



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

January 19, 2016

Paul Mercer, Commissioner
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

Re: Withdrawal of Disapprovals, and Issuance of Approvals, of Maine's Human Health Criteria for Copper, Asbestos, Barium, Nitrates, Iron and Manganese

Dear Commissioner Mercer:

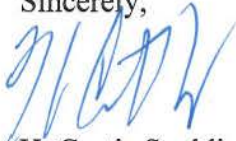
On February 2, 2015, EPA disapproved Maine's new or revised human health criteria (HHC), set forth in DEP Rule Chapter 584, as they relate to waters in Indian lands in Maine. The disapprovals were based on EPA's conclusion that the HHC do not protect the sustenance fishing use in those waters because Maine's 32.4 g/day fish consumption rate is not representative of an unsuppressed sustenance fish consumption rate by the tribes, who are the target general population in waters in Indian lands.

Among the new or revised HHC that EPA disapproved were the HHC for copper, asbestos, barium, nitrates, iron, and manganese. However, unlike the other HHC that EPA disapproved, EPA's Clean Water Act (CWA) section 304(a) National Recommended Water Quality Criteria (NRWQC) for these pollutants, on which Maine's criteria are based, were not derived using a fish consumption rate. Rather, EPA set its NRWQC for copper and asbestos equal to EPA's Safe Drinking Water Act (SDWA) Maximum Contaminant Level Goals (MCLGs) for those pollutants. These MCLGs are based on ingestion of water, and are not based on or affected by specific fish consumption rates. Similarly, EPA's NRWQC for barium and nitrates are based on ingestion of water only, the NRWQC for iron is based on protection of domestic water supplies to prevent objectionable tastes or laundry staining, and the NRWQC for manganese is not based on any specific fish consumption rate. Therefore, the basis for EPA's disapprovals of the HHC in the February 2, 2015 decision letter does not apply to these six criteria.

Accordingly, pursuant to Section 303(c)(3) of the CWA and 40 C.F.R. part 131, I hereby withdraw the disapprovals of the copper, asbestos, barium, nitrates, iron, and manganese HHC and instead approve those criteria for all waters in Indian lands, since they are consistent with EPA's NRWQC and not based on a fish consumption rate.

Please contact Jeanne Voorhees in the Office of Ecosystem Protection at (617-918-1686) if you have any questions.

Sincerely,



H. Curtis Spalding
Regional Administrator

cc: Brian Kavanah, MEDEP
Jennifer Brundage, EPA SSB
Christina Christensen, EPA SSB
Jeanne Voorhees, EPA Region 1
Jennie Bridge, EPA Region 1