



MICHELLE LUJAN GRISHAM  
GOVERNOR

JAMES C. KENNEY  
CABINET SECRETARY

**CERTIFIED MAIL - RETURN RECEIPT REQUIRED**

February 2, 2023

Lawrence Meers  
President  
Mesa Oil  
6395 E 80<sup>th</sup> Avenue  
Commerce City, CO 80022

Mike Fernandez  
Regional Manager  
Mesa Oil  
6395 E 80<sup>th</sup> Avenue  
Commerce City, CO 80022

**RE: NOTICE OF VIOLATION WITH PROPOSED PENALTIES  
MESA OIL, INC.  
EPA ID# NM0000096024**

Dear Messrs. Meers and Fernandez:

On July 20, 2022, the New Mexico Environment Department ("NMED") conducted a hazardous waste Compliance Evaluation Inspection ("Inspection") at Mesa Oil, Inc. ("Mesa Oil"), located at 20 Lucero Drive, Belen, New Mexico ("Facility"). Mesa Oil is a used oil recycling facility, producing recycled oil and asphalt bitumen. The facility also operates as a waste used oil filter management and storage facility. These activities generate petroleum-contaminated materials.

This Inspection was prompted by a complaint concerning the potential release of petroleum chemicals to the air and involved coordination with NMED's Air Quality and Groundwater Quality Bureaus. Based on observations and review of the information obtained, NMED has determined that Mesa Oil is a Processor/re-refiner of used oil, a used oil transporter, and a Do-It-Yourselfer used oil collection facility as defined in 40 Code of Federal Regulations ("CFR") 279.1. Furthermore, NMED has determined that Mesa Oil has violated the New Mexico Hazardous Waste Management Regulations ("HWMR") 20.4.1 New Mexico Administrative Code ("NMAC") as specified below.

NMED inspectors observed the following violations:

1. Failure to equip the facility with sufficient spill control supplies, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.52(a)(2)(iii). Specifically, NMED observed that the stock of spill control supplies at the south end of the Aboveground Storage Tanks ("ASTs") was mostly depleted.

SCIENCE | INNOVATION | COLLABORATION | COMPLIANCE

Hazardous Waste Bureau - 2905 Rodeo Park Drive East, Building 1 Santa Fe, New Mexico 87505-6313  
Telephone (505) 476-6000 - [www.env.nm.gov](http://www.env.nm.gov)

**Corrective Action:** Mesa Oil submitted documentation to NMED via email on January 17, 2023 showing that Mesa Oil has sufficiently stocked all spill control supply stations.

2. Failure to maintain sufficient aisle space for containers with used oil, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.52(a)(5). Specifically, NMED observed that multiple (>50) containers of used oil and used oil filters with free oil, and other materials were not arranged to provide adequate aisle space.

**Corrective Action:** Mesa Oil must provide NMED with documentation demonstrating correction in procedures to ensure that containers of used oil and containers with free oil are arranged to provide sufficient aisle space to respond to spills, releases, or other emergencies.

3. Failure to submit updated copies of the contingency plan to emergency response authorities, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.52(b)(3). Specifically, NMED's review of information obtained shows that revisions of the contingency plan were not provided to local emergency response authorities, and that the most recent distribution of the Contingency Plan occurred in November 2000.

**Corrective Action:** Mesa Oil submitted documentation to NMED via email on January 17, 2023 showing that Mesa Oil sent updated copies of the facility Contingency Plan to local emergency response authorities in September 2022.

4. Storage of used oil in a container that is not in good condition, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.54(b). Specifically, NMED observed a 55-gallon drum containing used oil filters with free oil that was damaged such that it could not close in a group of used oil and used oil filter 55-gallon containers at the south end of the facility.

**Corrective Action:** Mesa Oil must provide NMED with documentation, such as photographs, demonstrating 55-gallon drums containing used oil filters with free oil currently stored at the property are in good condition, and provide NMED with documentation of actions to ensure that damaged containers with free oil are promptly overpacked or processed.

5. Failure to maintain the integrity of the secondary containment pad for used oil containers, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.54(c)(2). Specifically, NMED observed significant cracks and deterioration in the concrete pad used for secondary containment at the container storage at the south end of the Facility.

**Corrective Action:** Mesa Oil submitted documentation to NMED via email on January 17, 2023 providing plans for corrective actions to repair secondary containment at the Facility. Mesa Oil must provide NMED with a schedule of repairs and documentation once completed.

6. Failure to maintain the integrity of the secondary containment pad for used oil ASTs, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.54(e)(2). Specifically, NMED observed significant cracks and deterioration in the concrete pad used for secondary containment for the used oil storage and processing ASTs, including pads underlying the systems operated by Mesa Recycling.

**Corrective Action:** Mesa Oil submitted documentation to NMED via email on January 17, 2023 providing plans for corrective actions to repair secondary containment at the Facility. Mesa Oil must provide NMED with a schedule of repairs and documentation once completed.

7. Failure to label containers of used oil with the words "used oil", or with other wording to identify contents, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.54(f)(1) and 20.4.1.1003(A) NMAC. Specifically, NMED observed several unlabeled 55-gallon drums containing used oil filters with free oil at the southern end of the property, and an unlabeled vehicle loading bed accumulating consolidated used oil filters and draining to a used oil accumulation tote.

**Corrective Action:** Mesa Oil must provide NMED with documentation, such as photographs, demonstrating 55-gallon drums or other containers of used oil filters with free oil currently stored at the property are properly labeled. Signage must also be present for the vehicle loading bed used to drain oil filters.

8. Failure to keep containers of used oil being stored outdoors closed when not adding or removing used oil, which is a violation of 20.4.1.1003(B) NMAC. Specifically, NMED observed a large number of 55-gallon drums, several of which were open or partially open, containing used oil filters with free oil at the southern end of the property. NMED also observed a vehicle loading bed accumulating used oil filters and equipped with a drainage to a used oil accumulation tote, that was open and uncovered.

**Corrective Action:** Mesa Oil must provide NMED with documentation, such as photographs, demonstrating 55-gallon drums or other containers of used oil filters with free oil currently stored at the property are closed when not adding or removing wastes. The vehicle loading bed must be covered when oil filters are not being actively managed. Mesa Oil must also provide NMED with documentation of corrections in procedures to ensure that 55-gallon drums and other containers are

kept closed when materials are not being added or removed.

9. Failure to respond to the release of used oil, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.54(g). Specifically, NMED observed a spill of used oil spreading out and from underneath of multiple 55-gallon drums of used oil and used oil filters at the south end of the property.

**Corrective Action:** Mesa Oil must provide NMED with documentation, such as photographs, demonstrating that that the used oil spill in this area has been cleaned up.

10. Failure to submit a Biennial Report, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.57(b). Specifically, NMED's review of information obtained shows that Mesa Oil had not submitted a Biennial Report for the 2020 or 2022 submittal periods.

**Corrective Action:** Mesa Oil submitted Biennial Report information for 2020 and 2022 submittal periods on August 1, 2022.

11. Failure to submit a written report to the NMED within fifteen (15) days of an incident that would require implementation of the Facility Contingency Plan, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.52(b)(6)(ix). Specifically, NMED has no record of Mesa Oil submitting the required emergency incident report within 15 days of the explosion that occurred at the Facility on August 18, 2022.

**Corrective Action:** Mesa Oil must provide NMED with a written report including date, time and type of incident, name and quantity of materials involved, extent of injuries, an assessment of actual or potential hazards to human health or the environment, and estimated quantity and disposition of recovered material. Mesa Oil must also provide NMED with documentation of corrections in procedures to ensure that required reporting is performed as specified in the Facility Contingency Plan.

NMED is requesting that Mesa Oil provide to NMED within thirty (30) days of receipt of this letter a written description of any other actions taken by Mesa Oil to address violations 2, 4, 5, 6, 7, 8, 9 and 11 described above or a schedule for implementation of corrective actions not yet completed.

In accordance with New Mexico Statutory Authority 1978, Section 74-4-10, NMED may: (1) issue a Notice of Violation requesting voluntary compliance within a specified time period; (2) issue a Compliance Order requiring compliance immediately or within a specified time period or assess a civil penalty for any past or current violations of up to \$10,000 per day of non-

Messrs. Meers and Fernandez  
February 2, 2023  
Page 5 of 5

compliance for each violation, or both; or (3) commence a civil action in District Court for appropriate relief, including a temporary or permanent injunction.

Due to the nature of the violations listed above, NMED will propose a civil penalty for these violations in a separate Notice of Proposed Penalty letter, a settlement privileged document in accordance with NMED's Civil Penalty policy, dated March 2017.

Any action taken in response to this letter does not relieve Mesa Oil of its obligation to comply with any other applicable laws and regulations. Pursuant to the NMED Delegation Order dated May 24, 2021, the Cabinet Secretary has delegated the authority to issue Notices of Violation under the Hazardous Waste Act and HWMRs to the Chief of the Hazardous Waste Bureau. If you have any questions regarding this letter, please contact Aaron Coffman of my staff at (505) 690-5211 or by email at [aaron.coffman@env.nm.gov](mailto:aaron.coffman@env.nm.gov).

Sincerely,

**Rick Shean**

Digitally signed by Rick  
Shean  
Date: 2023.02.02 15:34:09  
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Rick Shean  
Bureau Chief and Acting CTAP Program Manager  
Hazardous Waste Bureau

RS: ac

cc: Rick Shean, NMED HWB  
Aaron Coffman, NMED HWB  
Levi Cole, NMED District I Manager

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