

**NMED Response to Public Comments on the Class 3 Modification to Remove 16 SWMUs/AOCs from KAFB's RCRA Permit  
July 2007**

| <b>Comment Summary and <i>Requested Action</i></b>   | <b>NMED Response</b>   |
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| Were the units listed in any Part A RCRA Application?  | 1) The solid waste management units requested to be removed are not listed on any Part A permit application.   |
| Was the information required under 40 CFR 270.42(c)(iv) provided which includes information regarding protection of groundwater?                         | 2) 20.4.1.900 NMAC, incorporating 40 CFR 270.42(c)(iv), requires applicable information be provided for 40 CFR 270.13 through 270.22, 270.62, 270.63, and 270.66. The Permittee requested a Class 3 permit modification as required by the permit for no further action for solid waste management units requiring corrective action listed on the permit. The Permittee did not request changes to the permit related to the part A or part B requirements in this section. However, through the corrective action investigation process for these units, the information provided indicates the protection of groundwater. |
| The public notice does not comply with RCRA public meeting requirements. The public notice needs to be revised and reissued to include a public meeting. | 3) The public notice requirements for this action have been complied with in accordance with 20.4.1.901 NMAC. The commenter may be referring to requirements of 40 CFR 270.42(c)(2)(i) which is a requirement of the applicant. See response to comment #5 below.  |
| NMED is required to comply with 40 CFR 271.14(u) for modification of permits under 40 CFR 124.5(c).  | 4) The NMED has adopted equivalent requirements of 40 CFR 124 found in 20.4.1.901 NMAC. The State regulations have been authorized by the U.S. EPA in accordance with the requirements of 40 CFR 271.  |

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| <p>The Notice is defective in that it fails to provide for the date, time and place of the public meeting in compliance with part 270.42(c)(2)(i). Citizen Action hereby requests that a notice for a public meeting be reissued in corrected form for the above Class 3 Permit Modification. The notice must have the time, date and location for the public meeting in the vicinity of the KAFB.</p> | <p>5) 20.4.1.900 NMAC incorporating 40 CFR 270.42(c)(2)(i), requirements apply to the permittee at the time of the permit modification request. The Permittee issued a Public Notice on August 3, 2006 informing the public of the permit modification and the August 24, 2006 public meeting in Albuquerque. The relevant requirements have been met.</p>  |
| <p>The Notice fails to provide the location where the Administrative Record (AR) may be reviewed. The notice must give a location in the vicinity of the KAFB for the Administrative Record where the public may view it and obtain copies.</p>  | <p>6) Public Notice No. 06-15 specifically states that the administrative records may be viewed at the NMED Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Bldg. 1, Santa Fe, NM. The administrative record for KAFB is maintained at the NMED Hazardous Waste Bureau's Santa Fe office. There is no requirement for the administrative record to be maintained in the vicinity of KAFB.</p> |
| <p>The KAFB Fact Sheet/Statement of Basis is not with the Citizen Letter on the NMED website address in the October 26, 2006 notice. There appears to be a KAFB Fact Sheet/Statement of Basis in a different location on the website.</p>  | <p>7) Another Fact Sheet was inadvertently posted under the KAFB Class 3 Modification notice – NMED corrected this issue. However, NMED is not required to post public notice documents on its website – this is provided as a courtesy to the public.</p>  |
| <p>The notice lists the Government Information Department at Zimmerman Library, University of New Mexico, for providing the KAFB Modification Request, the Fact Sheet/Statement of Basis. By a telephone call on 10/30/06 to that library department, Citizen Action learned that the department has no knowledge of those documents being at the library.</p>   | <p>8) The Permit Modification Request and the Fact Sheet/Statement of Basis were delivered to the Zimmerman Library for the public comment period.</p>  |
| <p>The contact persons in the notice and the Fact Sheet/Statement of Basis are at variance.</p>  | <p>9) The person to contact, John Kieling, is in the Public Notice. The Fact Sheet/Statement of Basis indicated that Carl Lanz (KAFB staff) as the contact. The Fact Sheet was corrected to indicate John Kieling as the contact. A subsequent 60-day public comment period was provided between April 11, 2007 and June 11, 2007.</p>  |

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| <p>The notice is required to include the following mandatory statement: “The permittee’s compliance history during the life of the permit being modified is available from the Agency contact person.” CFR 270.42 (c)(2)(vi).</p>         | <p>10) 20.4.1.900, incorporating 40 CFR 270.42, is a requirement of the public notice by the Permittee at the time of the permit modification request. These requirements do not apply to NMED’s public notice. The public notice requirements for NMED are found at 20.4.1.901.C NMAC.</p> |
| <p>The KAFB Fact Sheet/Statement of Basis is not with the Citizen Letter on the NMED website address in the October 26, 2006 notice. There appears to be a KAFB Fact Sheet/Statement of Basis in a different location on the website.</p> | <p>11) See responses to comments number 7 and 9.</p>  |
| <p>The dates listed in the Public Participation Section [of the Fact Sheet/SOB] are very different from the dates of the October 26, 2006 Notice.</p>   | <p>12) See responses to comments number 7 and 9.</p>  |