



**Certified Mail – Return Receipt Requested No. 7020 3160 0000 0515 4437**

August 14, 2023

Leo Marquez  
Manager, North Central Solid Waste Authority  
P.O. Box 1230  
Española, New Mexico 87532

**Re: Notice of Violation – Alcalde Transfer Station**

Dear Leo Marquez,

On April 12, 2023, Jaime Rodriguez, Enforcement Officer, Solid Waste Bureau (“SWB”), New Mexico Environment Department (“NMED”), inspected the Alcalde Transfer Station to determine compliance with the New Mexico Solid Waste Rules (“SWR”), 20.9.2 – 20.9.10 NMAC, and the New Mexico Recycling, Illegal Dumping and Scrap Tire Management Rule (“RIDSTMR”), 20.9.20 NMAC. The following violations were observed:

1. **Failure to operate the facility in a proper manner as to not cause a public nuisance or create a potential hazard** – The inspection documented the finding of five 30-yard roll off bins, located on the north side of the property, containing random solid waste and creating a strong odor. Facility personnel claimed that they were not aware the bins contained anything in them.

The SWR, 20.9.5.8.A(1) NMAC, requires owners and operators of each solid waste facility to operate in a manner that does not cause a public nuisance or create a potential hazard to public health, welfare or the environment.

2. **Failure to control litter** – The inspection documented several areas along the eastern and northern fence lines with large amounts of litter scattered on the ground.

The SWR, 20.9.5.8.A(2) NMAC, requires owners and operators of each solid waste facility to control and mitigate litter.

3. **Failure to prevent scavenging** – The inspection documented several items, set aside by transfer station employees, along the inner west wall next to the breakroom area.

The SWR, 20.9.5.8.A(3) NMAC, requires owners and operators of each solid waste facility to post signs to indicate that scavenging is prohibited.

4. **Failure to have a certified operator or representative present at all times while facility is operational** – The inspection documented that no certified operator was present at the time of inspection and that the representative at the facility was not familiar with the facility’s permit or Solid Waste Rules.

The SWR, 20.9.5.8.B(1) NMAC, requires owners and operators of a solid waste facility to have a certified operator or representative present at all times while the facility is operational.

5. **Failure to conduct random load inspection every day according to the frequency noted in the permit** – The inspection documented the facility’s lack of training and lack of inspection reports used to document the proper information needed from every hauler and signature of the person conducting the random inspection. The employee tasked with conducting load inspections stated that no inspections are completed when he is not at work.

The SWR, 20.9.5.8.B(2)(a) NMAC, requires owners and operators of a solid waste facility to implement a plan approved by the secretary to inspect loads to detect and prevent the disposal of unauthorized waste. The plan must include the inspection frequency, the inspection personnel, the method of inspection, and a training program for facility employees in the identification of unauthorized waste.

6. **Failure to conduct random load inspections correctly according to the permit** – The inspection documented the facility’s failure to fully implement the facility’s Waste Screening and Inspection Program by failing to properly conduct random load inspections. The employee tasked with conducting random load inspections stated that it is only a visual process and that one trash bag, if any, is torn open to see the contents.

The SWR, 20.9.5.8.B(2)(c) NMAC, requires owners and operators of a solid waste facility to implement a plan approved by the secretary to inspect loads to detect and prevent the disposal of unauthorized waste. The plan must include the inspection frequency, the inspection personnel, the method of inspection, and a training program for facility employees in the identification of unauthorized waste.

7. **Failure to train employees on waste screening, how to conduct random load inspections and keep records at facility** - The inspection documented the failure to produce any records of the training. The explanation of the waste screening/random load inspection process given by the employees present showed the lack of training.

The SWR, 20.9.5.8.B(2)(d) NMAC, requires owners and operators of a solid waste facility to implement a plan approved by the secretary to inspect loads to detect and prevent the disposal of unauthorized waste. The plan must include the inspection frequency, the inspection personnel, the method of inspection, and a training program for facility employees in the identification of unauthorized waste.

8. **Failure to train employees on when and how to implement contingency plans and document this training in the operating record** – The inspection documented the failure to train employees on implementing the contingency plan as required by the SWR and as specified in the facility’s permit. Accordingly, there was no record of contingency plan training in the operating record.

The SWR, 20.9.5.8.B(7) NMAC, requires owners and operators of a solid waste facility to train employees when hired and at least annually thereafter on when and how to implement contingency plans, and to document such training in the operating record.

9. **Improper storage of used oil** – During the inspection, two 55-gallon drums containing used oil were found outside, uncovered and not on secondary containment. Two small sheds were also found to have approximately 15 small containers of used oil. Facility personnel stated that the oil had been stored for much longer than 12 months.

The SWR, 20.9.5.8.D NMAC, states that recyclable materials such as used oil, antifreeze, paint, or similar materials shall be stored for no longer than twelve months and shall be maintained in a covered area, not exposed to the weather, with secondary containment.

10. **Failure to conduct safe recycling operations** – During the inspection, the scrap metal recycling area contained two roll-off bins that were full of scrap metal. The floor around both bins had scattered scraps/pieces of metal and broken metal items. A facility employee stated that the scrap metal had not been picked up for disposal in months. The area did not look safe for customers or employees.

The SWR, 20.9.5.11.E NMAC, requires that owners and operators of transfer stations to store recyclable materials in a manner that does not create a nuisance, harbor vectors, or create a public health hazard, and shall remove recyclable material in a timely manner.

11. **Failure to remove all waste from tipping floor at the end of each working day** – During the inspection, the municipal solid waste (MSW) pile on the tipping floor was accumulating at a high rate creating a large, tall pile. The employee working the floor that morning stated that a large pile of MSW is left overnight to be worked on in the mornings. The acting manager explained that the facility only has two truck drivers that haul the MSW to the landfill and that more might possibly need to be hired.

The SWR, 20.9.5.11.I NMAC, requires owners and operators of transfer stations to remove solid waste from the station at the end of the operating day unless otherwise approved in the permit.

12. **Failure to amend the contingency plan with updated emergency coordinator information** – The inspection documented the failure to amend the contingency plan with updated emergency coordinator information. Records reviewed showed the phone numbers of

employees who were no longer employed at the facility but were noted as the emergency coordinator and the alternate emergency coordinator.

The SWR, 20.9.5.15.E(4) NMAC, requires owners and operators of all solid waste facilities to amend the contingency plan immediately, if necessary, whenever the list of emergency coordinators changes.

13. **Failure to maintain a proper operating record** – The inspection documented the facility’s failure to produce operating records indicating the weight or volume of each load of solid waste received. The facility provided documentation to the SWB; however, the provided documentation was insufficient, as it was not electronically maintained and the documentation for the month of April 2023 did not identify the type of waste received for each load.

The SWR, 20.9.5.16.A(1) NMAC, requires the owner and operator of a solid waste facility to make and maintain an operating record during the active life of the facility, for each day that operations, monitoring, or closure occurs, including the type (including special waste) and weight or volume of each load of solid waste received.

14. **Failure to provide updated financial assurance for 2023** – The inspection documented the failure to provide any records of financial assurance. The Outreach department of the SWB confirmed it was never received from the facility.

The SWR, 20.9.5.16.A(14) NMAC, requires owners and operators of solid waste facilities to maintain financial assurance information, including a copy of the current standby trust document, current estimates for closure, post-closure care, phase I and phase II assessments and a copy of the financial assurance mechanism being utilized.

15. **Failure to submit an annual report** – The inspection documented the failure to submit an annual report by February 14, 2023. Records requested were not found on site nor were they found at the facility’s main office. The Outreach department of the SWB confirmed it was never received from the facility.

The SWR, 20.9.5.16.D NMAC, requires owners or operators of solid waste facilities to submit an annual report to the department for each facility or operation, within 45 days from the end of each calendar year, describing the operations of the past year.

16. **Failure to furnish records at the time of inspection** – The inspection documented the failure to provide records of the daily operating log, records verifying employee emergency response training, waste screening, random load inspections, financial assurance and annual reports.

The SWR, 20.9.5.16.E NMAC, requires all records and plans required by the SWR to be furnished upon request and made available at all reasonable times for inspection by the NMED.

17. **Failure to utilize computer software as noted in the facility permit** – The inspection documented the facility’s failure to produce any electronic copies of the amounts of waste being received and all accompanying information. All documents recording incoming waste were handwritten and incomplete. Facility personnel stated that discussions of having and using a computer program were held but never implemented.

As specified in the facility’s permit, Volume II, Section 6, paragraph 2.6, the Alcalde Transfer station will utilize a computer software program to record the waste receiving information required by 20.9.5.16.A(1) through A(5) NMAC.

18. **Improper acceptance of white goods** – During the inspection, a roll-off bin was found on the north side of the facility containing random MSW and two refrigerator/freezers. The facility was not aware of the bin containing waste nor did they produce records of a certified person having removed the refrigerant.

As specified in the facility’s permit, Volume II, Section 6, paragraph 3.3, if the Alcalde Transfer station accepts white goods containing refrigerant, they must certify to EPA that they have acquired refrigerant recovery and/or recycling equipment and are complying with the requirements of the rule or obtain a written and signed statement from each customer verifying that the refrigerant has been properly removed prior to delivery to the facility.

19. **Failure to have sequential numbering on scrap tire manifests** – The inspection documented the facility’s failure to properly fill out scrap tire manifests. The scrap tire manifests reviewed were found without a proper numbering system as well as many areas on the manifest left blank.

The RIDSTMR 20.9.20.50.A(1) - (7), requires each shipment of ten or more scrap tires generated, recycled or disposed in New Mexico, and transported by a scrap tire generator or hauler to be accompanied by a scrap tire manifest that complies with this section.

The SWR, 20.9.3.20.A NMAC, states that any terms or conditions of the solid waste facility permit are enforceable to the same extent as a regulation of the Environmental Improvement Board.

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue SWB Notices of Violation to the Chief of the SWB in the Resource Protection Division. The NMED is seeking your voluntary cooperation in the immediate correction of these violations. Please respond in writing within 10 calendar days of receipt of this notice as to what action you have taken, or plan to take, to correct the violations. Send your response to Rick Shean, Acting Solid Waste Bureau Chief and Acting Program Manager, Enforcement Section, Solid Waste Bureau, NMED District I, 121 Tijeras Avenue NE,

Suite 1000, Albuquerque, New Mexico 87102-3400. The failure to assure corrective action or continued non-compliance may result in additional enforcement action, which may include the assessment of a civil penalty.

All documentation submitted to NMED's SWB related to this Notice of Violation must include the following certification, signed by you or a delegated responsible official:

"I certify under penalty of law that this document and all its attachments were prepared under my directions or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for the gathering of the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

If you have any questions, please contact Rick Shean at (505) 629-6494, or email at [rick.shean@env.nm.gov](mailto:rick.shean@env.nm.gov).

Sincerely,

Rick Shean  
Director, Resource Protection Division  
Acting Chief, Solid Waste Bureau

Enclosure – Copy of Solid Waste Facility Inspection Report

RS:drg:jr

cc: Rick Shean, Director, Resource Protection Division, NMED *[via electronic mail]*  
Daniel R. Galasso, Enforcement Coordinator, Solid Waste Bureau *[via electronic mail]*  
Jaime Rodriguez, Enforcement Officer, EA-IV, Solid Waste Bureau *[via electronic mail]*