

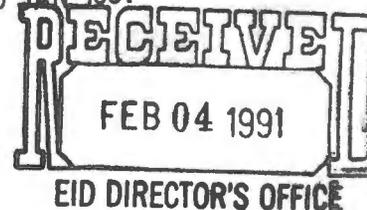


DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 1606TH AIR BASE WING (MAC)
KIRTLAND AIR FORCE BASE, NEW MEXICO 87117-5000

Kathy
ENTERED

29 JAN 1991



Mr Richard Mitzelfelt
Director, NMEID
1190 St Francis Dr
Santa Fe, NM 87503

CERTIFIED MAIL
RETURN RECEIPT

RE: Request for Permit Modification
Kirtland Air Force Base

ID NO: NM9570024423
PERMIT NO: NM9570024423-1

Dear Mr Mitzelfelt

Kirtland Air Force Base (KAFB) hereby requests a permit modification under 40 CFR 270.41(1988) and 40 CFR 124.5. Cause for modification exists in that the facilities at KAFB have evolved over the course of the permitting process and several of the requirements need revision to accurately reflect the current state of operations. The last sentence of the permit itself states that any inaccuracies found in the information may be grounds for modification. These requirements, as set forth below, will have significant impact over the course of the ten year permit.

If you grant this request, KAFB will submit a revised permit application with the proposed modifications, along with correction of the typographical errors that exist in the current permit. We will also provide any additional information or personnel necessary for EID to review the permit.

Modification 1: At PA II-2, p.2, elimination of the 90-day automatic reclassification of materials as waste. This provision is based on a misperception of the operation of the Defense Reutilization and Marketing Organization (DRMO) and the hazardous waste storage facility. Materials are not placed in the facility when turned in as surplus, thus they cannot be regulated as waste until it is determined there is no way to reuse them. The automatic reclassification from surplus material to waste provisions of the present permit discourages efforts at recycling, unnecessarily increases disposal costs, and undercuts the hazardous waste minimization philosophy of RCRA. Only if no reuse is possible should it be reclassified as waste and subject to EID regulation. This provision was added to the permit after the close of the comment period and so KAFB did not have the opportunity to discuss this before it became effective in the final permit. KAFB did ask to discuss any changes contemplated by NMEID (see our 20 Oct 89 letter to Mr Boyd Hamilton of EID), and he responded by letter dated 31 Oct 89 that no changes would be made to the permit without discussing them with KAFB in order to avoid any untenable permit conditions being imposed. This did not take place and as a result, KAFB did not have the opportunity to explain the problems with this reclassification.

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Modification 2: Under II.C, General Waste Analysis, first line of page II-2 and para 6, line 7, elimination of the requirement of annual waste stream analysis and reinstatement of the user knowledge of process in accordance with 40 CFR 264.13(a)(1). KAFB completed a characterization of waste streams (approximately 40) during the lengthy period of time necessary for the permit to be finalized. Annual testing of these identified waste streams will not identify new waste streams, only verify known results. The user is in the best position to know when the waste stream changes. During the last several inspections at KAFB, both before and after the permit was issued, user knowledge was deemed sufficient as there were no discrepancies of this kind noted. Therefore, no harm to the environment has been identified by using the existing mechanism. Annual testing consumes time and limited funding that can be better spent elsewhere.

Modification 3: In PA-2, page 5, first para, the requirement for all tests to be run on all hazardous waste should be modified to require appropriate tests for each waste stream. The paragraph itself is ambiguous in that one sentence says appropriate tests should be run and the next sentence requires certain tests on all waste streams, even though it may be a known contaminant and not all tests are applicable. Table C-2 then lists nine tests to be run on all hazardous waste. KAFB currently does a waste profile sheet on each generation. Further, the required EP Toxicity test is no longer the appropriate test and has been replaced by the TCLP test. Therefore, the permit requires an outdated test on all hazardous waste analysis, annually. The cost of approximately \$2,000 per waste stream is exorbitant if the tests are not necessary. For example, doing nine tests on a sealed battery adds nothing to the knowledge of the known contaminant. KAFB proposes creation of two lists, one that lists appropriate tests based on user knowledge and a second that all tests must be run on certain waste streams. This modification is in accordance with 40 CFR 264.13 and 260, Appendices 2 and 3, based on the knowledge and experience of the waste generator.

Modification 4: Page PA II-2, p.2, paragraph 3, the categories of Group I and II waste should be deleted here and throughout the permit and references made only to hazardous waste. The current definition of Group I waste is unused material in unopened, original containers. Although it is surplus, it may still be used if a buyer can be found and so it is not waste. Regulation of reusable material is beyond the scope of the EID's authority to regulate. Also, if the containers must be opened to perform the mandatory testing mentioned above, it no longer meets the definition of Group I as it is no longer unopened. A further inconsistency exists in the appendices which list Group I and II wastes in that Group II lists wastes as the result of a process and Group I lists characteristic wastes. The listings do not match the definitions of Group I and II earlier in the permit. The classification serves no useful purpose in protecting health and the environment.

Modification 5: Throughout the entire permit, the language is ambiguous when certain words are used interchangeably, which may create confusion by both NMEID and KAFB in interpreting what requirements apply in which situations. Although it is accurate to say that KAFB is the owner and ultimately responsible, this is much too simplistic to describe the actual nature of the base facilities. For example, throughout the permit, the phrase "facility personnel" is used without distinction as to whether the particular requirements of a section apply to all personnel at KAFB or those who work at the hazardous waste storage facilities. Many times the phrase "hazardous waste storage facility" is used when in fact there are three facilities covered by the permit, which raises the issue of whether the requirements apply to all or just one. There is also confusion in the use of the terms "owner", "operator", and "permittee". This creates significant potential for confusion for both KAFB and EID as to what is required for which facilities, personnel, etc. It provides lack of notice to KAFB as to permit conditions and difficulty for NMEID during inspections. This was evident during the last inspection by NMEID in September 1990. Therefore, modification is requested to correctly identify the appropriate permit conditions.

This request for a permit modification is another effort on the part of KAFB to settle the remaining issues that currently remain on appeal in case No. 12,550 in the New Mexico Court of Appeals. A permit modification will avoid further litigation costs by both parties that are involved with a lengthy appeal process and serves the best interests of judicial economy.

Sincerely



EDWARD S. BRANNUM, Col, USAF
Commander

cc: Tracy Hughes
Assistant General Counsel