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**FACT SHEET
March 10, 2011**

**INTENT TO ISSUE A MODIFICATION TO THE HAZARDOUS WASTE FACILITY
PERMIT UNDER THE NEW MEXICO HAZARDOUS WASTE ACT**

**FORT WINGATE DEPOT ACTIVITY
MCKINLEY COUNTY, NEW MEXICO**

- Facility Name:** Fort Wingate Depot Activity (FWDA)
- EPA ID Number:** NM6213820974
- Type of Facility:** FWDA is a former ammunition depot under the command of the United States Department of the Army (Army) and is classified as a hazardous waste treatment facility under the New Mexico Hazardous Waste Act (HWA), Sections 74-4-1 through 74-4-14, NMSA 1978, as amended, and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 through 6992. The New Mexico Environment Department (NMED) proposes to issue a modification to the Hazardous Waste Permit issued in 2005 to add a corrective action management unit (CAMU) to treat explosives - contaminated waste.
- Location:** FWDA is located in western New Mexico in McKinley County and is approximately eight miles east of the city of Gallup.
- Owner/Operator:** United States Department of the Army (Army)

INTRODUCTION

Army the owner and operator of FWDA, currently has a Hazardous Waste Facility Permit for Closure/Post-Closure Care issued by NMED to manage hazardous waste pursuant to the Hazardous Waste Act (HWA) and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA, 42 U.S.C. 690 et seq.) The Permit is being modified to add a CAMU to treat hazardous waste. Prior to issuing a final permit, NMED is

required to release a draft permit for public comment pursuant to 20.4.1.901.A(3) NMAC. This fact sheet is intended to facilitate public review of the Draft Permit.

REGULATORY BACKGROUND

Subtitle C of RCRA provides for “cradle to grave” environmental regulation for the management of hazardous waste at hazardous waste treatment, storage, and disposal facilities. The United States Environmental Protection Agency has authorized the State of New Mexico to implement and enforce Subtitle C requirements, including corrective action requirements, under its own hazardous waste management program. The State’s enabling authority for the program is the HWA, which authorizes the State’s Environmental Improvement Board to adopt regulations and NMED to implement and enforce the provisions of the HWA and regulations.

As part of the State’s program, the EIB has adopted regulations relating to, among other things, the issuance of hazardous waste permits. These regulations incorporate by reference pertinent sections of the federal code of regulations – 40 CFR parts 260 through 270, and 273 – and are codified in the Hazardous Waste Management Regulations (HWMR), 20.4.1 NMAC.

The HWA and HWMR require each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste to have a permit. *See* 42 U.S.C. 6925 and 20.4.1.900 NMAC (incorporating 40 CFR 270.1). A treatment, storage or disposal facility in existence on November 19, 1980 is eligible for “interim status.” Interim status authorizes an existing facility to operate, subject to the interim status standards set forth in 20.4.1.600 NMAC, incorporating 40 CFR part 265, until NMED issues or denies a RCRA permit or until interim status is otherwise terminated.

The HWA and HWMR further require corrective action for all releases of hazardous waste or constituents from any SWMU at a facility seeking a permit, regardless of the time at which waste was placed in such unit. 42 U.S.C. 6924(u), Section 74-4-4.2(B), NMSA 1978, and 20.4.1.500 NMAC (incorporating 40 CFR 264.101(a)). Corrective action is also required beyond the facility boundary. 42 U.S.C. 6924(v) and 20.4.1.500 NMAC (incorporating 40 CFR 264.101(c)).

BASIS FOR PERMIT MODIFICATION

The existing Permit is being modified to: 1) include the addition, in Section IX, of a CAMU. The CAMU is located at Solid Waste Management Unit (SWMU) 14 near the Old Burning Ground and Demolition Landfill within Parcel 3. Waste to be permitted for treatment at the CAMU includes hazardous waste in the form of Waste Military Munitions (WMM) that cannot be transported offsite for treatment or disposal due to inherent hazards related to transport or management of the waste. The CAMU occupies 3 acres and contains five demolition pits for treatment of WMM; 2) modify Attachment 7 (Cleanup Levels) to reference the EPA Regional Screening Levels (RSLs) (as modified); 3) incorporate two additional attachments (Attachment 14 (CAMU Waste Analysis Plan) and Attachment 15 (Hazardous Waste Contingency Plan)).

TYPE AND QUANTITY OF WASTES

Type of Wastes: The Army will be permitted to conduct treatment of hazardous waste at the CAMU. Waste Permitted for treatment includes hazardous waste in the form Waste Military Munitions (WMM). The following hazardous wastes may be treated at the CAMU:

D Waste Number: Hazardous wastes exhibiting the characteristics of ignitability and reactivity, D001 (ignitable), D003 (reactive), D007 (chromium), and D008 (lead), D005 (barium), D006 (cadmium), D009 (mercury), and D030 (2,4-dinitrotoluene) in the form of munitions and explosives of concern (MEC).

The “D,” number is a EPA Hazardous Waste Number that is assigned to specific hazardous wastes. The code is specified at 20.4.1.200 NMAC (incorporating 40 CFR part 261 subpart C).

Quantity of Wastes: The quantity of waste to be treated at the CAMU shall not exceed 200 lbs net explosive weight (NEW) for either cased or uncased explosives in any treatment event. No more than 1,000 lbs of NEW may be treated in any seven-day period.

TYPE OF UNIT TO BE PERMITTED

Miscellaneous Treatment Unit. The CAMU is an Open Burn/Open Detonation treatment unit. There are no unit-specific performance standards under 20.4.1.500 NMAC (incorporating 40 CFR part 264) for open burning and open detonation units. A treatment unit for which there are no unit-specific performance standards is defined as a “miscellaneous unit” and must comply with the general performance standards under 20.4.1.500 NMAC (incorporating 40 CFR part 264, subpart X). Accordingly, the CAMU is a miscellaneous treatment unit.

PERMIT ORGANIZATION AND MODIFICATIONS

The draft permit is organized into nine permit parts and fifteen attachments. The draft permit generally follows the format, style, and general conditions in EPA permitting guidance including, but not limited to: *Model RCRA Permit For Hazardous Waste Management Facilities* (Draft), U.S. EPA (September, 1988); *Model Permit For Hazardous and Solid Waste Amendments* (Draft), U.S. EPA (July, 1995); and *RCRA Guidance Manual for Subpart G Closure and Post Closure Care Standards and Subpart H Cost Estimating Requirements*, OSWER 9476.00-5 (January, 1987). Because of the unique conditions at FWDA, NMED proposes to impose, in addition to general permit conditions, several permit conditions that are necessary to protect human health and the environment pursuant to NMED’s “omnibus authority” (see 20.4.1.900 NMAC (incorporating 40 CFR 270.32(b)(2))).

Each modified or added Permit Part is briefly described below. The general regulatory authority for conditions in each Part is noted, but more specific citations are provided throughout the draft permit at the end of each section.

Permit Part I (General Permit Conditions): contains permit conditions that apply to all hazardous waste management permits, most of which are based upon mandatory permit conditions set forth at 20.4.1.900 NMAC (incorporating 40 CFR part 270). Part I also references several permit attachments that provide more information regarding FWDA, namely Permit Attachment 1 (General Facility Description), Permit Attachment 2 (Facility Map), and Permit Attachment 12 (Map of OB/OD Unit). Notable modifications to Part I include:

Permit Section I.B: (Permitted Activity) the modifications to this section require the Army to close the OB/OD Unit, perform post closure care for the OB/OD and conduct corrective action activities. This section has been modified to authorize the Army to manage and treat on site WMM, that are unsafe to transport off site, at the CAMU in accordance with 20.4.1 NMAC incorporating 40 CFR 264.552.

Permit Section I.C (Effect of the Permit): the modifications to this section require the Army to comply with the requirements in 20.4.1.500 NMAC (incorporating 40 CFR 264.522) and the applicable environmental performance standards specified in 20.4.1.500 NMAC (incorporating 40 CFR 264.601) during operation of the CAMU.

Permit Section I.H (Definitions): the modifications to this section include the addition of the following terms related to the CAMU: CAMU eligible waste, Munitions and Explosives of Concern (MEC), Open Burning, Open Detonation, Ordnance and Explosives Safety Specialist, and Senior Unexploded Ordnance Supervisor.

Permit Section I.N (Approval of Work Plans and Other Documents): requires the Army to obtain approval of all documents submitted to NMED prior to their implementation.

Permit Part II (General Facility Conditions): contains mandatory permit conditions for operation of hazardous waste management facilities set forth at 20.4.1.500 (incorporating 40 CFR part 264, subpart B through E). Notable permit modifications in Part II are as follows:

Permit Section II.A.1 (Waste Generated During Closure): the modification to this section requires the Army to characterize any waste generated by treatment at the CAMU. Characterization must be in accordance with the requirements of 20.4.1.500 NMAC (incorporating 40 CFR 262.11 and 264.13(b)), 20.4.1.700 NMAC (incorporating 40 CFR 266.200) and 20.4.1.900 NMAC (incorporating 40 CFR 270.14). The section also requires the Army to remove any waste or hazardous waste constituents during closure of the CAMU.

Permit Section II.B.3 (Corrective Action Management Unit): the modification to this section specifies that the Army may not dispose of solid or hazardous waste at the CAMU.

Permit Section II.C.4 (Security): the modifications to this section require the Army to adhere to the security requirements in Section II.C.1 and clearly mark the area where the

CAMU is located and restrict access to authorized personnel only. This section also requires the Army to conduct daily inspections when waste is stored at the temporary storage area, as well as maintain documentation of the waste that is temporarily stored at the CAMU prior to treatment.

Permit Section II.E (Personnel Training): the modifications to this section require the Army to maintain training documents and records for at least three years from the date the employee last worked at the Facility in accordance with 20.4.1.500 NMAC and 40 CFR 264.16(d) and (e). This section also requires that all personnel entering the CAMU be briefed by a certified Unexploded (UXO) Site Safety Officer, that only qualified UXO technicians conduct OB/OD operations, and that all personnel engaged in WMM handling, transport, or treatment be thoroughly trained in explosives safety.

Permit Part II.H (Preparedness and Prevention)

Permit Section II.H.1 (Design and Operation of Facility): the modifications to this section require that the Army minimize the possibility of a fire, explosion, or any unplanned, sudden or non-sudden release of hazardous or constituents to the surrounding environment. This section also requires that only qualified UXO personnel make decisions with regard to management of UXO.

Permit Section II.H.2 (Required Equipment) the modifications to this section require the Army to have the proper communication and fire suppression equipment in accordance with 20.4.1.500 NMAC (incorporating 264.32(a)(b) and (c)).

Permit Section II.H.4 (Access to Communications or Alarm System): the modifications to this section require the Army to be properly equipped with communications devices to ensure that all personnel can be contacted in the event of an emergency.

Permit Section II.H.5 (Arrangements with Local Authorities): the modifications to this section provide a reference to the Emergency Response List.

Permit Part III (Closure Requirements) contains permit conditions for closure of the OB/OD Unit, associated releases to the Kickout Area and CAMU. These conditions are based upon the requirements in 20.4.1.500 NMAC, incorporating 40 CFR part 264, subpart G and subpart X.

Notable permit modifications include the following:

Permit Section III.A.2 (Removal of Wastes and Waste Residues From the OB/OD Unit): the modifications to this section alleviate the Army from cap requirements of 20.4.1.500 NMAC (incorporating 40 CFR 264.552(e)(6)(iv) and (v)) because all wastes and wastes residues will be removed from the CAMU to achieve clean closure.

Permit Section III.D (Corrective Action Management Unit Closure)

Permit Section III.D.1 (CAMU Closure Plan): this section was added to require the Army to submit a Closure Plan for the CAMU no less than 90 days prior to the completion of corrective action activities at the Facility.

Permit Section III.D.2 (CAMU Closure Report): this section was added to require the Army to submit a Closure Report that demonstrates compliance with the cleanup requirements of Permit Attachment 7.

Permit Section IX (Corrective Action Management Unit): This Permit section authorizes the operation of a CAMU. The CAMU will be used to treat waste in accordance with 40 CFR Part 264.552 and Subpart X. This Permit Section includes the requirements for treating waste, the requirements for the design, construction, operation, maintenance, monitoring and closure of the unit.

MODIFICATIONS TO THE ATTACHMENTS

Attachment 1: This attachment has been modified to add a description of the CAMU as well as the type of wastes permitted to be treated.

Attachment 2: This attachment has been modified to include a figure that depicts the layout of the demolition pits at the CAMU, a figure that shows the conceptual design of the demolition pits, and location maps of the eight conditionally exempt igloos that will be used to store WMM prior to treatment or shipment offsite.

Attachment 7: This attachment has been modified to reference the RSLs and to remove the reference to the reference to VI Human Health Medium Specific Screening Levels (HHMSSL).

Attachment 8: Table 2 in this Attachment has been modified to include the CAMU.

Attachment 14: This attachment has been added to the Permit and includes the CAMU Waste Analysis Plan. The attachment includes the description of waste streams to be treated at the CAMU and the waste analysis requirements.

Attachment 15: This attachment has been added to the Permit and includes the Hazardous Waste Contingency Plan. This attachment addresses the OB/OD Unit and the CAMU and the applicable requirements of 20.4.1.500 (incorporating 40 CFR 264 subpart D).

PUBLIC PARTICIPATION

Availability of Additional Information: A copy of the draft permit, public notice, and the fact sheet may be reviewed at the following locations during the public comment period:

NMED - Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone: (505) 476-6000
Monday – Friday: 8:00 a.m. to 5:00 p.m.

Fort Wingate Depot Activity
Information Repository
Building 1
U.S. Highway 66
Gallup, New Mexico 87301
505-905-6108
Monday-Friday: 8:00 a.m. to 5:00 p.m.
Contact: Richard Cruz (505) 905-6109

A copy of the draft Permit, Fact Sheet, and Public Notice are also available on the NMED website at www.nmenv.state.nm.us/HWB/fwdaperm.html under Corrective Action Management Unit (CAMU) Draft Permit. The Administrative Record may also be reviewed at the NMED – Hazardous Waste Bureau at the address given above. To obtain a copy of the Administrative Record or a portion thereof, please contact Pam Allen at (505) 476-6064, or at the NMED address given above. NMED will provide copies, or portions thereof, of the Administrative Record at a cost to the requestor.

Comment Period and NMED Contact: Any person who wishes to comment on the draft Permit or request a public hearing should submit written or electronic mail (e-mail) comment(s) with the commenter's name and address to the address below. The comment period begins on **March 10, 2011** and ends on **May 9, 2011**. Only comments and/or requests received on or before **5:00 p.m. May 9, 2011** will be considered.

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Ref: Fort Wingate Depot Activity - CAMU Draft Permit

Written comments must be based on available information 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 must 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 requestor represents; (3) a statement of any objections to the draft permit, including specific references to any Permit sections being addressed; and (4) a statement of the issues which the commenter proposes to raise for consideration at the hearing. NMED will provide a thirty (30) day notice of a public hearing, if scheduled.

Final Decision: NMED must ensure that the approved draft permit is consistent with RCRA, the HWA, and HWMR. All written comments submitted on the draft permit will become part of the administrative record, be considered in formulating a final decision, and may cause the draft permit to be modified. NMED will respond in writing to all public comments. NMED's response to comments will specify which provisions, if any, of the draft permit have been changed in the final Permit decision, the reasons for the change, and will briefly describe and respond to all public comments on the draft permit or the permit application raised during the public comment period. NMED's response to comments will also be posted on the NMED website in addition to being sent to all persons who submitted written comments.

After consideration of all the written public comments received, NMED will either issue or modify and issue the Permit. If NMED modifies and issues the Permit, then the Permittee shall be provided by certified mail a copy of the modified permit and a detailed written statement of reasons for the modifications. The Secretary of the New Mexico Environment Department will make the final Permit decision publicly available.

The Secretary's final permit decision shall constitute a final agency decision and become effective thirty days after notice of the decision has been served on the Applicant, or such later time as the Secretary may specify. All persons on the facility mailing list, persons that presented written comments, or who requested notification in writing, will be notified of the Secretary's final decision by mail. The final agency decision may be appealed as provided by the Hazardous Waste Act, Section 74-4-14, NMSA 1978.

Arrangements for Persons with Disabilities: Any person with a disability requiring assistance or auxiliary aid to participate in this process should contact Judy Bentley at the following address: New Mexico Environment Department, Room N-4071, 1190 St. Francis Drive P.O. Box 5469, Santa Fe, New Mexico 87502-6110, (505) 827-9872. TDD or TDY users please access Judy Bentley's number via the New Mexico Relay Network. Albuquerque users may access Ms. Bentley's number at 1-800-659-8331.