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FACT SHEET

NEW MEXICO ENVIRONMENT DEPARTMENT HAZARDOUS WASTE BUREAU SANTA FE, NEW MEXICO

INTENT TO ISSUE A HAZARDOUS WASTE FACILITY PERMIT UNDER THE NEW MEXICO HAZARDOUS WASTE ACT TO U.S ARMY WHITE SANDS MISSILE RANGE EPA ID NUMBER: NM2750211235

March 24, 2023

The New Mexico Environment Department (NMED) intends to issue a hazardous waste permit (Permit) to the United States Department of the Army, hereinafter referred to as the Permittee, the owner and operator of White Sands Missile Range (WSMR or the Facility), with EPA ID No. NM2750211235, located in Doña Ana, Otero, Sierra, Lincoln, and Socorro Counties, New Mexico.

The State of New Mexico, through NMED, is authorized to administer and enforce the state hazardous waste management program under the New Mexico Hazardous Waste Act (HWA) in lieu of the federal Resource Conservation and Recovery Act (RCRA). NMED is charged with issuing a permit that will ensure that hazardous waste management at a Hazardous Waste Container Storage Unit, post closure care of closed hazardous waste management units, and corrective actions taken at the Facility to investigate and remediate sites where contaminants have been released to the environment are properly completed in order to protect human health and the environment. NMED will issue the permit having determined that the applicant meets all of the conditions required for a RCRA-regulated facility in accordance with the New Mexico Hazardous Waste Act (74-4 New Mexico Statutory Authority [NMSA] 1978) and its associated Hazardous Waste Management Regulations (HWMR) listed at 20.4.1 New Mexico Administrative Code (NMAC), which incorporates the Resource Conservation and Recovery Act and its implementing federal regulations listed in 40 Code of Federal Regulations (CFR) 260 through 280. The draft Permit is a renewal of the Permit issued by the NMED in December 2009.

The Permit authorizes the Facility to store hazardous waste at WSMR at the Permitted Container Storage Unit (also referred to as the Hazardous Waste Storage Facility), to conduct corrective action for releases identified at various solid waste management units (SWMUs), areas of concern (AOCs), and closed hazardous waste management units (HWMUs) undergoing post-closure care at the Facility. The Permit requires the Permittee to conduct corrective action in accordance with a schedule of compliance. The Permit establishes the general and specific standards for these activities, as required pursuant to the HWA and HWMR.

Prior to issuing a permit, NMED is required by regulation to release a draft of the Permit for public comment in accordance with 20.4.1.900 and 20.4.1.901 NMAC. NMED is also required to issue a fact sheet which serves two functions: 1) to facilitate public review of the draft permit; and 2) to provide the basis for any specific requirements in the permit.

This Fact Sheet summarizes the content of the draft Permit, including a physical description of the Facility, its hazardous waste activities, and how the public may participate in the permitting process.

Facility Description

WSMR is a United States Army Installation Management Command (IMCOM) Facility established in 1945. WSMR is the largest land area military installation in the United States, encompassing approximately 3,200 square miles of land in Doña Ana, Socorro, Lincoln, Otero, and Sierra Counties in south-central New Mexico. The installation is approximately 99 miles long (north to south) and 25 to 40 miles wide (east to west). WSMR was established on July 9, 1945, as White Sands Proving Ground (the name was changed in 1958) to be a testing range for newly developed missile weapons. WSMR is located in the Tularosa Basin of south-central New Mexico, and portions of WSMR extend west into the Jornada del Muerto Basin. The headquarters (Main Post) area of WSMR is located at the southwestern corner of the installation, approximately 27 miles east-northeast of Las Cruces, New Mexico, and 45 miles north of El Paso, Texas. The main entrance to WSMR is on U.S. Highway 70, east of Las Cruces.

Public Participation

The HWMR and 40 CFR 270.42 require an opportunity for public involvement any time there is a modification to the permit or when the NMED issues a new permit or permit renewal. That process involves public notice and includes an opportunity for public comment on major permit modifications or permit issuance. Public notices are provided in local newspapers and are included with written correspondence to individuals on the Facility mailing list. The Facility mailing list is maintained by NMED and any interested person may request to be placed on the list to be informed of such actions.

There are significant opportunities for the public to learn about and provide input regarding the regulation of hazardous waste at the Facility, including major permit-related actions and corrective action activities. Documents pertinent to permitting and corrective action activities submitted to or issued by NMED are available for public review in the Administrative Record maintained by the NMED at the address provided below.

Public Review of the Administrative Record

A copy of the administrative record may be reviewed at the following location:

NMED - Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6313
Monday - Friday from 8:00 a.m. to 5:00 p.m.
Contact: Naomi Gonzales
(505) 476-6000

A copy of the draft permit, the Public Notice, and this Fact Sheet are also available on NMED's website at <https://www.env.nm.gov/hazardous-waste/WSMR/>. To obtain a copy of the administrative record or a portion thereof, or for further information, contact Mr. Dave Cobrain at (505) 476-6000 or at the address given below.

The 60-day public comment period begins on **March 24, 2023 and ends on May 23, 2023**. Any person who wishes to comment on this action or request a Public Hearing should submit written or electronic mail (e-mail) comment(s) with the commenter's name and address to the respective address below. Only comments or requests received on or before **5:00 p.m. May 23, 2023**, will be considered. Written comments may be sent to:

Dave Cobrain, Program Manager
Hazardous Waste Bureau - New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6313
Email: dave.cobrain@env.nm.gov
Ref: WSMR Draft Permit Public Comments

Written comments must be based on the information available for review and include, to the extent practicable, all referenced factual materials. Documents in the administrative record need not be re-submitted if expressly referenced by the commenter. Requests for a Public Hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requester represents; (3) a statement of any objections to the permit; and (4) a statement of the issues which the commenter proposes to raise for consideration at the hearing. NMED will provide a minimum 30-day notice of a Public Hearing, if scheduled.

All comments submitted will be considered in formulating a final decision and may cause the draft permit to be modified. NMED will respond in writing to the comments. This response will specify which provisions, if any, of the draft permit have been changed in the final decision and the reasons for the changes. All persons who have submitted written comments or who requested notification of the final decision will be notified of the decision by mail. These responses also will be posted on the NMED website.

After consideration of all written public comments received, NMED may issue a final permit. The NMED will make the final decision publicly available and will notify the Applicants by certified mail. All persons who submitted written comments, requested a hearing, or requested notification of the final decision will be notified of the decision by first class mail. NMED's decision will constitute a final agency decision and may be appealed as provided by the HWA (Chapter 74, Article 4 NMSA 1978).

Arrangements for Persons with Disabilities

Any person with a disability requiring assistance or auxiliary aid to participate in this process should contact Sadie Valdez no less than 10-days prior to the end of the public comment period at the following address: 1190 St. Francis Dr., P.O. Box 5469, Santa Fe, NM 87502. Ms. Valdez can

be reached at (505) 469-0299. TDD or TDY users please access Ms. Montoya's number via the New Mexico Relay Network at 1 (800) 659-8331.

Non-Discrimination Statement

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact:

Kathryn Becker, Non-Discrimination Coordinator
New Mexico Environment Department
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
(505) 827-2855
nd.coordinator@env.nm.gov

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

Regulatory Background

In 1976, the Resource Conservation and Recovery Act (RCRA) was passed by the U.S. Congress to regulate "cradle to grave" management of hazardous waste. RCRA was enacted as an amendment to the Solid Waste Disposal Act of 1965 and mandated the development of regulations governing the actions of owners or operators of facilities that generate, transport, treat, store, or dispose of solid and hazardous wastes.

On November 19, 1980, the RCRA regulations became effective, and it became unlawful under certain conditions to treat, store, or dispose of hazardous waste without having, or having applied for, a permit. For then-existing treatment, storage, or disposal facilities (TSDFs), the requirement to submit a permit application was satisfied by submitting the "Part A" portion of the application; the "Part B" portion could be submitted at a later time. The roles of these application parts are clarified in 40 CFR 270.1(b) and 270 subpart B.

The United States Environmental Protection Agency (EPA) has authorized the State of New Mexico to implement and enforce hazardous waste management requirements, including corrective action requirements, under its own hazardous waste management program. The State's authority for the program is the HWA, which: (1) authorizes the State's Environmental Improvement Board (EIB) to adopt hazardous waste management regulations, and (2) authorizes the NMED to implement and enforce regulations issued under the HWA. These regulations are known as the HWMR.

The EIB has adopted regulations concerning hazardous waste management and the issuance of hazardous waste permits. These regulations incorporate by reference pertinent sections of the CFR – 40 CFR Parts 260 through 270, 273, and 280 – and are codified in the HWMR at 20.4.1 NMAC.

Whenever the permit cites a provision of 20.4.1 NMAC or Title 40 CFR, the permit is meant to incorporate the citation by reference, including all subordinate provisions of the cited provision, and make binding the full text of the cited provision. The federal hazardous waste management regulations, 40 CFR Parts 260 through 273, are generally cited rather than the HWMR. The federal regulations are cited because only the federal regulations set forth the detailed regulatory requirements; the State regulations incorporate by reference, with certain exceptions, the federal regulations in their entirety. Citing only the federal regulations also serves to avoid encumbering each citation with references to two sets of regulations. However, it is the State regulations that are legally applicable and enforceable. Therefore, for the purpose of the draft permit, and enforcement of its terms and conditions when finalized, all references to provisions of federal regulations that have been incorporated into the State regulations are deemed to include the State incorporation of those provisions. The same method of citation of the regulations apply to this Fact Sheet - the federal hazardous waste management regulations, 40 CFR Parts 260 through 273, are generally cited rather than the HWMR.

The HWA and HWMR require corrective action for all releases of hazardous waste or hazardous constituents, regardless of when waste was placed in such a unit, from any SMWU at a facility seeking a permit. [42 United States Code 6924(u); NMSA 1978 74-4-4.2(B); 20.4.1.500 NMAC, incorporating 40 CFR 264.101(a)]. RCRA facilities also must conduct corrective action at AOCs. An AOC is an area to be investigated for potential releases. Depending on the type and extent of contamination, an AOC may subsequently be designated as a SWMU. Corrective action is required to be conducted beyond the facility boundary (42 U.S.C. 6924(v); 20.4.1.500 NMAC, incorporating 40 CFR 264.101(c)) where necessary to protect human health and the environment. Corrective action is required at all SWMUs, AOCs, and Post-Closure Care Units.

On January 26, 1983, “units” managing and disposing of hazardous waste became subject to the closure and post-closure standards of 40 CFR Part 264, Subpart G and Part 265, Subpart G, requiring a post-closure care permit in some circumstances.

On January 25, 1985, the State of New Mexico received authorization from the EPA to implement its hazardous waste program under the HWA. *See* 50 Fed. Reg. 1515 (Jan. 11, 1985). Subsequent program revisions were approved effective on April 10, 1990; July 25, 1990; December 4, 1992; August 23, 1994; December 21, 1994; July 10, 1995; January 2, 1996; March 10, 1997; July 13, 1998; October 9, 2001; October 16, 2007, May 26, 2009, and December 27, 2010.

On July 25, 1990, the State received from EPA authorization to expand its hazardous waste program under the HWA, including the authority to regulate the hazardous component of mixed waste. *See* 55 Fed. Reg. 28397 (July 11, 1990).

On January 2, 1996, the State received authorization from the EPA to implement a corrective action program under the HWA. *See* 60 Fed. Reg. 53708 (Oct. 17, 1995); 61 Fed. Reg. 2450 (Jan. 26, 1996).

TYPES OF HAZARDOUS WASTES MANAGED AT THE FACILITY

The following hazardous wastes are associated with the HWSF as listed in Part A of the Permit Application. These codes are defined in 40 CFR 261, Subparts C and D).]

D Codes: Wastes exhibiting the characteristics of Ignitability, Reactivity, Corrosivity, and/or Toxicity.

F Codes: Wastes from non-specific sources.

P Codes: Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof. These include miscellaneous P listed wastes generated from expired shelf-life products.

U Codes: Wastes identified as toxic wastes. These include miscellaneous U listed wastes generated from expired shelf-life products.

PERMIT ORGANIZATION

The draft Permit is comprised of 9 Parts and 11 Attachments. Parts 1-9 contain the requirements for the management of hazardous waste, closure and post closure care of Hazardous Waste Management Units, corrective action for Solid Waste Management Units and Areas of Concern, and requirements for investigation methods, well installation and reporting. Attachments 1-11 contain additional information about the Facility, plans for the safe management of hazardous wastes generated at the Facility, post-closure plans, and additional information about Solid Waste Management Units and Areas of Concern.

PERMIT PARTS: Each draft Permit Part is briefly described below.

Permit Part 1 General Permit Conditions: Part 1 is based upon mandatory permit conditions set forth in 40 CFR Parts 264 and 270 and establishes NMED's regulatory authority, the duration of the Permit, permitted activities at the Facility, and the duties and requirements of the Permittee regarding modification of, and compliance with, Permit conditions. Part 1 also includes the definition of Permit terms, general permit conditions regarding proper operation and maintenance, inspection and entry, reporting, monitoring and record keeping.

Permit Part 2 General Facility Conditions: Part 2 establishes mandatory permit conditions for the construction, operation, maintenance, and general facility standards as set forth in 40 CFR Part 264, Subparts B through G. The conditions address the handling and characterization of authorized wastes, security, inspection requirements, personnel training, recordkeeping, emergency preparedness and prevention, contingency plans, and general closure requirements for the hazardous waste storage facility.

Part 3 Container Storage Area/Hazardous Waste Storage Facility: Part 3 specifies the regulatory requirements that the Permittee must follow when managing and storing hazardous wastes at the Hazardous Waste Storage Facility. Part 3 also specifies the types, volumes, and storage time limits of hazardous waste that may be stored.

Part 4 Closure of Hazardous Waste Management Units: Part 4 specifies closure requirements for hazardous waste management units at the Facility. The requirements for the evaluation of the units, removal of waste, decontamination, remediation of contaminated media, and reporting are included.

Part 5 Post-Closure Care of Hazardous Waste Management Units: Part 5 specifies permit conditions for post-closure care of hazardous waste management units including requirements for a post-closure care plan, inspections, notifications, record keeping, and certification.

Part 6 Corrective Action for Solid Waste Management Units and Areas of Concern: Part 6 contains the conditions and requirements for corrective action for releases from Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs) and includes: notification and assessment requirements for releases; investigation requirements; interim measures; remedy selection; and permit modification requirements. SWMUs and AOCs are defined in the Permit. The regulatory justifications for imposing corrective action are contained in the NMED's technical support documents included in the administrative record.

Part 7 Investigation and Sampling Methods and Procedures: Part 7 describes the methods and procedures for conducting site investigation, remediation, and monitoring activities that are sufficient to fulfill the requirements of the permit and that provide valid data for the evaluation of site conditions, nature and extent of contamination, and remedy evaluation and implementation, where necessary. The methods and procedures are the minimum requirements for environmental investigation and sampling and are not intended to include all methods that may be necessary to fulfill the requirements of the permit. The methods for conducting investigations, corrective action, and monitoring at the Facility must be determined based on the conditions and chemical compounds that exist at each location where a release of contaminants has occurred.

Part 8 Monitoring Well Construction Requirements: Part 8 contains the requirements for construction of groundwater monitoring wells at the Facility including general drilling procedures, monitoring well construction requirements, and monitoring well abandonment. The methods and procedures described in Part 8 ensure that vadose zone and groundwater monitoring wells and piezometers will be designed and constructed in a manner which will yield high quality samples, ensure that the well will last the duration of the project, and ensure that the well will not serve as a conduit for contaminants to migrate between different stratigraphic units or aquifers.

Part 9 Reporting Requirements: Part 9 provides the general reporting requirements and formats for site specific investigation work plans, investigation reports, routine monitoring reports, risk assessment reports, and corrective measures evaluations.

PERMIT ATTACHMENTS

Attachment 1 Part A Permit Application (EPA Form): Attachment 1 contains the Part A application which is submitted by the Facility on a designated form, EPA form 8700-23, and requires basic information about the facility.

Attachment 2 Facility Description: Attachment 2 provides a brief description of Facility physiographic location information, general historic information, adjacent land use information, and hazardous waste management permitting information for the Facility.

Attachment 3 Waste Analysis Plan: Attachment 3 describes the procedures used to obtain sufficient waste information to operate the HWSF and the hazardous waste sampling and analytical procedures routinely conducted. It addresses the following specific items: waste characteristics; current waste sources; sampling procedures; chemical and physical analysis; evaluation of incompatible wastes; quality assurance/quality control (QA/QC) procedures and recordkeeping.

Attachment 4 Contingency Plan: Attachment 4 consists of descriptions and emergency procedures specific to hazardous waste storage locations. The Contingency Plan defines response responsibilities, provides guidance for coordination of activities, and minimizes hazards to human health or the environment from fires, explosions, or any sudden or non-sudden release of hazardous waste to the air, soil, or surface water.

Attachment 5 Training Plan: Attachment 5 describes how Facility personnel will be trained to ensure compliance with state and federal hazardous waste management regulations and to operate and maintain the HWSF in a safe manner and to ensure compliance with New Mexico Hazardous Waste Regulations.

Attachment 6 Inspection Plan: Attachment 6 describes the frequency and procedures for inspections of the HWSF to identify malfunctions, deterioration, operator errors and discharges which may cause a release of hazardous waste or hazardous waste constituents or may pose a threat to human health in accordance with Permit Section 2.12 and 40 CFR 264.15.

Attachment 7 Closure Plan for the Hazardous Waste Storage Facility: Attachment 7 identifies the steps necessary to close the HWSF at the end of its intended operations.

Attachment 8 Corrective Action Plan: Attachment 8 identifies corrective action units and hazardous waste management units. There are also summaries of each solid waste management unit and area of concern and a HWMU closure plan submittal schedule.

Attachment 9 Solid Waste Management Unit Maps: Attachment 9 contains maps that show the location of solid waste management units, areas of concern, and hazardous waste management units.

Attachment 10 Post Closure Care Plans: Attachment 10 contains post closure care plans for the following sites:

- SWMUs 114 and 115 Rhodes Canyon Landfill
- SWMU 82 Former Sewage Treatment Plant Ditches
- SWMU 57 Tula Peak Burial Sites