



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Telephone (505) 428-2500
Fax (505) 428-2567
www.nmenv.state.nm.us



PETER MAGGIORE
SECRETARY



CERTIFIED MAIL
RETURN RECEIPT REQUESTED

February 25, 2002

Mr. Thomas A. Turner
Chief
Environmental Office
Tooele Army Depot
Tooele, UT 84074-5000

SUBJECT: Review for Administrative Completeness: RCRA Part B Permit Application for Post-Closure Care of the Former OB/OD Area; Failure to Complete Closure; and Corrective Action Management Unit(s) (CAMUs) Fort Wingate Depot Activity (NM 6213820974)

Dear Mr. Turner:

The New Mexico Environment Department (NMED) has reviewed the June 30, 1999 post-closure permit application submitted by Fort Wingate Depot Activity (FWDA) for Administrative Completeness. NMED has determined that FWDA has failed to complete closure of their open burn/open detonation unit (OB/OD). NMED also suggests that FWDA may wish to consider applying for Corrective Action Management Unit(s) to implement certain facets of closure and remediation. Each of these issues is discussed in detail below.

REVIEW FOR ADMINISTRATIVE COMPLETENESS

NMED has reviewed FWDA's post-closure permit application for Administrative Completeness pursuant to 20.4.1.900 and 20.4.2.201.3.1 NMAC and has determined that it is not administratively complete. Two major problems must be addressed: FWDA failed to include a closure plan as required by 20.4.1.900 NMAC, incorporating 40 CFR 270.14(b)(13) and a post-closure plan as required by 20.4.1.900 NMAC, incorporating 40 CFR 270.28. FWDA must submit a revised post-closure permit application for their miscellaneous unit known as the

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OB/OD that meets the requirements specified in 20.4.1.900 NMAC, incorporating 40 CFR 270 subpart B. As discussed below, FWDA's revised application must include a revised closure plan and a revised post-closure plan. Attachment 1 identifies additional specific deficiencies in the post-closure permit application. FWDA must submit a revised application that addresses NMED's comments (see Attachment 1) within ninety (90) days of your receipt of this letter.

FAILURE TO COMPLETE CLOSURE

NMED has determined that FWDA has failed to follow their approved closure plan; closure was to have been completed by August 1999. In addition, FWDA has failed to meet the unit specific closure performance standards for a thermal treatment unit as specified in 20.4.1.600 NMAC, incorporating 40 CFR 265.381 and the general closure performance standards specified in 20.4.1.600 NMAC, incorporating 40 CFR 265.111. FWDA has failed to demonstrate clean closure for both soils and ground water and cannot prevent releases of hazardous waste and/or hazardous constituents during the post-closure period at their OB/OD.

The closure performance standards for a thermal treatment unit specified in 20.4.1.600 NMAC, incorporating 40 CFR 265.381 do not detail what actions that owners or operators that fail to meet the closure performance standard must take. However, 20.4.1.600 NMAC, incorporating 40 CFR 265.110 (b)(1) specifies that the owners and operators of all hazardous waste disposal facilities must comply with 20.4.1.600 NMAC, incorporating 40 CFR 265.116 through 265.120, which concern post-closure care. As defined in 20.4.1.100 NMAC, incorporating 40 CFR 260.10, "...disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters." As defined in 20.4.1.100 NMAC, incorporating 40 CFR 260.10, "...disposal facility means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure."

Because FWDA has not achieved clean closure NMED has determined that their OB/OD is a disposal unit or facility. As a hazardous waste disposal facility, FWDA is required pursuant to 20.4.1.600 NMAC, incorporating 40 CFR 265.118 (a) to have a written post-closure plan and is required, pursuant to 20.4.1.600 NMAC, incorporating 40 CFR 265.118 (d)(1)(ii), to amend their post-closure plan whenever closure events affect the post-closure plan. In addition, NMED has determined that FWDA's OB/OD is a miscellaneous unit as defined at 20.4.1.100 NMAC, incorporating 40 CFR 260.10. Because FWDA has not closed in accordance with their closure plan, both their closure plan and post-closure plan must be revised to meet the closure and post-closure performance standards for a miscellaneous unit specified in 20.4.1.500 NMAC, incorporating 40 CFR 264 subparts G and X.

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Because the OB/OD, which had interim status as a thermal treatment unit as specified in 20.4.1.500 NMAC, incorporating 40 CFR 265 subpart P, is a disposal facility, FWDA must have a post-closure permit that specifies the post-closure care measures FWDA must implement during the post-closure care period. FWDA's revised Part B application must include revised closure and post-closure plans that meet the general closure and post-closure performance standards specified in 20.4.1.500 NMAC, incorporating 40 CFR 264 subpart G, and the unit specific closure and post-closure performance standards for a miscellaneous unit specified in 20.4.1.500 NMAC, incorporating 40 CFR 264 subpart X.

CORRECTIVE ACTION MANAGEMENT UNIT(S) (CAMU(s))

Because FWDA will need to provide for treatment and disposal of remediation waste discovered during the closure and post-closure care of the OB/OD and any site-wide investigation and remediation pursuant to 20.4.1.500 NMAC, incorporating 40 CFR 264.101, NMED recommends that FWDA also provide sufficient information for NMED to designate an area for use as a Corrective Action Management Unit (CAMU) in accordance with the new amendments to the regulations governing Corrective Action Management Units promulgated by EPA on January 22, 2002 (see 67 *FR* 2962).

In order to expedite certain facets of closure and cleanup, FWDA may wish to consider having both a disposal CAMU and a treatment CAMU. NMED does not believe that FWDA will be able to meet the all of the performance standards for a treatment CAMU specified in the amended 40 CFR 264.552. For example, NMED does not believe that it is technically feasible to maintain a composite liner and leachate collection system beneath a CAMU used to treat remediation waste via open detonation. Nor is it likely that FWDA can successfully demonstrate that a open detonation unit used as a treatment CAMU could meet the "Alternate Requirements" specified in 40 CFR 264.552(e) (3)(ii) because of the nature of open detonation and the shallow depth to ground water beneath the OB/OD area. Therefore, NMED recommends that FWDA consider treating remediation waste in a blast chamber and disposing of remediation waste in a disposal CAMU.

NMED also recommends that FWDA carefully review the requirement specified in 40 CFR 264.552(a) that CAMUs must be located within "contiguous property under the control" of FWDA. Pending parcel transfers might affect the ability of FWDA to obtain and use a CAMU for wastes that originate from some of the parcels.

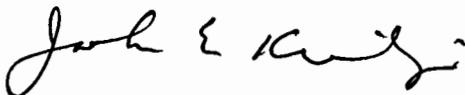
Please include a response letter with your revised post-closure permit application that indicates precisely where revisions to the permit application have been made, cross-referencing NMED's numbered comments. Also, please include an electronic version in Microsoft Word 2000 or earlier version of the revised application. If a revised post-closure permit application with revised closure and post-closure plans is not received within ninety (90) calendar days, NMED

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will issue FWDA a Notice of Deficiency. After FWDA submits a revised post-closure permit application, NMED will again review the application to determine whether it is administratively complete.

If you have any questions regarding this letter, please call Ms. Julie Wanslow at 505-428-2552.

Sincerely,



John E. Kieling
Manager
Permits Management Program

JEK:gvg

cc: J. Bearzi, NMED HWB
P. Allen, NMED HWB
D. Cobrain, NMED HWB
G. von Gonten, NMED HWB
J. Wanslow, NMED HWB
L. King, EPA R6 6PD-N
L. Fisher, Tooele Army Depot Environmental Office
File: Reading and Red FWDA 2002

ATTACHMENT 1
SPECIFIC COMMENTS

PART A

Section A-4; Scale Drawing of the Facility.

Comment 1: FWDA has included a scale drawing of the OB/OD area only. FWDA must submit a scale drawing of the entire FWDA facility in accordance with 20.4.1.900 NMAC, incorporating 40 CFR 270.13(h)(1). Also, please explain what is meant by the note on the drawing referring to a "revised UXO kickout area".

Section A-5; Photograph (sic) of the Facility.

Comment 2: FWDA must submit photographs of the facility (not the OB/OD area exclusively) which clearly delineate all existing structures; existing treatment, disposal and storage areas, and sites of future treatment, disposal and storage areas, in accordance with 20.4.1.900 NMAC, incorporating 40 CFR 270.13(h)(2).

Section A-6; Topographic Map.

Comment 3: The topographic map does not meet the requirements of 20.4.1.900 NMAC, incorporating 40 CFR 270.14(b)(19) (see 20.4.1.900 NMAC, incorporating 40 CFR 270.28; Part B information requirements for post-closure permits). FWDA must submit a topographic map which meets these requirements.

Section XVIII; Certifications.

Comment 4: FWDA must provide signatures in this section.

Figure 2.

Comment 5: This figure appears to indicate that the area undergoing closure extends beyond the facility boundary. Please confirm whether this is true and address this issue appropriately in the application.

PART B

Section B-1a; Land Use.

Comment 6: FWDA must provide descriptions of the "old burning ground", and the "demolition landfill".

Section B-3a; Seismic Standard.

Comment 7: NMED agrees that the seismic standard does not apply to FWDA. However, the assertion that the seismic standard does not apply to post-closure applications is incorrect (see 20.4.1.900 NMAC, incorporating 40 CFR 270.28). The seismic standard does not apply because FWDA is in McKinley County, and McKinley County is not listed in 20.4.1.500 NMAC, incorporating appendix VI to 40 CFR part 264.

Section B-3b; Floodplain Standard.

Comment 8: FWDA must submit floodplain information as required by 20.4.1.900 NMAC, incorporating 40 CFR 270.28.

Section B-4; Traffic Pattern.

Comment 9: As required by 20.4.1.900 NMAC, incorporating 40 CFR 270.28, FWDA must submit the estimated traffic volume; load bearing capacity; and traffic controls and signals, if present.

Section B-5; Compliance with other federal laws and regulations.

Comment 10: Section B-5f; Executive Orders. FWDA states that post-closure of the former OB/OD Area at FWDA is not believed to impact any Executive Orders. Because FWDA borders Native American land, and much of FWDA is scheduled to be turned over to Native Americans, Executive Order 12898; Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, is relevant. FWDA must include a discussion on the impacts of past FWDA activities, closure and post-closure care activities, and land transfer on the minority population.

Section C: Description of Security Procedures and Equipment.

Comment 11: FWDA states: "Security procedures...*will be* (emphasis added) established and initiated upon finalization of the Post Closure Care Plan...". FWDA's post-closure plan must include security procedures and equipment (see additional discussion in the cover letter on the requirement to submit revised Closure and Post-closure Plans).

Section D: Facility Inspection.

Comment 12: FWDA states: "Facility inspection requirements...*will be* (emphasis added) established and initiated upon finalization of the Post Closure Care Plan...". FWDA's post-closure plan must include facility inspection requirements.

Section E: Protection of Ground Water.

Comment 13: FWDA states: "The results, findings and conclusions of the Phase 1 efforts *will be* (emphasis added) presented..." As discussed above, FWDA's post-closure plan must include these results, findings, and conclusions, etc.

Closure Plan.

Comment 14: FWDA has not addressed the requirements of NMAC 20.4.1.900, incorporating 40 CFR 270.14(13), which requires the applicant to attach a copy of their closure plan.

Section F-1; Post Closure Plan.

Comment 15: FWDA refers to a Draft Post Closure Care Plan dated November 15, 1997, and cites 20.4.1.600 NMAC, incorporating 40 CFR part 265, but did not include the post-closure plan with their application. As discussed in the cover letter, FWDA must submit a post-closure plan with the revised Part B application that meets the standards of 20.4.1.500 NMAC, incorporating 40 CFR part 264.

Comment 16: FWDA states; "Upon completion of preparatory post closure activities..." Please explain what is meant by "preparatory post closure activities", including but not limited to the regulatory driver (e.g. an approved closure plan).

Section F-2a; Notification to Local Zoning Authority.

Comment 17: FWDA mentions; "...hazardous wastes disposed within the OB/OD area." FWDA must clarify if this refers to wastes from OB/OD activities, or some other form of waste management (e.g. disposal in a landfill, waste pile, etc.).

Section G; SWMUs.

Comment 18: FWDA must provide the information required by 20.4.1.900 NMAC, incorporating 40 CFR part 270.14(d) - Information requirements for solid waste management units, including:

- The location of the unit on the topographic map required by 270.14(b)(19).
- Designation of the type of unit.
- General dimensions and structural description (supply any available drawings).

Attachment 1
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- **When the unit was operated.**
- **Specification of all wastes that have been managed at the unit, to the extent available.**
- **All available information pertaining to any release of hazardous wastes or hazardous constituents from such unit or units.**