

CHAPTER 18

Responsibility of Real Property Management

Table of Contents

Section I

General

<u>Paragraph</u>	<u>Title</u>	<u>Page</u>
1.	Purpose	18-1
2.	Utilization of Real Property.	18-1
3.	Responsibility Following Vesting of Title	18-1
4.	Scope	18-1
5.	Outgrant Policies	18-2
6.	Delegation of Outgrant Authority to Commander, Naval Facilities Engineering Command	18-3
7.	Effect of Various Disposal Actions on Continued Navy Authority to Grant Leases, Licenses, and Easements	18-3
8.	Financial Administration of Real Estate Contracts	18-4
9.	Documentation of Real Estate Actions.	18-5
10.	Administration of Reversionary Interests.	18-5
11.	Maintenance of Register of Reversionary Rights.	18-6
12.	Administration by EPD of Reversionary Rights.	18-6
13.	Reassignments	18-6

Section II

Mineral Leasing on Navy Lands

14.	Background.	18-7
15.	Policy.	18-9
16.	Leasing and Permitting Procedures	18-9
17.	Ammunition, Explosives and Contaminated Areas	18-11
18.	Protective Action Against Drainage of Oil and Gas in Navy Lands	18-12
19.	Geothermal Leasing	18-13
Appendix A	NAVCMDPT Form 2277.	18-5

459

156

CHAPTER 18

RESPONSIBILITY OF REAL PROPERTY MANAGEMENT

Section I. GENERAL

1. PURPOSE.

This Chapter is an introduction to the management portion of this manual. It sets forth policy and the authority of the Commander, Naval Facilities Engineering Command for outgrants of Navy-controlled real property. It describes some general considerations which apply to some or all types of outgrants. This Chapter also prescribes procedures for some actions which do not fall into the major categories. The major types of management actions, outleasing, and the granting of easements, are described in the next chapters.

2. UTILIZATION OF REAL PROPERTY.

The basic responsibility for the administration, management and utilization of Navy real property rests with the Commanding Officer, and his superiors, of the installation to whose plant account the property is assigned. Thus NAVFACENCOM, except for the lands of installations under its command, does not have general responsibility for management, but has a technical responsibility for real estate actions on lands which the Commanding Officer has determined temporarily or partially excess. NAVFACENCOM then has a continuing responsibility for administering these actions. NAVFACENCOM does not have direct responsibility for administering those lands not yet assigned to the plant account of an installation and those reserved or contingent rights in lands which have been disposed of and are not assigned to the plant account of any installation.

3. RESPONSIBILITY FOLLOWING VESTING OF TITLE.

As soon as title to property acquired by the Navy vests in the United States, it is the responsibility of the Navy to manage that property. If the property is not needed immediately for governmental purposes, it may be desirable for the former owner, or another party, to remain in possession until the property is needed. As a landlord-tenant relationship has been created, it should be formalized by an appropriate real estate instrument. This requirement does not arise when right to possession is covered by the implicit or explicit right to a reasonable time to vacate, nor where continued right of possession is provided for in the purchase contract or under a court order in a condemnation proceeding.

4. SCOPE.

This Chapter and the four succeeding Chapters relate primarily to the use of Navy real property by persons or organizations outside the Department of the Navy. They apply to all types of transactions for the use of Navy-controlled real property by other than Department of Navy components except:

- a. Leases of industrial reserve property for industrial purposes.
- b. Use of real property provided in accordance with Federal Acquisition Regulations (FAR) as an incident to performance of a Government contract for the procurement of supplies, services, construction, utilities, or other commodities.

- c. Aviation facilities licenses issued pursuant to SECNAV Instruction 3770.1B of 30 June 1970.
- d. Agreements entered into under the authority of Civilian Manpower Management Instruction 790.7 of 26 June 1970.
- e. Agreements for U.S. Post Office facilities provided in accordance with U.S. Navy Postal Instruction OPNAV Instruction 5112.6.
- f. Cross-servicing agreements for use of storage and warehousing facilities by other military departments, in accordance with NAVSUP Manual, Vol. II, paragraphs 27015 and 27165 through 27169 and NAVSUPINST 4450.21A.
- g. Oral or written authorizations granted by or under the authority of the head of an installation as an incident of day-to-day command and administration, such as for visitors and tradesmen doing business with installation officers and personnel and for activities of the Naval Sea Cadet Corps.

5. OUTGRANT POLICIES.

The Basic policies of the Department of the Navy controlling outgrants of real property are set forth in SECNAV Instruction 11011.47 of 20 June 1983 as follows:

a. Navy-controlled real property will be made available for compatible non-Navy uses to the fullest extent authorized when:

- (1) it is not for the time needed or is otherwise underutilized.
- (2) its use will not materially interfere with the accomplishment of the mission of the station nor with the Government's present or foreseeable use of the property nor with other Government activities in the vicinity, and
- (3) such use will not cause any substantial expense to the Navy.

b. The user of Navy real property shall be required to:

- (1) use, maintain, protect, and preserve the property in accordance with sound management practices, and
- (2) reimburse the Department of the Navy in accordance with applicable statutes and regulations for the cost of any utilities and services furnished. This requirement may be waived when the amount is inconsequential or for a licensee or lessee operating a nonself-sustaining banking facility, for so long as the nonself-sustaining status continues, as determined by the Department of the Treasury or for an operator of a credit union under a no-cost license, for utilities, such as heat, light and air conditioning. Janitorial services, fixtures and maintenance may also be provided without reimbursement to such credit union operator subject to budget and manpower constraints.

c. Non-Federal users of Navy property will be charged fair value. This charge may be waived:

- (1) for a grant in connection with a Federal-aid highway project, or a defense access road,
- (2) to the extent of demonstrable benefits to the Government,
- (3) when the cost of collection would equal or exceed the charge,
- (4) for licenses to nonprofit educational, civic, and charitable organizations, and
- (5) for leases to educational institutions, except that, in this case, the rental shall be not less than the cost of maintenance, protection, repair, and restoration of the property plus administrative costs incident thereto, when such costs are borne by the Government.

d. Non-Federal users of Navy property, except state, county, or local government agencies which are precluded by law from assuming liability, shall assume, when appropriate, liability for loss of or damage to the real property.

CH-7

and for third party bodily injury and property damage. Where these liabilities are imposed, the user will be required to demonstrate sufficient financial responsibility to assume these liabilities, or, at his/her own expense, to procure and maintain sufficient insurance to cover them. This requirement for insurance does not apply to voluntary, nonprofit associations authorized for operation at the activity.

While the above policies encourage all types of compatible non-Navy uses, uses by the other military departments and other federal agencies as well as those of a civic betterment type and those which confer a specific advantage to the Navy, such as maintenance savings, are particularly to be encouraged. Since it is inappropriate for the military departments to directly create competition with private enterprise, particularly in the third party lodging and food service industries, the outgranting or otherwise making available of Navy-controlled real property for this or related type uses (except for DOD-sponsored programs) should be avoided.

6. DELEGATION OF OUTGRANT AUTHORITY TO COMMANDER, NAVAL FACILITIES ENGINEERING COMMAND.

The Commander, Naval Facilities Engineering Command is authorized by SECNAV Instruction 11011.47 to take all necessary action to grant, execute, amend, administer, and terminate all instruments granting the use of Navy-controlled real property to departments, agencies, organizations, and persons outside the Department of the Navy. This authority may be redelegated within the command and, for licenses, to Commanding Officers of Navy and Marine Corps activities.

7. EFFECT OF VARIOUS DISPOSAL ACTIONS ON CONTINUED NAVY AUTHORITY TO GRANT LEASES, LICENSES, AND EASEMENTS.

The procedures prescribed in Chapter 23 to be followed in effecting the transfer and disposal of real and related personal property which has been determined to be excess result in consecutive changes in the status of the property and the continued legal authority of the Navy to lease, license and grant easements on such property. A summary of the effect of changes in the status of excess property follows:

- a. Determination that property is excess to the Department of the Navy has no effect on Navy authority for leasing, licensing or granting of easements. (Note: This relates solely to authority, not to the wisdom, desirability, nor feasibility of such outgrants.)
- b. Transfer of property to another military department terminates all leasing, licensing and easement authority of the Navy as of time of transfer. Such authority is thereupon vested in the transferee department.
- c. Determination that property is excess to Department of Defense, and satisfaction of approval and reporting requirements of 10 U.S.C. 2662, respectively, constitute the property "excess property" as defined in the Federal Property and Administrative Services Act of 1949, as amended. This operates to terminate the Navy's authority to lease, (with the exception provided under 10 U.S.C. 2667(f)). This provision allows leasing of real and related personal property which has been determined excess as the result of a defense installations realignment or closure to state or local governments pending final disposition of such property if (1) the Secretary of the Navy determines that such action would facilitate state or local economic adjustment efforts, and (2) the Administrator of GSA concurs in the action.

CE-7

d. The Secretary of the Navy retains authority to grant easements over, and to issue licenses permitting use of, "excess property" until such time as the property is actually reported to General Services Administration in accordance with the Federal Property Management Regulations, Part 101-47.

e. Report of property to the General Services Administration as excess reduces the Navy's status relative to the property to that of a "holding agency" as defined in the Federal Property Management Regulations, Part 101-47. This definition provides for property accountability by the Navy with only such other powers of the General Services Administration as are provided by specific delegation of authority.

8. FINANCIAL ADMINISTRATION OF REAL ESTATE CONTRACTS

a. Responsibilities. Collection of contract debts to the Government, including interest, arising from all real estate transactions is the responsibility of the contracting officer and will be made by the contracting officer or by the authorized representative specified in the contract to receive payments of amounts due. To insure compliance with the above, the EPDs shall:

(1) Include in all new contracts for sale or use of real estate the "Interest" clause set forth in General Provision 1 of the Navy General Purpose Lease (Appendix 19C). When used for other than leases change the words "lease" and "lessee" as appropriate.

(2) Establish necessary controls to reflect creation of any contract indebtedness to the Government.

(3) Upon determination that an amount is due the Government, take appropriate action to insure prompt collection and deposit in accordance with paragraphs 8b and c.

b. Collection Procedures. Upon determining that a contract debt is due to the government, the EPD shall take immediate steps to insure prompt collection. Part 232.6 of the Federal Acquisition Regulation (FAR) prescribes procedures to be followed for collection of contract debts. It does not, however, apply to debts under outlease agreements. Outlease debt collection procedures are as follows:

(1) If full payment has not been received within 30 days from the due date specified in the lease, the lessee shall be promptly contacted and payment requested, including interest. Contact may be in writing, by phone, or by visit. All contacts shall be documented in the lease file. Second and third requests may be necessary, as determined by the EPD and shall also be documented.

(2) If (a) after reasonable collection efforts, the EPD determine that the debt is uncollectible or (b) a request for deferral of payment is received, the case shall be promptly transferred for collection to the Navy Accounting and Finance Center, NAFC-45, Navy Department, Washington, DC 20376-5001. Uncollectible aggregate debts of less than \$600 may be processed in accordance with NAVCOMPT manual 039220 rather than transferred. Transfers under (a) shall not be made unless the lessee has been provided a

CE-7

written request for payment to the lessee that fully explains the indebtedness and interest requirements and allowed an appropriate interval for a response. Transfers shall also be fully supported with identifying and explanatory information including relevant memoranda and correspondence, accounting data and amounts and dates of any collections.

c. Deposit Procedures. Remittances shall be forwarded promptly for deposit as set forth below. Except as provided in NAVCOMPT manual 043132, remittances within the continental United States will be forwarded by the contracting officer to the Navy Regional Finance Center, Washington, DC for deposit. This will be accomplished by preparation of a NAVCOMPT Form 2277, "Voucher for Disbursement and/or Collection," (Appendix A) and by attaching all checks as indicated on the form. A copy of each NAVCOMPT Form 2277 will be provided to NAVFACENGCOM Code 0142. The form shall indicate amounts and appropriate accounting data for each category of funds forwarded (e.g., rents, interest, performance securities). The Navy Regional Finance Center is the accounts receivable office and requires copies of all contracts and amendments to insure records are current. Except as provided in NAVCOMPT manual 043132, remittances outside the continental United States will be forwarded to the local disbursing officer for deposit. All remittances will be deposited to the appropriate Navy general fund receipt account unless the contracting officer or authorized representative specified in the contract requests that funds be held in a suspense account pending final disposition.

9. DOCUMENTATION OF REAL ESTATE ACTIONS.

Failure to document real estate actions and to maintain adequate controls have proven costly to the Government in the past. Enforcement of certain claims against lessees has failed because of lack of adequate records and the inability of the Government to establish its claim. Chapter 19 prescribes certain procedures for documentation of outleasing transactions, joint inspection and condition reports at the inception of outleases, and inspection during the lease term and upon termination of the lease. These records will enable the Government to establish a factual basis for enforcing claims against defaulting lessees. Although leasing is the most obvious situation where a condition report is needed, it is needed in some other outgrant situations. Where it is anticipated that the physical condition of an outgrant area will be disturbed and restoration will be required, evidence of the original condition is essential. A pipeline easement is an example of the type that may require such information. As the need will vary depending on the individual cases, no attempt is made to formulate rules for when condition reports should be obtained in outgrant situations other than outleases. It is left to the discretion of the EFD as to when evidence of original condition is required and of what type. It has been our experience that photographs are the most useful type of evidence. In addition, all outgrants, both Navy and Marine Corps, shall be promptly reported into the Naval Facilities Assets Data Base (NFAADB) using the procedures set forth in the NAVFAC P-78 (Naval Facilities Assets Data Base Procedures Manual).

10. ADMINISTRATION OF REVERSIONARY INTERESTS.

There are many minor interests in real property under the jurisdiction of the Navy for which NAVFACENGCOM has the direct responsibility for administration. These rights, which are essentially reversionary in character, have arisen in various ways, through disposal subject to rights of recapture, through disposal subject to conditions the breach of which will call reversion, or through the granting of easement. The EFDs are charged with the responsibility of protecting these outstanding rights which when they are

CH-B

recaptured or when they revert to the Government will be under the jurisdiction and control of the Department of the Navy.

11. MAINTENANCE OF REGISTER OF REVERSIONARY RIGHTS.

The Officer in Command of each EFD will maintain, as a permanent part of the Cadastral Records, a register containing information of all those interests in lands, not now under the possession and control of the Navy Department, under or through which interests the Navy may in the future regain control and possession or the right to control and possession of such lands. This register should include the following data:

- a. The name of the installation.
- b. A description of the property sufficient for its full identification.
- c. Identification of the document by which the property was conveyed (or transferred), its date, and the authority therefor.
- d. The precise interest retained by the Government.
- e. The precise duties and obligations of the grantee to the Government.
- f. The most recent data on which a determination was made that the grantee has fulfilled his duties and obligations or otherwise met the conditions of the grant.

12. ADMINISTRATION BY EFD OF REVERSIONARY RIGHTS.

a. The Officer in Command of each EFD will determine, at least once a year and more often if circumstances indicate, that the terms and conditions and the duties and obligations under each grant and conveyance having a possibility of reverter have been fully met and satisfied. In the event a breach is disclosed, the Officer in Command will initiate action to fully protect the rights of the Government.

b. The Officer in Command will, once a year, review the requirement for the retained right and when such requirement is no longer valid, will forward recommendations to appropriate Command echelons for its disposal.

c. If any properties of this type, except those transferred to another department or agency, are occupied in whole or in part by a component of the Federal Government, all pertinent facts relating thereto should be ascertained and entered in the register. The relationship of this arrangement to the duties and obligations of the grantee should be carefully considered to determine if any action is necessary to fully protect the interests of the Government.

13. REASSIGNMENTS.

a. OPNAV Instruction 11011.16 states that it is Navy policy to avoid reassignments that fragment and complicate plant account and planning processes.

b. Reassignments should generally conform to the following criteria:

(1) The accepting activity in a reassignment must be a reporting activity. Proposed reassignments that do not conform to this requirement cannot be consummated.

(2) Reassignments of Class 1 property will normally include the Class 2 property located thereon.

(3) To be avoided is a reassignment that would result in the encirclement or isolation of a relatively small "island" of property in one activity's RPI by the property in another activity's RPI.

(4) When a contemplated reassignment will not accomplish the objectives indicated in (2) and (3), above, every consideration should be given to the alternative of establishing a Host-Tenant relationship under an Intraservice Support Agreement.

c. Reassignments of real property from one Navy or Marine Corps activity to another will be processed in accordance with NAVFACINST 11010.44D of 19 Nov 1979.

Section II: MINERAL LEASING ON NAVY LANDS

14. BACKGROUND.

a. General. The Department of the Interior, Bureau of Land Management (BLM) is the agency responsible for granting and administering mineral leases on military lands. BLM must, however, obtain the approval and conditions under which leasing will be allowed from the military service which controls the property, prior to any mineral leasing. With some exceptions the Secretary of the Interior has full discretion in administering mineral leases. As a general rule BLM allows non-competitive leasing to the first qualified applicant except where the lands are in a known geological resource area in which case leasing must be on a competitive basis. Non-competitive leases may be offered on a first come, first served basis for new areas, or on a lottery basis for previously leased areas. Competitive leases are issued for five year terms while non-competitive leases are for ten year terms. Leases may be extended if still producing in commercial quantities at the end of the term.

b. Leasing on Acquired Lands. The specific mineral leasing laws generally distinguish between acquired military lands and lands withdrawn or reserved from the public domain for military purposes. Mineral leasing within acquired lands is governed by the 1947 Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359) which authorizes the Secretary of the Interior to lease all deposits of coal, phosphate, oil, oil shale, gas, sodium, potassium and sulfur which are owned by the United States and within acquired lands of the United States. There are certain exceptions to this provision such as lands acquired specifically for development of mineral deposits, minerals within surplus lands, minerals within lands within incorporated cities and towns and within national parks, etc. The exceptions used to include lands set aside for military or Naval purposes. However, the Coal Leasing Act Amendments of 1975 (90 Stat. 1087) modified the 1947 Mineral Leasing Act by deleting this exception. The law now includes all acquired military and Naval lands subject to the consent of the Secretary of Defense.

(1) With regard to leasing of acquired military lands for coal Development 43 CFR 3400.3-2 limits such leasing to a governmental entity which

- (a) produces electrical energy for sale to the public
- (b) is located within the state in which the leased lands are located; and

(c) has production facilities in that state, and will use the coal produced from the lease within the state

(2) There are no existing authorities for exploration or extraction of minerals other than those discussed above on military acquired lands. The Military Leasing Act (30 U.S.C. 2667) expressly excludes leasing of oil, mineral and phosphate lands.

c. Leasing on Public Domain Lands. Mineral leasing within lands withdrawn or reserved from the public domain are governed by the Mineral Leasing Act of 1920 (30 U.S.C. 181 et. seq.), as amended. This law authorizes the Secretary of the Interior to lease deposits of coal, phosphate, sodium, potassium, oil, oil shale, native asphalt, solid and semi-solid bitumen, bituminous rock or gas and public domain lands containing such deposits subject to certain exclusions which are similar to those for 1947 Mineral Leasing Act. The original act excluded all military and Naval lands but a 1946 amendment deleted this exclusion. In 1958 the Engle Act (43 U.S.C. 154-158) dictated that all existing and future Department of Defense withdrawals and reservations of public domain lands, except for Naval petroleum, oil shale or coal reserves, shall be subject to the condition that all minerals in such lands, including oil

467

643

and gas, are under the jurisdiction of the Secretary of the Interior and that all disposition of and exploration of such minerals shall be under the public mining and leasing laws. This substantiated the authority of the Secretary of the Interior to lease military public domain lands pursuant to the Mineral Leasing Act of 1920. The Eagle Act further provides, however, that no disposition or exploration of any minerals in such lands shall be made where the Secretary of Defense, after consultation with the Secretary of the Interior, determines that such disposition or exploration is inconsistent with military use of the lands.

(1) The Geothermal Steam Act of 1970 authorizes the Secretary of the Interior to issue leases for the development and utilization of geothermal steam and geothermal resources in public domain lands withdrawn or reserved for military purposes. Pursuant to 43 CFR 3201.1-2(b) the consent of the agency which has withdrawn or reserved the lands must be obtained prior to any leasing. Prior to enactment of the Geothermal Steam Act there was no authorization for geothermal leasing as development of geothermal steam was not included as a leaseable mineral under existing laws. The Geothermal Steam Act has recently been amended (codified as 10 U.S.C. 3394 and 3699) to allow the Secretary of each military department to develop geothermal resources on public lands as well as acquired lands under his/her jurisdiction for the use or benefit of the Department of Defense.

(2) In addition to the mentioned laws the Mining Act of 1872 provides that locators of all mining locations on public domain lands shall have the exclusive right of possession of the surface included within the lines of their location, together with all veins, lodes or ledges thereunder. This mining law generally allows any person to enter upon and explore upon public domain lands for most minerals not covered under the mineral leasing laws. The Act is quite complicated and has varied applications according to mineral types and land types or States. Fortunately, lands withdrawn or reserved for military purposes as a rule are closed to mining under the mining laws (certain leaseable minerals may however, be extracted by mining activities). The Navy's only problems involve acquisition of outstanding mining interests which predate the land withdrawal or reservation. Acquisition of such interests is discussed in Chapter 15.

(3) A large percentage of public domain lands withdrawn or reserved by the military contain language in the withdrawal orders which also close the lands to leasing under the Mineral Leasing Act of 1920, as to some or all minerals, to geothermal development under the Geothermal Steam Act of 1970, and to mining under the Mining Act of 1872. As previously stated, the intention of these restrictions is to safeguard military operations from incompatible uses. The withdrawals or reservations may have to be amended if the lands are to be opened to any of the leasing and mining laws. Under section 204(1) of the Federal Land Policy and Management Act of 1976 (Public Law 94-579 of 21 October 1976) the BLM must review all land withdrawals within the twelve Western states, including those of the military, and in all likelihood will recommend to Congress that many of these lands be opened to mineral and geothermal leasing as well as mining.

d. Leasing of Outer Continental Shelf Lands. The Department of the Navy is a significant user of offshore public lands, which in this context includes the airspace, surface and subsurface waters above the seabed, as well as the seabed and subsoil of the Continental Shelf. The Continental Shelf is defined as extending out either to a depth of 100 meters or to a depth at which commercial exploitation of natural resources found in the ocean seabed is feasible. The federal government controls commercial exploration for and exploitation of these resources in the U. S. Continental Shelf, except in

state-controlled waters. The individual states control the use of the waters and seabed within the three nautical mile territorial sea, excepting the states of Florida and Texas, which control exploration and exploitation rights to a distance of nine nautical miles from their respective shorelines. The Outer Continental Shelf Lands Act of August 7, 1953, as amended, (43 U.S.C. 1331 et. seq.) authorizes the Secretary of the Interior to issue, on a competitive basis, leases for oil, gas, sulphur and other minerals in submerged lands of the Outer Continental Shelf. These lands are administered by BLM but the Secretary of Defense, with the approval of the President, may designate certain areas required for national defense purposes which will be restricted from mineral exploration and operation unless the Secretary of Defense concurs in such action. By OPNAVINST 3100.5B the Chief of Naval Operations assigns subordinate Commanders with administrative responsibility for coordination of Continental Shelf utilization within geographic operating areas. NAVFACENSGCOM is not included in this assignment but may provide technical support upon request.

s. Permits. Apart from actual leasing of navy lands, parties may request permits for specific types of exploratory studies and tests to determine mineral content of lands. These permits may be issued by the Navy or, on request, may be issued by BLM in unusual circumstances. No actual subsurface mineral exploration and no mineral extraction may be allowed under a permit.

15. POLICY.

DOD Directive 4700.3 of 28 September 1983 and SECNAVINST 11011.48 of 6 July 1984 both provide that Department of the Navy lands shall be made available for mineral exploration and extraction to the maximum extent possible consistent with military operations and national defense activities. Exclusion of lands from exploration and extraction shall be justified and supported. Excepted from the scope of these documents are:

- a. lands situated within incorporated cities, towns and villages (these lands are prohibited from leasing under the federal mineral leasing laws)
- b. tidelands and submerged lands
- c. hardrock minerals under the Mining Act of 1872
- d. sand and gravel

16. LEASING AND PERMITTING PROCEDURES.

In addition to the mentioned DOD and SECNAV instructions, DOD and the Department of the Interior have signed a Memorandum of Understanding dated 26 January which establishes procedures to facilitate coordination of mineral leasing and permitting efforts between the agencies. These procedures are incorporated with DOD/Navy procedures set forth below.

s. Leasing. Navy procedures for mineral leasing (excluding Outer Continental Shelf leases) on acquired and public domain lands are essentially the same. All lease requests should be received and processed by the local BLM office. Requests that are sent directly to the Navy should be referred to BLM before any further action is taken.

(1) Upon receipt of a lease application BLM shall:

(a) Determine whether the lands in question are within areas previously designated by Navy as incompatible with mineral exploration and extraction.

(b) Require applicants to specify the name of the installation and the acquisition tract number of the land covered by the application to simplify Navy title search.

(c) Prepare a categorical exclusion review, environmental assessment or otherwise insure compliance with NEPA.

- (d) Forward the lease application to the appropriate EPD requesting consent to lease and title reports.
- (e) Forward one copy of each executed lease to the EPD.
- (2) Upon receipt of a lease application the EPD shall:
- (a) Forward it to the affected activity Commanding Officer.
- (b) Provide technical assistance in the review of the application. This may include assistance in drafting special lease provisions and stipulations. The EPD should also make sure the Commanding Officer is fully apprised of Navy mineral leasing policy and what the particular lease involves.
- (c) Upon final review of the lease application, as described in paragraph 14a(3), respond to BLM on behalf of the Navy, providing, as appropriate, lease consent and conditions of use or lease denial and justification for such denial.
- (d) For Navy approved leases provide BLM, upon request, existing environmental and cultural information on the lease area. As the lead agency, BLM must obtain or prepare all environmental and cultural documentation before deciding to lease.
- (e) For Navy approved leases, provide BLM available title information on acquired lands. BLM title records shall be relied upon for withdrawn public lands, except the EPD shall provide outstanding interests, such as Navy issued licenses and easements. When title information is incomplete, BLM shall be so advised.
- (3) Upon receipt of a lease application the affected activity Commanding Officer shall review it and submit comments and recommendations to the Director, Installations and Facilities, Assistant Secretary of the Navy (Shipbuilding and Logistics) via the chain of command, the Commander, Naval Facilities Engineering Command, and the Chief of Naval Operations or the Commandant of the Marine Corps for Marine Corps property. The submission should include full justification for any lease or portion of a lease where disapproval is recommended. The Director, Installations and Facilities shall make a final determination of whether and under what conditions leasing will be allowed.
- (4) Issuance of a lease does not confer a right to explore or extract minerals until a plan of operations or application for drilling permit has been approved by the U.S. Geological Survey and the Navy.
- (a) Upon receipt of a plan of operations or application for drilling permit BLM shall:
1. Forward one copy to the EPD for Navy review.
 2. Schedule an onsite inspection of the operations area with the lessee and Navy representatives:
 3. Obtain a bond from the lessee, in an amount agreed to by the Navy, to insure compliance with all terms and conditions of the plan or permit.
 4. Approve the plan or application (or obtain U.S. Geological Survey approval) with stipulations supplied by Navy.
 5. Supervise operations to ensure compliance with lease terms, regulations and conditions and immediately advise Navy of instances of non-complying actions.
- (b) Upon receipt of a plan or application the EPD shall:
1. Forward it for review to the affected activity Commanding Officer.
 2. Provide technical assistance in the review of the plan or application. This may include assistance in drafting additional stipulations and conditions of use.
 3. On request, participate in onsite inspections of the operations area.

115

4. Upon final review of the plan or application as described in paragraph 16a(4)(c), respond to BLM on behalf of the Navy, providing, as appropriate, concurrence and conditions of use or denial and justification for such denial.

5. Provide available environmental, endangered species and cultural information on the operations area to BLM upon request.

(c) Upon receipt of a plan or application the affected activity Commanding Officer shall:

1. Review the plan or application, determine if it is acceptable and include additional terms and conditions, if required.

2. Coordinate the plan or application as appropriate with the chain of command including the major claimant or the Commandant of the Marine Corps for Marine Corps property.

3. Participate with BLM and lessees in onsite inspections of the operations area.

4. Forward the plan or application to the EPD together with consent or denial, conditions of use and other comments. Include justification for all denials or changes to the proposed plan or application.

b. Permits.

(1) Upon receipt of a request for access to Navy lands to perform studies or tests to determine mineral content of the lands, the affected activity Commanding Officer shall:

(a) Review the request and determine whether and under what conditions it may be allowed.

(b) Coordinate as appropriate with the chain of command including the major claimant and the Commandant of the Marine Corps for Marine Corps property.

(c) Approve the request or forward requests which cannot be approved together with comments and recommendations to the Director, Installations and Facilities via the chain of command, the Commander, Naval Facilities Engineering Command, the Chief of Naval Operations, or the Commandant of the Marine Corps for Marine Corps property.

(d) Upon a final determination, forward the request to the EPD for continuing action. For approved permits, sufficient environmental documentation should also be forwarded.

(2) Upon receipt of an approved or disapproved permit request the EPD shall:

(a) Issue approved permits (a license will actually be issued using format in Chapter 25), including appropriate conditions and stipulations. User changes are permissible. In unusual circumstances, permits may be referred to BLM for issuance.

(b) Notify applicants of disapproved requests and provide them the reasons for such disapproval.

17. AMMUNITION, EXPLOSIVES AND CONTAMINATED AREAS.

a. The Department of Defense Explosives Safety Board published a memorandum dated 10 January 1984 which contains the following policy guidance for mineral activities within ammunition and explosive storage and operating areas and for contaminated lands.

CH-7

(1) Mineral exploration and drilling activities are to be separated from ammunition and explosives operating and storage facilities by public traffic route explosives safety distances provided there is to be no occupancy of the site by personnel when the exploration or drilling is completed and by inhabited building explosives safety distances if occupancy is to continue when exploration or drilling is completed. If toxic chemical agents or munitions are present, public exclusion distances must be maintained to the exploration or drill activities. Examples of exploration activities are seismic or other geophysical tests. Examples of drilling activities are those for exploration or extraction of oil, gas, and geothermal energy.

(2) Mining activities are to be separated from ammunition and explosives operating and storage facilities by inhabited building explosives safety distances. If toxic chemical agents or munitions are present, public exclusion distances must be maintained to the mining activities. Examples of mining activities are strip, shaft, open pit and placer mining which normally require the presence of operating personnel.

(3) Exploration, drilling, and mining are prohibited on the surface of explosives or toxic chemical agent contaminated lands. Exploration and extraction is permitted by directional (slant) drilling at a depth greater than fifty (50) feet beneath the explosives contaminated land surface or by shaft mining at a depth greater than one hundred (100) feet beneath such land surface.

b. Navy approved requests for mineral exploration or extraction (by lease or permit) that do not comply with the policies in paragraph 17a must be forwarded to the Chairman, Department of Defense Explosives Safety Board for safety review and approval. This includes lands that are suspected of being contaminated with explosives. Submission will be from NAVFACDSCOM via NAVSEASYSKOM (SEA 06H) and CNO (OP-411P) in accordance with 3-ES of DoD 3154.48 (DoD Ammunition and Explosives Safety Standards).

18. PROTECTIVE ACTION AGAINST DRAINAGE OF OIL AND GAS IN NAVY LANDS.

Where oil and gas in lands under the control of the Department of the Navy (acquired or public domain) may be drained by drilling operations on adjacent privately-owned land, appropriate and timely action shall be taken to protect property rights of the Federal Government in such lands. EPDs should be alert to oil and gas drilling activities in proximity to Navy installations. The assistance of Commanding Officers should be enlisted so such activity may become known at the earliest possible time.

When it is suspected that wells drilled on lands adjacent to Navy lands may cause drainage of oil or gas from the Navy lands, the EPD will request the local Office of the Geological Survey, Department of the Interior, to conduct an investigation of actual or potential oil and gas development in the vicinity to determine whether any action is necessary to protect the interests of the Government in those mineral deposits. When, as a result of such investigation or from other sources, it appears that wells drilled outside of Navy land are causing, or threaten to cause, drainage of oil or gas from beneath Navy lands, the EPD shall promptly advise the local BLM office. The EPD shall then develop, in coordination with the BLM office and the Commanding Officer of the activity concerned, full information as to the character and scope of the existing or threatened drainage and recommend the taking of such action as will most effectively protect the Government's interests in such deposits. If leasing is requested by BLM lease procedures under paragraph 16a apply.

CS-7

19. GEOTHERMAL LEASING.

Requests for a lease for geothermal development or for a license for exploration purposes should be coordinated with the Commander, Naval Weapons Center, China Lake, California (266) who administers the Navy geothermal energy program. It should be noted that if a lease is granted and geothermal energy is produced in usable quantities the lessee will likely request ELM to grant a license for construction of an electric generating plant on the leased premises. This license must be Navy approved. As with oil and gas development, EFDs and activity commanding officers should be alert to potential drainage of geothermal steam from Government lands by wells on adjacent lands. If drainage is suspected the Commander, Naval Weapons Center, China Lake (266) should be contacted. Subject to NWC China Lake direction, protective leasing procedures should be similar to those for oil and gas.

CH-7

1. Purpose DISB <input type="checkbox"/> COLLECT <input type="checkbox"/>		2. Date	3. Reference Document No.	4. SH Number	5. Voucher No.					
6. FROM				7. PAID BY CHECK NO.						
8. TO										
ARTICLES, SERVICES OR ITEMS										
9. INVOICE OR ORDER NO.	10. DATE OF DELIVERY/SERVICE	11. DESCRIPTION (REMITTER, EXPLANATION, DETAILS, ETC.)			12. QUANTITY	13. UNIT PRICE COST PER	14. AMOUNT			
15. DISCOUNT TERMS						16. TOTAL				
17. TYPE OF PAYMENT (OR BILL)						18. TOTAL				
19. ACCOUNTING CLASSIFICATION TO BE CREDITED (COLLECTION)						20. TOTAL				
A. ACORN	B. APPROVAL-TION	C. SUB-HEAD	D. OBJ. CLASS	E. BUREAU/ CONTROL	F. SA	G. AAA	H. TT	I. PMA	J. COST CODE	K. AMOUNT (U.S. CURRENCY ONLY)
21. DEDUCTIONS										
22. TRANSPORTATION		23. DISCOUNT		24. TAX		25. RESERVE		26. MISCELLANEOUS		27. TOTAL DEDUCTIONS
28. CURRENCY						29. EXCHANGE RATE		30. TOTAL DEDUCTIONS		
31. ACCOUNTING CLASSIFICATION TO BE CHARGED (DISBURSEMENT)										
A. ACORN	B. APPROVAL-TION	C. SUB-HEAD	D. OBJ. CLASS	E. BUREAU/ CONTROL	F. SA	G. AAA	H. TT	I. PMA	J. COST CODE	K. AMOUNT (U.S. CURRENCY ONLY)
32. TOTAL NET AMOUNT TO BE PAID (BLOCK 2-H MINUS BLOCK 2-I)										
33. INSPECTION REPORT NOS.						34. GOVT. S/NOS.				
35. APPROVED						36. CERTIFIED				
BY _____						BY _____				
TITLE _____						TITLE _____				
DATE _____						DATE _____				
37. PAYMENT RECEIVED										
PAID -										
RE -										
TITLE -										

475

51