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# **Applicable or Relevant and Appropriate Requirements (ARARs)**

## **“How Clean is Clean”**

Warren Seidel  
Chief, Labor and Environmental Law  
AFFTC/JA





# ARARs and Remediation Goals



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- ***Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) Section 121(d)(2)***
  - Remedial actions must comply with Federal and State environmental laws that are applicable or are relevant and appropriate under the circumstances of the release



# What is an ARAR?



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- **CERCLA Definition**

- A promulgated federal or more stringent state law or regulation;
- Aimed at protecting human health and the environment during the cleanup at a site; and that
- Has been evaluated and found to be legally applicable or relevant and appropriate for the site



# Implementation



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- **Legal Basis: National Contingency Plan**
  - Laws and Regulations
  - Other circumstances



# How Are ARARs Identified?



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- **Site-by-site basis**
  - Two-part Process
    - First, must be applicable
    - Next, must be relevant and appropriate
  - Factors to Consider:
    - Contaminants present, location, physical features, technology



# When Are ARARs Identified?



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- **Agencies shall identify ARARs “no later than the early stages of comparative analysis”... which is conducted as part of the Feasibility Study**
- **State ARARs must be identified “in a timely manner” defined as within 30 working days of the lead agency request**
- **Record of Decision (ROD) – Five-year review**



# Types of ARARs



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- **Ambient or Chemical Specific**
  - Usually health- or risk-based numerical values or methodologies used to determine acceptable concentrations of chemicals that may be found in or discharged to the environment, e.g., maximum contaminant levels (MCLs) that establish safe levels in drinking water
- **Location Specific**
  - These ARARs restrict actions or contaminant concentrations in certain environmentally sensitive areas, e.g., wetlands, floodplains, critical habitat



# Types of ARARs (concluded)



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- **Action Specific**
  - Usually technology- or activity-based requirements or limitations on actions or conditions involving specific substances



# ARARs are Substantive Not Procedural



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- **Substantive**
  - Those requirements that pertain directly to actions or conditions in the environment
- **Procedural**
  - Requirements related to the approval of administrative bodies, documentation, permit issuance, reporting, record keeping, and enforcement



# ARARs Can be Waived



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## **1. Interim Measures**

- ARAR is an interim measure only and will be followed by a complete ARAR later

## **2. Equivalent Standard of Performance**

- ARAR requires use of method but another method is better or equal

## **3. Greater Risk to Health and the Environment**

- Compliance will cause greater risk to human health and the environment than noncompliance

## **4. Technical Impracticability**

- From an engineering perspective



# ARARs Can be Waived (concluded)



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## **5. Inconsistent Application of State Standard**

- To other remedial sites within the State

## **6. Fund Balancing**

- Meeting the ARAR would entail such cost in relation to the added degree of protection or reduction of risk afforded that remedial actions at other sites would be jeopardized



# ARAR Website



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- <http://www.epa.gov/superfund/policy/remedy/sfremedy/arars/overview.htm>



# Applicable or Relevant and Appropriate Requirements (ARARs)



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**Questions?**