned the following encroachment management and planning budget submitting office (BSO) responsibilities: CNIC - Installations, land-based ranges, MTRs, and SUAs; FFC/CPF - Littoral/OPAREAS (training ranges); and Commander, Naval Air Systems Command/Commander, Naval Sea Systems Command - Littoral/OPAREAS (T&E ranges).

2.1.1. CNIC will develop an annual Integrated Priority List for EAPs based on encroachment challenges identified by installations, ranges, Navy Regions, and Mission Component Commands. CNIC will fund high-priority EAPs where the Region may need additional funding to accomplish, subject to funds availability.

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2.1.2. CNIC will manage and fund, subject to availability, the Navy's Encroachment Partnering program for Navy installations and ranges. CNIC will establish a consolidated Integrated Priority List and allocate those funds for the EP program based on the IPLs submitted from each Region. CNIC will coordinate prioritization of the list with Mission Component Commands. In addition, CNIC through ASN(I&E) will seek to obtain centrally managed DOD EP funds for projects on the IPL.

2.1.3. CNIC will coordinate development and maintenance of a Navy-wide encroachment database to include encroachment challenges identified by installations, ranges, and Regions, identified in EAPs, and identified by Commander, Fleet Forces Command (CFFC) and Commander, Pacific Fleet (CPF) through the TAP program. CNIC will work closely with CFFC, CPF, and other Mission Component Commands to establish this database and link to established repositories of information. CNO will use this repository of information to prepare reports and testimony to Congress and for encroachment program funding justification.

2.1.4. CNIC will provide guidance and training for encroachment management, EAPs, and the EP program.

2.2. CNO (N43) is responsible for the sustainability of all training and MRTFB range capabilities. CNO (N43) programs funding for Mission Component Commands to address encroachment challenges for its ranges. Specifically, as part of the overall TAP program, CNO (N43) funds the development of Range Complex Management Plans (RCMP) and Operational Range Clearance (ORC). CNO (N43) will coordinate with CNO (N885) on all matters pertaining to encroachment challenges under SUAs and MTRs. CNO (N43) delegates TAP execution responsibilities to CFFC and CPF.

2.3. CNO (N45) establishes policy for shipboard, ashore, and marine environmental and natural resources programs. Specifically, as part of the TAP program, CNO (N45) funds the Range Sustainability Environmental Program Assessments (RSEPA), environmental planning requirements for training ranges, Marine Species Density Data, and other environmental requirements.

2.4. Mission Component Commands are responsible for identifying training and test requirements and the potential readiness impacts from encroachment challenges.

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- 2.4.1. FFC and CPF are responsible for managing encroachment challenges at fleet range complexes. RCMPs will generate specific encroachment data for fleet range complexes. The fleets will integrate the RCMP encroachment analysis into range EAPs, and implement encroachment mitigation recommendations therein.
- 2.4.2. FFC and CPF will maintain a database on encroachment challenges to training and will coordinate with other Mission Component Commands and CNIC on maintaining a Navy-wide database of encroachment challenges.
- 2.4.3. Naval Air Systems Command (NAVAIRSYSCOM) and Naval Sea Systems Command (NAVSEASYSKOM) will manage encroachment challenges at MRTFB and other T&E facilities and coordinate with CFFC/CPF, CNO (N43/N45), and CNIC.
- 2.4.4. Naval Education Training Command (NETC) will manage encroachment challenges at its training ranges and coordinate with CFFC/CPF, CNO (N43/N45), and CNIC.
- 2.5. Navy Regional Commanders will execute the Encroachment Management program within their region. The Regional Commander will designate a coordinating entity for encroachment management within the region.
- 2.5.1. Responsibilities of the Regions shall include: (1) coordinating with Mission Component Commands to quantify and prioritize encroachment issues; (2) cognizance and coordination of all encroachment issues impacting their Region, installation/activities, ranges, MTRs, special use airspace and OPAREAs with appropriate Mission Component Commands and CNIC; (3) working with regional/local organizations and agencies to resolve emerging encroachment issues; (4) providing annual encroachment progress reports to CNIC; and, (5) executing Encroachment Action Plans for installations and ranges within the Region, as necessary.

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2.5.2. Navy Regions shall ensure that their regional encroachment entity is represented by appropriate Installation Commanding Officers (ICOs), Range Complex Commanders (RCCs), Range Commanding Officers (RCOs), Mission Component Commands, operators, planning, environmental, real estate, public affairs, security officers and legal representatives. Where appropriate, Navy Regions should also coordinate with the United States Marine Corps and other military services in addressing encroachment challenges. Navy Regions are responsible for identifying potential encroachment challenges that can affect multiple installations or ranges, MTRs, special use airspace and OPAREAs, and submitting them to Mission Component Commands and CNIC as appropriate.

2.6. Local ICOs, RCCs and RCOs shall: (1) identify potential encroachment challenges at their installation or range (including MTRs, special use airspace and OPAREAs) and forward potential encroachment issues to the Region and Mission Component Commands; (2) monitor encroachment issues and local conditions within and/or outside the installation or range; (3) execute the installation's EAP; (4) proactively maintain contact and visibility with local governments and developments to acquire a working knowledge of local land use plans, zoning and development regulations, development trends, environmental issues, and local, State, and Regional plans and programs that have the potential to impede the mission of the installation or range; (5) establish working relationships with local, State and regional governments and agencies, Non-Governmental Organizations (NGOs), and other groups engaged in any aspect of land use planning, development, conservation, and preservation that could impact operational assurance at the installation or range; and (6) ensure that the installation/range participates in the Regional encroachment entity. Installations and Ranges may require technical and management support from its Mission Component Commands, Region, and the local Naval Facilities Engineering Command to accomplish these responsibilities; hence, the ICOs and RCOs are to identify additional encroachment management program support in annual budgeting processes.

2.7. The Naval Facilities Engineering Command (NAVFACENGCOM) will provide planning, environmental, legal, and real estate support, and provide program management oversight for CNIC. NAVFACENGCOM negotiates and executes all real estate agreements and acquisitions in support of the EP program.

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3. Discussion

3.1. Each Navy Regional Commander, ICO, RCC and RCO will implement an Encroachment Management program as outlined in this instruction. EAPs will be the primary tool and process in identifying encroachment challenges and recommending mitigation strategies.

3.2. While a RCMP contains many elements of an EAP, it does not specifically address the cost impact analysis of encroachment, the overarching regional view, and long-term encroachment strategy. As a result, an EAP for a Range Complex is required to supplement the RCMP encroachment analysis. Many of the same kinds of encroachment pressures that affect a Navy installation also affect its associated ranges.

3.3. Successful EAPs will require Mission Component Commands to identify training and test requirements, and may require the involvement of multiple Navy entities (Installations, Ranges, local operational commands, Regions, Facilities Engineering Commands, Mission Component Commands, CNIC, CNO, and ASN (I&E)) to develop a comprehensive EAP and implement preventative or corrective actions. The Regions, coordinating with Installations, Ranges, and Mission Component Commands, will submit plans and budget requirements for all land acquisition proposals addressing encroachment, including EP projects, to CNIC for evaluation and coordination.

3.4. CNIC will establish an annual Integrated Priority List for EAPs and request Navy Regions submit nominations for EAPs in coordination with applicable Mission Component Commands. Nominations will be required by 15 April each year and the IPL will be finalized by 1 July for the following Fiscal Year (FY).

3.5. CNIC will establish an annual Integrated Priority List for EP projects and request Navy Regions submit nominations for EP projects in coordination with applicable Mission Component Commands. Nominations will be required by 1 May each year and the IPL will be finalized by 1 July for the following FY.

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SECTION IIENCROACHMENT CHALLENGES1. Definitions

1.1. The types of encroachment sources, described and defined in this Section, are drawn from various studies and reports of Navy and non-Navy actions that have occurred which have had an impact on training and test activities. Although not all encompassing, these potential sources of encroachment need to be examined to determine if they exist at an installation, range, MTR, special use airspace or OPAREA. Once a potential challenge is identified, it should be analyzed to determine the potential impacts and constraints imposed as described in Section III.

1.1.1. Urban Development (population growth) - As communities grow toward the boundaries of installations, ranges, OPAREAs, and beneath MTRs and SUAs, land use development could become incompatible with the Navy's mission. Incompatible development can seriously compromise the quality of the Navy's training and test mission requirements and often results in pressure to modify training and test procedures. Urban development may not surmount to an immediate threat, but continued incompatible development could present a long-range threat to the mission. Urban development may also damage habitat needed for wildlife to survive, making the installation or range the only available habitat in the area.

1.1.2. Airborne noise - The central issue of airborne noise is the impact, or perceived impact, on people, animals (both wild and domestic), structures, and land use. The magnitude of the noise problem, resulting complaints, pressure to modify or suspend air operations, and threats of litigation, is directly related to the degree to which there are people, wildlife, and other noise sensitive land uses in the vicinity of installations, ranges, OPAREAs, MTRs, and SUAs.

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1.1.3. Competition for air space, land, and sea space - The Navy owns, controls, or uses resources, that need to be available to accomplish testing and training missions. These resources must be of sufficient size and quality to provide effective training and testing. Public pressure to share or relinquish some of these resources may inhibit the Navy from accomplishing its training and test objectives, or inhibit anti-terrorism/force protection programs.

1.1.4. Competition for scarce resources (oil, gas, minerals, potable and irrigated water, and ocean access) - Community pressure to gain access to valuable resources located on land or sea that Navy owns or controls may affect Navy's ability to use this land or water for training or test objectives. Access may include processing and transporting of materials. Navy cannot allow others to access these resources unless there is a statute authorizing the disposal of the resource or unless there is mandatory special legislation. There is also pressure to limit the Navy's access to the public's resources as well as pressure on the Navy to develop renewable resources.

1.1.5. Threatened and Endangered Species -- Restrictions for the purpose of protecting threatened or endangered species can reduce the value of an installation, range, or OPAREA for testing and training by limiting the types of permissible activities in terms of composition, magnitude, or timing.

1.1.6. Maritime issues (Marine Mammals, Endangered Species, Fish Habitats, Coral Reefs, Coastal Zones, Sanctuaries, and other marine protected areas) -- Regulatory or permit requirements protecting ocean resources cumulatively affects the Navy's ability to conduct training exercises or testing in the marine environment.

1.1.7. Ordnance - Unexploded Ordnance (UXO)/Munitions -- Application of various environmental laws to munitions training, demolition, disposal, or testing activities could have severe and adverse impacts on readiness. However, UXO contained within the impact area or range boundaries on an active range used for weapons delivery is not de facto encroachment.

1.1.8. Safety Arcs and footprints (Explosive Safety Quantity Distance (ESQD) Arcs, Surface Danger Zones,

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Weapons Safety Footprint Areas) - Land adjacent to installations and range safety zones, including land within the installation or range, may not be suitable for certain types of land use or economic development purposes.

1.1.9. Frequency Spectrum - The competition for available frequency spectrum may lead to a reduction in available spectrum for training and developmental/operational testing activities. The lack of spectrum may decrease the effectiveness of exercises by restricting the number of war-fighting systems that can participate. In addition, spectrum limitations may restrict the use of state-of-the-art instrumentation systems, resulting in less data for evaluators to use in training assessments, and may also limit development testing of new technologies. As the potential for residential and commercial encroachment increases, so does the risk of increased RF emitters and receivers, which could result in Electromagnetic Interference (EMI) problems between Navy systems and public or commercial systems.

1.1.10. Air Quality - Impacts to training and test missions in non-attainment areas, and conformance with individual State Implementation Plans (SIPs), may restrict existing mission requirements or preclude execution of new missions, as well as deployment and use of new weapon platforms.

1.1.11. Water Quality - Discharge permit requirements and timelines and/or prohibited or restricted access to wetlands and/or their buffer zones can restrict existing mission training, preclude or restrict integration of new technology/weapons systems into existing missions and training or preclude future growth and execution of new missions in amphibious, riverine, estuarine and other salt and fresh water related missions.

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1.1.12. Interpretation of Historical/Environmental regulations (e.g., National Historic Preservation Act (NHPA), Coastal Zone Management Act (CZMA), Native American Graves Protection and Repatriation Act (NAGPRA), Fish and Wildlife Coordination Act (FWCA), and Migratory Bird Treaty Act (MBTA)) - Regulatory or permit requirements may affect training and testing activities. Other non-Navy actions may affect Navy's current regulatory or permit requirements under these regulations.

1.1.13. Interagency Coordination (e.g., Forest Service, Bureau of Land Management (BLM), Bureau of Reclamation (BOR), National Park Service (NPS), U.S. Fish and Wildlife Service (FWS), and State equivalents) - Navy often uses land controlled by another Federal or State agency. The types of allowable uses and restrictions are often the result of negotiations between the parties or subject to the other Federal agency's policies and regulations. These restrictive uses can limit training and testing activities.

1.1.14. Legislative initiatives that restrict training or testing activities - Congress may enact legislation that directly or indirectly limits the Navy's flexibility to conduct training or testing activities.

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SECTION IIITRAINING AND TEST IMPACTS1. Definitions

1.1. This Section summarizes the potential training and testing impacts that occur due to the encroachment challenges listed in Section II. The degradation to training and testing capability, or elimination of specific missions, may impact the overall readiness of the Navy. By identifying the costs to implement corrective actions to these impacts within EAPs and RCMPs, and consolidating such impacts in a comprehensive encroachment database, the Navy can develop defensible funding requests through future Program Objective Memoranda (POM) processes. The following encroachment impacts have been identified to help Mission Component Commands, Regional Commanders, Installation Commanding Officers, Range Complex Commanders, and Range Complex managers quantify encroachment:

1.1.1. Avoidance areas created. Areas on installations or ranges that are permanently or temporarily unavailable for training or testing activities. For example, ground troops may not be able to train in certain areas due to the presence of endangered species; or aircraft may have to avoid certain areas to limit noise. Avoiding these areas can degrade the quality of testing and training. An avoidance area might be created if development hampers the installation or range's anti-terrorism/force protection program.

1.1.2. Reduced usage days. Training or testing is restricted or prohibited for a period of time and/or in certain geographic areas. For example, ships may not be able to operate in certain areas at specified times because of migrating marine life. Aircraft training may be prohibited at certain times to reduce noise impacts, avoid migratory birds, or to avoid interfering with the mating season of certain species. Test and training range availability may be limited by recreational and commercial usage, or by fire season restrictions.

1.1.3. Prohibit certain training and testing events. Certain training and testing activities may be prohibited. For example, ground troops may be prohibited from digging into the ground to create realistic fighting positions, aircraft may be prohibited from using flares or chaff, and

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ships may be prohibited from using sonar equipment. In these cases, the testing or training must be conducted at other locations, or work arounds must be developed.

1.1.4. Reduced range access. Encroachment can reduce access to ranges. For example, the approaches to target areas might be limited to certain specified corridors, rather than permitting access from multiple approaches. Such limitations may degrade the realism and value of the testing or training event.

1.1.5. Segmented testing/training and reduced realism. Encroachment may result in training or testing events conducted out of preferred sequence, thus creating training segmentation. For example, aircraft might have to practice ordnance delivery and evasive maneuvers at different times, rather than together. Ground forces might have to practice ship-to-shore maneuvers at one time, and assaults on enemy positions at another. Segmentation of training or testing reduces realism and the value of those experiences.

1.1.6. Limitations on use of new technologies. Concerns about encroachment may limit training or testing with new technologies. For example, encroachment may limit the military's ability to conduct realistic training or testing with unmanned aerial vehicles (UAVs). Limitations on testing could very well translate into limited applications in combat, as forces apply technologies as they have in training, and perhaps not to the technology's full potential.

1.1.7. Restricted flight altitudes and/or airspeeds. Civilian/commercial use of airspace or development on the ground may prevent military forces from taking full advantage of special use airspace or MTRs. In testing or training, aircraft may be forced to fly at artificially low or high altitudes, or artificially low airspeeds, which reduces realism and may result in aircrews adopting practices that must be "unlearned" or "relearned" in actual combat.

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1.1.8. Inhibited new tactics development. By restricting maneuver areas, approaches to targets, altitudes, airspeeds, and certain technologies, the creative development of new tactics might be limited.

1.1.9. Restricted night and all weather operations and training. Operating at night and in inclement weather is generally an overwhelming advantage when going into combat. Nighttime operations and training, therefore, are essential to force readiness. Nighttime, however, is also the time when residents near military installations are especially sensitive to noise. Nighttime is also when commercial/industrial complexes and homeowners turn on high intensity light sources, whose excessive glare and illumination impacts use of night vision devices. Voluntary restrictions on military training at night may foster better community relations, but they pose especially critical limits on militarily essential testing and training.

1.1.10. Reduced live fire proficiency. Encroachment from community development, endangered species, environmental regulations and other factors reduce opportunities for the use of live fire ordnance, thereby reducing proficiency. While the use of simulation and inert ordnance can replace some live fire training, testing or training with live ordnance remains essential for adequately preparing military forces for combat.

1.1.11. Increased costs or risks. Encroachment can increase costs in a variety of ways. Examples include transportation and other costs for units to train away from their home station when encroachment limits training there; fuel costs for aircraft training missions that must be aborted because of the occasional presence of wildlife in target areas or having to travel to ranges farther away; and the costs of natural resource conservation projects.

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SECTION IV

ENCROACHMENT ACTION PLANS (EAPs)1. Definition

1.1. An Encroachment Action Plan (EAP) is the document that captures the results of identification, quantification, and mitigation of the potential encroachment challenges to an installation or a range. The Installation Commanding Officer, Range Commanding Officer or Range Complex Commander, the Regional Commander, and the Mission Component Commands, will use the EAP to respond to encroachment challenges and to implement preventative or corrective actions identified in the Plan as appropriate. An EAP will delineate short, mid, and long-term strategies to address encroachment challenges at that installation or range. An EAP is meant to be an iterative document and should be periodically monitored and updated as necessary. An EAP is also meant to be an internal use document, although not necessarily legally protected from disclosure. The format of the document should not be that of a typical public release document, e.g., an AICUZ or NEPA document. If there is an aspect to the EAP that is to be protected, then appropriate legal methods should be used from the start to prevent disclosure. This Section outlines the process to produce an EAP.

1.1.1. Establish a comprehensive EAP team to create and evaluate an EAP - This team is not the ERT, but a team that should include members of Regional and Installation/Range facilities planning, environmental, public affairs, security officers, legal staffs, local Facilities Engineering Command planning, real estate, environmental, and the mission component command operators, with additional support as necessary. The formation of this team is an important aspect to the success of an EAP. The purpose of the team is to combine the knowledge and experience of various disciplines and perspectives in order to manage the vast array of issues involved in encroachment. The Installation Commanding Officer, Range Commanding Officer or Range Complex Commander should lead the EAP team.

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1.1.2. This EAP team will decide how to proceed with the EAP. An EAP will generally be conducted by government and contractor resources to provide a comprehensive and objective view of the encroachment challenges facing Navy installations and ranges. The EAP team should generate a scope of work and assign responsibilities for the steps below.

1.1.3. Gather all existing documents -- The assessment should reflect and integrate impacts already identified in currently available planning, environmental and operational documents and studies such as the Regional Shore Infrastructure Plan (RSIP), Air Installations Compatible Use Zones (AICUZ) plan, Range Air Installations Compatible Use Zones (RAICUZ) plan, Joint Land Use Study (JLUS), Integrated Cultural Resource Management Plan (ICRMP), Integrated Natural Resource Management Plan (INRMP), NEPA Environmental Assessments or Impact Statements, local Range Complex Management Plan (RCMP), Anti-Terrorism/Force Protection plan (AT/FP), environmental agreements/permits/plans, operational plans, and any local or State development plans. These plans and studies are often generated without integration of information in other plans or studies. Often an installation or range might not be aware of the local or State development plans in the vicinity of the installation or range.

1.1.4. Conduct discussions with local/state government staffs on their proposed development plans or projects that are being contemplated in the vicinity of the installation.

1.1.5. Assess potential encroachment challenges identified in Section II for the particular installation.

1.1.6. Identify the underlying factors associated with the identified encroachment challenges. Requirements include collecting information on the encroachment challenges; the extent to which the encroachment challenges are pervasive on and off or near the installation; current Navy management, planning, or outreach activities that have been employed to minimize negative mission impacts and their effectiveness; the potential for greater impact on current and future missions; and the regulatory and community frameworks that support or exacerbate the encroachment challenges.

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1.1.7. Develop short, mid, and long-term strategies to implement encroachment solutions - training and testing changes, land acquisition, rezoning requests, partnerships, outreach, environmental changes, legislative initiatives, and other means to establish mechanisms that enables/sustains the Navy's mission.

1.1.8. Encroachment data should be documented electronically to feed into the comprehensive encroachment database. Geographic Information Systems (GIS) data, maps and available satellite and/or aerial imagery should be used whenever feasible.

2. The EAP provides a comprehensive examination that identifies all encroachment challenges and potential impacts. EAPs should include the following information:

2.1. Background

2.1.1. Current and potential future mission of the installation or range

2.1.2. Current status and summary of Navy planning, environmental and operational documents

2.1.3. Current status and future plans for community development (e.g., comprehensive plans)

2.1.4. Any other potential sources of information

2.2. Challenges of encroachment

2.2.1. Examination of each encroachment challenge identified in Section II

2.2.2. Document whether the challenge exists or does not exist at the installation or range

2.3. Analysis

2.3.1. Determine if a potential encroachment source currently impacts the mission or may impact future missions (see Section III)

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2.3.2. Document all mission impacts from identified encroachment challenges and any current corrective or preventative measures undertaken and/or considered. The analysis must explain the correlation between the encroachment challenge and operational assurance.

2.4. The Action Plan - Corrective and preventative strategies (short, mid, and long-term)

2.4.1. Prepare and document all corrective and preventative strategies, the responsible command, resources needed, priorities and timeline to implement

2.4.2. Identify and document costs to encroachment that cannot be corrected or prevented (for example; increased costs to obtain training due to segmenting, reduced usage or avoidance areas)

2.4.3. Develop comprehensive engagement strategies and outreach plans in order to address encroachment impacts, identify stakeholders in the process, identify Navy personnel to engage stakeholders, prepare relevant messages to stakeholders, and plans to interact with stakeholders through appropriate forums.

2.4.4. Periodically monitor and update the strategies and recommendations of the action plan.

2.5. Proposed IPL for EP projects

2.5.1. As part of the strategies, specifically identify all potential Encroachment Partnering projects, funding required, proposed programmatic plan, and priorities (See Section V)

2.5.2. Prepare conceptual approval documents/briefs for proposed projects

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SECTION VENCROACHMENT PARTNERING (EP)

1. Introduction. The foundation of the EP program is an active local command or regional effort working with local, regional, and State land conservation organizations as well as local and State Agencies, and community leaders to identify partnering opportunities. This is necessary for two reasons: 1) local land use controls adjacent to or near Navy installations and ranges, and under MTRs and special use airspace are often inadequate to protect the mission; and 2) use of installation properties are sometimes restricted by natural resource requirements, making it necessary to acquire additional property interests to protect the regulated natural resource and/or the military mission. The Navy is particularly susceptible to a broad range of encroachment issues because many of its installations are located in ecologically important and high growth urban areas. The local installation command will coordinate its efforts closely with the Region in identifying the opportunities to address encroachment.

To identify Encroachment Partnering opportunities, the Region, installation, or range should determine what land conservation organizations, as well as government agencies, are interested in partnering for land acquisition. The Region should avoid favoritism of one or two organizations to the detriment of other willing partners. These land conservation organizations can provide additional inputs to the installation's encroachment planning process in two ways: 1) they may have knowledge of other potential mission conflicts heretofore unknown by the installation; and 2) they may be able to offer multiple, alternative buffering solutions given their extensive knowledge and expertise in working real estate and conservation issues with Federal, State, and local governments and other conservation organizations. In coordination with these partners, the Region, installation, or range can ascertain the availability of lands outside of the installation, range, or under airspace that can be used to preserve habitat or provide compatible development buffers.

Regions, coordinating with their installations and ranges, will prepare an EP portfolio composed of individual proposed projects. The Region will submit a list of the projects in priority order to CNIC that will meet the Region's needs over the Future Year Defense Plan (FYDP). Projects that will be funded regionally or locally will be so noted. The individual

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project nominations and the priority list will be used to allocate funding and build the program and budgets. CNIC will assess all of the Regional requests and prioritize the projects over the funding allocated in the FYDP. CNIC will, by separate cover and through regional meetings and workshops, provide additional guidance on EP funding criteria and specific project funding.

2. Encroachment Partnering Responsibilities

2.1. Per reference (b), the Assistant Secretary of the Navy (Installations and Environment) will retain overall policy responsibility, as well as retain approval authority for all programmatic and site specific agreements developed under the 10 U.S.C. 2684a authority. OSD has granted all EP projects a waiver from the OSD land acquisition moratorium.

2.2. Per reference (c), the Deputy Chief of Naval Operations (Fleet Readiness and Logistics) (N4) will:

2.2.1. Exercise program management responsibility for the Navy EP program through CNO (N46).

2.2.2. Coordinate EP projects for the Navy staff (N46).

2.2.3. Validate EP projects that relieve encroachment constraints to training and testing on ranges (N43).

2.2.4. Confirm that EP projects will relieve environmental constraints and that the project is consistent with Navy environmental and natural resource policy (N45).

2.2.5. Forward coordinated EP projects to ASN(I&E) for approval (N46).

2.2.6. Review POM submissions to defend EP projects (N43, N45, N46).

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2.3. Per reference (c), the Commander, Naval Facilities Engineering Command (NAVFACENGCOM) will:

2.3.1. As directed by CNIC, provide oversight for the EP program and integrate the EP planning process into the Shore Infrastructure Planning effort for installations and ranges.

2.3.2. Assist in reviewing the Integrated Priority List of EP projects.

2.3.3. At the direction of CNIC or Navy Regions, provide technical expertise and develop detailed nomination packages for those EP projects identified for funding on the IPL.

2.3.4. Negotiate and execute all real estate appraisals, transactions, and title documents. Ensure all nomination packages are consistent with real estate laws, requirements, regulations, and Navy policy.

2.3.5. Ensure that Navy's financial contribution to the EP project is justified with respect to the real estate interest acquired.

2.3.6. Update real estate instructions, guidance, or training programs to support EP project execution.

2.3.7. Develop, to the extent practicable, standardized real estate land acquisition agreements and interest language to be used to obtain interests in lands under the EP program.

2.4. Per reference (c), Mission Component Commands will work with Installation Commanding Officers, Range Commanding Officers, Range Complex Commanders and Regional Commanders to identify valid encroachment constraints to training and testing activities.

2.4.1. Coordinate with the Installations, Ranges, and Regions to capture requirements and impacts. Participate in the EAP process and engage the Installations, Ranges, and Regions to begin EP project submission package.

2.4.2. Review and approve proposed changes to mission requirements that might be part of an EP project.

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2.5. Commander, Navy Installations Command (CNIC) will:

2.5.1. Develop and maintain an Integrated Priority List of potential EP projects from submittals by the Regions. The Regions will prioritize projects within their cognizance. CNIC will prioritize projects across the Regions.

2.5.2. Support Program funding for prioritized EP projects. In addition, CNIC, through ASN(I&E), will seek to obtain centrally managed DOD EP funds for projects on the IPL.

2.5.3. Engage the Naval Facilities Engineering Command early in project identification and nomination package development to ensure that all planning and real estate issues are identified and considered.

2.5.4. Ensure EP project packages describe the mechanism by which the project will relieve the identified encroachment constraint.

2.6. The Regional Commander will:

2.6.1. Provide command direction, priorities, and recommendations on EP projects submitted by Installation Commanding Officers, Range Complex Commanders and Range Commanding Officers under their cognizance.

2.6.2. Establish or use a Fleet sponsored Regional Enhanced Readiness Team (ERT) to assist in identifying and prioritizing EP projects.

2.6.3. Submit EP projects to CNIC for inclusion on the IPL.

2.6.4. Ensure that the EP project process is "competitive." Regions should consider all qualified entities (State, local and NGOs) based on their geographic and programmatic areas of interest and the advantages these entities may offer, and seek the best project proposals from all eligible sources to avoid the appearance of excluding or favoring any potential partner.

2.6.5. Review and approve proposed changes to mission requirements that might be part of an EP project.

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2.6.6. Engage the local Installation Commanding Officers, Range Complex Commanders and Range Commanding Officers to continually review training and test procedures to identify changes that will reduce encroachment problems within the constraints of safety, mission effectiveness and economy.

2.6.7. Engage the local FEC early in project identification and nomination package development to ensure that all planning and real estate issues are identified and considered. Regions should ensure that projects are compatible with environmental, base development and natural and cultural resources plans, regulations, and Navy policy. For habitat projects in particular, evaluate the potential for projects to directly or indirectly introduce endangered, threatened, or at-risk species onto military lands.

2.6.8. Ensure that EP related environmental documentation requirements are met. Specifically, EP actions may also require NEPA documentation, Biological Consultation, Historic Preservation Consultation, and Section 404 of the Clean Water Act permits.

2.6.9. Monitor EP project implementation efforts of subordinate commands.

2.6.10. Fund, where appropriate, EP project related NEPA and real estate transactional costs.

2.7. Installation Commanding Officers, Range Complex Commanders and Range Commanding Officers will:

2.7.1. Implement an EP program, in conjunction with the Regional command, for the installation following the concepts set forth herein.

2.7.2. Actively work with State and local planning officials and land conservation organizations to identify and implement EP projects.

2.7.3. With Regional, Mission Component Command, and local FEC support, prepare an EP submittal package for an individual project for conceptual approval by CNIC, CNO, and ASN(I&E). The advance notice should identify the facts pertaining to a potential encroachment partnering opportunity. Justify the need for using the Encroachment Partnering authority to obtain new interests in property.

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2.7.4. Notify the chain of command whenever local events merit update or review of EP projects previously submitted.

2.7.5. Designate an individual to lead an integrated EP team comprised of planning, environmental, public affairs, legal, and real estate personnel who may be leveraged from other Navy commands.

3. Individual EP Project Submittal. The EP project submittal package shall include the following information in order to obtain conceptual approval. The package should have a cover letter and attachments such as a narrative description of the proposed project, power point slides, spreadsheets, and pictures or maps. Multiple projects for an installation may be submitted under one cover letter with separate justifications for each project. Other attachments, such as pictures or maps, may contain information for multiple projects or parcels.

3.1. Letter from installation or range through Region and Mission Component Command to CNIC.

3.2. Project description.

3.3. Encroachment description.

3.4. Justification - link solution to the improvement of the mission or prevention of degradation.

3.5. Coordination description (The team must plan the project with the involvement of the Region, Installation, and local FEC) - List the actual POCs.

3.6. Potential partners (these partners do not necessarily have to have been contacted at this point).

3.7. Potential costs - acquisition. Include other real estate or NEPA costs.

3.8. Potential timeframe.

3.9. Type of NEPA documentation expected.

3.10. Maps and/or pictures of project.

4. EP Project Development. Prior to moving forward on a particular project and beginning detailed negotiations with

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potential partners, NEPA must be completed. An installation or range can use the NEPA process to assist in identifying partners and other Federal agency interests, etc. If there is to be no change to the land use the Navy will have a real property interest in, then Navy's new Categorical Exclusion (CATEX) for minor land acquisition may be applicable. Consult with the NEPA and legal staff.

- 4.1. Respond to or initiate dialog with conservation organizations, regulators, State, county, and/or city officials.
- 4.2. Identify the requirements, constraints and solutions being pursued.
- 4.3. Identify the win-win opportunities, and risks of proceeding or not proceeding.
- 4.4. Make NEPA decision, and obtain authorization and approval from Navy leadership, including verification that funding is available.
- 4.5. Once authorized, with assistance from the FEC Real Estate office conduct negotiations among parties to the partnership to achieve a tentative/draft agreement in principle.
- 4.6. Proceed or continue with initial real estate process (such as surveys, appraisals, title searches, etc.).

5. EP Project Execution. This section outlines the general execution process when the partner or partners have been identified and the approval to proceed has been rendered by ASN(I&E). These steps are not necessarily mutually exclusive. The execution of an EP project is functionally similar to any real estate acquisition project and the local FEC Real Estate office is the expert on acquisitions for that local area. Section 6 summarizes the acquisition process in detail.

- 5.1. Appoint project lead - i.e., local Facilities Engineering Command Real Estate office.

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- 5.2. Create realistic timeline.
- 5.3. Finalize the necessary real estate processes.
- 5.4. Finalize the partnership agreement.
- 5.5. Finalize the easement language (CNIC to get ASN counsel approval on draft prior to execution).
- 5.6. CNIC/Region to provide final funding to the local FEC for acquisition.
- 5.7. Execute the real estate acquisition.

6. Real Property Acquisition Guidance For EP Projects. While the final phase to EP project implementation is obtaining the real estate interests, this process begins early in the encroachment planning stages when the installation is assessing its encroachment situation. As the installation begins to search for encroachment partners, real estate personnel are included in the team to help assess the competencies of the Navy's potential partners and to begin the process of integrating the partner's land acquisition processes with the Navy's land acquisition processes.

The following lists of real estate actions are a guide to developing and executing an individual EP project.

6.1. The installation or range submits an interest notification to CNIC through the Region indicating that the installation or range has identified an acquisition opportunity that had not been identified earlier. This notification keeps the chain of command aware of potential, new project submittals. This is also the time that the NEPA process should be initiated and completed. An installation or range can use the NEPA process to assist in identifying partners, other Federal agency interests, NGOs and/or others. If the project is in the execution plan for the current Fiscal Year (FY06 and beyond), this process should already be fulfilled.

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6.2. The installation or range and/or the Region (in coordination with its FEC real estate staff) initiate contact with potential encroachment partners. Partners may include State, regional, and local government agencies and/or conservation organizations. The full partnership might also include Federal agencies and other community parties. During partnership development activities, the installation will identify properties in which the Navy and its partners have a common interest.

6.3. Parties develop Memorandums of Agreement (MOA) (e.g., how the partners will work together) and draft easement language if applicable. The MOA and the easement language will need final ASN(I&E) counsel approval.

6.4. The installation or range, in conjunction with the Region and the local FEC planning and real estate staff, submits a project for conceptual approval through the Region to CNIC.

6.5. The Navy's cost share in the partnership acquisition will be determined by a negotiated process. The local FEC real estate contracting officer will determine whether a fee simple and/or an easement appraisal is necessary and the appropriate appraisal procedures required.

6.6. Upon conceptual approval of the project, the local FEC real estate staff will coordinate the execution plan with the installation or range, the Region, and other FEC staff.

6.7. The FEC real estate contracting officer submits the project to ASN(I&E) for approval to execute the project.

6.8. The FEC real estate staff will execute the project according to all Federal regulations governing land acquisitions.