

New York State Department of Environmental Conservation

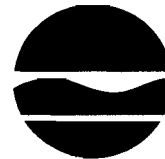
Division of Environmental Remediation

Remedial Bureau A, 11th Floor

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Joe Martens
Acting Commissioner

January 25, 2011

Mr. John Busse
Department of the Army
Buffalo District, Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207-3199

Dear Mr. Busse:

Re: Niagara Falls Storage Site
RAOs and ARARs Technical Memorandum Objective

This responds to the Corps December 2010 fact sheet which solicited input from the public on the objective of the technical memorandum addressing the Remedial Action Objectives (RAOs) and Applicable or Relevant and Appropriate Requirements (ARARs) to be used in conducting the Feasibility Studies (FSs) for the Interim Waste Containment Structure (IWCS) and Balance of Plant (BOP) Operable Units (OUs) at the Niagara Falls Storage Site (NFSS).

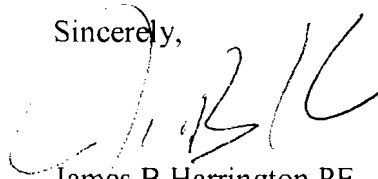
Enclosed you will find a listing of State ARARs along with a justification for each one. They are available on the NYSDEC website at <http://www.dec.ny.gov/regs/2491.html> and http://www.dec.ny.gov/docs/remediation_hudson_pdf/cpsoil.pdf.

As you know, the Department does not consider shallow land burial of these waste materials as an appropriate long-term solution. In fact in a September 28, 1993 letter from former Commissioner Thomas Jorling to Mrs. Hazel O'Leary; then Secretary of the United States Department of Energy, we stated that "we believe the 40 CFR Part 192 uranium mill tailings standard established by the United States Environmental Protection Agency was never intended to regulate such high activity wastes as the K-65 residues contain, and that the most applicable standard would be those of 40 CFR Part 191 requiring deep mine repository disposal and assurance of over 10,000 years of isolation from humankind." This position has continued to be reiterated in various correspondences with the Corp including a September 10, 2008 letter from Edwin Dassatti to Lieutenant Colonel Snead.

With regard to RAO's, particularly in relation to the second bullet beneath preliminary RAOs, in keeping with the Corp's conformance with the CERCLA process, the clean-up should achieve an EPA risk level in the 10^{-4} to 10^{-6} range (and the goal of 15 mrem annual Total Effective Dose Equivalent).

If you have any questions or need further information, please contact John Mitchell, of the Radiological Sites Section within this Bureau, at (518) 402-8573 or by email at jimitche@gw.dec.state.ny.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. B. Harrington', written over a faint circular stamp.

James B Harrington PE,
Director
Remedial Bureau A

Enclosure

cc w/enc: Lt. Col. S. Bales, USACE
P. Giardina, USEPA
S. Gavitt, NYSDOH

New York State Department of Environmental Conservation
 Division of Environmental Remediation
 Remedial Bureau A
 Radiation Section
 Listing of Applicable or Relevant and Appropriate Requirements
 for the Niagara Falls Storage Site

January 3, 2011

Citation	Contents	Justification
6 NYCRR Part 364	Waste Transporter Permits	Applicable to transportation of solid waste
6 NYCRR Part 370	Hazardous Waste Management System: General	General requirements applicable to hazardous wastes
6 NYCRR Part 371	Identification and Listing of Hazardous Wastes	
6 NYCRR Part 372	Hazardous Waste Manifest System and Related Standards for Generators, Transporters and Facilities	Applicable to transport of hazardous waste from the site
6 NYCRR Subpart 373-1	Hazardous Waste Treatment, Storage and Disposal Facility Permitting Requirements	May be applicable if remedy includes storage, treatment, or disposal of hazardous waste on site
6 NYCRR Subpart 373-2	Final Status Standards for Owners and Operators of Hazardous Waste Treatment Storage and Disposal Facilities	
6 NYCRR Subpart 373-3	Interim Status Standards for Owners and Operators of Hazardous Waste Facilities	
6 NYCRR Part 376	Land Disposal Restrictions	Applicable to disposal of hazardous wastes
6 NYCRR Part 380	Rules and Regulations for Prevention and Control of Environmental Pollution by Radioactive Materials	Relevant and Appropriate for any airborne emissions or discharges to surface or groundwater of radioactive materials.
6 NYCRR Part 382	Regulation of Low-Level Radioactive Waste (LLRW) Disposal Facilities: Certification of Proposed Sites and Disposal Methods	Relevant and Appropriate for land disposal of radioactive wastes

6 NYCRR Part 383	Regulation of Low-level Radioactive Waste (LLRW) Disposal Facilities: Design, Construction, Operation, Closure, Post-Closure, and Institutional Control	Relevant and Appropriate for land disposal of radioactive wastes
6 NYCRR Part 702	Derivation and Use of Standards and Guidance Values	Generally applicable to ground and surface waters
6 NYCRR Part 703	Surface Water And Groundwater Quality Standards and Groundwater Effluent Limitations	Class GA drinking water standards and Class C surface water standards apply at NFSS.
6 NYCRR Part 750-757	Implementation of SPDES Program in NYS	Applicable to discharges of pollutants to surface and groundwater
6 NYCRR Part 375	Environmental Remediation Programs	
6 NYCRR Part 375-6	Remedial Program Soil Cleanup Objectives	Applicable to surface and subsurface soils
CP-51	NYSDEC Soil Cleanup Guidance	
N/A	NYSDEC Technical Guidance for Screening Contaminated Sediments	Applicable to sediments and streams.
DSHM-RAD-05-01	Cleanup Guideline for Soils Contaminated with Radioactive Materials	Applicable to setting radiological cleanup criteria for soils