



Certified Mail – Return Receipt Requested No. 7019 1640 0000 7894 0228

September 26, 2023

Danette Cabber
Interim Director
Estancia Valley Solid Waste Authority
P.O. Box 736
Estancia, New Mexico 87106

Re: Notice of Violation – Estancia Valley Regional Landfill

Dear Danette Cabber,

Please excuse the delay in the issuance of this correspondence. On January 31, 2023, Ken R. Churan and Daniel R. Galasso, Enforcement Officers, Solid Waste Bureau (“SWB”), New Mexico Environment Department (“NMED”), inspected the Estancia Valley Regional Landfill 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 control litter** - The inspection documented excessive litter along the eastern and southern boundary fence lines and on the active landfill cell due to limited cover. However, it is important to note that up to ten (10) trash pickers were observed picking up trash during the time of inspection. It is apparent from the inspection that what is needed is more daily cover and restricted operating hours during times of inclement weather to help limit the movement of wind-blown waste and help reduce the number of scavenging birds at the facility.

The SWR, 20.9.5.8.A(2) NMAC, states that owners and operators of each solid waste facility shall “control and mitigate odor and litter.” The SWR, 20.9.5.9.L NMAC, further states that all municipal and special waste landfill owners and operators shall “control litter, disease vectors, dust and odors.”

Recently, there have been several complaints and concerns from nearby ranchers and State Land Office lessees regarding blowing trash and its potential effects on their livestock. The facility’s Operations Plan should be modified to include restricted operating hours during times of inclement weather (e.g., high winds). The modified Operations Plan, including wind speeds-shut down criteria, will dramatically reduce the effects of blowing trash and neighbor complaints. It is requested that the modified Operations Plan include the following language: “Landfill operations will cease when there is a sustained wind speed measurement of 30 miles per hour (mph) for at least 30 minutes; or when wind gusts equal or exceed 45 mph, measured using on-site equipment.”

2. **Failure to adhere to a term or condition of the permit** – The inspection documented signage with the incorrect operating hours of the facility. A sign located outside the landfill posted hours of operation from 7:00 AM to 3:00 PM and another sign located within the landfill boundary posted hours of operation from 7:00 AM to 3:30 PM. The permit for the landfill states the hours of operation are from 7:30 AM to 3:30 PM, Monday through Friday.

The SWR, 20.9.3.20.A NMAC, states “[a]ny terms or conditions of the permit shall be enforceable to the same extent as a regulation of the board.”

3. **Failure to control the scrap tire pile size** – The inspection documented the facility’s scrap tire pile exceeding a width of 50 feet and a length of 100 feet. As documented in the previous inspection, dated August 28, 2020, the scrap tire pile measured 125 feet wide by 190 feet in length.

The RIDSTMR, 20.9.20.37.D NMAC, states that “[s]crap tire piles or stacks of tire bales shall be no greater than 10 feet in height, nor shall the pile or stack be more than 50 feet wide by 100 feet long.”

4. **Failure to implement and document unauthorized waste training** – During the inspection, it was noted that no unauthorized waste training was conducted at the facility. This training should be performed and recorded in the operating record.

The SWR, 20.9.5.8.B(2)(d) NMAC, states that owners and operators of a solid waste facility shall implement a plan approved by the secretary to inspect loads to detect and prevent the disposal of unauthorized waste, including “a training program for the facility employees in the identification of unauthorized waste, including hazardous waste, hot waste, and PCB’s.”

5. **Failure to implement and document contingency plan training** – During the inspection, it was noted that no contingency plan training was conducted at the facility. This training should be performed and recorded in the operating record.

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

6. **Failure to update contingency plan** – During the inspection, it was noted that the facility failed to update the contingency plan’s emergency coordinators with their current staff.

The SWR, 20.9.5.15.E(4) NMAC, states that the contingency plan shall be amended immediately, if necessary, whenever “the list of emergency coordinators changes.”

7. **Failure to measure leachate head on the liner** – During the inspection, there was no evidence that leachate levels were being monitored and recorded.

The SWR, 20.9.5.9.K NMAC, states that all municipal and special waste landfill owners and operators shall “measure leachate head on the liner and sump pump as necessary...”.

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 SWB Chief, NMED, 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 me at (505) 629-6494 or 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:krc

cc: Daniel R. Galasso, Enforcement Coordinator, SWB *[via electronic mail]*
Ken R. Churan, Enforcement Officer, EA-I, SWB *[via electronic mail]*