

3.0 IDENTIFICATION OF THE REMOVAL ACTION OBJECTIVE

This section sets forth the authority governing this NTCRA, identifies the RAO, and describes the removal action scope, the anticipated schedule, and the ARARs.

3.1 STATUTORY FRAMEWORK

This removal action is performed pursuant to CERCLA and NCP under the authority delegated by the Office of the President of the United States through Executive Order 12580 as redelegated. This order provides the Navy with authorization to conduct removal actions. The Defense Environmental Restoration Program (DERP) provides funding to the Navy for removal actions conducted under CERCLA. This removal action is non-time critical because a 6-month planning period was available from the time a removal action was determined to be necessary to the time when the removal action would be initiated.

This EE/CA identifies the recommended removal action alternative for Hangar 1 by evaluating the potentially applicable removal alternatives for the site. This EE/CA complies with the requirements of CERCLA; the Superfund Amendments and Reauthorization Act (SARA); the NCP at 40 C.F.R.; the DERP at 10 United States Code (U.S.C.) Section 2701, et seq.; and Executive Order 12580. This EE/CA is undertaken pursuant to 40 C.F.R., Part 300.415 (b)(4)(i) and (b)(4)(ii). The requirements for this EE/CA and its mandated public comment period provide an opportunity for public input with regard to the cleanup process.

The Navy is the lead agency for this NTCRA. As such, the Navy will choose the remedy after conducting all public participation activities. An AM that provides a written decision on the selected remedy and takes regulatory and public comments into account will be prepared based on this EE/CA. A written response to questions and comments submitted on the EE/CA during the public comment period will be provided as part of the AM.

3.2 REMOVAL ACTION OBJECTIVE

This removal action is being conducted in order to control the migration of PCBs from Hangar 1 to the environment through source elimination or containment, thereby eliminating human health and environmental concerns associated with potential exposure pathways, including the surface water runoff pathway to Site 25. As described in Section 2.3, the COCs are PCBs (Aroclor-1260 and Aroclor-1268). PCBs are present in the siding and interior components of Hangar 1. Building components from Hangar 1 are considered the most likely source of the PCBs reported in sediment in the stormwater collection trench around the perimeter of Hangar 1. The Navy, NASA, and regulatory agencies have agreed that source elimination or containment would control further release of PCBs from Hangar 1 to the environment and, therefore, would be the focus of this NTCRA.

Based on CERCLA and the NCP, the proposed RAO is to control the release of COCs at Hangar 1, thereby reducing the potential risks to human health and the environment while minimizing future operation and maintenance activities at the site.

The RAO will provide a basis for evaluation of removal action alternatives and recommendation of the most viable alternative for Site 29 that is presented in Sections 4.0, 5.0, and 6.0. Note that there will be no target cleanup goals required for the contaminants because the removal action will include either total removal or containment of the source.

3.3 DETERMINATION OF REMOVAL SCOPE

The scope of this NTCRA is to reduce the risks to human health and the environment associated with the release of COCs identified in the building components of Hangar 1. Specifically, the proposed removal action should control the migration of contaminants from Hangar 1 by controlling the source of contaminants released from the structure.

This NTCRA addresses the PCB contamination from the surface of the interior concrete floor slab, the building interior, and the exterior face of the hangar siding. It should also be noted that this removal action is not addressing 1) potential releases to groundwater, because data previously collected indicate there have been no impacts on groundwater; 2) adjacent structures and soils, because they are outside the scope of this NTCRA; 3) contamination in or below the concrete foundation, because the foundation will be left in place and there are no indications that it is contaminated; or 4) institutional controls, because they are outside the scope of this NTCRA. Once the NTCRA is complete, sampling will be conducted to determine if the area surrounding the hangar has been impacted as a result of the removal action. The sampling approach will be detailed in the NTCRA work plan.

The Navy will document the selection of the removal alternative in an AM. Upon successful completion of the removal action, the Navy will develop a Project Closeout Report to document the removal action and provide the basis for any subsequent steps that need to be taken.

Alternatives that leave COCs in place may require additional CERCLA documentation. Costs for these actions have not been included as part of this EE/CA.

3.4 DETERMINATION OF REMOVAL SCHEDULE

The limited warranty of the existing TCRA coating was the major consideration in determining the project schedule. The Navy intends to finalize the EE/CA and AM in time to complete the removal action while the interim coating is still effective. The schedule for implementation of the selected remedy will be included in the AM.

3.5 APPLICABLE OR RELEVANT AND APPROPRIATE REQUIREMENTS

As the lead federal agency, the Navy has primary responsibility for identifying potential ARARs at the Hangar 1 site. In preparing this ARAR analysis, the Navy considered the following measures, which are consistent with CERCLA and NCP:

- Identified federal ARARs for the alternatives addressed in the EE/CA, taking into account the Hangar 1 site-specific information
- Reviewed potential state ARARs identified by the state to determine whether they meet CERCLA and NCP criteria to constitute state ARARs
- Evaluated and compared federal ARARs and their state counterparts to determine which is more stringent
- Reached a conclusion as to which federal and state ARARs are the most stringent and/or “controlling” ARARs for each alternative

The final determination of federal ARARs will be made when the Navy issues the AM. The federal government implements a number of federal environmental statutes that are the source of potential federal ARARs, either in the form of the statutes or regulations promulgated thereunder. Examples include the Resource Conservation and Recovery Act (RCRA), the Clean Water Act (CWA), the Safe Drinking Water Act, TSCA, and their implementing regulations. See NCP preamble at 55 Federal Register 8764–8765 (1990) for a more complete listing.

The proposed removal action alternatives were reviewed against potential federal ARARs, including but not limited to those set forth at 55 Federal Register 8764–8765 (1990), in order to determine if they were applicable or relevant and appropriate in utilizing the CERCLA and NCP criteria and procedures for ARAR identification by lead federal agencies.

Section 121(d) of the CERCLA of 1980 (CERCLA, 42 U.S.C. Section 9621[d]), as amended, states that remedial actions at CERCLA sites must attain (or the decision document must justify the waiver of) any federal or more stringent state environmental standards, requirements, criteria, or limitations determined to be legally applicable or relevant and appropriate. Although Section 121 of CERCLA does not itself expressly require that CERCLA removal actions comply with ARARs, the USEPA has promulgated a requirement in the NCP mandating that CERCLA removal actions “. . . shall, to the extent practicable considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state

environmental or facility siting laws” (40 C.F.R., Part 300.415[j]). It is Navy policy to follow this requirement.

Applicable requirements are those cleanup standards, standards of control, and other substantive environmental protection requirements, criteria, or limitations promulgated under federal or state law that specifically address the situation at a CERCLA site. The requirement is applicable if the jurisdictional prerequisites of the standard show a direct correspondence when objectively compared to the conditions at the site. An applicable federal requirement is an ARAR. An applicable state requirement is an ARAR only if it is more stringent than corresponding federal ARAR.

If the requirement is not legally applicable, then the requirement is evaluated to determine whether it is relevant and appropriate. Relevant and appropriate requirements are those cleanup standards, standards of control, and other substantive environmental protection requirements, criteria, or limitations promulgated under federal or state law that, while not applicable, address problems or situations similar to the circumstances of the proposed removal action and are well suited to the conditions of the site (USEPA, 1988). A requirement must be determined to be both relevant and appropriate in order to be considered an ARAR.

The criteria for determining relevance and appropriateness are listed in 40 C.F.R., Part 300.400(g)(2) and include the following:

- Purpose of the requirement and the purpose of the CERCLA action
- Medium regulated or affected by the requirement and the medium contaminated or affected at the CERCLA site
- Substances regulated by the requirement and the substances found at the CERCLA site
- Actions or activities regulated by the requirement and the removal action contemplated at the CERCLA site
- Any variances, waivers, or exemptions of the requirement and their availability for the circumstances at the CERCLA site
- Type of place regulated and the type of place affected by the release or CERCLA action
- Type and size of structure or facility regulated and the type and size of structure or facility affected by the release or contemplated by the CERCLA action
- Consideration of use or potential use of affected resources in the requirement and the use or potential use of the affected resources at the CERCLA site

According to CERCLA ARARs guidance (USEPA, 1988), a requirement may be “applicable” or “relevant and appropriate,” but not both. Identification of ARARs must be done on a site-specific basis and involve a two-part analysis: first, a determination whether a given requirement is

applicable; then, if it is not applicable, a determination whether it is nevertheless both relevant and appropriate. It is important to explain that some regulations may be applicable or, if not applicable, may still be relevant and appropriate. When the analysis determines that a requirement is both relevant and appropriate, such a requirement must be complied with to the same degree as if it were applicable (USEPA, 1988).

To constitute an ARAR under CERCLA, a requirement must be determined to be substantive, rather than procedural or administrative. Therefore, only the substantive provisions of requirements identified as ARARs in this analysis are considered to be ARARs. Permits are considered procedural or administrative requirements. Provisions of generally relevant federal and state statutes and regulations that were determined to be procedural or non-environmental, including permit requirements, are not considered to be ARARs. CERCLA Section 121(e)(1), 42 U.S.C., Section 9621(e)(1), states that “No Federal, State, or local permit shall be required for the portion of any removal or remedial action conducted entirely on-site, where such remedial action is selected and carried out in compliance with this section.” The term “on-site” is defined for purposes of this ARAR discussion as “the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the removal action” (40 C.F.R., Part 300.5).

Pursuant to USEPA guidance, ARARs are generally divided into three categories: chemical-, action-, and location-specific requirements. This classification was developed to aid in the identification of ARARs. ARARs are identified on a site-specific basis for removal actions using CERCLA authority as the basis for cleanup.

Tables 3-1 through 3-6 present each potential ARAR with an initial determination of ARAR status (i.e., applicable, relevant and appropriate, or not an ARAR). For the determination of relevance and appropriateness, the pertinent criteria were examined to determine whether the requirements addressed problems or situations sufficiently similar to the circumstances of the potential removal actions contemplated, and whether the requirement was well suited to the site. A negative determination of relevance and appropriateness indicates that the requirement did not meet the pertinent criteria. Negative determinations are documented in the tables and are discussed in the text only when an additional discussion is warranted.

3.5.1 Identification Process for Federal ARARs

As the lead federal agency, the Navy has primary responsibility for identifying federal ARARs at Hangar 1. Potential federal ARARs that have been identified for Hangar 1 are discussed in Sections 3.5.4.1, 3.5.5.1, and 3.5.6.1. Pursuant to the definition of the term “on-site” in 40 C.F.R., Part 300.5, the on-site areas that are part of this action include Hangar 1.

3.5.2 Identification Process for State ARARs

To qualify as a state ARAR under CERCLA and the NCP, a state requirement must be:

- A state law or regulation
- An environmental or facility siting law or regulation
- Promulgated (of general applicability and legally enforceable)
- Substantive (not procedural or administrative)
- More stringent than corresponding federal requirements
- Identified in a timely manner
- Consistently applied

Identification of potential state ARARs was initiated through Navy requests that the State Water Resources Control Board (SWRCB) identify potential state ARARs, an action described in more detail in Section 3.5.3.

3.5.3 Methodology Description

In preparing this ARAR analysis, the Navy undertook the following measures, consistent with CERCLA and the NCP:

- Identified federal ARARs for each removal action alternative addressed in the EE/CA, taking into account site-specific information
- Reviewed potential state ARARs identified by the state to determine whether they meet CERCLA and NCP criteria to constitute state ARARs
- Evaluated and compared federal ARARs and their state counterparts to determine whether state ARARs are more stringent than the federal ARARs or are in addition to the federally required actions
- Reached a conclusion as to which federal and state ARARs were the most stringent and/or “controlling” ARARs for each alternative

Identifying and Evaluating State ARARs

The CERCLA/NCP requirements at 40 C.F.R, Part 300.515 for removal actions provide that the lead federal agency request that the state identify chemical-, action-, and location-specific state ARARs upon completion of site characterization. The requirements also provide that the lead federal agency request identification of all categories of state ARARs (chemical-, action-, and location-specific) upon completion of identification of removal alternatives for detailed analysis. The state must respond within 30 days of receipt of the lead federal agency requests. The remainder of this subsection documents the Navy’s efforts to date to identify and evaluate state ARARs.

Chronology of Efforts to Identify State ARARs

The following chronology summarizes the Navy's efforts to obtain state assistance in identifying state ARARs for the removal action at Hangar 1. Key correspondence between the Navy and the state agencies relating to this effort is included in the Administrative Record for this EE/CA.

The Navy requested state chemical-, action-, and location-specific ARARs for Hangar 1 on October 8, 2004. It sent a letter to the Water Board soliciting ARARs based on potential cleanup scenarios proposed by the Navy.

The Navy received a letter from the Water Board providing its chemical-, action-, and location-specific ARARs on November 2, 2004 (Water Board, 2004). The ARARs were prepared with the understanding that:

- WATS, separate from Hangar 1, will address any potential discharges of pollutants from Hangar 1 into the groundwater. (*Groundwater from the extraction wells and the sumps were analyzed for Aroclor-1268. Sample results indicated that for all the groundwater samples collected, concentrations of Aroclor-1268 were below the detection limit [Table 2-].*)
- The pollution caused by the stormwater from Hangar 1 at IR Site 25 (Stormwater Retention Pond) will be considered as part of IR Site 25.
- The majority of the area surrounding Hangar 1 is paved and regularly maintained by NASA.

This ARAR analysis addresses the potential state ARARs that are identified in the above correspondence from the Water Board and in codes and regulations from the following state agencies and departments:

- Department of Toxic Substances Control (DTSC)
- Air Resources Board
- Bay Area Air Quality Management District (BAAQMD)

3.5.4 Potential Chemical-specific ARARs

Chemical-specific ARARs are generally health- or risk-based numerical values or methodologies applied to site-specific conditions that result in the establishment of a cleanup level. Many potential ARARs associated with particular removal alternatives (such as closure or discharge) could be characterized as action-specific, but they include numerical values or methodologies to establish them so they fit into both categories (chemical- and action-specific). To simplify the comparison of numerical values, most action-specific requirements that include numerical values are included in this chemical-specific section.

This subsection presents a summary of specific regulations and presents ARAR determinations and conclusions addressing numerical cleanup values for Hangar 1.

3.5.4.1 Potential Federal Chemical-specific ARARs

The following potential federal chemical-specific ARARs have been identified. Further discussion is contained in Table 3-1.

National Ambient Water Quality Criteria and Standards

Section 304(a)(1) of the Clean Water Act (CWA) (33 U.S.C. Section 1314[a][1]) directs USEPA to publish and periodically update the National Ambient Water Quality Criteria (NAWQC). These standards are intended to protect human health and aquatic life from contamination in surface water. The NAWQC are updated in the Federal Register. The latest list of the NAWQC through June 2000 was published in the Federal Register on December 10, 1998, with amendments in 64 Federal Register 19,781. These criteria reflect the latest scientific knowledge on the identifiable effects of pollutants on public health and welfare, aquatic life, and recreation. These criteria serve as guidance to individual states in adopting water quality standards under Section 303(c) of the CWA that protect aquatic life from both acute and chronic adverse effects. The regulation 40 C.F.R., Part 131.36(b) is potentially applicable to discharges of surface water, which may be generated through stormwater runoff at the site.

The federal water quality criteria at 40 C.F.R., Parts 131.36(b), 131.37, and 131.38 (referred to as the National Toxics Rule and the California Toxics Rule) are potentially applicable federal requirements for any discharges to surface water.

Additional water quality standards for salinity in San Francisco Bay are set forth in 40 C.F.R., Part 131.37, General Notes 10(i) and 10(ii) to 40 C.F.R., Part 131.38. These regulations set specific criteria for water quality and amend the applicable Basin Plan criteria if the Basin Plan excluded the particular compound, or the criterion was less stringent than the federal standard contained in USEPA's Section 304(a) criteria for Priority Toxic Pollutants found at 40 C.F.R., Part 131.36(b)(1).

RCRA Hazardous Waste Standards

RCRA is a federal statute passed in 1976 to meet four goals: the protection of human health and the environment, the reduction of waste, the conservation of energy and natural resources, and the elimination of the generation of hazardous waste as expeditiously as possible. The Hazardous and Solid Waste Amendments (HSWA) of 1984 significantly expanded the scope of RCRA by adding new corrective action requirements, land disposal restrictions, and technical requirements. RCRA, as amended, contains several provisions that are potential ARARs for CERCLA sites.

Substantive RCRA requirements are applicable to removal actions on CERCLA sites if the waste is a RCRA hazardous waste, and either the:

- Waste was initially treated, stored, or disposed of after the effective date of the particular RCRA requirement; or
- Activity at the CERCLA site constitutes treatment, storage, or disposal, as defined by RCRA (USEPA, 1988).

The preamble to the NCP indicates that state regulations that are components of a federally authorized or delegated state program are generally considered federal requirements and potential federal ARARs for the purposes of ARAR analysis (55 Federal Register 8666, 8742 [1990]). The state of California received approval for its base RCRA hazardous waste management program on July 23, 1992 (57 Federal Register 32726 [1992]). The state of California Environmental Health Standards for the Management of Hazardous Waste, set forth in California Code of Regulations (Cal. Code Regs.), Title (tit.) 22, Division (div.) 4.5, were approved by USEPA as a component of the federally authorized state of California RCRA program. On September 26, 2001, California received final authorization of its revised State Hazardous Waste Management Program by the USEPA (63 Federal Register 49118 [2001]).

The regulations of Cal. Code Regs., tit. 22, div. 4.5 are, therefore, a source of potential federal ARARs for CERCLA removal actions. The exception is when a state regulation is “broader in scope” than the corresponding federal RCRA regulations. In that case, such regulations are not considered part of the federally authorized program or potential federal ARARs; instead, they are purely state law requirements and potential state ARARs.

The USEPA July 23, 1992, notice approving the state of California RCRA program (57 Federal Register 32726 [1992]) specifically indicated that the state regulations addressed certain non-RCRA, state-regulated hazardous wastes that fell outside the scope of federal RCRA requirements. Cal. Code Regs., tit. 22, div. 4.5 requirements would be potential state ARARs for such non-RCRA, state-regulated wastes.

A key threshold question for the ARAR analysis is whether or not the contaminants at Hangar 1 constitute federal hazardous waste as defined under RCRA and the state’s authorized program, or qualify as non-RCRA, state-regulated hazardous waste. Federal RCRA hazardous waste determination is necessary to determine whether a waste is subject to RCRA requirements at Cal. Code Regs., tit. 22, div. 4.5 and other state requirements at Cal. Code Regs., tit. 23, div. 3, Chapter (ch.) 15. The first step in the RCRA hazardous waste characterization process is to evaluate contaminated media at the site(s) and determine whether the contaminant constitutes a “listed” RCRA waste. The preamble to the NCP states that “... it is often necessary to know the origin of the waste to determine whether it is a listed waste and that, if such documentation is lacking, the lead agency may assume it is not a listed waste” (55 Federal Register 8666, 8758 [1990]).

This approach is confirmed in USEPA guidance for CERCLA compliance with other laws (USEPA, 1988) as follows:

To determine whether a waste is a listed waste under RCRA, it is often necessary to know the source. However, at many Superfund sites, no information exists on the source of wastes. The lead agency should use available site information, manifests, storage records, and vouchers in an effort to ascertain the nature of these contaminants. When this documentation is not available, the lead agency may assume that the wastes are not listed RCRA hazardous wastes, unless further analysis or information becomes available that allows the lead agency to determine that the wastes are listed RCRA hazardous wastes.

RCRA hazardous wastes that have been assigned USEPA hazardous waste numbers (or codes) are listed in Cal. Code Regs., tit. 22, Sections 66261.30-66261.33. The lists include hazardous waste codes beginning with the letters “F,” “K,” “P,” and “U.”

Knowledge of the exact source of a waste is required for source-specific listed wastes (K waste codes). Some knowledge of the nature or source of the waste is required even for listed wastes from non-specific sources, such as spent solvents (F waste codes) or commercial chemical products (P and U waste codes). These listed RCRA hazardous wastes are restricted to commercially pure chemicals used in particular processes such as degreasing.

P and U wastes cover only unused and unmixed commercial chemical products, particularly spilled or off-spec products (USEPA, 1991). Not every waste containing a P or U chemical is a hazardous waste. To determine whether a CERCLA investigation-derived waste contains a P or U waste, there must be direct evidence of product use. In particular, the following criteria must be met. The chemicals must be:

- Discarded (as described in 40 C.F.R., Part 261.2[a][2])
- Either off-spec commercial products or a commercially sold grade
- Not used (soil contaminated with spilled unused wastes is a P or U waste)
- The sole active ingredient in a formulation

Hazardous wastes can be classified as either listed or characteristic. Hangar 1 wastes are anticipated to be characteristic hazardous wastes, specifically for toxicity. Assumptions were made regarding waste classification for the purpose of this EE/CA based on previously collected data; however, all waste will be fully characterized prior to off-site disposal and will be managed accordingly.

Hazardous waste characteristics, as defined in 40 C.F.R., Parts 261.21 to 261.24, are commonly referred to as ignitability, corrosivity, reactivity, and toxicity. California environmental health standards for the management of hazardous waste set forth in Cal. Code Regs., tit. 22, div. 4.5

were approved by USEPA as a component of the federally authorized California RCRA program. Therefore, the characterization of RCRA waste is based on the state requirements.

The characteristics of ignitability, corrosivity, reactivity, and toxicity are defined in Cal. Code Regs., tit. 22, Sections 66261.21–66261.24. According to Cal. Code Regs., tit. 22, Section 66261.24(a)(1)(A), “A waste that exhibits the characteristic of toxicity pursuant to subsection (a)(1) of this section has the USEPA Hazardous Waste Number specified in Table I of this section, which corresponds to the toxic contaminant causing it to be hazardous.” Table I assigns hazardous waste codes beginning with the letter “D” to wastes that exhibit the characteristic of toxicity; D waste codes are limited to “characteristic” hazardous wastes.

According to Cal. Code Regs., tit. 22, Section 66261.10, waste characteristics can be measured by an available standardized test method or be reasonably classified by generators of waste based on their knowledge of the waste provided that the waste has already been reliably tested or if there is documentation of chemicals used.

The requirements at Cal. Code Regs., tit. 22, Section 66261.24 list the toxic contaminant concentrations that determine the characteristic of toxicity. The concentration limits are in milligrams per liter (mg/L). These units are directly comparable to total concentrations in waste groundwater and surface water. For wastes that are solid in nature, these concentrations apply to the extract or leachate produced by the Toxicity Characteristic Leaching Procedure (TCLP).

A waste is considered hazardous if the contaminants in the wastewater or in the soil TCLP extract equal or exceed the TCLP limits. TCLP testing is required only if total contaminant concentrations in soil equal or exceed 20 times the Total Threshold Limit Concentration (TTLC) limits because TCLP uses a 20-to-1 dilution for the extract.

Site concentrations of lead exceed 20 times the TTLC limits and are expected to be considered a RCRA hazardous waste. Other regulations apply, such as TSCA, which will further characterize site wastes. These regulations are detailed in follow-on sections.

RCRA Groundwater Protection Standards

These standards are not “applicable” because IR Site 29 does not contain a RCRA waste management unit. However, substantive provisions of Cal. Code Regs. tit. 22, Section 66264.94(a)(1), (a)(3), (c), (d), and (e) are “relevant and appropriate” and, therefore, potential federal ARARs for groundwater because the wastes at the site are similar or identical to RCRA hazardous wastes.

Land Disposal Restrictions

RCRA land disposal restrictions (LDRs) at Cal. Code Regs., tit. 22, Section 66268.1(f) are potential federal ARARs for discharging waste to land. This section prohibits the disposal of hazardous waste to land unless 1) it is treated in accordance with the treatment standards of Cal. Code Regs., tit. 22, Section 66268.40 and the underlying hazardous constituents meet the universal treatment standards at Cal. Code Regs., tit. 22, Section 66268.48; and 2) it is treated to meet the alternative soil treatment standards of Cal. Code Regs., tit. 22, Section 66268.49; or a treatability variance is obtained under Cal. Code Regs., tit. 22, Section 66268.44. These are potentially applicable federal ARARs because they are part of the state-approved RCRA program. RCRA treatment standards for non-RCRA, state-regulated waste are not potentially applicable federal ARARs, but they may be relevant and appropriate state ARARs.

Bay Area Air Quality Management District Regulations

The Clean Air Act (CAA) establishes the National Ambient Air Quality Standards (NAAQS) in 40 C.F.R., Parts 50.4–50.12. NAAQS are not enforceable in and of themselves; they are translated into source-specific emissions limitations by the state. Substantive requirements of the BAAQMD regulations that have been approved by the USEPA as part of the State Implementation Plan (SIP) under the CAA are potential federal ARARs for air emissions (CAA, Section 110). The SIP includes rules for emissions restrictions for particulates, organic compounds, and hazardous air pollutants, as well as standards of performance for new sources.

BAAQMD Regulation 2, Rule 2-301 specifies that the best available control technology will be applied to any new source or modified source with the potential to emit 10.0 pounds or more per highest day of precursor organic compounds, non-precursor organic compounds, nitrogen oxides, sulfur dioxide, particulate matter less than 10 microns in diameter (PM₁₀), or carbon monoxide. This regulation is not applicable to activities at the NTCRA, because there are no “sources” as defined by the regulation; however, it is considered potentially relevant and appropriate since the work being conducted could potentially emit particulates. Appropriate dust control measures will be in place to prevent triggering this regulation.

BAAQMD Regulation 6-301 limits visible emissions from the site, as specified by the Ringelmann Chart. Best Management Practices (BMPs) to reduce dust emissions will help maintain compliance with the regulation, which is considered potentially applicable to removal activities.

BAAQMD Regulation 6-311 sets emission rate limits for particulate matter. Because the limits are based on process weight rate and the removal action employs no production processes, the regulation is neither applicable nor relevant and appropriate.

BAAQMD Regulation 8, Rule 3, requires that architectural coatings must meet standards for maximum volatile organic compound (VOC) content, and lists specific VOC content for each type of coating. The rule applies to anyone who supplies, sells, manufactures, as well as anyone who applies, or solicits the application of, any architectural coating. This rule is potentially relevant and appropriate to alternatives specifying coating.

BAAQMD Regulation 11, Rule 1 requires air monitoring for lead, a hazardous air pollutant (HAP). Lead discharges in excess of 1 microgram per cubic meter are prohibited. Because the removal action does not meet the definition of a source, this rule is not considered applicable. In addition, any demolition will be performed using standard industry work practices with no grinding or scarifying; emissions will not be sufficient to consider the regulation potentially relevant and appropriate.

BAAQMD Regulation 11, Rule 2 describes the asbestos management and removal requirements during demolition and renovation projects. It is potentially applicable where asbestos may be removed.

3.5.4.2 Potential State Chemical-specific ARARs

The following potential state chemical-specific regulations have been identified and are further set forth in Table 3-2.

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (referred to as the Porter-Cologne Act) became Division 7 of the California Water Code in 1969. The Porter-Cologne Act requires each regional board to formulate and adopt Basin Plans for all areas within the region (California Water Code, Section 13240). It also requires each regional board to establish water quality objectives (WQOs) that will protect the beneficial uses of the water basin (California Water Code, Section 13241), and to prescribe waste discharge requirements that would implement the Basin Plan for any discharge of waste to the waters of the state (California Water Code, Section 13263[a]).

Other sections of the Porter-Cologne Act include California Water Code, Section 13243, which allows regional boards to specify conditions or areas where waste discharge is not permitted. California Water Code, Section 13269, provides the Water Board's authority for waivers for reports or compliance with requirements, as long as it is not against the public interest. California Water Code, Section 13360, specifies circumstances for regional boards to order compliance in a specific manner.

The Navy accepts the substantive provisions of California Water Code, Sections 13241, 13243, 13263(a), 13269, and 13360 of the Porter-Cologne Act as enabling legislation as implemented through the beneficial uses, WQOs, waste discharge requirements, and promulgated policies of the Water Board.

California Water Code, Section 13304, was provided by the Water Board as an ARAR for Hangar 1. However, this section sets forth enforcement authority and an enforcement process (orders issued by the state) and is procedural in nature. It does not constitute an ARAR because it does not establish or contain substantive environmental “standards, requirements, criteria, or limitations” (CERCLA Section 121) and is not in itself directive in intent. Through its enforcement authority and procedures, substantive state environmental standards set forth in other statutes, regulations, plans, and orders are enforced. In addition, California Water Code, Section 13304, is no more stringent than the substantive requirements of the potential state ARARs identified in the following sections; therefore, it is not an ARAR for this removal action.

California Water Code, Section 13307.1(c), was identified by the Water Board as an ARAR for Hangar 1 and enforces the implementation of land-use restrictions if a site is subject to a cleanup order. However, the scope of this removal action is limited to addressing releases of hazardous substances from Hangar 1 into the environment via stormwater runoff. The Navy does not intend to address institutional controls as part of the response addressed by this EE/CA for Hangar 1. Therefore, this requirement does not pertain to the scope of the removal action. If necessary, institutional controls will be addressed through a separate CERCLA process.

SWRCB Resolution No. 88-63 was provided by the Water Board as an ARAR for Hangar 1. The Navy accepts that this resolution may be an ARAR for surface water drinking sources. No discharges to surface water drinking sources will occur, and groundwater remediation is not considered part of this NTCRA; therefore, this resolution is not applicable to the removal action.

Cal. Code Regs., tit. 27, Section 20080 et seq. and Cal. Code Regs., tit. 23, Section 2510 et seq. were provided by the Water Board as ARARs for Hangar 1. Because on-site discharge of waste to land is not part of the proposed removal action, these regulations are not applicable to the removal action.

Cal. Code Regs., tit. 27, Section 20230 was provided by the Water Board as an ARAR for Hangar 1. This regulation allows inert waste to be discharged at units, which are not classified. Because this NTCRA is being conducted under CERCLA, site waste must be disposed of in accordance with the CERCLA off-site rule; therefore, this regulation is not applicable to the removal action.

Basin Plan

The Basin Plan (1994) for the San Francisco Bay Region was prepared and implemented by the Water Board to protect and to enhance the quality of the waters in San Francisco Bay. The Basin Plan establishes location-specific beneficial uses and WQOs for the surface water and groundwater of the region and is the basis of the Water Board regulatory programs. The Basin Plan includes both numeric and narrative WQOs for specific groundwater sub-basins. The

WQOs are intended to protect the beneficial uses of the waters of the region and to prevent nuisance to humans or the environment.

Beneficial use and reuse of water are key aspects of the Basin Plan. Hangar 1 is located in the Santa Clara Basin. The following beneficial-use designations for surface water, specifically for Stevens Creek, include:

- Freshwater replenishment
- Water contact recreation
- Non-contact water recreation
- Wildlife habitat
- Cold freshwater habitat
- Warm freshwater habitat
- Fish migration
- Fish spawning

WQOs have been established for the basin. Sediment, suspended materials, and toxic substances are the most likely potential direct threat to surface water quality from the site. WQOs include the following:

- Sediment and suspended materials shall not be discharged in concentrations that cause nuisance or adversely affect beneficial uses.
- The specific surface WQOs for toxic pollutants potentially present at Hangar 1 include the following:

Compound	4-day Average (µg/L)	1-hour Average (µg/L)
Lead	2.5	65
Zinc	120	120

Abbreviations and Acronyms:

µg/L – micrograms per liter

Numeric WQOs have not been established in the Basin Plan for PCBs. A narrative objective for toxic substances in surface water states:

“All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms. Detrimental responses include, but are not limited to, decreased growth rate and decreased reproductive success of resident or indicator species. There shall be no acute toxicity in ambient waters. Acute toxicity is defined as a median of less than

90 percent survival, or less than 70 percent survival, 10 percent of the time, of test organisms in a 96-hour static or continuous flow test. There shall be no chronic toxicity in ambient waters.”

Substantive provisions in Chapters 2 through 4 of the Basin Plan for the Water Board are considered potentially applicable to the removal action.

State Water Resources Control Board Resolutions 92-49 and 68-16

SWRCB Resolution 92-49 (as amended on April 21, 1994, and October 2, 1996) is titled Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under California Water Code Section 13304. This resolution was proposed by the Water Board as a potential ARAR and contains policies and procedures for the regional boards that apply to all investigations and cleanup and abatement activities for all types of discharges subject to California Water Code Section 13304.

SWRCB Resolution 68-16, Statement of Policy With Respect to Maintaining High Quality of Waters in California, was proposed by the Water Board as a potential ARAR and establishes the policy that high-quality waters of the state “shall be maintained to the maximum extent possible” consistent with the “maximum benefit to the people of the state.” It provides that whenever the existing quality of water is better than the required applicable water quality policies, such existing high-quality water will be maintained until it has been demonstrated to the state that any change will be consistent with maximum benefit to the people of the state, will not unreasonably affect present and anticipated beneficial use of such water, and will not result in water quality less than that prescribed in the policies. It also states that any activity that produces or may produce a waste or increased volume or concentration of waste and that discharges or proposes to discharge to existing high-quality waters will be required to meet waste-discharge requirements that will result in the best practicable treatment or control of the discharge necessary to assure that a) pollution or a nuisance will not occur, and b) the highest water quality consistent with maximum benefit to the people of the state will be maintained.

The Navy and the state of California have not agreed on whether SWRCB Resolutions 92-49 and 68-16 and Cal. Code Regs., tit. 23, Section 2550.4 are ARARs for this removal action. This EE/CA documents each party’s positions on the resolutions but does not attempt to resolve the issue.

Navy’s Position Regarding SWRCB Resolutions 92-49 and 68-16

The Navy recognizes that the key substantive requirements of Cal. Code Regs., tit. 22, Section 66264.94 (and the identical requirements of Cal. Code Regs., tit. 23, Section 2550.4 and Section III.G of SWRCB Resolution 92-49) require cleanup to background levels of constituents unless such restoration proves to be technologically or economically infeasible and an alternative cleanup level of constituents will not pose a substantial present or potential hazard to human

health or the environment. In addition, the Navy recognizes that these provisions are more stringent than corresponding provisions of 40 C.F.R., Part 264.94 and, although they are federally enforceable via the RCRA program authorization, they are also independently based on state law to the extent that they are more stringent than the federal regulations.

The Navy has also determined that SWRCB Resolution 68-16 is not a chemical-specific ARAR for determining removal action goals. More specifically, the language of SWRCB Resolution 68-16 indicates that it is prospective in intent, applying to new discharges in order to maintain existing high-quality waters. It is not intended to apply to restoration of waters that are already degraded. However, the Navy agrees that SWRCB Resolution 68-16 is an action-specific ARAR for regulating the discharge of treated water back into surface waters.

The Navy's position is that SWRCB Resolutions 68-16 and 92-49 and Cal. Code Regs., tit. 23, Section 2550.4 do not constitute chemical-specific ARARs for this removal action because they are state requirements and are not more stringent than federal ARAR provisions of Cal. Code Regs., tit. 22, Section 66264.94. The NCP set forth in 40 C.F.R., Part 300.400(g)(4) provides that only state standards more stringent than federal standards may be ARARs (see also CERCLA Section 121[d][2][A][ii]) ([42 U.S.C., Section 9621[d][2][A][ii]).

The substantive technical standard in the equivalent state requirements (i.e., Cal. Code Regs., tit. 23, div. 3, ch. 15 and SWRCB Resolutions 92-49 and 68-16) is identical to the substantive technical standard in Cal. Code Regs., tit. 22, Section 66264.94. This section of Cal. Code Regs., tit. 22 will likely be applied in a manner consistent with equivalent provisions of other regulations, including SWRCB Resolutions 92-49 and 68-16.

State of California's Position Regarding SWRCB Resolutions 92-49 and 68-16

The state does not agree with the Navy determination that SWRCB Resolutions 92-49 and 68-16 and certain provisions of Cal. Code Regs., tit. 23, div. 3, ch. 15 are not ARARs for this removal action. SWRCB has interpreted the term "discharges" in the California Water Code to include the movement of waste from soils to groundwater and from contaminated to uncontaminated water (SWRCB, 1994). However, the state agrees that the proposed action would comply with SWRCB Resolutions 92-49 and 68-16, and compliance with the Cal. Code Regs., tit. 22 provisions should result in compliance with the Cal. Code Regs., tit. 23 provisions. The state does not intend to dispute this removal action, but reserves its rights if implementation of the Cal. Code Regs., tit. 22 provisions is not as stringent as state implementation of Cal. Code Regs., tit. 23 provisions. Because Cal. Code Regs., tit. 22 regulation is part of the state's authorized hazardous waste control program, it is also the state's position that Cal. Code Regs., tit. 22, Section 66264.94 is a state ARAR and not a federal ARAR (United States v. State of Colorado, 990 F.2d 1565 [1993]).

State Water Resources Control Board Resolution 88-63

SWRCB Resolution 88-63, Adoption of Policy entitled “Sources of Drinking Water,” was proposed by the Water Board as a potential ARAR and establishes criteria to help the Water Board identify potential sources of drinking water. According to this resolution, all groundwater in California is considered suitable or potentially suitable for domestic or municipal freshwater supply, except in cases where any one of the following water quality and production criteria cannot be met:

- Total dissolved solids exceed 3,000 mg/L (or electrical conductivity is greater than 5,000 micro-Ohms per centimeter) and the Water Board does not reasonably expect the groundwater to supply a public supply system.
- Groundwater is contaminated either by natural processes or by human activity unrelated to a specific pollution incident, and cannot reasonably be treated for domestic use either by BMPs or best economically available treatment practices.
- The groundwater does not provide sufficient water to supply a single well capable of producing an average sustained yield of 200 gallons per day.

The Navy has determined that this resolution may be an ARAR for surface water drinking sources. However, no discharges to surface water drinking sources will occur. Additionally, groundwater treatment is not a part of this removal action. As a result of these two factors, this resolution is neither applicable nor relevant and appropriate and, therefore, not an ARAR for the site.

Non-RCRA-Hazardous Waste Standards

State requirements such as non-RCRA, state-regulated hazardous waste requirements may be potential state ARARs because they are not within the scope of the federal ARARs (57 Federal Register 60848). The Cal. Code Regs., tit. 22, div. 4.5 requirements that are part of the state-approved RCRA program would be potential state ARARs for non-RCRA, state-regulated hazardous wastes.

The site waste characteristics need to be compared to the definition of non-RCRA, state-regulated hazardous waste. The non-RCRA, state-regulated waste definition requirements at Cal. Code Regs., tit. 22, Section 66261.24(a)(2)(a)(8) are potential state ARARs for determining whether other RCRA requirements are potential state ARARs. This section lists the TTLCs and Soluble Threshold Limit Concentrations (STLCs). The site waste may be compared to these thresholds to determine whether the waste meets the characteristics for a non-RCRA, state-regulated hazardous waste. Wastes including those that contain lead greater than the TTLC or STLC, asbestos, and PCBs greater than 50 mg/kg are expected to be non-RCRA-hazardous wastes.

Hazardous Waste LDRs for Non-RCRA-Hazardous Waste

If the generated wastes are classified as a non-RCRA-hazardous waste, then Cal. Code Regs., tit. 22, Section 66268.105 could be potentially applicable. These standards must be attained prior to land disposal of the waste. Assumptions were made regarding waste classification for purpose of this EE/CA based on previously collected data; however, all waste will be fully characterized prior to off-site disposal and will be managed accordingly.

3.5.5 Location-specific ARARs

Potential location-specific ARARs are identified and discussed in this section. The discussions are presented based on various attributes of the site location, such as whether it is a historic property. Additional surveys will be performed in connection with the removal action design and removal action to confirm location-specific ARARs, where inadequate siting information currently exists, or in the event of changes to planned facility locations.

3.5.5.1 Potential Federal Location-specific ARARs

The following potential federal location-specific regulations have been identified. They are further set forth in Table 3-3.

National Historic Preservation Act of 1966

The substantive provisions of Section 106 of the NHPA (16 U.S.C., Section 470, et seq.) and their implementing regulations (36 C.F.R., Part 800), as amended, are potential federal ARARs. The Navy is required to take into account the effects of CERCLA removal actions on any historic properties included in or eligible for inclusion in the NRHP [<http://www.cr.nps.gov/nr/>]. The NRHP is a list of districts, sites, buildings, structures, and objects that are significant in American history, architecture, archaeology, engineering, and culture.

The substantive requirements of 36 C.F.R., Part 800 are summarized below:

1. Identify cultural resources included in (or eligible for inclusion based upon the criteria set forth at 36 C.F.R., Part 800.4) the NRHP that are located at or near the area under study.

Hangar 1 is individually eligible for listing in the NRHP and is a contributing element of the Historic District, which is listed in the NRHP. The area under study should be identified and documented as the area of potential effects per 36 C.F.R., Part 800.4(a)(1).

2. Identify and take into account the possible effects of proposed removal action alternatives on historic properties included in or eligible for inclusion in the NRHP.

If the proposed removal action will have no effect on historic properties, document a finding of “no historic properties affected” (36 C.F.R., Part 800.4[d]).

3. Identify and take into account adverse effects of proposed removal action alternatives on historic properties.

If the proposed removal alternatives will have an effect on such resources, apply the Criteria of Adverse Effect and determine whether or not such effects are adverse effects (36 C.F.R., Part 800.5). If it is determined that the effects are not adverse, document a “finding of no adverse effect” (36 C.F.R., Part 800.5[b]).

If it is determined that there will be adverse effects to historic properties, document a “finding of adverse effect” and take into account measures that would avoid, minimize, or mitigate adverse effects in accordance with the substantive requirements of 36 C.F.R., Part 800.6. More specifically, adverse effects of the removal action alternatives and historic mitigation measures are evaluated in the EE/CA. The recommended removal action is further evaluated in the Assessment of Adverse Effects to the United States Naval Air Station Sunnyvale, California – Historic District from the Recommended Site 29 Removal Action Alternative (TtEC, 2008).

4. Resolve Adverse Effects.

If the Navy is unable to resolve adverse effects to the satisfaction of the Office of Historic Preservation (OHP) and Advisory Council on Historic Preservation (ACHP), it will take their comments into account and address them in Responsiveness Summaries in a manner consistent with the substantive requirements of 36 C.F.R., Parts 800.6 and 800.7.

These substantive requirements shall be addressed by the Navy in the CERCLA removal action selection process in lieu of the procedural requirements set forth in 36 C.F.R., Part 800. More specifically, the Navy shall focus the CERCLA process by actively seeking the expertise and comments of the following entities to ensure that the substantive requirements of the NHPA and 36 C.F.R., Part 800 are adequately addressed: the OHP, the ACHP, and other interested parties.

These entities shall be provided with the opportunity to review and comment upon the EE/CA and the draft Removal Action Work Plan. Their comments shall be addressed in responsiveness summaries accompanying the AM and the final Removal Action Work Plan, respectively. The Navy has determined that the Area of Potential Effect (APE) for the proposed project is confined to the Historic District. The Navy shall also meet and discuss alternatives, adverse effects, and historic mitigation with OHP, ACHP, and with stakeholders throughout the CERCLA process.

Migratory Bird Treaty Act of 1972

The Migratory Bird Treaty Act (16 U.S.C., Sections 703–712) prohibits at any time, using any means or manner, the pursuit, hunting, capturing, and killing or attempting to take, capture, or kill any migratory bird. This act also prohibits the possession, sale, export, and import of any migratory bird or any part of a migratory bird, as well as nests and eggs. A list of migratory birds for which this requirement applies is found at 50 C.F.R., Part 10.13. It is the Navy’s position that this act is not legally applicable to the Navy actions. However, the Migratory Bird Treaty Act is considered a potentially relevant and appropriate requirement for this removal action because of

the potential for the hangar to serve as a temporary roosting area. A biological survey will be conducted prior to beginning the removal action to address migratory birds.

3.5.5.2 Potential State Location-specific ARARs

The following potential state location-specific regulation has been identified. It is further set forth in Table 3-4.

California Fish and Game Code Section 3005(a)

The taking of birds and mammals by poison (site contaminants) is prohibited. Substantive provisions are potentially applicable because site contaminants could potentially kill birds or mammals. The taking of birds and mammals will be prevented by containing contaminants and severing the pathway of exposure from siding contaminants. It is the Navy's position that the requisite federal sovereign immunity waiver does not exist to authorize applicability of the California Fish and Game Code. However, this requirement is deemed to be a "relevant and appropriate" state ARAR.

3.5.6 Potential Action-specific ARARs

The potential action-specific ARARs that may require consideration in evaluation of the remedial action alternatives are discussed in the subsections below.

3.5.6.1 Potential Federal Action-specific ARARs

The following potential federal action-specific regulations have been identified. They are further set forth in Table 3-5.

Staging Piles

Wastes generated during the removal action will be stockpiled on lined and bermed stockpile areas prior to off-site disposal. The wastes will be managed in accordance with the following federal requirements. It is expected that the stockpiled wastes will be RCRA-hazardous; however, waste characterization will be conducted during the removal action.

If, based on representative sampling and analysis of each wastestream, wastes are determined to be RCRA hazardous waste, then the substantive provisions of the amended (effective 22 April 2002) RCRA staging pile regulations are potentially applicable. These regulations consist of the performance and technical standards for staging piles (40 C.F.R., Parts 264.554[d][1][i-ii] and [d][2]); and closure requirements for staging piles (Part 264.554[j]-[k]). A staging pile may be designated for temporary (up to 2 years or more based on the necessity to assure timely and efficient implementation of remedial actions [Part 264.554{i}{2}]) treatment or storage of solid, nonflowing remediation waste. The RCRA LDRs, the landfill minimum technology

requirements, and the waste pile permitting requirements are not applicable to staging piles for RCRA hazardous wastes.

The staging pile regulations also require that the unit facilitate a remedy that is reliable, effective, and protective (40 C.F.R., Part 264.554[d][1][I]), and be designed using appropriate measures (e.g., liners, covers, run-on/runoff controls) to prevent or minimize releases and cross-media transfers of hazardous wastes and constituents (Part 264.554[d][1][ii]). For units located in a previously contaminated area of the facility, all remediation wastes, contaminated containment system components, structures, and equipment that are contaminated with waste or leachate must be removed or decontaminated within 180 days after the operating term of the staging pile expires (Part 264.554[j]). In addition, contaminated subsoils must be decontaminated. For units located on uncontaminated areas of the facility, within 180 days following expiration of the operating term, the staging pile must be closed in accordance with waste pile closure requirements at Cal. Code Regs., tit. 22, Section 66264.258(a) or Section 66265.258(a) and the closure performance standards at Cal. Code Regs., tit. 22, Section 66264.111 or Section 66265.111 for permitted and interim status facilities, respectively (Part 264.554[k]).

Hazardous Waste Management

Hazardous wastes, as defined by Cal. Code Regs., tit. 22, Section 66261, are managed in accordance with state requirements for both RCRA and non-RCRA-hazardous waste. Management includes control over generation, accumulation, storage, and analysis. The following regulations are considered potentially applicable to wastes generated from each of the alternatives.

Cal. Code Regs., tit. 22, Sections 66262.10(a) and 66262.11 include standards that are applicable to generators of hazardous waste. Requirements include obtaining a USEPA identification number, determining if wastes are hazardous or not, and accumulating waste within specified time limits.

Cal. Code Regs., tit. 22, Section 66262.34 permits hazardous wastes to be accumulated on site for up to 90 days without having to obtain a permit. In order to comply with accumulation requirements, waste must be stored in containers in accordance with 66262.171-178.

Once accumulation begins, containers must be stored and managed in accordance with the requirements of Cal. Code Regs., tit. 22, Section 66264.171-178. These include placing waste into compatible containers, conducting inspections, providing secondary containment to prevent releases to the environment, and separating incompatible materials by means of a dike or berm. Additionally, containers of ignitable or reactive waste must be stored at least 50 feet from the facility property line. At closure, hazardous waste and residues from the containment system must be removed and the lining or remaining containers must be decontaminated.

Wastes that are generated as a result of the removal action must be properly analyzed in order to perform waste characterization prior to disposal in accordance with Cal. Code Regs., tit. 22, Section 66264.13 (a) and (b).

Waste Disposal

RCRA wastes, which are land disposed, will be subject to LDRs and must attain levels achievable by best demonstrated available technology. Regulations are presented in Cal. Code Regs., tit. 22, Section 66268.40. Non-RCRA-hazardous waste LDRs are presented in Cal. Code Regs., tit. 22, Section 66268.105.

All non-hazardous wastes, excluding liquids, may be discharged to an approved facility authorized to accept such waste in accordance with Cal. Code Regs., tit. 22, Section 20220 (b), (c), and (d). In addition, due to the status of the removal action being conducted under the guidance of CERCLA, all waste generated as a result of the removal action must be disposed of at a CERCLA off-site rule-approved facility. Therefore, this regulation is potentially applicable to the extent that the facility is also CERCLA off-site rule-approved.

Designated wastes may only be discharged to Class I or II facilities. Although it is not anticipated that designated waste will be disposed of as a result of the removal action, all waste must be disposed of at CERCLA off-site rule-approved facilities. Because there are currently no approved Class III CERCLA off-site rule-approved facilities, all waste must be disposed of at either Class I or II facilities, depending on its hazardous characteristics. This regulation is considered potentially relevant and appropriate.

Certain metal-containing wastes may not be disposed of at either a Class II or III facility if they exceed certain threshold values. Any wastes that contain total lead in excess of 350 parts per million (ppm), copper in excess of 2,500 ppm, or nickel in excess of 200 ppm must be disposed of in a Class I approved facility. It is expected that the majority of waste generated during the removal action will require disposal as hazardous waste and will require Class I disposal. Regardless, all wastes will be evaluated to ensure compliance with California Health and Safety Code, Section 25157.8.

Management and Disposal of PCBs under TSCA

TSCA regulations govern the management and disposal of PCBs contained within the siding, structural steel, and other materials used to build Hangar 1. Because the PCBs are integral to the manufacture of the product and their presence is not the result of a spill or release from another source, upon disposal, the siding is defined as PCB bulk product waste. Regulations in 40 C.F.R., Part 761.60(e) and 761.62(a) govern the disposal of bulk product waste and allow for disposal through a variety of methods. Only those methods specified in 761.62(a) are permissible at the site due to the fact that the siding is also considered RCRA-regulated because of the lead content of the paint.

The requirements of 40 C.F.R., Parts 761.40, 761.50, and 761.65 govern the storage and disposal of PCBs and is potentially applicable. All TSCA waste will be managed in accordance with TSCA regulations. Waste that is also considered hazardous waste, will be managed under both TSCA and RCRA requirements. 761.180 governs the required recordkeeping and monitoring that apply to PCBs. It is considered potentially applicable.

The regulation at 40 C.F.R., Part 761.79 provides expanded decontamination procedures. It is potentially applicable to the decontamination of TSCA waste, as well as the decontamination of tools and equipment that contact PCBs during the removal action. The regulation of 40 C.F.R., Part 61(a)(5)(v) provides disposal requirements for personal protective equipment (PPE) and non-porous surfaces that have been decontaminated. These requirements are applicable to wastes generated during cleaning activities, which may occur as a result of removal and reuse of man-crane.

Transportation of Hazardous Materials

The regulations at 49 C.F.R., Parts 171 and 172 govern all aspects of packaging, marking, labeling, placarding, and manifesting of Department of Transportation (DOT) hazardous materials, which include hazardous wastes. DOT defines a “person” as one who offers “hazardous materials for transportation in commerce or transports hazardous material to further a commercial enterprise.” Because the Navy does not meet the definition of a “person,” this regulation is not applicable. However, because hazardous materials will be transported to off-site disposal facilities, this regulation is considered relevant and appropriate to the removal action.

National Emissions Standards for Hazardous Air Pollutants

National Emission Standards for Hazardous Air Pollutants for asbestos are located in Subpart M. The procedures in 40 C.F.R., Part 61.145(c) contain the requirements that govern asbestos removal and handling during a response action.

3.5.6.2 Potential State Action-specific ARARs

The following potential state action-specific regulations have been identified. They are further set forth in Table 3-6.

SWRCB Order No. 99-08

The Navy has determined that Section 121 (e)(1) of CERCLA and the corresponding provision in the NCP (40 C.F.R., Part 300.400[e][1]) apply to the discharge of stormwater from the Hangar 1 area and that a National Pollutant Discharge Elimination System (NPDES) permit (either general or individual) is not required for that discharge. However, the Navy will comply with the substantive provisions of the NPDES General Permit for Discharges of Storm Water Runoff Associated with Construction Activity (SWRCB Order No. 99-08) identified by the state

of California as “[to be considered] TBC” guidance for compliance with the federal CWA and state of California water quality requirements identified as potential water quality ARARs in this EE/CA. Associated reporting and record keeping are considered procedural and are, therefore, not substantive.

The Navy will also comply with the following substantive provisions of the General Permit: substantive requirements for development and implementation of BMPs, substantive requirements for the content of a Stormwater Pollution Prevention Plan (SWPPP), and substantive technical monitoring and analytical requirements (location and frequency of sample collection, parameters to be tested, and analytical methodologies). Compliance with these substantive requirements will be documented in an appendix to the Removal Action Work Plan titled “Stormwater Management Plan.” This plan will include descriptions of the BMPs to be implemented during the removal action and address substantive SWPPP requirements.

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