

The attached ARARs table updates and incorporates by reference the ARARs identified in Appendix B of the EE/CA (MCS, 2002b). The table below was initially provided by Montana DEQ for the Carpenter Creek Tailings Removal Action in the winter of 2013. Beth Ihle contacted the DEQ representative (P. Opp) for the Middle Fork Warm Springs Creek Removal project to request project ARARs. Opp deferred to the ARARs provided for the Carpenter Creek project. These are included in the table below.

**6/26/13 Draft for legal review - Potential Federal and State
Applicable or Relevant and Appropriate Requirements (ARARs) and To Be Considered Information (TBCs)
Middle Fork Warm Springs Creek Tailings Removal, Helena National Forest, Lewis and Clark County**

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
Federal ARARs and TBCs							
National Historic Preservation Act (NHPA)	16 United States Code (U.S.C.). 470	Applicable	Requires federal agencies to take into account the effect of this response action upon any district, site, building, structure, or object that is included in or eligible for the National Register of Historic Places (generally, 50 years old or older).	Heritage inventory conducted in removal area by a qualified heritage resource professional. Site recommended ineligible for listing on National Register of Historic Places. Construction contract provisions provide direction for potential unknown resources uncovered during construction activities.		✓	
National Register of Historic Places	36 Code of Federal Regulations (CFR) 60						
Determinations of eligibility for inclusion in the National Register of Historic Places	36 CFR 63, 65						
Protection of historic properties	36 CFR 800						
Requirements for environmental information documents and third-party agreements for U.S. Environmental Protection (EPA) actions subject to National Environmental Policy Act (NEPA)	40 CFR 6.301(b) 16 U.S.C. 461, et seq.						

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
Federal ARARs and TBCs							
Historic Sites Act of 1935	40 CFR 6.310(a)						
Archaeological and Historic Preservation Act Requirements for environmental information documents and third-party agreements for EPA actions subject to NEPA Protection of archaeological resources	16 U.S.C. 469 40 CFR 6.301(c) 43 CFR 7	Applicable	Establishes requirements for the evaluation and preservation of historical and archaeological data, which may be destroyed through alteration of terrain as a result of a federal construction project or a federally licensed activity or program.	See Above . Area has been surveyed by heritage resources professional..		✓	

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Federal ARARs and TBCs							
Fish and Wildlife Coordination Act Responsible official requirements Rules implementing the Fish and Wildlife Conservation Act of 1980	16 U.S.C. 661 et seq., 40 CFR 6.302(g) 50 CFR 83	Applicable	Requires coordination with federal and state agencies for federally funded projects to ensure that any modification of any stream or other water body affected by any action authorized or funded by the federal agency provides for adequate protection of fish and wildlife resources.	The areas undergoing removal action are located adjacent to the Middle Fork Warm Springs Creek. Montana Fish Wildlife and Parks and Forest Service fisheries biologists have been consulted as part of the design of this removal action.		✓	
Floodplain Management Regulations	40 CFR 6.302(b) Executive Order No. 11988	Relevant and Appropriate	Requires that actions be taken to avoid, to the extent possible, adverse effects associated with direct or indirect development of a floodplain, or to minimize adverse impacts if no practicable alternative exists.	The areas undergoing removal action are located within the Middle Fork Warm Springs Creek floodplain. These standards are relevant and appropriate to all actions within these floodplain areas and appropriate engineering controls are incorporated into construction design.		✓	
Protection of Wetlands Regulations	33 U.S.C. 1344 40 CFR 6, Appendix A, Exec Order	Applicable Relevant and Appropriate	Requires federal agencies and the potentially responsible party (PRPs) to avoid, to the extent possible, the adverse impacts associated with the destruction or loss of wetlands and to avoid support of new construction in wetlands if a practicable alternative exists. Prohibits discharge of dredged or fill material into waters of the United States	Jurisdictional wetlands have not been determined to exist within the areas undergoing removal action.		✓	✓

Statutes, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
Federal ARARs and TBCs							
	11990						
Endangered Species Act (ESA) Responsible official requirements Endangered and threatened wildlife and plants Interagency cooperation-ESA of 1973, as amended	16 U.S.C. 1531 - 1543 40 CFR 6.302(h) 50 CFR 17 50 CFR 402	Applicable	Provides that federal activities not jeopardize the continued existence of any threatened or endangered species. ESA Section 7 requires consultation with the United States Fish and Wildlife Service (USFWS) to identify the possible presence of protected species and mitigate potential impacts on such species.	There are 12 animal species that are classified as either threatened or endangered in Montana and three plant species identified as threatened. Review of the project area by a qualified biologist has occurred and there are no TES species within the project area.		✓	
Migratory Bird Treaty Act List of Migratory Birds	16 U.S.C. 703, et seq. 50 CFR 10.13	Relevant and Appropriate	Makes it unlawful to “hunt, take, capture, kill,” or take other various actions adversely affected a broad range of migratory birds, without the prior approval of the Department of the Interior.	The selected removal action will be carried out in a manner to avoid adversely affecting migratory bird species, including individual birds or their nests.		✓	
Bald Eagle Protection Act	16 U.S.C. 668, et seq.	Applicable	Establishes a federal responsibility for protection of bald and golden eagles, and 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 and golden eagles.	Project area does not have this species.		✓	
Native American Graves Protection and Repatriation Act	25 U.S.C. 3001, et seq.	Applicable	The Act prioritizes ownership or control over Native American cultural items, including human remains, funerary objects and sacred	Based on field review by qualified Forest Service professional, no known cultural items, including		✓	✓

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
Federal ARARs and TBCs							
			objects, excavated or discovered on federal or tribal lands. Federal agencies and museums that have possession or control over Native American human remains and associated funerary objects are required under the Act to compile an inventory of such items and, to the extent possible, identify their geographical and cultural affiliation. Once the cultural affiliation of such objects is established, the federal agency or museum must expeditiously return such items, upon request by a lineal descendent of the individual Native American or tribe identified.	human remains, funerary objects and sacred objects are located on the site and no excavation of such features is anticipated. Contract provisions provide procedures if a previously unknown feature is discovered.			
American Indian Religious Freedom Act	42 U.S.C. 1996 et seq.	Applicable	This Act establishes a federal responsibility to protect and preserve the inherent right of American Indians to believe, express and exercise the traditional religions of American Indians. This right includes, but is not limited to, access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.	Project activities are limited in duration and extent.		✓	
Clean Water Act	33 U.S.C. 1251 et seq. 33 CFR 330	Relevant and Appropriate	Regulates discharge of dredged or fill materials into waters of the United States.	There are no planned discharges of dredged or fill materials into waters of the United States. The areas undergoing removal action are located adjacent to the		✓	

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Federal ARARs and TBCs							
				<p>Middle Fork Warm Springs Creek and any potential incidental sedimentation will be managed by engineering controls including water diversion during construction, and sedimentation controls such as straw wattles and straw bales have been incorporated into the project design to minimize the potential for discharges.</p> <p>As provided under Section 303 of the Clean Water Act, 33 U.S.C. 1313, the State of Montana has promulgated water quality standards. See the discussion concerning State surface water quality requirements.</p>			

Statutes, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
Federal ARARs and TBCs							
National Ambient Air Quality Standards	40 CFR 50.6 (PM-10) 40 CFR 50.12 (lead)	Applicable	These provisions establish standards for PM-10 and lead emissions to air. (Corresponding state standards are found at Administrative Rules of Montana (ARM) 17.8.222 [lead] and ARM 17.8.223 [PM-10].) The PM-10 standard is 150 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), 24-hour average concentration, and the lead standard is 1.5 $\mu\text{g}/\text{m}^3$, maximum arithmetic mean averaged over a calendar quarter.	The selected removal actions will be carried out in a manner that will comply with all the National Ambient Air Quality Standards. Providing dust control using a water truck is anticipated as part of the construction activities.	✓		
Protection and Enhancement of the Cultural Environment	16 U.S.C. 470 Executive Order No. 11593	Applicable	Directs federal agencies to institute procedures to ensure programs contribute to the preservation and enhancement of non-federally owned historic resources.	Project area occurs on federal land. Project has been identified as ineligible for the National Register of historic places.		✓	
The Archaeological Resources Protection Act of 1979	16 U.S.C. 470aa-47011	Relevant and Appropriate	Requires a permit for any excavation or removal of archeological resources from public lands or Indian lands.	Substantive portions of this act may be relevant and appropriate if archeological resources are encountered during onsite removal activities.		✓	
Federal and State Resource Conservation and Recovery Act (RCRA) Subtitle D and Solid Waste Management Requirements	40 CFR 257	Not Applicable	Establishes criteria under Subtitle D of the Resource Conservation and Recovery Act for use in determining which solid waste disposal facilities and practices pose a reasonable probability of adverse effects on health or the environment.	Project tailings are not considered to be RCRA Subtitle D wastes. However, stability evaluation and siting analysis performed by qualified Professional Engineer as part of project repository design.			✓

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
Federal ARARs and TBCs							
Federal RCRA Subtitle C Requirements	42 U.S.C. Section 9621, et seq. 40 CFR 261-268	Not Applicable	RCRA Subtitle C and implementing regulations are designated as applicable for any hazardous wastes that are actively “generated” or that were “placed” or “disposed” after 1980.	RCRA Subtitle C requirements will generally not be relevant and appropriate for those wastes for which EPA has specifically determined that Subtitle C regulation is not warranted (i.e., wastes covered by the Bevill exclusion). Thus contaminated soil is assumed to not be classified as hazardous waste.			✓
Resource Conservation and Recovery Act	40 CFR Part 264.18	Relevant	Provide seismic and floodplain restrictions on the location of a waste management unit.	Stability evaluation and siting analysis performed by qualified Professional Engineer as part of project repository design.		✓	✓
Occupational Safety and Health Act	29 CFR 1910	To Be Considered	Provides standards and guidance for worker protection during conduct of construction activities.	Occupational Safety and Health Administration (OSHA) regulations are construction standards and not environmental standards. The substantive portion of these regulations would be considered for onsite response activities.	✓		✓

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical -Specific	Location -Specific	Action-Specific
State of Montana ARARs and TBCs							
Groundwater Protection	<p>ARM 17.30.1005</p> <p>ARM 17.30.1006</p> <p>ARM 17.30.1011</p>	Applicable	<p>Explains the applicability and basis for the groundwater standards in ARM 17.30.1006, which establish the maximum allowable changes in groundwater quality and may limit discharges to groundwater.</p> <p>Provides that groundwater is classified I through IV based on its present and future most beneficial uses and also sets the standards for the different classes of groundwater listed in department Circular WQB-7.¹</p> <p>This section provides that any groundwater whose existing quality is higher than the standard for its classification must be maintained at that high quality in accordance with Montana Code Annotated (MCA) 75-5-303 and ARM 17.30.7.</p>	<p>The proposed removal action does not address contaminated groundwater. However, the removal activities could indirectly result in improvements to groundwater through removal of contaminant sources.</p>		✓	✓
Montana Water Quality Act	<p>MCA 75-5-101, et seq.</p> <p>ARM 17.30.607</p>	Applicable	<p>The Montana Water Quality Act establishes requirements for restoring and maintaining the quality of surface and groundwater. Montana's regulations classify State waters according to quality, place restrictions on the discharge of pollutants to State waters, and prohibit degradation of State waters.</p>	<p>The removal action does not address contaminated groundwater or surface water.</p> <p>However, the construction activities will result in the temporary relocation of Warm Springs Creek in order to remove floodplain contaminants. Due to the proximity of removal actions</p>		✓	✓

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
State of Montana ARARs and TBCs							
			Carpenter Creek has been classified B-1.	to surface waters, sedimentation controls and storm water management measures will be taken to prevent contamination of surface waters.			

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical -Specific	Location -Specific	Action-Specific
State of Montana ARARs and TBCs							
Montana Water Quality Act (Continued)	ARM 17.30.623 ARM 17.30.637	Applicable	<p>Waters classified B-1 are, after conventional treatment for removal of naturally present impurities, suitable for drinking, culinary and food processing purposes. These waters are also suitable for bathing, swimming and recreation, growth and propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers, and use for agricultural and industrial purposes.</p> <p>Provides that surface waters must be free of substances attributable to industrial practices or other discharges that will: (a) settle to form objectionable sludge deposits or emulsions beneath the surface of the water or upon adjoining shorelines; (b) create floating debris, scum, a visible oil film (or be present in concentrations at or in excess of 10 milligrams per liter) or globules of grease or other floating materials; (c) produce odors, colors or other conditions which create a nuisance or render undesirable tastes to fish flesh or make fish inedible; (d) create concentrations or combinations of materials which are toxic or</p>			✓	

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical -Specific	Location -Specific	Action-Specific
State of Montana ARARs and TBCs							
	ARM 17.30.705		<p>harmful to human, animal, plant or aquatic life; (e) create conditions which produce undesirable aquatic life.</p> <p>Existing and anticipated uses of surface water and water quality necessary to support those uses must be maintained and protected.</p>				
Montana Ambient Air Quality Regulations	<p>ARM 17.8.206</p> <p>ARM 17.8.220</p> <p>ARM 17.8.222</p> <p>ARM 17.8.223</p> <p>ARM 17.8.304(2)</p>	Applicable	<p>This provision establishes sampling, data collection, and analytical requirements to ensure compliance with ambient air quality standards.</p> <p>Settled particulate matter shall not exceed a 30 day average of 10 grams per square meter.</p> <p>Lead emissions to ambient air shall not exceed a 90 day average of 1.5 micrograms per cubic liter of air.</p> <p>PM-10 concentrations in ambient air shall not exceed a 24 hour average of 150 µg/m³ of air and an annual average of 50 µg/m³ of air.</p> <p>Emissions into the outdoor atmosphere shall not exhibit an opacity of 20 percent or greater</p>	Project activities are of limited scope and duration. Engineering controls and dust abatement are incorporated into project design.	✓		✓

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State of Montana ARARs and TBCs							
	ARM 17.8.308 ARM 17.8.604(2)		averaged over 6 consecutive minutes. There shall be no production, handling, transportation, or storage of any material, use of any street, road, or parking lot, or operation of a construction site or demolition project unless reasonable precautions are taken to control emissions of airborne particles. Lists material that may not be disposed of by open burning except as approved by the department.	Open burning may be conducted on slash materials not utilized during construction activities following completion of removal action. Appropriate State burning measures will be included.			
Montana Antiquities Act	MCA 22-3-421, et seq	Relevant and Appropriate	Addresses the responsibilities of State agencies regarding historic and prehistoric sites including buildings, structures, paleontological sites, archaeological sites on state owned lands	If historic or prehistoric sites are discovered during excavation activities on any state-owned lands then the provisions of this regulation may apply. These regulations may be relevant and appropriate for lands with other types of ownership.		✓	
Montana Human Skeletal Remains and Burial Site Protection Act	MCA 22-3-801	Applicable	Provides that all graves within the State of Montana are adequately protected.	If human skeletal remains or burial site are encountered during removal activities at the site, then requirements will be applicable.		✓	✓

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
State of Montana ARARs and TBCs							
Montana Floodplain and Floodway Management Act and Regulations	MCA 76-5-401, et seq. ARM 36.15.601, et seq.	Applicable	Specifies types of uses and structures that are allowed or prohibited in the designated 100-year floodway and floodplain.	The removal action is located adjacent to Middle Fork Warm Springs Creek and within the floodplain. These standards are applicable to all actions within these floodplain areas. A qualified professional engineer registered in the State of Montana has prepared the drawings and specifications for this project. .		✓	
	ARM 36.15.602	Applicable	Describes conditions for uses within designated floodway and specifically prohibits storage of flammable, toxic, or explosive materials.	See response to ARM 36.15.6 above.		✓	
	ARM 36.15.603	Relevant and Appropriate	Describes conditions for proposed diversions or changes in place of diversion that may affect flood flows.	See response to ARM 36.15.6 above.		✓	

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
State of Montana ARARs and TBCs							
	ARM 35.15.604	Relevant and Appropriate	Prohibits new artificial obstructions or nonconforming uses that will increase the upstream elevation of the base flood 0.5 of a foot or significantly increase flood velocities.	See response to ARM 36.15.6 above.		✓	
	ARM 36.15.605 § 76-5-403, MCA	Relevant and Appropriate	Identifies artificial obstructions and nonconforming uses that are prohibited within the designated floodway and includes “a structure or excavation that will cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, or reduce the carrying capacity of the floodway....” Solid waste disposal and storage of highly toxic, flammable, or explosive materials are also prohibited.	See response to ARM 36.15.6 above.		✓	
	ARM 36.15.606	Relevant and Appropriate	Identifies flood control works including dams, levies, flood walls, rip-rap, and channelization projects that are allowed within designated floodways with certain conditions.	See response to ARM 36.15.6 above.		✓	
	ARM 36.15.701	Relevant and Appropriate	Describes allowed uses in the flood fringe.	See response to ARM 36.15.6 above.		✓	
	ARM 36.15.703	Applicable	Lists prohibited uses within the flood fringe and includes solid and hazardous waste disposal and storage of toxic, flammable, or	See response to ARM 36.15.6 above.		✓	

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical -Specific	Location -Specific	Action-Specific
State of Montana ARARs and TBCs							
			explosive materials.				
	ARM 36.15.801		Allowed uses where the floodway is not designated or where no flood elevations are available. Establishes minimum standards which would be applicable if a response action alters or affects a streambed, including any channel change, new diversion, riprap or other streambank protection project, jetty, new dam or reservoir or other commercial, industrial or residential development. Projects must be designed and constructed using methods that minimize adverse impacts to the stream (both upstream and downstream) and future disturbances to the stream.	The removal action is located within and adjacent to Middle Fork Warm Springs Creek and within the floodplain. By its very nature the removal action is to address the adverse affects of the deposited tailings to the creek and floodplain environment. The potential temporary impacts of the removal action are mitigated to the extent practicable by incorporation of appropriate engineering controls. See response to ARM 36.15.6 above.		✓	✓
Endangered Species	§§ 87-5-106, 107, and 111, MCA ARM 12.5.201	Relevant and Appropriate	Endangered species should be protected in order to maintain and, to the extent possible, enhance their numbers. Certain activities are prohibited.	There are 12 animal species that are classified as either threatened or endangered in Montana and three plant species identified as threatened. Review of the project area by a qualified biologist has occurred and there are no TES species within the project area.		✓	

Statutes, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
State of Montana ARARs and TBCs							
Montana Natural Streambed and Land Preservation Act and Regulations (continued)	MCA 87-5-502 and 504	Relevant and Appropriate	Provides that a state agency or subdivision shall not construct, modify, operate, maintain or fail to maintain any construction project or hydraulic project which may or will obstruct, damage, diminish, destroy, change, modify, or vary the natural existing shape and form of any stream or its banks or tributaries in a manner that will adversely affect any fish or game habitat.	Project scope is a removal action.		✓	
Substantive MPDES Permit Requirements	ARM 17.30.1342-1344	Applicable	These set forth the substantive requirements applicable to all MPDES and National Pollutant Discharge Elimination System (NPDES) permits.	The removal action is located within and adjacent to Middle Fork Warm Springs Creek and within the floodplain. An engineered temporary creek diversion has been designed for construction activities in order to prevent discharge of tailings during removal activities into waters of the State of Montana. ²			✓
Water Quality Statutes and Regulations	MCA 75-5-605	Applicable	This section of the Montana Water Quality Act prohibits the causing of pollution of any state waters. Pollution is defined as contamination or other alteration of physical, chemical, or biological properties of state waters which exceeds that permitted by the water quality standards. Also, it is unlawful to	The removal action is not a final remedy to address contaminated groundwater or surface water. However, due to the proximity of removal action to surface waters, measures will be taken to prevent contamination of surface waters.		✓	✓

Statutes, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
State of Montana ARARs and TBCs							
			place or caused to be placed any wastes where they will cause pollution of any state waters.				
Water Quality Statutes and Regulations (continued)	MCA 75-5-303 ARM 17.30.705	Applicable	This provision states that existing uses of state waters and the level of water quality necessary to protect the uses must be maintained and protected. This provides that for any surface water, existing and anticipated uses and the water quality necessary to protect these uses must be maintained and protected unless degradation is allowed under the nondegradation rules at ARM 17.30.708.	See response to ARM 36.15.6 above.	✓		
Stormwater Runoff Control Requirements	ARM 17.24.633	Applicable	All surface drainage from a disturbed area must be treated by the best technology currently available	These requirements would be applicable to disturbed areas. Stormwater and sedimentation control measures are incorporated as part of the engineering design of this project.			✓
State of Montana Solid Waste Requirements	MCA 75-10-212	Not Applicable	Prohibits dumping or leaving any debris or refuse upon or within 200 yards of any highway, road, street, or alley of the State or other public property, or on privately owned property where hunting, fishing, or other recreation is permitted.	The listed requirements only applies to the offsite transportation of solid wastes to disposal facilities.			✓

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State of Montana ARARs and TBCs							
	ARM 17.50.503		Solid wastes are grouped based on physical and chemical characteristics which determine the degree of care required in handling and disposal and the potential of the wastes for causing environmental degradation or public health hazards.				
	ARM 17.50.523		Specifies that solid waste must be transported in such a manner as to prevent its discharge, dumping, spilling or leaking from the transport vehicle.				
Montana Solid Waste Management Act	§§ 75-10-201, MCA, et seq. ARM 17.50.1004	Applicable	A solid waste facility located within the 100-year floodplain may not restrict the flow of the 100-year floodplain, reduce temporary water storage capacity, or result in washout that poses a hazard to human health or the environment.	See response to ARM 36.15.6 above.		✓	
	ARM 17.50.1005	Applicable	A solid waste facility cannot be located in a wetland unless there is no demonstrable practicable alternative.	The repository area has not been designated a wetland. See response to ARM 36.15.6 above.		✓	
	ARM 17.50.1006	Applicable	A solid waste facility cannot be located within 200 feet of a fault that had displacement in Holocene time with an alternative setback.	See response to ARM 36.15.6 above.		✓	

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State of Montana ARARs and TBCs							
	ARM 17.50.1007	Applicable	A solid waste facility may not be located in a seismic impact zone without special requirements.	See response to ARM 36.15.6 above.		✓	
	ARM 17.50.1008	Applicable	A solid waste facility may not be located in an unstable area (based on soil and geologic conditions) without special requirements.	See response to ARM 36.15.6 above.		✓	

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State of Montana ARARs and TBCs							
	ARM 17.50.1009	Applicable	Provides general requirements applying to the location of a solid waste facility, including availability of a sufficient amount of land for design, operation, and capacity of the disposal facility and adequate separation of wastes from groundwater and surface water.	See response to ARM 36.15.6 above.		✓	
	§ 75-10-212, MCA	Relevant and Appropriate	Dumping or leaving any debris or refuse upon or within 200 yards of any highway, road, street or alley of the State or other public property, or on privately owned property where hunting, fishing, and recreation is allowed, is prohibited.	See response to ARM 36.15.6 above.		✓	
Noxious Weeds	MCA 7-22-2101 (8)(a) ARM 4.5.201, et seq.	Applicable	Defines "noxious weeds" as any exotic plant species established or that may be introduced in the state which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated: (I) as a statewide noxious weed by rule of the department; or (ii) as a district noxious weed by a board, following public notice of intent and a public hearing.	Applicable requirements for the alternatives which include establishment of seed during restoration, incorporation of equipment cleaning measures during construction and use of certified noxious weed seed free materials during construction.			✓

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Occupational Health Act	MCA 50-70-101, et seq ARM 17.74.101 ARM 17.74.102	To Be Considered	<p>Addresses occupational noise. In accordance with this section, no worker shall be exposed to noise levels in excess of the levels specified in this regulation.</p> <p>Addresses occupational air contaminants. The purpose of this rule is to establish maximum threshold limit values for air contaminants under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse health effects.</p>	<p>OSHA regulations are construction standards and not environmental standards. The substantive portion of these regulations would be considered for onsite remedial activities.</p> <p>This regulation pertains only to limited categories of workers and for most workers the similar federal standard in 29 CFR 1910.95 applies.</p> <p>In accordance with this rule, no worker shall be exposed to air contaminant levels in excess of the threshold limit values listed in the regulation. This regulation addresses only to limited categories of workers and for most workers the similar federal standard in 29 CFR 1910.1000 applies</p>	✓		✓

¹Montana Department of Environmental Quality, Water Quality Division, Circular DEQ-7, Montana Numeric Water Quality Standards (August 2010).

Statues, Regulations, Standards, or Requirements	Citations or References	ARAR Determination	Description	Comment	Chemical-Specific	Location-Specific	Action-Specific
State of Montana ARARs and TBCs							
Montana Safety Act	MCA 50-71-201 through 203	To Be Considered	States that every employer must provide and maintain a safe place of employment, provide and require use of safety devices and safeguards, and ensure that operations and processes are reasonably adequate to render the place of employment safe.	Construction contract includes requirement for appropriately trained employees.			✓
Employee and Community Hazardous Chemical Information Act	MCA 50-78-201, 202, and 204	To Be Considered	States that each employer must post notice of employee rights, maintain at the work place a list of chemical names of each chemical in the work place, and indicate the work area where the chemical is stored or used.	Employees must be informed of the chemicals at the work place and trained in the proper handling of the chemicals during remedial activities. HAZCOM standards required for construction site workers.			✓

²Montana's MPDES regulations are more stringent than the Federal NPDES regulations

Acronyms

ARAR	Applicable or Relevant and Appropriate Requirements
ARM	Administrative Rules of Montana
CFR	Code of Federal Regulations
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FAA	Federal Aviation Administration
FEMA	Federal Emergency Management Agency
$\mu\text{g}/\text{m}^3$	micrograms per cubic meter
FIRM	flood insurance rate map
MCA	Montana Code Annotated
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
OSHA	Occupational Safety and Health Administration
OU	operable unit
PRP	potentially responsible party
RCRA	Federal and State Resource Conservation and Recovery Act
TBCs	to be considered information
U.S.C	United States Code
USFWS	United States Fish and Wildlife Services