

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Federal Resource Conservation and Recovery Act

Notice of Approval of a
RCRA Remedial Action Plan Application for

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Department of Fire and Emergency Medical Services
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EPA ID. NO. MPR000128710
Final Action

Final Permit Decision and Response to Comments

I. Introduction

This document provides notice of the United States Environmental Protection Agency (EPA)'s final decision to approve the Resource Conservation and Recovery Act (RCRA) Permit for the Commonwealth of the Northern Mariana Islands Department of Fire and Emergency Services (CNMI DFEMS).

On April 13, 2018, EPA issued a Notice of Intent to Approve a RCRA Remedial Action Plan (RAP). The RAP, a RCRA permit pursuant to 40 C.F.R. § 270.80, permits storage of hazardous remediation waste at a storage cave and treatment of the waste at a detonation unit. The Notice initiated a public comment period that extended from April 17, 2018, to June 4, 2018. EPA received three comment letters, discussed below. All comments supported approval of the RAP. In addition to the comment letters, EPA finalized informal consultation with the United States Fish and Wildlife Service (USFWS) during the comment period. The correspondence with USFWS also is summarized below.

II. Response to comments received on the draft permit

The EPA greatly values input from the public, local environmental agencies, and the permittee. This input provides a more comprehensive and protective permit.

The three comment letters all requested that the requirement to conduct groundwater monitoring be changed to once in ten years instead of the draft permit condition of once in five years. One of the letters made additional minor suggestions, addressed below. The letters state that the economic burden groundwater monitoring would place on the government of CNMI does not provide value in light of the most recent groundwater monitoring, which showed non-detectable levels of explosive compounds analyzed.

The RAP implementing regulations do not set out a specific groundwater monitoring interval for open burn/open detonation units, but do require that permits contain terms and provisions as necessary to protect human health and the environment. The EPA believes that groundwater monitoring once every five years is necessary to remain protective of the environmental conditions. The 2007 data show impact to groundwater¹ from contaminants analyzed that are associated with open detonation units. While the 2018 data does show non-detect levels for the contaminants associated with explosives analyzed, additional data every five years will provide sufficient information to make changes if unacceptable impacts are detected. Therefore, EPA retained the groundwater monitoring frequency at once every five years and the requirement to submit a compliance schedule for a groundwater monitoring plan in the final permit.

One of the letters suggested grammatical changes and made recommendations for safer operation of the unit, which we accepted. Based on these recommendations EPA added two additional permit conditions, numbers 12 and 13, which shifted the draft permit conditions numbering. The following requirements were added: 12) The Permittee shall coordinate with CNMI Homeland Security and Emergency Management office for mass notification of scheduled treatment events; and 13) The Permittee shall coordinate with the Department of Public Safety for roadblocks to control access during scheduled treatment events.

Informal consultation received by US Fish and Wildlife Service

EPA initiated informal consultation with the USFWS in January 2018 regarding the potential for endangered species to be present at the site. Based on the informal consultation, EPA added permit conditions to be protective of listed species. EPA sent a determination letter to USFWS on April 3, 2018, stating that the proposed permit, including the proposed permit conditions, may affect but is not likely to adversely affect threatened or endangered species or designated critical habitat. Following initiation of the comment period, USFWS completed informal consultation with a response letter. The letter requested the following two additional considerations that were not included in the draft permit:

- Detonation events or land clearing should occur October through December or April through June, to avoid the peak nesting season for the Saipan reed warbler; and
- If the clearing of trees greater than 3 inches in diameter at breast height or grasses taller than 5 feet is required, please contact USFWS prior to clearing in order to ensure listed species are not occupying the area.

EPA considered both recommendations and discussed them with the permittee. EPA added a permit condition as follows: 24) If the clearing of trees greater than 3 inches in diameter at breast height or grasses taller than 5 feet is required, please contact USFWS prior to clearing in order to ensure listed species are not occupying the area.

After coordination with USFWS and the permittee, EPA did not incorporate the recommendation to limit detonation events to a limited number of months. The months of April to June are the

¹ While drinking water Maximum Contaminant Levels (MCLs) are not an appropriate threshold to consider since the groundwater is not a source of drinking water, the contaminants were below federal MCLs.

tourist high season and it is not advisable to prioritize detonations during this time given the additional people on the island. Draft permit conditions related to conservation measures were added to compensate for the inability to limit detonations to specified months. EPA, in coordination with USFWS, feels the conservation measures are sufficient to be protective of listed species. An example conservation measure in the permit requires coordination to allow USFWS the opportunity to conduct a survey for listed species prior to a detonation event. The email correspondence on this topic has been added to the Administrative Record.

III. Conclusion

Support for renewal of the RAP was unanimous in all of the comments received on the draft permit. EPA reviewed and considered all comments, including informal consultation with USFWS, and has modified the draft permit as necessary to be reflective of these comments. The RAP will go into effect 30 days after the Director signature, unless administratively appealed pursuant to 40 C.F.R. § 270.155. The RAP will remain in effect for 10 years unless modified, revoked or terminated pursuant to 40 C.F.R. § 270.170.