



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUIRED

May 31, 2023

Michael Pierce
Vice President
RMCI, Inc.
P.O. Box 91447
Albuquerque, NM 87199

**RE: NOTICE OF VIOLATION AND RESOLUTION
RMCI, INC.
EPA ID# NMR000005835**

Dear Mr. Pierce:

On September 22, 2022, the New Mexico Environment Department ("NMED") conducted a hazardous waste Compliance Evaluation Inspection at RMCI, Inc. ("RMCI"), located at 6211 Chappell Road, Albuquerque, New Mexico. RMCI is a construction contracting business, specializing in concrete structure construction for utilities and water treatment and infrastructure. These operations generate used oil and hazardous waste floor sweep and paint-related materials.

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

NMED inspectors observed the following violations:

1. Failure to make a hazardous waste determination, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.11. Specifically, review of the information obtained shows that the waste profile that was provided for the hazardous waste floor sweep did not correspond to the verbal description of the waste-producing process provided by facility personnel and did not include potential chlorinated solvent contamination.

SCIENCE | INNOVATION | COLLABORATION | COMPLIANCE

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

2. Storage of hazardous waste for greater than 180 days, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.16(b). Specifically, NMED observed several 5-gallon containers at the Central Accumulation Area ("CAA") with an accumulation start date ("ASD") of 6/21/21, which is more than 180 days prior to the inspection.
3. Failure to keep containers of hazardous waste closed when not adding or removing waste, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.16(b)(2)(iii)(A). Specifically, NMED observed two open 5-gallon containers of hazardous waste at the CAA.
4. Failure to perform weekly inspections of the hazardous waste CAA, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.16(b)(2)(iv). Specifically, review of the information obtained showed that several weeks of weekly inspection records were absent and/or improperly completed.
5. Failure to label containers of hazardous waste with the words "Hazardous Waste", which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.16(b)(6)(i)(A). Specifically, NMED observed five hazardous waste paint containers, and six 5-gallon hazardous waste paint and solvent containers that were not labeled as "Hazardous Waste".
6. Failure to label containers of hazardous waste with an indication of the relevant hazard(s), which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.16(b)(6)(i)(B). Specifically, NMED observed a 55-gallon container of hazardous waste floor sweep at the CAA that was not labeled with a relevant indication of the hazard(s).
7. Failure to mark containers with the date upon which accumulation began, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.16(b)(6)(i)(C). Specifically, NMED observed a 5-gallon container of hazardous waste resin at the CAA that was not marked with an ASD.
8. Failure to maintain sufficient aisle space for hazardous waste storage, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.16(b)(8)(v). Specifically, NMED observed that multiple 5-gallon containers were stored at the front of the CAA shed structure such that containers in the rear of the CAA did not have proper immediate access in case of an emergency.
9. Failure to store universal waste lamps in closed containers capable of preventing breakage, which is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR 273.13(d)(1). Specifically, NMED observed an open box of spent universal waste lamps and multiple loose and/or broken lamps at the CAA.

10. Failure to label universal waste lamps with the words “universal waste”, or with other wording to identify the waste, 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 3 unlabeled boxes of spent universal waste lamps and multiple loose lamps at the CAA, and also observed an unlabeled metal storage locker containing universal waste lamps inside the main building.
11. Failure to demonstrate the length of time that universal waste has accumulated, which is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR 273.15(c). Specifically, NMED observed 2 boxes of universal waste lamps and several loose lamps at the CAA, and a metal storage locker in the main building, that were not marked with an ASD or associated with a waste log.
12. Failure to label containers of used oil with the words “used oil”, or with other wording to identify contents, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR 279.22(c)(1) and 20.4.1.1003(A) NMAC. Specifically, NMED observed a 55-gallon drum of waste hydraulic oil that was not labeled as “used oil”, or to show that it was a waste container.

NMED has determined that these violations were adequately addressed from information obtained during the inspection exit conference and responses dated February 6, 2023, February 10, 2023 and April 12, 2023 ; therefore, no further action is required.

This Notice of Violation is considered an informal enforcement response in accordance with NMED’s Enforcement Response Protocol. Please be aware that failure to address the above violations and any future substantial deviations from regulatory requirements may result in RMCI being considered for an elevated enforcement action. Also, be aware that any corrective action taken during our Inspection, or in response to this letter, does not relieve RMCI of its obligation to comply with any and all other applicable laws and regulations.

Mr. Pierce
May 31, 2023
Page 4 of 4

Pursuant to the NMED Delegation Order dated March 24, 2023, 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 505-670-5211 or by email at aaron.coffman@env.nm.gov.

Sincerely,

Ricardo Maestas
Acting Chief
Hazardous Waste Bureau

RM: ac

cc: Aaron Coffman, NMED HWB
Levi Cole, NMED District I Manager
Bruce Baizel, NMED OGC

file: Library # 2994