

## STATE OF COLORADO

Roy Romer, Governor  
Patti Shwayder, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION  
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Colorado Department  
of Public Health  
and Environment

June 17, 1998

John Rampe  
US Department of Energy  
P O Box 464  
Golden, CO 80402-0464

Dear Mr Rampe:

This memorandum serves to transmit the Colorado Department of Public Health and Environment's (the Department's) position regarding the management of hazardous remediation wastes that may be generated by RFETS during the building decommissioning process. As you know, Paragraph 71 of the Rocky Flats Cleanup Agreement (RFCA) states that, after the initial process-waste removal activities have been completed, hazardous and mixed waste residuals remaining within process equipment may be considered remediation waste and subject to regulation by the Department through the decommissioning process. However, RFCA does not specifically address the issue of how hazardous remediation wastes will be managed. While this issue is briefly discussed in the draft *Decommissioning Program Plan (DPP)*, the Department would like to document our position on this matter. The following general principles are applicable to the management of hazardous remediation waste.

- 1 Process wastes, as discussed in RFCA, may not be managed as a CERCLA remediation waste. All process wastes are subject to regulation in accordance with the Colorado Hazardous Waste Regulations (CHWR) and the RFETS RCRA Part B Permit in specific situations.
- 2 In instances where process wastes and hazardous remediation wastes are commingled into one or more containers or areas, those containers or areas must be managed in accordance with the CHWR and the RFETS RCRA Part B Permit, as appropriate.
- 3 Units that are subject to an existing compliance order or plan, such as the Residue Compliance Order or the Tank Management Plan, will remain subject to the requirements specified in those documents throughout the period of decommissioning until such time as the specified units have been closed or other criteria specified in the plan/order (e.g. RCRA stable status) have been met.
- 4 Any RCRA unit that is currently subject to closure requirements specified in the RFETS RCRA Part B Permit or an interim status closure plan and is to be closed during the decommissioning process must be closed pursuant to those plans and associated closure performance standards.
- 5 Tank systems that have been rendered RCRA stable must not be used for the management of any remediation waste.

The Department believes that clarification is also needed regarding the requirements that will apply to hazardous remediation waste. While remediation waste must comply with applicable or relevant and appropriate requirements (ARARs), administrative requirements, such as permits, an operating record, and documentation of inspections, are not applicable to the management of hazardous remediation waste. However, the substantive portions of requirements that have been determined to be ARARs will apply to the management of hazardous remediation waste. At a minimum, the following requirements are deemed to be substantive and must be met for the management of hazardous remediation waste, irrespective of whether such waste is managed in a RCRA container storage unit that meets the criteria for being RCRA stable or a unit that has been otherwise designated for the storage of remediation waste pursuant to a RFCA decision document:

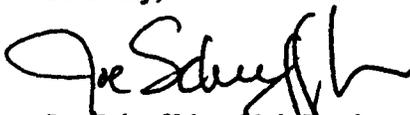
- 1 A hazardous waste determination must be made for all remediation waste pursuant to 6 CCR 1007-3, section 262.11;
- 2 The requirements of 6 CCR 1007-3, section 262.34 (a) and (b), and 262.34 (c) apply to hazardous remediation waste that is managed in a 90-day or satellite accumulation area, respectively. These requirements include labeling and marking, quantity limitations on accumulation in a satellite accumulation area, and the 90-day accumulation period.
- 3 The requirements of 6 CCR 1007-3, Part 264, Subpart I and J, must be met for the storage of hazardous remediation waste in containers and tanks, respectively. These requirements include weekly inspections and containment for containers and daily inspections for tank systems.
- 4 Although a written waste analysis plan (6 CCR 1007-3, Section 264.13) is an administrative requirement and, thus, not necessary for the management of hazardous remediation waste, RFETS must obtain sufficient information about such waste to ensure safe and proper management of that waste. Additionally, RFETS must obtain sufficient information about hazardous remediation waste to ensure compliance with the land disposal restriction (LDR) regulations, in cases where the remediation waste is to be shipped off-site. This information must be obtained prior to storage of hazardous remediation waste.
- 5 The requirements of 6 CCR 1007-3, Section 264.14 and 264.15 regarding security and general inspection requirements apply to the storage of hazardous remediation waste. However, a formal inspection schedule is not required for the management of hazardous remediation waste because that is an administrative requirement.
- 6 The requirements of 6 CCR 1007-3, Section 264.16 regarding personnel training apply to all personnel who generate, inspect, treat, store, or otherwise manage hazardous remediation waste. However, a written training plan and formal documentation of such training is not required because those are administrative requirements.
- 7 The requirements of 6 CCR 1007-3, Section 264.17 regarding the management of ignitable, reactive or incompatible wastes apply to the storage of ignitable, reactive, and/or incompatible hazardous remediation waste.
- 8 The requirements of 6 CCR 1007-3, section 264.18 regarding the location of new units designated for the storage of hazardous remediation waste are applicable.

- 9 The requirements of 6 CCR 1007-3, Subpart C apply to the management of hazardous remediation waste. These requirements include maintaining appropriate emergency response equipment, testing such equipment, access to communications or alarm systems, and maintaining adequate aisle space. The Department believes that the aisle space requirements identified in the RFETS RCRA Part B Permit will ensure safe management of remediation waste and are deemed to be prudent for the management of such waste.
- 10 The requirements of 6 CCR 1007-3, Subpart D apply to the management of hazardous remediation waste with respect to planning and responding to emergency situations. Maintaining a Contingency Plan for areas utilized for the storage of hazardous remediation waste is an administrative requirement and, thus, is not required. However, the Department recognizes that a site-wide emergency response program is in effect at RFETS and believes that all such response procedures will be applied and followed irrespective of whether an emergency situation involves remediation waste or process waste.
- 11 The substantive requirements of 6 CCR 1007-3, Subpart G apply to the closure of areas utilized for the management of hazardous remediation waste. The closure performance standards for units utilized for the storage of hazardous remediation waste will be Tier II action levels specified in RFCA.
- 12 All remediation waste that is shipped off-site is subject to EPA's Off-Site Policy and any facility that will receive remediation waste from RFETS must be designated as an acceptable facility for the receipt of CERCLA generated wastes.

The Department would like to meet with you at your earliest convenience to discuss this matter further and to evaluate specific options for management of remediation waste that may be generated during the decommissioning process. As written, the draft DPP mentions the concept of identifying specific management requirements for remediation wastes in the decommissioning decision document for a given building. The Department supports that concept and believes that the requirements identified in this memorandum serve as a baseline for the safe and protective management of hazardous remediation waste.

If you have any questions regarding this matter please contact Ed Smith or Chris Gilbreath of my staff at 692-3386 or 692-3371, respectively.

Sincerely,



Joe Schieffelin, Unit Leader  
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Hazardous Materials and Waste Management Division

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