



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT
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JUNE 24, 2024

Washington Department of Ecology
c/o Jerome Lambiotte
P.O. Box 47775
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Mr. Lambiotte:

The U.S. Army Corps of Engineers (USACE) writes in response to the Washington Department of Ecology (WDOE) letter, dated 27 February 2024, regarding ongoing identification of applicable or relevant and appropriate requirements (ARARs) for the Bradford Island Federal Facility. In that letter, you listed several Washington regulations that you believe should be considered as ARARs for the Bradford Island cleanup, specifically identifying multiple sections of both the Sediment Management Standards¹ and Model Toxics Control Act.²

Currently, USACE is gathering site data for the River Operable Unit (OU) Supplemental Remedial Investigation (RI) report. The purpose of the Supplemental RI is to collect additional data needed to characterize the River OU to support decision making under CERCLA. This data will inform the feasibility study, which utilizes the relevant information obtained from the RI report to ensure appropriate remedial alternatives are developed.

Section 121(d)(2) of CERCLA requires that the degree of cleanup for remedial actions must, in most circumstances, meet standards, criteria, or requirements of “applicable” or “relevant and appropriate” federal and state law under the conditions established in CERCLA. ARARs cannot apply until the selection of the remedial action. Any request that ARARs be incorporated into Supplemental RI work plans for the River OU cannot be accommodated at this point in the process because it would conflict with the procedural requirements and phased approach under CERCLA and the National Contingency Plan (NCP). If, however, it’s WDOE’s position that particular technical standards, established in state statutes and regulations, should apply to the preparation of Supplemental RI work plans *outside of the ARARs context* (i.e., before ARARs are considered during the development and evaluation of remedial alternatives in the feasibility study), USACE will need additional information.

We appreciate your timely submittal of Washington regulations for consideration as ARARs. If you would like USACE to consider the applicability of particular state laws and regulations to the work in the Supplemental RI work plans outside of the ARARs context, please provide any information that would support such application during the RI phase.

¹ WAC 173-204.

² WAC 173-340.

We appreciate Washington's continued involvement with the Bradford Island Federal Facility cleanup. Feel free to reach out if you have any questions.

Sincerely,

Meghan Garriques
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Portland District

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