



Department of Defense INSTRUCTION

NUMBER 4715.05

November 1, 2013

Incorporating Change 2, August 31, 2018

USD(A&S)

SUBJECT: Environmental Compliance at Installations Outside the United States

References: See Enclosure 1

1. **PURPOSE.** In accordance with the authority in DoD Directive (DoDD) 5134.01 and DoDD 4715.1E (References (a) and (b)), this instruction reissues DoD Instruction (DoDI) 4715.5 (Reference (c)) to update established policy and assigned responsibilities for managing environmental compliance to protect human health and safety outside the United States on installations under DoD control.

2. APPLICABILITY

a. This instruction:

(1) Applies to:

(a) OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff (CJCS) and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this instruction as the “DoD Components”).

(b) Actions of the DoD Components outside the United States on installations under DoD control.

(c) Support functions for U.S. military vessels, ships, aircraft, or space vehicles provided by the DoD Components, including management and disposal of off-loaded waste or hazardous materials.

(2) Does not apply to:

(a) U.S. military vessels, ships, aircraft, or space vehicles.

(b) Off-installation training.

(c) Contingency locations and associated operations and deployments, including cases of hostilities, contingency operations in hazardous areas, peacekeeping missions, or relief operations. These include U.S. forces operating as part of a multinational force not under full U.S. control.

(d) Facilities and activities associated with the Naval Nuclear Propulsion Program, in accordance with Executive Order (E.O.) 12344 (Reference (d)) and conducted pursuant to section 7158 of Title 42, United States Code (Reference (e)).

(e) Actions to remediate environmental contamination. DoDI 4715.08 (Reference (f)) generally covers remediation.

(f) Environmental analyses conducted in accordance with E.O. 12114 (Reference (g)).

(g) DoD installations that do not have the potential to affect the natural environment (e.g., activities that are primarily administrative) or where, in consultation with the Assistant Secretary of Defense for Energy, Installations, and Environment (ASD(EI&E)), the applicable Combatant Commander has determined that no significant force health protection or environmental threats exist.

(h) Activities, systems, operations and areas on DoD installations for which DoD has no authority or responsibility.

b. Nothing in this instruction creates any right or benefit, substantive or procedural, enforceable at law or in equity, by any person or entity against the United States, its agencies, its officers, or any person.

c. Under no circumstances is this instruction intended to require noncompliance with applicable international law or agreements with foreign nations.

3. POLICY. It is DoD policy that:

a. DoD manages and applies installation assets to sustain the DoD national defense mission; uses environmental, safety, and occupational health management systems in mission planning and execution across all military operations and activities; and ensures all organizations plan, program, and budget to manage the environmental, safety, and occupational health risks that their activities generate in accordance with Reference (b).

b. DoD establishes, maintains, and complies with final governing standards (FGSs) to protect human health and the environment for those foreign countries identified by the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)). The FGSs will

reconcile the requirements of applicable international agreements and applicable host-nation environmental standards in accordance with E.O. 12088 (Reference (h)) and DoD 4715.05-G, also known and referred to in this instruction as the “Overseas Environmental Baseline Guidance Document (OEBGD)” (Reference (i)).

c. Waste that is considered to be hazardous under country-specific FGS or the OEBGD, whichever applies, and is generated by DoD on installations outside the United States, will not be disposed of in the host nation without an agreement as described in section 5 of Enclosure 3.

d. A program for regular assessment of environmental compliance at installations outside the United States is established and conducted by DoD Components.

e. DoD Components conduct environmental compliance activities at off-installation locations in accordance with applicable international agreements, other DoDDs and DoDIs, and environmental compliance requirements incorporated into environmental management annexes and plans, as appropriate.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3.

6. RELEASABILITY. **Cleared for public release.** This instruction is available on the Directives Division Website at <http://www.esd.whs.mil/DD/>.

7. SUMMARY OF CHANGE 2. This change reassigns the office of primary responsibility for this instruction to the Under Secretary of Defense for Acquisition and Sustainment in accordance with the July 13, 2018 Deputy Secretary of Defense Memorandum (Reference (j)).

8. EFFECTIVE DATE. This instruction is effective November 1, 2013.



FRANK RUGGIERI
Under Secretary of Defense
for Acquisition, Technology, and Logistics

Enclosures

1. References
2. Responsibilities
3. Procedures
4. DoD TEC for Europe

Glossary

TABLE OF CONTENTS

ENCLOSURE 1: REFERENCES.....5

ENCLOSURE 2: RESPONSIBILITIES.....6

 USD(AT&L).....6

 ASD(EI&E).....6

 DIRECTOR, DEFENSE LOGISTICS AGENCY (DLA).....6

 DoD COMPONENT HEADS.....7

 SECRETARIES OF THE MILITARY DEPARTMENTS.....8

 COMBATANT COMMANDERS.....8

 COMMANDER, U.S. EUROPEAN COMMAND (USEUCOM).....9

ENCLOSURE 3: PROCEDURES.....10

 DESIGNATION OF A DoD LEC.....10

 DESIGNATION OF COUNTRIES REQUIRING AN FGS.....10

 MAINTENANCE OF THE OEBGD.....11

 DEVELOPMENT AND MAINTENANCE OF FGSs FOR INSTALLATIONS
 OUTSIDE THE UNITED STATES.....11

 ADDITIONAL PROCEDURES FOR HAZARDOUS WASTES.....13

 PLANNING, PROGRAMMING, AND BUDGETING.....14

 EXCEPTIONS TO APPLICABLE STANDARDS.....15

 DISPUTE RESOLUTION.....17

 POLLUTION PREVENTION GUIDANCE.....17

 APPENDIX
 DESIGNATED DoD LECs AND COUNTRIES REQUIRING AN FGS.....18

ENCLOSURE 4: DoD TEC FOR EUROPE.....19

GLOSSARY.....20

 PART I: ABBREVIATIONS AND ACRONYMS.....20

 PART II: DEFINITIONS.....20

TABLE

 Designated DoD LECs and Countries Requiring an FGS.....18

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5134.01, "Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L))," December 9, 2005, as amended
- (b) DoD Directive 4715.1E, "Environment, Safety, and Occupational Health (ESOH)," March 19, 2005
- (c) DoD Instruction 4715.5, "Management of Environmental Compliance at Overseas Installations," April 22, 1996 (hereby cancelled)
- (d) Executive Order 12344, "Naval Nuclear Propulsion Program," February 1, 1982
- (e) Section 7158 of Title 42, United States Code
- (f) DoD Instruction 4715.08, "Remediation of Environmental Contamination Outside the United States," November 1, 2013
- (g) Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions," January 4, 1979
- (h) Executive Order 12088, "Federal Compliance with Pollution Control Standards," October 13, 1978, as amended
- (i) DoD 4715.05-G, "Overseas Environmental Baseline Guidance Document," May 1, 2007
- (j) Deputy Secretary of Defense Memorandum, "Establishment of the Office of the Under Secretary of Defense for Research and Engineering and the Office of the Under Secretary of Defense for Acquisition and Sustainment," July 13, 2018
- (k) Section 165 of Title 10, United States Code
- (l) DoD Instruction 5025.01, "DoD Directives Program," September 26, 2012, as amended
- (m) DoD Instruction 4715.23, "Integrated Recycling and Solid Waste Management," October 24, 2016
- (n) DoD Directive 5530.3, "International Agreements," June 11, 1987, as amended

ENCLOSURE 2

RESPONSIBILITIES

1. USD(AT&L). In coordination with the CJCS and the Under Secretary of Defense for Policy (USD(P)), the USD(AT&L):

a. Establishes DoD environmental policies pertaining to all activities on installations outside the United States, and consults on these policies with the DoD Components, the Department of State, and other federal agencies, as appropriate.

b. Designates a DoD Lead Environmental Component (LEC) for specific countries and geographic locations outside the United States in accordance with section 1 of Enclosure 3 of this instruction.

c. Designates countries requiring an FGS in accordance with section 2 of Enclosure 3.

2. ASD(EI&E). Under the authority, direction, and control of the USD(AT&L), the ASD(EI&E):

a. Oversees implementation of this instruction and provides guidance, oversight, advocacy, and representation for environmental management and compliance programs outside the United States in accordance with Reference (b).

b. In coordination with the Combatant Commanders, nominates a DoD LEC to the USD(AT&L) in accordance with section 1 of Enclosure 3.

c. In coordination with the Combatant Commanders and designated DoD LECs, nominates to the USD(AT&L) countries requiring an FGS.

d. Resolves disputes raised by environmental policy principals of the DoD Components in accordance with section 8 of Enclosure 3.

e. Monitors compliance with this instruction, including development and use of appropriate measures of merit and periodic review of the environmental management and compliance programs of the DoD Components.

3. DIRECTOR, DEFENSE LOGISTICS AGENCY (DLA). In addition to the responsibilities in section 4 of this enclosure, and under the authority, direction, and control of the USD(AT&L) through the Assistant Secretary of Defense for Logistics and Materiel Readiness, the Director, DLA:

a. Participates, as required, in the multidisciplinary committee the ASD(EI&E) forms and leads to review and update the OEBGD in accordance with section 3 of Enclosure 3.

b. Participates in the process to determine whether DoD-generated hazardous waste may be disposed of in a foreign nation in accordance with section 5 of Enclosure 3.

4. DoD COMPONENT HEADS. The DoD Component heads:

a. Comply with this instruction and provide administration and support of forces assigned to Combatant Commanders, including planning, budgeting, programming, and execution, pursuant to section 165 of Title 10, United States Code (Reference (k)).

b. Carry out the responsibilities of the DoD LEC for specific countries, as provided in the appendix to Enclosure 3 or for those countries the USD(AT&L) designates in the future. These LEC responsibilities include:

(1) Plan, program, and budget for preparation and maintenance of the FGS.

(2) Identify applicable host-nation environmental standards, monitor regulatory trends, and maintain copies of applicable host-nation environmental documents, standards, and regulations.

(3) Consult with host-nation authorities on environmental issues, as appropriate, to maintain effective cooperation on environmental matters.

(4) Consult with the chief of the U.S. diplomatic mission in the host nation, the affected Military Services through the chain of command, the geographic Combatant Commanders, and the USD(P) on significant issues arising from DoD environmental policy in that country.

(5) Prepare and maintain the FGS in countries that the USD(AT&L) designates, including providing technical, legal, and programmatic support to the process.

(6) Adjudicate requests for exceptions from the DoD Components in accordance with section 7 of Enclosure 3.

(7) Keep DoD Components informed of current environmental developments and trends.

(8) Perform such other responsibilities as may be assigned in other DoD issuances or guidance.

c. Provide technical, legal, and programmatic support to the process for maintenance of the OEBGD.

d. Establish and implement an environmental compliance assessment program for installations outside the United States that includes internal and external environmental

assessments. At all installations, conduct external compliance assessments at a minimum of once every 3 years and internal assessments at a minimum annually, except in those years when an external compliance assessment is conducted.

e. Designate DoD Component commanders or other officials who are authorized to request exceptions in accordance with section 7 of Enclosure 3 or to initiate dispute resolution in accordance with section 8 of Enclosure 3.

f. Promptly notify the ASD(EI&E) and all affected elements of command of environmental events deemed significant.

g. Consult, cooperate with, and provide timely notice to other DoD Components regarding environmental items of common interest affecting installations outside the United States.

h. Identify program needs, develop solutions to common problems, share technological information and expertise, develop common techniques and procedures, and conduct activities to fulfill the requirements of this instruction.

5. SECRETARIES OF THE MILITARY DEPARTMENTS. In addition to the responsibilities in section 4 of this enclosure, the Secretaries of the Military Departments share lead responsibility for maintaining the OEBGD on a rotational basis as the ASD(EI&E) determines.

6. COMBATANT COMMANDERS. In addition to the responsibilities in section 4 of this enclosure and through the CJCS, the Combatant Commanders:

a. Provide general oversight and coordination of this instruction to the DoD LEC as necessary, to carry out their missions.

b. Adjudicate requests for exceptions when the Military Department requesting the exception is also the DoD LEC in accordance with paragraph 7h of Enclosure 3. In cases where the Combatant Commander is the DoD LEC and desires to request an exception, the request will be elevated to ASD(EI&E) for adjudication.

c. Resolve disputes between the DoD Components and the DoD LEC in accordance with section 8 of Enclosure 3. In cases where the Combatant Commander is the DoD LEC, the dispute will be elevated to ASD(EI&E) for resolution.

d. When requested, nominate a DoD LEC through the CJCS to ASD(EI&E) in accordance with section 1 of Enclosure 3.

e. When requested, nominate countries requiring an FGS through the CJCS to ASD(EI&E) in accordance with section 2 of Enclosure 3.

7. COMMANDER, U.S. EUROPEAN COMMAND (USEUCOM). In addition to the responsibilities in sections 4 and 6 of this enclosure, and due to the unique construct and influence of the European Union (EU), the Commander, USEUCOM, is designated as the DoD Theater Environmental Coordinator (TEC) for Europe. As such, the Commander provides specific oversight to ensure consistent application of this instruction at installations in host-nation countries within the EU and geographically located within the USEUCOM area of responsibility. Additional DoD TEC guidance is provided in Enclosure 4 of this instruction.

ENCLOSURE 3

PROCEDURES

1. DESIGNATION OF A DoD LEC. In coordination with the Combatant Commanders, the ASD(EI&E) nominates to the USD(AT&L) a DoD Component as the DoD LEC for environmental matters in specific foreign countries. These specific foreign countries are those where the ASD(EI&E) determines that the DoD presence justifies the need for a DoD LEC.

a. The ASD(EI&E) maintains the list of designated DoD LECs that is reviewed annually. (See appendix to this enclosure for the list of designated DoD LECs.)

b. Secretaries of Military Departments, Combatant Commanders, or subunified commanders may be designated as a DoD LEC. When a Military Department Secretary is designated as a DoD LEC, the Secretary concerned may delegate responsibilities through the chain of command to an appropriate general-level or flag-level commander.

c. Each Combatant Commander with a geographic area of responsibility encompassing a foreign country may recommend a change to, addition, substitution, or elimination of a DoD LEC. Such recommendations are submitted through the CJCS to the ASD(EI&E) for coordination with the Military Departments prior to submittal to USD(AT&L).

d. The USD(AT&L) designates the DoD LECs.

2. DESIGNATION OF COUNTRIES REQUIRING AN FGS. The ASD(EI&E), in coordination with the Combatant Commanders and designated DoD LECs, nominates to the USD(AT&L) countries requiring an FGS.

a. The ASD(EI&E) maintains a list of countries requiring an FGS. (See appendix to this enclosure for the list of countries requiring an FGS.)

b. Each Combatant Commander with a geographic area of responsibility encompassing a foreign country may recommend a change (e.g., addition or elimination) of a country requiring an FGS. Such recommendations are submitted through the CJCS to the ASD(EI&E) for coordination with the Military Departments prior to submittal to the USD(AT&L).

c. The USD(AT&L) designates those countries requiring an FGS.

3. MAINTENANCE OF THE OEBGD

a. The DoD establishes, maintains and, as described in section 4 of this enclosure, complies with the OEBGD. The OEBGD is designed to:

- (1) Protect human health and the environment.
- (2) Consider generally accepted federal environmental standards applicable to DoD installations, facilities, and actions in the United States.
- (3) Incorporate requirements of U.S. law that have extraterritorial application to the DoD.

b. The OEBGD is reviewed every 5 years, or as the ASD(EI&E) directs, to ensure that it is current. The ASD(EI&E) issues interim or supplemental guidance after consultation with the Military Departments and the Joint Staff.

c. A Secretary of a Military Department, as determined by ASD(EI&E) in accordance with section 5 of Enclosure 2 of this instruction, leads the OEBGD review process, chairing a multidisciplinary committee. The committee will consist of, at a minimum, representatives of the Office of the ASD(EI&E), the other Military Departments, the Joint Staff, and DLA. Comments from the Military Departments, to include DoD LECs, are solicited during the review process.

d. The ASD(EI&E) may issue supplemental guidance for the review process.

e. Revisions to the OEBGD proposed by the multidisciplinary committee are forwarded to the ASD(EI&E) for coordination, final approval, and publication in accordance with DoDI 5025.01 (Reference (1)).

4. DEVELOPMENT AND MAINTENANCE OF FGSs FOR INSTALLATIONS OUTSIDE THE UNITED STATES

a. The DoD LEC for a foreign nation consults with other theater DoD Components during the development, revision, and maintenance of an FGS.

b. The DoD LEC identifies applicable host-nation environmental standards. To be identified as applicable, a standard must meet four criteria:

- (1) A published host-nation law or an applicable international agreement for the protection of human health and the environment within the host nation. A transnational standard may be considered to the extent it is legally enforceable on the host nation even though not incorporated into the host-nation's domestic law.

(2) Adequately defined and generally in effect and enforced against host-nation government and private-sector activities. Laws of local governmental units are not included unless they implement national laws that delegate authority to, or recognize the authority of, the local governmental unit to regulate.

(3) Applicable to a function, such as construction, maintenance, or operation of an installation, for which the United States has primary responsibility.

(4) Substantive and not administrative or procedural in nature (e.g., permits and licenses) unless required by applicable international agreements.

c. The DoD LEC develops and issues the FGS.

(1) The DoD LEC uses the OEBGD to establish the FGS unless the OEBGD is less protective than an applicable host-nation environmental standard or a standard under an applicable international agreement. In case of inconsistency, the DoD LEC normally uses the more protective standard to establish the FGS unless a specific international agreement with the host nation mandates a different standard applicable to installations.

(2) The DoD LEC normally bases the comparison of standards on individual standards. Where, in the judgment of the DoD LEC, a standard can't be considered individually because of the comprehensive nature of the regulatory regime in that environmental subject, the comparison may be broader and may compare the overall regulatory regime in the OEBGD with the corresponding applicable regulatory regime. The more protective regime is used to establish the FGS.

(3) Other than for remediation and environmental effects analysis, if the OEBGD doesn't address a particular environmental standard (e.g., criteria), but it is addressed by an applicable host-nation environmental or other applicable standard, the DoD LEC considers the applicable host-nation environmental standard or standard under an applicable international agreement in establishing the FGS. Until revisions to the OEBGD establish a standard for that subject, the host-nation or international agreement standard is normally used to establish the FGS.

(4) The scope of the FGS for any nation is determined by the mission, facilities, and potential environmental impacts of DoD installations in that nation. If no additional protection of the environment would result from the inclusion of a specific OEBGD standard, the DoD LEC may determine that those standards need not be included in the FGS. The DoD LEC must document the decision not to include one or more OEBGD areas and conduct a review of the decision upon the subsequent revalidation or revision of the FGS.

(5) The DoD LEC documents the decision-making process, including the FGS comparative analysis strategy, products of the comparative analysis, decisions and analyses regarding how a particular FGS standard was derived, and any other material documents surrounding the development of the FGS. These documents are retained until the FGS standard is revised. These documents may be released to the DoD Components, but generally will not be released to the host nation authorities. The DoD LEC consults with legal counsel before

releasing decision-making process documents, including the comparative analysis products, to host nation officials.

d. The DoD LEC issues the FGS after consultation with the appropriate in-country or theater representatives of the other DoD Components operating in the country, coordination with the applicable Combatant Commander, and notification to the U.S. diplomatic mission.

e. The DoD Components on DoD installations in a foreign nation for which FGSs have been established will comply with the FGS established for that country. In determining whether the FGS applies to any particular installation, the DoD Components will consider whether responsibility for construction, maintenance, and operation of the installation rests primarily with the United States or the host nation.

f. The DoD LEC, in coordination with the applicable Combatant Commander, revalidates and updates the FGS on a periodic basis, but at least every 5 years. If the procedures of paragraphs 4c(1) through 4c(5) of this section are followed, partial or interim updates to the DoD's individual FGS standards are authorized. All FGS updates are compiled and forwarded upon completion to ASD(EI&E).

g. The DoD Components on DoD installations in a foreign nation for which no FGSs have been established will comply with applicable international agreements, applicable host-nation environmental standards pursuant to section 1-801 of Reference (h), and the appropriate sections of the OEBGD. In cases of conflicting requirements, the DoD Components will normally comply with the standard that is more protective of human health and the environment. The DoD Components will consult with the DoD LEC or, if no DoD LEC is designated, with the applicable Combatant Commander on actions that involve a substantial commitment of funds or could set a precedent.

5. ADDITIONAL PROCEDURES FOR HAZARDOUS WASTES. In addition to the FGS or OEBGD (where no FGS has been issued), or any similar directive, the management and disposal of hazardous wastes outside the United States associated with applicable military activities will comply with these additional procedures for the disposal of hazardous wastes:

a. In a foreign nation:

(1) DoD Components will not dispose of any wastes that DoD actions generate and that are considered hazardous under either U.S. law or applicable host-nation standards, unless the disposal complies with either the FGS, or if there is no FGS, the OEBGD, and is in accordance with any applicable international agreement.

(2) Without an applicable international agreement that grants disposal authority, DoD Components will obtain explicit or implicit concurrence from the appropriate authorities of the nation where the disposal takes place.

(3) Nothing in this section will be construed to indicate that the United States has continuing responsibility for hazardous waste after it has been disposed of in accordance with this section.

(4) To the maximum extent practicable considering operational requirements and sound fiscal practices, DoD Components will dispose of the hazardous waste so as to not retain any future liability for the waste. DoD Components will not contractually retain any indicia of ownership of the waste.

b. When the requirements of paragraph 5a of this section cannot be met, DoD Components will dispose of hazardous waste in the United States or in another foreign nation where the applicable conditions are met, unless other disposal arrangements are approved by the ASD(EI&E).

c. The determination of whether a DoD-generated hazardous waste may be disposed of in a foreign nation is made by the DoD LEC in coordination with the applicable Combatant Commander, the Director, DLA, the USD(P), the other relevant DoD Component heads, and the chief of the U.S. diplomatic mission.

(1) Where significant threat, force protection, or mission imperatives dictate procedures other than those described in this enclosure, the determination to deviate from the procedures in paragraphs 5a and 5b of this section are made by the applicable Combatant Commander with, time permitting, the concurrence of the Director, DLA, and in consultation with other relevant DoD Component heads and the appropriate Department of State representative.

(2) The circumstances surrounding the decision to deviate from the procedures in paragraphs 5a and 5b of this section are documented and made a permanent record of the United States.

d. In addition to compliance with the applicable standards described in paragraphs 4e and 4g of this enclosure, the DoD Components must comply with provisions of the status-of-forces agreement and other applicable international agreements on the shipping and storage of hazardous wastes.

6. PLANNING, PROGRAMMING, AND BUDGETING. Planning, programming, and budgeting of funds and other resources required for compliance with this instruction are accomplished in accordance with DoD procedures generally applicable to environmental compliance.

a. For planning, programming, and budgeting, the DoD Components will:

(1) Treat the applicable set of environmental compliance standards for the host nation applied in accordance with paragraphs 4e or 4g of this enclosure as validated budgetary requirements and the functional equivalents of generally accepted environmental standards for similar installations, facilities, and activities in the United States.

(a) The DoD Components will plan, program, and budget for requirements over the length of the first program objective memorandum cycle following the establishment of the FGS or, in the case of the OEBGD, application of the OEBGD to a particular host nation for the first time.

(b) If there is a foreseeable budgetary impact arising from a material modification of an FGS or the OEBGD, the DoD Component will plan, program, and budget for the requirement over the length of the first program objective memorandum cycle following the effective date of the modification.

(2) Give the highest priority for funding and execution in the current year or in the immediately following fiscal year to FGS or OEBGD requirements whose noncompliance would result in one or more of the following:

(a) Any human health or safety conditions that pose an immediate threat as determined by the appropriate military medical authority.

(b) A direct threat to ongoing U.S. operations or U.S. access to an installation outside the United States.

(c) A U.S. default on a standard made directly applicable to U.S. activities in an international agreement.

(3) All other requirements not likely to result in the occurrence of a noncompliance as described in paragraphs 6a(2)(a), (b), or (c) of this section should be addressed according to a risk-based prioritization based on local circumstances and long-term objectives.

b. This instruction does not require or authorize the DoD Components to expend funds or use other resources to meet requirements that are the responsibility of the host nation, as stipulated in applicable international agreements.

7. EXCEPTIONS TO APPLICABLE STANDARDS

a. A DoD Component may request an exception to a standard otherwise applicable in accordance with paragraphs 4e and 4g of this enclosure only if:

(1) Compliance with the standard at particular installations or facilities would:

(a) Seriously impair its mission.

(b) Adversely affect relations with the host nation; or

(c) Require substantial expenditure of funds for physical improvements at an installation for which public notification for return is made.

(2) An installation is identified for closure or realignment, which would remove the requirement.

b. An exception may not be granted to a standard if failure to comply would constitute a breach of applicable U.S. law with extraterritorial effect or breach of an applicable international agreement.

c. All exception requests and decisions are in written form. The requestor and the decision-making authority will maintain complete records and provide a copy to the ASD(EI&E). These documents are permanent records and considered sufficiently valuable to warrant the Federal Government's continued preservation.

d. A DoD Component submitting a request for an exception from an applicable standard:

(1) Identifies the particular standard for which an exception is requested.

(2) Describes the extent of the relief requested and the period that the exception is in effect.

(3) Describes the anticipated impact of the exception, if any, on human health and the environment over the period of the exception.

(4) Describes the justification for the exception and, if a complete exception of the standard is requested, why a partial or temporary deviation is not sufficient.

(5) Submits the exception request to the DoD LEC.

e. The DoD LEC, except as noted in paragraph 7f of this section, will approve, partially approve, or deny exception requests.

f. Where the requested exception or deviation is from an FGS provision that is derived from a host nation standard, the DoD LEC should normally consult with the responsible host-nation authority after consultation with the appropriate U.S. diplomatic mission. If, as a result of consultation with host-nation authorities by the appropriate DoD LEC, it is determined that the exception or deviation from the applicable host-nation standards should not be approved, the applicable Combatant Commander forwards the request along with a complete report to the ASD(EI&E), who attempts to resolve the issue through consultation with relevant authorities and other federal agencies as appropriate.

g. All other requests for exceptions not previously addressed in paragraph 7a of this section are submitted with the recommendations of the DoD LEC and the applicable Combatant Commander to the ASD(EI&E).

h. The DoD LEC will not approve exception requests received from within their own Military Department. In cases when the Military Department requesting the exception is also the DoD LEC, the exception is referred to the applicable Combatant Commander for decision.

i. Pending the DoD LEC's action, a Combatant Commander may, consistent with applicable international agreements and other law, authorize temporary emergency exceptions and deviations in countries in his or her geographic area of responsibility when the Commander determines that such an exception or deviation is necessary to the accomplishment of an operational mission directed by the President or Secretary of Defense. The DoD LEC, ASD(EI&E), Combatant Commander, or commander of the theater DoD Component should consult broadly, include the appropriate U.S. diplomatic mission, and include the responsible host-nation authority, if appropriate, prior to exception issuance. Such exceptions will be no broader than appropriate to accomplish the mission.

8. DISPUTE RESOLUTION. If a DoD Component disagrees with the establishment of one or more of a DoD LEC's FGS, the failure of the DoD LEC to fully approve an exception request, or any other determination of the DoD LEC, the DoD Component may seek resolution of the disagreement directly with the applicable Combatant Commander, who will issue a decision after consultation with the DoD LEC. If the DoD Component still disagrees with the resolution of the issue, the DoD Component's senior environmental policy principal may refer the matter to the ASD(EI&E) for final determination after providing notice to the CJCS.

9. POLLUTION PREVENTION GUIDANCE. Additional pollution prevention guidance is in DoDI 4715.23 (Reference (m)).

Appendix

Designated DoD LECs and Countries Requiring an FGS

APPENDIX TO ENCLOSURE 3

DESIGNATED DoD LECs AND COUNTRIES REQUIRING AN FGSTable. Designated DoD LECs and Countries Requiring an FGS

COUNTRY	LEC
UNITED STATES EUROPEAN COMMAND	
United Kingdom	Secretary of the Air Force
Germany	Secretary of the Army
Italy	Secretary of the Navy
Spain	Secretary of the Navy
Greece	Secretary of the Navy
Belgium	Secretary of the Army
Netherlands	Secretary of the Army
Turkey	Secretary of the Air Force
Azores	Secretary of the Air Force
Greenland	Secretary of the Air Force
Iceland (Doesn't require an FGS)	Secretary of the Navy
UNITED STATES AFRICA COMMAND	
Kenya	Commander, U.S. Africa Command
Ascension Islands	Secretary of the Air Force
UNITED STATES NORTHERN COMMAND	
Bahamas	Secretary of the Navy
UNITED STATES CENTRAL COMMAND	
Bahrain	Commander, U.S. Central Command
Egypt	Commander, U.S. Central Command
Kuwait	Commander, U.S. Central Command
Oman	Commander, U.S. Central Command
Qatar	Commander, U.S. Central Command
Saudi Arabia	Commander, U.S. Central Command
United Arab Emirates	Commander, U.S. Central Command
UNITED STATES SOUTHERN COMMAND	
Antigua	Secretary of the Air Force
Cuba	Secretary of the Navy
UNITED STATES PACIFIC COMMAND	
Japan	Commander, U.S. Forces, Japan
Korea	Commander, U.S. Forces, Korea
Diego Garcia	Secretary of the Navy

ENCLOSURE 4

DoD TEC FOR EUROPE

1. The DoD TEC for Europe:

a. Consults with theater DoD Components and other DoD activities, as appropriate, to accomplish their responsibilities.

b. Provides available information, advice, and assistance to DoD Components in the European theater regarding:

(1) EU-driven actions and issues affecting multi-component military missions and operations.

(2) Proposed DoD programs and initiatives in relation to EU-directed environmental programs and feedback regarding policy gaps or issues.

c. Ensures that communication with other DoD Components is accomplished and proper subject matter experts from DoD Components are engaged where necessary.

d. Conducts meetings and outreach activities with theater DoD Components, EU and host-nation officials, and other stakeholders, as necessary.

e. Serves as a point of contact within the theater for non-DoD entities to reach the DoD on significant theater defense, EU-related environmental matters.

f. Monitors and strives for the consistent interpretation and application of DoD policies within the EU region.

g. Ensures that significant, non-routine communication with the EU, or its components, and host-nation environmental agencies involving multi-component activities is coordinated.

h. Issues theater-level guidance that conforms with this instruction.

2. The DoD TEC for Europe does not:

a. Make unauthorized decisions or commitments for the DoD or any DoD Component.

b. Commit the resources of another DoD Component without that DoD Component's prior consent.

c. Negotiate or sign agreements or issue positions on environmental and environmentally related matters in support of mission sustainment unless coordinated with the ASD(EI&E), USD(P), General Counsel of the Department of Defense, and all affected DoD Component heads.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

ASD(EI&E)	Assistant Secretary of Defense for Energy, Installations, and Environment
CJCS	Chairman of the Joint Chiefs of Staff
DLA	Defense Logistics Agency
DoDD	DoD Directive
DoDI	DoD Instruction
E.O.	Executive order
EU	European Union
FGS	final governing standard
LEC	Lead Environmental Component
OEBGD	Overseas Environmental Baseline Guidance Document
TEC	Theater Environmental Coordinator
USD(AT&L)	Under Secretary of Defense for Acquisition, Technology, and Logistics
USD(P)	Under Secretary of Defense for Policy
USEUCOM	U.S. European Command

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this instruction.

applicable host-nation environmental standards. Specific management practices to control pollution or objective, numeric, or qualitative pollution control standards that are published and, in either case, are generally in effect and enforced against host-government and private-sector activities. Laws of local governmental units are not included unless they implement national laws that delegate authority to, or recognize the authority of, the local governmental unit to regulate. Limitations on discharges, emissions, effluents, and disposal are included, but procedural or administrative requirements, such as permitting, licenses, fees, fines, penalties, or other sanctions are not.

DoD LEC. The Secretary of a Military Department, Combatant Commander, or Subunified Commander specifically designated as described in this instruction to execute

the responsibilities prescribed in Enclosure 2 for environmental matters associated with DoD installations in specific foreign countries.

enduring location. A location is enduring when DoD intends to maintain access and use of that location for the foreseeable future. The following types of sites are considered enduring for U.S. Government purposes: main operating base, forward operating site, and cooperative security location. All three types of locations may be composed of more than one distinct site. Enduring locations are published in the OSD-approved Enduring Location Master List.

FGS. A comprehensive set of country-specific substantive environmental provisions; typically technical limitations on effluent, discharges, etc., or a specific management practice, developed in accordance with this instruction.

installation. An enduring location consisting of a base, camp, post, station, yard, center, or other DoD activity under the operational control of the Secretary of a Military Department or the Secretary of Defense.

international agreement. A multilateral or bilateral agreement, such as a base rights or access agreement, a status-of-forces agreement, or any other instrument defined as a binding international agreement in accordance with DoDD 5530.3 (Reference (n)).

OEBGD. A set of objective criteria and management practices the DoD develops in accordance with this instruction, to protect human health and the environment, in accordance with Reference (h).

United States. The several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, Guam, Midway and Wake Islands, the U.S. Virgin Islands, any other territory or possession of the United States, and associated navigable waters, contiguous zones, and ocean waters of which the natural resources are under the exclusive management authority of the United States.