



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203-0001

March 12, 1999

James Shafer, Remedial Project Manager
U.S. Department of the Navy
Naval Facilities Engineering Command
Northern Division
10 Industrial Highway
Code 1823, Mail Stop 82
Lester, PA 19113-2090

Re: Review of the Draft Final Feasibility Study for the Former Robert E. Derecktor
Shipyard

Dear Mr. Shafer:

EPA reviewed the *Feasibility Study (FS) Report for the Former Robert E. Derecktor Shipyard*, Naval Station Newport, Newport, Rhode Island dated February 1999 for incorporation of our comments submitted in letters dated November 6, 1998 and February 17, 1999. The Navy's responses to EPA's comments were also used in our review. Detailed comments are provided in Attachment A.

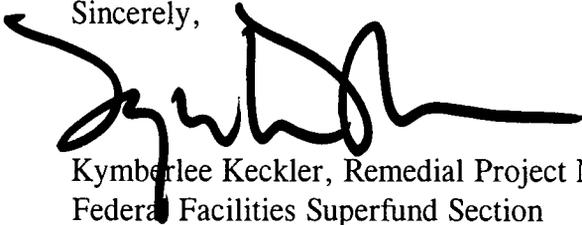
At the January 20, 1999 meeting, we discussed changing the title of this FS to indicate "off-shore." Although the title has not been changed, text has been added in Section 1 to indicate that the FS coverage is only for the offshore marine sediments.

Text has been added to the FS summarizing the drainage system investigation. Section 1.3.6 provides the summary. Although this summary addresses the EPA request, the results of the analysis presented on page 1-17 should be revised to give more complete information. In particular, TCLP results should be provided for arsenic, lead, chromium, mercury, selenium and silver. Also, the text includes the following two terms that should be defined for the average reader. They are "vactor" and "scuppers."

There are discrepancies in the presentation of cost throughout the FS document. The following are examples. On Page ES-4, the Alternative 3B present worth cost is incorrectly stated; the actual number is \$15,504,811. On Page ES-5, the Alternative 4 present worth cost is incorrectly stated; the actual number is \$24,777,973. On Page 5-21, the Alternative 2 O&M costs are presented incorrectly; they should be \$107,355 to \$111,555. Also the present worth cost should be \$1,410,746. On Page 5-48, the Alternative 3B O&M costs should be \$57,004 to \$61,204 according to Appendix D. Page 5-59 Alternative 4 present worth plus 50% sensitivity should be \$35,569,949 according to Appendix E.

I look forward to working with you and the Rhode Island Department of Environmental Management toward the cleanup of Derecktor Shipyard. Please do not hesitate to contact me at (617) 918-1385 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Keckler', written over the word 'Sincerely,'.

Kimberlee Keckler, Remedial Project Manager
Federal Facilities Superfund Section

Attachment

cc: Paul Kulpa, RIDEM, Providence, RI
Melissa Griffin, NETC, Newport, RI
David Peterson, USEPA, Boston, MA
Cornell Rosiu, USEPA, Boston, MA
Jennifer Stump, Gannet Fleming, Harrisburg, PA
Ken Finkelstein, NOAA, Boston, MA
Steven Parker, Tetra Tech-NUS, Wilmington, MA
Mary Philcox, URI, Portsmouth, RI
David Egan, TAG recipient, East Greenwich, RI

ATTACHMENT A

<u>Page</u>	<u>Comment</u>
p. 1-21, §1.4.1	EPA previously requested that the text implying that the PCB contamination in the off-shore area is from sources other than NETC/Derektor Shipyard (<i>i.e.</i> , rivers that discharge to Narragansett Bay, atmospheric deposition, <i>etc.</i>) be either deleted or substantiated with relevant facts and references. The text has not been revised as requested.
Table 2-1	Two footnotes were added to the table presenting PRGs that state that the ecological PRGs are based on an HQ of 2 or more and that the human health PRGs are based on an HQ of 10 or more. These footnotes are misleading and should be deleted. It is not appropriate to characterize the human health PRG as based on an HQ of 10 because the PRG is not based solely on noncarcinogenic risk. The PRGs represent an acceptable carcinogenic risk
p. 4-4, Table 4-1	The sediment volumes presented for Alternative 3B have not been revised when the alternative was modified. The sediment volumes should be 24,360 cubic yards for the Subtitle D Landfill estimate and 6,090 cubic yards for the Subtitle C Landfill estimate.
Figure 4-3	The table presenting the estimated sediment volumes incorrectly identifies the station numbers. Station 27 and 29 are presented twice in the station column, but the area and volumes appear to be in order. Except, the volume for station 28 is presented as 15,542 but should be 15,547 cubic yards as stated in Appendix C.
p. 4-14, §4.2.3	Although the sediment volume presented on page 4-13 was corrected as requested in the previous EPA comment; the 80% volume and the 20% volume presented on page 4-14 have not been corrected. A check of all presented sediment volumes throughout the section should be made and values corrected as necessary.
p. 4-16, ¶2	Remove the fourth sentence. The viability of the alternative depends on a number of factors, particularly compliance with ARARs. In the fifth sentence remove "also" before "will allow."
p. 5-8, Table 5-1	Change the status of the federal Clean Water Act, Section 304 and State Water Pollution Control from "To Be Considered" to "Relevant and Appropriate."

For the Clean Water Act, Section 304 Synopsis, change "Non Enforceable guidelines" to "Guidelines."

For both the Clean Water Act, Section 304 and State Water Pollution Control, change the Action to be Taken to "These standards are relevant and appropriate for sediment PRGs derived using these water quality criteria (including equilibrium partitioning). This alternative fails to meet this standard since sediment PRGs derived from water quality criteria are not adequately addressed by the remedy."

p. 5-11, ¶1 Replace this paragraph with: "Alternative 1 fails to meet sediment PRGs that have been derived from federal and state water quality chemical-specific ARARs. There are no location-specific or action-specific ARARs for this alternative."

p. 5-12, ¶1 The second sentence discusses access restrictions to recreational and commercial fishing boats, however elsewhere in the document the access restrictions are described for shore access only, not for boat access. The fishing ban proposed is for shellfish and lobsters only - not finfish. Is the proposal to close the area to all vessels or to prevent them from shellfishing or lobstering?

p. 5-12, §5.2.2 Given the mobility of lobsters and scallops and uncertainties associated with enforcement of the ban, the FS text should be revised to explain the limited effectiveness of the proposed shellfishing ban.

p. 5-13, ¶5 Replace this sentence with: "Alternative 2 fails to meet sediment PRGs that have been derived from federal and state water quality chemical-specific ARARs."

p. 5-13, ¶6 Remove this paragraph. To the beginning of the seventh paragraph, add: "Alternative 2 fails to meet location-specific ARARs that require that the action proposed be protective of wetland and flood plains."

In the seventh paragraph change "action-specific ARARs" to "location-specific ARARs."

Add a new seventh paragraph that states: "The monitoring and installation of access restrictions will comply with action-specific ARARs that include the handling of potentially contaminated sediments."

p. 5-14, Table 5-4 Change the status of the federal Clean Water Act, Section 304 and State Water Pollution Control from "To Be Considered" to "Relevant and Appropriate."

For the Clean Water Act, Section 304 Synopsis, change "Non Enforceable guidelines" to "Guidelines."

For both the Clean Water Act, Section 304 and state Water Pollution Control change the Action to be Taken to "These standards are relevant and appropriate for sediment PRGs derived using these water quality criteria (including equilibrium partitioning). This alternative fails to meet this standard since sediment PRGs derived from water quality criteria are not adequately addressed by the remedy."

pp. 5-15 to 5-17 Replace Table 5-5 with the Table 5-5 supplied previously by EPA (attached) that included federal floodplain protection provisions.

p. 5-18 Replace Table 5-6 with revised Table 5-6 (attached).

p. 5-21, ¶2 This paragraph discusses access restrictions to recreational and commercial fishing boats. Elsewhere in the document the access restrictions are described for shore access only, not for boat access. The fishing ban proposed is for shellfish and lobsters only - not finfish. Is the proposal to close the area to all vessels or to prevent them from shellfishing or lobstering?

p. 5-23, ¶5 Replace "There are no chemical-specific ARARs for this alternative" with "Alternative 3A meets sediment PRGs that have been derived from federal and state water quality chemical-specific ARARs through dredging and permanent removal."

p. 5-23, ¶6 Remove the second and third sentences. In the fourth sentence change "However, mitigation" to "Mitigation."

p. 5-24, ¶2 Remove the last sentence.

p. 5-25, Table 5-7 Change the status of the federal Clean Water Act, Section 304 and State Water Pollution Control from "To Be Considered" to "Relevant and Appropriate."

For the Clean Water Act, Section 304 Synopsis, change "Non Enforceable guidelines" to "Guidelines."

For both the Clean Water Act, Section 304 and State Water Pollution Control change the Action to be Taken to "These standards are relevant and appropriate for sediment PRGs derived using these water quality criteria (including equilibrium partitioning). Sediments exceeding these PRGs will be dredged and permanently removed."

p. 5-27 In Table 5-8 insert:

Executive Order 11988 RE: Flood plain Management	40 C.F.R. Part 6, Appendix A	Applicable	The Order requires Federal agencies to evaluate the potential effects of actions it may take within a designated 100-year Flood plain of a waterway to avoid adversely impacting flood plains wherever possible.	The potential for restoring and preserving flood plains so that their natural and beneficial values can be realized must be considered and incorporated into any plan or action wherever feasible. This Alternative addresses these requirements by dredging and removing contaminants that pose a risk to ecological receptors.
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p. 5-29, Table 5-9 Remove the last sentence under the RCRA C, Action to be Taken.

Remove the Rivers and Harbors Act it is already cited as a location-specific ARAR.

p. 5-31, Table 5-9 Remove the citation to the Operation and Maintenance of Wastewater Treatment Plants since the water treatment proposed is not a wastewater treatment plant as defined under these regulations.

Remove the citation to the Coastal Resources Management since it is listed as a location-specific ARAR.

p. 5-37, ¶5 Replace this sentence with: "Alternative 3B fails to meet sediment PRGs that have been derived from federal and state water quality chemical-specific ARARs."

p. 5-37, ¶6 Remove the first through the third sentences and insert: "Alternative 3B fails to meet location-specific ARARs that require that the action proposed be protective of wetland and flood plains because it will leave sediments posing a risk to ecological receptors." In the fourth sentence change "However, mitigation" to "Mitigation."

p. 5-37, ¶7 Remove the last sentence.

p. 5-38, Table 5-10 Change the status of the federal Clean Water Act, Section 304 and State Water Pollution Control from "To Be Considered" to "Relevant and Appropriate."

For the Clean Water Act, Section 304 Synopsis, change "Non Enforceable guidelines" to "Guidelines."

For both the Clean Water Act, Section 304 and State Water Pollution Control change the Action to be Taken, change to: "These standards are relevant and appropriate for sediment PRGs derived using these water quality criteria (including equilibrium partitioning). This alternative fails to meet this standard since sediment PRGs derived from water quality criteria are not adequately addressed by the remedy."

p. 5-39 Replace Table 5-11 with the Table 5-11 supplied previously by EPA (attached) that included federal floodplain protection provisions.

p. 5-42, Table 5-12 Under RCRA C, Action to be Taken, remove the last sentence.

Remove the Rivers and Harbors Act. It is already cited as a location-specific ARAR.

p. 5-44, Table 5-12 Remove the citation to the Operation and Maintenance of Wastewater Treatment Plants because the water treatment proposed is not a wastewater treatment plant as defined under these regulations.

Remove the citation to the Coastal Resources Management since it is listed as a location-specific ARAR.

p. 5-45, ¶2 Insert at the end of the sentence: ", however, the alternative would leave contaminated sediments that exceed PRGs for ecological receptors. Therefore, risk to ecological receptors would remain."

p. 5-45, ¶3 In the first sentence insert "but not eliminate" after "would reduce."

p. 5-49, ¶2 In the second sentence, replace "There are no chemical-specific ARARs for this alternative" with "Alternative 4 meets sediment PRGs that have been derived from federal and state water quality chemical-specific ARARs through dredging and permanent removal."

p. 5-49, ¶3 Remove the second and third sentences. In the fourth sentence change "However, mitigation" to "Mitigation."

p. 5-49, ¶4 Remove the last sentence.

p. 5-51, Table 5-13 Change the status of the federal Clean Water Act, Section 304 and State Water Pollution Control from "To Be Considered" to "Relevant and Appropriate."

For the Clean Water Act, Section 304 Synopsis - Change "Non Enforceable guidelines" to "Guidelines."

For both the Clean Water Act, Section 304 and State Water Pollution Control change the Action to be Taken to "These standards are relevant and appropriate for sediment PRGs derived using these water quality criteria (including equilibrium partitioning). Sediments exceeding these PRGs will be dredged and permanently removed."

p. 5-52 In Table 5-14 insert:

Executive Order 11988 RE: Flood plain Management	40 C.F.R. Part 6, Appendix A	Applicable	The Order requires Federal agencies to evaluate the potential effects of actions it may take within a designated 100-year Flood plain of a waterway to avoid adversely impacting flood plains wherever possible.	The potential for restoring and preserving flood plains so that their natural and beneficial values can be realized must be considered and incorporated into any plan or action wherever feasible. This Alternative addresses these requirements by dredging and removing contaminants that pose a risk to ecological receptors.
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p. 5-55, Table 5-15 Remove the last sentence from RCRA C, Action to be Taken.

Remove the Rivers and Harbors Act citation. It is already cited as a location-specific ARAR

p. 5-57, Table 5-15 Remove the citation to the Operation and Maintenance of Wastewater Treatment Plants since the water treatment proposed is not a wastewater treatment plant as defined under these regulations.

Remove the citation to the Coastal Resources Management since it is listed as a location-specific ARAR.

p. 5-60, ¶2

In the third sentence remove "subtidal" before "aquatic habitats."

p. 5-61, ¶3

Replace this paragraph with: "Alternative 1 fails to meet sediment PRGs that have been derived from federal and state water quality chemical-specific ARARs. There are no location-specific or action-specific ARARs for this alternative."

p. 6-61, ¶4

Replace this paragraph with: "Alternative 2 fails to meet sediment PRGs that have been derived from federal and state water quality chemical-specific ARARs. Alternative 2 also fails to meet location-specific ARARs that require that the action proposed be protective of wetland and floodplains since the proposed action does not adequately address risks posed by the contamination to be left in place. The monitoring and installation of access restrictions will comply with action-specific ARARs that include the handling of potentially contaminated sediments."

p. 6-61, ¶5

Replace this paragraph with: "Alternative 3B fails to meet sediment PRGs that have been derived from federal and state water quality chemical-specific ARARs. Alternative 2 also fails to meet location-specific ARARs that require that the action proposed be protective of wetland and floodplains since the proposed action does not adequately address risks posed by the contamination to be left in place. The proposed partial dredging, monitoring, and installation of access restrictions will comply with action-specific ARARs that include the handling of potentially contaminated sediments.

Alternative 3A and 4 can be performed in accordance with all applicable chemical-, location-, and action-specific ARARs."

p. 5-61, ¶6

In the sixth sentence remove "somewhat" since the proposed alternative is not protective enough to meet regulatory requirements.

Appendix B

The Appendix B cover sheet/divider sheet needs to be revised to reflect November 1998 Final PRG document.

Appendix C

Tables A, B, and C are presumably included to support the volume estimates; however, calculation worksheets are not provided in Appendix C that explain the assumptions and how the information presented in the Tables A, B, and C are translated into the depth of sediment that exceeds PRGs. Also, the tables need to be quality checked and corrected. The

row identifiers "date sampled" and "depth in feet" are opposite of the information presented. This should be corrected. A few of the sample station identifiers appear to have been typed incorrectly. Lead data are not provided to assist in the estimation of the sediment volume that exceeds the lead PRG concentration. Data for all contaminants for which PRGs are recommended should be included to support the volume estimates.

- Appendix D, Alt 2 Under the estimated analytical costs of long-term monitoring (item #1) in Alternative 2, the 20 samples/yr for biota chemistry, amphipod toxicity, and arbacia toxicity are not accurately costed. The cost appears to be for 10 samples per year instead of 20.
- Appendix D, Alt 4 The area to be covered under alternative 4 requires 45 boring stations as shown in Figure 4-3. However, the number of boring stations presented in Appendix D is 52 and 52 borings is used for subsequent calculations. This number should be 45 and calculations corrected to reflect this change.

**TABLE 5-6
ASSESSMENT OF ACTION-SPECIFIC ARARs AND TBCs
FOR ALTERNATIVE NS-2: LIMITED ACTION
FORMER Robert E. DERECKTOR SHIPYARD
NSN, NEWPORT, RHODE ISLAND**

FEDERAL

Requirement	Citation	Status	Synopsis of Requirement	Action to Be Taken to Attain ARAR
Resource Conservation and Recovery Act (RCRA), Subtitle C - Standards for Hazardous Waste Facilities	42 U S C 6291 <i>et seq</i> , 40 C F R Part 264	Applicable	RI is delegated to administer the federal Resource Conservation and Recovery Act (RCRA) statute through its state regulations. The standards of 40 C F R Part 264 are incorporated by reference.	Monitoring will assess whether hazardous wastes are present in the sediment.

STATE OF RHODE ISLAND

Hazardous Waste Management - Identification and Listing of Hazardous Wastes	RIGL 23-19 1, CRIR 12-030-003(3 25)	Relevant and Appropriate	RI is delegated to administer the federal Resource Conservation and Recovery Act (RCRA) statute through its state regulations. The standards of 40 C F R Part 261 regarding RCRA identification and listing are incorporated by reference.	Monitoring will test sediment according to the requirements of this regulation. Sediments which are determined not to be hazardous may be handled and disposed of as solid waste. Leaving wastes in place which are hazardous does not meet standards for protectiveness to human health and the environment.
Hazardous Waste Management - Standards for Treatment, Storage, and Disposal Facilities	RIGL 23-19 1 <i>et seq</i> , CRIR 12-030-003(10 00)	Applicable	Outlines specifications and standards for design, operation, closure, and monitoring of performance for hazardous waste storage, treatment, and disposal facilities. The standards of 40 CFR Part 264 are incorporated by reference.	Monitoring and institutional controls, including sampling and installation of access restrictions within areas containing hazardous waste will comply with these standards.
Water Pollution Control - Water Quality	RIGL 42-16 <i>et seq</i> , CRIR 12-190-001	Applicable	Establishes water use classification and water quality criteria for waters of the state.	Monitoring and institutional control measures must not cause degradation of surface water quality in Narragansett Bay.

**TABLE 5-5
ASSESSMENT OF LOCATION-SPECIFIC ARARs AND TBCs
FOR ALTERNATIVE 2: LIMITED ACTION - MONITORING
AND INSTITUTIONAL CONTROLS
FORMER ROBERT E. DERECKTOR SHIPYARD
NETC, NEWPORT, RHODE ISLAND
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FEDERAL

Requirement	Citation	Status	Synopsis of Requirement	Action to Be Taken to Attain ARAR
Executive Order 11990 RE Protection of Wetlands	40 C F R Part 6, Appendix A	Applicable	This Order requires Federal agencies to take action to avoid adversely impacting wetlands wherever possible, to minimize wetlands destruction and to preserve the values of wetlands, and to prescribe procedures to implement the policies and procedures of this Executive Order	The potential for restoring and preserving wetlands so that their natural and beneficial values can be realized must be considered and incorporated into any plan or action wherever feasible. The Limited Action Alternative fails to address potential contamination and degradation of the wetlands on and adjacent to the Site.
Executive Order 11988 RE Flood plain Management	40 C F R Part 6, Appendix A	Applicable	The Order requires Federal agencies to evaluate the potential effects of actions it may take within a designated 100-year Flood plain of a waterway to avoid adversely impacting flood plains wherever possible.	The potential for restoring and preserving flood plains so that their natural and beneficial values can be realized must be considered and incorporated into any plan or action wherever feasible. The Limited Action Alternative fails to address the continuing contamination of areas of 100 year coastal Flood plain areas which occur on the Site.
Fish and Wildlife Coordination Act	16 U S C Part 661 <i>et seq</i> , 40 C F R 122.49	Applicable	This statute requires consultation with appropriate agencies to protect fish and wildlife when federal actions result in control or structural modification of a body of water or to critical habitat upon which endangered or threatened species depends.	Appropriate agencies will be consulted to find ways to minimize adverse effects to fish and wildlife from the presence of the landfill wastes.
Endangered Species Act	16 U S C 1531 <i>et seq</i> , 50 C F R Part 200, 50 C F R Part 402	Applicable	If a location contains a federal endangered or threatened species or its critical habitat, must consult with either the U S Fish & Wildlife Service or the National Marine Fisheries Service.	The federally endangered loggerhead turtle (<i>Caretta caretta</i>) and federally threatened Kemp's ridley turtle (<i>Lepidochelys kempii</i>) occur in the waters of Narragansett Bay. Appropriate agencies will be consulted to find ways to minimize adverse effects to the listed species from the presence of the landfill wastes.

**TABLE 5-5
ASSESSMENT OF LOCATION-SPECIFIC ARARs AND TBCs
FOR ALTERNATIVE 2: LIMITED ACTION - MONITORING
AND INSTITUTIONAL CONTROLS
FORMER ROBERT E. DERECKTOR SHIPYARD
NETC, NEWPORT, RHODE ISLAND
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Coastal Zone Management Act	16 U S C Parts 1451 <i>et seq</i>	Applicable	Requires that any actions must be conducted in a manner consistent with state approved management programs	The entire Site is located in a coastal zone management area, therefore, applicable coastal zone management requirements need to be addressed.
Rivers and Harbors Act, Section 10	33 U S C 403, 33 C F R 320-323	Applicable	Sets forth criteria for obstructions and alterations of navigable waters	Installation and maintenance of access restriction markers will be performed in compliance with the substantive environmental standards of these provisions
National Historic Preservation Act	16 U S C 470 <i>et seq</i> , 26 C F R Part 800	Applicable	Requires action to take into account effects on properties included on or eligible for the National Register of Historic Places and minimizes harm to National Historic Landmarks	Historic vessels may be sunken in the area. Monitoring and access restriction activities will be carried out to minimize potential harm to historic sites

STATE OF RHODE ISLAND

Coastal Resources Management	RIGL 46-23-1 <i>et seq</i>	Applicable	Sets standards for management and protection of coastal resources.	The entire Site is located in a coastal resource management area, therefore, applicable coastal resource management requirements need to be addressed.
Endangered Species Act	RIGL 20-37-1 <i>et seq</i>	Applicable	Regulates activities affecting state-listed endangered or threatened species or their critical habitat	The state listed loggerhead turtle (<i>Caretta caretta</i>) and Kemp's ridley turtle (<i>Lepidochelys kempii</i>) occur in the waters of Narragansett Bay. Appropriate state agencies will be consulted to find ways to minimize adverse effects to the listed species from the presence of the landfill wastes

**TABLE 5-11
ASSESSMENT OF LOCATION-SPECIFIC ARARs AND TBCs
ALTERNATIVE 3B: HOT SPOT DREDGING,
FORMER ROBERT DERECKTOR SHIPYARD
NETC, NEWPORT, RHODE ISLAND
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FEDERAL

Requirement	Citation	Status	Synopsis of Requirement	Action to Be Taken to Attain ARAR
Executive Order 11990 RE Protection of Wetlands	40 C F R Part 6, Appendix A	Applicable	This Order requires Federal agencies to take action to avoid adversely impacting wetlands wherever possible, to minimize wetlands destruction and to preserve the values of wetlands, and to prescribe procedures to implement the policies and procedures of this Executive Order	Restoration and preservation of the intertidal wetlands that will be altered by the dredging action will be conducted so that the wetlands' natural and beneficial values can be realized. Since contaminated sediment would be left in place the hot spot alternative does not meet these standards.
Executive Order 11988 RE Flood plain Management	40 C F R Part 6, Appendix A	Applicable	The Order requires Federal agencies to evaluate the potential effects of actions it may take within a designated 100-year Flood plain of a waterway to avoid adversely impacting flood plains wherever possible.	The potential for restoring and preserving flood plains so that their natural and beneficial values can be realized must be considered and incorporated into any plan or action wherever feasible. Since contaminated sediment would be left in place the hot spot alternative does not meet these standards.
Clean Water Act, Section 404	33 U S C 1344, 40 C F R Part 230 and 33 C F R Parts 320-323	Applicable	This statute regulates the discharge of dredge and fill materials into Waters of the United States, including special aquatic sites - such as wetlands, intertidal habitats, and vegetated shallows. Such discharges are not allowed if practicable alternatives are available.	The dredging action and mitigation of aquatic habitats will be conducted under these standards. Alteration may be permitted if no practicable alternative that has less effect is available.
Rivers and Harbors Act, Section 10	33 U S C 403, 33 C F R Parts 320- 323	Applicable	Sets forth criteria for obstructions or alterations of navigable waters.	Excavation/dredging and habitat restoration will comply with the Act's environmental standards.
Fish and Wildlife Coordination Act	16 U S C Part 661 <i>et seq</i> , 40 C F R 122.49	Applicable	This statute requires consultation with appropriate agencies to protect fish and wildlife when federal actions result in control or structural modification of a body of water or to critical habitat upon which endangered or threatened species depends.	The appropriate agencies will be consulted to find ways to minimize adverse effects to fish and wildlife from the implementation of the proposed removal and restoration remedy.

TABLE 5-11
ASSESSMENT OF LOCATION-SPECIFIC ARARs AND TBCs
ALTERNATIVE 3B: HOT SPOT DREDGING,
FORMER ROBERT DERECKTOR SHIPYARD
NETC, NEWPORT, RHODE ISLAND
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Endangered Species Act	16 U.S.C. 1531 <i>et seq.</i> , 50 C.F.R. Part 200, 50 C.F.R. Part 402	Applicable	If a location contains a federal endangered or threatened species or its critical habitat, must consult with either the U.S. Fish & Wildlife Service or the National Marine Fisheries Service	The federally endangered loggerhead turtle (<i>Caretta caretta</i>) and federally threatened Kemp's ridley turtle (<i>Lepidochelys kempii</i>) occur in the waters of Narragansett Bay. Appropriate agencies will be consulted to find ways to minimize adverse effects to the listed species from the removal and restoration remedy.
Coastal Zone Management Act	16 U.S.C. Parts 1451 <i>et seq.</i>	Applicable	Requires that any actions must be conducted in a manner consistent with state approved management programs	The entire Site is located in a coastal zone management area, therefore, applicable coastal zone management requirements need to be addressed.
National Historic Preservation Act	16 U.S.C. 470 <i>et seq.</i> , 26 C.F.R. Part 800	Applicable	Requires action to take into account effects on properties included on or eligible for the National Register of Historic Places and minimizes harm to National Historic Landmarks	Historic vessels may be sunken in the area. Excavation/dredging and restoration activities will be carried out to minimize potential harm to historic sites.

STATE OF RHODE ISLAND

Coastal Resources Management	RIGL 46-23-1 <i>et seq.</i>	Applicable	Sets standards for management and protection of coastal resources	The entire Site is located in a coastal resource management area, therefore, applicable coastal resource management requirements need to be addressed. Since contaminated sediment would be left in place the hot spot alternative does not meet these standards.
Endangered Species Act	RIGL 20-37-1 <i>et seq.</i>	Applicable	Regulates activities affecting state-listed endangered or threatened species or their critical habitat	The state listed loggerhead turtle (<i>Caretta caretta</i>) and Kemp's ridley turtle (<i>Lepidochelys kempii</i>) occur in the waters of Narragansett Bay. Appropriate state agencies will be consulted to find ways to minimize adverse effects to the listed species from the implementation of the removal and restoration remedy.