

Appendix D.

Potential Applicable and Relevant and Appropriate Requirements

**Appendix D. Table 1
Chemical-Specific Applicable or Relevant and Appropriate Requirements
Monte Cristo Mining Area, Washington**

Standard, Requirement Criteria, or Limitation	Citation	Description	Applicable/Relevant and Appropriate?
FEDERAL			
Safe Drinking Water Act (SDWA)	40 USC § 300		
National Primary Drinking Water Regulations	40 CFR Part 141	Establishes health-based standards, maximum contaminant levels (MCLs) and MCL goals (MCLGs) for public water systems.	Potentially Relevant and Appropriate to potable surface water at the Site; however, the Removal Action does not involve a public water supply.
National Secondary Drinking Water Regulations-	40 CFR Part 143	Establishes secondary MCLs for aesthetic standards for public water systems.	Potentially Relevant and Appropriate to potable surface water at the Site; however, the Removal Action does not involve a public water supply.
Clean Water Act (CWA)	33 USC § 1251-1376		
National Recommended Water Quality Criteria	Section 304(a)	Guidelines established for evaluating toxic effects on human health and aquatic organisms.	Not Applicable – the state of Washington has been delegated this program.
National Toxics Rule	40 CFR Part 131	Establishes water quality standards for protection of human health and aquatic organisms for states that fail to fully comply with Section 303(c)(2)(C) of the CWA.	Not Applicable—the State of Washington has been delegated this program.
Clean Air Act (CAA)	40 USC § 7409		
National Primary and Secondary Ambient Air Quality Standards (NAAQS)	40 CFR Part 50	Establishes air quality levels that protect public health.	Not Applicable, only “major” sources are subject to requirements related to NAAQS, refer to state regulation of fugitive dust emissions.
Preliminary Remediation Goals (PRGs) for soil and water	US Environmental Protection Agency (EPA) Region 9	PRGs are tools for evaluating and cleaning up contaminated sites. They are risk-based concentrations that are intended to assist risk assessors and others in initial screening-level evaluations of environmental measurements. The PRGs contained in the Region 9 PRG Table are generic; they are calculated without site specific information. However, they may be re-calculated using site specific data. PRGs are EPA guidelines, not legally enforceable standards.	Relevant and Appropriate
Resource Conservation and Recovery Act	40 USC § 7601		
Lists of Hazardous Wastes	40 CFR Part 261, Subpart D and C	Defines those solids wastes which are subject to regulation as hazardous wastes under 40 CFR Parts 262-265 and Parts 124, 270, and 271.	Potentially Applicable. Washington has not adopted the Bevill Amendment for mining waste. See action-specific ARARs for additional information.

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Hazardous Waste Removal Reduction Act	RCW Chapter 70.95C	Establishes state policies and goals that encourage the reduction of hazardous substance use and the generation of hazardous waste. Requires certain hazardous waste generators and hazardous substance users to prepare plans for voluntarily reducing hazardous substance use and hazardous waste generation.	Potentially Relevant and Appropriate
Persistent, Bioaccumulative Toxins Rule	WAC 173-333	Establishes criteria to identify persistent, bioaccumulative toxins that pose human health or environmental threats, defines chemical action plans preparation, and defines the processes the Washington State Department of Ecology (Ecology) will use to coordinate the implementation with the Department of Health and other agencies.	Potentially Relevant and Appropriate
Surface Water Beneficial Uses	WAC 173-201A-200 and -600	Requires that surface water bodies be protected for their designated beneficial uses.	Potentially Relevant and Appropriate
Model Toxics Control Act (MTCA) Cleanup Regulations	WAC 173-340	Establishes administrative processes and standards to identify, investigate, and cleanup where hazardous substances have been released.	Potentially Relevant and Appropriate
MTCA Surface Water Cleanup Standards	WAC 173-340-730	Establishes surface water cleanup criteria based on estimates of highest beneficial use and reasonable maximum exposure for current and potential users.	Potentially Relevant and Appropriate
MTCA Soil Cleanup Standards – Residential Soils	WAC 173-340-740	Establishes soil cleanup levels for current and potential site use conditions.	Not an ARAR, because the Site is located in a remote area of the Mount Baker-Snoqualmie National Forest (MBSNF).
MTCA Soil Cleanup Standards – Industrial Soils	WAC 173-340-745	Establishes soil cleanup levels where industrial site use represents reasonable maximum exposure.	Not an ARAR, because the Site is located in a remote area of the MBSNF.
MTCA Air Quality Standards	WAC 173-340-750	Sets cleanup standards to protect air quality based on current and future site uses.	Potentially Relevant and Appropriate
MTCA Human Health Risk Assessment	WAC 173-340-708	Defines the risk assessment framework to establish cleanup levels, and remediation levels using a quantitative risk assessment.	Potentially Relevant and Appropriate
MTCA Terrestrial Ecological Evaluation Procedures	WAC 173-340-7490	Establishes site specific cleanup standards for protection of terrestrial plants and animals. Does not include ecological receptors in sediment, surface water, or wetlands.	Potentially Relevant and Appropriate

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STATE OF WASHINGTON (cont.)			
MTCA Simplified Terrestrial Ecological Evaluation Procedures	WAC 173-340-7492	Outlines the process for evaluating sites which do not have a substantial potential for posing a threat of significant adverse effects to terrestrial receptors.	Potentially Relevant and Appropriate
Washington Department of Health Standards for Public Water Supplies	WAC 246-290	Establishes the regulatory requirements to protect consumers using public drinking water supplies.	Potentially Relevant and Appropriate to surface water drinking sources at the Site. However, the RA does not involve a public water supply.
Washington Dangerous Waste Regulations	WAC 173-303	Establishes the methods and procedures to determine if solid waste requires management as dangerous waste.	Potentially Applicable
Surface Water Quality Standards	WAC 173-201A	Establishes water quality standards to protect public health, and the propagation and protection of fish, shellfish, and wildlife.	Potentially Applicable. Washington is authorized by the EPA to implement the CWA.
Sediment Management Standards	WAC 173-204	Establishes standards to reduce and eliminate adverse effects on biological resources and significant health threats to humans from surface sediment contamination.	Potentially Relevant and Appropriate
Economic Impact Statement for Proposed Sediment Management Standards	WAC 173-204	The Ecology is proposing a management process for implementing sediment quality standards pursuant to requirements of the MTCA, the Water Pollution Control Act, and the Puget Sound Water Quality Authority Act.	To Be Considered

**Appendix D. Table 2
Location-Specific Applicable or Relevant and Appropriate Requirements
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Standard, Requirement Criteria, or Limitation	Citation	Description	Applicable/Relevant and Appropriate?
FEDERAL			
Resource Conservation and Recovery Act	40 USC § 7601		
Hazardous and Solid Waste Regulations	40 CFR Part 264.18	Location standards and restrictions for hazardous waste treatment, storage, and disposal (TSD) facilities.	Potentially Relevant and Appropriate
	40 CFR §§ 257.3-1 through 257.3-4	Location standards and restrictions for municipal solid waste (MSW) facilities.	Not an ARAR, no MSW facilities at the Site.
National Historic Preservation Act	16 USC § 470; 36 CFR Part 800 40 CFR 6.301(b)	Requires federal agencies to take into account the effect of any federally assisted undertaking or licensing on any property with historic, architectural, archeological, or cultural value that is included in or eligible for inclusion in the National Register of Historic Places.	Potentially Applicable
Historic Site, Buildings, Objects, and Antiquities Act	16 USC § 461-467	Requires preservation of historic sites, buildings, and objects that are discovered that national significance.	Potentially Applicable
Archeological and Historic Preservation Act	16 USC § 469 40 CFR 6.301(c)	Establishes procedures to provide for preservation of significant scientific, prehistoric, historic, and archeological data that might be destroyed through alteration of terrain as a result of a Federal construction project or a Federally licensed activity or program.	Potentially Applicable
The Archaeological Resources Protection Act of 1979	16 USC § 470	Regulates requirements for authorized removal of archaeological resources from public or tribal lands.	Potentially Applicable
Executive Order 11593	16 USC § 469 40 CFR § 6.301(c)	Provides for the inventory and nomination of historical and archeological sites.	Potentially Applicable

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Standard, Requirement Criteria, or Limitation	Citation	Description	Applicable/Relevant and Appropriate?
FEDERAL (cont.)			
Native American Graves Protection and Repatriation Act	25 USC 3001-3013 43 CFR Part 10	Regulations that pertain to the identification, protection, and appropriate disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony.	Potentially Applicable
Protection of Wetlands Executive Order No. 11990	40 CFR Part 6; Appendix A, 40 CFR 6.302(a)	Avoid adverse impacts associated with the destruction or loss of wetlands and avoid support of new construction in wetlands if a practicable alternative exists.	Potentially Applicable
Dredge and Fill Regulations	33 USC § 1344, 33 CFR 323.1 et seq	Prohibits discharge of dredged or fill material into waters of the United States without a permit.	Potentially Relevant and Appropriate
Fish and Wildlife Coordination Act	16 USC § 661-667 40 CFR 6.302(g)	Requires consultation when Federal department or agency proposes or authorizes any modification of any stream or other water body to assure adequate protection of fish and wildlife resources.	Potentially Applicable
Fish and Wildlife Conservation Act	16 USC § 2901-2911	Promotes conservation of non-game fish and wildlife.	Potentially Applicable
Wilderness Act	16 USC § 1131-1136	Requires that wilderness areas are left unimpaired for future use as a wilderness.	Potentially Applicable
Protection of Wetlands – Executive Order No. 11990	40 CFR Part 6; Appendix A, 40 CFR 6.302(a)	Established to avoid adverse impacts associated with the destruction or loss of wetlands and avoid support of new construction in wetlands if a practicable alternative exists.	Potentially Applicable
Floodplain Management Executive Order No. 11988	40 CFR Part 6, Appendix A 40 CFR 6.302(b)	Requires federal agencies to evaluate the potential effects of actions they may take in a floodplain to avoid the adverse impacts associated with direct and indirect development of a floodplain to the extent possible.	Potentially Applicable
Federal Land Policy and Management Act of 1976	43 USC § 1701	Provides for multiple use and inventory, protection, and planning for cultural resources on public lands.	Potentially Relevant and Appropriate
Executive Order No. 13007 – Indian Sacred Sites	Executive Order No. 13007	Required federal agencies to avoid disturbing and access to sacred Indian sites.	Potentially Applicable

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FEDERAL (cont.)			
National Forest Management Act (NFMA) , MBSNF Land and Resource Management Plan (LRMP, 1989), as amended by the Pacific Northwest Forest Plan (NWFP, 1994) and subsequent amendments (2001, 2004, and 2007)	16 USC § 1600-1614	The NFMA is the primary statute that requires the management of national forests to be based on multiple-use and sustained-yield principals. The LRMP and NWFP establish guidelines and standards for design, construction, and use of various actions on federal land.	Potentially Applicable
Executive Order No. 11593 – Protection and Enhancement of the Cultural Environment	Executive Order No. 11593	Requires federal agencies to nominate historic properties to the National Register of Historic Places and to treat properties as if on the list.	Potentially Applicable
Endangered Species Act	16 USC § 1531-1544; 40 CFR 6.302 (h); 50 CFR Part 402	Activities may not jeopardize the continued existence of any threatened or endangered species or destroy or adversely modify a critical habitat.	Potentially Applicable
Migratory Bird Treaty Act	16 USC § 703 et seq	Establishes federal responsibility for the protection of the international migratory bird resource and requires continued consultation with the United States Fish and Wildlife Service (USFWS) during remedial design and remedial construction to ensure that the cleanup of the site does not unnecessarily impact migratory birds.	Potentially Applicable
Bald Eagle Protection Act	16 USC § 668 et seq	Requires continued consultation with the USFWS during remedial design and remedial construction to ensure that any cleanup of the site does not unnecessarily adversely affect the bald or golden eagle.	Potentially Applicable
STATE OF WASHINGTON			
Washington Department of Game	WAC 232-012	Defines the requirements that the Department of Game must take to protect endangered or threatened species.	Potentially Applicable
Washington State Shoreline Management Act	RCW Ch. 90.58 WAC 173-18, 22, 27	The substantive requirements of this statute and its implementing regulations apply to activities within 200 feet of shorelines in the state.	Potentially Applicable

**Appendix D. Table 3
Action-Specific Applicable or Relevant and Appropriate Requirements
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Standard, Requirement Criteria, or Limitation	Citation	Description	Applicable/Relevant and Appropriate?
FEDERAL			
Clean Water Act	33 USC § 1342		
Section 402. National Pollutant Discharge Elimination System (NPDES)	33 USC § 1342 40 CFR Part 122.26	In general, Part 122 provides permit requirements for the discharge of pollutants from any point source into waters of the United States. Part 122.26 requires permits for storm water discharges.	Potentially Applicable
CWA – Water Pollution Control Act (WPCA), Water Quality Certification	33 USC § 1341 Section 401	Requires certification from the state (Ecology) that discharges into navigable waters comply with applicable water quality standards.	Potentially Applicable
Section 404. Discharge of Dredge and Fill Materials	33 USC § 1344	Establishes program to regulate the discharge of dredged and fill materials into the waters of the United States.	Potentially Applicable
Resource Conservation and Recovery Act (RCRA)	46 USC § 7601		
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal (TSD) Facilities	40 CFR Part 264.13.14	Requirements for proper handling, treatment, storage, and disposal of hazardous wastes.	Potentially Applicable
Land Disposal Restrictions (LDRs)	40 CFR Part 268	LDRs place specific restrictions (concentration or treatment) on RCRA hazardous wastes prior to their placement in a land disposal unit. Relevant and appropriate LDR requirements will be met if any material accumulations are treated <i>ex situ</i> .	Potentially Applicable
Disposal of Solid Waste	RCRA 42 U.S.C. § 6901 <i>et seq</i> ; 40 CFR 257	Facility or practices in floodplains will not restrict flow of basic flood, reduce the temporary water storage capacity of the floodplain, or otherwise result in a wash-out of solid waste.	Potentially Applicable
Closure Requirements	RCRA/HWMA 40 CFR & 264, Subpart G	Closure of hazardous waste repositories must meet protective standards. Regulations to minimize contaminant migration, provide leachate collection, and prevent contaminant exposure will be met.	Potentially Applicable

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Standard, Requirement Criteria, or Limitation	Citation	Description	Applicable/Relevant and Appropriate?
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Landfill Design and Construction	RCRA/HWMA 40 CFR & 264, Subpart N	Hazardous waste landfills must meet minimum design standards. Protectiveness will be achieved through capping and institutional controls.	Potentially Relevant and Appropriate
Groundwater Monitoring	RCRA/HWMA 40 CFR & 264, Subpart F 40 CFR & 264, Subpart X	Establishes standards for detection and compliance monitoring. Site wide monitoring will accommodate specific groundwater monitoring requirements.	Potentially Applicable
Surface Mining Control and Reclamation Act	30 USC §§ 1201-1328	Performance standards for surface mining activities.	Potentially Relevant and Appropriate
Hazardous Materials Transportation Act	49 USC §§ 1801-1813 49 CFR Parts 10, 171-177	Regulates transportation of hazardous materials.	Potentially Relevant and Appropriate, if any hazardous materials are transported offsite.
Criteria for Classification of Solid Waste Disposal Facilities and Practices	40 CFR Part 257	Establishes criteria for determining which solid waste disposal practices pose threats to human health and the environment.	Potentially Applicable
Executive Order No. 13007 – Indian Sacred Sites	Executive Order No. 13007	Require federal agencies to avoid disturbing and access to sacred Indian sites.	Potentially Applicable
Clean Air Act	42 USC § 7401 40 CFR 50	The Act establishes requirements to protect ambient air quality by limited air emissions.	Potentially Applicable
Occupational Exposure to Asbestos	29 CFR Parts 1910 and 1926	Establishes OSHA requirements for asbestos-related work in the construction and demolition industry. Requirements on exposure limits, work practices and engineering controls to provide worker safety in handling, removal, disposal, or other workplace exposure to asbestos.	Potentially Applicable
Executive Order No. 11593 – Protection and Enhancement of the Cultural Environment	Executive Order No. 11593	Requires federal agencies to nominate historic properties to the National Register of Historic Places and to treat properties as if on the list.	Potentially Applicable

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STATE OF WASHINGTON			
MTCA	RCW Ch. 70.105D WAC 173-340	MTCA establishes administrative processes and standards to investigate and remediate sites where hazardous substances are present.	Potentially Applicable
Hazardous Waste Management Act and Dangerous Waste Regulations	RCW Ch. 70.105 WAC 173-303	Regulations that apply to handling and disposal of dangerous wastes.	Potentially Relevant and Appropriate
Solids Waste Management, Recovery, and Recycling Act	RCW Ch. 70.95 WAC 173-350	Substantive provisions and requirements may be applicable if a removal action is taken.	Potentially Relevant and Appropriate
General Closure and Post-Closure Requirements, Landfilling Standards	WAC 173-304 – 407 WAC 173-460	Outlines capping requirements for onsite repositories.	Potentially Relevant and Appropriate
State Waste Discharge Program	WAC 173-216	Requirements of this program may be applicable if removal action includes discharge to the ground surface.	Potentially Relevant and Appropriate
National Pollution Elimination System Permit Program	WAC 173-220	Establishes state program pursuant to the federal NPDES program. Substantive sections may be applicable if removal action involves discharge to waters of the state.	Potentially Relevant and Appropriate
Water Quality Standards for Surface Waters – Mixing Zones	RCW Ch. 90.48 WAC 173-201A-400	Establishes mixing zone effluent limits for discharges to surface water.	Potentially Applicable
Water Quality Standards for Surface Waters – Short-Term Modifications	RCW Ch. 90.48 WAC 173-201A-410	Allows for short-term modification to water quality criteria for specific water bodies when necessary.	Potentially Applicable
Aquatic Lands Management	RCW Ch. 79.90 WAC 332-30	Establishes criteria for managing state-owned aquatic lands to promote uses and protect resources.	Potentially Relevant and Appropriate
Shoreline Management Act	RCW Ch. 90.58	Established to prevent harm to the state's shorelines, including streams with a mean annual flow greater than 20 cubic feet per second.	Potentially Relevant and Appropriate
Fugitive Dust Emissions	40 CFR Section 50.6	Establishes standards for PM-10.	Potentially Applicable
Hydraulic Code	RCW Ch. 77.55 WAC 220-110	Requires a Hydraulics Project Approval permit for construction activities that use, divert, obstruct, or change the bed or flow of state waters.	Potentially Relevant and Appropriate

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STATE OF WASHINGTON (cont.)			
Maximum Noise Levels	RCW Ch. 70.107 WAC 173-60	Establish maximum noise levels allowed in identified environments and use standards related to reception of noise within areas.	Potentially Applicable
State Environmental Policy Act (SEPA)	RCW 43.21C WAC 197-11	SEPA legislation is to ensure that federal agencies consider the environmental impacts of an action prior to implementation.	Substantive Requirements are Potentially Applicable
Water Code and Regulation of Public Surface and Ground Waters of the State	RCW 90-90.03 and 90.44	Specifies the criteria and procedures for appropriating surface and ground waters for beneficial use.	Substantive Requirements are Potentially Applicable
Construction of Wastewater Treatment Facilities	RCW 90.48 WAC 173-240	Establishes regulations for the submission of wastewater treatment plant design plans, specifications, and reports to Ecology for review and approval.	Potentially Applicable
Regulation and Licensing for Well Contractors and Operators	RCW 18.104 WAC 173-162	Establishes procedures for examination, licensing, and regulation of well contractors and operators.	Potentially Applicable
Standards for Construction and Maintenance of Water Wells	RCW 18.104 WAC 173-160	Establishes minimum standards for construction of water and monitoring wells, and for the decommissioning of wells.	Potentially Applicable
Washington Clean Air Act	RCW Ch. 70.94 RCW Ch. 43.21A	Substantive requirements may be applicable if removal action results in release of fugitive emissions.	Potentially Applicable