

CHAIRMAN OF THE JOINT CHIEFS OF STAFF NOTICE

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DOM/SJS

CJCS Notice 5762

DISTRIBUTION: A, B, C, JS-LAN

14 July 2010

PRESERVATION OF EVIDENCE RELATED TO THE FIRE AND EXPLOSION AT THE DEEPWATER HORIZON FACILITY

Reference(s):

a. Department of Defense Office of General Counsel memorandum, 14 May 2010, "Preservation of Evidence Related to the Fire and Explosion at the Deepwater Horizon Facility Operated by BP Exploration & Production, Inc."

b. Department of Justice letter, 30 April 2010, "Preservation of Evidence Related to the Fire and Explosion at the Deepwater Horizon Facility Operated by BP Exploration & Production, Inc"

1. Purpose. To provide guidance to preserve and maintain evidence relating to the fire and explosion at the Deepwater Horizon Facility operated by BP Exploration and Production, Inc. and to not delete, destroy, overwrite, or throw away potential evidence.

2. Cancellation. None.

3. Applicability. This notice is applicable to the Joint Staff, Services, combatant commands, Defense agencies, and joint activities.

4. Background. Preservation of all evidence, documents, and recorded information related to the oil spill that occurred on 20 April 2010 approximately 60 miles from the Louisiana shore must be preserved, even if it otherwise could be destroyed, deleted, or overwritten in the normal course of Agency operations. If information that is subject to a litigation hold is destroyed, a court in some circumstances may impose sanctions, exclude evidence, and/or dismiss the claim. The priority is the protection of human health and the environment, particularly while the oil leak is continuing.

5. Action or Procedure

a. The preservation obligation falls primarily on each of the agencies involved in the investigation. The agencies bear the expense and burden of any preservation measures taken, as well as the risk of consequences for inadequate measures.

b. The information that must be preserved includes electronically stored information (ESI), hard copies of documents, and tangible assets. ESI includes, but is not limited to, computer files of any type including word processing documents, e-mail messages, spreadsheets, calendar entries, digital photographs or other digital images, floppy discs, CDs, DVDs, blogs, chats, wikis, Web pages, and flash memory media, including USB drives and memory cards for cameras and cell phones.

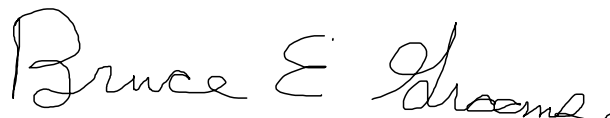
c. It not only includes information stored on agency computers but can also include information stored on home computers, personal laptop computers, PDAs such as Palm Pilots and Blackberries, and mobile phones, if used for work.

d. Examples of tangible assets may include equipment salvaged from the facility, laboratory samples, specimens, and photographs. All information, including privileged, protected, and confidential information, must be preserved.

e. This notice covers all evidence, documents, and information concerning the oil spill, whether or not it pertains to BP specifically.

6. Releasability. This notice is approved for public release; distribution is unlimited. DOD components (to include the combatant commands), other federal agencies, and the public may obtain copies of this notice through the Internet from the CJCS Directives Home Page--
http://www.dtic.mil/cjcs_directives.

7. Effective Date. This notice is effective upon receipt and will remain in effect until formally canceled.



B. E. GROOMS
RADM, USN
Vice Director, Joint Staff

