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ST JULIENS CREEK
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U S NAVY RESPONSE TO VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
REGARDING DRAFT FINAL RECORD OF DECISION SITE 21 OPERABLE UNIT (OU) 12
BUILDING 187 ST JULIENS CREEK ANNEX CHESAPEAKE VA
8/23/2011
CH2M HILL

**Responses to Comments
Draft Final Record of Decision
Site 21: Industrial Area
EPA Designation: OU-12, Site 21 – Building 187
St. Juliens Creek Annex
Chesapeake, Virginia**

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DATE: August 23, 2011

Comments from VDEQ, provided 15 August 2011

1. **Comment:** Table A-2 Virginia Chemical Specific ARARs: VDEQ does not have an objection to listing the State Water Control Law statutory citation within the ARARs table nor does VDEQ object to removing the statutory citations. However, to maintain consistency throughout the ARARs tables all appropriate statutory citations should be listed for both Federal and State regulations. The statutory authority for 9 VAC 25-280-30 should be cited as State Water Control VA Code Ann. 62.1-44.15.

Response: All statutory citations have been removed.

2. **Comment:** Table A-3 Federal Location Specific ARARs: Please add the Federal Coastal Zone Management Act to the Federal Location Specific ARARs. Effective January 8, 2001, the National Oceanic and Atmospheric Administration (NOAA) revised the regulations implementing the federal consistency provisions of the Coastal Zone Management Act (CZMA) of 1972. The revisions were necessary based on new provisions in the 1990 Coastal Zone Act Reauthorization Amendments (CZARA) and the 1996 Coastal Zone Protection Act. Among the amendments were revisions to the federal consistency requirement contained in Section 307 of the CZMA. Specifically, 16 U.S.C. § 1456, clarified that all federal agency activities meeting the “effects” standard are subject to CZMA consistency and that there are no exceptions, exclusions or categorical exemptions from the requirement. Therefore, VDEQ requests that the Coastal Zone Management Act be included as a Federal Location Specific ARAR.

Response: The CZMA has been added to the table.

3. **Comment:** Table A-6 Virginia Action Specific ARARs: VDEQ requests that the Applicable Solid Waste requirements be listed as: 9VAC 20-81-40(B), 45 (B) and 90(A)(1). The actions specific requirement for the Virginia Solid Waste regulation

in this case is the generation and management of solid waste on site. Currently the table lists only a component of waste management namely managing containerized waste. In this case the action to be taken will generate solid waste (presumed hazardous until characterized). Therefore VDEQ proposes to revise the "Action" entry to read "Generation of solid waste associated with the selected remedy (to include investigative derived waste)", the "Requirement" would then be "Establishes criteria for the proper management of solid waste." And, the "Prerequisite" entry would read "Management of solid waste generated on site". The "Citation" should be "9VAC20-81-40(B), 45(B) and 90(A)(1)". The ARAR is determined to be Applicable and the "Comment" could remain the same.

Response: It is the Navy's position that ARARs should address the most specific actions that it is possible to determine for a given remedy. This action will not generate any waste that is not managed in containers. Further, presuming that solid waste is hazardous until characterized is not required. In fact, the procedure for making a hazardous waste determination outlined in 9 VAC 20-60-262 (incorporating 40 CFR 262.11 by reference) takes the opposite approach. Generator knowledge does indicate that generation of hazardous waste is likely during this action and therefore the Navy has included two ARARs in the table related to waste management - one for hazardous waste and one for non-hazardous waste. Therefore the action has not been revised.

The prerequisites for both ARARs were revised to more accurately reflect the prerequisite and now read "Generation of..." rather than "Management of..."

Regarding the requested citations: 9 VAC 20-81-40(B) is administrative in that it does not contain substantive requirements itself, but only refers to them. The substantive requirements that this citation refers to are included in the table; therefore, this citation was not added. 9 VAC 20-81-45(B), which exempts wastes generated during CERCLA actions from regulation under 40 CFR 257, has been added to the table. 9 VAC 20-81-90(A)(1) refers to hazardous waste management. As hazardous waste management is addressed in a separate ARAR this citation has not been added to the table.

4. **Comment:** Table A-6 Virginia Action Specific ARARs: Please add Monitoring Well Installation and Abandonment as a Virginia Action Specific ARAR: 12 VAC 5-630-420(B)(C) and 450(C)(1),(2),(4),(5), and (7) to (9). This regulation establishes the requirements of the installation and abandonment of observation and monitoring wells, governed jointly by the State Board of Health and the Department of Environmental Quality.

Response: The ARAR has been added to the table as requested.

5. **Comment:** Table A-6 Virginia Action Specific ARARs: Please add Standards for Fugitive Dust Emissions 9 VAC 5-50-90. This regulation is regarding reasonable precautions to prevent particulate matter from becoming airborne.

Response: There are no dust generating activities, such as excavation or other land disturbance, that are associated with this remedy. Therefore, this ARAR has not been added to the table.

6. **Comment:** Table A-6 Virginia Action Specific ARARs: Please add Virginia Water Protection Permit Program Regulation 9 VAC 25-210-50(A). This regulation governs discharges of pollutants to state waters which is prohibited. Any staging of chemicals onsite where stormwater conveyances are present would be subject to this regulation.

Response: The ARAR has been added to the table as requested.