



COLORADO

Department of Public  
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

March 26, 2018

Laura Williams  
Response Unit Chief  
U.S. Environmental Protection Agency Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-8917

RE: March 15, 2018 Request for Identification of Potential State ARARs

As requested in the above referenced letter, the Colorado Department of Public Health and Environment (CDPHE) and the Colorado Attorney General's Office have identified the attached list of Potential State ARARs for the contemplated removal action at the Nelson Tunnel/Commodore Waste Rock Pile Superfund Site located near Creede, Colorado. It is my understanding that, to the extent practicable, EPA will comply with the State ARARs identified in the attachment. Please contact me at 303-692-3404 if you have any questions about the attached list. I look forward to reviewing the Action Memo for this removal project.

Sincerely,

Douglas C. Jamison  
Remedial Programs Manager

cc: Jason King, AGO  
Wendy Naugle, CDPHE  
Ross Davis, CDPHE



**STATE APPLICABLE OR RELEVANT AND APPROPRIATE  
REQUIREMENTS FOR THE NELSON TUNNEL PROPOSED REMOVAL  
ACTION**

	<i>Standard, Requirement or Criteria</i>	<i>Description</i>	<i>Type</i>	<i>Potentially Applicable or Relevant and Appropriate or TBC</i>	<i>Comment</i>
<b>SOLID AND HAZARDOUS WASTE MANAGEMENT</b>					
	Colorado Solid Waste Disposal Sites and Facilities Regulations, 6 CCR 1007-2 §§ 1.2 (definitions), 1.4 (exemptions), 1.5 (waivers) and 2 (minimum standards).	Establishes requirements for activities meeting the regulatory definition of "solid waste disposal" including the storage, utilization, processing or final disposal of solid wastes.	A/L	Applicable	In tunnel disposal of debris constitutes solid waste disposal as defined in Section 1 of the Regulations. These disposal activities must comply with the minimum standards set forth in Section 2 of the Regulations. A waiver or exemption from these Regulations may apply.
<b>AIR</b>					
	Colorado Fugitive Dust Control Plan/Opacity, Regulation No. 1., 5 CCR 1001-3, pursuant to Colorado Air Pollution Prevention and Control Act, CRS §§ 25-7-101 et. seq.	Establishes regulations concerning fugitive emissions from construction activities, storage and stockpiling activities, and transportation.	A	Applicable	Applicable to all activities generating dust.

<b>MINING RECLAMATION AND NOXIOUS WEEDS</b>					
	Colorado Mined Land Reclamation Regulation 2 CCR 407-1 § 3, pursuant to the Colorado Mined Land Reclamation Act, CRS §§ 34-32-101--127	Establishes reclamation performance standards related to grading, backfilling, erosion, acid drainage, unauthorized release of pollutants and safety and protection of wildlife.	A/L	Relevant and Appropriate	The removal action shall comply with the performance standards set forth in this Regulation.
<b>NOISE CONTROL</b>					
	Colorado Noise Abatement Statute, CRS §§ 25-12-101-110	Establishes maximum permissible noise levels for particular time periods and land use zones.	A	Applicable	Applicable to all construction, transport and backfilling activities.