

Appendix 3

Lead and Support Agency RPM Checklist¹ for Identifying ARARs (to be read in conjunction with Appendix 1 - Best Practice Process Chart)

- Recommended Prerequisite: Attend ARARs training or refresher course

- RI/FS Scoping Session
 - **Send written request to support agency to attend scoping session for RI/FS.*** (*Note: Invitation should be sent to, at a minimum, support agency Project Manager and site attorney.*) [Step 1]

 - Prepare for scoping session: Meet with site attorney and risk assessor to develop preliminary list of lead agency chemical- and location-specific ARARs/TBCs. (*Note: Support agency Project Manager should also prepare for scoping session by meeting with site attorney and other relevant personnel to develop preliminary list of support agency chemical- and location-specific ARARs/TBCs*) [Step 2]

 - **Attend scoping session along with site attorney; other case team members attend as necessary** (*Note: At a minimum, Support agency Project Manager and site attorney attend*) [Step 3]

- Pre-field work draft ARARs List (*focus on chemical-and location-specific*)
 - Post scoping session, draft initial list of ARARs/TBCs with input from site attorney; then provide draft list *simultaneously* to support agency Project Manager and site attorney, and to contractor to incorporate into RI/FS Work Plan [Step 4]

¹ This tool does not impose legally binding requirements on EPA, states or the regulated community, and may not apply to a particular situation based upon the circumstances. EPA and state decision-makers retain the discretion to adopt approaches on a case-by-case basis that differ where appropriate. Any decisions regarding a particular site will be made based on the applicable statutes and regulations.

*Bolded language indicates an NCP requirement. See Best Practices Process Chart for specific citation.

- Support agency, with legal support, provides written comments and substantive rationale for any ARARs/TBC issues. *Resolution Process initiated in writing, as needed, by either lead or support agency. Unresolved issues go to Dispute Resolution Process [Steps 5 - 7]*

- Post-field work draft ARARs List (*focus on chemical- and location-specific*)
 - **At the end of site characterization data collection, send written request to support agency to identify ARARs/TBCs** [Step 8]

 - **Within 30 days, support agency, with site attorney, provides written comments and substantive rationale for any ARARs/TBC issues.** *Resolution Process initiated in writing, as needed, by either lead or support agency. Unresolved issues go to Dispute Resolution Process [Steps 9 - 10]*

 - With site attorney, provide revised list of ARARs/TBCs *simultaneously* to support agency Project Manager and site attorney, and contractor to insert into draft RI/FS [Step 11]

- Early FS Alternatives Development (*focus on action-specific ARARs/TBCs*)
 - Notify support agency in writing of alternatives that passed initial screening [Step 12]

 - **At early stages of comparative analysis for development of alternatives, notify support agency, in writing, that the support agency must *identify action-specific* ARARs/TBCs, along with any other ARARs/TBCs not yet identified** [Step 13]

 - With site attorney, provide revised list of ARARs/TBCs, including action-specific ARARs to support agency Project Manager and site attorney [Step 14]

- **Within 30 days, support agency, with site attorney, provides written comments**, along with substantive rational for any ARARs/TBC issues. *Resolution Process initiated in writing, as needed, by either lead or support agency. Unresolved issues go to Dispute Resolution Process [Steps 15 - 16]*

- Draft RI/FS
 - Provide Draft RI/FS, including ARARs/TBCs tables, to support agency [Step 17]

 - **Support agency, with site attorney, provides comments, in writing, along with substantive rational for any ARARs/TBC issues.** *Resolution Process initiated in writing, as needed, by either lead or support agency. Unresolved issues go to Dispute Resolution Process [Steps 18 - 19]*

- Site-specific Management Review Meeting
 - Send written invitation to support agency (Management, Project Manager, site attorney) and EPA Headquarters to attend site-specific management review meeting [Step 20]

 - Attend Site-specific Management Review Meeting: Lead and support agencies management, case team, including site attorney, and EPA Headquarters [Step 21]

 - If necessary, post Management Review meeting, work with case attorney and with support agency Project Manager and case attorney to resolve remaining issues [Step 22]

- Proposed Plan
 - With case attorney, draft Proposed Plan; *simultaneously* send draft Proposed Plan to support agency and EPA Headquarters for review (*Note: **Transmittal letter and draft proposed plan must include EPA plans to waive state ARAR or explain disagreement with State-identified ARAR in Proposed Plan; must have management and legal support of position; offer dispute resolution***) [Steps 23 - 24]

- **Support agency, with legal input, provides comments within 5 to 10 days;** EPA HQs provides comments within 3 to 4 weeks; *(Note: Support agency comments must include statement explaining any concerns with Proposed Plan)* [Steps 25 - 26]
 - Schedule comment resolution discussion with EPA HQs and or support agency if needed [Steps 27 - 28]
 - **Issue Final Proposed Plan and RI/FS for public comment** *(Note: Proposed Plan must include either 1) a statement that lead and support agencies support the proposal; or 2) a statement explaining the concerns of the support agency with the lead agency's proposal, including any proposed ARARs waivers, and lead agency's response to those concerns)* [Step 29]
- Record of Decision
- Draft Responsiveness Summary with site attorney; identify and refer comments to which support agency, with site attorney, will draft response [Step 30]
 - If necessary, schedule discussions with support agency to resolve any conflicts related to public comments; involve site attorneys as needed [Step 31]
 - Provide Draft ROD, including ARARs tables, to support agency and EPA Headquarters **(Note: Support agency to provide comments within 15 days)** [Steps 32 -34]
 - Schedule additional discussions with support agency and/or EPA Headquarters to resolve remaining issues with ARARs/draft ROD [Steps 35 - 36]
 - Provide Final ROD to support agency for concurrence or non-concurrence letter **(Note: Support agency has 15 days to provide concurrence or non-concurrence letter)** [Steps 37 -38]
 - Issue ROD (or concurrence on Fund-financed RODs issued by State) [Step 39]