



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUIRED

July 11, 2023

Paul C. Schultz
Division Assistant Asset Protection/Safety Manager
Kroger Company
1550 S. Redwood Rd.
Salt Lake City, UT 84104

**RE: NOTICE OF VIOLATION AND RESOLUTION
SMITH'S 467
EPA ID# NMR000030130**

Dear Mr. Schultz:

On April 13, 2023, the New Mexico Environment Department ("NMED") conducted a hazardous waste Compliance Evaluation Inspection ("Inspection") at Smith's 467, ("SM 467") located at 751 Trinity Dr., Los Alamos, New Mexico ("Facility"). SM 467 is a commercial retail business selling food items and pharmaceuticals. These activities generate waste aerosols; corrosive, basic and inorganic liquids; flammables; toxics; pharmaceuticals, and universal waste which are generated as a result of typical grocery store/supermarket and pharmaceutical operations and from expired and damaged goods. SM 467 utilizes corporate maintenance personnel to service light fixtures.

Based on that inspection and review of the information obtained, NMED has determined that SM 467 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 SM 467 has violated the New Mexico Hazardous Waste Management Regulations ("HWMR") 20.4.1 New Mexico Administrative Code ("NMAC") as specified below.

NMED Inspector observed the following violation:

1. Failure to demonstrate the length of time universal waste has accumulated. Specifically, NMED observed one container of universal waste lamps in the Central Accumulation Area ("CAA") that was not marked with an accumulation start date or associated with an

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accumulation log. This is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR § 273.15(c) and 40 CFR § 273.15(c)(1).

NMED has determined that the violations were adequately addressed during the time of inspection; 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 SM 467 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 SM 467 of its obligation to comply with any and all other applicable laws and regulations.

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 Peter J. Garcia Sr. of my staff at 505-490-5868 or by email at PeterJ.GarciaSr@env.nm.gov.

Sincerely,

Ricardo Maestas
Acting Chief
Hazardous Waste Bureau

RM:pg

cc: Aaron Coffman, Program Manager, NMED HWB
Peter J. Garcia Sr., NMED HWB
Thomas X. Vigil, Acting NMED District II Manager

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