

**STATE OF NEW MEXICO  
ENVIRONMENT DEPARTMENT**

**NEW MEXICO ENVIRONMENT  
DEPARTMENT,  
Complainant,**

**v.**

**NEW MEXICO DEPARTMENT OF  
TRANSPORTATION,  
EPA ID #: NMR000030502,  
Respondent.**

**ADMINISTRATIVE ORDER  
NO. HWB-25-08**

**ADMINISTRATIVE COMPLIANCE ORDER**

Pursuant to the New Mexico Hazardous Waste Act ("HWA"), New Mexico Statutes Annotated ("NMSA") 1978, §§ 74-4-1 to -14, the Hazardous Waste Bureau ("HWB") of the Resource Protection Division ("Division") of the New Mexico Environment Department ("NMED"), issues this Administrative Compliance Order ("Order") to the New Mexico Department of Transportation ("Respondent"). This Order requires that the Respondent, located at 1120 Cerillos Road, Santa Fe, New Mexico, requires corrective actions to comply with the HWA, the Hazardous Waste Management Regulations ("HWMR") in the New Mexico Administrative Code ("NMAC"), and assesses civil penalties and administrative compliance costs for violations of the HWA and the HWMR.

**A. PARTIES AND LAW**

1. Pursuant to the Department of Environment Act, NMSA 1978, §§ 9-7A-1 to -15, NMED is an agency of the executive branch within the government of the State of New Mexico.
2. NMED, through its HWB, is charged with administration and enforcement of the HWA and HWMR.

3. The U.S. Environmental Protection Agency (“EPA”) has granted the State of New Mexico delegated authority to implement the federal Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901 to 6992k, within the state. The HWMR incorporate portions of 40 Code of Federal Regulation (“CFR”) §§ 260 through 270, 40 CFR § 279 and related federal regulations by reference.

4. The State of New Mexico adopted the federal hazardous waste regulations by reference on June 14, 2000. The State of New Mexico subsequently amended the HWMR on March 1, 2009 and on December 1, 2018, to adopt updated federal hazardous waste regulations.

5. Respondent is a “person” within the meaning of NMSA 1978, Section 74-4-3(M) of the HWA.

6. Respondent is an agency of the executive branch within the government of the State of New Mexico.

7. Respondent operates the New Mexico Department of Transportation General Office State Materials Laboratory (“GO Lab”), a testing and analytical laboratory located at 1005 West Cordova Road, Santa Fe, New Mexico.

8. Respondent’s Facility is currently registered as a Very Small Quantity Generator of hazardous waste as defined in the HWMR, under EPA Identification Number NMR000030502.

9. The HWMR provide that Very Small Quantity Generators of hazardous waste which accumulate greater than 2,200 lbs. of hazardous waste become subject to regulatory

standards that are also applicable to Small Quantity Generators of hazardous waste, as specified in 20.4.1.300 NMAC, incorporating 40 CFR §262.14(a)(4).

10. GO Lab has been storing hazardous waste at the facility since operations began at its current location in approximately 1957.

11. Pursuant to NMSA 1978, Sections 74-4-10 and 74-4-12 of the HWA, the Respondent is liable for a civil penalty of up to \$10,000.00 per day of noncompliance for each violation of the HWA and HWMR.

12. If Respondent fails to comply in a timely manner with the Schedule of Required Corrective Actions (Section E, below), the Secretary may assess additional civil penalties of up to \$25,000 for each day of continued noncompliance pursuant to NMSA 1978, Section 74-4-10(C) of the HWA.

#### **B. HWA INVESTIGATION**

13. On March 8, 2023, NMED received a complaint alleging generation and storage of hazardous waste with an EPA Identification Number.

14. On May 3, 2023, NMED conducted a Compliance Evaluation Inspection ("Inspection") investigating the complaint received by NMED.

15. The Investigation included a physical inspection of the Facility, as well as a request of records required to be maintained at the Facility under the HWMR. NMDOT was unable to provide requested records.

16. During the physical inspection of the Facility, NMED inspectors observed quantities of hazardous wastes stored at the Facility in excess of 2,200 lbs. The HWMR provide that Very Small Quantity Generators of hazardous waste which accumulate greater than 2,200 lbs. of hazardous waste become subject to regulatory standards that are also applicable to Small

Quantity Generators of hazardous waste, as specified in 20.4.1.300 NMAC, incorporating 40 CFR §262.14(a)(4). The Investigation resulted in findings of 20 violations of the HWA and HWMR. Each violation results in civil penalties.

### **C. VIOLATIONS AND PENALTIES**

17. Violation 1. During the Inspection, NMED inspectors observed numerous containers throughout the facility containing solid wastes for which Respondent could not provide any generator knowledge or documentation of the contents. The HWMR provide that generators of solid wastes must make an accurate determination as whether that waste is a hazardous waste, as required 20.4.1.300 NMAC, incorporating 40 CFR §262.11.

a. Respondent's failure to make a hazardous waste determination is a violation of 20.4.1.300 NMAC, incorporating 40 CFR §262.11.

b. The civil penalty for Violation 1 is \$187,000.00.

18. Violation 2. During the Inspection, NMED inspectors observed numerous hazardous waste containers in the central accumulation area ("CAA") that were not labeled with the words "Hazardous Waste". The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must label containers of hazardous waste with the words "Hazardous Waste", as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(A).

a. Respondent's failure to label containers of hazardous waste with the words "Hazardous Waste" is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(A).

b. The civil penalty for Violation 2 is \$187,000.00.

19. Violation 3. During the Inspection, NMED inspectors observed numerous hazardous waste containers in the central accumulation area ("CAA") that were not labeled with the hazard(s) of the contents. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must label containers of hazardous waste with an indication of the hazard(s) of the contents, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(B).

a. Respondent's failure to label containers of hazardous waste with an indication of the hazard(s) of the contents is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(B).

b. The civil penalty for Violation 3 is \$187,000.00.

20. Violation 4. During the Inspection, NMED inspectors observed numerous hazardous waste containers in the satellite accumulation areas ("SAA") that were not labeled with the words "Hazardous Waste". The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must label satellite containers of hazardous waste with the words "Hazardous Waste", as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(5)(i).

a. Respondent's failure to label satellite containers of hazardous waste with the words "Hazardous Waste" is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(5)(i).

b. The civil penalty for Violation 4 is \$12,000.00.

21. Violation 5. During the Inspection, NMED inspectors observed numerous hazardous waste containers in the central accumulation area ("CAA") that were not labeled with the hazard(s) of the contents. The HWMR provide that Very Small Quantity Generators of

hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must label satellite containers of hazardous waste with an indication of the hazard(s) of the contents, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(5)(ii).

a. Respondent's failure to label satellite containers of hazardous waste with an indication of the hazard(s) of the contents is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(5)(ii).

b. The civil penalty for Violation 5 is \$12,000.00.

22. Violation 6. During the Inspection, NMED inspectors observed numerous hazardous waste containers at the CAA that did not have an accumulation commencement date indicated on the containers. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must mark containers of hazardous waste with the date upon which accumulation greater than 2,200 lbs. began, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(C).

a. Respondent's failure to mark containers of hazardous waste with the date upon which accumulation greater than 2,200 lbs. began is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(C).

b. The civil penalty for Violation 6 is \$187,000.00.

23. Violation 7. During the Inspection, NMED inspectors observed numerous hazardous waste containers throughout the facility in poor condition. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must ensure that hazardous wastes are only stored in containers that are in good condition, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(i).

a. Respondent's failure to ensure containers of hazardous waste are in good

condition is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(i).

b. The civil penalty for Violation 7 is \$187,000.00.

24. Violation 8. During the Inspection, NMED inspector observed numerous containers of hazardous waste that were open and/or deteriorated to the point where they could not be considered closed. These containers were unattended and without an active process.

a. Respondent's failure to assure containers containing hazardous waste remain closed is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(iii)(A).

b. The civil penalty for Violation 8 is \$94,500.00.

25. Violation 9. During the Inspection, NMED inspectors observed spillage of chemicals outside of containers, open containers containing waste, improper or no labeling in accordance with RCRA regulations, containers stored near windows degraded with sunlight, mismanagement of numerous hazardous waste containers throughout the facility, containers in improper storage areas and poor handling practices. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must not open, handle, or accumulate hazardous waste containers in a manner that may rupture the container or cause it to leak, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(iii)(B).

a. Respondent's failure to ensure proper management of containers of hazardous waste is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(iii)(B).

b. The civil penalty for Violation 9 is \$187,000.00.

26. Violation 10. During the Inspection, Respondent could not provide documentation demonstrating weekly inspections of the CAA. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must perform weekly inspections of hazardous waste containers, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(iv).

- a. Respondent's failure to conduct weekly inspections of the CAAs is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(iv).
- b. The civil penalty for Violation 10 is \$25,600.00.

27. Violation 11. During the Inspection, NMED inspectors observed the lack of appropriate fire extinguishing equipment, spill control equipment, and decontamination equipment at the Facility. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must equip hazardous waste storage areas with emergency response equipment, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(8)(ii)(C).

- a. Respondent's failure to have equipment necessary to prepare for and respond to emergencies is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(8)(ii)(C).
- b. The civil penalty for Violation 11 is \$33,000.00.

28. Violation 12. During the Inspection, Respondent could not provide documentation demonstrating any attempt to make arrangements with local police, fire, emergency response and health care departments or facilities, notifying the types and quantities of hazardous wastes handled at the facility. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must attempt to make

arrangements with local emergency response authorities for emergency response, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(8)(vi).

- a. Respondent's failure to make arrangements with local authorities is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(8)(vi).
- b. The civil penalty for Violation 12 is \$6,500.00.

29. Violation 13. During the Inspection, Respondent could not provide information that any emergency coordinators were designated to respond to emergency situations. Normally a list of names and numbers for the Emergency Coordinator(s) would be posted in the near a facility phone or at the CAA. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must designate employee(s) on premises and/or on-call to respond to emergency situations, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(i).

- a. Respondent's failure to have employee(s) on premises or on-call to respond to emergency situations is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(i).
- b. The civil penalty for Violation 13 is \$6,500.

30. Violation 14. During the Inspection, NMED inspectors observed the facility had not posted contact information for the emergency coordinator(s), local authorities, and location(s) of equipment necessary to prepare for and respond to emergencies. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must post the contact information for the emergency coordinator(s), local emergency response authorities, and location(s) of equipment necessary to prepare for and respond to

emergencies near a facility telephone, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(ii).

a. Respondent's failure to post contact information for the emergency coordinator(s), local emergency response authorities, and location(s) of equipment necessary to prepare for and respond to emergencies is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(ii).

b. The civil penalty for Violation 14 is \$6,500.

31. Violation 15. During the Inspection, Respondent could not provide documentation demonstrating employee training relative to hazardous waste handling responsibilities. The NMED inspectors observed the lack of employee training with proper waste handling and emergency procedures. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must train employees with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(iii).

a. Respondent's failure to train employees with proper waste handling and emergency procedures is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(iii).

b. The civil penalty for Violation 15 is \$31,500.

32. Violation 16. During the Inspection, Respondent could not provide copies of hazardous waste manifests for hazardous waste anionic emulsion waste offered to the Santa Fe Solid Waste Management Agency ("SFSWMA"). The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must

prepare hazardous waste manifests for off-site shipments of hazardous waste, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.20(a)(1).

a. Respondent's failure to prepare hazardous waste manifests for shipments of hazardous waste is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.20(a)(1).

b. The civil penalty for Violation 16 is \$187,000.

33. Violation 17. During the Inspection, NMED inspectors observed Chemistry Unit employees removing the excess Anionic Asphalt Emulsion following the molding process and disposed of in the municipal solid waste container and disposed of as municipal solid waste through SFSWMA. SFSWMA is not a registered transporter of hazardous waste and does not operate a permitted Treatment, Storage or Disposal Facility capable of receiving hazardous waste. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must only offer hazardous waste for shipment to transporters or to Treatment, Storage or Disposal Facilities that have received an EPA identification number, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.18(c).

a. Respondent's failure to only offer hazardous waste for shipment to transporters or to Treatment, Storage or Disposal Facilities that have received an EPA identification number is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.18(c).

b. The civil penalty for Violation 16 is \$187,000.

34. Violation 18. During the Inspection, HWB interviewed GO Lab employees and learned that the GO Lab has been storing, treating and/or disposing of hazardous waste at the facility since operations began at its current location in approximately 1957 and has been

accepting for storage and managing Anionic Asphalt Emulsion waste originating from NMDOT Patrol Yards and District Laboratories and transported to the GO Lab. The HWMR provide that persons that store and accept hazardous wastes at their Facility and are not in compliance with conditions for exemption must obtain a Permit from NMED, as required by 20.4.1.900 NMAC, incorporating 40 CFR § 270.1(c).

a. Respondent's failure to obtain a permit for the prolonged storage, treatment and/or disposal acceptance of hazardous waste is a violation of 20.4.1.900 NMAC, incorporating 40 CFR § 270.1(c).

b. The civil penalty for Violation 18 is \$187,000.

35. Violation 19. During the inspection Respondent could not provide copies of hazardous waste manifests indicating hazardous waste has not been stored on site for no more than 180 days. The HWMR provide that Very Small Quantity Generators of hazardous waste that are storing greater than 2,200 lbs. of hazardous waste must not store hazardous waste for greater than 180 days, as required by 20.4.1.300 NMAC, incorporating 40 CFR § 262.14(a)(4)(i).

a. Respondent's failure to provide hazardous waste manifests to demonstrate accumulation not exceeding 180 days is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b).

b. The civil penalty for Violation 19 is \$187,000.00.

36. Violation 20. Respondent has not provided any documentation that the GO Lab has ever paid small quantity generator fees, per the HWMR. Violation 20 results from the lack of record of payment of hazardous waste fees for Calendar Years 2020, 2021, 2022, or 2023.

a. Respondent's failure to pay Small Quantity Generator Hazardous Waste fees is a violation of 20.4.3.201(A) NMAC.

b. The hazardous waste fees for Calendar Year 2020 is \$500.00, for Calendar Year 2021 is \$500.00, for Calendar Year 2022 is \$500.00, and for Calendar Year 2023 is \$500.00, totaling \$2,000.00. Late fees for Violation 18 continue to incur and will be calculated at the time of payment of the hazardous waste fees for Calendar Years 2020, 2021, 2022, and 2023.

**D. PAYMENT OF PENALTIES AND COSTS**

37. \$2,097,100.00 is the total amount of civil penalties that Respondent owes for Violations 1 through 20, as described in Section IV, above.

38. Additionally, NMED assesses administrative compliance costs in the amount of \$3,776.45, calculated to cover HWB personnel costs associated with inspecting the facility, performing compliance actions, and ensuring return to compliance.

39. No later than 30 days after this Order becomes final, Payment shall be made to the "New Mexico Environment Department" via ACH or EFT deposit using this account and deposit information:

Wells Fargo Bank, N.A.  
100 W Washington Street, Floor 20  
Phoenix, AZ 85003

Routing Transit Number: 121000248  
Deposit Account Number: 4123107799  
Descriptor: NMED-HWB 25-08

40. On the date(s) that the deposits of funds are initiated, Respondent shall email Hazardous Waste Bureau Financial Manager Jessi Sanchez at [Jessi.sanchez3@env.nm.gov](mailto:Jessi.sanchez3@env.nm.gov), listing the date and dollar amount of deposit and attaching the executed Stipulated Final Order.

#### **E. SCHEDULE OF REQUIRED CORRECTIVE ACTIONS**

41. Based upon the foregoing findings and conclusions, Respondents are hereby ordered to take the following corrective actions, according to the following schedule, to achieve compliance with the HWA and the HWMR.

42. No later than 30 days after this Order becomes final, Respondents shall submit a written response describing in detail all corrective actions taken by Respondents in response to the violations identified herein. The response shall include photos, procedures, documents, and any other relevant records, that document the actions taken by the Respondents to remedy any compliance deficiencies related to the Inspection.

a. The Respondent's written response shall contain a description of corrective actions to ensure all hazardous waste streams generated and stored at the Facility undergo an accurate and complete hazardous waste determination, consistent 20.4.1.300 NMAC, incorporating 40 CFR §262.11.

b. The Respondent's written response shall contain a description of corrective actions to ensure proper labeling of hazardous waste containers, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(A) and 40 CFR § 262.16(b)(6)(i)(B).

c. The Respondent's written response shall contain a description of corrective actions to ensure proper labeling of hazardous waste satellite containers, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(5)(i) and 40 CFR § 262.15(a)(5)(ii).

d. The Respondent's written response shall contain a description of corrective actions to ensure proper marking of hazardous waste containers with an accumulation start date, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(C).

e. The Respondent's written response shall contain a description of corrective

actions to ensure hazardous waste containers are maintained in good condition, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(i).

f. The Respondent's written response shall contain a description of corrective actions to ensure hazardous waste containers remain closed while they are stored, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(iii)(A).

g. The Respondent's written response shall contain a description of corrective actions to ensure hazardous waste containers are handled and stored in a manner that will not rupture the container or cause it to leak, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(iii)(B).

h. The Respondent's written response shall contain a description of corrective actions to ensure weekly inspections of hazardous waste storage areas, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(2)(iv).

i. The Respondent's written response shall contain a description of corrective actions to ensure the availability of emergency response equipment, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(8)(ii)(C).

j. The Respondent's written response shall contain a description of corrective actions to familiarize local emergency response authorities of the types and quantities of hazardous wastes handled at the Facility, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(8)(vi).

k. The Respondent's written response shall contain a description of corrective actions to designate employee(s) on premises or on-call to respond to emergency situations at the Facility, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(i).

l. The Respondent's written response shall contain a description of corrective

actions to post contact information near a Facility phone for the emergency coordinator(s), local emergency response authorities, and location(s) of equipment necessary to prepare for and respond to emergencies, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(ii).

m. The Respondent's written response shall contain a description of corrective actions to ensure the training of Facility employees with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(iii).

n. The Respondent's written response shall contain a description of corrective actions to ensure the preparation of hazardous waste manifests for shipments of hazardous waste from the Facility, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.20(a)(1).

o. The Respondent's written response shall contain a description of corrective actions to ensure hazardous wastes are only offered for shipment to transporters or to Treatment, Storage and Disposal Facilities that have received an EPA Identification Number, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.18(c).

p. The Respondent's written response shall contain a description of corrective actions to either ensure that hazardous wastes are neither received for storage from off-site nor stored long-term at the facility, or Respondent shall apply for a Hazardous Waste Storage Facility Permit, consistent with 20.4.1.900 NMAC, incorporating 40 CFR § 270.1(c).

q. The Respondent's written response shall contain a description of corrective actions to either ensure that hazardous wastes are not stored in quantities exceeding 2200 lbs. for greater than 180 days, consistent with 20.4.1.300 NMAC, incorporating 40 CFR § 262.14(a)(4)(i).

r. The Respondent's written response shall contain remittance of past due hazardous waste generation fees, consistent with 20.4.3.201(A) NMAC.

#### **F. RIGHT TO ANSWER AND REQUEST A HEARING**

43. Pursuant to NMSA 1978, Section 74-4-10(H) of the HWA, and NMED's Adjudicatory Procedures, 20.1.5.200 NMAC, Respondents may file a written request for a public hearing with the Hearing Clerk no later than 30 days from the receipt of this Order. An Answer must be filed with the Request for Hearing. The Answer shall:

a. Clearly and directly admit, deny, or explain each of the factual allegations contained in this Order with regard to which Respondents have any knowledge. Where Respondents have no knowledge of a particular factual allegation, Respondents shall so state, and Respondents may deny the allegation on that basis. Any allegation of the Order not specifically denied shall be deemed admitted. 20.1.5.200.A(2)(a) NMAC.

b. Assert any affirmative defenses upon which Respondents intend to rely. Any affirmative defense not asserted in the Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived. 20.1.5.200.A(2)(b) NMAC.

c. Be signed under oath or affirmation that the information contained therein is, to the best of the signer's knowledge, believed to be true and correct. 20.1.5.200.A(2)(c) NMAC.

d. Include a copy of this Order attached. 20.1.5.200.A(2)(d) NMAC.

44. The Answer and Request for Hearing shall be filed with the Hearing Clerks at the following email addresses:

Hearing Clerks  
New Mexico Environment Department  
[luis.lopez@env.nm.gov](mailto:luis.lopez@env.nm.gov)  
[pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov)

45. Respondents also must serve a copy of the Request for Hearing on Ray Romero, Office Manager and Paralegal, Office of General Counsel, New Mexico Environment Department, [ray.romero@env.nm.gov](mailto:ray.romero@env.nm.gov).

### **G. FINALITY OF ORDER**


46. This Order shall become final unless Respondents file a Request for Hearing and Answer with the Hearing Clerk within 30 days after the date of receipt of this Order pursuant to NMSA 1978, § 74-4-10(H).

### **H. TERMINATION**

47. This Order shall terminate when Respondents certify that all requirements of this Order have been met and the Department has approved such certification, or when the Secretary of the Environment approves a settlement agreement and signs a stipulated final order.

### **I. COMPLIANCE WITH OTHER LAWS**

48. Compliance with the requirements of this Order does not remove the obligation to comply with all other applicable laws and regulations.

Signed by:  
  
3948AAFF75434A3...

DATE: 9/25/2025

**KYLE STAGGS, CHIEF**  
**RESOURCE PROTECTION COMPLIANCE AND ENFORCEMENT BUREAU**

### **CERTIFICATE OF SERVICE**

I hereby certify that, on \_\_\_\_\_, the foregoing Administrative Compliance Order was mailed, postage prepaid, via Certified Mail, Return Receipt Requested, to the following:

Ricky Serna  
Cabinet Secretary  
New Mexico Department of Transportation  
P.O. Box 1149  
Santa Fe, NM 87504-1149

Kelly Montoya  
Chief  
NMDOT General Office Lab  
1005 W. Cordova Rd.  
Santa Fe, NM 87505

  
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New Mexico Environment Department