

**Doug Bielskis**

---

**From:** Urizar, Lara L CIV NAVFAC SW, PACO <lara.urizar@navy.mil>  
**Sent:** Wednesday, August 24, 2011 3:56 PM  
**To:** Cooper.Craig@epamail.epa.gov; Ripperda.Mark@epamail.epa.gov; Ryan Miya; Ross Steenson; kbrasaemle@techlawinc.com; Brownell Amy; alfred.worcester@CalRecycle.ca.gov; Carr.Robert@epa.gov  
**Cc:** Leslie.Lundgren@CH2M.com; Forman, Keith S CIV OASN (EI&E), BRAC PMO West; Kito, Melanie R CIV NAVFAC SW; Edwards, Zachary L CIV SEA 04 04N; Doug Bielskis; Lawrence McGuire  
**Subject:** Draft Final Proposed Plan for Parcel E-2 RTCs  
**Attachments:** RTCs\_DF-E2-PP\_08-24-11.pdf

Good afternoon,

Attached for your information are responses to comments on the Draft Final Proposed Plan for Parcel E-2. The Proposed Plan mailer (to include the PP and two fact sheets) will be sent out on September 2, 2011, in anticipation of the official start of the public comment period (September 7 - October 24). Thanks for all your input.

Lara Urizar, P.G.  
Remedial Project Manager  
Hunters Point Shipyard  
619-532-0960 (phone)  
619-532-0983 (fax)

**Table 1. Responses to Comments from the U.S. Environmental Protection Agency (EPA) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Mark Ripperda, Project Manager, dated August 4, 2011</b>				
1.	1	--	Bullet 4: Perhaps change to: "Install below ground barriers to minimize groundwater flow from the landfill to the Bay" rather than "Install below ground barriers to keep groundwater in the landfill from entering San Francisco Bay".	The subject bullet item was changed as suggested.
2.	6	--	Add Storm and Sewer line rad excavations to the list of removal actions.	The requested change was not made because removal of the short sections of storm drain and sewer lines within Parcel E-2 is not part of the Navy's current execution plan.
3.	8	3 <sup>rd</sup> ¶	The risk discussions artfully handles the issue of presenting risks and the risk range in an understandable yet legally accurate way; good job. My comment had sacrificed legal accuracy for simplicity and you fixed that. However, the last sentence should say that the "Navy's approach ... meets the most conservative end of the risk management range established by EPA". You're meeting, not exceeding, EPA's risk based cleanup range.	The subject paragraph was revised as requested.
4.	9	--	Page 9, RAOs – Thank you for streamlining the PRG tables. However, the text still doesn't directly tie some of the actions to the PRGs. The sentences from Paragraph Two of the RAOs: "Most of the remedial action objectives include PRGs. Exposure to chemical concentrations exceeding the PRGs poses an unacceptable risk that would be addressed by the remedial actions" is true for the cover, but doesn't address what is driving the excavations. We realize that you're trying to not make the PP overly complex, but by being vague with statements elsewhere in the text that "the excavations address the most contaminated soil", you're making things more complicated rather than more simple. Please state in the appropriate excavation description, or in the PRG tables, that soil in the East Adjacent Area and Panhandle is being excavated to meet goals of XXX for PCBs and lead (and any other drivers), and that sediment along the shoreline is being excavated to meet XXX for PCBs (and any other drivers).	The descriptions of Alternatives 3, 4, and 5 were updated to refer to specific cleanup goals for the hot spots that are based on the PRGs identified in Table 4. The hot spots located closest to the bay include hot spot goals equivalent to 10 times the PRGs. The hot spots located farther from the bay include hot spot goals equivalent to 100 times the PRGs.

**Table 1. Responses to Comments from the U.S. Environmental Protection Agency (EPA) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Mark Ripperda, Project Manager, dated August 4, 2011</b>				
5.	10	--	Alternative 3 – We disagree with the response to our comment #61, which asked that ICs be included in the text description of the alternatives. The response pointed the reader to Table 7, but ICs are as important as the other elements described in the text on this page, and are a critical distinction between Alternative #2 and Alternatives #3, 4, and 5. Please include the single sentence describing ICs from Table 7 in the Alternative #3 description.	The discussion of ICs was included in the description of Alternative 3. Also, for completeness and accuracy, the description of Alternative 2 was revised to discuss ICs.
6.	10	--	Alternative Descriptions – We had asked for more detail about specific thicknesses of the cover in various areas, hoping that the two-foot minimum was a generic default and that the rad-impacted areas would include a three-foot thickness to be consistent with IR 07/18. Recognizing that the difference between 2 and 3 feet doesn't change the cover concept for the purposes of public input, we won't demand the added complexity of a complete cover design description in the PP. However, we will be asking for that level of detail in the ROD and will be working with CDPH to get their approval for the cover thickness in rad- impacted areas as was done at IR 07/18. Note that this might mean a three-foot thick cover in some areas. Nothing in the current PP language precludes adding extra thickness, so no responses or changes are necessary for this comment.	The Navy acknowledges that further discussion regarding the thickness of the clean soil cover will be required in the ROD.
7.	14	--	Landfill Gas: Please change the sentence “An enclosed flare involves controlled burning of methane and low levels of other organic chemicals.” To “An enclosed flare involves controlled burning of the gases captured from the landfill”.	The subject paragraph was revised as requested.

**Table 2. Responses to Comments from the Department of Toxic Substances Control (DTSC) and California Department of Resources Recycling and Recovery (CalRecycle) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Ryan Miya, DTSC Senior Hazardous Substances Scientist, dated August 12, 2011</b>				
1.	Insert 1	--	Navy's response to Robert Elliott's specific comment #3; 2nd bullet item in the Proposed Activity Restrictions section. DTSC does not agree that it's concern is addressed by the bullet item identified. That item is more related to activities that would lead to migration of contaminated groundwater and not just exposing it by accessing it while conducting some other activity. Therefore, DTSC requests that access to groundwater be added as a restriction so that it can only occur with approval by the FAA signatories. This will ensure that a work plan is in place if groundwater is to be exposed and ensure protection of human health from contact with contaminated groundwater. Such a restriction is consistent with the second bullet in the RAOs for groundwater. The prohibition on use is also not adequate to protect someone from coming into contact with contaminated groundwater.	Insert 1 was revised to specify the restriction on accessing contaminated groundwater.
<b>Comments provided by Alfred Worcester, CalRecycle Engineering Geologist, dated August 11, 2011</b>				
2.	--	--	I have no further comments to the response that were provided by Lara Urizar, comments that were in response to my review of the Draft Final Proposed Plan for Parcel E-2. Their comments appear satisfactory.	Comment acknowledged.

**Table 3. Responses to Comments from the California Department of Public Health (CDPH) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Larry Morgan, CDPH Senior Health Physicist, dated August 4, 2011 (received August 18, 2011)</b>				
1.	2	--	<p>Page 2 of 27, under Title "US Navy Announces Proposed Plan", third paragraph states, "This Proposed Plan summarizes the remedial (cleanup) alternatives to address contamination at Parcel E-2 at HPS. The Navy proposes the following actions to address hazardous substances in soil, shoreline sediment, landfill gas, and groundwater at Parcel E-2:</p> <ul style="list-style-type: none"> <li>• Separate and Dispose of materials and soil with radiological contamination</li> <li>• install a protective liner</li> <li>• institutional controls</li> </ul> <p>The transferee will be required to apply for a license or license exemption from the Radiological Health Branch (California Department of Public Health. EMB cannot concur with unrestricted use as "Open land".</p>	<p>The preferred alternative identified in the Proposed Plan is consistent with the City and County of San Francisco's (CCSF) planned open space reuse for the radiologically impacted portions of Parcel E-2. The Navy will not apply for a CDPH license because the CDPH does not have jurisdiction over Navy activities while the Navy maintains ownership of the property. Post-transfer actions, such as a potential radiological license or license exemption, are beyond the scope of the Proposed Plan and would be addressed, as appropriate, after the Record of Decision. The Navy would work to assist the transferee in applying for a license or license exemption, as appropriate.</p>
2.	--	--	<p>CDPH-EMB has determined from Comment 1 that the Navy wishes to proceed with restricted use for Parcel E-2. CDPH-EMB recommends complete removal of all radium discrete sources and contamination to allow unrestricted use of the property. CDPH-EMB does not have authority to issue a license exemption for any or all of Parcel E-2 based on the Navy's request for restricted release.</p>	<p>As stated above, the preferred alternative is consistent with the CCSF's planned open space reuse for the radiologically impacted portions of Parcel E-2. The Navy identified the preferred alternative based on the analysis of remedial alternatives presented in the Remedial Investigation/Feasibility Study (RI/FS) Report and the associated radiological addendum (RA) to the RI/FS Report. Alternative 2 evaluates excavation and off-site disposal of all contaminated soil and solid waste in the Landfill Area, including all residual radioactivity. The RI/FS concluded that Alternative 2 did not perform as well as Alternatives 3, 4, and 5 relative to several NCP criteria (primarily cost, short-term effectiveness, and implementability). Alternatives 3, 4, and 5 evaluate institutional controls as part of closure strategies involving radiological surface screening and remediation, nonradiological hotspot removal, and containment.</p>

**Table 3. Responses to Comments from the California Department of Public Health (CDPH) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Larry Morgan, CDPH Senior Health Physicist, dated August 4, 2011 (received August 18, 2011)</b>				
3.	--	--	<p>Include ARAR Title 17 CCR 30256. See Attachment on ARAR.</p> <p>CDPH-EMB requests that the following be included as a Chemical-Specific ARAR:</p> <p>Title 17, California Code of Regulations, Section 30256. Installations: Records and Notice.</p> <p>(a) Each person granted a specific license pursuant to Group 2 of this Subchapter shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use by the Department. Before licensed activities are transferred or assigned in accordance with 30194(c), licensees shall transfer all records described in this section to the new licensee. In this case, the new licensee shall be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. The records shall include the following information important to decommissioning:</p> <p>(1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records shall include but not be limited to a description of any instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas, as for example, possible seepage into porous materials such as concrete. These records shall include any known information on identification of involved nuclides, quantities, forms, and concentrations.</p>	<p>The Navy and EPA do not agree that Title 17 California Code of Regulations (Cal. Code Regs.) Section (§) 30256 satisfies promulgated criteria, specified in Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), for a state chemical-specific applicable or relevant and appropriate requirement (ARAR). The Navy presented a detailed evaluation of the subject requirement in Appendix C, Section C2.3 of the RA to the Parcel E-2 RI/FS Report, and determined that it is not an ARAR for the Parcel E-2 CERCLA remedy because it is not (1) substantive, (2) either “applicable” or “relevant and appropriate”, or (3) more stringent than federal standards. A state law or regulation must satisfy all of these criteria to meet CERCLA and NCP requirements for state ARARs and does not qualify as a state ARAR if any one of them is not satisfied. The Navy has prepared, in consultation with EPA counsel, the following specific input regarding Title 17 Cal. Code Regs. § 30256.</p> <p><i>a. Most of The State Regulation is Not Substantive</i></p> <p>The Navy and EPA continue to assert, as stated in Section C2.3 of RA Appendix C, that Title 17 Cal. Code Regs. § 30256 is not substantive. These regulations describe the process by which CDPH makes its decisions to terminate a specific license and therefore, when read in that context, the three criteria of Subsection 30256 (k) should be characterized as procedural rather than substantive. The Navy does not have a state license administered by CDPH nor were any of the activities subject to state license requirements (see discussion below regarding “applicability”). Even if the criteria were considered substantive, the NCP (40 CFR § 300.400[g]) specifies that substantive provisions of promulgated regulatory requirements must be either “applicable” or “relevant and appropriate” to qualify as ARARs for CERCLA cleanup actions.</p>



**Table 3. Responses to Comments from the California Department of Public Health (CDPH) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Larry Morgan, CDPH Senior Health Physicist, dated August 4, 2011 (received August 18, 2011)</b>				
3. (cont.)	--	--	<p>(2) As-built drawings and modification drawings of structures and equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.</p> <p>(3) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or any radioactive materials having only half-lives of less than 65 days, a list contained in a single document and updated every 2 years, of the following:</p> <p>(A) All areas designated and formerly designated restricted areas as defined in Title 10, Code of Federal Regulations, Section 20.1003 incorporated by reference pursuant to Title 17, California Code of Regulations, Section 30253;</p> <p>(B) All areas outside restricted areas that require documentation under (a)(1);</p> <p>(C) All areas outside of restricted areas where current and previous wastes have been buried as documented under Title 10, Code of Federal Regulations, Section 20.2108 incorporated by reference pursuant to Title 17, California Code of Regulations, Section 30253; and</p> <p>(D) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for</p>	<p><i>b. The State Regulation is Not "Applicable"</i></p> <p>The Navy and EPA continue to assert, as stated in Section C2.3 of RA Appendix C, that Title 17 Cal. Code Regs. § 30256 is not "applicable" because these regulations by their express terms apply to facilities licensed by the State of California that are undergoing a license termination process. The remediation of Parcel E-2 under CERCLA is not part of a decommissioning or license termination procedure nor has any state license ever been issued because California laws and regulations regarding possession of radioactive materials do not apply to land possessed by the federal government. The CDPH website acknowledges that CDPH does not regulate DoD sites:</p> <p>"While owned by the Federal government, DoD facilities are not under the radiological control of the State of California, but when property is to be transferred to parties other than U.S. government agencies, California's radiation regulations are then enforceable. Therefore decommissioning standards used for radioactive materials licenses in California are applied to the clean-up efforts at the military facilities..." (<a href="http://www.cdph.ca.gov/HealthInfo/environhealth/Pages/DOD.a.spx">http://www.cdph.ca.gov/HealthInfo/environhealth/Pages/DOD.a.spx</a>).</p> <p>CDPH suggests in its past comments that the regulations should be considered "applicable" ARARs, because even though they are not applicable now, they would or might become applicable if the property were conveyed to a non-federal entity. The Navy and EPA disagree and assert that (1) CERCLA requires the decision-maker to evaluate ARARs at the time the remedy is selected, (2) the regulations are not applicable ARARs for the reasons noted above, and (3) the Navy will still own the site at the time the remedy is selected. Prospective future changes in jurisdiction cannot serve as a basis for identifying applicable ARARs. CDPH currently lacks subject matter jurisdiction over the property and may never obtain subject matter jurisdiction if the Navy retains title or transfers the property to another federal department or agency. Therefore, the Navy does not consider the regulation to be an "applicable" ARAR.</p>

**Table 3. Responses to Comments from the California Department of Public Health (CDPH) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Larry Morgan, CDPH Senior Health Physicist, dated August 4, 2011 (received August 18, 2011)</b>				
3. (cont.)	--	--	<p>approval for disposal under Title 10, Code of Federal Regulations, Section 20.2002 incorporated by reference pursuant to Title 17, California Code of Regulations, Section 30253.</p> <p>(4) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used pursuant to Section 30195.1.</p> <p>(b) Each person granted a specific license pursuant to Group 2 of this Subchapter shall, no less than 30 days before vacating any installation which may have been contaminated with radioactive material as a result of the licensee's activities, notify the department in writing of intent to vacate. This notice shall be submitted on form CDPH 5314 (06/09), entitled "Certificate of Disposition of Materials," which is incorporated by reference herein, and shall address all requirements specified in subsection (c).</p> <p>(c) If a licensee does not submit an application for license renewal under section 30194, the licensee shall on or before the expiration date specified in the license: (1) Terminate use of radioactive material; (2) Remove radioactive contamination to the extent practicable except for those procedures covered by Subsection (d) of this section; (3) Dispose of radioactive material in accordance with applicable regulations; (4) Submit a completed form CDPH 5314 (06/09), which certifies information concerning the disposition of materials; and (5) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee</p>	<p><i>c. The State Regulation is Not "Relevant and Appropriate"</i></p> <p>The Navy and EPA continue to assert, as stated in Section C2.3 of RA Appendix C, that Title 17 Cal. Code Regs. § 30256 is not "relevant and appropriate" because standards for decommissioning a licensed facility are not "appropriate" for Parcel E-2 because they do not address a set of circumstances similar to the remediation of Parcel E-2. The NCP specifies a series of factors to be used to compare the proposed CERCLA action with potential ARARs to determine if a requirement is both "relevant" and "appropriate" (40 CFR §300.400[g][2]). The activity addressed by the CDPH regulation can be distinguished from the remedial action for Parcel E-2 on a number of bases, including the medium addressed, type of action and activity regulated, and type of place regulated (see 40 CFR Subsections 300.400[g][2][ii], [iv], and [vi]). More specifically, the license termination process described in the regulations appears to be intended to reach the conclusion that the facility is suitable for release for unrestricted use. This requirement is one among a detailed set of requirements for the "cradle-to-grave" management of licensed radiological material that were never applied to HPS. The radionuclides addressed in Parcel E-2 were not subject to such regulatory controls when they were used by the Navy or when they were released into the environment, thus the CERCLA response must address very different issues (e.g., very high volume of potentially impacted soil, low concentrations of radionuclides in soil, high cost of removal, etc.).</p> <p>CDPH appears to have focused their comments upon perceived similarities of purpose of the state regulations and the CERCLA response action pursuant to the factor at 40 CFR Subsection 300.400(g)(2)(i), rather than the three factors at 40 CFR Subsections 300.400(g)(2)(ii), (iv), and (vi) that are identified in the previous paragraph. The Navy and EPA determinations under those three factors are sufficient in and of themselves to support the conclusion that the regulation is not "relevant and appropriate." There is no requirement in Subsection 300.400(g)(2) that the Navy or EPA make specific findings for each of the eight factors listed in Subsection 300.400(g)(2)(i) through (viii) for each potential state ARAR.</p>



**Table 3. Responses to Comments from the California Department of Public Health (CDPH) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Larry Morgan, CDPH Senior Health Physicist, dated August 4, 2011 (received August 18, 2011)</b>				
3. (cont.)	--	--	<p>demonstrates that the premises are suitable for release for unrestricted use in some other manner. The licensee shall, as appropriate:</p> <p>(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces, and report levels of radioactivity, including alpha, in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed for surfaces, microcuries per milliliter for water, and picocuries per gram for solids such as soils or concrete; and</p> <p>(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.</p> <p>(d) In addition to the information required under Subsections (c)(4) and (5), the licensee shall submit a plan for completion of decommissioning if the procedures necessary to carry out decommissioning have not been previously approved by the Department and could increase potential health and safety impacts to workers or to the public such as in any of the following cases:</p> <p>(1) Procedures would involve techniques not applied routinely during cleanup or maintenance operations; or</p> <p>(2) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation; or</p> <p>(3) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or</p> <p>(4) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.</p>	<p>The criteria are to be examined “where pertinent” with pertinence “depending, in part, on whether a requirement addresses a chemical, location, or action.”</p> <p>Furthermore, the Navy and EPA do not agree with CDPH’s assertions about the similarity of purpose. Although CERCLA response actions and the State’s regulations share the broad goal of protecting human health and the environment, they operate in a very different manner and address different site conditions.</p> <p>CDPH further asserts that the threshold for determining under state law if a license or exemption is required when a licensed entity pursues a license termination is similar to the questions of whether a license or exemption is required when an entity takes possession of a site that has been contaminated by the previous owner. This is a general procedural and jurisdictional issue under state law and is unrelated to the question as to whether or not these specific regulations are “relevant and appropriate” under CERCLA and the NCP. Therefore, the Navy and EPA do not believe that the previous ARAR determination regarding whether or not the regulations are “relevant and appropriate” should be changed.</p> <p><i>d. The State Regulation is Not More Stringent</i></p> <p>The Navy and EPA continue to assert, as stated in Section C2.3 of RA Appendix C, that Title 17 Cal. Code Regs. § 30256(k) is not more stringent than risk-based cleanup levels because the standard requiring “reasonable effort to eliminate residual radioactive contamination” is by its terms flexible and cannot be assumed to require a more stringent cleanup than the selected CERCLA remedial action. CDPH, in recent correspondence on the CERCLA cleanup at HPS Parcel C, has asserted that the regulation provides for cleanup to background. The regulation does not require cleanup to background conditions and elimination of residual contamination; furthermore, it can be interpreted to require a “reasonable effort” to eliminate residual contamination regardless of risk. Title 17 Cal. Code Regs. § 30256(k) neither contains a numerical standard nor describes a narrative standard that would inform the question of whether (or what quantity of) radiological material can remain at the site.</p>

**Table 3. Responses to Comments from the California Department of Public Health (CDPH) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Larry Morgan, CDPH Senior Health Physicist, dated August 4, 2011 (received August 18, 2011)</b>				
3. <i>(cont.)</i>	--	--	<p>(e) Procedures with potential health and safety impacts shall not be carried out prior to approval of the decommissioning plan.</p> <p>(f) The proposed decommissioning plan, if required by Subsection (d) of this section or by license condition, shall include:</p> <p>(1) Description of planned decommissioning activities;</p> <p>(2) Description of methods used to assure protection of workers and the environment against radiation hazards during decommissioning;</p> <p>(3) A description of the planned final radiation survey;</p> <p>(4) The information required in (a) (3) and any other information required by (a) that is considered necessary to support the adequacy of the decommissioning plan for approval; and</p> <p>(5) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning.</p> <p>(g) The proposed decommissioning plan will be approved by the Department if the Department determines that the decommissioning will be completed as soon as is reasonable and that the health and safety of workers and the public will be adequately protected.</p> <p>(h) Upon approval of the decommissioning plan by the Department, the licensee shall complete decommissioning in accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in subsection (c)(5) and shall certify the disposition of accumulated wastes from decommissioning by completing form CDPH 5314 (06/09).</p>	<p>If there were a means to derive an objective standard from § 30256(k), that standard has not been identified by the state. Without an identified objective standard, there can be no basis for asserting that the requirement is more stringent than the CERCLA risk-based standards for Parcel E-2.</p> <p>In summary, the preceding narrative is intended to reinforce the Navy's and EPA's assertion that Section 30256 of Title 17 of the California Code of Regulations does not meet the legal requirements necessary to make it an ARAR. However, the Navy does appreciate the input provided by the CDPH-EMB and welcomes further collaboration. As stated previously, the Navy would, following the CERCLA process, work to assist the transferee in applying for a license or license exemption, as appropriate.</p>



**Table 3. Responses to Comments from the California Department of Public Health (CDPH) on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Larry Morgan, CDPH Senior Health Physicist, dated August 4, 2011 (received August 18, 2011)</b>				
3. (cont.)	--	--	<p>(i) If the information submitted under subsection (c)(5) or (h) does not adequately demonstrate that the premises are suitable for release for unrestricted use, the Department shall inform the licensee of the appropriate further actions required for termination of license.</p> <p>(j) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of residual radioactive material present as contamination until the Department notifies the licensee in writing that the license is terminated. During this time, the licensee shall:</p> <p>(1) Limit actions involving radioactive material to those related to decommissioning; and</p> <p>(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Department notifies the licensee in writing that the license is terminated.</p> <p>(k) Specific licenses shall be terminated by written notice to the licensee when the Department determines that:</p> <p>(1) Radioactive material has been properly disposed;</p> <p>(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and</p> <p>(3) A radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use; or other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use.</p>	<i>(see above)</i>

**Table 4. Responses to Comments from the San Francisco City and County Department of Public Health, Environmental Health Section on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Amy Brownell, Environmental Engineer, dated August 11, 2011</b>				
<i>General Comments</i>				
1.	Insert 1	--	In the Navy's Response to Comments document on the draft Proposed Plan for Parcel E-2, you responded to our first comment where we attempted to explain the confusion in your Institutional Control (IC) insert language and we proposed some edits to address the confusion. You have rejected those edits based on DOD guidance and definition of terms in that guidance and in your Final RI/FS Report. Unfortunately, in rejecting our edits you have lost the intent of the edits and have still not fixed the problem in this and many of your other documents. The reason these changes are so important, especially for your Land Use Control Remedial Design (LUC RD) documents, is the use of imprecise or inaccurate language is resulting in descriptions of requirements that do not make sense.  The Navy is free to use your guidance to define the terms ICs and LUCs in any way you wish to define them. But once you have defined them, you need to use the terms consistently and logically throughout your documents.	Comment acknowledged.
<i>Specific Comments</i>				
2.	5	--	<b>Page 5, first line, Past and Current Removal Actions:</b> Please revise by replacing "in an effort" with "in order".	The subject phrase was revised as requested.

**Table 4. Responses to Comments from the San Francisco City and County Department of Public Health, Environmental Health Section on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
<b>Comments provided by Amy Brownell, Environmental Engineer, dated July 11, 2011</b>				
<i>Specific Comments</i>				
3.	Insert 1	--	<p><b>Insert 1:</b> As explained in General Comment #1, you are still using imprecise language in relation to your definition of ICs. We appreciate that you tried to address our comment #13 from our comment letter on the draft PP about requirements for monitoring, inspections and reporting to ensure compliance with land use and activity restrictions. However, since you didn't make our other suggested edits about the use of the term LUC, your proposed edit doesn't fit in your paragraph and we suggest you just delete it.</p> <p>Specifically, your third sentence currently reads: ICs would be subject to regular inspections and would remain in place unless the remedial action taken would allow for unrestricted use of the property and unrestricted exposure.</p> <p>The phrase at the beginning of the third sentence is inaccurate - "ICs would be subject to regular inspections". As stated in your Response to Comments (RTCs), you have defined ICs as "legal and administrative mechanisms used to implement land use restrictions that are used to limit the exposure of future landowner(s) and user(s) of the property to hazardous substances present on the property and to ensure the integrity of the remedial action." Is the Navy planning to regularly inspect their legal and administrative mechanisms? Like the deed? Or the CRUP? Or the RMP? Are you planning on requiring future property owners to regularly inspect these documents? Or requiring them to inspect the mechanisms that require compliance with the restrictions? We think that is not the case.</p> <p>The monitoring, inspections and reporting that we referred to in our comment #13 on the draft PP is referring to monitoring, inspections and reporting on the engineering controls, like the proposed cap on</p>	<p>The phrase "would be subject to regular inspections and" was deleted as requested. To clarify, the overall site conditions would be regularly inspected, and compliance would be measured against the performance objectives to be identified in the LUC RD. These inspection and reporting procedures are independent of those required for the cap and other features of the containment system.</p>

**Table 4. Responses to Comments from the San Francisco City and County Department of Public Health, Environmental Health Section on the Draft Final Proposed Plan for Parcel E-2, Hunters Point Shipyard, San Francisco, California, August 2011**

Comment	Page	¶	Comment	Response
3. (cont.)	Insert 1	--	Parcel E-2, and the verification of the submittal of notices and/or work plans. These monitoring, inspections and reporting requirements will be listed in the Operation and Maintenance plan(s) and the Risk Management Plan(s). Because of the way you have decided to define ICs in this Insert, we don't think the concept of regular inspections fits in this Insert 1 or this sentence. The engineering controls are explained throughout the proposed plan and the concept of regular inspection is stated on the first page of the Proposed Plan in item #8. We suggest you delete this first phrase so that the sentence reads: ICs would remain in place unless the remedial action taken would allow for unrestricted use of the property and unrestricted exposure.	(see above)
4.	13	--	<b>Page 13, Evaluation of Alternatives, first paragraph and Page 16:</b> In the reference to Appendix C of the Radiological Addendum, why is "radiological addendum" not capitalized as it is in the Glossary?	The term "radiological addendum" was not capitalized upon its first use on page 3, and a consistent style was maintained throughout the main text. The glossary was updated to be consistent with the capitalization used in the main text.