



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY
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SECNAVINST 5710.27
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SECNAV INSTRUCTION 5710.27

From: Secretary of the Navy

Subj: DEPARTMENT OF THE NAVY READINESS FOR CHALLENGE
INSPECTIONS UNDER THE CHEMICAL WEAPONS CONVENTION (CWC)

Ref: (a) SECNAVINST 5710.23C
(b) CJCSI 3110.07B (NOTAL)
(c) SECNAVINST 3403.1
(d) Inspection Readiness Plan for Department of the Navy
Facilities of 29 Feb 00 (available at
<http://www.nawcwpns.navy.mil/~treaty/>)
(e) CJCSI 2030.1A
(f) OPNAVINST 3100.6G (NOTAL)

1. Purpose. To implement readiness, as set forth in reference (a), for international challenge inspections in compliance with United States (U.S.) Government obligations under the Chemical Weapons Convention (CWC) without compromising national security information or Department of Defense (DoD) processes or equities.

2. Background. The CWC entered into force on 29 April 1997. U.S. Government participation in the CWC subjects Navy and Marine Corps facilities, activities, bases, installations, and programs (hereafter referred to as "facilities") to unprecedented, intrusive, "anytime - anywhere" challenge inspections. A team of inspectors from the Organization for the Prohibition of Chemical Weapons (OPCW) conducts the challenge inspections. If not properly addressed, CWC arms control verification activities could compromise national security information or lead to inadvertent noncompliance with U.S. treaty obligations.

a. The CWC prohibits the development, production, acquisition, stockpiling, retention, transfer, or use of Chemical Weapons (CWs). The CWC also prohibits the use of Riot Control Agents (RCAs) as a method of warfare.

b. The CWC permits CW-related defensive programs and operations and CW defensive training. Demilitarized CW

01 SEP 2004

munitions and devices may be retained as CW defensive training aids.

c. The CWC allows the use of RCAs for purposes other than as a method of warfare. Guidance on the use of RCAs during military operations is contained in reference (b). Executive Order 11850 (enclosure (1) to reference (c)) renounced first use of RCAs in war except in defensive modes to save lives. Although Executive Order 11850 pre-dated the CWC, the President certified to the Senate, as a condition of ratification, that the U.S. is not restricted by the CWC in its use of RCAs consistent with E.O. 11850, including the use against combatants who are parties to a conflict, in any of the following circumstances:

(1) During the conduct of peacetime military operations in an area of armed conflict when the U.S. is not a party to the conflict.

(2) During consensual peacekeeping operations when the use of force is authorized by the receiving state, including operations under Chapter VI of the United Nations Charter.

(3) During peacekeeping operations when force is authorized by the Security Council under Chapter VII of the United Nations Charter.

d. The OPCW monitors U.S. Government compliance with CWC requirements through a verification regime that includes declarations of past CW-related activity, declaration of activities not prohibited under the Convention related to toxic chemicals and their precursors, and on-site inspections at declared and suspect undeclared facilities. In the event of a challenge inspection, the U.S. Government has no right of refusal and is obligated to make all reasonable efforts to facilitate the conduct of the challenge inspection both in the U.S. and at U.S. facilities overseas.

3. Policy. Department of the Navy (DON) policy is to comply with the obligations of the CWC. This does not diminish or modify established requirements to comply with Navy and Marine Corps safety and security regulations and directives.

a. CWC challenge inspections may be conducted at any DON facility worldwide. This can include USN ships, submarines, aircraft, USNS ships, maritime prepositioned ships (MPS), bases and other naval activities. Commanders, commanding officers,

01 SEP 2004

officers in charge and masters of USNS/MPS vessels, (hereinafter referred to as "commanding officers") of Navy and Marine Corps facilities designated for a challenge inspection shall coordinate such inspections and procedures with their chain of command. Once notified of a potential challenge inspection, commanding officers of ships and aircraft squadron commanders shall coordinate any departure or other movement of ships, aircraft, and naval forces with their operational chain of command. Ships and aircraft normally will not be required to remain in a U.S. or foreign port or airfield longer than their scheduled departure time solely to accommodate a challenge inspection.

b. Commanding officers of Navy and Marine Corps facilities are responsible under U.S. Navy Regulations for the routine conduct of operations, control of access, safety of visitors, protection of national security information, and compliance with U.S. Government obligations under international agreements at their facilities. Neither the OPCW Inspection Team, their U.S. Government escorts, the U.S. Host Team, nor the Host Team Leader will exercise command authority at inspected Navy and Marine Corps facilities. The responsibilities and actions of the U.S. Host Team and its principals are not intended to and will not impinge on existing DON chain of command or on the formal relationships between command and tenants of the facility.

c. Program managers are responsible for protecting national security and sensitive information regarding their programs in accordance with existing DoD Directives, Instructions, and Publications; DON Instructions and Notices; and security plans or other appropriate means. Access by the OPCW Inspection Team or other unauthorized personnel shall not be granted to nuclear propulsion spaces.

d. The CWC treaty provides specific allowable "managed access" measures that can be used to protect sensitive information not related to chemical weapons. The right of managed access shall be employed in providing access for inspectors and observers in accordance with applicable security classification guidance. Managed access includes, among other things, securing classified papers, media, and computers; shrouding sensitive items (restricted visual access); use of selective access techniques; and control of routes and timing.

(1) Commanding officers of facilities shall make every reasonable effort, including use of alternative means, to demonstrate that any area, structure, or object to which the

01 SEP 2004

OPCW Inspection Team has not been granted access is not used for purposes related to the possible CWC noncompliance concerns. Illustrative examples of alternative means include: demonstrating that a building or room does not meet the requisite U.S. standards to handle CW and lacks the typical CW signatures; or, within existing security constraints, demonstrating that the actual activities in a building or room are not a compliance concern.

(2) Reference (d) provides assistance to DON activities that could be the object of a CWC challenge inspection. Commanding officers or other responsible officials with concerns about the adequacy of reference (d) to meet applicable safety, security, or other requirements, may develop a tailored managed access or alternative means plan to satisfy those requirements in accordance with reference (a) and with the approval of the chain of command, including, if appropriate, the CWC compliance review group (CRG).

e. Public vessels or state aircraft, defined as warships, naval auxiliaries, military aircraft, and other vessels or aircraft operating exclusively in noncommercial service for the U.S. Government, may be the sole object of a request for a CWC challenge inspection, or included as part of the inspection if contained in the final perimeter of a facility that is subject to a CWC challenge inspection. Because it is U.S. policy to assert sovereign immunity for public vessels and state aircraft, commanding officers shall under no circumstances permit an inspection or access to the vessel or aircraft without specific approval from their operational chain of command at the level of the Commander, Unified Combatant Command. Upon approval and direction from the chain of command, access to public vessels and state aircraft for CWC challenge inspections shall be granted only to the extent necessary to demonstrate that the public vessel or state aircraft is not being used for purposes related to the possible CWC noncompliance concerns set forth in the challenge inspection mandate.

4. Responsibilities

a. Assistant Secretary of the Navy (Research, Development and Acquisition) (ASN(RDA)) is, by reference (a), the certifying official of CWC compliance for the Navy and Marine Corps programs.

01 SEP 2004

b. The Director, Submarine Warfare Division (CNO(N77)) shall serve as the DON funding sponsor for CWC treaty compliance and implementation programs.

c. Director, Strategic Systems Programs (DIRSSP), under ASN (RDA), is the DON Lead Office for all DON implementation and compliance functions for the CWC. Reporting directly to DIRSSP, the Naval Treaty Implementation Program (NTIP), will:

(1) Provide CWC challenge inspection readiness and facility preparation guidance. This includes an annual exercise at a Navy or Marine Corps facility to ensure DON is adequately prepared. Reference (d) provides a checklist that can be used for an actual CWC CI and should be used in an exercise. Notification for a DON exercise will be initiated at least 3 months in advance of the event and will include amplifying data on tasks, conditions and standards.

(2) Prepare CWC treaty training materials and coordinate training activities;

(3) Notify DON facilities and the appropriate chain of command of CWC challenge inspections;

(4) Dispatch the CWC Tiger Team to DON facilities to facilitate the conduct of CWC treaty authorized inspection operations and provide direct assistance to DON facilities, U.S. escorts, and negotiators; and

(5) Staff and operate the Treaty Operations Center (TOC) for the duration of the CWC challenge inspection.

d. Fleet Commanders and Fleet Marine Force Commanders shall minimize any adverse impact on schedules and operations of the Unified Combatant Commands while accommodating CWC verification activities. They shall prepare plans and execute operations to facilitate the conduct of CWC challenge inspections at DON facilities located on the territory of host governments overseas.

e. Director, Special Programs Division (CNO (N7SP)), is responsible to ensure DON Special Access Programs (SAPs) are prepared to demonstrate compliance during CWC challenge inspections without compromise of sensitive program information.

f. Director, Naval Criminal Investigative Service (NAVCRIMINSERV), is responsible for providing criminal,

01 SEP 2004

counter-intelligence, and counterterrorism support to Navy and Marine Corps commands during CWC challenge inspections.

g. Chief of Information, Department of the Navy (CHINFO), is responsible for public affairs planning and support during CWC challenge inspections. Release of DON Program Data shall be coordinated through the appropriate DON Program Managers.

5. Description. Any DON facility, whether in the U.S. or in a host nation overseas, is potentially subject to a challenge inspection. Upon approval of and as directed by their operational chain of command, the commanding officer of a Navy or Marine Corps facility designated for a challenge inspection in the U.S. or at an overseas base will receive on-site support from an NTIP CWC treaty Tiger Team.

a. The OPCW must notify the U.S. 12 hours in advance of the arrival of an inspection team at the Point of Entry (POE), which is Washington Dulles International Airport for all CWC challenge inspections in the U.S.

(1) Notification of a CWC challenge inspection at a U.S. facility is transmitted to the Nuclear Risk Reduction Center (NRRC) in the U.S. State Department. The NRRC notifies the Defense Threat Reduction Agency (DTRA) who in turn contacts the Navy Operations Center (NOC). The NOC then notifies NTIP. NTIP is responsible for notifying the facility commanding officer regarding the details of the CWC challenge inspection. The details include the approximate time of arrival of the OPCW Inspection Team at the POE and their approximate arrival time at the facility being inspected.

(2) Notification of inspection requests for Navy and Marine Corps facilities overseas will be accomplished in accordance with procedures established by the appropriate Unified Combatant Command. Notification mechanisms will be coordinated in agreements with host governments.

b. NTIP dispatches a Tiger Team (comprised of senior DON and civilian experts) to the facility in advance of arrival of the OPCW Inspection Team. The Tiger Team provides inspection planning support and CWC treaty expertise to the facility commanding officer regarding preparation for and execution of inspection responsibilities. Tiger Team support for Navy and Marine Corps facilities overseas will be accomplished in accordance with procedures established in reference (e) by the appropriate Unified Combatant Command.

01 SEP 2004

c. Reference (d) provides a description of challenge inspection operations and procedures for hosting and facilitating the conduct of inspections at DON facilities. Procedures for the conduct of inspections at Navy and Marine Corps facilities overseas have been developed and coordinated with the cognizant Unified Combatant Commander. Inspection readiness documentation provides sample checklists for physical security, operational security, facility safety, and other aspects of facility operations affected by a challenge inspection.

d. Counter-intelligence considerations shall be part of inspection readiness planning. NAVCRIMINSERV shall provide CWC threat, counter-espionage, and other support.

e. The U.S. Government representatives responsible for negotiating with the OPCW Inspection Team and accompanying the inspection team throughout the inspection are called the U.S. Host Team. All Host Team decisions are by consensus.

(1) For challenge inspections at DON facilities, the U.S. Host Team Leader will normally be a Chairman, Joint Chiefs of Staff (CJCS) representative of flag rank (or equivalent). The U.S. Host Team members include, at a minimum, the commanding officer of the inspected facility, a DON representative designated by DIRSSP, the DTRA Escort Team Chief, an Office of the Secretary of Defense Policy (OSD) representative and an OSD Security Policy representative. Other Services, DoD agencies, or other Government agencies may provide advisors to the Joint Staff member of the Host Team.

(2) For inspections on the territory of host governments overseas, a Unified Combatant Command representative is on the U.S. Host Team. The Joint Chiefs of Staff (JCS) may assign the Unified Combatant Command representative to lead the U.S. Host Team.

(3) The U.S. Host Team Leader speaks as the principal U.S. Government negotiator with the OPCW Inspection Team to ensure that inspection activities of U.S. assets are coordinated with the facility commanding officer and are limited to those required to perform the inspection based upon the contents of the inspection mandate; advises the facility commanding officer in the execution of all U.S. obligations during the inspection; ensures issues are identified and expeditiously resolved as

01 SEP 2004

necessary; and is the principal spokesperson between the Host Team and the Host Nation or inspected State Party.

(4) Commanding officers of Navy and Marine Corps facilities designated for a challenge inspection in the U.S. and overseas shall inform the U.S. Host Team of planned actions in accordance with DON policy in paragraph 3 b. The U.S. Host Team shall be responsible for facilitating the OPCW Inspection Team and its inspection, advising the facility commanding officer whether planned actions are compliant with the CWC, and referring any unresolved issues through the chain of command.

(5) The inspection shall be conducted within a "final" perimeter agreed to by the OPCW Inspection Team and the U.S. Host Team. Access to facility buildings, spaces, aircraft, vehicles, and ships in this area shall be negotiated either prior to the inspection team crossing the final perimeter or during the course of the inspection by the Inspection Team and the U.S. Host Team.

6. Action

a. Commanding officers of Navy and Marine Corps facilities that receive requests for CWC challenge inspections from sources other than their operational chain of command or NTIP should notify their chain of command using OPREP-3 reporting procedures, reference (f).

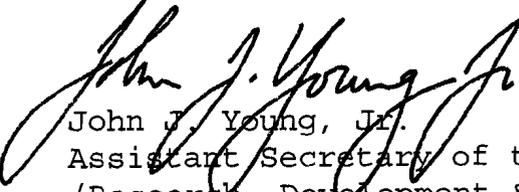
b. Commanding officers of Navy and Marine Corps facilities that are subjected to a CWC challenge inspection, including commanding officers of public vessels or commanders of state aircraft, will comply with this instruction and reference (d).

c. The Director of SSP shall, for CWC challenge inspections:

(1) Provide guidance and assistance to DON facilities as provided in this Instruction.

(2) Provide a DON representative to the Host Team.

(3) Budget and allocate resources for these functions.



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01 SEP 2004

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