

**Range Sustainability Environmental Program Assessment  
(RSEPA)  
Range Condition Assessment (RCA) Phase II**

**Pre-Site Visit  
Information Collection Synopsis**

**Virginia Capes Complex**

**June 2004**

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**Range Sustainability Environmental Program Assessment (RSEPA)  
Range Condition Assessment (RCA) Phase II  
Pre-site Visit Information Collection Synopsis**

**VACAPES Complex  
(Navy Dare County Bombing Range, NC and  
Dam Neck, VA, 5-Inch Gun Fire Line and VC-6 Drone Launch Area)**

## **INTRODUCTION**

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The Virginia Capes Operating Area (VACAPES OPAREA) is a surface and subsurface operating area off the Virginia and North Carolina coasts. It includes the area covered by Warning Areas, W-386, W-387, W-72, W-50, W-108, and W-110; restricted air space, R-6606; and the Submarine Transit Lanes. VACAPES OPAREA is used for various surface, subsurface, air-to-surface exercises. There are three operational land ranges that are associated with “VACAPES OPAREA” and that fall within the scope of this RSEPA RCA. They are 1) Navy Dare County Bombing Range, North Carolina, 2) Fleet Combat Training Center Atlantic, Dam Neck, Virginia 5-inch Gun Fire Line and 3) Dam Neck’s Composite Squadron Six Detachment (VC-6) Drone Launch Area.

Dare County Bombing Range (DCBR) is a 46,000 acre, joint United States Navy/Air Force weapons range that is located in Dare County, North Carolina. The Navy leases the northern portion of the range from the Air Force and is referred to as, Navy DCBR. The range is comprised of marshland, forest and open space, and contains targets for inert weapons delivery practice. DCBR is an instrumented, all-weather range located within restricted air space, R-5314, near Manteo, North Carolina, approximately 70 NMI south of the NAS Oceana TACAN, Channel 113. Navy aircraft fly sorties from ships conducting exercises in the VACAPES OPAREA, and from other areas, to DCBR for air-to-ground training.

“Dam Neck” is part of Naval Air Station, Oceana and is home to the Fleet Combat Training Center, Atlantic along with 13 other tenant commands. Dam Neck is located on the Atlantic coast, five miles south of the downtown resort of Virginia Beach. Founded in 1941 as an anti-aircraft range, the base still boasts the Navy’s only open-ocean, live firing training facility featuring major caliber weapons. Fleet Combat Training Center Atlantic, Dam Neck, Virginia has two land-based ranges that fall within the scope of this RSEPA RCA, the 5-inch gunfire line and VC-6 Drone Launch Area. Both operate in restricted airspace R-6606 that lies within VACAPES OPAREA. VC-6 squadron operates BQM-74E powered drones (unmanned aerial vehicles) that are remotely controlled subsonic air-to-air targets. The drones are launched from a designated area within Dam Neck and are used as targets for air-to-air missile firings. The 5-inch gunfire line at Dam Neck consists of guns that one finds on active Naval ship. The guns are positioned on a paved surface along the shoreline and are used by sailors to train on their maintenance and use. Guns have not been fired since the late 1980’s, but the surface range is still considered to be active.

It should be noted that even though the term, “VACAPES” will be used to collectively refer to the three land ranges just described in the preceding paragraphs, each VACAPES range and its unique features will be addressed individually in this RSEPA RCA Phase II Report.

The purpose of RSEPA RCA Phase II, Pre-Site Visit Information Collection, is to gather and review as much pertinent information as possible prior to conducting on-site visits. The RSEPA Technical Team, with the assistance of the RSEPA Management Team, gathered documents that addressed the historical and current operational uses of ranges, range maintenance procedures, NEPA documentation, environmental management programs, and natural and cultural resources at the VACAPES ranges. All documents received are consolidated in a centralized location, the VACAPES Range Data Folder.

In addition to records gathering, RSEPA RCA Phase II requires that the Technical Team initially determine applicability of environmental regulations to the VACAPES ranges, as team members review range documents. This initial range environmental regulatory applicability assessment is found in the RSEPA RCA Phase II, "Pre-Site Visit Information Collection" Report. Initial assessment prior to the on-site visit serves to identify data gaps, increase the efficiency of the on-site visit, and minimize disruptions to installation personnel and operations during the on-site visit. The regulatory information gathered during this phase will help determine what additional data may need to be collected either prior to or during the on-site visit.

To facilitate Technical Team member's regulatory impact analyses for the VACAPES ranges, team members were provided guidance, in the form of the document in Appendix A, in generating their individual analysis for their assigned environmental compliance area. Team member's individual analyses were then consolidated into this "VACAPES Final Draft Pre-Site Visit Information Collection Report", which is based upon information gained from documents received as of the date of this report.

In the analysis section of this report, "Environmental Regulatory Applicability", is a summary of the Technical Team's determination as to what Federal, state and local environmental regulations and DOD/Navy requirements apply to VACAPES ranges and is broken out into the following environmental compliance and explosives safety management areas:

- A. Air Quality
- B. Water Quality
- C. Hazardous Materials
- D. Hazardous Waste
- E. Emergency Planning and Community Right-to-Know Act (EPCRA)
- F. Pollution Prevention
- G. Storage Tank Management
- H. Petroleum, Oils, and Lubricants (POL)
- I. Natural Resources
- J. Cultural Resources
- K. National Environmental Policy Act (NEPA)
- L. Pesticides Management Lead Paint Management
- M. Asbestos Management
- N. PCB Management
- O. Safe Drinking Water Management
- P. Environmental and Explosives Safety Management.

The areas listed above were chosen based upon those environmental compliance and explosives safety management areas found in the Navy's Environmental Compliance Evaluation Program, The US Army Corps of Engineers Environmental Assessment and Management (TEAM) Guide (Revised March 2003) and OPNAVINST 5090.1B.

It should be noted that few environmental documents were provided to the RSEPA Technical Team prior to the VACAPES site visit. This may be due to a lack of information, in general, about the presence or absence of environmental issues at DCBR and Dam Neck ranges. This RSEPA RCA Phase II report; therefore, reflects more general information with regard to regulations may apply to VACAPES ranges.

## **ENVIRONMENTAL REGULATORY APPLICABILITY**

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### **A. Air Quality**

Regulations that have the potential to apply to air quality at VACAPES ranges:

#### **Federal Statutes & Regulations**

- Clean Air Act Amendments 1990 (CAAA90), 40 CFR Parts 50-91 & 93.

#### **State Statutes & Regulations**

- Virginia Department of Environmental Quality, Air Pollution Control Board Statutes and regulations, Chapters 10, 20, 30, 40, 50, 60, 70, 80, 91, 140, 150, 160, 170, 200, 210, and 500.
- North Carolina Air Quality Rules, 15a NCAC 2d (Air Pollution Control Requirements) and 15a NCAC 2q (Air Quality Permit Procedures)

#### **Navy Requirements**

- OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 5, Clean Air Ashore

Applicability of regulations listed above to VACAPES ranges:

Federal CAAA90 and Virginia Statutes and air quality regulations apply to the VACAPES ranges because they each have stationary and mobile air emission sources on the range. The range may or may not be subject to requirements depending on whether established emission thresholds are exceeded such as, CAAA90 Title I (National Ambient Air Quality Standards), Title III (Hazardous Air Pollutants), Title V (Federal Permit), and Federal General Conformity Rule. Based upon North Carolina Department of Environmental and Natural Resources (Division of Air Quality) Web site, DCBR lies within an air basin that is in attainment for Federal and state ambient air quality standards. This means that DCBR is not subject to the General Conformity Rule and, in general, is not subject to as many regulations as it would be if it were located in a non-attainment air basin. Dam Neck and its 5-inch gun line and VC-6 drone launch area are located in an air basin that is in non-attainment for Federal and state ambient air quality standards, in particular ozone. If either range area has stationary sources, they may be subject to permitting. At Dam Neck, emissions from any mobile sources related to the range areas should be factored in when performing general conformity calculations.

Federal Asbestos NESHAP (National Emissions Standards for Hazardous Air Pollutants) applies if asbestos is located in buildings on range. From the age of the control tower at DCBR and the structures that house the controls for the 5-inch guns at Dam Neck, it is likely that asbestos-containing materials may be present.

Virginia Department of Environmental Quality and North Carolina Department of Environmental and Natural Resources (Division of Air Quality) have regulations that encompass and exceed Federal regulation requirements. The Technical Team did not identify any major air quality issues related to operations at both DCBR and Dam Neck range areas.

## **B. Water Quality**

Regulations that have the potential to apply to water quality at VACAPES ranges:

### **Federal Statutes & Regulations**

- Federal Water Pollution Control Act ("Clean Water Act") of 1977
- Rivers and Harbors Act of 1899
- Marine Protection, Research and Sanctuaries Act ("Ocean Dumping Act")
- Oil Pollution Act of 1990
- Safe Drinking Water Act

### **State Statutes & Regulations**

- Virginia Department of Environmental Quality Regulations, Water Programs, 9VAC25-31 32, 9VAC25-151-80, 210, 220, 260, 380, 400, 581, and 12VAC5-462-290, 12VAC5-581-10, 12VAC5-581-420, 12VAC5-590-830 et seq.
- North Carolina Department of Environment & Natural Resources, Division of Water Quality, North Carolina Administrative Code,

### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 7, Clean Water Ashore

The following Federal and state regulations and Navy requirements apply to VACAPES ranges:

### **Federal Statutes & Regulations**

- Federal Water Pollution Control Act ("Clean Water Act") of 1977 – applies to Dam Neck range areas with regard to oil water separators and stormwater runoff. Applies to DCBR with respect to protection of the wetland community types that make up DCBR.
- Rivers and Harbors Act of 1899 – prohibits the unpermitted obstruction or alteration of navigable waters of the United States. Could apply to DCBR, if any water on the range that met the definition of "navigable waters of the United States" was planned on being altered. There are wetlands in Navy DCBR, which may eventually tie in to navigable waters.
- Federal Oil Pollution Act of 1990 - The CWA prohibits spills, leaks or other discharges of oil or hazardous substances into waters of the United States in quantities that may be harmful. The Oil Pollution Act of 1990 (OPA 90) amended the CWA to expand oil spill prevention activities, improve preparedness and response capabilities, and ensure that companies are responsible for damages from spills. This act applies to DCBR as it does have above ground storage tanks containing diesel and gasoline fuel for back-up generators.



- Safe Drinking Water Act (SDWA) – may apply to Dam Neck range areas or DCBR, if any have potable wells on site or if operations could impact a potable source of water.

### **State Statutes & Regulations**

Virginia State Water Control Board and North Carolina Department of Environment & Natural Resources apply to all three VACAPES range areas, as they either are located in wetlands areas, in the case of DCBR, or on the shoreline, as is the case with both Dam Neck range areas. There is potential for all three ranges to have impacts from range operations and maintenance on water resources.

### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental and Natural Resources Program Manual, Chapter 7, Clean Water Ashore – applies to all Navy facilities.

## **C. Hazardous Materials**

Hazardous Materials regulations that have the potential to apply to VACAPES ranges:

### **Federal Statutes & Regulations**

- Occupational Safety and Health Act (OSHA)
- Hazardous Materials Transportation Act of 1975
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Superfund Authorization and Reauthorization Act (SARA), Title III, “Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)”
- Pollution Prevention Act of 1990 (PPA)
- The Oil Pollution Act of 1990
- Executive Order (EO) 12088, Federal Compliance with Pollution Standards
- EO 13148, Greening the Government through Leadership in Environmental Management
- The National Fire Code, Flammable and Combustible Liquids Code, NFPA 30
- Federal UST Law
- 1990 CAA Amendments, Title III, Section 112r

### **State Statutes & Regulations**

North Carolina has no specific requirements regarding the management of hazardous materials (North Carolina supplement to The Environmental Assessment and Management (TEAM) Guide, March 2003).

### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 3, Pollution Prevention and Chapter 10, Oil and Hazardous Substances Contingency Plan

Applicability of regulations listed above to VACAPES ranges:

The federal and state regulations would apply to both DCBR and range support operations/facilities that handle hazardous materials. The use of hazardous materials is minimized at DCBR, but some materials (e.g., fuel for generators) are used. TSCA and AHERA regulations do not apply since there are no schools on DCBR.

The Residential Lead-Based Paint Hazard Reduction Act of 1992 does not apply, since there are no residences located on DCBR. TSCA could apply to the buildings on range. TSCA and RCRA regulations could apply. If equipment that might contain PCBs, such as light ballasts and transformers are not specifically labeled "No PCBs," then Navy environmental personnel assume the equipment contains PCBs. For these items, TSCA and RCRA regulations apply to shipment of items off island for proper disposal. If pesticides are used on range, FIFRA could apply. EPCRA is addressed under Section E of this report.

#### **D. Hazardous Waste**

Hazardous Waste regulations that have the potential to apply to VACAPES ranges:

##### **Federal Statutes & Regulations**

- The Resource Conservation and Recovery Act (RCRA)
- The Federal Facility Compliance Act (FFCA) of 1992
- EO 12088, Federal Compliance with Pollution Standards
- Military Munitions Rule
- Occupational Safety and Health Act (OSHA)

##### **State Statutes & Regulations**

- 15A North Carolina Administrative Code (NCAC), Subchapter 13A – Hazardous Waste Management
- Virginia Hazardous Waste Management Regulations, 9VAC20-60-10 et seq.

##### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 12, Hazardous Waste Management Ashore

Applicability of regulations listed above to VACAPES ranges:

The Military Munitions Rule would apply to the DCBR in identifying when practice munitions become hazardous waste under RCRA, and to provide for protective storage and transportation of that waste.

The federal and state regulations would apply to both the DCBR and any co-located range support operations/facilities that generate, transport, treat, store, or dispose of nonhazardous (Subtitle D) and hazardous waste (Subtitle C). The Navy routinely generates very little hazardous waste (e.g., mercury vapor light bulbs, batteries, paint), but the U.S. Air Force environmental staff at Seymour Johnson Air Force Base oversees and handles all hazardous waste generated on DCBR.

Training under OSHA is required for personnel working with hazardous wastes in operational range areas and in any range support operations/facilities. Training includes DOT, HAZCOM, and HAZWOPER training.

## **E. Emergency Planning and Community Right-to-Know Act (EPCRA)**

Regulations that have the potential to apply to VACAPES ranges:

### **Federal Statutes & Regulations**

Superfund Authorization and Reauthorization Act (SARA), Title III, Emergency Planning and Community Right to Know Act (EPCRA)

### **State Statutes & Regulations**

None are applicable. North Carolina follows Federal regulations

### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 4, Procedures for Implementing the Emergency Planning and Community Right-to-Know Act (EPCRA)

Applicability of regulations listed above to VACAPES ranges:

EPCRA's primary purpose is to inform communities and citizens of chemical hazards in their areas. Sections 311 and 312 of EPCRA require businesses to report the locations and quantities of chemicals stored on-site to state and local governments in order to help communities prepare to respond to chemical spills and similar emergencies. Section 313 of EPCRA requires EPA and the States to annually collect data on releases and transfers of certain toxic chemicals from industrial facilities, and make the data available to the public in the Toxics Release Inventory (TRI). Hazardous materials under EPCRA would also be subject to state regulations.

Sections 311 and 312 of EPCRA would be applicable to both the operational range areas and any range support operations/facilities at VACAPES that handle chemicals.

Section 313 of EPCRA may or may not be applicable to the two ranges. It would depend upon whether or not the ranges exceed threshold chemical quantities and have more than 10 full time employees (20,000 man hours per year). The applicability also will depend upon whether live or inert ordnance is used. The Dare County Bombing Range historically has only used inert ordnance and ordnance that uses marking charges, while the Dam Neck range reportedly has not been used in 20 years. This information will be verified during the technical team site visit to determine the applicability of EPCRA to the two ranges.

## **F. Pollution Prevention**

Pollution Prevention regulations that have the potential to apply to VACAPES ranges:

### **Federal Statutes & Regulations**

- E.O. 12856, Pollution Prevention Act of 1990
- Emergency Planning and Community Right-to-Know Act (EPCRA)

### **State Statutes & Regulations**

- Virginia Administrative Code, 9VAC25-91-130 Pollution Prevention standards and procedures for Above Ground Storage Tanks, 9VAC25-151-80. Storm water pollution prevention plans.
- North Carolina Department of Environmental and Natural Resources, Division of Pollution Prevention and Environmental Assistance (DPPEA), Executive Order 156 - State Government Environmental Sustainability, Reduction of Solid Waste, and Procurement of Environmentally Preferable Products, Executive Order 26 – State Water System Protection, § 130A-309.14. Duties of State agencies. (establishment of recycling program), § 143-58.2. State policy; bid procedures and specifications; identification of products (purchase products with recycled content)

### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 3, Pollution Prevention

Note that pollution prevention, source reduction, and waste minimization are being increasingly integrated into other areas of Federal and state environmental regulation efforts. One can find pollution prevention efforts as a requirement for reduction in pollution in a variety of environmental regulations, including but not limited to the CAA and CWA.

Applicability of regulations listed above to VACAPES ranges:

E.O. 12856 (3 August 1993) directs Federal facility compliance with the Pollution Prevention Act of 1990 and the Emergency Planning and Community Right-to-Know Act (EPCRA), which aim to reduce pollution at its source through source reduction and waste minimization. Federal and state requirements for storm water pollution prevention plans could apply to Dam Neck range areas due to the presence of impervious surfaces on the range areas. The typical opportunity for recycling, which is only one component of pollution prevention, on ranges would be the recycling of any scrap metal from DCBR and oil from support vehicles used at the range.

## **G. Storage Tank Management**

Storage Tank Management regulations that have the potential to apply to VACAPES ranges:

### **Federal Statutes & Regulations**

- Federal Underground Storage Tank (UST) Law
- The Clean Air Act (CAA) Amendments of 1990
- The Oil Pollution Act of 1990
- The Federal Facilities Compliance Act (FFCA) of 1992
- The Occupational Safety and Health Act (OSHA)
- Executive Order (EO) 12088. Federal Compliance with Pollution Standards

### **State Statutes & Regulations**

- 15A North Carolina Administrative Code (NCAC) Subchapter 2N – Underground Storage Tanks – This administrative code establishes technical standards and

corrective action requirements for owners and operators of underground storage tanks in North Carolina.

- North Carolina General Statute 143-215.85: Required notice – A notice of petroleum or any other substance discharged to the environment from USTs must be reported to the North Carolina Department of Environment and Natural Resources. Information that must be reported is the nature of the spill, the location and time of the discharge, and the measures that are being taken or are proposed to contain and remove the spill.
- Virginia Dept. of Environmental Quality, Water Division, Office of Spill Response and Remediation, “Facility and Above-Ground Storage Tank Regulation”, 9 VAC 25-91-10; Underground storage tanks: “Technical standards and corrective action requirements”, 9 VAC 25-580; 9VAC25-151-80. Storm water pollution prevention plans, 9VAC25-91-130 Pollution prevention standards and procedures for AGST
- Virginia Stormwater Management Law & Regulations (VSWML&R), 4 VAC 3-20

### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 16, Storage Tanks

#### Applicability of regulations listed above to VACAPES ranges:

The federal and state regulations would be applicable to both the operational range areas and any range support operations/facilities at VACAPES that have storage tanks or any other equipment that contains petroleum, oil, or lubricant.

## **H. Petroleum, Oils, and Lubricants (POL)**

#### POL Management regulations that have the potential to apply to VACAPES ranges:

### **Federal Statutes & Regulations**

- The Oil Pollution Act of 1990
- Federal UST Law
- Executive Order (EO) 12088, Federal Compliance with Pollution Standards

### **State Statutes & Regulations**

- North Carolina General Statute 143-215.85: Required notice – A notice of petroleum or any other substance discharged to the environment from USTs must be reported to the North Carolina Department of Environment and Natural Resources. Information that must be reported is the nature of the spill, the location and time of the discharge, and the measures that are being taken or are proposed to contain and remove the spill.
- North Carolina General Statute 143-215.94: Joint and several liability - Recovery of cleanup costs may be brought against any one or more of the persons having control over the oil or other hazardous substances or causing or contributing to the discharge of oil or other hazardous substances.
- 15A NCAC .0118 Standards for the Management of Used Oil – same as 40 CFR 279
- 15A NCAC .0106 Identification and Listing of Hazardous Wastes – same as 40 CFR 261

- Virginia Dept. of Environmental Quality, Water Division, Office of Spill Response and Remediation, "Facility and Above-Ground Storage Tank Regulation", 9 VAC 25-91-10

### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 9, Oil Management Ashore

#### Applicability of regulations listed above to VACAPES ranges:

The federal and state regulations would be applicable to both the operational range areas and any range support operations/facilities at VACAPES that have storage tanks or any other equipment that contains petroleum, oil, or lubricant.

## **I. Natural Resources**

#### Natural Resources regulations that have the potential to apply to VACAPES ranges:

##### **Federal Legislation**

- Bald Eagle Protection Act
- Clean Air Act (CAA)
- Clean Water Act of 1987 (CWA)
- Coastal Barrier Resources Act of 1982
- Coastal Zone Management Act of 1972 (CZMA)
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Conservation and Rehabilitation Program on Military and Public Lands
- Convention on Wetlands of International Importance Especially as Waterfowl Habitat
- Defense Appropriations Act of 1991 Legacy Program
- Endangered Species Act of 1973 (ESA)
- Federal Insecticide, Fungicide, and Rodenticide Act
- Federal Land Policy and Management Act (FLPMA)
- Federal Noxious Weed Act of 1970
- Federal Water Pollution Control Act Amendments of 1972
- Fish and Wildlife Conservation Act of 1980
- Fish and Wildlife Coordination Act of 1946
- Forrest Resources Conservation and Shortage Relief Act
- Hunting, Fishing, and Trapping on Military Lands
- Magnuson-Stevens Fishery Conservation Management Act
- Marine Mammal Protection Act of 1972
- Marine Protection, Research, and Sanctuaries Act of 1972
- Migratory Bird Treaty Act of 1918
- National Defense Authority Act of 1989
- National Environmental Policy Act (NEPA)
- National Invasive Species Act of 1996
- National Recreational Trails Act
- National Trails System Act of 1968
- National Wildlife Refuge System Administration Act of 1966
- North American Wetland Conservation Act
- Oil Pollution Act of 1990
- Outdoor Recreation – Federal/State Programs Act

- Conservation Programs on Military Reservations (Sikes Act)
- Sikes Act Improvement Act (SAIA)
- Soil Conservation Act
- Timber Sales on Military Lands
- Water Resources Planning Act
- Wild and Scenic Rivers Act
- Withdrawal of Public Lands for Military Purposes

#### **Executive Orders**

- EO 11514. Protection and Enhancement of Environmental Quality
- EO 11988. Floodplain Management
- EO 11990. The Protection of Wetlands
- EO 12088. Federal Compliance with Pollution Standards
- EO 12962. Recreational Fisheries
- EO 13112. Invasive Species
- EO 13148. Greening the Government through Leadership in Environmental Management
- EO 13158. Marine Protected Areas

#### **Federal Regulations**

- 32 CFR 188. Environmental Effects in the United States of DOD Actions
- 32 CFR 190. Natural Resources Management Program
- 32 CFR 775. Procedures for Implementing the National Environmental Policy Act
- 33 CFR 330. Dredge & Fill Nationwide Permit Program
- 40 CFR 6. EPA Regulations on Implementation of NEPA Procedures
- 40 CFR 122. EPA National Pollutant Discharge Elimination System Permit Regulations
- 40 CFR 125. EPA Regulations on Criteria and Standards for the National Pollutant Discharge Elimination System
- 40 CFR 130. EPA Requirements for Water Quality Planning and Management
- 40 CFR 141-143. EPA National Drinking Water Regulations
- 40 CFR 150-186. EPA Regulations for Pesticide Programs
- 40 CFR 230. EPA Interim Regulations on Discharge of Dredged or Fill Material into Navigable Waters
- 40 CFR 1500. Council on Environmental Quality Regulations
- 50 CFR 10. Regulations Concerning Marine Mammals
- 50 CFR 10.13. List of Migratory Birds
- 50 CFR 17.11 and 17.12. Fish and Wildlife Service List of Endangered and Threatened Wildlife
- 50 CFR 402. Interagency Cooperation - Endangered Species Act of 1973.

#### **Federal Directives and Instructions**

- DOD Directive 3200.15 of January 2003. Sustainment of Ranges and Operating Areas (OPAREAs)
- DOD Instruction 4120.14. Environmental Pollution Prevention, Control, and Abatement
- DOD Directive 4150.7 of 24 October 1983. DOD Pest Management Program
- DOD Directive 4700.1 of 6 November 1978. Natural Resources Conservation and Management
- DOD Directive 4700.2 of 15 July 1988. Secretary of Defense Award for Natural Resources and Environmental Management

- DOD Directive 4700.4 of 24 January 1989. Natural Resources Management Program
- DOD Instruction 4715.3 of 3 May 1996. Environmental Conservation Program
- DOD Instruction 5000.13 of 13 December 1976. Natural Resources - the Secretary of Defense Natural Resource Conservation Award
- DOD Directive 6050.1 (1979). Environmental Effects in the U.S. of DOD Actions

### **State Statutes & Regulations**

States develop lists for their local threatened or endangered species in addition to the Federal lists. States develop regulations and management practices (MPs) for the protection of surface waters, coastal zones, wetlands, and the prevention of nonpoint source pollution. States establish regulations governing hunting and fishing activities.

### **Navy Requirements**

- NAVFAC MO-100.1. Natural Resources, Land Management
- NAVFAC MO-100.3. Fish and Wildlife Management
- NAVFAC MO-100.4. Outdoor Recreation and Cultural Values
- NAVFAC P-73. Real Estate Manual P-73. Vol. II: Real Estate Operations and Natural Resources Management Program
- NAVFACINST 6250.3H. Applied Biology Program Services and Training
- NAVFACINST MO-100.4. Guidance on Special Interest Areas
- OPNAVINST 5090.1B. Department of the Navy Environment and Natural Resources Procedural Manual, Chapter 22, Natural Resources Management
- OPNAVINST 6250.4A. Pest Management Programs
- SECNAVINST 6240.6E. Department of the Navy Environmental Protection and Natural Resources Management Program

### Applicability of regulations listed above to VACAPES ranges:

The following key regulations apply to all Federal facilities, including Dare County Bombing Range and Dam Neck active ranges:

- Federal Endangered Species Act protects species that are federally designated as threatened or endangered by prohibiting Federal actions from jeopardizing the continued existence of such species. No federally listed threatened or endangered species are known to be residents of the Navy Dare County impact area, however a 1993 census identified several groups of woodpeckers (one of which was the federally listed red-cockaded woodpecker) and habitat in the south-central portion of DCBR north of the U.S. Air Force impact area just north of the Navy impact area. Other species of concern near and possibly on the impact area of the ranges include the black bear (which has no legal protection status on DCBR, but is designated as significantly rare by the State) and sighted at the DCBR, the American alligator (formerly endangered), which has been sighted in canals throughout the range and the red wolf (federally endangered), which has been released for reintroduction at the DCBR in 1987. Because the Dam Neck 5-inch gun firing line does not fire its guns and both this area, along with VC-6's drone launch area are unsuitable habitat (covered by impervious surfaces), the endangered species act is not likely to significantly impact these operations.
- Migratory Bird Treaty Act prohibits the taking or harming of a migratory bird, its eggs, nest, or young unless specifically permitted. The Alligator National Wildlife Refuge maintains a migratory bird list of "known or probable occurrence on or near the



Alligator National Wildlife Refuge". Since the Refuge surrounds the DCBR almost completely, it can be assumed that the list applies to the range. No known migratory birds nest in the impact area of the DCBR.

- SAIA of 1997 committed the DOD and Navy to develop Integrated Natural Resource Management Plans (INRMPs) by November 2001. In addition, "DoDINST 4715.3" implements policy, assigns responsibilities, and prescribes procedures for the integrated management of natural and cultural resources on property under DOD control, including the preparation of INRMPs. The Navy, therefore, is obligated to prepare, maintain, and implement an INRMP that covers VACAPE's active ranges. Because of the proximity and shared habitat of the Navy and Air Force bombing ranges, the INRMP has been prepared by Seymour Johnson Air Force Base and extends to the Navy Dare County Bombing Range.
- Clean Water Act. The DCBR range contains jurisdictional or potential jurisdictional wetlands/Waters of the U.S. that fall under Section 404 of the "CWA" and other related regulations regarding wetlands. The Navy, therefore, is obligated to comply with these regulations.

Regulations associated with the control of invasive species (such as the common reed, *Phragmites australis*), outdoor recreation (including hunting) and forestry apply to the DCBR range area surrounding the impact areas, and the Navy is obligated to comply with these regulations. Regulations associated with Marine Mammals apply to the range areas over water, but not to the land based portion of the DCBR and Dam Neck firing line. Regulations associated with the Bald Eagle Protection Act are not specifically applicable to the DCBR and Dam Neck firing line, because no known sightings of bald eagles have been documented in these areas.

Regulations associated with air quality, water quality, hazardous waste, land use, NEPA, and other related issues are discussed elsewhere in this report.

## **J. Cultural Resources**

Cultural Resources regulations that have the potential to apply to VACAPES ranges:

### **Federal Statutes**

- Abandoned Shipwreck Act of 1987
- American Antiquities Act of 1906
- American Indian Religious Freedom Act (AIRFA)
- Archeological and Historic Preservation Act of 1974
- Archeological Resources Protection Act of 1979 (ARPA)
- Historic Sites, Buildings, Objects, and Antiquities Act of 1935
- National Environmental Policy Act (NEPA)
- National Heritage Policy Act of 1979
- National Historic Preservation Act of 1966, as amended (NHPA)
- Native American Graves Protection and Repatriation Act of 1990 (NAGPRA)
- Public Buildings Cooperative Use Act

### **Executive Orders**

- EO 11593. Protection and Enhancement of the Cultural Environment
- EO 12898. Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

- EO 13006. Locating Federal Facilities on Historic Properties in Our Nation's Central Cities
- EO 13007. Indian Sacred Sites
- EO 13084. Consultation and Coordination with Indian Tribal Governments
- EO 13175. Consultation and Coordination with Indian Tribal Governments

#### **Federal Regulations, Directives, Instructions**

- 32 CFR 229. Department of Defense, Protection of Archeological Resources: Uniform Regulations
- 36 CFR 800. Advisory Council on Historic Preservation, Protection of Historic and Cultural Properties (1986)
- 36 CFR 79. Curation of Federally-Owned and Administered Archeological Collections
- 43 CFR 10. NAGPRA Regulations
- DOD Directive 4710.1. Archeological and Historic Resources Management (June 1984)
- DOD Instruction 4715.3. Environmental Conservation Program (May 1996)
- Presidential Memorandum dated 29 April 1994, Government to Government Relations with Native American Governments
- Department of Defense American Indian and Alaska Policy of 21 October 1998

#### **State/Local**

States and local agencies may issue regulations designating historic sites.

#### **Navy Requirements**

- OPNAVINST 5090.1B. Department of the Navy Environment and Natural Resources Procedural Manual, Chapter 23, Historic and Archaeological Resources Protection
- SECNAVINST 11010, Department of the Navy Policy for Consultation with Federally Recognized Indian Tribes

#### Applicability of regulations listed above to VACAPES ranges:

The following key regulations apply to all Federal facilities with cultural resources, including Dare County Bombing Range and Dam Neck active ranges:

- NHPA is the primary law governing cultural resources at all federal facilities. "Section 106 of NHPA" compliance is usually in response to a proposed action that has the potential to affect historic properties. Section 106 compliance includes: 1) identifying and evaluating the National Register eligibility of historic properties; 2) assessing the effects of a proposed action on any historic properties; 3) consulting with the State Historic Preservation Office (SHPO), interested parties, and, when appropriate, the Advisory Council on Historic Preservation (ACHP); and 4) mitigating impacts, as necessary. Range activities conducted at VACAPES have the potential to affect historic properties and, therefore, Section 106 regulations apply. "Section 110 of the NHPA" requires that Federal agencies inventory, evaluate, and protect historical properties under their jurisdiction. Under this section, the heads of Federal agencies are responsible for the preservation of cultural properties owned or controlled by their agency, including those located on VACAPES' active ranges.
- 36 CFR 800 provides an explicit set of procedures for Federal agencies to meet their obligations under Section 106 of NHPA. These procedures also apply to the Navy regarding historic properties located on VACAPES' active ranges.

- EO 11593 directs Federal agencies to administer cultural properties under their control and to direct their programs and policies in such a way that the cultural resources under their control are preserved, restored and maintained. Compliance with this order can generally be accomplished through compliance with Sections 106 and 110 of the NHPA. These directives also apply to the Navy regarding historic properties located on VACAPES' active ranges.
- ARPA requires that archeological resources on public and Indian lands be protected. Protection of archeological resources includes consideration of excavation and removal of resources and confidentiality of information concerning the nature and location of archeological resources. It also prohibits the unauthorized removal of, or damage to, archeological resources, and trafficking in archeological resources. These requirements also apply to archeological resources located on VACAPES' active ranges.
- 32 CFR 229 implements provisions of ARPA by providing uniform procedures to be followed by all Federal land managers to protect archeological resources located on public lands. Federal land managers carry out protection procedures by issuing permits authorizing the excavation and removal of archeological resources; by pursuing civil penalties for unauthorized excavation or removal; by preserving archeological collections and data; and by ensuring the confidentiality of information about archeological resources. The Navy, as the Federal land manager of VACAPES' active ranges, is obligated to follow these procedures.
- NAGPRA protects the ownership and control of Native American human remains and related cultural items excavated or discovered on Federal lands. Each Federal agency which has possession or control over holdings or collections of Native American human remains and associated funerary objects must compile an inventory of such items and, to the extent possible, identify geographical and cultural affiliation of such items. Each Federal agency must also provide a written summary of all objects of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony. The Navy, as the Federal land manager of VACAPES' active ranges, is obligated to follow these regulations.
- 36 CFR 79 establishes procedures to be followed by Federal agencies to preserve collections of prehistoric and historic material remains and associated records recovered under authority of the Antiquities Act, NHPA, and ARPA. Federal agencies are responsible for the long-term management and preservation of existing and new collections by arranging for their deposit in a repository with adequate long-term curation capabilities. The Navy is obligated to properly curate all prehistoric and historic collections originating from VACAPES' active ranges.
- DoDINST 4715.3 implements policy, assigns responsibilities, and prescribes procedures for the integrated management of natural and cultural resources on property under DOD control. This includes the preparation, maintenance, and implementation of Integrated Cultural Resource Management Plans (ICRMPs). The Navy is obligated to prepare, maintain, and implement an ICRMP that covers VACAPES' active ranges.

NEPA, which also applies to Dare County Bombing Range and Dam Neck, is discussed elsewhere in this Summary Report.

## **K. National Environmental Policy Act (NEPA)**

Environmental Planning regulations that have the potential to apply to VACAPES ranges:

### **Federal Statutes & Regulations**

National Environmental Policy Act (NEPA)

### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 2, Procedures for Implementing the National Environmental Policy Act

Applicability of regulations listed above to VACAPES ranges:

All of the federal statutes listed above apply to the Navy's activities at the VACAPES ranges. DCBR does have some NEPA documentation (CATEX) with regard to the addition of a simulated runway to the range as a target. The proposed increase in operations at the DCBR due to the addition of F/A-18EF Super hornet squadrons at NAS Oceana was addressed in the Final Environmental Impact Statement for the "Realignment of F/A-18 Aircraft and Operational Functions from Naval Air Station (NAS) Cecil Field, Florida, to other East Coast Installations." No known NEPA documentation for Dam Neck.

## **L. Pesticides Management**

Pesticide Management regulations that have the potential to apply to VACAPES ranges:

### **Federal Statutes & Regulations**

- Environmental Pesticide Control Act of 1972 makes it illegal to sell or transfer a pesticide unless the pesticide is registered with EPA. Any establishment that produces a pesticide must also be registered with EPA.
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S. Code (USC) 136-136y; requires that every insecticide, fungicide and rodenticide that is distributed or sold must be registered with EPA. In addition, the labeling of such products must comply with certain requirements. FIFRA requires users of pesticides to adhere to the requirements and prohibitions on the pesticide label. Each registration specifies the crops and insects on which it may be applied, and each use must be supported by research data on safety and efficacy.
- Endangered Species Act (ESA) of 1973 (16 USC 1531-1547, et al, last amended in October 1988);
- Executive Order (EO) 12088, Federal Compliance with Pollution Standards (13 October 1978);
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### **State Statutes & Regulations**

- North Carolina Pesticide Law of 1971, G.S. 143-434, Article 52 (See §143-434 through §143-470.1), establishes programs of pesticide management and control under the authority of the North Carolina Pesticide Board. This law regulates the use, application, sale, disposal, and registration of pesticides. The North Carolina Pesticide Law of 1971 requires the registration of pesticide products in the state, the

licensing and certification of commercial and private applicators and pest control consultants, the proper handling, transportation, storage and disposal of pesticides, and the licensing of dealers selling restricted use pesticides.

- Virginia Pesticide Control Act (VPCA) of 1989 regulates the manufacture, sale, application and storage of pesticides. The Act creates the Pesticide Control Board, which is responsible for promulgating and implementing regulations required to carry out the Act. Although the Board has the ultimate responsibility for administering the regulatory programs, the Department of Agriculture and Consumer Services, under the supervision of the Commissioner of Agriculture and Consumer Services, has the daily responsibility for carrying out Virginia's pesticide management program. The VPCA requires that every pesticide that is manufactured, distributed, sold or offered for sale, used or offered for use within the state must be registered in accordance with regulations adopted by the Board. An individual planning to apply any pesticides, whether general use or restricted use, for industrial or commercial purposes, must obtain certification prior to applying the pesticides. (2 VAC 20-20)

### **Navy Requirements**

OPNAVINST 5090.1B, Navy Environmental And Natural Resources Program Manual, Chapter 13, Pesticide Compliance Ashore

#### Applicability of regulations listed above to VACAPES ranges:

All of the regulations listed above apply to pesticides if they are stored, mixed, or applied on the range because exemptions or waivers from these regulations are not discussed in available documentation.

## **M. Lead-Based Paint Management**

#### Lead-Based Paint Management regulations that have the potential to apply to VACAPES ranges:

##### **Federal Statutes & Regulations**

- An amendment to the Toxic Substances Control Act (TSCA) (15 USC 2681 through 2692) requires the creation of regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified. 15 USC 2688 expressly mandates Federal agency compliance with all Federal, state, interstate, and local requirements, both substantive and procedural pertaining to LBP, LBP activities, and LBP hazards. This section also expressly waives any immunity otherwise applicable to the United States, including immunity from penalties and fines levied by the U.S. Environmental Protection Agency (EPA) and state agencies. The following sections of 40 CFR 745 could apply to federal facilities: 745.100 through 745.119 - Disclosure of Lead-Based Paint (LBP) and/or LBP Hazards, 40 CFR 745.81 through 745.86 - Notification of LBP Hazards Prior to Renovation, 40 CFR 745.220 through 40 CFR 745.226 - LBP Training Requirements, and 40 CFR 745.227 - LBP Work Practice Standards.
- The Residential Lead-Based Paint Hazard Reduction Act of 1992 (Public Law 102-550), often referred to as "Title X," requires EPA, U.S. Department of Housing and Urban Development (HUD), and the Occupational Safety and Health Administration (OSHA) to issue regulations for LBP. The TSCA provisions of Title X apply to

federally owned housing and child-occupied facilities. On September 15, 1999, HUD issued a final rule on the requirements for notification, evaluation, and reduction of lead-based paint hazards in federally owned residential property (64 FR 50140). The purpose of this rule is to ensure federally owned housing that is to be sold does not pose lead-based paint hazards to young children. This rule implements sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The sections applicable to Navy-owned housing are found in 24 CFR 35 Subpart C, which, with respect to title transfers of housing built before 1960, requires abatement of any LBP hazards before occupancy. There is an option, however, to transfer the abatement responsibility with the property. Similar to the TSCA work practice standards, this rule includes Section 35.140, Prohibited Methods of Paint Removal, which is already in effect. Normally, costs associated with this LBP work are part of the project requirements to transfer the property; therefore, BRAC funds should be used for residential property transfer requirements at BRAC activities.

#### **State Statutes & Regulations**

- N.C. General Statute §130A-453.01-453.11 - Lead-Based Paint Hazard Management Program.
- Rules adopted by the North Carolina Health Commission to implement the statutes may be found under 10A NCAC 41C.0800 - Lead-based Paint Hazard Management Program.
- Virginia Lead-Base Paint Activities Regulations: 18 VAC 15-30-10, December 19, 1997. Regulations administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 404 of the Toxic Substances Control Act (TSCA).

#### **Navy Requirements**

OPNAVINST 5100.23D -- Chapter 21: NAVOSH Program Manual - NAVFAC policy is to manage LBP in place if it poses a minor risk (see instruction for specific definitions for "minor risk").

#### Applicability of regulations listed above to VACAPES ranges:

Since North Carolina and Virginia lead-based paint regulations apply only to target housing and child occupied facilities, they would not apply to DCBR and Dam Neck ranges. TSCA could apply during the renovation of the structures associated with the Dam Neck 5-inch gun line. There is a control tower structure at the DCBR and, if it contained lead-based paint, its renovation would be subject to above regulations.

### **N. Asbestos Management**

#### Asbestos Management regulations that have the potential to apply to VACAPES ranges:

#### **Federal Statues & Regulations**

- Clean Air Act Amendments, 1990, Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAPS). NESHAP for asbestos requires a thorough inspection prior to any renovation or demolition to determine compliance requirements. The asbestos NESHAP requirements specify that no regulated asbestos containing material (ACM) shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by 40 CFR 61.145, Standard for

Demolition and Renovation, unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of the regulation and the means of complying with them is present. Refresher training requirements are also specified. Note: EPA generally believes that AHERA (i.e., TSCA) training courses will satisfy the NESHAP training requirements. (Navy Environmental Requirements Guidebook (PR-04), 2001 update)

- The Clean Air Act, Title III – Hazardous Air Pollutants (HAPs), requires facilities to conduct an inventory of its potential HAP emissions to determine its status as a "major" source of HAPs. In addition, there are National Emission Standards for Hazardous Air Pollutants (NESHAP) for major sources and area sources that emit significant quantities of 189 listed HAPs, which includes asbestos.
- The Toxic Substances Control Act (TSCA) (15 U.S. Code [USC] 2643(L)(2), as last amended in 1986) requires the identification, inspection, and management (including abatement) of asbestos in any building used by the DOD as an overseas school for dependents of members of the Armed Forces.
- The Asbestos Hazard Emergency Response Act (AHERA) of 1986 (15 USC 2641-2656, et al., and 20 USC 4014, et al., last amended in November 1990) is the Federal legislation governing the control and abatement of asbestos hazard present in school buildings.
- The Hazardous Materials Transportation Act (HMTA) (49 CFR 172-177, amended in 1978 to regulate the transport of asbestos materials). In particular 49 CFR 177 requires that asbestos must be loaded, handled, and unloaded in a manner that will minimize occupational exposure to airborne asbestos. Asbestos wastes which are transported for disposal at a landfill or other disposal facility must meet all applicable requirements.
- Occupational Safety and Health Act (OSHA): This act, last amended in November 1990, 29 U.S. Code (USC) 651-678, is a Federal statute that governs the issues related to occupational safety and health. This act would apply to safe work practices related to the abatement, storage and handling of asbestos-containing materials.
- Resource Conservation and Recovery Act (RCRA), 42 USC 6901 to 6992k RCRA of 1976, which amended the Solid Waste Disposal Act, addresses nonhazardous (Subtitle D) and hazardous (Subtitle C) waste management activities. This act would apply to the safe disposal of asbestos-containing materials.

### **State Statutes & Regulations**

- Under Section 40.1-51.20 of the Code of Virginia and the National Emission Standards for Hazardous Air Pollutants, Virginia businesses are required to notify the Virginia Department of Labor and Industry and the Environmental Protection Agency of proposed asbestos abatement projects. The department's Division of Occupational Health Compliance is available to provide guidance to companies involved in worksite asbestos abatement activities. The division also conducts inspections to determine compliance with the Commonwealth's Asbestos Licensing Law and occupational safety and health standards
- North Carolina adopted Federal Asbestos regulations in total. North Carolina Dept. of Environmental and Natural Resources enforces RCRA requirements, while EPA Region 4 enforces RACM abatement/demolition NESHAP requirements.

### **Navy Requirements**

OPNAV 5100.23E, Appendix 17-B describes asbestos training and certification requirements listed by type of operation (e.g., Class III and IV operations, or housekeeping where asbestos containing material [ACM] is present).

#### Applicability of regulations listed above to VACAPES ranges:

TSCA and AHERA regulations do not apply since there are no schools on DCBR or Dam Neck's 5-inch gun firing line or VC-6 drone launch area. See Section A regarding applicability of Federal Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAPS).

## **O. PCB Management**

#### PCB Management regulations that have the potential to apply to VACAPES ranges:

##### **Federal Statutes & Regulations**

- The Toxic Substances Control Act (TSCA) (40 Code of Federal Regulations [CFR] 761) currently regulates polychlorinated biphenyls (PCBs). TSCA generally bans the use, manufacture, processing, and distribution in commerce of PCBs. TSCA and the PCB regulations also strictly regulate the marking, storage, and disposal of PCBs. Regulations issued under TSCA require generator identification numbers and the manifesting of PCB wastes.
- The Resource Conservation and Recovery Act (RCRA) (40 Code of Federal Regulations [CFR] 260-270) applies to the disposal of PCBs in certain instances.

##### **State Statutes & Regulations**

- Virginia Regulations that apply to PCB's: 9VAC20-80-650. Wastes containing polychlorinated biphenyls (PCBs).
- North Carolina 15A NCAC 13A.0106: 40 CFR 261.1 through 261.9 (Subpart A), "General", are incorporated by reference including subsequent amendments and editions, (261.8 PCB Wastes Regulated Under Toxic Substance Control Act).

##### **Navy Requirements**

- Navy Occupational Safety and Health (NAVOSH) Program (see OPNAVINST 5100.23D)
- OPNAVINST 5090.1B, Chapter 11, PCB Management Ashore

#### Applicability of regulations listed above to VACAPES ranges:

TSCA and RCRA regulations could apply to older electrical equipment located on range areas or in range support facilities that are located off-range that might contain PCBs, such as light ballasts and transformers. If so, this equipment would be subject to regulations listed above.



## **P. Safe Drinking Water Management**

Safe Drinking Water Management regulations that have the potential to apply to VACAPES ranges:

### **Federal Statutes and Regulations**

The Safe Drinking Water Act (SDWA). This act, Public Law (PL) 99-339, 42 U.S. Code (USC) 201, 300f--300j-25, 6939b, 6979a, 6979b, 7401--742, etc., is the Federal legislation which regulates the safety of drinking water in the country. Each department, agency, and instrument of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any potential source of contaminants identified by a state program must be subject to and observe all requirements of the state program applicable to such potential source of contaminants, both substantive and procedural, in the same manner, and to the same extent, as any other person, including payment of reasonable charges and fees (42 USC 300h-7(h)).

### **State Regulations**

- Virginia Waterworks Regulations 12VAC5-590; Water quality and public health protection 12VAC5-581-420;
- North Carolina Department of Environmental and Natural Resources, Public Water Supply Section, Title 15A, Subchapter 18C of the North Carolina Administrative Codes

### **DOD and Navy Requirements**

OPNAVINST 5090.1B, Chapter 8, Drinking Water Systems and Water Conservation

Applicability of regulations listed above to VACAPES ranges:

Above regulations could apply to DCBR and Dam Neck range areas, if there was a potable source of water on any of the ranges or near the ranges that could be impacted by range operations.

## **Q. Environmental and Explosives Safety Management**

Environmental and Explosives Safety Management regulations that have the potential to apply to VACAPES ranges:

### **DOD and Navy Requirements**

- DOD Directive 4715.11 – Environmental and Explosives Safety Management on Department of Defense Active and Inactive Ranges Within the United States, August 17, 1999.
- DOD 6055.9 – Standard (STD): DOD Ammunition and Explosives Standards. Undersecretary of Defense for Acquisition and Technology. April 1999.

Applicability of regulations listed above to VACAPES ranges:

DODD 4715.11 applies since the Dare County Bombing Range (DCBR) is an active range and the Dam Neck Firing Line and Drone Launch Area are land-based parts of active ranges. Existing documentation does not mention inactive ranges, but this regulation would apply to those as well.

Although DOD 6055.9-STD applies to Naval operations at VACAPES, the standard focuses primarily on the safe storage and handling of munitions and waste military munitions. The U.S. Department of Defense Explosives Safety Board (DDESB) and the Navy's Ordnance Environmental Support Office (OESO) conduct regular inspections of munition storage facilities and munition handling practices. Therefore, this standard does not apply to the Range Condition Assessment of ranges at VACAPES.

## Appendix A

### Range Sustainability Environmental Program Assessment (RSEPA) Range Condition Assessment (RCA) Phase II Guidance VACAPES Complex (Navy Dare County Bombing Range, NC and Dam Neck, VA, 5-Inch Gun Fire Line and VC-6 Drone Launch Area)

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**Two things to keep in mind, at all times, during environmental regulatory compliance evaluation:**

- 1) We are trying to determine any regulatory issues that may threaten continued use of range.
- 2) We are trying to determine if there has been or there is the potential for a release of chemicals into the air or a migration of chemicals into soil and water that could negatively affect humans, animals, plants or habitat, now or in the future.

#### **RSEPA RCA Phase II, “Pre-Site Visit Information Collection” Report**

*Please answer questions 1 – 3 below for each environmental compliance area that you are determining applicability to this range (both operational range areas and any range support operations/facilities). Answers to these questions constitute the information required for the RSEPA RCA Phase II Report.*

**Formatting:** Answer questions in box in black Arial 12 Font. No italics, bulleting/numbering, bolding, underlining...etc. Titles can be in title case and in quotation marks, if need. Type as much as you need to in each box. Not limited by size of box that you see here.

1. <u>Name of media</u> or environmental area that you are determining applicability to this range (e.g., Air Quality, Water Quality, Hazmat/Waste).
2. <u>List</u> the Federal, state, and local regulations that pertain to the media/environmental area that you named above.
3. <u>Briefly state</u> , of the regulations you just listed above, which apply or don't apply to this range and <b>why</b> .