

PERMIT PART 10

CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

HIGHLIGHTS

This Permit Part contains conditions for necessary corrective action for hazardous waste or hazardous constituent releases that occur at solid waste management units (SWMUs) and areas of concern (AOCs) at the Triassic Park Waste Disposal Facility (the Facility). Permit conditions include the development of action levels, release identification, notification and investigation requirements, interim measures, remedy selection and implementation, ground water monitoring, and recordkeeping and reporting requirements.

The corrective action permit conditions of this Permit Part address significant contaminant releases from SWMUs that generally extend to greater depths and cannot be appropriately managed through Permit Attachment C, *Contingency Plan*. The corrective action process is a phased process and the Permittee may petition the Secretary to alter the sequence of the phases or omit a phase.

Regulatory Background

Section 3004(u) of the Resource Conservation and Recovery Act (RCRA), Sections 74-4-4.A.5.h and 74-4-4.2 of the New Mexico Hazardous Waste Act (HWA), and 20.4.1.500 NMAC (incorporating 40 CFR 264.101), require that RCRA permits issued after April 8, 1987, address corrective action as necessary to protect human health and the environment for all releases of hazardous waste or hazardous constituents from any SWMU at a treatment, storage, or disposal facility, regardless of the time at which the waste was placed in the SWMU.

Section 3004(v) of RCRA, Section 74-4-4.A.5.i of the HWA, and 20.4.1.500 NMAC (incorporating 40 CFR 264.101(c)), require corrective action beyond the Facility border where necessary to protect human health and the environment unless the Permittee demonstrates to the satisfaction of the Secretary that, despite the Permittee's best efforts, the Permittee was unable to obtain the necessary permission to undertake such actions.

1.1 APPLICABILITY

This Permit Part applies to the following:

1.1.1 Existing SWMUs and AOCs

The Permittee shall implement corrective actions at existing SWMUs and AOCs when the Secretary determines the need for investigations at the SWMU or AOC as specified in Permit Condition 10.4.4, or as otherwise specified by this Permit. Existing SWMUs and AOCs at the Facility are identified at Table 10-1, *Solid Waste Management Units and Areas of Concern at the Triassic Park Waste Disposal Facility*. Table 10-1 identifies SWMUs (permitted and non-permitted) and AOCs currently planned for construction at the Facility under Phase IA. Regulated units (i.e., the Landfill and Surface Impoundment) are SWMUs and are thus subject to the conditions of this Permit Part in addition to the regulated unit specific conditions of Permit Part 9. The SWMUs and AOCs identified in Table 10-1 require no corrective action at the time of Permit issuance.

1.1.2 Newly Discovered SWMUs and AOCs

The Permittee shall implement corrective actions at newly discovered SWMUs and AOCs when the Secretary determines the need for investigations at the SWMU or AOC as specified in Permit Condition 10.4.4, or as otherwise specified by this Permit. The Permittee shall notify the Secretary in writing in accordance with Permit Condition 10.4 of any additional SWMUs or AOCs discovered during the course of ground water monitoring, field investigations, environmental audits, or other means. As used in this Permit Part, the terms "discover", "a discovery", or "discovered" refer to the date on which the Permittee (1) visually observes evidence of a new SWMU or AOC, (2) visually observes evidence of a previously unidentified release of hazardous waste or hazardous constituents to the environment, or (3) receives information which suggests the presence of a new release of hazardous waste or hazardous constituents to the environment.

1.1.3 Contamination Beyond the Facility Boundary

The Permittee shall implement corrective actions beyond the Facility boundary where necessary to protect human health and the environment, unless the Permittee demonstrates to the satisfaction of the Secretary that, despite the Permittee's best efforts, the Permittee was unable to obtain the necessary

permission to undertake such actions, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.101(c)).

The Permittee is not relieved of responsibility to clean up a release that has migrated beyond the Facility boundary where off-site access is denied. On-site measures to address such releases shall be determined on a case-by-case basis. The Permittee shall provide assurances of financial responsibility for completion of such off-site corrective action.

1.2 FACILITY CORRECTIVE ACTION WORK PLAN

The Permittee shall have in place standard procedures for conducting an investigation of the nature, rate, and extent of a hazardous waste or hazardous constituent release. To document these procedures, the Permittee shall submit a Facility Corrective Action Work Plan (FCAWP) to the Secretary for approval within 180 calendar days of the effective date of this Permit, in accordance with Permit Condition 1.10. Development of the FCAWP shall be based on Attachment R, *Facility Corrective Action Work Plan Outline*. The approved FCAWP will be inserted into Permit Attachment R.

The Permittee shall submit to the Secretary all appropriate revisions to the FCAWP on an annual basis within 90 calendar days after the anniversary date of this Permit. After approval, these revisions will be inserted into Permit Attachment R as replacement pages.

1.3 ACTION LEVELS

Action levels shall be used by the Permittee to determine when the corrective action requirements of this Permit will be both initiated and terminated. Upon significant exceedance of an action level, the Permittee shall initiate the corrective actions contained in this Permit Part. Significance shall be determined, unless otherwise specified, using the procedures at Permit Attachment Q, *Statistics for Release Determination*. The Permittee shall continue to implement corrective action to ensure that released contaminants are removed or otherwise mitigated to below action levels.

Action levels are established in this Permit for three media: vadose zone fluids, soils, and ground water. Action levels shall be incorporated into this Permit as they are developed at Permit Attachment U, *Action Levels for Corrective Action*.

1.3.1 Vadose Zone Fluids Action Levels

Vadose zone fluid action levels shall be used by the Permittee to both initiate and terminate corrective action associated with vadose zone fluids. It is anticipated that vadose zone fluids are most apt to be impacted by a release from a regulated unit and detected in the vadose zone monitoring system. The methods of establishing and monitoring for vadose zone fluid action levels are described at Permit Part 7, *Vadose Zone Monitoring*, Permit Condition 7.5, *Release Assessment*. Vadose zone fluid action levels are established in this Permit for both anthropogenic hazardous constituents and non-anthropogenic constituents. Baseline chemical concentrations (i.e., action levels) for non-leachate fluids shall be maintained in Permit Attachment U2, *Vadose Zone Baseline Values for Non-Leachates*.

1.3.2 Soil Action Levels

Soil action levels shall be used by the Permittee to both initiate and terminate corrective action associated with surface and subsurface soils. Any detection of an anthropogenic hazardous constituent in soil, or any significant increase over approved background inorganic soil constituent concentrations, shall be considered indicative of a release and a soil action level.

1.3.2.a Background Soil Concentrations Work Plan

The Permittee shall submit a Background Soil Concentrations Work Plan to establish background concentrations (i.e., action levels) for metals and radionuclides in soil to the Secretary for approval in accordance with Permit Condition 1.10. The background soil concentrations shall be established as specified at Permit Attachment O, *Closure Plan*, Section 8.3, *Closure Performance Standard*. The Permittee shall notify the Secretary at least 15 calendar days prior to the implementation of the Background Soil Concentrations Work Plan.

1.3.2.b Approval for Background Soil Concentrations

The Permittee shall submit the background soil concentrations to the Secretary for approval no less than 30 calendar days prior to acceptance of waste at the Facility, in accordance with Permit Condition 1.10. The approved background soil concentrations will be incorporated into this Permit at Permit Attachment U, *Action Levels for Corrective Action*, Appendix U1, *Background Concentrations for Soil*.

1.3.3 Ground Water Action Levels

Ground water action levels shall be used by the Permittee to both initiate and terminate corrective action associated with ground water. Any detection of an anthropogenic hazardous constituent in ground water, or any significant increase over approved background inorganic ground water constituent concentrations, shall be considered indicative of a release and a ground water action level.

The regulatory requirement to monitor ground water is currently waived by the Secretary for the reasons specified in Permit Attachment H, *Ground Water Monitoring Waiver Request and Approval*. If either a release from a regulated unit is verified as specified at Permit Condition 9.3.2, or a release from a SWMU results in the presence of hazardous constituents in the vadose zone monitoring system, the Secretary will revoke the Ground Water Monitoring Waiver. Upon revocation of the Ground Water Monitoring Waiver, the Permittee shall submit a Permit modification request to the Secretary for approval to initiate compliance with 20.4.1.500 NMAC (incorporating 40 CFR 264, Subpart F), and shall establish background ground water concentrations (i.e., action levels).

1.3.4 Detection Limits

Analytical detection limits shall in all cases be below the more stringent of the following two criteria: 1) universal treatment standards (UTS) contained at 20.4.1.800 NMAC, (incorporating 40 CFR 268.40); or 2) lowest detection limits specified in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods: (SW-846), Third Edition, 1986*, or the most recent edition.

1.4 NOTIFICATION AND ASSESSMENT REQUIREMENTS FOR NEWLY IDENTIFIED SWMUS AND AOCs

1.4.1 Notification of Newly Discovered SWMUs or AOCs

The Permittee shall notify the Secretary in writing, within 15 calendar days of discovery, of any new SWMU or suspected AOC discovered as described at Permit Condition 10.1.2. The notification shall include, at a minimum, the location of the SWMU or AOC and all available information pertaining to the nature of the release (e.g., media affected, hazardous constituents released, magnitude of release). The Secretary may conduct, or require the Permittee to conduct, further assessment

(i.e., confirmatory sampling), in order to determine the status of the SWMU or suspected AOC.

The Secretary will notify the Permittee in writing of the final determination as to the status of the SWMU or suspected AOC. If the Secretary determines that further investigation of the SWMU or AOC is required, the Permit will be modified in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.41) to include the SWMU or suspected AOC in this Permit and to place the SWMU or suspected AOC on Table 10-2, *Solid Waste Management Units and Areas of Concern Requiring Corrective Action*.

1.4.2 Notification of Release

The Permittee shall notify the Secretary orally of the discovery of a SWMU or AOC and its associated release within 24 hours, and shall notify the Secretary in writing within 15 calendar days of discovery of any contamination identified at a newly discovered SWMU or suspected AOC.

1.4.3 SWMU Assessment Report

The Permittee shall prepare and submit to the Secretary, within 90 calendar days of the notification required in Permit Condition 10.4.1, a SWMU Assessment Report (SAR) for each SWMU or suspected AOC identified under Permit Condition 10.4. At a minimum, the SAR shall provide the following information:

- location of unit(s) on a topographic map of appropriate scale, as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.14(b)(19));
- designation of type and function of unit(s);
- general dimensions, capacities, and structural description of unit(s). Any available plans/drawings shall be included;
- dates that the unit(s) was operated;
- specification of all wastes that have been managed at/in the unit(s), to the extent available. Any available data on hazardous constituents in the wastes shall be included; and

- all available information pertaining to any release of hazardous waste or hazardous constituents from such unit(s) (e.g., ground water data, soil analyses, air quality data, and surface water quality data).

1.4.4 Requirement to Proceed

Based on the information contained in the SAR, the Secretary will determine the need for further investigations at the SWMU or AOC covered in the SAR. If the Secretary determines that such investigations are needed, the Permittee shall prepare a Work Plan for such investigations in accordance with Permit Conditions 10.6 and/or 10.7.

1.5 NOTIFICATION REQUIREMENTS FOR NEWLY DISCOVERED RELEASES

1.5.1 Notification of Newly Discovered Releases

The Permittee shall notify the Secretary verbally of any newly discovered release(s) of hazardous waste or hazardous constituents discovered during the course of ground water monitoring, field investigations, environmental audits, or other means. The Permittee shall notify the Secretary in writing within 15 calendar days of the discovery. Such newly discovered releases may be from newly identified SWMUs or AOCs, newly constructed SWMUs, or from SWMUs or AOCs for which, based on the findings of the RFA, completed RFI, or investigation of an AOC(s), the Secretary had previously determined no further investigation was necessary.

1.5.2 Requirement to Proceed

If the Secretary determines that further investigation of the SWMU or AOC is needed, the Permittee shall prepare a plan for such investigation, as outlined at Permit Condition 10.7.

1.6 CONFIRMATORY SAMPLING

1.6.1 CS Work Plan Submittal

Upon the notification by the Secretary specified at Permit Condition 10.4.4, the Permittee shall prepare and submit a Confirmatory Sampling (CS) Work Plan for each unit identified as required under Permit Condition 10.4.1 or newly identified SWMU or AOC identified as specified at Permit Condition 10.4.4. The CS Work Plan shall be submitted within 45 calendar days of

notification by the Secretary that a CS Work Plan is required. The CS Work Plan shall include schedules of implementation and completion of specific actions necessary to determine whether a release has occurred. It shall also address applicable requirements and affected media. In order to partly or wholly satisfy the CS requirement, previously existing data may be submitted with the Work Plan for the Secretary's consideration.

1.6.2 CS Work Plan Approval by the Secretary

The CS Work Plan must be approved by the Secretary in writing prior to implementation. The Secretary will specify the start date of the CS Work Plan schedule in a letter approving the CS Work Plan. The Secretary will approve, disapprove, or modify and approve the Work Plan in accordance with the procedures contained at Permit Condition 10.13.6.

1.6.3 CS Implementation

The Permittee shall implement confirmatory sampling in accordance with the approved CS Work Plan.

1.6.4 CS Report Submittal

The Permittee shall prepare and submit to the Secretary for approval, in accordance with the schedule in the approved CS Work Plan, a CS Report identifying all SWMUs or AOCs that have released hazardous waste or hazardous constituents into the environment. The CS Report shall include all data, including raw data, and a summary and analysis of the data that support the above determination. If submittal of the CS Report coincides with submittal of the RCRA Facility Investigation (RFI) Report required at Permit Condition 10.7.3.a, the CS Report and the RFI Report may be combined into one submittal.

1.6.5 Requirement to Proceed

The Secretary will approve, disapprove, or modify and approve the CS Report in accordance with Permit Condition 10.13.2. Based on the results of the CS Report, the Secretary will determine the need for further investigations at the SWMU(s) or AOC(s) covered in the CS Report. If the Secretary determines that such investigations are needed, the Permittee shall prepare an RFI Work Plan for such investigations in accordance with Permit Condition 10.7. The Secretary will notify the Permittee of any no further action decision.

1.7 RCRA FACILITY INVESTIGATION

1.7.1 RFI Work Plan Submittal

If the Secretary determines that an RFI Work Plan is necessary in accordance with Permit Conditions 10.4.4, 10.5.2, and/or 10.6.5, the Permittee shall prepare and submit to the Secretary, within 90 calendar days of notification by the Secretary, an RFI Work Plan for the required unit(s).

The primary purpose of the RFI Work Plan is to specify the procedure for determining the nature, rate, and extent of all released constituents and to determine the source location. The Permittee shall develop the RFI Work Plan to meet the requirements of Permit Condition 10.7.1.a.

1.7.1.a RFI Work Plan Requirements

The RFI Work Plan shall meet the requirements specified at Permit Attachment S, *RCRA Facility Investigation - Scope of Work*, Task I, *RFI Work Plan*, and shall reference Permit Attachment R, *Facility Corrective Action Work Plan Outline*, as appropriate. The RFI Work Plan shall describe the objectives of the investigation and the overall technical and analytical approach to completing all actions necessary to characterize the source, movement, and concentrations of released hazardous wastes and hazardous constituents; provide details of all proposed activities and procedures to be conducted; include the qualifications of personnel (including contractors) performing or directing the investigations; and the overall management of the investigations.

The RFI Work Plan shall include schedules of implementation and completion of specific actions necessary to determine the nature and extent of contamination and the potential pathways of contaminant releases to the air, soil, surface water, and ground water. If a unit, or a medium/pathway associated with a unit (ground water, surface water, soil, subsurface gas, or air), is not included in the RFI Work Plan, the Permittee shall provide sufficient justification and associated documentation that a release is not probable or has already been characterized. Such deletion of a unit, medium, or pathway from the RFI Work Plan is subject to the approval of the Secretary. The Permittee shall provide sufficient written justification for any omissions or deviations from the minimum requirements of Permit Attachment S, Task I. Such omissions or deviations are subject to the approval of the Secretary. In addition, the scope of the RFI

Work Plan shall include all investigations necessary to ensure compliance with 20.4.1.500 NMAC (incorporating 40 CFR 264.101(c)).

Development of the RFI Work Plan and reporting of the associated data shall be consistent with the latest editions of the following US Environmental Protection Agency (EPA) guidance documents or the equivalents:

- RCRA Facility Investigation Guidance Document, EPA/SW-89-031, Vols. I-IV, May 1989;
- RCRA Ground-Water Monitoring: Draft Technical Guidance, EPA, /530-R-93-001, November 1992;
- RCRA Ground-Water Monitoring Technical Enforcement Guidance Document, EPA, Office of Solid Waste and Emergency Response (OSWER) Directive 9950.1, September 1986;
- Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, EPA publication SW-846, 3rd edition, 1996;
- RCRA Corrective Action Plan, Final, EPA, OSWER Directive 9902.3-2A, May 1994; and
- Handbook of Suggested Practices for the Design and Installation of Ground-Water Monitoring Wells, EPA 600/4-89/034.

1.7.1.b RFI Work Plan Approval by the Secretary

The RFI Work Plan must be approved by the Secretary in writing prior to implementation. The Secretary will specify the start date of the RFI Work Plan schedule in the letter approving the RFI Work Plan. The Secretary will approve, disapprove, or modify and approve the RFI Work Plan in accordance with Permit Condition 10.13.6.

1.7.2 RFI Work Plan Implementation

The Permittee shall implement the RFI Work Plan in accordance with the approved RFI Work Plan. The Permittee shall notify the Secretary at least 15 calendar days prior to any field sampling, field-testing, or field monitoring, to provide NMED personnel

the opportunity to observe investigation procedures and/or to split samples.

1.7.3 RFI Reports

1.7.3.a RFI Report Submittal

The Permittee shall prepare and submit to the Secretary an RFI Report and Summary for the investigations conducted in accordance with the RFI Work Plan. The RFI Report shall meet the requirements of Permit Attachment S, Task III, *RCRA Facility Investigation Final Report and Summary*. The RFI Report shall be submitted to the Secretary for review in accordance with the schedule in the approved RFI Work Plan.

The RFI Report must include an analysis and summary of all required investigations and their results. The summary must describe the type and extent of contamination, including sources and migration pathways; identify all hazardous constituents present in all media; and describe actual or potential receptors. The RFI Report must also describe the extent of contamination (qualitative/quantitative) in relation to action levels specified at Permit Condition 10.3. The Report must contain adequate information to support further corrective action decisions. The Summary shall summarize the RFI Report.

If the RFI is phased, an Interim RFI Report shall be submitted to the Secretary for approval. The Interim RFI Report must include a summary of the initial phase investigatory work and a Work Plan for the final phase investigatory actions required, based on the initial findings. The objective of this report must be to ensure that the investigation data are sufficient in quality (e.g., quality assurance procedures have been followed) and quantity to describe the nature and extent of contamination in relation to action levels and the potential threat to human health and/or the environment, and to support a Corrective Measures Study (CMS), if necessary.

If the Secretary determines that the RFI Report and Summary do not fully meet the objectives of the approved RFI Work Plan and Permit Attachment S, Task III, *Report*, the Secretary may disapprove the Report and/or Summary in accordance with Permit Condition 10.13.6. Once approved, the Permittee shall mail the Executive Summary to all individuals, organizations, and agencies on the Facility mailing list as required by 20.4.1.1102 NMAC (incorporating 40 CFR 124.10(c)(1)(ix)), within 15 calendar days of receipt of approval.

1.7.4 Requirement to Proceed

After review of the RFI Report, the Secretary will notify the Permittee of the need for further investigative action, if necessary, and, if appropriate at this time, inform the Permittee, if not already notified, of the need for a CMS which meets the requirements of Permit Condition 10.9.1.b and 20.4.1.500 NMAC (incorporating 40 CFR 264.101). If the Secretary determines that no further action is necessary, the Secretary will notify the Permittee.

The Permittee shall prepare and submit a work plan for any further investigative action required by the Secretary in accordance with a schedule specified by the Secretary and approved in accordance with Permit Condition 10.7.1.b.

1.7.5 Quarterly Reports

If the time required to conduct the RFI is greater than 180 calendar days, the Permittee shall provide the Secretary with quarterly RFI Progress Reports, beginning 90 calendar days from the start date specified by the Secretary in the RFI Work Plan approval letter. The Progress Reports shall contain the following information at a minimum:

- a description of the portion of the RFI completed;
- a summary of findings;
- a summary of any deviations from the approved RFI Work Plan during the reporting period;
- a summary of any significant contacts with local community public interest groups, the New Mexico Environment Department (NMED), or other federal or State agencies;
- a summary of any problems or potential problems encountered during the reporting period;
- actions taken to rectify problems;
- changes in relevant personnel;
- projected work for the next reporting period; and

- copies of reports, inspection reports, data, including raw data, and other pertinent information.

1.8 INTERIM MEASURES

1.8.1 Interim Measures Work Plan

1.8.1.a Interim Measures Required by the Secretary

If the Secretary determines that a release or potential release of hazardous wastes or constituents poses a threat to human health or the environment, the Secretary may require interim measures (IM). IM may be necessary to minimize or prevent the further migration of contaminants or potential human and environmental exposure to contaminants while long-term corrective actions are evaluated and, if necessary, implemented.

The IM Work Plan shall be submitted within 30 calendar days of such notification and shall include the elements listed at Permit Condition 10.8.1.c. Such IM may be conducted concurrently with other investigations required under this Permit.

The following factors will be considered by the Secretary in determining the need for IM:

- the time required developing and implementing a final corrective measure;
- actual and potential exposure to human and environmental receptors;
- actual and potential contamination of drinking water supplies and sensitive ecosystems;
- the potential for further degradation of the impacted medium in the absence of IM;
- the presence of hazardous wastes in containers that may pose a threat of release;
- the presence and concentration of hazardous wastes, including soil contaminated with hazardous constituents, that have the potential to migrate to ground water or surface water;

- weather conditions that may affect the current levels of contamination;
- the risk of fire, explosion, or accident; and
- other situations that may pose or aggravate threats to human health or the environment.

1.8.1.b Permittee-Initiated IM

The Permittee may initiate IM at a SWMU or AOC by submitting an IM Work Plan to the Secretary. The Secretary will process Permittee-initiated IM by approving or conditionally approving the IM, or imposing an IM Work Plan in accordance with Permit Condition 10.8.1.a. A Permittee-initiated IM is considered conditionally approved unless the Secretary specifically imposes an IM Work Plan within 30 calendar days of receipt of the IM Work Plan submitted by the Permittee.

The scope and success of conditionally approved Permittee-initiated IM is subject to subsequent in-depth review; the Secretary will then approve, disapprove, or approve with conditions the IM in accordance with Permit Condition 10.15.

A Permittee-initiated IM must follow the progress and final reporting requirements of Permit Condition 10.8.3.

1.8.1.c IM Work Plan Requirements

The IM Work Plan shall ensure that the IM are designed to mitigate any current or potential threat to human health or the environment and are consistent with and integrated into any long-term solution at the Facility, including attainment of action levels in all media. The IM Work Plan shall include the IM objectives; procedures for implementation, including any designs, plans, or specifications; and schedules for implementation.

1.8.1.d IM Work Plan Approval

The IM Work Plan imposed under Permit Condition 10.8.1.a must be approved by the Secretary in writing prior to implementation. The Secretary will specify the start date of the IM Work Plan schedule in the letter approving the IM Work Plan. The Secretary will approve, approve with conditions, or disapprove the IM Work Plan in accordance with Permit Condition 10.13.6.

1.8.2 IM Implementation

1.8.2.a Implementation of Approved IM Work Plan

The Permittee shall implement the IM imposed under Permit Condition 10.8.1.a in accordance with the approved IM Work Plan.

1.8.2.b Notification of Changes

The Permittee shall give notice to the Secretary as soon as possible of any planned changes, reductions, or additions to the approved IM Work Plan imposed under Permit Conditions 10.8.1.a or initiated by the Permittee under 10.8.1.b.

1.8.3 IM Reports

1.8.3.a Progress Reports

If the time required for completion of IM is greater than one year, the Permittee shall provide the Secretary with Progress Reports at intervals specified in the approved IM Work Plan required by the Secretary, or semi-annually for Permittee-initiated IM. The Progress Reports shall contain the following information, at a minimum:

- a description of the portion of the IM completed;
- a summary of findings;
- a summary of any deviations from the IM Work Plan during the reporting period;
- a summary of any problems or potential problems encountered during the reporting period; and
- projected work for the next reporting period.

1.8.3.b Final IM Report

The Permittee shall prepare and submit an IM Report to the Secretary within 90 calendar days following completion of IM conducted in accordance with Permit Condition 10.8.2. The IM Report shall contain, at a minimum, the following information:

- a description of IM implemented;
- a summary of results;

- a summary of all problems encountered;
- a summary of accomplishments and/or effectiveness of IM; and
- copies of all relevant laboratory/monitoring data.

1.8.4 Permit Modification

If the Secretary determines that the interim action completes corrective action required at 20.4.1.500 NMAC, (incorporating 40 CFR 264.101), and the Secretary determines that no further action is necessary, the Permittee shall submit a Permit modification in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.41) to remove the unit undergoing corrective action from Table 10-2 of this Permit.

1.9 CORRECTIVE MEASURES STUDY

1.9.1 CMS Work Plan

1.9.1.a Submittal of CMS Work Plan

The Permittee shall prepare and submit a Corrective Measures Study (CMS) Work Plan for those units requiring a CMS within 90 calendar days of notification by the Secretary that a CMS is required. The CMS Work Plan shall be developed to meet the requirements of Permit Condition 10.9.1.b. The Permittee may seek approval from the Secretary for concurrent RFI/CMS. The CMS may be performed concurrently with the RFI process if the Secretary determines that sufficient investigative details are available to allow concurrent action.

1.9.1.b CMS Work Plan Requirements

The scope of the CMS Work Plan shall include the identification of all possible remedial alternatives, and the Permittee's recommended alternative that ensures protection of human health and the environment, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.101) and 20.4.1.900 NMAC (incorporating 40 CFR 270.32(b)(2)). The Permittee shall, when necessary, expand the scope of the CMS Work Plan beyond the Facility boundary in accordance with Permit Condition 10.1.3.

The CMS Work Plan shall meet, at a minimum, the requirements of Permit Attachment T, *Corrective Measures Study Outline*, Task I,

Corrective Measures Study Work Plan. The CMS Work Plan shall include schedules of implementation and completion of specific actions necessary to complete the CMS.

The Permittee shall provide sufficient written justification and documentation for any unit deleted, or any omissions or deviations from the minimum requirements of Permit Attachment T, Task I. Such omissions or deviations are subject to the approval of the Secretary.

The scope of the CMS Work Plan shall include:

- a description of current conditions;
- a definition of the objectives of the study;
- specific plans for evaluating remedies, to ensure compliance with corrective measure standards; and
- the proposed format for the presentation of information.

1.9.1.c CMS Work Plan Approval

The Secretary will approve, disapprove, or modify and approve the CMS Work Plan in writing in accordance with Permit Condition 10.13.6.

1.9.2 Corrective Measures Study Implementation

The Permittee shall begin to implement the CMS according to the schedule specified at the CMS Work Plan no later than 15 calendar days after the Permittee has received written approval from the Secretary for the CMS Work Plan. The CMS shall be conducted in accordance with the approved CMS Work Plan.

1.9.3 CMS Report

1.9.3.a Submittal of CMS Report

The Permittee shall prepare and submit to the Secretary for approval a CMS Report and Executive Summary for the study conducted in accordance with the approved CMS Work Plan. The report shall be prepared in accordance with Permit Attachment T, Task III, *Corrective Measures Study Final Report and Summary*. The CMS Report shall be submitted to the Secretary in accordance with the schedule in the approved CMS Work Plan.

The CMS Report shall, at a minimum:

- summarize any bench-scale or pilot tests conducted;
- present all information gathered under the approved CMS Work Plan;
- include an evaluation of each remedial alternative;
- recommend a remedial alternative in accordance with Permit Condition 10.10; and
- contain adequate information to support the Secretary's decision on the recommended remedy.

In the CMS Report, the Permittee shall propose a corrective action program that attains the following:

- compliance with action levels for hazardous constituents in each medium, as established in Permit Condition 10.3;
- control of the source of the release;
- acceptable waste management requirements; and
- protection of human health and the environment.

1.9.3.b CMS Report Approval

Based on preliminary results and the CMS Final Report, the Secretary may require the Permittee to evaluate additional remedies or particular elements of one or more proposed remedies.

If the Secretary determines that the CMS Final Report and Summary do not fully satisfy the information requirements specified under Permit Condition 10.9.3.a, the Secretary may disapprove the CMS Final Report in accordance with Permit Condition 10.13.6. If the Secretary determines that no further action is necessary, the Secretary will notify the Permittee.

Once approved, the Permittee shall mail the Summary to all individuals, organizations, and agencies on the Facility mailing

list, as required by 20.4.1.1102 NMAC, (incorporating 40 CFR 124.10(c)(1)(ix)), within 15 calendar days of receipt of approval.

1.10 REMEDY APPROVAL AND PERMIT MODIFICATION

1.10.1 Remedy Selection

The Secretary shall select a remedy from the remedial alternatives evaluated in the CMS. The remedy shall be based at a minimum on protection of human health and the environment, and shall result in hazardous waste and hazardous constituent concentrations at or below action levels, in accordance with specific site conditions and existing regulations. The selected remedy may include any IM implemented to date.

1.10.2 Financial Assurance for Corrective Action

The Permittee shall submit to the Secretary evidence of financial responsibility for completing the corrective actions identified in the approved CMS Final Report, as required by 20.4.1.500 NMAC (incorporating 40 CFR 264.101(b) and (c)). A Financial Assurance Report shall be submitted to the Secretary within 120 calendar days of completion of the Permit modification incorporating the approved remedy. The Financial Assurance Report shall address the corrective action cost considerations provided at Permit Attachment T, Task II.d.2, *Cost Estimate*.

1.10.3 Permit Modification for Remedy Identification

As required by 20.4.1.900 NMAC (incorporating 40 CFR 270.41), a Permit modification will be initiated by the Secretary after recommendation of a remedy under Permit Condition 10.10.1. This modification will serve to incorporate a final remedy into this Permit and to establish the financial cost of the remedy.

1.10.4 Permit Modification for Completion of Corrective Action

Upon completion of the approved remedial alternative, the Permittee shall submit a Permit modification request to remove the affected unit from the requirements of this Permit Part to the Secretary for approval, as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.42).

1.11 GROUND WATER MONITORING

If a release from a SWMU results in the presence of fluids containing hazardous constituents in the vadose zone monitoring system, the Ground Water Monitoring Waiver will be revoked by the Secretary. Within 90 days of revocation of the Ground Water Monitoring Waiver, the Permittee shall submit a Ground Water Monitoring Work Plan to the Secretary for approval to initiate compliance with 20.4.1.500 NMAC (incorporating 40 CFR 264.97), *General ground-water monitoring requirements*, and 40 CFR 264.98, *Detection monitoring program*. The Permittee shall establish background ground water concentrations in accordance with Permit Condition 10.3.3.

1.12 RECORDKEEPING

For each unit undergoing corrective action under this Part, the Permittee shall retain, until completion of the corrective action for that unit has been approved by the Secretary, records of all monitoring information and all other pertinent data and information used to prepare the appropriate documents required by this Part.

1.13 PROCEDURES

1.13.1 Modification of the Corrective Action Compliance Schedule

If at any time the Secretary determines that modification of Table 10-3, *Corrective Action Compliance Schedule for Solid Waste Management Units and Areas of Concern*, is necessary, the Secretary may initiate a modification to Table 10-3. The Permittee may also request a Permit modification to change Table 10-3.

Modifications to change Table 10-3 will be in accordance with the applicable provisions of 20.4.1.900 NMAC (incorporating 40 CFR 270.41 or 270.42).

1.13.2 Modification for Necessary Change

If the Permittee or the Secretary determines that this Permit Part no longer satisfies the requirements of 20.4.1.500 NMAC (incorporating 40 CFR 264, Subpart F), the Permittee shall, within 90 calendar days of determination, submit an application for a Permit modification to make any appropriate changes to

this Permit Part as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.42).

1.13.3 WORK PLAN AND REPORT REQUIREMENTS

The Permittee shall submit work plans and reports to the Secretary according to the schedule contained at Table 10-3.

Work plans and reports listed at Table 10-3 shall be signed and certified as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.11).

1.13.3.a Approval of the Secretary for Work Plans and Schedules

All work plans and schedules shall be subject to approval by the Secretary prior to implementation to assure that such work plans and schedules are consistent with the requirements of this Permit and with applicable regulations. The Permittee shall revise all submittals and schedules as specified by the Secretary. Upon approval, the Permittee shall implement all work plans and schedules as written.

1.13.3.b Schedule for Submittals

All work plans and reports shall be submitted in accordance with the schedule contained at Table 10-3. Extensions of the due date for submittals may be granted by the Secretary in writing based on the Permittee's written request and demonstration that sufficient justification for the extension exists. The Permittee must request the change at least 15 days before the due date contained in the schedule.

1.13.4 Work Plan Amendment

If the Permittee at any time determines that the work plans required under this Part no longer satisfy the requirements of 20.4.1.500 NMAC, (incorporating 40 CFR 264.101), or this Permit, for prior or continuing releases of hazardous waste or hazardous constituents from SWMUs and/or AOCs, the Permittee shall submit an amended Work Plan to the Secretary within 90 calendar days of such determination. The submittal of an amended Work Plan does not alleviate the Permittee from abiding with any Work Plan schedule previously approved by the Secretary.

1.13.5 Submittals to the Secretary

The Permittee shall provide two copies of all reports and work plans to the Secretary in accordance with Permit Condition 1.7.

1.13.6 APPROVAL/DISAPPROVAL OF SUBMITTALS

The Secretary will review all submittals (e.g., work plans, reports, schedules, and other documents which require the Secretary's approval) in accordance with the conditions of this Permit. If the Secretary does not approve the submittal, he or she may issue a Request for Supplemental Information (RSI), which will detail the document's deficiencies. The Permittee shall respond to the RSI within 60 calendar days. If the Secretary has further concerns after reviewing the Permittee's response, he or she may issue a Notice of Deficiency (NOD), which will detail the document's remaining deficiencies. The Permittee shall respond to the NOD within 60 calendar days. The Secretary will then approve, approve with conditions, modify and approve, or disapprove each submittal in writing.

If the Secretary approves the submittal with conditions or modifies the submittal, the Secretary will provide justification for the conditions or modifications in writing. If the Secretary disapproves a document, he or she will notify the Permittee in writing of the basis for the disapproval.

1.14 DISPUTE RESOLUTION

This Permit Condition shall apply only to submittals that have been disapproved and revised by the Secretary, or that have been disapproved by the Secretary, then revised and resubmitted by the Permittee, and again disapproved by the Secretary.

Notwithstanding any other provision of this Permit, in the event the Permittee disagrees, in whole or in part, with the Secretary's revision of a submittal or disapproval of any revised submittal required by the Secretary, the following may, at the Permittee's discretion, apply:

1.14.1 Notification to the Secretary

In the event that the Permittee chooses to invoke the provisions of Permit Condition 10.14, the Permittee shall notify the Secretary in writing within 30 calendar days of receipt of the Secretary's revision or disapproval of a submittal or revised submittal. Such notice shall set forth the specific matters in

dispute, the position the Permittee asserts should be adopted as consistent with the requirements of the Permit, the basis for the Permittee's position, and any matters considered necessary for the Secretary's determination.

1.14.2 Resolution Conference

The Secretary and the Permittee shall have an additional 30 calendar days from the Secretary's receipt of the notification provided for at Permit Condition 10.14.1 to meet or confer to resolve any disagreement.

In the event agreement is reached, the Permittee shall comply with the terms of such agreement, or, if appropriate, submit a revised submittal and implement the same in accordance with and within the time frame specified in such agreement.

1.14.3 Decision by the Secretary

If agreement is not reached within the 30-day period specified at Permit Condition 10.14.2, the Secretary will notify the Permittee in writing of his or her decision on the dispute, and the Permittee shall comply with the terms and conditions of the Secretary's decision in the dispute. For the purposes of this provision, the responsibility for making this decision shall not be delegated below the NMED Director of Water and Waste Management Division.

1.14.4 Compliance with Requirements Not in Dispute

With the exception of those conditions under dispute, the Permittee shall proceed to take any action required by those portions of the submittal and of the Permit that the Secretary determines are not affected by the dispute.

TABLE 10-1

SOLID WASTE MANAGEMENT UNITS AND AREAS OF CONCERN¹

AT THE TRIASSIC PARK WASTE DISPOSAL FACILITY

SWMU/AOC¹	DESCRIPTION	COMMENTS
SWMU 1	Drum Storage Unit	Permitted unit
SWMU 2	Roll-Off Container Storage Unit	Permitted unit
SWMU 3a	Liquid Waste Tank	Permitted unit
SWMU 3b	Liquid Waste Tank	Permitted unit
SWMU 3c	Liquid Waste Tank	Permitted unit
SWMU 3d	Liquid Waste Tank	Permitted unit
SWMU 4a	Stabilization Tank	Permitted unit
SWMU 4b	Stabilization Tank	Permitted unit
SWMU 4c	Stabilization Tank	Permitted unit
SWMU 4d	Stabilization Tank	Permitted unit
SWMU 5	Surface Impoundment - Ponds IA and IB	Permitted unit
SWMU 6	Landfill Phase 1A	Permitted unit
SWMU 7	Truck Wash Facility	
SWMU 8	Maintenance Shop	
SWMU 9	Chemical Laboratory	
SWMU 10	Stormwater Retention Basin	
SWMU 13	Untarping, Sampling and Weigh Scales Area	

SWMU/AOC¹	DESCRIPTION	COMMENTS
SWMU 14	Truck Staging Area	
AOC 1	Roads	
AOC 2	Clay processing area	
AOC 3	Dust control/clay processing area water basin	

1. SWMUs 1-14 and AOCs 1-3 were originally identified in the 1995 RCRA Facility Assessment.

TABLE 10-2

SOLID WASTE MANAGEMENT UNITS AND AREAS OF CONCERN

REQUIRING CORRECTIVE ACTION¹

SWMU/AOC	DESCRIPTION	COMMENTS

¹ At the time of permit issuance, no SWMUs or AOCs requiring corrective action have been identified.

TABLE 10-3

CORRECTIVE ACTION COMPLIANCE SCHEDULE

FOR SOLID WASTE MANAGEMENT UNITS AND AREAS OF CONCERN

SCHEDULE OF COMPLIANCE	DUE DATE
Notification of newly identified SWMUs and AOCs (Permit Conditions 10.4.1)	Within 15 calendar days of discovery
SWMU Assessment Report (Permit Condition 10.4.3)	Within 90 calendar days of notification
Notification for newly discovered releases at previously identified SWMUs and AOCs (Permit Condition 10.4.2)	Within 15 calendar days of discovery
Confirmatory Sampling Work Plan for SWMUs or AOCs (Permit Condition 10.6.1)	Within 45 calendar days after effective date of Permit
Confirmatory Sampling Report (Permit Condition 10.6.4)	In accordance with the approved CS Work Plan
RFI Work Plan (Permit Condition 10.7.1)	Within 90 calendar days from effective date of Permit
RFI Report (Permit Condition 10.7.3)	In accordance with the approved RFI Work Plan
RFI Progress Reports (Permit Condition 10.7.5)	Quarterly, beginning 90 calendar days from the start date specified by the Secretary ¹
Interim Measures Work Plan (Permit Condition 10.8.1.a)	Within 30 calendar days of notification by the Secretary

SCHEDULE OF COMPLIANCE	DUE DATE
Interim Measures Progress Reports (Permit Condition 10.6.3.a)	In accordance with the approved Interim Measures Work Plan ² or semi-annually for Permittee-initiated IM
Final Interim Measures Report (Permit Condition 10.8.3.a)	Within 90 calendar days of completion
CMS Work Plan (Permit Condition 10.9.1.a)	Within 90 calendar days of notification by the Secretary that a CMS is required
Implementation of CMS Work Plan (Permit Condition 10.9.2)	Within 15 calendar days after receipt of the Secretary's approval of CMW Work Plan
CMS Report (Permit Condition 10.9.3.a)	In accordance with the schedule in the approved CMS Work Plan
Demonstration of Financial Assurance (Permit Condition 10.10.2).	Within 120 calendar days after Permit modification for remedy

- 1 This applies to Work Plan execution that requires more than 180 calendar days.
- 2 This applies to Work Plan execution that requires more than one year.