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(iv) The analytical document used for stage or site specific analysis subsequent to the programmatic environmental impact statement shall also be an environmental impact statement when the subsequent tier itself may have a significant impact on the quality of the human environment or when an impact statement is otherwise required. Otherwise, it is appropriate to document the tiered analysis with an environmental assessment to fully assess the need for further documentation or whether a FONSI would be appropriate.

(2) [Reserved]

§ 775.10 Relations with state, local and regional agencies.

Close and harmonious planning relations with local and regional agencies and planning commissions of adjacent cities, counties, and states, for cooperation and resolution of mutual land use and environment-related problems should be established. Additional coordination may be obtained from state and area-wide planning and development "clearinghouses". These are agencies which have been established pursuant to Executive Order 12372 of July 14, 1982 (3 CFR, 1982 Comp., p. 197). The clearinghouses serve a review and coordination function for Federal activities and the proponent may gain insights on other agencies' approaches to environmental assessments, surveys, and studies in relation to any current proposal. The clearinghouses would also be able to assist in identifying possible participants in scoping procedures for projects requiring an EIS.

§ 775.11 Public participation.

The importance of public participation (40 CFR 1501.4(b)) in preparing environmental assessments is clearly recognized and it is recommended that commands proposing an action develop a plan to ensure appropriate communication with affected and interested parties. The command Public Affairs Office can provide assistance with developing and implementing this plan. In determining the extent to which public participation is practicable, the following are among the factors to be weighed by the command:

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(a) The magnitude of the environmental considerations associated with the proposed action;

(b) The extent of anticipated public interest; and

(c) Any relevant questions of national security and classification.

§ 775.12 Delegation of authority.

(a) The ASN (I&E) may delegate his/her responsibilities under this instruction for review, approval and/or signature of EISs and RODs to appropriate Executive Schedule/Senior Executive Service civilians or flag/general officers. ASN (I&E), CNO, and CMC may delegate all other responsibilities assigned in this instruction as deemed appropriate.

(b) The ASN (RD&A) delegation of authority for approval and signature of documents under NEPA is contained in SECNAV Instruction 5000.2 series, which sets out policies and procedures for acquisition programs.

(c) Previously authorized delegations of authority are continued until revised or withdrawn.

[69 FR 8112, Feb. 23, 2004]

PART 776—PROFESSIONAL CONDUCT OF ATTORNEYS PRACTICING UNDER THE COGNIZANCE AND SUPERVISION OF THE JUDGE ADVOCATE GENERAL

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Subpart D [Reserved]

AUTHORITY: 10 U.S.C. 806, 806a, 826, 827; Manual for Courts-Martial, United States, 1998; U.S. Navy Regulations, 1990; Secretary of the Navy Instruction 5430.27 (series), Responsibility of the Judge Advocate General for Supervision of Certain Legal Services.

SOURCE: 65 FR 15060, Mar. 21, 2000, unless otherwise noted.

Subpart A—General

§ 776.1 Purpose.

In furtherance of the authority citations (which, if not found in local libraries, are available from the Office of the Judge Advocate General, 1322 Patterson Avenue, SE., Suite 3000, Washington Navy Yard DC 20374-5066), which require the Judge Advocate General of the Navy (JAG) to supervise the performance of legal services under JAG cognizance throughout the Department of the Navy (DON), this part is promulgated:

(a) To establish Rules of Professional Conduct (subpart B of this part) for attorneys subject to this part;

(b) To establish procedures (subpart C of this part) for receiving, processing, and taking action on complaints of professional misconduct made against attorneys practicing under the supervision of JAG, whether arising from professional legal activities in DON proceedings and matters, or arising from other, non-U.S. Government related professional legal activities or personal misconduct which suggests the attorney is ethically, professionally, or morally unqualified to perform legal services within the DON; and

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(c) To ensure quality legal services at all proceedings under the cognizance and supervision of the JAG.

§ 776.2 Applicability.

(a) This part defines the professional ethical obligations of, and applies to, all “covered attorneys.”

(b) “Covered attorneys” include:

(1) The following U.S. Government (USG) attorneys, referred to, collectively, as “covered USG attorneys” throughout this part:

(i) All active-duty Navy judge advocates (designator 2500 or 2505) or Marine Corps judge advocates (MOS 4402 or 9914).

(ii) All active-duty judge advocates of other U.S. armed forces who practice law or provide legal services under the cognizance and supervision of the JAG.

(iii) All civil service and contracted civilian attorneys who practice law or perform legal services under the cognizance and supervision of the JAG.

(iv) All Reserve or Retired judge advocates of the Navy or Marine Corps (and any other U.S. armed force), who, while performing official DON duties, practice law or provide legal services under the cognizance and supervision of the JAG.

(v) All other attorneys appointed by JAG (or the Director, Judge Advocate (JA) Division, Headquarters Marine Corps (HQMC), in Marine Corps matters) to serve in billets or to provide legal services normally provided by Navy or Marine Corps judge advocates. This policy applies to officer and enlisted reservists, to active-duty personnel, and to any other personnel who are licensed to practice law by any Federal or state authorities, but who are not members of the Judge Advocate General’s Corps or who do not hold the 4402 or 9914 designation in the Marine Corps.

(2) The following non-U.S. Government attorneys, referred to, collectively, as “covered non-USG attorneys” throughout this part: All civilian attorneys representing individuals in any matter for which JAG is charged with supervising the provision of legal services. These matters include, but are not limited to, courts-martial, administrative separation

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boards or hearings, and disability evaluation proceedings.

(3) The term “covered attorney” does not include those civil service or civilian attorneys who practice law or perform legal services under the cognizance and supervision of the General Counsel of the Navy.

(c) Professional or personal misconduct unrelated to a covered attorney’s DON activities, while normally outside the ambit of these rules, may be reviewed under procedures established in subpart C of this part and may provide the basis for decisions by the JAG regarding the covered attorney’s continued qualification to provide legal services in DON matters.

(d) Although the Rules in subpart B of this part do not apply to non-attorneys, they do define the type of ethical conduct that the public and the military community have a right to expect from DON legal personnel. Covered USG attorneys who supervise non-attorney DON employees are responsible for their ethical conduct to the extent provided for in § 776.55 of this part. Accordingly, subpart B of this part shall serve as a model of ethical conduct for the following personnel when involved with the delivery of legal services under the supervision of the JAG:

(1) Navy legalmen and Marine Corps legal administrative officers, legal service specialists, and legal services reporters (stenotype);

(2) Limited duty officers (LAW);

(3) Legal interns; and

(4) Civilian support personnel including paralegals, legal secretaries, legal technicians, secretaries, court reporters, and others holding similar positions.

§ 776.3 Policy.

(a) Covered attorneys shall maintain the highest standards of professional ethical conduct. Loyalty and fidelity to the United States, to the law, to clients both institutional and individual, and to the rules and principles of professional ethical conduct set forth in subpart B of this part must come before private gain or personal interest.

(b) Whether conduct or failure to act constitutes a violation of the professional duties imposed by this part is a matter within the sole discretion of