

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT**

NEW MEXICO ENVIRONMENT DEPARTMENT

Complainant,

v.

FRLD-26357-2301 ACO

FREELAND SAND & GRAVEL

Respondent.

ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to NMSA 1978, Section 74-2-12 of the New Mexico Air Quality Control Act (“Act”), NMSA 1978, §§ 74-2-1 through -17 (as amended through 2019), the Environmental Protection Division (“Division”) of the New Mexico Environment Department (“Department” or “NMED”) issues this Compliance Order (“Order”) to Freeland Sand & Gravel (“Freeland”), to require compliance and assess a civil penalty for the violations of the Act and the Air Quality Regulations at Title 20, Part 2 (“Regulations”) of the New Mexico Administrative Code (“NMAC”) at the Cement Tech Plant (“Facility”). Pursuant to the Department’s Delegation Order, dated March 24, 2023, the Cabinet Secretary (“Secretary”) has delegated to the Division Director the authority to seek administrative enforcement for alleged violations of the Act, the Regulations, and the air quality permits issued thereunder.

As set forth in the detailed allegations below, Freeland failed to pay 2022 New Source Review (“NSR”) Construction Permit fees, due and payable by February 28, 2023. This Order addresses the seriousness of this violation and the necessary corrective actions required to address it.

FINDINGS OF FACT

1. Freeland is a domestic profit company, and the owner and operator of the Facility located approximately 3.5 miles east of Brazos, New Mexico in Rio Arriba County.

2. The Division issued NSR Permit GCP-5 #3553 ("Permit") for the Facility on June 1, 2007, to Respondent pursuant to 20.2.72.220 NMAC. **[NMED Exhibit 1]** No revisions or modifications for the Facility have been issued by the Division.

3. The annual fee for this Facility is \$2,344.00 for 2022. The amount has been adjusted each year according to the Consumer Price Index, pursuant to 20.2.75.11.F NMAC. **[NMED Exhibit 2]**

4. On January 9, 2023, the Division issued to Freeland the invoice dated January 4, 2023, for the annual permit fees for the Facility, including a cover letter. The invoice due date was February 28, 2023. The email explained how to make payment and possible consequences for nonpayment of fees. **[NMED Exhibit 3]** The AQB received notification that delivery to various Freeland email addresses was completed on January 9, 2023. **[NMED Exhibit 4]**

5. On February 20, 2023, the Division sent an email reminding Freeland that fees were due February 28, 2023. The email included possible consequences for failure to pay the fees. **[NMED Exhibit 5]** The AQB received notification that the emails were delivered to Freeland on February 20, 2023. **[NMED Exhibit 6]**

6. On March 1, 2023, the Division sent another email reminding Freeland that fees were due February 28, 2023. The email included possible consequences for failure to pay the fees. **[NMED Exhibit 7]** The AQB received notification that emails were delivered to Freeland on March 1, 2023. **[NMED Exhibit 8]**

7. On March 8, 2023, the Division sent an email asking for payment of the 2022 NSR permit annual fees. **[NMED Exhibit 9]** The AQB received notification that the emails were delivered to Freeland on March 8, 2023. **[NMED Exhibit 10]**

8. On May 12, 2023, the Division sent by email and certified mail an enforcement letter explaining to Freeland that if payment was not received by June 15, 2023, an enforcement action will be initiated, including revoking the permit for the Facility and assessing a penalty for violating 20.2.75 NMAC. **[NMED Exhibit 11]** The U.S. Postal Service returned the certified mail receipt to the AQB, showing the letter was received by Carmen Sanchez of Freeland. **[NMED Exhibit 12]**

9. As of December 1, 2023, the Division has received no response from Freeland and 2022 NSR Permit fees have not been paid.

CONCLUSIONS OF LAW

10. The Department has jurisdiction over this matter. NMSA 1978, §§ 9-7A-6(B)(5); 74-2-5.1.

11. The Department may issue a compliance order requiring compliance with a requirement of the Act or regulations promulgated pursuant to the Act. NMSA 1978, § 74-2-12(A).

12. Section 74-2-12.A of the Act authorizes the Department to issue a compliance order assessing a civil penalty for a violation of a regulation or permit.

13. Section 74-2-12.B of the Act authorizes the Department to assess a civil penalty of up to fifteen thousand dollars (\$15,000.00) per day of noncompliance for each violation of a regulation or permit. The Secretary of the Department has delegated this authority to the Director of the Division.

14. Section 74-2-12.B of the Act authorizes the Department to suspend or revoke a permit issued by the Department.

15. NSR annual fees are payable in full within thirty (30) days of receipt of an invoice for each permitted facility. 20.2.75.12.F NMAC

16. At the time of the invoice, Freeland's NSR permit for the Facility had not been canceled.

17. Freeland is in violation of 20.2.75.11.F NMAC for failure to pay the required annual permit fees.

COMPLIANCE ORDER

18. Freeland is hereby ordered to remit the unpaid permit fees for 2022 in the amount of \$2,344 within fifteen (15) days of receipt of this Order. Payment shall be remitted in the form of a corporate, personal, or certified check or money order made payable to the New Mexico Environment Department and submitted to the address below.

New Mexico Environment Department
Air Quality Bureau
c/o Operations Manager
525 Camino de los Marquez, Suite 1
Santa Fe, NM 87505

19. Due to noncompliance with the air quality regulations, if permit fees are not paid within 15 days of receipt of this Order, the Department may begin additional enforcement proceedings including up to \$15,000.000 per day in civil penalties and suspension or revocation of the Permit.

CIVIL PENALTY

20. Freeland shall pay a civil penalty of \$3,000.00 to the State of New Mexico within thirty (30) calendar days after the effective date of this Order. [NMED Exhibit 13]

21. Payment shall be made to the “State of New Mexico General Fund” by certified or corporate check, or by wire transfer (ACH deposit). On the date that delivery of funds is initiated, Freeland shall notify the Air Quality Bureau Enforcement Manager by email at ENV-AQB.Settlement.Notifications@state.nm.us.

Certified or corporate checks must be sent to the following address:

New Mexico Environment Department
Air Quality Bureau
c/o Compliance and Enforcement Manager
525 Camino de los Marquez, Suite 1
Santa Fe, New Mexico 87505

Wire transfers must be made to Wells Fargo Bank as follows:

Wells Fargo Bank, N.A.
100 W Washington Street, Floor 20
Phoenix, AZ 85003
Routing Transit Number: 121000248
Deposit Account Number: 4123107799
Descriptor: NMED-AQB-C&E

22. If Freeland fails to make timely and complete payment of the civil penalty pursuant to Paragraphs 20 and 21, and unless the Division agrees to extend the time for payment of the civil penalty, Freeland shall pay a stipulated penalty of \$500.00 per day for each day the payment is not timely or complete.

23. If Freeland fails to pay the 2022 NSR annual fees pursuant to Paragraph 18, and unless the Division agrees to extend the time for payment of the fees, Freeland shall pay a stipulated penalty of \$500.00 per day for each day the payment is not timely or complete.

24. Stipulated penalties shall be paid to the State of New Mexico General Fund pursuant to the instructions in Paragraph 21.

ADMINISTRATIVE COMPLIANCE COSTS

25. The Department will invoice Freeland in the amount of \$1,650.00 for administrative compliance costs incurred to date that are associated with this matter. To the extent that Freeland does not resolve this matter within thirty (30) days, including the payment of the civil penalty of \$3,000.00, Freeland will continue to accrue additional administrative compliance costs of up to \$800.00 per day.

NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING

26. Pursuant to the Air Quality Control Act Section 74-2-12(C) and the Department's adjudicatory procedures at 20.1.5.200 NMAC, Freeland may request a hearing by filing a written request for a public hearing with the hearing clerk no later than thirty (30) days after receipt of this Order. The request for hearing shall include an Answer:

- a. Admitting or denying each alleged finding of fact. Any alleged finding of fact which is not specifically denied shall be deemed to be admitted. Freeland may assert insufficient knowledge of any alleged finding of fact, and such finding shall be deemed to be denied;
- b. Asserting any affirmative defense upon which Freeland intends to rely. Any affirmative defense not asserted in the Answer, except an affirmative defense asserting lack of subject matter jurisdiction, shall be deemed to be waived;
- c. Signed under oath or affirmation that the information contained therein is true and correct to the best of the signatory's knowledge; and
- d. Attaching a copy of this Order.

27. This Order shall become final after thirty (30) days of receipt of the Order

unless Freeland files a Request for Hearing and Answer as set forth above. Any request for Hearing and Answer must be filed at the following address:

Madai Coral
Paralegal/Hearing Clerk
Office of Public Facilitation
New Mexico Environment Department
1190 St. Francis Drive, Santa Fe, New Mexico 87505
Madai.corral@env.nm.gov
Phone: 505-490-5803

28. The public hearing shall be governed by the Department's Adjudicatory Procedures. *See* 20.1.5 NMAC.

SETTLEMENT CONFERENCE

29. Freeland may confer with the Division regarding settlement at any time, but a settlement conference or request for a settlement conference shall not extend or waive the deadline for filing a Request for Hearing or Answer. Freeland may appear at a settlement conference pro se or through legal counsel. The Secretary or his designee shall execute any settlement as a Stipulated Final Order. A Stipulated Final Order shall resolve all issues raised in this Order, shall bind all parties to this Order, and shall not be appealable. To confer regarding settlement, contact:

Christopher Vigil
Office of General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Suite 1000
Albuquerque, New Mexico 87102-3400
Telephone: (505) 469-4696
Email: ChristopherJ.Vigil@env.nm.gov

COMPLIANCE WITH OTHER LAWS

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

TERMINATION

31. This Order shall terminate upon the Secretary or his designee's approval of a Stipulated Final Order.

NEW MEXICO ENVIRONMENT DEPARTMENT

By:  Date 12/11/2023

DocuSigned by:
Michelle Miano
77308F7C12E74CC...

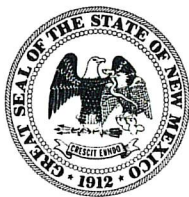
Michelle Miano
Division Director
Environmental Protection Division
New Mexico Environment Department

CERTIFICATE OF SERVICE

I certify that on December 11, 2023, this Compliance Order was mailed, certified mail-return receipt requested (701916400000789422277), to:

George Freeland
Freeland Sand & Gravel
450 Harbor Court
Fort Myers, Florida 33931

Raymond R. Romero
Raymond R. Romero, Office Manager/Paralegal
New Mexico Environment Department
Office of General Counsel



BILL RICHARDSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Air Quality Bureau
2048 Galisteo St.
Santa Fe, NM 87505
Phone (505) 827-1494
Fax (505) 827-1523
www.nmenv.state.nm.us



RON CURRY
SECRETARY

CINDY PADILLA
DEPUTY SECRETARY

June 1, 2007

CERTIFIED MAIL NO. 7004 0750 0001 3312 7455
RETURN RECEIPT REQUESTED

George Freeland
President
Freeland Sand and Gravel, Inc.
HC 75, Box 130
Chama, NM 87520

General Permit **GCP-5-3553**
Cement Tech Plant
TEMPO No. 26357-PRN20070001
AIRS No. 35-039-8031

Dear Mr. Freeland:

This letter is in response to your air quality permit application dated April 27, 2007 to construct a concrete batch facility in New Mexico. The Department received the application on May 9, 2007.

A review has been completed and the information provided is sufficient to issue your permit in accordance with the General Permit Category: Concrete Batch Plants, under 20.2.72.220 NMAC.

Attached are a copies of your permit registration, additional information to the permit registration dated May 23, 2007, the general permit, and the statement of basis. The general permit includes the terms and conditions for operation as well as emission and compliance requirements.

Pursuant to 20.2.75.11 NMAC, the Department will assess an annual fee for this facility. This regulation set the fee amount at \$1,500 through 2004 and requires it to be adjusted annually for the Consumer Price Index on January 1. The current fee amount is available by contacting the Department or can be found on the Department's website. The AQB will invoice the permittee for the annual fee amount at the beginning of each calendar year. This fee does not apply to sources which are assessed an annual fee in accordance with 20.2.71 NMAC. For sources that satisfy the definition of "small business" in subsection F of 20.2.75.7 NMAC, this annual fee will be divided by two.

All fees shall be remitted in the form of a corporate check, certified check, or money order made payable to the "NM Environment Department, AQB" mailed to the address shown on the invoice and shall be accompanied by the remittance slip attached to the invoice.

NMED Exhibit 1

Freeland Sand and Gravel, Inc.
SITE – GCP-5-3553
June 1, 2007
Page 2 of 2

If you have any questions, please contact me in Santa Fe at (505) 827-1494, Extension 8055.

Sincerely,

Cember Hardison
Air Permit Specialist
New Source Review Unit
Permits Section
Air Quality Bureau

cc: Matthew Lane, GL Environmental Inc.
NMED Taos Field Office

Enclosure: Industry/Consultant Feedback Questionnaire with envelope

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 75 CONSTRUCTION PERMIT FEES

20.2.75.1 ISSUING AGENCY: Environmental Improvement Board.
 [20.2.75.1 NMAC - Rp 20 NMAC 2.75.100, 03/02/01]

20.2.75.2 SCOPE:

A. All persons who apply for a permit to construct or modify a source or revise a permit, or who request a technical review of an existing permit under 20.2.72 NMAC. Part 70 (20.2.70 NMAC) operating permit emission fees are covered under 20.2.71 NMAC.

B. The requirements concerning the payment of an annual fee shall apply to sources with an air quality construction permit for which the application to either revise, modify or for a new permit was received following the effective date of this regulation.

[20.2.75.2 NMAC - Rp 20 NMAC 2.75.101, 03/02/01]

20.2.75.3 STATUTORY AUTHORITY: Environmental Improvement Act, Paragraph 4 of Subsection A of Section 74-1-8 NMSA 1978, and Air Quality Control Act, Chapter 74, Article 2 NMSA 1978, including specifically, Paragraph 6 of Subsection B of Section 74-2-7 NMSA 1978.

[20.2.75.3 NMAC - Rp 20 NMAC 2.75.102, 03/02/01]

20.2.75.4 DURATION: Permanent.

[20.2.75.4 NMAC - Rp 20 NMAC 2.75.103, 03/02/01]

20.2.75.5 EFFECTIVE DATE: March 2, 2001 except where a later date is cited at the end of a section.

A. For applications received prior to the effective date of this regulation, the provisions in 20.2.75 NMAC, as effective as of the date of the receipt of the application, remain effective, and fees shall be so determined.

B. For applications received following the effective date of this regulation, fees shall be based on the current regulation.

[20.2.75.5 NMAC - Rp 20 NMAC 2.75.104, 03/02/01; A, 12/01/03]

[The latest effective date of any section in this Part is 12/01/03.]

20.2.75.6 OBJECTIVE: The objective of this Part is to establish a schedule of fees for the construction permit program, including construction permits, permit revisions, and technical reviews of existing permits.

[20.2.75.6 NMAC - Rp 20 NMAC 2.75.105, 03/02/01]

20.2.75.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC (definitions) or 20.2.72 NMAC (construction permits), as used in this Part:

A. "air toxics review" means the required review of a permit application for the potential emission of an air toxic regulated by 20.2.72.400 NMAC - 20.2.72.499 NMAC. As used in this Part, a level I air toxics review consists of modeling to determine whether one one-hundredth (1/100) of the occupational exposure limit, as defined in 20.2.72.401 NMAC, is met; a level II air toxics review consists of either a health assessment or best available control technology (BACT) determination, whichever is required by 20.2.72.400 NMAC - 20.2.72.499 NMAC.

B. "applicable regulations", for the purpose of assessing permit fee points, mean those regulations that are applicable to the source and not the review to determine whether the regulation is applicable. Applicable regulations do not include 20.2.1 NMAC (general provisions), 20.2.2 NMAC (definitions), 20.2.3 NMAC (ambient air quality standards), 20.2.5 NMAC (source surveillance), 20.2.7 NMAC (excess emissions during malfunctions, startup, shutdown, or scheduled maintenance), 20.2.8 NMAC (emissions leaving New Mexico), 20.2.60 NMAC (open burning), 20.2.70 NMAC (operating permits), 20.2.71 NMAC (operating permit emission fees), 20.2.72 NMAC (construction permits), 20.2.73 NMAC (notice of intent and emission inventory requirements), 20.2.74 NMAC (prevention of significant deterioration (PSD)), 20.2.75 NMAC (construction permit fees), 20.2.77 NMAC (new source performance standards), 20.2.78 NMAC (emission standards for hazardous air pollutants), 20.2.79 NMAC (permits - nonattainment areas), 20.2.80 NMAC (stack heights), and 20.2.82 NMAC (maximum achievable control technology standards for source categories of hazardous air pollutants). All other Title 20, Chapter 2 NMAC Parts and all new source performance standards (excluding Subpart A) and national emission standards for

hazardous air pollutants/maximum achievable control technology (NESHAP/MACT) (excluding 40 CFR Part 61 Subparts A and M and 40 CFR Part 63 Subpart A) regulations that are applicable to the source shall be counted and shall result in additional points for permit fees purposes, in accordance with the permit fee schedule in this Part.

C. "fee unit" means any equipment or process which generates, creates, or is the source of a regulated air contaminant, which is listed or identified in a construction permit application or application to revise a permit and which requires review and evaluation against state and federal regulations and standards. This definition does not include sources which are exempt under 20.2.72.202 NMAC or sources for which no applicable requirements are identified in the permit. In the case of a permit modification, revision or technical review of an existing permit, the requirements of Subsection A of 20.2.75.11 NMAC apply only to the equipment or process involved in such modification, revision or review.

D. "fugitive emissions fee unit" means sources of fugitive emissions for which applicable requirements are identified in the permit. A maximum of one fugitive emissions fee unit shall be applied to any given application.

E. "revision" means any change requested by an applicant to any term or condition of a permit including but not limited to emission limitations, control technology, operating conditions and monitoring requirements. For the purposes of this regulation, revision does not include administrative revision as used in 20.2.72 NMAC.

F. "small business" means, for the purposes of this Part, a company that employs no more than ten (10) employees at any time during the calendar year. Employees include part-time, temporary, or limited service workers. For new sources, the responsible company official shall certify that the source does not expect to employ any more than ten (10) employees in the first year of operations. In addition, "small business" does not include (1) any source which may emit more than fifty (50) tons per year of any regulated air contaminant for which there is a national or New Mexico ambient air quality standard, or seventy-five (75) tons per year of all regulated air contaminants for which there are national or New Mexico ambient air quality standards; and (2) any major source for hazardous air pollutants under 20.2.70 NMAC.

G. "technical review of an existing permit" means the department's technical review of new information submitted by a permittee as required by an existing permit condition and in conjunction with proposed changes at the source that do not involve any changes to the existing permit. The review must be necessary to demonstrate that all applicable state and federal regulations and standards will continue to be met and that the existing permit will continue to be valid. This does not include required periodic reports.
[20.2.75.7 NMAC - Rp 20 NMAC 2.75.107, 03-02-01; A, 12/01/03]

20.2.75.8 AMENDMENT AND SUPERSESSON OF PRIOR REGULATIONS: This Part amends and supersedes Air Quality Control Regulation 700 - Filing and Permit Fees, filed November 20, 1989, as amended (AQCR 700).

A. All references to AQCR 700 in any other rule shall be construed as a reference to this Part.

B. The amendment and supersession of AQCR 700 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 700.

[20.2.75.8 NMAC - Rp 20 NMAC 2.75.106, 03/02/01]

20.2.75.9 DOCUMENTS: Documents cited in this Part may be viewed at the New Mexico Environment Department, Air Quality Bureau, Santa Fe, NM.

[20.2.75.9 NMAC - Rp 20 NMAC 2.75.108, 03/02/01]

20.2.75.10 FILING FEE:

A. A filing fee of five hundred dollars (\$500) shall be submitted with each filing of a notice of intent, application for a permit to construct or modify a source, or revision of a permit. The filing fee shall be applied to the total permit fee determined from the fee schedule in 20.2.75.11 NMAC.

B. For applications submitted under 20.2.72.221 NMAC, accelerated review, an accelerated review filing fee of one thousand dollars (\$1,000) shall be submitted in lieu of any other filing fees under this section. One-half of the accelerated review filing fee shall be applied to the cost of the accelerated review submitted by the qualified outside firm. In the event that:

(1) There are no qualified outside firms on contract with the department, or if all of the qualified outside firms have a conflict of interest, the entire filing fee shall be applied to the total permit fee determined from the fee schedule in 20.2.75.11 NMAC;

- (2) No qualified outside firm submits a proposal for the accelerated permit review, one-half of this filing fee shall be applied to the total permit fee determined from the fee schedule in 20.2.75.11 NMAC;
- (3) One or more qualified outside firms submit a proposal but all such proposals are rejected by the applicant, the accelerated review filing fee shall be forfeited and retained by the department; or
- (4) The applicant withdraws the application for any reason, the accelerated review filing fee shall be forfeited and retained by the department.
- [20.2.75.10 NMAC - Rp 20 NMAC 2.75.109, 03/02/01; A, 12/01/03]

20.2.75.11 PERMIT FEE:

- A.** The permit fee shall be based on the following point-based fee schedule.

ACTION	# OF POINTS
1. CONSTRUCTION PERMIT/TECHNICAL REVIEW OF EXISTING PERMIT	
Technical Complexity	
1-5 Fee Units	5
6-15 Fee Units	1 point per fee unit
>15 Fee Units	15
Fugitive Emissions Fee Unit	5
Portable Source Relocation (Paragraph 3 of Subsection D of 20.2.72.202 NMAC)	1
Non-Attainment Area (20.2.79 NMAC)	75
Modeling Review	15
Air Toxics Review (20.2.72.400 NMAC - 20.2.72.499 NMAC)	
Level I	8
Level II	
Best Available Control Technology (BACT) Analysis	60
Health Assessment	100
Applicable Regulations	
20.2.X NMAC (per each)	3
NSPS (per each)	5
NESHAP/MACT (per each)	5
Case-by-Case MACT (20.2.83 NMAC)	100
PSD netting only (no additional PSD analysis is required)	20
PSD review (including netting) (20.2.74 NMAC)	75
2. OTHER PERMITTING ACTIONS	
General Permits (20.2.72.220 NMAC)	10
Streamline (each site) (20.2.72.300 NMAC- 20.2.72.399 NMAC)	10

B. The fee shall be the sum of all of the points that are applicable to the permitting action, multiplied by three hundred fifteen dollars (\$315).

C. For sources that satisfy the definition of "small business" as defined in Subsection F of 20.2.75.7 NMAC, the permit fee determined by Subsections B and E of 20.2.75.11 NMAC shall be divided by two.

D. For applications processed under 20.2.72.221 NMAC, Accelerated Review, the permit fee determined by Subsection B of 20.2.75.11 NMAC shall be divided by two, and shall be in addition to the cost of the accelerated review bid, as described in 20.2.72.221 NMAC.

E. Sources that have been issued a construction permit under 20.2.72 NMAC shall be assessed an annual fee of one thousand five hundred dollars (\$1,500). This fee shall not apply to sources which are assessed an annual fee in accordance with 20.2.71 NMAC.

F. Beginning in 2005, the cost per point in Subsection B of this section and the annual fee in Subsection E of this section shall be adjusted each year on January 1 to reflect the increase, if any, by which the consumer price index for the most recent year exceeds the consumer price index for the year 2004. The amount of the change in the fee shall be determined by multiplying the existing fee by the change in the consumer price index and rounding the result to the nearest dollar. The consumer price index for any year is the average of the consumer price index for all-urban consumers published by the United States department of labor, as of the close of the twelve-month period ending on August 31 of that year.

[20.2.75.11 NMAC - Rp 20 NMAC 2.75.110, 03/02/01; A, 12/01/03]

20.2.75.12 PAYMENT OF FEES:

A. The Department shall refuse to accept any permit application without payment of the filing fee at the time the application is received by the Department. The filing fee and the accelerated review filing fee are non-refundable.

B. An invoice for permit fees shall be mailed to the applicant at the time the Department finds the application administratively complete pursuant to 20.2.72.203 NMAC. The Department shall deny any permit application or request for permit revision if the required permit fee has not been paid within thirty (30) days of invoicing, unless the Department has granted an extension. If, upon completion of the permit review, the Department determines additional fees are due, the Department shall mail an invoice to the applicant along with the signed permit. The permittee shall pay this invoice within thirty (30) days of invoicing, unless the Department has granted an extension. In the event excess fees were paid, the Department shall issue a refund for excess fees and mail the refund to the applicant.

C. An invoice for a request for technical review of an existing permit shall accompany the Department's response. The applicant or permittee shall pay for the review within thirty (30) days of invoicing.

D. Except for the refund of excess fees paid, all fees paid under this Part shall be non-refundable.

E. All fees paid pursuant to this Part shall be remitted in the form of a corporate or certified check or money order made payable to the Environment Department at the address specified in the notice. Upon receipt of the check, it shall be deposited in the "state air quality permit fund" established by NMSA 1978, 74-2-15 (1992).

F. Permittees shall pay annual fees within thirty (30) days of receipt of an invoice for annual fees for a permitted facility.

G. All fees shall be paid in U.S. dollars.

[20.2.75.12 NMAC - Rp 20 NMAC 2.75.111, 03/02/01]

20.2.75.13 PERIODIC REVIEW: The Department shall prepare a review of the construction permit fees and construction permit program costs annually. The review shall include information on the budgets, expenditures, fund balance, and related projections. The review shall be presented to the Board within six months following the end of the fiscal year.

[20.2.75.13 NMAC - N, 03/02/01]

HISTORY OF 20.2.75 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

AQCR 700, Air Quality Control Regulation 700 - Filing and Permits Fees, filed 11/20/89.

History of Repealed Material:

20 NMAC 2.75, Air Quality Statewide - Construction Permit Fees, filed 10/30/95, repealed effective 03/02/01.

From: [Leibowitz, Laurie, ENV](#)
To: freelandnm@gmail.com; georgefreeland@comcast.net; andrew.freeland@freelandauto.com;
thomas.freeland@freelandauto.com
Subject: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Monday, January 9, 2023 2:20:17 PM
Attachments: [APPROVED & SIGNED 2023 NSR Fee Cover Memo Final.pdf](#)
[Freeland Sand & Gravel NSR 2023 Inv.pdf](#)

RE: 2023 NSR Annual fees

Attached is both a Cover letter explaining the NSR annual fee process and your invoice(s). Please print this invoice and mail your check(s) with the payment remittance portion of the invoice to the New Mexico Environment Department, Air Quality Bureau at the address on the Invoice.

Make the check payable to: New Mexico Environment Department-AQB and return the payment coupon.

Prior arrangement must be made to remit payment using electronic bank transactions.

Non-payment of these fees will delay any future modifications to these permits, penalty fees may be assessed, and permit(s) may be cancelled.

If you wish a payment plan or have other fee-related questions about your permit or contact information, please contact Laurie Leibowitz at (505) 629-7673 or by email laurie.leibowitz@env.nm.gov. Please note that email contact is preferred.

If you have received this email in error, please forward this e-mail to the correct person in your company or reply to laurie.leibowitz@env.nm.gov with the correct contact person information.

All payments or initial installment must be received by the March 1, 2023, invoice due date to avoid potential penalty fees and/or permit cancellation.

Sincerely,

Laurie Leibowitz
Management Analyst
Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

NMED Exhibit 3



New Mexico Environment Department

Air Quality Bureau

525 Camino de los Marquez, Suite 1
Santa Fe, NM 87505-1816

Telephone: (505) 476-4300 Fax: (505) 476-4375

INVOICE - Consolidated**Primary Billing Party:****Is Primary Billing Party for**

Freeland Sand & Gravel
450 Harbor Court
Fort Myers, FL 33931

ID: 10004

INVOICE ID: 5918**INVOICE DATE: 01/04/2023****INVOICE DUE DATE: 02/28/2023**

When you provide the check as payment you authorize the State of New Mexico to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.

ASSESSMENTS

Agency Interest	AI Name	AI City	
26357	Cement Tech Plant, GCP5-3553	Chama	
Air Quality PRN20070001	- Air - Minor Source Annual Fee		\$2,344.00

INVOICED AMOUNT

Agency Interest	AI Name	Amount
Current Due		
26357	Cement Tech Plant, GCP5-3553	\$2,344.00

BALANCE DUE	\$2,344.00
--------------------	-------------------

----- Cut Here and Include Lower Portion with Payment -----

Primary Billing Party:**Is Primary Billing Party for**

Freeland Sand & Gravel
450 Harbor Court
Fort Myers, FL 33931

ID: 10004

CONSOLIDATED INVOICE ID: 5918**PAYMENT DUE DATE: 2/28/2023****Invoice Amount:** \$2,344.00**Amount Enclosed:** _____**Please make checks payable to:****Mail payments to:****New Mexico Environment Department, AQB****Air Quality Bureau****525 Camino de los Marquez, Suite 1****Santa Fe, NM 87505-1816****Federal Tax ID # 85-6000565****Telephone: (505) 476-4300****Fax: (505) 476-4375**



New Mexico Environment Department

Air Quality Bureau

525 Camino de los Marquez, Suite 1
Santa Fe, NM 87505-1816

Telephone: (505) 476-4300 Fax: (505) 476-4375

INVOICE - Consolidated

Primary Billing Party:

Is Primary Billing Party for

Freeland Sand & Gravel
450 Harbor Court
Fort Myers, FL 33931

ID: 10004

INVOICE ID: 5918

INVOICE DATE: 01/04/2023

INVOICE DUE DATE: 02/28/2023

When you provide the check as payment you authorize the State of New Mexico to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

January 2023

Annual Fee Invoice for Minor Source Air Quality Permit

Dear Permit Holder:

A construction air permit with an active status as of December 31, 2022, is subject to an annual fee per 20.2.75.11.E NMAC. Attached is the invoice for your annual fee(s). Payment of the fee is due within 30 days of receipt, per 20.2.75.12.F NMAC.

The invoice is in a consolidated format. If your company has more than one permit, you may pay all fees with a single check. Please be sure to enclose the bottom portion of the invoice so that we can credit the payments appropriately. Your certified check, money order, or company check should be made payable to the "New Mexico Environment Department, AQB." Include the Invoice ID on the check. Remember, payments are due within 30 days of receipt of an invoice.

In addition to the current annual fee due, the consolidated invoice may also show amounts that are past due from your company.

Prior arrangement must be made if your company wishes to remit using electronic bank transactions.
Non-payment of these fees will delay any future modifications to these permits, penalty fees may be assessed, and permit(s) may be cancelled.

For any questions about permit fees or your contact information, please contact Laurie Leibowitz, Management Analyst, at (505) 629-7673 or by email laurie.leibowitz@env.nm.gov.

Regards,

Elizabeth Bisbey-Kuehn
Bureau Chief
Air Quality Bureau

From: [Microsoft Outlook](#)
To: freelandnm@gmail.com
Subject: Relayed: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Monday, January 9, 2023 2:20:20 PM
Attachments: [Freeland Sand Gravel - 2023 Invoice NSR Annual Fees.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
freelandnm@gmail.com (freelandnm@gmail.com) <mailto:freelandnm@gmail.com>
Subject: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

From: [Microsoft Outlook](#)
To: andrew.freeland@freelandauto.com; thomas.freeland@freelandauto.com
Subject: Relayed: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Monday, January 9, 2023 2:20:19 PM
Attachments: [Freeland Sand Gravel - 2023 Invoice NSR Annual Fees.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
andrew.freeland@freelandauto.com (andrew.freeland@freelandauto.com) <mailto:andrew.freeland@freelandauto.com>
thomas.freeland@freelandauto.com (thomas.freeland@freelandauto.com) <mailto:thomas.freeland@freelandauto.com>
Subject: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

From: [Microsoft Outlook](#)
To: georgefreeland@comcast.net
Subject: Relayed: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Monday, January 9, 2023 2:20:18 PM
Attachments: [Freeland Sand Gravel - 2023 Invoice NSR Annual Fees.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
georgefreeland@comcast.net (georgefreeland@comcast.net) <mailto:georgefreeland@comcast.net>
Subject: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

From: [Leibowitz, Laurie, ENV](#)
To: [freelandnm@gmail.com](#); [georgefreeland@comcast.net](#); [andrew.freeland@freelandauto.com](#);
[thomas.freeland@freelandauto.com](#)
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Monday, February 20, 2023 4:53:56 PM
Attachments: [APPROVED & SIGNED 2023 NSR Fee Cover Memo Final.pdf](#)
[Freeland Sand & Gravel NSR 2023 Inv.pdf](#)

Good afternoon,

This email is a friendly reminder that the attached invoice is due on **February 28, 2023**. The attached invoice was originally emailed to you on January 9, 2023. The 2023 NSR annual fees are due on **February 28, 2023**. Please let us know the status of your payment. The invoice will be referred to our Compliance and Enforcement Section for collection on **March 31, 2023**. **Non-payment of these fees will delay any future modifications to these permits, penalty fees may be assessed, and permit(s) may be cancelled.**

If you have any questions, do not hesitate to contact me.

Thank you,

Laurie Leibowitz
Management Analyst
Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673 – mobile
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

From: Leibowitz, Laurie, ENV <Laurie.Leibowitz@env.nm.gov>
Sent: Monday, January 9, 2023 2:20 PM
To: [freelandnm@gmail.com](#); [georgefreeland@comcast.net](#); [andrew.freeland@freelandauto.com](#);
[thomas.freeland@freelandauto.com](#)
Subject: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

RE: 2023 NSR Annual fees

Attached is both a Cover letter explaining the NSR annual fee process and your invoice(s). Please print this invoice and mail your check(s) with the payment remittance portion of the invoice to the New Mexico Environment Department, Air Quality Bureau at the address on the Invoice.

Make the check payable to: New Mexico Environment Department-AQB

NMED Exhibit 5

and return the payment coupon.

Prior arrangement must be made to remit payment using electronic bank transactions.

Non-payment of these fees will delay any future modifications to these permits, penalty fees may be assessed, and permit(s) may be cancelled.

If you wish a payment plan or have other fee-related questions about your permit or contact information, please contact Laurie Leibowitz at (505) 629-7673 or by email laurie.leibowitz@env.nm.gov. Please note that email contact is preferred.

If you have received this email in error, please forward this e-mail to the correct person in your company or reply to laurie.leibowitz@env.nm.gov with the correct contact person information.

All payments or initial installment must be received by the March 1, 2023, invoice due date to avoid potential penalty fees and/or permit cancellation.

Sincerely,

Laurie Leibowitz
Management Analyst
Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

From: [Microsoft Outlook](#)
To: georgefreeland@comcast.net
Subject: Relayed: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Monday, February 20, 2023 4:53:59 PM
Attachments: [REMINDER Freeland Sand Gravel - 2023 Invoice NSR Annual Fees.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
georgefreeland@comcast.net (georgefreeland@comcast.net) <mailto:georgefreeland@comcast.net>
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

From: [Microsoft Outlook](#)
To: andrew.freeland@freelandauto.com; thomas.freeland@freelandauto.com
Subject: Relayed: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Monday, February 20, 2023 4:53:58 PM
Attachments: [REMINDER Freeland Sand Gravel - 2023 Invoice NSR Annual Fees.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
andrew.freeland@freelandauto.com (andrew.freeland@freelandauto.com) <mailto:andrew.freeland@freelandauto.com>
thomas.freeland@freelandauto.com (thomas.freeland@freelandauto.com) <mailto:thomas.freeland@freelandauto.com>
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

From: [Leibowitz, Laurie, ENV](#)
To: [freelandnm@gmail.com](#); [georgefreeland@comcast.net](#); [andrew.freeland@freelandauto.com](#); [thomas.freeland@freelandauto.com](#)
Cc: [Intermont, Donna, ENV](#)
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Wednesday, March 1, 2023 2:01:20 PM
Attachments: [APPROVED & SIGNED 2023 NSR Fee Cover Memo Final.pdf](#)
[Freeland Sand & Gravel NSR 2023 Inv.pdf](#)

Good afternoon,

The attached invoice was originally emailed to you on January 6, 2023, and again on February 20, 2023. The 2023 NSR annual fees were due on **February 28, 2023**. Please let us know the status of your payment. The invoice will be referred to our Compliance and Enforcement Section for collection on **March 31, 2023**. **Non-payment of these fees will delay any future modifications to these permits, penalty fees may be assessed, and permit(s) may be cancelled.**

If you have any questions, do not hesitate to contact me.

Thank you,

Laurie Leibowitz
Management Analyst
Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673 – mobile
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

From: Leibowitz, Laurie, ENV <Laurie.Leibowitz@env.nm.gov>
Sent: Monday, February 20, 2023 4:54 PM
To: [freelandnm@gmail.com](#); [georgefreeland@comcast.net](#); [andrew.freeland@freelandauto.com](#); [thomas.freeland@freelandauto.com](#)
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

Good afternoon,

This email is a friendly reminder that the attached invoice is due on **February 28, 2023**. The attached invoice was originally emailed to you on January 9, 2023. The 2023 NSR annual fees are due on **February 28, 2023**. Please let us know the status of your payment. The invoice will be referred to our Compliance and Enforcement Section for collection on **March 31, 2023**. **Non-payment of these fees will delay any future modifications to these permits, penalty fees may be assessed, and permit(s) may be cancelled.**

If you have any questions, do not hesitate to contact me.

Thank you,

Laurie Leibowitz
Management Analyst
Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673 – mobile
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

From: Leibowitz, Laurie, ENV <Laurie.Leibowitz@env.nm.gov>

Sent: Monday, January 9, 2023 2:20 PM

To: freelandnm@gmail.com; georgefreeland@comcast.net; andrew.freeland@freelandauto.com; thomas.freeland@freelandauto.com

Subject: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

RE: 2023 NSR Annual fees

Attached is both a Cover letter explaining the NSR annual fee process and your invoice(s). Please print this invoice and mail your check(s) with the payment remittance portion of the invoice to the New Mexico Environment Department, Air Quality Bureau at the address on the Invoice.

Make the check payable to: New Mexico Environment Department-AQB and return the payment coupon.

Prior arrangement must be made to remit payment using electronic bank transactions.

Non-payment of these fees will delay any future modifications to these permits, penalty fees may be assessed, and permit(s) may be cancelled.

If you wish a payment plan or have other fee-related questions about your permit or contact information, please contact Laurie Leibowitz at (505) 629-7673 or by email laurie.leibowitz@env.nm.gov. Please note that email contact is preferred.

If you have received this email in error, please forward this e-mail to the correct person in your company or reply to laurie.leibowitz@env.nm.gov

with the correct contact person information.

All payments or initial installment must be received by the March 1, 2023, invoice due date to avoid potential penalty fees and/or permit cancellation.

Sincerely,

Laurie Leibowitz
Management Analyst
Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

From: [Microsoft Outlook](#)
To: andrew.freeland@freelandauto.com; thomas.freeland@freelandauto.com
Subject: Relayed: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Wednesday, March 1, 2023 2:01:31 PM
Attachments: [REMINDER Freeland Sand Gravel - 2023 Invoice NSR Annual Fees.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
andrew.freeland@freelandauto.com (andrew.freeland@freelandauto.com) <mailto:andrew.freeland@freelandauto.com>
thomas.freeland@freelandauto.com (thomas.freeland@freelandauto.com) <mailto:thomas.freeland@freelandauto.com>
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

From: [Microsoft Outlook](#)
To: freelandnm@gmail.com
Subject: Relayed: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Wednesday, March 1, 2023 2:01:24 PM
Attachments: [REMINDER Freeland Sand Gravel - 2023 Invoice NSR Annual Fees.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
freelandnm@gmail.com (freelandnm@gmail.com) <<mailto:freelandnm@gmail.com>>
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

From: [Leibowitz, Laurie, ENV](#)
To: [freelandnm@gmail.com](#); [georgefreeland@comcast.net](#); [andrew.freeland@freelandauto.com](#); [thomas.freeland@freelandauto.com](#); [ben.freeland@freelandauto.com](#)
Cc: [Intermont, Donna, ENV](#)
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Wednesday, March 8, 2023 11:22:25 AM
Attachments: [APPROVED & SIGNED 2023 NSR Fee Cover Memo Final.pdf](#)
[Freeland Sand & Gravel NSR 2023 Inv.pdf](#)
[Freeland, Inc NSR 2023 Inv.pdf](#)

Good morning,

Please respond to this email and let us know when we can expect your check for payment on the two outstanding invoices as soon as possible. **Please note that Construction Permits with an active status as of December 31 of calendar year 2022 are subject to an annual fee per 20.2.75.11.E NMAC. If you wish to close/cancel the permits (and not receive an invoice in January 2024) submit the Permitting Administrative Multi-Form (PAM) requesting closure of each permit (Section 2-D) prior to December 31, 2023. If you have questions about the form, please contact allen.reimer@env.nm.gov. The form is available under the Air Quality Bureau drop down list, then Permitting drop down list on the website: www.env.nm.gov/forms/.**

To date, we do not show that either of the permits have been cancelled and both invoices are overdue.

If you have any further questions about the invoice, do not hesitate to contact me.

Thank you,

Laurie Leibowitz
Management Analyst
Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673 – mobile
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

From: Leibowitz, Laurie, ENV <Laurie.Leibowitz@env.nm.gov>
Sent: Wednesday, March 1, 2023 2:01 PM
To: [freelandnm@gmail.com](#); [georgefreeland@comcast.net](#); [andrew.freeland@freelandauto.com](#); [thomas.freeland@freelandauto.com](#)
Cc: Intermont, Donna, ENV <Donna.Intermont1@env.nm.gov>
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

Good afternoon,

The attached invoice was originally emailed to you on January 6, 2023, and again on February 20, 2023. The 2023 NSR annual fees were due on **February 28, 2023**. Please let us know the status of your payment. The invoice will be referred to our Compliance and Enforcement Section for collection on **March 31, 2023. Non-payment of these fees will delay any future modifications to these permits, penalty fees may be assessed, and permit(s) may be cancelled.**

If you have any questions, do not hesitate to contact me.

Thank you,

Laurie Leibowitz
Management Analyst
Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673 – mobile
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

From: Leibowitz, Laurie, ENV <Laurie.Leibowitz@env.nm.gov>

Sent: Monday, February 20, 2023 4:54 PM

To: freelandnm@gmail.com; georgefreeland@comcast.net; andrew.freeland@freelandauto.com; thomas.freeland@freelandauto.com

Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

Good afternoon,

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If you have any questions, do not hesitate to contact me.

Thank you,

Laurie Leibowitz
Management Analyst

Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673 – mobile
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

From: Leibowitz, Laurie, ENV <Laurie.Leibowitz@env.nm.gov>
Sent: Monday, January 9, 2023 2:20 PM
To: freelandnm@gmail.com; georgefreeland@comcast.net; andrew.freeland@freelandauto.com;
thomas.freeland@freelandauto.com
Subject: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

RE: 2023 NSR Annual fees

Attached is both a Cover letter explaining the NSR annual fee process and your invoice(s). Please print this invoice and mail your check(s) with the payment remittance portion of the invoice to the New Mexico Environment Department, Air Quality Bureau at the address on the Invoice.

Make the check payable to: New Mexico Environment Department-AQB and return the payment coupon.

Prior arrangement must be made to remit payment using electronic bank transactions.

Non-payment of these fees will delay any future modifications to these permits, penalty fees may be assessed, and permit(s) may be cancelled.

If you wish a payment plan or have other fee-related questions about your permit or contact information, please contact Laurie Leibowitz at (505) 629-7673 or by email laurie.leibowitz@env.nm.gov. Please note that email contact is preferred.

If you have received this email in error, please forward this e-mail to the correct person in your company or reply to laurie.leibowitz@env.nm.gov with the correct contact person information.

All payments or initial installment must be received by the March 1, 2023, invoice due date to avoid potential penalty fees and/or permit cancellation.

Sincerely,

Laurie Leibowitz

Management Analyst
Air Quality Bureau Public Records Custodian
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505
505.629.7673
laurie.leibowitz@env.nm.gov
<https://www.env.nm.gov/>

From: [Microsoft Outlook](#)
To: andrew.freeland@freelandauto.com; thomas.freeland@freelandauto.com; ben.freeland@freelandauto.com
Subject: Relayed: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Wednesday, March 8, 2023 11:22:30 AM
Attachments: [REMINDER Freeland Sand Gravel - 2023 Invoice NSR Annual Fees.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
andrew.freeland@freelandauto.com (andrew.freeland@freelandauto.com) <mailto:andrew.freeland@freelandauto.com>
thomas.freeland@freelandauto.com (thomas.freeland@freelandauto.com) <mailto:thomas.freeland@freelandauto.com>
ben.freeland@freelandauto.com (ben.freeland@freelandauto.com) <mailto:ben.freeland@freelandauto.com>
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees

From: [Microsoft Outlook](#)
To: freelandnm@gmail.com
Subject: Relayed: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees
Date: Wednesday, March 8, 2023 11:22:29 AM
Attachments: [REMINDER Freeland Sand Gravel - 2023 Invoice NSR Annual Fees.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
freelandnm@gmail.com (freelandnm@gmail.com) <<mailto:freelandnm@gmail.com>>
Subject: REMINDER: Freeland Sand & Gravel - 2023 Invoice NSR Annual Fees



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

VIA EMAIL and CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 12, 2023

Freeland Sand & Gravel
Freeland, Inc
450 Harbor Court
Fort Myers, FL 33931

Electronic mail: freelandnm@gmail.com; georgefreeland@comcast.net; andrew.freeland@freelandauto.com;
thomas.freeland@freelandauto.com; ben.freeland@freelandauto.com

Re: Non-Payment of 2022 Air Quality Bureau NSR Permit Fees

To Whom It May Concern:

This letter is to inform you that the Air Quality Bureau ("Bureau") has not received payment for NSR Permit Fees from your company regarding operating year 2022. These fees were billed on January 4, 2023, and were due 30 days thereafter. Laurie Leibowitz of this Bureau has made several attempts to notify you of this past due invoice. The case has now been handed over to our Enforcement unit. Total fees due as of the date of this letter equal \$4,688.00.

If payment in full is not received by close of business June 15, 2023, our Enforcement unit will proceed with legal action to collect the unpaid fees, revoke permits with unpaid annual fees (making operation of these facilities illegal) and collect a penalty for violation of 20.2.75 NMAC. Attached are copies of your unpaid invoices for 2022 Permit fees.

Your cooperation in resolving this matter is appreciated. **You will not receive a second letter.** If you have any questions about your past due amount, please contact Laurie Leibowitz at Laurie.Leibowitz@env.nm.gov. For questions on the potential enforcement action, contact me at cindy.hollenberg@env.nm.gov. If you wish to close/cancel the permit(s), and not receive an invoice in January 2024, a Permitting Administrative Multi-Form ("PAM") must be submitted requesting closure of each permit prior to December 31, 2023. If you have questions about the form, please contact allen.reimer@env.nm.gov. The form is available under the Air Quality Bureau drop down list, then Permitting drop down list on the website: www.env.nm.gov/forms/. Canceling permits in 2023 does not negate the obligation to pay 2022 permit fees.

Again, if payment in full is not received by close of business, June 15, 2023, the Department will respond with legal action.

Sincerely,

A handwritten signature in blue ink that reads "Cindy Hollenberg".

Cindy Hollenberg
Compliance and Enforcement Section Chief
Air Quality Bureau

NMED Exhibit 11



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

VIA EMAIL and CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 12, 2023

Freeland Sand & Gravel

Freeland, Inc

450 Harbor Court

Fort Myers, FL 33931

Electronic mail: freelandnm@gmail.com; georgefreeland@comcast.net; andrew.freeland@freelandauto.com; thomas.freeland@freelandauto.com; ben.freeland@freelandauto.com

Re: Non-Payment of 2022 Air Quality Bureau NSR Permit Fees

To Whom It May Concern:

This letter is to inform you that the Air Quality Bureau ("Bureau") has not received payment for NSR Permit Fees from your company regarding operating year 2022. These fees were billed on January 4, 2023, and were due 30 days thereafter. Laurie Leibowitz of this Bureau has made several attempts to notify you of this past due invoice. The case has now been handed over to our Enforcement unit. Total fees due as of the date of this letter equal \$4,688.00.

If payment in full is not received by close of business June 15, 2023, our Enforcement unit will proceed with legal action to collect the unpaid fees, revoke permits with unpaid annual fees (making operation of these facilities illegal) and collect a penalty for violation of 20.2.75 NMAC. Attached are copies of your unpaid invoices for 2022 Permit fees.

Your cooperation in resolving this matter is appreciated. **You will not receive a second letter.** If you have any questions about your past due amount, please contact Laurie Leibowitz at Laurie.Leibowitz@env.nm.gov. For questions on the potential enforcement action, contact me at cindy.hollenberg@env.nm.gov. If you wish to close/cancel the permit(s), and not receive an invoice in January 2024, a Permitting Administrative Multi-Form ("PAM") must be submitted requesting closure of each permit prior to December 31, 2023. If you have questions about the form, please contact allen.reimer@env.nm.gov. The form is available under the Air Quality Bureau drop down list, then Permitting drop down list on the website: www.env.nm.gov/forms/. Canceling permits in 2023 does not negate the obligation to pay 2022 permit fees.

Again, if payment in full is not received by close of business, June 15, 2023, the Department will respond with legal action.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Hollenberg".

Cindy Hollenberg
Compliance and Enforcement Section Chief
Air Quality Bureau

NMED Exhibit 12

SCIENCE | INNOVATION | COLLABORATION | COMPLIANCE



New Mexico Environment Department

Air Quality Bureau

525 Camino de los Marquez, Suite 1
Santa Fe, NM 87505-1816

Telephone: (505) 476-4300 Fax: (505) 476-4375

INVOICE - Consolidated

Primary Billing Party:

Is Primary Billing Party for

Freeland Sand & Gravel
450 Harbor Court
Fort Myers, FL 33931

ID: 10004

INVOICE ID: 5918

INVOICE DATE: 01/04/2023

INVOICE DUE DATE: 02/28/2023

When you provide the check as payment you authorize the State of New Mexico to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.

ASSESSMENTS

Agency Interest AI Name

26357 Cement Tech Plant, GCP5-3553

AI City

Chama

Air Quality PRN20070001

- Air - Minor Source Annual Fee

\$2,344.00

INVOICED AMOUNT

Agency Interest AI Name

Current Due

26357 Cement Tech Plant, GCP5-3553

Amount

\$2,344.00

BALANCE DUE

\$2,344.00

Cut Here and Include Lower Portion with Payment

Primary Billing Party:

Is Primary Billing Party for

Freeland Sand & Gravel
450 Harbor Court
Fort Myers, FL 33931

ID: 10004

CONSOLIDATED INVOICE ID: 5918

PAYMENT DUE DATE: 2/28/2023

Invoice Amount: \$2,344.00

Amount Enclosed: _____

Please make checks payable to:

Mail payments to:

Federal Tax ID # 85-6000565

New Mexico Environment Department, AQB

Air Quality Bureau

525 Camino de los Marquez, Suite 1

Santa Fe, NM 87505-1816

Telephone: (505) 476-4300

Fax: (505) 476-4375



New Mexico Environment Department

Air Quality Bureau

525 Camino de los Marquez, Suite 1
Santa Fe, NM 87505-1816

Telephone: (505) 476-4300 Fax: (505) 476-4375

INVOICE - Consolidated

Primary Billing Party:

Is Primary Billing Party for

Freeland, Inc
450 Harbor Court
Fort Myers, FL 33931

ID: 327

INVOICE ID: 5811

INVOICE DATE: 01/04/2023

INVOICE DUE DATE: 02/28/2023

When you provide the check as payment you authorize the State of New Mexico to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.

ASSESSMENTS

Agency Interest	AI Name	AI City
1833	Portable 300TPH Crusher NSR1637	Portable Source
Air Quality PRN20060001	- Air - Minor Source Annual Fee	\$2,344.00

INVOICED AMOUNT

Agency Interest	AI Name	Amount
Current Due		
1833	Portable 300TPH Crusher NSR1637	\$2,344.00

BALANCE DUE	\$2,344.00
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Cut Here and Include Lower Portion with Payment

Primary Billing Party:

Is Primary Billing Party for

Freeland, Inc
450 Harbor Court
Fort Myers, FL 33931

ID: 327

CONSOLIDATED INVOICE ID: 5811

PAYMENT DUE DATE: 2/28/2023

Invoice Amount: \$2,344.00

Amount Enclosed: _____

Please make checks payable to:

Mail payments to:

New Mexico Environment Department, AQB

Air Quality Bureau

525 Camino de los Marquez, Suite 1

Santa Fe, NM 87505-1816

Telephone: (505) 476-4300

Fax: (505) 476-4375

Federal Tax ID # 85-6000565

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Certified Mail Fee \$ _____ Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$ _____ <input type="checkbox"/> Return Receipt (electronic) \$ _____ <input type="checkbox"/> Certified Mail Restricted Delivery \$ _____ <input type="checkbox"/> Adult Signature Required \$ _____ <input type="checkbox"/> Adult \$ _____ Postage \$ _____ Total Postage \$ _____ Sent To _____ Street or P.O. Box _____ City, State, ZIP+4® _____	Postmark Here _____ Freeland Sand & Gravel Freeland, Inc 450 Harbor Court Fort Myers, FL 33931 See Reverse for Instructions
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PS Form 3800, April 2015 PSN 7530-02-000-9047

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY		
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Address</p> <p style="text-align: center;">Freeland Sand & Gravel Freeland, Inc 450 Harbor Court Fort Myers, FL 33931</p> <p style="text-align: center;">9590 9402 4386 8190 2851 49</p> <p>2. Article Number (Transfer from service label)</p> <p style="text-align: center;">7020 3160 0000 7459 6596</p>	<p>A. Signature X <i>Carmen Sandy</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <table style="width: 100%;"> <tr> <td style="vertical-align: top;"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery </td> <td style="vertical-align: top;"> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery </td> </tr> </table>	<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery		

PS Form 3811, July 2015 PSN 7530-02-000-9053

Company:	Freeland Sand & Gravel	Calculations by:	Cindy Hollenberg
Facility:	Cement Tech Plant	Reviewed by:	Terry McDill
NOV #:	FRLD-26357-2301	Date of calculation:	July 21, 2023
Permit #:	GCP-2 #3009R1	Source class:	Minor

CIVIL PENALTY CALCULATION*Confidential - for settlement purposes only*

Violation #1 Failure to pay annual NSR permit fees for 2022 within 30 days of receipt of an invoice pursuant to 20.2.75.12.E NMAC, *Construction Permit Fees*

A.	Gravity Determination	Penalty	\$1,500.00
	Potential for harm: Minimal		
	Extent of deviation: Moderate		
	Quantity: 1		

Basis: Potential for harm and Extent of deviation, as denoted above, are detailed in the Bureau's Civil Penalty Policy, Sections VI.C.1.a, VI.C.1.b and Appendix F.

20.2.75.12.E NMAC states that "Permittees shall pay annual fees with thirty (30) days of receipt of an invoice for annual fees for a permitted facility." Facilities for which an NSR permit is active on December 31 each year are invoiced for that calendar year, payable in the following calendar year per the invoice due date.

Freeland Sand & Gravel had an active NSR permit for the Cement Tech Plant as of December 31, 2022. The Bureau issued the invoice on January 9, 2023 with a due date of February 28, 2023. Reminders were sent to and received by Freeland, including a letter in May 2023 warning of enforcement action if fees were not paid by June 15, 2023. As of the date of this calculation, the fees have not been paid.

B.	Multi-Day Component	Penalty	\$0.00
	Number of days: 0		
	Multiplier: 0		
	Quantity: 1		

Basis: Per Bureau discretion, a multi-day component has not been assessed at this time.

Adjustment Factors	Factor Total	2.0
I. Effort to comply: No cooperation / no compliance		0.4

Basis: After numerous attempts to collect the annual fees, Freeland has refused to pay.

II. Negligence/willfulness: Probably willful 0.6

Basis: Freeland knew that the fees were due and payable through the multiple communications between Bureau staff and Freeland. Still they have refused to pay.

III. History of noncompliance: No history of noncompliance 0

IV. Financial Condition: Gross sales <\$500,000 or Government facility 0

V. Mathematical adjustment 1.0

C.	Economic Benefit	Penalty	\$0.00
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Basis: The Bureau made a preliminary determination that an insignificant economic benefit was received; therefore, the total is \$0.00. The Bureau reserves the right to assess an economic benefit if the fees are not paid within 30 days of the Compliance Order issuance.

Violation Penalty:

A. Gravity Determination	\$1,500.00	
B. Multi-Day Component	\$0.00	
Adjusted Gravity + Multi-Day Components		\$3,000.00
C. Economic Benefit		\$0.00
Violation Total		\$3,000.00

TOTAL CALCULATED PENALTY	\$3,000.00
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Violation 1 \$3,000.00

Company:	Freeland Sand & Gravel	Calculations by:	Cindy Hollenberg
Facility:	Cement Tech Plant	Reviewed by:	Terry McDill
NOV #:	FRLD-26357-2301	Date of calculation:	July 21, 2023
Permit #:	GCP-2 #3009R1	Source class:	Minor

MAXIMUM ALLOWABLE PENALTY	\$1,800,000.00
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Maximum allowable penalty is for comparison purposes only: \$15,000 per violation per day may be assessed pursuant to New Mexico Air Quality Control Act Section 74-2-12.B.

<u>Maximum Daily Penalty</u>		<u>Number of Days</u>	<u>Maximum Penalty</u>
Violation 1	\$15,000.00	120	\$1,800,000.00

