

**ARARs for Monitored Natural Attenuation, Capping, Dredging, and Confined Disposal Facility**

<b>Regulation</b>	<b>Citation</b>	<b>Criterion/Standard</b>	<b>Applicability/Appropriateness</b>
<b>Federal ARARs</b>			
Clean Water Act, Section 404	33 USC 1344 33 CFR Parts 320-323 40 CFR 230	Regulates discharge of dredged and fill material into navigable waters of the United States.	Action-specific.  Potentially applicable to dredging, covering, capping, and construction of in-water disposal facility and in-water filling activities in the Willamette River.
Clean Water Act, Ambient Water Quality Criteria	33 USC 1313, 1314 40 CFR Part 131	Provides minimum standards for water quality programs established by states. Two kinds of water quality criteria exist: one for protection of human health, and one for protection of aquatic life.	Chemical-specific and Action-specific.  Potentially relevant and appropriate to activities that may result in a discharge or affect waters of the State of Oregon resulting from the implementation of the removal action and as performance standards for the confined disposal facility's containment of hazardous substances only if more stringent than promulgated state criteria.
Clean Water Act, Section 401	33 USC 1341 40 CFR Section 121.2(a)(3) and (4)	Any federally authorized activity which may result in any discharge into navigable waters requires reasonable assurance that the action will comply with applicable provisions of sections 1311, 1312, 1313, 1316, and 1317 of the Clean Water Act.	Action-specific.  Potentially applicable to discharges into the river (i.e. during dredging and capping activities and discharges related to construction of the in-water disposal facility and during in-water activities) resulting from implementation of the removal action.

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Safe Drinking Water Act	42 USC 3000f	Establishes national drinking water standards to protect human health from contaminants in drinking water	Chemical-specific  Potentially relevant and appropriate to surface water designated as a potential drinking water supply for performance criteria for the confined disposal facility's containment of hazardous substances
Resource Conservation and Recovery Act	40 CFR 260, 261	Establishes identification standards and definitions for solid and hazardous waste, including when dredged material is exempt from the definition of a hazardous waste.	Action-specific.  Potentially applicable to characterizing wastes generated from the action and designated for off-site disposal; potentially relevant and appropriate for use in identifying acceptance criteria for confined in-water disposal.
Fish and Wildlife Coordination Act Requirements	16 USC 662, 663 40 CFR 6.302(g)	Requires federal agencies to consider effects on fish and wildlife from projects that may alter a body of water and mitigate or compensate for project-related losses.	Action-specific.  Potentially applicable to determining appropriate mitigation for effects on fish and wildlife from performance of the removal action.
Magnuson-Stevens Fishery Conservation and Management Act	50 CFR Part 600	Evaluation of impacts to Essential Fish Habitat (EFH) is necessary for activities that may adversely affect EFH.	Location-specific.  Potentially applicable if the removal action may adversely affect EFH.

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National Historic Preservation Act	16 USC 470 <u>et seq.</u> 36 CFR Part 800	Requires the identification of historic properties potentially affected by the agency undertaking, and assessment of the effects on the historic property and seek ways to avoid, minimize or mitigate such effects. Historic property is any district, site, building, structure, or object included in or eligible for the National Register of Historic Places, including artifacts, records, and material remains related to such a property.	Action-specific.  Potentially applicable if historic properties are potentially affected by removal action.
Archeological and Historic Preservation Act	16 USC 469a-1	Provides for the preservation of historical and archeological data that may be irreparably lost as a result of a federally-approved project and mandates only preservation of the data	Action-specific.  Potentially applicable if historical and archeological data may be irreparably lost by implementation of the removal action.
Native American Graves Protection and Reparation Act	25 USC 3001-3013 43 CFR 10	Requires Federal agencies and museums which have possession of or control over Native American cultural items (including human remains, associated and unassociated funerary items, sacred objects and objects of cultural patrimony) to compile an inventory of such items. Prescribes when such Federal agencies and museums must return Native American cultural items. "Museums" are defined as any institution or State or local government agency that receives Federal funds and has possession of, or control over, Native American cultural items.	Location-specific; action-specific.  If Native American cultural items are present on property belonging to the Oregon Division of State Lands (DSL) that is a part of the removal action area, this requirement is potentially applicable. If Native American cultural items are collected by an entity which is either a federal agency or museum, then the requirements of the law are potentially applicable.

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Endangered Species Act	16 USC 1531 et seq.	Actions authorized, funded, or carried out by federal agencies may not jeopardize the continued existence of endangered or threatened species or adversely modify or destroy their critical habitats. Agencies are to avoid jeopardy or take appropriate mitigation measures to avoid jeopardy. While there is currently no designated critical habitat for fish species in the removal action area, on December 14, 2004, NOAA Fisheries proposed to designate critical habitat for certain species of fish in the lower Willamette sub-basin. 68 Fed. Reg. 74572 (Dec. 14, 2004).	Action-specific.  Potentially applicable due to potential impacts the removal action may have on endangered or threatened species or critical habitat that are present at the site or that may be affected by the action.
Executive Order for Wetlands Protection	Executive Order 11990 (1977) 40 CFR 6.302 (a) 40 CFR Part 6, App. A	Requires measures to avoid adversely impacting wetlands whenever possible, minimize wetland destruction, and preserve the value of wetlands.	Location-specific.  Potentially relevant and appropriate in assessing impacts to wetlands, if any, from the removal action and for developing appropriate compensatory mitigation for the project.

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Executive Order for Floodplain Management  National Flood Insurance Act and Flood Disaster Protection Act	Exec. Order 11988 (1977) 40 CFR Part 6, App. A 40 CFR 6.302 (b) 42 USC 4001 <i>et seq.</i> 44 CFR National Flood Insurance Program Subpart A Requirements for Flood Plain Management Regulations Areas	Requires measures to reduce the risk of flood loss, minimize impact of floods, and restore and preserve the natural and beneficial values of floodplains.	Location-specific.  Potentially relevant and appropriate for assessing impacts, if any, to the floodplain and flood storage from the removal action and developing compensatory mitigation that is beneficial to floodplain values.
Rivers and Harbors Act	33 USC 403 33 CFR 320-330	Section 10 prohibits the unauthorized obstruction or alteration of any navigable water. Structures or work in, above, or under navigable waters are regulated under Section 10.	Action-specific.  Potentially applicable to capping and construction of the confined disposal facility.
Migratory Bird Treaty Act	16 USC 703-702 50 CFR 10.12	Makes it unlawful to take, import, export, possess, buy, sell, purchase, or barter any migratory bird. "Take" is defined as pursuing, hunting, shooting, poisoning, wounding, killing, capturing, trapping and collecting.	Action-specific  Potentially relevant and appropriate to short-term impacts, if any, on migratory birds from removal activities.
<b>State ARARs</b>			

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Hazardous Waste Regulations	OAR 340-102-0011	Federally authorized state of Oregon hazardous waste identification that operates in lieu of the base federal program.	Chemical-specific.  Potentially applicable to characterizing wastes generated from the action, and determining appropriate off-site disposal options; potentially relevant and appropriate for use in identifying acceptance criteria for confined in-water disposal.
Oregon Hazardous Substance Remedial Action Law and Regulations	ORS 465.315; OAR 340-122-0040, 0045, 0070, 0115.	Establishes cleanup objectives and criteria applicable to hazardous substances. Includes requirements applicable to removal actions that are patterned after CERCLA; enforces criteria very similar to those required by the National Contingency Plan, only substantive provisions more stringent or broader in scope than CERCLA are ARARs.	Chemical-specific, action-specific.  Potentially applicable to extent substantive criteria or requirements are more stringent or broader in scope than federal law.
State Removal Fill Law and Regulations	ORS 274.040, 0.43, .922, .944; OAR 141-85-0115, 0121, 0126, 0136, 0141, 0151 and 0171	Regulates activities associated with removal and fill operations in state waters, including requirements for wetland mitigation.	Action-specific.  Potentially relevant and appropriate to the dredging, capping and construction of the confined disposal facility.

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Certification of Compliance with Water Quality Requirements and Standards	ORS 468b.035	Provides that federally-approved activities that may result in a discharge to waters of the State requires evaluation whether an activity may proceed and meet water quality standards. Certifications may be approved with conditions, which if met, will ensure that water quality standards are met.	Chemical-specific.  Potentially applicable to implementation of the removal action (e.g., dredging, capping, and construction of the confined disposal facility) that may result in a discharge to waters of the State.
State Water Quality Standards	ORS 468B.048; OAR ch 340 div 41	Provides Willamette Basin beneficial uses and establishes water quality standards and criteria to protect beneficial uses.	Chemical-specific, action-specific.  Potentially applicable to actions that may result in a discharge to or affect waters of the State; certain criteria may be potentially relevant and appropriate as performance standards and/or for long-term monitoring of surface water quality in the removal action area.

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Indian Graves and Protected Objects	ORS 97.740-760	Prohibits willful removal of cairn, burial, human remains, funerary object, sacred object or object of cultural patrimony. Provides for reinterment of human remains or funerary objects under the supervision of the appropriate Indian tribe. Proposed excavation by a professional archeologist of a native Indian cairn or burial requires written notification to the State Historic Preservation Officer and prior written consent of the appropriate Indian tribe.	Location-specific; action-specific.  Potentially relevant and appropriate if archeological materials encountered.
Archeological Objects and Sites	ORS 358.905-955	Prohibits persons from excavating, injuring, destroying or damaging archeological sites or objects on public or private lands unless authorized by permit.	Location-specific; action-specific.  Potentially relevant and appropriate if archeological material encountered.
Requirements regarding Excavation or Removal of Archeological or Historical Material on Public Lands	ORS 390.235 OAR 736-051-0060 to 736-051-0090.	Requires permits and imposes conditions for excavation or removal of archeological or historical materials.	Location-specific; action-specific.  Potentially relevant and appropriate if archeological material encountered.

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State Air Quality Law and Noise Control	ORS 468A OAR 340-226-0100, OAR 340-035-0035	Provides general emission standards for fugitive emissions of air contaminants and requires the highest and best practicable treatment of control of such emissions. Prohibits any handling, transporting or storage of materials, or use of a road, or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. Sets noise standards for equipment, facilities, operations, or activities employed in the production, storage, handling, sale, purchase, exchange or maintenance of a product, commodity, or service, including the storage or disposal of waste products.	Action-specific.  Potentially relevant and appropriate to certain activities during implementation of the removal action.
State Essential Indigenous Salmonid Habitat	ORS 196.810(b) OAR 141-102	Designates Essential Salmonid Habitat and regulates activities affecting such habitat.	Location-specific.  Potentially relevant and appropriate in assessing impacts to salmonid habitat and developing compensatory mitigation for the project.
Lower Willamette River Management Plan	ORS 273.045 OAR 141-080-0105	Department of State Lands (DSL) plan regulating leasing, license, and permit activities in the lower Willamette River. The plan describes allowable activities and conditions for waterway management areas based on state public trust values (fisheries, recreation, and navigation).	Location-specific.  Potentially relevant and appropriate to performance of the removal action performed on DSL land, including mitigation sites.

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ODFW Fish Management Plans for the Willamette River	OAR 635, div 500	Provides basis for in-water work windows in the Willamette River.	Action-specific.  Potentially applicable to implementation of the removal action due to presence of protected species at the site.