



Michelle Lujan Grisham
Governor

Howie C. Morales
Lt. Governor

**NEW MEXICO
ENVIRONMENT DEPARTMENT**

Hazardous Waste Bureau

2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6313
Phone (505) 476-6000 Fax (505) 476-6030
www.env.nm.gov



James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

**FACT SHEET
INTENT TO ISSUE A HAZARDOUS WASTE FACILITY PERMIT
UNDER THE NEW MEXICO HAZARDOUS WASTE ACT TO
MELROSE AIR FORCE RANGE
EPA ID NUMBER: NM5572124456**

May 2020

A. GENERAL BACKGROUND

The New Mexico Environment Department (NMED) intends to issue a hazardous waste permit to United States Air Force, the owner and operator of Melrose Air Force Range (Facility), to conduct corrective action in accordance with New Mexico's 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 (RCRA) and its implementing federal regulations listed in 40 Code of Federal Regulations (CFR) 260 through 280. The United States Air Force is the "Applicant." The action to be taken by NMED would renew an existing permit. NMED is charged with issuing a permit that will ensure that 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. If an applicant meets all of the conditions required for a RCRA-regulated facility, the NMED will issue a permit.

The draft permit is a renewal of the permit that was issued in October 1994. The permit authorizes the Facility to conduct corrective action for releases identified at various solid waste management units (SWMUs) and areas of concern (AOCs) at the Facility.

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 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 describes the general background for the draft permit, including; a physical description of the Facility, its hazardous waste activities, and how the public may participate in the permitting process.

Melrose Air Force Range

The Facility is located in eastern New Mexico approximately 25 miles west of Cannon Air Force Base (CAFB), approximately eight miles southwest of the village of Melrose, and located predominately in Roosevelt County with a small parcel in Curry County, New Mexico. Based on World Grid System 1984 (WGS84) the Facility is located at a latitude of 34 degrees, 17 minutes, and 40.41 seconds and a longitude of 103 degrees, 47 minutes, and 11.65 seconds. The Applicant's primary contact and address for this action is: Colonel Robert A Masaitis, 100 Air Commando Way, Suite 100, Cannon Air Force Base, New Mexico, 88103.

Permit Contents

The Permit addresses and authorizes corrective action at the Facility. The Applicant does not seek a permit to treat, store, or dispose of hazardous waste. The permit requires the Applicant to conduct detection and compliance monitoring and corrective action activities at the Facility. This permit establishes the general and specific standards for these activities, pursuant to the New Mexico Hazardous Waste Act (HWA) and the New Mexico Hazardous Waste Management Regulations (HWMR).

The draft permit is comprised of six Parts (1 through 6) and four Attachments (1 through 4). The permit Parts address how the facility is to conduct cleanup of contaminated soil, surface water, and groundwater (referred to as "corrective action"). The permit Parts also include general requirements common to all hazardous waste permits throughout New Mexico (*e.g.*, duration of a permit); and general requirements that apply to the Facility (*e.g.*, characterization of waste, security, preparedness, and prevention).

The permit also requires the Applicant to maintain a program that minimizes the amount of waste generated at the Facility and reduces the toxicity of those wastes.

Public Participation

The HWMR and 40 CFR 270.42 require an opportunity for public involvement any time there is a modification to change a permit or when the NMED issues a new or renewed permit. That process involves public notice and includes an opportunity for the public to comment on major permit modifications or permit issuance or rejection. 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 become involved in 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, which describes how the public may comment on the draft permit.

B. 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: Cynthia Martinez
(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/mafr/>. 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 **May 29, 2020 and ends on July 28, 2020**. 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. July 28, 2020** 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@state.nm.us
Ref: Melrose Air Force Range 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 that 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 Stephanie Sloman no less than ten days prior to the end of the public comment period at the following address: New Mexico Environment Department, P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502-6110, (505) 827-9769. TDD or TDY users please access Ms. Sloman'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. Part 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:

Kristine Yurdin, Non-Discrimination Coordinator
New Mexico Environment Department
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
(505) 827-2855
NMED.NDC@state.nm.us

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.

C. 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 Code of Federal Regulations (CFR) §§ 270.1(b) and 270.10.

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 also 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 or the environment. Six SWMUs and sixteen AOCs are listed on the draft Permit. Corrective action is required at all 22 SWMUs and AOCs.

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).

E. MELROSE AIR FORCE RANGE PERMIT HISTORY

An initial Hazardous Waste Permit (Permit), issued in 1994, authorized an open burn/open detonation (ODU) treatment facility and established reporting requirements for corrective action of releases at identified SWMUs, AOCs, and newly discovered releases as required by the RCRA program for hazardous waste disposal facilities. The Permit facilitated the use of the OB/OD to thermally treat outdated and unserviceable munitions. The closure of the unit was approved by NMED on July 8, 2005.

In 2004 NMED notified MAFR that NMED would issue a RCRA Corrective Action Permit and because of that, a new Part A and a limited amount of information for the Part B (i.e.: general facility descriptions and information directly related to Solid Waste Management Units and Areas of Concern) was required. The facility requested extensions of time for the submittals and submitted a Part A application in December 2007. NMED used historic documents and environmental assessments to compile a list of potential SWMUs and AOCs for corrective action.

Following issuance of the draft permit and completion of the required public comment period, a final permit for the Facility will be issued by NMED. The permit will be effective for a term of ten years but remains in effect if a timely renewal application is submitted by the Permittee to the NMED (40 CFR 270.51(a)(2)).

H. TYPES OF HAZARDOUS WASTES MANAGED AT THE FACILITY

The Facility is a large quantity generator of hazardous waste and does not currently manage hazardous waste beyond 90 days. Storage of hazardous waste for less than 90 days or storage of waste military munitions as referenced in Section F above does not require a permit.

I. PERMIT ORGANIZATION

The draft permit is comprised of six Parts (1 through 6) and four Attachments (1 through 4). The Parts contain requirements that the Applicant must adhere to during management of hazardous waste, operation and maintenance of equipment, and conducting corrective action at the Facility.

Permit requirements are established to ensure compliance with New Mexico's HWA and HWMRs and are derived from applicable regulatory requirements, the Applicant's commitments in their permit application, or additional facility or unit-specific requirements established by the NMED to ensure adherence with the regulations or to protect human health or the environment as provided at 20.4.1.500 and 900 NMAC, incorporating 40 CFR Parts 264 and 40 CFR §270.32(b)(2), respectively.

J. PERMIT PARTS

Each draft Permit Part is briefly described below.

Permit Part 1: General Permit Conditions, provides the regulatory authority and basis for the permit including modification and compliance requirements, definitions and general permit conditions regarding duties and requirements that apply to corrective action at the Facility, most of which are based upon mandatory requirements set forth at 40 CFR Parts 264 and 270.

Permit Part 2: General Facility Conditions, contains permit conditions for operation, maintenance, and general facility standards as set forth in 40 CFR Part 264, Subparts B through E. The conditions include security, inspection requirements, personnel training, provisions for waste sources accumulation and off-site disposal of hazardous waste, recordkeeping, emergency preparedness and prevention, and recordkeeping and reporting.

Permit Part 3: Corrective Action for Solid Waste Management Units and Areas of Concern, describes the process the Applicant must follow to implement corrective action as necessary to protect human health and the environment for all releases of hazardous waste and hazardous constituents pursuant to sections 3004(u) and 3013 of RCRA, Sections 74-4-4.A.5.h and 74-4-4.2 of the HWA, 40 CFR § 264.101, and 42 U.S.C. § 6924(u) and (v). Requirements also include corrective action beyond the Facility property boundary, where necessary to protect human health and the environment pursuant to Section 3004(v) of RCRA, Section 74-4-4.A5.i of the HWA and 40 CFR § 264.101(c). This Part includes sections discussing cleanup levels applicable to both human and ecological receptors. Part 3 also discusses the process for conducting corrective action from initial assessment and interim measures through corrective action investigation and corrective measures selection and implementation.

Permit Part 4: Investigation and Sampling Methods and Procedures, contains the general requirements for methods and procedures to conduct site investigation, remediation, and monitoring activities sufficient to fulfill the requirements of the permit and provide valid data for the evaluation of site conditions, determining the nature and extent of contamination, and for remedy selection and implementation, where necessary. The methods presented in permit Part 4 are 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 contaminants that exist at each location where a release of contaminants has occurred.

Permit Part 5: Monitoring Well Construction Requirements, contains the requirements for construction of groundwater monitoring wells at the Facility. General drilling procedures are presented in permit Part 5.1 and monitoring well construction requirements are presented in permit Part 5.2.

Permit Part 6: Reporting Requirements, contains general reporting requirements and report formats for corrective action activities under the permit. The reporting requirements listed in Part 6 do not include all types of work plans or reports that may be necessary to address activities conducted pursuant to the permit.

PERMIT ATTACHMENTS

Attachment 1, Facility Description, provides a brief description of Facility physiographic location information, general historic information, adjacent land usage information, and hazardous waste management information for the Facility.

Attachment 2, Facility Site Plan, provides a Facility site plan which depicts the layout of the Facility and the location of SWMUs and AOCs subject to corrective action.

Attachment 3, Compliance Schedule, lists submittals, and required submittal dates.

Attachment 4, Corrective Action Units Table, provides Tables, 4-1, 4-2, and 4-3 which list the identified Facility SWMUs and AOCs. Table 4-1 provides a list of SWMUs and AOCs that require corrective action; Table 4-2 provides a list of SWMUs and AOCs with corrective action complete with controls status; and Table 4-3 provides a list of SWMUs and AOCs with corrective action complete without controls status.