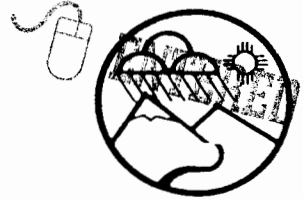




GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous & Radioactive Materials Bureau
2044 Galisteo
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-1557
Fax (505) 827-1544



MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

November 3, 1995

Walter S. Darr III
Chief of Compliance
Environmental Management Division
377 ABW/EMC
2000 Wyoming Blvd S.E.
Albuquerque NM 87117-5659

RE: Applying Hazardous Waste Regulations to Firing Ranges

Dear Mr. Darr:

This is a reply to your letter of October 16, 1995 which was addressed to Mr. Benito Garcia, Chief, Hazardous and Radioactive Materials Bureau (HRMB). In your letter you requested New Mexico Environment Department's (NMED) position on applying hazardous waste regulations to firing ranges.

Current NMED policy holds that the use of ordnances during training does not constitute treatment or disposal of hazardous waste. This is because the artillery is not meant to be discarded, which is a necessary criterion to be met before a material can be considered a solid waste and subsequently a hazardous waste [20 NMAC 4.1, Subpart II, 40 CFR §261.3(a)]. Rather, the artillery is being used within the normal and expected use pattern of the product. In the preamble to the corrective action rule (55 Federal Register 30809, July 27, 1989), the US Environmental Protection Agency also noted that many firing ranges and impact areas should not be considered solid waste management areas.

NMED's policy of exempting from RCRA ordnances used in training, is contingent upon the view that ordnances are product when used during training. However, whenever Kirtland Air Force Base discontinues training at any firing range, KAFB will be required to close the firing range and manage the debris generated there during training as a RCRA hazardous waste under the New Mexico Hazardous Waste Management Regulations.


KAFB1689



Mr. Darr, KAFB
Page 2
November 3, 1995

Please if you have further questions regarding this matter, call me or Cornelius Amindyas at (505) 827-1561 .

Sincerely,


Barbara Hoditschek, Manager
RCRA Permits Program
Hazardous and Radioactive Materials Bureau

cc: Benito Garcia, Chief, HRMB
File, Red 95
File, Reading, 95



KAFB
and

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 377TH AIR BASE WING (AFMC)

*Barbara
See me
on this
Bonds*

16 October 1995

377 ABW/EMC
2000 Wyoming Blvd SE
Albuquerque NM 87117-5659

Mr. Benito J. Garcia
Chief, Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
P.O. Box 26110
2044A Galisteo
Santa Fe NM 87502

RE: Applying Hazardous Waste Regulations to Firing Ranges

Dear Mr. Garcia

Environmental Management Compliance recently received a letter from our Headquarters Air Force Materiel Command requesting our state's position on applying hazardous waste regulations to firing ranges. We request you provide us with your interpretation so we can clear up this matter and to ensure compliance with our Part B Permit.

If you have any questions, please contact Ms Marsha Carra at (505) 846-7847/5037. We appreciate your help and cooperation.

Respectfully

Walter S. Darr III
WALTER S. DARR III
Chief of Compliance
Environmental Management
Division