1/12/07-01230

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SUBJECT: Naval Amphibious Base Little Creek
Comments on Site 11 (School of Music Plating Shop)
Draft Record of Decision, ARARs Table

DATE: 1/~~9~~12/2007

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Assistant Regional Counsel

TO: Jeffrey M. Boylan (3HS11)
Remedial Project Manager

This follows my comments of 1/8/2007 on the main body of the ROD. These comments are on the Federal ARARs table 2-12. I've marked comments in pencil on a hard copy. In addition, I've typed some comments below.

If you have any questions, please do not hesitate to call me at 215-814-2664.

In General

Please cite and describe individual sections of statutes and regulations that contain applicable or relevant requirements. Please don't cite ~~and describe~~ every section of a statute or entire parts of regulations, unless every section applies.

The draft is great, for example, in citing ~~a~~ describing the Safe Drinking Water Act MCLs.

It is not so good when it cites every part of the underground injection control regs or every section of the Chesapeake Bay Preservation Act regs.

Safe Drinking Water Act, Underground Injection Control Regs

It appears that that the wells in this remedy are Class V injection wells (see 40 C.F.R. § 144.80), because sodium lactate is not a hazardous waste or hazardous substance. Is this correct? Sodium lactate (aka lactic acid sodium salt, CAS No. 312-85-6) is not a listed hazardous substance and does not appear to be a CERCLA "pollutant or contaminant." I found an MSDS on the web that states sodium lactate can cause eye, skin and respiratory irritation, but I'm not sure this meets the definition of a CERCLA pollutant or contaminant, which "upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring." 40 C.F.R. § 300.5.

If so, the Class V regs seem to be applicable, not just relevant and appropriate.

If these wells are Class V wells, please cite and describe individual sections that apply to Class V wells. Please don't cite entire parts of the C.F.R. (like Parts 144 to 148, as in this draft). Consult the table of action-specific ARARs for underground injection in Exhibit 1-3 of the CERCLA Compliance with Other Laws Manual (August 1988) and see how they cite and describe individual sections of the regulations. Exhibit 1-3 is a just start. It's old and needs to be updated. For example, it doesn't discuss Class V wells, which is what we seem to have here. However, it may describe requirements in Part 144 that apply to Class V wells.

Based on a quick look, we should cite 40 C.F.R. § 144.82 (cannot allow movement of fluid into an underground source of drinking water (USDW) that might cause endangerment, must comply with other Federal UIC requirements in Part 144 through 147, must comply with other measures required by the State or EPA Regional Office UIC Program to protect USDW, and must properly close well).

We should cite and describe other, individual sections from parts 144 and 146 that apply to Class V wells.

Please don't cite Part 145. These are requirements that states need to meet in order to run a state UIC program.

Please don't cite Part 147. All it says is that the UIC program in Virginia is administered by EPA.

Please don't cite Part 148. It deals with restrictions on Class I wells, which are used to inject hazardous waste beneath the lowermost formation containing, within one quarter mile of the well-bore, an underground source of drinking water. I don't think it applies or is relevant or appropriate.

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Table 2-12
Federal Applicable, Relevant and Appropriate Requirements
Site 11 Record of Decision
NAB Little Creek
Virginia Beach, Virginia

Media	Requirement	Prerequisite	Citation	ARAR Determination	Comment
Federal Chemical-Specific ARARs					
Safe Drinking Water Act					
Groundwater	SDWA standards serve to protect public water systems. Primary drinking water standards consist of federally enforceable MCLs. MCLs are the highest level of a contaminant that is allowed in drinking water.	Impact to public water systems that have at least 15 service connections or serve at least 25 year-round residents. May also be cleanup standards for on-site ground or surface waters that are current or potential sources of drinking water.	40 CFR 141.11 to 141.16 and 141.61 to 141.66	Relevant and Appropriate	This remedial action is being implemented with a target goal of achieving MCLs. The aquifer is not currently, nor reasonably anticipated in the future to be used as a potable water supply.
Groundwater	SDWA standards serve to protect public water systems. The MCLG is the level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety and are non-enforceable public health goals.	Impact to public water systems that have at least 15 service connections or serve at least 25 year-round residents. May also be cleanup standards for on-site ground or surface waters that are current or potential sources of drinking water.	40 CFR 141.50 to 141.55	TBC	Although MCLGs are non-enforceable standards, this remedial action is being implemented with a target goal of achieving MCLs.
USEPA Region III RBC Tables					
Water, air, fish tissue, soil	Chemical concentrations corresponding to fixed levels of human health risk (i.e., a hazard quotient of 1, or lifetime cancer risk of 10^{-6}, whichever occurs at a lower concentration).	Assessment of potential human health risks.	USEPA Region III RBC Tables	TBC	The remedial action is being implemented with a target goal of achieving MCLs. 1,1-Dichloroethane is the only COC with no established MCL. A risk-based PRG has been calculated for 1,1-dichloroethane and it is not anticipated that RBCs
Location-Specific ARARs					
No Applicable Federal Location Specific ARARs Identified					
Action Specific ARARs					
Resource Conservation and Recovery Act Subtitle C					
Off-site disposal of solid and/or hazardous wastes	Administrative standards for hazardous wastes sent off-site for further management. Administrative RCRA standards include the obligation to obtain permits and keep various records at all hazardous waste treatment, storage, and disposal facilities; and the requirement to include a hazardous waste manifest when sending hazardous wastes off-site.	Off-site disposal of hazardous wastes.	40 CFR 240 to 282	Relevant and Appropriate	This ARAR is not applicable because RCRA has been delegated to the State of Virginia.
Safe Drinking Water Act					
Underground injection	Regulates the subsurface emplacement of liquids through the Underground Injection Control program, which governs the design and operation of five classes of injection wells in order to prevent contamination of underground sources of drinking water. The Underground Injection Control program regulates well construction, well operation, and monitoring.	Underground injection of wastes and treated groundwater.	40 CFR 144 to 148 40 CFR 268.2	Relevant and Appropriate	The Remedy will include substrate injection. This ARAR is not applicable because neither waste nor treated groundwater will be injected and the CERCLA process precludes the acquisition of a permit.

add year

missing part of sentence only

cite authorized VA regs.

see memo

ARAR	Applicable or relevant and appropriate requirement
CFR	Code of Federal Regulations
MCL	Maximum Contaminant Level
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
MCLG	Maximum Contaminant Level Goal
RBC	Risk-Based Concentrations
RCRA	Resource Conservation and Recovery Act
SDWA	Safe Drinking Water Act
USEPA	United States Environmental Protection Agency

References

Commonwealth of Virginia, 2004. Preliminary Identification, Applicable or Relevant and Appropriate Requirements.

USEPA, 1988. *CERCLA Compliance with Other Laws Manual: Interim Final*. Office of Emergency and Remedial Response. EPA/540/G-89/006.

USEPA, 1988. *CERCLA Compliance with Other Laws Manual: Part II. Clean Air Act and Other Environmental Statutes*. Office of Emergency and Remedial Response.

USEPA, 1998. RCRA, Superfund & EPCRA Hotline Training Manual. Introduction to Applicable or Relevant and Appropriate Requirements. EPA540-R-98-020.