



State of Ohio Environmental Protection Agency

Southwest District Office

40 South Main Street
Dayton, Ohio 45402-2086
(513) 285-6357
FAX (513) 285-6249

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George V. Voinovich
Governor

January 6, 1992

RE: EWMF ARAR COMMENTS

Mr. Jack R. Craig
Project Manager
U.S. DOE FEMP
P. O. Box 398705
Cincinnati, Ohio 45239

Dear Mr. Craig:

Listed below are Ohio EPA's comments on the ARARs for the Engineered Waste Management Facility.

General Comments

1. An initial review of the technical requirements of OAC 3745-27-07(B) suggests that DOE will not be able to meet the specific requirements for siting a solid waste disposal facility in the area proposed in the EWMF Sampling and Analysis Plan. If DOE wishes to pursue siting a solid waste disposal facility in the area proposed, a waiver/exemption will most likely be needed. Under appropriate conditions CERCLA in 121(d)(4) provides mechanisms for USEPA to select a remedy that does not attain ARARs. These "ARARs waivers" may be used to select the EWMF as a part of the remedy even if it does not meet all ARARs. Additionally, Ohio's laws regarding the siting of the EWMF, or any other Ohio law ARARs the EWMF cannot attain, would need to be exempted or varied by the Director of the Ohio Environmental Protection Agency before the EWMF is implemented. DOE must consider both waivers and exemptions if they intend to proceed with planning and analyzing the EWMF as a part of any remedy at FEMP.
2. DOE must continue to use the most current MCLs and update such submittals accordingly. The MCLs listed in this document need to be updated and checked for accuracy (i.e., 2,4-D MCL is listed as 0.1 mg/l in this document, but is 0.07 mg/l in the October 1991 "Drinking Water Regulations and health Advisories" published by USEPA Office of Water; additional corrections need to be made).

Specific Comments

1. Additional ARARs which need to be added include:
 - a) 50 CFR 200, 402 - Endangered Species Act; see Ohio EPA comments (12/19/91) on the EWMF SAP.
 - b) ORC 1518, OAC 1501:18-1-01, ORC 1513.25 - Ohio Endangered Species Act for plants and animals.

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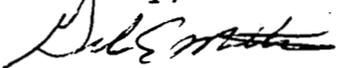
- c) Did DOE consider 10 CFR 60, 10 CFR 61 or 40 CFR 193 as ARARs? These regulations may provide requirements that qualify as ARARs.
2. Page 3, MCL Inorganic chemicals: The list of MCLs fails to include all potential contaminants of concern at the site, which have MCLs or proposed MCLs available. For additional inorganic contaminants of concern (i.e., antimony, beryllium, etc.), see the RI/FS Risk Assessment Work Plan Addendum (10/91) Table 4-2 and recent Treatability Study Work Plan submittals.
 3. Pg. 4, MCL Organic Chemicals: The list of MCLs fails to include all potential contaminants of concern at the site, which have MCLs or proposed MCLs available. For additional organic contaminants of concern (i.e., chlordane, chrysene, DDT, etc.), see the RI/FS Risk Assessment Work Plan Addendum (10/91) Table 4-2 and recent Treatability Study Work Plan submittals.
 4. Pg. 6, MCLGs: The list of MCLGs fails to include all potential contaminants of concern at the site, which have MCLs or proposed MCLGs available. For additional contaminants of concern (i.e., 1, 2 dichloroethylene), see the RI/FS Risk Assessment Work Plan Addendum (10/91) Table 4-2 and recent Treatability Study Work Plan submittals.
 5. Page 6, 10 CFR 20.101-105, why are these relevant and appropriate rather than applicable? Also, please clarify whether or not the individuals in restricted areas will be protected from radiation concentrations above regulatory limitations.
 6. Page 10, 40 CFR 264, subpart F, "Rationale for Improvements", as an example, this requirements should not just be a basis for design, it also is a performance criteria for the EWMF that must be met. The same statement appears throughout the document.
 7. Pg. 12, Rationale for Implementation: The statement "40 CFR 300 requires that in the absence of an ARAR for contaminants, guidance. . . ." should be corrected to read "40 CFR 300 requires that when ARARs are not available or are not sufficiently protective because of the presence of multiple contaminants at a site or multiple pathways of exposure, guidance. . . .".
 8. Page 15, 40 CFR 2645.18 and OAC 3745-54-18, comment under Rationale for Implementation should be clarified. Not only should these requirements be used when locating the EWMF,

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- then the EWMF must meet the criteria or DOE must develop basis upon which USEPA can waive requirements and OEPA can exempt them.
9. Page 16, Executive Order 11988 is not a TBC. The Executive Order is promulgated in Appendix A to 40 CFR part 6. Also, DOE should analyze the following to determine if the requirements are ARARs; 40 CFR 264.18(6), 60 USC 661 et seq. and 40 CFR 6.302.
 10. Page 17, Executive Order 11990 is also an ARAR because it is promulgated, see my comment (d) above.
 11. Page 18, these, again, are not TBCs.
 12. Page 20, 40 CFR 241 202, ORC 6111.45 and 3745-27 {et. seq.} Please note that 3745-27 is inappropriately cited. Also, the comment under "Rationale for Implementation", add to the list that the EWMF must be sited in accordance with state and federal requirements.
 13. Page 20, Rationale for Implementation: Correct the sentence to read, ". . . the facility must be sited, designed and operated in accordance with state. . . .".
 14. Page 22, 40 CFR 241.209, Ohio's requirements for cover are more stringent than Federal requirements and therefore are the ARAR to be met for cover. See, CERCLA 121(d)(2)(A)(ii) and OAC 3745-27-10.
 15. Pg. 63, 10 CFR 61, Subpart D: A brief description of the requirements cited here would be helpful to the reader.

If you have any questions please contact me.

Sincerely,


Graham E. Mitchell
Project Manager

GEM/bjb

cc: Section Manager, DERR, T&PSS
Cindy Hafner, OEPA
Jim Saric, U.S. EPA
Jack Van Kley, Ohio AG
Lisa August, GeoTrans
Ed Schuessler, PRC
Robert Owen, ODH