



Department of Toxic Substances Control



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December 16, 2002

Mr. Luciano Ocampo
Department of Navy
Southwest Division
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1230 Columbia Street, Suite 1100
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DRAFT TECHNICAL MEMORANDUM ON THE EVALUATION OF RCRA PERMITS AND RELATED ISSUES AT ALAMEDA POINT, ALAMEDA, CALIFORNIA

Dear Mr. Ocampo:

The Office of Military facilities of the Department of Toxic Substances Control (DTSC) has reviewed the above referenced document dated October 8, 2002. Our comments are enclosed. If you have any questions, please feel free to call me at 510-540-3767.

Sincerely,

Marcia Y. Liao, Ph.D., CHMM
Project Manager
Office of Military Facilities

enclosure

Mr. Luciano Ocampo
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cc: Michael McClelland, SWDiv
Andrew Dick, SWDiv
Steve Edde, Alameda Point
Anna-Marie Cook, EPA
Judy Huang, RWQCB
Elizabeth Johnson, City of Alameda
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Michael John Torrey, RAB Co-Chair
Lea Loizos, Arc Ecology
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en: 3 copies

11/14/03

DRAFT TECHNICAL MEMORANDUM

EVALUATION OF ISSUES RELATED TO RCRA FACILITY PERMIT EPA ID CA 2170023236, TIERED PERMITS, AND THE NONPERMITTED AREAS ALAMEDA POINT ALAMEDA, CALIFORNIA

GENERAL COMMENTS

Chapter 6.5 RCRA Corrective Action Authority

1. The Health and Safety Code (HSC), Chapter 6.5, Section 25200.10 and the California Code of Regulations (CCR), Title 22, Section 66264.801 require that permits issued by the Department of Toxic Substances Control (DTSC) must address corrective action for releases of hazardous waste including hazardous constituents from any Solid Waste Management Unit (SWMU) at the facility, regardless of when the waste was placed in the unit.

For the purpose of the corrective action requirement, the term “facility” means the entire site under the ownership or operational control of the permittee (HSC Section 25200.10 (a)). It can be expanded beyond the facility boundary where necessary to protect human health and safety or the environment (HSC Section 25200.10(b)).

“Release” means “any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment”(22 CCR 66260.10).

“Solid Waste Management Unit” or “SWMU” is any unit at a hazardous waste facility from which hazardous constituents might migrate, irrespective of whether the units were intended for the management of wastes (22 CCR 66260.10). This definition is interpreted broadly to include all types of identifiable waste management units (e.g.; tanks, sumps, container storage yards, drum wash stands, waste piles, and disposal sites) as well as processing areas where hazardous materials are routinely and systematically leaked or spilled in the course of normal operation (e.g.; equipment washdown areas, and bulk loading racks).

“Hazardous waste” is defined in HSC Section 25117 and includes RCRA hazardous waste, non-RCRA hazardous waste, special waste, extremely hazardous waste, and acute hazardous waste (22 CCR 66260.10). Unlike Chapter 6.8, there is no provision in Chapter 6.5 that excludes petroleum from hazardous waste regulation. All releases of petroleum, petroleum products, or their derivatives are subject to relevant RCRA or Chapter 6.5 corrective action requirements.

“Hazardous constituent” is defined in 22 CCR 66260.10. Please note that the U.S. Environmental Protection Agency (USEPA) has clarified the corrective

action authority by stating that the RCRA Section 3004(u) requirement was not intended to be limited to hazardous waste, and extends to hazardous constituents regardless of whether they also fall within the term “hazardous waste,” or whether they were derived from hazardous waste. Under this interpretation, constituents that were contained within non-hazardous solid wastes may be addressed through corrective action (Federal Register, May 1, 1996, p.19443).

For clarity, we request that Sections 2.2 and 2.3 of the Technical Memorandum (Memorandum) be expanded to describe Chapter 6.5 RCRA corrective action requirements. Proper definitions of relevant regulatory terms should also be provided.

2. CERCLA identifies requirements for investigating and remediating releases of hazardous substances, including spills and hazardous waste disposal sites that pose a threat to the public health or the environment. It is therefore significant to note that SWMUs are also sites subject to CERCLA except for SWMUs where only petroleum or petroleum products were released.

Universe of SWMUs/AOCs

- 3 The USEPA, in the May 1, 1996 issue of Federal Register, has stated that while not all areas where releases have occurred are considered SWMUSs, the authority exists for requiring corrective action for releases that are not attributable to SWMUs. To address this, DTSC has often used the term “area of concern” or “AOC” to refer to releases which warrant investigation or remediation under Chapter 6.5 authority, regardless of whether they are associated with a specific SWMU. It is our long-held view that all SWMUs are AOCs and vice versa.

DTSC considers that SWMUs/AOCs include permitted hazardous waste management units (i.e., Part A or Interim Status Document (ISD) and Part B permitted units) and any unit at the facility from which releases might occur. All aboveground storage tanks (ASTs) and underground storage tanks (USTs), regardless of their contents, are considered SWMUs/AOCs or potential SWMUs/AOCs. CERCLA sites, referred to as Installation Restoration (IR) sites at Alameda Point, are also SWMUs/AOCs (the Permit has listed the IR sites as SWMUs/AOCs).

- 4 The Hazardous Waste Facility Permit (Permit), issued to Alameda Naval Air Station in 1993, lists 142 SWMUs and AOCs which are based on the 143 SWMUs and 9 AOCs identified in the RCRA Facility Assessment (RFA) report conducted in 1991. More SWMUs/AOCs are believed to have been identified through the Environmental Baseline Survey (EBS) conducted between 1994 and 2001 and perhaps other processes.

Section V.F. of the Permit requires that the Navy notify DTSC in writing of any newly identified SWMUs not specifically identified during the 1991 RFA.

Section V.G. of the Permit requires that the Navy notify DTSC in writing of any previously unreported release(s) of hazardous constituents at SWMUs.

Please review the SWMU/AOC definition presented herein before and the requirements specified in Sections V.F and V.G. of the Permit to provide an updated inventory for all SWMUs and AOCs present at Alameda Point,. All newly identified SWMUs and newly discovered releases at SWMUs, including but not limited to, those identified through the EBS process should be included. Units that believed to have been cleaned up should also be included in the inventory. CERCLA or IR sites should continue to be recognized as SWMUs/AOCS.

RFI Requirements for SWMUs/AOCs

- 5 SWMUs/AOCs are subject to RCRA corrective action requirements including the RCRA Facility Investigation (RFI). Section 2.2.3 of the Memorandum states that the RFI for Alameda Point was implemented through the CERCLA Program, UST Corrective Action Program, and the EBS. It further stated that the investigations conducted during the EBS are considered the functional equivalent of the RFI.

UST Corrective Action Program

- a) Please confirm if the UST Corrective Action Program referred above means the same thing as the Total Petroleum Hydrocarbon (TPH) program based on the Preliminary Remediation Criteria and Closure Strategy for Petroleum-contaminated Sites at Alameda Point (TPH Strategy), dated May 16, 2001.
- b) Please describe if, and how the TPH strategy applies to materials other than petroleum fuel products.
- c) DTSC has reviewed and commented on the TPH strategy on December 5, 2001 and April 25, 2002. Please review them along with the comments contained herein and address the concerns and issues we have raised. Please describe how the TPH strategy meets RCRA corrective action requirements.

EBS

The RFI can be generally regarded as the equivalent of CERCLA Remedial investigation (RI) which is a very rigorous process. Sections H through J of the Permit describe how a RFI should be conducted.

Please explain why the EBS conducted at Alameda Point is considered the functional equivalent of the RFI. Please indicate any agency concurrence.

Closure Status

- 6 The Memorandum reports that a total of 15 units received a RCRA Part A or ISD permit in which 13 have been considered closed and a total of 7 units received a Part B permit in which 5 have been closed.

The closure of Part B and ISD permitted units are specifically regulated under 22 CCR 66264 and 66265. The DTSC Permitting Branch is tasked to administer that part of the regulation. The Office of Military Facilities (OMF) defers the decision to the Permitting Branch.

- 7 For SWMUs/AOCs other than ISD or Part B permitted, the Memorandum recommends No Further Actions (NFAs) for 132 units or areas in which 54 are based on prior agency concurrence and the rest are based on the EBS findings.

NFA Based on OMF Concurrence

On November 4, 1999 the OMF issued a letter summarizing our concurrence/non-concurrence of a list of RCRA sites that the Navy had recommended for no further action. As stated in the letter, our assessment was interim aimed to advance cleanup and transfer on multiple tracks. We did not, and do not, consider those determinations regarding no further action to be final until a formal determination, pursuant to the National Contingency Plan, has been completed.

NFA Based on RWQCB Concurrence

As stated earlier, all ASTs and USTs are considered SWMUs/AOCs or potential SWMUs/AOCs. Please review to ensure that these closures also meet Chapter 6.5 corrective action requirements.

NFA based on EBS Findings

As stated earlier, the suitability of EBS as functionally equivalent to RFI may be in question. Although in some instances EBS may indeed be deemed equivalent to RFI, this determination must be made on a case-by-case basis for each SWMU/AOC identified at the facility.

We feel that the EBS findings presented in this Memorandum are often not specific enough to allow a positive NFA determination. Soils samples taken 50 ft away, for example, are used to conclude that the unit has no prior release and should be recommended for NFA (see OWS-010 in Table 5-1). It is our opinion that more rigorous examination should be conducted to ensure that a unit is properly closed and no further action is warranted. DTSC reserves our review and concurrence of the NFAs until such examination is made available by the Navy.

SPECIFIC COMMENTS

SECTION 2 BACKGROUND INFORMATION

1. Page 6, Paragraph 1 states, “The areas identified in the RFA included many temporary hazardous waste storage areas known as GAPS, several USTs, Installation Restoration (IR) sites, and spill areas. Several of the GAPS and USTs were also named SWMUs or AOCs”. This statement is somewhat confusing. All 142 units identified in the RFA are considered SWMUs. Please clarify.
2. Page 6, Bullet 4, first sentence, “Only USTs that were used for storage of hazardous waste were considered in the RFA; however, several of the USTs listed in RFA only contained petroleum products”. As pointed out in General Comment #1, petroleum products are regulated under RCRA and should have been considered in the RFA. Please correct it.

SECTION 3 EVALUATION OF THE HAZARDOUS WASTE PERMITTED UNITS

3. The bilge water treatment system (BOWTS) is listed as a Part A unit in Section 2.2.1 (page 5) but a conditionally authorized unit in Section 2.2.2 (page 6). It is potentially confusing. Please correct it.
4. Table 2-2: The closure requirements for Part A permitted and tiered permitted units are different. Please consider showing the five Part A permitted units and nine tiered permitted units in two separate tables.

Section 4 EVALUATION OF THE NONPERMITTED AOC, GAPS, AND SWMUS

5. This Memorandum refers SWMUs that are not Part A or Part B-permitted as “nonpermitted AOC, GAPS and SWMUs” and the term “SWMU” somehow becomes a subset of “non-permitted units”. This is incorrect.

For clarity, please define SWMU, AOC and so-called “non-permitted units” in this Memorandum. Please do not refer SWMUs as a subset of “non-permitted units”.