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MCRD PARRIS ISLAND
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EMAIL REGARDING STATE REQUIREMENTS AND STANDARDS BEING USED AS APPLICABLE, RELEVANT AND APPROPRIATE REQUIREMENTS FOR GROUNDWATER AT SITE 45 WITH ATTACHMENT MCRD PARRIS ISLAND SC
5/7/2008
NAVAL FACILITIES ENGINEERING COMMAND SOUTHEAST

From:	Cook, Charles CIV NAVFAC SE
To:	Koroma-Llamas.Lila@epamail.epa.gov; AmickMS@dhec.sc.gov; Sanford, Art F CIV NAVFAC SE; barkerjs@dhec.sc.gov; darrel.pittman@usmc.mil; Kelly.Taylor2@ch2m.com; Sladic, Mark; mmcrae@TechLawInc.com; timothy.j.harrington@usmc.mil
Cc:	Don A Vroblesky; Beverly, Stephen A CIV NAVFAC SE
Subject:	State requirements and standards being used as ARARs 45
Date:	Wednesday, May 07, 2008 9:12:58 AM
Attachments:	e6n03400.pdf

Team,
This EPA correspondence seems to be related to our issue with ground water(site 45),ARARs; State requirements at Parris Island. FYI

v/r
Charles Cook
904 542 6409

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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Richard D. Green
Director, Waste Management Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA. 30303-3104

Dear Dick:

Thank you for your inquiry regarding whether the secondary drinking water maximum contaminant levels (SMCLs) established by the State of Florida should be considered an applicable, or relevant and appropriate requirement (ARAR) for the Taylor Road Superfund site. We do not believe the Florida manganese SMCL constitutes an ARAR for this site.

Pursuant to Section 104(a)(1), 42 U.S.C. § 9604 (a)(1), of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, U.S. EPA is authorized to respond to a release of a hazardous substance or pollutant or contaminant in order to protect public health and the environment. The protection of human health and the environment is a primary purpose for conducting remedial actions under CERCLA. (See CERCLA section 121(b)(1)). Moreover, CERCLA, the NCP, the Preamble to the NCP, and numerous U.S. EPA policy and guidance documents indicate that the Superfund program is designed to address unacceptable risks to human health and the environment. Thus, federal or state standards, requirements, criteria, or limitations that do not address protection of human health and the environment typically would not be considered as ARARs, since such standards would not further the purpose of CERCLA.

Consistent with the above statements, Section 121(d) of the CERCLA, 42 U.S.C. § 9621(d), provides that for wastes left on-site, remedial actions generally must comply with any standard, requirement, criteria, or limitation under any Federal environmental law that is applicable or relevant and appropriate under the circumstances of the release. In addition, CERCLA requires remedial actions to comply with any standard, requirement, criteria, or limitation "promulgated" under a state environmental or facility siting law that is more stringent than any such Federal standard, requirement, criteria, or limitation that meets the ARARs criteria. (See also 40 C.F.R. 300.400(g)).

National Secondary Drinking Water Regulations (NSDWRs, secondary standards, or SMCLs) are non-mandatory water quality standards that regulate contaminants which may cause cosmetic effects (such as skin or tooth discoloration) or aesthetic effects (such as taste, odor, or color) in drinking water.[1] The specific federal SMCLs for the contaminants listed in 40 C.F.R. §143.1, were not developed or designed to prevent adverse health or environmental impacts. EPA does not enforce these SMCLs, but established them only as guidelines and recommendations to assist public water systems in managing their drinking water for these non-health based considerations.

Generally, if a state directly incorporates SMCLs into its drinking water standards, such standards would not automatically constitute ARARs. To be considered as an ARAR, the state secondary standard would have to be associated with human health or environmental protection. The fact that a Florida SMCL (e.g., such as manganese) cleanup level is equal to or lower than the federal standard, based on purely aesthetic reasons, does not automatically qualify such standard as an ARAR consistent with the purpose for selecting a remedy pursuant to CERCLA §121.[2]

You indicate that the State of Florida is concerned about the potential effects on the quality of the drinking water aquifer at the Taylor Road Site from contamination at levels above the SMCLs. For example, the potential effects of manganese entail black to brown water color, black staining of plumbing fixtures, and a bitter metallic taste. The state, however, has not provided a health or environmental basis for its SMCL for manganese or any other SMCL at the Taylor Road Site. As I understand it, the CERCLA risk assessment for this Site confirms that the contaminants regulated under the state's SMCLs are not considered to present a risk to human health at the SMCL and at the National Primary Drinking Water Standards. Since the State of Florida has not provided information indicating how the SMCLs were designed to address risks to human health or the environment, we do not believe it would be appropriate to consider this state SMCL in this case as an ARAR.

I recognize that manganese in the drinking water may affect the aesthetic quality of the water at this site and that the citizens may not have the quality of water that they would expect and want. We recommend that you work with the State of Florida to explore what state mechanisms are available for addressing this contamination.

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[1] For further information regarding SMCLs, see 40 C.F.R. Part 143 and the EPA document "Secondary Drinking Water Regulations: Guidance for Nuisance Chemicals" (EPA 810/K-92-001) July 1992, which may be found on the Internet at: http://www.epa.gov/safewater/consumer/2ndstandards.html.

[2] In addition, under the NCP there are a number of criteria used to determine if a State standard is an ARAR. (See 40 CFR 300.400(g).)

If you have any questions, please contact either Robin M. Anderson (703-603-8747) or Stuart (703-603-8748) of my staff.

Sincerely,

Elaine Davies

Elaine Davies, Acting Director
Office of Emergency and Remedial Response