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ENVIRONMENT DEPARTMENT
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PETER MAGGIORE
SECRETARY

Certified Mail
Return Receipt Requested

January 6, 1998

Dale Gandy
Gandy Marley, Inc.
P.O. Box 827
Tatum NM 88267

Dear RCRA Permit Manager:

Revisions to the New Mexico Hazardous Waste Fee regulations, at 20 NMAC 4.2., went into effect on December 31, 1998. These revised regulations require that an Annual Unit Audit (AUA) be performed by the Hazardous and Radioactive Materials Bureau (HRMB) of the New Mexico Environment Department (NMED), in cooperation with each hazardous waste management facility, "to determine if the facility's permit accurately and appropriately lists the facility's operating, post-closure care, and corrective action (CA) units." As the regulations point out, the purpose of the AUA is to identify the number and type of units at the facility that will go into the formulation of the Annual Hazardous Waste Management Business Fee (AHWMBF).

The HRMB is requesting your assistance in the performance of this first AUA. You can assist us by submitting to the HRMB, on or before February 12, 1999, a list of the above-referenced units as you understand them to currently exist on your facility's RCRA permit. Please identify on that list the CA units where no-further-action has been proposed but still require formal removal from the permit. Please also provide a separate list of units requiring formal incorporation onto the permit. HRMB facility managers will be preparing similar lists for comparison purposes. This first AUA will simply be a tabulation of the units that both parties concur are currently included in or require incorporation onto the permit. A Class I permit modification notice of incorporation of CA units onto the permit together with a complete list of units will accompany the AHWMBF invoice.

The HRMB recognizes that there may be legitimate disagreement regarding the inclusion of some units, particularly CA units, on the permit and AUA. Disagreement will be handled through standard dispute resolution processes, focusing on interaction between the facility and NMED. Final determination authority rests with NMED.

HRMB's intention is to identify those units that continue to require regulatory oversight either because they manage or have managed hazardous wastes or are known to have or have a potential to have a release of a hazardous waste or hazardous constituent.

The identification of the type and number of hazardous waste management units that are either operating, undergoing closure or in post-closure care should be identified by reviewing your RCRA permits. The identification of number of corrective action units will consist of listing the Solid Waste Management Units (SWMUs) currently in either the HSWA or Corrective Action Module of your RCRA permit. The HRMB considers units requiring formal removal from, or placement onto the permit applicable. For comparison purposes, please provide a listing of SWMU numbers as they appear in your permit together with a cross reference with all other unit designations.

A list of other areas or units that fall outside the categories mentioned above should also be submitted for clarification.

AOCs should also be identified as

- units identified as having a potential release
- units where there has been a release of strictly non-hazardous constituents
- known releases without known source areas
- multiple units consolidated under a single Solid Waste Management Unit (SWMU) identification number.
- units where the EPA has concurred with a No-Further-Action (NFA) proposal yet there has been no formal effort to remove the unit from the permit.
- units containing constituents not include on the Part 260 Appendix VIII list generally considered to fall under RCRA jurisdiction.
- other Areas of Concern (AOC) such as one time spills that do not meet the definition of a SWMU yet were originally placed on the permit as potential releases sites.
- units that have been identified as either having a known or potential release yet not formally having the permit updated to include the units.

A copy of the new fee regulations is included with this correspondence. Thank you for your cooperation in this matter.

Sincerely,


Robert S. (Stu) Dinwiddie, Manager
RCRA Permits Management Program

cc: Benito Garcia, HRMB, NMED
Greg Lewis, WWMD, NMED
Davis Neleigh, EPA
Tom Manning, DOD REC

attachment: 20 NMAC 4.2