



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

November 1, 2022

Angela and Rick Jaramillo
President and Vice President
Ameristar Construction
4801 Maplewood Ave. SW,
Albuquerque, NM 87121

**RE: NOTICE OF VIOLATION WITH PROPOSED PENALTIES
AMERISTAR CONSTRUCTION
EPA ID# NMR000019307**

Dear Mr. and Ms. Jaramillo:

On March 16, 2021, the New Mexico Environment Department ("NMED") conducted a hazardous waste Follow Up Inspection at Ameristar Construction ("Ameristar"), also known as the Jaramillo Family Trust Property, located at 5801 Maplewood SW, Albuquerque, New Mexico. The inspection was conducted to determine if the violations cited in the Notice of Violation, dated March 30, 2020; and the Notice to Comply, dated August 31, 2020 had been corrected. Ameristar representatives have not provided corrective action documentation.

Based on the inspection and review of the information obtained, NMED has determined that Ameristar is a Very Small Quantity Generator of hazardous waste, as defined in 40 Code of Federal Regulations ("CFR") 262.13. Furthermore, NMED has determined that Ameristar has violated the New Mexico Hazardous Waste Management Regulations 20.4.1 NMAC) as specified below.

NMED observed the following violations:

- 1.) Failure to make a hazardous waste determination, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.11. Specifically, NMED observed abandoned, uncharacterized wastes at Ameristar. The facility representative could not identify several 5-gallon containers stored on the property in a waste-like manner. Also, the facility had abandoned spent sandblast media containing lead and chromium on the property after a building collapse and had not performed a hazardous waste determination for this material.

Corrective Action: Ameristar must provide NMED with hazardous waste determinations

for all of the waste materials present at the property. Ameristar must develop a plan for disposal for hazardous wastes present at the property and provide NMED with a copy of this waste management plan.

- 2.) Failure to treat or dispose of hazardous waste at a destination facility that is permitted, licensed, registered, or otherwise authorized to manage hazardous waste, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.14(a)(5). Specifically, NMED observed evidence of burned hazardous waste containers bearing a strong resemblance to uncharacterized wastes observed during the 2020 inspection for which NMED has not received disposal documentation (see attached photos below).

Corrective Action: Ameristar must provide NMED with documentation of the identity of the burned materials depicted in the attached photograph. Ameristar must develop a plan for disposal for hazardous wastes present at the property and provide NMED with a copy of this waste management plan.

- 3.) Failure to store universal waste lamps in closed containers that are capable of preventing breakage, which is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR § 273.13(d)(1). Specifically, NMED inspectors observed loose spent fluorescent lamps on the ground at the property near the northeastern corner.

Corrective Action: Ameristar must containerize all spent fluorescent lamps on the property in container(s) capable of preventing breakage and arrange for proper disposal or recycling.

- 4.) Failure to label universal waste lamps with the words "universal waste", or with other words to identify contents, which is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR § 273.14(e) and 20.4.1.1001(B) NMAC. Specifically, NMED inspectors observed loose spent fluorescent lamps on the ground at the property near the northeastern corner.

Corrective Action: Ameristar must label all spent fluorescent lamps on the property and arrange for proper disposal or recycling.

- 5.) Failure to demonstrate the length of time universal waste has accumulated, which is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR § 273.15(c). Specifically, NMED inspectors observed loose spent fluorescent lamps on the ground on the property near the northeastern corner.

Corrective Action: Ameristar must demonstrate the amount of time spent fluorescent lamps have been accumulating with an accumulation start date or log.

NMED is requesting that Ameristar provide to NMED within thirty (30) days of receipt of this letter a written description of the actions taken by Ameristar to address the violations described above or a schedule for implementation of corrective actions not yet completed.

In accordance with New Mexico Statutory Authority 1978, Section 74-4-10, NMED may: (1) issue a Notice of Violation requesting voluntary compliance within a specified time period; (2) issue a Compliance Order requiring compliance immediately or within a specified time period or assess a civil penalty for any past or current violations of up to \$10,000 per day of non-compliance for each violation, or both; or (3) commence a civil action in District Court for appropriate relief, including a temporary or permanent injunction.

Due to the nature of the violations listed above, and Ameristar's lack of response to the Notice of Violation, Notice to Comply, as well as numerous email and telephone requests, NMED will propose a civil penalty for these violations in a separate Notice of Proposed Penalty letter, a settlement privileged document in accordance with NMED's Civil Penalty policy, dated March 2017.

Any action taken in response to this letter does not relieve Ameristar of its obligation to comply with any other applicable laws and regulations. Pursuant to the NMED Delegation Order dated October 20, 2022, the Cabinet Secretary has delegated the authority to issue Notices of Violation under the Hazardous Waste Act and HWMRs to the Chief of the Hazardous Waste Bureau. If you have any questions regarding this letter, please contact Aaron Coffman of my staff at (505) 690-5211 or by email at aaron.coffman@env.nm.gov.

Sincerely,

Rick Shean

Digitally signed by
Rick Shean
Date: 2022.11.01
15:37:06 -06'00'

Rick Shean
Bureau Chief and Acting CTAP Program Manager
Hazardous Waste Bureau

RS: ac

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

file: Library #4213