

CAF B 0003

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**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

October 15, 2003

Colonel Robert Yates
Commander 27th Fighter Wing
100 D.L. Ingram Blvd., Suite 100
Cannon Air Force Base, New Mexico 88103-5214

**RE: RESPONSE TO COMMENTS
DRAFT RCRA PERMIT
CANNON AIR FORCE BASE, CURRY COUNTY, NEW MEXICO
EPA ID No. NM7572124454**

Dear Colonel Yates:

The New Mexico Environment Department (NMED) is responding to all comments received during the public comment period for Cannon AFB Draft RCRA Permit.

Comments by Cannon Air Force Base

Comment 1: Page 3, Section 1.4, Area of Concern (AOC) - we believe it should read "... hazardous waste or constituents that is not from a *known* solid waste management unit..." If a release is confirmed, then the AOC would become a SWMU."

Response to Comment 1: Because "releases" may have occurred in areas that do not meet the definition of a "Solid Waste Management Unit" (SWMU), NMED has intentionally defined "Area of Concern" (AOC) so as to include areas that are not "discernable units or areas" (see definition of SWMU in Permit Condition 1.4). An example of an AOC would be an area that is either poorly known or defined such as a open field or wooded area in which hazardous waste or constituents were either treated, stored, or disposed improperly in a random or nonsystematic manner. A historical spill site that was not remediated properly presents another example of an AOC. The determination that a release has occurred does not, in itself, automatically qualify an

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AOC to meet the definition of a SWMU. Therefore, NMED has not made the requested change to Permit Condition 1.4.

Comment 2: Pages 5-11, Part 1.5, *DUTIES AND REQUIREMENTS* - In Part 1.5 the term **noncompliance** seems to be inconsistent in its use in certain sections. It may be beneficial to define **noncompliance** as it pertains to the applicable sections (1.5.1, 1.5.5, 1.5.10.b, 1.5.10.c.i, 1.5.10.c.ii, 1.5.10.e, and 1.5.1 l), or replace the word **noncompliance** in sections 1.5.10.c.i and 1.5.10.c.ii with **release**.

Response to Comment 2:

The term "noncompliance," specified in Section 1.5 of the permit, is used consistently throughout the permit and reflects the regulatory requirements specified in 20.4.1.900 NMAC, incorporating 40 CFR 270.30 (*Conditions applicable to all permits*). "Noncompliance" is not defined in the Hazardous Waste Act (Chapter 74, Article 4 NMSA 1978), RCRA, or pursuant regulations, EPA guidelines or publications, or the permit; therefore, as specified in Section 1.4 of the permit, the term "noncompliance" is defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term. "Noncompliance" simply means "not in compliance." Please note that the requirements specified in Permit Conditions 1.5.10.c.i and 1.5.10.c.ii apply to all noncompliance, not just releases. Therefore, NMED has not replaced "noncompliance" with "release" as requested.

Comment 3: Page 7, Section 1.5.9.a, *Representative Sampling* - Please add language that would better define requirements for initial sampling and continued sampling dependent upon results found over a period of time (i.e. three years, etc). We would like to be able to limit future sampling efforts or come to a determination of no further action based on sampling results.

Response to Comment 3: "Representative sampling" is not defined in the permit and is used only as a Permit Condition Heading. However, Permit Condition 1.5.9.a specifies the general performance standards for any and all samples and measurements of any monitoring activity that Cannon AFB is required to conduct in order to comply with its permit. That is, the samples or measurements taken and analyzed for must be representative of the item being sampled. The specific sampling requirements, whether for waste characterization or to delineate a release of hazardous waste or constituents, *etc.*, will be specified in site specific workplans. Please note that NMED will not allow Cannon AFB to cease monitoring or conducting investigations because it is of the opinion that a "No further action" (NFA) determination is justified based on its interpretation of analytical results. Also, please note that the language in Permit Condition 1.5.9.a mirrors 2.4.1.900 NMAC, incorporating 40 CFR 270.30(j)(1). NMED has not changed the permit in response to Cannon AFB's comment.

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Comment 4: Page 10, Section 1.5.10.d, *Unmanifested Waste Report* - We believe this language is non-applicable to Cannon AFB and should be removed. Cannon AFB does not receive unmanifested waste.

Response to Comment 4: Permit Condition 1.5.10.d is a standard permit condition that must be included in a RCRA permit in order to comply with 20.4.1.900 NMAC, incorporating 40 CFR 264 subpart C. Please note that this permit condition specifies the actions that Cannon AFB must take *if* it were to receive waste from an off-site source, for whatever reason. One possible example of how Cannon AFB might receive unmanifested waste is if Cannon AFB responds to a crash site and recovers Hydrazine contaminated soil. If the contaminated soil were to be brought back to Cannon AFB for temporary storage prior to final disposal, this might constitute a receipt of waste that was not covered by a manifest. Therefore, NMED has not changed the permit as requested.

Comment 5: Page 10, Section 1.5.10.e, *Other Noncompliance* - There is a reference to "...Permit Condition 1.5.10.d.ii,...; paragraph " 1.5.10.d.ii" does not exist.

Response to Comment 5: This typographical error has been corrected to read "Permit Condition 1.5.10.c.ii."

Comment 6: Page 13, Section 2.1.1, *Solid Waste Management Units and Areas of Concern That Require a RCRA Facility Investigation* - We would like to change the last sentence to read: The Permittee shall submit RFI Work Plans within 180 days of the New Mexico Environmental Department's request to do so. We are requesting this change because (1) we are still in the process of trying to find documentation of an RFI being completed for those SWMU's and AOC's listed in that section of the draft permit, and (2) because of our funding structure requirements we would like to work with NMED to agree on a date when we know we will have the requested funding in hand for an RFI Work Plan.

Response to Comment 6: NMED has not made this requested change because 180 days is an adequate amount of time for Cannon AFB to resolve any outstanding issues involving these SWMUs, including obtaining adequate funding. Please note that Permit Condition 1.5.6 requires Cannon AFB, among other things, to obtain adequate funding to comply with its permit.

Comment 7: Page 18, Before Section 2.5 - We would like NMED to insert language for the concept of a Release Assessment (RA). The RCRA Corrective Action Plan also calls the RA a "Phase 1 RFI". The idea is to minimize activities on sites that may not warrant a complete RFI.

Response to Comment 7: NMED has intentionally decided not to include a "Release Assessment" phase in Part 2 of Cannon's permit because a RCRA Facility Investigation (RFI) should always be site-specific and the requirements specified in Permit 2.5 and the guidance

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provided in Permit Attachment 3 are broad enough to enable Cannon to propose a streamlined RFI Work Plan that only includes those tasks that are appropriate for the specific site. Therefore, NMED has not made this requested change.

Other Changes to Permit

NMED has made three other minor changes to Cannon's permit as a result of comments made by Holloman AFB on its draft permit. Changed text is highlighted in yellow with red font.

NMED has changed permit condition 1.5.10.h (*Reports, notifications, and submissions to the New Mexico Environment Department*) by adding the requirement that all submissions should also include an electronic version of the document and should also be submitted via electronic mail (e-mail). Permit condition 1.5.10.h now reads as follows:

Permittee shall submit by certified mail or hand delivery and electronically all reports, notifications, or other submissions that are required by this Permit to be sent or given to the NMED. The submissions should be sent by certified mail or hand delivered, and also by electronic mail to:

NMED has also changed Permit Attachment 7.3.1 (Soil Cleanup Levels) to allow Cannon to calculate cleanup levels, for which NMED has not provided a cleanup level, using NMED's guidance rather than defaulting to EPA Region 6 guidance. Permit Attachment 7.3.1 now reads as follows:

NMED has established soil cleanup levels for 133 elements and compounds. In general, the cleanup levels are based on a target total risk of 10^{-5} for carcinogenic substances and a target hazard index of one for all noncarcinogenic chemicals. The target soil cleanup levels for selected substances are listed in NMED's *Technical Background Document for Development of Soil Screening Levels* (NMED SSLs). NMED also uses the most recent version of the EPA Region VI *Human Health Medium Specific Screening Level* (HHMSSL) for residential soil as the target cleanup level for compounds designated as "n" (noncarcinogen effects), "max", and "sat", or ten times the EPA Region VI HHMSSL for compounds designated "c" (carcinogen effects) if a NMED soil cleanup level has not been established for hazardous waste or constituents. The Permittee shall use NMED's SSLs, as modified, as cleanup levels. For hazardous waste and/or hazardous constituents that NMED

has not specified a cleanup level, the Permittee shall use either (1) cleanup levels equivalent to the screening levels in EPA Region VI's HHMSSLs for non-carcinogens and 10x the concentration for carcinogens, or (2) use cleanup levels developed using the same process, assumptions, and default values that were used to develop screening levels in NMED Guidance "Assessing Human Health Risks Posed by Chemicals: Screening Level Risk Assessment" (March 2000).

NMED also changed Permit Attachment 7.5 (Alternative Cleanup Levels) so as to allow the use of revised NMED guidance. Permit Attachment 7.5 now reads as follows:

The Permittee may perform a risk-based evaluation to establish alternative cleanup levels for specific media at individual SWMU, AOC, and other source areas. The Permittee shall conduct its risk-based evaluation in accordance with the NMED HWB *Assessing Human Health Risks Posed by Chemicals: Screening Level Risk Assessment* (March 2000) and using the equations in the NMED HWB *Technical Background Document for Development of Soil Screening Levels: Cleanup Levels for Ecological Risk*. The risk-based evaluation shall be developed in accordance with the NMED HWB *Guidance for Assessing Ecological Risks Posed by Chemicals: Screening-level Ecological Risk Assessment* (March 2000). For performing a risk-based evaluation to establish alternative cleanup levels, the Permittee shall use the NMED guidance documents (March 2000 and December 2000), any modifications of these documents made by NMED, or any new risk assessment guidance as directed by NMED.

NMED also made several minor changes to the final permit to correct typos and to add omitted detail. NMED changed Permit Condition 2.2.2 (Solid Waste Management Unit Assessment Report) by correcting an incorrect internal reference. The reference to Permit Condition 2.3.1 has been corrected to read:

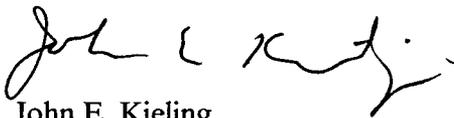
The Permittee shall submit a SWMU Assessment Report (SAR) to the Secretary for each SWMU or AOC identified in accordance with Permit Condition 2.2.1 within 90 calendar days of being notified of the requirement to do so by the Secretary.

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NMED also changed Table 1 in Permit Attachment 1 by adding a Comment for SWMU 36 and by creating a header row to this table.

If you have questions or comments, please contact Mr. Glenn von Gonten of my staff at 505-428-2551.

Sincerely,



John E. Kieling
Manager
Permits Management Program

JEK:gvg

cc: S. Martin, Acting Chief, NMED HWB
D. Cobrain, NMED HWB
G. von Gonten, NMED HWB
Laurie King, EPA Region VI

File: CAFB 99-005 and Reading File